



Bonterra Energy Corporation

Section 39 Review by Paula Bordeleau
Well Licence No. 0251784

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2004-10: Bonterra Energy Corporation
Section 39 Review by Paula Bordeleau - Well Licence No. 0251784
Application No. 1295601

Published by

Alberta Energy and Utilities Board
640 – 5 Avenue SW
Calgary, Alberta
T2P 3G4

Telephone: (403) 297-8311
Fax: (403) 297-7040

Web site: www.eub.gov.ab.ca

Contents

1	INTRODUCTION.....	1
2	VIEWS OF THE BOARD – AUTHORITY TO AWARD COSTS.....	1
3	VIEWS OF THE BOARD – COST CLAIM	2
4	ORDER	3

ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Bonterra Energy Corporation
Section 30 Review by Paula Bordeleau
Well Licence No. 0251784**

**Energy Cost Order 2004-10
Application No. 1295601
File No. 8000-1295601-01**

1 INTRODUCTION

Bonterra Energy Corp. (Bonterra) applied for approval to drill a directional well from a surface location at LSD 9-13-48-7W5M to a bottom hole location in LSD 8-13-48-7W5M. The purpose of the well was to obtain sweet gas production from the Edmonton formation. Paula Bordeleau, who owns the southeast quarter of section 13-48-7W5M, intervened in the proceedings. She raised concerns regarding the proposed well location, potential health impacts, ground water protection issues as they relate to her domestic water wells, and general concerns with Bonterra personnel's ability to answer questions in a clear, concise, and consistent manner. A hearing was held in Drayton Valley on November 6 and 7, 2002. On January 28, 2003, the Board issued [Decision 2003-008](#) approving the application by Bonterra.

Ms. Bordeleau requested a review of Decision 2003-008 on the basis that Bonterra failed to fulfill its commitments to test her water wells for quality and quantity using an independent contractor prior to drilling the well. Ms. Bordeleau also argued that Bonterra did not follow up on its commitment to discuss its corporate ERP with her.

After giving careful consideration to the submissions of Ms. Bordeleau and also the submissions of Bonterra, the Board denied Ms. Bordeleau's request for a review. The Board found that there was no substantial question as to the correctness of the original decision either as a result of error or change in circumstance. Notice of the Board's decision was provided to Ms. Bordeleau's counsel, Mr. Richard Secord, on March 9, 2004.

On March 25, 2004, Ackroyd, Piasta, Roth & Day LLP (Ackroyd Piasta) submitted a cost claim on behalf of Ms. Bordeleau. By letter dated April 7, 2004 the Board received comments from Bonterra regarding the claim and on April 26, 2004 the Board received Ackroyd Piasta's response to the comments. Accordingly, the Board considers that the cost process for this matter closed on April 26, 2004.

2 VIEWS OF THE BOARD – Authority to Award Costs

In determining local intervener costs, the Board is guided by its enabling legislation. In particular, by section 28 of the *Energy Resources Conservation Act* (ERCA) which reads as follows:

- 28(1) In this section, "local intervener" means a person or a group or association of persons who, in the opinion of the Board,
- (a) has an interest in, or
 - (b) is in actual occupation of or is entitled to occupy

land that is or may be directly and adversely affected by a decision of the Board in or as a result of a proceeding before it, but, unless otherwise authorized by the Board, does not include a person or group or association of persons whose business includes the trading in or transportation or recovery of any energy resource.

It is the Board's position that a person claiming local intervenor costs must establish the requisite interest in land and provide reasonable grounds for believing that such an interest may be directly and adversely affected by the Board's decision on the project in question.

When assessing costs, the Board will have reference to Part 5 of the *Rules of Practice* and to its *Scale of Costs*.

Section 55(1) of the *Rules of Practice* reads as follows:

- Section 55(1) The Board may award costs in accordance with the Scale of Costs, to a participant if the Board is of the opinion that:
- (a) the costs are reasonable and directly and necessarily related to the proceeding and;
 - (b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

3 VIEWS OF THE BOARD – Cost Claim

The claim filed on behalf of Ms. Bordeleau was for the legal fees of Ackroyd, Piasta, Roth & Day LLP (Ackroyd Piasta) in the amount of \$2,350.00, disbursements in the amount of \$68.34, and applicable GST in the amount of \$169.28 for a total claim of \$2,587.62. The Board notes that an honorarium for Ms. Bordeleau was not claimed.

The proceeding in question was a review request. The Board's process for considering a review request has two stages. In the first stage, the Board considers the preliminary question of whether the decision, license, permit, etc., should be reviewed. It requires the review applicant to supply information regarding the location of the applicant's property or residence in relation to the facility, the circumstances that give rise to the application for review and the impacts that the facility may have on the applicant. The licensee is given an opportunity to respond to the review request, and the review applicant may reply to these comments. In the Board's view, the preparation of substantive argument or the filing of evidence is unnecessary at this stage.

Upon review of the claim the Board notes that Ms. Bordeleau's counsel, Mr. Richard Secord, incurred 9.4 hours. The Board does recognize that the review request was denied on the basis that there was no substantial question as to the correctness of the original decision either as a result of error or change in circumstance¹. Ordinarily in such circumstances it would be the Board's determination that Ms. Bordeleau's application did not contribute to a better understanding of the issues before the Board and the cost claim would be denied. In these circumstances however, the Board notes that a number of issues, which were involved in the review request, concerned the fulfillment by Bonterra of commitments it made to Ms. Bordeleau during the hearing in this matter. The Board finds that if Bonterra had attended to the fulfillment of these commitments with greater alacrity much of, if not all the issues considered in this review may have been resolved. In that regard the Board notes that Ms. Bordeleau's counsel, Mr.

¹ Board letter to Richard Secord, March 9, 2004

Richard Secord, incurred 9.4 hours. The Board finds the hours incurred to be commensurate with the value provided in these particular circumstances.

Taking the foregoing into account, the Board allows Ms. Bordeleau's cost claim in full.

4 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Bonterra Energy Corp. shall pay intervener costs in the amount of \$2,587.62 to Ackroyd, Piasta, Roth & Day, Attention: Richard C. Secord, 1500-10665 Jasper Avenue, Edmonton, AB., T5J 3S9.

Dated in Calgary, Alberta on this 26 day of July, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

Original signed by Brad McManus

Brad McManus
Board Member