



Standard Energy Inc.

Application for a Pipeline Licence
(Grande Prairie Field)

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2008-004: Standard Energy Inc.

Application for a Pipeline Licence

Application No. 1471540

Cost Application No. 1518930

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.ercb.ca

Contents

1	INTRODUCTION.....	1
2	VIEWS OF THE BOARD – AUTHORITY TO AWARD COSTS.....	1
3	VIEWS OF THE PARTIES.....	2
	3.1 Standard Energy Inc.....	2
	3.2 The Miles Family.....	2
4	VIEWS OF THE BOARD.....	3
5	ORDER.....	4

ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Standard Energy Inc.
Application for a Pipeline Licence
(Grand Prairie Field)**

**Energy Cost Order 2008-004
Application No. 1471540
Cost Application No. 1518930**

1 INTRODUCTION

Standard Energy Inc. (Standard) applied to the Alberta Energy and Utilities Board (EUB or the Board) in accordance with Part 4 of the *Pipeline Act* for approval to construct and operate a pipeline for the purpose of transporting natural gas from a central tie-in point at an existing well at a Legal Subdivision (LSD) to an existing Suncor Energy Inc. compressor station.

The Board held a public hearing in Grande Prairie, Alberta, from June 11 to June 12, 2007, before Board Member T.M. McGee (Presiding Member) and Acting Board Member K.G. Sharp, P.Eng., and R.C. Clark. The Board panel and staff conducted a visit of the general area on June 11, 2007, to view the lands encompassed by and surrounding the proposed pipeline route.

Upon review of the record, the Board determined a need for further evidence and submissions regarding the questions of need and routing. Accordingly, the Board reopened the hearing on August 7, 2007. The additional process was concluded on September 14, 2007.

On November 13, 2007, the Board issued Decision 2007-089.

On June 28, 2007, the Board received a cost claim from counsel for Peter Miles and Kari Miles (the Miles Family) totaling \$2,549.85. On July 27, 2007, the Board received comments from Standard, and on August 14, 2007, the Board received a response from the Miles Family. The Board considers the cost process to have closed on August 14, 2007.

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 PARTIES

3.1 Standard Energy Inc.

On July 27, 2007, counsel for Standard submitted comments regarding the cost claim filed by the Miles Family. Standard takes issue with 6.3 hours incurred prior to April 3, 2007 which do not appear to be related to hearing preparation. Standard also raised concern with duplication between the legal account for Standard's application and Defiant Resources Corporation's (Defiant) application no. 1504712. Standard requested the opportunity to review the legal account arising out of Defiant's application.

3.2 The Miles Family

On August 14, 2007, the Miles Family submitted a response to Standard's comments. In response to the time period covered by the legal account, the Miles Family submitted the following response.

It is our opinion that Directive 031A does not limit cost applications solely to costs incurred after notice of a hearing has been issued. Specifically Section 7 of Directive 031A states that "the EUB recognizes however, that it is sometimes necessary for local intervenors to incur costs prior to the notice and that such costs may be reasonable and directly and necessarily related to the intervention in question."

The Miles Family submitted that all costs are reasonable, necessary, and directly related to the proceedings and that the preliminary matters were a precursor to the hearing.

In response to the request for an invoice from Defiant, the Miles Family submitted the following.

It is our belief that Standard Energy's request to review invoices in relation to matters it is not involved in would involve a breach of solicitor/client confidentiality. Mr. Palmer proceeded throughout the entirety of this process on the assumption that our clients Peter and Kari Miles would be responsible for every aspect of their legal costs. Therefore every care and attention was made to ensure that no duplication in respect to the two

different actions was made. Our office treated each action as two independent matters and accordingly billed each as such.

4 VIEWS OF THE BOARD

The cost claim submitted by the Miles Family includes legal fees of \$2,537.64, expenses of \$11.80, and GST of \$144.05, for an overall claim of \$2,549.85.

The Board issued the Notice of Hearing with respect to this matter on April 25, 2007. With respect to costs incurred prior to the Notice of Hearing being issued, the Board notes that Directive 31A provides the following with respect to the relationship between the Notice of Hearing and cost recovery.

The EUB's usual practice (there are exceptions) is to acknowledge only those costs incurred after the EUB has issued a notice of hearing. It is generally the EUB's position that until a notice of hearing has been issued, there is no certainty that a hearing will be held. The EUB finds that in many cases the prenotice interactions between interveners and applicants relate to compensation matters and not public interest issues. The EUB recognizes, however, that it is sometimes necessary for local interveners to incur costs prior to the notice and that such costs may be reasonable and directly and necessarily related to the intervention in question.

The Board has considered Standard's submission regarding these particular hours. In the Board's view, there was no certainty that this matter would proceed to a hearing. In that regard, the Board notes that the following from Board letter dated April 4, 2007.

The application is currently under review and the concerns outlined in your letter will be taken into consideration by the EUB in its review of the application. The EUB expects parties to discuss outstanding concerns whenever possible. By way of copy of this letter to Standard Energy Inc., we are requesting Standard Energy Inc. address your concerns.

Taking the foregoing into account, the Board finds that 6.3 hours (\$567.00¹) are found to be ineligible for recovery under this Order and are therefore denied. Regarding the issue of duplication between Standard's application and Defiant's application, the Board has reviewed the respective legal accounts and is of the view that duplication does not exist.

The Board finds the remaining hours and disbursements to be reasonable and in accordance with Directive 031A, and are therefore approved in full. In summary, the Board approves legal fees of \$1,827.00, disbursements of \$11.80, and GST of \$110.03, for a total award of \$1,948.83.

¹ 6.3 hrs x \$90.00

5 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Standard Energy Inc. shall pay intervener costs in the amount of \$1,948.83.
- (2) Payment shall be made to the offices of Carter, Lock & Horrigan at #200, 9803-101 Avenue, Grande Prairie, AB T8V 0X6.

Dated in Calgary, Alberta on this 8th day of May, 2008.

ALBERTA ENERGY AND UTILITIES BOARD

<Originally signed by Thomas McGee>

Thomas McGee
Board Member