ALBERTA ENERGY AND UTILITIES BOARD
Calgary Alberta

RIDER RESOURCES INC.
COMMON PROCESSOR **Decision No. 97-2**
PEMBINA FIELD **Application No. 951868**

1 INTRODUCTION

1.1 Applications, Interventions, and Hearing

Rider Resources Inc. submitted an application under section 42 of the Oil and Gas Conservation Act (the Act) for an order declaring Canadian Occidental Petroleum Ltd. as a common processor of gas from the Pembina Keystone Cardium Unit No. 2 (the Unit), through processing facilities located in Legal Subdivision 5 of Section 35, Township 48, Range 4, West of the 5th Meridian (Lsd 5-35-48-4 W5M) (the Keystone Gas Plant).

The applicant also requested that processing fees be set pursuant to section 44(2) of the Act. However, the Board decided to hold this request in abeyance until a decision had been made on the common processor matter. The notice of hearing stated that the Board would consider only the common processor matter.

Canadian Occidental Petroleum Ltd. submitted an intervention opposing the application, while Chevron Canada Resources and Mapco Canada Ltd. filed submissions for the purposes of cross-examination and giving final argument. Six participants in the Unit, Adanac Oil and Gas Limited, ARC Resources Ltd., Bumper Development Corporation Ltd., Canadian Leader Energy Inc., NCE Oil and Gas Ltd., and Rockport Energy Corporation each filed a submission supporting the application. A number of interested parties which are not participants in the Unit also filed submissions supporting the application. These included Gardiner Oil and Gas Limited, Birchill Resources Limited, EnerPlus Inc., Saxon Petroleum Inc., Ulster Petroleums Ltd., Pure Oil & Gas Co. Ltd., and Western Producer Inc.

The application was considered at a public hearing on 16, 17, and 18 October 1996, before Presiding Board Member, F. J. Mink, P.Eng., Board Member, G. Miller, and Acting Board Member, R. G. Paterson, P.Eng.

The following table lists those parties who appeared at the hearing and abbreviations used in this report. Other parties which filed submissions as noted above but are not listed on the table did not appear at the hearing. A numbered company, 296936 Alberta Ltd., did not file a submission prior to the hearing, but appeared in support of the application.

THOSE WHO APPEARED AT THE HEARING

Principals and Representatives (Abbreviations Used in Report)	Witnesses
Rider Resources Inc. (Rider) B. K. O'Ferrall S. M. Munro	B. E. Horner L. W. Kotschorek I. C. Moller, P.Eng. of Moller & Associates Ltd. J. Meunier Student, University of Calgary
Canadian Occidental Petroleum Ltd. (CanOxy) R. A. Neufeld J. Hope-Ross	D. Korsbrek I. MacDonald B. D. Sebry, P.Eng. J. A. Stayura, P.Eng.
Chevron Canada Resources (Chevron) K. F. Miller K. Archibald	
Gardiner Oil and Gas Limited, Birchill Resources Limited, EnerPlus Inc., Saxon Petroleum Inc., and Ulster Petroleums Ltd. (the Gardiner Group) A. Harvie	
Pure Oil & Gas Co. Ltd. (Pure) R. F. Smith	A. Kalau G. Little of BMP Energy Systems Ltd. S. Moussa
Western Producer Inc. (Western Producer) S. Syms	S. Syms
296936 Alberta Ltd. D. Ragan	D. Ragan
Alberta Energy and Utilities Board staff K. Fisher R. Girvitz T. Walden	

1.2 Background

CanOxy is the operator of the Unit which was formed in 1971. The area of the Unit is about 33 sections extending over portions of Townships 48 and 49, Ranges 3 and 4, W5M. Rider obtained its current 18.63 per cent working interest in the Unit by acquiring interests from five different parties during 1994 and 1995.

The entire Unit production is taken from the Pembina Cardium Pool, a large oil pool extending over portions of Townships 45 to 51, Ranges 1 to 12, W5M. Solution gas from the Unit is processed at the Keystone Gas Plant, owned and operated by CanOxy. The plant also processes gas from other units in the area and from a number of non-unitized wells producing both solution and non-associated gas.

Rider's major predecessor in title in the Unit, Imperial Oil Resources (Imperial), had an arrangement by which CanOxy purchased Imperial's gas prior to the plant gate, with CanOxy retaining the natural gas liquids (NGLs) extracted from the gas. This arrangement ended in 1994, and no formal agreement has been reached between CanOxy and Rider since that time for the purchase or processing of Rider's gas. However, Rider's gas continues to be processed at the Keystone Gas Plant as part of the Unit gas stream, with CanOxy purchasing the gas prior to the plant gate, and retaining the NGLs obtained from Rider's gas.

2 ISSUES

The Board considers the issues to be

- whether or not the application has been made pursuant to the proper legislation (jurisdictional matter),
- the need for a common processor order, and
- if a common processor order is issued, the provisions of the order.

3 JURISDICTIONAL MATTER

3.1 Views of Rider

Rider maintained that there is a need for a common processor order to address the terms under which its solution gas could be processed at the Keystone Gas Plant in an equitable fashion. It rejected the submissions of CanOxy and Chevron that a common processor declaration is not necessary in this case since the focus of its application is largely to redress conflicts about processing fees. Rider contended that drainage is not a mandatory requirement for a common processor order, as argued by CanOxy and Chevron. The applicant further contended that the common processor declaration is potentially rate-related, or there would not be a provision in section 44(2) of the Act that allows for a review of rates if such cannot be negotiated after a

common processor declaration has been made. The applicant also saw a difficulty in requesting the setting of fees in the absence of a common processor order in this case, because it does not currently have a formal processing arrangement with CanOxy. Thus an argument could be made that, as there is no processing arrangement, there are no fees to be set. Rider concluded that a common processor order is required in this case.

3.2 Views of Others Supporting The Application

In a written submission, the Gardiner Group argued that the Board has the jurisdiction to declare CanOxy a common processor in this case.

3.3 Views of CanOxy and Chevron

CanOxy argued that if the application is an avenue to set the stage for an order regulating gas processing fees, it is inappropriate. In its opinion, a common processor application is intended to provide a remedy for drainage of reserves resulting from a lack of access to processing facilities, and is not a remedy against perceived unfair processing fees. It maintained that the Gas Utilities Act provides a process for complaint respecting processing fees.

Chevron also argued that if a producer has access to a gas plant and wishes to complain about rates, its potential remedy is not pursuant to the Act, but under the provisions of section 28 of the Gas Utilities Act. In Chevron's view, the common processor provisions of the Act are intended to provide access to processing facilities where access has been denied and the reserves of the parties seeking relief are being drained.

3.4 Views of the Board

The Board notes the arguments by CanOxy and Chevron that a common processor order is intended to provide a remedy for drainage of reserves resulting from a lack of access to processing facilities, and is not a proper means through which to seek to regulate processing fees. The Board cannot agree with that position. It believes the equity test implied in the common processor legislation compels the Board to consider all the factors that may prevent parties from obtaining fair value for their resources. While physical drainage typically has been the reason for such orders, the Board believes that other inequities could arise from operating practices and commercial terms between the parties affected that could be unfair or prevent orderly development of resources.

The Board accepts the position of Rider that provisions of section 44(2) of the Act explicitly recognize that processing fees could be a factor in considering common processor applications. The Board is satisfied that it has the jurisdiction to consider Rider's application as presented.

4 CONSIDERATION OF THE APPLICATION

4.1 Basis For Consideration

The Board is of the view, expressed in some previous cases involving applications for common processor orders, that an applicant requesting a common processor order would be required to demonstrate to the Board's satisfaction that

- producible gas reserves exist and gas processing facilities are needed,
- reasonable arrangements for the use of processing capacity in an existing plant could not be agreed on by the parties, and
- a common processor order is the only economically feasible way, or is clearly the most practical way to process the gas in question, or is clearly superior environmentally.

4.2 Views of Rider

Rider argued that it has not been able to negotiate access to processing capacity at the Keystone Gas Plant on reasonable terms, and therefore needed a common processor order to secure the opportunity of obtaining its share of gas and NGLs from the pool.

Rider estimated its share of remaining solution gas and NGLs in the Unit to be 32.12 million cubic metres (m^3) (1.14 billion cubic feet) (cf), and 13.95 thousand (10^3) m^3 (87.817 x 10^3 barrels) (bbls), respectively.

Rider finds the current situation whereby its gas is being processed at the Keystone Gas Plant as part of the Unit stream to be unacceptable. Under this arrangement, CanOxy purchases the solution gas prior to the plant gate for 65 per cent of a monthly index price, multiplied by the gross heating value for the gas entering the gathering system, less a transportation cost differential to the plant gate, with CanOxy retaining ownership to all the NGLs obtained from the gas. Rider considered the effective price paid for its resources to be below market value. It also argued that the effective processing fee being charged by CanOxy, accounting for the value of the NGLs, is excessive. The applicant indicated that a recent calculation showed the effective processing fee to be \$69.92/10^3 m^3 (1.97/thousand cubic feet (mcf)). Rider also contended that because CanOxy refused to provide Rider its NGLs in kind, Rider is being drained of its NGLs and of the economic value of its natural gas reserves. Rather than selling its gas to CanOxy prior to the plant gate, Rider prefers to have access to processing capacity and receive its residue gas and NGLs in kind at the plant outlet. The applicant also submitted that processing capacity is required to eliminate flaring which is now occurring from some wells because it is uneconomic to recover the gas, given the effective fee for processing charged by CanOxy. It estimated that it has flared 225 x 10^3 m^3 (8 million cf) of gas and 127 m^3 (800 bbls) of NGLs in the 10 months prior to the hearing. In addition, Rider said that it needed processing capacity for other wells that it wanted to drill in the area that would be flared if it cannot obtain processing capacity at

reasonable rates. The applicant anticipated that if it had processing capacity and could take its residue gas and NGLs in kind, it would be able to find markets for these products as it has in the past.

The applicant considered an acceptable arrangement to be one where the processing fee would be calculated using the guidelines set out in the documents entitled "Gas Processing Fee Guidelines Jumping Pound 1990" and "Joint Industry Task Force Report on Processing Fees JP-95" (JP-90/95), and which allowed Rider to take its residue gas and NGLs in kind. On the basis of the JP-90/95 guidelines, a reasonable fee for sweet solution gas at an underutilized facility such as the Keystone Gas Plant would range from about $10.65 to $21.30/$10^3$ m^3 ($0.30 to $0.60/mcf). Rider acknowledged that in calculating these fees, it had to use publicly-available information, because it could not get CanOxy to provide information on plant capabilities and operations. If the actual cost numbers are higher, Rider would be willing to recognize the need for that adjustment. It did not include a gas gathering charge in its calculations, as it considered the pipelines to be the Unit's, but conceded that if the pipelines involved were CanOxy's rather than the Unit's, as argued by CanOxy, some appropriate pipeline costs should be included in the formula. Rider argued however that these costs should exclude portions of the pipeline system not used by the Unit. The applicant also disagreed with the plant replacement costs and a number of other elements which CanOxy included in a calculation of fees under the JP-90/95 guidelines.

With respect to NGLs, Rider submitted that CanOxy has refused any arrangement to provide Rider with its NGLs in kind. The applicant noted CanOxy's argument that the major reason it does not want to provide NGLs in kind is because the administration of this process would be highly complex and difficult when applied to the many producers using the plant. Rider however argued that concerns over administration would not be grounds for denying a common processor order. It also maintained that until it can process its gas at the Keystone Gas Plant and take its products in kind including its NGLs it would not have true access to the facilities.

The applicant stated that processing its gas at the Keystone Gas Plant is preferable to other alternatives. It submitted economic analyses for the alternatives of building its own new facilities, and of transporting its gas to a Talisman Energy Inc. gas plant in Lsd 6-15-48-3 W5M, or an Anderson Oil & Gas Inc. gas plant in Lsd 5-30-49-3 W5M (the Talisman or Anderson gas plants, respectively). The analyses showed each alternative to be economic. However, Rider argued that the proposed common processor operation would still be the most desirable option having regard for the expense, unnecessary duplication of facilities, and environmental disruption associated with building new facilities.

Rider requested that the proposed common processor order be made effective as of 1 April 1995, on the basis that this was the date that Rider asked CanOxy to provide Rider's share of production in kind.

On other matters, the applicant noted that the Board had decided to hold Rider's request that processing fees be set at this time in abeyance pending a decision on the application for a

common processor order. However, Rider requested that, having regard for CanOxy's failure to offer any reasonable processing arrangement, the Board reconsider this decision and set fees.

4.2 Views of Others Supporting The Application

All the parties supporting the application agreed that CanOxy is charging excessive effective fees for processing gas. Western Producer submitted that flaring of gas is occurring because it is uneconomic to conserve the gas at the fees being charged by CanOxy. 296936 Alberta Ltd. submitted that it has a well that is shut in because of the high processing fees. Pure and Western Producer contended that the high fees may result in the premature abandonment of wells. Pure, Western Producer and 296936 Alberta Ltd. also wanted the opportunity to take NGLs in kind. Pure also suggested that the common processor order should apply to the entire Cardium pool rather than only to the Unit portion, while 296936 Alberta Ltd. suggested that the order should apply more broadly and have the effect that CanOxy would charge reasonable fees for any gas processed at the Keystone Gas Plant, and allow producers to take NGLs in kind. In written submissions, the Gardiner Group and those Unit participants which supported the application, indicated that it would be appropriate that processing fees be set in accordance with JP-90/95.

4.3 Views of CanOxy

CanOxy did not dispute Rider's estimate of the Unit reserves it had available for processing. However, it argued that a common processor order is not required because Rider's reserves are not being drained, since its gas continues to be processed through the Keystone Gas Plant as part of the Unit stream. CanOxy maintained that it already processes gas from the subject Unit, other units, and non-unit wells without discrimination, and thus an order is not needed. It further argued that Rider would have access to processing capacity if it accepted CanOxy's offer to process rich gas for $\$5.50/10^3\ m^3$ ($0.15/mcf), with CanOxy retaining the NGLs. CanOxy said that this offer is open to Rider or any other party wishing to process rich gas through the plant and to take the residue gas in kind. It also said that it would be prepared to continue purchasing Rider's gas prior to the plant gate. It indicated that it would remain open to discussions to consider adjustments to the price it paid for gas in the field, but maintained that it was not prepared to offer producers the opportunity to take NGLs in kind under either the processing or purchase agreements it offered.

CanOxy submitted that the value conveyed to producers through the contractual arrangements offered is competitive with other plants in the immediate area and in the Pembina area in general. It did not make its own calculation of the effective processing fees for the Rider case, because it did not have knowledge of Rider's royalty situation. However, it contended that the effective fee calculated by Rider of $\$69.92/10^3\ m^3$ ($1.97/mcf) is not unreasonable for a system constructed for conserving solution gas. CanOxy argued that the fees being charged at the plant are within the range of what could be calculated using the JP-90/95 guidelines. It submitted that the fee range of $\$10.65$ to $\$21.30/10^3\ m^3$ ($0.30 to $0.60/mcf) calculated by Rider is absurdly low. It noted that Rider had used incorrect values for plant capacity, as-spent capital, replacement costs, and operating costs in the calculation, and in addition had failed to account for the gas gathering

system which is owned by CanOxy and not the Unit. For its own calculation of a fee range under the JP-90/95 guidelines, CanOxy broke down the gathering system, compression facilities, and fractionation facilities into functional units, and determined the capacity and costs for each unit. Using the resulting values, it calculated a fee range from $27.33 to $58.21/$10^3$ m^3 ($0.77 to $1.64/mcf). CanOxy said that in any event, it did not consider the JP-90/95 guidelines to be applicable to this case, because in its view the guidelines were not intended to be used to unravel existing business arrangements and situations.

CanOxy argued that its policy of keeping the NGLs under any of the arrangements it offered is reasonable. It did not want to offer NGLs in kind mainly because the administration of allocating NGLs to producers having limited volumes would be highly complex and difficult. In addition, it said that providing NGLs in kind would detract from its ability to serve its own established markets and internal uses for NGLs.

CanOxy submitted that if Rider wished to exercise its option under the Unit agreement to take its products in kind, it could do so by transporting its gas to another gas plant. CanOxy noted that Rider's evidence showed that it would be economic to take its gas to the Talisman or Anderson gas plants.

In summary, CanOxy maintained that Rider's reserves are not being drained, that Rider has an opportunity to obtain processing capacity on reasonable terms by accepting CanOxy's offer, and that on its own evidence, Rider has economic options to process its gas at other gas plants. On the basis of the foregoing, CanOxy concluded that a common processor order is not needed, and therefore, the application should be denied.

4.4 Views of Chevron

Chevron contended that if the Board were to decide that the JP-90/95 guidelines should be the basis on which to determine fees to be charged at the Keystone Gas Plant, the Board would in effect be declaring that these guidelines also form the basis for determining fees at all gas plants in Alberta. Chevron argued that the Board should consider mandating the application of the JP-90/95 guidelines, whether in this case or otherwise, only after it has solicited and considered the views of industry as a whole, and not just the views of the limited number of interveners at the subject hearing.

4.5 Views of the Board

The Board accepts the evidence and statements that Rider has producible reserves available for processing. It also notes that CanOxy is currently processing Rider's gas after purchasing it prior to the plant gate. Accordingly, the Board does not believe that Rider's reserves are being drained for lack of access to processing. However as indicated previously, the Board does not believe the traditional drainage test should be the sole test of the need for a common processor order. The primary equity concern in this instance relates to whether or not the terms of the effective processing arrangement are reasonable.

In the Board's view, the principle issue in this application is whether the effective processing arrangement is fair to all parties, including CanOxy. In this case, it appears that the existing purchase arrangement may not be equitable to the producers. In reviewing this question, the Board believes it is reasonable to apply the JP-90/95 guidelines as a means of assessing the equity of the effective processing fees. The methodology to calculate fees in the guidelines has been developed by, and has the support of, the industry. The Board believes that the JP-90/95 guidelines were prepared to provide a fair return to proponents of gas processing plants and equally fair value for those using them for custom processing. The Board also understands that the guidelines are intended to represent a broad spectrum of applications in the province.

On an overall basis, the Board is of the view that a reasonable processing fee for an older plant such as the Keystone Gas Plant should fall within the lower range of the fees that could be calculated using the guidelines. The Board notes the divergent calculations by Rider and CanOxy, the different opinions about the elements and values that should be used in the calculations, and the difficulties caused by a lack of disclosure by CanOxy respecting plant capacities and operations. In the Board's view, the calculations should recognize those facilities and services that would actually be used by Rider, including at least a portion of the gas gathering system, as well as the age of the facility. On this basis, and taking into account Rider's problems in obtaining information from CanOxy to use in the fee calculations, the Board believes that the overall range of fees calculated by Rider appears to be too low. On the other hand, the effective processing fee charged appears high, even by the range of JP-90/95 fees calculated by CanOxy. On the basis of a cursory review, the Board concludes that the effective processing fee charged by CanOxy is excessive, and that the existing arrangement does not provide Rider and other producers with a fair value for all products.

A related matter to the effective processing fee is the producers' access to NGLs. Under normal circumstances, the Board considers it fundamental that producers have the opportunity to receive all of their products in kind, should they wish to do so. It is evident that Rider has been denied direct access to its NGLs by CanOxy's refusal to allow it to take all its products in kind under a processing arrangement. The Board notes CanOxy's argument that the administration associated with allocating the NGLs to each producer wishing to take in kind would be complex and difficult. However, the Board does not consider this in principle to be a sufficient reason to deny a producer this opportunity. The Board does accept that such an arrangement would not be practical for many of the small producers and it may well be preferable for them to dedicate their products to CanOxy in return for fair value. On the other hand, those that do wish to receive products in kind should have the option to do so while paying for the administrative costs of segregating them. If declared a common processor, CanOxy may seek relief under section 43 of the Act from any duty to provide products in kind if it considers such a duty to be unreasonable.

The Board notes the evaluations presented by Rider that it would be economic to process gas at a new plant or at either of two existing plants other than the Keystone Gas Plant. Any of these alternatives would however involve the construction of some new facilities. Given that there is an existing infrastructure to handle Rider's gas, the construction of new facilities would in the Board's view be an unnecessary duplication of facilities and would cause environmental impact

that would otherwise be avoidable. Given the apparent scope in rationalizing the processing fees, the Board considers that use of the existing facilities to be the most practical, efficient, and orderly means of processing Rider's gas.

The Board also notes the discussion at the hearing by Rider and others that gas is being flared, and wells are being shut in and may be abandoned prematurely because of the effective processing fees being charged at the Keystone Gas Plant. Unless the processing fees were found to be fair, the Board questions the suggestion by CanOxy that operators should transport their gas to alternative plants to resolve these issues. In the Board's view, this would affect the long-term conservation of resources and would not be in the public interest.

The Board accepts that normal negotiations respecting processing arrangements may well result in a variety of agreements other than producers taking their products in kind. As indicated above, the Board does not accept however that the processing options offered by CanOxy are necessarily fair in this instance. The Board acknowledges that CanOxy offers a service in return for the NGLs and is entitled to receive a fair return for that service. However, it appears that the conflict between Rider and CanOxy is as much related to the value received for that service and the limited options available to producers. Having regard for the apparent impasse between the parties, the Board is prepared to grant the common processor application and ultimately to consider an application under section 44(2) of the Act and section 28 of the Gas Utilities Act to review the appropriate fees.

The Board notes the requests that any common processor order issued apply to the entire Cardium Pool rather than just the Unit portion as set out in the application, or alternatively to all gas being processed through the Keystone Gas Plant. Considering that all parties who would be affected by either of these alternatives have not been provided an opportunity to consider and comment on the alternatives, the Board believes that it would not be appropriate to broaden the scope of the order at this time as requested. The Board recognizes that a common processor order applying to the Unit portion of the Cardium Pool may result in some parties with gas flowing into the Keystone Gas Plant being at a disadvantage in comparison to Unit participants, and believes that CanOxy should make every effort to accommodate all gas flowing through the plant in a manner consistent with the common processor order.

The Board sees no purpose in this case in making the common processor order effective in a retroactive manner as requested by the applicant. The Board notes that if after receiving the common processor order Rider subsequently requests that processing fees be set under section 44(2) of the Act and section 28 of the Gas Utilities Act, the latter legislation does not in any event provide for retroactive effect. The effective date of the common processor order would therefore be the date the order is issued.

Although the Board is prepared to consider a request for a review of fees at the Keystone Gas Plant, it is of the view that such a review should occur after the parties have attempted to negotiate the terms of such arrangements. The Board recognizes the complexity of such negotiations and believes that a negotiated settlement would be a more practical approach to

addressing the issues. The Board believes it reasonable that such negotiations be completed within three months of the date of the common processor order, although an extension to this term would be acceptable if supported by all affected parties. In the event the parties are unable to reach a suitable settlement, or reach an impasse in their negotiations, the Board would expect Rider to file the necessary documentation for a review of the fees in due course. Unless circumstances warrant otherwise, the Board would rely on the JP-90/95 guidelines for determining the appropriate fees.

5 DECISION

Upon review of all the evidence and for the reasons outlined above, the Board will approve the common processor application, subject to the authorization of the Lieutenant Governor in Council. The common processor order would declare Canadian Occidental Petroleum Ltd. as a common processor of gas produced from the Pembina Keystone Cardium Unit No. 2, through the gas processing facility located in Legal Subdivision 5 of Section 35, Township 48, Range 4, West of the 5th Meridian. The common processor order will be effective on the date it is issued.

DATED at Calgary, Alberta on 24 January 1997.

ALBERTA ENERGY AND UTILITIES BOARD

F. J. Mink, P.Eng.
Presiding Board Member

G. Miller*
Board Member

R. G. Paterson, P.Eng.
Acting Board Member

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* Mr. Miller was unavailable for signature but concurs with the contents and with the issuing of this report.