



# Provident Energy Ltd.

Applications for Licences for a Well and Battery

Cost Awards

**ALBERTA ENERGY AND UTILITIES BOARD**  
Energy Cost Order 2005-002 Provident Energy Ltd.  
Applications for Licences for a Well and Battery  
Application Nos. 1342216 and 1361555

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# ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Provident Energy Ltd.  
Applications for Licences  
For a Well and Battery  
Lloydminster Field**

**Energy Cost Order 2005-002  
Application Nos. 1342216 1361555  
File No. 8000-1342216-01**

## 1 INTRODUCTION

Provident Energy Limited (Provident) applied on April 14, 2004, to the Alberta Energy and Utilities Board (EUB/Board) pursuant to Section 2.020 of the Oil and Gas Conservation Regulations for a licence to drill a directional well. On September 21, 2004, Provident further applied, as directed by the EUB pursuant to Section 7.001 of the Oil and Gas Conservation Regulations, for approval to construct and operate a single well crude oil battery.

Roslin Farms Ltd. is the owner, in fee simple, and occupant of the southwest quarter of Section 34-50-1W4M, the land on which the proposed well and battery were to be located. Mr. David Inge and Mrs. Denise Inge (the Inges/interveners) are the sole shareholders and officers of Roslin Farms Ltd. In addition, Mrs. Rita Finlay has a life estate interest in this land. The EUB determined that the Inges may be directly and adversely affected by the proposed project, as Roslin Farms Ltd. has a legal interest in the southwest quarter of Section 34 and the Inges raised concerns about the location of the well site and its impacts on their farming operations.

The EUB held a public hearing that commenced on November 30, 2004, before examiners R. L. Paulson, C.E.T. (Presiding Member), B. A. Austin, P.Geol., and M. P. Vandenberg, C.E.T. A site visit was conducted on November 29, 2004. On February 15, 2005 the Board issued Decision 2005-010.

On December 23, 2004 the EUB received a cost claim from Mr. Weiss of Trevoy Weiss LLP, on behalf of Roslin Farms Ltd., in the amount of \$25,777.98. Mr. Swist of Swist & Company, counsel for Provident, submitted comments respecting the claim on January 11, 2005. Mr. Weiss in turn was invited to provide a response by January 27, 2005. The Board received Mr. Weiss' response on January 26, 2005.

For the purposes of this Cost Order, the Board finds that the cost process closed on January 27, 2005.

## 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 – Local Intervenor Status**

For the purposes of this Cost Order the Board finds that Roslin Farms Ltd. is eligible to apply for cost recovery given the determination in Decision 2005-010, which states the following.

Roslin Farms Ltd. is the owner, in fee simple, and occupant of the southwest quarter of Section 34-50-1W4M, the land on which the proposed well and battery are to be located. Mr. David Inge and Mrs. Denise Inge (the Inges/interveners) are the sole shareholders and officers of Roslin Farms Ltd. In addition, Mrs. Rita Finlay has a life estate interest in this land.

The EUB determined that the Inges may be directly and adversely affected by the proposed project, as Roslin Farms Ltd. has a legal interest in the southwest quarter of Section 34 and the Inges raised concerns about the location of the well site and its impacts on their farming operations.

### **4 VIEWS OF THE BOARD – Assessment**

#### **4.1 Trevoys Weiss**

Trevoys Weiss incurred legal fees in the amount of \$20,815.00, disbursements in the amount of \$1,080.31, and GST in the amount of \$1,532.67 for an overall claim of \$23,427.98. Upon review of the claim the Board notes that 97.20 hours were incurred for preparation, 16 hours were incurred for attendance, and 1 hour was incurred for argument. All legal fees have been incurred in accordance with the Scale of Costs outlined in Guide 31A.

The Board finds that the costs submitted by Trevoys Weiss, as counsel for the intervenor, Roslin Farms Ltd., are not reasonable in light of the issues related to the applications in question. In that regard, the Board notes that no expert testimony was needed by the intervenor to address the issues before the Board arising from the applications. Only representatives of the intervenor testified on their own behalf respecting their concerns about the impacts of the proposed well and

battery on the farming operations. In the circumstances the Board finds the hours of preparation time to be excessive.

Furthermore, although the submission of the intervener sets out a number of reasons in support of the Board rejecting the applications such as noise associated with the applications, impacts on water, gas migration, public consultation, EUB requirements on emergency response planning not being met and unspecified environmental issues, these were not addressed at the hearing or recognized as specific concern to the intervener when questioned during the hearing. Further, the issue of most concern to the intervener, impacts of the proposed well and battery on its farming operation, was not addressed in detail in the submission nor was the intervener's proposal advanced at the hearing respecting a potential location for the proposed well. In addition, no mention was made in the submission of the intervener's concerns regarding previous conduct of the applicant which were discussed at the hearing. As a result, the Board finds that the submission did not assist the Board in circumscribing the actual potential specific impacts being advanced by the intervener and as such the Board considers that the time claimed to prepare the submission is not commensurate with the value of the submission.

The Board finds that counsel's insistence on the submission that the applications were incomplete and numerous motions added to the hearing time. The Board notes that it determined that the applications were complete and counsel did not bring forward any convincing argument to demonstrate that they were not. Such motions and arguments did not contribute to the Board gaining a better understanding of the issues before the Board.

In considering the cost application, the Board has also reviewed Mr. Weiss' statement of account. The Board notes that the last two entries, December 6 and 23, 2004, are not reflective of work required for the preparation of the hearing, attendance at the hearing, or preparation of argument. As such the Board finds that the cost incurred on these dates are not reasonable in terms of cost recovery under Guide 31A.

The Board has reviewed the disbursements incurred and finds that they have been incurred in accordance with Guide 31A and are therefore approved in full.

Taking all of the foregoing into account, the Board finds it appropriate to reduce the legal fees by 40% thereby approving legal fees in the amount of \$12,489.00, disbursements in the amount of \$1,080.31, and applicable GST in the amount of \$949.85, for an overall award of \$14,519.16.

#### **4.2 Roslin Farms Ltd.**

Roslin Farms Ltd. submitted a claim for a preparation honorarium in the amount of \$500.00 and an attendance honorarium in the amount of \$200.00 for an overall claim of \$700.00.

The Board grants interveners an honorarium for attendance at a hearing, specifically \$50.00 per half day. In this case, Mr. and Mrs. Inge were present on behalf of the company and therefore Roslin Farms Ltd. is awarded \$200.00 (\$50 per half day for two days of attendance). With respect to Roslin Farms' claim for a preparation honorarium, the Board is not prepared to allow this portion of the claim as counsel acted on its behalf.

Taking the foregoing into account, the Board approves an honorarium for Roslin Farms Ltd. in the amount of \$200.00.

### 4.3 David and Denise Inge

Mr. Inge submitted a claim totaling \$950.00 representing a preparation honorarium of \$500.00, an attendance honorarium of \$200.00, and an honorarium of \$250.00 for forming a group. Mrs. Inge claimed a total of \$700.00 representing a preparation honorarium of \$500.00 and an attendance honorarium of \$200.00.

Mr. and Mrs. Inge attended the hearing as officers of Roslin Farms Ltd. The Board does not find it reasonable to approve honorariums to officers of a company that is an intervener. Accordingly, the Board denies Mr. and Mrs. Inge's claim for honorariums.

## 5 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Provident Energy Ltd. shall pay intervener costs in the amount in the amount of \$14,719.16.
- (2) Payment under this Order is to be made to the offices of Trevoy Weiss LLP, attention: Timothy D. Weiss, 680, 10180 – 101 Street, Edmonton, Alberta, T5J 3S4.

Dated in Calgary, Alberta on this 12th day of April, 2005.

### ALBERTA ENERGY AND UTILITIES BOARD

*Original Signed by Thomas McGee*

Thomas McGee  
Board Member