



Standard Energy Inc.

Application for Two Pipelines and a Facility
Grande Prairie Field

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2005-012: Standard Energy Inc.

Application for Two Pipelines and a Facility

Grande Prairie Field

Application Nos. 1374597 and 1386424

Cost Application No. 1405789

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Contents

1	INTRODUCTION.....	1
2	VIEWS OF THE BOARD – AUTHORITY TO AWARD COSTS.....	1
3	VIEWS OF THE BOARD – INTERVENER STANDING	2
4	VIEWS OF THE BOARD – COST CLAIM ASSESSMENT.....	2
	4.1 Alex McDonald.....	2
	4.2 Darryl Carter & Company.....	2
5	ORDER	4

ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Standard Energy Inc.
Application for Two Pipelines and a Facility
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Application Nos. 1374597 and 1386424
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1 INTRODUCTION

Standard Energy Inc. (Standard) applied to the Alberta Energy and Utilities Board (EUB/Board) in accordance with Part 4 of the *Pipeline Act* for approval to construct and operate two pipelines (Application No. 1374597). Standard also applied pursuant to Section 7.001 of the *Oil and Gas Conservation Regulations* for approval to construct and operate a single-well gas battery (Application No. 1386424).

Alex McDonald and Shelley McDonald (McDonalds) intervened in the proceeding. The McDonald Family is the owner of the northeast quarter of Section 25-71-5W6M, the land on which the proposed pipelines and facility would be located.

The EUB held a public hearing in Grande Prairie, Alberta, on May 30, 2005, before Board Member J.R. Nichol, P.Eng. (Presiding Member) and Acting Board Members D.K. Boyler, P.Eng., and C.A. Langlo, P.Geol. The Board considers the record for this proceeding to have closed on May 30, 2005. On August 9, 2005 the Board issued Decision [2005-089](#). On August 24, 2005 the Board issued an Errata to Decision [2005-089](#).

On June 13, 2005 Mr. J. Darryl Carter, Q.C, filed a cost claim on behalf of his clients, the McDonalds. The EUB invited comments to the cost claim to be submitted by July 4, 2005 and responses to the comments to be submitted by July 18, 2005. The Board received comments from Davis & Company, counsel for Standard. The Board did not receive a response from Mr. Carter. For the purposes of this Cost Order, the Board considers the cost process to have closed on July 18, 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 intervener 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 – Intervener Standing

The Board finds that the McDonalds met the requirements of Section 28 of the ERCA and as such are eligible to apply for cost recovery.

4 VIEWS OF THE BOARD – Cost Claim Assessment

Mr. Carter submitted a cost claim on behalf of his clients in the amount of \$8,644.49. The claim is comprised of legal fees in the amount of \$7,950.00, disbursements of \$35.50, and GST of \$558.99 for an overall legal account of \$8,544.49. In addition an attendance honorarium of \$100.00 is claimed for Mr. McDonald.

4.1 Alex McDonald

The Board has considered Mr. McDonald's honorarium claim for attendance in the amount of \$100.00 and finds that this portion of the claim is in accordance with part 6.1.2 of Guide 31A, Guidelines for Energy Claims (Guide 31A). The Board further recognizes that Mr. McDonald's participation in the hearing reflected more than mere attendance. Mr. McDonald's evidence was focused and while providing his testimony the areas of concern to his family were well articulated to the Board. The Board also appreciates Mr. McDonald's efforts to ensure that his evidence was focused on the issues that were of concern to his family with respect to the applications.

For the foregoing reasons the Board finds the claim of \$100.00 to be appropriate and is approved in full.

4.2 Darryl Carter & Company

Upon review of the cost claim the Board notes that Mr. Carter incurred 25.8 hours for preparation and 6 hours for attendance (\$7,950.00). Mr. Carter's legal argument focused on the issue of conditioning the pipeline license for the removal of the pipelines upon abandonment, limiting the production stream through the pipelines to that of the 9-25-71-5W6M well and some discussion respecting other conditions requested by the McDonalds. The Board notes that the

McDonalds indicated in their closing argument that they did not expect the Board to provide comments on the additional conditions.

Upon review of the statement of account submitted in support of the cost claim, the Board notes that Mr. Carter's services are charged from November 8, 2004 to May 30, 2005. In that regard the Board does recognize that the Notice of Hearing, although subsequently rescheduled, was originally issued on April 26, 2005. Guide 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 completed a review of Mr. Carter's account and has determined that 19.1 hours (\$4,775.00) are for those services provided prior to the Notice of Hearing being issued. The majority of these hours include telephone attendances, e-mail correspondence, and one attendance at a facilitation meeting, all of which included in different instances Board representatives, Standard representatives, and Alex McDonald.

It is the Board's view that the legal services provided during this time relate to pre-notice interactions between Mr. Carter's client, the Applicant, and Board staff involved with the EUB's Appropriate Dispute Resolution (ADR) process. The Board understands that it was during this time that the McDonalds were attempting to negotiate their concerns with Standard directly. While the Board appreciates and encourages parties to attempt to resolve concerns as much as possible themselves, it is the Board's view that compensation for such negotiations is to be dealt with in the context of the negotiations themselves and not through the Board's cost recovery process. The Board notes that a cost regime exists for those costs incurred for negotiations and facilitations. In that regard the Board notes the following statement from Informational Letter [2001-1](#).

For the Preliminary ADR Meeting, industry participants should be responsible for the costs, including the direct third-party costs of landowners and the public. Costs and payment for future ADR options should be discussed and agreed to at the Preliminary ADR Meeting.

Although the Board views this particular time period to be primarily related to negotiations the Board does find it reasonable that some portion would be related to the issues that arose during the hearing. For the foregoing reasons, the Board disallows the fees incurred for Mr. Carter's attendance at the facilitation meeting (6 hours), a total of \$1,500.00 (6 hrs x \$250.00).

Taking all of the foregoing into account, the Board approves legal fees in the amount of \$6,450.00, disbursements in the amount of \$35.50, and applicable GST of \$453.99 for an overall award to Darryl Carter & Company in the amount of \$6,939.49.

5 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Standard Energy Inc. shall pay intervener costs to Alex and Shelley McDonald in the amount of \$7,039.49.
- (2) Payment under this order is to be made to Darryl Carter & Company, attention: Darryl Carter, Q.C, 103, 10134-97 Avenue, Grande Prairie, Alberta, T8V 7X6.

Dated in Calgary, Alberta on this 20th day of October, 2005.

ALBERTA ENERGY AND UTILITIES BOARD

<Original Signed by Thomas McGee>

Thomas McGee
Board Member