



West Energy Ltd.

Applications for Well Licences
Pembina Field

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2007-008: West Energy Ltd.
Applications for Well Licences (Pembina Field)
Application Nos. 1451106 and 1459453
Cost Application No. 1494382

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West Energy Ltd.
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Energy Cost Order 2007-008
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1 INTRODUCTION

West Energy Ltd. (West) applied to the Alberta Energy and Utilities Board (EUB or Board), pursuant to Section 2.020 of the *Oil and Gas Conservation Regulations*, for licences to drill two level-2 sour crude oil wells. The purpose of both proposed wells is to obtain crude oil from the Nisku Formation.

A number of individuals who reside within the Hamlet of Rocky Rapids or within the proposed project's ERP formed a group called the Rocky Rapids Concerned Citizens (RRCC).

The EUB held a prehearing meeting on October 30, 2006, and subsequently commenced a public hearing on March 26, 2007, before Presiding Board Member A. J. Berg, P.Eng., and Acting Board Members W. G. Remmer, P.Eng., and J. G. Gilmour, LLB. The public hearing lasted 14 days, ending with oral argument on May 14, 2007.

On August 8, 2007 the Board issued Decision [2007-061](#).

On June 11, 2007 counsel for RRCC filed a cost claim totaling \$369,755.92. On June 21, 2007, West submitted comments regarding the cost claim. As a result of West's comments, on June 27, 2007, RRCC submitted a revised cost claim totaling \$359,789.91; however upon reviewing all of the material provided, the Board concludes that the final cost claim totals \$361,554.03. On July 11, 2007 West submitted comments regarding the revised cost claim, and on July 25, 2007 RRCC submitted a response.

2 PRINCIPLES FOR AWARDED 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 PARTIES – Initial Comments and Responses

On June 21, 2007 West submitted comments concerning the initial cost claim filed by RRCC. West raised two areas of concern. Firstly, West noted that the RRCC's legal accounting failed to identify the amount of time incurred for each task recorded in the account. West stated that this lack of detail in the accounting made it difficult for it to assess the reasonableness of the time taken for each task.

Secondly, with respect to Dr. Du, two invoices were included, one for \$6,606.00 and one for \$18,402.48, both in US dollars. RRCC claims \$27,259.89 in Canadian dollars with respect to the two accounts. West submits that the claim lacks reconciliation between the invoiced US dollar amounts and the Canadian dollars claimed.

On June 27, 2007 RRCC filed a revised claim in response to West's comments. The revised claim included revised accounting formats for the legal accounting, and a copy of FXConverter which RRCC used for the conversion from US dollars to Canadian dollars. RRCC also noted some errors in the original cost claim with respect to the legal accounts and Dr. Du's account. Therefore, RRCC submitted revised E1, E2, and E4 forms.

On July 11, 2007 following receipt of the revised cost claim, West submitted comments regarding all costs being claimed by RRCC. On July 25, 2007, RRCC responded to West's comments.

The following sections include a summary of the comments and responses received, together with the Board's assessment.

4 KLIMEK LAW, BARRISTERS AND SOLICITORS

The following table summarizes the legal fees and expenses claimed by Klimek Law.

Table 1. Fees and Expenses Claimed by Klimek Law

Counsel	Fees	Expenses	GST	Total
Jennifer Klimek	\$132,521.20	\$14,427.27	\$8,400.43	\$155,348.90
Debbie Bishop	\$57,638.56	\$0.00	\$3,262.56	\$60,901.12
Total	\$190,159.76	\$14,427.27	\$11,662.99	\$216,250.02

4.1 Views of West

West submitted that counsel for RRCC failed to meet a higher standard with respect to procedural requirements and legal comity that is expected relative to when interveners, who not familiar with these concepts, are not represented.

West noted that, in an attempt to make the most efficient use of the hearing process, it provided RRCC with 13 informal information requests with respect to approximately 12 issues in order to identify areas of agreement. RRCC's reply indicated that RRCC did not find the majority of the issues to be satisfactory. Given this response, West stated that it had prepared witnesses to deal with the issues and produced the witnesses for cross-examination. West submitted that RRCC's final argument lacks reference to the issues which appeared to be in dispute, with the exception of noise and egress, and included submissions regarding the adequacy of West's consultation process.

West submitted that counsel for RRCC failed to act responsibly in the meaning of section 55(1)(b) of the Board's Rules of Practice. West provided the following examples.

- Notwithstanding the Board's direction to file direct written evidence, counsel submitted the majority of evidence by oral direct examination. This resulted in inefficient use of hearing time, and also provided for inefficient cross examination conducted by West of RRCC witnesses due to the lack of notice and knowledge of the RRCC issues.
- Counsel introduced new expert written evidence, by way of presentations, days before the hearing commenced. With respect to Dr. Kilburn, his evidence was submitted the night before the hearing, and for the most part was illegible. This approach was not in accordance with the Board's schedule for filing evidence as provided in the Notice of Rescheduling of Hearing, and is not in accordance with section 23 of the Board's Rules of Practice.
- RRCC witnesses read their written evidence, resulting in duplication of evidence already on the record, and caused inefficient use of hearing time.
- Opening statements were not pre-filed as per the Board's direction in letter dated March 13, 2007. The statements were read into the record without notice, causing inefficient use of hearing time.

- Counsel failed to provide sufficient copies of intended and filed exhibits to West in a timely manner during the hearing.
- Counsel failed to provide adequate notice of when RRCC panels would be available and the content of the panels. West is of the view that the number of times the RRCC panels changed with respect to the participants and scheduling was beyond reasonable.

West submitted that as a result of counsel's conduct, West was prejudiced in a procedural sense, and was now at risk of being prejudiced financially with respect to the cost claim and West's own costs. West suggested a 10% blanket reduction to the legal costs.

With respect to RRCC's need for two counsels, West submitted that given that the intervention was premised primarily on the adequacy of public consultation, the need for two counsels throughout the entire proceeding is unreasonable.

With respect to Ms. Bishop's hourly rate of \$140.00, West suggested that the amount is excessive. West noted that Ms. Bishop had been called to the bar for a period of less than one year, and to the extent that the Board awards any cost award, the award should be reflective of that single year. In that regard, West noted that the maximum allowable amounts under the Scale of Costs are not awarded as a matter of course, but rather when the work performed warrants the maximum amount. West suggested that an appropriate rate is \$110.00 per hour for Ms. Bishop.

With respect to time incurred prior to the Pre-Hearing Notice, West noted that the Board determined that 70 hours of legal time up to December 19, 2006 was reasonable. Therefore, West submitted that the Board should reduce Ms. Klimek's and Ms. Bishop's preparation hours, 90 and 27 hours respectively, such that they are in accordance with the Board's earlier determination.

The hearing for this matter took place in two parts; the first part from March 26 – 30, 2007, and the second part from April 16 – 20, 2007. West noted that the hearing was originally scheduled to complete upon conclusion of the first part of the hearing. Therefore, West stated that any substantive preparation time between part one and part two should be considered duplicative, as counsel already prepared for the hearing prior to March 26, 2007. Upon review of the account, West submitted that Ms. Klimek incurred duplicative preparation time totaling 77.5 hours and Ms. Bishop incurred 15.7 hours.

With respect to hearing attendance, West submitted that the 263 hours incurred by RRCC's counsels, in unreasonable. Following what it considered to be a detailed review of the transcripts, West submitted the following views.

- West estimated that RRCC's counsel spent 25 hours for oral direct examination with the RRCC panels. If it were not for the inefficiencies, as described by West, West stated that RRCC's counsels could have reduced this time to no more than 6 hours. West also submitted that it was neither necessary nor reasonable for Ms. Bishop to be present during the entire oral direct portion of the hearing.

- West estimated that RRCC's counsel spent 28 hours cross-examining West's panels. West stated that this amount of time was excessive given the opportunity to ask two rounds of information requests. In West's view, use of the information request process could have easily and efficiently addressed certain issues as opposed to addressing them in hearing time.
- West estimated that RRCC's counsel spent 28 hours cross-examining West's witnesses. During this time, West submitted that counsel was repetitive in the line of questioning; failed to review West's evidence, resulting in inefficient cross-examination; and 50% of counsel's time could have been avoided by using the information request process.

4.2 Views of RRCC

In response to West's comments regarding the IR process, RRCC submitted that in most of the responses, RRCC stated that it did not have the expertise to determine if West's proposal was adequate. RRCC considered West's suggestion that RRCC should have conceded that parts of the application were sufficient, showed a lack of West's understanding of the EUB regulatory regime. It was not the responsibility of the interveners to review applications and determine that they are adequate, therefore the RRCC left that to the determination of the EUB.

In response to West's comments regarding duplication of cross-examination, RRCC submitted that a good portion of cross-examination was spent trying to understand the application. In the RRCC's view, West did not comply with Directive 56, and it took RRCC a great deal of time to understand what was contained in the application and where the information could be found. RRCC submitted that the application omitted relevant correspondence and failed to include summaries.

Regarding West's concerns for the use of two counsels, RRCC submitted that due to the number of RRCC members, the complexity of the issues, and long hours, it would have been very difficult for one lawyer to manage all of the clients and the hearing schedule.

West's assertion that duplication occurred by Ms. Klimek and Ms. Bishops's tasks was not accurate. RRCC submitted that while both counsels may have attended the same meetings, they attended with different purposes and roles. RRCC stated that its costs were also reduced as Ms. Bishop's hourly rate is much lower than Ms. Klimek's hourly rate.

With respect to West's objection to Ms. Bishops's hourly rate, RRCC submitted that Ms. Bishop completed an 18 month articling term, which included an additional 6 months term at the Alberta Environmental Appeal Board. Ms. Bishop has been practicing law since 2004; she is a professional engineer and member of the Association of Professional Engineers, Geologists, and Geophysicists of Alberta; and has participated in 3 EUB hearings prior the West Energy hearing. RRCC submitted that the hourly rate of \$140.00 was reasonable.

With respect to travel time, RRCC submitted that while the EUB cost process does suggest travel be charged at a reduced tariff, the RRCC should not be penalized for not finding legal services in Drayton Valley. Reducing costs for travel time would penalize the RRCC and their counsel. Regarding mileage, RRCC submitted that the tariff is outdated given the increase in the cost of gas.

In response to West's concerns regarding an abuse of the EUB procedures, RRCC submitted that the number of examples West provides are all issues that West could have raised and addressed at the hearing. There are not requirements that oral evidence be submitted prior to the hearing, other than when requested by the parties and the Board. The written submission of the individual evidence was extensive, and the oral evidence was an elaboration of that evidence.

Regarding West's submission of the two IR processes, RRCC submitted the following concerns.

- West made little effort to answer the IRs prior to the hearing;
- West was reluctant to address to answer questions continue throughout the hearing;
- West's correspondence was incomplete, and often incorrect;
- Much of the correspondence that West suggested could have been addressed in the IR process could not have been, as the RRCC received the material after the IR process;
- West provided certain material days before the hearing at the request of the Board;

RRCC also noted West's concern regarding the changing of resident panels. RRCC submitted that they did their best to accommodate the process, however due to work schedules, flexibility was required.

Regarding West's general concerns for the amount of the overall claim, RRCC submitted that the claim is reasonable in light of the large number of clients (over 50 individuals), the complexity of the issues, and the inefficiencies of the application. At the suggestion of the EUB, and in light of the common issues, the RRCC did engage common legal and expert resources. In that regard, the RRCC noted that in the Compton Petroleum Ltd. hearing for 6 critical sour gas wells, a number of interveners retained separate counsel and experts, and the ultimate cost award was \$1,166,110.77.

4.3 Views of the Board

Although the Board does not generally award costs for the attendance of two counsels at a hearing, the Board considers that it was appropriate to have 2 counsels, in this circumstance.

With respect to Ms. Bishop's hourly rate of \$140.00, the Board finds that her hourly rate is in accordance with the Scale of Costs.

The Board considers that West's approach and completeness in responding to intervener questions prior to the commencement of the hearing had an impact on the efficiency of the hearing.

The Board believes, that to some extent, West contributed to some of the inefficiency in the proceeding as West's responses were often brusque, and did not provide sufficient rationale. For example a response along the lines of "following accepted industry practice" is not always helpful.

Further, the Board noted in its Decision that it had identified a number of improvements for West to consider in future consultations. Although the Board notes that some of West witnesses were very helpful and direct in answering questions, the Board did have to intervene on more than one occasion with respect to the behavior of some West employees in response to cross-examination.

Therefore, in considering RRCC's legal costs, the Board is mindful of the following:

- West's approach starting from its initial contact with interveners and continuing through to the start of the hearing; and
- West's approach and conduct in the hearing.

Pre-hearing Legal Costs

With respect to legal costs prior to the Notice of Hearing, Ms. Klimek, in her advance funding request of December 19, 2006, made a submission that she spent 122.1 hours at a cost of \$30,225 from January 2005 to January 4, 2007. No costs were claimed for Ms. Bishop in this timeframe. The Board notes the date and description of service was provided by Ms. Klimek in her post-hearing cost submission.

In its response of January 3, 2007, West Energy agreed that it was reasonable for the RRCC to have incurred legal costs prior to the Notice of Hearing of Hearing. West submitted that a reasonable estimate for pre-Notice of Hearing costs would have been 70 hours, or \$17,500 unless further information was provided and scrutinized by the Board at a later date.

In a normal situation where the applicant has done a good job with respect to responding to information questions and questions from the public, the Board considers that the estimate provided by West in its response of January 3, 2007 would be a reasonable estimate for costs incurred prior to the Notice of Hearing for this type of hearing.

However, the Board considers the approach taken by West in responding to questions from residents and interveners has justified consultation with legal counsel prior to the Notice of Hearing.

Nonetheless, the Board considers that interveners may have been premature to engage legal counsel. Accordingly, the Board will reduce the pre-Notice of Hearing legal costs by 5 hours (\$1,250.00).

Accordingly, the Board approves legal service costs in the amount of \$29,975.00 for services prior to the Notice of Hearing being issued.

Nonetheless, the Board considers that the RRCC counsel could have been more efficient in the hearing through more focused cross examinations, by avoiding late submissions, and by avoiding unnecessary motions. As an example of the latter, the Board notes the initial motion made by counsel at the beginning of the hearing was subsequently withdrawn. This was not an efficient use of the Board's time. Further, with respect to cross-examination time, the Board notes an uneven and unexpected distribution of cross-examination time between public consultation issues and public safety issues.

Accordingly, the Board will reduce Ms. Klimek's costs by 8 hours (\$2,000.00) for hearing inefficiency and for unnecessary duplication of cross-examination of the West panels.

Further, the Board will reduce Ms. Bishop's costs by 16 hours (\$2,240.00), for unnecessary motions and other hearing inefficiencies.

The Board finds that the selection of several intervenor panels was appropriate and the information provided by individual interveners was useful in spite of some expected duplication among the presentations. The Board understands that individual interveners have serious and understandable concerns about their safety and about the impact of this application on them.

Accordingly, the Board considers it reasonable that individual interveners would want to be thorough and comprehensive so that they can feel confident that the Board understands their issues. The Board considers that the amount of time spent by interveners in their individual panels was reasonable, with the exception that the Board commented on during the hearing. Since the Board does read all of the information that is submitted by interveners, the Board cautions interveners to be judicious in the use of hearing time. The Board appreciates any efficiency that can be provided.

Hearing Legal Costs

Ms. Klimek, in her advance funding request of December 19, 2006 estimated 150 hours or \$37,500.00 for all aspects of her services and 80 hours or \$11,200.00 for all aspects of Ms. Bishop's services.

In the cost application, Ms. Klimek and M. Bishop claim in the following hours:

Table 2. Description of time spent for RRCC legal services

	Pre-notice	Preparation	Attendance	Argument	Total
Ms. Klimek	122.1	215.38	131.5	39.1	508.08
Ms. Bishop	0	234.4	131.5	22.5	388.4
Total	122.1	449.78	263	61.6	896.48

Given the number of interveners and experts to be managed by Ms. Klimek, and West's response to interveners' questions both before and at the hearing, the Board recognizes that the actual costs would be greater than the estimate.

Although the actual time spent by Ms. Bishop does seem to be high, it appears that her time was used more extensively at a lower net cost to the RRCC given her lower billable rate. The Board finds no basis to further reduce her costs. The Board considers that it is reasonable to expect substantially higher costs in situations with a large number of concerned residents and where the company has not responded as well as it could have to the public's concerns and questions.

With respect to travel time, the Board notes that Ms. Klimek and Ms. Bishop claimed their full hourly rates. The Board is consistent in applying the Board's Scale of Costs by allowing professionals to charge half of their hourly rate for travel time. The statement of account does provide for line by line activities and associated time, however the Board notes that travel time is not recorded separate and apart from other activities. Therefore, the Board has estimated 2.5 hours for return travel between Edmonton and Drayton Valley and Rocky Rapids. Upon review of the account, the Board has determined that it is reasonable to estimate that Ms. Klimek's time includes 27.5 travel hours and Ms. Bishop's time includes 20 travel hours. Based on this estimate, the Board will reduce Ms. Klimek's and Ms. Bishop's travel hours by 50%.

The Board notes concerns raised by interveners regarding the need to update the per km rate. This Panel agrees with interveners that the rate is no longer current and has raised this issue with the full Board with the result that the appropriateness of the per km rate will be considered when the next updates to the cost awards are made.

Lastly, a review of the account reflects legal fees relating to issues regarding the *Freedom of Information and Protection of Privacy Act*, and for consultation with a civil rights lawyer. Although normally these costs would not have been considered eligible, the Board considers that there were unique circumstances in this application. Accordingly, the Board will not make any reductions for costs in these areas.

Accordingly, the Board will not make any reductions other than specifically mentioned in this section to the costs for legal counsel.

The Board observes that applicants should be aware of the increased costs that can occur in terms of time delays and increased hearing costs for less than optimum responses to information requests or cross examination questions at a hearing.

The following table summarizes the reductions to the legal costs.

Table 3. Summary of Board Determined Reductions in Hours for Legal Services

	Ms. Klimek	Ms. Bishop
Hours claimed	508.08	388.4
Less Pre Notice of Hearing Reductions	-5	0
Less Hearing Inefficiency Reductions	-8	-16
Less Travel Time @ 50% per Board rules	-13.75	-10
Total	481.33	362.4

Accordingly, the Board approves the legal costs of \$120,332.50 for Ms. Klimek and \$50,736.00 for Ms. Bishop together with GST of \$10,264.11.

Further, the Board approves the disbursements of \$14,427.27 together with GST of \$779.23.

5 ROBERT W. COPPOCK

Mr. Coppock claims fees of \$7,768.36, expenses of \$462.30, and GST of \$464.30, for an overall claim of \$8,694.96.

5.1 Views of West

West notes that a portion of Dr. Coppock's fees are related to traveling between Drayton Valley and Vegreville. It appears that this time was billed at the full hourly rate, and should be reduced accordingly. West estimates a round trip to take 5 hours, and therefore, given 3 trips, the Board should reduce the total hours by 7.5 hours.

With respect to Dr. Coppock's participation, West submitted the following.

Dr. Coppock was qualified in the proceeding as an expert on animal health, however a portion of his written direct evidence (approximately 8 of 20 pages) deals with areas outside of his area of expertise (i.e. evidence of the land location, personal situations and concerns of various individual members of the RRCC). Much of the balance of his evidence was general in nature and did not contribute to a better understanding of the issues before the Board.

West suggested, after the reduction for travel time, that the Board apply a 35% reduction to the fees.

5.2 Views of RRCC

RRCC did not respond to West's comments regarding Dr. Coppock's participation.

5.3 Views of the Board

The Board notes that Dr. Coppock claimed a total of \$8,694.96 versus a budget of \$17,780.00.

With respect to Dr. Coppock's travel time, the Board is not prepared to approve amounts in excess of the Scale of Costs. The Scale of Costs allows professionals one half of their hourly rate for travel.

With respect to Dr. Coppock's participation, Decision 2007-061 summarizes his contribution at page 27 as follows.

Dr. Coppock stated that sour petroleum was a complex mixture of chemicals that included acute and chronic toxicity and the interaction of these chemicals might have long-term residual effects. He emphasized that the most conservative approach was assuming that the toxicology of sour gas was greater than the toxicology of H₂S alone. However, Dr. Coppock noted that West did not provide the anticipated chemical composition of the proposed wells, so he could not speak specifically about the chemicals that would be found in the proposed wells.

The Board found Dr. Coppock's material to be somewhat general in nature, and lacked sufficient scientific explanations and expert conclusions.

Unfortunately, Dr. Coppock was involved in a vehicle accident while traveling to attend the hearing. As a result, Dr. Coppock's evidence was not subject to cross-examination.

The combination of the above events places the cost claim of Dr. Coppock in a very unusual circumstance. A lack of attendance at the hearing, in other circumstances, might result in a complete denial of the cost claim.

The Board notes that West effectively recommended an award of approximately \$5,000.00. The Board will adopt West's suggestion in this circumstance.

In summary, the Board approves fees of \$5,000.00 together with GST of \$300.00. The Board also approves the expenses of \$462.30 as claimed. The Board notes that GST is not claimed with respect to the expenses.

6 DOUG McCUTCHEON AND ASSOCIATES

Mr. McCutcheon claims fees of \$23,950.00, expenses of \$579.34, and GST of \$1,437.00, for an overall claim of \$25,966.34.

6.1 Views of West

West noted that a portion of Mr. McCutcheon's fees are related to traveling between Drayton Valley and Edmonton. West stated that it appeared that this time was billed at the full hourly rate, and should be reduced accordingly. West estimated a round trip to take 4 hours, and therefore, given 4 trips, the Board should reduce the total hours by 8 hours. In addition, the mileage rates of \$0.41/km and \$0.45/km are in excess of the Scale of Costs. The Scale of Costs prescribed a mileage rate of \$0.30/km. West suggested that this portion of the cost be reduced accordingly.

With respect to Mr. McCutcheon's participation, West submitted the following at page 17 of its comments.

Much of Mr. McCutcheon's evidence was general in nature. Mr. McCutcheon admitted that he could only lend his experience to the oil wells before Board in a "general way and incorporate the oil wells within that" [footnote: 14T1958]. Additionally, Mr. McCutcheon indicated that his evidence was directed towards the emergency response planning for production, versus the drilling of the wells which was the matter before the Board [footnote: 14T1965 and 2009-2010]. Given Mr. McCutcheon's admissions that his evidence with respect to emergency response planning was directed at production and not drilling and completions, West Energy submits that a portion of Mr. McCutcheon's evidence relating to emergency planning did not contribute to a better understanding of the issues before the Board.

West suggested a reduction of 20% to Mr. McCutcheon's preparation time.

With respect to Mr. McCutcheon's hourly rates of \$225.00 and \$245.00, West submitted that Mr. McCutcheon does not have the requisite experience to command rates which the Scale of Costs associates with a person having 12 years or more experience. West acknowledged that Mr. McCutcheon is experienced in risk assessment and emergency response planning; however this experience is in the context of large, fixed long-term industrial facilities. West referenced transcript pages 14T1953 and 1957, where Mr. McCutcheon admitted that he does not have experience in relation to the application of these two principles to the oil and gas industry, let alone sour oil wells. West suggested an hourly rate of \$210.00.

6.2 Views of RRCC

RRCC did not respond to West's comments regarding Mr. McCutcheon's participation.

6.3 Views of the Board

The Board notes that Mr. McCutcheon's budget was \$18,032.00 based on \$1,800.00 per day. The Board notes that the claim was for \$25,966.00. The Board notes that Mr. McCutcheon billed at the rate of \$1,800.00 per day in March 2007 and \$1,960.00 per day in May 2007. The higher rate may be justified by the longer days inherent in the hearing.

With respect to Mr. McCutcheon's hourly rates of \$225 and \$245, the Board is of the view that these amounts are within the prescribed Scale of Costs, given Mr. McCutcheon's experience.

The Board is not prepared however, to approve travel time in excess of the Scale of Costs. The Scale of Costs allows professionals half of their hourly rate for travel time. The Board is applying an estimate of 2.5 hours for each of the 4 trips Mr. McCutcheon made, being 10 hours. The Board notes that Mr. McCutcheon's hours and hourly rate have not been provided in the cost claim. Based upon the account provided, the Board estimates Mr. McCutcheon's hourly rate to be approximately \$180.00, and based on that estimate the Board reduces the fees by \$900.00. In addition, the Board notes the Mr. McCutcheon claims mileage at \$0.41 and \$0.45 per km. The Scale of Costs provides for \$0.30 per km. Therefore, the Board reduces the mileage claim by \$179.14.

The Board does note RRCC's position that the mileage rate provided for in Directive 031A is outdated due the increase in gas costs. The Board addressed this issue in the RRCC's legal cost section.

The Board notes that some of the additional costs were as a result of the extended length of the hearing which is beyond the control of Mr. McCutcheon.

With respect to Mr. McCutcheon's participation, while the Board did find the general information to be helpful, specifically, the application of MIACCC principles, the Board found, at times, Mr. McCutcheon's contribution was limited by his inexperience with respect to oil field practices and production facilities.

The Board will reduce the claim by one day out of the total 6 1/4 days claimed on the May 14 invoice or \$1,960.00 for this inexperience.

The Board also notes that Mr. McCutcheon spent a 1.5 days at \$1,960.00 per day to research and respond to the EUB's undertaking. The Board will not dispute this charge.

Therefore, the Board approves fees of \$21,090.00. GST is adjusted accordingly, and is approved in the amount of \$1,265.40. Expenses are approved in the amount of \$400.20. The Board notes that GST is not claimed with respect to expenses.

7 GETTEL APPRAISALS LTD.

Gettel Appraisals Ltd. claimed fees of \$9,675.00, expenses of \$597.50, and GST of \$580.50, for an overall claim of \$19,513.79.

7.1 Views of West

West submitted that the Board should deny Mr. Gettel's costs in full. It was West's view that Mr. Gettel failed to address, in any substantive and subjective way, how the oils wells that are the subject of this proceeding, impact property values of the RRCC members. West stated that Mr. Gettel submitted a 2 page submission which provides an opinion on 2 reports and further stated that the reports relied on were not attached or entered in as evidence. West referenced transcript page 14T1945, where West stated that Mr. Gettel admitted that he does not have expertise regarding the Hedonic model, the subject of the 2004 report. In addition, when questioned by the panel, West stated that Mr. Gettel noted that it was not appropriate to rely on the 1999 report and

data, and subsequently completed and submitted a new report. West submitted that although a new report was submitted, Mr. Gettel did not provide any expert opinion on the results of that new report.

7.2 Views of RRCC

In response to West's concerns for Mr. Gettel's costs, RRCC submitted that the original intention was to have Mr. Gettel assess all of the RRCC's individual properties around the well. Following West's response and the EUB direction for advance funding, RRCC stated that it was decided that Mr. Gettel would attend as a witness, and provide a cursory report rather than preparing assessments. RRCC stated that Mr. Gettel's fees were more substantial due to the hearing schedule and related travel time.

RRCC submitted that while Mr. Gettel's written submission was generic, his oral evidence was compelling, and by way of an undertaking, did provide further information about the properties.

7.3 Views of the Board

The Board notes that the RRCC originally submitted a budget of \$10,800.00 for Mr. Gettel and a further \$3,000.00 for Dr. McMillan of December 19, 2006. The Board in its response to the advance funding request acknowledged that Mr. Gettel would be providing a site-specific analysis of the impact of the sour gas wells on the property values in respect of the RRCC members. The Board questioned the potential duplication of retaining both experts and noted that the relevance of Dr. McMillan's evidence had been raised another hearings. The Board notes that the RRCC subsequently did not engage Dr. McMillan.

Mr. Gettel's budget estimated a period of four working days or 36 hours to complete the research conducted analysis and draw conclusions and write the report. A further one day would be conducted during a site visit. His budget was based on \$200.00 per hour whereas the actual submission was based at \$225.00 per hour.

Upon review of Mr. Gettel's claim of \$10,853.00 which is approximately the same as his submitted budget, the Board notes that he spent four hours on research and evidence preparation versus the 36 hours in his budget and that his site visit costs were less than expected.

Further, the Board estimates that Mr. Gettel incurred 10 hours for traveling. Mr. Gettel claims his time at his full hourly rate of \$225.00. The Scale of Costs allows professionals half of their hourly rate for travel time. In addition, the Board notes that Mr. Gettel claims mileage for 1,195 km at \$0.50 per km, and the Scale of Costs allows for \$0.30 per km. The Board is not prepared to approve costs in excess of the Scale of Costs; therefore the Board reduces Mr. Gettel's fees by \$1,125.00 with respect to travel time, and reduces the expenses by \$239.00 with respect to mileage.

It is the Board's view that Mr. Gettel's participation provided the Board with insight as to the level of complexity of the issues before the Board and the difficulty in providing tangible evidence. Although Mr. Gettel minimized the cost of his evidence, the Board notes that the extra hearing time, which was beyond his control, increased the total cost claim.

The Board recognizes that it requested an undertaking from Mr. Gettel regarding a current market analysis of which Mr. Gettel spent one hour.

Accordingly, the Board approves his costs in full other than the adjustment for rate to be charged during travel time and the mileage rate.

In summary, the Board approves fees of \$8,550.00 together with GST of \$513.00, and expenses of \$358.50. The Board notes that GST is not claimed with respect to expenses.

8 DR. SHUMING DU

Dr. Du claims fees of \$18,866.44 and expenses of \$647.35, for an overall claim of \$19,513.79.

8.1 Views of West

West notes that Dr. Du claims his travel time at his full hourly wage. In addition, Dr. Du traveled from California for the first part of the hearing, however he did not give any evidence during this portion of the hearing. In their view, West submitted that due to counsel for RRCC failing to properly estimate the scope of the intervention, given the mismanagement of the intervention, and inefficient use of hearing time, Dr. Du incurred unnecessary travel costs.

With respect to Dr. Du's participation, West submitted the following.

In the Cost Claim, the RRCC state the Dr. Du understood West Energy's application, including RWDI Air Inc.'s ("RWDI") plume dispersion and hazard assessments, and as a result Dr. Du prepared a relevant report. With respect, and as substantiated on review of Dr. Du's evidence [*footnote: Exhibit 03-018*] and cross-examination of Dr. Du, although Dr. Du is a qualified expert in CALPUFF he failed to fully investigate and comprehend the selection of certain input parameters used by RWDI and subsequently incorrectly used those parameters in conducting sulphur dioxide plume dispersion modeling (isopleths) [*footnote: Most notably exit velocity, release angle and rain-out. See 11T1640-1161*]. As such, West Energy submits that the portion of Dr. Du's evidence with respect to sulphur dioxide plume dispersion modeling did not contribute to a better understanding of the issue before the Board and, if anything, served to cloud those issues.

For the foregoing reasons, West suggested a 30% reduction to Dr. Du's fees, after first deducting what West considered to be unnecessary and unreasonable travel costs.

8.2 Views of RRCC

RRCC did not respond to West's comments regarding Dr. Du's participation. RRCC did address the concerns regarding the use of an expert outside of Alberta. RRCC submitted that it did attempt to retain a local expert. RRCC contacted Jacques Whitford, Mike Zelensky, Ian Dowsett and Komex, and Dr. John Wilson. None of these experts were available due to conflicts or other reasons.

With respect to Dr. Du leaving the hearing and returning at a later date, RRCC noted that all parties were trying to accommodate the schedules of all parties, including Mr. McCagherty. Upon the Board's request, and with no objection from West, RRCC dismissed their experts with instructions to return at a later date. The RRCC recalls that it did note its concern of the increased costs, however it was at the Board's direction.

8.3 Views of the Board

The Board notes that Dr. Du submitted a budget of \$9,510.00 US. In the budget, only 16 hours were allocated for testifying as an expert at the hearing. The actual costs claimed were \$19,513.79 CAD.

In reviewing Dr. Du's account, the Board notes the following four categories and associated time.

1. Review all the documents received from West Energy Ltd., gather relevant information from the documents pertinent to air dispersion modeling (1.5 hours).
2. Review all documents/files received from West Energy Ltd. specifically regarding air dispersion modeling (inputs, outputs and analysis of air quality modeling conducted by West Energy or its consultant); conduct air dispersion modeling, identify possible deficiencies and make recommendations for remedies (90 hours).
3. Site visit on February 18 - 20, 2007 (27 hours).
4. Hearing attendance (59.42 hours).

Dr. Du's hours total 177.92 and of that amount, 57.5 hours are for travel.

The Board considers that Dr. Du provided assistance to the Board in testing the evidence of West at a reasonable cost. The longer than budgeted hearing attendance time was beyond Dr. Du's control.

With respect to additional travel expenses that Dr. Du incurred, while the Board finds that circumstances were beyond Dr. Du's control, the Board is not prepared to approve travel time at the full hourly rate. The Scale of Costs allows professionals half of their hourly rate for travel time. Therefore, the Board reduces the hours incurred by 16%, being 28.47 hours, representing approximately half of the travel time incurred at Dr. Du's full hourly rate.

Therefore the Board approves professional fees for Dr. Du in the amount of \$15,847.81 (\$18,866.44 - \$3,018.63).

The Board has reviewed the expenses of \$647.35 for accommodation, meals, and taxi. The Board finds that these expenses are reasonable, and approves the amount claimed in full. The Board notes that GST is not claimed with respect to Dr. Du's fees or expenses.

9 DR. KILBURN

Dr. Kilburn claims fees of \$19,749.71 and expenses of \$130.88, for an overall claim of \$19,880.59.

9.1 Views of West

It was West's view that the Board should deny Dr. Kilburn's costs for this proceeding in their entirety. West submitted the following with respect to Dr. Kilburn's participation.

Dr. Kilburn's five pages of written evidence lacked any substantive evidence relating to the West Energy applications and also lacked any objectivity. Dr. Kilburn's presentation provided during his direct oral evidence [*footnote: Exhibit 05-021*] also lacked any substantive and subjective evidence relating to the West Energy applications. Instead Dr. Kilburn gave a generic presentation outlining how he has performed his studies and a defence of his methods and results, which he agreed did not substantiate a cause and effect relationship between H₂S and the symptoms he purported to find in his subjects. Additionally, Dr. Kilburn provided evidence that was, as identified by the Board, clearly outside his area of expertise and in an area for which he was not qualified nor accepted by the Board as an expert [*footnote: 11T1665, 11T1672-1675 and exhibit 05-033*].

9.2 Views of RRCC

RRCC did not respond to West's comments regarding Dr. Kilburn's participation.

9.3 Views of the Board

The Board notes that the budget for Dr. Kilburn was \$10,250.00 US. The actual costs claimed were \$19,880.59 CAD.

Regarding Dr. Kilburn's participation, the Board noted the following at page 37 of Decision 2007-061.

The Board also believes that it is important that experts rely on studies that use accepted scientific methods. The Board notes that Dr. Davies reviewed studies that used such a method and concluded that the results of these studies are more accurate than the information provided by Dr. Kilburn, when some of the studies he provided did not use the universally accepted scientific method.

The Board is not suggesting that there are no health impacts as a result of H₂S and SO₂ exposure. However, based on the available accepted research, the Board believes that the negative effects seen in some studies cannot be confidently isolated as an effect of H₂S or SO₂ exposure.

Furthermore, regarding Dr. Kilburn's evidence, the Board believes that much of the information provided was not substantiated by credible scientific evidence. The Board is concerned that Dr. Kilburn's argument was at times inflammatory and unnecessarily instilled concerns in the RRCC.

The Board has significant difficulties with the general nature and lack of scientific peer review of the material. During its deliberations, the Board was very concerned that some statements regarding the linkage of H₂S levels at residences from a release were not correct. In some instances, Dr. Kilburn also failed to relate his material to the specific application. The Board notes that Dr. Kilburn spent only five hours preparing his expert report. The Board finds that Dr. Kilburn's written submission filed just prior to the hearing was of poor quality and contained more of a list of his papers than any analysis specific to the applications.

The Scale of Costs allows professionals half of their hourly rate for travel time. Although Dr. Kilburn's invoice did not provide the necessary breakdown of travel time, the Board assumes that his travel time was approximately the same as Dr. Du which was approximately 57 hours. Accordingly, the Board reduces the claim by 28.5 hours, representing approximately half of the travel time incurred at Dr. Kilburn's full hourly rate.

The Board notes that Dr. Kilburn's hourly rate is \$250.00 US per hour. While the final amounts being claimed have been converted to CAD dollars, these amounts exceed the Board's maximum hourly rate of \$250.00 CAD prescribed by the Scale of Costs. The Board has reviewed form E2 submitted by Ms. Klimek, which identifies 74.5 hours incurred by Dr. Kilburn. In light of travel time, the Board has adjusted his claim to be 46 hours at \$250.00 CAD per hour, being \$11,500.00 CAD.

The Board also acknowledges that there was considerable additional travel time and hearing time required for the attendance due to the circumstances of the hearing that were out of Dr. Kilburn's control.

Taking all of the foregoing into account, the Board is prepared to approve 50% of Dr. Kilburn's adjusted fees of \$11,500.00 CAD, being \$5,750.00.

The Board has reviewed the expenses of \$130.88 for meals, mileage, and parking. While the Board finds that these expenses are reasonable, the Board is not prepared to approve mileage in excess of the Scale of Costs. Dr. Kilburn claims 80 miles (129 km) at \$0.50 per km. The Scale of Costs provides for \$0.30 per km. Therefore the Board approves \$38.70 for mileage. The remaining expenses of \$88.46 are approved in full.

In summary, the Board approves fees of \$5,750.00, and expenses of \$127.16, for an overall award of \$5,877.16. The Board notes that GST is not claimed with respect to Dr. Kilburn's fees and expenses.

10 DR. THRASHER

Dr. Thrasher claims fees of \$4,066.60.

10.1 Views of West

West submitted that the Board should deny Dr. Thrasher's costs for this proceeding in their entirety. Dr. Thrasher did not provide written evidence, oral direct evidence, nor did he attend the hearing. West understands from RRCC's cost claim, that RRCC retained Dr. Thrasher to review West's reply evidence. West noted that it submitted reply argument in response to expert evidence prepared by Dr. Coppock. West is unclear as to why Dr. Thrasher services were necessary.

10.2 Views of RRCC

RRCC submitted the following in response to West's concerns.

With respect to Dr. Thrasher we advise that upon receiving the health risk assessment, at a very late date, just days before the hearing was scheduled to begin, the RRCC felt that they had no alternative but to hire a health risk assessor. Two local health risk assessors were contacted and neither could assist in such a short timeframe. Dr. Thrasher was hired to provide assistance to the RRCC in reviewing the health risk assessment in a short period of time. We remind West Energy and the Board that the RRCC had requested a health risk assessment early in the process but West Energy refused to provide one and only provided it days before the hearing. It was in this context that Dr. Thrasher was hired.

10.3 Views of the Board

The Board notes that Dr. Thrasher's evidence was not budgeted.

In considering Dr. Thrasher's portion of the claim, the Board notes that Dr. Thrasher did not file evidence, nor did he attend the hearing, or file his curriculum vitae. A review of Dr. Thrasher's account identifies numerous discussions with Dr. Kilburn and an attorney, who the Board assumes to be Ms. Klimek and or Ms. Bishop. Dr. Thrasher reviewed and discussed the Cantox Report and Davies Report; researched literature review for case related peer reviewed documents on neurotransmitters; researched publications regarding epidemiological for toxicological assessment and discussion; provided key information to Dr. Thrasher and the attorney; prepared a document for Ms. Klimek to aid in summarizing the literature; and conducted a literature review with comparative review regarding the positions outlined in the Davies Report.

The Board considers that West put the interveners in an awkward situation given their submission of rebuttal evidence. The Board considers that West easily had the opportunity to present evidence in advance of the filing of RRCC's evidence given that the RRCC's intentions about the evidence to be submitted was clearly identified in their advanced intervener funding submission of December 19, 2006. Accordingly, the Board considers that West created some of its own difficulties in the costs for this expert.

Given this circumstance, the Board considers that it was reasonable for the RRCC to get additional expert advice to review the evidence and to assist the RRCC in preparing for cross-examination. Further, the Board considers that the RRCC may have had limited options in getting a review done on short notice. However, this does not mean that the Board would, in future, necessarily approve the cost for expert witnesses if the expert does not attend the hearing.

Dr. Thrasher's hourly rate is \$300.00 US. The Board is not prepared to approve any Canadian amounts in excess of the Scale of Costs.

Accordingly, the Board reduces Dr. Thrasher's fees to \$3,195.00 CAD (\$250.00 CAD x 12.78 hours).

The Board will approve the adjusted cost claim in full.

11 RRCC Members

The following table summarizes the honoraria and expenses claimed by 25 RRCC members.

Table 4. Table of RRCC Members' Requested Honoraria and Expenses

Category	No. of Members	Total Amount of Claims
Preparation honoraria	26	\$21,152.00
Attendance honoraria	22	\$23,390.00
Forming a group	3	\$1,550.00
Expenses	18	\$10,022.61
Total		\$56,114.61

11.1 Views of West

West submitted that RRCC seeks cost recovery for each member of RRCC on an individual basis; however West stated that it is very clear that RRCC conducted a group intervention. Accordingly, West stated that cost awards should be made in the context of group participation rather than individual participation.

West took issue with the following areas and aspects of honoraria being claimed.

West stated that various members have based their claim on hourly wages, ranging from \$25.00 - \$40.00 per hour. West notes that Energy Cost Order 2006-006 states that, “The Board must recognize that Directive 031A does not provide compensation for interveners by way of an hourly wage, but rather, provides for various ranges of honoraria based on the specific circumstances of the application in question.”

With respect to preparation honoraria, West submitted that counsel for RRCC expended considerable resources in preparing the RRCC submission. In particular, West stated that both counsels spent a combined total of 563 hours. West notes that Directive 031A provides that where individual interveners hire counsel, and counsel is primarily responsible for the preparation of the intervention, the Board will not generally award a preparation honoraria. Based on the counsels’ preparation time and Directive 031A, West was of the view that RRCC is not entitled to preparation honoraria.

With respect to attendance honoraria, West noted that Directive 031A provides the following.

Mere attendance is not participation. Participation may include giving evidence, being cross-examined, assisting counsel/consultants, and presenting closing argument. Such an intervener does not receive a witness fee, but could claim an honorarium of \$50 for each half day actually present at a hearing ...

20 members of the RRCC gave oral direct evidence. Although Directive 031A provides that up to 6 witnesses may receive an attendance honorarium, West did not object to each member who appeared as a witness receiving the attendance honoraria.

With respect to forming a group, West notes the following at paragraph 6 of the RRCC cost claim.

...Mrs. Susan Kelly, Mrs. Eilleen Belva and Mrs. Louise Mastre did much of the organizational work. These three individuals were responsible for organizing group meetings, notifying people of when those meetings would be held, obtaining information and sending it to the various consultants and Experts. They met with legal Counsel to provide general instructions and would often be the liaison between Counsel and the RRCC.

In addition, West noted that Directive 031A provides that one to four organizers may obtain a honoraria between \$300 - \$500 in recognition of their efforts. Based on RRCC’s statement and Directive 031A, West submits that Ms. Kelly, Mrs. Belva, and Mrs. Mastre are entitled to receive honoraria of \$500.00 each for organization efforts.

West also provided comments with respect to certain expenses being claimed.

West took issues with Ms. Kelly's expense claim for Dr. Coppock's May 2005 services. West notes that these services were provided two years prior to the hearing. In addition, West stated that Ms. Kelly's expense included FOIP charges, which West submitted are not directly and necessarily related to the proceeding.

West noted that Mrs. Schmidt claims for substitute teacher costs. West understands the unique circumstances, such that Mrs. Schmidt's profession restricts her from using vacation time to attend the hearing, whereas other interveners do not usually encounter this problem. Therefore, West did not object to this expense.

West suggested that the following members are not entitled to any form of honoraria or expenses, as they did not attend as a witness and are not one of the three organizers.

- Mr. Russ Kelly
- Ms. Dianne Sullivan
- Ms. Kathy Perryman
- Mr. and Mrs. Hagman
- Ms. Laurel Dingwall

11.2 Views of RRCC

RRCC submitted that all of the RRCC members should be entitled to recover their meals, mileage, and honoraria for the days they attended. In addition, RRCC provided the following discussion concerning distribution of the application.

Ms. Kelly spent a significant amount of time and money trying to download and photocopy West Energy's application from, firstly, the internet and secondly, from a disk when West Energy refused to provide her with a hard copy of its application. No member of the RRCC received a copy of West Energy's application until the day of the prehearing. As well, the RRCC were asked to return those applications due to an "error" and were provided with a second copy of the application in December, of that year.

11.3 Views of the Board

Honoraria Awards

Directive 031A does not provide compensation for interveners by way of an hourly wage, but rather, provides for various ranges of honorariums based on certain circumstances. While the Board is not prepared to approve costs based on the hourly rates claimed, the Board does find it important to recognize that members of the RRCC endeavored to understand the application and the EUB's processes, participated in preliminary meetings, prepared submissions, presented presentations, and participated at the hearing as witnesses.

The Board recognizes that this is the personal time of each member, and appreciates each member's efforts throughout the process.

When lawyers and experts represent interveners, the Board recognizes that Directive 031A limits preparation and attendance honoraria awards for the interveners. However, in light of the Board's views in the preceding paragraph, the Board finds it appropriate to exercise its discretion and recognize the personal time and effort of all the RRCC members.

The Board recognizes that the RRCC presented the following witness panels on the dates indicated. For these individuals, the Board approves a \$400.00 preparation honorarium in recognition of their efforts in participating in preliminary meetings and participating in a witness panel.

- April 16, 2007: R.J. Kiehlbauch, Dallas Kisser, Mike Szwek, Robert Mulligan, Greg Mulligan, Linda McGinn, and Lil Duperron¹
- April 18, 2007: Susan Kelly, Sherrice Cunningham, Christine Dodd, and Barry Dodd²
- April 20, 2007: Cory Dusterhoff and Robert Domke³

With respect to the remaining RRCC members, the Board approves a \$100.00 preparation honoraria, or the amount claimed if less than \$100.00, in recognition of their efforts in participating in preliminary meetings with other group members, meetings with counsel, and meetings with experts.

With respect to attendance, the Board recognizes and understands the importance of the RRCC members attending the hearing. The Board appreciates the efforts to convene for long hours, and be available when requested by the Panel. The Board finds it appropriate to exercise its discretion and approve attendance honoraria at \$100.00 per day for the pre-hearing and hearing. The Board also approves \$50.00 to those members who attempted to attend the October 13, 2006 pre-hearing which the Board cancelled due to poor weather conditions.

With respect to group organization, the Board agrees with West that given Ms. Klimek's advice in the cost claim, and part 6.2.1 of Directive 031A, Ms. Kelly, Mrs. Belva, and Mrs. Mastre are entitled to receive honoraria for their efforts in organizing the RRCC. The Board approves a \$500.00 honorarium for each of these members.

Table 5. Board Determined Honorarium for RRCC Members (\$)

Name	Honoraria Claimed	Board Awarded Honorariums (\$)			
		Preparation	Attendance	Organization	Total Award
G. Mastre	\$2,840.00	\$100.00	\$1,150.00	-	\$1,250.00
L. Mastre	\$1,825.00	\$100.00	\$1,150.00	\$500.00	\$1,750.00
D. Sullivan	\$50.00	\$50.00	-	-	\$50.00
K. Perryman	\$212.50	\$62.50	\$150.00	-	\$212.50
Mr. and Mrs. Hagman	\$350.00	\$50.00	\$300.00	-	\$350.00
D. McGinn	\$475.00	\$100.00	\$200.00	-	\$300.00
L. McGinn	\$1,562.50	\$400.00	\$750.00	-	\$1,150.00
D. Kisser	\$1,350.00	\$400.00	\$800.00	-	\$1,200.00
J. Kiehlbauch	\$1,550.00	\$400.00	\$750.00	-	\$1,150.00
Mr. & Mrs. Mulligan	\$3,325.00	\$400.00	\$1,000.00	-	\$1,400.00

¹ TR Vol 8, p1226

² TR Vol 13, p 1828 and 1887

³ TR Vol 21, p 2512

Name	Honoraria Claimed	Board Awarded Honorariums (\$)			
		Preparation	Attendance	Organization	Total Award
G. Mulligan	\$910.00	\$400.00	\$300.00	-	\$700.00
T. Dingwall	\$1,850.00	\$100.00	\$1,050.00	-	\$1,150.00
L. Dingwall	\$1,650.00	\$100.00	\$1,050.00	-	\$1,150.00
S. Kelly	\$3,687.50	\$400.00	\$1,150.00	\$500.00	\$2,050.00
R. Kelly	\$1,575.00	\$100.00	\$1,000.00	-	\$1,050.00
Daryl Schmidt	\$7,360.00	\$100.00	\$450.00	-	\$550.00
Debby Schmidt	\$2,150.00	\$100.00	\$800.00	-	\$900.00
R. Domke	\$1,575.00	\$400.00	\$1,000.00	-	\$1,400.00
E. Belva	\$1,975.00	\$100.00	\$1,050.00	\$500.00	\$1,650.00
C. Dodd	\$2,450.00	\$400.00	\$1,250.00	-	\$1,650.00
B. Dodd	\$2,075.00	\$400.00	\$800.00	-	\$1,200.00
S. Cunningham	\$662.50	\$400.00	\$600.00	-	\$1,000.00
L. Duperron	\$1,800.00	\$400.00	\$1,150.00	-	\$1,550.00
S. Dusterhoft	\$1,850.00	\$400.00	\$1,050.00	-	\$1,450.00
C. Dusterhoft	\$1,082.00	\$100.00	\$600.00	-	\$700.00
M. Szwec	\$0.00	\$400.00	\$100.00	-	\$500.00
Total	\$44,642.00	\$6,362.50	\$19,650.00	\$1,500.00	\$27,262.50

With respect to Ms. Cunningham, the Board notes that the cost claim for preparation is much less than the preparation honoraria awarded to RRCC members participating in the same panel. The Board finds it appropriate that Ms. Cunningham receive the same preparation honoraria as her fellow panel members and accordingly, the Board has increased the award for Ms. Cunningham.

With respect to Mike Szwec, the Board recognizes that the cost claim does not include a claim for attendance honorarium. The Board considers this to be an administrative oversight, and is awarding a preparation and attendance honorarium based on his attendance as a witness on April 16, 2007.

Expenses

The majority of the RRCC members claim meals and mileage. The Board finds that is appropriate for the RRCC members to recover expenses of this nature. The Board approves the meal expenses as claimed. However, with respect to mileage, the Board has taken into account the venues of the pre-hearing and hearing, being Rocky Rapids and Drayton Valley. The Board will approve not more than 25 km at \$0.30 per km for each day a member attended the proceedings. However, where there is a cost variance of less than \$15.00, the Board is not making an adjustment. Table 6 shown below reflects these adjustments.

With respect to Mrs. Schmidt's substitute teacher costs, the Board notes that West does not object to recovery of this expense. While it is not the Board's practice to award costs based on loss of wages, the Board finds it appropriate to exercise its discretion in this circumstance. The Board approves this expense in full.

With respect to Sandra Dusterhoft, the Board notes the babysitting expense of \$690.00. The Board finds that this expense is appropriately incurred while attending the hearing, therefore the Board approves this expense in full.

With respect to Mrs. Kelly, the Board notes that she claims a number of expenses in addition to meals and mileage. These include the following.

- Parking (\$9.00)
- Courier (\$29.25)
- Long distance telephone charges (\$72.10)
- Fax charges (\$41.00)
- Internal photocopying (\$26.50)
- External printing (\$589.29)
- Supplies (printer cartridge/CD's/County Map (\$128.68)
- Robert Coppock - May 16, 2005 Invoice (\$930.90)
- FOIP fees (\$100.00)
- Hall rental and catering (\$735)

With respect to Mrs. Kelly's expenses, the Board finds that the invoice for Dr. Coppock is not eligible since it predates the timelines set for the proceeding. The Board approves the remaining expenses in full for Mrs. Kelly.

Table 6. Board Awarded RRCC Expenses

Name	Expenses Claimed	Mileage Reduction	Approved Expenses
Garry and Louise Mastre	\$427.50	(\$0.00)	\$427.50
Kathy Perryman	\$15.00	(\$0.00)	\$15.00
Dennis McGinn	\$102.50	(\$0.00)	\$102.50
Linda McGinn	\$294.00	(\$0.00)	\$294.00
Dallas Kisser	\$358.90	(\$0.00)	\$358.90
Jim Kiehlbauch	\$214.12	(\$0.00)	\$214.12
Robert Mulligan	\$220.00	(\$30.00)	\$190.00
Greg Mulligan	\$105.00	(\$0.00)	\$105.00
Laurel and Terry Dingwall	\$855.60	(\$56.85)	\$798.75
Susan Kelly	\$3,134.11	(\$930.90)	\$2,203.21
Russ Kelly	\$540.00	(\$105.00)	\$435.00
Daryl and Debbie Schmidt	\$737.00	(\$0.00)	\$737.00
Eileen Belva	\$427.50	(\$0.00)	\$427.50
Christine and Barry Dodd	\$802.00	(\$0.00)	\$802.00
Lil Duperron	\$574.00	(\$87.75)	\$486.25
Sandra and Cory Dusterhoft	\$1,429.50	(\$60.75)	\$1,368.75
Total	\$10,236.73	\$(1,271.25)	\$8,965.48

12 ORDER

IT IS HEREBY ORDERED THAT:

- (1) The Board approves intervener costs in the amount of \$296,473.81.
- (2) West Energy Ltd. shall pay the approved intervener costs within 30 days, less advance funding of \$90,000.00.

(2) Payment shall be made to Klimek Law, Barristers & Solicitors, attention: Jennifer Klimek.

Dated in Calgary, Alberta on this 27th day of November, 2007.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed By

A.J. Berg, P.Eng.
Presiding Member

Original Signed By

W.G. Remmer, P.Eng.
Acting Board Member

Original Signed By

J.G. Gilmour, LLB
Acting Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A