



Bonterra Energy Corp.

Application for a Pipeline Licence
Pembina Field

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2006-004: Bonterra Energy Corp.

Application for a Pipeline Licence

Pembina Field

Application No. 1396821

Cost Application No. 1427458

Published by

Alberta Energy and Utilities Board

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Calgary, Alberta

**Bonterra Energy Corp.
Application for a Pipeline Licence
Pembina Field**

**Energy Cost Order 2006-004
Application No. 1396821
Cost Application No. 1427458**

1 INTRODUCTION

Bonterra Energy Corp. (Bonterra) applied to the Alberta Energy and Utilities Board (Board/EUB), in accordance with Part 4 of the *Pipeline Act*, for approval to construct and operate a pipeline for the purpose of transporting natural gas.

Brian Anderson and Louise Anderson (the Andersons) expressed concerns with respect to the impact the proposed pipeline would have on their health and safety, access to their property, property values, and compensation. The Andersons also cited concerns regarding the potential impact of the pipeline on a water reservoir partially located on their property, reclamation of the pipeline, and the proposed pipeline depth.

The Board held a public hearing in Leduc, Alberta, which commenced and concluded on October 28, 2005, before Board Members A. J. Berg, P.Eng. (Presiding Member), G. J. Miller, and T. M. McGee. The Board panel, EUB staff, Bonterra, and the Andersons had also conducted a site visit on October 27, 2005.

On November 22, 2005 the Board issued [Decision 2005-126](#).

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 – Cost Claim Assessment

The Board received a cost claim from the Mr. Anderson totaling \$2,003.11 which represents expenses of \$61.56 and fees of \$1,941.55. The Board recognizes that Mr. and Mrs. Anderson do meet the criteria set out in section 28 of the ERCA and are therefore eligible to apply for cost recovery.

In considering Mr. Anderson's cost claim the Board has reviewed and considered the comments filed by Bonterra on February 8, 2006 and Mr. Anderson's response filed on February 10, 2006.

The Board notes that Bonterra disagrees with particular portions of Mr. Anderson's cost claim, specifically the overtime rate of \$39.50/hour, the 12 hours incurred on October 17, 2005 described by Mr. Anderson as "contact with EUB", and the 12 hours claimed for hearing attendance. Bonterra suggested that 4 hours would be appropriate for contact with the EUB and 8 hours would be reasonable for attending the hearing.

Mr. Anderson responded to Bonterra's comments by indicating that the fees represent lost income. Mr. Anderson indicated that he had taken time off work to:

- study;
- bring things together;
- wait at home to get in touch with the EUB;
- attend a meeting a Drayton Valley;
- host a meeting at his residence; and
- attend the hearing.

With respect to the expenses of \$61.56 being claimed, the Board notes that this portion of the claim represents costs incurred for faxes and gasoline. The Board finds that the amounts are in accordance with the expenses detailed in Directive 031A and are therefore approved in full.

The Board notes that Mr. Anderson's fees are based on the hourly wages of \$26.30 and \$39.50¹. 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 honorariums based on certain circumstances.

With respect to compensation for preparation, part 6.1.1 provides the following.

... an intervener who personally prepares a substantial submission without expert help may, depending upon the complexity of the submission, receive an honorarium in the range of \$300 to \$500. In very exceptional cases, and when the necessary preparation time is substantial, honoraria in excess of \$500 to a maximum of \$2500 may be considered.

With respect to compensation for attending a hearing, part 6.1.2 provides the following.

...an intervener may normally recover some of the costs of appearing at a hearing. Appearing in support of an intervention refers to coming to the front when so requested by the Chairperson of the hearing and answering any questions about the intervention. 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 to listen to the evidence of others, question others, present an intervention, or confer with the intervener's own solicitor or expert.

While the Board is not prepared to approve costs based on the hourly rates being claimed it does recognize that Mr. Anderson represented himself, endeavored to understand the EUB's processes, prepared and filed his own submission, and appeared at the hearing and addressed questions from Bonterra and the Board as well questioned Bonterra himself. In addition, the Board understands that Mr. Anderson spent many hours meeting with Bonterra prior to the hearing as well as preparing for the hearing itself and as such Mr. Anderson was able to articulate his concerns and issues for the Board. Overall the Board found Mr. Anderson's participation to be of assistance in understanding the issues before it. For the foregoing reasons the Board is prepared to grant Mr. Anderson a preparation honorarium in the amount of \$1,500.00.

With respect to attending the hearing, the Board finds that the attendance honorarium provided for in Directive 031A is appropriate and therefore approves \$100.00 for the one day hearing and an additional \$50.00 for the site visit conducted on October 27, 2005.

The overall amount awarded to Mr. Anderson is \$1,711.56.

¹ Represents overtime wage

4 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Bonterra Energy Corp. shall pay intervener costs in the amount of \$1,711.56 to Mr. Brian Anderson.
- (2) Payment under this Order shall be made to Mr. Brian Anderson directly.

Brian Anderson
Box 5147
Leduc, Alberta
T9E 6L5

Dated in Calgary, Alberta on this 25th day of May, 2006.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee
Board Member