



Talisman Energy Inc.

Application for a Well Licence
Sinclair Field

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2005-013: Talisman Energy Inc.

Application for a Well Licence (Sinclair Field)

Application No. 1367267

Cost Application No. 1409257

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Calgary, Alberta

Talisman Energy Inc.
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1 INTRODUCTION

Talisman Energy Inc. (Talisman) applied to the Alberta Energy and Utilities Board (Board/EUB), pursuant to Section 2.020 of the *Oil and Gas Conservation Regulations* (OGCR), for a well licence. The proposed well would be located about 7km northwest of Beaverlodge.

The Board held a public hearing in Beaverlodge, Alberta on June 22, 2005 before Board Member T.M. McGee (Presiding Member), and Acting Board Members D.D. Waisman, C.E.T., and W.G. Remmer, P.Eng. On September 15, 2005 the Board issued Decision [2005-104](#).

The Board received one cost claim with respect to this proceeding, a claim filed by Mr. Ron Podruzny of The Farmers Land Co., agent for Michael and Darlene Syme. The Board requested that comments to the claim be filed by July 29, 2005 and responses to any comments filed be submitted by August 12, 2005. The Board did receive comments and a response. In addition the Board also received unsolicited comments from Mr. Kruhlak on August 22, 2005 and an unsolicited response from Mr. Podruzny on August 23, 2005.

With respect to the unsolicited comments and response those items have not been considered in this process as they were filed outside of the Board's process which is set out in section 54(1) of the *Rules of Practice*. As such for the purposes of this Order, the Board considers the cost process to have closed on August 12, 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 – Cost Claim

The cost claim filed on behalf of the Symes comprises of professional fees incurred by The Farmers Land Co. in the amount of \$14,774.00, expenses of \$1,004.98, and GST of \$1,104.53 for a total invoice of \$16,883.51. In addition, the claim also includes a \$400.00 preparation honorarium and a \$200.00 attendance honorarium for Michael Syme and Darlene Syme and expenses in the amount of \$63.00 together with GST of \$4.41 for an overall personal claim of \$667.41.

3.1 Michael and Darlene Syme

With respect to the preparation honorarium of \$400.00, the Board does recognize that part 6.1.1 of Guide 31A provides for an honorarium in the range of \$300.00 - \$500.00 for an intervener who personally prepares a substantial submission without expert help. It is the Board's view that although the Symes did retain the services of Mr. Podruzny to assist with their intervention, the Board does not consider Mr. Podruzny to be an expert with respect to the issues that were before the Board, in addition the Board found that Mr. Podruzny was at times challenged with respect to the Board's process given his lack of experience with respect to Board hearings. The Board did find the testimony of the Symes to be well focused and well presented and ultimately assisted the Board with understanding the issues of concern to them. As such the Board finds that it is appropriate to approve the claim for preparation honoraria in this instance.

The Board finds that the attendance honoraria of \$100.00 for each Mr. and Mrs. Syme is claimed in accordance with part 6.2.3 of Guide 31A and is therefore approved in full.

Mr. and Mrs. Symes claim a total of \$63.00 with respect to facsimile charges to which the Applicant has questioned the reasonableness of. In considering this expense the Board has reviewed the fax transmissions between the Symes and Mr. Podruzny as detailed in Mr. Podruzny's statement of account. The Board is unable to determine exactly how many facsimiles were transmitted by the Symes as it was not detailed in the account. However, the Board in its discretion allows the expense as claimed.

Taking all of the foregoing into account, the Board awards a total honorarium to Mr. and Mrs. Syme in the amount of \$600.00 together with expenses of \$63.00 and GST of \$4.41 for an overall award of \$667.41.

3.2 The Farmers Land Co.

As noted earlier, Mr. Podruzny incurred professional fees in the amount of \$14,774.00, expenses of \$1,004.98, and GST of \$1,104.53 for a total invoice of \$16,883.51. The Board notes that the fees represent 168 hours of preparation time and 10 hours for hearing attendance.

It is the Board's view that Mr. Podruzny performed two roles during this proceeding. First, he acted as the Symes' agent or representative, and secondly he acted as a consultant and provided evidence relating to the concerns expressed by the Symes. This situation arose because Mr. Podruzny began the hearing as an agent and then during the examination in chief of the interveners, Mr. Podruzny began to give testimony rather than asking the Symes questions.

It is the Board's view that an intervener may be represented by an agent or representative of their choosing. However, the Board is of the view that an agent or representative must be versed in the Board's hearing process and should be able to determine if experts are required to review technical issues and provide evidence in support of the interveners' position. The Board finds that Mr. Podruzny has little or no previous experience appearing before Board.

While the Board believes that Mr. Podruzny assisted his clients in negotiations with Talisman given his background as a land agent, the Board finds that Mr. Podruzny's role as an agent or representative caused some inefficiency during the hearing process. For example, the interveners' submission contained a list of concerns but little detail. Rather than focusing on his clients' concerns, Mr. Podruzny supplied various material originated by Talisman, including Talisman's air dispersion model, emergency response plan, base line soil test, and Talisman's projected development scenarios including a worst case scenario of high density drilling activity. In addition, Mr. Podruzny provided some general information from the EUB, CAPP, and Talisman websites and various maps. The Board found this submission to be of little assistance. In addition, the Board found that Mr. Podruzny focused his time during the hearing on the deficiencies in Talisman's information package although the deficiencies had been corrected.

With respect to Mr. Podruzny's role as a consultant providing evidence, the Board notes that Talisman raised the issue as to whether Mr. Podruzny possessed the necessary qualifications to tender evidence on corporate reputations, drilling locations, public consultation, compliance with Guide 56, and health risks. In response, Mr. Podruzny confirmed that he is a licensed land agent with over eight years of experience and he is the owner/operator of The Farmers Land Co.

The Board agrees with Talisman's concerns regarding the qualifications of Mr. Podruzny in terms of providing evidence at this hearing and recognizes that Mr. Podruzny confirmed during the hearing that he does not have any engineering or technical expertise.

The Board did not find the information provided by Mr. Podruzny with respect to his clients' concerns to be of particular assistance when assessing the subject application. The Board recognizes that the material did provide some general information but overall was duplicative of the material already submitted by Talisman. The concerns raised in the submission were not supported with any type of expert analysis or conclusion to which the Board could apply any weight to during its deliberations. The Board further notes the inordinate amount of time that Mr. Podruzny is claiming for research, while claiming to have the expertise to act as a consultant. The Board finds that Mr. Podruzny did not possess the necessary education, knowledge, or experience to provide expert evidence on the majority of the issues in the submission. Further, the Board could only view Mr. Podruzny's evidence as general opinions and arguments which it found to be somewhat duplicative of that testimony provided by the Symes' themselves.

Based on the foregoing discussion the Board finds it appropriate to award 30 hours of preparation time and 10 hours of attendance time at the hourly rate of \$83.00. The Board finds this to be more reflective of the time required to organize and coordinate the Symes' participation in this hearing taking into account that no expert evidence was being provided.

The Board is also concerned with the amount of expenses incurred, namely photocopying, faxing, and mileage. In that regard the Board notes that these are being claimed in excess of the Board's Scale of Costs, specifically photocopying is claimed at \$0.30/pg, faxes are claimed at \$3.00/pg, and mileage is claimed at \$0.80/km. The Board does not agree with Mr. Podruzny's justification that the recommended fees for an 8-12 year expert or consultant is \$210.00/hr and as this rate would be considerably higher he has chosen to use his usual rates (fees and expenses) to keep costs down. The Board's Scale of Costs is not provided as a recommendation but represents maximum amounts available on the basis that as the professional's experience increases, so will his or her value and wage. As such the Board will only approve expenses based on what is provided for in Guide 31A. Particularly, photocopying at \$0.10/pg, faxes at \$1.00/pg, and mileage at \$0.30/km.

While the Board is concerned with the volume of photocopying, faxes, and kilometers traveled, it finds that in light of the reduction to fees it will only reduce the expenses to comply with the Board's Scale of Costs. Therefore, photocopying expenses are approved in the amount of \$121.20, fax expenses are approved in the amount of \$32.00, and mileage is approved in the amount of \$184.80. The Board also approves the remainder of the expenses as claimed.

Taking all of the foregoing into account, the Board approves professional fees in the amount of \$3,320.00, expenses in the amount of \$390.58, and applicable GST in the amount of \$259.74 for an overall award of \$3,970.32.

4 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Talisman Energy Inc. shall pay intervener costs in the amount of \$4,637.73.
- (2) Payment of honoraria, expenses, and GST in the amount of \$667.41 is to be provided to Michael and Darlene Syme at Box 548, Beaverlodge, Alberta, T0H 0C0.
- (3) Payment of professional fees, expenses, and GST in the amount of \$3,970.32 is to be provided to The Farmers Land Co., Attention: Ron Podruzny, 10624 – 78th Avenue, Grande Prairie, Alberta, T8W 2H8.

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