



Manhattan Resources Ltd.

**Natural Gas Wells, Pipeline Gathering
System and Well Site Surface Facilities
Strathcona County Area**

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2004-02: Manhattan Resources Ltd.
Natural Gas Wells, Pipelines Gathering System and
Well Site Surface Facilities – Strathcona County Area
Application Nos.: 1250462, 1250463, 1260250, 1260253,
1260257, 1269744, 1270601, 1279696, 1279698, 1279699,
and 1280291

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**Manhattan Resources Ltd.
Natural Gas Wells, Pipeline Gathering
System and Well Site Surface Facilities
Strathcona County Area**

**Energy Cost Order 2004-02
Application Nos.: 1250462¹
File No. 8000-1250462-01**

1 INTRODUCTION

Manhattan Resources Ltd. (Manhattan) applied to the Alberta Energy and Utilities Board (the Board / EUB) for approval to drill six wells, construct and operate a pipeline gathering system and well site surface facilities, and modify an existing facility.

By letter dated September 19, 2002, local residents/landowners were advised of the Board's intent to hold an information session on October 3, 2002. By letter dated October 17, 2003, the Board issued its Notice of Pre-Hearing Meeting and on October 24, 2002 Manhattan held an open house and public meeting.

Having regard for the numerous unresolved concerns, the Board directed that the subject applications be considered at a public hearing. However, before scheduling a hearing, the Board decided that it would be useful to obtain further information from the interested parties and Manhattan regarding aspects of the public hearing to ensure that the hearing would be conducted in the most efficient and effective manner.

The Board held a pre-hearing meeting in Sherwood Park, Alberta, on November 20, 2002, before Presiding Board Member M. N. McCrank, Q.C., and Board Members J. D. Dilay, P.Eng., and T. M. McGee.

On January 15, 2003, Manhattan notified the Board that Manhattan had merged with Cigar Oil & Gas Ltd. forming a new entity, Pivotal Energy Ltd. (Pivotal). The newly formed company advised the Board that it was not proceeding with the above-mentioned applications and requested that the Board approve its request to withdraw them. The Board panel approved the withdrawal of the applications on February 11, 2003 and accordingly, intervener cost claims were due March 13, 2003.

On August 11, 2003 the Board issued Energy Cost Order 2003-10 (ECO 2003-10).

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:

¹ 1250462, 1250463, 1260250, 1260253, 1260257, 1269744, 1270601, 1279696, 1279698, 1279699, and 1280291

- 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 – Eva Moscicki

ECO 2003-10 stated the following with respect to Ms. Eva Moscicki:

The Board has reviewed Ms. Moscicki’s cost claim and finds that Ms. Moscicki does not meet the requirements of a local intervener in this proceeding. She does not reside within the 2km radius. Ms. Moscicki has not submitted evidence to show that she has the necessary interest in land. As a result, she does not qualify for local intervener funding at this time. Should Ms. Moscicki wish to provide evidence outlining her interest in land she may do so within 30 days of the issuance of this Cost Order without prejudice to her claim.

By letter dated September 5, 2003 Ms. Moscicki provided the legal description of her property and advised the Board that she had been renting the property upon which she resides and pasture land within the 2km radius since approximately 1981. On September 23, 2003, counsel for Pivotal Energy Ltd. (formerly Manhattan Resources Ltd.), Mr. D.C. Edie, was invited to comment on Ms. Moscicki’s additional information. Comments were to be received by September 30, 2003. No comments were submitted.

Based on Ms. Moscicki’s additional information, the Board has determined that she does have the necessary interest in land to qualify as a local intervener pursuant to section 28 of the *Energy Resources Conservation Act*.

Ms. Moscicki submitted a cost claim consisting of a preparation honorarium of \$2,500.00, attendance honorarium of \$50.00, and expenses of \$309.80 plus GST of \$21.69 for mileage, long distance telephone, fax charges, photocopying, and the purchase of several hydrological books from the Board's Information Services.

Guide 31A explains that 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 \$300.00 to \$500.00. The Board recognizes the efforts of Ms. Moscicki in the preparation of her intervention; however, it is also aware of the context in which the preparation was done. In this case, the Notice of Hearing had not yet been issued and only a pre-hearing meeting was held. Ms. Moscicki had not submitted a full submission in the proceeding given that the Manhattan applications were withdrawn following the pre-hearing meeting. The Board finds it reasonable to award Ms. Moscicki a preparation honoraria of \$200.00.

The Board has reviewed the claim of \$50.00 for attendance and notes that Ms. Moscicki did address the Panel at the pre-hearing meeting regarding her concern for water issues and air quality issues. The Board finds that Ms. Moscicki's attendance was directly and necessarily related to her intervention and as such approves the attendance honoraria claim of \$50.00.

The Board has also reviewed the expenses claimed in the amount of \$309.80 plus GST of \$21.69. The Board finds that the expenses incurred for long distance telephone, fax charges, and photocopying have been reasonably incurred in accordance with Guide 31A; however, the Board does take issue with the mileage claim of \$120.00, representing 400 km, and the claim for hydrological books in the amount of \$96.00.

Upon review of Ms. Moscicki's claim for 400 km it is apparent to the Board that the majority of the mileage was incurred as a result of a number of trips to the local health authorities, Alberta Environment, the Board, and meetings with residents. The Board does not compensate members of the public for these types of activities as they do not directly and necessarily assist the Board with respect to the issues in dispute. The Board does however find that mileage incurred as a result of traveling to the pre-hearing meeting is reasonable and in accordance with Guide 31A. Although the Board is not able to calculate the exact distance it does find that 40 km would cover a round trip to the pre-hearing meeting. Accordingly the Board approves \$12.00 for Ms. Moscicki's mileage expense.

With respect to the hydrological books, it is the Board's position that the cost of the material is captured within the Board's approval of the \$200.00 preparation honoraria.

Based on the foregoing, the Board approves an honoraria of \$250.00, expenses of \$105.80, and applicable GST for long distance telephone charges, photocopying, and fax expenses in the amount of \$6.57 for a total award of \$362.37.

4 ORDER

IT IS HEREBY ORDERED THAT:

- (1) Manhattan Resources Ltd. shall pay intervener costs to Ms. Eva Moscicki in the amount of \$362.37

(2) Payment under this order is to be made to:

Eva Moscicki, 21415 – TWP, Rd 530, Ardrossan, AB., T8E 2H4

Dated in Calgary, Alberta on this 14 day of January, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

(originally signed by)

Thomas McGee
Board Member