



TransAlta Utilities Corporation

Whitewood Mine Extension

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Energy Cost Order 2004-01: TransAlta Utilities Corporation
Whitewood Mine Extension
Application No.: 990577

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Contents

1	INTRODUCTION.....	1
2	VIEWS OF THE BOARD – AUTHORITY TO AWARD COSTS.....	1
3	VIEWS OF THE BOARD – ASSESSMENT	2
4	ORDER	2

ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**TRANSALTA UTILITIES CORPORATION
WHITEWOOD MINE EXTENSION**

**Energy Cost Order 2004-01
Application No. 990577
File No. 8000-990577-01**

1 INTRODUCTION

On December 6, 1999, TransAlta Utilities Corporation (TransAlta) applied to the Alberta Energy and Utilities Board (Board) pursuant to section 13 of the *Coal Conservation Act* and Part 5 of the *Coal Conservation Regulation*, requesting an amendment that would allow an extension of its Whitewood Mine permit (Application). The amendment would extend the boundary of the permit to include the adjacent two sections immediately north of Highway 16 and immediately west of the present permit boundary.

The Board received a number of objections to the Application, all of which were dismissed by the Board on the basis that the parties were not directly and adversely affected by the Application.

On September 20, 2000 the Board issued Permit No. C2000-25 which granted TransAlta's Application for an amendment.

2 VIEWS OF THE BOARD – Authority to Award Costs

In determining local intervenor 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 intervenor” 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 intervenor 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:

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 – Assessment

The Board received one cost claim in relation to this Application from the Senior Petroleum Producers Association (SPPA) in the amount of \$1,469.50.

By way of letter dated August 11, 2000, the Board conveyed its determination that SPPA was not directly and adversely affected by the Application and that its objection to the Application should be dismissed. SPPA's objection was dismissed along with a number of other similar objections. The Board subsequently denied requests for a hearing pursuant to section 43 of the ERCA, although SPPA was not among those requesting such a hearing. As the Board dismissed all objections to the Application, no proceeding was conducted in relation to it.

This Application was made pursuant to the terms of the *Coal Conservation Act* and the ERCA and was, therefore, an "energy proceeding" within the meaning of Section 49 of the Board's *Rules of Practice*. As noted above, in order to qualify for costs in an energy proceeding, a party must be a local intervener within the meaning of Section 28 of the ERCA. In the circumstances, since the Board determined that SPPA's objection should be dismissed because it was not directly and adversely affected by the Application, SPPA is not a "local intervener" and is not entitled to claim costs. Therefore, SPPA's cost claim must be denied.

4 ORDER

IT IS HEREBY ORDERED THAT:

- (1) The claim made by the Senior Petroleum Producers Association in the amount of \$1,469.50 is denied.

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

ALBERTA ENERGY AND UTILITIES BOARD

(Originally signed by)

Thomas McGee
Board Member