EUB Alberta Energy and Utilities Board

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TO: All Interested Parties

STAKEHOLDER CONSULTATION DISCUSSION PAPERS FOR THE REVIEW OF COSTS PROCEDURES FOR ENERGY AND UTILITY PROCEEDINGS

This is to advise all interested parties that the Alberta Energy and Utilities Board (EUB) has initiated a review of costs procedures for energy and utility proceedings. The review will examine a number of issues associated with the awarding of costs to local interveners who participate in energy applications/hearings, as well as issues related to costs awarded to parties who participate in utility applications/hearings.

Issues identified for review arising from energy applications/hearings include:

- expansion of definition of “local intervener”,
- level of awards to individual organizers/coordinators of local resident groups,
- interest on costs awards,
- restriction of cost recovery to time period following issuance of notice of hearing,
- responsibility for costs arising from public inquiries conducted by Board, and
- other cost issues of interest to stakeholders.

With respect to utility proceedings, the Board is reviewing a number of issues, including:

- quantum of costs,
- timeliness of cost orders,
- costs related to Negotiated Settlement Processes,
- advance funding, and
- any other costs issues of interest to stakeholders.

The discussion papers have been prepared as part of the Board’s ongoing commitment to a multi-stakeholder review process that consults with the public and industry stakeholders and assists stakeholders in providing input and recommendations. The discussion papers provide background, current practices, and issues of concerns. These discussion papers are available on the EUB website at www.eub.gov.ab.ca.

These discussion papers are being disseminated to interested parties who are asked to provide the Board with their written comments and submissions by **15 November 1999**. All submissions respecting costs related to energy proceedings should be sent to Mr. Doug Larder, EUB, Law Branch, 640 – 5th Avenue SW, Calgary, Alberta T2P 3G4 or via e-mail to doug.larder@eub.gov.ab.ca. Submissions respecting utility matters are to be directed to Ms. Becky Torrance, EUB, Utilities Branch, 10055 – 106th Street, Edmonton, Alberta T5J 2Y2 or via e-mail to becky.torrance@eub.gov.ab.ca.

Following its review of these submissions, the Board will consider the merits of holding workshop or focus group sessions to further explore the issues surrounding costs.

If you have any questions regarding the review, please contact Becky Torrance, Utilities Branch at (780) 427-9099, or Doug Larder, Law Branch at (403) 297-7402.

<Original signed by>

Brad McManus, Q.C.
Board Member

(no amdt)

ALBERTA REGULATION 517/82

Energy Resources Conservation Act

LOCAL INTERVENER'S COSTS REGULATION

1 In this Regulation,

(a) "Act" means the *Energy Resources Conservation Act*;

(b) "applicant" means a party, other than the Board, who has by application initiated a proceeding before the Board;

(c) "Order" means a costs award made pursuant to this Regulation.

AR 517/82 s1

2(1) A local intervener who presents an intervention at a hearing convened by the Board may make a claim to the Board for an award in respect of costs that are reasonable and are directly and necessarily related to the preparation and presentation of the intervention.

(2) A claim made pursuant to subsection (1) shall be provided to the Board and to the applicant within 30 days after the hearing is closed.

(3) Upon receiving a claim made under subsection (1), the Board may make an award of costs to a local intervener in respect of costs that, in the Board's opinion, are reasonable and are directly and necessarily related to the preparation and presentation of the local intervener's intervention.

AR 517/82 s2

3 A claim made under section 2 shall

(a) be set out in the form prescribed by the Board, and

(b) clearly set out the following:

(i) the name of the local intervener, and where the local intervener is a group, the names of the persons belonging to the group;

(ii) the mailing address for the local intervener;

(iii) the legal description of the land that the local intervener occupies, is entitled to occupy or in which he has an interest;

(iv) the proceeding in which the intervention was presented;

(v) details of the costs, including receipts, invoices, statements, or other documents that are evidence of the expense;

(vi) such other information as the Board considers relevant and may require.

AR 517/82 s3

4(1) Within 14 days of the receipt of a claim under section 3, the applicant shall provide to the Board and the local intervener any comments he may have respecting the claim.

(2) Within 14 days of the receipt of the applicant's comments under subsection (1), the local intervener shall provide to the Board and the applicant any reply he may have respecting the comments of the applicant.

(3) The Board may, in determining if it will award or deny costs or in determining the amount of costs that should be awarded, have regard to any comments and replies that are obtained under subsections (1) and (2).

AR 517/82 s4

5 The Board may deny a claim, in whole or in part

(a) if the Board did not hold a hearing in the proceeding,

(b) if the claim does not comply with the requirements of section 3,

(c) if the Board is not satisfied that the costs were reasonable and directly and necessarily related to the proceeding,

(d) if the Board is not satisfied that the local intervener was in need of legal or technical assistance in the preparation and presentation of his intervention,

(e) if the Board is not satisfied that the intervention was conducted economically,

(f) if, in the opinion of the Board,

(i) the intervention and its presentation was unnecessary, irrelevant, improper, or intended to delay the proceeding before the Board, or

(ii) the claim is excessive, having regard to the nature of the proceeding and the intervention,

or

(g) for any other reason the Board considers appropriate.

AR 517/82 s5

6 Notwithstanding section 5(a), the Board may, in its discretion and where it considers it appropriate to do so, make an award of
costs to a local intervener to a proceeding where the Board did not hold a hearing.

AR 517/82 s6

7(1) Subject to subsection (2) and unless the Board otherwise orders, any costs in a proceeding awarded to a local intervener shall be paid by the applicant.

(2) In a proceeding initiated by the Board any costs awarded to a local intervener shall be paid by the Board unless the Board otherwise orders.

(3) The Board may, in making an Order, provide that payment may be made to any person that the local intervener may designate.

AR 517/82 s7

8(1) An order of the Board for the payment of costs shall be served on the local intervener making the claim or his representative, and on the person liable for the payment of costs.

(2) Service of the Order may be effected by sending it by ordinary mail to the mailing address of the local intervener provided to the Board under section 3(b)(ii) and to the last known mailing address of the person liable to pay costs.

(3) The date of service of the Order under subsection (2) shall be deemed to be 72 hours after the date of sending the Order by ordinary mail.

AR 517/82 s8

9(1) If the Board has made an order, the local intervener for whom the Order was made, or the person liable for the payment of costs, may make a request to the Board to review and vary the Order.

(2) A request to review and vary shall be filed with the Board and the other party to the Order within 30 days of the date of service of the Order.

(3) A request to review and vary an Order shall clearly set out the following:

(a) the name of the party requesting the Board to review and vary the Order;

(b) the number of the Order;

(c) the nature of the variation being sought;

(d) the grounds for the request.

AR 517/82 s9

10(1) Within 14 days of the receipt of a request to review and vary an Order made pursuant to section 9, the other party shall provide to the Board and the person making the request any comments he may have respecting the request.

(2) The Board may, in determining whether it will review and vary the Order, have regard to the comments received pursuant to subsection (1).

AR 517/82 s10

11(1) The Board may, in its discretion, either deny the request or conduct the review.

(2) Where the Board conducts the review, it may either affirm its previous Order or vary the Order as it sees fit.

(3) Service of the Board's decision under subsections (1) or (2) may be effected on the parties to the Order in accordance with section 9.

AR 517/82 s11

12(1) A request for an advance of funds made pursuant to section 31(6) of the Act shall clearly set out the following:

(a) the information required under section 3(b)(i);

(b) the information required under section 3(b)(iii);

(c) the name of the local intervener's solicitor, if the local intervener is to be represented by counsel;

(d) the proceeding in which the local intervener proposes to present an intervention;

(e) a list of expenses that the local intervener reasonably expects to incur in the preparation and presentation of his intervention;

(f) details as to the nature of the expenses;

(g) reasons why the advance of funds is required.

(2) If the Board is satisfied that a local intervener has demonstrated that the advance of funds requested will be necessary prior to the holding of the hearing, and the local intervener has established a need at that time for financial assistance in the preparation and presentation of his

intervention, the Board may award an advance of funds to the local intervener in respect of costs which, in the opinion of the Board, are reasonably anticipated to be incurred in the preparation and presentation of the local intervener's intervention.

(3) If the Board makes an advance of funds under subsection (2) it may make conditions for repayment of the advance to the Board by the local intervener.

(4) If the Board makes an advance of funds under subsection (2), it may direct a party liable to pay costs to a local intervener to reimburse the Board, in whole or in part, for the funds advanced by the Board, to the local intervener.

AR 517/82 s12

13 The Local Interveners' Costs Regulation (Alta. Reg. 435/78) is repealed.

AR 517/82 s13

Alberta Energy and Utilities Board 12 October 1999

DISCUSSION PAPER RESPECTING COSTS AND PROCEDURES FOR ENERGY PROCEEDINGS

1. BACKGROUND

Prior to 1978, the Board's predecessors did not possess the explicit statutory authority to award costs to local residents who participated in Board hearings. However, the Legislature acknowledged that the role of both interveners and applicants was essential to a fair and proper adjudication of energy applications before the Board. Access to financial resources was imperative if local residents were to effectively intervene in the process.

Commencing in 1978, a number of amendments were made to the *Energy Resources Conservation Act* with the result being that by 1982 the legislative authority was in place for the Board to award costs to those persons or groups who qualified as local interveners. The Board's power to award costs is found in section 31(1) – (8) of the *Energy Resources Conservation Act* and the Local Intervener's Costs Regulation. Section 31(1) – (8) is reproduced below and the Regulation is attached.

> 31**(1)** In this section, "local intervener" means a person or a group or association of persons who, in the opinion of the Board,
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> (a) has an interest in, or
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> (b) is in actual occupation of or is entitled to occupy
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> 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.
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> **(2)** On the claim of a local intervener or on the Board's own motion, the Board may subject to terms and conditions it considers appropriate make an award of costs to a local intervener.
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> **(3)** Where the Board makes an award of costs under subsection (2), it may determine
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> (a) the amount of costs that shall be paid to a local intervener, and
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> (b) the persons liable to pay the award of costs.
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> **(4)** The local intervener or a person who is determined by the Board to be liable to pay the costs awarded may request that the Board conduct a review of the award of costs.

(5) Where the Board conducts a review of the award of costs, the Board may

(a) vary the award of costs,

(b) refuse to vary the award of costs, or

(c) deny the award of costs.

(6) If in the Board's opinion it is reasonable to do so, the Board may make an advance of costs to a local intervener and it may direct any terms and conditions for the payment or repayment of the advance by any party to the proceeding that the Board considers appropriate.

(7) The Board may make regulations respecting

(a) the awarding of costs,

(b) the making of advances of costs,

(c) the liability of persons to pay costs, and

(d) the review of costs awarded.

(8) A certified copy of an award of costs made under this section may be filed in the office of the clerk of the Court of Queen's Bench and, on filing and on payment of any fees prescribed by law, the order shall be entered as a judgement of the Court and may be enforced according to the ordinary procedure for enforcement of a judgement of the Court.

In order to assist interested parties with the Board's processing of costs claims, Guide G-31 "*Guidelines Respecting Applications for Local Interveners' Costs Awards* was first published in December 1982 with subsequent updates in 1987, 1988 and 1994. The Guide provides applicants and potential interveners with a summary of the process and procedures used in awarding intervener funding; who qualifies, how to submit a request for funding, how that request will be handled and the costs that are likely to be judged acceptable for reimbursement.

2. CURRENT PRACTICE

The Board has no inherent jurisdiction to award costs other than in conformity with section 31 of the *Energy Resources Conservation Act* and the Regulation. Persons or groups who seek eligibility for costs have the onus of demonstrating that they have the requisite interest in land and that an adverse affect might occur as a result of a Board decision. Generally, a proprietary interest i.e. ownership or leasehold, meets the test of establishing an interest in land. A reasonable concern about an adverse affect that may result, not the certainty that it will, satisfies the other requirement in section 31(1).

Persons or groups who do not meet the test of having an interest in land that might be directly and adversely affected by the Board's decision, may participate at hearings but at their own expense.

Local intervener costs claims are determined by the Board on the basis of whether they are reasonable and directly and necessarily related to the preparation and presentation of the local intervener's intervention. There is a significant degree of discretion that the Board may exercise in approving costs claims. The information outlined below shows the total costs awarded by the Board and the average award per hearing for 1994 –1998 and early 1999.

The data does not show the applications where companies have paid the costs of local interveners directly, that is, without the necessity of a formal cost order.

Year	Total Costs	Average Per Hearing
1994	$826,566.93	$68,880.58
1995	$155,019.94	$19,377.49
1996	$86,023.64	$12,289.09
1997	$194,369.44	$27,767.06
1998	$677,369.04	$24,192.72
1999	$604,669.39	$35,568.78

3. ISSUES OF CONCERN

(a) Expansion of Meaning of Local Interveners under section 31(1) of *Energy Resources Conservation Act*

It is axiomatic that those who wish to effectively participate in public hearings require money to fund their interventions. Depending on the nature of the hearing, large sums of money are needed to hire lawyers, consultants and support staff as well as to pay for expenses including, transportation, communication, accommodation, and meals. Complex issues take longer preparation and hearing time resulting in greater costs.

Individuals and associations such as environmental groups and non-government organizations who have been excluded as local interveners argue that, increasingly, proposed resource projects are located in areas of the province i.e. eastern slopes and "green zones" where it is unlikely that persons with the requisite legal rights to own or occupy lands in proximity to resource projects will be found. Section 31(1) of the *Energy Resources Conservation Act* generally requires a proprietary or other recognized legal interest in such lands in order for a person to qualify as a local intervener, entitled to seek costs. The oil sands region in north-eastern Alberta is one such area.

These groups further submit that government regulators are limited by their own mandates and by the policies of their respective governments to properly consider the public interest in the absence of other vigorous viewpoints. Participation by these groups is an effective way of ensuring that these views are adequately expressed to the regulator.

If the definition of local intervener is to be enlarged so as to include environmental and/or other public interest groups in those cases where there is unlikely to be anyone who meets the test of a

local intervener in section 31(1) of the *Energy Resources Conservation Act* an amendment to section 31(1) would be necessary.

(b) Reimbursement to Organizers of Local Intervener Groups

The Board has not, historically, viewed section 31 of the *Energy Resources Conservation Act* as providing individual organizers of resident associations with a complete financial indemnification of their time and efforts. The granting of the honorarium as set out in Guide 31 is designed to acknowledge such participation.

However, individual local interveners who are instrumental in founding, organizing and coordinating their group's intervention often submit costs that reflect hundreds of hours of time that they have devoted to their group's intervention. This level of commitment is a very significant imposition on their lives. The costs claim may amount to several thousands of dollars based on an hourly rate, for example, of $25.00. The Board does not currently approve costs awards for individual local interveners on this basis. The Board's practice, as set out in Costs Guide G-31, is to approve an honorarium for organizers that rarely exceeds two thousand dollars and in most cases is under five hundred dollars. Many of these interveners feel aggrieved by this limitation on the recovery of their costs.

The Board is considering whether to change its current practice.

(c) Interest on Costs Awards

Increasingly, the Board is receiving complaints from local interveners regarding the tardiness of payment of their costs awards. The Board, of course, requires time to process the costs submissions, but after the issuance of the formal cost award, it is anticipated that payment would be made promptly by the company. The Board is considering whether to impose interest on the costs awards.

The introduction of an interest component on the cost award would require legislative sanction.

(d) Restriction of Cost Recovery to Period Following Issuance of Notice of Hearing

The Board's usual practice (there are exceptions) is to acknowledge only those costs which are incurred after the notice of hearing has formally issued. Until a notice has been issued, there is no certainty that a hearing will be held. Approved costs must relate to the person's "intervention", which the Board has determined to be the hearing. Also, the Board's experience is that in many cases, much of the pre-notice work relates to compensation matters, not public interest issues.

Interveners point out that in order to resolve genuine, non-compensation issues without the necessity of a hearing, it is often necessary to have access to consultants and counsel who possess the necessary experience and skill to assist them in understanding and resolving, if possible, any outstanding differences between the applicant and local residents. If the Board does not approve these costs prior to the issuance of the notice of hearing, resolution efforts may be undermined.

The Board has the discretion to approve costs which are incurred prior to the issuance of the notice of hearing without any legislative changes. If such a change is made to the Board's current practice, considerably more detail and information concerning the nature of the services retained by an intervener and their relationship to bona fide public interest issues i.e. health, environment and safety, would be required in order to support a claim for pre-notice costs. Each case would be reviewed on its own facts and circumstances in order to determine whether such costs should be approved.

(e) Responsibility for Local Intervener Costs at Public Inquiries

The Board is empowered to hold public inquiries upon its own initiative or as a result of a request from the industry or other interested parties. While section 31(1) of the *Energy Resources Conservation Act* is broad enough to include a person's participation at a public inquiry in its definition of local intervener, there is currently some debate as to whether the Board has the necessary authority under that Act and the Regulation, to direct companies whose activities and operations are the subject of the inquiry, to pay local intervener costs.

While the Board is of the view that its current legislative jurisdiction is sufficient to make an award of local intervener costs against a company or companies which are the subject of a public inquiry, it invites submissions as to the circumstances under which local intervener costs should be the responsibility of the companies or borne by the Board.

(f) Cost Issues of Interest to Stakeholders

The Board's review of its costs procedures will include any pertinent topics identified by stakeholders.

DISCUSSION PAPER RESPECTING COSTS PROCEDURES FOR UTILITY PROCEEDINGS

1. BACKGROUND

Under Public Utilities Board legislation, the Board has had the authority to award costs since the time of its establishment in 1915. Indeed, the Board was unique in North America in the manner in which it awarded costs from its earliest days.

The *Public Utilities Board Act* grants the Board broad discretion to award costs respecting utility proceedings. Section 60 of this Act provides:

> **60(1)** The costs of and incidental to any proceeding before the Board, except as otherwise provided in this Act, are in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.
>
> **(1.1)** The Board may order that its costs of or incidental to any proceeding before the Board are to be paid and by whom they are to be paid.
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> **(2)** The Board may order by whom and to whom any costs are to be paid, and by whom they are to be taxed and allowed.
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> **(3)** The Board may prescribe a scale under which costs are to be taxed.
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> **(4)** The Board may, with the approval of the Lieutenant Governor in Council, prescribe the fees to be paid by local authorities or persons interested in the matters that come before the Board.

Section 73 of the *Electric Utilities Act* (EU Act) also enables the Board to provide advance funding with respect to certain specific applications under the EU Act. This section provides as follows:

> **73(1)** The Board may make rules respecting funding for the purpose of assisting any person
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> (a) to apply or become an intervenor at an application under section 49 or 56 or at a proceeding under section 57,
>
> (b) to make a complaint or become an intervenor at the hearing of a complaint under section 16, or
>
> (c) to become a party under Part 6 for the purpose of negotiating the settlement of an issue.

(2) A rule under subsection (1) may provide for

(a) the awarding of funding and the giving of advance funding,

(b) clarification of who is to pay the funding and to whom it is to be paid, and

(c) the review of any funding awarded.

The Board's practices and procedures with respect to costs have evolved over time, and have been subject to review on several occasions. The Board first reviewed this issue in 1975, when concerns began to arise that hearing costs were becoming excessive, and the Board subsequently issued a position paper and guidelines in 1977. These enunciated the principle that costs would be awarded only if interventions were effective in testing the applicant's case to the benefit of all customers and such costs were reasonably and necessarily incurred.

The next examination of costs occurred in 1988, and again the driver was concern over escalating hearing costs. This review culminated in the establishment of a Scale of Costs, which set a cap on professional fees and identified the types of disbursements that would be eligible for repayment.

While the Board remains committed to facilitating effective and broad based intervention, it considers it has a mandate to ensure that hearing costs do not become excessive, particularly as these costs are ultimately added to customer's bills. It is for this reason that the Board wishes to again review its costs procedures, so as to ensure that customers are being asked to bear only the reasonable costs of interventions.

2. CURRENT PRACTICE

The Board's current practices respecting costs arising out of utility proceedings are outlined in the Scale of Costs, as revised in 1991. Before exercising its discretion to award costs, the Board considers the effectiveness of the intervention, its relevancy to the issues and whether the costs of intervention were necessary and reasonable. Costs are typically awarded to cover professional fees of counsel and expert witnesses and consultants, up to the current maximum of $225/hour, plus approved disbursements. Individual intervenors are generally eligible only for disbursements; the Board will not approve an attendance allowance.

It is left to the panel hearing a particular application to advise parties as to the procedures respecting costs and any deadlines for the submission of cost claims. Upon receipt of all these claims, Board staff members generally prepare a summary of the cost claims, which is then sent to all parties for comments. Based on the comments received from participants, and on the Board panel's own assessment of the effectiveness of the various interventions, a decision is made as to the level of costs, which will be awarded to each participant. A Board Order is prepared, setting out written reasons for its cost determinations. In the cost order, the Board will direct the utility company to include the approved cost claims in its hearing cost reserve account. These amounts are then recovered from ratepayers through the Board approved rates.

A somewhat different procedure is followed with respect to a negotiated settlement process (NSP). Under the Board's NSP Guidelines, parties are encouraged to reach agreement on costs incurred in the NSP and the manner in which the costs will be paid. Where the parties have agreed to costs, they may include details in the settlement agreement and request the Board to incorporate the agreed costs into the Board's final order. Alternatively, parties may finalize the payment of costs among themselves and file a summary of the agreed costs with the Board for information. If parties are unable to agree on the amount of costs, the Board may determine the matter pursuant to the Board's cost rules.

Another variation of a cost proceeding relates to advance funding requests under the EU Act. While the Board has not yet established formal funding rules under the EU Act, it has allowed case specific advance funding under section 73. Any advance funding approved by the Board has been on an interim refundable basis, with parties being warned that they would have to repay any amounts awarded in excess of the Board's final determination of costs. This final determination would be based on the normal criteria outlined in the Scale of Costs.

The chart below outlines the total costs awards approved by the Board for the five year period from 1994 to 1998.

Board APPROVED COSTS
1994 – 1998

	1994	1995	1996	1997	1998
Gas Utilities	$ 595,000	$2,703,000	$3,753,000	$1,344,000	$2,633,000
Electric Utilities	3,253,000	3,641,000	4,199,000	5,649,000	766,000
TOTAL	$3,848,000	$6,344,000	$7,952,000	$6,993,000	$3,399,000

3. ISSUES OF CONCERN

(a) Quantum of Costs

The Board considers that there is an ongoing need for broad-based and well-considered intervention in the hearing process. Such intervention assists the Board in testing the applicant's case and in balancing the interests of all affected parties, which is in the general public interest.

Nonetheless, the Board recognizes that there may be a perceived paradox in that intervention, which aims at reducing utility rates, is in itself expensive. Given that the costs of intervention are ultimately borne by utility ratepayers, the Board has a responsibility to ensure that cost awards are reasonable.

The Board is also aware that certain stakeholders have voiced concerns about the quantum of costs awarded. Costs respecting utility applications, as detailed above, totalled close to $30 million in the period from 1994 to 1998. (The Board notes, however, that roughly $9 million of the total related to the 1996 electric general tariff application. This proceeding was atypical, in

that it was extremely lengthy and complex in light of the ongoing restructuring of the electric industry.)

Consequently, the Board is seeking input as to any measures it should implement to ensure that the scrutiny of cost submissions is efficient and effective, and that the final cost awards are fair and reasonable.

(b) Timeliness of Costs Orders

There is a general desire on the part of intervenors to be reimbursed for their costs in a timely fashion. On occasion, stakeholders have questioned the length of time that sometimes elapses between the close of a utility proceeding and the issuance of the associated costs order. One of the causes of such delay has been the tardiness of some hearing participants in submitting all the necessary documentation regarding their costs submission.

While the Local Intervenor's Costs Regulation establishes deadlines for the submission of cost claims respecting energy proceedings, there are no similar legislative deadlines for the submission of cost claims respecting utility applications. Indeed, the Board notes that parties in some cases have submitted claims after the initial cost order has issued. This creates an unnecessary administrative burden for the Board, and delays the payment of appropriate costs.

The Board invites submissions as to whether it should consider the establishment of deadlines for the submission of cost claims, and if so, as to what those deadlines should be.

(c) Costs Relating to Negotiated Settlement Processes (NSPs)

One of the perceived advantages of NSPs is a reduction in regulatory costs. Yet such reductions have not always been achieved, particularly in situations where an attempted negotiation fails, and the application is then also the subject of a regulatory hearing. Under such a scenario, ratepayers may be required to bear costs in excess of what would be anticipated in a traditional regulatory proceeding.

Another difficulty arises from the fact that the Board is not directly involved in the negotiated settlement process, and therefore has no ability to gauge the effectiveness of parties' participation in the negotiations. The Board's role is necessarily restricted to ensuring that cost submissions comply with the spirit and intent of the Scale of Costs; the Board must rely on the parties themselves to exercise judgement as to the reasonableness of the costs in the context of the proceedings.

The Board welcomes any suggestions as to how this process could be improved with respect to costs.

(d) Advance Funding

While there is specific provision for advance funding under the EU Act, as discussed earlier, there is no such provision for advance funding for proceedings commenced under other statutes. Consequently, the Board has not been in a position to award advance funding for a large number of its proceedings.

The Board would be interested in hearing representations from interested parties as to whether the absence of advance funding has detrimentally affected the ability of interested parties to mount effective interventions.

(e) Other Costs Issues of Interest to Stakeholders

The Board welcomes comments or suggestions from stakeholders on any other issues pertaining to costs that may merit further review.