

The logo for the Alberta Energy and Utilities Board (EUB). It features the letters "EUB" in a bold, sans-serif font. To the left of the letters is a stylized graphic consisting of three horizontal bars of varying lengths, stacked vertically, resembling a signal or a stylized 'E'.

**EUB**

## **Energy and Utility Development Applications, the Hearing Process, and Costs Awards**



## About this pamphlet

The Alberta Energy and Utilities Board (EUB) receives many questions about its public hearings and local intervenor costs. This pamphlet, a companion piece to *Guide 29: Energy and Utility Development Applications and the Hearing Process*, addresses some general questions about these issues. For more details about the EUB's energy and utility development application and hearing process, please refer to *Guide 29*. For specific questions about local intervenor costs awards, please refer to *Guide 31A: Guidelines for Energy Cost Claims* and *Guide 31B: Guidelines for Utility Cost Claims* or contact the EUB's Law Branch at (403) 297-7029.\*

## About the EUB

The EUB is an independent provincial agency that regulates the safe, responsible, and efficient development of Alberta's energy resources. These include oil, natural gas, oil sands, coal, and electric energy, as well as pipelines and transmission lines required to move these resources to market.

Regulation is needed so that nonrenewable resources are produced efficiently and in an environmentally acceptable way that does not compromise social values or public health and safety. If proposed future developments, or current ones, create conflicts among industry, landowners, or other stakeholders, the EUB is there to settle issues in a balanced way.

The EUB expects industry to complete its public consultation program well before submission of any application so that concerns may be raised, properly addressed, and, if possible, resolved. For applications that cannot be easily resolved due to concerns or objections, a hearing may be conducted by the EUB to reach a fair and balanced decision.

## Applications and hearings: What are they?

Most projects related to energy and utility development require EUB approval. For a proposed project to be approved, a company must submit an application to the EUB detailing what it is applying for and the grounds on which the application is made. The company is also required to provide any relevant information necessary to give the EUB a full and complete understanding of the application. Section 19 of the EUB's *Rules of Practice* and the appropriate EUB guide for the specific application type outline the information required with an application. Each year the EUB reviews and approves thousands of applications on a routine basis. However, any unresolved matter or objection may proceed to a hearing.

### Prehearing Steps

- Public consultation / dispute resolution
- Application
- EUB information session (if needed)
- Prehearing meeting (if needed)

If the EUB decides that it is necessary to hold a hearing to consider an application, it issues a notice of hearing directly to all persons and organizations potentially directly and adversely affected by the application to inform them of the hearing and allow them to file their submissions with the EUB. The notice of hearing may also be publicly advertised in newspapers. After considering input from the participants, the EUB decides whether the hearing will be oral or written. Hearings are sometimes preceded by prehearing meetings, which may be held to finalize logistical details, such as the proposed date, time, and place of the hearing, arrange for the exchange of exhibits or prepared testimony, and settle any other matters that may aid the proceedings.

An EUB hearing is a public forum in which all parties who may be directly affected by an application may participate. Once an intervenor,

# EUB ORAL HEARING PROCESS

## Opening Remarks

- Statement of purpose
- Introduction of Board panel and EUB staff
- Summary of notice given on the proceeding
- Participant registration

## Preliminary Matters

- Presentation of procedural and legal matters

## Applicant (Application)

- Registration of applicant's documents as exhibits
- Introduction of applicant's panel and presentation of credentials
- Applicant's direct evidence
- Cross-examination of applicant by
  - Interveners, in order of registration
  - EUB staff
  - Board panel
- Redirection of applicant's evidence

## Interveners

- Registration of intervener documents as exhibits
- Introduction of interveners' panels and presentation of credentials
- Intervenors' direct evidence
- Cross-examination of intervener by
  - Applicant
  - Intervenors, in order of registration
  - EUB staff
  - Board panel
- Redirection of interveners' evidence

## Rebuttal Evidence by Applicant

- Applicant submits additional evidence to address new points raised by intervener evidence

## Final Argument or Summation (oral or written)

- Participants present most important aspect of the issues and what decisions they feel the panel should make
- Applicant may respond to interveners' arguments

## Closing of Hearing

- Panel chair announces deferral of the panel's decision until a later date

## Decision Report

- Board issues its final reasoning and decision on application usually within 90 days after the hearing in a decision report, which is distributed to all registered participants and made available to the public

who is directly and adversely affected by the application, has triggered a hearing, parties who are interested in the application and who can contribute to the proceeding are usually able to intervene. An intervener is defined as a person, a group of persons, an association, or a company other than the applicant who files a submission with the Board in respect of a proceeding. Hearings meet the fairness requirement by providing parties with the opportunity to be heard. In order to participate in a hearing, an intervener must file a written submission, called an intervention, with the Board. Section 23 of the *Rules of Practice* explains what a submission must contain. A copy of the submission must also be given to each party participating in the proceeding.

If an oral hearing is held, the general public may attend to observe without participating. A hearing is a proceeding to which rules and procedures apply so that the Board may receive evidence and argument on the issues relevant to the application.

A panel, usually consisting of three Board Members, conducts the hearing. At a hearing, the applicant explains its proposed project to the panel, and the interveners state their support or opposition to the project in detail. First, the applicant presents its case. Intervenors may cross-examine the applicant and present their own case. The applicant may then cross-examine intervenors, and intervenors may cross-examine each other. Board staff and the Board Panel itself may also ask the parties questions. All participants or their representatives submit their final arguments to the panel either orally or in written format at a later date. Following a final oral argument, the chair of the panel announces that the hearing is completed and closed to any further evidence.

The panel normally reserves its decision, because it needs time to carefully consider all the evidence. Within 90 days of the close of the hearing, a decision report is written and distributed to all the participants.

### **Who pays the costs of participants at a hearing?**

Participants determined by the EUB to be local interveners may be eligible for reimbursement of reasonable costs resulting from their participation in a proceeding before the EUB.

A local intervener is a person or a group or association of persons who, in the opinion of the Board, has an interest in or 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. Generally, the applicant for the proposed project is responsible for the payment of such local intervener cost awards. Claimants for local intervener costs may be individuals or groups of persons who share a common concern about the proposed project.

If potential interveners are unsure whether they qualify as local interveners, they may request that the Board make an advance determination of local intervener status. Sometimes the Board is unable to determine local intervener status until it has the opportunity to consider the evidence presented at a hearing. In such situations, the Board will advise applicants in a timely fashion that an advance determination cannot be made.

When determining a local intervener cost award, the Board recognizes all those expenses incurred by the local intervener that it considers reasonable and directly and necessarily related to the preparation and presentation of the intervention. These matters must be assessed in the context of the particular proceeding for which the claim is made.

The Board's usual practice is to acknowledge only those costs incurred after the EUB has issued a notice of hearing. However, the Board recognizes that it is sometimes necessary for local interveners to incur costs prior to the notice and that such costs may be reasonable and be directly and necessarily related to the intervention in question; such costs will be funded.

### **For further information**

- See *Guide 29: Energy and Utility Development Applications and the Hearing Process* regarding energy and utility development applications and the hearing process
- See *Guide 31A: Guidelines for Energy Cost Claims* and *Guide 31B: Guidelines for Utility Cost Claims* or contact the EUB Law Branch at (403) 297-7029\* regarding local interveners' cost awards
- For more information on the hearing process, cost submissions, staff facilitation, the Appropriate Dispute Resolution Program, and other guides, check the EUB Web site at [www.eub.gov.ab.ca](http://www.eub.gov.ab.ca) or call (403) 297-8511\*

*Guides 29, 31A, and 31B* are available on the EUB's Web site at [www.eub.gov.ab.ca](http://www.eub.gov.ab.ca) or from

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