

ATTACHMENT: SCALE OF COSTS FOR UTILITIES BOARD/COMMISSIONS ACROSS CANADA

1) Scale of costs for utilities boards/commissions across Canada - GENERAL

	Alberta Utilities Commission	Ontario Energy Board	British Columbia Utilities Commission	Régie de l'énergie du Québec
Lawyer*				
Senior lawyer	\$320-\$350	\$290-\$330	\$1800	\$255
Intermediate lawyer	\$280	\$230	\$1400	\$190
Junior lawyer	\$240	\$170	\$1200	\$130
Law clerk	\$45			\$65
Articling student	\$140	\$100		
Analyst/consultant*				
Senior analyst	\$230-\$270	\$290-\$330	\$1250	\$200
Intermediate analyst	\$160	\$230	\$800	\$160
Junior analyst	\$120	\$170	\$640	\$110
Expert Witness			\$1450	\$250
Case manager		\$100	\$500	\$65

*The required years of practice corresponding to the senior, intermediate and junior categories differ according to the classification established by each Board/Commission (for more detailed information relating to the scale of cost award in each Board/Commission please see below).

DISBURSEMENTS

The utilities boards/commissions across Canada will usually consider claims for disbursements incurred throughout the duration of a hearing including expenses for meals, accommodation, travel and taxis. In some jurisdictions, such as in Alberta and in Ontario, office disbursements such as expenses for photocopies and postages will also be allowed. The table below is an example of the average maximum amount awarded by the utilities Boards/Commissions across Canada with respect to the following categories of disbursements:

	Alberta Utilities Commission	British Columbia Utilities Commission	Régie de l'énergie du Québec	Manitoba Public Utilities Board
Meals (maximum amount allowable per day)	\$40	\$49		\$32.9
Accommodation (maximum amount allowable per night)	\$140	\$30*	\$165** \$95***	
Vehicle Mileage	\$0.46/km	\$0.50/km	0.43/km	
Airfare	Economy rates or less	Full Fare Economy		

*Maximum amount allowed for private accommodations. For a list of hotels and rates please consult:

<http://www.pss.gov.bc.ca/csa/categories/accommodation/search/>

** Maximum amount allowed varies depending on the city.

***Maximum amount allowed for Private accommodations.

2) Scale of costs for utilities Boards/Commissions across Canada - DETAILED

ALBERTA

The Alberta Utilities Commission, according to its Rule 22 (*Rules on Intervener Costs in Utility Rate Proceeding*), may award costs to an intervener who has a substantial interest in the subject matter of a hearing or other proceeding and who does not have the financial means to present its interest adequately in the hearing or other proceeding. In determining the amount of costs to be awarded to an eligible participant, the Commission may consider factors such as whether the participant made reasonable efforts to ensure that its evidence was not unduly repetitive of evidence presented by another participant. The maximum rates are as follows:

Provider of Legal Services	Completed Years Practising	Maximum Hourly Rate
Lawyer	12+	\$350
Lawyer	8-12	\$320
Lawyer	5-7	\$280
Lawyer	1-4	\$240
Articling Student	-	\$140
Provider of Other Services	Years of Relevant Experience	Maximum Hourly Rate
Analyst/consultant/expert	12+	\$270
Analyst/consultant/expert	8-12	\$230
Analyst/consultant/expert	5-7	\$160
Analyst/consultant/expert	1-4	\$120
Secretarial/Support Staff	-	\$45

According to Rule 22, the above maximum hourly rates will not be awarded as a matter of course. Rather, each claim is assessed upon its individual merits. The Commission allows professionals only half of their hourly rate for travel time.

ALLOWED DISBURSEMENTS

The Commission will consider claims for the following office disbursements incurred throughout the eligible participant's involvement in the hearing or proceeding:

- courier charges
- long-distance telephone calls
- photocopies (\$0.10/page)
- fax (\$1.00/page)
- computer charges
- postage
- transcripts (must be accompanied by a receipt)

The Commission will consider claims for the following personal disbursements that are incurred during an oral hearing:

a. Meal Expenses

	Maximum amount allowable
Breakfast	\$10
Lunch	\$15
Dinner	\$15

b. Accommodation Rate

Maximum allowable claim for accommodation is \$140.00 per day. Claims for accommodation are restricted to the duration of an oral hearing.

c. Travel Rate

Vehicle Mileage	\$0.46/km (including GST)*
Airfare	Economy rates or less**

* Restricted to intercity travel distances of 50km or greater.

** Claims for airfare are restricted to an oral hearing.

d. Taxi/Parking

Taxi and parking claims are restricted to an oral hearing. Tips related to the taxi fare are not claimable.

<http://www.auc.ab.ca/acts-regulations-and-auc-rules/rules/Documents/Rule022.pdf>

ONTARIO

The Ontario Energy Board (OEB) accepts cost claims for counsel and paralegal fees as well as hourly rates for articling students, while in-house counsel and supporting employees will not be reimbursed. Consultant and case-management fees are also accepted by the OEB. The OEB defines consultants as experts in aspects of business or science.

Those claiming cost disbursement must submit forms provided by the OEB relating to the summary of hours and disbursements accrued, in addition to an affidavit in support of cost claim. The maximum rates are as follows (all tariffs indicated below are exclusive of applicable GST):

Provider of Legal Services	Completed Years Practising	Maximum Hourly Rate
Lawyer	20+	\$330
Lawyer	11 to 19	\$290
Lawyer	6 to 10	\$230
Lawyer	0 to 5	\$170
Articling Student/Paralegal	-	\$100

Provider of Other Services	Years of Relevant Experience	Maximum Hourly Rate
Analyst/consultant	20+	\$330
Analyst/consultant	11 to 19	\$290
Analyst/consultant	6 to 10	\$230
Analyst/consultant	0 to 5	\$170
Case Management	-	\$100

ALLOWED DISBURSEMENTS

Reasonable disbursements, such as postage, photocopying, transcript costs, travel and accommodation, directly related to the party's participation in the process, will be allowed according to the following:

1. Travel by personal automobile will be paid at the Ontario Government Rate.
2. Travel expenses, including reasonable meal and accommodation expenses will be allowed when the claimant's place of business is located at, or more than, 100 km from the site of the process.
3. Taxi, rental car and airport limousine claims will be accepted.
4. Air and rail travel will be limited to "economy" fare rates.
5. Claims for single occupancy rooms at a hotel will be accepted. This does not include "luxury" hotels or suites.
6. Reasonable meal expenses will be accepted.

http://www.oeb.gov.on.ca/OEB/Documents/Regulatory/Practice_Direction_on_Cost_Awards.pdf

BRITISH COLUMBIA

The maximum daily rates, not including GST or PST and assuming an eight hour day, are as follows:

Provider of Legal Services	Years Since Call	Maximum Daily Fee
Lawyer	0-5	\$1200
Lawyer	5-10	\$1400
Lawyer	10+	\$1800
Provider of Other Services	Years of Related Experience	Maximum Daily Fee
Consultant	0-5	\$640
Consultant	5-10	\$800
Consultant	10+	\$1250
Expert Witness/Specialist		\$1450
Case manager		\$500

Lawyers

The British Columbia Utilities Commission considers factors such as experience before regulatory tribunals, complexity of the issue and overall conduct of the counsel in determining an appropriate contribution or partial award towards legal costs.

Case Managers

The Commission supports the use of case managers where this either reduces the use of legal counsel or enables a coalition of interest groups with similar positions to participate. However, the Commission Panel will want to be assured that the use of a case manager is not associated with unnecessary duplication of personnel for any particular task.

Consultants

The Commission Panel will consider factors such as level of professional achievement, experience before regulatory tribunals, complexity of the issue, and overall contribution of the consultant in determining an appropriate cost award.

Expert Witness

The Commission Panel may award fees for an Expert Witness/Specialist that exceed the “Maximum Daily Fee” if the Applicant clearly establishes that Expert Witness/Specialist services are not available at the “Maximum Daily Fee” because of the specialized expertise required to competently address the issues in a proceeding.

ALLOWED DISBURSEMENTS

Disbursements directly related to the Participant's participation in the proceeding will be allowed. Payment may be up to the British Columbia Government Employees Union (“BCGEU”) rates applicable to the Regulatory Affairs staff of the Commission for travel, accommodation, meals, etc. Accommodation disbursements may exceed the applicable BCGEU rates and be awarded at the rate negotiated by the Commission with the hotel where the proceeding takes place.

a. Meal Expenses (out of town participants)

Breakfast only	\$22
Lunch only	\$22
Dinner only	\$28.5
Breakfast & Lunch	\$30
Breakfast & Dinner	\$36.5
Lunch & Dinner	\$36.5
Breakfast/Lunch/Dinner	\$49

b. Travel Rate

Vehicle Mileage	\$0.50/km
Airfare	Full Fare Economy

c. Accommodation Rate

Private accommodation will be allowed in the amount of \$30 a night. For a list of hotels and rates please see: <http://www.pss.gov.bc.ca/csa/categories/accommodation/search/>

d. Child care

Child care expenses, incurred for the purpose of participating, may be allowed to a maximum of \$50.00 per day.

e. Taxes

GST and PST costs, which cannot be recovered under the taxation provisions, will be allowed.

http://www.bcuc.com/Documents/Guidelines/2011/DOC_5014_G-72-07_PACA_2007_Guidelines.pdf

QUEBEC

At the Régie de l'énergie du Québec (Régie), professional fees are paid up to the maximum rates below:

Provider of Legal Services	Completed Years Practising*	Maximum External Hourly Rate	Maximum Internal Hourly Rate**
Lawyer	15+	\$255	\$110
Lawyer	6-14	\$190	\$85
Lawyer	0-5	\$130	\$70
Law clerk		\$65	\$35
Provider of Service	Years of Relevant Experience	Maximum External Hourly Rate	Maximum Internal Hourly Rate
Analyst	15+	\$200	\$85
Analyst	6-14	\$160	\$75
Analyst	0-5	\$110	\$60
Consultant		\$200	
Expert witness		\$250	
Case manager		\$65	\$35

* Full years of practicing law or the profession as of the beginning of the case.

** Rate for persons employed by the intervener.

ALLOWED DISBURSEMENTS

A lump-sum amount equivalent to 3% of the total amount of the fees allowed is granted for disbursements. This lump-sum amount excludes expenditures relating to document translation, transportation and accommodation, which can be claimed as follows:

Vehicle Mileage*	0.43/km
Hotel accommodations*	
Montreal area	\$165/night
Quebec area	\$150/night
Gatineau area	\$135/night
Elsewhere in Quebec	\$100/night
Private accommodations	\$95/night
Translation**	\$0.25/page

*Disbursements with transportation and accommodation are reimbursed, in addition to the lump-sum amount, when the claimant's place of business is located at more than 100 km from the site of the process.

**Disbursements with document translation are only excluded from the lump-sum where the translation is authorized and the translated document is submitted to the Régie's records.

http://www.regie-energie.qc.ca/regie/FraisInterv/Regie_Guide_19juillet2011.pdf

NOVA SCOTIA

The Nova Scotia Utility and Review Board does not normally award costs except against a party, in extraordinary circumstances, where that party's conduct is found to be 'clearly unreasonable, frivolous or vexatious'. Those awards are assessed on a case-by-case basis.

The Board has no power to order intervenor funding or security for costs. The Board may consider awarding costs against a utility to non-profit, public interest intervenors with limited financial resources. For one of the Board's latest cost award decisions, please see:

<http://www.canlii.org/eliisa/highlight.do?text=%22cost+award%22&language=en&searchTitle=Nova+Scotia++Nova+Scotia+Utility+and+Review+Board&path=/en/ns/nsuarb/doc/2010/2010nsuarb214/2010nsuarb214.html>

<http://www.gov.ns.ca/just/regulations/regs/URBcosts.htm>

MANITOBA

According to section 43 of its *Rules of Practice and Procedure*, the Manitoba Public Utilities Board will award costs to interveners as it deems appropriate, where the intervenor has made a significant contribution to the proceeding, and has insufficient financial resources to present the case adequately without an award (among other criteria). The Board may award only a portion of the costs being sought by an intervenor. The Board may also establish a tariff of fees and disbursement.

ALLOWED DISBURSEMENTS

Costs awarded may include disbursements for travel, meals and accommodation in the amounts allowed under the Manitoba Government employee rates*. Consideration will be given to providing for different amounts if they can be justified.

* [http://www.mgeu.ca/files/File/uploads%202011/final%202010-2014%20master%20agreement\(1\).pdf](http://www.mgeu.ca/files/File/uploads%202011/final%202010-2014%20master%20agreement(1).pdf)

http://www.pub.gov.mb.ca/pdf/pandp/rules_pandp_mar07.pdf

NEW BRUNSWICK

According to Staff in Electricity matters, the New Brunswick Energy & Utilities Board has no power to award costs. Hearings and applications are forwarded to the Attorney General, who has the power to appoint an intervenor. Costs are then forwarded to the Board who assesses them and bills the utility as is deemed necessary.

In Natural Gas matters, the Board has determined that it does have the authority and discretion to award costs, but feels generally that its market and customer base is too small to warrant adopting the practice of awarding costs as a standard, as other larger markets in Canada have done.

<http://156.34.203.123/Documents/Decisions/NG/E/Decision%20on%20Costs%20Apr%2019%2001.pdf>

NEWFOUNDLAND AND LABRADOR

According to S.90 of the *Newfoundland and Labrador Public Utilities Act*, the Newfoundland and Labrador Public Utilities Board may award costs at its discretion. As per Robert Byrne, the Board does not have a scale of rates for cost awards.

For one of the Board's latest cost award decisions, please see:

<http://www.pub.nf.ca/orders/order2010/pu/pu27-2010.pdf>

<http://www.assembly.nl.ca/legislation/sr/statutes/p47.htm#1>

NORTHWEST TERRITORIES

Section 26 of the *Public Utilities Act* of the Northwest Territories allows the Northwest Territories Public Utilities Board to award costs to whom, by whom and in an amount determined by the Board in its sole discretion.

<http://www.justice.gov.nt.ca/PDF/ACTS/Public%20Utilities.pdf>

According to section 32 of its *Rules of Practice and Procedure*, the Board may award intervenor costs at its sole discretion. Factors considered by the Board include the intervenor's significant contribution to the proceeding and the intervenor's substantial interest in the outcome of the proceeding.

http://www.justice.gov.nt.ca/PDF/REGS/PUBLIC%20UTILITIES/Rules_Pract_and_Proceed.pdf

According to staff, the Board does not have a scale of rates for intervenor's cost. However, staff referred to Decision 15-2007 for an example on how the Board awards costs. In that decision the Board set a cap of \$250.00 per hour for counsel and consultant fees. For a copy of the decision please see:

<http://www.nwtpublicutilitiesboard.ca/pdf/15-2007%20DECISION%20-%20NTPC%20Phase%201%20GRA%20-%20HC%20Costs.pdf>

NUNAVUT

According to the executive director of Nunavut Utilities Rate Review Council (URRC), the URRC does not award intervenor costs or hold hearings.