



# **INTERVENOR COSTS PAYMENT GUIDE**

**D-2003-183**

**R-3500-2002**

**October 2, 2003**

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## INTRODUCTION

1. The purpose of this *Intervenor Costs Payment Guide* (“the Guide”) is to define the costs that the Régie de l’énergie will pay, or order the electric power carrier or a distributor of electric power or of natural gas to pay, pursuant to section 36 of the *Act respecting the Régie de l’énergie*<sup>1</sup> (“the Act”).
2. This Guide does not restrict the Régie’s discretionary power to determine the usefulness of intervenors’ contributions to its deliberations, or whether the costs incurred are reasonable and necessary.
3. The Régie may depart from this Guide, in whole or in part, and establish such standards and scales as it deems appropriate.

## DEFINITIONS

4. In this Guide, the following definitions apply:
  - a) **Analyst:** a qualified person who assists an intervenor with analysis of the issues under consideration at a hearing or working session;
  - b) **Consultant:** a person with demonstrated expertise in the issues under consideration who is recognized as such by the Régie for the purpose of participation in a working session;
  - c) **Coordinator:** a person who coordinates the work of a group of intervenors making a joint representation in a case;
  - d) **Costs:** professional fees, the fixed allowance, and transportation, accommodation and translation expenses incurred by an intervenor;
  - e) **Day:** a period of time beginning in the morning and ending in the afternoon; a day is equal to eight hours of work;
  - f) **Expert witness:** a person with demonstrated expertise in the issues under consideration who is recognized as such by the Régie for the purpose of participation in a hearing; the expert witness provides the Régie with an independent professional opinion or judgement;
  - g) **Half-day:** a period of time in the morning or afternoon; a half-day is equal to four hours of work;

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<sup>1</sup> RSQ c. R-6.01.

- h) **Hearing:** includes an oral hearing, an examination on the basis of the file, or a preparatory meeting;
- i) **Régie:** the Régie de l'énergie;
- j) **Working session:** includes any meeting other than a hearing, such as a technical meeting, information session or negotiating session.

#### **GENERAL INTEREST AND AUTHORIZATION**

- 5. Each organization that belongs to a group of intervenors must file with the Secretary of the Régie a letter explaining its general interest in the case and authorizing the group of intervenors to represent it.
- 6. Any person who wishes to make a representation before the Régie, whether as part of a group of intervenors or not, must file with the Secretary of the Régie a letter confirming that he or she is authorized to represent his or her organization, and must immediately inform the Secretary of the Régie of any change in his or her status as a representative.

#### **BUDGET**

- 7. An interested party that is planning to submit a claim for costs to the Régie must attach a budget, using the prescribed form, to its application to intervene. In accordance with the Régie's instructions, the budget should include:
  - a) a budget estimate, based on the standards and scales in this Guide and the Régie's guidelines concerning allowable preparation time to study the application and allowable time for appearing at a hearing or participating in a working session;
  - b) a participation budget including a detailed cost estimate covering the interested party's specific needs for the services of an attorney, expert witness, consultant, analyst and/or coordinator, in view of the issues the party wants to address.
- 8. The Régie may at any time issue new guidelines concerning allowable time for preparation, appearing at a hearing or participating in a working session.
- 9. The Régie may establish a budget for intervenors' costs in a particular case in whatever manner it deems appropriate, including a budget for the entire case, by theme or issue in the case, by intervenor or group of intervenors.

10. If an intervenor plans to use translation services, it must inform the Régie and the participants in advance in writing, stating the documents it intends to have translated and the date on which the translations should be available. The intervenor must file the translations with the Régie.

### **RECOGNITION OF EXPERT WITNESSES AND CONSULTANTS**

11. An intervenor that plans to claim costs for the services of an expert witness or consultant must file a written request for recognition of the expert witness or consultant.
12. The request for recognition must be sent to the Régie and the participants in the case. It must provide all the information needed to examine the request, including:
  - a) the name and full contact information of the expert witness or consultant;
  - b) a description of the expert testimony the person is to provide and how it relates to the intervenor's interest in the case;
  - c) the area of expertise and qualifications of the expert witness or consultant;
  - d) a copy of the résumé of the expert witness or consultant, including a description of relevant experience;
  - e) justification of the compensation requested for the expert witness or consultant.
13. Any challenge of a request for recognition of an expert witness or consultant must be made in writing.

In the case of a consultant, the challenge must be filed within five working days following the date on which the request for recognition is received.

14. The status of consultant is granted after ten working days following the date on which the request for recognition is received, unless the Régie stays or denies the request. In case of emergency, the Régie may set a shorter waiting period.

### **INTERIM COSTS**

15. In the event of a hearing of unusual length or scope, the Régie may grant payment of interim costs. Interim costs are subject to the usefulness criterion and deducted from the total costs granted.

## **CRITERIA FOR REVIEWING A CLAIM**

16. To determine the amount of costs it will reimburse, the Régie considers, first, whether the costs incurred were necessary and reasonable, and secondly, whether the intervenor's contribution was useful.
17. To determine whether the costs incurred by an intervenor were necessary and reasonable, the Régie considers the following factors, among others:
  - a) the importance of the case and its implications;
  - b) the amount of documentation involved;
  - c) the nature of the intervenor's contribution;
  - d) the complexity of the issues addressed by the intervenor;
  - e) the duration of the hearing;
  - f) the experience and expertise of the intervenor's staff;
  - g) duplication of tasks between intervenors;
  - h) the intervenor's budget;
  - i) the total budget for intervenors' costs for the case.
18. Hours claimed that exceed the Régie's guidelines concerning allowable preparation time to study the application and allowable time for appearing at a hearing or participating in a working session will not be reimbursed unless a justification is provided by the intervenor.
19. To assess the usefulness of an intervenor's contribution, the Régie considers the following factors, among others:
  - a) whether the intervenor filed evidence that was used in the Régie's deliberations;
  - b) whether the intervenor's contribution shed light on the issues under consideration;
  - c) whether the contribution was active, focused and structured;
  - d) whether the contribution was to the point, without straying from the issue at hand;
  - e) whether the contribution served a purpose other than developing the intervenor's expertise;
  - f) whether the contribution served a purpose beyond the intervenor's personal interest;

- g) whether the intervenor met the deadlines;
- h) whether the contribution was relevant to the intervenor's interest, the topics the intervenor addressed, and the issues the Régie decided to examine in the case;
- i) whether the contribution offered a distinct point of view on the issues under consideration and did not duplicate that of other intervenors.

20. The Régie applies the usefulness factor it has determined to the allowable professional fees.

### **CLAIMING COSTS**

21. The intervenor must file its duly completed claim for costs within 30 days after the Régie takes the case under advisement.

22. The claim for costs must be filed using the prescribed forms. It must be accompanied by an affidavit signed by the intervenor's representative attesting to the work done and the amounts claimed.

23. The Régie will not reimburse costs for time spent by the intervenor's support staff, administrative staff, executives and/or directors on preparation or participating in a hearing or working session.

24. The intervenor must keep on file, for a period of three years after costs are granted, a time log for all persons whose professional fees were claimed, and supporting documents for all the professional fees and expenses claimed. The intervenor must provide these documents upon request. Time logs must show the following information at a minimum:

- a) person's name
- b) date of work
- c) hours billed
- d) hourly rate
- e) brief description of work done.

## **TAXES**

25. All persons making representations before the Régie, whether as part of a group of intervenors or not, must file with the Secretary of the Régie a confirmation of tax status issued by the competent authorities, stating whether they are entitled to a Goods and Services Tax (GST) and Québec Sales Tax (QST) rebate, the percentage of the rebate, and the details of their entitlement. They must immediately inform the Régie of any change in their tax status.
26. The Régie will reimburse the sales tax paid by intervenors on the expenses granted by the Régie, when these taxes have not been rebated by the tax authorities.
27. A group of intervenors that has members with different tax status must designate a member to be responsible for paying all of the group's bills, and the affidavit signed by the intervenor's representative must attest to the designation. The Régie will reimburse sales tax on the basis of the designated member's tax status.

## **LATE FILING OF CLAIM**

28. If an intervenor anticipates filing a late claim for costs, the intervenor must notify the Régie in writing before the expiry of the 30-day deadline and explain the reasons for the delay.
29. If a claim for costs is incomplete or filed after the deadline, without a valid reason, the total amount reimbursed may be reduced by 1% for every working day by which the claim is late.

## **STANDARDS AND SCALES**

### **PROFESSIONAL FEES**

30. Professional fees for preparation time are paid on an hourly basis, up to the maximum rates listed below.
31. Professional fees for attending the hearing are paid by the half-day, up to the maximum rates listed below.



<b>Professional fees (before sales tax)</b>					
	Experience (years of practice*)	Maximum external rate		Maximum internal rate**	
		(\$/hour of preparation)	(\$/half-day of hearing)	(\$/hour of preparation)	(\$/half-day of hearing)
<i>Attorney</i>					
Senior counsel	15 or more	220	880	110	440
Intermediate counsel	6 to 14	165	660	83	332
Junior counsel	5 or less	110	440	55	220
Law clerk	-	55	220	28	112
<i>Expert</i>					
Expert witness	-	220	880	-	-
Consultant	-	200	-	-	-
<i>Analyst</i>					
Senior analyst	15 or more	125	500	75	300
Intermediate analyst	6 to 14	110	440	66	264
Junior analyst	5 or less	95	380	57	228
<i>Coordinator</i>					
	-	55	220	33	132

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

\*\* Rate for persons employed by the intervenor.

## ATTORNEY

32. An attorney's preparation time may not exceed the following ratios:

<b>Estimated duration of hearing</b>	<b>Allowable time</b>
Less than 3 days	24 hours of preparation per hearing day
3 to 10 days	48 hours of preparation for the first two hearing days and 16 hours of preparation per additional hearing day
Over 10 days	176 hours of preparation for the first 10 hearing days and 8 hours of preparation per additional hearing day

33. An attorney's preparation time remains subject to the above limits based on the Régie's prior estimate, even if the actual duration of the hearing is greater than or less than the estimate.

34. For attendance at the hearing, the professional fees of only one attorney are allowable.

### **EXPERT WITNESS, CONSULTANT, ANALYST**

35. The combined preparation time of the expert witness, consultant and analyst may not exceed the following ratios:

<b>Estimated duration of hearing</b>	<b>Allowable time</b>
Less than 3 days	40 hours of preparation per hearing day
3 to 10 days	80 hours of preparation for the first two hearing days and 32 hours of preparation per additional hearing day
Over 10 days	336 hours of preparation for the first 10 hearing days and 24 hours of preparation per additional hearing day

36. The preparation time of the expert witness, the consultant and the analyst remains subject to the above limits based on the Régie's prior estimate, even if the actual duration of the hearing is greater than or less than the estimate.
37. An expert witness will be compensated for attending the hearing when the subjects dealt with relate to his or her testimony.

### **COORDINATOR**

38. The time spent by the coordinator on work that is necessary to a group of intervenors' contribution to a hearing will be reimbursed up to a maximum of 5% of the group's total allowable hours.

### **EXPENSES**

39. A fixed allowance equal to 3% of the total professional fees granted to an intervenor will be granted for related expenses.
40. Translation expenses can be claimed in addition to the fixed allowance. Translation expenses are allowable only for translated documents filed with the Régie.
41. Transportation and accommodation expenses can be claimed in addition to the fixed allowance for hearings held more than 100 kilometres from the intervenor's usual place of work.

42. Transportation expenses will be reimbursed on the basis of the most economical means of travel under the circumstances.
43. Car, accommodation and translation expenses will be paid up to the following maximum rates:

<b>Maximum expenses (before sales tax)</b>	
Car	\$0.31/km
Hotel	
Montréal area	\$135/night
Québec City area	\$125/night
Gatineau area	\$85/night
Rest of Québec	\$70/night
Private lodgings	\$35/night
Translation	\$0.25/word

The Secretary of the Régie will give notice of any change to the above rates.

44. The intervenor must attach supporting documents to any claim for transportation, hotel accommodation and translation expenses.

#### **COMPENSATION FOR WORKING SESSION**

45. An intervenor's costs for participating in a working session may be reimbursed on a lump sum basis, as follows:
- \$500 to \$1,600 for a working session that requires no prior preparation;
  - \$1,000 to \$2,900 for a working session that requires prior preparation.

# FORMS