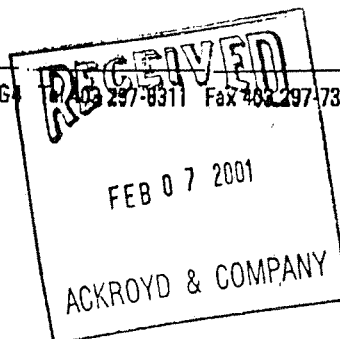




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File No. 7000-1073100-01

February 7, 2001

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**RE: MAGIN ENERGY INC.
APPLICATION NOS. 1073100 AND 1073376
PREHEARING MEETING OF FEBRUARY 1, 2001**

1 Introduction

Magin Energy Inc. (Magin) filed Application No. 1073100 and Application No. 1073376 to drill a well from a surface location at Legal Subdivision (Lsd) 16 of Section 20, Township 53, Range 18 W5M to a bottom-hole location in Lsd 2-30-53-18 W5M. The Alberta Energy and Utilities Board (the Board) directed that these applications be considered at a public hearing, which was originally scheduled to commence in Edson on January 23, 2001. The hearing has been rescheduled to begin on March 13, 2001. At the request of the parties, the EUB scheduled a Prehearing Meeting to consider the issues to be addressed at the hearing and any other matters relating to the applications.

The Board held a Prehearing Meeting in Edmonton, Alberta on February 1, 2001 before Brian Bietz (Presiding Member), Gordon Miller (Board Member) and R.J. Willard (Acting Board Member). Those who appeared at the Prehearing Meeting, along with a list of the abbreviations used in this letter, are set out in Appendix A.

2 Issues Considered at the Prehearing Meeting and Views of the Board

Magin, the Interveners and other participants at the Prehearing Meeting identified three main topics for discussion: the timing of the hearing, issues to be considered at the hearing and advance funding. The Board has considered the issues raised at the meeting and has expressed the views below.

2.1 Timing of the Hearing

At the Prehearing Meeting, the Interveners requested an adjournment of the hearing because their counsel, Mr. Secord, had a possible conflict with respect to prospective EUB utility hearings. Magin opposed the adjournment request on the basis of fairness. It argued that its hearing had been previously adjourned due to Mr. Secord's scheduling conflict and further delays will have a cost impact on Magin. It indicated that it had made all necessary arrangements with its staff, its consultants and its counsel in order to be able to proceed on the date in question.

The Board notes that the EUB 2001 Regulatory Agenda for Utility Rate Applications referenced by Mr. Secord is a preliminary hearing schedule and is for the most part tentative. Furthermore, the Board notes that the hearing has been previously rescheduled due to a more definite conflict identified by Mr. Secord. The Board is of the view that a second adjournment for this reason is not reasonable and would be unfair to Magin. The Board would suggest that Mr. Secord advise the EUB regarding his scheduling issues with the upcoming Utility hearings and ask that they be addressed there, if possible. As a result, the Board confirms that the hearing schedule of March 13, 2001 is unchanged.

The date for filing of submissions remains February 28, 2001 and Magin and the Interveners agreed to exchange expert reports by this date, if the hearing date was unchanged. The Board further notes that this date is fast approaching, but given the time elapsed since the original date for the hearing, the Board expects Magin and the Interveners and their experts to expedite the preparation of their submissions. In addition, they agreed to exchange a witness list at least one week before March 13, 2001.

2.2 Issues to be Considered at the Hearing

In its Notice of Rescheduling of Hearing and Notice of Prehearing Meeting, dated January 23, 2001, the Board listed the issues that may be considered at the hearing as follows:

- the need for the well and related facilities;
- public health and safety including emergency response plan and hazard assessment; public consultation;
- environmental concerns;
- participants and their role in the hearing; and
- funding of the participants.

The parties generally agreed that the issues listed in the Board notice were proper issues that they will be addressing at the hearing. The Board believes that the areas identified by the Interveners for funding should further clarify the issues of particular concern, assist all the parties to prepare for the hearing, and should result in a more efficient hearing.

Magin also raised a number of questions, which are contained in Exhibit 1. In general, Magin asked the Board to define its jurisdiction, particularly with respect to public health issues and environmental concerns as these pertain to its applications, to set out the evidence that Magin is required to file to ensure that its application is complete, and to determine the evidentiary burden of Magin and the Interveners. In particular, Magin submitted that it did not believe that the

Board had jurisdiction with respect to animal health and wished the Board to confirm this. In addition, Magin requested that the Board identify if its application's are currently deficient.

The Interveners responded to Magin's request by arguing that the Board cannot "hold Magin's hand" with respect to its applications. Each party, the Interveners argued, determines its own case. The Board should not define the case for the parties. The Interveners argued that issues such as animal health are issues that are properly before and within the jurisdiction of the Board.

With respect to Magin's detailed request, Exhibit 1, the Board is of the view that it would not be proper for it to determine the evidence that a party must file in support of its position. The Board would not usurp the role of each party to determine the relevant evidence that will make its case. Furthermore, the Board is very interested in hearing public concerns and the basis for their views. The Board does not limit the ability of the public to raise any question that they believe is of merit or significance. However, the admissibility of evidence is determined on the basis of its relevancy with respect to the issues before the Board. Furthermore, the Board notes that in this case, both Magin and the Interveners have access to expert witnesses and legal counsel which should help the parties determine what issues are likely to be germane to this hearing.

To assist the parties, the Board notes that the legislation it administers and its publications are available on its website or from the Board office. Furthermore, the Board will normally consider, in addition to the general requirements set out in relevant legislation, directives and guides, site-specific requirements including possible mitigating measures and alternatives. The Board will also assess the applications against the broader purposes set out in section 4 of the *Oil and Gas Conservation Act*, in particular to provide for the economic, orderly and efficient development in the public interest of the oil and gas resources in Alberta. Section 2.1 of the *Energy Resources Conservation Act*, also directs the Board to consider whether the project is in the public interest, having regard for the balance between social, economic, and environmental effects of the project. The Board interprets the question of public interest broadly.

The Board would note that if Magin wishes to further argue that the EUB does not have jurisdiction to consider specific matters such as animal health, it may certainly put that argument before the Board at the upcoming hearing and the Board will deal with it then.

The Board wishes to emphasize that it will not direct parties as to the specific evidence that they should provide at the hearing. The issues have been set out above and the Board is prepared to accept evidence regarding them. Parties are advised that the evidence should be germane to the application. If the evidence is not relevant to the application being considered, however, it may be given little or no weight and any eventual intervener cost awards may also be affected.

At the pre-hearing meeting, Magin requested that the Board identify any deficiencies that the EUB believed still existed within its application. The Board's normal practice is, when in the process of reviewing an application staff identifies a deficiency, a deficiency letter is issued to the applicant. The letter identifies the perceived deficiency and sets out a timeline for a response. An application is considered complete when, based on the EUB's review, the applicant appears to have addressed all regulatory requirements. However, the Board believes that, while it has an obligation to ensure, to a reasonable degree that each application meets EUB requirements, ultimately the onus for doing so must lie with the applicant. The Board does note that apparently no deficiency letters are outstanding in these applications.

At the pre-hearing meeting, Magin also asked whether it would be proper for it to approach those persons who have expressed an interest in the application but have not submitted an intervention to date as to whether they will be participating in the hearing. The Board encourages Magin to attempt to identify who will be a participant at the hearing. In doing so, if Magin finds that there are parties that do intend to participate but are unclear with regards to the process, then they should be encouraged to contact the EUB directly for assistance.

2.3 Advance Funding

At the meeting, the Interveners reiterated an earlier request to receive advance funding in order to engage expert witnesses in the following areas :

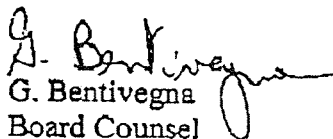
- Risk (i.e., human risks associated with the release of sour gas and technical questions regarding ignition and the proposed Emergency Response Plan)
- Fish Habitat
- Air Quality and Odours
- Directional Drilling Program
- Hydrogeology

The Board will address the request for advance funding in a separate letter. Furthermore, the Board strongly encourages the Interveners, whether through telephone conference calls or in person, to meet with their experts to discuss the issues in these applications.

2.4 Other Issues

With respect to the issues raised by the Other Participants at the hearing, Mr. Johnstone and Mr. Paschen, the Board does not believe, based on the limited discussion at the Prehearing Meeting, that these issues are germane to the site-specific concerns that the Board has to consider in making a decision on the applications. Concerns about alternatives to hydrocarbon development or broad technical matters are not usually recognized as well license issues in Alberta and are issues better addressed in policy or provincial reviews. Alternative forums, such as CASA or the Advisory Committee on Public Safety and Sour Gas, are available if these parties wish to advance their concerns. The Board would expect these Participants to provide sufficient additional detail in their written submissions to allow the Board to better assess the relevance of their positions.

Yours truly,


G. Bentivegna
Board Counsel

GB/jh
Attachment

Appendix A**THOSE WHO APPEARED AT THE PREHEARING MEETING**

Principals and Representatives
(Abbreviations Used in the Letter)

Magin Energy Inc. (Magin)

Ron Swist

Interveners

Howard and Judith Bugg

Ellery & Tamara Knutson

David & Mavis Holroyd

Kirby Smith & Katherine Storey Smith

Edson West Coalition (Interveners)

Richard Secord

Allan H. Johnstone

Jerry Paschen (Other Participants)

Alberta Energy and Utilities Board staff (Board/EUB)

G. Bentivegna, Board Counsel

S. Wilson

M. Brown

L. Roberts
