



## AltaGas Utilities Inc.

2014-2015 Capital Tracker Application

Costs Award

February 10, 2015

**The Alberta Utilities Commission**  
**Decision 3499-D01-2015:** AltaGas Utilities Inc.  
2014-2015 Capital Tracker True-up Application  
Costs Award  
Proceeding 3499

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## **1 Introduction**

1. On December 6, 2013, the Alberta Utilities Commission (AUC or Commission) issued Decision [2013-435](#),<sup>1</sup> which dealt with the 2013 capital tracker applications for five Alberta distribution utilities and set out the basis and requirements for future capital tracker applications. Decision 2013-435 also directed each of the distribution companies, including AltaGas Utilities Inc. (AltaGas or AUI), to file a single application for its proposed 2014 and 2015 capital tracker projects or programs on or before March 1, 2014 and further directed AltaGas to file an application for the true-up to actual costs for its 2013 capital trackers by May 15, 2014.
2. By letter dated February 14, 2014, AltaGas requested an extension from March 1, 2014 to March 17, 2014 in order to file its 2014-2015 capital tracker application. AltaGas subsequently requested a further extension to March 31, 2014.
3. By letters dated February 18, 2014 and March 13, 2014, the Commission granted the requested extensions.
4. On March 31, 2014, AltaGas filed with the Commission its 2014-2015 capital tracker application. The Commission assigned Application 1610446 and Proceeding 3152 to deal with the 2014-2015 capital tracker application.
5. The Commission issued a notice of the 2014-2015 capital tracker application on April 2, 2014, and requested interested parties or parties who wished to intervene to submit a statement of intent to participate (SIPs) with the Commission by April 11, 2014.
6. The Commission received SIPs by the specified deadline from AltaLink Management Ltd., ATCO Electric Ltd., ATCO Gas, a division of ATCO Gas and Pipelines Ltd., EPCOR Distribution & Transmission Inc., FortisAlberta Inc. and the Consumers' Coalition of Alberta (CCA). The Office of the Utilities Consumer Advocate (UCA) submitted its SIP on April 15, 2014.
7. On April 11, 2014, the Commission issued a process letter and determined that the 2014-2015 capital tracker application would be conducted by way of a full written process proceeding, as outlined in Commission Bulletin [2010-16](#), with a possible oral hearing, pending submissions from parties.
8. Both the CCA and UCA filed evidence on the 2014-2015 capital tracker application.

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<sup>1</sup> Decision 2013-435: Distribution Performance-Based Regulation, 2013 Capital Tracker Applications, Application 1608827, Proceeding 2131, December 6, 2013.

9. By letter dated July 22, 2014, the Commission advised parties that it would hold a short, combined, oral hearing to assist the Commission and other parties to complete the evidentiary portion of the record.
10. On August 19 and August 20, 2014, the Commission held a roundtable hearing at the Commission's Edmonton Offices.
11. The Commission received argument and reply argument from parties on September 16 and September 29, 2014, respectively.
12. The Commission considered the close of record for the 2014-2015 capital tracker application to be September 29, 2014.
13. On October 30, 2014, the CCA submitted its costs claim application with respect to costs incurred in the 2014-2015 capital tracker application proceeding. The Commission assigned Application 1610969 and Proceeding 3499 to the costs claim application.
14. The Commission circulated a summary of the CCA's costs claimed to interested parties on November 3, 2014, and requested comments regarding the figures listed in the summary, or the merits of the costs claimed, by November 12, 2014. No comments were received with respect to the circulated summary of costs.
15. The Commission considers the close of record for this costs proceeding to be November 12, 2014.
16. On December 24, 2014, the Commission issued Decision [2014-373](#)<sup>2</sup> with respect to the 2014-2015 capital tracker application and the 2013 capital tracker true-up application.

## **2 Commission's authority to award costs**

17. When assessing costs claims pursuant to Section 21 of the *Alberta Utilities Commission Act*, SA 2007, c. A-37.2, the Commission applies AUC [Rule 022: Rules on Intervener Costs in Utility Rate Proceedings](#) (AUC Rule 022). Appendix A of AUC Rule 022 also prescribes a *Scale of Costs* applicable to all costs claimed.
18. In exercising its discretion to award costs, the Commission will, in accordance with Section 11 of AUC Rule 022, consider whether an eligible participant's costs are reasonable and directly and necessarily related to the proceeding; and whether the eligible participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Commission. The Commission will be mindful of a participant's willingness to co-operate with the Commission and other participants to promote an efficient and cost-effective proceeding.
19. As the costs of a utility proceeding are generally passed on to customers, it is the Commission's duty to ensure that the customers receive fair value for a party's contribution. The

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<sup>2</sup> Decision 2014-373: AltaGas Utilities Inc., 2014-2015 Capital Tracker Application and 2013 Capital Tracker True-up Application. Applications 1610446 and 1610600, Proceedings 3152 and 3244, December 24, 2014.

Commission only approves those costs that are reasonable and directly and necessarily related to the party's participation in the proceeding.

### **3 Commission findings**

#### **3.1 Consumers' Coalition of Alberta**

20. The CCA submitted a costs claim for recovery of costs paid in the total amount of \$93,220.05. The costs claim requested approval of the following legal and consulting fees:

- \$26,736.31 for Wachowich & Company, composed of legal fees of \$23,677.50, disbursements of \$1,785.65 and GST of \$1,273.16; and
- \$66,483.74 for Regulatory Services Inc., composed of consulting fees of \$63,279.75, disbursements of \$38.10 and GST of \$3,165.89.

21. The claim for Wachowich & Company relates to 67.65 hours of legal services. The hours claimed include 44.55 hours for review of the application, review of information requests, review of correspondence and preparation of process letters, 16 hours for attendance at the oral hearing, and 7.10 hours for preparation of argument and reply argument.

22. The Commission finds that the hours incurred for legal-related work are reasonable given the tasks described and that the costs incurred are in accordance with the *Scale of Costs*. Accordingly, the Commission approves total recovery of legal fees for Wachowich & Company in the amount of \$26,736.31 which is composed of \$23,677.50 in fees, disbursements of \$1,785.65 for transcripts and GST of \$1,273.16.

23. The claim for Regulatory Services Inc. relates to 247.55 hours for consulting services performed by Mr. Jeffrey Jodoin and Mr. Jan Thygesen. The costs claim for Mr. Jodoin included 8.20 hours for review of the application, preparation of information requests and intervener evidence, and 2.10 hours for the preparation of argument and reply argument. The costs claim for Mr. Thygesen included 182.75 hours for review of application, preparation of information requests, information request responses and preparation of intervener evidence, 24.25 hours for preparation and attendance at the oral hearing, and 30.25 hours for preparation of argument and reply argument.

24. The Commission finds that the total hours claimed by Regulatory Services Inc. are excessive given its participation in the proceeding. The CCA's evidence focused primarily on AltaGas' pipeline replacement program, particularly on AltaGas' use of leak rate data. The Commission notes that with respect to pre-1957 steel pipe, the CCA acknowledged that it could result in catastrophic failure and, therefore, did not contest the replacement of pre-1957 pipe in argument and reply-argument as reflected in the following paragraph of Decision 2014-373:

372. In the case of pre-1957 steel pipe, many of the CCA's concerns were tempered by conclusions drawn from analysis conducted by the CCA after the conclusion of the hearing. Specifically, the CCA came to understand that this type of pipe can shear, or separate completely, under a variety of circumstances resulting in the rapid release of large volumes of gas. Because this pipe type is

distributed mainly in urban areas and downtown cores, this rapid release of gas could represent a catastrophic failure for AltaGas.<sup>3</sup>

25. In addition, the Commission commented on the merits of the CCA's position on leak rate data with respect to PVC pipeline replacement project in the following paragraph:

381. The Commission understands that any assessment of risk is a multidimensional and interdisciplinary decision-making process in which both engineering judgement and formal risk assessment models should have a place. The Commission also understands that, in addition to leak rates per kilometre, critical risk factors used in AltaGas' risk assessment include pipe type, population density, ground cover, the ability to locate the pipe with tracer wire, and the opportunities to coordinate with municipal works or other pipe replacement projects in the area. As a consequence, the Commission rejects the CCA's recommendation that PVC pipe replacement projects should be held in abeyance, or restricted to geographical areas, solely on the basis of leak rates per kilometre.<sup>4</sup>

26. Based on the above observations, the Commission finds that the CCA's evidence on replacement of the pre-1957 steel pipe and PVC pipe was of limited assistance to the Commission in contributing to a better understanding of the replacement of these vintages of pipe. Accordingly, the Commission considers that a reduction of ten per cent is warranted with respect to the consulting fees claimed for Regulatory Services Inc.

27. Given the Commission's reduction, costs for Regulatory Services Inc. are approved in the total amount of \$59,839.17, which is comprised of \$56,951.77 in fees, disbursements of \$38.10 in parking fees, and GST of \$2,849.30.

28. Accordingly, the Commission approves recovery of the CCA's costs claim in the total amount of \$86,575.48.

#### **4 GST**

29. In accordance with the Commission's treatment of GST on cost awards, AltaGas is required to pay only that portion of GST paid by interveners that may not be recoverable through the GST credit mechanism. Accordingly, the Commission approves the eligible GST in the amount of \$4,122.46.

30. The Commission emphasizes that its treatment of the GST claimed in no way relieves participants or their consultants from their GST obligations pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15.

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<sup>3</sup> Proceedings 3152 and 3244, Exhibit No. 73.01.CCA-3244, CCA argument paragraph 22.

<sup>4</sup> Proceedings 3152 and 3244, Exhibit No. 73.01.CCA-3244, CCA argument paragraph 20.



**5 Order**

31. It is hereby ordered that:

- 1) AltaGas Utilities Inc. shall pay intervener costs to the Consumers' Coalition of Alberta in the amount of \$86,575.48.

Dated on February 10, 2015.

**Alberta Utilities Commission**

*(Original signed by)*

Mark Kolesar  
(Vice-Chair)

*(Original signed by)*

Neil Jamieson  
Commission Member

*(Original signed by)*

Henry van Egteren  
Commission member