



AltaGas Utilities Inc.

2015 Annual PBR Rate Adjustment Filing

Costs Award

June 18, 2015

Alberta Utilities Commission

Decision 3593-D01-2015: AltaGas Utilities Inc.

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Proceeding 3593

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1 Introduction

1. On September 11, 2014, AltaGas Utilities Inc. (AltaGas) filed its 2015 annual performance-based regulation (PBR) rate adjustment application with the Alberta Utilities Commission requesting approval of its distribution rates and special charges schedule, to be effective January 1, 2015, on an interim basis (AltaGas' 2015 PBR rate adjustment application). The Commission assigned Proceeding 3408 and Application 1610838 to AltaGas' 2015 PBR rate adjustment application.
2. The Commission issued notice of application on September 11, 2014 and requested interested parties who wished to intervene in the proceeding to submit a statement of intent to participate (SIP) to the Commission by September 18, 2014.
3. The Commission received SIPs from FortisAlberta Inc., the Office of the Utilities Consumer Advocate, EPCOR Distribution & Transmission Inc., AltaLink Management Ltd., ATCO Gas, a division of ATCO Gas and Pipelines Ltd. and the Consumers' Coalition of Alberta (CCA).
4. On September 19, 2014, the Commission determined that the application would be considered by way of a minimal written process and established a schedule for dealing with the application.
5. The Commission considered the record with respect to AltaGas' 2015 PBR rate adjustment application to have closed on November 18, 2014.
6. On December 18, 2014, the Commission issued Decision [2014-357¹](#) with respect to AltaGas' 2015 PBR rate adjustment application.
7. On December 18, 2014, the CCA submitted its costs claim application with respect to AltaGas' 2015 PBR rate adjustment application. The Commission assigned Proceeding 3593 and Application 1611099-1 to the costs claim application.
8. The Commission circulated a summary of costs claimed to interested parties on December 22, 2014, and requested comments regarding the figures listed in the summary, or on the merits of the costs claimed, by December 31, 2014. No comments were received from parties regarding the circulated summary of costs claimed.
9. On March 26, 2015, the Commission issued information requests requesting further clarification of certain costs claimed in respect of services provided by Mr. Kyle Riley. The

¹ Decision 2014-3357: AltaGas Utilities Inc. 2015 Annual PBR Rate Adjustment Filing. Application 1610838, Proceeding 3408, December 18, 2014.

responses were received on April 8, 2015, which the Commission considers to be the close of record for this costs proceeding.

2 Commission's authority to award costs

10. 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.

11. 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.

12. 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 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

13. The CCA submitted a costs claim for recovery of costs paid in the total amount of \$14,561.51. The costs claim requested approval for recovery of the following legal and consulting fees:

- \$3,619.88 for Wachowich & Company, composed of legal fees of \$3,447.50 and GST of \$172.38; and
- \$10,941.63 for Regulatory Services Inc., composed of consulting fees of \$10,395.00, disbursements of \$25.60 and GST of \$521.03.

Wachowich & Company

14. The claim for Wachowich & Company relates to 23.85 hours of work performed. Of this amount, 4.60 hours relates to legal services performed by Mr. James Wachowich at a rate of \$350 per hour (exclusive of GST), for review of the application, drafting and review of information requests (IRs), review of IR responses, and correspondence. A further 1.75 hours of work performed by Mr. Wachowich related to the preparation of argument. The claim for recovery of costs paid to Wachowich & Company also includes amounts related to 17.50 hours of work performed by Mr. Kyle Riley, a research assistant employed by that firm, at a rate of \$70 per hour (exclusive of GST). The CCA's claim in respect of work performed by Mr. Riley indicates that services were provided between October 23, 2014 and November 4, 2014 in connection with "Argument."

15. The Commission has assessed the costs claim and finds that, with the exception of amounts attributed to preparation of argument, the hours incurred for legal services provided by Mr. Wachowich are reasonable given the tasks described in the costs application and finds that

the costs incurred are in accordance with the *Scale of Costs*. The Commission has determined that the the amount of time billed by Mr. Wachowich in connection with preparation of argument in AltaGas' 2015 PBR rate adjustment application is not commensurate with the complexity of the CCA's filing. Therefore, it will permit recovery of 1.0 hours of the 1.75 hours billed in connection with this work. The Commission approves recovery of legal fees for Wachowich & Company in respect of services provided by Mr. Wachowich in the total amount of \$2,058.00 which is composed of \$1,960.00 in legal fees and GST of \$98.00.

16. On March 26, 2015, the Commission issued IRs to the CCA requesting additional information regarding services provided by Mr. Riley.²

17. The Commission has reviewed the CCA's IR responses³ with respect to the nature of services provided by Mr. Riley, his qualifications and experience, and the extent to which his work product was incorporated into the CCA's submissions. The Commission considers that the CCA should be entitled to recovery of a portion of the fees paid for Mr. Riley's services given the nature of the work he performed and the relevant professional experience he possesses.

18. The Commission notes that Mr. Riley had less than one year of experience as a research assistant at the time he provided consulting services to Wachowich & Company with respect to Proceeding 3408. The *Scale of Costs* does not contemplate recovery for fees charged by consultants with less than one year of experience. However, for the purposes of this application, the Commission will exercise its general discretionary authority with respect to costs incurred incidental to proceedings⁴ to permit the CCA to recover fees paid to Wachowich & Company for services provided by Mr. Riley at a rate of \$60 per hour. This hourly rate equates to 50 per cent of the maximum rate prescribed by the *Scale of Costs* as recoverable in respect of services rendered by consultants having between one and four years of experience which the Commission finds reasonable in the circumstances.

19. However, the Commission finds that the total amount of time billed by Mr. Riley in respect of preparation of argument is not reasonable given the tasks he performed, as described in the CCA's IR responses. In reviewing the argument filed by the CCA in AltaGas' 2015 PBR rate adjustment application (it elected not to file reply argument), the Commission finds that the amount of time billed by Mr. Riley in respect of its preparation is excessive given the size and complexity of the document ultimately produced. Mr. Riley's time, as reported on form U2, indicates that he was not involved in the initial stages of the proceeding but worked on argument only. Given this fact, the Commission considers that unfamiliarity with the contents of the record, likely contributed to his billing a higher than expected number of hours in relation to preparation of argument. The Commission finds, on balance, that a reduction of 7.5 hours applied to the 17.5 hours billed by Mr. Riley is warranted in the circumstances. The Commission approves recovery of fees for Wachowich & Company in respect of services provided by Mr. Riley in the total amount of \$630.00 which comprises fees of \$600.00 and GST of \$30.00.

Regulatory Services Inc.

20. The claim for Regulatory Services Inc. relates to 38.50 hours for consulting services performed by Mr. Jeff Jodoin at a rate of \$270.00 per hour, exclusive of GST. The hours claimed included 30.50 hours for review of the application, preparation of information requests and

² Exhibit 3593-X0001.

³ Exhibits 3593-X0002 and 3593-X0003.

⁴ See *Alberta Utilities Commission Act*, S.A. 2007, c. A-37.2, s.21.

review of IR responses, correspondence, and 8.0 hours for the preparation of argument. The CCA's claim in respect of consulting services provided by Regulatory Services Inc. also includes paid disbursements for photocopying in the amount of \$25.60.

21. The Commission has assessed the costs claim in respect of services provided by Regulatory Services Inc. and finds that, with the exception of amounts attributed to the preparation of argument, the consulting hours incurred are reasonable given the tasks described in the costs claim application. The Commission also finds that the costs incurred are in accordance with the *Scale of Costs*. With respect to consulting hours incurred in preparation of argument, the Commission finds that the time spent by Mr. Jodoin is not commensurate with the complexity of the argument eventually filed by the CCA and, consequently, will permit recovery of 50 per cent of the 8.0 hours billed in connection with this task. The Commission therefore, approves recovery of consulting fees for Regulatory Services Inc. in the total amount of \$9,807.63 which includes \$9,315.00 in consulting fees, \$25.60 in disbursements and GST of \$467.03.

22. Accordingly, the Commission approves recovery of the CCA's costs claim in the total amount of \$12,495.63 which is comprised of \$2,560.00 for Wachowich & Company for legal fees and research, \$9,315.00 in consulting fees, \$25.60 in disbursements and GST of \$595.03.

4 GST

23. 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 \$595.03.

24. 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.

5 Order

25. It is hereby ordered that:

- 1) AltaGas Utilities Inc. shall pay intervener costs to the Consumers' Coalition of Alberta in the amount of \$12,495.63.

Dated on June 18, 2015

Alberta Utilities Commission

(Original signed by)

Mark Kolesar
Vice-Chair

(Original Signed by)

Kay Holgate
Commission Member