



ATCO Gas and Pipelines Ltd.

Calgary Service Centre Disposition

Costs Award

December 18, 2015

Alberta Utilities Commission

Decision 20848-D01-2015: ATCO Gas and Pipelines Ltd.

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Proceeding 20848

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Published by

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1 Introduction

1. On June 8, 2015, ATCO Gas and Pipelines Ltd. (ATCO Gas), CU Inc. (CUI) and Canadian Utilities Limited (CU) (collectively, the applicants) filed an application with the Alberta Utilities Commission requesting approval to sell the Calgary Service Centre (CSC) assets to ATCO Real Estate Holdings Ltd., a wholly-owned subsidiary company of CU (CSC disposition application). The applicants sought approval on the basis that the disposition of the CSC assets was outside of the ordinary course of business of the utility and accordingly required the approval of the Commission pursuant to Section 26(2)(d) of the *Gas Utilities Act*, RSA 2000, c. G-5. The Commission assigned Proceeding 20528 to deal with the CSC disposition application.
2. On June 9, 2015, the Commission issued notice of the application and requested that interested parties submit a statement of intent to participate (SIP) by June 22, 2015. The Commission received SIPs from the City of Calgary, the Office of the Utilities Consumer Advocate and the Consumers' Coalition of Alberta (CCA).
3. On June 24, 2015, the Commission issued a process letter and determined that the CSC disposition application would be conducted by way of a minimal written process, involving information requests (IRs), IR responses, argument and reply argument, as outlined in Commission Bulletin 2015-09¹.
4. The record for the CSC disposition application proceeding closed on August 19, 2015 and on September 23, 2015, the Commission issued Decision 20528-D01-2015² with respect to the proceeding.
5. On September 18, 2015, the CCA submitted its costs claim application with respect to the CSC disposition application proceeding. The CCA had participated fully within the minimal written process guidelines, including filing of information requests, argument and reply argument. The Commission assigned Proceeding 20848 to the costs claim application.
6. A summary of the CCA's costs claimed was circulated to interested parties on September 21, 2015. Comments regarding the figures listed in the summary or on the merits of the costs claimed were due by October 5, 2015. No comments were received.
7. The record for this costs proceeding was closed October 5, 2015.

¹ Bulletin 2015-09, Performance Standard for Processing Rate-Related Applications, March 26, 2015.

² Decision 20528-D01-2015: ATCO Gas and Pipelines Ltd., CU Inc. and Canadian Utilities Limited Disposition of the Calgary Service Centre Assets, Proceeding 20528, Application 20528-A001, September 23, 2015.

2 Commission's authority to award costs

8. 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.

9. 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.

10. 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

11. The CCA submitted a costs claim for recovery of costs paid in the total amount of \$13,605.38. The costs claim requested approval for recovery of the following legal and consulting costs:

- \$2,407.13 for Wachowich & Company, composed of legal fees of \$2,292.50 and GST of \$114.63; and
- \$11,198.25 for Regulatory Services Inc., composed of consulting fees of \$10,665.00, and GST of \$533.25.

Wachowich & Company

12. The claim for Wachowich & Company relates to 6.55 hours of legal services performed by Mr. James Wachowich. The hours claimed include 4 hours for review of the CSC disposition application and preparation of IRs to ATCO Gas, and 2.55 hours for preparation of argument and reply argument.

13. The Commission has assessed the costs claim for legal services provided by Wachowich & Company and finds that the tasks described and hours claimed are reasonable, directly and necessarily related to the proceeding and in accordance with the *Scale of Costs*. The Commission therefore approves the claim for legal services in the total amount of \$2,407.13, which is composed of \$2,292.5 in legal fees and GST of \$114.63.

Regulatory Services Inc.

14. The claim for Regulatory Services Inc. relates to 39.5 hours for consulting services performed by Mr. Jan Thygesen. The hours claimed include 5.50 hours for review of the CSC

disposition application, preparation of IRs, review of IR responses, and 34 hours for preparation of argument, review of applicant argument and preparation of reply argument.

15. The Commission has assessed the costs claim for consulting services provided by Regulatory Services Inc. and finds that the tasks described and hours claimed are reasonable, directly and necessarily related to the proceeding and in accordance with the *Scale of Costs*. The Commission, therefore, approves recovery of costs for Regulatory Services Inc. in the amount of \$11,198.25, which is composed of \$10,655.00 in consulting fees and GST of \$533.25.

16. Accordingly, the Commission approves recovery of the CCA's costs claim in the total amount of \$13,605.38, which is composed of \$2,292.50 in legal fees, \$10,665.00 in consulting fees, and GST of \$647.88.

4 GST

17. In accordance with the Commission's treatment of GST on cost awards, ATCO Gas 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 \$647.88.

18. 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

21. It is hereby ordered that:

- 1) ATCO Gas and Pipelines Ltd. shall pay intervener costs to the Consumers' Coalition of Alberta in the amount of \$13,605.38.

Dated on December 18, 2015.

Alberta Utilities Commission

(Original signed by)

Willie Grieve, QC
Chair

(Original signed by)

Anne Michaud
Commission Member

(Original signed by)

Tudor Beattie, QC
Commission Member