



## **AltaGas Utilities Inc.**

### **2015 Net Deficiency and Rider F Application**

**Costs Award**

**January 13, 2016**

**Alberta Utilities Commission**

**Decision 20899-D01-2016:** AltaGas Utilities Inc.  
2015 Net Deficiency and Rider F Application  
Costs Award  
Proceeding 20899

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## **1 Introduction**

1. On August 1, 2015, AltaGas Utilities Inc. submitted an application to the Alberta Utilities Commission requesting approval to implement Rate Rider F, for collection of AltaGas' net deficiency in October and November 2015, for all rate classes except the irrigation rate class. AltaGas proposed to collect the associated Rider F amounts from irrigation customers in October 2015, only. The Commission assigned Proceeding 20695 to deal with the application (Rider F application).

2. On August 4, 2015, the Commission issued a notice of application that required interested parties to submit a statement of intent to participate (SIP) by August 14, 2015. The Commission received a SIP from the Consumers' Coalition of Alberta (CCA).

3. On August 17, 2015, the Commission issued a process letter and determined that the Rider F application would be considered by way of a minimal written process, involving information requests (IRs), argument and reply argument, as outlined in Bulletin 2015-09.<sup>1</sup>

4. On September 2, 2015 and September 4, 2015, AltaGas<sup>2</sup> and the CCA<sup>3</sup>, respectively, submitted letters to the Commission indicating that argument and reply argument process steps were not required. Accordingly, after considering the submissions and other evidence on the record, the Commission, by way of letter dated September 8, 2015, eliminated the argument and reply argument process steps.<sup>4</sup>

5. The Commission considered the record for the Rider F application proceeding to have closed on September 8, 2015.

6. On September 24, 2015, the Commission issued Decision 20695-D01-2015<sup>5</sup> in respect of the Rider F application.

7. On October 8, 2015, the Commission received a costs application from the CCA. The CCA requested recovery of costs incurred in respect of the Rider F application. The Commission assigned Proceeding 20899 and application 20899-A001 to the costs claim application.

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

<sup>2</sup> Exhibit 20695-X0029, AltaGas letter on need for argument, September 2, 2015.

<sup>3</sup> Exhibit 20695-X0030, CCA letter on need for argument, September 4, 2015.

<sup>4</sup> Exhibit 20695-X0031, AUC letter-updated process schedule, September 8, 2015.

<sup>5</sup> Decision 20695-D001-2015: AltaGas Utilities Inc. Net Deficiency and Rider F, Proceeding 20695, Application 20695-A001, September 24, 2015.

8. The Commission circulated a summary of the CCA's costs claimed to interested parties on October 14, 2015, and requested comments regarding the figures listed in the summary, or the merits of the costs claimed, by October 27, 2015.<sup>6</sup> No comments were received.

9. On December 10, 2015, the Commission issued an IR requesting further information from the CCA in respect of consultant and legal fees. The responses were received on December 23, 2015, which the Commission considers to be the close of record for this costs claim proceeding.

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

10. When assessing costs claims under Section 21 of the *Alberta Utilities Commission Act*, SA 2007, c A-37.2, the Commission applies **Rule 022: Rules on Intervener Costs in Utility Rate Proceedings**. Appendix A of 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 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 \$6,383.58. The costs claim requested approval for recovery of the following legal and consulting costs:

- \$2,278.50 for Wachowich & Company, comprising legal fees of \$2,170.00 and GST of \$108.50; and
- \$4,105.08 for Regulatory Services Inc., comprising consulting fees of \$3,901.50, disbursements of \$8.10 and GST of \$195.48.

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<sup>6</sup> Exhibit 20899-X0004, AUC letter- request for comments, October 14, 2015.

## Wachowich & Company

14. The claim for Wachowich & Company relates to 6.20 hours of legal services performed by Mr. James Wachowich. The hours claimed were for review of the application and IR responses. In addition, the CCA noted that AltaGas' counsel contacted Mr. Wachowich to determine if the process could be expedited, as AltaGas was concerned that the 108 day minimum written process would not allow the collection of the deficiency rider from seasonal customers.<sup>7</sup> The CCA submitted that Mr. Wachowich provided the following general legal advice and support in relation to AltaGas' request:

In this matter AUI counsel directly contacted Mr. J. Wachowich to determine if the commonly used AUC process could be expedited. The consultant for the CCA and counsel discussed this and the ramifications of using a less traditional process. The outcome is obvious from the record. CCA counsel was involved as noted in the time sheet in the cost claim.

Mr. J. Wachowich was involved in the discussion and exchange in order to assess that the AUI desired changes to the process did not offend any established AUC practice(s) as the parties to the adversarial process were now working toward aligning their respective positions to eliminate the need for further process such as argument and reply. In order to do this there was limited research or review of prior determinations of the AUC regarding AUI requests to settle matters and this was used to support recommendations to the CCA consultant. The CCA consultant had a more direct role or function in the "informal exchange of information with officials from AltaGas" but counsel was able to support the participation of the consultant. Beyond this activity, which can be described as general legal advice and support, specific tasks were not undertaken by counsel.<sup>8</sup>

15. The Commission has assessed the costs claim for legal services for 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*.

16. The Commission therefore approves the claim for legal services in the total amount of \$2,278.50, which is comprised of \$2,170.00 in legal fees and GST of \$108.50.

## Regulatory Services Inc.

17. The claim for Regulatory Services Inc. relates to 14.45 hours for consulting services performed by Mr. Jeffrey Jodoin. The hours claimed for Mr. Jodoin were for reviewing the application and IR responses, participating in an informal exchange of information with officials from AltaGas, and assessing the need for argument and reply argument.<sup>9</sup>

18. Following AltaGas' request for an accelerated process, the CCA submitted that Mr. Jodin directly contacted the utility for additional information.<sup>10</sup> After consideration of the additional information, the CCA assessed AltaGas' request as reasonable.<sup>11</sup> The CCA submitted that as a result of the accelerated process discussions, the Commission was able to determine that argument and reply argument were not required to complete the record of the proceeding.<sup>12</sup> The

<sup>7</sup> Exhibit 20899-X0007, CCA IR responses, AUC-CCA-01 and 02, December 23, 2015.

<sup>8</sup> Exhibit 20899-X0007, CCA IR responses, AUC-CCA-01, December 23, 2015.

<sup>9</sup> Exhibit 20899-X0001, CCA cost claim, paragraph 7, October 8, 2015.

<sup>10</sup> Exhibit 20899-X0001, CCA cost claim, paragraph 7, October 8, 2015.

<sup>11</sup> Exhibit 20899-X0007, CCA IR responses, AUC-CCA-002, December 23, 2015.

<sup>12</sup> Exhibit 20695-X0031, AUC letter- updated process letter, September 8, 2015.

CCA indicated that this allowed the Commission to implement a deficiency rider that included seasonal customers, and that the CCA believed this to be in the public interest.<sup>13</sup>

19. 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 also finds the disbursements claimed for Mr. Jodoin for photocopies to be reasonable and in accordance with the *Scale of Costs*.

20. The Commission, therefore, approves recovery of costs for Regulatory Services Inc. in the amount of \$4,105.08, which is comprised of \$3,901.50 in consulting fees, \$8.10 in disbursements, and \$195.48 in GST.

21. Accordingly, the Commission approves recovery of the CCA's costs claim in the total amount of \$6,383.58, which is comprised of \$2,170.00 in legal fees, \$3,901.50 in consulting fees, \$8.10 in disbursements, and GST of \$303.98.

#### 4 GST

22. 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 \$303.98.

23. 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*, RSC 1985, c E-15.

#### 5 Order

21. It is hereby ordered that:

- 1) AltaGas Utilities Inc. shall pay intervener costs to the Consumers' Coalition of Alberta in the amount of \$6,383.58

Dated on January 13, 2016.

#### Alberta Utilities Commission

*(Original signed by)*

Neil Jamieson  
Commission Member

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<sup>13</sup> Exhibit 20899-X0007, CCA IR responses, AUC-CCA-002, December 23, 2015.