



# AUC

Alberta Utilities Commission

**ATCO Pipelines**

**2015-2016 Revenue Requirements  
Compliance Filing to Decision 3577-D01-2016**

**Costs Award**

**November 10, 2016**

**Alberta Utilities Commission**

Decision 21830-D01-2016

ATCO Pipelines

2015-2016 Revenue Requirements Compliance Filing to Decision 3577-D01-2016

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Proceeding 21830

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## 1 Introduction

1. In this decision the Alberta Utilities Commission considers applications by ATCO Pipelines, a division of ATCO Gas and Pipelines Ltd. (ATCO Pipelines), and the Consumers' Coalition of Alberta (CCA) for approval and payment of their costs of participation in Proceeding 21515 (the costs claim applications). The following table sets out the costs claimed and the amounts awarded:

Claimant	Total Fees Claimed	Total Disbursements Claimed	Total GST Claimed	Total Amount Claimed	Total Fees Awarded	Total Disbursements Awarded	Total GST Awarded	Total Amount Awarded
ATCO Pipelines								
<b>Bennett Jones LLP</b>	\$45,185.00	\$107.10	\$0.00	\$45,292.10	\$45,185.00	\$107.10	\$0.00	\$45,292.10
<b>Total</b>	\$45,185.00	\$107.10	\$0.00	\$45,292.10	\$45,185.00	\$107.10	\$0.00	\$45,292.10
CCA								
<b>Wachowich &amp; Company</b>	\$4,742.50	\$0.00	\$237.13	\$4,979.63	\$4,742.50	\$0.00	\$237.13	\$4,979.63
<b>Regulatory Services Inc.</b>	\$7,020.00	\$36.40	\$352.82	\$7,409.22	\$7,020.00	\$36.40	\$352.82	\$7,409.22
<b>Total</b>	\$11,762.50	\$36.40	\$589.95	\$12,388.85	\$11,762.50	\$36.40	\$589.95	\$12,388.85
<b>Total of all amounts claimed and awarded</b>				<b>\$57,680.95</b>				<b>\$57,680.95</b>

2. The Commission decided to approve the costs, as claimed, for the reasons provided below.

3. Proceeding 21515 (the original proceeding) was convened by the Commission to consider ATCO Pipelines' application requesting approval for its compliance filing to Decision 3577-D01-2016.<sup>1</sup> The original proceeding included information requests (IRs) and IR responses, argument and reply argument. The close of record for the original proceeding was June 27, 2016 and the Commission issued Decision 21515-D01-2016<sup>2</sup> on September 13, 2016.

4. ATCO Pipelines submitted its costs claim application on July 20, 2016, within the 30 day timeline permitted by the Commission's rules. In its costs claim, ATCO Pipelines redacted the actual line item amounts charged for legal fees, GST, and the total amounts for legal services charged in the invoices received from Bennett Jones LLP. The actual hourly rate for legal counsel was also redacted. The Commission assigned Proceeding 21830 and Application 21830-A001 to the costs claim application.

<sup>1</sup> Decision 3577-D01-2016: ATCO Pipelines 2015-2016 General Rate Application, Proceeding 3577, Application 1611077-1, February 29, 2016.

<sup>2</sup> Decision 21515-D01-2016: ATCO Pipelines 2015-2016 Revenue Requirements Compliance Filing to Decision 3577-D01-2016, Proceeding 21515, Application 21515-A001, September 13, 2016.

5. The CCA submitted its costs claim application on July 27, 2016, within the 30 day timeline permitted by the Commission’s rules. Within Proceeding 21830, the CCA’s costs claim application was assigned Application 21830-A002.

6. No comments were filed with respect to the costs claim applications.

7. On October 6, 2016, ATCO Pipelines submitted a letter regarding the redacted Bennett Jones invoices. ATCO Pipelines confirmed it was only claiming hourly rates for counsel that were consistent with the Scale of Costs. ATCO Pipelines also confirmed that the actual hourly rates billed by Bennett Jones counsel were not less than the Scale of Costs, and submitted that the actual costs were not provided as they are not relevant and represent market sensitive information.

8. The Commission considers the close of record for this proceeding to be October 6, 2016, the date upon which final submissions on the costs claims were received.

## 2 Commission findings

9. The Commission’s authority to award costs for participation in a utility rates proceeding is found in Section 21 of the *Alberta Utilities Commission Act*. When considering a claim for costs for a utility rates proceeding, the Commission is also guided by the factors set out in Section 11 of AUC Rule 022: *Rules on Costs in Utility Rate Proceedings* (Rule 022). Appendix A of Rule 022 prescribes a Scale of Costs applicable to all costs claimed.

### 2.1 ATCO Pipelines

10. The following table summarizes ATCO Pipelines’ costs claim:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
ATCO Pipeline							
Bennett Jones LLP	93.60	0.00	35.50	\$45,185.00	\$107.10	\$0.00	\$45,292.10
Total	93.60	0.00	35.50	\$45,185.00	\$107.10	\$0.00	\$45,292.10

11. The Commission finds that ATCO Pipelines acted responsibly in the original proceeding and contributed to a better understanding of the relevant issues in the proceeding.

### Bennett Jones LLP

12. ATCO Pipelines was represented by Bennet Jones in the original proceeding. The fees claimed by ATCO Pipelines for the legal services provided by Mr. Nicholas Gretener relate to reviewing previous decisions, preparing the compliance filing, reviewing IRs and drafting IR responses, and drafting argument and reply argument.

13. The Commission must assess eligible costs claims based on the information before it in light of the provisions of Rule 022. The Commission considers that in instances where information is redacted by a party applying for costs, the onus of proof is on the party claiming

costs to demonstrate the costs submitted for Commission approval, and recovery through customer rates is reasonable.<sup>3</sup>

14. The Commission accepts the October 6, 2016 letter of ATCO Pipelines specifying that Mr. Gretener’s actual hourly rate is not less than the Scale of Costs. The Commission finds that the services performed by Bennett Jones were directly and necessarily related to ATCO Pipelines’ participation in the original proceeding, and that the fees and disbursements, which were claimed in accordance with the Scale of Costs for those services, are reasonable.

15. In future costs claim applications, if ATCO Pipelines chooses to redact information related to legal services, or other professional fee invoices submitted for approval, ATCO Pipelines is directed to provide a letter from its legal counsel confirming that the actual hourly professional fees charged including any discounts, are equal to or in excess of, the hourly rates claimed in accordance with the Scale of Costs. If not included in Form U2 of the costs claim application, the years of call or experience of the individuals included in the costs claim must also to be provided in the letter from legal counsel.

16. Accordingly, the Commission approves ATCO Pipeline’s claim for legal fees for Bennett Jones in the amount of \$45,185.00 and disbursements for photocopying of \$107.10 for a total of \$45,292.10.

## 2.2 Consumers’ Coalition of Alberta

17. The following table summarizes the CCA’s costs claim:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
CCA							
Wachowich & Company	4.40	0.00	23.25	\$4,742.50	\$0.00	\$237.13	\$4,979.63
Regulatory Services Inc.	17.00	0.00	9.00	\$7,020.00	\$36.40	\$352.82	\$7,409.22
Total	21.40	0.00	32.25	\$11,762.50	\$36.40	\$589.95	\$12,388.85

18. The Commission finds that the CCA acted responsibly in the original proceeding and contributed to a better understanding of the relevant issues in the proceeding.

### Wachowich & Company

19. The CCA was represented by Wachowich & Company in the original proceeding. The fees claimed by the CCA for the legal services provided by Mr. James Wachowich and Ms. Shauna Gibbons relate to reviewing the application, drafting IRs, reviewing IR responses, and drafting argument and reply argument.

<sup>3</sup> For example, see Decision 20732-D01-2016, Decision 20732-D01-2016: Direct Energy Regulated Services 2015 Late Payment Penalty Charge Settlement Agreement, Proceeding 20732, Application 20732-A001, August 10, 2016, paragraph 143; and Decision 21694-D01-2016: Direct Energy Regulated Services, 2015 Late Payment Penalty Charge Settlement Agreement, Costs Award, Proceeding 21694, October 3, 2016, paragraph 11.

20. The Commission finds that the services performed by Wachowich & Company were directly and necessarily related to the CCA's participation in the original proceeding, and that the fees, which were claimed in accordance with the Scale of Costs for those services, are reasonable. Accordingly, the Commission approves the CCA's claim for legal fees for Wachowich & Company in the amount of \$4,742.50 and GST of \$237.13 for a total of \$4,979.63.

### **Regulatory Services Inc.**

21. Regulatory Services Inc. was retained by the CCA to perform consulting services in the original proceeding. The fees claimed by the CCA for the consulting services provided by Mr. Jeffrey Jodoin relate to reviewing the application, drafting IRs, reviewing documentation, and drafting argument and reply argument.

22. The Commission finds that the services performed by Regulatory Services Inc. were directly and necessarily related to the CCA's participation in the original proceeding, and that the fees and disbursements, which were claimed in accordance with the Scale of Costs for those services, are reasonable. Accordingly, the Commission approves the CCA's claim for consulting fees for Regulatory Services Inc. in the amount of \$7,020.00, disbursements for photocopying of \$36.40 and GST of \$352.82 for a total of \$7,409.22.

### **3 Order**

23. It is hereby ordered that:

- 1) ATCO Gas and Pipelines Ltd. shall pay external costs in the amount of \$45,292.10.
- 2) ATCO Gas and Pipelines Ltd. shall pay intervener costs to the Consumers' Coalition of Alberta in the amount of \$12,388.85.
- 3) ATCO Gas and Pipelines Ltd. shall record the approved costs in its Reserve for Hearing Costs account, in the total amount of \$57,680.95.

Dated on November 10, 2016.

### **Alberta Utilities Commission**

*(original signed by)*

Neil Jamieson  
Panel Chair