



ATCO Gas

2011-2012 General Rate Application Phase II

Costs Award

March 27, 2013



The Alberta Utilities Commission
Decision 2013-118: ATCO Gas
2011-2012 General Rate Application Phase II Costs
Application No. 1609161, 1609172
Proceeding ID No. 2324

March 27, 2013

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1 Introduction

1. ATCO Gas, a division of ATCO Gas and Pipelines Ltd. (ATCO Gas) filed a 2011-2012 General Rate Application Phase II (GRA Phase II application) with the Alberta Utilities Commission (Commission) on May 29, 2012. ATCO Gas requested the Commission's approval for new base rates for each of its North and South service territories (referred to as ATCO Gas North and ATCO Gas South) for the years 2011 and 2012 and that these rates be approved as final. ATCO Gas also requested approval of its updated terms and conditions for distribution access service and the terms and conditions for distribution service connections effective January 1, 2013. The application was registered as Application No.1608495, EPS Proceeding ID. No. 1912.
2. On May 31, 2012, the Commission issued notice of the GRA Phase II application. The Commission received statements of intent to participate from AltaGas Utilities Inc., the City of Calgary, the Office of the Utilities Consumer Advocate and the Consumers' Coalition of Alberta (Consumers' Coalition). The Commission established a process schedule for the application.
3. Due to re-filing and updating of information, as well as additional information requests, the record of the GRA Phase II proceeding closed on November 22, 2012, which is the date on which reply argument was filed.
4. On December 21, 2012, the Commission received a costs application from ATCO Gas in relation to the GRA Phase II proceeding, which was registered as Application No. 1609161, EPS Proceeding ID No. 2324.
5. On January 2, 2013, the Commission received a costs application from the Consumers' Coalition in relation to the GRA Phase II proceeding.
6. On January 3, 2013 the Commission circulated a summary of the costs claimed by ATCO Gas and the Consumers' Coalition. Parties were advised that any comments on the figures listed in the summary or on the merits of the costs claimed were to be filed by January 17, 2013. The Commission did not receive any comments. The Commission considers that the close of the costs proceeding is January 17, 2013.
7. On February 14, 2013, the Commission issued Decision 2013-035, ATCO Gas (A Division of ATCO Gas and Pipelines Ltd.), 2011-2012 General Rate Application Phase II.

2 Views of the Commission – authority to award costs

8. When assessing a cost claim pursuant to Section 21 of the *Alberta Utilities Commission Act*, , the Commission applies AUC [Rule 022: Rules on Intervener Costs in Utility Rate Proceedings](#) (Rule 022).

9. In exercising its discretion to award costs, the Commission will, in accordance with Rule 022, consider whether an eligible participant acted responsibly and contributed to a better understanding of the issues before the Commission, and whether the costs claimed are reasonable and directly and necessarily related to the proceeding. The Commission considers these factors in light of the scope and nature of the issues in question.

10. In the Commission's view, the responsibility to contribute positively to the process is inherent in the choice to intervene in a proceeding. The Commission expects that those who choose to participate will prepare and present a position that is reasonable in light of the issues arising in the proceeding and necessary for the determination of those issues. To the extent reasonably possible, the Commission will be mindful of participants' willingness to co-operate with the Commission and other participants to promote an efficient and cost-effective proceeding.

11. As the costs of a utility proceeding are generally passed on to customers, it is the Commission's duty to ensure that customers receive fair value for a party's contribution. As such, 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 ATCO Gas

12. ATCO Gas submitted legal fees of \$15,273.00 and disbursements of \$98.25 totaling \$15,371.25 for Bennett Jones LLP. The costs claim for legal fees was comprised of 69.6 hours; 20.4 hours for preparation, review of the record, preparing information requests, and reviewing information responses; and 49.2 hours for argument, reply argument, supplemental argument and supplemental reply argument. The legal fees claimed are in accordance with the Scale of Costs set out in Rule 022. The Commission considers that the legal fees claimed and disbursements are reasonable and directly related to the GRA Phase II proceeding. Accordingly, the Commission awards the legal fees and disbursements as claimed.

3.2 Consumers' Coalition of Alberta

13. The Consumers' Coalition submitted legal fees of \$7,630.00 and GST of \$381.50 totaling \$8,011.50 for Wachowich & Company. The legal fees were comprised of 16.8 hours for preparation, review of the record, preparing information requests, and reviewing information responses; and 5 hours for argument, reply argument, supplemental argument and supplemental reply argument. The legal fees were claimed in accordance with the Scale of Costs, set out in Rule 022.

14. The Consumers' Coalition submitted consulting fees of \$20,010.00, disbursements of \$24.20, and GST of \$1,001.71 totaling \$21,035.91 for Regulatory Services Inc. The consulting fees were comprised of 39.5 hours for preparation, review of the record, preparing information

requests, and reviewing information responses; and 13.5 hours for argument, reply argument, supplemental argument and supplemental reply argument. The consultants were Mr. J. Jodoin and Dr. J. Wrightman. The fees claimed were less than those permitted by the Scale of Costs, set out in Rule 022.

15. The Consumers' Coalition stated that it pursued issues in the GRA Phase II application related to rate design for the low use rate group, phase-in of increase to urban and rural connection charges, administrative overhead rate and labour rate burden, settlement commitment regarding the alternate replacement cost methodology for classifying and allocating distribution services costs, late payment penalty, cost allocators, and automatic meter reading issues. The Consumers' Coalition submitted that these issues were technical in nature requiring familiarity with the methods used in the derivation of costs and rates. Mr. Jodoin has over twenty years of experience in the Alberta regulated utility industry and has been directly involved in numerous previous ATCO Gas applications. Mr. Jodoin had overall responsibility for the application. Dr. Wightman holds a PhD in Economics, specializing in the Economics of Natural Resources and the bulk of his consulting experience has been with respect to gas distribution utilities. The Consumers' Coalition stated that Dr. Wightman assisted with information requests and argument issues and that there was no duplication of activities with Mr. Jodoin.

16. Based on the submissions and a review of the costs submitted, the Commission finds that the costs claimed by the Consumers' Coalition in the GRA Phase II proceeding are reasonable and directly related to that proceeding. Accordingly, the Commission awards the Consumers' Coalition the fees, GST and disbursements as claimed.

4 GST

17. The Commission emphasizes that its treatment of a GST claim 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

18. It is hereby ordered that

- (1) ATCO Gas shall pay intervener costs in the amount of \$29,047.41;
- (2) ATCO Gas shall pay external costs in the amount of \$15,371.25;
- (3) ATCO Gas shall record the approved costs in its Hearing Costs Reserve.

Dated on March 27, 2013

The Alberta Utilities Commission

(original signed by)

Anne Michaud
Panel Chair

(original signed by)

Bill Lyttle
Commission Member