



AUC

Alberta Utilities Commission

2012 Performance-Based Regulation First Compliance Filings

**AltaGas Utilities Inc.,
ATCO Electric Ltd.,
ATCO Gas and Pipelines Ltd.,
EPCOR Distribution & Transmission Inc. and
FortisAlberta Inc.**

Costs Award

July 3, 2013

The Alberta Utilities Commission

Decision 2013-235: 2012 Performance-Based Regulation First Compliance Filings

AltaGas Utilities Inc., ATCO Electric Ltd., ATCO Gas and Pipelines Ltd.,

EPCOR Distribution & Transmission Inc. and FortisAlberta Inc.

Costs Award

Application Nos. 1609316, 1609400, 160404, 1609433, 1609437, and 1609441

Proceeding ID No. 2465

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Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Web site: www.auc.ab.ca

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1 Introduction

1. On September 12, 2012, the Alberta Utilities Commission (AUC or Commission) issued Decision [2012-237](#),¹ Rate Regulation Initiative Distribution Performance-Based Regulation, in which it directed each of AltaGas Utilities Inc. (AltaGas), ATCO Electric Ltd. (ATCO Electric), ATCO Gas and Pipelines Ltd. (ATCO Gas), EPCOR Distribution & Transmission Inc. (EPCOR) and FortisAlberta Inc. (Fortis) (jointly referred to as the companies) to file performance-based regulation (PBR) compliance filings in accordance with the directions set out in the decision.

2. In Decision 2012-237 the Commission allowed intervener costs to be recovered through a Y factor adjustment during the PBR term, which commences in 2013. The Commission denied companies Y factor treatment for their hearing costs outside of the indexing mechanism because it considered that management of the company has a reasonable level of control over its own internal hearing costs.²

3. In respect of deferral account balances for existing accounts, which would include balances for a company's hearing costs for 2012 in paragraph 985 of Decision 2012-237, the Commission stated:

To the extent that the companies had deferral accounts under cost of service regulation that have not been approved to continue under PBR in this decision, the Commission recognizes that the companies may have residual balances in the deferral accounts that need to be disposed of. The Commission determines that the companies will submit an application identifying the outstanding balances as of December 31, 2012 as part of their annual PBR rate adjustment filing for 2013.³

4. On September 28, 2012, Commission staff held an information session with interested parties at the Commission's offices in Edmonton, in order to assist parties in understanding the first compliance filing application requirements set out in Decision 2012-237 and to enhance the efficiency of the application review process.

5. On October 4, 2012,⁴ a letter was issued outlining the Commission's written responses to the questions raised at the information session. The Commission informed the companies that subject to Decision 2012-237, they may file a cost claim in respect of any proceeding that commenced prior to December 31, 2012, and which continued into 2013. For proceedings that

¹ Decision 2012-237: Rate Regulation Initiative, Distribution Performance-Based Regulation, Application No. 1606029, Proceeding ID No. 566, September 12, 2012.

² Ibid., paragraph 673 and 674.

³ Ibid., paragraph 985.

⁴ Proceeding ID No. 2130, 2012 PBR Compliance Filings, Exhibit 18, Attachment 1, ATCO Question 5.

commenced in 2012 and continued into 2013, companies could file their unapproved costs incurred up to December 31, 2012. All such claims were to be submitted to the Commission in January 2013. Approved costs would be eligible for true-up in the company's annual PBR rate adjustment filing for 2013.

6. In a January 30, 2013⁵ letter the Commission extended the deadline for filing costs claims to March 28, 2013.

7. Decision 2013-072⁶ relating to the first compliance filing applications was issued on March 4, 2013 for AltaGas, ATCO Electric, ATCO Gas, EPCOR and Fortis.

8. On February 20, 2013 the CCA submitted a costs claim relating to the 2012 compliance filings. The utilities filed their costs claims on the following dates: AltaGas on March 19, 2013, Fortis on March 20, 2013, ATCO Gas and ATCO Electric on March 27, 2013 and EPCOR on March 28, 2013. All of the company costs claims were in respect to costs incurred up to December 31, 2012, in accordance with the Commission's October 4, 2012 letter.

9. On April 4, 2013 the Commission circulated a summary of the costs claimed to interested parties. Parties were advised that any comments regarding figures listed in the summary of costs, or the merits of the total costs claimed, were to be filed by April 18, 2013. No comments were received from parties regarding the summary of costs.

10. The Commission considers the close of record for the costs proceeding to be April 18, 2013.

2 Assessment of costs

11. When assessing costs claims 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). Rule 022 also prescribes a *Scale of Costs* applicable to all costs claimed.

12. 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. To the extent reasonably possible, 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.

13. 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.

⁵ Ibid., Exhibit 121.01

⁶ Decision 2013-072: 2012 Performance-Based Regulation Compliance Filings, AltaGas Utilities Inc., ATCO Electric Ltd., ATCO Gas and Pipelines Ltd., EPCOR Distribution & Transmission Inc. and FortisAlberta Inc., Application No. 1608826, Proceeding ID No. 2130, March 4, 2013.

3 Commission findings

3.1 AltaGas Utilities Inc.

14. AltaGas submitted a costs claim for the consulting fees of Energy Marketing & Regulatory Consulting Ltd. in the amount of \$22,320.00. The consulting fees were for 93 hours of work performed to prepare initial filings, compile information responses, and review the evidence of other parties.

15. The Commission has considered the costs claim submitted by the AltaGas bearing in mind the principles specified in the Commission's *Scale of Costs*, as set out in Appendix A to Rule 022. The Commission finds that the hours incurred are reasonable given the work performed by Energy Marketing & Regulatory Consulting Ltd. for compiling and reviewing information contained in AltaGas's application, and for preparing information responses. The Commission notes that the claim for consulting fees is in accordance with the *Scale of Costs*. Accordingly, the Commission approves AltaGas's claim for fees in the total amount of \$22,320.00 as shown in column (h) of Appendix A. The approved costs are eligible for true-up in the company's annual PBR rate adjustment filing for 2013, consistent with the Commission's October 4, 2012 letter and paragraph 985 of Decision 2012-237.

3.2 ATCO Electric Ltd.

16. ATCO Electric submitted a costs claim totalling \$46,229.62. The claim is comprised of legal fees for Bennett Jones LLP in the amount of \$45,143.50 and disbursements for photocopying and printing of \$1,086.12. Bennett Jones LPP provided a total of 71.60 hours of legal services for preparation and revision of the application and preparation of responses to information requests.

17. The Commission has considered the costs claim submitted by ATCO Electric bearing in mind the principles specified in the Commission's *Scale of Costs*, as set out in Appendix A to Rule 022. The Commission finds that the hours incurred by Bennett Jones LLP are reasonable for preparing and editing the application and information responses. The hourly rate claimed for legal fees is in excess of the *Scale of Costs*. The Commission has reduced the costs claimed for legal fees in accordance with the hourly rates under the *Scale of Costs* to 42.6 hours at \$320.00 per hour and 29 hours at \$350.00 per hour.

18. Accordingly, the Commission approves ATCO Electric's for legal fees in the total amount of \$23,782.00, and disbursements of \$1,086.12. The total amount of costs awarded for ATCO Electric is \$24,868.12, as shown in column (h) of Appendix A. The approved costs are eligible for true-up in the company's annual PBR rate adjustment filing for 2013, consistent with the Commission's October 4, 2012 letter and paragraph 985 of Decision 2012-237.

3.3 ATCO Gas and Pipelines Ltd.

19. ATCO Gas, a division of ATCO Gas and Pipelines Ltd., submitted a costs claim totalling \$46,229.62, which is allocated equally, \$23,114.81 for each of ATCO Gas North and ATCO Gas South. The claim is comprised of legal fees for Bennett Jones LLP in the amount of \$45,143.50 and legal disbursements for photocopying and printing of \$1,086.12. Bennett Jones LPP provided a total of 71.60 hours of legal services for preparation and revision of the application and preparation of responses to information requests.

20. The Commission has considered the costs claim submitted by ATCO Gas bearing in mind the principles specified in the Commission's *Scale of Costs*, as set out in Appendix A to Rule 022. The Commission finds that the hours incurred by Bennett Jones LLP are reasonable for preparing and editing the application and information responses. The hourly rate claimed for legal fees is excess of the *Scale of Costs*. The Commission has reduced the costs claimed for legal fees in accordance with the hourly rates under the *Scale of Costs* to 42.6 hours at \$320.00 per hour and 29 hours at \$350.00 per hour.

21. Accordingly, the Commission approves ATCO Gas' costs claim in the total amount of \$23,782.00 and disbursements of \$1,086.12. The total amount of costs awarded is \$24,868.12 (\$12,434.06 allocated to each of ATCO Gas North and ATCO Gas South) as shown in column (h) of Appendix A. The approved costs are eligible for true-up in the company's annual PBR rate adjustment filing for 2013, consistent with the Commission's October 4, 2012 letter and paragraph 985 of Decision 2012-237.

3.4 EPCOR Distribution & Transmission Inc.

22. EPCOR submitted a costs claim totalling \$27,322.00. The claim is comprised of legal fees for Fasken Martineau DuMoulin LLP (Fasken Martineau) in the amount of \$27,160.00 and legal disbursements for long distance phone calls, photocopying and printing in the amount of \$162.00. Fasken Martineau provided a total of 77.6 hours of legal services for its assistance in preparing the application, in reviewing Commission directions, and for providing advice on responses to information requests.

23. The Commission has considered the costs claim submitted by EPCOR bearing in mind the principles specified in the Commission's *Scale of Costs*, as set out in Appendix A to Rule 022. The Commission finds that the hours incurred by Fasken Martineau are reasonable for the tasks described in the costs claim and the claim for legal fees is in accordance with the *Scale of Costs*. Accordingly, the Commission approves EPCOR's claim in the full amount of \$27,322.00 as shown in column (h) of Appendix A. The approved costs are eligible for true-up in the company's annual PBR rate adjustment filing for 2013, consistent with the Commission's October 4, 2012 letter and paragraph 985 of Decision 2012-237.

3.5 FortisAlberta Inc.

24. Fortis submitted a costs claim totalling \$39,585.00. The claim is comprised of legal fees for Davis LLP in the amount of \$24,937.50 and consulting fees for London Economics International LLC in the amount of \$14,647.50. Davis LLP provided 71.25 hours for legal services for drafting and reviewing the compliance filing, reviewing information requests and responses, and preparing the first draft of argument. The costs claim for London Economics International LLC included 73.25 hours for consulting services. Fortis's application stated that these consulting hours were incurred by London Economics International LLC in order to assist Fortis with the preparation of the application, responses to information requests, and argument.

25. The Commission has considered the costs claim submitted by Fortis bearing in mind the principles specified in the Commission's *Scale of Costs*, as set out in Appendix A to Rule 022. The Commission finds that the hours incurred by Davis LLP are reasonable for the work performed on the compliance filing application, information responses, and argument. London Economics International LLC consulting fees are reasonable given the tasks described in Fortis's application. The Commission notes that the claims for professional fees are in accordance with the *Scale of Costs*.

26. Accordingly, the Commission approves Fortis's claim for professional fees in the total amount of \$39,585.00 as shown in column (h) of Appendix A. The approved costs are eligible for true-up in the company's annual PBR rate adjustment filing for 2013, consistent with the Commission's October 4, 2012 letter and paragraph 985 of Decision 2012-237.

3.6 Consumers' Coalition of Alberta

27. The CCA submitted a costs claim in the total amount of \$26,359.00 for fees incurred in 2012 and 2013 related to the first compliance filing applications. The claim is comprised of consulting fees for Regulatory Services Inc. in the amount of \$17,125.00 and disbursements of \$51.30 for internal photocopying and GST of \$858.82; legal fees for Wachowich & Company in the amount of \$7,927.50 and GST of \$396.38. Regulatory Services Inc. provided consulting services for 68.5 hours of work performed related to the compliance filings. These hours included 45 hours for review of the compliance filing applications and information request preparation; and 23.5 hours for review of information responses, preparation of argument and reply argument. The total hours for legal fees claimed for Wachowich & Company were 22.65 hours, which included 15 hours for preparation of correspondence, information requests and submissions, three hours for attendance of the information session and 4.65 hours for argument and reply argument.

28. The Commission has considered the CCA's costs claim bearing in mind the principles specified in the Commission's *Scale of Costs*, as set out in Appendix A to Rule 022. The Commission finds that the hours incurred are reasonable given the CCA's participation in the information session and for preparation of information requests, argument, and reply argument. The claim for professional fees is in accordance with the *Scale of Costs*.

29. Accordingly, the Commission approves the CCA's claim for fees and GST in the total amount of \$26,359.00 as shown in column (h) of Appendix A, attached to this decision. Given the CCA's participation in testing each company's application, the Commission finds that it is reasonable that the CCA's costs be paid equally by the five distribution companies subject to PBR. The Commission directs that \$5,271.80 of the CCA's costs be paid by each company. Consistent with the Commission's October 4, 2012 letter and paragraph 985 of Decision 2012-237, the CCA's costs including fees and GST, payable by each company, are eligible for inclusion in the annual PBR rate adjustment filing for 2013.

30. The Commission notes that the majority of hours claimed by Regulatory Services Inc. and Wachowich & Company for preparation of argument and reply argument occurred in 2013. The Commission determined in Decision 2012-237 that intervener costs after 2012 "will be treated as a flow-through Y factor to be reconciled in the annual PBR rate adjustment filings."⁷ Notionally, the CCA's 2013 costs should be treated as Y factor adjustments in the companies' annual PBR rate adjustment filings. As the Commission has approved CCA's costs as filed, companies can include their portion of CCA's 2013 costs related to the first compliance filing application in their hearing costs reserve account deferral balances for 2012, to be disposed of in their first annual PBR rate adjustment filing.

⁷ Decision 2012-237, paragraph 674.

4 GST

31. In accordance with the Commission's treatment of GST on cost awards, AltaGas, Fortis, ATCO Gas, ATCO Electric Ltd., and EPCOR are required to pay only that portion of GST paid by interveners that may not be recoverable through the GST credit mechanism. Eligible GST approved by the Commission amounts to a total of \$1,255.20, which equally distributed amounts to \$251.04 to be paid by each company.

32. The Commission emphasizes that its treatment of the 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

33. It is hereby ordered that:

- (1) AltaGas Utilities Inc. shall pay external costs in the amount of \$22,320.00, as set out in column (h), of Appendix A.
- (2) AltaGas Utilities Inc. shall pay intervener costs of the Consumers' Coalition of Alberta in the amount of \$5,271.80, as set out in column (a) of Appendix B.
- (3) ATCO Electric Ltd. shall pay external costs in the amount of \$24,868.12, as set out in column (h), of Appendix A.
- (4) ATCO Electric Ltd. shall pay intervener costs of the Consumers' Coalition of Alberta in the amount of \$5,271.80, as set out in column (b) of Appendix B.
- (5) ATCO Gas and Pipelines Ltd shall pay external costs in the amount of \$24,868.12, as set out in column (h), of Appendix A.
- (6) ATCO Gas and Pipelines Ltd. shall pay intervener costs of the Consumers' Coalition of Alberta in the amount of \$5,271.80, as set out in column (c) of Appendix B.
- (7) EPCOR Distribution and Transmission Inc. shall pay external costs in the amount of \$27,322.00, as set out in column (h), of Appendix A.
- (8) EPCOR Distribution and Transmission Inc. shall pay intervener costs of the Consumers' Coalition of Alberta in the amount of \$5,271.80, as set out in column (d) of Appendix B.
- (9) FortisAlberta Inc. shall pay external costs in the amount of \$39,585.00, as set out in column (h), of Appendix A.
- (10) FortisAlberta Inc. shall pay intervener costs of the Consumers' Coalition of Alberta in the amount of \$5,271.80, as set out in column (e) of Appendix B.

Dated on July 3, 2013.

The Alberta Utilities Commission

(original signed by)

Mark Kolesar
Vice-Chair

(original signed by)

Bill Lyttle
Commission Member

Proceeding ID No. 2465

Total Costs Claimed/Awarded

	Total Fees Claimed (a)	Total Expenses Claimed (b)	Total GST Claimed (c)	Total Amount Claimed (d)	Total Fees Awarded (e)	Total Expenses Awarded (f)	Total GST Awarded (g)	Total Amount Awarded (h)
APPLICANTS								
AltaGas Utilities Inc.								
Energy Management & Regulatory Consulting Ltd.	\$22,320.00	\$0.00	\$0.00	\$22,320.00	\$22,320.00	\$0.00	\$0.00	\$22,320.00
Sub-Total	\$22,320.00	\$0.00	\$0.00	\$22,320.00	\$22,320.00	\$0.00	\$0.00	\$22,320.00
FortisAlberta Inc.								
Davis LLP	\$24,937.50	\$0.00	\$0.00	\$24,937.50	\$24,937.50	\$0.00	\$0.00	\$24,937.50
London Economics International	\$14,647.50	\$0.00	\$0.00	\$14,647.50	\$14,647.50	\$0.00	\$0.00	\$14,647.50
Sub-Total	\$39,585.00	\$0.00	\$0.00	\$39,585.00	\$39,585.00	\$0.00	\$0.00	\$39,585.00
ATCO Gas North & South								
Benett Jones LLP	\$45,143.50	\$1,086.12	\$0.00	\$46,229.62	\$23,782.00	\$1,086.12	\$0.00	\$46,229.62
Sub-Total	\$45,143.50	\$1,086.12	\$0.00	\$46,229.62	\$23,782.00	\$1,086.12	\$0.00	\$24,868.12
ATCO Electric Ltd.								
Benett Jones LLP	\$45,143.50	\$1,086.12	\$0.00	\$46,229.62	\$23,782.00	\$1,086.12	\$0.00	\$46,229.62
Sub-Total	\$45,143.50	\$1,086.12	\$0.00	\$46,229.62	\$23,782.00	\$1,086.12	\$0.00	\$24,868.12
EPCOR Distribution & Transmission								
Fasken Martineau DuMoulin LLP	\$27,160.00	\$162.00	\$0.00	\$27,322.00	\$27,160.00	\$162.00	\$0.00	\$27,322.00
Sub-Total	\$27,160.00	\$162.00	\$0.00	\$27,322.00	\$27,160.00	\$162.00	\$0.00	\$27,322.00
Sub-Total	\$179,352.00	\$2,334.24	\$0.00	\$181,686.24	\$136,629.00	\$2,334.24	\$0.00	\$138,963.24
INTERVENERS								
Consumers' Coalition of Alberta								
Wachowich & Company	\$7,927.50	\$0.00	\$396.38	\$8,323.88	\$7,927.50	\$0.00	\$396.38	\$8,323.88
Regulatory Services Inc.	\$17,125.00	\$51.30	\$858.82	\$18,035.12	\$17,125.00	\$51.30	\$858.82	\$18,035.12
Sub-Total	\$25,052.50	\$51.30	\$1,255.20	\$26,359.00	\$25,052.50	\$51.30	\$1,255.20	\$26,359.00
TOTAL INTERVENER COSTS	\$25,052.50	\$51.30	\$1,255.20	\$26,359.00	\$25,052.50	\$51.30	\$1,255.20	\$26,359.00
TOTAL INTERVENER AND APPLICANT COSTS	\$204,404.50	\$2,385.54	\$1,255.20	\$208,045.24	\$161,681.50	\$2,385.54	\$1,255.20	\$165,322.24

