



AltaGas Utilities Inc.

2008-2009 General Rate Application Phase I

Cost Awards



ALBERTA UTILITIES COMMISSION

Utility Cost Order 2010-001: AltaGas Utilities Inc.

2008-2009 General Rate Application Phase I

Application No. 1579247

Cost Application No. 1605469

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ALBERTA UTILITIES COMMISSION

Calgary, Alberta

**AltaGas Utilities Inc.
2008-2009 General Rate Application
Phase I**

**Utility Cost Order 2010-001
Application No. 1579247
Cost Application No. 1605469**

1 INTRODUCTION

1. AltaGas Utilities Inc. (AUI) filed a 2008-2009 general rate application (GRA) Phase I (Application), dated July 14, 2008, with the Alberta Utilities Commission (AUC or Commission). AUI filed updates to the Application on October 10, 2008 and on March 6, 2009.

2. The Commission dealt with the Application by way of an oral hearing held in Edmonton, Alberta in two parts before Commission members Mr. N. Allen Maydonik, Q.C., (Panel Chair), Mr. Tudor Beattie, Q.C., (Commissioner) and Mr. Mark Kolesar (Commissioner). The first part of the oral hearing was held on April 1 and April 2, 2009 and the second part was held on May 4 and May 5, 2009. Written argument and reply were filed on June 9, 2009 and June 26, 2009, respectively. As a result of submissions made subsequent to reply argument, the Commission allowed for additional process. Final submissions were made by parties in this regard on July 31, 2009, therefore the Commission considers the record for the proceeding to have closed on that date.

3. On October 29, 2009, the Commission issued Decision [2009-176](#) in respect of the Application.

4. On September 23, 2009, a summary of the costs being claimed was circulated to interested parties. Parties were advised that any comments regarding the figures listed in the summary or the merits of the total costs claimed were to be filed by October 7, 2009. The Commission did not receive any comments. Accordingly, the Commission considers, for the purposes of this Cost Order, the cost process to have closed on October 7, 2009.

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

5. In assessing a cost claim pursuant to section 21 of the *Alberta Utilities Commission Act*, the Commission applies Rule 022, *Rules on Intervener Costs* (Rule 022) when considering cost claims for applications filed prior to October 1, 2008. The Commission has assessed the costs claimed in respect of the Application in accordance with Rule 022 and the *Scale of Costs* in place at the time this Application was filed.

6. In exercising its discretion to award costs, the Commission will consider whether an eligible participant acted responsibly and contributed to a better understating 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.

7. 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.

8. 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 BUDGETS

9. By letter dated September 25, 2008, the Commission required registered parties to file budgets by January 15, 2009. The Commission received budget submissions from:

- AltaGas Utilities Inc. (AUI);
- Consumers' Coalition of Alberta (CCA); and
- Alberta Sugar Beet Growers and Potato Growers of Alberta (ASBG/PGA)

10. On January 30, 2009, the Commission responded to the budgets that were filed. The following table summarizes the budget submitted by AUI:

Table 1. AUI Budget Costs

	Legal Services (\$)	Expert Consultant Services (\$)	Forecast Disbursements (\$)	General Consultant Services (\$)	Total Professional Services Estimate (\$)
AUI	143,494	0	11,529	146,908	\$301,931.00

11. The following table summarizes the budgets submitted by the interveners:

Table 2. Intervenors Budget Costs

	Legal Services (\$)	Expert Consultant Services (\$)	General Consultant Services (\$)	Forecast Disbursements (\$)	Total Intervener Budgeted Estimates (\$)
CCA	32,450	0	35,000	0	67,450
ASBG/PGA	0	0	31,590	3,500	35,090
TOTAL	\$ 32,450	\$ 0	\$ 66,590	\$ 3,500	\$ 102,540

12. In reviewing the budget submissions of the parties, the Commission provided the following comments:

3.1 AltaGas Utilities Inc.

13. The Commission noted that AUI's submissions of costs in the budget were within the *Scale of Costs* set out in Rule 022. However, in comparison to the approved AUI 2007 GRA Phase I cost awards, the Commission considered that AUI's budgeted hours appeared to have increased despite the similarity of scope between the two proceedings.

14. In correspondence dated February 12, 2009, AUI responded to the Commission's comments. AUI submitted that the scope of the 2008-2009 GRA differed in both substantive and procedural ways from the 2007 GRA. AUI noted that this proceeding was addressing two test years, and that additional evidence had been filed by both AUI and interveners. AUI also noted that the proceeding involved numerous interlocutory motions, as well as a split hearing to deal with two separate modules.

3.2 Consumers' Coalition of Alberta

15. The Commission considered the time that CCA had assigned to the issue of Income Taxes appeared to be high, but noted that the total consultant and legal hours allocated to this proceeding appeared to be similar to the hours allowed for AUI's 2007 GRA Phase I.

16. In correspondence dated February 12, 2009, CCA advised the Commission that as a result of the filing of CCA evidence, CCA was updating its budget by adding 25 hours to its consultant's budget and noting that its legal counsel time may increase on certain line items.

3.3 Alberta Sugar Beet Growers/Potato Growers of Alberta

17. The Commission stated that based on the limited budget submission by ASBG/PGA, there appeared to be duplication between ASBG/PGA and the CCA. Further, when comparing ASBG/PGA hours and ranking of issues, the Commission was not clear whether the ranking of issues had influenced ASBG/PGA's intervention in this proceeding.

4 COST CLAIMS

18. Various participants submitted cost claims totaling \$405,391.34 including actual GST of \$4,268.51 with respect to the proceeding. The claims submitted by the parties are detailed below under Section 5 – "Commission Findings". As noted above, the Commission requested comments from parties on September 23, 2009.

5 COMMISSION FINDINGS

5.1 AltaGas Utilities Inc.

19. AUI submitted a cost claim totaling \$253,635.91. The claim was comprised of legal fees incurred by Stikeman Elliot LLP in the amount of \$126,594.20, together with disbursements of \$6,090.31; consulting fees incurred by KPMG LLP in the amount of \$94,157.20, together with disbursements of \$892.67; consulting fees incurred by Gannett Fleming in the amount of \$9,920.00; Jared Green of AltaGas Utility Group Inc. in the amount of \$984.97 for disbursements; and internal costs in the amount of \$14,996.56 for transcripts, publication of notice costs, and meeting rooms.

20. The Commission has considered the costs submitted by AUI and notes that these costs are below AUI's budgeted amount of \$301,931.00. The Commission finds that the participation

of the AUI was, for the most part, effective and of assistance in reviewing the Application. The Commission acknowledges AUI's submissions regarding the differences between the 2007 GRA proceeding and the 2008-2009 GRA proceeding. The Commission notes the scope and complexity of the issues before it and the extent of the examination thereof. The Commission also notes that the claims for professional fees and other claims were made in accordance with the *Scale of Costs*. Accordingly, the Commission considers the claims for fees, disbursements and applicable GST to be reasonable and approves the total amount of \$253,635.91.

5.2 Consumers' Coalition of Alberta

21. CCA submitted a cost claim totaling \$89,638.52. The claim is comprised of legal fees incurred by Nancy J. McKenzie Professional Corporation in the amount of \$17,025.00, together with disbursements and GST of \$67.90 and \$854.65, respectively; legal fees incurred by Wachowich & Company in the amount of \$20,597.50, together with disbursements and GST in the amount of \$2,112.29 and \$1,135.49, respectively; consulting fees incurred by Energy Management & Regulatory Consulting Ltd. in the amount of \$2,418.75, together with GST in the amount of \$120.94; and consulting fees incurred by Professional Regulatory Services Inc. in the amount of \$43,120.00, together with disbursements and GST of \$28.57 and \$2,157.43, respectively.

22. The Commission notes CCA claimed in excess of the applicable *Scale of Costs* for Wachowich & Company. As the Application was filed with the Commission on July 14, 2008, consistent with Commission practice, the Commission has assessed the claims based on Rule 022 and the *Scale of Costs* in force at that time.

23. Mr. Wachowich claimed 74.9 hours at the hourly rate of \$275.00 (\$20,597.50). Based on Mr. Wachowich's experience, the applicable *Scale of Costs* allows for a maximum hourly rate of \$250.00, which for 74.9 hours results in a total of \$18,725.00. The total claim for the CCA when reduced in accordance with the applicable *Scale of Costs* is \$87,766.02. The Commission considers that the Statement of Justification submitted with CCA's cost claim did not provide sufficient basis to justify a rate above the applicable *Scale of Costs*.

24. CCA's cost claim was higher than its revised budget with regard to the fees claimed. The Commission examined the justification provided for these costs to determine whether the additional costs were warranted and reasonable, and acknowledges CCA's submissions regarding the addition of Ms. McKenzie's legal services.

25. The Commission approves the costs for CCA as reduced in accordance with the applicable *Scale of Costs*, in the amount of \$87,766.02.

5.3 Alberta Sugar Beet Growers/Potato Growers of Alberta

26. ASBG/PGA submitted a cost claim totaling \$62,116.91. The claim is comprised of consulting fees incurred by Unryn & Associates in the amount of \$58,950.00, together with disbursements of \$3,166.91.

27. The Commission has considered ASBG/PGA's submission that it had collaborated with CCA to avoid duplication. Having considered the issues that ASBG/PGA indicated it focused on, the Commission finds that this co-operation was for the most part effective. However, in assessing the ASBG/PGA cost claim the Commission notes that ASBG/PGA addressed a relatively limited number of issues in relation to the number of hours (235.8) claimed. In

addition, ASBG/PGA stated that it expended “significant additional effort” on the issue of AUI’s short term debt financing, which was also extensively addressed by the UCA.

28. The Commission also notes that the claim submitted by ASBG/PGA was higher than its budgeted amount of \$35,090.00. The Commission has considered the justifications provided for these increased costs to determine whether the additional costs were warranted and reasonable, including ASPG/PGA’s comments regarding the additional time required to analyze AUI’s proposal for carrying charges which was filed after budget submissions were made. The Commission has considered these justifications but is not persuaded that these factors are sufficient to justify all of the costs above ASBG/PGA’s budgeted amount.

29. The Commission considers that ASBG/PGA’s participation was of some assistance in this proceeding but that some reduction to the costs claimed is warranted.

30. For the foregoing reasons, the Commission considers a percentage reduction of 15% (or \$8,842.50) to consulting fees is reasonable. Therefore, the Commission approves consulting fees in the amount of \$50,107.50. The Commission considers disbursements incurred by Unryn & Associates in the amount of \$3,166.91 to be reasonable and the disbursements are approved in full. Accordingly, the Commission approves ASBG/PGA’s cost claim in the amount of \$53,274.41.

6 GST

31. In accordance with the Commission's treatment of the GST on cost awards, AUI is required to pay only that portion of the GST paid by interveners that may not be recoverable through the GST credit mechanism. Accordingly where parties are eligible for a GST credit the Commission has reduced this particular portion of their claim. Eligible GST approved by the Commission amounts to \$4,268.51. The GST allowed by the Commission may also be charged against AUI’s Hearing Cost Reserve Account.

32. The Commission emphasizes that its treatment of the GST claimed in no way relieves participants or their lawyers and consultants from their GST obligations pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15.

7 ORDER

IT IS HEREBY ORDERED:

1. AltaGas Utilities Inc. shall pay intervener costs in the amount of \$141,040.43 as set out in column (h) of [Appendix A](#).
2. AltaGas Utilities Inc. external costs in the amount of \$253,635.91 as set out in column (h) of [Appendix A](#), are approved.
3. AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$394,676.34 as set out in column (h) of [Appendix A](#).

Dated in Calgary, Alberta on this 5th day of January, 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

N. Allen Maydonik, Q.C.
Panel Chair

(Original signed by)

Mark Kolesar
Commissioner

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A

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**AltaGas Utilities
Cost Application No. 1605469**

**2008/2009 General Tariff Application Phase 1
(1579247)**

Total Costs Claimed

	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)
APPLICANT								
AltaGas Utilities Inc.								
AltaGas Utilities Inc.	\$0.00	\$14,996.56	\$0.00	\$14,996.56	\$0.00	\$14,996.56	\$0.00	\$14,996.56
Stikeman Elliot LLP	\$126,594.20	\$6,090.31	\$0.00	\$132,684.51	\$126,594.20	\$6,090.31	\$0.00	\$132,684.51
KPMG LLP	\$94,157.20	\$892.67	\$0.00	\$95,049.87	\$94,157.20	\$892.67	\$0.00	\$95,049.87
Jared Green - AltaGas Utility Group Inc.	\$0.00	\$984.97	\$0.00	\$984.97	\$0.00	\$984.97	\$0.00	\$984.97
Gannet Fleming	\$9,920.00	\$0.00	\$0.00	\$9,920.00	\$9,920.00	\$0.00	\$0.00	\$9,920.00
Sub-Total	\$230,671.40	\$22,964.51	\$0.00	\$253,635.91	\$230,671.40	\$22,964.51	\$0.00	\$253,635.91
INTERVENERS								
Consumers' Coalition of Alberta								
Nancy J. McKenzie Professional Corporation	\$17,025.00	\$67.90	\$854.65	\$17,947.55	\$17,025.00	\$67.90	\$854.65	\$17,947.55
Regulatory Consulting Ltd.	\$2,418.75	\$0.00	\$120.94	\$2,539.69	\$2,418.75	\$0.00	\$120.94	\$2,539.69
Professional Regulatory Services Inc.	\$43,120.00	\$28.57	\$2,157.43	\$45,306.00	\$43,120.00	\$28.57	\$2,157.43	\$45,306.00
Wachowich & Company	\$20,597.50	\$2,112.29	\$1,135.49	\$23,845.28	\$18,725.00	\$2,112.29	\$1,135.49	\$21,972.78
Sub-Total	\$83,161.25	\$2,208.76	\$4,268.51	\$89,638.52	\$81,288.75	\$2,208.76	\$4,268.51	\$87,766.02
Alberta Sugar Beet Growers/Potato Growers of Alberta								
Unryn & Associates Ltd.	\$58,950.00	\$3,166.91	\$0.00	\$62,116.91	\$50,107.50	\$3,166.91	\$0.00	\$53,274.41
Sub-Total	\$58,950.00	\$3,166.91	\$0.00	\$62,116.91	\$50,107.50	\$3,166.91	\$0.00	\$53,274.41
TOTAL INTERVENER COSTS	\$142,111.25	\$5,375.67	\$4,268.51	\$151,755.43	\$131,396.25	\$5,375.67	\$4,268.51	\$141,040.43
TOTAL INTERVENER AND APPLICANT COSTS	\$372,782.65	\$28,340.18	\$4,268.51	\$405,391.34	\$362,067.65	\$28,340.18	\$4,268.51	\$394,676.34