



AUC

Alberta Utilities Commission

ATCO Utilities

(ATCO Gas, ATCO Pipelines and ATCO Electric Ltd.)

**2008-2009 Evergreen Application
Compliance Filing to Decision 2011-228**

Cost Awards

January 25, 2012

The Alberta Utilities Commission
Decision 2012-031: ATCO Utilities
2008-2009 Evergreen Application
Compliance Filing to Decision 2011-228
Application Nos. 1607769, 1607851
Proceeding ID No. 1499

January 25, 2012

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1 Introduction

1. On February 21, 2008 ATCO Gas, ATCO Pipelines¹ and ATCO Electric² acting collectively as the ATCO Utilities (ATCO or ATCO Utilities), filed an application (Original Application) with the Alberta Utilities Commission (Commission or AUC) to true-up 2003-2007 revenue requirement placeholders for information technology (IT) services and customer care and billing (CC&B) services. In Decision 2010-102,³ the Commission accepted a price benchmarking report (Benchmark Report)⁴ filed by ATCO Utilities.

2. Included with the Benchmark Report as Attachment C, but not before the Commission for approval in Decision 2010-102 was a document containing an “Evergreen Strategy” designed to ensure that pricing for IT services provided to ATCO Utilities by ATCO I-Tek Inc. (I-Tek) and CC&B services provided to ATCO Utilities by ATCO I-Tek Business Services Ltd, (ITBS) remained aligned to the market in future years without having to periodically conduct complex benchmarks.⁵

3. On October 3, 2008, ATCO Utilities filed the 2008-2009 Evergreen Phase I application⁶ (2008-2009 Evergreen Application) with the Commission. The 2008-2009 Evergreen Application related primarily to IT and CC&B services provided to ATCO Utilities by I-Tek and ITBS during the 2008 and 2009 test years.

4. On May 26, 2011 the Commission issued Decision 2011-228⁷ dealing with the 2008-2009 Evergreen Application.

¹ ATCO Gas and ATCO Pipelines are each operating divisions of ATCO Gas and Pipelines Ltd.

² ATCO Electric Ltd.

³ Decision 2010-102: ATCO Utilities (ATCO Gas, ATCO Pipelines and ATCO Electric Ltd.), 2003-2007 Benchmarking and ATCO I-Tek Placeholders True-Up, Application No. 1562012, Proceeding ID. 32, March 8, 2010.

⁴ In ATCO Utilities 2003-2007 Benchmarking and I-Tek Placeholders True-Up, Application No. 1562012, Proceeding ID No. 32, ATCO Utilities filed two versions of the Benchmark Report, those being a redacted version and a confidential full unredacted version.

⁵ ATCO Utilities 2003-2007 Benchmarking and I-Tek Placeholders True-Up, Application No. 1562012, Proceeding ID No. 32, Exhibit 2.01, Price Benchmark Report, AEUB Sanctioned Collaborative Process Committee Benchmarking of IT and Customer Care & Billing Services from ATCO I-Tek, Attachment B, page 16.

⁶ Application No. 1577426, Proceeding ID. 77.

⁷ Decision 2011-228: ATCO Utilities (ATCO Gas, ATCO Pipelines and ATCO Electric) 2008-2009 Evergreen Application, Application No. 1577426, Proceeding ID. 77, May 27, 2011.

5. On June 30, 2011, ATCO Utilities submitted a compliance application⁸ (Compliance Application) based on the directions issued in Decision 2011-228 and subsequently filed updates for schedules 1 and 12 on July 14, 2011.
6. The Commission dealt with the Compliance Application by way of written proceeding. On December 12, 2011 the Commission issued Decision 2011-485. This cost awards decision relates to the costs claimed in relation to the Compliance Application.
7. A cost claim was submitted by ATCO Utilities on October 14, 2011 and the Commission issued a summary of the costs on that same day which was circulated to interested parties.
8. By letter dated October 31, 2011 the City of Calgary (Calgary) filed a cost claim and the Commission published a revised summary of costs on November 4, 2011. The Commission did not receive any comments on the revised summary of costs. In response to a request from the Commission, clarification of the Calgary cost order was received on January 23, 2012. Accordingly, the Commission considers the cost process to have closed on January 23, 2012.

2 Views of the Commission – Authority to Award Costs

9. When assessing a cost claim pursuant to Section 21 of the *Alberta Utilities Commission Act* (AUC Act), the Commission applies Rule 022, *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022). The 2008-2009 Evergreen Application is one in a series of applications that arose out of the filing of the Original Application filed on February 21, 2008. When considering cost claims associated with applications filed prior to October 1, 2008, the Commission assesses the costs claimed in accordance with Rule 022 and the *Scale of Costs* in place at that time. Accordingly, the Commission has assessed the cost claims filed with respect to the Compliance Application in accordance with Rule 022 as it existed on February 21, 2008.
10. 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.
11. 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.
12. 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

⁸ Application 1607460, Proceeding ID. 1321

such, the Commission only approves those costs that are reasonable and directly and necessarily related to the party's participation in the proceeding.

3 Views of the Commission – Assessment

3.1 ATCO Utilities

13. ATCO Utilities submitted a cost claim totaling \$9,769.73. Included in this amount were the costs claimed for legal services of Bennett Jones LLP in the amount of \$1,785.00 and GST in the amount of \$89.25; also included were the costs claimed for consulting services of Compass Management Consulting Ltd. in the amount of \$7,519.50, together with GST in the amount of \$375.98.

14. The Commission has considered the costs submitted by ATCO Utilities. The Commission finds that the participation of ATCO Utilities was effective and of assistance in reviewing the Compliance Application. The Commission also notes that the claims for professional fees were not in accordance with the *Scale of Costs* as it existed as of February 21, 2008. Accordingly, the Commission has reduced the costs claimed in accordance with the allowed *Scale of Costs*. The cost claim in respect of Bennett Jones LLP of \$1,785.00 is reduced to \$1,275.00. The cost claim in respect to Compass Management Consulting Ltd. of \$7,519.50 is reduced to \$6,965.00. The Commission notes that ATCO Utilities has claimed \$465.23 in GST, and as the Applicant, it is not entitled to GST. Therefore, the Commission denies this portion of its claim. Accordingly, the Commission considers ATCO Utilities' claim for fees in the total amount of \$8,240.00 to be reasonable.

15. ATCO Utilities proposed the following allocation of its costs: 40% to ATCO Electric, 20% to each ATCO Gas North and ATCO Gas South, and 10% to each ATCO Pipelines North and ATCO Pipelines South in accordance with past practice. The Commission accepts the proposed allocation as reasonable.

3.2 The City of Calgary

16. Calgary submitted a cost claim totaling \$5,467.14. The claim is comprised of legal fees incurred by McLennan Ross LLP in the amount of \$2,606.00, together with disbursements in the amount of \$0.80, and GST in the amount of \$130.30; consulting fees incurred by Stephens Consulting Ltd. in the amount of \$1,100.00, and GST in the amount of \$55.00; and consulting fees incurred by Stephen Johnson in the amount of \$1,500.00, and GST in the amount of \$75.00.

17. The Commission has considered the costs submitted by Calgary. The Commission finds that the participation of Calgary was effective and of assistance in reviewing the Compliance Application. The Commission also notes that the claim for professional fees with respect to McLennan Ross LLP was not in accordance with the *Scale of Costs* as it existed as of February 21, 2008. Accordingly, the Commission has reduced the costs claimed in accordance with the allowed *Scale of Costs*. The cost claim in respect of McLennan Ross LLP of \$2,606.00 is reduced to \$2,300.00. The Commission understands that Calgary is entitled to 42.86% of its GST claim given that 57.14% of GST is refunded to Calgary under the GST credit mechanism. Therefore, Calgary's GST claim of \$260.30 is reduced to \$105.00. Accordingly, the Commission considers Calgary's claim for fees, disbursements and applicable GST in the total amount of \$5,005.80 to be reasonable.

18. Calgary did not propose any allocation for its costs, therefore the Commission will allocate the approved costs in the same manner as the approved costs of ATCO Utilities.

4 GST

19. In accordance with the Commission's treatment of the GST on cost awards, ATCO Utilities 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 \$105.00 The GST allowed by the Commission may also be charged against each utility's respective Hearing Cost Reserve Account.

20. 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.

5 Order

It is hereby ordered that:

1. ATCO Electric shall pay intervener costs in the amount of \$2,002.32, as set out in column (h) of [Appendix A](#).
2. ATCO Electric external costs in the amount of \$3,295.00 as set out in column (h) of [Appendix A](#), are approved.
3. ATCO Electric shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$5,297.32, as set out in column (h) of [Appendix A](#).
4. ATCO Gas North shall pay intervener costs in the amount of \$1,001.16, as set out in column (h) of [Appendix A](#).
5. ATCO Gas North external costs in the amount of \$1,647.50 as set out in column (h) of [Appendix A](#), are approved.
6. ATCO Gas North shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$2,648.66, as set out in column (h) of [Appendix A](#).
7. ATCO Gas South shall pay intervener costs in the amount of \$1,001.16, as set out in column (h) of [Appendix A](#).
8. ATCO Gas South external costs in the amount of \$1,647.50 as set out in column (h) of [Appendix A](#), are approved.

9. ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$2,648.66 as set out in column (h) of [Appendix A](#).
10. ATCO Pipelines North shall pay intervener costs in the amount of \$500.58, as set out in column (h) of [Appendix A](#).
11. ATCO Pipelines North external costs in the amount of \$825.00 as set out in column (h) of [Appendix A](#), are approved.
12. ATCO Pipelines North shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$1,325.58, as set out in column (h) of [Appendix A](#).
13. ATCO Pipelines South shall pay intervener costs in the amount of \$500.58, as set out in column (h) of [Appendix A](#).
14. ATCO Pipelines South external costs in the amount of \$825.00 as set out in column (h) of [Appendix A](#), are approved.
15. ATCO Pipelines South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$1,325.58, as set out in column (h) of [Appendix A](#).

January 25, 2012.

The Alberta Utilities Commission

<original signed by>

Willie Grieve, QC.
Chair

<original signed by>

Anne Michaud
Commission Member

<original signed by>

Bill Lyttle
Commission Member

ATCO Utilities
Cost Application Nos. 1607769 1607851

2008-2009 Evergreen Application Compliance
Filing to Decision 2011-228

Costs Claimed and 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)
APPLICANT								
ATCO Electric								
Bennett Jones	\$714.00	\$0.00	\$35.70	\$749.70	\$510.00	\$0.00	\$0.00	\$510.00
Compass Management Consulting Ltd.	\$3,007.80	\$0.00	\$150.39	\$3,158.19	\$2,785.00	\$0.00	\$0.00	\$2,785.00
Sub-Total	\$3,721.80	\$0.00	\$186.09	\$3,907.89	\$3,295.00	\$0.00	\$0.00	\$3,295.00
Amount of Intervener Costs				\$2,186.84				\$2,002.32
Amount to be recorded in Hearing Cost Reserve Account				\$6,094.73				\$5,297.32
ATCO Gas North								
Bennett Jones	\$357.00	\$0.00	\$17.85	\$374.85	\$255.00	\$0.00	\$0.00	\$255.00
Compass Management Consulting Ltd.	\$1,503.90	\$0.00	\$75.20	\$1,579.10	\$1,392.50	\$0.00	\$0.00	\$1,392.50
Sub-Total	\$1,860.90	\$0.00	\$93.05	\$1,953.95	\$1,647.50	\$0.00	\$0.00	\$1,647.50
Amount of Intervener Costs				\$1,093.42				\$1,001.16
Amount to be recorded in Hearing Cost Reserve Account				\$3,047.37				\$2,648.66
ATCO Gas South								
Bennett Jones	\$357.00	\$0.00	\$17.85	\$374.85	\$255.00	\$0.00	\$0.00	\$255.00
Compass Management Consulting Ltd.	\$1,503.90	\$0.00	\$75.20	\$1,579.10	\$1,392.50	\$0.00	\$0.00	\$1,392.50
Sub-Total	\$1,860.90	\$0.00	\$93.05	\$1,953.95	\$1,647.50	\$0.00	\$0.00	\$1,647.50
Amount of Intervener Costs				\$1,093.42				\$1,001.16
Amount to be recorded in Hearing Cost Reserve Account				\$3,047.37				\$2,648.66
ATCO Pipelines North								
Bennett Jones	\$178.50	\$0.00	\$8.93	\$187.43	\$127.50	\$0.00	\$0.00	\$127.50
Compass Management Consulting Ltd.	\$751.95	\$0.00	\$37.60	\$789.55	\$697.50	\$0.00	\$0.00	\$697.50
Sub-Total	\$930.45	\$0.00	\$46.52	\$976.98	\$825.00	\$0.00	\$0.00	\$825.00
Amount of Intervener Costs				\$546.71				\$500.58
Amount to be recorded in Hearing Cost Reserve Account				\$1,523.69				\$1,325.58
ATCO Pipelines South								
Bennett Jones	\$178.50	\$0.00	\$8.93	\$187.43	\$127.50	\$0.00	\$0.00	\$127.50
Compass Management Consulting Ltd.	\$751.95	\$0.00	\$37.60	\$789.55	\$697.50	\$0.00	\$0.00	\$697.50
Sub-Total	\$930.45	\$0.00	\$46.52	\$976.98	\$825.00	\$0.00	\$0.00	\$825.00
Amount of Intervener Costs				\$546.71				\$500.58
Amount to be recorded in Hearing Cost Reserve Account				\$1,523.69				\$1,325.58
INTERVENERS								
The City of Calgary								
McLennan Ross LLP	\$2,606.00	\$0.80	\$130.30	\$2,737.10	\$2,300.00	\$0.80	\$49.29	\$2,350.09
Stephens Consulting Ltd.	\$1,100.00	\$0.00	\$55.00	\$1,155.00	\$1,100.00	\$0.00	\$23.57	\$1,123.57
Stephens Johnson	\$1,500.00	\$0.00	\$75.00	\$1,575.00	\$1,500.00	\$0.00	\$32.14	\$1,532.14
Sub-Total	\$5,206.00	\$0.80	\$260.30	\$5,467.10	\$4,900.00	\$0.80	\$105.00	\$5,005.80
TOTAL INTERVENER COSTS	\$5,206.00	\$0.80	\$260.30	\$5,467.10	\$4,900.00	\$0.80	\$105.00	\$5,005.80
TOTAL INTERVENER AND APPLICANT COSTS	\$14,510.50	\$0.80	\$725.53	\$15,236.85	\$13,140.00	\$0.80	\$105.00	\$13,245.80