



ATCO Gas

2008-2009 General Rate Application Phase I
Second Compliance Filing

Cost Awards



ALBERTA UTILITIES COMMISSION

Utility Cost Order 2010-024: ATCO Gas

2008-2009 General Rate Application Phase I Second Compliance Filing

Application No. 1605412

Cost Application No. 1605807

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**ATCO Gas
2008-2009 General Rate Application Phase I
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1 INTRODUCTION

1. ATCO Gas (AG) filed its 2008-2009 General Rate Application – Second Refiling (Second Compliance Filing or Application) on September 1, 2009 with the Alberta Utilities Commission (AUC or Commission) pursuant to Decision [2009-109](#).¹
2. In its Second Compliance Filing, AG provided a summary of capital adjustments and operating and maintenance (O&M) adjustments which summarized the impact on capital expenditures and O&M expenses based on specific Commission Directions from Decision 2009-109.
3. By letter dated October 27, 2009, AG submitted an update to its Application which proposed to correct information technology capital updates and to annualize the 2009 transmission charge rate change for rate design purposes (Compliance Update). By letter on dated October 29, 2009 the Commission allowed AG to amend its Application by way of the Compliance Update, but considered that in order to provide a fair and transparent process, parties should have the opportunity to review and test the Compliance Update.
4. On November 27, 2009 AG proposed to file updated revenue requirement schedules reflecting the impact of the [Generic Cost of Capital Decision](#)², on its 2008-2009 revenue requirements in this proceeding, rather than initiate a separate compliance process.
5. The Commission dealt with this Application by way of a written proceeding. On January 13, 2010, the Commission issued Decision [2010-025](#)³ with respect to the Application.
6. On January 20, 2010, 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 February 3, 2010. 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 February 3, 2010.

¹ Decision 2009-109 – ATCO Gas 2008-2009 General Rate Application Phase I Compliance Filing (Application No. 1603068) (Proceeding ID. 154) (Released: July 28, 2009).

² Decision 2009-216 – 2009 Generic Cost of Capital (Application No. 1578571) (Proceeding ID. 85) (Released: November 12, 2009).

³ Decision 2010-025 – ATCO Gas – 2008-2009 General Rate Application Phase I – Second Compliance Filing (Application No. 1605412) (Proceeding ID. 294) (Released: January 13, 2010).

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

7. When assessing a cost claim pursuant to Section 21 of the *Alberta Utilities Commission Act*, the Commission applies Rule 022, *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022). Rule 022 was revised on September 30, 2008. As the filing of this Application with the Commission was on September 1, 2009, the Commission has assessed the costs claimed in accordance with the provisions of the current Rule 022.

8. In exercising its discretion to award costs, the Commission will, in accordance with section 11 of 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.

9. 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.

10. 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 VIEWS OF THE COMMISSION – ASSESSMENT

11. The Commission received a cost claim from ATCO Gas totaling \$16,695.36. The claim is comprised of legal fees incurred by Bennett Jones LLP in the amount of \$16,438.00, together with disbursements of \$257.36. The costs submitted by AG were allocated equally among ATGO Gas North and ATCO Gas South.

12. The Commission has considered the costs submitted by AG. The Commission finds that the participation of AG was, for the most part, effective and of assistance in reviewing the Application. The Commission also notes that the claims for professional fees and other claims were in accordance with the *Scale of Costs*. Accordingly, the Commission considers the claims for fees, disbursements and applicable GST for AG to be reasonable in the total amount of \$16,695.36.

4 GST

13. In accordance with the Commission's treatment of the GST on cost awards, AG 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 \$0.00. The GST allowed by the Commission may also be charged against AG's Hearing Cost Reserve Account.

14. 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:

1. ATCO Gas's external costs in the amount of \$16,695.36 are approved.
2. ATCO Gas North shall record in its Hearing Cost Reserve Account the allowed external applicant costs in the amount of \$8,347.68.
3. ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed external applicant costs in the amount of \$8,347.68.

Dated on April 13, 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

Willie Grieve
Chair

(Original signed by)

N. Allen Maydonik, Q.C.
Commissioner

(Original signed by)

Bill Lyttle
Commissioner