



AltaGas Utilities Inc.

Issue of Common Shares to AltaGas Utility Holdings Inc.

Cost Awards



ALBERTA UTILITIES COMMISSION

Utility Cost Order 2010-035: AltaGas Utilities Inc.
Issue of Common Shares to AltaGas Utility Holdings Inc.
Application No. 1605820
Cost Application No. 1606078

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Contents

1 INTRODUCTION..... 1

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS 1

3 VIEWS OF THE COMMISSION – ASSESSMENT..... 2

4 GST..... 2

5 ORDER 2

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**AltaGas Utility Inc.
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1 INTRODUCTION

1. AltaGas Utilities Inc. (AUI) applied to the Alberta Utilities Commission (AUC or Commission) under section 26(2)(a) of the *Gas Utilities Act* to issue up to 572,120 Class “A” Common Shares (Shares) at a price of \$30.0636 per share to AltaGas Utility Holding Inc. (AUHI) for the maximum aggregate consideration of \$17,200,000 (Application).

2. The Commission dealt with this Application by way of a written proceeding. On March 4, 2010, the Commission issued Decision [2010-101](#)¹ with respect to the Application.

3. On April 12, 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 April 26, 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 April 26.

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

4. 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).

5. 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.

6. 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.

¹ Decision 2010-101: AUI – Issue of Common Shares to AltaGas Utility Holdings Inc. (Application No. 1605820, Proceeding ID. 466) (Released: March 4, 2010).

7. 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

8. AUI submitted a cost claim totaling \$2,610.75. The claim is comprised of legal fees incurred by MacPherson Leslie & Tyerman LLP in the amount of \$2,524.00, together with disbursements of \$86.75.

9. The Commission has considered the costs submitted by AUI. The Commission finds that the participation of AUI was 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 AUI's claims for fees and disbursements in the total amount of \$2,610.75 to be reasonable.

4 GST

10. 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 \$0.00. The GST allowed by the Commission may also be charged against AUI's Hearing Cost Reserve Account.

11. 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. AltaGas Utilities Inc.'s external costs in the amount of \$2,610.75 are approved.
2. AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$2,610.75.

Dated on June 25, 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

Mark Kolesar
Commissioner