



AltaGas Utilities Inc.

2009 Interim Refundable Rates

Cost Awards



ALBERTA UTILITIES COMMISSION

Utility Cost Order 2009-026: AltaGas Utilities Inc.

2009 Interim Refundable Rates

Application No. 1598641

Cost Application No. 1604816

Published by

Alberta Utilities Commission

Fifth Avenue Place, 4th Floor, 425 - 1 Street SW

Calgary, Alberta

T2P 3L8

Telephone: (403) 592-8845

Fax: (403) 592-4406

Web site: www.auc.ab.ca

Contents

1 INTRODUCTION..... 1

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS 1

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

3.1 AltaGas Utilities Inc..... 2

3.2 Consumers’ Coalition of Alberta 2

4 GST..... 2

5 ORDER 3

APPENDIX A – Summary of Costs Claimed and Awarded..... 4

ALBERTA UTILITIES COMMISSION

Calgary, Alberta

**AltaGas Utilities Inc.
2009 Interim Refundable Rates**

**Utility Cost Order 2009-026
Application No. 1598641
Cost Application No. 1604816**

1 INTRODUCTION

1. AltaGas Utilities Inc. (AUI) filed an application dated December 10, 2008 (Application), with the Alberta Utilities Commission (AUC or the Commission) requesting approval for interim refundable rates to be implemented February 1, 2009. AUI requested an increase to all delivery rates of 10.065% to recover 50% of the 2009 adjusted revenue deficiency of \$6,909,795 (2009 Adjusted Deficiency). The 2009 Adjusted Deficiency was estimated on the basis of AUI's 2008/2009 Phase I General Tariff Application Update Filing, adjusted as required to take into account the subsequent change in AUI's rates that took effect November 1, 2008, pursuant to AUC Decision [2008-103](#).

2. The Commission dealt with this Application by way of written process. On February 11, 2009, the Commission issued Decision [2009-024](#) in respect of the Application.

3. On February 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 March 9, 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 March 9, 2009.

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*, 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 Application was filed on December 10, 2008, the Commission has assessed the costs claimed in accordance with the provisions of the revised 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.

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. The Commission received cost claims from AUI and the Consumers' Coalition of Alberta (CCA) in the amount of \$11,469.22.

3.1 AltaGas Utilities Inc.

9. AUI's cost claim was comprised of legal fees incurred by MacPherson Leslie & Tyerman LLP in the amount of \$7,105.00, together with disbursements of \$113.82.

10. The Commission has considered the costs submitted by AUI, and in particular AUI's statement in its Cost Claim Submission of Justification that: "Company staff and legal counsel worked together in a manner that avoided inefficiencies and the duplication of costs."

11. While the Application was opposed and therefore required some process to conclude, AUI's cost claim is considerably higher than the norm for an applicant supporting an interim rates application. Further, the Commission considers that the issues addressed in the Application were not more complex than is usual for an interim rates application. As a result, the Commission is not persuaded that the external costs incurred by AUI for legal counsel are warranted.

12. Accordingly, the Commission finds that a percentage reduction of 40% (or \$2,842.00) to the legal fees is reasonable and therefore approves legal fees in the amount of \$4,263.00. The Commission considers the claim for disbursements in the amount of \$113.82 to be reasonable. Accordingly, the Commission approves AUI's cost claim in the amount of \$4,376.82.

3.2 Consumers' Coalition of Alberta

13. The CCA submitted a cost claim in the amount of \$4,250.40. The cost claim was comprised of legal fees incurred by Wachowich & Company in the amount of \$1,488.00, together with GST of \$74.40; and consulting fees incurred by Regulatory Services Inc. in the amount of \$2,560.00, together with GST of \$128.00.

14. The Commission has reviewed the CCA's claims and considers the amounts claimed to be reasonable. Accordingly, the Commission approves the CCA's cost claim in the full amount of \$4,250.40.

4 GST

15. 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 \$202.40. The GST allowed by the Commission may also be charged against AUI's Hearing Cost Reserve Account.

16. 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. shall pay intervener costs in the amount of \$4,250.40, as shown in [Appendix A](#).
2. AltaGas Utilities Inc. external costs in the amount of \$4,376.82 are approved, as shown in [Appendix A](#).
3. AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$8,627.22, as shown in [Appendix A](#).

Dated in Calgary, Alberta on this 3rd day of June, 2009.

ALBERTA UTILITIES COMMISSION

(original signed by)

Anne Michaud
Panel Chair

(original signed by)

N. Allen Maydonik, Q.C.
Commissioner

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A

[\(Back to Table of Contents\)](#)

**AltaGas Utilities Inc.
Cost Application No. 1604816**

**2009 Interim Refundable Rates
(1598641)**

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								
AltaGas Utilities Inc.								
MacPherson, Leslie Tyerman LLP	\$7,105.00	\$113.82	\$0.00	\$7,218.82	\$4,263.00	\$113.82	\$0.00	\$4,376.82
Sub-Total	\$7,105.00	\$113.82	\$0.00	\$7,218.82	\$4,263.00	\$113.82	\$0.00	\$4,376.82
INTERVENERS								
Consumers' Coalition of Alberta								
Wachowich & Company	\$1,488.00	\$0.00	\$74.40	\$1,562.40	\$1,488.00	\$0.00	\$74.40	\$1,562.40
Regulatory Services, Inc.	\$2,560.00	\$0.00	\$128.00	\$2,688.00	\$2,560.00	\$0.00	\$128.00	\$2,688.00
Sub-Total	\$4,048.00	\$0.00	\$202.40	\$4,250.40	\$4,048.00	\$0.00	\$202.40	\$4,250.40
TOTAL INTERVENER COSTS								
	\$4,048.00	\$0.00	\$202.40	\$4,250.40	\$4,048.00	\$0.00	\$202.40	\$4,250.40
TOTAL INTERVENER AND APPLICANT COSTS								
	\$11,153.00	\$113.82	\$202.40	\$11,469.22	\$8,311.00	\$113.82	\$202.40	\$8,627.22