



## ATCO Gas

2008-2009 General Rate Application  
Phase I Compliance Filing

Cost Awards



**ALBERTA UTILITIES COMMISSION**

Utility Cost Order 2009-045: ATCO Gas

2008-2009 General Rate Application

Phase I Compliance Filing

Application No. 1603068

Cost Application No. 1605227

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## Contents

<b>1</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2</b>	<b>VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS .....</b>	<b>1</b>
<b>3</b>	<b>VIEWS OF THE COMMISSION – ASSESSMENT.....</b>	<b>2</b>
<b>4</b>	<b>GST.....</b>	<b>2</b>
<b>5</b>	<b>ORDER .....</b>	<b>2</b>

# ALBERTA UTILITIES COMMISSION

Calgary, Alberta

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## 1 INTRODUCTION

1. On November 13, 2008, the Alberta Utilities Commission (AUC or Commission) issued Decision [2008-113](#) regarding the 2008-2009 General Rate Application (GRA) Phase I for ATCO Gas (AG). In Decision 2008-113, the Commission directed AG to re-file its 2008-2009 GRA incorporating the Commission's findings, conclusions and directions in that Decision and provide a detailed reconciliation of the 2008-2009 revenue requirements.
2. On January 19, 2009, AG re-filed its 2008-2009 GRA (Compliance Filing), reflecting the revisions required to comply with the Commission's Directions in Decision 2008-113.
3. The Commission dealt with this Application by way of written process. On July 28, 2009, the Commission issued Decision [2009-109](#) in respect of the Application.<sup>1</sup>
4. On July 9, 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 July 23, 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 July 23, 2009.

## 2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

5. 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). Rule 022 was revised on September 30, 2008. As the filing of this Application with the Commission was on January 19, 2009, the Commission has assessed the costs claimed in accordance with the provisions of the revised Rule 022.
6. 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 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

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<sup>1</sup> Decision 2009-109: ATCO Gas 2008-2009 General Rate Application Phase I Compliance Filing (Released July 28, 2009)

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 VIEWS OF THE COMMISSION – ASSESSMENT**

9. On June 26, 2009, ATCO Gas (AG) submitted a cost claim totaling \$5,907.62. The claim is comprised of legal fees incurred by Bennett Jones LLP in the amount of \$5,897.50, together with disbursements of \$10.12.

10. On July 2, 2009, the Consumers' Coalition of Alberta (CCA) submitted a cost claim totaling \$7,006.13. The claim is comprised of consulting fees incurred by Regulatory Services Inc. in the amount of \$6,672.50, together with GST of \$333.63.

11. The Commission has considered the costs submitted by the participants. The Commission finds that the participation of AG and the CCA was for the most part effective and of assistance in reviewing the Application. 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 in accordance with the *Scale of Costs*. Accordingly, the Commission considers the claims for fees, disbursements and applicable GST for all participants to be reasonable and approves them in the full amount of \$12,913.75.

### **4 GST**

12. 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 \$333.63. The GST allowed by the Commission may also be charged against AG's Hearing Cost Reserve Account.

13. 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 shall pay intervener costs in the amount of \$7,006.13.
2. ATCO Gas external costs in the amount of \$5,907.62.

3. ATCO Gas shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$12,913.75.

Dated in Calgary, Alberta on this 14<sup>th</sup> day of October, 2009.

**ALBERTA UTILITIES COMMISSION**

*(Original signed by)*

N. Allen Maydonik, Q.C.  
Commissioner

*(Original signed by)*

Bill Lyttle  
Commissioner

*(Original signed by)*

Willie Grieve  
Chair