



AltaGas Utilities Inc.

2010-2012 General Rate Application – Phase I

Costs Awards

May 25, 2012



The Alberta Utilities Commission

Decision 2012-142: AltaGas Utilities Inc.

2010-2012 General Rate Application – Phase I

Application Nos. 1608181, 1608170

Proceeding ID No. 1725

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Contents

1	Introduction	1
2	Views of the Commission – assessment	2
2.1	AltaGas’ costs claim	2
2.2	The CCA’s costs claim.....	4
3	GST	5
4	Order	5

1 Introduction

1. On October 22, 2010, AltaGas Utilities Inc. (AltaGas or AUI) filed a 2010-2012 General Rate Application – Phase I (GRA) with the Alberta Utilities Commission (AUC or Commission). AltaGas specifically requested that the AUC approve its forecast revenue requirement and rate base for the 2010, 2011 and 2012 test years, and an adjustment to the available 2010 capital costs allowance, following the split tax year resulting from the 2009 share transfer approved in Decision [2009-152](#)¹, such that the available 2010 capital costs allowance would be equivalent to the amount that would have been available absent the share transfer. In addition, AltaGas requested the establishment of certain deferral accounts and the Commission's approval to conduct a negotiated settlement process with interested parties in relation to all aspects of the GRA application.

2. The GRA application process was lengthy due to the numerous issues brought forward by AltaGas in the proceeding².

3. The Commission held an oral hearing in Edmonton, Alberta, from October 11 to 19, 2011, before a Commission panel consisting of Panel Chair Mark Kolesar, Vice-Chair Carolyn Dahl Rees and Commission Member Kay Holgate.

4. On April 9, 2012, the Commission issued Decision [2012-091](#)³.

5. On February 16, 2012, the Commission received the Consumers' Coalition of Alberta's (CCA) costs claim, followed by AltaGas' costs claim on February 22, 2012.

6. On February 27, 2012, the Commission circulated to interested parties a summary of costs claimed. Parties were requested to file any comments regarding the figures listed in the summary or the merits of costs claimed by March 12, 2012. The Commission did not receive any comments. Accordingly, the Commission considers the costs process to have closed on March 12, 2012.

7. On March 16, 2012, AltaGas submitted a revised costs claim, stating it had overlooked an invoice from KPMG for professional services provided to AltaGas from March 1, 2011, to June 15, 2012 (sic). The additional professional fees claimed were in the amount of \$5,197.50. On March 22, 2012, AltaGas filed a further revised costs claim, due to overlooking additional

¹ Decision 2009-152: AltaGas Utility Group Inc. Share Transfer and Amalgamation, Application No. 1605414, Proceeding ID No. 295, Released: October 1, 2009.

² See paragraphs 3 to 23 of Decision 2012-091: AltaGas Utilities Inc. 2010-2012 General Rate Application – Phase I, Application No. 1606694, Proceeding ID No. 904, Released: April 9, 2012.

³ Decision 2012-091: AltaGas Utilities Inc. 2010-2012 General Rate Application – Phase I, Application No. 1606694, Proceeding ID No. 904, Released: April 9, 2012.

invoices from Gannett Fleming Inc. for professional services provided to AltaGas from March 6, 2011, to May 6, 2011, in the amount of \$1,170.00 and August 27, 2011, to October 21, 2011, in the amount of \$18,510.00, and expenses of \$471.89. On April 20, 2012, AltaGas filed yet another revised costs submission, as it had just received an additional invoice from Gannett Fleming Inc. for professional fees provided to AltaGas from December 3, 2011, to December 30, 2011, in the amount of \$3,832.50.

2 Views of the Commission – authority to award costs

8. When assessing a costs claim pursuant to Section 21 of the *Alberta Utilities Commission Act*, the Commission applies the AUC Rule 022: *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022).

9. 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.

10. As the costs of a utility proceeding are generally passed on to customers, it is the Commission's duty to ensure that the 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

3.1 AltaGas' costs claim

11. AltaGas submitted a revised costs claim dated April 20, 2012, in the total amount of \$365,091.94. The claim is comprised of consultant fees for KPMG in the amount of \$181,616.00, with disbursements of \$1,305.12; professional fees for Brattle Group in the amount of \$18,438.75, with disbursements of \$1,260.67; consulting fees for Gannett Fleming in the amount of \$85,035.00, with disbursements of \$471.89; consulting fees for Energy Management & Consulting Ltd. in the amount of \$42,637.50, with disbursements of \$2,638.82 and AltaGas' disbursements of \$31,688.19.

12. Ms. C. Li of KPMG, with four years experience, claimed a consulting fee of \$160.00 an hour, which is the fee for a consultant with 5 to 7 years of experience according to the *Scale of Costs*. Therefore, the Commission has corrected the hourly rate to match the *Scale of Costs* in the amount of \$120.00 an hour. The Commission notes the corrected amount of consulting fees for KPMG is \$180,884.00.

13. KPMG's disbursements included airfare in the amount of \$381.36, accommodation in the amount of \$153.48, meals and taxi in the amount of \$114.63 and administrative fees of \$20.30, for a total amount of \$649.47 in disbursements that were incurred in March of 2010. The *Scale of Costs* allows only disbursements incurred during the hearing to be claimed. Accordingly the Commission has disallowed the March 2010 disbursements and approves the disbursements in the amount of \$596.19 for KPMG.

14. The Commission specifically found in Decision 2012-091 that the KPMG report and testimony were of limited assistance. It stated:

The KPMG witness confirmed that AUGI's CEO direct compensation is above the median of the three peer groups used for comparison in the Mercer Report. However, the Commission recognizes that total direct compensation does not take into consideration other compensation benefits (such as MTIP, SERP, health and payroll benefits, and training). No analysis of reasonableness was provided by KPMG on these other compensation benefits specific to AUGI's CEO, nor did the Mercer study provide a comparison of AUGI's total compensation against any peer group. Accordingly, the Commission finds that the analysis undertaken by KPMG is not helpful in determining whether the allocation of total compensation of AUGI's CEO to AltaGas is reasonable. (footnote omitted)

The best evidence before the Commission in this proceeding is the total direct compensation comparison with three peer groups in the Mercer report that shows AUGI's CEO total direct compensation is above the median of all three peer groups...⁴

15. The Commission further stated regarding KPMG report and testimony:

The Commission agrees with KPMG's observation that, for specific projects and tasks, the related work effort is not necessarily expended evenly throughout the year and as a result the year to date work effort may not necessarily be indicative of the work effort on an annualized basis. The forecast period is a three year period. The Commission considers that KPMG should have reviewed AUGI's forecast business plans, projects and tasks for the test years and assessed whether the work effort allocator proposed by AltaGas is reasonable for the test years. The Commission is not persuaded that the evidence on the record adequately supports the use of the work effort allocator for the years 2011 and 2012.

...The Commission notes that AltaGas and KPMG did not submit evidence with respect to fair market value and provided no evidence as to whether it would be less expensive for AUI to provide the services itself. Although the Commission considers that it may not always be practical, at every GRA, to file evidence or a report that evaluates whether or not it may be less expensive for AltaGas to provide these shared services itself or through a third party, a periodic review would assist the Commission in determining whether the existing shared services agreement is a prudent arrangement. The Commission also considers that Section 3.3.4 of AltaGas's Inter-affiliate Code of Conduct contemplates a periodic review of the prudence of its shared services arrangements.⁵

16. Accordingly, the Commission finds AltaGas' claim for 811.80 hours of preparation time for KPMG to be unreasonable. Therefore, the Commission awards 50 per cent of the professional fees for KPMG claimed by AltaGas, in the amount of \$90,442.00.

16. Dr. Michael Vilbert of the Brattle Group was engaged to respond to evidence submitted by the Office of the Utilities Consumer Advocate in relation to capital and capital structure. Dr. Vilbert prepared and presented evidence on AUI's position on AUI's capital structure. The Commission finds that the evidence provided by the Brattle Group was of assistance. However, the Commission notes that the following consulting fees were claimed: M. Vibert at a rate of \$500.00 an hour, B. Villadsen at a rate of \$420.00 an hour, D. Kiernan at a rate of \$270.00 an hour and A. Koshal at a rate of \$355.00. For the years of experience stated, the *Scale of Costs* provides the following the hourly rates: \$270.00, \$230.00, \$120.00, \$120.00 respectively for each of the Brattle Group consultants. Therefore, the professional fees claimed have been

⁴ See paragraphs 398 and 399 of Decision 2012-091: AltaGas Utilities Inc. 2010-2012 General Rate Application – Phase I, Application No. 1606694, Proceeding ID No. 904, Released: April 9, 2012.

⁵ See paragraphs 420 and 428 of Decision 2012-091: AltaGas Utilities Inc. 2010-2012 General Rate Application – Phase I, Application No. 1606694, Proceeding ID No. 904, Released: April 9, 2012.

reduced to \$8,760.00. The Commission considers that the hours claimed are reasonable and that the evidence was of assistance to the Commission. The Commission also finds that the disbursements claimed were reasonable. The Commission awards the total of \$10,025.53 in costs claimed by AltaGas for the Brattle Group.

17. Gannett Fleming was engaged to prepare a full depreciation study for the 2010-2012 GRA. The Commission finds the hours and fees incurred to be reasonable and the evidence provided was of assistance to the Commission. Also, the Commission found the disbursements were reasonable. The Commission awards \$85,506.89, in costs claimed by AltaGas for Gannett Fleming.

18. Mr. Raj Retnanandan, of Energy Management & Regulatory Consulting Ltd., was engaged to provide assistance in preparing the GRA application, reviewing and analyzing intervenor evidence, responding to IRs, participating in witness preparation meetings, attending and assisting counsel at the hearing and preparing evidence, written argument, and reply. It appears that these services are more akin to regulatory services provided within AltaGas which are considered internal regulatory costs rather than hearing costs. However, in this instance, the Commission allows these costs since AltaGas did not have the benefit of the Commission's views on the nature of these costs. In the future, the Commission may not allow these costs as hearing costs. The hourly fee charged by Mr. Retnanandan is within the *Scale of Costs*. The Commission finds the total hours of 189.50 and fees incurred to be reasonable considering the tasks performed. Also, the Commission found that the disbursements were reasonable. Accordingly, the Commission awards the total of \$45,276.32 in costs claimed by AltaGas for Energy Management & Regulatory Consulting Ltd.

19. Regarding the disbursements claimed by AltaGas, the Commission notes that transcripts, external printing and notice costs make up the bulk of the disbursements claimed. The other disbursements are generally in relation to AltaGas' staff attendance at the hearing. The Commission considers the disbursements reasonable and awards the disbursements as claimed.

20. The Commission awards a total of \$263,535.12 to AltaGas in fees and disbursements.

3.2 The CCA's costs claim

21. The CCA submitted a costs claim in the total amount of \$102,649.01. The claim is comprised of legal fees for Wachowich & Company in the amount of \$33,646.25, with disbursements of \$8,881.21 and GST of \$2,126.37; consulting fees for Regulatory Services Inc. in the amount of \$55,233.50 and GST of \$2,761.68.

22. The Commission is of the view that the CCA's participation in the GRA application proceeding was of assistance in a number of areas of the GRA application. The claim for 122.35 hours for legal services is reasonable considering the number of issues addressed by the CCA and the number of updates to the GRA application. The legal fees claimed are within the *Scale of Costs*. The Commission awards the legal fees as claimed. The Commission notes that the disbursements claimed were for transcript costs and awards the disbursements as claimed.

23. Mr. A. Merani of Regulatory Services Inc. was retained to assist with the technical analysis of AUI's GRA application. He undertook a review of the filed application and intervenor evidence, drafted all of the CCA's IRs, assessed all subsequent responses, as well as cross-examination and prepared argument and reply. The Commission considers that the 256.90

hours claimed were reasonable in light of the number of issues addressed by the CCA. The fees claimed are within the *Scale of Costs*.

24. Accordingly, the Commission approves the CCA's costs claim in the amount of \$102,649.01.

4 GST

25. In accordance with the Commission's treatment of GST on costs awards, AltaGas 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 GST credit the Commission may reduce this particular portion of their claim. Eligible GST approved by the Commission amounts to \$4,888.05 in relation to the CCA's costs claim. The GST allowed by the Commission may also be charged to AltaGas' hearing costs reserve account.

26. 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

27. It is hereby ordered that:

- (1) AltaGas Utilities Inc. shall pay external costs in the amount of \$263,535.12, as set out in column (h) of Appendix A.
- (2) AltaGas Utilities Inc. shall pay Consumers' Coalition of Alberta's intervener costs in the amount of \$102,649.01, as set out in column (h) of Appendix A.
- (2) AltaGas Utilities Inc. shall record in its hearing costs reserve account the allowed costs of \$366,184.13.

Dated on May 25, 2012.

The Alberta Utilities Commission

(original signed by)

Mark Kolesar
Panel Chair

(original signed by)

Carolyn Dahl Rees
Vice-Chair

(original signed by)

Kay Holgate
Commission Member

AltaGas
2010-2012 General Rate Application - Phase I
Application Nos. (1606694)1608181,1608170
Proceeding ID No. 1725

Total Costs Claimed/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)
APPLICANTS								
AltaGas Utilities Inc.								
K PMG LLP	\$181,616.00	\$1,305.12	\$0.00	\$182,921.12	\$90,442.00	\$596.19	\$0.00	\$91,038.19
Brattle Group	\$18,438.75	\$1,260.67	\$0.00	\$19,699.42	\$8,760.00	\$1,265.53	\$0.00	\$10,025.53
Gannett Fleming	\$85,035.00	\$471.89	\$0.00	\$85,506.89	\$85,035.00	\$471.89	\$0.00	\$85,506.89
Energy Management & Consulting Ltd.	\$42,637.50	\$2,638.82	\$0.00	\$45,276.32	\$42,637.50	\$2,638.82	\$0.00	\$45,276.32
AltaGas Utilities Inc.	\$0.00	\$31,688.19	\$0.00	\$31,688.19	\$0.00	\$31,688.19	\$0.00	\$31,688.19
Sub-Total	\$327,727.25	\$37,364.69	\$0.00	\$365,091.94	\$226,874.50	\$36,660.62	\$0.00	\$263,535.12
INTERVENERS								
Consumers' Coalition of Alberta								
Wachowich & Company	\$33,646.25	\$8,881.21	\$2,126.37	\$44,653.83	\$33,646.25	\$8,881.21	\$2,126.37	\$44,653.83
Regulatory Services Inc.	\$55,233.50	\$0.00	\$2,761.68	\$57,995.18	\$55,233.50	\$0.00	\$2,761.68	\$57,995.18
Sub-Total	\$88,879.75	\$8,881.21	\$4,888.05	\$102,649.01	\$88,879.75	\$8,881.21	\$4,888.05	\$102,649.01
TOTAL INTERVENER COSTS								
	\$88,879.75	\$8,881.21	\$4,888.05	\$102,649.01	\$88,879.75	\$8,881.21	\$4,888.05	\$102,649.01
TOTAL INTERVENER AND APPLICANT COSTS								
	\$416,607.00	\$46,245.90	\$4,888.05	\$467,740.95	\$315,754.25	\$45,541.83	\$4,888.05	\$366,184.13