



AtlaGas Utilities Inc.

2007 General Rate Application
Phase I

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2008-024: AltaGas Utilities Inc.

2007 General Rate Application – Phase I

Application No. 1494406

Cost Application No. 1514691

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**AltaGas Utilities Inc.
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Application No. 1494406
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1 INTRODUCTION

On December 29, 2006, AltaGas Utilities Inc. (AUI) submitted a 2007 General Rate Application (GRA) Phase I (the Application) with the Alberta Energy and Utilities Board (EUB or the Board).

The Application was considered by way of an oral hearing. The hearing was held in Edmonton from August 8 to August 10, 2007. The Board panel assigned to the Application was comprised of Mr. R.G. Lock, P.Eng. (Presiding Member), Ms. C. Dahl Rees, LL.B. (Member), and Mr. M.W. Edwards (Acting Member). Subsequent to the close of the hearing Mr. R.G. Lock retired from the Board. The Board set dates of September 12, 2007 and September 26, 2007, respectively, for Argument and Reply Argument.

On December 11, 2007 the Board issued Decision [2007-094](#).

On October 29, 2007 a summary of the costs being claimed was circulated to interested parties. Parties were advised that any comments regarding costs claims were to be filed by November 5, 2007. The Board did not receive any comments. Accordingly, the Board considers, for the purposes of this Cost Order, the cost process to have closed on November 5, 2007.

2 Authority to Award Costs

When assessing a cost claim pursuant to section 68, the Board is guided by Part 5 of its *Rules of Practice*, [AR 101/2001](#) and by the principles and policies expressed in Directive 031B, *Guidelines for Utility Cost Claims* ([Directive 031B](#)), which were in effect during the course of this proceeding. Before exercising its discretion to award costs, the Board must consider the effectiveness of a participant's contribution to the process, its relevance to the issues, and whether the costs claimed are fair and reasonable in light of the scope and nature of the issues in question.

In the Board's view, the responsibility to contribute positively to the process is inherent in the choice to intervene in a proceeding. The Board 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. When determining a cost award, the Board will consider if the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board. To the extent reasonably possible, the Board will be mindful of participants' willingness to co-operate with the Board and other participants to promote an efficient and cost-effective proceeding.

As the costs of a utility proceeding are generally passed on to customers, it is the Board's duty to ensure that customers receive fair value for a party's contribution. As such, the Board only approves those costs that are reasonable and directly and necessarily related to the party's participation in the proceeding.

3 VIEWS OF THE BOARD – Budgets

On June 13, 2007 the Board provided comments regarding the budget submissions from the following parties:

- AUI
- Consumers' Coalition of Alberta (CCA)
- Municipal and Gas Co-op Interveners (MGCI)

In reviewing the budget submissions, the Board offered the following comments.

3.1 AUI

The Board considered that the estimated time for legal counsel was significantly higher compared to the 2005-2006 GRA, and it was unclear whether the costs would be reasonable and directly related to the proceeding and contribute to a better understanding of the issues. The Board also indicated that the implied hourly rates, for both legal and consultant fees, were above the approved Board's scale of costs.

3.2 CCA

The Board considered that both the estimated time for both legal counsel and consultant was almost 100 hours higher than the 2005-2006 GRA, and it was unclear whether the costs would be reasonable and directly related to the proceeding and contribute to a better understanding of the issues. Also, the Board indicated that some of the IRs from the CCA appeared to have been focused on items of a less material value.

3.3 MGCI

The Board considered that both the estimated time for both legal counsel and consultant was almost 100 hours higher than the 2005-2006 GRA, and it was unclear whether the costs would be reasonable and directly related to the proceeding and contribute to a better understanding of the issues.

4 VIEWS OF THE BOARD - ASSESSMENT OF COST CLAIMS

Various participants submitted cost claims totalling \$369,111.32 including actual GST of \$5,323.53.

4.1 CCA

CCA submitted a cost claim totaling \$45,485.03. The claim is comprised of legal fees incurred by Wachowich & Company in the amount of \$13,865.00, together with disbursements of \$1,873.25 and GST of \$944.30; and consulting fees incurred by Regulatory Services, Inc. in the amount of \$27,158.00, together with disbursements of \$14.15 and GST of \$1,630.33.

The Board has reviewed the CCA's cost claim and considers the amounts claimed to be reasonable. Accordingly, the Board approves the CCA's cost claim in the full amount of \$45,485.03, as shown in [Appendix A](#).

4.2 MGCI

MGCI submitted a cost claim totaling \$48,563.72. The claim is comprised of legal fees incurred by Brownlee LLP in the amount of \$15,537.50, together with disbursements of \$3,896.07 and GST of \$1,166.02; and consulting fees incurred by Garbutt Consulting Inc. in the amount \$26,381.25, together with GST of \$1,582.88.

The Board has reviewed MGCI's cost claim and considers the amounts claimed to be reasonable. Accordingly, the Board approves the MGCI's cost claim in the full amount of \$48,563.72, as shown in [Appendix A](#).

4.3 AUI

On June 6, 2007 AUI submitted its budget for legal and consulting costs. AUI budgeted legal fees of \$261,375.00 for Stikeman Elliott, and consulting fees of \$129,000.00 for Chymko Consulting Ltd, \$40,000.00 for KPMG, and \$5,550.00 for Gannett Fleming Inc.

AUI submitted a cost claim totaling \$275,062.57. The claim is comprised of legal fees incurred by Stikeman Elliott LLP in the amount of \$117,892.60, together with disbursements of \$1,779.60. AUI's cost claim is also comprised of consulting fees incurred by Chymko Consulting Ltd in the amount of \$6,583.75, consulting fees incurred by Gannett Fleming in the amount of \$10,792.93 and consulting fees incurred by KPMG in the amount of \$121,995.00, together with disbursements of \$4,139.80. AUI also claims disbursements of \$11,878.89.

In the Statement of Justification dated October 26, 2007, AUI acknowledged that the costs claimed by KPMG greatly exceeded its budget. AUI submitted the following.

The majority of consultant costs incurred by AUI, approximately \$126,100, resulted from work performed by KPMG. KPMG was retained by AUI to provide an impartial and independent review of the cost allocation for direct and fiduciary services provided by AUI's parent, AltaGas Utility Group Inc. Inter-affiliate shared costs was one of the key issues in this proceeding that was given a "high" importance ranking by interested parties. In addition to being actively involved during the hearing as part of the Company's inter-affiliate shared costs panel, KPMG provided significant assistance in preparing the application, responding to information requests, and responding to undertakings. KPMG is an experienced consulting group. AUI submits that KPMG provided substantive evidence to this proceeding that was of assistance to the Board.

With respect to KPMG's consulting fees the Board finds that the explanation provided by AUI does not adequately justify the increased fees from the amount originally budgeted. In Decision [2007-094](#), the Board found that the KPMG review was not a fully independent study, in terms of analyzing all salary and position information through their own review and assessment, but rather relied on information from management.¹ The Board finds that a cost award of \$80,000 in

¹ Decision 2007-094, page 63.

consulting fees, plus disbursements, to be reasonable and commensurate with the value received from KPMG's evidence.

In summary, the Board finds legal fees of \$117,892.60, together with disbursements of \$1,779.60 to be reasonable and approved in full. The Board finds consulting fees incurred by Chymko Consulting Ltd. and Gannett Fleming Inc. of \$6,583.75 and \$10,792.93, respectively, to be reasonable and approved in full. The Board finds a cost award of \$80,000, plus disbursements of \$4,139.80 to be reasonable for consulting fees of KPMG. The Board also finds disbursements incurred by AUI in the amount of \$11,878.89 to be reasonable and approved in full.

The Board has reviewed the costs submitted by all participants, bearing in mind the principles specified in the Board's *Scale of Costs* set out in Appendix C to [Directive 031B](#). The Board finds that all participants, for the most part, conducted their participation in such a way so as to be effective and of assistance to the Board in understanding the Application and the issues before it. The Board notes the scope and complexity of the issues before it and the extent of the examination thereof. The Board also notes that the claims for professional fees and other claims were in accordance with the *Scale of Costs*.

Accordingly, the Board considers the claims for fees, disbursements, and applicable GST for all participants to be reasonable, as adjusted in the case of AUI, and as outlined in [Appendix A](#) to this Order in the total amount of \$327,116.32

5 GST

In accordance with the Board'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 Board has reduced this particular portion of their claim. Eligible GST approved by the Board amounts to \$5,323.53 as shown in column (g) of [Appendix A](#). The GST allowed by the Board may also be charged against AUI's Hearing Cost Reserve Account.

The Board 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.

6 ORDER

IT IS HEREBY ORDERED:

1. AltaGas Utilities Inc. shall pay intervener costs in the amount of \$94,048.75, as set out in column (h) of [Appendix A](#).
2. AltaGas Utilities Inc. external costs in the amount of \$233,067.57, as set out in column (h) of [Appendix A](#), are approved.

3. AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$327,116.32, as set out in column (h) of [Appendix A](#).

Dated in Calgary, Alberta on this 30th day of April, 2008.

ALBERTA ENERGY AND UTILITIES BOARD

<Original Signed by Thomas McGee>

Thomas McGee
EUB Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A

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2007 GRA - Phase I
 (1494406)

Summary of Total 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.								
Stikeman Elliott	\$117,892.60	\$1,779.60	\$0.00	\$119,672.20	\$117,892.60	\$1,779.60	\$0.00	\$119,672.20
Chymko Consulting Ltd.	\$6,583.75	\$0.00	\$0.00	\$6,583.75	\$6,583.75	\$0.00	\$0.00	\$6,583.75
Gannett Fleming Inc.	\$10,792.93	\$0.00	\$0.00	\$10,792.93	\$10,792.93	\$0.00	\$0.00	\$10,792.93
KPMG	\$121,995.00	\$4,139.80	\$0.00	\$126,134.80	\$80,000.00	\$4,139.80	\$0.00	\$84,139.80
AltaGas Utilities Inc.	\$0.00	\$11,878.89	\$0.00	\$11,878.89	\$0.00	\$11,878.89	\$0.00	\$11,878.89
Sub-Total	\$257,264.28	\$17,798.29	\$0.00	\$275,062.57	\$215,269.28	\$17,798.29	\$0.00	\$233,067.57
INTERVENERS								
Consumers Coalition of Alberta								
Regulatory Services, Inc.	\$27,158.00	\$14.15	\$1,630.33	\$28,802.48	\$27,158.00	\$14.15	\$1,630.33	\$28,802.48
Wachowich and Company	\$13,865.00	\$1,873.25	\$944.30	\$16,682.55	\$13,865.00	\$1,873.25	\$944.30	\$16,682.55
Sub-Total	\$41,023.00	\$1,887.40	\$2,574.63	\$45,485.03	\$41,023.00	\$1,887.40	\$2,574.63	\$45,485.03
Municipal and Gas Co-op Intervenors								
Brownlee LLP	\$15,537.50	\$3,896.07	\$1,166.02	\$20,599.59	\$15,537.50	\$3,896.07	\$1,166.02	\$20,599.59
Garbutt Consulting Inc.	\$26,381.25	\$0.00	\$1,582.88	\$27,964.13	\$26,381.25	\$0.00	\$1,582.88	\$27,964.13
Sub-Total	\$41,918.75	\$3,896.07	\$2,748.90	\$48,563.72	\$41,918.75	\$3,896.07	\$2,748.90	\$48,563.72
TOTAL INTERVENER COSTS								
	\$82,941.75	\$5,783.47	\$5,323.53	\$94,048.75	\$82,941.75	\$5,783.47	\$5,323.53	\$94,048.75
TOTAL INTERVENER AND APPLICANT COSTS								
	\$340,206.03	\$23,581.76	\$5,323.53	\$369,111.32	\$298,211.03	\$23,581.76	\$5,323.53	\$327,116.32