



ATCO Gas

A Division of ATCO Gas and Pipelines Ltd.

Reconsideration of Decision 2005-036
Deferred Gas Account
Imbalance and Production Adjustments

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2008-025: ATCO Gas, A Division of ATCO Gas and Pipelines Ltd.

Reconsideration of Decision 2005-036

Deferred Gas Account, Imbalance and Production Adjustments

Application No. 1524763

Cost Application No. 1546216

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1 INTRODUCTION

On April 28, 2005, The City of Calgary (Calgary) was granted leave to appeal Decision 2005-036 on the question of whether the Alberta Energy and Utilities Board (the Board) was authorized under its governing legislation to approve any of the adjustments to the Deferred Gas Account (DGA) applied for by ATCO Gas.

The Board considered the Application by way of a written process. The Board received Statement of Intent to Participate (SIP) on September 21, 2007 from Calgary, the Utilities Consumer Advocate (UCA) and Consumers' Coalition of Alberta (CCA). On October 5, 2007 the UCA indicated that it would not be submitting Argument or Reply. The Board considers the record to have closed on October 12, 2007 with the submission of Reply Argument.

On January 8, 2008 the Board issued Decision [2008-001](#).

On November 14, 2007 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 November 21, 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 21, 2007.

2 VIEWS OF THE BOARD – 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](#)). 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 - Assessment

The Board received cost claims from ATCO Gas North and the CCA totalling \$7,981.24. The Board also received cost claims from ATCO Gas South and Calgary totalling \$26,263.84.

The Board has reviewed the costs submitted by the 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 the participation of the interveners was, for the most part, effective and of assistance in reviewing the Application. 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, expenses, and applicable GST for all participants to be reasonable as outlined in Tables 1 and 2 of [Appendix A](#) to this Order in the total amount of \$7,981.24 and \$26,263.84, respectively.

4 GST

In accordance with the Board's treatment of the GST on cost awards, ATCO Gas 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 \$1,161.77 as shown in column (g) of [Appendix A](#). The GST allowed by the Board may also be charged against ATCO Gas 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.

5 ORDER

IT IS HEREBY ORDERED:

1. ATCO Gas North, a division of ATCO Gas and Pipelines Ltd. shall pay intervener costs in the amount of \$1,120.95, as set out in column (h) of Table 1 in [Appendix A](#).
2. ATCO Gas North, a division of ATCO Gas and Pipelines Ltd. external costs in the amount of \$6,860.29, as set out in column (h) of Table 1 of [Appendix A](#), are approved.
3. ATCO Gas North, a division of ATCO Gas and Pipelines Ltd. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$7,981.24, as set out in column (h) of Table 1 in [Appendix A](#).

4. ATCO Gas South, a division of ATCO Gas and Pipelines Ltd. shall pay intervener costs in the amount of \$19,403.55, as set out in column (h) of Table 2 in [Appendix A](#).
5. ATCO Gas South, a division of ATCO Gas and Pipelines Ltd. external costs in the amount of \$6,860.29, as set out in column (h) of Table 2 in [Appendix A](#), are approved.
6. ATCO Gas South, a division of ATCO Gas and Pipelines Ltd. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$26,263.84, as set out in column (h) of Table 2 in [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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Board Proceeding of App No. 1347852 and D2005-036 Pursuant to Judgement C of A
1524763

Costs Claimed and Awarded

Table 1	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								
ATCO Gas North								
Bennett Jones LLP	\$6,857.50	\$2.79	\$0.00	\$6,860.29	\$6,857.50	\$2.79	\$0.00	\$6,860.29
Sub-Total	\$6,857.50	\$2.79	\$0.00	\$6,860.29	\$6,857.50	\$2.79	\$0.00	\$6,860.29
INTERVENERS								
Consumers' Coalition of Alberta								
Wachowich & Company	\$1,057.50	\$0.00	\$63.45	\$1,120.95	\$1,057.50	\$0.00	\$63.45	\$1,120.95
Sub-Total	\$1,057.50	\$0.00	\$63.45	\$1,120.95	\$1,057.50	\$0.00	\$63.45	\$1,120.95
TOTAL INTERVENER COSTS	\$1,057.50	\$0.00	\$63.45	\$1,120.95	\$1,057.50	\$0.00	\$63.45	\$1,120.95
TOTAL INTERVENER AND APPLICANT COSTS	\$7,915.00	\$2.79	\$63.45	\$7,981.24	\$7,915.00	\$2.79	\$63.45	\$7,981.24

Table 2	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								
ATCO Gas South								
Bennett Jones LLP	\$6,857.50	\$2.79	\$0.00	\$6,860.29	\$6,857.50	\$2.79	\$0.00	\$6,860.29
Sub-Total	\$6,857.50	\$2.79	\$0.00	\$6,860.29	\$6,857.50	\$2.79	\$0.00	\$6,860.29
INTERVENERS								
City of Calgary								
D'Arcy & Deacon LLP	\$17,580.00	\$725.23	\$1,098.32	\$19,403.55	\$17,580.00	\$725.23	\$1,098.32	\$19,403.55
Sub-Total	\$17,580.00	\$725.23	\$1,098.32	\$19,403.55	\$17,580.00	\$725.23	\$1,098.32	\$19,403.55
TOTAL INTERVENER COSTS	\$17,580.00	\$725.23	\$1,098.32	\$19,403.55	\$17,580.00	\$725.23	\$1,098.32	\$19,403.55
TOTAL INTERVENER AND APPLICANT COSTS	\$24,437.50	\$728.02	\$1,098.32	\$26,263.84	\$24,437.50	\$728.02	\$1,098.32	\$26,263.84