



# AltaGas Utilities Inc.

2005/2006 General Rate Application Phase II

Cost Awards

**ALBERTA ENERGY AND UTILITIES BOARD**

Utility Cost Order 2008-026: AltaGas Utilities Inc.

2005/2006 General Rate Application Phase II

Application No. 1491262

Cost Application No. 1523385

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# ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

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## 1 INTRODUCTION

On December 8, 2006, AltaGas Utilities Inc. (AUI) filed a 2005/2006 General Rate Application (GRA) Phase II (the Application), with the Alberta Energy and Utilities Board (the Board). The Application sought approvals for:

- Setting appropriate 2006 distribution rates and transportation rates, corresponding rules, regulations, and charges, and other rate riders, to be effective July 1, 2007;
- Compliance with Board directions set out in Board Decision [2005-029](#)<sup>1</sup>, dated April 12, 2005; and
- Compliance with Board directions regarding residual balances from the 2003/2004 GRA and the 2005/2006 GRA deficiency riders set out in Board Order [U2005-341](#)<sup>2</sup>, dated August 24, 2005, and Board Order [U2006-041](#)<sup>3</sup>, dated February 21, 2006, respectively, and
- Setting an appropriate 2006 deficiency rider that would be applied to customer statements in billing cycles for May 2007.

A public hearing of the Application was held on June 11, 12 and 14, 2007 in Edmonton, Alberta, before a panel consisting of Mr. A. J. Berg, P. Eng. (Presiding Member), Mr. M. L. Asgar-Deen, P. Eng. (Acting Member) and Mr. M. W. Edwards (Acting Member). On October 16, 2007 the Board issued Decision [2007-079](#). The Board considers the record to have closed on July 24, 2007.

On August 23, 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 August 30, 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 August 30, 2007.

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<sup>1</sup> Decision 2005-029 – AltaGas Utilities Inc. 2003/2004 General Rate Application Phase II (Application 1359952) (Released: April 12, 2005)

<sup>2</sup> Order U2005-341 – AltaGas Utilities Inc. 2003/2004 General Rate Application(GRA) Deficiency Rider and Disposition of Residual Revenue Excesses and Gains from the 2000/2001/2002 GRA (Application 1413073) (Released: August 24, 2005)

<sup>3</sup> Order U2006-041 – AltaGas Utilities Inc. Interim Refundable Rates and 2005 Deficiency Rider Application (Application 1436060) (Released: February 21, 2006)

## 2 VIEWS OF THE BOARD – Budgets

On April 12, 2007, the Board filed comments regarding the budget submissions from the following interveners:

- The Municipal and Gas Co-op Intervenors (MGCI);
- The Alberta Urban Municipalities Association (AUMA);
- Aboriginal Communities (ABCOM);
- The Consumers Coalition of Alberta (CCA);
- The Public Institutional Consumers of Alberta (PICA); and
- The Alberta Sugar Beet Growers (ASBG) and the Potato Growers of Alberta (PGA), collectively ASBG/PGA.

The Board also received a budget submission from AUI.

In reviewing the intervener budget submissions, the Board has noted a number of concerns.

1. Both the AUMA and PICA budget submissions failed to provide a detailed breakdown of costs by sub-issue within Issue 4 – Rate Design. This makes it particularly difficult for the Board to identify potential areas of duplication amongst parties where costs are not broken down sufficiently.
2. AUMA has indicated that it is participating in collaboration with the Utilities Consumer Advocate (UCA), which did not submit a budget. Without the submission of UCA's budget, the Board is unable to provide greater certainty as to the cost recovery for AUMA.
3. ASBG/PGA, CCA, AUMA, and MGCI have all budgeted costs for Issue 2 – Responses to Board Directions. The Board is concerned that the total intervener costs associated with the issue is somewhat high.
4. Total intervener costs with regard to Issue 3- Cost of Service Analysis also appear to be somewhat high.
5. ABCOM's budget submissions were filed on April 12, 2007, after the Board imposed a deadline of March 30, 2007. A detailed assessment of ABCOM's cost will be conducted within the cost claims process.

In reviewing AUI's budget submission, the Board notes the following concern.

The board considers that AUI's revised budget should have included a detailed breakdown of Chymko consulting costs, and an explanation of the variance between AUI's two budget submissions. In particular, the Board is not satisfied that AUI has justified its forecast of 410 hours of consulting time by Chymko Consulting Inc. specifically related to the interrogatory and hearing process. Based on the limited information provided by AUI, the budget of 410 hours for the interrogatory and hearing process appears excessive.

## 3 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.

#### **4 VIEWS OF THE BOARD - Assessment of Cost Claims**

Various participants submitted cost claims totalling \$413,786.97 including actual GST of \$4,504.18 with respect to the Proceeding.

##### **4.1 AUI**

On April 11, 2007 AUI submitted its budget for legal and consulting costs. AUI budgeted legal fees of \$58,600.00 (265 hours), and consulting fees of \$152,500.00 (940 hours).

On August 22, 2007 AUI submitted a cost claim totalling \$261,840.44. On October 25, 2007, the AUI submitted a revised cost claim, which deducted the claim for 'Publication of Notice' costs (which it indicated were mistakenly claimed initially) and added additional legal costs, resulting in a revised total cost claim of \$259,559.81. The claim is comprised of legal fees incurred by MacPherson Leslie & Tyeman LLP in the amount of \$73,943.00, together with disbursements of \$3,271.41; and legal fees incurred by Ackroyd, Piasta, Roth & Day LLP in the amount of \$2,603.00, together with disbursements of \$17.49. The claim is also comprised of consulting fees incurred by Chymko Consulting Ltd. in the amount of \$171,728.75, together with disbursements of \$4,032.04. AUI also claims for disbursements of \$3,964.12.

In its Statement of Justification dated August 22, 2007, AUI acknowledged that the costs claimed exceeded its budget. AUI submitted the following.

Legal costs previously budgeted for this hearing were based on Board approved costs in the previous 2003/2004 Phase 2 proceeding. The total legal fees claimed for this proceeding amount to \$73,583.00 plus \$3,271.41 in disbursements. Total consultant costs claimed for this proceeding amount to \$171,728.75 plus \$4,032.04 in disbursements. Previous estimates were based on historical AUI proceedings where interveners did not file evidence and argument proceeded orally. Given previous proceedings, these assumptions were reasonable. The actual costs over budgeted amounts for both counsel and consultants relate directly to responding to the AUMA/UCA evidence, as outlined AUI notes that the UCA is not subject to the same cost rules as AUI, however, AUI must still fully respond to the UCA's evidence.

AUI submits that if this Application had proceeded in a manner similar to previous AUI Phase proceedings, where interveners did not file evidence and argument proceeded orally, budgets would likely have been exceeded. AUI does not take exception to the need for written argument in this proceeding, but submits it was directly related to the evidence filed by the AUMA/UCA.

With respect to the costs claimed the Board finds that the explanation provided by AUI adequately justifies the increased fees from the amount originally budgeted. The Board finds that the costs are commensurate with the value that the Board received, and therefore approves the costs in the full amount of \$259,559.81.

#### **4.2 ABCOM**

The ABCOM submitted a cost claim totalling \$4,112.50. The claim is comprised of legal fees incurred by Graves Engineering Corporation in the amount of \$4,112.50.

The Board has reviewed ABCOM's cost claim and considers the amounts claimed to be reasonable. Accordingly, the Board approves the ABCOM's cost claim in the full amount of \$4,112.50.

#### **4.3 ASBG/PGA**

On March 30, 2007 ASBG/PGA submitted its budget for consulting costs. ASBG/PGA set a budget of \$30,775.00 (145 hours) for consulting fees.

The ASBG/PGA submitted a cost claim totalling \$39,761.75. The claim is comprised of legal fees incurred by Unryn & Associates Ltd. in the amount of \$37,089.00, together with disbursements of \$2,672.75.

In its Statement of Justification date August 25, 2007, ASBG/PGA acknowledged that the consulting costs exceeded the budget. ASBG/PGA submitted the following.

As per the attached EUB form U1, the ASBG/PGA cost claim for this proceeding is \$39,761.75 for fees, transcripts and travelling expenses. It is submitted that this amount compares reasonably with the March 30, 2007 budget amount of \$30,775 as at the time of the budget preparation there was no provision for AUMA/UCA evidence. Since this evidence was particularly adverse to irrigation and farming interests it was necessary for additional review, preparation, the required cross-examination and Argument and Reply. Furthermore disbursements for transcripts and travelling costs were more than the budget amounts as the budget did not include meetings in Leduc.

With respect to the costs claimed the Board finds that the explanation provided by ASBG/PGA adequately justifies the increased fees from the amount originally budgeted. The Board finds that the costs are commensurate with the value that the Board received, and therefore approves the costs in the full amount of \$39,761.75.

#### 4.4 CCA

The CCA submitted a cost claim totalling \$37,156.18. The claim is comprised of legal fees incurred by Wachowich & Company in the amount of \$12,925.00, together with disbursements of \$1,443.00 and GST of \$862.08; and consulting fees incurred by Professional Regulatory Services Inc. in the amount of \$20,685.00, together with GST of \$1,241.10.

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 \$37,156.18.

#### 4.5 MGCI

On March 28, 2007 MGCI submitted its budget for legal and consulting costs. MGCI budgeted legal fees of \$18,500.00 (70 hours), and consulting fees of \$21,995.00 (125 hours).

MGCI submitted a cost claim totalling \$42,417.80. The claim is comprised of legal fees incurred by Brownlee LPP in the amount of \$16,387.50, together with disbursements of \$2,148.80 and GST of \$1,112.17; and consulting fees incurred by Garbutt Consulting Inc. in the amount of \$20,037.50, together with disbursements of \$1,443.00 and GST of \$1,288.83.

The Board has reviewed the 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 \$42,417.80.

#### 4.6 PICA

PICA submitted a cost claim totalling \$30,778.93. The claim is comprised of legal fees incurred by Nancy J. McKenzie Professional Corporation in the amount of \$17,825.00, together with disbursements of \$63.43; and consulting fees incurred by Energy Management & Regulatory Consulting Ltd. in the amount of \$11,447.50, together with disbursements of \$1,443.00.

The Board has reviewed PICA's cost claim and considers the amounts claimed to be reasonable. Accordingly, the Board approves the PICA's cost claim in the full amount of \$30,778.93.

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, disbursements, and applicable GST for all participants to be reasonable as outlined in [Appendix A](#).

### 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 \$4,504.18 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 \$154,227.16, as set out in column (h) of [Appendix A](#).
2. AltaGas Utilities Inc. external costs in the amount of \$259,559.81, 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 \$413,786.97, as set out in column (h) of [Appendix A](#).

Dated in Calgary, Alberta on this 14th day of May, 2008.

### ALBERTA ENERGY AND UTILITIES BOARD

*<Originally Signed by Thomas McGee>*

Thomas McGee  
EUB Board Member

## **APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED**



Appendix A

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2005 - 2006 GRA Phase 2  
(1491262)

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)
<b>APPLICANT</b>								
AltaGas Utilities Inc.								
MacPherson Leslie & Tyeman LLP	\$73,943.00	\$3,271.41	\$0.00	\$77,214.41	\$73,943.00	\$3,271.41	\$0.00	\$77,214.41
Chymko Consulting Ltd.	\$171,728.75	\$4,032.04	\$0.00	\$175,760.79	\$171,728.75	\$4,032.04	\$0.00	\$175,760.79
AltaGas Utilities Inc.	\$0.00	\$3,964.12	\$0.00	\$3,964.12	\$0.00	\$3,964.12	\$0.00	\$3,964.12
Ackroyd, Piasta, Roth & Day LLP	\$2,603.00	\$17.49	\$0.00	\$2,620.49	\$2,603.00	\$17.49	\$0.00	\$2,620.49
<b>Sub-Total</b>	<b>\$248,274.75</b>	<b>\$11,285.06</b>	<b>\$0.00</b>	<b>\$259,559.81</b>	<b>\$248,274.75</b>	<b>\$11,285.06</b>	<b>\$0.00</b>	<b>\$259,559.81</b>
<b>INTERVENERS</b>								
Aboriginal Communities								
Graves Engineering Corporation	\$4,112.50	\$0.00	\$0.00	\$4,112.50	\$4,112.50	\$0.00	\$0.00	\$4,112.50
<b>Sub-Total</b>	<b>\$4,112.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$4,112.50</b>	<b>\$4,112.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$4,112.50</b>
Alberta Sugar Beet Growers/Potato Growers of Alberta								
Unryn & Associates Ltd.	\$37,089.00	\$2,672.75	\$0.00	\$39,761.75	\$37,089.00	\$2,672.75	\$0.00	\$39,761.75
<b>Sub-Total</b>	<b>\$37,089.00</b>	<b>\$2,672.75</b>	<b>\$0.00</b>	<b>\$39,761.75</b>	<b>\$37,089.00</b>	<b>\$2,672.75</b>	<b>\$0.00</b>	<b>\$39,761.75</b>
Consumers' Coalition of Alberta								
Professional Regulatory Services Inc.	\$20,685.00	\$0.00	\$1,241.10	\$21,926.10	\$20,685.00	\$0.00	\$1,241.10	\$21,926.10
Wachowich & Co.	\$12,925.00	\$1,443.00	\$862.08	\$15,230.08	\$12,925.00	\$1,443.00	\$862.08	\$15,230.08
<b>Sub-Total</b>	<b>\$33,610.00</b>	<b>\$1,443.00</b>	<b>\$2,103.18</b>	<b>\$37,156.18</b>	<b>\$33,610.00</b>	<b>\$1,443.00</b>	<b>\$2,103.18</b>	<b>\$37,156.18</b>
Municipal and Gas Co-op Intervenors								
Brownlee LLP	\$16,387.50	\$2,148.80	\$1,112.17	\$19,648.47	\$16,387.50	\$2,148.80	\$1,112.17	\$19,648.47
Garbutt Consulting Inc.	\$20,037.50	\$1,443.00	\$1,288.83	\$22,769.33	\$20,037.50	\$1,443.00	\$1,288.83	\$22,769.33
<b>Sub-Total</b>	<b>\$36,425.00</b>	<b>\$3,591.80</b>	<b>\$2,401.00</b>	<b>\$42,417.80</b>	<b>\$36,425.00</b>	<b>\$3,591.80</b>	<b>\$2,401.00</b>	<b>\$42,417.80</b>
Public Institutional Consumers of Alberta								
Energy Management & Regulatory Consulting Ltd.	\$11,447.50	\$1,443.00	\$0.00	\$12,890.50	\$11,447.50	\$1,443.00	\$0.00	\$12,890.50
Nancy J. McKenzie Professional Corp.	\$17,825.00	\$63.43	\$0.00	\$17,888.43	\$17,825.00	\$63.43	\$0.00	\$17,888.43
<b>Sub-Total</b>	<b>\$29,272.50</b>	<b>\$1,506.43</b>	<b>\$0.00</b>	<b>\$30,778.93</b>	<b>\$29,272.50</b>	<b>\$1,506.43</b>	<b>\$0.00</b>	<b>\$30,778.93</b>
<b>TOTAL INTERVENER COSTS</b>	<b>\$140,509.00</b>	<b>\$9,213.98</b>	<b>\$4,504.18</b>	<b>\$154,227.16</b>	<b>\$140,509.00</b>	<b>\$9,213.98</b>	<b>\$4,504.18</b>	<b>\$154,227.16</b>
<b>TOTAL INTERVENER AND APPLICANT COSTS</b>	<b>\$388,783.75</b>	<b>\$20,499.04</b>	<b>\$4,504.18</b>	<b>\$413,786.97</b>	<b>\$388,783.75</b>	<b>\$20,499.04</b>	<b>\$4,504.18</b>	<b>\$413,786.97</b>