



ATCO Gas

Disposition of Land in the Harvest Hills Area

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2008-032: ATCO Gas

Disposition of Land in the Harvest Hills Area

Application No. 1512932

Cost Application No. 1550526

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

ATCO Gas
Disposition of Land in the Harvest Hills Area

Utility Cost Order 2008-032
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1 INTRODUCTION

On May 23, 2007 ATCO Gas (AG) filed an application with the Alberta Energy and Utilities Board (EUB or the Board) requesting approval of the Board pursuant to Section 26(2) (d) of the *Gas Utilities Act*, R.S.S. 2000, c. G-5 (GUA) with respect to the disposition of vacant land located in the Harvest Hills area in Calgary (the Harvest Hills Property).

The Board considered the application by way of a written process. Written Argument was to be submitted by October 31, 2007, along with Written Reply Argument by November 7, 2007. Accordingly, the Board considered the record to have closed on November 7, 2007.

The Board Panel assigned to this Application was comprised of C. Dahl Rees, LL.B., Presiding Member, B.T. McManus, Q.C., Member, and D.A. Larder, Q.C., Acting Member. On December 11, 2007 the Board issued Decision [2007-101](#).

On December 11, 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 December 18, 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 December 18, 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 AG and the City of Calgary (Calgary), totalling \$61,104.56. AG claimed legal fees incurred by Bennett Jones LLP in the amount of \$33,761.00, together with disbursements of \$63.50. AG also claimed for disbursements of \$6,262.40. Calgary claimed legal fees incurred by McLennan Ross LLP in the amount of \$13,525.00, together with disbursements and GST of \$362.98 and \$833.28, respectively; and consulting fees incurred by Stephen Johnson in the amount of \$5,940.00, together with GST of \$356.40.

The Board has reviewed the costs submitted by AG and Calgary, 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 applicant and intervener 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](#) to this Order in the total amount of \$61,104.56.

4 GST

In accordance with the Board'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 Board has reduced this particular portion of their claim. Eligible GST approved by the Board amounts to \$1,189.68 as shown in column (g) of [Appendix A](#).

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 shall pay intervener costs in the amount of \$21,017.66 as set out in column (h) of [Appendix A](#).
2. ATCO Gas external costs in the amount of \$40,086.90, as set out in column (h) of [Appendix A](#), are approved.

3. ATCO Gas shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$61,104.56, as set out in column (h) of [Appendix A](#).

Dated in Calgary, Alberta on this 13th day of June, 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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**AGS
Cost Application No. 1550526**

Disposition of Land in the Harvest Hills Area

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								
ATCO Gas South								
Bennett Jones LLP	\$33,761.00	\$63.50	\$0.00	\$33,824.50	\$33,761.00	\$63.50	\$0.00	\$33,824.50
ATCO Gas South	\$0.00	\$6,262.40	\$0.00	\$6,262.40	\$0.00	\$6,262.40	\$0.00	\$6,262.40
Sub-Total	\$33,761.00	\$6,325.90	\$0.00	\$40,086.90	\$33,761.00	\$6,325.90	\$0.00	\$40,086.90
INTERVENERS								
City of Calgary								
McLennan Ross LLP	\$13,525.00	\$362.98	\$833.28	\$14,721.26	\$13,525.00	\$362.98	\$833.28	\$14,721.26
Stephen Johnson	\$5,940.00	\$0.00	\$356.40	\$6,296.40	\$5,940.00	\$0.00	\$356.40	\$6,296.40
Sub-Total	\$19,465.00	\$362.98	\$1,189.68	\$21,017.66	\$19,465.00	\$362.98	\$1,189.68	\$21,017.66
TOTAL INTERVENER COSTS	\$19,465.00	\$362.98	\$1,189.68	\$21,017.66	\$19,465.00	\$362.98	\$1,189.68	\$21,017.66
TOTAL INTERVENER AND APPLICANT COSTS	\$53,226.00	\$6,688.88	\$1,189.68	\$61,104.56	\$53,226.00	\$6,688.88	\$1,189.68	\$61,104.56