

**THE PROVINCE OF ALBERTA**

***PUBLIC UTILITIES BOARD ACT***

**ALBERTA ENERGY AND UTILITIES BOARD**

**ATCO Gas North and  
ATCO Gas South  
Review and Variance of Decision 2003-072**

**UTILITY COST ORDER 2005-034a**

**File No. 8000-1326068-01**

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WHEREAS the Alberta Energy and Utilities Board issued Utility Cost Order 2005-034 (UCO 2005-034) on June 9, 2005; and

WHEREAS an addition error was made with regard to the claim of Federation of Alberta Gas Co-ops Ltd. & Gas Alberta Inc. as reflected in Appendix B of UCO 2005-034.

THEREFORE, the Alberta Energy and Utilities Board, hereby amends UCO 2005-034 as to the following particulars:

1. The Total Fees and Disbursements and GST claimed by the Federation of Alberta Gas Co-ops Ltd. & Gas Alberta Inc. as listed in column (d), \$1,541.03, of Appendix B are amended to read \$2,082.86, as shown in the Amended Appendix B attached.
2. The Total Amount Awarded to the Federation of Alberta Gas Co-ops Ltd. & Gas Alberta Inc. as listed in column (h) of Appendix B, \$1,440.22, are amended to read \$1,946.60, as shown in the Amended Appendix B attached.
3. With respect to Appendix B, ATCO Gas South, the ORDER section on page 5 of UCO 2005-034 is amended to read as follows:

THEREFORE, for and subject to the reasons set out in this Order, the Alberta Energy and Utilities Board, pursuant to the provisions of the *Public Utilities Board Act* and regulations thereunder, HEREBY ORDERS AS FOLLOWS:

ATCO Gas shall pay intervener costs in the amount of \$5,851.44, as set out in column (h) of [Appendix A](#) and the amount of \$23,179.12 as set out in column (h) of [Appendix B](#).

ATCO Gas's external costs in the amount of \$14,123.53, as set out in column (h) of [Appendix A](#) and the amount of \$14,123.52 as set out in column (h) of [Appendix B](#), are approved.

ATCO Gas shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$19,974.97, as set out in column (h) of [Appendix A](#) and the amount of \$37,302.64 as set out in column (h) of Appendix B.

MADE at the City of Calgary, in the Province of Alberta, this 29th day of June, 2005.

**ALBERTA ENERGY  
AND UTILITIES BOARD**

*Original Signed by Thomas McGee*

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**Thomas McGee**

## AGS

**Review and Variance of Decision 2003-072  
(1326068)**

**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)
<b>APPLICANT</b>								
ATCO Gas South								
Bennett Jones LLP	\$13,952.50	\$171.02	\$0.00	\$14,123.52	\$13,952.50	\$171.02	\$0.00	\$14,123.52
Sub-Total	\$13,952.50	\$171.02	\$0.00	\$14,123.52	\$13,952.50	\$171.02	\$0.00	\$14,123.52
<b>INTERVENERS</b>								
AUMA / City of Edmonton								
Bryan & Company	\$3,637.50	\$11.90	\$255.46	\$3,904.86	\$3,637.50	\$11.90	\$255.46	\$3,904.86
Sub-Total	\$3,637.50	\$11.90	\$255.46	\$3,904.86	\$3,637.50	\$11.90	\$255.46	\$3,904.86
City of Calgary								
Burnet, Duckworth & Palmer	\$8,937.50	\$39.30	\$628.38	\$9,605.18	\$8,937.50	\$39.30	\$269.32	\$9,246.12
Energy Group, Inc.	\$526.14	\$0.00	\$36.83	\$562.97	\$526.14	\$0.00	\$15.79	\$541.93
Stephen Johnson	\$7,320.00	\$0.00	\$512.40	\$7,832.40	\$7,320.00	\$0.00	\$219.61	\$7,539.61
Sub-Total	\$16,783.64	\$39.30	\$1,177.61	\$18,000.55	\$16,783.64	\$39.30	\$504.72	\$17,327.66
Federation of Alberta Gas Co-ops Ltd. & Gas Alberta Inc.								
Brownlee LLP	\$1,262.50	\$177.72	\$100.81	\$1,541.03	\$1,262.50	\$177.72	\$0.00	\$1,440.22
Campbell Ryder Consulting Group	\$503.13	\$3.25	\$35.45	\$541.83	\$503.13	\$3.25	\$0.00	\$506.38
Sub-Total	\$1,765.63	\$180.97	\$136.26	\$2,082.86	\$1,765.63	\$180.97	\$0.00	\$1,946.60
<b>TOTAL INTERVENER COSTS</b>	<b>\$22,186.77</b>	<b>\$232.17</b>	<b>\$1,569.33</b>	<b>\$23,988.27</b>	<b>\$22,186.77</b>	<b>\$232.17</b>	<b>\$760.18</b>	<b>\$23,179.12</b>
<b>TOTAL INTERVENER AND APPLICANT COSTS</b>	<b>\$36,139.27</b>	<b>\$403.19</b>	<b>\$1,569.33</b>	<b>\$38,111.79</b>	<b>\$36,139.27</b>	<b>\$403.19</b>	<b>\$760.18</b>	<b>\$37,302.64</b>



# ATCO Gas North and ATCO Gas South

Review and Variance of Decision 2003-072

Cost Awards

**ALBERTA ENERGY AND UTILITIES BOARD**

Utility Cost Order 2005-034: ATCO Gas North and South  
Review and Variance of Decision 2003-072  
Application No. 1326068

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**ALBERTA ENERGY AND UTILITIES BOARD**

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**Calgary, Alberta****ATCO Gas North  
ATCO Gas South  
Review and Variance of  
Decision 2003-072****Utility Cost Order 2005-034  
Application No.: 1326068  
File No. 8000-1326068-01**

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**1 INTRODUCTION**

On October 2, 2003, the Alberta Energy and Utilities Board (EUB/Board) released Decision [2003-072](#) respecting its findings on the Phase I position of ATCO Gas' (AG) 2003-2004 General Rate Application (GRA) which dealt with AG's revenue requirement for 2003-2004.

The Board did not approve AG's applied for revenue requirements for the 2003 and 2004 test years associated with monthly meter reading and directed AG to include only expenses necessary to read its meters bi-monthly effective January 1, 2003.

On December 18, 2003, the Board received a written request for a review and variance of Decision 2003-072 to the extent that it denied AG the ability to recover the costs necessary to read its meters on a monthly basis. In addition to the request to vary the revenue requirement to provide for monthly meter reading, AG had also requested a variance to its 2004 revenue requirement to cover the costs allocated to it for the Government of Alberta's Consumer Protection and Customer Choice campaign and costs related to the appointment of the Utilities Consumer Advocate.

By way of letter dated December 23, 2004, the Board advised AG that it had denied the review application with respect to meter reading frequency and the consumer protection and customer choice campaign. The review application was approved with respect to the Utilities Consumer Advocate funding.

On March 1, 2005 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 March 15, 2005. 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 March 15, 2005.

**2 VIEWS OF THE BOARD – Authority to Award Costs Related to Review Requests**

The Board's authority to award costs is derived from section 68 of the *Public Utilities Board Act*, R.S.A. 2000, c. P-45, which states in part:

- (1) The costs of and incidental to any proceeding before the Board, except as otherwise provided for in this Act, are in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.



...

- (3) The Board may order by whom or to whom any costs are to be paid, and by whom they are to be taxed and allowed.

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 Guide 31B, *Guidelines for Utility Cost Claims* ([Guide 31B](#)). 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.

Effective March 1, 2004, the Board issued an update to Guide 31B. The revised Guide specifically addresses the issue of costs related to Review Requests and Review Hearings in Section 10. Review of Section 10 indicates that in the event that a utility files a review request that is dismissed on the preliminary question, the costs incurred by the utility and the costs incurred by interveners in that regard shall not be recovered from customers as part of the utility's revenue requirement, but shall be borne by the utility's shareholders and shall not form the basis of or be included in any way into forecasts used to apply for rate increases.

As this cost claim arose in respect of a Review Request that preceded Section 10 of the revised Guide 31B, costs will be assessed in the light of the standard requirement that the participant's contribution must be effective and contribute to a better understanding of the issues before the Board and that parties have raised a legitimate concern that required further contemplation by the Board.

### **3 VIEWS OF THE BOARD - Assessment**

Various participants submitted cost claims totalling \$20,111.24 including actual GST of \$391.72 with respect to ATCO Gas North (AGN) [Appendix A](#) and \$37,569.96 including actual GST of \$1,533.88 with respect to ATCO Gas South (AGS) [Appendix B](#).

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 [Guide 31B](#). 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 and disbursements for all participants to be reasonable as outlined in [Appendix A](#) to this Order in the total amount of \$19,355.63 and the claims for fees and disbursements for all participants is also reasonable as outlined in [Appendix B](#) to this Order in the total amount of \$35,636.14.

#### **4 GST**

In accordance with the Board's treatment of the GST on cost awards, ATCO 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 \$255.45 as shown in column (g) of [Appendix A](#) and the amount of \$760.18 as shown in column (g) of [Appendix B](#). The GST allowed by the Board may also be charged against ATCO 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**

THEREFORE, for and subject to the reasons set out in this Order, the Alberta Energy and Utilities Board, pursuant to the provisions of the *Public Utilities Board Act* and regulations thereunder, HEREBY ORDERS AS FOLLOWS:

ATCO Gas shall pay intervener costs in the amount of \$5,851.44, as set out in column (h) of [Appendix A](#) and the amount of \$22,672.74 as set out in column (h) of [Appendix B](#).

ATCO Gas's external costs in the amount of \$14,123.53, as set out in column (h) of [Appendix A](#) and the amount of \$14,123.52 as set out in column (h) of [Appendix B](#), are approved.

ATCO Gas shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$19,974.97, as set out in column (h) of [Appendix A](#) and the amount of \$36,796.26 as set out in column (h) of [Appendix B](#).

Dated in Calgary, Alberta on this 9th day of June, 2005.

#### **ALBERTA ENERGY AND UTILITIES BOARD**

<Original Signed by Thomas McGee>

Thomas McGee  
Board Member

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



UCO 2005-034  
Appendix A (AGN - Re

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



UCO 2005-034  
Appendix B (AGS - Re

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AGN

Review and Variance of Decision 2003-072  
(1326068)

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)
<b>APPLICANT</b>								
ATCO Gas North								
Bennett Jones LLP	\$13,952.50	\$171.03	\$0.00	\$14,123.53	\$13,952.50	\$171.03	\$0.00	\$14,123.53
Sub-Total	\$13,952.50	\$171.03	\$0.00	\$14,123.53	\$13,952.50	\$171.03	\$0.00	\$14,123.53
<b>INTERVENERS</b>								
AUMA / City of Edmonton								
Bryan & Company	\$3,637.50	\$11.88	\$255.45	\$3,904.83	\$3,637.50	\$11.88	\$255.45	\$3,904.83
Sub-Total	\$3,637.50	\$11.88	\$255.45	\$3,904.83	\$3,637.50	\$11.88	\$255.45	\$3,904.83
Federation of Alberta Gas Co-ops Ltd. & Gas Alberta Inc.								
Brownlee LLP	\$1,262.50	\$177.73	\$100.82	\$1,541.05	\$1,262.50	\$177.73	\$0.00	\$1,440.23
Campbell Ryder Consulting Group	\$503.13	\$3.25	\$35.45	\$541.83	\$503.13	\$3.25	\$0.00	\$506.38
Sub-Total	\$1,765.63	\$180.98	\$136.27	\$2,082.88	\$1,765.63	\$180.98	\$0.00	\$1,946.61
TOTAL INTERVENER COSTS	\$5,403.13	\$192.86	\$391.72	\$5,987.71	\$5,403.13	\$192.86	\$255.45	\$5,851.44
TOTAL INTERVENER AND APPLICANT COSTS	\$19,355.63	\$363.89	\$391.72	\$20,111.24	\$19,355.63	\$363.89	\$255.45	\$19,974.97

AGS

Review and Variance of Decision 2003-072  
(1326068)

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)
<b>APPLICANT</b>								
ATCO Gas South								
Bennett Jones LLP	\$13,952.50	\$171.02	\$0.00	\$14,123.52	\$13,952.50	\$171.02	\$0.00	\$14,123.52
Sub-Total	\$13,952.50	\$171.02	\$0.00	\$14,123.52	\$13,952.50	\$171.02	\$0.00	\$14,123.52
<b>INTERVENERS</b>								
AUMA / City of Edmonton								
Bryan & Company	\$3,637.50	\$11.90	\$255.46	\$3,904.86	\$3,637.50	\$11.90	\$255.46	\$3,904.86
Sub-Total	\$3,637.50	\$11.90	\$255.46	\$3,904.86	\$3,637.50	\$11.90	\$255.46	\$3,904.86
City of Calgary								
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Stephen Johnson	\$7,320.00	\$0.00	\$512.40	\$7,832.40	\$7,320.00	\$0.00	\$219.61	\$7,539.61
Sub-Total	\$16,783.64	\$39.30	\$1,177.61	\$18,000.55	\$16,783.64	\$39.30	\$504.72	\$17,327.66
Federation of Alberta Gas Co-ops Ltd. & Gas Alberta Inc.								
Brownlee LLP	\$1,262.50	\$177.72	\$100.81	\$1,541.03	\$1,262.50	\$177.72	\$0.00	\$1,440.22
Campbell Ryder Consulting Group	\$503.13	\$3.25	\$35.45	\$541.83	\$503.13	\$3.25	\$0.00	\$506.38
Sub-Total	\$1,262.50	\$177.72	\$100.81	\$1,541.03	\$1,262.50	\$177.72	\$0.00	\$1,440.22
<b>TOTAL INTERVENER COSTS</b>	<b>\$21,683.64</b>	<b>\$228.92</b>	<b>\$1,533.88</b>	<b>\$23,446.44</b>	<b>\$21,683.64</b>	<b>\$228.92</b>	<b>\$760.18</b>	<b>\$22,672.74</b>
<b>TOTAL INTERVENER AND APPLICANT COSTS</b>	<b>\$35,636.14</b>	<b>\$399.94</b>	<b>\$1,533.88</b>	<b>\$37,569.96</b>	<b>\$35,636.14</b>	<b>\$399.94</b>	<b>\$760.18</b>	<b>\$36,796.26</b>