



## AltaGas Utilities Inc.

2003/2004 General Rate Application  
Phase I

Request for Approval of Negotiated Settlement  
And Memorandum of Agreement

2003/3004 General Rate Application  
Phase II

Cost Awards

**ALBERTA ENERGY AND UTILITIES BOARD**

Utility Cost Order 2005-044: AltaGas Utilities Inc.  
2003/2004 General Rate Application Phases I and II  
Application Nos. 1305995 and 1359952  
Cost Application No. 1305995

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# ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**AltaGas Utilities Inc.  
2003/2004 General Rate Application  
Phases I and II  
Negotiated Settlement and Litigated Process**

**Utility Cost Order 2005-044  
Application Nos.: 1305995 1359952  
File No. 8000 – 8000-1305995-01**

## 1 INTRODUCTION

On March 12, 2004, AltaGas Utilities Inc. (AltaGas) filed an application with the Alberta Energy and Utilities Board (EUB/Board), requesting approval of AltaGas' Negotiated Settlement (the Settlement) and Memorandum of Agreement (MOA) on the Phase I portion of its 2003/2004 General Rate Application (GRA).

In a letter dated May 10, 2004, the Board provided Notice of Application to interested parties. Any party wishing to provide a submission was to do so by May 19, 2004. The Board received a letter of intervention dated May 19, 2004 from Mr. Russ Duncan, a natural gas end user on both the ATCO Gas and AltaGas distribution systems. In a letter dated June 21, 2004, the Board dismissed Mr. Duncan's intervention as it failed to raise issues relevant to AltaGas' application.

The Panel assigned to consider Phase I consisted of R. G. Lock, P.Eng. (Presiding Member), Gordon J. Miller (Board Member), and J. G. Gilmour (Acting Member). On August 3, 2004 the Board issued Decision [2004-063](#).

AltaGas filed the Phase II portion of its 2003/2004 GRA with the Board on September 8, 2004, with supporting schedules filed October 15, 2004.

The Board conducted the 2003/2004 GRA hearing during the period January 10-14, 2005, in Edmonton, Alberta. The hearing was presided over by R. G. Lock (Chair), W. K. Taylor, and M. W. Edwards. Oral argument and reply argument were heard on January 13, 2005 and January 14, 2005 respectively. On April 15, 2005 the Board issued Decision [2005-029](#).

On March 4, 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 18, 2005. The Board did not receive any comments. By way of letter dated May 27, 2005 the Board requested Mr. Graves, on behalf of the Aboriginal Communities, to clarify the role of Mr. Cunningham by June 3, 2005. The Board did receive a response to its request and accordingly the Board considers, for the purposes of this Cost Order, the cost process to have closed on June 3, 2005.

## 2 VIEWS OF THE BOARD – Authority to Award Costs

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' will to co-operate with the Board and other participants to promote an efficient and cost-effective proceeding.

In the case of applications based upon a negotiated settlement process (NSP), the Board does not directly participate in the process. Rather, the Board reviews the nature of the process itself and its results to ensure that they were fair, reasonable, and in the public interest. Without the direct opportunity to review the effectiveness of participants, the Board will take into account other considerations to ensure that the costs of participation in a NSP, which are ultimately passed on to all customers, are indeed reasonable and represent fair value. In that regard the Board notes that Phase I was an NSP.

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. In that regard the Board notes that Phase II was a litigated process.

### **3 VIEWS OF THE BOARD – Phase I Negotiated Settlement**

Various participants submitted cost claims totaling \$181,347.49 including actual GST of \$6,448.38 with respect to Phase I as shown in [Appendix A](#) attached.

#### **3.1 AltaGas Utilities Inc. (AltaGas)**

The Board has reviewed the disbursements being claimed and notes that AltaGas has claimed for external printing in the amount of \$1,167.06. The Board does not consider that external printing costs should be eligible for recovery from the Hearing Cost Reserve Account. Rather, disbursements of this type would more appropriately be included as part of AltaGas' forecast revenue requirement. As such the Board disallows this portion of the disbursements.

### 3.2 Remaining Participants

The Board has reviewed the costs submitted by the remaining 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 \$180,180.43.

## 4 VIEWS OF THE BOARD – Phase II Litigated Process

Various participant submitted cost claims totaling \$561,815.89 including actual GST of \$8,918.80 with respect to Phase II as shown in [Appendix B](#) attached.

### 4.1 AltaGas Utilities Inc. (AltaGas)

The Board has reviewed the cost claim of AltaGas, in particular the costs claimed by its consultant, EES Consulting. First, the Board notes that the weather normalization method used by EES Consulting necessitated additional filings and questioning by parties on the appropriate load factors to be used in the Cost of Service Analysis (COSA). Second, EES Consulting incurred 1813.25 hours for this proceeding and used the services of 12 people. While the Board recognizes that preparing a COSA is labour intensive, the Board considers this amount of time and people to be excessive given the value provided from the COSA performed by EES. The Board expects that there would have been some inefficiencies as a result of the number of people involved in preparing the COSA. In light of the foregoing, the Board considers that a reduction of 30% to EES Consulting's fees is appropriate.

The Board also notes that a total of 17 hours at \$70.00 per hour (\$1,190.00) were incurred by administrative staff and although [Guide 31B](#) does allow for a consulting firm to recover such costs, it prescribes a maximum rate of \$45.00 per hour. The Board notes that no justification was provided for the rate of \$70.00 and as such the Board reduces the rate for 17 hours to comply with the *Scale of Costs*, a reduction of \$425.00 (\$1,190.00 - \$765.00).

Taking all of the foregoing into account the Board approves professional fees for EES Consulting in the amount of \$222,851.43 together with expenses in the amount of \$6,386.46. The remaining portion of AltaGas' claim is approved in full as outlined in [Appendix B](#) attached.

### 4.2 Aboriginal Communities

Abcom, in its cost claim justification letter, indicated that it intervened in this proceeding to ensure that the gas tariff paid by First Nation consumers situated on reserves does not include taxes payable by AltaGas and is consistent with section 87 of the *Indian Act*. The Board notes that this matter has previously come before the Board. In Decision [2005-029](#), the Board referred to its findings in Decision [2005-025](#), as Abcom had raised the same issue in that proceeding. In that decision, it was noted that a different aboriginal group had raised a similar issue in Decision [2000-09](#). In Decision [2000-09](#), the Board concluded that this was not a matter that was within the Board's jurisdiction. In Decision [2005-029](#), the Board again found that this matter was not within its jurisdiction.

The Board therefore denies the cost claim of Abcom because the Board had previously determined that the issue raised by Abcom was not within its jurisdiction.

#### **4.3 Remaining Participants**

The Board has reviewed the costs submitted by the remaining 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 B](#) to this Order in the total amount of \$456,620.79.

#### **5 GST**

In accordance with the Board's treatment of the GST on cost awards, AltaGas 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 \$6,448.38 and \$6,058.60 as shown in column (g) of [Appendices A and B](#), respectively. The GST allowed by the Board may also be charged against AltaGas' 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**

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:

1. AltaGas Utilities shall pay intervener costs in the amount of \$121,412.94, as set out in column (h) of [Appendix A](#).
2. AltaGas Utilities' external costs in the amount of \$58,767.49, as set out in column (h) of [Appendix A](#), are approved.
3. AltaGas Utilities shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$180,180.43, as set out in column (h) of [Appendix A](#).
4. AltaGas Utilities shall pay intervener costs in the amount of \$161,139.41, as set out in column (h) of [Appendix B](#).
5. AltaGas Utilities' external costs in the amount of \$295,481.38, as set out in column (h) of [Appendix B](#), are approved.



6. AltaGas Utilities shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$456,620.79, as set out in column (h) of [Appendix B](#).

Dated in Calgary, Alberta on this 25 day of July, 2005.

**ALBERTA ENERGY AND UTILITIES BOARD**

*<Original Signed By Thomas McGee>*

Thomas McGee  
Board Member

**APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED (PHASE I)**



UCO 2005-044  
Appendix A (Phase I)

**APPENDIX B – SUMMARY OF COSTS CLAIMED AND AWARDED (PHASE II)**



UCO 2005-044  
Appendix B (Phase II)

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**AltaGas Utilities Inc.  
1305995  
2003/2004 General Rate Application  
(NSP) Phase I**

**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>								
<b>AltaGas Utilities Inc.</b>								
AltaGas Utilities Inc.	\$0.00	\$18,357.21	\$0.00	\$18,357.21	\$0.00	\$17,190.15	\$0.00	\$17,190.15
Ackryod , Piasta, Roth & Day	\$21,546.00	\$594.66	\$0.00	\$22,140.66	\$21,546.00	\$594.66	\$0.00	\$22,140.66
Gannett Fleming Inc.	\$14,546.65	\$123.41	\$0.00	\$14,670.06	\$14,546.65	\$123.41	\$0.00	\$14,670.06
Foster Associates	\$4,766.62	\$0.00	\$0.00	\$4,766.62	\$4,766.62	\$0.00	\$0.00	\$4,766.62
<b>Sub-Total</b>	<b>\$40,859.27</b>	<b>\$19,075.28</b>	<b>\$0.00</b>	<b>\$59,934.55</b>	<b>\$40,859.27</b>	<b>\$17,908.22</b>	<b>\$0.00</b>	<b>\$58,767.49</b>
<b>INTERVENERS</b>								
<b>Alberta Urban Municipalities Association</b>								
Bryan & Company	\$3,575.00	\$13.76	\$251.21	\$3,839.97	\$3,575.00	\$13.76	\$251.21	\$3,839.97
Barry Shymanski Regulatory Consulting Ltd.	\$5,325.00	\$0.00	\$372.75	\$5,697.75	\$5,325.00	\$0.00	\$372.75	\$5,697.75
Robert L. Bruggeman Regulatory Consulting Ltd.	\$26,000.00	\$11.25	\$1,820.79	\$27,832.04	\$26,000.00	\$11.25	\$1,820.79	\$27,832.04
<b>Sub-Total</b>	<b>\$34,900.00</b>	<b>\$25.01</b>	<b>\$2,444.75</b>	<b>\$37,369.76</b>	<b>\$34,900.00</b>	<b>\$25.01</b>	<b>\$2,444.75</b>	<b>\$37,369.76</b>
<b>Consumers Coalition of Alberta</b>								
Wachowich & Company	\$2,687.50	\$0.00	\$188.13	\$2,875.63	\$2,687.50	\$0.00	\$188.13	\$2,875.63
Professional Regulatory Servies, Inc.	\$16,540.00	\$0.00	\$1,157.80	\$17,697.80	\$16,540.00	\$0.00	\$1,157.80	\$17,697.80
<b>Sub-Total</b>	<b>\$19,227.50</b>	<b>\$0.00</b>	<b>\$1,345.93</b>	<b>\$20,573.43</b>	<b>\$19,227.50</b>	<b>\$0.00</b>	<b>\$1,345.93</b>	<b>\$20,573.43</b>

**AltaGas Utilities Inc.  
1305995  
2003/2004 General Rate Application  
(NSP) Phase I**

**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>Energy Users Association of Alberta</b>								
Unryn & Associates	\$22,218.50	\$626.43	\$0.00	\$22,844.93	\$22,218.50	\$626.43	\$0.00	\$22,844.93
<b>Sub-Total</b>	<b>\$22,218.50</b>	<b>\$626.43</b>	<b>\$0.00</b>	<b>\$22,844.93</b>	<b>\$22,218.50</b>	<b>\$626.43</b>	<b>\$0.00</b>	<b>\$22,844.93</b>
<b>Municipal and Gas Co-op Intervenors</b>								
Brownlee LLP	\$14,307.50	\$183.74	\$1,014.39	\$15,505.63	\$14,307.50	\$183.74	\$1,014.39	\$15,505.63
Campbell Ryder Consulting Group	\$23,231.25	\$244.63	\$1,643.31	\$25,119.19	\$23,231.25	\$244.63	\$1,643.31	\$25,119.19
<b>Sub-Total</b>	<b>\$37,538.75</b>	<b>\$428.37</b>	<b>\$2,657.70</b>	<b>\$40,624.82</b>	<b>\$37,538.75</b>	<b>\$428.37</b>	<b>\$2,657.70</b>	<b>\$40,624.82</b>
<b>TOTAL INTERVENOR COSTS</b>	<b>\$113,884.75</b>	<b>\$1,079.81</b>	<b>\$6,448.38</b>	<b>\$121,412.94</b>	<b>\$113,884.75</b>	<b>\$1,079.81</b>	<b>\$6,448.38</b>	<b>\$121,412.94</b>
<b>TOTAL INTERVENOR AND APPLICANT COSTS</b>	<b>\$154,744.02</b>	<b>\$20,155.09</b>	<b>\$6,448.38</b>	<b>\$181,347.49</b>	<b>\$154,744.02</b>	<b>\$18,988.03</b>	<b>\$6,448.38</b>	<b>\$180,180.43</b>

**AltaGas  
1359952  
2003/2004 General Rate Application  
(Litigated) Phase II**

**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>								
<b>AltaGas Utilities Inc.</b>								
AltaGas Utilities Inc.	\$0.00	\$8,834.15	\$0.00	\$8,834.15	\$0.00	\$8,834.15	\$0.00	\$8,834.15
Ackroyd, Piasta, Roth & Day	\$57,237.00	\$172.34	\$0.00	\$57,409.34	\$57,237.00	\$172.34	\$0.00	\$57,409.34
EES Consulting	\$318,966.33	\$6,386.46	\$0.00	\$325,352.79	\$222,851.43	\$6,386.46	\$0.00	\$229,237.89
<b>Sub-Total</b>	<b>\$376,203.33</b>	<b>\$15,392.95</b>	<b>\$0.00</b>	<b>\$391,596.28</b>	<b>\$280,088.43</b>	<b>\$15,392.95</b>	<b>\$0.00</b>	<b>\$295,481.38</b>
<b>INTERVENERS</b>								
<b>Aboriginal Communities</b>								
Graves Engineering Corporation	\$6,220.00	\$0.00	\$0.00	\$6,220.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Sub-Total</b>	<b>\$6,220.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$6,220.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Alberta Irrigation Projects Association</b>								
Unryn & Associates Ltd.	\$21,700.50	\$3,073.90	\$0.00	\$24,774.40	\$21,700.50	\$3,073.90	\$0.00	\$24,774.40
<b>Sub-Total</b>	<b>\$21,700.50</b>	<b>\$3,073.90</b>	<b>\$0.00</b>	<b>\$24,774.40</b>	<b>\$21,700.50</b>	<b>\$3,073.90</b>	<b>\$0.00</b>	<b>\$24,774.40</b>
<b>Alberta Urban Municipalities Association</b>								
Bryan & Company	\$9,875.00	\$2,263.93	\$849.73	\$12,988.66	\$9,875.00	\$2,263.93	\$849.73	\$12,988.66
Robert L. Bruggeman Regulatory Consulting Ltd.	\$20,635.00	\$13.48	\$1,445.39	\$22,093.87	\$20,635.00	\$13.48	\$1,445.39	\$22,093.87
<b>Sub-Total</b>	<b>\$30,510.00</b>	<b>\$2,277.41</b>	<b>\$2,295.12</b>	<b>\$35,082.53</b>	<b>\$30,510.00</b>	<b>\$2,277.41</b>	<b>\$2,295.12</b>	<b>\$35,082.53</b>

**AltaGas  
1359952  
2003/2004 General Rate Application  
(Litigated) Phase II**

**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>Consumers' Coalition of Alberta</b>								
Wachowich & Company	\$12,490.00	\$2,135.50	\$1,023.79	\$15,649.29	\$12,490.00	\$2,135.50	\$1,023.79	\$15,649.29
Azad Merani	\$17,356.00	\$14.02	\$1,215.90	\$18,585.92	\$17,356.00	\$14.02	\$1,215.90	\$18,585.92
<b>Sub-Total</b>	<b>\$29,846.00</b>	<b>\$2,149.52</b>	<b>\$2,239.69</b>	<b>\$34,235.21</b>	<b>\$29,846.00</b>	<b>\$2,149.52</b>	<b>\$2,239.69</b>	<b>\$34,235.21</b>
<b>Municipal &amp; Gas Co-op Intervenors</b>								
Brownlee LLP	\$22,180.00	\$2,294.34	\$1,713.20	\$26,187.54	\$22,180.00	\$2,294.34	\$734.28	\$25,208.62
Campbell Ryder Consulting Group	\$24,062.50	\$2,252.89	\$1,842.08	\$28,157.47	\$24,062.50	\$2,252.89	\$789.51	\$27,104.90
<b>Sub-Total</b>	<b>\$46,242.50</b>	<b>\$4,547.23</b>	<b>\$3,555.28</b>	<b>\$54,345.01</b>	<b>\$46,242.50</b>	<b>\$4,547.23</b>	<b>\$1,523.79</b>	<b>\$52,313.52</b>
<b>Public Institutional Consumers of Alberta</b>								
Nancy McKenzie	\$2,880.00	\$15.00	\$0.00	\$2,895.00	\$2,880.00	\$15.00	\$0.00	\$2,895.00
Barry Shymanski Regulatory Consulting Ltd.	\$11,838.75	\$0.00	\$828.71	\$12,667.46	\$11,838.75	\$0.00	\$0.00	\$11,838.75
<b>Sub-Total</b>	<b>\$14,718.75</b>	<b>\$15.00</b>	<b>\$828.71</b>	<b>\$15,562.46</b>	<b>\$14,718.75</b>	<b>\$15.00</b>	<b>\$0.00</b>	<b>\$14,733.75</b>
<b>TOTAL INTERVENOR COSTS</b>	<b>\$149,237.75</b>	<b>\$12,063.06</b>	<b>\$8,918.80</b>	<b>\$170,219.61</b>	<b>\$143,017.75</b>	<b>\$12,063.06</b>	<b>\$6,058.60</b>	<b>\$161,139.41</b>
<b>TOTAL INTERVENOR AND APPLICANT COSTS</b>	<b>\$525,441.08</b>	<b>\$27,456.01</b>	<b>\$8,918.80</b>	<b>\$561,815.89</b>	<b>\$423,106.18</b>	<b>\$27,456.01</b>	<b>\$6,058.60</b>	<b>\$456,620.79</b>