



ATCO Gas

A Division of ATCO Gas and Pipelines Ltd.

Imbalance and Production Adjustments
Deferred Gas Account

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2005-068: ATCO Gas, a Division of ATCO Gas and Pipelines Ltd.
Imbalance and Production Adjustments Deferred Gas Account
Application No. 1347869 & 1347852

Published by

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**ATCO Gas, a Division of ATCO Gas and Pipelines Ltd.
Imbalance and Production Adjustments
Deferred Gas Account**

**Utility Cost Order 2005-068
Application Nos. 1347869 / 1347852
File No. 8000-1347852**

1 INTRODUCTION

The Alberta Energy and Utilities Board (Board/EUB) received an application dated May 31, 2004, from ATCO Gas (AG), a division of ATCO Gas and Pipelines Ltd. (ATCO), requesting approval to include prior period adjustments for imbalances in the Deferred Gas Account (DGA) for each of its South gas distribution service territory (AGS) and its North gas distribution service territory (AGN). The adjustments resulted from errors found in the AG's review of certain imbalances recorded in the DGAs and filed in previous gas cost recovery rate (GCRR) applications for both AGS and AGN.

AG also requested approval for an adjustment to AGN's DGA related to production assets, all of which had been sold by the year 2003. This adjustment resulted from corrections made in 2003 to certain charges, mainly in respect of royalties paid to the Province of Alberta that had been previously included in determinations of the GCRR.

The panel assigned to deal with the Application consisted of B.T. McManus, Q.C. (Presiding), J.I. Douglas, F.C.A., and C. Dahl Rees. On April 28, 2005 the Board issued Decision [2005-036](#).

On May 9, 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 May 24, 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 May 24, 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' 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.

Various participants submitted cost claims totaling \$210,129.63 including actual GST of \$8,940.37 with respect to the Proceeding with \$47,487.11 allocated to AGN and \$162,642.52 allocated to AGS.

3 VIEWS OF THE BOARD – General Comments

During the assessment of the cost claims, the Board noted that each claimant¹ failed to support their claim with sufficient accounting detail, particularly with respect to consultants. Guide 31B provides for the specific format and detail required in an account and the Board has, in the past, reduced cost claims where the absence of sufficient detail has made it difficult for the Board to properly assess the reasonableness of the claim and the extent to which it was directly and necessarily related to the proceedings². Notwithstanding, in this instance, the Board afforded each claimant the opportunity to expand on the detail provided in their consultants' accounts.

The Board has reviewed the revised accounts received from each claimant and finds the format of the revised accounts to be more helpful for assessment purposes. The Board considers that there was also improvement in the revised detail of the services being provided and also recognizes the efforts of these claimants to cooperate with the Board's request. The Board is confident that efforts to provide specific details in accounts will continue to improve in future cost claims and therefore the Board will not apply any reductions in these instances resulting from insufficient detail in the cost claim submissions.

In particular the Board notes the response of AG in its correspondence dated September 8, 2005 in which it advised that it recognized the requirements established in the Board's guidelines and that necessary steps have been taken to inform their consultants of the Board requirements for future cost claims. The Board commends the approach taken by AG to ensure that these requirements are met by their consultants and encourages all parties to take similar action where necessary.

¹ ATCO Gas, Alberta Urban Municipalities Association, City of Calgary, and the Public Institutional Consumers of Alberta

² Utility Cost Order [2005-036](#)

4 VIEWS OF THE BOARD - Assessments

4.1 City of Calgary (Calgary)

Calgary submitted a cost claim totaling \$115,155.40 consisting of fees and expenses incurred for legal and consulting services by D'Arcy & Deacon, Peter J. Milne & Associates Inc., Stephen Johnson, and Energy Group Inc. The details of Calgary's claim are shown in Appendix B attached.

Upon review of the claim, the Board notes that Mr. Saxberg of D'Arcy Deacon incurred 3.7 hours, with 3.5 hours at the hourly rate of \$165.00 (\$577.50) and the remaining 0.20 hours at the hourly rate of \$175.00 (\$35.00). Based on Mr. Saxberg's years of experience Guide 31B allows for a maximum hourly rate of \$140.00 absent persuasive argument that the scale provided for is inadequate given the complexity or unique circumstances of the proceeding. In that regard, the Board has reviewed the Statement of Justification filed with the cost claim and notes that no such argument was provided for. Accordingly, the Board finds it appropriate to reduce Mr. Saxberg's hourly rate to comply with the Board's Scale of Costs, thereby allowing legal fees in the amount of \$518.00 (3.7 hrs x \$140.00), a reduction of \$94.50.

The Board also notes the standard administration charge of \$50.00 associated with opening a client file. The Board in recent Cost Orders³ has determined that such a charge is not appropriately passed onto customers. Accordingly, the Board disallows this portion of D'Arcy Deacon's disbursements.

For the foregoing reasons the Board approves legal fees in the amount of \$31,618.00, expenses in the amount of \$1,201.10, and applicable GST in the amount of \$984.64, for an overall award of \$33,803.74.

4.2 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 [Appendices A and B](#) to this Order in the total amount of \$47,487.11 and \$158,426.77, respectively.

5 GST

In accordance with the Board's treatment of the GST on cost awards, AGN and AGS are each 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 \$911.46 as shown in column (g) of [Appendix A](#) and \$3,957.66 as shown in column

³ UCO 2005-040 and UCO 2005-042

(g) of [Appendix B](#). The GST allowed by the Board may also be charged against each Applicant's respective 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. ATCO Gas North shall pay intervener costs in the amount of \$19,319.79, as set out in column (h) of [Appendix A](#).
2. ATCO Gas North's external costs in the amount of \$28,167.32, as set out in column (h) of [Appendix A](#), are approved.
3. ATCO Gas North shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$47,487.11, as set out in column (h) of [Appendix A](#).
4. ATCO Gas South shall pay intervener costs in the amount of \$130,259.45, as set out in column (h) of [Appendix B](#).
5. ATCO Gas South's external costs in the amount of \$28,167.32, as set out in column (h) of [Appendix B](#), are approved.
6. ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$158,426.77, as set out in column (h) of [Appendix B](#).

Dated in Calgary, Alberta on this 12th day of December, 2005.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee
Board Member

APPENDIX A – Summary of Costs Claimed and Awarded (AGN)



Appendix A
(AGN).xls

APPENDIX B – Summary of Costs Claimed and Awarded (AGS)



Appendix B (AGS).xls

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AGN

UFG and Fuel Gas Rates for 2004 (1347852 1347869)

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)
APPLICANT								
ATCO Gas North								
Bennett Jones LLP	\$11,441.00	\$427.22	\$0.00	\$11,868.22	\$11,441.00	\$427.22	\$0.00	\$11,868.22
KPMG	\$12,008.50	\$0.00	\$0.00	\$12,008.50	\$12,008.50	\$0.00	\$0.00	\$12,008.50
ATCO Gas	\$0.00	\$4,290.60	\$0.00	\$4,290.60	\$0.00	\$4,290.60	\$0.00	\$4,290.60
Sub-Total	\$23,449.50	\$4,717.82	\$0.00	\$28,167.32	\$23,449.50	\$4,717.82	\$0.00	\$28,167.32
INTERVENERS								
Alberta Urban Municipalities Association								
Bryan & Company	\$5,260.00	\$0.00	\$368.20	\$5,628.20	\$5,260.00	\$0.00	\$368.20	\$5,628.20
Robert L. Bruggeman Regulatory Consulting Ltd.	\$7,056.87	\$3.96	\$494.26	\$7,555.09	\$7,056.87	\$3.96	\$494.26	\$7,555.09
Liddle Engineering Ltd.	\$700.00	\$0.00	\$49.00	\$749.00	\$700.00	\$0.00	\$49.00	\$749.00
Sub-Total	\$13,016.87	\$3.96	\$911.46	\$13,932.29	\$13,016.87	\$3.96	\$911.46	\$13,932.29
Public Institutional Consumers of Alberta								
Energy Management & Regulatory Consulting Ltd.	\$3,587.50	\$0.00	\$0.00	\$3,587.50	\$3,587.50	\$0.00	\$0.00	\$3,587.50
Liddle Engineering	\$1,800.00	\$0.00	\$0.00	\$1,800.00	\$1,800.00	\$0.00	\$0.00	\$1,800.00
Sub-Total	\$5,387.50	\$0.00	\$0.00	\$5,387.50	\$5,387.50	\$0.00	\$0.00	\$5,387.50
TOTAL INTERVENER COSTS								
	\$18,404.37	\$3.96	\$911.46	\$19,319.79	\$18,404.37	\$3.96	\$911.46	\$19,319.79
TOTAL INTERVENER AND APPLICANT COSTS								
	\$41,853.87	\$4,721.78	\$911.46	\$47,487.11	\$41,853.87	\$4,721.78	\$911.46	\$47,487.11

AGS

UFG and Fuel Gas Rates for 2004 (1347852 1347869)

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)
APPLICANT								
ATCO Gas South								
Bennett Jones LLP	\$11,441.00	\$427.22	\$0.00	\$11,868.22	\$11,441.00	\$427.22	\$0.00	\$11,868.22
KPMG	\$12,008.50	\$0.00	\$0.00	\$12,008.50	\$12,008.50	\$0.00	\$0.00	\$12,008.50
ATCO Gas	\$0.00	\$4,290.60	\$0.00	\$4,290.60	\$0.00	\$4,290.60	\$0.00	\$4,290.60
Sub-Total	\$23,449.50	\$4,717.82	\$0.00	\$28,167.32	\$23,449.50	\$4,717.82	\$0.00	\$28,167.32
INTERVENERS								
Alberta Urban Municipalities Association								
Bryan & Company	\$5,260.00	\$0.00	\$368.20	\$5,628.20	\$5,260.00	\$0.00	\$368.20	\$5,628.20
Robert L. Bruggeman Regulatory Consulting Ltd.	\$7,056.87	\$3.96	\$494.26	\$7,555.09	\$7,056.87	\$3.96	\$494.26	\$7,555.09
Liddle Engineering Ltd.	\$700.00	\$0.00	\$49.00	\$749.00	\$700.00	\$0.00	\$49.00	\$749.00
Sub-Total	\$13,016.87	\$3.96	\$911.46	\$13,932.29	\$13,016.87	\$3.96	\$911.46	\$13,932.29
Public Institutional Consumers of Alberta								
Energy Management & Regulatory Consulting Ltd.	\$3,587.50	\$0.00	\$0.00	\$3,587.50	\$3,587.50	\$0.00	\$0.00	\$3,587.50
Liddle Engineering	\$1,800.00	\$0.00	\$0.00	\$1,800.00	\$1,800.00	\$0.00	\$0.00	\$1,800.00
Sub-Total	\$5,387.50	\$0.00	\$0.00	\$5,387.50	\$5,387.50	\$0.00	\$0.00	\$5,387.50
The City of Calgary								
D'Arcy & Deacon	\$31,712.50	\$1,251.10	\$2,307.45	\$35,271.05	\$31,618.00	\$1,201.10	\$984.64	\$33,803.74
Peter J. Milne & Associates Inc.	\$59,600.00	\$473.22	\$4,205.13	\$64,278.35	\$59,600.00	\$473.22	\$1,802.32	\$61,875.54
Stephen Johnson	\$8,480.00	\$160.94	\$604.87	\$9,245.81	\$8,480.00	\$160.94	\$259.25	\$8,900.19
Energy Group, Inc.	\$6,360.20	\$0.00	\$0.00	\$6,360.20	\$6,360.20	\$0.00	\$0.00	\$6,360.20
Sub-Total	\$106,152.70	\$1,885.26	\$7,117.45	\$115,155.41	\$106,058.20	\$1,835.26	\$3,046.20	\$110,939.66
TOTAL INTERVENER COSTS	\$124,557.07	\$1,889.22	\$8,028.91	\$134,475.20	\$124,462.57	\$1,839.22	\$3,957.66	\$130,259.45
TOTAL INTERVENER AND APPLICANT COSTS	\$148,006.57	\$6,607.04	\$8,028.91	\$162,642.52	\$147,912.07	\$6,557.04	\$3,957.66	\$158,426.77