



## **AltaGas Utilities Inc.**

**2008-2009 General Rate Application – Phase II  
Negotiated Settlement**

**Cost Awards**

**The Alberta Utilities Commission**

Decision 2011-135: AltaGas Utilities Inc.

2008-2009 General Rate Application – Phase II

Negotiated Settlement

Application No. 1606230

Proceeding ID No. 1035

April 5, 2011

Published by

Alberta Utilities Commission

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## **1 Introduction**

1. On May 21, 2010, AltaGas Utilities Inc. (AltaGas or AUI) filed a 2008-2009 general rate application (GRA) Phase II (the application) with the Alberta Utilities Commission (AUC or Commission). The application requested approval of the following:

- the proposed cost of service concepts and principles
- the proposed rate design and resulting distribution service rates, effective January 1, 2011
- the proposed method to administer the 2007, 2008 and 2009 deficiency balance
- the rates in place for 2008 and 2009 as final rates
- the proposed Terms and Conditions of Service (T&Cs) and special charges, effective January 1, 2011
- the continuation and application of the above noted cost of service concepts and principles, rate design concepts and T&Cs and special charges for the finalization of rates to recover AltaGas' 2010-2012 revenue requirement to be determined as part of its forthcoming 2010-2012 GRA Phase I.

2. By letter dated May 27, 2010, AUI requested that the Commission include a provision in the process schedule which would allow it to pursue a negotiated settlement process (NSP) with interested parties. In a letter dated June 30, 2010, the Commission approved AUI's request to pursue the NSP for the 2008-2009 test years.

3. On September 30, 2010, AUI advised the Commission that it and the interested parties had reached a tentative agreement regarding all key matters raised, and on October 15, 2010, AUI submitted to the Commission a settlement brief and negotiated settlement agreement which had been ratified by the participants in the NSP.

4. The Commission dealt with the application by way of a written proceeding. On March 8, 2011, the Commission issued Decision [2011-073](#).<sup>1</sup>

5. On January 13, 2011, 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 January 27, 2011. The Commission did not receive any comments or the Commission received the following comments. Accordingly, the Commission considers the cost process to have closed on January 27, 2011.

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<sup>1</sup> Decision 2011-073: AltaGas Utilities Inc. 2008-2009 General Rate Application – Phase II Negotiated Settlement, Application No. 1606230, Proceeding ID No. 651, Released: March 8, 2011.

## 2 Views of the Commission – Authority to Award Costs

6. When assessing a cost claim pursuant to Section 21 of the *Alberta Utilities Commission Act* (AUC Act), the Commission applies Rule 022, *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022).

7. In exercising its discretion to award costs, the Commission will, in accordance with section 11 of Rule 022, consider whether an eligible participant acted responsibly and contributed to a better understanding of the issues before the Commission, and whether the costs claimed are reasonable and directly and necessarily related to the proceeding. The Commission considers these factors in light of the scope and nature of the issues in question.

8. In the Commission's view, the responsibility to contribute positively to the process is inherent in the choice to intervene in a proceeding. The Commission 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. To the extent reasonably possible, the Commission will be mindful of participants' willingness to co-operate with the Commission and other participants to promote an efficient and cost-effective proceeding.

9. As the costs of a utility proceeding are generally passed on to customers, it is the Commission's duty to ensure that customers receive fair value for a party's contribution. As such, the Commission only approves those costs that are reasonable and directly and necessarily related to the party's participation in the proceeding.

## 3 Costs in a Negotiated Settlement

10. In the case of an NSP, the Commission does not directly participate in the process. Rather, the Commission reviews the nature of the process itself and its results to ensure that it was fair, reasonable, and in the public interest. Without the opportunity to review the effectiveness of participants directly, the Commission will take into account other considerations to ensure that the costs of participation in an NSP, which are ultimately passed on to all customers, are reasonable and represent fair value.

## 4 Views of the Commission – Assessment

11. The Consumers' Coalition of Alberta (CCA) submitted a cost claim totaling \$37,076.81. The claim is comprised of legal fees incurred by Wachowich & Company in the amount of \$16,651.25, together with GST of \$832.56; consulting fees incurred by Regulatory Services Inc., in the amount of \$18,660.00, together with GST of \$933.00.

12. The Commission has reviewed the cost claim from the CCA, bearing in mind the principles specified in Rule 022. The Commission finds that the hours incurred are not unreasonable for the tasks described in the accountings. The Commission also notes that the claims for professional fees and other claims were in accordance with the *Scale of Costs*. Accordingly, the Commission considers the CCA's claims for fees, disbursements and applicable GST in the total amount of \$37,076.81 to be reasonable.

## 5 GST

13. In accordance with the Commission'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 Commission has reduced this particular portion of their claim. Eligible GST approved by the Commission amounts to \$1,765.56. The GST allowed by the Commission may also be charged against AUI's Hearing Cost Reserve Account.

14. The Commission 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 that:

1. AltaGas Utilities Inc. shall pay intervener costs in the amount of \$37,076.81.
2. AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$37,076.81.

Dated on April 5, 2011.

### The Alberta Utilities Commission

*(Original signed by)*

Tudor Beattie, Q.C.  
Panel Chair

*(Original signed by)*

Bill Lyttle  
Commission Member

*(Original signed by)*

Mark Kolesar  
Commission Member