



AltaGas Utilities Inc.

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

Cost Awards (Applicant)

The Alberta Utilities Commission
Decision 2011-187: AltaGas Utilities Inc.
2008-2009 General Rate Application – Phase II
Negotiated Settlement: Cost Awards (Applicant)
Application No. 1606230
Proceeding ID No. 1035

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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 Phase II Application) with the Alberta Utilities Commission (AUC or Commission). The Phase II 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 request 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 only with interested parties.

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 requested a one week extension, which was granted by the Commission. By letter dated October 15, 2010, AUI submitted to the Commission a settlement brief (settlement application) and negotiated settlement agreement (settlement agreement) which had been ratified by the participants in the NSP.

4. The Commission dealt with the Phase II Application by way of a written proceeding. On March 8, 2011 the Commission issued Decision [2011-073](#).¹

5. The Commission issued Decision [2011-135](#)² on April 5, 2011 with respect to the intervener costs claimed by the Consumers' Coalition of Alberta.

¹ 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 Decision 2011-135: AltaGas Utilities Inc., 2008-2009 General Rate Application – Phase II Negotiated Settlement, Application No. 1606230, Proceeding ID. 1035, Released: April 5, 2011.

6. On April 19, 2011, a summary of the costs being claimed was circulated to interested parties. The Commission was advised on April 26, 2011 that parties did not have any comments regarding the summary of costs. AUI filed an amendment to its cost claim on April 28, 2011. The Commission considers the cost process to have closed on April 28, 2011.

2 Views of the Commission – Authority to Award Costs

7. 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).

8. 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.

9. 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.

10. 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

11. 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 direct opportunity to review the effectiveness of participants, the Commission 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 reasonable and represent fair value.

4 Views of the Commission – Assessment

12. AUI submitted a cost claim totaling \$182,982.31. The claim is comprised of consulting fees incurred by Chymko Consulting Ltd. in the amount of \$141,477.50, together with disbursements of \$3,616.24; consulting fees incurred by Energy Management & Regulatory Consulting in the amount of \$22,106.25, together with disbursements of \$1,275.50; legal fees incurred by MacPherson Leslie & Tyerman LLP in the amount of \$2,608.00, together with disbursements of \$5.01; and internal costs in the amount of \$11,896.81 for notice of application and meetings.

13. The Commission has considered the costs submitted by AUI, and notes that the claims for professional fees and other claims were in accordance with the *Scale of Costs*.

14. Chymko Consulting Ltd. (Chymko) submitted a claim reflecting a total of 855.25 consulting hours incurred with respect to the application and Energy Management & Regulatory Consulting (Energy Management) claimed a total of 119.5 hours. Of this amount, Chymko identified 434.5 hours as being billed with respect to “Application Development” and Energy Management billed for 55 hours prior to the filing of the application. While the 2008-2009 cost allocation model was implicitly accepted in Decision 2011-073, the Commission considers that because the 2008-2009 cost allocation model was largely an update from the previously approved model in AUI’s 2005/2006 GRA (as Chymko itself noted in its correspondence to AUI dated March 30, 2011 and filed in support of the cost claim), the amount of time billed for developing the application and adjusting the methodology appears excessive.

15. The Commission also notes that this application was not litigated, unlike AUI’s previous 2005-2006 phase II general rate application. While Chymko and Energy Management incurred costs while participating in the negotiated settlement process, there was no requirement for AUI to prepare rebuttal evidence, for oral hearing preparation and appearance, or for preparation of extensive argument and reply. As such, the Commission would have expected more significant efficiencies to result than are reflected in the consultants’ total cost claims.

16. Having regard to the foregoing, the Commission considers that a 20% reduction to the fees claimed by Chymko (20% of \$141,477.50, or \$28,295.50) and Energy Management (20% of \$26,887.50 or \$5,377.50) is warranted, resulting in a total adjusted cost award for Chymko, including fees and disbursements, of \$116,798.24, and for Energy Management, including fees and disbursements, of \$22,785.50.

17. With regard to the cost claim for legal fees incurred by MacPherson Leslie & Tyerman LLP, the Commission finds that the hours incurred are not unreasonable for the tasks described in the accountings. Accordingly, the Commission approves AUI’s claims for fees and disbursements in the total adjusted amount of \$154,093.56.

5 GST

18. 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 \$0.00.

19. 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. external costs in the amount of \$154,093.56, as set out in column (h) of [Appendix A](#) are approved.
2. AltaGas Utilities Inc. shall record in its hearing cost reserve account the allowed external costs in the amount of \$154,093.56, as set out in column (h) of [Appendix A](#).

Dated on April 29, 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

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A .xls

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AltaGas Utilities Inc.
Cost Proceeding ID. 1035

2008/2009 General Rate Application - Phase II
(1606230)

Cost claimed and Awarded (Applicant)

	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								
AltaGas Utilities Inc.								
Chymko Consulting	\$141,477.50	\$3,616.24	\$0.00	\$145,093.74	\$113,182.00	\$3,616.24	\$0.00	\$116,798.24
Energy Management & Regulatory Consulting	\$26,887.50	\$1,275.50	\$0.00	\$28,163.00	\$21,510.00	\$1,275.50	\$0.00	\$22,785.50
MacPherson Leslie & Tyerman LLP	\$2,608.00	\$5.01	\$0.00	\$2,613.01	\$2,608.00	\$5.01	\$0.00	\$2,613.01
AltaGas Utilities Inc.	\$0.00	\$11,896.81	\$0.00	\$11,896.81	\$0.00	\$11,896.81	\$0.00	\$11,896.81
Sub-Total	\$170,973.00	\$16,793.56	\$0.00	\$187,766.56	\$137,300.00	\$16,793.56	\$0.00	\$154,093.56
TOTAL APPLICANT COSTS	\$170,973.00	\$16,793.56	\$0.00	\$187,766.56	\$137,300.00	\$16,793.56	\$0.00	\$154,093.56