



AltaGas Utilities Inc.

Application to Issue 2009 Debentures

Cost Awards

ALBERTA UTILITIES COMMISSION

Decision 2010-401: AltaGas Utilities Inc.

Application to Issue 2009 Debentures

Application No. 1605686

Cost Application No. 1606101

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1 INTRODUCTION

1. On December 4, 2009, AltaGas Utilities Inc. (AUI) filed an application with the Alberta Utilities Commission (AUC or Commission) pursuant to section (26)(2)(a)(ii) of the *Gas Utilities Act* (Application) requesting an order:

- a. Approving and authorizing AUI to issue to AUI's parent company AltaGas Utility Holdings Inc. (AU Holdings Inc.) a 7.42 percent debenture in the principal amount of \$40,000,000 due April 29, 2014 (AUI Five-Year Debenture);
- b. Approving and authorizing AUI to issue to AU Holdings Inc. a 6.94 percent debenture in the principle amount of \$20,000,000 due June 29, 2016 (AUI Seven-Year Debenture);
- c. Approving annual transaction costs equal to 0.15 percent of the principal amount of the AUI Five-Year Debenture;
- d. Approving annual transaction costs equal to 0.23 percent of the principal amount of the AUI Seven-Year Debenture;
- e. Approving the purposes of the issue; and
- f. Providing such further and other relief as the AUI may request and the AUC may grant in the circumstances

2. The Commission dealt with this Application by way of written process. On June 9, 2010, the Commission issued Decision [2010-266](#)¹ with respect to the Application.

3. On May 5, 2010, 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 19, 2010. The Commission did not receive any comments. Accordingly, the Commission considers, for the purposes of this Cost Order, the cost process to have closed on May 19, 2010.

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

4. 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).

¹ Decision 2010-266: AltaGas Utilities Inc. – Application to Issue 2009 Debentures: 7.42 Percent in the Principal Amount of \$40,000,000 and 6.94 Percent in the Principal Amount of \$20,000,000 (Application No. 1605686, Proceeding ID 418) (Released: June 9, 2010).

5. 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.

6. 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.

7. 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 VIEWS OF THE COMMISSION – ASSESSMENT

3.1 AltaGas Utilities Inc.

8. AUI submitted a cost claim totaling \$17,669.36. The claim is comprised of legal fees incurred by MacPherson Leslie & Tyerman LLP in the amount of \$17,461.50, together with disbursements of \$207.86.

9. The Commission has considered the costs submitted by AUI. The Commission finds that the participation of AUI was effective and of assistance in reviewing the Application. 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 AUI's claims for fees, disbursements and applicable GST in the total amount of \$17,669.36 to be reasonable.

3.2 Consumers' Coalition of Alberta

10. The Consumers' Coalition of Alberta (CCA) submitted a cost claim totaling \$3,381.00. The claim is comprised of consulting fees incurred by Regulatory Services Inc. in the amount of \$3,220.00, together with GST of \$161.00.

11. The Commission has reviewed the CCA's cost claim and considers the amounts to be reasonable. Its claims for professional fees and other claims were in accordance with the *Scale of Costs*. Accordingly, the Commission approves the CCA's cost claim in the full amount of \$3,381.00.

4 GST

12. 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 \$161.00. The GST allowed by the Commission may also be charged against AUI's Hearing Cost Reserve Account.

13. 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.

5 ORDER

IT IS HEREBY ORDERED:

1. AltaGas Utilities Inc. shall pay intervener costs in the amount of \$3,381.00.
2. AltaGas Utilities Inc.'s external costs in the amount of \$17,669.36 are approved.
3. AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$21,050.36.

Dated on August 17, 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

Tudor Beattie, Q.C.
Panel Chair

(Original signed by)

Mark Kolesar
Commissioner

(Original signed by)

Anne Michaud
Commissioner