



**ATCO Gas South
ATCO Pipelines South
ATCO Electric Ltd.**

**Affiliate Transactions Proceeding
First and Second Compliance Filings**

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2004-04: ATCO Gas South, ATCO Pipelines South, ATCO Electric Ltd.
Affiliate Transactions Proceeding, First and Second Compliance Filings
Application Nos.: 1278564, 1286129, 1278433, 1284317, 1278432, 1286362

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**ATCO Gas South, ATCO Pipelines South, and
ATCO Electric Ltd.**

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1 INTRODUCTION

On July 26, 2002, the Alberta Energy and Utilities Board (the Board) issued Decision [2002-069](#), Part A: Asset Transfer, Outsourcing Arrangements, and GRA Issues (the Affiliate Decision), regarding the ATCO Group Affiliate Transactions and Code of Conduct Proceeding (Affiliate Proceeding). In the Affiliate Decision, the Board directed certain of the applicants, ATCO Gas South, ATCO Pipelines South, and ATCO Electric Ltd. (ATCO or the ATCO Group), to submit a compliance filing on or before September 2, 2002 to reflect the directions of the Board in the Part A Decision. In the Affiliate Decision, the Board also advised interested parties that any comments with respect to the compliance filing should be filed with the Board by September 16, 2002. The Board subsequently revised the dates for submission of the compliance filing and interested party comments to September 16, 2002 and September 30, 2002 respectively.

On or about September 16, 2002, each Applicant made their first compliance filings (collectively the First Compliance Filing).

Submissions on the First Compliance Filing were received on or about September 30, 2002 from the Alberta Urban Municipalities Association (AUMA), the City of Calgary (Calgary), Alberta Association of Municipal Districts & Counties (AAMD&C), the Public Institutional Consumers of Alberta (PICA), and the Alberta Federation of REAs (REAs).

On October 25, 2002, the ATCO Group filed its response to intervener comments.

On November 19, 2002, the following Decisions were issued:

- Decision [2002-095](#), ATCO Electric Ltd.
- Decision [2002-096](#), ATCO Pipelines South
- Decision [2002-097](#), ATCO Gas South

On November 27, 2002, ATCO Pipelines South (APS) submitted its Second Compliance Filing application. By letter dated December 2, 2002, the Board advised interested parties that subject to submissions by any parties by December 10, 2002, the Board would continue to deal with the Second Filing and issue its Decision without further process. By letter dated December 10, 2002, the City of Calgary expressed the view that no further process was necessary for the Board to deal with this Second Filing.

On December 17, 2002 the Board issued Decision [2002-111](#) with respect to APS Second Compliance Filing.

On December 12, 2002 ATCO Gas South (AGS) submitted its Second Compliance Filing. The Second Filing incorporated a proposal by AGS for application of a credit to customers' bills in January 2003, to refund the over collection of the 2001/2002 revenue shortfall which arose from the interim rates approved in Decision 2002-050. However, recognizing the need to provide interested parties with the opportunity to make submissions with respect to the filing, and the limited time available to process the filing prior to January 1, 2003, the Board indicated, in a letter dated December 13, 2002, that a more realistic date for implementation of the one-time refund rider would be February 1, 2003. In the December 13, 2002 letter, the Board invited interested parties to provide submissions with respect to the Application no later than December 20, 2002, with reply by AGS no later than January 6, 2003.

Submissions were received on December 20, 2002 from Calgary and AUMA. ATCO filed its reply to the submissions of interested parties on December 24, 2002.

On January 21, 2003 the Board issued Decision [2003-006](#).

ATCO Electric Ltd. (AE) submitted its Second Compliance Filing application on December 13, 2002. By letter dated December 16, 2002, the Board provided interested parties an opportunity to make submissions with respect to the Second Filing by December 24, 2002, with reply by AE no later than January 8, 2003. By letter dated December 20, 2002, Calgary expressed the view that no further process was necessary for the Board to deal with the Second Filing.

On January 14, 2003 the Board issued Decision [2003-002](#).

The Panel assigned to consider the First and Second Compliance Filings consisted of B.T. McManus, Q.C (Presiding Member), C.Dahl Rees (Acting Member), and M.J. Bruni, Q.C. (Acting Member).

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.

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 \$74,285.24 including actual GST of \$4,595.86 with respect to the Proceeding.

3 VIEWS OF THE PARTIES

3.1 ATCO Gas South, ATCO Pipelines South, ATCO Electric Ltd. (ATCO Group)

On April 25, 2003, the Board received comments from the ATCO Group concerning the cost claim submitted by the City of Calgary (Calgary). The ATCO Group expressed concern with the magnitude of Calgary's costs compared to that of the other participants. ATCO noted that in all three compliance proceedings Calgary made similar submissions regarding the following:

- ATCO's failure to comply with Board's direction regarding the amortization of the loss on the sale of computer assets to ATCO I-Tek;
- ATCO's violation of the Board's order regarding the reduction of rates payable to ATCO Singlepoint.

ATCO further expressed concern with Calgary's Submission of Justification as it appeared to focus on Calgary's participation in the GRA rather than focusing on the costs incurred for the Compliance Filings. With respect to ATCO Electric, the ATCO Group noted that Calgary did not provide an explanation of how it coordinated its efforts to avoid duplication.

In closing, the ATCO Group requested the Board to exercise its discretion to disallow a portion of Calgary's costs.

3.2 Calgary

By letter dated May 12, 2003, Calgary responded to ATCO's comments. In general, Calgary expressed concern that ATCO is pursuing a strategy that involves filing a complaint with all of Calgary's cost claims. With respect to the magnitude of the total amount of the cost claim relative to other participants, Calgary noted that the Board must be mindful of the issues addressed by a party as opposed to indulging in comparison between parties' costs.

With respect to ATCO's comment regarding the similarity between Calgary's submissions, Calgary argued that ATCO was mistaking the facts and pointed out that eight Affiliate issues were addressed for AGS, four for AE, and one for AP. Out of these issues, Directives 9, 12, and 25 contained similar submissions which related to more than one Utility.

With respect to Calgary's Submission of Justification and Calgary's involvement in the GRA, Calgary took the position that Compliance Filings only have meaning in the context of the original proceeding which gave rise to the Compliance Filings. As such, Calgary argued that by listing out its involvement in the original proceedings it in turn also explained its involvement in the Compliance Filings. Calgary went on to say that by reviewing the issues it raised in the original proceeding and comparing them to those addressed in its compliance submissions, confirms that Calgary has been consistent in its involvement. In conclusion, Calgary responded to the issue of coordination of effort. Calgary argued that the Utilities failed to arrange the compliance filings in such a way to facilitate coordination of effort by both the Board and interested parties.

4 VIEWS OF THE BOARD

The Board has reviewed and considered the comments and responses received. The Board notes that ATCO has, in part, used a comparative approach when addressing Calgary's cost claim to those claims of other participants. It is the Board's opinion that such comparisons are not always beneficial with respect to assessing cost claims. The individual merits of the cost submissions are the determinative factor for consideration. The Board has reviewed the costs submitted by the participants, bearing in mind the principles specified in the Board's *Scale of Costs* set out in Appendix D 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", "B", and "C" to this Order.

5 GST

In accordance with the Board's treatment of the GST on cost awards, each Applicant is required to pay only that portion of the GST paid by interveners that may not be recoverable through the GST credit mechanism. Eligible GST approved by the Board amounts to \$464.01 with respect to ATCO Electric Ltd., \$655.85 with respect to ATCO Pipelines – South, and \$910.48 with respect to ATCO Gas – South, as shown in column (d) of Appendices "A", "B", and "C" respectively. The GST allowed by the Board may also be charged against Applicant's 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. ATCO Electric Ltd. shall pay intervener costs in the amount of \$15,835.33, as set out in column (e) of Appendix "A".

2. ATCO Electric Ltd.'s external costs in the amount of \$2,000.00, as set out in column (e) of Appendix "A", are approved.
3. ATCO Electric Ltd. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$17,835.33, as set out in column (e) of Appendix "A".
4. ATCO Pipelines - South shall pay intervener costs in the amount of \$23,112.47, as set out in column (e) of Appendix "B".
5. ATCO Pipelines – South shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$23,112.47, as set out in column (e) of Appendix “B”;
6. ATCO Gas – South shall pay intervener costs in the amount of \$30,050.92, as set out in column (e) of Appendix “C”;
7. ATCO Gas – South’s external costs in the amount of \$721.00, as set out in column (e) of Appendix “C”, are approved;
8. ATCO Gas – South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$30,771.92, as set out in column (e) of Appendix “C”.

Dated in Calgary, Alberta on this 23rd day of January, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

(Originally signed by)

Thomas McGee
Board Member

APPENDIX A – Summary of Costs Claimed and Awarded (ATCO Electric)



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APPENDIX B – Summary of Costs Claimed and Awarded (ATCO Pipelines South)



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APPENDIX C – Summary of Costs Claimed and Awarded (ATCO Gas South)



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ATCO Electric Ltd.
Affiliate Transactions
Compliance Filings

(1278432 / 1286362)

Summary of Total Costs Claimed and Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Fees, Disbursements, and GST Awarded (e)
APPLICANT					
ATCO Electric Ltd.					
Bennett Jones	\$2,000.00	\$2,000.00	\$0.00	\$0.00	\$2,000.00
Sub-Total	\$2,000.00	\$2,000.00	\$0.00	\$0.00	\$2,000.00
INTERVENERS					
Alberta Federation of REAs					
Sisson Warren Sinclair	\$759.50	\$675.00	\$34.82	\$0.00	\$709.82
Collins Barrow	\$668.75	\$625.00	\$0.00	\$0.00	\$625.00
Sub-Total	\$1,428.25	\$1,300.00	\$34.82	\$0.00	\$1,334.82
Alberta Association of Municipal Districts & Counties					
Brownlee Fryett	\$747.42	\$687.50	\$11.02	\$0.00	\$698.52
Collins Barrow	\$668.75	\$625.00	\$0.00	\$0.00	\$625.00
Sub-Total	\$1,416.17	\$1,312.50	\$11.02	\$0.00	\$1,323.52
Alberta Urban Municipalities Association					
Bryan & Company	\$347.75	\$325.00	\$0.00	\$22.75	\$347.75
Robert L. Bruggeman Regulatory Consulting Ltd.	\$1,861.80	\$1,740.00	\$0.00	\$121.80	\$1,861.80
Sub-Total	\$2,209.55	\$2,065.00	\$0.00	\$144.55	\$2,209.55
City of Calgary					
Burnet, Duckworth & Palmer	\$4,140.48	\$3,840.00	\$29.61	\$116.10	\$3,985.71
Stephen Johnson	\$4,526.10	\$4,230.00	\$0.00	\$126.91	\$4,356.91
Energy Group Inc.	\$2,726.76	\$2,548.37	\$0.00	\$76.46	\$2,624.83
Sub-Total	\$11,393.34	\$10,618.37	\$29.61	\$319.46	\$10,967.44
TOTAL INTERVENER COSTS	\$16,447.31	\$15,295.87	\$75.45	\$464.01	\$15,835.33
TOTAL COSTS	\$18,447.31	\$17,295.87	\$75.45	\$464.01	\$17,835.33

**ATCO Pipelines South
Affiliate Transactions
Compliance Filings**

(1278433 / 1284317)

Summary of Total Costs Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Fees, Disbursements, and GST Awarded (e)
APPLICANT					
ATCO Pipelines South					
ATCO Pipelines South	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Sub-Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
INTERVENERS					
Federation of Alberta Gas Co-ops Ltd. / Gas Alberta Inc.					
Campbell Ryder Consulting Inc.	\$2,941.75	\$2,737.50	\$11.80	\$0.00	\$2,749.30
Brownlee Fryett	\$428.00	\$400.00	\$0.00	\$0.00	\$400.00
Sub-Total	\$3,369.75	\$3,137.50	\$11.80	\$0.00	\$3,149.30
Alberta Urban Municipalities Association					
Bryan & Company	\$347.75	\$325.00	\$0.00	\$22.75	\$347.75
Robert L. Bruggeman Regulatory Consulting Ltd.	\$1,701.30	\$1,590.00	\$0.00	\$111.30	\$1,701.30
Sub-Total	\$2,049.05	\$1,915.00	\$0.00	\$134.05	\$2,049.05
City of Calgary					
Burnet, Duckworth & Palmer	\$5,170.23	\$4,795.00	\$36.99	\$144.97	\$4,976.96
Stephen Johnson	\$3,547.05	\$3,315.00	\$0.00	\$99.46	\$3,414.46
Energy Group, Inc.	\$9,892.50	\$9,245.33	\$0.00	\$277.38	\$9,522.71
Sub-Total	\$18,609.78	\$17,355.33	\$36.99	\$521.80	\$17,914.12
TOTAL INTERVENER COSTS	\$24,028.58	\$22,407.83	\$48.79	\$655.85	\$23,112.47
TOTAL COSTS	\$24,028.58	\$22,407.83	\$48.79	\$655.85	\$23,112.47

**ATCO Gas South
Affiliate Transactions
Compliance Filings**

(1278564 / 1286129)

Summary of Total Costs Claimed and Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Fees, Disbursements, and GST Awarded (e)
APPLICANT					
ATCO Gas South					
Bennett Jones	\$721.00	\$721.00	\$0.00	\$0.00	\$721.00
Sub-Total	\$721.00	\$721.00	\$0.00	\$0.00	\$721.00
INTERVENERS					
Federation of Alberta Gas Co-ops Ltd. / Gas Alberta Inc.					
Campbell Ryder Consulting Group Ltd.	\$651.31	\$600.00	\$8.70	\$0.00	\$608.70
Sub-Total	\$651.31	\$600.00	\$8.70	\$0.00	\$608.70
Alberta Urban Municipalities Association					
Bryan & Company	\$347.75	\$325.00	\$0.00	\$22.75	\$347.75
Robert L. Bruggeman Regulatory Consulting Ltd.	\$2,222.92	\$2,077.50	\$0.00	\$145.43	\$2,222.93
Sub-Total	\$2,570.67	\$2,402.50	\$0.00	\$168.18	\$2,570.68
Alberta Irrigation Projects Association					
Unryn & Associates Ltd.	\$1,387.50	\$1,387.50	\$0.00	\$0.00	\$1,387.50
Sub-Total	\$1,387.50	\$1,387.50	\$0.00	\$0.00	\$1,387.50
City of Calgary					
Burnet, Duckworth & Palmer	\$5,195.39	\$4,790.00	\$60.64	\$145.53	\$4,996.17
Stephen Johnson	\$5,681.70	\$5,310.00	\$0.00	\$159.31	\$5,469.31
Energy Group, Inc.	\$15,601.78	\$14,581.10	\$0.00	\$437.46	\$15,018.56
Sub-Total	\$26,478.87	\$24,681.10	\$60.64	\$742.30	\$25,484.04
TOTAL INTERVENER COSTS	\$31,088.35	\$29,071.10	\$69.34	\$910.48	\$30,050.92
TOTAL COSTS	\$31,809.35	\$29,792.10	\$69.34	\$910.48	\$30,771.92