



Town of Bonnyville and AltaGas Utilities Inc.

**Review of Proposed Standard Natural
Gas Franchise Agreement with
AltaGas Utilities Inc.**

**Application for a Revised Franchise
Fee in the Town of Bonnyville**

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2004-08: Town of Bonnyville and AltaGas Utilities Inc.
Review of Proposed Standard Natural Gas Franchise Agreement and
Application for a Revised Franchise Fee in the Town of Bonnyville
Application Nos.: 1284188 and 1290333

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**AltaGas Utilities Inc. and Town of Bonnyville
Review of Proposed Standard Natural
Gas Franchise Agreement with
AltaGas Utilities Inc. and
Application for a Revised Franchise
Fee in the Town of Bonnyville**

**Utility Cost Order 2004-08
Application Nos. 1284188 & 1290333
File No.:8000-1284188-01**

1 INTRODUCTION

By letter dated October 25, 2002, the Town of Bonnyville (the Town) and AltaGas Utilities Inc. (AltaGas) filed an application with the Alberta Energy and Utilities Board (the Board) for approval to renew their gas franchise agreement for a period of 10 years in accordance with the terms and conditions of a gas distribution agreement (the Agreement).

A Notice of Hearing was published in the Bonnyville Nouvelle and all major newspapers in Alberta on May 26, 2003. Notice was also served directly on interested parties. The Board received two responses to the notice, one from the Consumers Coalition of Alberta (CCA) and the other from the Alberta Urban Municipalities Association (AUMA). By letter dated May 28, 2003.

A hearing was convened on June 10, 2003, in the Board's Edmonton offices, before Gordon J. Miller, Presiding Member, T. M. McGee, Member, and J. Gilmour, Acting Member, sitting as the Board Panel. Written argument was received by June 11, 2003 and written responses to argument were filed by June 13, 2003. The Board considers that the record for this proceeding closed on June 13, 2003. On September 9, 2003 the Board issued Decision 2003-067.

By letter dated January 21, 2003 (the Application), AltaGas Utilities, (AltaGas), applied to the Alberta Energy and Utilities Board (the Board) for revisions to its franchise fee rider. A Notice of Objections was published in the Bonnyville Nouvelle and all major newspapers in Alberta on May 26, 2003.

A hearing was convened on June 10, 2003, in the Board's Edmonton offices, before Gordon J. Miller, Presiding Member, T. M. McGee, Member, and J. Gilmour, Acting Member, sitting as the Board Panel. Written argument was received by June 11, 2003 and written responses to argument were filed by June 13, 2003. The Board considers that the record in this proceeding closed on June 16, 2003. On September 9, 2003 the Board issued Decision 2003-068.

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.

In the case of applications based upon a negotiated settlement (NSP), the Board does not directly participate in the process. Rather, the Board reviews the nature of the process itself and its results to ensure that they were fair, reasonable, and in the public interest. Without the direct opportunity to review the effectiveness of participants, the Board 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 indeed reasonable and represent fair value.

Various participants submitted cost claims totaling \$38,745.19 including actual GST of \$1,293.50 with respect to the Proceeding.

3 VIEWS OF THE BOARD - Assessment

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 Appendix "A" to this Order.

4 GST

In accordance with the Board's treatment of the GST on cost awards, AltaGas 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 \$1,293.50 as shown in column (d) of Appendix "A". The GST allowed by the Board may also be charged against AltaGas' 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.

5 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. AltaGas Utilities Inc. shall pay intervener costs in the amount of \$19,818.34, as set out in column (e) of Appendix "A".
2. AltaGas Utilities Inc.'s external costs in the amount of \$18,926.85, as set out in column (e) of Appendix "A", 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 \$38,745.19, as set out in column (e) of Appendix "A".

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

ALBERTA ENERGY AND UTILITIES BOARD

(original signed by)

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



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Appendix A (AltaGas

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