



ATCO Gas North ATCO Gas South

**Retailer Service and Gas Utilities Act
Compliance – Phase 1**

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2004-21: ATCO Gas North and ATCO Gas South
Retailer Service and Gas Utilities Act Compliance – Phase I
Application No.: 1308709

Published by

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**ATCO Gas North and South
Retailer Service and Gas Utilities Act
Compliance – Phase I**

**Utility Cost Order 2004-21
Application No. 1308709
File No. 8000-1308709-01**

1 INTRODUCTION

The Alberta Energy and Utilities Board (Board) received an application (Application) from ATCO Gas North and ATCO Gas South, divisions of ATCO Gas and Pipelines Ltd. (collectively, ATCO Gas), dated July 25, 2003, for various approvals related to new Terms and Conditions (T&Cs) between ATCO Gas and its retailers and direct connect customers, and with respect to developing a load balancing and settlement system for gas.

The Application was filed in response to amendments to the *Gas Utilities Act* (the Gas Utilities Act as amended is herein referred to as the GUA) and the introduction of new regulations (Regulations) under the GUA.

By letter of August 11, 2003, the Board established a process to review the Application in two phases. Phase 1 would deal with interim matters related to the T&Cs proposals, as well as the continuation of the Rate 11/13 current processes with respect to load balancing. Phase 2 would deal with final approval of the T&Cs, load balancing and load settlement issues. The Board sought input on the process and the most effective approach to deal with Phase 2.

On September 23, 2003, ATCO Gas submitted a revision to the T&Cs that separated the definitions of the Default Supply Provider (DSP) and the retailer.

In a letter dated October 15, 2003, the Board requested comments related to implementation timing for the T&Cs and a One Bill Model. The concept of a single bill to customers in respect of both retail and distribution services and energy charges (the One Bill Model) arises from the requirements of sections 2 and 4 of the *Natural Gas Billing Regulation*, AR 185/2003 (the Billing Regulation), which provide that only a retailer or DSP, or an authorized gas distributor, can provide a bill to customers. Additionally, the Board requested clarification respecting the appropriate treatment of prudential requirements relating to the DSP.

Final comments from parties were submitted on October 29, 2003. Accordingly, for purposes of this Decision, the Board considers that the record closed on October 29, 2003.

The Panel assigned to consider this matter consisted of B. T. McManus, Q.C. (Presiding Member), J. I. Douglas, FCA (Member), and W. K. Taylor (Acting Member). On December 22, 2003 the Board issued [Decision 2003-102](#).

By letter dated January 13, 2004, summaries of the costs being claimed for this proceeding was circulated to interested parties. Parties were advised that any comments regarding the figures listed in the summaries or the merits of the total costs claimed were to be submitted by January 27, 2004. The Board did not receive any comments and accordingly considers that that cost process for this proceeding closed on January 27, 2004.

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 \$84,137.53 including actual GST of \$2,091.23 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 Appendices “A” and “B” to this Order in the total amount of \$82,983.88.

4 GST

In accordance with the Board's treatment of the GST on cost awards, ATCO 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 Board has reduced this particular portion of their claim. Eligible GST approved by the Board amounts to \$278.54 as shown in column (d) of Appendix “A” and \$659.04 as shown in column (d) of Appendix “B”. The GST allowed by the Board may also be charged against ATCO Gas North's and ATCO Gas South's respective 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. ATCO Gas North shall pay intervener costs in the amount of \$12,103.33, as set out in column (e) of Appendix “A”.
2. ATCO Gas North's external costs in the amount of \$25,404.12, as set out in column (e) of Appendix “A”, are approved.
3. ATCO Gas North shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$37,507.45, as set out in column (e) of Appendix “A”.
4. ATCO Gas South shall pay intervener costs in the amount of \$20,072.31, as set out in column (e) of Appendix “B”.

5. ATCO Gas South's external costs in the amount of \$25,404.12, as set out in column (e) of Appendix "B" are approved.
6. ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$45,476.43, as set out in column (e) of Appendix "B".

Dated in Calgary, Alberta on this 24th day of March, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

(Original signed by)

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



"UCO 2004-21
Appendix A (AGN Ret)

APPENDIX B – SUMMARY OF COSTS CLAIMED AND AWARDED



"UCO 2004-21
Appendix B (AGS Ret)

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**ATCO Gas North
Retailer Service and GUA Compliance
(1308709)**

Summary of Total Costs Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Amount Awarded (e)
APPLICANT					
ATCO Gas North					
ATCO Gas North	\$3,375.52	\$0.00	\$3,375.52	\$0.00	\$3,375.52
Bennett Jones LLP	\$22,028.60	\$21,934.00	\$94.60	\$0.00	\$22,028.60
Sub-total	\$25,404.12	\$21,934.00	\$3,470.12	\$0.00	\$25,404.12
INTERVENERS					
Alberta Urban Municipalities Association					
Bryan & Company	\$511.46	\$475.00	\$3.00	\$33.46	\$511.46
Robert L. Bruggeman Regulatory Consulting Ltd.	\$2,632.20	\$2,460.00	\$0.00	\$172.20	\$2,632.20
Sub-total	\$3,143.66	\$2,935.00	\$3.00	\$205.66	\$3,143.66
City of Edmonton					
Reynolds, Mirth, Richards & Farmer LLP	\$713.39	\$625.00	\$41.72	\$20.00	\$686.72
Barry Shymanski Regulatory Consulting Ltd.	\$1,885.88	\$1,762.50	\$0.00	\$52.88	\$1,815.38
Sub-total	\$2,599.27	\$2,387.50	\$41.72	\$72.88	\$2,502.10
Federation of Alberta Gas Co-ops Ltd. / Gas Alberta Inc.					
Brownlee Fryett	\$2,319.09	\$2,150.00	\$17.37	\$0.00	\$2,167.37
Campbell Ryder Consulting Group	\$4,590.51	\$4,200.00	\$90.20	\$0.00	\$4,290.20
Sub-total	\$6,909.60	\$6,350.00	\$107.57	\$0.00	\$6,457.57
TOTAL INTERVENER COSTS	\$12,652.53	\$11,672.50	\$152.29	\$278.54	\$12,103.33
TOTAL INTERVENER AND APPLICANT COSTS	\$38,056.65	\$33,606.50	\$3,622.41	\$278.54	\$37,507.45

ATCO Gas South

Retailer Service and GUA Compliance
(1308709)

Summary of Total Costs Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Amount Awarded (e)
APPLICANT					
ATCO Gas South					
ATCO Gas South	\$3,375.53	\$0.00	\$3,375.53	\$0.00	\$3,375.53
Bennett Jones LLP	\$22,028.59	\$21,934.00	\$94.59	\$0.00	\$22,028.59
Sub-Total	\$25,404.12	\$21,934.00	\$3,470.12	\$0.00	\$25,404.12
INTERVENERS					
Alberta Urban Municipalities Association					
Bryan & Company	\$511.46	\$475.00	\$3.00	\$33.46	\$511.46
Robert L. Bruggeman Regulatory Consulting Ltd.	\$2,632.20	\$2,460.00	\$0.00	\$172.20	\$2,632.20
Sub-Total	\$3,143.66	\$2,935.00	\$3.00	\$205.66	\$3,143.66
City of Calgary					
D'Arcy Deacon	\$2,347.87	\$2,040.00	\$154.27	\$65.83	\$2,260.10
Stephen Johnson	\$995.10	\$930.00	\$0.00	\$27.90	\$957.90
Peter J. Milne and Associates	\$9,175.25	\$8,575.00	\$0.00	\$257.27	\$8,832.27
DHG Consulting	\$3,651.38	\$3,412.50	\$0.00	\$102.38	\$3,514.88
Sub-Total	\$16,169.60	\$14,957.50	\$154.27	\$453.38	\$15,565.15
ENMAX Energy Corporation					
Stikeman Elliott	\$216.00	\$216.00	\$0.00	\$0.00	\$216.00
Altitude Enerservices Ltd.	\$1,147.50	\$1,147.50	\$0.00	\$0.00	\$1,147.50
Sub-Total	\$1,363.50	\$1,363.50	\$0.00	\$0.00	\$1,363.50
TOTAL INTERVENER COSTS					
	\$20,676.76	\$19,256.00	\$157.27	\$659.04	\$20,072.31
TOTAL INTERVENER AND APPLICANT COSTS					
	\$46,080.88	\$41,190.00	\$3,627.39	\$659.04	\$45,476.43