



# **ATCO Gas South**

## **2004/2005 Carbon Storage Plan**

### **Cost Awards**

**ALBERTA ENERGY AND UTILITIES BOARD**

Utility Cost Order 2004-34: ATCO Gas South  
2004/2005 Carbon Storage Transfer  
Application No. 1314634

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## **1 INTRODUCTION**

ATCO Gas South (AGS or the Company), a division of ATCO Gas and Pipelines Ltd. (AGPL), filed an application (the Application) with the Alberta Energy and Utilities Board (the Board or EUB), by letter dated September 19, 2003, requesting approval of a 2004/2005 storage plan for the Carbon underground natural gas storage facility (Carbon).

A Notice of Hearing, dated October 2, 2003, was emailed to all interested parties registered in the previous Carbon proceeding and published in the daily newspapers in AGS's service area. The public notice indicated that the Application would be dealt with using a written process unless otherwise requested by interested parties. The Notice indicated that requests for information were to be submitted to AGS by October 16, 2003, and that interested parties could submit evidence by November 10, 2003.

By letter dated November 7, 2003, the Board amended the filing dates for argument and reply argument, from those stated in the Notice, to January 9, 2004 and January 23, 2004, respectively. Accordingly, the Board considers that January 23, 2003 was the close of record for this proceeding.

The Panel assigned to consider this proceeding consisted of B.T. McManus, Q.C. (Presiding Member), M.J. Bruni, Q.C. (Acting Member), and C. Dahl Rees (Acting Member). On March 9, 2004 the Board issued [Decision 2004-022](#).

On March 8, 2004 the EUB circulated a summary of the costs being claimed 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 March 23, 2004. The Board did not receive any comments and as such, for the purposes of this Cost Order, considers the cost process to have closed on March 23, 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.

### **3 VIEWS OF THE BOARD - Assessment**

Various participants submitted cost claims totaling \$171,268.76 including actual GST of \$7,464.30 with respect to the Proceeding.

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 in the total amount of \$167,742.99.

### **4 GST**

In accordance with the Board's treatment of the GST on cost awards, AGS 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 \$3,938.53 as shown in column (g) of [Appendix "A"](#). The GST allowed by the Board may be charged against the AGS 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 South shall pay intervener costs in the amount of \$115,186.93, as set out in column (h) of [Appendix "A"](#).
2. ATCO Gas South's external costs in the amount of \$52,556.06, as set out in column (h) of [Appendix "A"](#), are approved.
3. ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$167,742.99, as set out in column (h) of [Appendix "A"](#).

Dated in Calgary, Alberta on this 17th day of May, 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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AGS  
2004/2005 Carbon Storage Plan (1314634)

Summary of Total Costs Claimed and Awarded

	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)
<b>APPLICANT</b>								
<b>ATCO Gas South</b>								
ATCO Gas South	\$0.00	\$3,250.67	\$0.00	\$3,250.67	\$0.00	\$3,250.67	\$0.00	\$3,250.67
Bennett Jones LLP	\$48,721.00	\$584.39	\$0.00	\$49,305.39	\$48,721.00	\$584.39	\$0.00	\$49,305.39
<b>Sub-Total</b>	<b>\$48,721.00</b>	<b>\$3,835.06</b>	<b>\$0.00</b>	<b>\$52,556.06</b>	<b>\$48,721.00</b>	<b>\$3,835.06</b>	<b>\$0.00</b>	<b>\$52,556.06</b>
<b>INTERVENERS</b>								
<b>Aboriginal Communities</b>								
A.O. Ackroyd, Q.C.	\$1,375.00	\$0.00	\$0.00	\$1,375.00	\$1,375.00	\$0.00	\$0.00	\$1,375.00
Graves Engineering Corporation	\$1,567.50	\$0.00	\$0.00	\$1,567.50	\$1,567.50	\$0.00	\$0.00	\$1,567.50
<b>Sub-Total</b>	<b>\$2,942.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2,942.50</b>	<b>\$2,942.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2,942.50</b>
<b>Alberta Irrigation Projects Association</b>								
Unryn & Associates Ltd.	\$1,424.50	\$0.00	\$0.00	\$1,424.50	\$1,424.50	\$0.00	\$0.00	\$1,424.50
<b>Sub-Total</b>	<b>\$1,424.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,424.50</b>	<b>\$1,424.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,424.50</b>
<b>City of Calgary</b>								
Burnet, Duckworth & Palmer	\$41,400.00	\$701.80	\$2,929.72	\$45,031.52	\$41,400.00	\$701.80	\$1,263.14	\$43,364.94
Energy Group, Inc.	\$20,339.36	\$0.00	\$1,423.76	\$21,763.12	\$20,339.36	\$0.00	\$610.22	\$20,949.58
Peter J. Milne & Associates Inc.	\$1,575.00	\$0.00	\$110.25	\$1,685.25	\$1,575.00	\$0.00	\$47.25	\$1,622.25
Energy Objective	\$22,407.50	\$0.00	\$1,568.53	\$23,976.03	\$22,407.50	\$0.00	\$672.27	\$23,079.77
Stephen Johnson	\$2,160.00	\$0.00	\$151.20	\$2,311.20	\$2,160.00	\$0.00	\$64.80	\$2,224.80
<b>Sub-Total</b>	<b>\$87,881.86</b>	<b>\$701.80</b>	<b>\$6,183.46</b>	<b>\$94,767.12</b>	<b>\$87,881.86</b>	<b>\$701.80</b>	<b>\$2,657.69</b>	<b>\$91,241.35</b>



AGS  
2004/2005 Carbon Storage Plan (1314634)

Summary of Total Costs Claimed and Awarded

	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)
<b>Consumer Group</b>								
Bryan & Company	\$5,150.00	\$47.74	\$363.84	\$5,561.58	\$5,150.00	\$47.74	\$363.84	\$5,561.58
Liddle Engineering Ltd.	\$13,100.00	\$0.00	\$917.00	\$14,017.00	\$13,100.00	\$0.00	\$917.00	\$14,017.00
<b>Sub-Total</b>	<b>\$18,250.00</b>	<b>\$47.74</b>	<b>\$1,280.84</b>	<b>\$19,578.58</b>	<b>\$18,250.00</b>	<b>\$47.74</b>	<b>\$1,280.84</b>	<b>\$19,578.58</b>
<b>TOTAL INTERVENER COSTS</b>	<b>\$110,498.86</b>	<b>\$749.54</b>	<b>\$7,464.30</b>	<b>\$118,712.70</b>	<b>\$110,498.86</b>	<b>\$749.54</b>	<b>\$3,938.53</b>	<b>\$115,186.93</b>
<b>TOTAL INTERVENER AND APPLICANT COSTS</b>	<b>\$159,219.86</b>	<b>\$4,584.60</b>	<b>\$7,464.30</b>	<b>\$171,268.76</b>	<b>\$159,219.86</b>	<b>\$4,584.60</b>	<b>\$3,938.53</b>	<b>\$167,742.99</b>