



ATCO Gas North ATCO Gas South

2003/2004 General Rate Application
Compliance Filing

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2004-44: ATCO Gas North and South
2003/2004 General Rate Application Compliance Filing
Application No. 1323828

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

**ATCO Gas North and South
2003/2004 General Rate Application
Compliance Filing**

**Utility Cost Order 2004-44
Application No. 1323828
File No. 8000-1323828-01**

1 INTRODUCTION

On October 1, 2003, the Alberta Energy and Utilities Board (EUB/Board) issued [Decision 2003-072](#) regarding the 2003/2004 Phase I General Rate Application (GRA) of ATCO Gas (ATCO or the Company). In Decision 2003-072 the Board directed ATCO to re-file its 2003/2004 GRA to incorporate the Board's findings in that Decision and provide all of the supporting schedules necessary for the Board to make its final determination regarding the 2003/2004 revenue requirement.

On December 8, 2003 ATCO re-filed its 2003/2004 GRA (Compliance Filing), reflecting the revisions to the Company's rate base and revenue requirement to comply with the Board's directions in Decision 2003-072. By letter dated December 10, 2003, the Board requested that interested parties review the Compliance Filing, and submit any comments to the Board no later than January 15, 2004. In the letter, the Board requested that ATCO respond to the comments of interested parties by February 2, 2004. On January 14, 2004, in response to a request from the City of Calgary, the Board extended the deadline for submissions by interested parties to January 19, 2004 and to February 6, 2004 for reply by ATCO. On February 5, 2004, in response to a request, the Board extended the deadline for reply submission by ATCO to February 11, 2004.

On January 19, 2004, submissions on the Compliance Filing were received from the Alberta Urban Municipalities Association and the City of Edmonton (AUMA/EDM), the City of Calgary (Calgary), and the Consumer Group (CG). On January 19, 2004, the Board also filed a request with ATCO for clarification of certain matters in the Compliance Filing. On February 11, 2004, ATCO filed its response to comments of interveners and the Board. The Board therefore considers that the record for this proceeding closed on February 11, 2004.

The Panel assigned to consider this proceeding consisted of B. T. McManus, Q. C. (Presiding Member), Gordon J. Miller (Member), and J. I. Douglas FCA (Member). On April 28, 2004 the Board issued [Decision 2004-036](#).

On April 1, 2004 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 submitted to the Board by April 16, 2004. The Board did not receive any comments and accordingly considers that the cost process for this proceeding closed on April 16, 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 \$63,242.13 including actual GST of \$2,533.04 with respect to the Proceeding.

3 VIEWS OF THE BOARD - Assessment

3.1 Alberta Irrigation Projects Association (AIPA)

AIPA submitted a cost claim for the professional fees incurred by Henry Unryn, of Unryn & Associates Ltd., in the amount of \$8,040.00. The Board notes that 44 hours were incurred for preparation at an hourly rate of \$185.00.

While the Board appreciates that the evidence provided by this consultant assisted the Board in its appreciation of the issues before it, it is of the view that the costs claimed are disproportionate to the contribution. When consultants claim costs at the upper end of the *Scale of Costs*, the Board expects that the relative experience and expertise of such experts will naturally result in reduced preparation time. Given the somewhat general nature of the issues addressed by this expert, and the level of the expertise the Board acknowledges that Henry Unryn possesses, the Board is of the view that the preparation time claimed is inordinately high. Furthermore the Board has also considered that there were a number of consulting firms assisting with this intervention.

Taking the foregoing into account the Board finds it appropriate to reduce Mr. Unryn's fees by 15%. Accordingly, the Board approves professional fees in the amount of \$3,459.50 and \$3,459.50 as shown in Appendices A and B, respectively.

3.2 Remaining Participants

The Board has reviewed the costs submitted by the remaining 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 \$18,477.58 and \$42,512.30, respectively.

4 GST

In accordance with the Board's treatment of the GST on cost awards, AGN and AGS are 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 \$386.43 as shown in column (g) of Appendix A and \$1,115.36 as shown in column (g) of Appendix B. The GST allowed by the Board may also be charged against each Applicant'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 \$12,325.43, as set out in column (h) of Appendix A.
2. ATCO Gas North external costs in the amount of \$6,152.15, as set out in column (h) 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 \$18,477.58, as set out in column (h) of Appendix A.
4. ATCO Gas South shall pay intervener costs in the amount of \$36,360.15, as set out in column (h) of Appendix B.

5. ATCO Gas South external costs in the amount of \$6,152.15, as set out in column (h) 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 \$42,512.30, as set out in column (h) of Appendix B.

Dated in Calgary, Alberta on this 16th day of June, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

<original signed by>

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED (AGN)



"UCO 2004-44
Appendix A (AGN GR)

APPENDIX B – SUMMARY OF COSTS CLAIMED AND AWARDED (AGS)



"UCO 2004-44
Appendix B (AGS GR)

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ATCO Gas North

2003/2004 GRA Compliance Filing 1323828

Summary of Total Costs Claimed and Awarded

	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)
APPLICANT								
ATCO Gas North								
ATCO Gas North	\$0.00	\$2,190.90	\$0.00	\$2,190.90	\$0.00	\$2,190.90	\$0.00	\$2,190.90
Bennett Jones LLP	\$3,925.00	\$36.25	\$0.00	\$3,961.25	\$3,925.00	\$36.25	\$0.00	\$3,961.25
Sub-Total	\$3,925.00	\$2,227.15	\$0.00	\$6,152.15	\$3,925.00	\$2,227.15	\$0.00	\$6,152.15
INTERVENERS								
Alberta Irrigation Projects Association								
Unryn & Associates Ltd.	\$4,070.00	\$0.00	\$0.00	\$4,070.00	\$3,459.50	\$0.00	\$0.00	\$3,459.50
Sub-Total	\$4,070.00	\$0.00	\$0.00	\$4,070.00	\$3,459.50	\$0.00	\$0.00	\$3,459.50
AUMA / City of Edmonton								
Bryan & Company	\$1,900.00	\$0.40	\$133.03	\$2,033.43	\$1,900.00	\$0.40	\$133.03	\$2,033.43
Robert L. Bruggeman	\$2,540.00	\$0.00	\$177.80	\$2,717.80	\$2,540.00	\$0.00	177.8	\$2,717.80
Sub-Total	\$4,440.00	\$0.40	\$310.83	\$4,751.23	\$4,440.00	\$0.40	\$310.83	\$4,751.23
Consumers Coalition of Alberta								
Professional Regulatory Services, Inc.	\$1,080.00	\$0.00	\$75.60	\$1,155.60	\$1,080.00	\$0.00	\$75.60	\$1,155.60
Sub-Total	\$1,080.00	\$0.00	\$75.60	\$1,155.60	\$1,080.00	\$0.00	\$75.60	\$1,155.60
Federation of Alberta Gas Co-ops / Gas AB Inc.								
Brownlee LLP	\$850.00	\$9.10	\$60.14	\$919.24	\$850.00	\$9.10	\$0.00	\$859.10
Sub-Total	\$850.00	\$9.10	\$60.14	\$919.24	\$850.00	\$9.10	\$0.00	\$859.10
Public Institutional Consumers of Alberta								
Energy Management & Regulatory Consulting Ltd.	\$2,100.00	\$0.00	\$0.00	\$2,100.00	\$2,100.00	\$0.00	\$0.00	\$2,100.00
Sub-Total	\$2,100.00	\$0.00	\$0.00	\$2,100.00	\$2,100.00	\$0.00	\$0.00	\$2,100.00
TOTAL INTERVENER COSTS								
	\$12,540.00	\$9.50	\$446.57	\$12,996.07	\$11,929.50	\$9.50	\$386.43	\$12,325.43
TOTAL INTERVENER AND APPLICANT COSTS								
	\$16,465.00	\$2,236.65	\$446.57	\$19,148.22	\$15,854.50	\$2,236.65	\$386.43	\$18,477.58

**ATCO Gas South
2003/2004 GRA Compliance Filing 1323828**

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)
APPLICANT								
ATCO Gas South								
ATCO Gas South	\$0.00	\$2,190.90	\$0.00	\$2,190.90	\$0.00	\$2,190.90	\$0.00	\$2,190.90
Bennett Jones LLP	\$3,925.00	\$36.25	\$0.00	\$3,961.25	\$3,925.00	\$36.25	\$0.00	\$3,961.25
Sub-Total	\$3,925.00	\$2,227.15	\$0.00	\$6,152.15	\$3,925.00	\$2,227.15	\$0.00	\$6,152.15
INTERVENERS								
Alberta Irrigation Projects Association								
Unryn & Associates Ltd.	\$4,070.00	\$0.00	\$0.00	\$4,070.00	\$3,459.50	\$0.00	\$0.00	\$3,459.50
Sub-Total	\$4,070.00	\$0.00	\$0.00	\$4,070.00	\$3,459.50	\$0.00	\$0.00	\$3,459.50
AUMA / City of Edmonton								
Bryan & Company	\$1,900.00	\$0.40	\$133.03	\$2,033.43	\$1,900.00	\$0.40	\$133.03	\$2,033.43
Robert L. Bruggeman	\$2,540.00	\$0.00	\$177.80	\$2,717.80	\$2,540.00	\$0.00	\$177.80	\$2,717.80
Sub-Total	\$4,440.00	\$0.40	\$310.83	\$4,751.23	\$4,440.00	\$0.40	\$310.83	\$4,751.23
City of Calgary								
Burnet, Duckworth & Palmer	\$7,525.00	\$140.58	\$535.90	\$8,201.48	\$7,525.00	\$140.58	\$229.98	\$7,895.56
Energy Group, Inc.	\$10,790.56	\$0.00	\$755.34	\$11,545.90	\$10,790.56	\$0.00	\$323.74	\$11,114.30
Stephens Consulting Ltd.	\$800.00	\$0.00	\$56.00	\$856.00	\$800.00	\$0.00	\$24.00	\$824.00
Stephen Johnson	\$5,040.00	\$0.00	\$352.80	\$5,392.80	\$5,040.00	\$0.00	\$151.21	\$5,191.21
Sub-Total	\$24,155.56	\$140.58	\$1,700.04	\$25,996.18	\$24,155.56	\$140.58	\$728.93	\$25,025.07
Consumers Coalition of Alberta								
Professional Regulatory Services, Inc.	\$1,080.00	\$0.00	\$75.60	\$1,155.60	\$1,080.00	\$0.00	\$75.60	\$1,155.60
Sub-Total	\$1,080.00	\$0.00	\$75.60	\$1,155.60	\$1,080.00	\$0.00	\$75.60	\$1,155.60
Public Institutional Consumers of Alberta								
Energy Management & Regulatory Consulting Ltd.	\$1,968.75	\$0.00	\$0.00	\$1,968.75	\$1,968.75	\$0.00	\$0.00	\$1,968.75
Sub-Total	\$1,968.75	\$0.00	\$0.00	\$1,968.75	\$1,968.75	\$0.00	\$0.00	\$1,968.75
TOTAL INTERVENER COSTS								
	\$35,714.31	\$140.98	\$2,086.47	\$37,941.76	\$35,103.81	\$140.98	\$1,115.36	\$36,360.15
TOTAL INTERVENER AND APPLICANT COSTS								
	\$39,639.31	\$2,368.13	\$2,086.47	\$44,093.91	\$39,028.81	\$2,368.13	\$1,115.36	\$42,512.30