



AltaGas Utilities Inc.

**Distribution of Revenue Excess and Other
Gains from the 2000/2001/2002
General Rate Application Phase I Process**

**2000/2001/2002 General Rate Application
Phase II**

**Request for Approval of Negotiated Settlement
Brief and Memorandum of Agreement**

**Interim Refundable Rates & Harmonization of
Bonnyville Service Area's Rates**

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2004-56: AltaGas Utilities Inc.

General Rate Application – Phase I and II

Interim Refundable Rates and Harmonization of Bonnyville Service Area's Rates

Application Nos. 1292331, 1283486, and 1315409

Published by

Alberta Energy and Utilities Board

640 – 5 Avenue SW

Calgary, Alberta

T2P 3G4

Telephone: (403) 297-8311

Fax: (403) 297-7040

Web site: www.eub.gov.ab.ca

Contents

1 INTRODUCTION..... 1

2 VIEWS OF THE BOARD – AUTHORITY TO AWARD COSTS..... 2

3 VIEWS OF THE BOARD – ASSESSMENT 3

3.1 ENMAX Energy Corporation (ENMAX)..... 3

3.2 Remaining Participants 4

4 GST..... 4

5 ORDER 5

APPENDIX A – Summary of Costs Claimed and Awarded..... 6

ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

AltaGas Utilities Inc.

**Distribution of Revenue Excesses and
Other Gains from the 200/2001/2002
General Rate Application (Phase I Process)**

**2000/2001/2002 General Rate Application
Phase II**

**Interim Refundable Rates and
Harmonization of Bonnyville
Service Area's Rates**

**Utility Cost Order 2004-56
Application Nos. 1292331, 1283486, 1315409
File No. 8000-1315409**

1 INTRODUCTION

AltaGas Utilities Inc. (AUI or the Company), by letter dated February 7, 2003, filed an application requesting approval to distribute revenue excesses from 2000, 2001 and 2002, as well as other gains related to the sale of property and tax savings.

On February 21, 2003, the Alberta Energy and Utilities Board (EUB/Board) distributed a Notice of Application to interested parties requesting submissions objecting to or supporting this Application by February 28, 2003. In the absence of submissions by parties opposed to the Application the Board indicated that it would proceed to process the application.

The Municipal and Gas Co-op Intervenors (MGCI) and the Bonnyville Municipal Intervenors (BMI) had submitted their views to the Company in a letter dated February 7, 2003 and the Energy Users Association of Alberta (EUAA) had submitted its views to the Company in an Email, dated February 5, 2003. Both pieces of correspondence were included as attachments to the Application. The Board received no submissions in response to the Notice.

On March 25, 2003 the Board issued [Decision 2003-024](#).

The EUB received AltaGas' September 29, 2003 letter, requesting approval of the Memorandum of Agreement (MOA) and Negotiated Settlement Brief (the Agreement) reached with customers for the 2000-2002 General Rate Application (GRA) Phase II for AUI and Bonnyville Gas Company Limited (BGCL). The Agreement and MOA were in support of the AUI's 2000/2001/2002 GRA Phase II (Phase II) application filed with the Board on November 15, 2002.

In a letter dated October 9, 2003, the Board provided Notice of Application to interested parties. Any party wishing to provide a submission was to do so by October 21, 2003.

The Board considers that the record with respect to this application was closed on October 31, 2003, the date on which the Board received the final ratification of the MOA from the Alberta Urban Municipalities Association.

On November 25, 2003 the Board issued [Decision 2003-089](#).

The EUB received an application from AltaGas by letter dated September 29, 2003, requesting approval of interim refundable rates with respect to the 2003/2004 General Rate Application (No. 1305995). AltaGas requested permission from the Board to implement interim refundable rates that provide relief to customers served under Rates 2/12 and 3/13; and approval of a harmonization of Bonnyville Service Area's rates.

The Board provided Notice of the Application to all interested parties and published it in local newspapers on October 15, 2003. Any party wishing to provide a submission was to do so by October 21, 2003.

The Board received a number of submissions from interveners that expressed either support for or no opposition to the Application.

On November 25, 2003 the Board issued [Decision 2003-090](#).

The Panel assigned to consider these applications consisted of R.G. Lock, P.Eng. (Presiding Member), Gordon J. Miller, (Member), and J. Gilmour (Acting Member).

On January 27, 2004 the EUB circulated a summary of the costs being claimed for these proceedings to interested parties. Parties were invited to provide the Board with any comments regarding the figures listed in the summary or the merits of the total cost claimed by February 10, 2004. The Board did not receive any comments. By way of letter dated April 27, 2004 the EUB requested AltaGas to provide further details regarding the account of Foster Associates. The EUB received the requested detail by May 11, 2004. Accordingly, the Board considers the cost process for these particular proceedings to have closed on May 11, 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.

In the case of applications based upon a negotiated settlement process (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 \$198,716.87 including actual GST of \$3,825.63 with respect to the Proceeding.

3 VIEWS OF THE BOARD – Assessment

3.1 ENMAX Energy Corporation (ENMAX)

The Board has reviewed the cost claim submitted by ENMAX that includes the legal fees incurred by Stikeman Elliott in the amount of \$720.00 and the professional fees for Altitude Enerservices Ltd. in the amount of \$6,210.00 for a total claim of \$6,930.00 as outlined in Appendix A attached.

In reviewing the costs incurred, the Board also reviewed and considered the Statement of Justification¹ submitted. The Statement of Justification discussed the issues of importance to ENMAX in this proceeding, specifically:

- Unbundling costs and the allocation of direct, indirect and overhead to the various utility functions;
- Changes to the terms and conditions of distribution service that would facilitate competition in Alberta;
- Balancing requirements for transportation rates; and
- Allocation of stranded costs.

ENMAX advised the Board that it attended the initial meeting with interested parties on January 14, 2003 and participated in the subsequent IR process. With respect to the benefits resulting from ENMAX'S participation in the settlement process ENMAX stated the following.

At the time AltaGas filed its application, ENMAX anticipated that the outcome of the negotiated settlement would set a precedent for future unbundling applications before the Board. On June 6,

¹ December 16, 2003

2003 ATCO Gas filed its 2003 Gas Rate Unbundling Application with the Board. As a result of ATCO's filing ENMAX determined that the ATCO Gas unbundling proceeding, rather than the AltaGas negotiated settlement, would likely set the precedent for all gas utilities in Alberta, including AltaGas. As such, ENMAX determined that it would be most cost effective to focus its attention on the ATCO Gas unbundling proceeding. Accordingly ENMAX withdrew from the AltaGas negotiated settlement process².

S. 55(1) of the Board's *Rules of Practice* states the following.

- 55(1) The Board may award costs, in accordance with the scale of costs, to a participant if the Board is of the opinion that
- (a) the costs are reasonable and directly and necessarily related to the proceeding, and
 - (b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board costs

In this particular instance, the Board finds that it is unable to effectively assess what benefit, if any, ENMAX's limited participation in the settlement process provided. In the Board's view, this concern was exacerbated by ENMAX's decision to withdraw from the settlement process prior to its completion. In the absence of any demonstrable benefit to the settlement process, or to the Board's understanding of the issues before it, the Board has determined that it would be inappropriate for customers to bear any of the costs incurred by ENMAX for its truncated participation in the process. Based on the foregoing, the Board directs that ENMAX's claim for costs be denied in its entirety.

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 Appendix "A" to this Order in the total amount of \$190,756.65.

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, 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 \$2,795.41 as shown in column (g) 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.

² Letter dated December 16, 2003, page 2

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 \$77,811.56, as set out in column (h) of Appendix "A".
2. AltaGas Utilities Inc.'s external costs in the amount of \$112,945.09, as set out in column (h) 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 \$190,756.65, as set out in column (f) of Appendix "A".

Dated in Calgary, Alberta on this 9th day of August, 2004.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by J.D. Dilay, P.Eng.

J.D. Dilay, P.Eng.
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



"UCO 2004-56
Appendix A (GRA anc

[\(Back to Table of Contents\)](#)

**AltaGas Utilities Inc.
Dist. of Revenue Excess, Phase I
Approval of NSP, Phase II
Interim Refundable Rates**

	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								
AltaGas Utilities Inc.								
Ackroyd, Piasta, Roth & Day	\$16,046.00	\$465.63	\$0.00	\$16,511.63	\$16,046.00	\$465.63	\$0.00	\$16,511.63
Foster Associates, Inc.	\$77,932.69	\$1,059.39	\$0.00	\$78,992.08	\$77,932.69	\$1,059.39	\$0.00	\$78,992.08
AltaGas Utilities Inc.	\$0.00	\$17,441.38	\$0.00	\$17,441.38	\$0.00	\$17,441.38	\$0.00	\$17,441.38
Sub-Total	\$93,978.69	\$18,966.40	\$0.00	\$112,945.09	\$93,978.69	\$18,966.40	\$0.00	\$112,945.09
INTERVENERS								
Aboriginal Communities								
A.O. Ackroyd, Q.C.	\$2,250.00	\$0.00	\$0.00	\$2,250.00	\$2,250.00	\$0.00	\$0.00	\$2,250.00
Graves Engineering Corporation	\$3,150.00	\$0.00	\$0.00	\$3,150.00	\$3,150.00	\$0.00	\$0.00	\$3,150.00
Sub-Total	\$5,400.00	\$0.00	\$0.00	\$5,400.00	\$5,400.00	\$0.00	\$0.00	\$5,400.00
Alberta Urban Municipalities Associations								
Bryan & Company	\$5,425.00	\$30.25	\$381.87	\$5,837.12	\$5,425.00	\$30.25	\$381.87	\$5,837.12
Robert L. Bruggeman Regulatory Consulting Ltd.	\$11,560.00	\$0.00	\$809.20	\$12,369.20	\$11,560.00	\$0.00	\$809.20	\$12,369.20
Sub-Total	\$16,985.00	\$30.25	\$1,191.07	\$18,206.32	\$16,985.00	\$30.25	\$1,191.07	\$18,206.32
Consumers Coalition of Alberta								
Professional Regulatory Services, Inc.	\$11,880.00	\$0.00	\$831.60	\$12,711.60	\$11,880.00	\$0.00	\$831.60	\$12,711.60
Sub-Total	\$11,880.00	\$0.00	\$831.60	\$12,711.60	\$11,880.00	\$0.00	\$831.60	\$12,711.60

**AltaGas Utilities Inc.
Dist. of Revenue Excess, Phase I
Approval of NSP, Phase II
Interim Refundable Rates**

	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)
Energy Users Association of Alberta								
Unryn & Associates Ltd.	\$11,044.50	\$360.00	\$0.00	\$11,404.50	\$11,044.50	\$360.00	\$0.00	\$11,404.50
Sub-Total	\$11,044.50	\$360.00	\$0.00	\$11,404.50	\$11,044.50	\$360.00	\$0.00	\$11,404.50
ENMAX Energy Corporation								
Stikeman Elliott	\$720.00	\$0.00	\$0.00	\$720.00	\$0.00	\$0.00	\$0.00	\$0.00
Altitude Enerservices Ltd.	\$6,210.00	\$0.00	\$0.00	\$6,210.00	\$0.00	\$0.00	\$0.00	\$0.00
Sub-Total	\$6,930.00	\$0.00	\$0.00	\$6,930.00	\$0.00	\$0.00	\$0.00	\$0.00
Municipal & Gas Co-op Intervenors, Bonnyville Municipal Intervenors								
Campbell Ryder Consulting Group	\$18,287.50	\$188.54	\$1,293.33	\$19,769.37	\$18,287.50	\$188.54	\$554.32	\$19,030.36
Brownlee Fryett	\$7,125.00	\$155.36	\$509.63	\$7,789.99	\$7,125.00	\$155.36	\$218.43	\$7,498.79
Sub-Total	\$25,412.50	\$343.90	\$1,802.96	\$27,559.36	\$25,412.50	\$343.90	\$772.74	\$26,529.14
Public Institutional Consumers of Alberta								
Energy Management & Regulatory Consulting Ltd.	\$3,560.00	\$0.00	\$0.00	\$3,560.00	\$3,560.00	\$0.00	\$0.00	\$3,560.00
Sub-Total	\$3,560.00	\$0.00	\$0.00	\$3,560.00	\$3,560.00	\$0.00	\$0.00	\$3,560.00
TOTAL INTERVENER COSTS								
	\$81,212.00	\$734.15	\$3,825.63	\$85,771.78	\$74,282.00	\$734.15	\$2,795.41	\$77,811.56
TOTAL INTERVENER AND APPLICANT COSTS								
	\$175,190.69	\$19,700.55	\$3,825.63	\$198,716.87	\$168,260.69	\$19,700.55	\$2,795.41	\$190,756.65