

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of ATCO Gas (North)
A Division of ATCO Gas and Pipelines Ltd.
Recovery of Deferred Gas Account
Balances as at March 31, 2002

UTILITY COST ORDER 2003-07

Application Number: 1272010
Cost File Number: 8000-1272010 (01)
Board File Number: 5627-48

1. DECISION

By letter dated June 11, 2002, ATCO Gas (North) (AGN), a Division of ATCO Gas and Pipelines Ltd. (AGPL), filed an application (the Application) with the Alberta Energy and Utilities Board (the Board) for approval to recover the cumulative under-recoveries of approximately \$3.336 million in its deferred gas account (DGA) balances as at March 31, 2002. AGN met with the active interested parties and a Board observer, and later advised that all of the active interested parties supported its proposal.

The panel assigned to consider the Application consisted of B.T. McManus, Q.C (Presiding Member), G.J. Miller (Board Member), and C. Dahl Rees (Acting Board Member). On July 16, 2002, the Board issued Decision 2002-065. For purposes of Decision 2002-065 the Board considers the record to have closed on July 12, 2002.

Various participants submitted cost claims totaling \$6,212.29 including actual GST of \$226.32 with respect to the Proceeding. On August 16, 2002 a summary of 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 no later than August 30, 2002. No comments were received.

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 directed by Part 5 of its *Rules of Practice* and is guided by the principles and policies expressed in Guide 31B, Guidelines for Utility Cost Claims. Before exercising its discretion to award costs, the Board must consider the effectiveness of the 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. The Board will also have regard to the *Scale of Costs*, which sets a cap on professional fees and outlines those disbursements that will be considered for reimbursement.

In the case of applications where the applicant's position is supported by all of the active interested parties, 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 the process, which are ultimately passed on to all customers, are indeed reasonable and represent fair value.

In this instance, the Board has reviewed the costs submissions of the participants and AGN, and notes that the costs claimed are in accordance with the Board's *Scale of Costs*. Accordingly, the Board considers the claims for fees and disbursements for all participants to be reasonable as outlined in Schedule "A".

In accordance with the Board's treatment of the GST on cost awards, AGN 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 \$65.62 as shown in column (d) of Schedule "A". The GST allowed by the Board may also be charged against the AGN 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-13.

2. ORDER

THEREFORE, for the reasons provided above, the Alberta Energy and Utilities Board, pursuant to the provisions of the *Public Utilities Board Act* and regulations hereunder, hereby orders as follows:

- 1) ATCO Gas North, a Division of ATCO Gas and Pipelines Ltd. shall pay intervener costs in the amount of \$5,998.70, as set out in column (e) of Schedule "A".
- 2) ATCO Gas North's, a Division of ATCO Gas and Pipelines Ltd., external costs in the amount of \$52.89, as set out in column (e) of Schedule "A", are approved.

- 3) ATCO Gas North, a Division of ATCO Gas and Pipelines Ltd. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$6,051.59, as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 27th day of February, 2003.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee

ATCO Gas (North)
Application No.: 1272010

Summary of Total Costs Claimed and Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Fees, Disbursements, and GST Awarded (e)
APPLICANT					
ATCO Gas (North)					
ATCO Gas (North)	\$52.89	\$0.00	\$52.89	\$0.00	\$52.89
Sub-Total	\$52.89	\$0.00	\$52.89	\$0.00	\$52.89
INTERVENERS					
Aboriginal Communities					
A.O. Ackroyd, Q.C.	\$1,200.00	\$1,200.00	\$0.00	\$0.00	\$1,200.00
Graves Engineering Corporation	\$1,500.00	\$1,500.00	\$0.00	\$0.00	\$1,500.00
Sub-Total	\$2,700.00	\$2,700.00	\$0.00	\$0.00	\$2,700.00
Federation of Alberta Gas Co-ops / Gas Alberta Inc.					
Brownlee Fryett	\$468.13	\$437.50	\$0.00	\$0.00	\$437.50
Campbell Ryder Consulting Group Ltd.	\$1,988.15	\$1,837.50	\$20.58	\$0.00	\$1,858.08
Sub-Total	\$2,456.28	\$2,275.00	\$20.58	\$0.00	\$2,295.58
Municipal Intervenors / AUMA					
Robert L. Bruggeman Regulatory Consulting Ltd.	\$1,003.12	\$937.50	\$0.00	\$65.62	\$1,003.12
Sub-Total	\$1,003.12	\$937.50	\$0.00	\$65.62	\$1,003.12
TOTAL INTERVENER COSTS	\$6,159.40	\$5,912.50	\$20.58	\$65.62	\$5,998.70
TOTAL COSTS	\$6,212.29	\$5,912.50	\$73.47	\$65.62	\$6,051.59

CONTACT LIST

(Application No.: 1272010)

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Municipal Intervenors / AUMA

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