

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of AltaGas Utilities Inc.
Proposed Sale of Transmission Assets
Negotiated Settlement (Terminated)

UTILITY COST ORDER 2003-09

Application Number: Not Generated
Cost File Number: 8010-000033
Board File Number: Not Generated

1. DECISION

In 2000, AltaGas Utilities Inc. (AltaGas) entered into negotiations regarding the proposed sale of AltaGas' Barrhead area transmission facilities to AltaGas Services Ltd. Since the negotiations were terminated, an application was never made to the Alberta Energy and Utilities Board (the Board). On June 14, 2002 the Board received a claim for costs incurred during the negotiations from AltaGas in the amount of \$13,064.09, including actual GST of \$370.33.

At the time the costs for this matter were incurred, the Board's authority to award costs was derived from section 60 of the *Public Utilities Board Act*, R.S.A. 1980, c. P-37,¹ 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.

The Board has authority to award costs only for proceedings before the Board. The *Public Utilities Board Act* does not define the term "proceeding". Nor do the *Rules of Practice* that were in effect at the time the costs for this matter were incurred define the term "proceeding".² The current *Rules of Practice* define "proceeding" in section 2(p) as follows:

¹ Now section 68 of the *Public Utilities Board Act*, R.S.A. 2000, c.P-45.

² *Rules of Practice*, Alta. Reg. 602/57 pursuant to the *Public Utilities Act*.

- “proceeding” means a matter brought before the Board
- (i) by application,
 - (ii) by the Board on its own initiative, or
 - (iii) at the request of the Lieutenant Governor in Council.

Since the means for bringing a matter before the Board has not changed substantially since the time the costs for this matter were incurred, the Board considers the definition of “proceeding” in the current *Rules of Practice* to be useful. The Board concludes that since no application was made in this case, there was no proceeding before it for which costs can be awarded.

Further, as cost awards made by the Board are generally passed on to customers, it is the Board's duty to ensure that customers receive fair value for their contribution. It is the Board's position that AltaGas's customers should not be required to bear the costs associated with its sale negotiations as there is little, if any, customer benefit associated with these negotiations.

MADE at the City of Calgary, in the Province of Alberta, this 20th day of March, 2003.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee