

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of
ATCO Pipelines (ATCO)
Interim Exchange Fees and Mechanisms

UTILITY COST ORDER 2003-61

Application Number: 1285949
Cost File Number: 8000-1285949 (01)
Board File Number: 5678-11

1. DECISION

By letters dated December 10, 2002 and December 17, 2002, ATCO Pipelines (ATCO) filed an application (the Application) with the Alberta Energy and Utilities Board (the Board) for approval of interim exchange fees and mechanisms (Interim Exchange Fees) for the period January 1, 2003 to March 31, 2003.

By e-mail dated December 19, 2002, the Board provided notice of the Application to parties on the ATCO Pipelines mailing list and therein provided an opportunity for interested parties to make submissions with respect to the Application. The Board set a deadline for submissions of December 24, 2002 at 2:00 p.m. due to the urgent and time sensitive nature of the requested approval date. There were no submissions filed by interveners.

The Panel assigned to consider this matter consisted of B.T. McManus, Q.C. (Presiding Member), G.J. Miller (Miller), and C. Dahl Rees (Acting Member). On December 31, 2002 the Board issued Decision 2002-118.

The Board received one cost claim from the Federation of Alberta Gas Co-ops Ltd. (FGA) totaling \$2,021.01 including actual GST of \$132.23 with respect to the Proceeding.

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 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.

It is the EUB's position that the responsibility to positively contribute to the process is inherent in the choice to intervene in a proceeding. The EUB 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.

As the costs of a proceeding are generally passed on to customers, it is the Board's duty to ensure that customers receive fair value for their 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.

The Board has reviewed the costs submitted by participants, bearing in mind the principles specified in the Board's *Scale of Costs*. The Board finds that the participation of the FGA 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 FGA to be reasonable as outlined in Schedule "A".

In accordance with the Board's treatment of the GST on cost awards, ATCO 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 \$0.00 as shown in column (d) of Schedule "A".

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., c. E-15.

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 Pipelines shall pay intervener costs in the amount of \$1,888.78, as set out in column (e) of Schedule "A".
- 2) ATCO Pipelines shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$1,888.78, as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 11th day of August, 2003.

**ALBERTA ENERGY AND
UTILITIES BOARD**

Original Signed by Thomas McGee

**Thomas McGee
Board Member**

ATCO Pipelines Limited
Application No.: 1285949

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 Pipelines Limited					
ATCO Pipelines Limited	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Sub-Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
INTERVENERS					
Federation of Alberta Gas Co-ops Ltd.					
Brownlee Fryett	\$652.37	\$600.00	\$9.68	\$0.00	\$609.68
Campbell Ryder	\$1,368.64	\$1,275.00	\$4.10	\$0.00	\$1,279.10
Sub-Total	\$2,021.01	\$1,875.00	\$13.78	\$0.00	\$1,888.78
Total Intervener Costs	\$2,021.01	\$1,875.00	\$13.78	\$0.00	\$1,888.78
Total Costs	\$2,021.01	\$1,875.00	\$13.78	\$0.00	\$1,888.78