

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of ATCO Gas South
2001/2002 General Rate Application
Evaluation of the Need for a 2002 Phase II

UTILITY COST ORDER 2003-62a

Application Number: 1286129
Cost File Number: 8000-1286129 (01)
Board File Number: 1307-1-4

WHEREAS the Alberta Energy and Utilities Board issued Utility Cost Order 2003-62 (UCO 2003-62) on August 11, 2003; and

WHEREAS a typographical error was made with regard to the award of the Federation of Alberta Gas Co-ops Ltd. and Gas Alberta Inc. as reflected in Schedule "A" of UCO 2003-62.

THEREFORE, the Alberta Energy and Utilities Board, hereby amends UCO 2003-62 as to the following particulars:

1. The fees and disbursements awarded to the Federation of Alberta Gas Co-ops Ltd. and Gas Alberta Inc., as listed in column (e) of the Schedule "A", are amended to read \$3,396.00, as reflected in the Amended Schedule "A" attached.
2. Paragraphs 1) and 2) on page four are amended to read as follows:
 - 1) ATCO Gas South shall pay intervener costs in the amount of \$7,519.92, as set out in column (e) of Schedule "A".
 - 2) ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$7,519.92, as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 23rd day of September, 2003.

**ALBERTA ENERGY
AND UTILITIES BOARD**

Original Signed by Thomas McGee

**Thomas McGee
Board Member**

ATCO Gas South
Application No.: 1286129

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 South					
ATCO Gas South	\$300.69	\$0.00	\$0.00	\$0.00	\$0.00
Bennett Jones	\$990.63	\$0.00	\$0.00	\$0.00	\$0.00
Sub-Total	\$1,291.32	\$0.00	\$0.00	\$0.00	\$0.00
INTERVENERS					
Alberta Urban Municipalities Association					
Bryan & Company	\$1,238.60	\$1,150.00	\$7.40	\$81.02	\$1,238.42
Robert L. Bruggeman Regulatory Consulting Ltd.	\$1,498.00	\$1,400.00	\$0.00	\$98.00	\$1,498.00
Sub-Total	\$2,736.60	\$2,550.00	\$7.40	\$179.02	\$2,736.42
Alberta Irrigation Projects Association					
Unryn & Associates Ltd.	\$1,387.50	\$1,387.50	\$0.00	\$0.00	\$1,387.50
Sub-Total	\$1,387.50	\$1,387.50	\$0.00	\$0.00	\$1,387.50
City of Calgary					
Burnet, Duckworth & Palmer	\$3,711.51	\$0.00	\$0.00	\$0.00	\$0.00
Energy Group, Inc.	\$8,400.88	\$0.00	\$0.00	\$0.00	\$0.00
Sub-Total	\$12,112.39	\$0.00	\$0.00	\$0.00	\$0.00

ATCO Gas South
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	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Fees, Disbursements, and GST Awarded (e)
Federation of Alberta Gas Co-ops Ltd. / Gas Alberta Inc.					
Campbell Ryder Consulting Group Ltd.	\$2,884.72	\$2,662.50	\$33.50	\$0.00	\$2,696.00
Brownlee Fryett	\$749.00	\$700.00	\$0.00	\$0.00	\$700.00
Sub-Total	\$3,633.72	\$3,362.50	\$33.50	\$0.00	\$3,396.00
TOTAL INTERVENER COSTS	\$19,870.21	\$7,300.00	\$40.90	\$179.02	\$7,519.92
TOTAL COSTS	\$21,161.53	\$7,300.00	\$40.90	\$179.02	\$7,519.92

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1. DECISION

On January 21, 2003, the Alberta Energy and Utilities Board (the Board) issued Decision 2003-006 regarding the 2001/2002 Phase I General Rate Application (GRA) of ATCO Gas South (ATCO or the Company). In Decision 2003-006, the Board approved ATCO's Phase I revenue requirement, but raised the issue as to whether or not there was a need for ATCO to file a comprehensive 2001/2002 Phase II application, given that a proceeding was already underway to deal with a combined 2003/2004 GRA for ATCO Gas North and South. Recognizing that the 2003/2004 GRA could result in implementation of new rates approximately one year following any revision to rates arising from a 2001/2002 Phase II, the Board wished to examine whether an additional Phase II process was required, particularly at a time when the regulatory schedule was already congested.

To expedite the process for determining the need for new rates, tolls and charges, based on the 2002 revenue requirement, the Board directed ATCO to file a submission advising the Board as to whether or not the Company considered a Phase II proceeding necessary for 2001/2002. ATCO filed a submission on February 18, 2003.

By March 21, 2003, the Board received submissions from the City of Calgary (Calgary), the Federation of Alberta Gas Co-ops Ltd. and Gas Alberta (FGA), the Alberta Urban Municipalities Association (AUMA), the Public Institutional Consumers Association (PICA), the Alberta Irrigation Projects Association (AIPA) and the Consumers' Coalition of Alberta (CCA) (collectively, the Interveners). ATCO responded to Intervener submissions on March 25, 2003. AIPA raised an issue regarding AMR devices and their impact on the revenue/cost ratio for irrigation customers. In response to AIPA, ATCO submitted a letter dated March 31, 2003

providing information on AMR devices installed for irrigation customers. Accordingly, the Board considers that the record for this proceeding closed on March 31, 2003.

The Panel assigned to consider this matter consisted of B.T. McManus, Q.C. (Presiding Member), C. Dahl Rees (Acting Member), and M. J. Bruni, Q.C. (Acting Member). On April 30, 2003 the Board issued Decision 2002-028.

Various participants submitted cost claims totaling \$21,161.53 including actual GST of \$1,209.32 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.

ATCO Gas South (ATCO)

The Board has reviewed the cost claim submitted by ATCO and notes that the claim has been filed outside the stipulated 30 day time period by 31 days. The Board further notes that no explanation accompanied the claim. Guide 31B clearly states the following:

Cost claims not received within the 30-day period are not considered unless special circumstances exist. If, in the opinion of the Board, the circumstances cited do not justify the late filing of the claim, the Board considers the claim withdrawn.

Based on the above the Board will not accept ATCO's cost claim at this time. Should ATCO comply with Guide 31B and provide a reasonable explanation for the delay in filing, the Board will then consider the claim notwithstanding this Order. ATCO's comments concerning the delayed filing must be submitted to the Board within 30 days of the issuance of this Order.

City of Calgary (Calgary)

The Board has reviewed the cost claim submitted by Calgary and notes that the claim has been filed outside the stipulated 30 day time period by 28 days. The Board further notes that no explanation accompanied the claim. Guide 31B clearly states the following:

Cost claims not received within the 30-day period are not considered unless special circumstances exist. If, in the opinion of the Board, the circumstances cited do not justify the late filing of the claim, the Board considers the claim withdrawn.

Based on the above the Board will not accept Calgary's cost claim at this time. Should Calgary comply with Guide 31B and provide a reasonable explanation for the delay in filing, the Board will then consider the claim notwithstanding this Order. Calgary's comments concerning the delayed filing must be submitted to the Board within 30 days of the issuance of this Order.

General

The Board has reviewed the remaining 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 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 Schedule "A".

In accordance with the Board's treatment of the GST on cost awards, AGS 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 \$179.02 as shown in column (d) of Schedule "A". The GST allowed by the Board may also be charged against the AGS 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., 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 Gas South shall pay intervener costs in the amount of \$6,898.92, as set out in column (e) of Schedule "A".
- 2) ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$6,898.92, 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**

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Brownlee Fryett	\$749.00	\$1,387.50	\$0.00	\$0.00	\$1,387.50
Sub-Total	\$3,633.72	\$2,775.00	\$0.00	\$0.00	\$2,775.00
TOTAL INTERVENER COSTS	\$19,870.21	\$6,712.50	\$7.40	\$179.02	\$6,898.92
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