



AltaGas Utilities Inc.

**Application for a Revised Franchise
Fee in the Town of Bonnyville**

September 9, 2003

ALBERTA ENERGY AND UTILITIES BOARD

Decision 2003-068: AltaGas Utilities Inc.

Application for a Revised Franchise Fee in the Town of Bonnyville

Application No. 1290333

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640 – 5 Avenue SW

Calgary, Alberta

T2P 3G4

Telephone: (403) 297-8311

Fax: (403) 297-7040

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

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary Alberta

**ALTAGAS UTILITIES INC.
APPLICATION FOR A REVISED FRANCHISE
FEE IN THE TOWN OF BONNYVILLE**

**Decision 2003-068
Application No. 1290333
File No. 6675-B24-1**

1 INTRODUCTION

By letter dated January 21, 2003 (the Application), AltaGas Utilities, (AltaGas), applied to the Alberta Energy and Utilities Board (the Board) for revisions to its franchise fee rider, to be applied in the Town of Bonnyville (the Town), as indicated on Rate Rider "A" attached as Schedule "A" to this Decision. The previous franchise fee was based upon 10 per cent of the first \$1 million dollars and 5 per cent on all amounts in excess of \$1 million dollars of the gross revenue of the Company derived from the sale of natural gas in the Town. The revision would increase the fee to 20 per cent of the revenue of AltaGas from the delivery of natural gas within the Town, but excluding revenue derived from the cost of gas.

A Notice of Objections was published in the Bonnyville Nouvelle and all major newspapers in Alberta on May 26, 2003 in respect of Application No. 1284188 and the Town's Application for renewal of its gas distribution agreement (the Franchise Agreement) with AltaGas. Notice was also directly served on interested parties. The Board received one objection in response to this notice. By letter dated May 28, 2003, the Board changed the time of the proceeding to 2:00 p.m. on June 10, 2003.

A hearing was convened on June 10, 2003, in the Board's Edmonton offices, before Gordon J. Miller, Presiding Member, T. M. McGee, Member, and J. Gilmour, Acting Member, sitting as the Board Panel. A list of those who participated in the proceeding is contained in Appendix 1 to this Decision.

Subsequent written argument was received by June 11, 2003 and written responses to argument were filed by June 13, 2003. AltaGas also filed with the Board a letter dated June 16, 2003 correcting a typographical error in the Rider "B" Schedule.

The Board considers that the record in this proceeding closed on June 16, 2003.

2 BACKGROUND

In Application No. 1284188, the Town applied for approval of the Franchise Agreement with AltaGas. The Franchise Agreement includes provisions for a franchise fee, to be recovered from the customers within the Town. The franchise fee provisions allow for an initial franchise fee equal to 20 per cent of AltaGas' delivery revenues within the Town, and allows the Town to change the level of the franchise fee once annually at its sole discretion, up to a maximum of 35 per cent.

AltaGas has applied for a revision to its franchise fee rider within the Town to recover the revised franchise fee to be paid to the Town pursuant to the provisions of the Franchise Agreement.

In the Franchise Agreement there are also provisions for AltaGas to pay the Town linear taxes as well as a franchise fee. Consequently, at the hearing of the Applications, the Board directed AltaGas to file an amended Rate Rider “B” for collection of the linear taxes to be paid to the Town of Bonnyville. By letter dated June 13, 2003, AltaGas complied with this by filing Rate Rider “B”. By letter dated June 16, 2003 AltaGas filed a further amendment to Rate Rider “B”, which is attached as Schedule “B”, to this decision.

3 BOARD FINDINGS

The Board notes that the hearing held on June 10, 2003 dealt with both Application No. 1284188 by the Town for approval of the Franchise Agreement with AltaGas and Application No. 1290333 for a revised franchise fee rider. The Board notes that the participants in the hearing as identified in Appendix 1 did not dispute the right of AltaGas to recover the costs associated with the franchise fee provisions or the linear tax provisions included in the Franchise Agreement provided the Board approved the Town’s application.

The Board approved Application No. 1284188 in Decision 2003-067¹ for the reasons stated in that decision. Rate setting pursuant to the *Gas Utilities Act*, R.S.A. 2000, c. G-5, is designed to allow utilities to recover reasonably incurred costs. As the Board has accepted that the Franchise Agreement is reasonable, it follows that the Board will also allow the related costs incurred by AltaGas to be passed on to customers, as contemplated in Application 1290333. Accordingly, the Board considers it appropriate for AltaGas to recover the revised franchise fee and linear taxes from the customers within the Town as a reasonable cost of providing service to those customers. The Board therefore considers it just and reasonable to approve AltaGas’s application for revised rates in the Town of Bonnyville.

The Board notes that the franchise fee provisions included in the Franchise Agreement also allows the Town to change the level of the franchise fee once annually within a cap of 35 per cent. Clause 4 c) of the Franchise Agreement includes a requirement for the Town to provide notice prior to any change in the level of the fee as follows:

4 c) Notice to Change Franchise Fee

Prior to implementing any change to the franchise fee, the Municipality shall notify its intent to change the level of the franchise fee and the resulting effect that such change will have on an average residential customer’s annual gas bill through publication of a notice once in the newspaper that has the widest circulation in the Municipal Area at least 45 days prior to implementing the revised franchise fee.

A copy of the notice shall be filed with the Board.

The Board considers that any future changes in the level of the franchise fee, pursuant to the provisions of the Franchise Agreement, will be at the discretion of the Town. As such it is

¹ Decision 2003-067 – Town of Bonnyville, Review of Proposed Standard Natural Gas Franchise Agreement with AltaGas Utilities Inc., dated September 9, 2003

appropriate that the Town notify customers in the Town of such changes, and consider any objections to changes in the level of the franchise fee. AltaGas, however, is required to file any changes in the level of the franchise fee with the Board for acknowledgement. The Board will not acknowledge any changes in the level of the franchise fee until it has received a copy of the published notice, which is required to be filed with the Board pursuant to clause 4 c) of the Franchise Agreement.

4 ORDER

The Alberta Energy and Utilities Board, pursuant to the *Public Utilities Board Act*, R.S.A 2000, c. P-45 and the *Gas Utilities Act*, R.S.A. 2000, c. G-5, hereby orders as follows:

1. Application No. 1290333 by AltaGas Utilities Inc. dated January 21, 2003, is approved, subject to the terms and conditions herein contained.
2. The new rate for the Town of Bonnyville, as indicated on Rate Rider “A” attached as Schedule “A” to this Decision, becomes effective upon the execution of the Town’s Franchise Agreement with AltaGas Utilities Inc.
3. The new rate for the Town of Bonnyville, as indicated on Rate Rider “B”, attached as Schedule “B” to this Decision, becomes effective upon the execution of the Town’s Franchise Agreement with AltaGas Utilities Inc.

Dated in Calgary, Alberta on September 9, 2003.

ALBERTA ENERGY AND UTILITIES BOARD

(original signed by)

Gordon J. Miller
Presiding Member

(original signed by)

T. M. McGee
Member

(original signed by)

J. Gilmour
Acting Member

APPENDIX 1 – HEARING PARTICIPANTS

Principals and Representatives (Abbreviations Used in Report)	Witnesses
AltaGas Utilities Inc. (AltaGas) F. Martin	K. Raitz
Alberta Urban Municipalities Association (AUMA) C. R. McCreary	J. McGowan
Town of Bonnyville (the Town) C. R. McCreary	A. Harvey
Consumers Coalition of Alberta (CCA) J.A. Wachowich	
Board Panel G. J. Miller, Presiding Member T. M. McGee, Member J. Gilmour, Acting Member	
Board Staff J. Hocking, Board Counsel M. Pohl J. Didier	

SCHEDULE “A” – RATE RIDER “A”



"2003-068 Rider
A.pdf"

(Consists of 3 pages)

SCHEDULE “B” – RATE RIDER “B”



"2003-068 Rider
B.pdf"

(Consists of 1 page)

RATE RIDER "A"	FRANCHISE TAX RIDERS
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Municipalities

Additions to be made to the rates of customers resident in municipalities that have agreed to accept a percentage of gross revenue of the special franchise tax in lieu of a property tax pursuant to Section 360 of the Municipal Government Act, 1994, c. M-26.1 (previously Section 14(7) and 14(8) of the Municipal Taxation Act).

The percentage shown to be applied as an addition to the total billings calculated.

Municipality	District	Type	Rate (%)	Board Orders	
				Franchise Tax	Transportation
* Athabasca	Athabasca	Town	6.0	U97149	
Barrhead	Barrhead/Westlock/ Morinville	Town	3.1	U98152	
* Beaumont	Leduc/Calmar	Village	6.0	E95093	
Botha	Stettler	Village	4.0	E92122	
Calmar	Leduc/Calmar	Town	3.1	E90046	
Delia	Hanna	Village	4.0	E92122	
Donalda	Stettler	Village	4.0	E92122	
Drumheller	Drumheller	City	7.0	U97134	
Elk Point	St. Paul	Town	7.0	U99062	
Glendon	St. Paul	Village	4.0	E92122	
Grande Cache	Grande Cache	Town	6.952	U99084	
* Hairy Hill	St. Paul	Village	5.0	E95078	
Hanna	Hanna	Town	3.1	E76087	
High Level	High Level	Town	6.8	E95027	
High Level Forest Products			3.0		E95027
* Leduc ⁽¹⁾	Leduc/Calmar	City	6.0	E94060	E94063
Mewatha Beach	Athabasca	SV ⁽²⁾	3.1	E85124	
Morinville ⁽¹⁾	Morinville	Town	5.1	E95081	
Munson	Drumheller	Village	5.0	E92106	
New Sarepta	Leduc/Calmar	Village	5.5	U98138	
* Pincher Creek	Pincher Creek	Town	5.1	E92107	
Radway	Westlock	Village	3.0	E90046	
St. Paul	St. Paul	Town	6.0	E91081	

EFFECTIVE DATE:	REPLACING RATE EFFECTIVE:	Page 1 of 3 RIDER "A"
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FRANCHISE TAX RIDERS	RATE RIDER "A"
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Municipality	District	Type	Rate (%)	Board Orders	
				Franchise Tax	Transportation
Sunset Beach ⁽¹⁾	Athabasca	Summer Village	6.1	U97151	
Stettler ⁽¹⁾	Stettler	Town	6.0	E94061	E94063
Three Hills	Three Hills	Town	4.75	U98033	
Two Hills	Two Hills/Willingdon	Town	5.1	E94038	
Willingdon	Two Hills/Willingdon	Village	5.0	U98106	

(1) The Municipality has elected to have the percentage of gross revenue from the special franchise collected on sales revenue, transportation service revenue, and a deemed value for gas applied to volumes transported.

(2) SV denotes "Summer Village"

* Periodic changes to franchise tax rates have been pre-approved by the Board.

Metis Settlements

Additions to be made to the rates of customers resident in Metis Settlements that have by bylaw approved Utility Services Agreements providing for the payment of annual utility service fees calculated as a percentage of gross revenues.⁽³⁾ The percentage shown is to be applied as an addition to the total billings calculated.

Metis Settlement	District	Rate (%)	Board Order
Buffalo Lake	St. Paul	7.0	U2000-236
Fishing Lake	St. Paul	5.0	U97153
Kikino	St. Paul	7.0	U2000-107

(3) The *Metis Settlements Act* (S.A. 1998 Chapter M-14.3) enables the Metis Settlements General Council to legislate by Policy and Settlement Councils to legislate by bylaw on matters related to the operations of utilities within the settlement areas, including the granting of interests in land, the assessment and taxation of these interests, and the licencing of related activities. [s.222(1); Sch.1, ss.14, 19]. Under *Metis Settlements General Council Public Utilities Policy* (GC-P9804; Alberta Gazette, Nov.30, 1998, p.2221) a Settlement may enter into Utility Service Agreement allowing a utility to use land and provide utility services in the Settlement Area and providing for the utility to pay an all inclusive annual service fee. The fee may be determined as a percentage of gross revenue received from services provided in the Settlement Area. Each of the listed Settlements has entered into a Utility Service Agreement with AltaGas Utilities. Under the *Public Utility Policy* [s.2.3(3)] the Service Agreement takes effect on being approved by bylaw and by the Alberta Energy and Utilities Board.

Page 2 of 3 RIDER "A"	REPLACING RATE EFFECTIVE:	EFFECTIVE DATE:
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RATE RIDER "A"	FRANCHISE TAX RIDERS
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Town of Bonnyville

For each calendar year the franchise fee will be calculated as a percentage of the Company's actual total revenue derived from the Delivery Tariff, including without limitation the fixed charge, base energy charge, demand charge but excluding the cost of gas (being the calculated revenues from the gas cost recovery rate rider or the deemed cost of gas) in that year for Gas Distribution Service within the Municipal Area.

Municipality	District	Type	Rate (%)	Board Orders	
				Franchise Fee	Transportation
Bonnyville	Bonnyville	Town	20.0		

EFFECTIVE DATE:	REPLACING RATE EFFECTIVE:	Page 3 of 3 RIDER "A"
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RATE RIDER "B"	MUNICIPAL PROPERTY TAX RIDERS
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Additions to be made to the rates of customers resident in municipalities that impose a tax on linear or other property pursuant to Section 353 of the *Municipal Government Act*, R.S.A. 2000 c. M-26. The addition is an estimated percentage of gross revenue required to provide for the tax payable each year. To the extent that this percentage may be more or less than that required to pay the tax, the percentage of gross revenue in the rider will be adjusted on an annual basis. The percentages are filed with the Alberta Energy and Utilities Board.

Rate Rider "B" is to be applied as an addition to the gross amount of charges for gas service otherwise payable (including applicable Riders) in the following area(s):

Town of Bonnyville

		Page 1 of 1 RIDER "B"
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