



**ATCO Pipelines, a division of ATCO Gas and  
Pipelines Ltd.**

**Compliance Application to Decision 22011-D01-2017,  
2017-2018 General Rate Application**

**Costs Award**

**April 30, 2018**

**Alberta Utilities Commission**

Decision 23286-D01-2018

ATCO Pipelines

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Proceeding 23286

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## 1 Introduction

1. In this decision, the Alberta Utilities Commission considers applications (the costs claim applications) by ATCO Pipelines, a division of ATCO Gas and Pipelines Ltd. (ATCO Pipelines) and the Consumers' Coalition of Alberta (the CCA) for approval and payment of their costs of participation in Proceeding 22986<sup>1</sup> (the original proceeding). The following table sets out the costs claimed and the amounts awarded:

Claimant	Total Fees Claimed	Total Disbursements Claimed	Total GST Claimed	Total Amount Claimed	Total Fees Awarded	Total Disbursements Awarded	Total GST Awarded	Total Amount Awarded
ATCO								
Bennett Jones LLP	\$96,005.00	\$600.00	\$0.00	\$96,605.00	\$91,204.75	\$570.00	\$0.00	\$91,774.75
AUS Consultants	\$4,860.00	\$0.00	\$0.00	\$4,860.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$100,865.00</b>	<b>\$600.00</b>	<b>\$0.00</b>	<b>\$101,465.00</b>	<b>\$91,204.75</b>	<b>\$570.00</b>	<b>\$0.00</b>	<b>\$91,774.75</b>
CCA								
Wachowich & Company	\$1,837.50	\$0.00	\$91.88	\$1,929.38	\$1,837.50	\$0.00	\$91.88	\$1,929.38
Regulatory Services Inc.	\$17,482.50	\$42.80	\$876.27	\$18,401.57	\$17,482.50	\$42.80	\$876.27	\$18,401.57
<b>Total</b>	<b>\$19,320.00</b>	<b>\$42.80</b>	<b>\$968.14</b>	<b>\$20,330.94</b>	<b>\$19,320.00</b>	<b>\$42.80</b>	<b>\$968.14</b>	<b>\$20,330.95</b>
<b>Total of all amounts claimed and awarded</b>				<b>\$121,795.94</b>				<b>\$112,105.70</b>

2. The Commission has awarded the applicant, ATCO Pipelines, costs in an amount less than the amount claimed, and has awarded the CCA the full amount claimed, for the reasons set out below.

3. The original proceeding was convened by the Commission to consider ATCO Pipelines' compliance application in response to the Commission directions set out in Decision 22011-D01-2017 regarding the ATCO Pipelines 2017-2018 General Rate Application.<sup>2</sup> The original proceeding included information requests (IRs), IR responses, argument and reply argument. The close of record for the original proceeding was December 22, 2017 and the Commission issued Decision 22986-D01-2018<sup>3</sup> on March 13, 2018.

4. The CCA and ATCO Pipelines both submitted their costs claim applications on January 23, 2018, within the 30 day timeline permitted by the Commission's rules. The Commission

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<sup>1</sup> Proceeding 22986: ATCO Pipelines Compliance Application to Decision 22011-D01-2017.

<sup>2</sup> Decision 22011-D01-2017: ATCO Pipelines 2017-2018 General Rate Application, Proceeding 22011, August 29, 2017.

<sup>3</sup> Decision 22986-D01-2018: ATCO Pipelines Compliance Application to Decision 22011-D01-2017, 2017-2018 General Rate Application, Proceeding 22986, March 13, 2018.

assigned Proceeding 23286 and Applications 23286-A001 and 23286-A002, respectively, to the costs claim applications.

5. No comments were filed with respect to the costs claim applications and the Commission considers the close of record for this proceeding to be February 6, 2018, the deadline for filing comments.

## 2 Commission findings

6. The Commission’s authority to award costs for participation in a utility rates proceeding is found in Section 21 of the *Alberta Utilities Commission Act*. When considering a claim for costs for a utility rates proceeding, the Commission is also guided by the factors set out in Section 11 of Rule 022: *Rules on Costs in Utility Rate Proceedings* (Rule 022). These factors include, among other things, whether eligible participants’ costs claims are reasonable and directly and necessarily related to the original proceeding, and whether the participants acted responsibly and contributed to a better understanding of the issues before the Commission. Appendix A of Rule 022 prescribes a Scale of Costs applicable to all costs claimed.

### 2.1 ATCO Pipelines

7. The following table summarizes ATCO Pipeline’s costs claim:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
ATCO							
Bennett Jones LLP	169.10	0.00	105.20	\$96,005.00	\$600.00	\$0.00	\$96,605.00
AUS Consultants	18.00	0.00	0.00	\$4,860.00	\$0.00	\$0.00	\$4,860.00
Total	177.10	0.00	105.20	\$100,865.00	\$600.00	\$0.00	\$101,465.00

8. The Commission finds that ATCO Pipelines generally acted responsibly in the original proceeding and contributed to the Commission’s understanding of the relevant issues, subject to the concerns discussed below. However, the Commission is unable to approve the full amount of the costs claimed in respect of the services performed by AUS Consultants for the reasons set out below.

9. In Decision 22986-D01-2018 the Commission found that ATCO Pipelines had failed to provide timely assistance to the Commission and parties with respect to matters arising in connection with Direction 20 in the original proceeding. The Commission found that “ATCO Pipelines’ unresponsiveness did not meet the Commission’s expectations with respect to record development nor did it contribute to an efficient and better understanding of the issues.”<sup>4</sup>As a consequence of this finding, the Commission will reduce the total costs awarded to ATCO Pipelines by five per cent. The Commission considers that this reduction balances the Commission’s findings from the original decision, while reflecting the nature of the information ATCO Pipelines failed to adequately address and the fact that ATCO Pipelines acknowledged and explained the oversight in reply argument.

<sup>4</sup> Decision 22986-D01-2018, at paragraph 63.

## Bennett Jones LLP

10. ATCO Pipelines was represented by Bennett Jones LLP in the original proceeding. The fees claimed by ATCO Pipelines for the legal services provided by Mr. Nicholas Gretener relate to reviewing Decision 22011-D01-2017, reviewing compliance issues, reviewing the draft compliance filing, reviewing draft IR responses, drafting argument and reply argument and reviewing intervener argument.

11. The Commission is satisfied that the services performed by Bennett Jones LLP were directly and necessarily related to ATCO Pipelines' participation in the original proceeding, and that the fees and disbursements, which were claimed in accordance with the Scale of Costs for those services, are reasonable, subject to the five per cent disallowance approved above. Accordingly, the Commission approves ATCO Pipelines' claim for legal fees for Bennett Jones LLP in the amount of \$91,204.75 and disbursements for printing of \$570.00 for a total of \$96,605.00.

## AUS Consultants

12. AUS Consultants was retained by ATCO Pipelines to perform consulting services in the original proceeding. The fees claimed by ATCO Pipelines are for the consulting services provided by Mr. Earl Robinson.

13. The only information provided with respect to the consulting services of AUS Consultants / Mr. Robinson is a single page invoice identifying 18 hours of professional services with a handwritten "compliance 2017-09-18". There is no description of what work was performed or how this work related to the compliance application or original proceeding. Without further information on the work performed by Mr. Robinson, the Commission is unable to assess whether the activities were reasonable and directly and necessarily related to the proceeding.

14. Accordingly, the Commission is unable to approve ATCO Pipelines' claim for consulting fees for AUS Consultants. In future applications, itemized invoices should be provided for all consultants.

## Total amount awarded

15. For the reasons provided above, the Commission approves ATCO Pipelines' claim for recovery of costs in the total amount of \$91,774.75. This amount is composed of legal fees of \$91,204.75, and disbursements of \$570.00.

## 2.2 Consumers' Coalition of Alberta

16. The following table summarizes the CCA's costs claim:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
CCA							
Wachowich & Company	2.00	0.00	3.25	\$1,837.50	\$0.00	\$91.88	\$1,929.38
Regulatory Services Inc.	29.75	0.00	35.00	\$17,482.50	\$42.80	\$876.27	\$18,401.57
Total	31.75	0.00	38.25	\$19,320.00	\$42.80	\$968.14	\$20,330.95

17. The Commission finds that the CCA acted responsibly in the original proceeding and contributed to a better understanding of the relevant issues in the proceeding.

### **Wachowich & Company**

18. The CCA was represented by Wachowich & Company in the original proceeding. The fees claimed by the CCA for the legal services provided by Mr. Jim Wachowich relate to reviewing the compliance application, reviewing draft IRs and reviewing draft argument and reply argument.

19. The Commission finds that the services performed by Wachowich & Company were directly and necessarily related to the CCA's participation in the original proceeding, and that the fees, which were claimed in accordance with the Scale of Costs for those services, are reasonable. Accordingly, the Commission approves the CCA's claim for legal fees for Wachowich & Company in the amount of \$1,837.50 and GST of \$91.88 for a total of \$1,929.38.

### **Regulatory Services Inc.**

20. Regulatory Services Inc. was retained by the CCA to perform consulting services in the original proceeding. The fees claimed by the CCA for the consulting services provided by Mr. Jeffrey Jodoin relate to reviewing the application, drafting IRs, reviewing IR responses, drafting argument, reviewing argument from other parties and drafting reply argument.

21. The Commission finds that the services performed by Regulatory Services Inc. were directly and necessarily related to the CCA's participation in the original proceeding, and that the fees and disbursements, which were claimed in accordance with the Scale of Costs for those services, are reasonable. Accordingly, the Commission approves the CCA's claim for consulting fees for Regulatory Services Inc. in the amount of \$17,482.50, disbursements for photocopying of \$42.80 and GST of \$876.27 for a total of \$18,401.57.

### **Total amount awarded**

22. For the reasons provided above, the Commission approves the CCA's claim for recovery of costs in the total amount of \$20,330.95. This amount is composed of legal fees of \$1,837.50, consulting fees of \$17,482.50, disbursements of \$42.80 and GST of \$968.15.

**3 Order**

23. It is hereby ordered that:

- 1) ATCO Pipelines shall pay external costs in the amount of \$91,774.75.
- 2) ATCO Pipelines shall pay intervener costs to the Consumers' Coalition of Alberta in the amount of \$20,330.95.
- 3) ATCO Pipelines shall record in its Reserve for Hearing Costs account, approved external and intervener costs in the amount of \$112,105.70.

Dated on April 30, 2018.

**Alberta Utilities Commission**

*(original signed by)*

Neil Jamieson  
Panel Chair