

THE PROVINCE OF ALBERTA
PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of Northwestern Utilities
Limited (now ATCO Gas North)
Application for Approval of a Negotiated
Settlement Addressing Rates, Tolls, Charges,
and Terms and Conditions of Service for Core
Customers and Approval of Amendments
to the North Core Agreement

UTILITY COST ORDER 2002 -19

Application Number: 2000297
Cost File Number: 8000-2000297 (01)

1. DECISION

By letter dated October 10, 2000, Northwestern Utilities Limited (NUL) (now ATCO Gas North) filed an application (the Application) with the Alberta Energy and Utilities Board for approval of rates and terms and conditions of service and associated orders affecting residential, commercial and small industrial customers for the years 2001 and 2002. The Application was a result of a negotiated settlement process that was initiated by NUL and the North Core Committee to address a Re-Opener to the North Core Agreement. The Application was published in three major newspapers and provided to interested parties. The Board received no objections to the application following the notice period. On December 22, 2000 the Board issued Decision 2000-85 with respect to the Application.

Various participants submitted costs claims in the amount of \$1,023,588.96, including actual GST of \$13,055.18. The Board circulated a summary of costs claimed to interested parties on February 7, 2002, and with the exception of the Applicant on April 5, 2002, the Board did not receive any comments with respect to the summary.

The Board's authority to award costs for hearings prior to August 1, 2001 is derived from section 60 (*now 68*) of the *Public Utilities Board Act*, 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.

(2) 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 60 (*now 68*), the Board is guided by the principles and policies expressed in its *Scale of Costs*. Not only does the *Scale of Costs* outline what fees and disbursements the Board will consider in a claim, it provides criteria for assessing a claim. When exercising its discretion to award costs, the Board must consider the effectiveness of the participants' contribution to the process, its relevance to the issues, and whether the costs of participation were necessary and reasonable.

In the case of applications based upon a negotiated settlement (NSP), the Board does not directly participate in the process. Rather, the Board reviews the nature of the process itself and its results to ensure that they were fair, reasonable and in the public interest. Without the direct opportunity to review the effectiveness of participants, the Board will take into account other considerations to ensure that the costs of participation in a NSP, which are ultimately passed on to all customers, are indeed reasonable and represent fair value.

As interested parties are aware, the Board recently reviewed its cost policies and procedures with regard to utility proceedings. One outcome of this review was the recognition by the Board of a need for greater overall scrutiny of costs submissions to ensure that those awarded fairly reflect the relative contributions of participants. More specifically, The Board stated that prior to awarding costs to participants, it would satisfy itself that the participant contributed to a better understanding of the issues before the Board and that the costs were reasonable and prudently incurred. The Board directed interveners with similar issues to make efforts to co-ordinate their interventions, and noted that duplication of effort would result in a reduction in costs awards.

The Board notes, however, that costs relating to this proceeding were incurred prior to providing interested parties with the notice of the Board's intentions as expressed above. The Board is thus of the opinion that the costs of this proceeding should be subject to the same scrutiny as other proceedings conducted at the same time.

In this instance the Board has reviewed the cost submissions of the participants and ATCO Gas North, and notes that the costs claimed are in accordance with the Board's *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, ATCO Gas North is required to pay only that portion of the GST paid by the intervener that may not be recoverable through the GST credit mechanism. Eligible GST approved by the Board amounts to \$13,055.18 as shown in column (d) of Schedule "A". Such GST allowed by the Board may also be charged against the ATCO Gas North Hearing Cost Reserve Account. The Board emphasizes, however, that its treatment of the GST awarded in no way relieves participants from their GST obligations pursuant to the *Excise Tax Act* R.S. c. E-13.

THEREFORE IT IS HEREBY ORDERED THAT:

- 1) ATCO Gas North shall pay intervener costs in the amount of \$709,534.99, as set out in column (e) of Schedule "A".
- 2) ATCO Gas North's external costs in the amount of \$327,109.15, as set out in column (e) of Schedule "A", are approved.
- 3) ATCO Gas North shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$1,036,644.14, as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 6th day of April, 2002.

Alberta Energy and Utilities Board

Original Signed by Thomas McGee

Thomas McGee

ATCO Gas Limited (North)

Application No.: 2000297

Summary of Total Costs Claimed and Awarded

	Fees and Disbursements Claimed (excluding GST) (a)	Total GST Associated with Claimed Fees and Disbursements (b)	Total Fees, Disbursements and GST claimed (c)	Eligible GST (d)	Fees and Disbursements Allowed Including Eligible GST (e)
Applicant					
ATCO Gas Limited (North)	\$327,109.15	\$0.00	\$327,109.15	\$0.00	\$327,109.15
Interveners					
Municipal Interveners	\$129,602.91	\$3,888.35	\$133,491.26	\$3,888.35	\$133,491.26
Aboriginal Communities	\$60,284.50	\$0.00	\$60,284.50	\$0.00	\$60,284.50
Canadian Forest Products	\$161,458.63	\$0.00	\$161,458.63	\$0.00	\$161,458.63
City of Edmonton	\$19,414.08	\$0.00	\$19,414.08	\$0.00	\$19,414.08
Consumers' Coalition of Alberta	\$125,867.56	\$9,166.83	\$135,034.39	\$9,166.83	\$135,034.39
Federation of Alberta Gas Co-ops Ltd. and Gas Alberta Inc.	\$118,555.41	\$0.00	\$118,555.41	\$0.00	\$118,555.41
Public Institutional Consumers of Alberta	\$81,296.72	\$0.00	\$81,296.72	\$0.00	\$81,296.72
Total Interveners' Costs	\$696,479.81	\$13,055.18	\$709,534.99	\$13,055.18	\$709,534.99
Total Costs	\$1,023,588.96	\$13,055.18	\$1,036,644.14	\$13,055.18	\$1,036,644.14