

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of ATCO Gas Limited (North)
Compliance Filing from the Approval of the
Westlock and Lloydminster Sales Pursuant to
Decisions 2001-46 and 2001-65

UTILITY COST ORDER 2002-21

Application Number: 1246952
Cost File Number: 8000-1246952
Board File Number: 6405 –14, 16, and 18

1. DECISION

In Decision 2001-46 dated May 29, 2001, the Alberta Energy and Utilities Board (the Board) approved, without reasons, the sale by ATCO Gas – North (AGN) of the Westlock et al. and Lloydminster natural gas producing properties (the Properties). The Board issued the Decision without reasons to accommodate the time lines of the sales transactions. On July 31, 2001 the Board issued Decision 2001-65 setting out the reasons for approving the sales.

In Decision 2001-65 the Board directed that certain information regarding the Properties would need to be refiled within 30 days after the completion of the sales transactions or the date of Decision 2001-65, whichever was later (the Compliance Filing).

By letter dated August 30, 2001 AGN filed with the Board the Compliance Filing with respect to the Properties. The Board considers that the record for the Compliance Filing closed on November 9, 2001 when it received additional information requests from AGN.

On January 3, 2002 the Board issued Decision 2002-1.

The Board's authority to award costs is derived from section 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 68, the Board is directed by Part 4 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.

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.

Various participants submitted cost claims totaling \$4,947.70 including actual GST of \$244.24 with respect to 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 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, AGN 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 \$33.25 as shown in column (d) of Schedule "A". The GST allowed by the Board may also be charged against AGN's 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. E-13.

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 Limited (North) shall pay intervener costs in the amount of \$3,765.14, as set out in column (e) of Schedule "A".
- 2) ATCO Gas Limited's (North) external costs in the amount of \$971.51, as set out in column (e) of Schedule "A", are approved.
- 3) ATCO Gas Limited (North) shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$4,736.71 as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 9th day of April, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

Original signed by Thomas McGee

Thomas McGee

ATCO Gas Limited (North)

Application No. 1246952

Summary of Total Costs Claimed and Awarded

	Total Fees, Disbursements & GST Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Amount Awarded (e)
Applicant					
ATCO Gas Limited (North)					
ATCO Gas Limited (South)	\$971.57	\$0.00	\$971.57	\$0.00	\$971.57
Sub-Total	\$971.57	\$0.00	\$971.57	\$0.00	\$971.57
Interveners					
Federation of Alberta Gas Co-ops Ltd. / Gas Alberta Inc.					
Campbell Ryder Consulting Group	\$886.07	\$825.00	\$3.10	\$0.00	\$828.10
Brownlee Fryett	\$508.25	\$475.00	\$0.00	\$33.25	\$508.25
Sub-Total	\$1,394.32	\$1,300.00	\$3.10	\$33.25	\$1,336.35
North Core Committee					
Liddle Engineering Ltd.	\$1,767.24	\$1,662.50	\$0.00	\$0.00	\$1,662.50
Sproule Associates Limited	\$814.57	\$766.29	\$0.00	\$0.00	\$766.29
Sub-Total	\$2,581.81	\$2,428.79	\$0.00	\$0.00	\$2,428.79
Total Intervener Costs	\$3,976.13	\$3,728.79	\$3.10	\$33.25	\$3,765.14
Total Costs	\$4,947.70	\$3,728.79	\$974.67	\$33.25	\$4,736.71