

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of ATCO Electric Limited,
ATCO Gas and Pipelines Ltd., and Northwestern
Utilities Limited (ATCO Companies)
Pension Filing – Negotiated Settlement

UTILITY COST ORDER 2002- 25

Application No. 2000328
Cost File No. 8000-2000328
Board File No. 5678-2

An application was filed by ATCO Electric Ltd., ATCO Gas and Pipelines Ltd., and Northwestern Utilities Limited (the Applicants or jointly, the ATCO Companies) on November 15, 2000 (the Application). The ATCO Companies requested that the Board review the previously approved accounting treatment for pension expense as well as other post employment benefits and to confirm the appropriate methodology to be used by each of the Applicants on a go-forward basis in determining their respective utility revenue requirements.

By letter dated November 16, 2001, the ATCO Companies filed a negotiated settlement concerning all issues raised by the Application. The Board issued a letter dated November 23, 2001 to all parties registered in the ATCO Companies Pension proceeding noting the receipt of the Negotiated Settlement. The Board requested that any party who objected to the Negotiated Settlement should notify the Board and other interested parties on or before November 30, 2001. The Board noted that absent any objections, the Board would proceed to deal with the ATCO Companies request for approval of the settlement. No objections were received by the Board.

On December 31, 2001 the Board issued Decision 2001-105.

Various Participants submitted costs totaling \$142,582.17, including actual GST of \$4,414.05.

On March 20, 2002 the Board circulated a summary of costs claimed to interested parties advising that that comments to the summary were to be submitted to the Board by no later than April 3, 2002. The Senior Petroleum Producers Association responded with an additional claim. On April 2, 2002 the Board requested that parties allocate their claim, if not already done so, to the appropriate Applicant. The Board received responses from the Consumers' Coalition of Alberta, the City of Calgary, and the Alberta Municipal Districts & Counties. The requested changes were made and circulated to parties. The Board received no further comments from interested parties.

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.

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.

The Board notes that Patricia Quinton-Campbell (Burnet, Duckworth & Palmer), on behalf of the City of Calgary, claimed fees in excess of the Board's Scale of Costs. Having regard to the contribution to the Board's understanding of the issues before it and the scope and nature of the issues in question, the Board finds that the increase of the Board's Scale of Costs for fees is not warranted in this matter and Ms. Quinton-Campbell's fees shall be reduced from \$250.00 per hour to \$220.00 per hour, the amount allowed for a lawyer of her experience. The Board directs that the difference of \$1,374.00 be reduced from each claim according to the allocation provided by Ms. Quinton-Campbell's office (ATCO Gas 83.5% and ATCO Electric 16.5%).

In this instance the Board has reviewed the cost submissions of the remaining participants and, 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, each Applicant 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 \$2,240.18 as shown in column (d) of Schedules "A" and "B". Such GST allowed by the Board may also be charged against each Applicant's 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 Electric Limited shall pay intervener costs in the amount of \$32,426.64, as set out in column (e) of Schedule "A".
- 2) ATCO Electric Limited's external costs in the amount of \$39,058.08, as set out in column (e) of Schedule "A", are approved.
- 3) ATCO Electric Limited shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$71,848.72, as set out in column (e) of Schedule "A".
- 4) ATCO Gas & Pipelines Limited shall pay intervener costs in the amount of \$32,073.87, as set out in column (e) of Schedule "B".
- 5) ATCO Gas and Pipelines Limited's external costs in the amount of \$35,475.71, as set out in column (e) of Schedule "B", are approved.
- 6) ATCO Gas & Pipelines Limited shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$67,549.58, as set out in column (e) of Schedule "B".

MADE at the City of Calgary, in the Province of Alberta, this 2nd day of May, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee

ATCO Electric Limited

Application No.: 2000328

Summary of Total Costs Claimed and Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Amount Awarded (e)
Applicants					
ATCO Electric Limited					
ATCO Electric Limited	\$4,660.87	\$0.00	\$4,660.87	\$0.00	\$4,660.87
Bennett Jones LLP	\$15,104.71	\$14,687.00	\$417.71	\$0.00	\$15,104.71
PricewaterhouseCoopers	\$13,429.25	\$13,254.50	\$174.75	\$0.00	\$13,429.25
William M. Mercer Limited	\$5,863.25	\$5,863.25	\$0.00	\$0.00	\$5,863.25
Sub-Total	\$39,058.08	\$33,804.75	\$5,253.33	\$0.00	\$39,058.08
Interveners					
Alberta Urban Municipalities Association					
Reynolds Mirth Richards & Farmer	\$873.33	\$810.00	\$6.20	\$57.13	\$873.33
Robert L. Bruggeman Regulatory Consulting Ltd.	\$1,043.25	\$975.00	\$0.00	\$68.25	\$1,043.25
Sub-Total	\$1,916.58	\$1,785.00	\$6.20	\$125.38	\$1,916.58
Alberta Federtation of REA's					
Sisson Warren Sinclair	\$5,934.79	\$5,425.00	\$121.53	\$0.00	\$5,546.53
Collins Barrow	\$200.09	\$187.00	\$0.00	\$0.00	\$187.00
Sub-Total	\$6,134.88	\$5,612.00	\$121.53	\$0.00	\$5,733.53
Senior Petroleum Producers Association					
Senior Petroleum Producers Association	\$576.50	\$576.50	\$0.00	\$0.00	\$576.50
Sub-Total	\$576.50	\$576.50	\$0.00	\$0.00	\$576.50

ATCO Electric Limited

Application No.: 2000328

Summary of Total Costs Claimed and Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Amount Awarded (e)
City of Calgary					
Burnet, Duckworth & Palmer	\$2,744.45	\$2,198.38	\$139.82	\$70.15	\$2,408.35
Stephen Johnson	\$2,378.00	\$2,211.00	\$11.43	\$66.68	\$2,289.11
Energy Group, Inc.	\$133.58	\$124.84	\$0.00	\$3.75	\$128.59
Sub-Total	\$5,256.03	\$4,534.22	\$151.25	\$140.57	\$4,826.04
Alberta Municipal Districts & Counties					
Brownlee Fryett	\$4,006.39	\$3,732.50	\$11.79	\$0.00	\$3,744.29
Collins Barrow	\$200.09	\$187.00	\$0.00	\$0.00	\$187.00
Sub-Total	\$4,206.48	\$3,919.50	\$11.79	\$0.00	\$3,931.29
Consumers' Coalition of Alberta					
Wachowich & Company / Professional Regulatory Services, Inc.	\$15,442.69	\$14,432.42	\$0.00	\$1,010.27	\$15,442.69
Sub-Total	\$15,442.69	\$14,432.42	\$0.00	\$1,010.27	\$15,442.69
Total Intervener Costs	\$33,533.16	\$30,859.64	\$290.77	\$1,276.23	\$32,426.64
Total Costs	\$72,591.24	\$64,664.39	\$5,544.10	\$1,276.23	\$71,484.72

ATCO Gas Pipelines Limited

Application No.: 2000328

Summary of Total Costs Claimed and Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	Total GST Awarded (d)	Total Amount Awarded (e)
Applicants					
ATCO Gas & Pipelines Limited					
ATCO Gas Limited	\$4,660.85	\$0.00	\$4,660.85	\$0.00	\$4,660.85
Bennett Jones LLP	\$11,522.36	\$11,214.00	\$308.36	\$0.00	\$11,522.36
PricewaterhouseCoopers	\$13,429.25	\$13,254.50	\$174.75	\$0.00	\$13,429.25
William M. Mercer Limited	\$5,863.25	\$5,863.25	\$0.00	\$0.00	\$5,863.25
Sub-Total	\$35,475.71	\$30,331.75	\$5,143.96	\$0.00	\$35,475.71
Interveners					
Consumers' Coalition of Alberta					
Wachowich & Company/Professional Regulatory Services, Inc.	\$3,860.67	\$3,608.10	\$0.00	\$252.57	\$3,860.67
Sub-Total	\$3,860.67	\$3,608.10	\$0.00	\$252.57	\$3,860.67
City of Calgary					
Burnet, Duckworth & Palmer	\$13,888.61	\$11,125.12	\$707.60	\$355.01	\$12,187.73
Stephen Johnson	\$12,034.09	\$11,189.00	\$57.81	\$337.43	\$11,584.24
Energy Group, Inc.	\$676.01	\$631.79	\$0.00	\$18.95	\$650.74
Sub-Total	\$26,598.71	\$22,945.91	\$765.41	\$711.39	\$24,422.71
Federation of Alberta Gas Co-ops Ltd. / Gas Alberta Inc.					
Brownlee Fryett	\$1,480.99	\$1,361.25	\$22.85	\$0.00	\$1,384.10
Campbell Ryder Consulting Group Ltd.	\$2,574.85	\$2,400.00	\$6.40	\$0.00	\$2,406.40
Sub-Total	\$4,055.84	\$3,761.25	\$29.25	\$0.00	\$3,790.50
Total Intervener Costs	\$34,515.22	\$30,315.26	\$794.66	\$963.95	\$32,073.87
Total Costs	\$69,990.93	\$60,647.01	\$5,938.62	\$963.95	\$67,549.58