

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of AltaGas Utilities Corporation
Application to Merge AltaGas Utilities Inc. and
Bonnyville Gas Company Limited

UTILITY COST ORDER 2002-28

Application No. 2001057
Cost File No. 8000-2001057 (01)
Board File No. 6601-3

AltaGas Utilities Inc. (AltaGas) and its wholly owned subsidiary Bonnyville Gas Company Limited (BGC) (collectively the Applicants) applied by letter dated March 1, 2001 (the Application) for an order approving the merger of the two companies. Each company owned a designated gas utility as defined in the *Gas Utilities Act (GU Act)*.

On March 28, 2001 the Board issued Decision 2001-24 with respect to the application.

The Board received two cost claims totaling \$15,978.99 including actual GST of \$316.81 with respect to this proceeding. The Board received a cost claim from Bryan & Company on behalf of the Alberta Urban Municipalities Association and from AltaGas Utilities Corporation. The Board circulated a summary of costs on March 21, 2002 advising parties that any comments to the summary must be submitted to the Board by no later than April 5, 2002. The Board did not receive any comments or any additional cost claims.

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. The following excerpt from the *Scale of Costs* details those criteria:

Before exercising its statutory discretion to award costs, the Board will consider such questions as the effectiveness of the particular intervention, its relevancy to the issues, and whether the costs were reasonably and prudently incurred.

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 claimed were reasonable, and prudently incurred.

The Board notes, however, that the 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 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.

In this instance the Board has reviewed the cost submissions of the participants and AltaGas, 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, AltaGas 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 \$316.81 as shown in column (d) of Schedule "A". Such GST allowed by the Board may also be charged against the AltaGas' 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) AltaGas Utilities Inc. shall pay intervener costs in the amount of \$6,708.37, as set out in column (e) of Schedule "A".
- 2) AltaGas Utilities Inc.'s external costs in the amount of \$9,270.62, as set out in column (e) of Schedule "A", are approved.
- 3) AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$15,978.99, as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 17th day of April, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee

AltaGas Utilities Inc.

Application No.: 2001057

Summary of Total Costs Claimed and Awarded

	Total Amount of Fees, Disbursements & GST Claimed (a)	Fees Awarded (b)	Disbursements Awarded (c)	GST Awarded (d)	Total Amount Awarded (e)
Applicant					
AltaGas Utilities Inc.	\$9,270.62	\$0.00	\$9,270.62	\$0.00	\$9,270.62
Intervenors					
Energy Users Association of Alberta	\$935.00	\$935.00	\$0.00	\$0.00	\$935.00
Alberta Urban Municipalities Association	\$1,127.46	\$967.50	\$86.20	\$73.76	\$1,127.46
Municipal Gas and Co-op Intervenors (Brownlee Fryett)	\$503.66	\$438.75	\$50.24	\$14.67	\$503.66
Municipal Gas and Co-op Intervenors (Cambell Ryder Consulting Group Inc.)	\$1,174.13	\$1,125.00	\$14.93	\$34.20	\$1,174.13
Consumers' Coalition of Alberta	\$2,968.12	\$2,720.00	\$53.94	\$194.18	\$2,968.12
Total Intervenors' Costs	\$6,708.37	\$6,186.25	\$205.31	\$316.81	\$6,708.37
Total Costs	\$15,978.99	\$6,186.25	\$9,475.93	\$316.81	\$15,978.99