

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of AltaGas Utilities Inc.,
Formerly Bonnyville Gas Ltd.,
Gas Cost Recovery Rate and
Adjustment for the Winter Period 2000/2001

UTILITY COST ORDER 2002-36

Application Nos.: 1261902 and
1261926
Cost File No. 8000-1261902 (01)
Board File No. 5625-20/21

1. DECISION

By letter dated October 5, 2000, AltaGas Utilities Inc., formerly Bonnyville Gas Ltd. (AltaGas) submitted an application (the Application) to the Alberta Energy and Utilities Board (the Board) for approval of a proposed winter period Gas Cost Recovery Rate (GCRR) effective November 1, 2000.

Bonnyville advised that it undertook to negotiate an agreement with its customers to reach a general consensus in determining the winter period GCRR. For this purpose Bonnyville contacted the Bonnyville Municipal Interveners, an intervener group that has actively participated in the determination of its 1999/2000 winter and summer period GCRRs, and provided it with the information submitted in the Application. Bonnyville provided the Board with documentation that it received from this intervener group in which the proposed winter period GCRR was accepted.

By letter dated December 4, 2000 AltaGas filed an application (the Application) with the Board for approval of a mid-period adjustment to its 2000/2001 winter period GCRR.

The Board issued Order U2000-311 on October 31, 2000 and Order U2000-362 on December 28, 2000 respectively.

Various participants submitted cost claims totaling \$2,112.82 including actual GST of \$50.83 with respect to the Proceeding.

The Board's authority to award costs for hearings which concluded 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.

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.

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, AltaGas 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 \$50.83 as shown in column (d) of Schedule "A". The GST allowed by the Board may also be charged against the AltaGas 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) AltaGas Utilities Inc. shall pay intervener costs in the amount of \$1,744.99, as set out in column (e) of Schedule "A".
- 2) AltaGas Utilities Inc.'s external costs in the amount of \$367.83, 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 \$2,112.82, as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 22nd day of May, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

Original Signed by Thomas McGee

Thomas McGee

AltaGas Utilities Inc.
Application Numbers: 1261902 and 1261926

Summary of Total Costs Claimed and Awarded

| | Total Amount Claimed (a) | Total Fees Awarded (b) | Total Disbursements Awarded (c) | Total GST Awarded (d) | Total Fees, Disbursements & GST Awarded (e) |
|---|-----------------------------|---------------------------|------------------------------------|--------------------------|--|
| Applicant | | | | | |
| AltaGas Utilities Inc., Formerly Bonnyville Gas Company Inc. | | | | | |
| AltaGas Utilities Incorporated | \$367.83 | \$0.00 | \$367.83 | \$0.00 | \$367.83 |
| Sub-Total | \$367.83 | \$0.00 | \$367.83 | \$0.00 | \$367.83 |
| Interveners | | | | | |
| Municipal Gas Co-op Interveners | | | | | |
| Campbell Ryder Consulting Group Limited | \$1,744.99 | \$1,612.50 | \$81.66 | \$50.83 | \$1,744.99 |
| Sub-Total | \$1,744.99 | \$1,612.50 | \$81.66 | \$50.83 | \$1,744.99 |
| TOTAL INTERVENER COSTS | \$1,744.99 | \$1,612.50 | \$81.66 | \$50.83 | \$1,744.99 |
| TOTAL COSTS | \$2,112.82 | \$1,612.50 | \$449.49 | \$50.83 | \$2,112.82 |