

**THE PROVINCE OF ALBERTA**

***PUBLIC UTILITIES BOARD ACT***

**ALBERTA ENERGY AND UTILITIES BOARD**

IN THE MATTER of an issue of a  
7.28 Per Cent Debenture  
for AltaGas Utilities Inc.

**UTILITY COST ORDER 2002-38**

Application No.: 2000333  
Cost File No. 8000-2000333 (01)  
Board File No. 6502-3

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By letter dated November 21, 2000, AltaGas Utilities Inc. (AltaGas) filed an application with the Alberta Energy and Utilities Board (the Board) for authorization to issue a 7.28 per cent Debenture in the principal amount of \$30,000,000.00 to AltaGas Utility Holding Inc., AltaGas' parent company. The application was filed pursuant to section 25.1(2)(a) of the *Gas Utilities Act*, R.S.A., 1980, c.G-4, as amended, (GU ACT).

By letter dated November 28, 2000, the Municipal and Gas Co-Op Intervenors (MCGI) stated that they had some questions relating to issue costs of the Debenture. However, the MCGI considered that these questions would be addressed through the information exchange and negotiation process for the current AltaGas 2000-2002 General Rate Application. The MCGI did not object to the Board approving the proposed Debenture issue.

On December 14, 2000 the Board issued Order U2000-343.

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.

In this instance the Board has reviewed the cost submissions of the Municipal Gas Co-op Interveners, and notes that the costs claimed are in accordance with the Board's *Scale of Costs*. Accordingly, the Board considers the claim for fees and disbursements to be reasonable as outlined in Schedule "A".

The Board has also reviewed the cost submission of AltaGas and notes that it has claimed for fees and disbursements in the amount of \$7,174.81 for the preparation and drafting of the debenture by the law firm, McCarthy Tetrault.

The Board finds these costs to be transactional and not costs incidental to the proceeding. As a result, the Board disallows this portion of the claim. The Board approves AltaGas' remaining claim of \$2,769.88 for disbursements as the costs claimed are reasonable and appear to be prudently incurred.

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 \$22.84 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 \$784.06, as set out in column (e) of Schedule "A".
- 2) AltaGas Utilities Inc.'s external costs in the amount of \$2,769.88, 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 \$3,553.94, as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 7th day of June, 2002.

**ALBERTA ENERGY AND UTILITIES BOARD**

*Original Signed by Thomas McGee*

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Thomas McGee

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, and GST Awarded (e)
<b>Applicant</b>					
<b>AltaGas Utilities Inc.</b>					
AltaGas Utilities Inc.	\$2,769.88	\$0.00	\$2,769.88	\$0.00	\$2,769.88
McCarthy Tetrault	\$7,174.81	\$0.00	\$0.00	\$0.00	\$0.00
<b>Sub-total</b>	<b>\$9,944.69</b>	<b>\$0.00</b>	<b>\$2,769.88</b>	<b>\$0.00</b>	<b>\$2,769.88</b>
<b>Interveners</b>					
<b>Municipal Gas Co-op Interveners</b>					
Brownlee Fryett	\$784.06	\$641.25	\$119.97	\$22.84	\$784.06
<b>Sub-total</b>	<b>\$784.06</b>	<b>\$641.25</b>	<b>\$119.97</b>	<b>\$22.84</b>	<b>\$784.06</b>
<b>TOTAL INTERVENER COSTS</b>	<b>\$784.06</b>	<b>\$641.25</b>	<b>\$119.97</b>	<b>\$22.84</b>	<b>\$784.06</b>
<b>TOTAL COSTS</b>	<b>\$10,728.75</b>	<b>\$641.25</b>	<b>\$2,889.85</b>	<b>\$22.84</b>	<b>\$3,553.94</b>