

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of ATCO Gas – South,
a Division of ATCO Gas and Pipelines Ltd.
Gas Cost Recovery Rate for the Summer Period,
Effective April 1, 2000

UTILITY COST ORDER 2002-48

Application Number: 2000093
Cost File Number: 8000-2000093 (01)
Board File Number: 5626-40

1. DECISION

By letter dated March 9, 2000, ATCO Gas and Pipelines Ltd., operating as ATCO Gas – South (AGS), submitted an application (the Application) to the Alberta Energy and Utilities Board (the Board) for approval of a proposed summer period Gas Cost Recovery Rate (GCRR) of \$3.346/gigajoule (GJ), effective April 1, 2000.

The Board published Notice for Objections to the Application in the daily newspapers having a general circulation in AGS's service areas. The Board did not receive any objections to the Application by March 24, 2000, the date specified in the published Notice for Objections.

On March 29, 2000 the Board issued Order U2000-152.

Various participants submitted cost claims totaling \$87,460.31 including actual GST of \$2,377.94 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, AGS 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 \$1,353.06 as shown in column (d) of Schedule "A". The GST allowed by the Board may also be charged against the AGS 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 – South shall pay intervener costs in the amount of \$57,981.60, as set out in column (e) of Schedule "A".
- 2) ATCO Gas – South's external costs in the amount of \$28,212.38, as set out in column (e) of Schedule "A", are approved.
- 3) ATCO Gas – South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$86,193.98, 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

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 (e)
Applicant					
ATCO Gas - South					
ATCO Gas	\$3,991.32	\$0.00	\$3,991.32	\$0.00	\$3,991.32
Bennett Jones LLP	\$1,122.33	\$1,080.00	\$42.33	\$0.00	\$1,122.33
Ziff Energy Group	\$20,848.73	\$23,175.00	-\$2,326.27	\$0.00	\$20,848.73
Risk Advisory	\$2,250.00	\$2,250.00	\$0.00	\$0.00	\$2,250.00
Sub-total	\$28,212.38	\$26,505.00	\$1,707.38	\$0.00	\$28,212.38
Intervenors					
Alberta Irrigation Projects					
Unryn & Associates	\$5,596.51	\$4,890.00	\$706.51	\$0.00	\$5,596.51
Sub-total	\$5,596.51	\$4,890.00	\$706.51	\$0.00	\$5,596.51
Municipal Intervenors					
Bryan & Company	\$6,035.39	\$6,035.39	\$0.00	\$0.00	\$6,035.39
Sub-total	\$6,035.39	\$6,035.39	\$0.00	\$0.00	\$6,035.39
The City of Edmonton					
City of Edmonton	\$2,012.50	\$2,012.50	\$0.00	\$0.00	\$2,012.50
Sub-total	\$2,012.50	\$2,012.50	\$0.00	\$0.00	\$2,012.50

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 (e)
The City of Calgary					
Burnet, Duckworth & Palmer	\$17,785.02	\$16,537.50	\$84.02	\$498.68	\$17,120.20
Stephen Johnson	\$6,650.53	\$5,400.00	\$908.91	\$189.28	\$6,498.19
A.E. Sharp Ltd.	\$3,847.80	\$3,562.50	\$33.57	\$107.89	\$3,703.96
Peter J. Milne & Associates Ltd.	\$4,634.81	\$4,320.00	\$11.60	\$129.96	\$4,461.56
Energy Group Inc.	\$2,774.90	\$2,593.36	\$0.00	\$77.81	\$2,671.17
Sub-total	\$35,693.06	\$32,413.36	\$1,038.10	\$1,003.61	\$34,455.07
Federation of Alberta Gas Co-ops					
Brownlee Fryett	\$4,437.64	\$4,409.29	\$0.00	\$0.00	\$4,409.29
Sub-total	\$4,437.64	\$4,409.29	\$0.00	\$0.00	\$4,409.29
Public Institutional Consumers of Alberta					
Public Institutional Consumers of Alberta	\$3,822.00	\$3,822.00	\$0.00	\$0.00	\$3,822.00
Sub-total	\$3,822.00	\$3,822.00	\$0.00	\$0.00	\$3,822.00
Consumers Coalition of Alberta					
Professional Regulatory Services	\$1,650.83	\$1,542.84	\$0.00	\$108.00	\$1,650.84
Sub-total	\$1,650.83	\$1,542.84	\$0.00	\$108.00	\$1,650.84
TOTAL INTERVENER COSTS	\$59,247.93	\$55,125.38	\$1,744.61	\$1,111.61	\$57,981.60
TOTAL COSTS	\$87,460.31	\$81,630.38	\$3,451.99	\$1,111.61	\$86,193.98