

**THE PROVINCE OF ALBERTA**

***PUBLIC UTILITIES BOARD ACT***

**ALBERTA ENERGY AND UTILITIES BOARD**

IN THE MATTER of ATCO Gas - North,  
A Division of ATCO Gas and Pipelines Limited  
Distribution of Proceeds from Sale of  
Producing Properties

**UTILITY COST ORDER 2002-50**

Application Number: 1251322  
Cost File Number: 8000-1251322  
Board File Number: 6405-14-2

---

**1. DECISION**

By letter dated December 12, 2001, ATCO Gas -North (AGN), a division of ATCO Gas and Pipelines Ltd., filed an application (the Application) with the Alberta Energy and Utilities Board (the Board) for approval of a proposal to distribute the customers' share of the proceeds from the sale of petroleum and natural gas rights and production and gathering equipment in the Viking Kinsella field (the Viking assets) to customers of record on specified dates.

On or about January 3, 2002, the Board published Notice of the Application in the daily newspapers having a general circulation in AGN's service areas, and in the weekly newspaper in the Lloydminster area. The Notice was also served on interested parties that were registered in the previous proceedings held by the Board that dealt with AGN's applications for approval to dispose of certain petroleum and natural gas assets. The Notice invited any member of the public who wished to obtain information about the Application to submit information requests to AGN and the North Core Committee (NCC) by January 9, 2002. The Notice also provided for objections to the Application to be filed with the Board on or before January 21, 2002.

To obtain greater clarification of the position of AGN and the NCC with respect to alleged inequities and methods of dispute resolution for concerned customers, the Board submitted follow-up information requests on January 23, 2002 to AGN and the NCC. The Board considers the record for this proceeding to be closed as of January 25, 2002.

The panel selected to review this proceeding consisted of B.T. McManus, Q.C. (Presiding Member), T.M. McGee (Board Member), and J.I. Douglas, FCA (Board Member).

On February 21, 2002 the Board issued Decision 2002-018.

Various participants submitted cost claims totaling \$42,545.49 including actual GST of \$2,462.68 with respect to the Proceeding.

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.

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, AGN 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 \$1,014.69 as shown in column (d) of Schedule "A". The GST allowed by the Board may also be charged against the AGN 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 – North, a Division of ATCO Gas & Pipelines Limited shall pay intervener costs in the amount of \$36,195.77 as set out in column (e) of Schedule "A".
- 2) ATCO Gas – North, a Division of ATCO Gas & Pipelines Limited, external costs in the amount of \$4,901.73 as set out in column (e) of Schedule "A", are approved.
- 3) ATCO Gas – North, a Division of ATCO Gas & Pipelines Limited shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$41,097.50 as set out in column (e) of Schedule "A".

MADE at the City of Calgary, in the Province of Alberta, this 8<sup>th</sup> day of July, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

*Original Signed by Thomas McGee*

---

Thomas McGee

**ATCO Gas - North**  
**Application No.: 1251322**

**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>ATCO Gas - North</b>					
Bennett Jones LLP	\$200.00	\$200.00	\$0.00	\$0.00	\$200.00
ATCO Gas Limited (North)	\$4,701.73	\$0.00	\$4,701.73	\$0.00	\$4,701.73
<b>Sub-total</b>	<b>\$4,901.73</b>	<b>\$200.00</b>	<b>\$4,701.73</b>	<b>\$0.00</b>	<b>\$4,901.73</b>
<b>Interveners</b>					
<b>Alberta Urban Municipalities Association</b>					
Bryan & Company	\$3,762.49	\$3,450.00	\$66.35	\$246.14	\$3,762.49
<b>Sub-total</b>	<b>\$3,762.49</b>	<b>\$3,450.00</b>	<b>\$66.35</b>	<b>\$246.14</b>	<b>\$3,762.49</b>
<b>Federation of Alberta Gas Co-ops Ltd./Gas Alberta Inc.</b>					
Campbell Ryder	\$18,940.54	\$17,550.00	\$151.44	\$0.00	\$17,701.44
Brownlee Fryett	\$3,192.96	\$2,925.00	\$59.07	\$0.00	\$2,984.07
<b>Sub-Total</b>	<b>\$22,133.50</b>	<b>\$20,475.00</b>	<b>\$210.51</b>	<b>\$0.00</b>	<b>\$20,685.51</b>
<b>Consumer's Coalition of Alberta</b>					
Wachowich & Company	\$4,999.58	\$4,672.50	\$0.00	\$327.08	\$4,999.58
Professional Regulatory Services Incorporated	\$6,748.19	\$6,240.00	\$66.72	\$441.47	\$6,748.19
<b>Sub-Total</b>	<b>\$11,747.77</b>	<b>\$10,912.50</b>	<b>\$66.72</b>	<b>\$768.55</b>	<b>\$11,747.77</b>
<b>TOTAL INTERVENER COSTS</b>	<b>\$37,643.76</b>	<b>\$34,837.50</b>	<b>\$343.58</b>	<b>\$1,014.69</b>	<b>\$36,195.77</b>
<b>TOTAL COSTS</b>	<b>\$42,545.49</b>	<b>\$35,037.50</b>	<b>\$5,045.31</b>	<b>\$1,014.69</b>	<b>\$41,097.50</b>