

**THE PROVINCE OF ALBERTA**

***PUBLIC UTILITIES BOARD ACT***

**ALBERTA ENERGY AND UTILITIES BOARD**

IN THE MATTER of ATCO Pipelines North and South  
Transmission Transportation Rates

**UTILITY COST ORDER 2002-52**

Application Number: 2000348  
Cost File Number: 8000-2000348 (01)  
Board File Number: 5678-4

---

**1. DECISION**

By letter dated November 29, 2000, ATCO Pipelines (ATCO or the Company), a division of ATCO Gas & Pipelines Ltd. and Northwestern Utilities Limited, filed an application requesting approval of rates and terms and conditions of service for Industrial and Producer customers in 2001 and 2002. The application was the product of agreements resulting from a successfully negotiated settlement (the Settlement) with representatives of Industrial and Producer customers of ATCO Pipelines North and South.

The Board approved the Settlement in Decision 2001-53 dated June 11, 2001. The panel assigned to consider this matter consisted of B. F. Bietz, Ph.D. (Presiding Member), G. J. Miller (Board Member), and C. Dahl Rees (Acting Member).

Various participants submitted cost claims totaling \$6,936.13 including actual GST of \$453.77 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 68, the Board is directed by Part 5 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.

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 cost 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 participants 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 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 various letters from the City of Calgary (Calgary) and ATCO Pipelines South (APS) regarding Calgary's cost claim in this proceeding. Although Calgary was not a part of the Industrial-Producer Settlement (IP Settlement), Calgary argued that it needed to understand the components of the IP Settlement to address related revenue and requirement and rate issues before the Board in the APS 2001/2002GRA. Calgary noted that over 40% of the APS revenue requirement comes from I/P customers with the balance coming from Distribution Companies, primarily ATCO Gas. Calgary indicated that consequently, any I/P Settlement has the potential to directly impact core customers. Calgary considered that evaluation of this impact would involve examination of the contribution of rate classes to the APS revenue requirement, and determination of which rate classes will bear the burden of revenue deficiencies. Calgary also noted that, based on the Board's findings in Decision 2001-97, Calgary assumed that the Board found Calgary's arguments in this regard to be helpful.

APS responded to Calgary's arguments by stating, in a letter dated April 9, 2002, that the application for amending the deferred exchange account did not impact Calgary, and that Calgary was not involved in that proceeding, nor was their involvement necessary to the proceeding.

It appears to the Board, based on the APS response, that APS incorrectly assumed that Calgary's cost claim related to an APS application for amendments to the deferred exchange account, leading to the issuance of Decision 2001-76 on October 24, 2001. As APS points out, Calgary was not involved in that subsequent proceeding, nor was their involvement necessary to that proceeding.

Accordingly, the Board agrees with Calgary on this issue. Although Calgary was not directly involved in the IP Settlement, Calgary did need to understand the Settlement as it impacted Calgary indirectly as described above. Accordingly, the Board will allow Calgary's claim for costs with the modifications described below.

The Board notes that Mr. H. Vander Veen charged for 5 hours of preparation at \$245.79 per hour. The maximum hourly rate allowed under the *Scale of Costs* for work done prior to August 1, 2001 is \$225.00. The Board does not view this proceeding as overly technical or complex in nature and therefore directs that Mr. Vander Veen be awarded fees based on the maximum hourly rate under the *Scale of Costs*. The Board directs the Mr. Vander Veen be awarded fees in the amount of \$1,125.00 (5 hours x \$225.00).

The Board has reviewed the fees and disbursements claimed by Burnet, Duckworth & Palmer and finds that they are reasonable and within the Board's *Scale of Costs* and are directed to be paid in full as outlined in the attached Schedule "A".

The Board has reviewed the costs submitted by the Federation of Alberta Gas Co-ops and Gas Alberta Inc., bearing in mind the principles specified in the Board's *Scale of Costs*. The Board finds that the participation of these 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 disbursements were in accordance with the *Scale of Costs*. Accordingly, the Board considers the claims for fees and disbursements for these participants to be reasonable and are directed to be paid in full as outlined in Schedule "A".

In accordance with the Board's treatment of the GST on cost awards, the Applicants are 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 \$0.00 with respect to APN, as shown in column (d) of Schedule "A", and \$101.08 with respect to APS, as shown in column (d) of Schedule "B". The GST allowed by the Board with respect to APS may also be charged against the respective 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 Pipelines North shall pay intervener costs in the amount of \$3,009.44, as set out in column (e) of Schedule "A";
- 2) ATCO Pipelines North shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$3,009.44, as set out in column (e) of Schedule "A".
- 3) ATCO Pipelines South shall pay intervener costs in the amount of \$3,470.05, as set out in column (e) of Schedule "B";
- 4) ATCO Pipelines South shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$3,470.05, as set out in column (e) of Schedule "B".

MADE at the City of Calgary, in the Province of Alberta, this 23<sup>rd</sup> day of July, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

*Original Signed by Thomas McGee*

---

Thomas McGee

ATCO Pipelines North  
Application No.: 2000348

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>					
ATCO Pipelines North					
<b>Sub-Total</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Interveners</b>					
Federation of Alberta Gas Co-Ops Ltd. / Gas Alberta Inc.					
Brownlee Fryett	\$3,220.10	\$1,162.50	\$1,846.94	\$0.00	\$3,009.44
<b>Sub-Total</b>	<b>\$3,220.10</b>	<b>\$1,162.50</b>	<b>\$1,846.94</b>	<b>\$0.00</b>	<b>\$3,009.44</b>
<b>TOTAL INTERVENER COSTS</b>					
<b>TOTAL COSTS</b>	<b>\$3,220.10</b>	<b>\$1,162.50</b>	<b>\$1,846.94</b>	<b>\$0.00</b>	<b>\$3,009.44</b>

ATCO Pipelines South  
 Application No.: 2000348

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>					
ATCO Pipelines South					
<b>Sub-Total</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Interveners</b>					
<b>City of Calgary</b>					
Burnet, Duckworth & Palmer	\$2,401.05	\$2,227.50	\$16.47	\$67.32	\$2,311.29
Energy Group, Inc.	\$1,314.98	\$1,125.00	\$0.00	\$33.75	\$1,158.75
<b>Sub-Total</b>	<b>\$3,716.03</b>	<b>\$3,352.50</b>	<b>\$16.47</b>	<b>\$101.08</b>	<b>\$3,470.05</b>
<b>Total Intervener Costs</b>	<b>\$3,716.03</b>	<b>\$3,352.50</b>	<b>\$16.47</b>	<b>\$101.08</b>	<b>\$3,470.05</b>
<b>Total Costs</b>	<b>\$3,716.03</b>	<b>\$3,352.50</b>	<b>\$16.47</b>	<b>\$101.08</b>	<b>\$3,470.05</b>