

**THE PROVINCE OF ALBERTA**

***PUBLIC UTILITIES BOARD ACT***

**ALBERTA ENERGY AND UTILITIES BOARD**

IN THE MATTER of ATCO Gas – North and South  
Divisions of ATCO Gas and Pipelines Ltd.  
Winter Period Gas Cost Recovery Rate

**UTILITY COST ORDER 2002-58**

Application Numbers: 1246113 and 1246114  
Cost File Number: 8000-1246113 (01)  
Board File Numbers: 5627-49 and 5627-44

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**1. DECISION**

By letter dated October 12, 2001, ATCO Gas – South, (AGS), filed an application with the Board for approval of three proposed adjustments to its GCRRs and deferred gas account balances. Also by letter dated October 12, 2001, ATCO Gas - North, (AGN), filed an application with the Board for approval of three proposed adjustments to its GCRRs and deferred gas account balances.

The Panel assigned to these applications consisted of B.T. McManus, Q.C. (Presiding Member), G.J. Miller (Board Member), and B. Torrance (Acting Member). The Board considers these proceedings to have closed on October 12, 2002. On October 30, 2001 the Board issued Decision 2001-79 with respect to AGS and 2001-80 with respect to AGN.

Various participants submitted cost claims totaling \$54,601.89 including actual GST of \$2,693.31 with respect to the Proceeding. It is noted that on June 7, 2002, the Board issued Utility Cost Order 2002-47 with respect to ATCO Gas North and South, Gas Cost Recovery Rate Adjustments. The claim submitted by Campbell Ryder for professional fees of \$4,912.50 and disbursements of \$459.35 were inadvertently placed on the cost file for the Winter Period – Gas Cost Recovery Rate. As these two proceedings relate to one another Campbell Ryder's claim has been included in this Cost Order.

On March 14, 2002 the Board circulated a summary of costs being claimed to interested parties. On June 24, 2002 a revised summary was sent to interested parties advising that any comments to the summary were to be submitted by no later than July 2, 2002. On June 27, 2002 the Aboriginal Communities submitted their cost claim. Schedules "A" and "B" were revised and circulated again for comments. On July 2, 2002 the Board received comments from ATCO Gas indicating that although they did not have any specific comments with respect to the cost claims, they were enclosing a comparison table outlining the City of Calgary claims in relation to other parties' claims.

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 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.

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.

### **City of Calgary (Calgary)**

Upon review of Calgary's cost claim, the Board noted that Patricia Quinton-Campbell of Burnet Duckworth & Palmer claimed \$250.00 per hour for 13.5 hours. Upon review of the statements of account these hours of work were provided subsequent to August 1, 2001 when the Board's new Guidelines came into affect. Given Ms. Quinton-Campbell's years of experience this rate is in excess of the Board's *Scale of Costs*. Ms. Quinton-Campbell did provide justification with respect to the increased rate, however, the Board does not find that this particular proceeding was overly complex or technical in nature which would justify an increased hourly rate and therefore

directs that this amount be reduced to within the *Scale of Costs*. Professional fees for Ms. Quinton-Campbell are awarded in the amount of \$3,105.00.

$$13.5 \text{ hours} \times \$220.00 = \$2,970.00$$
$$\$135.00 + \$2,970.00 = \$3,105.00$$

The total amount awarded to Burnet Duckworth & Palmer, including disbursements of \$22.70, is \$9,730.20. GST for this party has been adjusted accordingly as outlined in Schedule "B" attached.

The Board has reviewed the costs submitted by the remaining 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 Schedules "A" and "B".

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 \$31.71 with respect to AGN and \$647.66 with respect to AGS as shown in column (d) of Schedules "A" and "B" respectively. The GST allowed by the Board may also be charged against each Applicant's 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 Gas – North shall pay intervener costs in the amount of \$19,754.93, as set out in column (e) of Schedule "A".
- 2) ATCO Gas – North's external costs in the amount of \$3,031.02, as set out in column (e) of Schedule "A", are approved.
- 3) ATCO Gas – North shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$22,785.95, as set out in column (e) of Schedule "A".

- 4) ATCO Gas – South shall pay intervener costs in the amount of \$26,722.36, as set out in column (e) of Schedule "B".
- 5) ATCO Gas – South's external costs in the amount of \$2,809.64, as set out in column (e) of Schedule "B", are approved.
- 6) ATCO Gas – South shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$29,532.00, as set out in column (e) of Schedule "B".

MADE at the City of Calgary, in the Province of Alberta, this 15th day of November, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

*Original Signed by Thomas McGee*

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Thomas McGee

ATCO Gas - North  
Application No.: 1246114

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>					
ATCO Gas - North	\$2,783.92	\$0.00	\$2,783.92	\$0.00	\$2,783.92
Bennett Jones	\$247.10	\$191.25	\$55.85	\$0.00	\$247.10
<b>Sub-Total</b>	<b>\$3,031.02</b>	<b>\$191.25</b>	<b>\$2,839.77</b>	<b>\$0.00</b>	<b>\$3,031.02</b>
<b>Interveners</b>					
<b>Municipal Interveners</b>					
Bryan & Company	\$378.25	\$315.00	\$38.50	\$10.61	\$364.11
Robert L. Bruggeman Regulatory Consulting Ltd.	\$752.75	\$703.50	\$0.00	\$21.11	\$724.61
<b>Sub-Total</b>	<b>\$1,131.00</b>	<b>\$1,018.50</b>	<b>\$38.50</b>	<b>\$31.71</b>	<b>\$1,088.71</b>
<b>Federation of Alberta Gas Co-Ops and Gas Alberta Inc.</b>					
Brownlee Fryett	\$588.50	\$550.00	\$0.00	\$0.00	\$550.00
Campbell Ryder Consulting Group	\$11,112.83	\$9,487.50	\$956.87	\$0.00	\$10,444.37
Campbell Ryder Consulting Group	\$5,720.06	\$4,912.50	\$459.35	\$0.00	\$5,371.85
<b>Sub-Total</b>	<b>\$17,421.39</b>	<b>\$14,950.00</b>	<b>\$1,416.22</b>	<b>\$0.00</b>	<b>\$16,366.22</b>
<b>Aboriginal Communities</b>					
A.O. Acroyd, Q.C.	\$800.00	\$800.00	\$0.00	\$0.00	\$800.00
Graves Engineering Corporation	\$1,500.00	\$1,500.00	\$0.00	\$0.00	\$1,500.00
	<b>\$2,300.00</b>	<b>\$2,300.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2,300.00</b>
<b>TOTAL INTERVENER COSTS</b>	<b>\$20,852.39</b>	<b>\$18,268.50</b>	<b>\$1,454.72</b>	<b>\$31.71</b>	<b>\$19,754.93</b>
<b>TOTAL COSTS</b>	<b>\$23,883.41</b>	<b>\$18,459.75</b>	<b>\$4,294.49</b>	<b>\$31.71</b>	<b>\$22,785.95</b>

ATCO Gas - South  
Application No.: 1246113

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 - South</b>					
ATCO Gas - South	\$2,562.55	\$0.00	\$2,562.55	\$0.00	\$2,562.55
Bennett Jones	\$247.09	\$191.25	\$55.84	\$0.00	\$247.09
<b>Sub-Total</b>	<b>\$2,809.64</b>	<b>\$191.25</b>	<b>\$2,618.39</b>	<b>\$0.00</b>	<b>\$2,809.64</b>
<b>Interveners</b>					
<b>City of Calgary</b>					
Burnet, Duckworth & Palmer	\$10,700.21	\$9,707.50	\$22.70	\$291.93	\$10,022.13
Stephen Johnson	\$321.00	\$300.00	\$0.00	\$9.00	\$309.00
Peter J. Milne & Associates Inc.	\$11,235.00	\$10,500.00	\$0.00	\$315.02	\$10,815.02
<b>Sub-Total</b>	<b>\$22,256.21</b>	<b>\$20,507.50</b>	<b>\$22.70</b>	<b>\$615.95</b>	<b>\$21,146.15</b>
<b>Municipal Interveners</b>					
Bryan & Company	\$378.25	\$315.00	\$38.50	\$10.61	\$364.11
Robert L. Bruggeman Regulatory Consulting Ltd.	\$752.75	\$703.50	\$0.00	\$21.11	\$724.61
<b>Sub-Total</b>	<b>\$1,131.00</b>	<b>\$1,018.50</b>	<b>\$38.50</b>	<b>\$31.71</b>	<b>\$1,088.71</b>
<b>Federation of Alberta Gas Co-Ops and Gas Alberta Inc.</b>					
Brownlee Fryett	\$521.63	\$487.50	\$0.00	\$0.00	\$487.50
<b>Sub-Total</b>	<b>\$521.63</b>	<b>\$487.50</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$487.50</b>
<b>Alberta Irrigation Projects Association</b>					
Unryn & Associates	\$1,700.00	\$1,700.00	\$0.00	\$0.00	\$1,700.00
<b>Sub-Total</b>	<b>\$1,700.00</b>	<b>\$1,700.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,700.00</b>

ATCO Gas - South  
 Application No.: 1246113

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>Aboriginal Communities</b>					
A.O. Ackroyd, Q.C.	\$800.00	\$800.00	\$0.00	\$0.00	\$800.00
Graves Engineering Corporation	\$1,500.00	\$1,500.00	\$0.00	\$0.00	\$1,500.00
<b>Sub-Total</b>	<b>\$2,300.00</b>	<b>\$2,300.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2,300.00</b>
<b>TOTAL INTERVENER COSTS</b>	<b>\$27,908.84</b>	<b>\$26,013.50</b>	<b>\$61.20</b>	<b>\$647.66</b>	<b>\$26,722.36</b>
<b>TOTAL COSTS</b>	<b>\$30,718.48</b>	<b>\$26,204.75</b>	<b>\$2,679.59</b>	<b>\$647.66</b>	<b>\$29,532.00</b>