

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

IN THE MATTER of AltaGas Utilities Inc. and
Bonnyville Gas Company Limited
General Rate Application for Test Years
2000 / 2001 / 2002 (Phases I and II)
Negotiated Settlement and Litigated Process

UTILITY COST ORDER 2002-68

Application Number: 1237650
Cost File Number: 8000-1237650 (02)
Board File Number: 1402-8

1. DECISION

By letter dated September 29, 2000, AltaGas Utilities Inc. (AltaGas) and Bonnyville Gas Company Limited (Bonnyville) (collectively, the Utilities) filed a 2000/2001/2002 General Rate Application (GRA or the Application) with the Alberta Energy and Utilities Board (the Board).

By letter dated October 23, 2001, the Utilities indicated that representatives of the Companies and customer groups undertook a Negotiated Settlement Process (NSP) on October 25, 2000, with a view to reaching agreement on the Phase I portion of the Application, dealing specifically with revenue requirement and rate base. The Utilities indicated that the Phase II portion of the GRA to fix schedules of rates, tolls and charges for the Utilities, would be filed in due course.

In the October 23, 2001 letter, the Utilities indicated that the process to arrive at a negotiated settlement had continued through to September 25, 2001, and that the parties had reached agreement on all issues raised in the Phase I portion of the GRA, with the exception of Rate of Return on Common Equity and Capital Structure.

On November 14, 2001, the Utilities filed a "Memorandum of Agreement" in support of the Phase I portion of the GRA, setting out details of these unresolved issues and other matters agreed in the Negotiated Settlement Process.

A public hearing was held in Edmonton on January 10, 2002, for the purpose of considering submissions in support of the Application, including the unresolved issues to be adjudicated, and to consider any submissions from parties objecting to the Application. No submissions were received from parties objecting to the Application, but interveners objected to the utilities' treatment of certain issues: Rate of Return on Common Equity and Capital Structure, and Post-Employment Benefits.

The public hearing was convened before Board members Mr. R. G. Lock, P. Eng. (Presiding Member), Mr. G. J. Miller (Member), and Mr. J. Gilmour (Member). Registered interveners and the Utilities were directed to file written argument and reply on January 28, 2002 and February 4, 2002 respectively.

On April 12, 2002, the Board issued Decision 2002-027.

On May 22, 2002 the Board issued Utility Cost Order 2002-43 which primarily dealt with Phase I costs, however, it is noted that the Board did review and include a portion of the Phase II costs. This Cost Order deals with the remaining costs for Phase II.

On June 12, 2002 AltaGas submitted a cost claim totaling \$134,081.14 including actual GST of \$968.56 with respect to the Proceeding. The cost claim reflected AltaGas' external costs as well as the costs of the Municipal Gas Co-op Intervenors.

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.

In the case of applications based upon an NSP, the Board does not directly participate in the process. Rather, the Board reviews the nature of the process itself and its results to ensure that they were fair, reasonable, and in the public interest. Although the Board does not have the direct opportunity to review the effectiveness of participants, the Board does consider whether the costs of participation in a NSP, which are ultimately passed on to all customers, are indeed reasonable and represent fair value.

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, AltaGas 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 \$986.56 as shown in column (d) of Schedule "A". The GST allowed by the Board may also be charged against the AltaGas 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) AltaGas Utilities Inc. shall pay intervener costs in the amount of \$33,251.79, as set out in column (e) of Schedule "A".
- 2) AltaGas Utilities Inc.'s external costs in the amount of \$100,829.35, 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 \$134,081.14, as set out in column (e) of Schedule "A".

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

Thomas McGee

Summary of Total Costs Claimed and Awarded

	Total Amount Claimed (a)	Total Fees Awarded (b)	Total Disbursements Awarded (c)	GST Awarded (d)	Total Fees, Disbursements, and GST Awarded (e)
Applicant					
AltaGas Utilities Inc.					
AltaGas Utilities Inc.	\$17,328.35	\$0.00	\$17,328.35	\$0.00	\$17,328.35
Ackroyd, Piasta, Roth & Day	\$4,689.73	\$4,680.00	\$9.73	\$0.00	\$4,689.73
Gannett Fleming	\$28,766.81	\$28,309.58	\$457.23	\$0.00	\$28,766.81
Foster Associates, Inc.	\$50,044.46	\$48,539.74	\$1,504.72	\$0.00	\$50,044.46
Sub-total	\$100,829.35	\$81,529.32	\$19,300.03	\$0.00	\$100,829.35
Intervenors					
Municipal Gas Co-Op Intervenors					
Campbell Ryder Consulting Group Ltd.	\$27,075.56	\$26,100.00	\$186.90	\$788.66	\$27,075.56
Brownlee Fryett	\$6,176.23	\$4,938.75	\$1,057.58	\$179.90	\$6,176.23
Sub-total	\$33,251.79	\$31,038.75	\$1,244.48	\$968.56	\$33,251.79
TOTAL INTERVENORS COSTS	\$33,251.79	\$31,038.75	\$1,244.48	\$968.56	\$33,251.79
TOTAL COSTS	\$134,081.14	\$112,568.07	\$20,544.51	\$968.56	\$134,081.14