

THE PROVINCE OF ALBERTA

PUBLIC UTILITIES BOARD ACT

ALBERTA ENERGY AND UTILITIES BOARD

ATCO Gas South and ATCO Gas North
Divisions of ATCO Gas and Pipelines Ltd.
Gas Cost Recovery Rate Adjustments

ORDER CO 2001-41

Application Numbers: 2000367 and 2000368
Cost File Number: 8000-2000367-01

1. DECISION

By letters dated December 22, 2000 and January 19, 2001, ATCO Gas South and ATCO Gas North (collectively, ATCO Gas), divisions of ATCO Gas and Pipelines Ltd. submitted applications (collectively, the Applications) to the Alberta Energy and Utilities Board (the Board) with proposals for adjustments to their gas cost recovery rates (GCRR's). The Applications were considered by the Board at a public hearing in Edmonton, Alberta on February 14 and 15, 2001, and in Calgary, Alberta, on February 16, 2001 and Decision Report 2001-16 was issued by the Board on February 28, 2001.

The Board's authority to award costs is derived from section 60 of the *Public Utilities Board Act*, which states in part:

- 60 (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, 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.

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.

Various participants submitted cost claims totaling \$278,297.84 with respect to ATCO Gas South and \$166,200.75 with respect to ATCO Gas North including actual GST of \$14,039.58 (ATCO Gas South) and \$7,640.19 (ATCO Gas North) with respect to the Proceeding.

The Board notes the cooperation of those interveners who participated in the proceeding as members of the North Core Committee. The Board finds that this approach was effective in reducing duplication of efforts and resulted in a more efficient and effective proceeding.

With regard to the claim of the Aboriginal Communities, the Board finds that the amount requested is excessive given the nature and scope of its intervention. In that regard, the Board notes that this intervention was similar in scope to interventions made by PICA, EPCOR, and the CCA, all of whom claimed far less than the Aboriginal Communities. Given the above, the Board directs that the Aboriginal Communities be reduced to \$15,000.00 in recognition to their contribution to the proceeding.

The Board also notes that the City of Edmonton submitted costs for its own internal counsel and expert. On February 27, 2001 the Board wrote to interested parties and canvassed responses on the issue of internal fees recognition. While the Board received limited feedback from stakeholders it recognized that the approval of internal fees could potentially result in reduced hearing costs. The Board is accordingly prepared to consider Edmonton's internal costs. The Board has carefully reviewed the costs submitted by the City of Edmonton and finds them to be reasonable and in accordance with the Board's *Scale of Costs*. The Board therefore directs that these costs be approved in full. The Board will continue to consider these types of internal costs on a case-by-case trial basis to obtain additional experience with this approach.

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, subject to exception noted above, 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, subject to the exception detailed above, to be reasonable as outlined in Schedules "A" and "B".

In accordance with the Board's treatment of the GST on cost awards, ATCO Gas 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 \$701.74 (ATCO Gas South) and \$1,389.52 (ATCO Gas North) as shown in column d of Schedules "A" and "B". The GST allowed by the Board may also be charged against the Applicants' respective Gas hearing cost reserve accounts.

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:

- A. ATCO Gas South shall pay interveners' costs in the amount of \$240,597.41 as set out in column (e) of Schedule "A";
- B. ATCO Gas South's hearing costs in the amount of \$24,362.59, as set out in column (e) of Schedule "A" are approved;
- C. ATCO Gas South shall record in its hearing cost reserve account the allowed applicant and interveners' costs in the amount of \$264,960.00, as outlined in column (e) of Schedule "A";
- D. ATCO Gas North shall pay interveners' costs in the amount of \$127,110.84 as set out in column (e) of Schedule "B";
- E. ATCO Gas North's hearing costs in the amount of \$24,362.59, as set out in column (e) of Schedule "A" are approved;
- F. ATCO Gas North shall record in its hearing cost reserve account the allowed applicant and interveners' costs in the amount of \$151,473.43, as outlined in column (e) of Schedule "B".

MADE at the City of Calgary, in the Province of Alberta, this 30th day of November, 2001.

ALBERTA ENERGY AND UTILITIES BOARD

<Original Signed by Thomas McGee>

Thomas McGee

ATCO Gas South Gas cost Recovery Rate Adjustment

Application No. 2000367

Summary of Total Costs Claimed and awarded

	Fees and Disbursements Claimed (excluding GST) (a)	Total GST Associated with Claimed Fees and Disbursements (b)	Total Fees, Disbursements and GST claimed (a + b) (c)	Eligible GST (d)	Fees and Disbursements Allowed Including Eligible GST (e)
Applicant					
ATCO Gas and Pipelines	\$24,362.59	\$0.00	\$24,362.59	\$0.00	\$24,362.59
Intervenors					
Alberta Irrigation Projects Association	\$15,715.64	\$0.00	\$15,715.64	\$0.00	\$15,715.64
Canadian Forest Products Ltd.	\$22,051.19	\$0.00	\$22,051.19	\$0.00	\$22,051.19
City of Calgary	\$158,092.90	\$11,066.51	\$169,159.41	\$0.00	\$158,092.90
Consumers Coalition of Alberta	\$9,385.55	\$656.89	\$10,042.44	\$656.89	\$10,042.44
EPCOR Energy Services (Alberta) Inc.	\$16,192.50	\$1,133.48	\$17,325.98	\$0.00	\$16,192.50
Municipal Intervenors	\$1,495.00	\$104.65	\$1,599.65	\$44.85	\$1,539.85
Public Institutional Consumers of Alberta	\$15,562.72	\$1,078.05	\$16,640.77	\$0.00	\$15,562.72
Top Grade Solutions	\$1,400.17	\$0.00	\$1,400.17	\$0.00	\$1,400.17
Total Intervenors' Costs	\$239,895.67	\$14,039.58	\$253,935.25	\$701.74	\$240,597.41
Total	\$264,258.26	\$14,039.58	\$278,297.84	\$701.74	\$264,960.00

ATCO Gas North Gas Cost Recovery Rate Adjustment

Application No. 2000368

Summary of Total Costs Claimed and awarded

	Fees and Disbursements Claimed (excluding GST) (a)	Total GST Associated with Claimed Fees and Disbursements (b)	Total Fees, Disbursements and GST claimed (a + b) (c)	Eligible GST (d)	Fees and Disbursements Allowed Including Eligible GST (e)
Applicant					
ATCO Gas and Pipelines	\$24,362.59	\$0.00	\$24,362.59	\$0.00	\$24,362.59
Interveners					
Aboriginal Communities	\$23,476.65	\$0.00	\$23,476.65	\$0.00	\$15,000.00
City of Edmonton	\$6,140.00	\$429.80	\$6,569.80	\$0.00	\$6,140.00
Consumers Coalition of Alberta	\$9,385.55	\$656.89	\$10,042.44	\$656.89	\$10,042.44
EPCOR Energy Services (Alberta) Inc.	\$16,192.69	\$1,133.48	\$17,326.17	\$0.00	\$16,192.69
Federation of Alberta Gas Co-ops	\$37,620.73	\$2,632.61	\$40,253.34	\$0.00	\$37,620.73
Municipal Interveners	\$24,419.46	\$1,709.36	\$26,128.82	\$732.63	\$25,152.09
Public Institutional Consumers of Alberta	\$15,562.72	\$1,078.05	\$16,640.77	\$0.00	\$15,562.72
Top Grade Solutions	\$1,400.17	\$0.00	\$1,400.17	\$0.00	\$1,400.17
Total Interveners' Costs	\$134,197.97	\$7,640.19	\$141,838.16	\$1,389.52	\$127,110.84
Total	\$158,560.56	\$7,640.19	\$166,200.75	\$1,389.52	\$151,473.43