

1. APPLICATION

By letter dated 12 March 1999 Centra Gas Alberta Inc. (now AltaGas Utilities Inc.) (AltaGas) applied to the Alberta Energy and Utilities Board (the Board) for an Order approving amendments to its General Conditions of Service and its Natural Gas Service Rules respecting its late payment penalty provisions.

AltaGas' application was made subsequent to the issuance of the Supreme Court ruling in *Garland v. Consumers' Gas* respecting the late payment penalty of Consumers' Gas. In this decision the Supreme Court found that the penalty of Consumers' Gas, as applied, was not in compliance with Section 347 of the Criminal Code. The purpose of AltaGas' application is to ensure that AltaGas' late payment penalty will comply with the Criminal Code.

AltaGas considers that a penalty of 3.5% with a 28-day grace period would ensure its penalty would never amount to interest over 60% per annum, and therefore would comply with the Criminal Code.

Consequently, AltaGas requested approval of the deletion of clause 7 of its General Conditions of Service included with its rates, which reads:

When accounts are not paid on or before the due date, the charge for the current month, as calculated from the rates and riders in force at the time and after applying credits thereto, shall be increased by 5% and the gross amount shall then become payable.

AltaGas also requested that clause 7.1 of its Natural Gas Service Rules be amended by deleting the following:

We will send you a bill every month. The bill must be paid within 21 days of when it is sent out. Otherwise, we will charge a late payment penalty.

Clause 7.1 would be replaced with:

We will send you a bill every month. Payment is due on sending, but there is no penalty as long as you pay before the next bill is sent. There are at least 28 days between bills, so that gives you some time to pay. However, if the bill has not been fully paid by the time the next bill is sent out, you will have to pay a one-time penalty of 3.5% on the unpaid amount.

The Board published a Notice for Objections and received responses from three parties respecting the application.

By letter dated 23 April 1999 the Consumers' Coalition of Alberta (the CCA) indicated that it was concerned that the revised penalty is excessive and would not comply with the Supreme Court ruling. The CCA requested that the Board approve the application on an interim fully

refundable basis with a proceeding following approval to consider the CCA's concerns. When asked to provide its reasons for its concerns, the CCA advised it would provide its concerns during a proceeding before the Board.

By letter dated 21 April 1999 the Urban Municipalities indicated that it would not object to the application if it were approved as an interim solution with no change in rates and if the matter would be reviewed at AltaGas' next general rate application.

By letter dated 26 March 1999 the Municipal and Gas Co-op Intervenors provided a letter of support for the application and further indicated that it considered the revisions would address concerns to meet the criteria of the Criminal Code.

2. BOARD FINDINGS

The Board has reviewed the Supreme Court findings with respect to penalties and AltaGas' application and supporting argument. The Board understands that approval of this application would essentially provide AltaGas with a penalty of 3.5% with a 28-day grace period. The Board understands that a penalty of 3.5% would require a grace period of 27 days to ensure that any penalty applied would never amount to more than the maximum interest rate of 60% per annum allowed in the Criminal Code. The Board notes that there will be no negative impact to any of AltaGas' customers caused by approval on the conditions submitted by AltaGas with its application, and that a number of customers will benefit from the requested revisions.

The Board considers it would not be in the best interests of AltaGas' customers to approve this application on an interim refundable basis due to the prohibitive cost of administering a refund specific to a charge assessed against a portion of the customers.

The Board is satisfied that the argument provided by AltaGas with its application provided sufficient indication that approval would be in the public interest. The CCA has not provided any reasons to question AltaGas' rationale. Nor has the CCA provided any indication of any detrimental impact on customers that would result from approval of the application.

For these reasons the Board considers that it is in the best interests of the customers of AltaGas to approve the application. However, the Board considers a review of the penalty would be appropriate at the time of AltaGas' next general rate application. Consequently the Board directs AltaGas to review the level of the penalty; the effects of the revised penalty on necessary working capital; and any concerns regarding whether or not the penalty does comply with the Criminal Code, at the time of its next general rate application.

3. ORDER

THEREFORE, IT IS ORDERED THAT:

1. Application No. 990135 by AltaGas Utilities Inc. dated 12 March 1999 is approved, subject to the terms and conditions herein contained.
2. AltaGas Utilities Inc. shall file with the Alberta Energy and Utilities Board a copy of its General Conditions of Service and its Natural Gas Service Rules with the revisions approved by this Order.

Dated in Calgary, Alberta on 30 June 1999.

ALBERTA ENERGY AND UTILITIES BOARD

Thomas McGee
Member