



## **AltaGas Utilities Inc.**

**2013-2017 Performance-Based Regulation - Phase II  
Negotiated Settlement**

**Costs Award**

**September 4, 2014**

**The Alberta Utilities Commission**

Decision 2014-254: AltaGas Utilities Inc.

2013-2017 Performance-Based Regulation - Phase II Negotiated Settlement

Costs Award

Application No. 1610669

Proceeding No. 3297

September 4, 2014

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## **1 Introduction**

1. On June 28, 2013, AltaGas Utilities Inc. (AUI) filed a 2013-2017 Performance-Based Regulation (PBR) Phase II application (PBR Phase II application) with the Alberta Utilities Commission (AUC or the Commission). The PBR Phase II application requested approval of the following:

- The proposed 2012 costs of service study and the use of the proposed costs functionalization, classification and allocation principles and methods for the PBR period between 2013 and 2017.
- The proposed 2013 to 2017 Phase II rate design based on the 2012 Phase II rates and the 2012 rate level revenue requirement.
- The implementation of the 2013 to 2017 Phase II rate structure resulting from the 2012 Phase II rates proposed in the application, effective January 1, 2014.
- The proposed method to administer any deficiency or excess in 2013 resulting from delay in implementing the 2013 to 2017 Phase II structure.
- The proposed terms and conditions of service.
- A negotiated settlement process with interested parties to determine each of the above items.

2. With respect to the requested negotiated settlement process, AUI requested the Commission's approval of the commencement of negotiations after the completion of an information request process and potential filing of intervener evidence.

3. On July 3, 2013, the Commission issued a Notice of Application requesting interested parties to file Statements of Intent to Participate (SIPs) by July 17, 2013. The notice also requested parties to specifically comment on AUI's request for a negotiated settlement process.

4. The Commission received SIPs from the Consumer's Coalition of Alberta (CCA), the Office of the Utilities Consumer Advocate (UCA), ATCO Gas and Pipelines Ltd. and EPCOR Distribution & Transmission Inc.

5. By letter dated July 31, 2013, the Commission approved AUI's request to pursue a negotiated settlement for the PBR Phase II application. The letter included the initial process schedule for the proceeding and the deadlines<sup>1</sup> for filing the negotiated settlement.
6. The CCA filed evidence in the proceeding on October 7, 2013.
7. On October 30, 2013, AUI advised the Commission that it had reached a tentative agreement with the CCA and the UCA.
8. On November 27, 2013, AUI filed a fully executed negotiated settlement package for the PBR Phase II application. The package consisted of a negotiated settlement brief, the executed negotiated settlement agreement, and the corresponding appendices (negotiated settlement).
9. In a January 8, 2014 letter, the Commission issued a revised process schedule to allow for information requests on the negotiated settlement.
10. The Commission considered the record for the PBR Phase II application to have closed on February 24, 2014.
11. On May 23, 2014, the Commission issued Decision [2014-139](#),<sup>2</sup> approving the negotiated settlement and AUI's terms and conditions provided in Appendix D of the negotiated settlement agreement.
12. On June 20, 2014, the CCA submitted a costs claim in relation to the PBR Phase II application. The Commission assigned Application No. 1610649 and Proceeding No. 3279 to the CCA's costs claim application.
13. In a June 23, 2014 letter, the Commission circulated a summary of costs being claimed to interested parties. Parties were advised that any comments regarding the figures listed in the summary, or merits of the costs claimed, were to be filed by July 4, 2014. No comments were received from parties regarding the summary of costs.
14. The Commission considers the close of record for this costs proceeding to be July 4, 2014.

## **2 The Commission's authority to award costs**

15. When assessing cost claims pursuant to Section 21 of the *Alberta Utilities Commission Act*, S.A. 2007 c. A-37.2, the Commission applies AUC [Rule 022: Rules on Intervener Costs in Utility Rate Proceedings](#) (Rule 022). Appendix A of AUC Rule 022 also prescribes a *Scale of Costs* applicable to all costs claimed.
16. In exercising its discretion to award costs, the Commission will, in accordance with Section 11 of Rule 022, consider whether an eligible participant's costs are reasonable and directly and necessarily related to the proceeding; and whether the eligible participant acted

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<sup>1</sup> Proceeding No. 2687, Exhibit 24.01, the Commission's process and schedule letter stated that the deadlines for filing the negotiated settlement were: October 9, 2013 if intervenor evidence was not filed with the Commission; and October 24, 2013 if intervenor evidence was filed.

<sup>2</sup> Decision 2014-139: 2013-2017 Performance –Based Regulation – Phase II Negotiated Settlement. AltaGas Utilities Inc., Application No. 1609722, Proceeding No. 2687, May 23, 2014.

responsibly in the proceeding and contributed to a better understanding of the issues before the Commission. To the extent reasonably possible, the Commission will be mindful of a participant's willingness to co-operate with the Commission and other participants to promote an efficient and cost-effective proceeding.

17. As the costs of a utility proceeding are generally passed on to customers, it is the Commission's duty to ensure that the customers receive fair value for a party's contribution. The Commission only approves those costs that are reasonable and directly and necessarily related to the party's participation in the proceeding.

### **3 Assessment of costs in a negotiated settlement process**

18. The PBR Phase II application proceeding consisted of the filing of information requests and evidence on the initial application followed by a successful negotiated settlement process. While the Commission can review the portions of a costs claim related to the public aspects of the proceeding, the Commission relies on the representations of the applicant and the other parties to a negotiated settlement in assessing the costs of the negotiations, which are conducted without the Commission's direct involvement. The Commission expects that statements of justification for a negotiated process will provide enough information for the Commission to understand all material components of the costs claimed.

## **4 Commission findings**

### **4.1 Consumers' Coalition of Alberta**

19. The CCA submitted a costs claim in the total amount of \$47,062.78. The CCA requested approval of the following costs:

- \$18,283.13 for Wachowich & Company, which is comprised of legal fees of \$17,412.50 and GST of \$870.63; and
- \$28,779.65 for Regulatory Services Inc., which is comprised of consulting fees of \$27,393.00, disbursements of \$16.19 and GST of \$1,370.46.

20. The activities undertaken by the CCA were described in its cost claim application, as follows:

- Review of the PBR Phase II application.
- Review of prior AUC decisions, as appropriate.
- Assessment of issues in the PBR Phase II application; and filed information requests and reviewed subsequent responses to the AUC, the CCA, and the UCA.
- Prepared and filed evidence.
- Participation in negotiation settlement discussions.

21. The claim for Wachowich & Company relates to 49.75 hours of legal services. The hours claimed include 31 hours for preparation related to the negotiations, and 18.75 hours for other activities undertaken in the negotiations and the proceeding. The Commission finds that the

hours incurred are reasonable given the tasks described in the costs claim for legal services and observes that the costs incurred are in accordance with the Commission's *Scale of Costs*. The Commission approves costs for Wachowich & Company in the total amount of \$18,283.13.

22. The claim for Regulatory Services Inc. relates to 119.1 hours of consulting services. The hours claimed include 63 hours for preparation of information requests, review of responses to information requests and preparation of the CCA's evidence. An additional 56.1 hours was claimed for preparation, attendance and completion of the negotiated settlement. The Commission finds that the hours incurred are reasonable given the tasks described in the costs claim for consulting services and observes that the costs incurred are in accordance with the Commission's *Scale of Costs*. The Commission approves costs for Regulatory Services Inc. in the total amount of \$28,779.65.

23. Accordingly, the Commission approves the CCA's costs claim in the total amount of \$47,062.78.

## **5 GST**

24. In accordance with the Commission's treatment of GST on costs awards, AUI is required to pay only that portion of GST paid by interveners that may not be recoverable through the GST credit mechanism. Eligible GST is approved by the Commission in the amount of \$2,241.08.

25. The Commission emphasizes that its treatment of the GST claim in no way relieves participants or their consultants from their GST obligations pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15.

## **6 Order**

26. It is hereby ordered that:

- (1) AltaGas Utilities Inc. shall pay intervener costs to the Consumers' Coalition of Alberta in the amount of \$47,062.78.

Dated on September 4, 2014.

### **The Alberta Utilities Commission**

*(Original Signed by)*

Mark Kolesar  
Vice-Chair