



AltaGas Utilities Inc.

2005/2006 General Rate Application
Phase I

Cost Awards

ALBERTA ENERGY AND UTILITIES BOARD

Utility Cost Order 2006-010: AltaGas Utilities Inc.

2005/2006 General Rate Application

Phase I

Application No. 1378000

Cost Application No.1422346

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary, Alberta

AltaGas Utilities Inc.
2005-2006 General Rate Application
Phase I

Utility Cost Order 2006-010
Application No. 1378000
Cost Application No. 1422346

1 INTRODUCTION

On December 23, 2004, AltaGas Utilities Inc. (AltaGas) filed, under the provisions of the Gas Utilities Act, Chapter G-5, RSA 2000, the Phase I portion of its General Rate Application (GRA) (the Application) for the test years 2005 and 2006.

The Board conducted the hearing for the Application during the period from July 18, 2005 to July 20, 2005, in Edmonton, Alberta. The panel assigned to the hearing consisted of R. G. Lock (Presiding), G. J. Miller, and M. L. Asgar-Deen. Reply argument was filed on August 31, 2005, at which time the Board considered the record with respect to the Application to be closed.

On November 29, 2005 the Board issued [Decision 2005-127](#).

On October 11, 2005, a summary of the costs being claimed was circulated to interested parties. Parties were advised that any comments regarding the figures listed in the summary or the merits of the total costs claimed were to be filed by October 26, 2005. The Board did not receive any comments. Accordingly, the Board considers, for the purposes of this Cost Order, the cost process to have closed on October 26, 2005.

2 VIEWS OF THE BOARD – Authority to Award Costs

The Board's authority to award costs is derived from section 68 of the *Public Utilities Board Act*, R.S.A. 2000, c. P-45, 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.
- ...
- (3) 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 guided by Part 5 of its *Rules of Practice*, [AR 101/2001](#) and by the principles and policies expressed in Guide 31B, *Guidelines for Utility Cost Claims* ([Guide 31B](#)). 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.

In the Board's view, the responsibility to contribute positively to the process is inherent in the choice to intervene in a proceeding. The Board 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. To the extent reasonably possible, the Board will be mindful of participants' will to co-operate with the Board and other participants to promote an efficient and cost-effective proceeding.

As the costs of a utility proceeding are generally passed on to customers, it is the Board's duty to ensure that customers receive fair value for a party's 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 totalling \$268,603.76 including actual GST of \$9,316.32 with respect to the Proceeding.

3 VIEWS OF THE BOARD - Assessment

3.1 AltaGas Utilities Inc. (AltaGas)

AltaGas submitted a cost claim totalling \$102,008.74. The claim reflects services provided by Foster Associates, Inc., Gannett Fleming, Inc., Ackroyd, Piasta, Roth & Day, and AltaGas' own disbursements. The details of this claim are shown in [Appendix A](#) attached.

In considering AltaGas' cost claim, the Board recognizes that significant work was required by interveners through the IR process to compensate for the additional round of IRs and AltaGas' untimely IR responses.

With respect to the sufficiency of the record, the Board made the following comments in [Decision 2005-127](#):

The Board appreciates that AUI is a relatively small utility, but consider that the Company's size should not limit its onus to justify its revenue requirement and rate base, or the Board's and interveners' right to thoroughly examine the Application. The Board concurs with the CG that the dearth of information contained in the Application likely resulted in a protracted interrogatory process. Further, the Board considers that there may have been unnecessary costs incurred by parties that should not be applied to customers but instead to AUI. The Board will consider this issue in its Cost Order.

The Board notes that two rounds of information requests (IRs) were required to enable the Board and interveners to gain a reasonable level of understanding of the overall Application and particularly the factors that were driving the applied-for costs. The Board considers the need for an additional round of IRs in this case to be indicative of a poorly prepared application. Moreover, the Board finds that AltaGas' deficient application contributed to and unnecessarily increased the effort required to complete the application, thereby resulting in unnecessary costs to AltaGas, the interveners, and the Board.

Given the aforementioned finding, the Board considers that it is not appropriate for the customers to bear 100% of the costs that have been claimed with respect to this Application via the AltaGas hearing cost reserve account. In this regard, the Board is of view that AltaGas' shareholders should be solely responsible for 10% of the costs approved of the overall cost

claims of the proceeding, with the remaining 90% being recovered via the hearing cost reserve account. Accordingly the Board finds that AltaGas' cost responsibility due to the inefficiencies associated with its deficient application and the resulting effort by both the Applicant and interveners to deal with an incremental volume of interrogatories and related analysis is \$26,555.82.

In reaching the conclusion that AltaGas should bear costs associated with the inefficient processing of the Application resulting from the poorly prepared application, the Board contemplated a significantly higher shareholder cost responsibility level than 10%. However, the Board concluded that as this was the first time that the Company had been so deficient in an application, attributing a higher shareholder cost responsibility was not appropriate.

The Board expects future applications by AltaGas to be prepared to a higher standard thereby increasing the likelihood that the Board and intervener interrogatories and associated costs, along with the cost of the Company would be reduced. If the Board concludes that AltaGas has failed to file a sufficient application in the future, the Board will consider denying a higher percentage of the Company's cost claim and/or potentially bearing responsibility for a greater share of the interveners' costs resulting in AltaGas bearing more of the overall costs of the proceeding.

The amounts borne by AltaGas shall not form the basis of or be included in any way into forecasts used to apply for rate increases. That is to say, that this disallowance shall not be recoverable from customers at any time and is to be considered a non-utility expense.

Gannett Fleming

Gannett Fleming incurred professional fees of \$32,224.36 together with expenses in the amount of \$2,286.22 for a total claim of \$34,510.58.

In reviewing the professional fees being claimed the Board notes that 21.5 hours was incurred by support staff at the hourly wage of \$65.00 for a claim of \$1,397.50. In considering this portion of the professional fees the Board notes that the hourly wage for support staff is above the Scale of Costs provided for in Directive 031B. In that regard the Board notes the following from the Scale of Costs.

Fees of Consultants, Analysts, and Experts

Secretarial/support staff \$45.00/hour
 1-4 years' experience \$100.00/hour
 5-7 years' experience \$140.00/hour
 8-12 years' experience \$210.00/hour
 More than 12 years' experience \$250.00/hour

Where a party can advance persuasive argument that the Scale of Costs is inadequate given the complexity of the issues before the Board, the Board may award an amount greater than stated in the Scale of Costs to address such unique circumstances¹. In the present circumstances the Board notes that AltaGas' cost claim did not address this particular rate or provide an explanation for any unique circumstances that would justify waiving the hourly rate of \$45.00 prescribed for

¹ Directive 031B, Appendix C Scale of Costs

support staff. As such, while the Board does not take issue with the 21.5 hours incurred, it will reduce the hourly rate to conform to the Scale of Costs, thereby reducing the claim by \$430.00.

With respect to the statements of account that were submitted in support of the professional fees the Board wishes to express its concern with the lack of detail provided for in the accounts. In that regard the Board notes that the accounts simply provide the number of hours incurred and by which consultant. The Board finds that this lack of detail does not assist with the overall assessment of value in relation to the consulting services provided. The Board has noted this concern in previous Cost Orders². Moreover, the Board has addressed this concern in Directive 031B which requires that statements of account provide the date of activity, a detailed description of the activity, and the amount of time spent on the activity³. While the Board is not prepared to further reduce the professional fees based on the lack of detail in this instance it does wish to caution AltaGas that in the future disregard for this requirement may result in a reduction to the claim.

Taking all of the foregoing into account, the Board approves professional fees for Gannett Fleming in the amount of \$31,794.36 together with expenses in the amount of \$2,286.22 for an overall award of \$34,080.58.

3.2 Remaining Participants

The Board has reviewed the costs submitted by the remaining participants, bearing in mind the principles specified in the Board's *Scale of Costs* set out in Appendix C to [Directive 031B](#). The Board finds that the participation of the interveners was 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, disbursements, and applicable GST for all participants to be reasonable as outlined in [Appendix A](#) to this Order in the total amount of \$265,558.19.

4 GST

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, accordingly where parties are eligible for a GST credit the Board has reduced this particular portion of their claim. Eligible GST approved by the Board amounts to \$6,700.75 as shown in column (g) of [Appendix A](#).

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. 1985, c. E-134.

² Utility Cost Order [2005-019](#) and [040](#)

³ Directive 031B, Appendix C Scale of Costs

5 ORDER

IT IS HEREBY ORDERED:

1. AltaGas Utilities Inc. shall pay intervener costs in the amount of \$163,979.45, as set out in column (h) of [Appendix A](#).
2. AltaGas Utilities Inc.'s external costs in the amount of \$101,578.74, as set out in column (h) of [Appendix A](#), are approved.
3. AltaGas Utilities Inc. shall record in its Hearing Cost Reserve Account 90% of the allowed external applicant and intervener costs in the amount of \$239,002.37, as set out in column (h) of [Appendix A](#).
4. The Shareholders of AltaGas Utilities Inc. shall bear 10% of the allowed external applicant and intervener costs in the amount of \$26,555.82 as shown in column (h) of [Appendix A](#).

Dated in Calgary, Alberta on this 3rd day of March, 2006.

ALBERTA ENERGY AND UTILITIES BOARD

<Original Signed by Thomas McGee>

Thomas McGee
Board Member

APPENDIX A – SUMMARY OF COSTS CLAIMED AND AWARDED



Appendix A

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AltaGas
Cost App. No. 1422346

2005-2006 General Rate
Phase I
(1378000)

Summary of Total Costs Claimed and Awarded

	Total Fees Claimed (a)	Total Expenses Claimed (b)	Total GST Claimed (c)	Total Amount Claimed (d)	Total Fees Awarded (e)	Total Expenses Awarded (f)	Total GST Awarded (g)	Total Amount Awarded (h)
APPLICANT								
AltaGas Utilities Inc.								
Foster Associates, Inc.	\$244.64	\$0.00	\$0.00	\$244.64	\$244.64	\$0.00	\$0.00	\$244.64
Gannett Fleming, Inc.	\$32,224.36	\$2,286.22	\$0.00	\$34,510.58	\$31,794.36	\$2,286.22	\$0.00	\$34,080.58
AltaGas Utilities Inc.	\$0.00	\$10,853.21	\$0.00	\$10,853.21	\$0.00	\$10,853.21	\$0.00	\$10,853.21
Ackroyd, Piasta, Roth & Day	\$56,223.00	\$177.31	\$0.00	\$56,400.31	\$56,223.00	\$177.31	\$0.00	\$56,400.31
Sub-Total	\$88,692.00	\$13,316.74	\$0.00	\$102,008.74	\$88,262.00	\$13,316.74	\$0.00	\$101,578.74
INTERVENERS								
Alberta Irrigation Projects Association								
Unryn & Associates Ltd.	\$23,569.00	\$619.43	\$0.00	\$24,188.43	\$23,569.00	\$619.43	\$0.00	\$24,188.43
Sub-Total	\$23,569.00	\$619.43	\$0.00	\$24,188.43	\$23,569.00	\$619.43	\$0.00	\$24,188.43
Alberta Urban Municipalities Association								
Bryan & Company	\$17,470.00	\$1,585.18	\$1,333.86	\$20,389.04	\$17,470.00	\$1,585.18	\$1,333.86	\$20,389.04
Robert L. Bruggeman Regulatory Consulting Ltd.	\$26,425.00	\$293.82	\$1,870.32	\$28,589.14	\$26,425.00	\$293.82	\$1,870.32	\$28,589.14
Barry Shymanski Regulatory Consulting Ltd.	\$11,137.50	\$0.00	\$779.63	\$11,917.13	\$11,137.50	\$0.00	\$779.63	\$11,917.13
Sub-Total	\$55,032.50	\$1,879.00	\$3,983.81	\$60,895.31	\$55,032.50	\$1,879.00	\$3,983.81	\$60,895.31
Consumers' Coalition of Alberta								
Wachowich & Company	\$12,416.25	\$795.18	\$924.80	\$14,136.23	\$12,416.25	\$795.18	\$924.80	\$14,136.23
Professional Regulatory Services, Inc.	\$25,602.00	\$0.00	\$1,792.14	\$27,394.14	\$25,602.00	\$0.00	\$1,792.14	\$27,394.14
Sub-Total	\$38,018.25	\$795.18	\$2,716.94	\$41,530.37	\$38,018.25	\$795.18	\$2,716.94	\$41,530.37

AltaGas
 Cost App. No. 1422346

2005-2006 General Rate
 Phase I
 (1378000)

Summary of Total Costs Claimed and Awarded

	Total Fees Claimed (a)	Total Expenses Claimed (b)	Total GST Claimed (c)	Total Amount Claimed (d)	Total Fees Awarded (e)	Total Expenses Awarded (f)	Total GST Awarded (g)	Total Amount Awarded (h)
Municipal and Gas Co-op Intervenors								
Brownlee LLP	\$14,087.50	\$958.14	\$1,053.19	\$16,098.83	\$14,087.50	\$958.14	\$0.00	\$15,045.64
Garbutt Consulting Inc.	\$22,137.50	\$182.20	\$1,562.38	\$23,882.08	\$22,137.50	\$182.20	\$0.00	\$22,319.70
Sub-Total	\$36,225.00	\$1,140.34	\$2,615.57	\$39,980.91	\$36,225.00	\$1,140.34	\$0.00	\$37,365.34
Total Intervener Costs	\$152,844.75	\$4,433.95	\$9,316.32	\$166,595.02	\$152,844.75	\$4,433.95	\$6,700.75	\$163,979.45
Total Intervener and Applicant Costs	\$241,536.75	\$17,750.69	\$9,316.32	\$268,603.76	\$241,106.75	\$17,750.69	\$6,700.75	\$265,558.19
Amount Borne by AltaGas Shareholders (10%)								\$26,555.82
Amount to be Recoved in Hearing Cost Reserve Account								\$239,002.37
Sub-Total								\$265,558.19