



**ATCO Gas and Pipelines Ltd.
Application for Approval of Changes to
ATCO Gas's Gas Settlement Process and
Retailer Terms and Conditions for Gas Services**

Costs Award

March 1, 2021

Alberta Utilities Commission

Decision 26244-D01-2021

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Proceeding 26244

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1 Introduction

1. In this decision, the Alberta Utilities Commission (AUC) considers an application by the Consumers' Coalition of Alberta (CCA) for an award of costs for its participation in Proceeding 26013 (the original proceeding). For the reasons set out below, the Commission approves \$2,726.17 in costs for the CCA.

2. The original proceeding was convened by the Commission to consider an application from ATCO Gas, a division of ATCO Gas and Pipelines Ltd., for approval of changes to its Retailer Terms and Conditions for Gas Distribution Service, as well as changes to its gas settlement process, which involved approval to financially process gas settlement variances through its Load Balancing Deferral Account (LBDA). The CCA participated in the proceeding and submitted its costs claim within the 30-day timeline permitted by Rule 022: *Rules on Costs in Utility Rate Proceedings*. The record for this costs proceeding closed on January 27, 2021, the date for filing comments on the costs claim application.

2 The Consumers' Coalition of Alberta's claim

3. The CCA is a coalition of two public interest groups and as a collective is concerned with the tariffs, rates and charges of the various public utilities operating in Alberta and regulated by the AUC. The CCA pursued the following issues in the original proceeding: concerns regarding the inaccuracy of estimations making up the balance of ATCO Gas's LBDA and a recommendation for ATCO Gas to intensify its research and investigation into its forecasting methodology to prevent unfair costs being charged to retailers and consumers.

4. The CCA is eligible to recover costs in accordance with Section 21 of the *Alberta Utilities Commission Act* and Section 3 of Rule 022.

5. The following is a breakdown of the costs claimed by the CCA:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
CCA							
Wachowich & Company LLP	2.70	0.00	1.00	\$1,295.00	\$0.00	\$64.75	\$1,359.75
Regulatory Services Inc.	23.40	0.00	7.50	\$8,343.00	\$12.10	\$417.76	\$8,772.86
Total	26.10	0.00	8.50	\$9,638.00	\$12.10	\$482.51	\$10,132.61

6. The Commission finds that the CCA contributed in some respects to the Commission's understanding of the relevant issues. The Commission is also satisfied that the costs claimed are consistent with the scale of costs in Appendix A of Rule 022.

7. The CCA claimed a total of 3.7 hours for James Wachowich, QC, consisting of 2.7 hours for Preparation and 1.0 hour for Argument and Reply. The Commission finds that the costs claimed for Mr. Wachowich are reasonable and approves those costs in full. Accordingly, the Commission approves the CCA's claim for legal fees for Wachowich & Company in the amount of \$1,295.00 and GST of \$64.75 for a total of \$1,359.75.

8. However, the Commission is unable to approve the full amount of the costs claimed in respect of the services performed by Regulatory Services Inc. for the reasons set out below.

9. The CCA claimed a total of 23.4 hours¹ for Preparation, for Don Popowich and Jeffrey Jodoin. A review of their timesheets shows 7.5 hours² were claimed for Mr. Popowich and 4.3 hours³ were claimed for Mr. Jodoin for activities prior to the application being filed in the original proceeding. Section 9.1 of Rule 022 states that costs may be awarded for participation in a Commission hearing or proceeding. Since these activities occurred in advance of the proceeding, the Commission finds these hours are not eligible for recovery. Further, the Commission finds the remaining 11.6 hours⁴ for Preparation to be excessive, given that the application in the original proceeding was only 15 pages in length, and that the CCA attended the stakeholder consultations which preceded the original proceeding. In addition, the Commission finds the total of 7.5 hours claimed for Argument and Reply⁵ to be excessive, given that the CCA's argument was five pages in length and largely consisted of quotations from previously prepared documents. In its costs claim application, the CCA did not explain why it was necessary for two senior consultants to be involved in reviewing ATCO Gas's application or in preparing the CCA's argument. For all of these reasons, the Commission applies a 75 per cent reduction to the remaining hours⁶ claimed for Regulatory Services. Accordingly, the Commission approves the CCA's claim for consulting fees for Regulatory Services in the amount of \$1,289.25,⁷ a disbursement of \$12.10 for photocopying, and GST of \$65.07 for a total of \$1,366.42.

10. For the reasons provided above, the Commission approves the CCA's claim for recovery of costs in the total amount of \$2,726.17, consisting of legal fees of \$1,295.00, consulting fees of \$1,289.25, a disbursement of \$12.10 and GST of \$129.82.

¹ 18.5 hours for Preparation for Mr. Popowich and 4.9 hours for Preparation for Mr. Jodoin.

² ATCO Gas filed Application 26013-A001, on October 26, 2020. Exhibit 26244-X0001, 26013 – ATCO Gas Financial Settlement – CCA Cost Claim, January 18, 2021, PDF page 14, includes hours claimed for the dates 2019-11-12 through 2020-02-05 as 1.75 hours, 2.25 hours, 1.25 hours, 0.75 hours and 1.50 hours. These sum to 7.5 hours.

³ Exhibit 26244-X0001, PDF page 15, includes hours claimed for the dates "24-Nov" and "24-Jun" as 1.3 hours and 3.0 hours, which sum to 4.3 hours.

⁴ $23.4 - (7.5 + 4.3) = 11.6$.

⁵ 5.5 hours for Mr. Popowich and 2.0 hours for Mr. Jodoin.

⁶ $11.6 \text{ allowable Preparation hours and } 7.5 \text{ Argument and Reply hours} = 19.1 \text{ hours.}$

⁷ $(19.1 \text{ hours} * .25) * \$270 = \$1,289.25$.

3 Order

11. The Commission approves Application 26244-A001, pursuant to sections 21 and 23 of the *Alberta Utilities Commission Act* and Rule 022, and orders as follows:

- (1) ATCO Gas, a division of ATCO Gas and Pipelines Ltd., shall pay intervener costs to the Consumers' Coalition of Alberta in the total amount of \$2,726.17 within 30 days of this Order.
- (2) ATCO Gas, a division of ATCO Gas and Pipelines Ltd., shall record in its Deferred AUC and Intervener Costs account approved intervener costs in the amount of \$2,726.17.

Dated on March 1, 2021.

Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Chair