



# AUC

Alberta Utilities Commission

## **Rate Regulation Initiative**

### **Distribution Performance-Based Regulation**

#### **Costs Awards**

**February 20, 2013**



**The Alberta Utilities Commission**

Decision 2013-051: Rate Regulation Initiative

Distribution Performance-Based Regulation

Costs Awards

Application Nos. 1608735, 1608737, 1608738, 1608739, 1608740 and 1608744

Proceeding ID No. 2066

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Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Website: [www.auc.ab.ca](http://www.auc.ab.ca)

## Contents

<b>1</b>	<b>Introduction</b> .....	<b>1</b>
<b>2</b>	<b>Legislative background</b> .....	<b>4</b>
<b>3</b>	<b>Claims in excess of the <i>Scale of Costs</i></b> .....	<b>5</b>
3.1	<i>Scale of Costs</i> is outdated.....	5
3.2	Limiting utility costs recovery is contrary to legislation .....	7
3.3	Complex and unique proceeding.....	10
3.4	Commission findings .....	12
<b>4</b>	<b>Commission findings on individual costs claims</b> .....	<b>14</b>
4.1	Consumers' Coalition of Alberta's costs claim .....	14
4.1.1	Legal and consulting fees.....	14
4.1.2	Disbursements.....	14
4.2	AltaGas Utilities Inc.'s costs claim.....	15
4.2.1	Consulting fees.....	15
4.2.2	Disbursements.....	16
4.3	ATCO Electric and ATCO Gas costs claim.....	17
4.3.1	Bennett Jones LLP's costs .....	17
4.3.2	The Brattle Group's costs .....	18
4.3.3	Christensen Associates Energy Consulting costs .....	19
4.3.4	Ernst & Young LLP's costs .....	19
4.3.5	UMS Group costs.....	20
4.3.6	ATCO Electric and ATCO Gas disbursements .....	20
4.4	EPCOR Distribution & Transmission Inc.'s costs claim.....	21
4.4.1	Legal and consulting fees.....	21
4.4.2	Disbursements.....	22
4.5	FortisAlberta Inc.'s costs claim.....	23
4.5.1	Legal and consulting fees.....	23
4.5.2	Disbursements.....	24
<b>5</b>	<b>GST</b> .....	<b>24</b>
<b>6</b>	<b>Allocation of intervener costs</b> .....	<b>24</b>
<b>7</b>	<b>Order</b> .....	<b>25</b>



## **1 Introduction**

1. On February 26, 2010, the Alberta Utilities Commission (AUC or Commission) began an initiative to reform utility rate regulation in Alberta and invited interested parties to assist the Commission in determining scheduling and the scope of issues for the first stages of the initiative. The first stage of the rate regulation initiative was to implement a form of performance-based regulation (PBR) for electric and natural gas distribution companies in place of the existing cost of service regulatory system, usually referred to as rate base rate-of-return regulation.

2. In its February 26, 2010, letter,<sup>1</sup> the Commission indicated that the first stage of the rate regulation initiative would apply only to the electricity and natural gas services of Alberta distribution companies under the Commission's jurisdiction. It would not apply to the electricity and natural gas services of transmission companies or to retail electricity or natural gas sales. However, if a company provided both distribution and transmission services, the company was given the option to apply to include its transmission services in its PBR proposal.

3. On July 15, 2010, the Commission issued Bulletin 2010-20<sup>2</sup> setting out the five principles that would guide the Commission's examination of specific PBR proposals from regulated utilities. The Commission directed each of the Alberta gas and electric distribution utilities to file PBR proposals under Application No. 1606029, Proceeding ID No. 566, which had previously been established for the PBR proceeding.

4. In a letter dated September 8, 2010, the Commission informed parties that it had engaged the services of National Economic Research Associates Inc. (NERA) as an independent consultant to conduct a total factor productivity study to be filed in Proceeding ID No. 566.

5. NERA filed its expert report (Exhibit 80.02) on total factor productivity with the Commission on December 30, 2010.

6. On December 13, 2010, the Commission issued Decision 2010-578<sup>3</sup> approving costs for the participating utilities and eligible interveners incurred in the process leading to the development of the five PBR principles set out in Bulletin 2010-20.

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<sup>1</sup> Exhibit 1.01, AUC letter of February 26, 2010, Rate Regulation Initiative, Proceeding ID No. 566, Application No. 1606029.

<sup>2</sup> Bulletin 2010-20: Regulated Rate Initiative – PBR Principles, Released: July 15, 2010.

<sup>3</sup> Decision 2010-578: Rate Regulation Initiative – PBR Principles, Application No. 1606029, Cost Proceeding ID No. 782, Released: December 13, 2010.

7. On July 22, 2011, PBR applications were filed by AltaGas Utilities Inc. (AltaGas or AUI), ATCO Gas, a division of ATCO Gas and Pipelines Ltd. (ATCO Gas), ATCO Electric Ltd. (ATCO Electric), EPCOR Distribution & Transmission Inc. (EPCOR or EDTI), and FortisAlberta Inc. (Fortis or FAI) (the companies).

8. The Commission issued notice of the PBR proceeding on July 26, 2011, providing details of the applications and a preliminary process schedule.

9. By letter dated August 25, 2011, the Commission informed parties that it requested NERA “to undertake the preparation of a second report to provide parties and the Commission with an independent, expert critical analysis and evaluation of the material aspects of the utility applications and intervener evidence.”

10. On August 26, 2011, the Commission received a request for advance funding from the Consumers’ Coalition of Alberta (CCA) pursuant to sections 3 and 7 of [Rule 022: Rules on Intervener Costs in Utility Rate Proceedings](#) (Rule 022). The advance funding request was to allow the CCA to retain the Pacific Economics Group Research, LLC (PEG).

11. On September 26, 2011, the Commission issued Decision [2011-365](#)<sup>4</sup> granting interim funding to the CCA in the amount of \$200,000, exclusive of GST for the retention of PEG. In allowing the advance funding the Commission stated:

If the CCA accepts the advanced funding pursuant to this order and the final costs award relating to this proceeding is less than the amount of the advanced funding directed in this order, the CCA will be required to pay the difference.<sup>5</sup>

...

The Commission emphasizes that the advanced funding approved in this order and the allocation provided for in this order are subject to adjustment when the final costs are determined, following completion of this proceeding. In approving this advanced funding, the Commission makes no finding with respect to the value of PEG’s evidence.<sup>6</sup>

12. The Commission allocated the CCA’s advanced funding among AltaGas, ATCO Gas, ATCO Electric, EPCOR, and Fortis in the same manner as costs had been allocated among participating utilities in the last two Generic Cost of Capital proceedings (Proceeding ID Nos. 85<sup>7</sup> and 833<sup>8</sup>). The approved interim advanced funding for the CCA was allocated as follows:

- 75% of the advanced funding costs were allocated on a proportional basis based on each utility’s 2009 revenue requirement; and

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<sup>4</sup> Decision 2011-365: Rate Regulation Initiative – PBR Principles, Advanced Funding, Application No. 1606029, Proceeding ID No. 566, Released: September 6, 2011.

<sup>5</sup> Decision 2011-365, paragraph 19.

<sup>6</sup> Decision 2011-365, paragraph 21.

<sup>7</sup> Utility Cost Order [2010-017](#): 2009 Generic Cost of Capital Cost Awards, Cost Application No. 1605527, Released: March 11, 2010; related to Decision [2009-216](#): 2009 Generic Cost of Capital, Application No. 1578571 Proceeding ID No. 85, Released: November 12, 2009.

<sup>8</sup> Decision [2012-030](#): 2011 Generic Cost of Capital Costs Awards, Application Nos. 1607747, 1607754, 1607756, 1607758, 1607760, 1607761, 1607762, 1607778 and 1607784, Proceeding ID No. 1486, Released: January 25, 2012; related to Decision 2011-474: 2011 Generic Cost of Capital, Application No. 1606549, Proceeding ID No. 833, Released: December 8, 2011.

- 25% of the advanced funding costs for the retention and consulting services provided by PEG were allocated equally among all utilities.

13. On February 22, 2012, NERA filed its second report (Exhibit 391.02): “Update, Reply and PBR Plan Review for AUC Proceeding 566 – Rate Regulation Initiative.”

14. An oral hearing was held from April 16, 2012 to May 9, 2012, at the AUC’s hearing room in Calgary, Alberta, in front of a Commission panel comprised of Chair Willie Grieve, QC, Vice-Chair Mark Kolesar and Commission Member Moin A. Yahya.

15. Argument in the PBR proceeding was filed by parties on June 13, 2012, and reply argument was filed on July 13, 2012.

16. By letter dated July 18, 2012, the companies, with support from ATCO Pipelines, AltaLink Management Ltd., Direct Energy Regulated Services and ENMAX Power Corporation (ENMAX) advised the Commission that they intended to seek full recovery of their respective costs, in excess of the Commission’s *Scale of Costs* set out in Rule 022. The companies commented that full recovery was warranted given the complexity and unique nature of the PBR proceeding. The companies further advised that they intended to file evidence, including a study by Ernst & Young LLP (Ernst & Young), substantiating the reasonableness of their PBR costs claims. The companies requested the Commission establish a process to file and test the proposed evidence, and in the alternative, to establish a generic proceeding to review the *Scale of Costs* which would allow for participation of all interested parties.

17. The Commission issued correspondence on July 30, 2012, stating that it did not consider there to be a sufficient basis to call a generic proceeding on Rule 022 at that time. The Commission also established Proceeding ID No. 2066 for costs claims related to the PBR proceeding and a procedural schedule to allow the filing of evidence related to the costs claims. Parties were reminded that each eligible participant must substantiate the reasonableness of its claim. The schedule, as subsequently amended by the Commission’s letters of September 4, 2012, and September 10, 2012, provided for the following process steps:

Filing of costs claims by eligible participants including evidence with respect to claims in excess of the <i>Scale of Costs</i>	August 10, 2012
Information requests on costs claims	October 11, 2012
Responses to information requests	October 25, 2012
Argument	November 8, 2012
Reply argument	November 22, 2012

18. On August 10, 2012, the companies and the CCA filed their costs claims with the Commission.

19. Fortis subsequently filed an amendment to its costs claim on September 5, 2012 and updated the consultant fees for London Economics International.

20. On September 5, 2012, the Commission circulated a summary of costs being claimed to interested parties.
21. On September 12, 2012, the Commission issued Decision [2012-237](#)<sup>9</sup> on performance-based regulation for electric and natural gas distribution companies, to be implemented effective January 1, 2013.
22. AltaGas filed an amendment to its costs claim on October 25, 2012 and provided corrections to the total fees claimed for its costs and the consultant costs with the exception of Gannet Fleming Canada ULC's costs, which remained unchanged.
23. The Office of the Utilities Consumer Advocate (UCA) and the Commission issued information requests on the cost applications filed by each of AltaGas, ATCO Gas, ATCO Electric, EPCOR, Fortis and the CCA on October 11, 2012. Information request responses were received from all parties by October 26, 2012.
24. Argument was filed in the cost proceeding on November 8, 2012, by each of the companies, the UCA and The City of Calgary (Calgary). Reply argument by each of the parties was filed on November 22, 2012. The Commission considers that the close of record for Proceeding ID No. 2066 was November 22, 2012.

## 2 Legislative background

25. When assessing costs claims pursuant to Section 21 of the *Alberta Utilities Commission Act*, SA 2007, c. A-37.2, the Commission applies Rule 022. Attached as Appendix A to Rule 022 is a *Scale of Costs* setting out a prescribed sliding scale for approved professional fees and disbursements. Appendix A provides that prescribed fees are considered fair and reasonable but allows for the approval of amounts in excess of the *Scale of Costs* in certain circumstances, and states:

This *Scale of Costs* represents a fair and reasonable tariff to provide any eligible interested party with adequate, competent, and professional assistance in making an effective submission before the Commission. In a case where an eligible participant can advance persuasive argument that the scale is inadequate given the complexity of the case, the Commission may award an amount greater than stated in this scale to address such unique circumstances.

26. In exercising its discretion to award costs, the Commission will, in accordance with Section 11 of Rule 022, consider whether an eligible participant acted responsibly and contributed to a better understanding of the issues before the Commission, and whether the costs claimed are reasonable and directly and necessarily related to the proceeding. The Commission considers these factors in light of the scope and nature of the issues in question.
27. In the Commission's view, the responsibility to contribute positively to the process is inherent in a proceeding. The Commission 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. To the extent reasonably possible, the

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<sup>9</sup> Decision 2012-237: Rate Regulation Initiative Distribution Performance-Based Regulation, Application No. 1606029, Proceeding ID No. 566, Released: September 12, 2012.



Commission will be mindful of participant's willingness to co-operate with the Commission and other participants to promote an efficient and cost-effective proceeding.

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

### **3 Claims in excess of the *Scale of Costs***

29. Each of the companies has submitted cost claims requesting full recovery of professional fees and disbursements. Where these costs exceed the *Scale of Costs*, the companies seek recovery of the excess amounts. The companies advance three arguments in support of this position. The companies submit:

- the *Scale of Costs* is outdated
- limiting utility cost recovery is contrary to legislation
- the PBR proceeding was complex and unique, justifying full cost recovery

30. Both the first and second arguments were advanced in support of a position that the *Scale of Costs* needs to be revisited not just for the PBR proceeding but for all proceedings before the Commission. Each of the above grounds for full costs recovery, as well as the responses advanced by the UCA and Calgary, are reviewed below.

#### **3.1 *Scale of Costs* is outdated**

31. The Commission's *Scale of Costs* was last reviewed in September 2008. The utilities submit that the *Scale of Costs* does not reflect current market realities of legal and consulting costs required to be paid by an Alberta utility to engage reasonable representation. ATCO Electric and ATCO Gas (collectively the ATCO Utilities) engaged the services of Ernst & Young who prepared a "Market Evaluation of Legal and Consultant Costs" survey dated July 31, 2012.<sup>10</sup> Ernst & Young reported the results of a survey of legal and consulting costs paid by Canadian utilities. The survey report reflects the differences observed between the Commission's *Scale of Costs* and the average hourly legal costs paid by the surveyed utilities and the range of average hourly rates charged by the surveyed consultants and expert witnesses. The Ernst & Young survey indicates that the Commission's *Scale of Costs* are below the range of rates charged for legal and consultant services indicated by those participants surveyed at most experience levels.

32. Although it was the ATCO Utilities that engaged Ernst & Young, the survey was included in the costs submissions or referred to by each of the companies.<sup>11</sup> ATCO Electric and ATCO Gas each included half of the total costs of the Ernst & Young study of approximately \$57,000 in their costs claims.

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<sup>10</sup> Exhibit 11 (ATCO Gas); Exhibit 17 (ATCO Electric).

<sup>11</sup> See Exhibit 3, Appendix 1 (EPCOR); Exhibit 22 (Fortis); pages 6 and 7 of Exhibit 24 (AltaGas cost claim).

33. With respect to legal costs, Ernst & Young surveyed 21 regulated utilities chosen by the ATCO Utilities (eight companies in Alberta, three in British Columbia, three in Ontario, five National Energy Board regulated companies, and three telecommunications companies regulated by the Canadian Radio-television and Telecommunications Commission).<sup>12</sup> Of the 21 utilities surveyed, 16 utilities responded to the survey. Each of the participating utilities was asked to report its actual external legal costs incurred in connection with its most recent general rate/tariff application. Other than ENMAX, EPCOR and HydroOne Networks, the survey excluded government owned utilities on the basis that certain of these utilities do not have rates approved through contested litigated processes before a public regulator.<sup>13</sup>

34. With respect to consultant and expert witness costs, Ernst & Young surveyed 14 consulting and expert witness parties chosen by the ATCO Utilities, including most of the consultants involved in the PBR proceeding.<sup>14</sup> Of the 14 parties surveyed, 12 consultant or expert witness parties responded to the survey. The survey showed a range between a minimum average and a maximum average hourly rate.

35. The companies submitted that the Ernst & Young survey reflects the legal and consulting costs incurred by a broad spectrum of the Canadian utility population. The ATCO Utilities commented on the comparison of the Commission's *Scale of Costs* to the costs paid by utilities for legal and consulting services as demonstrated by the Ernst & Young survey as follows:

...the AUC's rates for highly experienced individuals – such as those required to analyze and assess complex PBR plans and related matters in the PBR Proceeding – are significantly below the average. Moreover, the E&Y Survey indicates that, in general, the AUC rates are below the range of market rates provided by those surveyed. This, in AG and AE's view, supports the position that full cost recovery is warranted in the context of the PBR Proceeding.<sup>15</sup> (footnote omitted)

36. Each of the UCA and Calgary filed argument and reply argument. Calgary made submissions on general principles for cost recovery as well as specific submissions on the costs filed by the ATCO Utilities and also endorsed the arguments advanced by the UCA.

37. The UCA noted that the Commission indicated in a letter dated May 14, 2010, that costs recovery would be governed by Rule 022. The UCA and Calgary suggested that it was incumbent on the utilities to notify the Commission of their intention to seek costs above the *Scale of Costs* and to request the Commission to review its position on costs prior to the close of the PBR proceeding.

38. In response to the UCA, the companies stated that the Commission's letter of May 14, 2010, had not restricted costs recovery to the *Scale of Costs* and that Rule 022 expressly permits the awarding of costs in excess of the stipulated scale in certain circumstances.

39. The UCA submitted that the companies had not requested the Commission to change Rule 022 prior to issuing its decision on the costs submissions. Accordingly, the UCA submitted, arguments about the reasonableness of the *Scale of Costs* should not be considered by the

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<sup>12</sup> Exhibit 52.01, AUC-AG-7(f) and Exhibit 60.02, AUC-AE-7(f). The number of companies by province adds up to 22 companies rather than the 21 regulated utilities identified in the Ernst & Young survey.

<sup>13</sup> Exhibit 52.01, AUC-AG-7(e) and Exhibit 60.02, AUC-AE-7(e).

<sup>14</sup> Exhibit 52.01, AUC-AG-7(d) and (f) and Exhibit 60.02, AUC-AE-7(d) and (f).

<sup>15</sup> Exhibit 65.01, ATCO Gas argument, paragraph 22; Exhibit 66.01, ATCO Electric argument, paragraph 22.

Commission. The UCA suggested that a different forum would be better suited to such a discussion.<sup>16</sup> The UCA noted that AltaGas “envisions a separate generic process which may be undertaken through a consultative process”<sup>17</sup> to review Rule 022. The UCA indicated its support for such a separate process but “it does not and should not impact the AUC’s ruling in this proceeding.”<sup>18</sup> The UCA stated:

The issue in these proceedings is not whether the *Scale of Costs* is indicative of market value. Instead, the issue is whether the utilities should be permitted to recover costs beyond the set *Scale of Costs*. The Utilities arguments try to reframe the issue by making the *Scale of Costs* the focal point when the focus should be on the reasonableness, necessity, and allowable costs of the Utilities for this proceeding under the *Scale of Costs*.<sup>19</sup>

40. The UCA submitted that the Ernst & Young survey was “irrelevant for the purpose of determining costs in this proceeding” and that “a discussion or argument that the rates in the *Scale of Costs* are not market rates and therefore need to be adjusted to be ‘fair and reasonable’, is not the main test for the AUC”<sup>20</sup> in considering costs awards. The UCA submitted that the test the Commission will apply to a consideration of awarding costs in excess of the *Scale of Costs* is set out in Rule 022; namely, whether the applicant has provided a persuasive argument that the scale is inadequate given the complexity of the case. It is only in those unique circumstances that a costs award in excess of the *Scale of Costs* will be permitted.

### 3.2 Limiting utility costs recovery is contrary to legislation

41. The companies submitted that they have the right under Alberta legislation to a reasonable opportunity to recover prudently incurred costs.

42. In support of this position, the ATCO Utilities refer to Section 4(3) of the *Roles, Relationships and Responsibilities Regulation*, AR 186/2003 under the *Gas Utilities Act*, RSA 2000, c. G-5 and Section 122 of the *Electric Utilities Act*, SA 2003, c. E-5.1. Section 4(1)<sup>21</sup> of the gas regulation sets out the functions of a gas distributor. Section 4(3) states:

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<sup>16</sup> Exhibit 70.01, UCA argument, paragraphs 35 and 36.

<sup>17</sup> Exhibit 58.01, UCA-AUI-2(a).

<sup>18</sup> Exhibit 79.02, UCA reply argument, paragraph 24.

<sup>19</sup> Exhibit 79.02, UCA reply argument, paragraph 20.

<sup>20</sup> Exhibit 70.01, UCA argument, paragraph 38.

<sup>21</sup> Subsection 4(1) of the *Roles, Relationships and Responsibilities Regulation*, provides:

#### **Functions of gas distributor**

**4(1)** A gas distributor must do the following:

- (a) provide gas distribution service that is not unduly discriminatory;
- (b) make decisions about building, upgrading and improving the gas distribution system for the purpose of providing safe, reliable and economic delivery of gas to customers in the service area served by the gas distribution system;
- (c) arrange for adequate upstream transmission capacity for the purposes of clause (b);
- (d) operate and maintain the gas distribution system in a safe and reliable manner;
- (e) carry out gas distribution tariff billing for gas distribution service under the gas distributor’s approved gas distribution tariff;
- (f) connect and disconnect customers in accordance with the gas distributor’s approved gas distribution tariff;
- (g) perform metering, including verifying meter readings and verifying accuracy of meters;
- (h) maintain information systems relating to the consumption of gas by customers;

(3) A gas distributor is entitled to recover in its tariffs the prudent costs as determined by the Commission that are incurred by the gas distributor to meet the requirements of subsection (1).

43. Section 102(1) of the *Electric Utilities Act* provides:

**102(1)** Each owner of an electric distribution system must prepare a distribution tariff for the purpose of recovering the prudent costs of providing electric distribution service by means of the owner's electric distribution system.

44. Section 122 of the *Electric Utilities Act* provides:

**Costs and expenses recovered under a tariff**

**122(1)** When considering a tariff application, the Commission must have regard for the principle that a tariff approved by it must provide the owner of an electric utility with a reasonable opportunity to recover

- (a) the costs and expenses associated with capital related to the owner's investment in the electric utility, including
  - (i) depreciation,
  - (ii) interest paid on money borrowed for the purpose of the investment,
  - (iii) any return required to be paid to preferred shareholders of the electric utility relating to the investment,
  - (iv) a fair return on the equity of shareholders of the electric utility as it relates to the investment, and
  - (v) taxes associated with the investment,

if the costs and expenses are prudent and if, in the Commission's opinion, they provide an appropriate composition of debt and equity for the investment,

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- (i) perform load balancing for the gas distribution system;
  - (j) perform functions that a settlement system code requires a gas distributor to perform;
  - (k) distribute public safety information;
  - (l) provide to a retailer or the gas distributor's default supply provider sufficient, accurate and timely information about the retailer's or default supply provider's customers, including metering information about the gas consumed by those customers, in order to enable the retailer or default supply provider to bill and to respond to inquiries and complaints from customers concerning billing for gas services;
  - (m) act as a default supply provider to customers who pay a default rate for gas;
  - (n) respond to inquiries and complaints from customers respecting gas distribution service;
  - (o) if a customer makes an inquiry related to the functions of retailers or default supply providers, direct the customer to the customer's retailer or default supply provider;
  - (p) on the request of a customer, direct the customer to a source where the customer may obtain the current list of licensed retailers maintained in accordance with the *Fair Trading Act* and the regulations made under that Act.

- (b) other prudent costs and expenses associated with isolated generating units, transmission, exchange or distribution of electricity or associated with the Independent System Operator if, in the Commission's opinion, they are applicable to the electric utility,
- (c) amounts that the owner is required to pay under this Act or the regulations,
- (d) the costs and expenses applicable to the electric utility that arise out of obligations incurred before the coming into force of this section and that were approved by the Public Utilities Board, the Alberta Energy and Utilities Board or other utilities' regulatory authorities if, in the Commission's opinion, the costs and expenses continue to be reasonable and prudently incurred,
- (e) its prudent costs and expenses of complying with the Commission rules respecting load settlement,
- (f) its prudent costs and expenses respecting the management of legal liability,
- (g) the costs and expenses associated with financial arrangements to manage financial risk associated with the pool price if the arrangements are, in the Commission's opinion, prudently made, and
- (h) any other prudent costs and expenses that the Commission considers appropriate, including a fair allocation of the owner's costs and expenses that relate to any or all of the owner's electric utilities.

45. The ATCO Utilities do not dispute the ability of the Commission to determine if the hearing costs incurred by a utility have been prudently incurred. However, they submitted that hearing costs cannot be distinguishable from other prudently incurred costs. All prudently incurred costs are recoverable under the legislation.

46. The UCA, supported by Calgary, submitted that the Commission is given discretion over costs awards pursuant to Section 21 of the *Alberta Utilities Commission Act* which provides as follows:

**21(1)** The Commission may order by whom and to whom its costs and any other costs of or incidental to any hearing or other proceeding of the Commission are to be paid.

**(2)** The Commission may make rules respecting the payment of costs to an intervener other than a local intervener referred to in Section 22.

47. The UCA submitted that the AUC had provided guidance on what costs can be claimed in Rule 022 and noted that Section 9(2) of Rule 022 restricts an eligible participant's costs claim to costs within the *Scale of Costs*. The Commission will only award amounts in excess of the *Scale of Costs* in the unique circumstances when the claimant has provided a persuasive argument that the scale is inadequate given the complexity of the case.

48. The UCA "does not dispute that the regulatory framework allows for the recovery of reasonable and prudently incurred operating costs through tariffs."<sup>22</sup> However, the Commission "has the authority to determine the rules that will govern costs awards for AUC proceedings and

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<sup>22</sup> Exhibit 70.0,1 UCA argument, paragraph 30.

the discretion to award costs for rate proceedings.”<sup>23</sup> Accordingly, “in exercising its legislated authority and discretion, granted to it, the AUC must consider the reasonable costs of the utility within the purview of its own Rules, and further, as discussed above, the AUC must balance reasonable costs with the interest of the consumer.”<sup>24</sup> The UCA submitted that Rule 022 and the *Scale of Costs* remains “the appropriate measure for determining the costs to be awarded for this proceeding.”<sup>25</sup>

49. In response to the UCA, the ATCO Utilities noted that Section 21(2) of the *Alberta Utilities Commission Act* provides that the Commission may make rules respecting the payment of costs to certain types of interveners. The ATCO Utilities “query the Commission’s legislative authority to impose Rule 022 on utilities.”<sup>26</sup> The ATCO Utilities stated that: “they have a legislative right to recover their prudently incurred costs, including costs incurred to participate in the regulatory process. This right, in their view, cannot be diluted via Rule 022.”<sup>27</sup>

50. The ATCO Utilities also submitted that Canadian common law confirms that utilities are entitled to recover their prudently incurred costs, even in the absence of express statutory language.<sup>28</sup>

51. The companies submitted that they should be able to recover their prudently incurred costs, including the costs of participating in regulatory proceedings. The companies also noted that Bulletin 2010-20 directed the Alberta gas and electric distribution utilities to file PBR applications. The companies submitted that the Ernst & Young survey confirms the prudence of the range of hourly rates charged by the legal counsel and consultants retained by the companies for the PBR proceeding.

### 3.3 Complex and unique proceeding

52. In addition to submissions with respect to the recovery of prudently incurred costs and the inadequacy of the Commission’s *Scale of Costs* which apply to the present proceeding but also to utility costs applications in general, the companies also made submissions suggesting costs awards in excess of the *Scale of Costs* were justified in the present circumstances given the complexity and unique nature of the PBR proceeding. Appendix A to Rule 022 provides that the Commission may award an amount greater than provided by the *Scale of Costs* to address unique circumstances where a claimant can advance persuasive argument that the scale is inadequate given the complexity of the case.

53. The utilities pointed to the Commission’s regulatory reform initiative to develop a new regulatory framework based on incentives and the unique nature of the PBR proceeding which required each utility, for the first time, to fully understand, use and respond to PBR related concepts including total factor productivity studies, a X factor, Y factors, Z factors, earnings sharing, efficiency carry-over mechanisms and capital trackers. The utilities were required to

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<sup>23</sup> Exhibit 70.01, UCA argument, paragraph 31.

<sup>24</sup> Exhibit 70.01, UCA argument, paragraph 33

<sup>25</sup> Exhibit 70.01, UCA argument, paragraph 34.

<sup>26</sup> Exhibit 76.01, ATCO Gas reply argument, paragraph 16; Exhibit 77.01, ATCO Electric reply argument, paragraph 16.

<sup>27</sup> Exhibit 52.01, AUC-AG-06(a); Exhibit 60.02, AUC-AE-6(a).

<sup>28</sup> *Enbridge Gas Distribution Inc. v. Ontario (Energy Board)*, [2005] O.J. No. 756 (S.C.J.), rev’d [2006] O.J. No. 1355 (C.A.), [2006] S.C.C.A. No. 208; *ATCO Electric Ltd. v. Alberta (Energy and Utilities Board)*, 2004 ABCA 215; and *Northwestern Utilities Ltd. v. Edmonton (City)*, [1979] 1 S.C.R. 684.

prepare applications that responded to the Commission's five PBR principles. They noted that the proceeding involved roundtable discussions and a workshop. The effort spanned more than two years and involved five separate utilities in two separate utility industries. They also noted the extended term of the PBR plans and the financial significance to the utilities. The utilities referred to the added complexity arising from the need to understand how PBR was dealt with in different jurisdictions and to respond to two NERA reports. The utilities referred to the added complexity arising from a generic proceeding, including the need to respond to multiple interveners and to respond to comparisons with the applications of other utilities. The utilities submitted that the external specialized consulting and legal expertise required to meet these needs was not available at the rates permitted by the Commission's *Scale of Costs*.

54. The UCA, supported by Calgary, submitted that the PBR proceeding did not raise matters new in Alberta and that the proceeding "was not any more complex than the ENMAX FBR proceeding given similarity of issues"<sup>29</sup> which resulted in Decision 2009-035.<sup>30</sup> The UCA noted that the findings of the ENMAX proceeding were directly relevant to the PBR proceeding. With respect to incentive regulation for gas utilities, the UCA noted that AltaGas had specifically referred to Mr. Retnanandan's experience and knowledge of PBR matters attributed to his work in relation to the Northwestern Utilities Limited five year negotiated settlement and the ENMAX Formula Based Ratemaking proceeding.<sup>31</sup> The UCA also commented that "the time required for the proceeding and the number of participants involved is not abnormal to other generic hearings before the AUC."<sup>32</sup> The UCA further noted that the length of time and breadth of material filed is not an indication of complexity, it only indicates that more time and effort may be required by the participants.<sup>33</sup>

55. The UCA submitted that "there is little, if any, specialized legal knowledge on PBR that the utilities have advanced."<sup>34</sup> The UCA noted that AltaGas was able to utilize internal legal counsel and at least one local consultant in this proceeding. The UCA also noted that counsel and consulting hourly rates and total fees varied widely and suggested that "it cannot be reasonable to award such significantly differing amounts."<sup>35</sup> The UCA further stated: "the extreme variance of costs between the Utility participants requires the AUC to carefully assess what is reasonable and prudent for a responsible Utility in these proceedings."<sup>36</sup> In particular, the UCA noted the legal expenses claimed by ATCO Gas and ATCO Electric. Each of ATCO Electric and ATCO Gas company claimed legal fees of \$521,442.72. The UCA stated:

FortisAlberta and EDTI respectively claimed \$362,846.50 and \$302,798.25 in legal fees (which claims both **exceed** the *Scale of Costs*). If the AUC was to even double the costs of EDTI (with costs above scale) it would be \$302,798 x 2 or \$605,596. If FAI was used, it would be \$725,693. AE/AG's claim is still approximately \$300,000.00 in excess of the upper limit of that range.<sup>37</sup>

<sup>29</sup> Exhibit 70.02, UCA argument, paragraph 45; Exhibit 79.02, UCA reply argument, paragraph 35.

<sup>30</sup> Decision 2009-035: ENMAX Power Corporation, 2007-2016 Formula Based Ratemaking, Application No. 1550487, Proceeding ID No. 12, March 25, 2009.

<sup>31</sup> Exhibit 70.02, UCA argument, paragraph 49.

<sup>32</sup> Exhibit 70.02, UCA argument, paragraph 46.

<sup>33</sup> Exhibit 70.02, UCA argument, paragraph 46; Exhibit 79.02, UCA reply argument, paragraph 36.

<sup>34</sup> Exhibit 70.02, UCA argument, paragraph 59.

<sup>35</sup> Exhibit 70.02, UCA argument, paragraphs 60 and 61.

<sup>36</sup> Exhibit 79.02, UCA reply argument, paragraph 42.

<sup>37</sup> Exhibit 70.02, UCA argument, paragraph 83.

56. The UCA suggested that the ATCO Utilities claim for legal fees should be limited to the *Scale of Costs* and to a maximum of double the allowed EPCOR's claim.

57. Calgary submitted that the legal and consulting fees claimed by the ATCO Utilities were excessive when compared to the other utilities. In particular, Calgary submitted that the costs of the Brattle Group were excessive given the manner in which Dr. Carpenter utilized the data, time period, analysis and results of the NERA report.<sup>38</sup>

58. In response to the UCA and Calgary, the ATCO Utilities indicated that it was not proper to compare the costs of one company to another in determining the reasonableness of the costs claimed given that each company has differing and unique circumstances reflected by its application. ATCO Utilities counsel represented both an electric utility and a gas utility with differing PBR plans. It was also noted that ATCO Gas was required to respond to the evidence of Calgary. The ATCO Utilities also noted that Dr. Carpenter was the only expert to prepare evidence in advance of the hearing in support of the determination of the amount of capital investment to be funded under the I-X mechanism.

### 3.4 Commission findings

59. The Commission has carefully considered the evidence and argument submitted by the parties. The Commission considers that it has the authority under Section 21 of the *Alberta Utilities Commission Act* to determine costs for all parties participating in proceedings before it. In addition to the specific authority vested in the Commission over the costs of its own proceedings provided in Section 21 of the *Alberta Utilities Commission Act*, the Commission has all of the powers, rights and privileges vested in a judge of the Court of Queen's Bench with respect to "the payment of costs" in *a lis inter partes* under Section 11 of the statute.

60. Further, Section 76(1)(e) of the *Alberta Utilities Commission Act* provides:

**76(1)** The Commission may make rules governing any matter or person within its jurisdiction, including:

(e) rules of practice governing the Commission's procedure and hearings,

61. Consequently, the Commission has the authority pursuant to sections 21 and 76(1)(e) of the *Alberta Utilities Commission Act* to make rules with respect to the costs in its own proceedings. The Commission considers that this authority to make rules applies both to interveners and to utility applicants and includes the ability to make rules detailing the eligibility of parties for costs, the filing of cost claims and the factors that the Commission will consider when determining cost awards.

62. The companies note that Section 22(2) refers only to the ability of the Commission to make rules with respect to the payment of costs to an "intervener." It does not expressly include a power to make rules in respect of the payment of proceeding costs incurred by a utility applicant. The Commission considers that the inclusion of the words "other than a local intervener referred to in section 22" provide the context in which to interpret the Commission's authority under Section 21(2). As noted by Sullivan:

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<sup>38</sup> Exhibit 71.01, Calgary argument, paragraphs 17-19.



In adopting a contextual approach, the courts focus on any provision or series of provisions that in their opinion is capable of shedding light on the interpretive problem at hand.<sup>39</sup>

Section 22 of the statute provides the Commission with a specific authority with respect to making rules respecting the payment of costs to a “local intervener” for participation in certain facility proceedings such as those dealing with electric transmission lines or gas utility pipelines. It was therefore necessary to make it clear in Section 21(2) that the Commission’s authority in sections 21(1) and 76(1)(e) to award costs and to make rules, relating to interveners in general, had not been reduced or eliminated as the result of the inclusion in Section 22(2) of a specific authorization to make rules in respect of local intervener costs.

63. The Commission has exercised its authority to make costs-related rules, determine eligibility for costs and to award or deny costs incurred by participants in proceedings before it since the Commission’s inception. The Commission’s jurisdiction over the costs of proceedings is consistent with the authority granted to and exercised by its predecessor tribunals. Given the separate statutory authority provided to the Commission that it may order by whom and to whom costs of proceedings before it are to be paid, the Commission considers that its jurisdiction to determine costs awards in respect of its proceedings is in addition to, and distinct from, its jurisdiction to determine other costs and expenses to be recovered through just and reasonable rates for gas and electric utilities. Accordingly, the Commission will apply Rule 022, including the *Scale of Costs*, to all costs claims filed in the present proceeding.

64. Rule 022 provides that the Commission may award costs in excess of the *Scale of Costs* where an applicant “can advance persuasive argument that the scale is inadequate given the complexity of the case” in order “to address such unique circumstances.” The Commission agrees with the companies that the complexity of the matters considered in the PBR proceeding merit an award in excess of the *Scale of Costs*. The Commission considers that a similar level of complexity was experienced by all participants claiming costs. The Commission does not consider, however, that full cost recovery for those parties claiming in excess of the *Scale of Costs* is justified by the complexity of the proceeding. In this regard the Commission notes that Decision 2009-035, the ENMAX Formula Based Ratemaking proceeding, involved many of the same concepts and issues considered by the Commission in the present proceeding. Further, the Commission agrees with the UCA when it commented that the time required for the proceeding, the number of participants and level of complexity is comparable to prior multi-party generic proceedings before the Commission. On balance, the Commission considers that a premium of 20 per cent will be allowed above the *Scale of Costs* with respect to all legal and consulting fees approved in this decision for all parties.

65. As a result of the above findings, all fees and expenses have been adjusted to reflect the Commission’s *Scale of Costs* plus a 20 per cent premium above the *Scale of Costs* for fees. Appendix A to this decision reflects amounts claimed and amounts awarded after adjustment to reflect the Commission’s *Scale of Costs*, the 20 per cent premium and any other adjustments directed in this decision.

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<sup>39</sup> Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5<sup>th</sup> ed. (Markham, Ontario: LexisNexis Canada Inc., 2008) at page 360.

## 4 Commission findings on individual costs claims

### 4.1 Consumers' Coalition of Alberta's costs claim

66. The CCA submitted a costs claim totalling \$775,224.79. The claim consists of legal fees for Wachowich & Company in the amount of \$187,981.25, disbursements of \$19,433.62 and GST of \$10,303.75; consulting fees for Regulatory Services Inc. in the amount of \$109,928.00, disbursements of \$1,818.88 and GST of \$5,585.82; and consulting fees for PEG in the amount of \$429,461.25 and disbursements of \$10,712.22.

#### 4.1.1 Legal and consulting fees

67. The Commission finds from its review of the CCA cost submission and a review of the evidence, testimony and argument of the CCA in the PBR proceeding that the hours claimed by Wachowich & Company, PEG, and Regulatory Services Inc. are commensurate with the work performed and appear to be directly and necessarily related to the proceeding. The Commission considers that the participation of the CCA was effective and of assistance to the Commission. Further, the claims for professional fees were in accordance with the *Scale of Costs*. In Section 3 of this decision the Commission allowed a 20 per cent premium above the *Scale of Costs* on fees incurred by all parties. Accordingly, the Commission approves the CCA's legal and consulting fees in the amount of \$727,370.50 plus a 20 per cent premium of \$145,474.10 for a total amount of \$872,844.60.

#### 4.1.2 Disbursements

68. The CCA claimed a total of \$31,964.72 in expenses. Upon review of the submitted disbursements from Wachowich & Company hotel taxes were claimed in excess of the per diem hotel costs stated in the *Scale of Costs*. Hotel fees and taxes in the amount of \$235.75 are denied and the Commission adjusts the total claimed disbursements from \$19,433.62 to \$19,197.87.

69. With respect to disbursements claimed by PEG the Commission notes that the invoices provided for airfare reflect an amount of \$1,581.83 and not the \$1,589.15 amount claimed. The claimed airfare also contains a service charge for using an agent in the amount of \$55.00. The *Scale of Costs* does not allow for agency fees and the claim for \$55.00 is denied. The allowed claim for airfare is reduced from \$1,581.83 to \$1,526.83.

70. PEG claimed accommodation costs in excess of the *Scale of Costs* amount of \$140.00 per diem allowable during an oral hearing, in the amount of \$1,063.93. PEG consultants were present at the oral hearing for three days; therefore the Commission adjusts the claim for accommodation from \$1,063.93 to \$420.00 in accordance with the *Scale of Costs*.

71. On October 11, 2012, the Commission issued an information request to the CCA requesting receipts for parking expenses claimed by PEG in the amount of \$39.55. The requested receipts were not provided and accordingly the Commission denies the claim for parking. The Commission also requested receipts for courier charges to support the \$453.19 claimed. Invoices were provided for \$424.19. The Commission reduces the costs claimed for courier charges from \$453.19 to \$424.19.

72. In an information request,<sup>40</sup> the Commission requested additional information regarding data charges in the amount of \$7,306.00 claimed by PEG. These data charges related to \$306.00 invoiced by Statistics Canada and \$7,000.00 being 1/6 of the subscription to the premium quality data services of Global Insight, SNL Financial and Whitman, Requardt and Associates which were utilized in the calculation of US gas productivity trends. However, no invoice was provided in response to the information request to support the \$7,000.00 claimed for the US based data services. Additionally, at paragraph 364 of Decision 2012-237 the Commission commented on the lack of transparency of the data obtained by PEG from commercial vendors:

364. In light of the above considerations, the Commission agrees with NERA, ATCO Gas and AltaGas that the lack of publicly available data and transparent methodology represent major drawbacks to the use of PEG's productivity analysis. In contrast, as noted earlier in this section, the Commission agrees with the companies that NERA's TFP study was transparent and objective.

In light of the Commission's findings with respect to the limited usefulness of the commercial data obtained by PEG in the PBR proceeding, the Commission denies this claim for data costs.

73. The Commission adjusts the claimed amount of disbursements from PEG from \$10,712.22 to \$2,631.42.

74. Accordingly, the Commission approves costs for the CCA in the amount of \$872,844.60 in fees, \$23,648.17 in expenses and \$15,889.57 in GST for a total amount of \$912,382.34. The CCA will be entitled to recover costs in the amount of \$912,382.34 less \$200,000.00, which was granted on an interim basis as advanced funding in Decision 2011-365 resulting in a net amount remaining to be recovered of \$712,382.34.

## 4.2 AltaGas Utilities Inc.'s costs claim

75. AltaGas submitted a costs claim totalling \$416,377.81. The claim consists of consulting fees for Christensen Associates Energy Consulting (Christensen) in the amount of \$279,204.53 and disbursements of \$9,651.28; consulting fees for Energy Management & Regulatory Consulting Ltd. in the amount of \$93,206.25 and disbursements of \$1,974.65; consulting fees for Gannett Fleming Canada ULC in the amount of \$3,220.00; and AltaGas' claim for disbursements in the amount of \$29,121.10.

### 4.2.1 Consulting fees

76. Subject to the comments below with respect to the *Scale of Costs*, the Commission finds from its review of the AltaGas cost submission and a review of the evidence, testimony and argument of AltaGas in the PBR proceeding, that the hours claimed by its various legal counsel, consultants and experts are commensurate with the work performed and appear to be directly and necessarily related to the proceeding. The Commission considers that the participation of AltaGas was effective and of assistance to the Commission. The Commission notes that the hourly fees claimed by Christensen are outside the prescribed *Scale of Costs*. In Section 3 of this decision the Commission declined to award full costs in excess of the *Scale of Costs* to all parties participating in the PBR proceeding, but allowed a 20 per cent premium on fees. Accordingly, the Commission has reduced Christensen's consulting fees as reflected in Appendix A to this decision. Christensen's consulting fees have been adjusted from \$279,204.53 to \$259,398.00

<sup>40</sup> Exhibit 44.01, AUC-CCA-1(a)(iv).

plus a 20 per cent premium of \$51,879.60 for a total amount of \$311,277.60 as shown in column (h) of Appendix A.

77. The fees of Energy Management & Regulatory Consulting Ltd. of \$93,206.25 are in accordance with the Commission's scale. The Commission awards \$93,206.25 plus a 20 per cent premium of \$18,641.25 for a total of \$111,847.50 as shown in column (h) of Appendix A.

78. The fees of Gannett Fleming Canada ULC of \$3,220.00 are in accordance with the Commission's scale. The Commission awards \$3,220.00 plus a 20 per cent premium of \$644.00 for a total of \$3,864.00 as shown in column (h) of Appendix A.

#### 4.2.2 Disbursements

79. AltaGas claimed a total of \$40,747.03 in expenses. Christensen claimed \$9,651.28, which included \$5,116.00 claimed for airfare. Rule 022 restricts airfare claims to travel for purposes of an oral hearing. Out of the total amount of disbursements, \$2,412.94 of the amounts claimed for airfare relates to travel outside of the hearing timeframe. Accordingly, airfare awarded costs are decreased from \$5,116.00 to \$2,703.06. Taxi and limousine costs are reduced in accordance with the *Scale of Costs* from \$160.00 to \$69.62. The *Scale of Costs* also restricts accommodation costs to the amounts incurred for the duration of an oral hearing. The Commission has reduced the claim from \$3,889.38 to \$1,400.00. Christensen's claim for internet research, foreign transaction fees, and road tolls are similarly denied. In accordance with the above, the Commission adjusts Christensen's claim for disbursements from \$9,651.28 to \$4,876.58.

80. AltaGas employees claimed disbursements individually. The Commission's findings with respect to these claims is set out below:

- a. Ms. C. Martin claimed amounts in excess of the *Scale of Costs* with respect to meals during a hearing. The Commission denies the miscellaneous hearing costs of \$159.33 claimed for meals. The Commission adjusts Ms. C. Martin's total claim for disbursements from \$4,386.14 to \$4,226.81.
- b. Mr. A. Mantei claimed amounts in excess of the *Scale of Costs* with respect to accommodation during the hearing. The Commission adjusts Mr. Mantei's claim for disbursements from \$1,093.39 to \$1,087.05.
- c. Ms. H. Stribrny claimed airfare in the amount of \$1,110.50 while the invoices provided reflect the amount of \$1,090.42. The Commission has adjusted the claim for airfare from \$1,110.50 to \$1,090.42. Accommodation is also being claimed in the amount of \$1,918.53 which is above the amounts allowed by the *Scale of Costs*. Accommodation costs are reduced from \$1,918.53 to \$1,260.00. Accordingly, Ms. H. Stribrny's claim for disbursements has been adjusted from \$3,325.74 to \$2,647.13.
- d. Mr. G. Johnston claimed airfare in the amount of \$267.12 while the provided invoices reflect a cost of \$263.68. Accommodation is claimed in the amount of \$1,492.19 and has been adjusted to reflect the *Scale of Costs* to \$980.00. Mr. G. Johnston is claiming \$40.00 in taxi fare. The submitted receipts for taxi fare are duplicates of those provided by Ms. H. Stribrny and accordingly this

claim has been denied. Mr. G. Johnston's claim for disbursements has been adjusted from \$2,630.35 to \$2,074.72.

81. AltaGas is also claiming company disbursements. The Commission notes that the employees submitted their disbursements individually and claimed the full amounts allotted by the *Scale of Costs* for meals during the duration of the hearing. The Commission therefore rejects AltaGas' additional meal claims in the amount of \$640.33, meal claims relating to hearing preparation meetings in the amount of \$524.65 and for catered meals claimed for witness preparation meetings of \$261.35 for a total of \$1,426.33.

82. The Commission adjusts AltaGas' claim for disbursements from \$29,121.10 to \$26,294.86.

83. Accordingly, the Commission approves costs for AltaGas in the amount of \$426,989.10 in fees and \$33,146.09 in expenses for a total amount of \$460,135.19.

### **4.3 ATCO Electric and ATCO Gas costs claim**

84. The ATCO Utilities each filed cost claims requesting approval for one-half of the total amount incurred by the ATCO Utilities in connection with the PBR proceeding with the exception of the costs incurred by ATCO Electric for the UMS Group. ATCO Gas claimed a total of \$1,090,190.91 in fees and disbursements and ATCO Electric claimed a total of \$1,346,178.31 in fees and disbursements.

85. Subject to the comments below with respect to the *Scale of Costs*, the Commission finds from its review of the ATCO Utilities cost submissions and a review of the evidence, testimony and argument of the ATCO Utilities in the PBR proceeding, that the hours claimed by its various legal counsel, consultants and experts are commensurate with the work performed and appear to be directly and necessarily related to the proceeding. The Commission considers that the participation of the ATCO Utilities was effective and of assistance to the Commission. The Commission notes that the hourly fees claimed by legal counsel, and most consultants and experts are outside the prescribed *Scale of Costs*. In Section 3 of this decision the Commission declined to award full costs in excess of the *Scale of Costs* to all parties participating in the PBR proceeding, but allowed a 20 per cent premium on fees. Accordingly, the Commission has reduced all fees and disbursements outside of the *Scale of Costs* to the amounts permitted under the *Scale of Costs* as shown in Appendix A. The claims submitted by counsel and each consultant or expert are reviewed below.

#### **4.3.1 Bennett Jones LLP's costs**

86. Bennett Jones LLP was retained by both ATCO Electric and ATCO Gas. Each company claims Bennett Jones LLP fees of \$519,420.25. Total legal costs were reduced in UCA-AE/AG-03<sup>41</sup> by \$1,322.50 to reflect the removal of certain legal costs incurred in connection with the preparation of the costs claim, which results in a total costs claim of \$518,097.75 for each of the ATCO Utilities. The hourly fees claimed with respect to the services of Bennett Jones LLP are above the *Scale of Costs*. The Commission has adjusted the claimed amount of legal fees to ATCO Gas and ATCO Electric to \$266,779.75 each plus a 20 per cent premium of \$53,355.95 for a total of \$320,135.70.

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<sup>41</sup> Exhibit 61.01.

87. The ATCO Utilities are claiming \$2,022.47 each for disbursements in relation to Bennett Jones LLP. The Commission has noted that there are some disbursements being claimed outside the *Scale of Costs*. The *Scale of Costs* limits travel expense to travel to and from a hearing. Accommodation and meal expenses are limited to the duration of an oral hearing. As the dates reflected on the submitted invoices for these expenses fall outside the hearing timeframe, the Commission denies these disbursements for Bennett Jones LLP in the amount of \$572.93 for each of ATCO Electric and ATCO Gas for airfare, accommodation, meals without receipts, and taxis.

88. The ATCO Utilities are claiming \$752.52 for internal photocopying and \$454.00 for external copying. In their submission of October 25, 2012 responding to an AUC information request the ATCO Utilities advised that all printing was done by Bennett Jones LLP at a cost of 25 cents per page.<sup>42</sup> The *Scale of Costs* allows for photocopying to be charged at 10 cents per page. Therefore, the Commission adjusts the internal photocopying charges from \$752.52 to \$301.00 and external photocopying from \$454.00 to \$181.60 for both ATCO Gas and ATCO Electric's costs claims.

89. The ATCO Utilities are claiming \$45.73 each for long distance charges claimed by Bennett Jones LLP for a total amount of \$91.46. However, the submitted invoices and statements received from Bennett Jones LLP only stipulate an amount of \$63.52 being \$31.76 each to ATCO Gas and ATCO Electric. As such, the Commission reduces the claimed long distance from \$45.73 to \$31.76 for each of the ATCO Utilities.

90. Accordingly, the Commission reduces ATCO Gas and ATCO Electric's claim for Bennett Jones LLP's disbursements from \$2,022.47 to \$711.65 each.

91. The Commission approves Bennett Jones LLP's costs in the amount of \$320,847.35 to be paid by ATCO Gas and \$320,847.35 to be paid by ATCO Electric.

#### **4.3.2 The Brattle Group's costs**

92. ATCO Electric and ATCO Gas jointly retained the Brattle Group. Each company claimed Brattle Group fees in the amount of \$491,620.49 for a total of \$983,240.98. The hourly fees claimed with respect to the services of the Brattle Group are in excess of the *Scale of Costs*. The Commission has adjusted the claimed amount of consulting fees in accordance with the *Scale of Costs* to \$585,927.30; \$292,963.65 plus a 20 per cent premium of \$58,592.63 for a total of \$351,556.38 to be paid by each of ATCO Electric and ATCO Gas.

93. The ATCO Utilities are claiming disbursements for the Brattle Group in the combined amount of \$13,013.24. The *Scale of Costs* limits travel expense to travel to and from a hearing. Accommodation and meal expenses are limited to the duration of an oral hearing. Airfare was claimed in the total amount of \$9,136.12, however, upon review of the submitted invoices some dates for this cost was outside the hearing dates. The Commission reduces the claim for airfare from \$9,136.12 to \$5,892.54 in total, \$2,946.27 for each of ATCO Electric and ATCO Gas. Accommodation and meals were claimed outside the hearing dates as well. The Commission denies these claims in full.

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<sup>42</sup> AUC-AG-01(a), Exhibit 52.01 and AUC-AE-1(a), Exhibit 60.02.

94. The Commission notes that the claim for taxi costs consisted of costs outside the hearing dates as well as for costs for limousine services. The Commission does not consider that limousine services are a justified cost and therefore denies the claim for this service. The Commission has adjusted the claim for taxi from \$845.54 to \$416.14; \$208.07 for each of ATCO Electric and ATCO Gas in accordance with the *Scale of Costs*.

95. Courier services are claimed in the total amount of \$442.14, however after reviewing the submitted invoices the Commission corrects this amount to \$427.24; \$213.62 for each of ATCO Electric and ATCO Gas.

96. In accordance with the above the Commission approves the Brattle Group's disbursements in the total amount of \$7,977.50; \$3,988.75 to be paid by each of ATCO Gas and ATCO Electric.

97. Accordingly, the Commission approves Brattle Group's costs in the total amount of \$711,090.26; \$355,545.13 to be paid by each of ATCO Gas and ATCO Electric.

#### 4.3.3 Christensen Associates Energy Consulting costs

98. The ATCO Utilities claim consulting costs relating to services provided by Christensen Associates Energy Consulting. Each claim consulting fees of \$22,537.56 and \$14.36 for photocopying.

99. In AUC-AE-2<sup>43</sup> and in AUC-AG-2<sup>44</sup> the Commission requested the ATCO Utilities indicate if any of the work product prepared by Christensen was filed or referenced by either of the ATCO Utilities in the PBR proceeding. The ATCO Utilities responded that the work product prepared by Christensen was entitled "Initial List of Candidate PBR Plans for ATCO Gas and ATCO Electric." This information was utilized by the ATCO Utilities in furthering their understanding of PBR and in the selection of their respective PBR plans but was not filed in the PBR proceeding. Given that the Christensen material was not filed with the Commission, the Commission is unable to evaluate if the associated costs are reasonable and directly and necessarily related to the proceeding or if the work contributed to a better understanding by the Commission of the issues before it as required by Section 11.1 of Rule 022. Accordingly, the entirety of the Christensen costs claimed by the ATCO Utilities is disallowed.

#### 4.3.4 Ernst & Young LLP's costs

100. The ATCO Utilities retained Ernst & Young to assist in supporting a claim with respect to a claim for costs in excess of the Commission's *Scale of Costs*. ATCO Gas and ATCO Electric are each claiming \$26,864.75 in consulting fees. In AUC-AE-3(a) and AUC-AG-3(a)<sup>45</sup> the ATCO Utilities confirmed that the work performed by Ernst & Young was not filed in the PBR proceeding and was not prepared for purposes of supporting either the ATCO Electric PBR application or the ATCO Gas PBR application. The ATCO Utilities also confirmed that the work performed by Ernst & Young related exclusively to the filing of cost claims by the ATCO Utilities and the other utilities participating in the PBR proceeding. Costs incurred in connection with the preparation of a cost claim are not recoverable through the cost claim process. The Commission notes that the ATCO Utilities have not included other costs

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<sup>43</sup> Exhibit 60.02.

<sup>44</sup> Exhibit 52.01.

<sup>45</sup> Exhibit 60.02 and Exhibit 52.01.

incurred in connection with the preparation of their cost claims.<sup>46</sup> The Commission denies recovery of the Ernst & Young costs.

#### 4.3.5 UMS Group costs

101. ATCO Electric retained UMS Group to provide evidence and to appear at the PBR oral hearing. ATCO Electric claims costs for the services provided by the UMS Group of \$240,018.39 in consulting fees and \$6,423.04 in disbursements. Consulting service amounts claimed are in excess of the *Scale of Costs* and are reduced from \$240,018.39 to \$176,190.00 plus a 20 per cent premium of \$35,238.00 for a total of \$211,428.00.

102. The *Scale of Costs* only allows for disbursements for airfare, taxi, parking, meals and accommodation to be claimed during an oral hearing for a proceeding. Certain expenses were in respect of dates outside of the hearing period. Taxi charges claimed are reduced from \$300.25 to \$154.85 and parking amounts claimed are reduced from \$271.25 to \$206.65. Airfare is reduced from \$4,879.66 claimed to \$3,710.83. All travel agent fees were deducted as the *Scale of Costs* does not provide for these costs. The Commission has also reduced the claims made in respect of UMS Group accommodation costs from \$922.10 to \$700.00 to account for the maximum under the *Scale of Costs*.

103. Accordingly, the Commission has reduced the UMS Group's claim for disbursements from \$6,423.04 to \$4,822.11. The Commission approves the UMS Group's costs claim in the total amount of \$216,250.11 to be paid solely by ATCO Electric.

#### 4.3.6 ATCO Electric and ATCO Gas disbursements

104. ATCO Electric claimed \$30,750.38 in company expenses and ATCO Gas claimed \$21,204.41 in company expenses. Upon review of the submitted invoices for the ATCO Utilities accommodation costs, ATCO Electric's claim in the amount of \$17,703.13 and ATCO Gas' claim of \$9,191.65 are in excess of the \$140.00 per diem during an oral hearing permitted under the *Scale of Costs*. The Commission adjusts ATCO Electric's accommodation claimed amount from \$17,703.13 to \$9,240.00,<sup>47</sup> and ATCO Gas' claimed amount from \$9,191.65 to \$4,480.00 to reflect the accommodation costs that are within the *Scale of Costs*.

105. ATCO Electric and ATCO Gas are each claiming \$3,003.52 for meals, for a total of \$6,007.04. The *Scale of Costs* per diem during a hearing is \$40.00 for meals. However, in response to UCA-AE/ATCO Gas-18(b)(ii),<sup>48</sup> meals for individuals were partially allocated on a 50/50 split, while some meals were identified as being related solely to ATCO Electric or ATCO Gas. Accordingly, the Commission adjusts the claim for meals reflecting the costs allocations for shared meal costs on a 50/50 split; and reflecting individual meal costs that were only incurred for the individuals who appeared for either ATCO Electric or ATCO Gas. The Commission awards meal costs within the *Scale of Costs* in the course of the hearing in the amount of \$2,960.00 to ATCO Electric and \$2,040.00 to ATCO Gas.

<sup>46</sup> See for example UCA-AE/AG-03(k) in Exhibit 61.01.

<sup>47</sup> Exhibit 62.06, ATCO Electric information response, UCA-AE-20(a)(ii). These costs included accommodation costs for accommodation for Mr. J. Cummings of UMS Group; and for Mr. T. Brown and Dr. P. Carpenter of the Brattle Group. However, the accommodation costs for UMS Group and the Brattle Group were not duplicative as they were not charged in the disbursements of either UMS Group or Brattle Group.

<sup>48</sup> Exhibit 62.03, ATCO Electric information response, UCA-AE/ATCO Gas-18(b)(ii). These costs included meals for Brattle Group consultants, Bennett Jones LLP lawyers, and the UMS consultant. These costs were not duplicated in the disbursements of the Brattle Group, Bennett Jones LPP and UMS.



106. Each of ATCO Electric and ATCO Gas claimed \$422.50 for a total of \$845.00 for room rental associated with witness preparation. These costs were not incurred during the hearing period and are denied in accordance with the *Scale of Costs*.

107. The remaining claims for disbursements are within the *Scale of Costs*. The Commission approves ATCO Gas disbursements in the total amount of \$15,106.75 and ATCO Electric disbursements in the total amount of \$21,821.24.

108. Accordingly, the Commission approves costs submitted by ATCO Gas in the amount of \$671,692.08 in fees and \$19,807.15 in expenses for a total amount of \$691,499.23. The Commission also approves the costs submitted by ATCO Electric in the amount of \$883,120.08 in fees and \$31,343.75 in expenses for a total amount of \$914,463.83.

#### **4.4 EPCOR Distribution & Transmission Inc.’s costs claim**

109. EPCOR submitted a costs claim totalling \$1,359,524.69. The claim consists of legal fees for Burnet Duckworth & Palmer LLP in the amount of \$11,212.20 and disbursements of \$88.24; legal fees for Fasken Martineau in the amount of \$291,586.05 and disbursements of \$6,787.27; consultant fees for David Ryan and Donna White in the amount of \$24,600.00 and disbursements of \$2,205.65; consultant fees for Dana Oikawa in the amount of \$45,600.00 and disbursements of \$1,000.00; consulting fees for Pacific Economics Group, LLC in the amount of \$540,210.03 and disbursements of \$3,257.95; consulting fees for Weisman Associates in the amount of \$382,971.58 and disbursements of \$2,722.49; and EPCOR’s claim for disbursements in the amount of \$47,283.23.

##### **4.4.1 Legal and consulting fees**

110. Subject to the comments below with respect to the *Scale of Costs*, the Commission finds from its review of the EPCOR cost submission and a review of the evidence, testimony and argument of EPCOR in the PBR proceeding that the hours claimed by its various legal counsel, consultants and experts are commensurate with the work performed and appear to be directly and necessarily related to the proceeding. The Commission considers that the participation of EPCOR was effective and of assistance to the Commission.

111. The Commission notes that the hourly fees claimed for Burnet Duckworth & Palmer LLP, Fasken Martineau, Pacific Economics Group, LLC and Weisman Associates exceed the prescribed *Scale of Costs*. In Section 3 of this decision the Commission declined to award full costs in excess of the *Scale of Costs* to all parties participating in the PBR proceeding, but allowed a 20 per cent premium on fees. Accordingly, the Commission has reduced EPCOR’s legal and consulting fees as reflected in Appendix A to this decision. The following reductions have been made:

- a. Burnet Duckworth & Palmer LLP’s legal fees have been adjusted from \$11,212.20 to \$9,275.00 plus a 20 per cent premium of \$1,855.00 for a total of \$11,130.00 as shown in column (h) of Appendix A.
- b. Fasken Martineau’s legal fees have been adjusted from \$291,586.05 to \$231,309.00 plus a 20 per cent premium of \$46,261.80 for a total of \$277,570.80 as shown in column (h) of Appendix A.

- c. Pacific Economics Group, LLC's consulting fees have been adjusted from \$540,210.03 to \$310,549.12 plus a 20 per cent premium of \$62,109.82 for a total of \$372,658.94 as shown in column (h) of Appendix A.
- d. Weisman Associates' consulting fees have been adjusted from \$382,971.58 to \$189,135.00 plus a 20 per cent premium of \$37,827.00 for a total of \$226,962.00 as shown in column (h) of Appendix A.

112. The Commission approves EPCOR's legal and consulting fees in the amount of \$810,468.12 plus a 20 per cent premium of \$162,093.62 for a total of \$972,561.74.

#### 4.4.2 Disbursements

113. EPCOR claimed a total of \$63,344.83 in expenses. After reviewing the disbursements claimed by EPCOR in respect of the services provided by Fasken Martineau, the Commission is adjusting the following claims in accordance with the *Scale of Costs*. Accommodation claimed in the amount of \$5,493.72 is reduced to \$3,500.00. In addition, taxi expenses claimed in the amount of \$300.50 are reduced to reflect taxi expenses incurred during hearing dates as prescribed by the *Scale of Costs* to \$153.30. Accordingly the Commission adjusts Fasken Martineau's claim for disbursements from \$6,787.27 to \$4,646.35.

114. Pacific Economics Group, LLC submitted invoices for \$130.02 for the use of a limousine. The Commission denies this claim. Accordingly, the Commission has reduced the amount of disbursements being claimed by Pacific Economics Group from \$3,257.95 to \$3,127.93.

115. In accordance with the *Scale of Costs*, the Commission reduces the claim for accommodation by Weisman Associates from \$1,024.08 to \$560.00. Submitted invoices for airfare reflect a total of \$794.78 and not the claimed \$828.94. Disbursements claimed are therefore reduced from \$2,772.49 to \$2,224.25.

116. In accordance with the *Scale of Costs*, the Commission adjusts the claim for accommodation made by Dr. David Ryan from \$1,024.00 to \$560.00 reducing his claim for disbursements from \$2,205.65 to \$1,741.57.

117. EPCOR is claiming \$21,031.60 for accommodation. In accordance with the *Scale of Costs*, the Commission reduces this claim to \$12,320.00. With respect to the claims being made for mileage and parking, the Commission noticed that all employees attending the hearing drove separately and incurred individual costs and accordingly, the Commission has reduced the mileage claim by 50 per cent. Mileage has been reduced from \$4,207.44 to \$2,103.72. Most EPCOR employees used valet service at the hotel while one employee used a public parking lot and incurred \$100.20 for the duration of the hearing. The Commission feels that valet service is not a reasonable expense and reduces the valet parking claim of \$2,214.21 by 50 per cent to \$1,107.11. Accordingly, the Commission reduces the claimed disbursements by EPCOR from \$47,283.23 to \$34,954.75.

118. Accordingly, the Commission approves costs for EPCOR in the amount of \$972,561.74 in fees and \$47,783.09 in expenses for a total amount of \$1,020,344.83.

#### 4.5 FortisAlberta Inc.'s costs claim

119. Fortis submitted a costs claim totalling \$944,336.65. The claim consists of legal fees for Davis LLP in the amount of \$362,846.50; consulting fees for London Economics International in the amount of \$559,675.00 and disbursements of \$8,214.05; consulting fees for Mercer (Canada) Limited (Mercer) in the amount of \$967.50; and Fortis' claim for disbursements in the amount of \$12,633.60.

##### 4.5.1 Legal and consulting fees

120. Subject to the comments below with respect to the *Scale of Costs*, the Commission finds from its review of the Fortis cost submission and a review of the evidence, testimony and argument of Fortis in the PBR proceeding, that the hours claimed by its various legal counsel, consultants and experts are commensurate with the work performed and appear to be directly and necessarily related to the proceeding. The Commission considers that the participation of Fortis was effective and of assistance to the Commission.

121. The Commission notes that the hourly fees claimed for Davis LLP and London Economics International exceed the prescribed *Scale of Costs*. In Section 3 of this decision the Commission declined to award full costs in excess of the *Scale of Costs* to all parties participating in the PBR proceeding, but allowed a 20 per cent premium on fees. Accordingly, the Commission has reduced Fortis' legal and consulting fees as reflected in Appendix A to this decision. The following reductions have been made:

- a. Davis LLP's legal fees have been adjusted from \$362,846.50 to \$184,415.00 plus a 20 per cent premium of \$36,883.00 for a total of \$221,298.00 as shown in column (h) of Appendix A.
- b. London Economics International's consulting fees have been adjusted from \$559,675.00 to \$232,540.00 plus a 20 per cent premium of \$46,508.00 for a total of \$279,048.00 as shown in column (h) of Appendix A.

122. With respect to the claim for services provided by Mercer, Fortis confirmed in AUC-Fortis-2<sup>49</sup> that no work product was prepared by Mercer was filed or referenced by Fortis in the PBR proceeding. The work consisted of one meeting held to gather information and seek opinions to discuss the transition to performance based regulation for distribution utilities in Alberta. Given that no material was filed by Mercer in the PBR proceeding, the Commission is unable to evaluate if the Mercer costs are reasonable and directly and necessarily related to the proceeding or if the work contributed to a better understanding of the issues before the Commission as required by Section 11.1 of Rule 022. Accordingly, the entirety of the Mercer costs in the amount of \$967.50 is disallowed.

123. Accordingly, the Commission approves EPCOR's legal and consulting fees in the amount of \$500,346.00.

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<sup>49</sup> Exhibit 48.02.

#### **4.5.2 Disbursements**

124. Fortis claimed a total of \$20,847.65 in expenses. In accordance with the *Scale of Costs*, the Commission denies taxi fare costs incurred on non-hearing days and reduces the London Economics International claim for taxi fares from \$425.28 to \$221.20. The Commission adjusts London Economics disbursements claim from \$8,214.05 to \$8,009.97.

125. Accordingly, the Commission approves costs for Fortis in the amount of \$500,346.00 in fees and \$20,643.57 in expenses for a total amount of \$520,989.57.

### **5 GST**

126. In accordance with the Commission's treatment of the GST on cost awards, each company 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 Commission has reduced this particular portion of their claim. Eligible GST approved by the Commission amounts to \$15,889.57 for the CCA. The GST allowed by the Commission may also be charged against each utility's hearing cost reserve account.

127. 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 Allocation of intervener costs**

128. For purposes of administrative ease the Commission has allocated approved intervener costs in the same manner and on the same basis as provided in Decision 2011-365 which granted interim funding to the CCA. Appendix B to this decision sets out the allocation of approved intervener costs among the companies.

7        **Order**

129. It is hereby ordered that:

- (1) AltaGas Utilities Inc. shall pay external costs in the amount of \$460,135.19, as set out in column (k) of Appendix A.
- (2) AltaGas Utilities Inc. shall pay intervener costs in the amount of \$49,976.43, as set out in column (a) of Appendix B.
- (3) AltaGas Utilities Inc. shall record in its 2012 Hearing Cost Reserve account the external and intervener costs in the amount of \$510,111.62 as set out in Appendix C.
- (4) ATCO Electric Ltd. shall pay external costs in the amount of \$914,463.83, as set out in column (k) of Appendix A.
- (5) ATCO Electric Ltd. shall pay intervener costs in the amount of \$172,601.82, as set out in column (b) of Appendix B.
- (6) ATCO Electric Ltd. shall record in its 2012 Hearing Cost Reserve account the external and intervener costs in the amount of \$1,087,065.65 as set out in Appendix C.
- (7) ATCO Gas and Pipelines Ltd. shall pay external costs in the amount of \$691,499.23 as set out in column (k) of Appendix A.
- (8) ATCO Gas and Pipelines Ltd. shall pay intervener costs in the amount of \$263,485.85, as set out in column (c) of Appendix B.
- (9) ATCO Gas and Pipelines Ltd. shall record in its 2012 Hearing Cost Reserve account the external costs and intervener costs in the amount of \$954,985.08 as set out in Appendix C.
- (10) EPCOR Distribution & Transmission Inc. shall pay external costs in the amount of \$1,020,344.83, as set out in column (k) of Appendix A.
- (11) EPCOR Distribution & Transmission Inc. shall pay intervener costs in the amount of \$96,061.95, as set out in column (e) of Appendix B.
- (12) EPCOR Distribution & Transmission Inc. shall record in its 2012 Hearing Cost Reserve account the external costs and intervener costs in the amount of \$1,116,406.78 as set out in Appendix C.
- (13) FortisAlberta Inc. shall pay external costs in the amount of \$520,989.57 as set out in column (k) of Appendix A.
- (14) FortisAlberta Inc. shall pay intervener costs in the amount of \$130,256.30, as set out in column (d) of Appendix B.

- (15) FortisAlberta Inc. shall record in its 2012 Hearing Cost Reserve account the external costs and intervener costs in the amount of \$651,245.87 as set out in Appendix C.

Dated on February 20, 2013.

**The Alberta Utilities Commission**

*(original signed by)*

Willie Grieve, QC  
Chair

*(original signed by)*

Mark Kolesar  
Vice-Chair

*(original signed by)*

Moin A. Yahya  
Acting Commission Member

Total Costs Claimed/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)	Fee Amount Awarded Including Premium (h)	Amount Awarded (i)	Total Amount of Advanced Costs (j)	Total Amount Awarded (k)
<b>APPLICANT</b>											
<b>AltaGas Utilities Inc.</b>											
Christensen Associates Energy Consulting	\$279,204.53	\$9,651.28	\$0.00	\$288,855.81	\$259,398.00	\$4,876.58	\$0.00	\$311,277.60	\$316,154.18	\$0.00	\$316,154.18
Energy Management & Regulatory Consulting Ltd.	\$93,206.25	\$1,974.65	\$0.00	\$95,180.90	\$93,206.25	\$1,974.65	\$0.00	\$111,847.50	\$113,822.15	\$0.00	\$113,822.15
Gannett Fleming Canada ULC	\$3,220.00	\$0.00	\$0.00	\$3,220.00	\$3,220.00	\$0.00	\$0.00	\$3,864.00	\$3,864.00	\$0.00	\$3,864.00
AltaGas Utilities Inc.	\$0.00	\$29,121.10	\$0.00	\$29,121.10	\$0.00	\$26,294.86	\$0.00	\$0.00	\$26,294.86	\$0.00	\$26,294.86
<b>Sub-Total</b>	<b>\$375,630.78</b>	<b>\$40,747.03</b>	<b>\$0.00</b>	<b>\$416,377.81</b>	<b>\$355,824.25</b>	<b>\$33,146.09</b>	<b>\$0.00</b>	<b>\$426,989.10</b>	<b>\$460,135.19</b>	<b>\$0.00</b>	<b>\$460,135.19</b>
<b>ATCO Electric Ltd.</b>											
Bennett Jones LLP	\$519,420.25	\$2,022.47	\$0.00	\$521,442.72	\$266,779.75	\$711.65	\$0.00	\$320,135.70	\$320,847.35	\$0.00	\$320,847.35
The Brattle Group	\$491,620.49	\$6,506.62	\$0.00	\$498,127.11	\$292,963.65	\$3,988.75	\$0.00	\$351,556.38	\$355,545.13	\$0.00	\$355,545.13
Christensen Associates Energy Consulting	\$22,537.56	\$14.36	\$0.00	\$22,551.92	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
UMS Group Inc.	\$240,018.39	\$6,423.04	\$0.00	\$246,441.43	\$176,190.00	\$4,822.11	\$0.00	\$211,428.00	\$216,250.11	\$0.00	\$216,250.11
Ernst & Young	\$26,864.75	\$0.00	\$0.00	\$26,864.75	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
ATCO Electric Ltd.	\$0.00	\$30,750.38	\$0.00	\$30,750.38	\$0.00	\$21,821.24	\$0.00	\$0.00	\$21,821.24	\$0.00	\$21,821.24
<b>Sub-Total</b>	<b>\$1,300,461.44</b>	<b>\$45,716.87</b>	<b>\$0.00</b>	<b>\$1,346,178.31</b>	<b>\$735,933.40</b>	<b>\$31,343.75</b>	<b>\$0.00</b>	<b>\$883,120.08</b>	<b>\$914,463.83</b>	<b>\$0.00</b>	<b>\$914,463.83</b>
<b>ATCO Gas North and South</b>											
Bennett Jones LLP	\$519,420.25	\$2,022.47	\$0.00	\$521,442.72	\$266,779.75	\$711.65	\$0.00	\$320,135.70	\$320,847.35	\$0.00	\$320,847.35
The Brattle Group	\$491,620.49	\$6,506.62	\$0.00	\$498,127.11	\$292,963.65	\$3,988.75	\$0.00	\$351,556.38	\$355,545.13	\$0.00	\$355,545.13
Christensen Associates Energy Consulting	\$22,537.56	\$14.36	\$0.00	\$22,551.92	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Ernst & Young	\$26,864.75	\$0.00	\$0.00	\$26,864.75	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
ATCO Gas North and South	\$0.00	\$21,204.41	\$0.00	\$21,204.41	\$0.00	\$15,106.75	\$0.00	\$0.00	\$15,106.75	\$0.00	\$15,106.75
<b>Sub-Total</b>	<b>\$1,060,443.05</b>	<b>\$29,747.86</b>	<b>\$0.00</b>	<b>\$1,090,190.91</b>	<b>\$559,743.40</b>	<b>\$19,807.15</b>	<b>\$0.00</b>	<b>\$671,692.08</b>	<b>\$691,499.23</b>	<b>\$0.00</b>	<b>\$691,499.23</b>
<b>EPCOR Distribution &amp; Transmission Inc.</b>											
Burnet Duckworth & Palmer LLP	\$11,212.20	\$88.24	\$0.00	\$11,300.44	\$9,275.00	\$88.24	\$0.00	\$11,130.00	\$11,218.24	\$0.00	\$11,218.24
Fasken Martineau	\$291,586.05	\$6,787.27	\$0.00	\$298,373.32	\$231,309.00	\$4,646.35	\$0.00	\$277,570.80	\$282,217.15	\$0.00	\$282,217.15
David Ryan & Donna White (Consultant)	\$24,600.00	\$2,205.65	\$0.00	\$26,805.65	\$24,600.00	\$1,741.57	\$0.00	\$29,520.00	\$31,261.57	\$0.00	\$31,261.57
Dana Oikawa (Consultant)	\$45,600.00	\$1,000.00	\$0.00	\$46,600.00	\$45,600.00	\$1,000.00	\$0.00	\$54,720.00	\$55,720.00	\$0.00	\$55,720.00
Pacific Economics Group Research LLC	\$540,210.03	\$3,257.95	\$0.00	\$543,467.98	\$310,549.12	\$3,127.93	\$0.00	\$372,658.94	\$375,786.87	\$0.00	\$375,786.87
Weisman Associates	\$382,971.58	\$2,722.49	\$0.00	\$385,694.07	\$189,135.00	\$2,224.25	\$0.00	\$226,962.00	\$229,186.25	\$0.00	\$229,186.25
EPCOR Distribution & Transmission Inc.	\$0.00	\$47,283.23	\$0.00	\$47,283.23	\$0.00	\$34,954.75	\$0.00	\$0.00	\$34,954.75	\$0.00	\$34,954.75
<b>Sub-Total</b>	<b>\$1,296,179.86</b>	<b>\$63,344.83</b>	<b>\$0.00</b>	<b>\$1,359,524.69</b>	<b>\$810,468.12</b>	<b>\$47,783.09</b>	<b>\$0.00</b>	<b>\$972,561.74</b>	<b>\$1,020,344.83</b>	<b>\$0.00</b>	<b>\$1,020,344.83</b>

Total Costs Claimed/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)	Fee Amount Awarded Including Premium (h)	Amount Awarded (i)	Total Amount of Advanced Costs (j)	Total Amount Awarded (k)
<b>FortisAlberta Inc.</b>											
Davis LLP	\$362,846.50	\$0.00	\$0.00	\$362,846.50	\$184,415.00	\$0.00	\$0.00	\$221,298.00	\$221,298.00	\$0.00	\$221,298.00
Amicus	\$0.00	\$12,633.60	\$0.00	\$12,633.60	\$0.00	\$12,633.60	\$0.00	\$0.00	\$12,633.60	\$0.00	\$12,633.60
London Economics International	\$559,675.00	\$8,214.05	\$0.00	\$567,889.05	\$232,540.00	\$8,009.97	\$0.00	\$279,048.00	\$287,057.97	\$0.00	\$287,057.97
Mercer (Canada) Limited	\$967.50	\$0.00	\$0.00	\$967.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Sub-Total</b>	<b>\$923,489.00</b>	<b>\$20,847.65</b>	<b>\$0.00</b>	<b>\$944,336.65</b>	<b>\$416,955.00</b>	<b>\$20,643.57</b>	<b>\$0.00</b>	<b>\$500,346.00</b>	<b>\$520,989.57</b>	<b>\$0.00</b>	<b>\$520,989.57</b>
<b>INTERVENERS</b>											
<b>The Consumers' Coalition of Alberta</b>											
Wachowich & Company	\$187,981.25	\$19,433.62	\$10,303.75	\$217,718.62	\$187,981.25	\$19,197.87	\$10,303.75	\$225,577.50	\$255,079.12	\$0.00	\$255,079.12
Regulatory Services Inc.	\$109,928.00	\$1,818.88	\$5,585.82	\$117,332.70	\$109,928.00	\$1,818.88	\$5,585.82	\$131,913.60	\$139,318.30	\$0.00	\$139,318.30
Pacific Economics Group Research LLC	\$429,461.25	\$10,712.22	\$0.00	\$440,173.47	\$429,461.25	\$2,631.42	\$0.00	\$515,353.50	\$517,984.92	\$200,000.00	\$317,984.92
<b>Sub-Total</b>	<b>\$727,370.50</b>	<b>\$31,964.72</b>	<b>\$15,889.57</b>	<b>\$775,224.79</b>	<b>\$727,370.50</b>	<b>\$23,648.17</b>	<b>\$15,889.57</b>	<b>\$872,844.60</b>	<b>\$912,382.34</b>	<b>\$200,000.00</b>	<b>\$712,382.34</b>
<b>TOTAL INTERVENER COSTS</b>	<b>\$727,370.50</b>	<b>\$31,964.72</b>	<b>\$15,889.57</b>	<b>\$775,224.79</b>	<b>\$727,370.50</b>	<b>\$23,648.17</b>	<b>\$15,889.57</b>	<b>\$872,844.60</b>	<b>\$912,382.34</b>	<b>\$200,000.00</b>	<b>\$712,382.34</b>
<b>TOTAL INTERVENER AND APPLICANT COSTS</b>	<b>\$5,683,574.63</b>	<b>\$232,368.96</b>	<b>\$15,889.57</b>	<b>\$5,931,833.16</b>	<b>\$3,606,294.67</b>	<b>\$176,371.82</b>	<b>\$15,889.57</b>	<b>\$4,327,553.60</b>	<b>\$4,519,814.99</b>	<b>\$200,000.00</b>	<b>\$4,319,814.99</b>