



FortisAlberta Inc.

2010 Phase II

Cost Awards



ALBERTA UTILITIES COMMISSION

Decision 2010-428: FortisAlberta Inc.

2010 Phase II

Application No. 1605580

Cost Application No. 1606250

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1 INTRODUCTION

1. The Alberta Utilities Commission (AUC or Commission) received Application No. 1605170 (the Application), dated June 16, 2009 from FortisAlberta Inc. (FAI). The Application requested Commission approval of FAI's 2010-2011 Transmission and Distribution General Tariff Application (GTA) and an order or orders to establish a Transmission Facility Owner and a Distribution Tariff. By letter dated November 16, 2009, the Commission notified parties that the Phase II portion of FAI's Application would be dealt with separately as Proceeding ID 362.

2. The Commission dealt with the Phase II Application by way of an oral proceeding. The hearing was held on March 8, 2010 in Calgary, Alberta before Commission members Ms. C. Dahl Rees (Vice-Chair), Mr. M. Kolesar (Commissioner), and Mr. M. A. Yahya (Commissioner). The hearing was completed on March 9, 2010.

3. On July 22, 2010, the Commission issued Decision [2010-329](#)¹ with respect to the Phase II Application.

4. On May 27, 2010, a summary of the costs being claimed was circulated to interested parties. Parties were advised that any comments regarding the figures listed in the summary or the merits of the total costs claimed were to be filed by June 10, 2010. The Commission did not receive any comments. Accordingly, the Commission considers the cost process to have closed on June 10, 2010.

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

5. When assessing a cost claim pursuant to Section 21 of the *Alberta Utilities Commission Act* (AUC Act), the Commission applies Rule 022, *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022).

6. 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.

7. In the Commission's view, the responsibility to contribute positively to the process is inherent in the choice to intervene in a proceeding. The Commission expects that those who

¹ Decision 2010-329: FortisAlberta Inc. 2010 Phase II (Application No. 1605580, Proceeding ID. 362) (Released: July 22, 2010).

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

8. 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 VIEWS OF THE COMMISSION – ASSESSMENT

3.1 FortisAlberta Inc.

9. FAI submitted a cost claim totaling \$53,513.40. The claim is comprised of legal fees incurred by Davis LLP in the amount of \$52,437.00; and disbursements incurred by Amicus Reporting Group in the amount of \$1,076.40 for transcripts.

10. The Commission has considered the costs submitted by FAI. The Commission finds that the participation of FAI was effective and of assistance in reviewing the Application. The Commission also notes that the claims for professional fees and other claims were in accordance with the *Scale of Costs*. Accordingly, the Commission considers FAI's claims for fees and disbursements in the total amount of \$53,513.40 to be reasonable.

3.2 Consumers' Coalition of Alberta

11. The Consumers' Coalition of Alberta (CCA) submitted a cost claim totaling \$40,369.14. The claim is comprised of legal fees incurred by Wachowich & Company in the amount of \$14,451.25, together with disbursements and GST of \$1,378.45 and \$791.49, respectively; and consulting fees incurred by Regulatory Services Inc. in the amount of \$22,120.00, together with disbursements and GST of \$521.95 and \$1,106.00, respectively.

12. The Commission has reviewed the CCA's cost claim and considers the amounts to be reasonable and their participation was of assistance to the Commission. Their claims for professional fees and other claims were in accordance with the Scale of Costs. Accordingly, the Commission approves the CCA's cost claim in the full amount of \$40,369.14.

4 GST

13. In accordance with the Commission's treatment of the GST on cost awards, FAI 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 \$1,897.49. The GST allowed by the Commission may also be charged against FAI's Hearing Cost Reserve Account.

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

5 ORDER

IT IS HEREBY ORDERED:

1. FortisAlberta Inc. shall pay intervener costs in the amount of \$40,369.14.
2. FortisAlberta Inc.'s external costs in the amount of \$53,513.40 are approved.
3. FortisAlberta Inc. shall record in its Hearing Cost Reserve Account the allowed external applicant and intervener costs in the amount of \$93,882.54.

Dated on August 31, 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

Carolyn Dahl Rees
Vice-Chair

(Original signed by)

Mark Kolesar
Commissioner

(Original signed by)

Moin A. Yahya
Commissioner