



Direct Energy Regulated Services

2008 Default Rate Tariff and Regulated Rate Tariff
Non-Energy Deferral Accounts

Cost Awards



ALBERTA UTILITIES COMMISSION

Utility Cost Order 2009-059: Direct Energy Regulated Services
2008 Default Rate Tariff and Regulated Rate Tariff Non-Energy Deferral Accounts
Application No. 1605046
Cost Application No. 1605478

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1 INTRODUCTION

1. On May 1, 2009, Direct Energy Regulated Services (DERS) filed an Application (Application) with the Alberta Utilities Commission (AUC or Commission).
2. The Commission dealt with this Application by way of written process. On November 9, 2009, the Commission issued Decision [2009-204](#)¹ with respect to the Application.
3. On September 24, 2009, a summary of the costs being claimed was circulated to interested parties. Parties were advised that any comments regarding the figures listed in the summary or the merits of the total costs claimed were to be filed by October 8, 2009. The Commission did not receive any comments. Accordingly, the Commission considers, for the purposes of this Cost Order, the cost process to have closed on October 8, 2009.

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

4. 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). Rule 022 was revised on September 30, 2008. As the filing of this Application with the Commission was on May 1, 2009, the Commission has assessed the costs claimed in accordance with the provisions of the revised Rule 022.
5. 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 understating 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.
6. 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 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.
7. 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

¹ Decision 2009-204 (Released: November 9, 2009).

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

8. On September 11, 2009, the Commission received a cost claim from the Consumers' Coalition of Alberta (CCA) in the amount of \$4,310.04. The claim is comprised of consulting fees incurred by Regulatory Services Inc. in the amount of \$4,080.00, together with disbursements and Goods and Services Tax (GST) of \$24.80 and \$205.24.

9. The Commission has considered the costs submitted by the CCA and finds that the participation of the CCA was, for the most part, 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 the claims for fees, disbursements and applicable GST for the CCA to be reasonable in the total amount of \$4,310.04.

4 GST

10. In accordance with the Commission's treatment of the GST on cost awards, DERS 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 \$205.24. The GST allowed by the Commission may also be charged against DERS's Hearing Cost Reserve Account.

11. 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. Direct Energy Regulated Services shall pay intervener costs in the amount of \$4,310.04.
2. Direct Energy Regulated Services shall record in its Hearing Cost Reserve Account the allowed intervener costs in the amount of \$4,310.04.

Dated in Calgary, Alberta on this 4th day of January 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

Carolyn Dahl Rees
Vice-Chair

(Original signed by)

Anne Michaud
Commissioner

(Original signed by)

Bill Lyttle
Commissioner