



Regional Water Services Ltd.

Advance Funding



ALBERTA UTILITIES COMMISSION

Utility Cost Order 2010-006: Regional Water Services Ltd. (RWSL)
2007-2008 General Rate Application – Advance Funding
Application No. 1519777

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**Regional Water Services Ltd. (RWSL)
2007-2008 General Rate Application
Advance Funding**

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1 INTRODUCTION

1. On July 24, 2009, Regional Water Services Ltd. (RWSL) filed an application (Application No. 1519777 / Proceeding ID 358) with the Alberta Utilities Commission (AUC or Commission). RWSL is requesting approval of a final tariff for the period July 1, 2007 to December 31, 2008 (2007-2008 GRA).
2. On November 9, 2009, the Commission issued a Notice of Application in respect of this Application.
3. By letter dated December 9, 2009 the Commission established a schedule to process the above referenced application, including a request that all interveners provide their budget, setting out their projected costs of participating in this proceeding, in accordance with Appendix B of Rule 022, by December 22, 2009. The Commission also noted that Interveners may apply to the Commission for a ruling on advanced funds.
4. On December 22, the Commission received a request from Mr. Bob Stinn, President of the Monterra Home Owners Association (Monterra) requesting a two-month extension to provide the Commission with its budget, noting that he required additional time to retain legal counsel and to locate an engineering firm. The Commission granted an extension to the budget submission date to January 12, 2010.

2 APPLICATION FOR ADVANCE FUNDING

5. On January 12, 2010, the Commission received a letter from Ms. Rosa Twyman, counsel for Monterra, requesting an advance of funds pursuant to *Commission Rule 022: Rules on Intervener Costs in Utility Rate Proceedings* (Rule 22).
6. Monterra requested advance funding for legal assistance and expert fees. Monterra's budget for these services was as follows:

| | |
|--|-------------|
| • Legal Representation – Twyman Jamieson LLP | \$26,600.00 |
| • Expert Consultant – Associated Engineering | \$5,250.00 |
| TOTAL | \$31,840.00 |

7. Monterra also requested, pursuant to s. 7(1) of Rule 22 that the Commission advance 50 per cent of the anticipated legal and expert fees requested.

8. On January 15, 2010, the Commission issued a letter to parties, requesting Monterra provide additional information on the need for financial assistance no later than January 19, 2010, and also requesting any reply comments from RWSL no later than January 21, 2010.

9. On January 19, 2010, the Commission received a response from Monterra providing additional information regarding their need for advance funding. Monterra indicated that it does not have the financial ability to fund counsel and expert retainers to adequately prepare for the hearing, and that Monterra wished to make a meaningful contribution during the proceeding, and requested that their ability to do so should not be limited by financial concerns.

3 VIEWS OF REGIONAL WATER SERVICES LTD.

10. The Commission did not receive any comments in response to Monterra's request for advance funding from RWSL by the January 22, 2010 deadline.

4 COMMISSION FINDINGS

11. Section 3 and 7 of *Rule 022* states:

3(1) The Commission may award costs to an intervener who has, or represents a group of utility customers that have, a substantial interest in the subject matter of a hearing or other proceeding and who does not have the means to raise sufficient financial resources to enable the intervener to present its interest adequately in the hearing or other proceeding.

(2) An intervener may request an advance ruling on its eligibility for costs.

(3) An applicant is eligible to claim costs.

7(1) An eligible intervener in a hearing or other proceeding may, at any time before or during the hearing or other proceeding, make a request to the Commission for an advance of funds.

(2) An application for advance funding must include a budget in accordance with section (4) and include information substantiating the need for the advance of funds.

(3) If the Commission awards an advance of funds to an eligible intervener under this section, the Commission may issue an order directing the applicant to advance funds to the eligible intervener and set out the terms for repayment of the advance to the applicant by the eligible intervener if the Commission varies or denies costs on the claim for costs filed by the eligible intervener at the close of the hearing or other proceeding.

12. The Commission is satisfied that Monterra has demonstrated a need for financial assistance to address relevant issues in the hearing.

13. The categories of expected costs appear to be reasonable given the scope and nature of the application. The Commission also finds that Monterra's request for the Commission to advance 50 per cent of the requested legal and expert fees to be reasonable.

14. The Commission therefore approves advance funding of \$15,920.00 to be allocated as follows:

| | |
|--|-------------|
| • Legal Representation – Twyman Jamieson LLP | \$13,300.00 |
| • Expert Consultant – Associated Engineering | \$2,620.00 |
| TOTAL | \$15,920.00 |

15. The Commission notes that in the event Monterra is of the view that it should require further advance funding during course of this proceeding, section 7 of Rule 22 provides for such further opportunities. However, in granting this advance funding request, the Commission makes no determination respecting the value of any interveners' participation. Any intervener organization which accepts advance funding pursuant to this Order accepts the risk that if its final cost award relating to the proceedings is less than the amount of the advance funding advanced pursuant to this Order, it will be required to repay the difference.

16. The Commission notes that Monterra has not provided an anticipated hourly rate for expert consultant fees. In addition, the Commission also notes that the hourly rates for Ms. Twyman or other legal counsel will be assessed in accordance with the hourly rates provided under the Commission's *Scale of Costs*.

17. Although the Commission approves advance funding, Interveners are expected to conform to the Commission's *Scale of Costs* with respect all cost claims in this proceeding. The Commission will also consider the effectiveness of the participation, its relevance to the issues, and whether the costs of the participation were necessary and reasonable. In making its final cost award, the Commission will expect to be satisfied that all fees and disbursements claimed relate to the proceedings and conform to the *Scale of Costs* adopted by the Commission. In making this determination, the Commission will often decline cost awards to parties whose evidence was merely a duplication of evidence presented by other parties or if it finds unnecessary use of experts and/or counsel. In this regard, the Commission encourages parties to avoid areas for potential duplication of effort, and urges all interveners to consult with each other early in the process to share information and to avoid duplication of effort.

5 ORDER

IT IS HEREBY ORDERED:

1. Regional Water Services Ltd. shall pay advance intervener costs in the amount of \$15,920.00 to Monterra Home Owners Association (Monterra). Payment shall be made to Twyman Jamieson LLP, Attention Ms. Rosa Twyman at 2050, 645 – 7 Avenue SW, Calgary, Alberta, Canada T2P 4G8.

Dated in Calgary, Alberta on this 25th day of January, 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

N. Allen Maydonik, Q.C.
Panel Chair

(Original signed by)

Thomas McGee
Commissioner

(Original signed by)

Tutor Beattie
Commissioner