2018-2022 Performance-Based Regulation Plans for Alberta Electric and Gas Distribution Utilities

Costs Award

February 6, 2017
Alberta Utilities Commission
Decision 22082-D01-2017
2018-2022 Performance-Based Regulation Plans for Alberta Electric and Gas Distribution Utilities
Costs Award
Proceeding 22082

February 6, 2017

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1 Introduction

1. In this decision, the Alberta Utilities Commission considers an application (the costs claim application) by the Consumers’ Coalition of Alberta (CCA) related to approval and payment of its costs of participation in Proceeding 20414\(^1\) (the original proceeding), for the 2018-2022 performance-based regulation plans for gas and electric distribution utilities. The following table sets out the costs claimed and the amounts awarded:

<table>
<thead>
<tr>
<th>Claimant</th>
<th>Total Fees Claimed</th>
<th>Total Disbursements Claimed</th>
<th>Total GST Claimed</th>
<th>Total Amount Claimed</th>
<th>Total Fees Awarded</th>
<th>Total Disbursements Awarded</th>
<th>Total GST Awarded</th>
<th>Total Amount Awarded</th>
</tr>
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<tbody>
<tr>
<td>CCA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wachowich &amp; Company</td>
<td>$221,802.00</td>
<td>$12,957.50</td>
<td>$11,737.98</td>
<td>$246,497.48</td>
<td>$221,802.00</td>
<td>$12,957.50</td>
<td>$11,737.98</td>
<td>$246,497.48</td>
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<td>Regulatory Services Inc.</td>
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<td>$0.00</td>
<td>$12,345.75</td>
<td>$259,260.75</td>
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<td>Pacific Economics Group Research, LLC</td>
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<td>$0.00</td>
<td>$613,845.83</td>
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<tr>
<td>Total</td>
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<td>$16,484.58</td>
<td>$1,119,604.06</td>
<td>$1,119,604.06</td>
<td>$882,897.50</td>
<td>$16,192.42</td>
<td>$20,380.01</td>
<td>$919,469.93</td>
</tr>
</tbody>
</table>

2. The Commission has awarded reduced costs to the applicant for the reasons set out below.

3. Proceeding 20414 was convened by the Commission to establish the parameters to be included in the next generation of performance-based regulation plans, from 2018 to 2022, for four electric distribution utilities, ATCO Electric Ltd. (distribution), ENMAX Power Corporation (distribution), EPCOR Distribution & Transmission Inc. (distribution) and FortisAlberta Inc., and two gas distribution utilities, AltaGas Utilities Inc. and ATCO Gas and Pipelines Ltd. (distribution).

4. The original proceeding included several process steps related to: providing comments on a draft issues list and on the scope of the proceeding, filing and evaluating the PBR plan proposals, submitting information requests (IRs) and IR responses, filing evidence (including rebuttal evidence), an oral hearing, responding to undertakings and the filing of argument and reply argument. The close of record for the original proceeding was September 16, 2016 and the Commission issued Decision 20414-D01-2016\(^2\) on December 16, 2016. The decision addressed

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four main next generation PBR plan parameters, established in the Commission’s August 21, 2015 issues list. These parameters were:

(i) rebasing and the going-in rates for the next generation PBR term,

(ii) the X factor,

(iii) the treatment of capital additions, and

(iv) the calculation of the return on equity (ROE) for reopener purposes.

5. Except for these items, the Commission found that the parameters of the next generation plans would not be altered and “a complete review of the success of the existing PBR plans based on achieving all of the objectives for the plans as set out in Decision 2012-237 or a reconsideration of all elements of the plans,” would not be undertaken in the original proceeding.

6. Decision 2012-237 addressed the first generation performance-based regulation plans for the years 2013 to 2017 (first generation PBR), and applies to the gas and electric distribution utilities, except for ENMAX Power Corporation.

7. In the original proceeding, the CCA sponsored the evidence of Dr. Lowry of Pacific Economics Group Research LLC (PEG), which included PEG’s multi-factor productivity growth study, submissions on capital and its views on the issues in scope in the proceeding. PEG’s rebuttal evidence was written by Dr. Lowry and Mr. Hovde. The CCA also sponsored the evidence of Mr. Thygesen, who provided evidence on his proposal to move toward a pure I-X, capital matters, rebasing, earnings carry-over mechanisms (ECMs), reopeners, minimum filing requirements, timing of Phase II applications, the scope of the proceeding, and various other items proposed by specific utilities.

8. The CCA submitted its costs claim application on October 17, 2016, within the 30 day timeline permitted by the Commission’s rules. The Commission assigned Proceeding 22082 and Application 22082-A001 to the costs claim application.

9. No comments were filed with respect to the costs claim application and the Commission considers the close of record for this proceeding to be November 8, 2016, the deadline for filing comments.

2 Commission authority to award costs

10. The Commission’s authority to award costs for participation in a utility rates proceeding is found in Section 21 of the Alberta Utilities Commission Act. When considering a claim for costs for a utility rates proceeding, the Commission is also guided by the factors set out in Section 11 of AUC Rule 022: Rules on Costs in Utility Rate Proceedings (Rule 022). Appendix A of AUC Rule 022 prescribes a Scale of Costs applicable to all costs claimed. Section 11 of
Rule 022 establishes a discretionary test that requires the Commission to apply its judgement in determining if the costs claimed were directly and necessarily related to the proceeding and if the eligible participant acted responsibly and contributed to a better understanding of the issues before the Commission. As provided in Appendix C of Rule 022, the onus is on the eligible claimant to provide sufficient information for the Commission to assess a costs claim effectively and the claimant must address the specifics of the proceeding in order for the Commission to assess the merits of the costs claimed. In assessing the costs claimed, the Commission relies both on the costs applications and documents on the record in both the original proceeding and the costs proceeding.

11. The Commission considers that the general cost factors pointed out by Justice Côté of the Court of Appeal of Alberta in ATCO Gas and Pipelines Ltd v Alberta (Utilities Commission)\(^6\) provide guidance to the Commission on how the costs should be evaluated in generic proceedings. At paragraphs 138 and 139 of his concurring reasons for judgment, with respect to the application of Section 11 of Rule 022 by the Commission in assessing a costs application, he stated:

\[\text{…there is no reason to think that the respondent Commission is obliged to let anyone recover any unreasonable amount or degree of expenses incurred. No counsel before us suggested that the Commission should do that. It is doubtful that any such suggestion could be made, as the Commission’s R 022, s 11 expressly adopts a test of reasonableness. So does case law and Commission practice: see Phillips, Regulation of Public Utilities 245 ff (2d ed 1988); Troxel, Economics of Public Utilities 237 ff (1947).}\]

In my view, that test of reasonableness includes whether
- the work was done at all;
- the work done was excessive;
- the people chosen to do the work were too expensive (e.g. too senior);
- too many people were put to work; or
- the charges of those working (e.g. hourly rates) were too high.

12. The Commission has considered the Court of Appeal’s test of reasonableness and Rule 022 in the examination of the costs claimed for recovery.

3 Commission findings

3.1 Consumers’ Coalition of Alberta

13. The following table summarizes the CCA’s costs claim:

\(^6\) ATCO Gas and Pipelines Ltd. v Alberta (Utilities Commission), 2014 ABCA 397.
14. The Commission finds that the CCA acted responsibly in the original proceeding and contributed to the Commission’s understanding of the relevant issues. However, the Commission is unable to approve the full amount of the costs claimed in respect of the services performed by Regulatory Services Inc. and Pacific Economics Group Research LLC for the reasons set out below.

3.1.1 Wachowich & Company

15. The CCA was represented by Wachowich & Company in the original proceeding. The fees claimed by the CCA were for the legal services provided by Mr. Wachowich, senior counsel, and Ms. Gibbons, junior counsel. Counsel’s activities relate to reviewing Bulletin 2015-10, performing legal research, preparing correspondence, reviewing draft IRs and IR responses, reviewing evidence, preparing for and attending the hearing, and drafting argument and reply argument. In the application, the CCA stated that Wachowich & Company was retained to assist the CCA in the presentation of its intervention, cover areas of legal process and receive instructions from the client. Regarding the number and the duties of counsel, the CCA stated that it:

“…utilized its counsel to ensure that senior counsel efforts could focus on evidence, cross-examination and argument while junior counsel researched issues, compiled information and ensured drafts were effectively reviewed and vetted by the appropriate team member in preparation for upload.”

16. The hours claimed for Mr. Wachowich were 555.50 hours and the hours claimed for Ms. Gibbons were 171.00 hours, both of which included attendance at the oral hearing. The fees for Wachowich & Company include 4.10 hours for work performed by Mr. Riley, a research associate who provided direct assistance to Wachowich & Company. The hours claimed by Mr. Riley relate to verifying and entering data.

17. The Commission finds that the services performed by Wachowich & Company were directly and necessarily related to the CCA’s participation in the original proceeding, and that the fees and disbursements, which were claimed in accordance with the Scale of Costs for those services, are reasonable. Accordingly, the Commission approves the CCA’s claim for legal fees
for Wachowich & Company in the amount of $221,802.00, disbursements for transcripts of $12,957.50 and GST of $11,737.98 for a total of $246,497.48.

3.1.2 Regulatory Services Inc.

18. Regulatory Services Inc. was retained by the CCA to perform consulting services in the original proceeding. The fees claimed by the CCA for the general consulting services provided by Mr. Thygesen relate to 914.50 hours for: work with customer groups to develop customer positions with respect to the issues list, analyzing the utilities’ responses to Bulletin 2015-10, drafting parts of the reply to the issues list, developing evidence, drafting IRs and IR responses, reviewing IR responses, drafting rebuttal evidence, preparing cross-examination, preparing for and attending the hearing, and drafting argument and reply argument. The CCA stated that Mr. Thygesen had overall responsibility for the application until Dr. Lowry and PEG were retained in 2016.

19. While the services performed by Regulatory Services Inc. were, in general, directly and necessarily related to the CCA’s participation in the original proceeding, the Commission finds that the fees claimed for these services are unreasonable because the hours were excessive, a portion of the evidence submitted by the CCA focused on issues that did not contribute to a better understanding of the issues before the Commission, and there were activities that were duplicative between Regulatory Services Inc. and PEG.

20. The evidence of Regulatory Services Inc. began with an analysis of what had happened so far in the first PBR plan in order to set the stage for Regulatory Service Inc.’s analysis. At the outset of the proceeding, the Commission had specifically omitted a wholesale review of the first PBR term from the scope of the proceeding. The Commission recognized that attempts to assess the success of the first PBR term before it was complete would not be helpful since such assessments could lead to incomplete or misleading analysis. The Commission recognizes that some analysis of the information from the first PBR term could be useful but the Commission continues to believe that it will be necessary to wait until the end of the PBR term to make a full analysis of the first PBR term.

21. In the case of Regulatory Services Inc., its analysis was incomplete in two important ways. First, it was overly focussed on rates of return on equity. In this case, Regulatory Services Inc. equated high rates of return, or what it termed overearning, with rates of return that are higher than the allowed rate of return, which is determined using a rate base rate of return standard. It is possible that rates of return could be high while customer rates are low or at least no higher than they would have been. No analysis of this possibility was undertaken and indeed it cannot be undertaken until the PBR term has been completed. But it should not be ignored.

22. Second, Regulatory Services Inc. concluded early in its evidence that the reason for the high rates of return, or what it termed overearning, was the existence of capital trackers the way the Commission had implemented them. No other possibility was canvassed. This is important

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9 Mr. Thygesen confirmed in cross-examination that he has not published any papers on other forms of utility-incentive regulation. He confirmed that his regulatory experience was related to participation in previous formula-based regulation and performance-based regulation proceedings in Alberta. Mr. Thygesen’s responses are found at Transcript Volume 10, page 1895, lines 4 to 13 (Mr. Thygesen’s responses to counsel for ATCO Gas and ATCO Electric) and Transcript, Volume 10, page 1945, lines 7 to 16 (Mr. Thygesen’s responses to counsel for ENMAX).
because the UCA had identified that the going-in rates of ENMAX, under its FBR plan, had been set too low and that, if the going in rates had been set at the “right” level before ENMAX entered its FBR term, then ENMAX would not have needed capital trackers, as ENMAX was claiming in the original proceeding. The Commission had raised this issue with ENMAX in an earlier proceeding at which both the UCA and Regulatory Services Inc.’s client, the CCA, were present and participating. The crucial relationship between going-in rates and the outcomes of a PBR plan, especially as they relate to the provision of supplemental capital, should have been apparent to both the CCA and to Regulatory Services Inc. and yet, Regulatory Services Inc. did not analyse the relationship between going-in rates and the need for capital trackers in the PBR plan, as part of its evidence. A discussion of different conclusions about the causes of high rates of return would have been helpful for the Commission. Nevertheless, the failure of Regulatory Services Inc. to consider all of the elements of the PBR plan led to its analysis being incomplete and some of its conclusions and recommendations unreliable.

23. The Commission also considers that certain portions of Regulatory Services Inc.’s evidence and rebuttal evidence did not contribute to a better understanding of the issues before the Commission in the proceeding, as required by Section 11.1(b) of Rule 022. The Commission did not find the portion of evidence on supplemental capital funding, which referred to the Handy-Whitman index and the discussion of depreciation and the analogy for granting of supplemental capital funding under the current capital tracker mechanism operates as a call and put option, helpful.

24. The rebuttal evidence related to Rule 005 provides a further example of unhelpful information. Although the Commission accepted the result of the recommendation of Rule 005, Regulatory Services Inc.’s evidence primarily provided a summary of the information of the record of the proceeding, which did not, ultimately, contribute to a better understanding of the issues before the Commission. Similarly, the rebuttal evidence related to processes for information access related to hearings in other jurisdictions and was not relevant to the issues list.

25. In addition, the tasks described for preparation time demonstrate that there was duplication amongst the work performed by Regulatory Services Inc. and PEG. Section 11.2 of Rule 022 states:

In determining the amount of costs to be awarded to an eligible participant, the Commission may consider whether the eligible participant did one or more of the following:

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For example, see Exhibit 20414-X0632, the UCA’s reply argument, paragraph 56.


Exhibit 20414-X0084, Regulatory Services Inc.’s evidence, Section 3.2.2, which in part discusses Handy-Whitman index in respect to capital assets and Section 9, “Handy-Whitman as an index for capital.”

Exhibit 20414-X0084, Regulatory Services Inc.’s evidence, Section 7.1.1, “Utilities have been granted priceless call and put options.”

Exhibit 20414-X0084, Regulatory Services Inc.’s evidence, Section 5.1, “Rule 005.”

Exhibit 20414-X0084, Regulatory Services Inc.’s evidence, Section 5.3, “Other provinces are opening up information.”
(c) Made reasonable efforts to cooperate with other parties to reduce the duplication of evidence and questions or to combine its submission with that of similarly interested participants.

26. The Commission generally accepts that it is reasonable to expect that more than one consultant for a single party may be required to make submissions with respect to the same issue in a particular proceeding where approaches may diverge and both approaches are supported by the party. However, consultants should make reasonable efforts to minimize overlap given costs are generally paid by customers. In general, separate tasks were performed by each CCA consultant but there does appear to be some duplication between the work undertaken by Regulatory Services Inc. and PEG. The Commission has accounted for this duplication in each of Regulatory Services Inc. and PEG’s costs awards. This duplication is most evident in the IR response matrix provided by the CCA at Exhibit 20414-X0471,\(^\text{16}\) where both consultants commented on each of the nineteen IRs in a 91 page matrix. The CCA costs claim application did not provide sufficient justification for both consultants to review and comment on each of the IRs given their different responsibilities. Responses could have been allocated between the consultants, avoiding unnecessary duplication and expense to customers, while at the same time advancing the CCA’s intervention. Further, the submitted invoices and timesheets do not offer sufficient explanation that would allow the Commission to adjudicate this duplication of tasks in responding to IRs. For future proceedings, the Commission expects the CCA to provide the responses in the standard IR template used by the Commission instead of the IR matrix compiled by the CCA in the original proceeding. The matrix format provided made the document less user-friendly and it was difficult to compare responses of an individual consultant between IRs.

27. The Commission has reviewed the timesheets provided and finds that some of the hours claimed by Mr. Thygesen for preparation to be excessive given the nature of the proceeding and the activities described in the timesheets. For example: there were 47.25 hours claimed for preparation of comments and reply comments on the issues list, which were filed as a joint submission of interveners in the early stages of the proceeding. Mr. Thygesen also claimed 132.50 hours for the preparation of evidence, which was 71 pages long and 70.75 hours\(^\text{17}\) for preparation of rebuttal evidence, which was 29 pages long. While the time spent preparing evidence would involve review of other information on the file, the hours spent on rebuttal evidence were higher than expected given the issues addressed in rebuttal evidence.

28. For these reasons, the Commission finds that the total number of hours claimed is not reasonable for the tasks performed by Regulatory Services Inc. and finds that central portions of its analysis were incomplete and unreliable and did not contribute to a better understanding of the issues before the Commission. The Commission reduces Regulatory Services Inc. costs by 30 per cent. Accordingly, the Commission approves the CCA’s claim for consulting fees for Regulatory Services Inc. in the amount of $172,840.50 and GST of $8,642.03 for a total of $181,482.53.

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\(^{16}\) Exhibit 20414-X0471, the CCA’s IR response matrix, “20414 June 3 2016 IR AUC to all – CCA response matrix,” June 3, 2016.

\(^{17}\) Some of these hours also related to review of information responses.
3.1.3 Pacific Economics Group Research LLC

29. PEG was retained by the CCA to perform expert consulting services in the original proceeding in early 2016. The fees claimed by the CCA for PEG consulting services were provided by six consultants. The CCA described the scope of work for PEG, as follows:

Dr. Mark Newton Lowry and his PEG colleagues were retained to provide analysis, testimony, and support for the CCA’s cross examination and argument. They focused on three issues: the X factor, provisions for supplemental capital revenue, and the efficiency carryover mechanism.  

30. Dr. Lowry, Mr. Hovde, Ms. Rebane, Mr. Verbny and Mr. Fourakis are economists and Mr. Makos is a consultant with a business degree. The 3,232.50 hours of work performed by PEG relate to authoring a report entitled, “Next Generation PBR for Alberta Energy Distributors,” performing original numerical analysis from a proprietary data set on multi-factor productivity, conducting data analysis related to capital, O&M and multi-factor productivity of US power distributors, reviewing publications, analysing the need for capital trackers in a boom and bust economy such as Alberta’s economy, preparing evidence and rebuttal evidence, drafting IRs and IR responses, preparing for and attending the oral hearing, assisting with the CCA’s cross-examination, transcript review, and drafting of argument and reply argument.

31. The original cost estimate for these services was expected to be $435,744. The difference in the estimated cost and final cost of $613,845 was mostly attributed to information requests, but also due to an increase in the time required to prepare argument and reply argument. The CCA noted that PEG uses lower billing rates for its consultants than do other experts in similar regulatory proceedings.

32. The fees for PEG also included 200.75 hours for work performed by Ms. Gretchen Waschbusch for administrative assistance.

33. While the Commission finds that the consulting services performed by PEG were generally directly and necessarily related to the CCA’s participation in the original proceeding, the Commission finds that the fees claimed for these services were unreasonable for the reasons set out below.

34. The Commission considers that the 361.50 hours related to research and preparation by Mr. Fourakis, Mr. Makos and Mr. Verbny were excessive. Numerous hours were incurred with respect to the following activities: background research, review of case law, review of other jurisdictions approaches to depreciation studies and to “regulatory capture” and “artful accounting” in accounting test results, review of Regulatory Services Inc. testimony, reviewing transcripts of previous Commission proceedings. This is especially true, since PEG has

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18 Exhibit 22082-X0006, the CCA’s costs submission letter, paragraph 36.
20 Exhibit 22082-X0006, the CCA’s costs submission letter, paragraph 38, which states, “PG originally estimated the cost of this project to be CAD 435,744. The cost of the direct evidence was similar to their forecast (CAD 186,922 actual vs. CAD 188,069 forecasted). The final invoice was higher chiefly due to information requests (CAD 206,389 vs 80,800) and argument and reply (CAD 68,793 vs. 22,250). These tasks were not subject to fixed charges under PEG’s proposal.”
21 Exhibit 22082-X0006, the CCA’s costs submission letter, paragraph 37.
22 Exhibit 22082-X0006, the CCA’s costs submission letter, paragraph 40.
participated in both the first generation PBR proceeding and the Commission’s capital trackers proceeding. In addition to performing a review of the documents on the record, these individuals spent approximately 300 hours at various stages of the proceeding for general research and research on the topics referred to in this paragraph. The Commission does not consider that all of the hours incurred are directly and necessarily related to the proceeding and, consequently, not all those hours led to outcomes that contributed to a better understanding of the issues before the Commission.

35. The Commission also considers that there were certain areas of evidence that did not contribute to the Commission’s understanding of the issues or was of limited assistance because the supporting information was not provided. Examples include the evidence related to review and summary of the first generation PBR proceeding23 and “regulatory capture.”24 The latter issue was not within the scope of the issues identified on the issues list but nevertheless resulted in cross-examination in the hearing and regulatory delay.25

36. Another example is related to PEG’s evidence Table 2, “Summary of Corrections and Modifications to NERA/Brattle/LRCA Productivity Calculations,” found in Pacific Economics Group’s rebuttal evidence.26 Table 2 shows the steps in reconciling PEG’s and NERA-based studies, which effectively resulted in Dr. Lowry’s reproduction of the Brattle Group and Dr. Meitzen studies27 on the record of the original proceeding. Mr. Hovde’s timesheets reflect 42.50 hours and Mr. Makos’ timesheets reflect 33.25 hours incurred specifically related to the working papers that underpin Table 2.

37. These papers were not provided on the record28 to support the Table 2 calculations. Because working papers were not provided, the Commission and parties were unable to test the veracity of the numbers in Table 2 and the Commission was not able to assess the probative value of the information provided. While generally PEG’s evidence was of assistance to the Commission, this specific information in Table 2 did not contribute to a better understanding of the total factor productivity to be used in determining X. Accordingly, the Commission cannot approve the hours related to the preparation of Table 2, the corresponding narrative to Table 2, and the associated working papers.

38. PEG’s rebuttal evidence was originally filed in a state that was not user-friendly or easily understandable, because the charts and tables were filed as a separate exhibit.29 The Commission also considers that the 585.00 hours for preparation of the report is excessive and the use of all six consultants on this report would have resulted in some duplication between the work and research undertaken by the consultants to prepare the report. In addition, a consolidated version

23 Exhibit 20414-X0082, PEG’s evidence, pages 2-9.
24 Exhibit 20414-X0082, PEG’s evidence, page 24.
25 Transcript, Volume 10, ATCO counsel cross-examination of Dr. Lowry at pages 1896 to 1908, ENMAX counsel cross-examination of Dr. Lowry at 1956-1959; and Transcript, Volume 11, ATCO counsel cross-examination of Dr. Lowry at pages 2254-2255.
26 Exhibit 20414-X0468 PEG’s rebuttal evidence (errata), Table 12, page 16, and the corresponding narrative at pages 15 and 17.
27 National Economics Research Associates Inc., the Commission retained consulting firm, who prepared a total factor productivity study for testing in the first generation PBR proceeding.
28 Exhibit 20414-X0630, the CCA’s argument, paragraph 202.
29 Exhibit 20414-X0408, PEG’s rebuttal evidence and Exhibit 20414-X0409, PEG’s rebuttal evidence tables. Both documents were filed on May 27, 2016.
of the rebuttal evidence, which also corrected for errors, was refiled on June 22, 2016, which further added to the consultant time incurred.  

39. Dr. Lowry’s March 2016, June 2016, July 2016 timesheets and Ms. Waschbusch’s timesheets in June 2016 and October 2016 include 10.50 hours spent for “Project administration” and “assisting with invoicing.” These costs are not sufficiently described to explain what activities resulted in these administration costs. Further, invoicing costs are not ordinarily recoverable because they are not directly and necessarily related to the original proceeding under Section 11.1 of Rule 022.

40. Further, as noted above with respect to Regulatory Services Inc., although, in general, separate tasks were performed by each CCA consultant, there appears to be some duplication between the work undertaken by Regulatory Services Inc. and PEG. This duplication is most evident in the IR response matrix provided by the CCA at Exhibit 20414-X0471, where both consultants commented on each of the nineteen IRs in the 91 page matrix. The CCA costs claim application did not explain the need for both consultants to review and comment on each of the IRs given their different responsibilities.

41. As a result, the Commission finds that the total number of hours claimed is not reasonable for the tasks performed by PEG. For all of these reasons, the Commission reduces PEG’s costs by 20 per cent.

42. With the exception of accommodation costs, the Commission also finds that the fees and disbursements, which were claimed in accordance with the Scale of Costs for those services, are reasonable. Accommodation costs for the four days of hearing attendance have been adjusted to reflect the maximum amount allowable under the Scale of Costs, which is $140.00 per day, plus applicable taxes. The accommodation costs have been reduced from $920.88 to $628.72 in accordance with the Scale of Costs.

43. Accordingly, the Commission approves the CCA’s claim for consulting fees for PEG in the amount of $488,255.00 and disbursements of $3,234.92 for a total of $491,489.92.

**Total costs awarded**

44. Accordingly, the Commission approves the CCA’s claim for recovery costs in the total amount of $919,469.93. This amount is composed of legal fees of $221,802.00, consulting fees of $661,095.50, disbursements of $16,192.42 and GST of $20,380.01.

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30 Exhibit 20414-X0468 PEG’s rebuttal (errata) and Exhibit 20414-X0469 PEG’s reply evidence (errata) – redline version. Both documents were filed on June 22, 2016.

31 Exhibit 22082-X0004, pages 77-82.

32 Exhibit 20414-X0471, the CCA’s IR response matrix, “20414 June 3 2016 IR AUC to all – CCA response matrix,” June 3, 2016.

33 These costs were calculated as: $140.00 per day plus taxes ($140 plus $4.20 for a destination marketing fee of 3%, $5.77 for tourism levy of 4%, and $7.21 for GST), resulting in a daily amount of $157.18.

34 In Appendix A of Decision 22082-D01-2017, the final award amount is $919,469.96. The final amount in the appendix shows a three cent difference due to rounding.
4  Future costs claims

In Decision 21747-D01-2017, issued on January 30, 2017, the Commission directed the CCA to include a letter, in all future costs applications, that provides the following information. The CCA is reminded to include this directed letter in applications submitted after January 30, 2017.

Therefore, to ensure transparency regarding the CCA’s participation and eligibility to recover costs in future Commission proceedings, the Commission directs the CCA to enclose a letter, in all future costs claim applications, confirming that it has retained the services of external legal counsel and external consultants to assist in its participation with respect to a particular proceeding. The letter must clearly indicate: a) the name of the legal counsel and the consultants retained; b) the subject matter to be covered by each of the consultants; c) whether the consultants received instructions directly from the CCA’s representatives or from legal counsel; and d) whether the instructions provided were followed by counsel and the consultants to the CCA’s satisfaction, including any instructions on how common costs of participating in intervener coalitions should be apportioned.

5  Allocation of costs

No submissions were provided on the proposed allocation of costs approved for the CCA. The CCA was the only intervener group eligible to claim costs under Rule 022 in respect of the original proceeding. The CCA’s participation addressed matters of general application to all of the utilities who participated actively in the original proceeding.

Accordingly, the Commission has determined that each of the following entities will bear the costs in accordance with the allocation methodology approved in Decision 2011-365 and in Decision 2013-051. The 2011 revenue requirements of each of the utilities from AUC Rule 005: Annual Reporting Requirements of Financial and Operational Results were used for the allocation of costs in those decisions. The Commission considers that the revenue requirements for 2015 should be used for the purpose of this decision, because the 2011 revenue requirement information is outdated. The 2015 Rule 005 revenue requirements for individual electric and gas distribution utilities are found on the Commission website.

36 Decision 21747-D01-2017, paragraph 50.
38 Decision 2013-051, paragraph 128.
48. Consistent with the previous methodology approved in Decision 2011-365, 25 per cent of the CCA’s costs will be allocated on an equal basis and 75 per cent based on revenue requirement. The CCA’s costs will be allocated and recovered from each of the PBR utilities listed below:

- AltaGas Utilities Inc.
- ATCO Electric Ltd. (distribution)
- ATCO Gas and Pipelines Ltd. (distribution)
- ENMAX Power Corporation (distribution)
- EPCOR Distribution & Transmission Inc. (distribution)
- FortisAlberta Inc.

49. Appendix A to this decision provides the derivation of the amounts to be paid by each utility. The recovery of the costs is to be recorded in each utility’s hearing cost reserve account.

6 Order

50. It is hereby ordered that:

1) AltaGas Utilities Inc. shall pay intervener costs to the CCA in the amount of $53,482.50.

2) AltaGas Utilities Inc. shall record in its Deferred Regulatory Costs (Hearing) Account the approved intervener amounts of $53,482.50.

3) ATCO Electric Ltd. (distribution) shall pay intervener costs to the CCA in the amount of $230,710.34.

4) ATCO Electric Ltd. (distribution) shall record in its Intervener Hearing Costs Account the approved intervener amounts of $230,710.34.

5) ATCO Gas and Pipelines Ltd. (distribution) shall pay intervener costs to the CCA in the amount of $215,194.28.

6) ATCO Gas and Pipelines Ltd. (distribution) shall record in its Deferred AUC and Intervener Costs Account the approved intervener amounts of $215,194.28.

7) ENMAX Power Corporation (distribution) shall pay intervener costs to the CCA in the amount of $112,374.55.

8) ENMAX Power Corporation (distribution) shall record in its Hearing Cost Reserve Account approved intervener amounts of $112,374.55.

9) EPCOR Distribution & Transmission Inc. (distribution) shall pay intervener costs to the CCA in the amount of $136,372.72.
10) EPCOR Distribution & Transmission Inc. (distribution) shall record in its Hearing Costs Reserve Account approved intervener amounts of $136,372.72.

11) FortisAlberta Inc. shall pay intervener costs to the CCA in the amount of $171,335.56.

12) FortisAlberta Inc. shall record in its Hearing Cost Reserve Account approved intervener amounts of $171,335.56.

Dated on February 6, 2017.

Alberta Utilities Commission

(original signed by)

Willie Grieve, QC
Panel Chair

(original signed by)

Henry van Egteren
Commission Member

(original signed by)

Neil Jamieson
Commission Member
### 2018-2022 Performance-Based Regulation Plans for Alberta Electric and Gas Distribution Utilities

**Costs Award**

**Proceeding 22082**

**Appendix A**

**CCA Costs Allocation**

<table>
<thead>
<tr>
<th></th>
<th>AltaGas Utilities Inc. (a)</th>
<th>ATCO Electric Ltd. (b)</th>
<th>ATCO Gas &amp; Pipelines Ltd. (c)</th>
<th>ENMAX Power Corporation (d)</th>
<th>EPCOR Distribution &amp; Transmission Inc. (e)</th>
<th>FortisAlberta Inc. (f)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2015 Revenue Requirement</strong></td>
<td>$64,300,000.00</td>
<td>$814,300,000.00</td>
<td>$748,500,000.00</td>
<td>$313,500,000.00</td>
<td>$414,900,000.00</td>
<td>$563,000,000.00</td>
<td>$2,918,500,000.00</td>
</tr>
<tr>
<td><strong>% of Revenue Requirement</strong></td>
<td>2.20%</td>
<td>27.90%</td>
<td>25.65%</td>
<td>10.74%</td>
<td>14.22%</td>
<td>19.29%</td>
<td>100%</td>
</tr>
<tr>
<td>Consumers' Coalition of Alberta 75% Costs Allocation</td>
<td>$15,171.25</td>
<td>$192,399.09</td>
<td>$176,883.03</td>
<td>$74,063.30</td>
<td>$98,061.47</td>
<td>$133,024.31</td>
<td>$689,602.46</td>
</tr>
<tr>
<td>Consumers' Coalition of Alberta 25% Costs Allocation</td>
<td>$38,311.25</td>
<td>$38,311.25</td>
<td>$38,311.25</td>
<td>$38,311.25</td>
<td>$38,311.25</td>
<td>$38,311.25</td>
<td>$229,867.50</td>
</tr>
<tr>
<td><strong>Total Amount Awarded</strong></td>
<td>$53,482.50</td>
<td>$230,710.34</td>
<td>$215,194.28</td>
<td>$112,374.55</td>
<td>$136,372.72</td>
<td>$171,335.56</td>
<td>$919,469.96</td>
</tr>
<tr>
<td><strong>TOTAL PAYABLE</strong></td>
<td>$53,482.50</td>
<td>$230,710.34</td>
<td>$215,194.28</td>
<td>$112,374.55</td>
<td>$136,372.72</td>
<td>$171,335.56</td>
<td>$919,469.96</td>
</tr>
</tbody>
</table>

*In paragraph 44 of Decision 22082-D01-2017, the final award amount is $919,469.93. The final amount in this table shows a three cent difference due to rounding.*