

Hearing Cost Review Meeting
Edmonton, Alberta
May 20, 2008

Attendance

Commission Staff

Tom McGee (Chairman)
Bill Lyttle
Al Maydonik
Doug Larder
Derrick Ploof
Mike Hagan
Jim Law

Facilitator

Dr. Bill Taylor

Interveners

Rick Cowburn (UCA)
Merv Rockel (UCA)
Doug Evanchuk (Calgary)
Colette Kearl (ADC)
Jagdev Sohi (ADC)
Bill Follett (Edmonton)
Greg Garbutt (GasAlberta/MGCI)
Joe Anglin (LaVesta/UPTAG)
Luke Kurata
Nancy McKenzie (PICA)
Pam MacNaughton (C.A.R.E.A.)
Jim Wachowich (CCA)
Jeff Jodoin (CCA)
Wendy Armstrong (CCA)
Ewa Kultys (DOE)
Jennifer Coleman (AUI)
Jim Beckett (ATCO Utilities)
Mike Gillis (ATCO Utilities)
Tom Marritt (GasAlberta)
David Symon (GasAlberta)
Keith Dannacker (GasAlberta)
AO Ackroyd

Opening Remarks (Tom McGee)

- On January 2, 2008 the Commission adopted Rule 022 on Intervener Costs to replace Directive 31B.
- On March 20, 2008 the Commission released Bulletin 2008 -01 stating that there would be undertaking of Rule 022, with changes to be implemented on or before June 30, 2008.
- Issues that the Commission would be seeking comments on are as follows:
 - Role of Utilities Consumer Advocate (UCA)
 - Business Interest Rule
 - Budgets
 - Scale of Costs
 - Costs of Negotiated Settlements
 - Proceedings without cost recovery
 - Cost Officer
 - Other Comments Interveners wish to bring to the Commission attention.
- On May 11, 2008 the Commission released Bulletin 2008-05 indicating to interested parties that meetings would be held in both Edmonton and Calgary as the next step in the review process.
- The Commission had reviewed the comments submitted, created a matrix of these comments, and had asked that interested parties come prepared to discuss the following issues:
 - Purpose of intervener cost awards
 - Role of UCA
 - Business Interest Rule
 - Costs Officer.

Facilitator

- Will be facilitating the meeting as he is an outsider to the Commission, as well as the Interveners, and has no conflict of interest with the two.
- Set out structure of the meeting with the direction from the Commission Members that the meeting should be an opened with no restrictions – just to stay on topic.
- Will look at this process in two broad chunks during the meeting:
 1. Each of intervener (one representative from each organization) should identify the key issues that they want to bring to the attention of the Commission.
 2. Discussion of issues outlined in Bulletin 2008-05.

Concerns about two UCA Members not in attendance

- Concern that 50% of the discussion that will be taking place will be targeted around the Role of the UCA; however two of the key Members of UCA are not here (David Gray and Ron Henderson). Will important questions that need answers be answered here today or will they be relayed back to these Members?

- Rick and Merv are in attendance to represent the UCA and to answer or address any questions and comments that other interveners may have. If there are matters that need to be taken back to David and Ron, that will be done. They could not attend the meetings as they are both out of the country.
- Did the Commission know that there would be discussion around the role of the UCA without the key members of the UCA being present?
- Commission were aware that both David and Ron would not be in attendance, however there are still two representatives of the UCA in attendance who can answer or address questions or comments.
- UCA Members were invited and it is out of the Commission's control as to who attends on its behalf.

Minutes

- Question as to whether minutes would be taken, and if so who would be seeing them.
- Input being seen by the Commission and its Members will allow parties to see that they are being heard.
- May be a possible risk if notes are circulated of parties being "shy" in saying what they want to say during the discussions.
- However it is important to capture the content and main points that are being made throughout the meeting.
- Notes will be taken just to capture some of the issues that were not obvious in the written submissions.
- The notes will go to the parties who are in attendance as well as the Commission Members.
- Consensus of Commission staff to post the notes on the external website.

Next Step after Meetings

- Commission Members will come together and discuss how they might approach the next steps and mission, vision and values, as well as some of the issues that they are facing. Costs will be a part of that discussion.
- Draft rules will then be prepared and sent out to interested parties for comments.
- Commission will then respond to these comments and effective June 30, 2008 the final rule will be made.

Comments to be filed after meetings

- Parties wished to reserve the right to file comments to the Commission after the meetings in a written form within the next week.
- No problem to file comments, may take some time if everyone wants to submit comments.
- Comments should be brief and submitted in a timely fashion to be on the record.
- Comments are welcomed and there would be no set lines as to what the Commission will do here, but the submissions will be read if received by the 28th of May.

Identification of Key Issues from Interveners

UCA

- In substance, the UCA agrees with the structure of the Commission's letter of May 11, 2008.
- Role and involvement of the UCA in the process and the cost recovery for other parties should be approved.

Ackroyd

- In 1989 Utilities Board conducted a report dealing specifically with costs. It is interesting to note that the responses from this review of Rule 022 do not vary in much degree to the responses that there were 20 years ago.
- One feature that is not in the 1989 report deals with the UCA (which was not alive at that point). The UCA is a democratic works, which does not add or subtract from what has been.
- Section 60 of PUB act gave the Board the authority to deal with the Intervener costs and what we are discussing here is that we are tweaking the functions that were in place 20 years ago.
- Concerned that we are creating a huge regulatory bureaucracy that is not adding any great additional criteria. Commission by legislation is armed by everything we need.

ADC

- Want a process that where interveners work together to avoid duplication.
- Some may or may not participate because of intervener costs.
- It is necessary to recover costs and the Commission should look at the quality of the intervener's intervention when reviewing the costs.

Edmonton

- Of the view that the Commission has to recognize the value of contribution. This may put a burden on the Commission, but it is necessary.
- With regards to the UCA, Edmonton has problems seeing how they resolve internal conflicts and is not clear on how that is supposed to work
- Do think there is role for UCA, but not clear it can replace interveners that they seem to be targeting to replace.
- Are not satisfied with a number of issues but that could change.

GasAlberta

- Concerned with the UCA-how can they represent all business customers before the Commission because some groups do not always have the same interests
- Other groups may have developed expertise or a body of knowledge that the UCA has not, therefore these other groups would be better to represent, depending on the expertise needed in the particular case.
- All legitimate interveners should be given an opportunity to recovery their costs.

PICA

- Apologies for members that could not make it to the meeting because of unforeseen reasons.
- Primarily comments, as stated in April 15th submission, is that PICA see that there is always room to look at new efficiencies and processes.
- Important to consider other aspects of the regulatory process when considering on improving efficiencies and minimizing overall costs.
- Any efforts to look at improving the rules of concepts should be done in a broader view
- Encourages the Commission to have a round table discussion with all stakeholders to improve the process. This would be beneficial because a lot of ideas from different parties, as well as feedback would provide a more useful and broader context for the Commission to draw conclusions from.
- Have some problems with the current role and operation of the UCA and duplication.
- Feels it is difficult for the Commission to have any type of control and direction over a body that has no accountability to it. There is nothing that the Commission can do if UCA wants to, for example, put 15 people on a panel and spend two million dollars on an application.
- There is no direct accountability to Commission and it is hard to understand how the Commission will have those organizations work effectively.
- Hopefully there will be a change in the operations in the future due to the Commissions letter of May 11.
- Did try to comment on other issues listed and feel that there should be a continuation of groups, especially when it provides a benefit to the Commission.

C.A.R.E.A.

- Message is that they simply cannot be forced to be represented by an entity (UCA) who has ignored their detailed requests since 2004 and that does not have their interests in mind.
- Problem is not duplication of efforts between the UCA and others; the problem is not being represented at all.
- Question to UCA asking when specifically (date) that David Gray or the Office of UCA will communicate with CAREA.

CCA

- Sees value to advancing public interest at large and allow regulator to hear many voices that are out there and provide compensation for the expertise that is required to have those voices in the room.
- Customer groups who choose to intervene do have a specific interest. Concerned with the Commission's language that seems to suggest that it has to be a surrogate to its clients. CCA submits its constituent clients are aware of what it does or does not do in the hearings.
- Commission has to treat all legitimate interveners equally.

- With regards to the business interest rule, Commission needs to be cautious and the business rule should be invoked if really necessary. Guidelines should be set out, but some flexibility should be retained.
- With regards to the Cost Officer, CCA found it helpful and would like to have an established protocol.

AltaGas

- Cost recovery guideline should apply and be the same for everyone.
- UCA should be not be treated any differently than other interveners
- All parties, including the UCA, should submit budgets.
- Would find it helpful if the UCA were to submit budgets.
- Not discussing the Business Interest Rule as it is in the written submissions.
- With regards to the Cost Officer, AltaGas would like to know who would be involved in reviewing the costs if there is no cost officer.
- Need a better understanding of the process that will be used to review cost claims.
- With regards to the Scale of Costs, there was a question as to whether there has been any update on the review of the Scale.

ATCO Utilities

- Purpose of intervener costs - it is important for the Commission to describe the purpose of allowing intervener costs. Commission did so in its May 11th letter, however there are still issues:
 - Cost recovery has eroded to below the representation that is provided.
 - Cost recovery is still limited
- Commission has chosen to apply cost scale to applicants - not allowed to recover market value of services.
- Should a % recovery be allowed to interveners?
- With regards to the role of the UCA, ATCO feels the Commission should look more closely at other interveners because the UCA are allowed to do whatever they want regardless of the costs incurred.
- Business Interest Rule - there is a problem with generic proceedings. Costs are legitimate here and all participants should be entitled to recover costs.
- When a utility is obligate to represent themselves in cases where there may be an impact on their regulatory environment, costs should be awarded in full.

GasAlberta Inc.

- Purpose of intervener cost awards is to give assistance to Commission so it can set just and reasonable rates and ensure safe and reliable service
- Any attempt to limit or do away with cost recovery for legitimate interveners who have been there is not fair to participants.
- If no cost recovery, then customers that participate must pay their own costs and pay again in their rates for those customers who are eligible for cost recovery, this is unfair.

- With regards to the UCA, GasAlberta submits that the UCA is government created and has played a role in a couple of ways in attempting to coordinate efforts on behalf of interveners.
- All legitimated interveners should be given the opportunity to recovery costs.
- With regards to the business interest rule, comments made in Bulletin 2008-05 about the rule were hard to understand. Specifically the following: "The Commission is of the view that the proposed changes to the business interest rule will apply in future proceedings to all interveners."
- What changes are being referred to here?
- Also goes on to say "Representative of a small customer class may be eligible for costs as it does not have the mean to raise revenue to fund its participation." Does the Commission think everyone is there to advance their own interest?
- GasAlberta's view is that if this is the case than funding ought to be available.
- If intervention is for the interest then the customers get fair rates and the cost recovery process should be there.
- With regards to the cost officer, process of communication should be there.
- Scale of Costs - has been in place since 1991 with increase of only \$25 for the hourly rate allowed for legal and consulting fees. The Scale has not kept up with the market and interveners do not get full recovery or they have to find representation at a lower rate.
- Need to put interveners on a level playing field
- Directly wants to know what the Commission's view of GasAlberta is and if they are eligible for a cost recovery. There seems to be a misperception of client involvement on Commission's part.

Commission Staff to GasAlberta

- Who is eligible for a cost recovery is in the process of being looked at by the Commission and its six new Members; no decision has been made on amendments to the business interest rule and its application to parties.

Scale of Costs

CCA

- \$250 was the cap on hourly rates in 1991, which would be approximately \$363 today. 2% inflation a year, which should be revisited by the Commission by now.
- Error noted \$225.00 was the cap in 1990 so that would be \$330.00 in 2008.

PICA

- If there will be a lower reimbursement of costs, there will be no point in revising the Scale of Costs. The double edged nature of the revision must be noted as an increase in the scale will result in an increase in intervener and regulatory costs and may reignite previously expressed concerns about the costs of regulation. If that pressure than leads to cost disallowances, where is the benefit?

ATCO Utilities

- It is not clear which approach the Commission is taking on the Scale of Costs. Interveners are being paid a percentage of costs; so is applicant but applicant is entitled to recover all its prudently incurred costs. Asking the Commission to clarify how they will handle this issue because it is not clear.

GasAlberta

- In 2001 it was clear that the Board's intention was to provide enough money for interveners to get appropriate representation.

ATCO Utilities

- It is the Commission's decision as to whether the costs incurred will be covered or not. The Commission needs to set straight on which approach is being used.
- What is the commission intent around funding the costs of intervention using customers' money?

CCA

- Hearing Costs Reserve was established as a mechanism that was customer money. The truth is its customers' money and yes the Commission is the one with the jurisdiction.

Facilitator

- Good time to break.
 - When we come back we can focus of the primary issues of each individual point listed in Bulletin 2008-05 and exchange comments and responses on the UCA
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1. Bulletin 2008-05 Page 2 under Heading 1.

Purpose of Intervener Cost Awards

"For those customer representatives, their client is not in the room and cannot judge whether the intervention was meaningful and whether it was worth the cost. It falls to the Commission to step into the shoes of the large and diverse set of customers to make those judgments. Because there is a broad range of interests to be considered and the Commission must balance those interests as part of its public interest mandate, providing for some mechanism to help ensure those interests are heard is worthwhile and the Commission is prepared to play its role as surrogate for the absent clients in ensuring that costs are awarded only where warranted."

CCA

- Referring to the above quote: the issue is the value of the representation to the regulatory process.
- The Commission has to weigh the value of intervention, but the Commission is not there to act as a surrogate for the client.
- To be clear – the people in the room (regulatory team) are there on their client's instructions with their standing established by virtue of their client's being a

interested party. While the commission is tasked to do many things; respectfully the CCA submits it does not become a surrogate for the client in the client – regulatory team relationship. To the degree it weighs the value of the applications and the interventions it does so as a regulator- balancing off many interests including the broad public interest. If it is to become a surrogate for the client in the client - regulatory team relationship the commission would have to be privy to the actual client instructions and ongoing dialogue between the regulatory team and the client as the client controls the intervention. We do not dispute the AUC must be able to judge the value of the intervention but we submit it does not do so as a “surrogate for the client”.

ATCO Utilities

- The Commission is a surrogate; the costs of their representation will show up in their own rates. I don't see how the Commission can do anything else but judge the effectiveness of the intervention.

CCA

- Where do you see that same relationship fitting into the UCA process? Who's playing the role of the surrogate there?

ATCO Utilities

- Cost Recovery of UCA is guaranteed.
- Commission has to evaluate each intervener's participation.

CCA

- The process is really important and needs to be protected. CCA recalls this was in dialogue and that it applies to the due process of the many tasks the Commission plays as well as the importance of the process of individual clients instructing their own intervention.

Facilitator

- Time to let the UCA address the concerns and comments put forth today

UCA

- In agreement with a good deal of comments from the interveners.
- If the UCA appears before the Commission without a need to incur costs, it will benefit from the comments of the Commission.
- Commission should make it clear as to where they benefited from any party, including UCA.
- Useful feedback mechanism for all parties is in the hands of the Commission and it agrees that the UCA should fall under this as well.
- Any party that does not feel the UCA will advance its interests has the opportunity to appear before the Commission.
- Other parties should know what the UCA in a timely way what issues the UCA intends to cover so they can determine whether they need to participate and plan

their budgets; the Commission has its right to ask the UCA to engage all the interested parties in this way.

- Feels prudent costs for other parties should be awarded if the Commission sees fit and the party has added value to the proceeding; including costs for work related to issues that the UCA covered, if the UCA did notify the party well enough in advance of hearing that UCA would be covering issue in its intervention.
- As an overall framework the specifics of how the UCA is interacting with the Commission is reasonable
- UCA would not intend to take a position in commenting on others' cost claims.
- Does not support 100% cost recovery if the value is not contributed to the Commission.
- UCA business discipline is not any different than other interveners only that it will receive its cost recovery in full.

ATCO Utilities

- Some parties will be criticized and receive a penalty and others will be criticized and receive 100% of cost recovery.
- Doesn't prove to be fair.

CCA

- If we restructure costs rules today so that the UCA is the primary intervener on behalf of small customers, we are in trouble because the UCA could be shut down by the government tomorrow. The Commission has to operate for the benefit of all the interested parties who are involved in the cost recovery process, and not the UCA.
- UCA should play the supporting role, but they have not agreed to do that.
- If the Commission wants to have the public interest here then fine, but if they want an "opera sung by one artist" then fine go with the only the UCA.
- CCA submit more than one voice is needed.

PICA

- There is nothing in the legislature granting UCA the primacy it appears to be requesting and assuming in that proposal. It seems the issue should not really be so much the role of the UCA as duplication
- What exactly is duplication? Is it when the parties come to conclusions without reviewing materials or visa versa?
- Commission has taken serve steps to avoid duplication, big benefit to Commission from getting diverse views.
- What are you actually trying to avoid here - Unnecessary duplication.
- Cannot control UCA, so how can you or others completely avoid duplication?
- Even if UCA provided some detail, would it be useful to help avoid duplication.
- If duplication is the problem, PICA feels that it has already been addressed.

Commission staff:

- Why can't one body speak for different groups?

CCA

- This sits with the Commission to balance off the different interests, not with one group to rank different interests before the Commission.
- Interveners did not talk among each other with open dialogue in the past – pre 1996.
- By 1996 it was realized that interveners needed to group up and work together.
- At the end of the day, interveners are still answerable to their individual client.
- There was transparency along the way.
- With regards to the UCA, we feel there is a lack of transparency.
- Each intervener needs to be included in on the discussions and right now they are not at the table.

LaVesta

- To answer this question we need to look at legitimacy. That's what it is all about.
- What is the role of the UCA? We don't see UCA's legitimacy with us. We have more faith in other interveners than in the UCA for representation.
- We are nervous about their existence. For us, we're looking after our concerns and when we see the UCA we have a fear that our concerns are not being incorporated.

Commission Staff

- Does that come down to: the UCA was created by government so it is not legitimate?

LaVesta

- Yes.

PICA

- The reverse should be considered, namely why do we need the UCA when customers are already represented?
- There is value in diversity.

UCA

- Does not disagree with what has been said
- It's in the Commission's interest to get breath of input and it's in the Commission's interest to evaluate this input.
- In the future, hopefully the UCA and other interveners will be able to meet to avoid duplication, but some duplication is needed. Then it's in the Commission hands.

CCA

- Other groups face the downward adjustment to their costs, not the UCA.
- Look at the people who bring cost claims before the Commission and treat them as one way and not compare them to the UCA.
- There is no problem in being grouped with other similar interveners which seek cost recovery but there is a problem in comparing them to the UCA because there is no transparency and the UCA will not let others in on anything.
- Believe the UCA should be there as a supporting organization for the interveners.

2. Business Interest Rule

- Issues with the wording in Bulletin 2008-05 with regards to the Business Interest Rule.
- What "proposed" changes are the Commission referring to? Intervenors are not sure what changes have been made.

Commission staff

- The wording suggests that the Commission has made changes, but the paragraph is only intended to provoke discussion;
- The Commission has not made any changes and may not;
- That's what this discussion of the cost rules is for, to help Commission come to some conclusion about these issues..

PICA

- Concerned about her clients
- PICA's representation also benefits other small, medium and large commercial groups - Why should PICA bear the entire burden of the cost?
- While hospitals, colleges and schools could introduce user fees, increase tuition or reallocate funds that would otherwise be used for essential service delivery, is that really beneficial?
- "Seems like you are robbing Peter to pay Paul"

ATCO Utilities

- Two issues that play here:
 1. Whether or not a group has access to the ability to raise funds to intervene;
 2. Someone participates to solely benefit their stakeholders, and utilities haven't been included for funding because of the Business Interest Rule.
- R.E.A's should be subject to business rule.
- Should be a business interest rule of some nature

ADC

- Parties could try to work together with other stakeholders and members that have businesses to run, and could raise the money to pay for their costs. However, some of these companies are trying to just hang on and if their funds are taken they may not survive.

C.A.R.E.A.

- R.E.A.'s only reason to intervene would be on Phase II.
- Our group needs to be represented.
- Under the Business Interest Rule, yes they could fund their own intervention, but do not feel that it's appropriate to have to do that.

Commission Staff

- Perhaps we should get feedback, on both Phase I and Phase II, as to whether UCA could do Phase I and other interveners could take Phase II.

CCA

- Either in the whole process or not in it at all. Phase 1 and Phase 2 concepts can intermingle and Phase 2 participation is better with understandings from phase 1.

PICA

- One party cannot be expected to cover the waterfront. Need that diversity of views in order to receive a better balance with the issues at hand.
- Achieve a more well rounded knowledge base
- It's beneficial to the AUC, other interveners and the process to have more than one intervener participate to make sure all issues are covered effectively and to give a well rounded perspective on the issues.

GasAlberta

- Do interveners have ability to raise money to fund its own intervention?
- Most parties could say that they do have the ability to raise funds. However, it would be unfair to allow some customers costs and not others.
- When looking at the Business Interest Rule, what interest are we trying to serve?
- The Commission should look long and hard on how the rule should be changed and what they are really achieving by applying this rule.

3. Cost Officer

- Clarification that Holly Lee is not the Cost Officer; it was Bill Kennedy, who is no longer in this position.
- Would it be useful to have a Cost Officer?

PICA

- On R&V's it would be useful to have a taxing officer or administrative law judge type position to allow for a hearing type process in a less cumbersome way than the current written, R&V process.
- Getting some type of feedback in relation to disallowances or potential disallowances on a more direct level would also be more useful and beneficial.
- It would also allow parties to deal with cost R&V's in a more constructive manner and allow interveners to react more effectively.

Meeting Closed