

Supplementary and Closing Comments - City of Calgary (“Calgary”)

Bulletin 2008-05 / Rule 022

PUBLIC INTEREST IS PARAMOUNT

- The Commission must always be guided by the public interest in making decisions that affect stakeholders; this principle equally applies to any proposed changes to the current Intervener Cost Recovery Rules.
- There is no evidence to suggest that the Commission would be better able to carry out its mandate, or to make better decisions, or that the public interest would be served, if the Rules were changed to disallow or dramatically alter recovery eligibility.
- To the contrary, if Interveners are prevented from recovering costs, the Commission will lose valuable, experienced and diverse input from stakeholders.
- The public interest is served when legitimate interests are heard, and when the tribunal gains a better understanding of the issues by hearing from those interests; this is the essence of the contribution principle. When applied and consistently followed, the principle provides the Commission with a better understanding of the issues and should lead to higher quality decisions.
- In the face of utilities having the costs of their applications funded by customers, the public interest would be served if Interveners also recovered their reasonable costs of participation, thereby avoiding severe and unfair asymmetry (and an uneven playing field) which would occur if Intervener cost recovery was cut off and utility applications remained funded.
- Restricting public participation may make the Commission’s job easier, but not may necessarily lead to better decisions.

A MEANS TEST IS HIGHLY PROBLEMATIC

- The contribution principle will correctly deal with efforts of legitimate interests and those that are not. It is far superior to a means test.
- The means test is a measure for expediency only, and will cause more problems than it will solve. It has the potential to become an unending source of controversy, legal challenge and administrative burden.
- Means tests are not used in rate design because they are difficult to administer and implement.
- Will a means test, without exceptions for merited contribution, discourage otherwise valuable contribution from long standing parties?

- The utility's shareholders are not being asked to pay the costs of the utility's interventions. However, under a means test, the AUC will be asking the key stakeholders of municipalities (their citizens and taxpayers) to pay for their interventions.

UCA ROLE / DUPLICATION

- The contribution principle will allow the UCA to co-exist with Interveners who make a contribution. Calgary is prepared to work within this system, and notes the UCA's commitment in its May 27th letter to work with Interveners.
- Calgary agrees with the Commission that the UCA should be required to establish equal and reciprocal relationships with legitimate Interveners for the purpose of proactively addressing issues. This approach, over time, should lead to efficiencies and a better product.
- Calgary is not a duplicative Intervener as to the UCA's mandate, but expects to work with the UCA in a productive manner and would expect the same in return.
- Overlapping is not duplication. Parties should not be penalized for taking similar, but different positions. One size does not always fit all.
- Rule 022 gives the Commission the ability to assess duplication.
- However, the Commission is respectfully requested to bring greater clarity to its reference to duplication. Parties would be better served with a definition of this term in the context of cost recovery.

CHANGE IS PREMATURE

- The Commission has many new panel members, and it will take time for them to participate in a number of full proceedings (including oral hearings) to understand and appreciate the matters that drive costs and the contributions of Interveners.
- As of yet, there are no regulations promulgated with respect to the governance guidelines and process that will govern the UCA and its Board. Unless and until such information is made available, it is premature for the Commission to rule on intervener cost recovery.
- In light of the foregoing, and with respect, the 6 month review deadline imposed in January 2008 appears to be arbitrary, lacking foundation and far too short.
- However, the Scale of Costs is an issue which appears to have effective consensus as requiring immediate change, and increases in the scale could be accommodated to be effective July 1, 2008.