

Bulletin 2008-19

September 30, 2008

Adoption of Revised Rule 022, Rules on Intervener Costs in Utility Rate Proceedings and Changes to Rule 009, Local Intervener Costs and Rule 015, Rules on Costs of Investigations, Hearings or Other Proceedings Relating to Contraventions

The Alberta Utilities Commission (Commission) thanks all participants for their submissions regarding the revision of Rule 022, *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022). The Commission has considered the submissions received and comments made at the meetings and set out its response in Bulletin 2008-16. In addition, the Commission gave participants an opportunity to provide any further comments on the proposed revised Rule 022 which accompanied Bulletin 2008-16.

Seven submissions were received by September 15, 2008 and placed on the Commission's website. Four of the participants in their submissions argued against the ineligibility of the interveners they represent. A number of participants expressed the view that the Commission, in setting out provisions in Rule 022 regarding the ineligibility of certain interveners to claim costs, was contradicting the statements made by the Minister of Energy and others regarding costs at the time the *Alberta Utilities Commission Act* was enacted. The Commission disagrees with this view in that the Commission, in revising Rule 022, is exercising the discretion granted to it under the *Alberta Utilities Commission Act*. Furthermore, interveners that do not have the means to raise sufficient resources to enable the interveners to represent its interests adequately in a hearing or other proceeding may apply for a determination regarding eligibility. Therefore, the Commission has not fettered its discretion in relation to costs.

In addition, the Commission is aware that in other Canadian jurisdictions the award of costs has been generally limited to groups representing a broad base of interests such as residential consumers, farmers and in some cases, small business users. The award of costs to these groups has been made in recognition of the fact that, collectively, these customers have a significant interest but have no practical means to raise sufficient financial resources to enable their interests to be represented. After review of these submissions, the Commission remains of the view that the revised Rule 022 supports the objective that participants in the process take responsibility for their intervention, including the decisions of whether the intervention is warranted, the issues to be addressed, the positions to be taken, at what stage of the process they need to intervene and whether the costs of the intervention are warranted given their interests.

Regarding the costs of utility applicants, the Commission is of the view that these utilities must submit cost claims in accordance with Rule 022, and reflect the cost awards in their hearing cost reserve accounts. Also, the Commission notes that the hourly legal fees in the scale of costs have increased significantly and other fees and disbursements have also increased. The Commission is of the view that scale of costs reflects reasonable rates.

With respect to the Utilities Consumer Advocate (UCA) filing a budget, the Commission agrees that it is useful for other participants to be informed early in the proceeding of the issues that the UCA will bring forward and of their experts. Therefore, the Commission expects that the UCA will file information in accordance with paragraph 6 (2) (b) and (c) of Rule 022, although the UCA will not be eligible to file costs, as it has a means to raise sufficient financial resources to present the interests of the utility customers it represents.

The Commission adopted Rule 022 on September 30, 2008 and amendments to Rule 009, *Local Intervener Costs* (Rule 009); and Rule 015, *Rules on Costs of Investigations*, to reflect the increases in the scale of costs. The revised Rule 022 and amended Rule 009 come into force on October 1, 2008 and apply to applications filed after October 1, 2008.

If you have any questions, contact Giuseppa Bentivegna at (403) 592-4503 or Giuseppa.Bentivegna@auc.ab.ca.



Robert D. Heggie
Chief Executive