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Alberta Utilities Commission
Fifth Avenue Place
4th Floor, 425 – 1 Street SW
Calgary, AB T2P 3L8

Attention: Giuseppa Bentivegna, Commission Counsel

DRAFT REVISED RULE 022, RULES ON INTERVENER COSTS IN UTILITY MATTERS

We write further to the request for additional comments issued by the Alberta Utilities Commission (Commission) in Bulletin 2008-16 regarding the draft revised Rule 022 *Rules on Intervener Costs* (Draft Rule 022). FortisAlberta is one of the participants directly affected by Rule 022 and therefore submits the following comments regarding the Draft Rule 022.

1. Budgets

The Commission encouraged comments regarding the proposed Section 6 dealing with budgets. As drafted, Section 6(1) states: "Unless otherwise directed by the Commission, only those participants who are eligible to claim costs must file a budget ...".

It is clear from recent practice, including the recently completed ATCO Gas GRA Phase I, that the UCA expects to be an exceptionally active intervener in many cases. Indeed, FortisAlberta understands that in that ATCO Gas case, it became known that early in its internal processes the UCA had articulated more than 25 separate avenues of enquiry it proposed to pursue.

While the Commission may not be receiving cost claims from the UCA, the Commission does have a legitimate interest in the complexity, efficiency and duration of the proceedings before it. Accordingly, it would be both reasonable and appropriate for the Commission to require a budget filing from the UCA so that the Commission and other parties to the proceeding may appreciate, early and in the same detail provided by other parties, the matters that the requirements of Section 6 are designed to surface early in the process. Given the lack of a cost claim, the Commission could relieve the UCA of the

requirement to include a response to Section 6(2)(a), but require compliance with the balance of Section 6(2).

In light of the UCA's ongoing role, such a requirement should be a standing requirement in respect of the UCA. The Commission could selectively impose a similar requirement on other intervenors who may not be eligible to claim costs, but who the Commission anticipates may play a significant role in determining the complexity, efficiency and duration of a proceeding before it.

2. Close of Proceeding

The proposed Section 9(3) states that “Unless otherwise directed by the Commission, an eligible participant shall (a) file a claim for costs within 30 days after the hearing or other proceeding is closed...”. There has been some ambiguity in the past regarding what constitutes the close of a proceeding. It would be helpful if the Commission established a process regarding the official close of record. For example, the Commission could send a close of record notification in an email to participating parties which would remove any ambiguity from this process.

3. Scale of Costs

The Scale of Costs rates for professionals, in particular Legal Fees, have not remained competitive with market rates and are well out of date. Even with the increases proposed by the Commission in the Draft Rule 022, professional rates remain well out of date with the current market.

FortisAlberta maintains that there is no justification for a utility being arbitrarily denied full recovery of the costs it must incur to prepare and present its case. Therefore, the Scale of Costs rates should be revised to reflect market rates and an ongoing review or adjustment mechanism should be considered.

Sincerely,

“Original signed by”

Cynthia Johnston
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