

# Public Institutional Consumers of Alberta (PICA)

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Alberta Utilities Commission  
4<sup>th</sup> Floor, Fifth Avenue Place  
425-1 Street, S.W.  
Calgary, Alberta  
T2P 3L8

**Attention: Mr. Robert D. Heggie**  
**Chief Executive Officer**

**RE: REVIEW OF DRAFT RULE 022, RULES ON INTERVENER COSTS**

The Public Institutional Consumers of Alberta (PICA) are in receipt of the Alberta Utilities Commission's (AUC) Bulletin 2008-016, dated July 31, 2008, in regards to the above noted matter.

The participating essential services represented by PICA, namely the Alberta School Boards Association, the Alberta Association of College and Technical Institutes and the Health Boards of Alberta Services are seriously concerned and gravely disappointed in the direction the AUC appears to be taking in its Draft Rule 22, also dated July 31, 2008. Despite hearing from the full spectrum of representatives of the customers who ultimately pay the costs of intervener funding, the AUC has unilaterally determined only a very few will continue to be eligible for cost recovery. Although PICA has a number of concerns with the proposed draft rules, it will limit its comments to a few key points. First, the AUC states:

The Commission welcomes interventions by utility customers and groups representing various types or classes of utility customers to assist it in coming to a better informed understanding of the public interest.

The Commission then goes on to state:

The Commission is of the opinion that the purpose of the intervener costs regime is to permit representation for customers who have a significant interest in the outcome of a rate application, but either individually, or collectively, do not have the means to raise sufficient financial resources to represent their interests adequately. This is the underlying principle for cost eligibility and is reflected in the Draft Revised Rule 22.

While the AUC indicates it appreciates the diversity of the views presented to it by the various intervenor parties and in repeated cost decisions has indicated the benefit to the Commission of these interventions, it then goes on to make the unsupported and incorrect assumption those parties, or the customers they represent, will be able to continue intervening, or intervening to the same extent and with the same degree of benefit to customers and the AUC as present, in the absence of cost recovery.

Although PICA will endeavour to obtain funding from its participating organizations, it considers acquisition of such funding unlikely as it would necessarily have to come at the cost of other services provided by these institutions. Consequently, while PICA has a small operating fund it may make available, it may no longer participate as an intervenor once those funds are exhausted. In this regard, it is important for the AUC to recognize budgets for public institutions are set well in advance and, like all sectors of the economy, are subject to continuing pressures to minimize costs and streamline services. This leaves little room for funding of additional costs, including those related to utility interventions. Further, while PICA recognizes the value achievable through interventions, reductions gained in the hearing room or changes in rate structure may not translate into absolute savings. For example, a significant benefit may be achieved by reducing a utility's proposed increases from 10% to 3%. However, in absolute terms, there is still an increase that must be paid out of the current year's budget allocation. Put another way, the AUC's assumption concerning availability of funding is inconsistent with the realities of the timing and process for funding of public institutions.

Second, the AUC suggests:

Cost awards should be made in a way that ensures to the greatest extent 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. The current intervenor cost rules do not support this objective because they leave to the Commission the responsibility to assess cost claims of intervenors who have the means to raise sufficient financial resources to represent their interests adequately. This approach requires the Commission, rather than the intervenors themselves, to ultimately impose cost discipline and therefore tends to reduce cost accountability.

On this point, PICA notes the timing of interventions and the scope of interventions have largely been determined by the Commission and the positions taken by other parties in a proceeding. Realistically, it is often not possible to determine the scope of breadth of the intervention required until later in the process, often after receipt of information responses or the filing of intervenor evidence. Moreover, as several aspects of Phase I have implications for Phase II, it is rather simplistic to suggest parties would otherwise only focus on one or two issues. Doing so would significantly minimize the overall benefit to the intervenor and all customers.

With regard to the comment suggesting all intervenors other than those eligible for intervenor funding under Draft Rule 22 have "the means to raise sufficient financial resources", PICA

submits there is absolutely no evidence to support this assertion. While some parties may have the ability to impose levies or increase taxes, PICA submits its partners and member institutions realistically do not. As indicated previously, funding for these organizations is set in advance and is under intense pressure to minimize costs and optimize service delivery.


In addition, the Commission appears to be under the erroneous assumption its review of intervenor costs is effectively the only cost control. Again, this view is completely unsupported by any facts and disregards the submissions of numerous parties, including PICA, indicating there is a considerable level of cost review and assessment by the organization themselves, independent of the AUC.

In addition to the foregoing, PICA submits while the costs of intervention are borne by all rate payers; so, too, are the benefits shared by all rate payers. For example, as representatives of small, medium and large commercial electric and gas consumers, PICA's interventions benefit not only the institutions, but all other customers in those rate classes. It is neither reasonable, nor appropriate, for PICA to bear sole cost responsibility for interventions that benefit, at a minimum, all other commercial customers. Moreover, in Phase I proceedings, the interventions of all parties potentially benefit all other customers through the proper and thorough testing of the rate application. Rather than reducing costs by reducing the level of review and potential parties participating in utility proceedings, Draft Rule 22 is more likely to increase the final costs to customers! It is also worth noting, if PICA no longer participates in regulatory proceedings, the vast number of small, medium and large commercial customers will no longer have an independent voice before the AUC.

Finally, the partners of PICA submit the AUC has, through its consultative process on Rule 22 and through the extensive discussion and public debate around the Bill 46 heard from every class of utility customer that change of the type contemplated in the current Draft Rule 22 is not required or beneficial to the regulation of utilities and the public interest. The fact is, not a single party (utility or intervenor) has suggested changes of the type proposed by the AUC. In PICA's submission, the AUC should consider listening to the representations of the parties involved in the process and the customers who pay the end rates; rather than implementing unnecessary, unwarranted and unwanted changes.

PUBLIC INSTITUTIONAL CONSUMERS OF ALBERTA

PER:

A handwritten signature in blue ink, appearing to read "Schultz", is written over a light blue rectangular background.

TIM SCHULTZ  
CHAIR