



AltaGas Utilities Inc.

**Gas Utilities Act Code of Conduct Regulation, AR 183/2003
Audit Exemption**

May 8, 2012



The Alberta Utilities Commission

Decision 2012-122: AltaGas Utilities Inc.

Gas Utilities Act Code of Conduct Regulation, AR 183/2003

Audit Exemption

Application No. 1608261

Proceeding ID No. 1775

May 8, 2012

Published by

The Alberta Utilities Commission

Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Web site: www.auc.ab.ca

1 Introduction

1. On March 16, 2012, AltaGas Utilities Inc. (AUI) filed an application with the Alberta Utilities Commission (the AUC or the Commission). The application requests an exemption for AUI from conducting a compliance audit for the 2011 audit year, pursuant to Section 41(1)(a) of the *Gas Utilities Act Code of Conduct Regulation*, AR 183/2003. This section enables a gas distributor or default supply provider or its affiliated retailer to apply to the Commission for an exemption from all or any provision of the regulation.

2. Section 37 of the *Gas Utilities Act Code of Conduct Regulation* requires a gas distributor or default supply provider and its affiliated retailer to each appoint an independent auditor to perform a compliance audit on an annual basis in accordance with the *Gas Utilities Act Code of Conduct Regulation*.

3. Pursuant to Section 41(2)(a) of the *Gas Utilities Act Code of Conduct Regulation* the Commission can not approve an exemption unless the Commission is satisfied that it is in the public interest to do so and that any exemption does not significantly affect the obligations of the applicant, or that the obligations can be or will be met in other ways.

4. The Commission issued a notice of application on March 20, 2012, requesting parties who wished to intervene in the proceeding to submit a statement of intent to participate (SIP) to the Commission by 2 p.m. April 3, 2012.

5. The Commission did not receive a SIP from any party and considers that the record for this proceeding closed on April 3, 2012.

2 Background

6. The purpose of the *Gas Utilities Act Code of Conduct Regulation* is:

...“to ensure that distribution companies, default supply providers and affiliated retailers conduct themselves in a manner that supports the competitive operation of the retail natural gas market and that their conduct does not distort that market by offering unfair advantages to retailers.”¹

¹ [Bulletin 2010-25](#), *Gas Utilities Act Code of Conduct Regulation* AR 183/2003 process changes and clarification of requirements, September 17, 2010.

7. Operations are to be conducted in a manner that is consistent with the *Gas Utilities Act Code of Conduct Regulation* with regards to:

- equality of treatment to customers and retailers
- confidentiality of customer information
- prevention of unfair business practices
- maintenance of separate records and accounts
- development of a compliance plan, and related reporting and monitoring
- compliance audits

8. AUI is a wholly-owned subsidiary of AltaGas Utility Holdings Inc. which in turn is a wholly-owned subsidiary of AltaGas Utility Group Inc. AUI is a gas distributor and default supplier within the meaning of the *Gas Utilities Act*, RSA 2000, c. G-5, and is an indirect wholly-owned subsidiary of AltaGas Ltd. AUI has two affiliated retailers, AltaGas Ltd.² (AltaGas) and ECNG Energy LP (ECNG).

3 The application

9. AUI stated the following in support of its application for an exemption from conducting a compliance audit in 2012 for the 2011 audit year:

- (a) AUI has demonstrated material compliance in previous years. In 2011, Ernst & Young LLP (Ernst & Young) performed AUI's *Gas Utilities Act Code of Conduct Regulation* and compliance plan audit for 2010 and found AUI to be in compliance in all material respects with the regulation. In Decision 2011-488³ the Commission stated that AUI was in compliance in all material respects with the *Gas Utilities Act Code of Conduct Regulation* and their respective compliance plans for the 2010 audit year. In 2008, AUC staff performed both AUI's Inter-Affiliate Code of Conduct and *Gas Utilities Act Code of Conduct Regulation* audits for the 2007 audit year and found AUI to be in compliance in all material respects.
- (b) AUI estimates that a *Gas Utilities Act Code of Conduct Regulation* and compliance plan audit would cost customers approximately \$70,000. Since regulation audit costs are administered by way of a deferral account, an exemption would provide substantial savings to AUI's customers in 2012.
- (c) For 2011 and 2010 all instances of non-compliance identified by AUI in its annual reports to the Commission were remedied by the time the reports were filed. All instances of non-compliance were relatively minor in nature. AUI submits that an exemption from conducting a regulation audit would be reasonable, consistent with regulatory efficiency and provide significant savings for customers in 2012.

² Effective January 1, 2011, AltaGas Energy Limited Partnership was wound up and all of its assets and liabilities were conveyed to its parent AltaGas Ltd.

³ Decision 2011-488: AltaGas Ltd., as Administrator for AltaGas Energy Limited Partnership and ECNG L.P. and on behalf of AltaGas Utilities Inc., Gas Utilities Act Code of Conduct Regulation, AR 183/2003, Audit Reports, Application Nos. 1607646, 1607647 and 1607648, Proceeding No. ID 1431, December 13, 2011.

4 Views of the Commission

10. The Commission recognizes that AUI was audited in 2011 for the 2010 audit year by Ernst & Young and was found to be in compliance in all material respects. In Decision 2011-488 dated December 13, 2011, the Commission noted its satisfaction with AUI's compliance with the *Gas Utilities Act Code of Conduct Regulation* and compliance plan.

11. The Commission acknowledges that AUI has met all reporting requirements for 2010 and 2011 and that all reported instances of non-compliance identified by AUI in its annual compliance reports had been remedied before the reports were filed.

12. The Commission notes further that an exemption from the audit for the 2011 audit year would result in a cost saving of approximately \$70,000 to AUI's customers.

13. The Commission agrees with AUI that an exemption from conducting a regulation audit would be reasonable, consistent with regulatory efficiency and would provide significant savings to customers. The Commission is satisfied that it is in the public interest to allow an exemption from the requirements to perform an audit for the 2011 audit year, in accordance with Section 41(2)(a) of the *Gas Utilities Act Code of Conduct Regulation*.

14. The Commission can not approve an exemption from the requirements of the regulation unless it is satisfied that it is in the public interest to do so and that the exemption does not significantly affect the obligations of the applicant, or that the obligations can be or will be met in other ways. AUI has demonstrated compliance with its obligations under the *Gas Utilities Act Code of Conduct Regulation* by meeting the audit requirements for 2010 and providing all required compliance reporting for 2011. AUI has taken action to ensure that all reported non-compliances have been addressed.

15. There is nothing in AUI's compliance reports or its recent audit report that suggests that AUI is conducting itself in a manner that does not support the competitive operation of the retail natural gas market.

16. The Commission therefore approves a *Gas Utilities Act Code of Conduct Regulation* audit exemption for AUI for the 2011 audit year.

17. It is hereby ordered that:

- (1) AltaGas Utilities Inc. is exempt from the requirements to conduct a compliance audit under sections 38, 39 and 40 of the *Gas Utilities Act Code of Conduct Regulation* for the 2011 audit year.

Dated on May 8, 2012.

The Alberta Utilities Commission

(original signed by)

Anne Michaud
Commission Member