



AltaGas Utilities Inc.

Issue of Common Shares to AltaGas Utility Holdings Inc.

June 4, 2012



The Alberta Utilities Commission

Decision 2012-152: AltaGas Utilities Inc.

Issue of Common Shares to AltaGas Utility Holdings Inc.

Application No. 1608446

Proceeding ID No. 1880

June 4, 2012

Published by

The Alberta Utilities Commission

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1 Introduction

1. On May 11, 2012, AltaGas Utilities Inc. (AUI) applied to the Alberta Utilities Commission (AUC or Commission) under Section 26(2)(a) of the *Gas Utilities Act*, RSA 2000, c. G-5, for approval and authorization to issue up to 201,543 Class A common shares (shares) at a price of \$34.7320 per share to AltaGas Utility Holdings Inc. (AUHI) for the maximum aggregate consideration of \$7,000,000 (application).

2 Background

2. Section 26(2)(a) of the *Gas Utilities Act* states:

(2) No owner of a public utility designated under subsection (1) shall
(a) issue any

(i) of its shares or stock, or

(ii) bonds or other evidences of indebtedness, payable in more than one year from the date of them,

unless it has first satisfied the Commission that the proposed issue is to be made in accordance with law and has obtained the approval of the Commission for the purposes of the issue and an order of the Commission authorizing the issue,

3. Consequently, AUI is required to obtain approval and authorization from the Commission before issuing any stock or shares.

4. On May 15, 2012, the Commission issued a notice of application advising interested parties to file a statement of intent to participate (SIP) to the Commission no later than May 29, 2012. No SIPs were filed.

5. On May 23, 2012, AUI submitted an officer's certificate, dated May 9, 2012, and a certificate of compliance from Industry Canada in support of the application.

6. After reviewing the application, the Commission determined that no additional information was required to make a determination. The Commission considers the record of this proceeding to have closed on May 29, 2012.

3 Application particulars

7. In the application, AUI requested that the Commission:
- Approve and authorize AUI to issue up to \$7,000,000 of shares to AUHI.
 - Approve the purposes of the issue.
 - Approve such further and other reliefs as AUI may request and the Commission may grant in the circumstances.
8. In support of the application, AUI submitted an affidavit from the president of AUHI (who is also a director of AUI), a written resolution of the AUI board of directors authorizing the issuance of the shares to AUHI, and a legal opinion from AUI's legal counsel, MacPherson Leslie & Tyerman LLP.
9. AUI provided the following information to illustrate the pricing of the shares:¹

Table 1. AUI issuance of shares

A.	Common shareholders equity at March 31, 2012	\$74,143,162
B.	Number of equity shares outstanding ¹	2,134,772
C.	Book value per share (A/B)	\$34.7320
D.	Maximum aggregate value of share issuance	\$7,000,000
E.	Maximum number of shares to be issued (D/C)	201,543
¹ Aggregate number of common shares outstanding before giving effect to this issue		

10. AUI indicated that issuance of the shares will move AUI's capital structure closer to the 43 per cent common equity ratio that the Commission approved in [Decision 2011-474](#).² Information provided by AUI in the application and reproduced in the table below, sets out the *pro forma* capital structure of AUI before and after the proposed share issuance:³

Table 2. AUI pro forma capital structure

	December 31, 2011 (actual)		December 31, 2012 After share issue (estimated) ¹		December 31, 2013 After share issue (estimated)	
	Amount (\$000's)	%	Amount (\$000's)	%	Amount (\$000's)	%
Long term debt	90,000	55.8	110,000	58.3	110,000	56.9
Common equity	71,398	44.2	78,821	41.7	83,321	43.1
Total capital	161,398	100.0	188,821	100.0	193,321	100.0
¹ Assumes a new \$20,000,000 debenture will be issued in 2012; Decision 2012-147 ⁴ was released on May 31, 2012, approving AUI's application to issue a \$20,000,000 debenture.						

¹ Exhibit 1, Exhibit B.

² Decision 2011-474: 2011 Generic Cost of Capital, Application No. 1606549, Proceeding ID. 833, December 8, 2011.

³ Exhibit 1, Exhibit C.

⁴ Decision 2012-147: AltaGas Utilities Inc., Application for Approval to Issue a Debenture in the Principal Amount of \$20,000,000, Application No. 1608354, Proceeding ID No. 1841, May 31, 2012.

11. AUI submitted that proceeds from the share issuance will be used to finance capital expenditures and to provide for other general corporate purposes of AUI.
12. The affidavit filed in support of the application stated that AUHI owns all of the Class A common shares of AUI and that the proposed issuance of the shares will have no effect on the control of AUI, or on the voting power related to the shares of AUI.
13. AUI indicated that if it issues shares to a total value that is less than the maximum applied for, within 30 days from the date of such issue, AUI will advise the Commission of the actual number and total value of common shares issued, the reasons for the lesser number and value, and the related impact on AUI's common equity ratio.
14. AUI's legal counsel, MacPherson Leslie & Tyerman LLP, provided an opinion that the proposed share issuance was in compliance with the securities laws of the Province of Alberta, the province where the shares will be issued. The opinion also stated that the proposed share issuance would not violate the provisions contained in any debentures, whether currently outstanding or before the Commission for approval.

4 Commission findings

15. The Commission has reviewed the application and is satisfied that the requirements of Section 26(2)(a) of the *Gas Utilities Act* have been met.
16. In particular, based on the legal opinion of MacPherson Leslie & Tyerman LLP, the Commission is satisfied that issuance of the shares will be made in accordance with law.
17. The Commission is satisfied with the purposes AUI has specified for the share issuance, namely, that the share issuance will shift AUI's capital structure closer to the capital structure approved by the Commission, and that the proceeds will be used to finance capital expenditures and to provide for other general corporate purposes.

5 Order

18. It is hereby ordered that:

- (1) AltaGas Utilities Inc. is authorized to issue up to 201,543 Class A common shares to AltaGas Utility Holdings Inc. with a share price of \$34.7320 per share, for the maximum aggregate consideration of \$7,000,000.

Dated on June 4, 2012.

The Alberta Utilities Commission

(original signed by)

Bill Lyttle
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) counsel or representative
AltaGas Utilities Inc. (AUI) N. J. McKenzie

The Alberta Utilities Commission
Commission Panel B. Lyttle, Commission Member
Commission Staff V. Slawinski (Commission counsel) C. Pham