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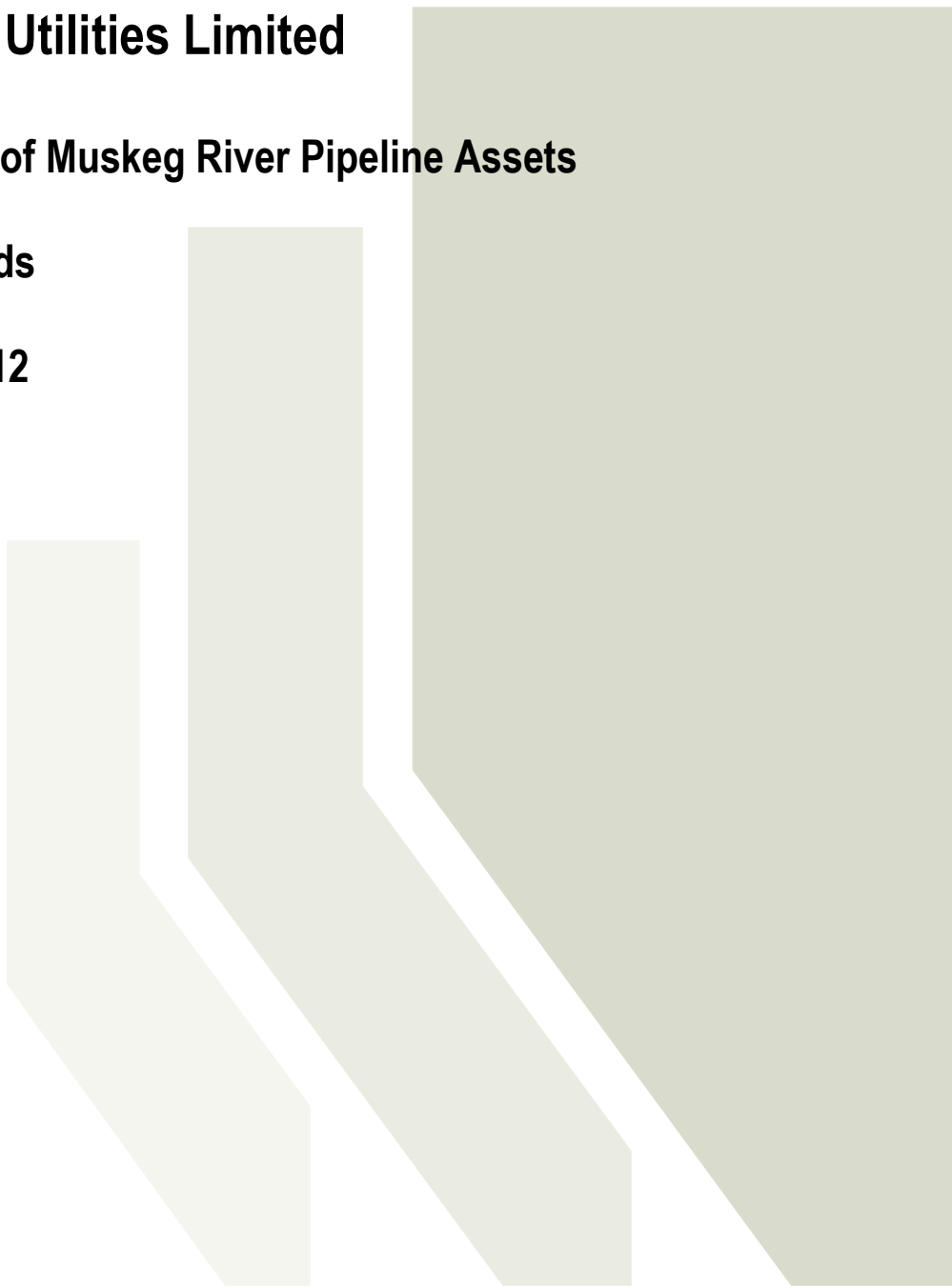
Alberta Utilities Commission

**ATCO Pipelines  
ATCO Gas and Pipelines Ltd.  
CU Inc.  
Canadian Utilities Limited**

**Disposition of Muskeg River Pipeline Assets**

**Costs Awards**

**June 28, 2012**



**The Alberta Utilities Commission**

Decision 2012-180: ATCO Pipelines, ATCO Gas and Pipelines Ltd.,

CU Inc. and Canadian Utilities Limited

Disposition of Muskeg River Pipeline Assets

Costs Awards

Application No. 1608199

Proceeding ID No. 1742

June 28, 2012

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## **1 Introduction**

1. ATCO Pipelines (AP), a division of ATCO Gas and Pipelines Limited (AGPL), filed an application on behalf of AGPL, CU Inc. (CUI) and Canadian Utilities Limited (CU) with the Alberta Utilities Commission (AUC or Commission) on November 4, 2011. In its application, AP requested the Commission's approval to dispose of the Muskeg River pipeline and related facilities (MRP assets), pursuant to Section 26(2)(d) of the *Gas Utilities Act*, R.S.A. 2000, c. G-5.

2. The MRP assets consist of:

- A pipeline approximately 116 kilometres long and 406 millimetres (16 inches) in diameter serving the natural gas needs for Shell Canada Limited, Muskeg River mine facilities and other facilities in the Fort McMurray area.
- Related assets that provide natural gas transmission services to selected shippers at other receipt and delivery points on the Muskeg River pipeline. These include all meter stations and associated equipment, pipeline laterals and valves connecting the meter stations to the Muskeg River pipeline and related land rights.

3. AP stated that the purpose of the transaction is to transfer the MRP assets from AGPL, a regulated entity owned 100 per cent by CUI, to a new company (NewCo). NewCo would be a non-regulated entity owned by ATCO Energy Solutions Ltd., a wholly-owned subsidiary of CU.

4. AGPL also applied for approval to transfer the MRP assets from a utility ownership structure that includes AGPL and CUI, to a non-utility ownership structure involving NewCo and CU. As a result, CUI would no longer directly or indirectly own these non-utility assets.

5. CUI and CU provided notice of the MRP assets transaction in accordance with the relevant sections and regulations of the *Gas Utilities Act* and *Public Utilities Act*, R.S.A. 2000, c. P-45. On November 7, 2011, the Commission issued a notice of application which required interested parties to submit a statement of intent to participate by November 22, 2011. Statements of intent to participate were received from NOVA Gas Transmission Ltd., Shell Canada Limited, Consumers' Coalition of Alberta (CCA), and the Office of the Utilities Consumer Advocate (UCA).

6. The Commission considered the record for the proceeding to have closed on January 23, 2012, the due date for reply argument.

7. On April 20, 2012, the Commission issued Decision [2012-110](#)<sup>1</sup> approving the disposition of the MRP assets to NewCo. The Commission determined the disposition of these assets was consistent with sections 26(2)(d) and 37 of the *Gas Utilities Act* and with the Alberta Energy and Utilities Board's (predecessor to the AUC) indicated preference that the MRP assets, as non-rate base assets, be held by a separate legal entity<sup>2</sup>.

8. In Decision 2012-110, the Commission directed AP to file, in its final 2012 revenue requirement, the service agreement; a detailed explanation of all services being provided by AP to NewCo; costs associated with each service; the underlying costing methodology or allocation; the cost recovery mechanism and any direct or indirect impacts to AP's regulated revenue requirement. AP was to provide confirmation that the affiliate transactions between AP and NewCo comply with the ATCO Group's Inter-Affiliate Code of Conduct. The Commission also directed AP to explain any differences between the services and costs it provided to the Muskeg River Pipeline in the previous agreement to those in the new service agreement with NewCo.<sup>3</sup>

9. On February 27, 2012, the CCA filed its costs claim for the costs of consulting services provided by Regulatory Services Inc.

10. On April 24, 2012, the Commission circulated a summary of the costs being claimed to interested parties. Parties were requested to file any comments regarding the figures listed in the summary or the merits of the costs claimed by May 8, 2012. The Commission did not receive any comments on the costs claimed. Accordingly, the Commission considers the costs process to have closed on May 8, 2012.

## 2 Views of the Commission – authority to award costs

11. When assessing a costs claim pursuant to Section 21 of the *Alberta Utilities Commission Act*, the Commission applies the AUC Rule 022: *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022). Rule 022 also prescribes a *Scale of Costs* applicable to costs claims.

12. In exercising its discretion to award costs, the Commission will, in accordance with Section 11 of Rule 022, consider whether an eligible participant acted responsibly and contributed to a better understanding of the issues before the Commission, and whether the costs claimed are reasonable and directly, and necessarily related to the proceeding. The Commission considers these factors in light of the scope and nature of the issues in question.

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<sup>1</sup> Decision 2012-110: ATCO Pipelines, ATCO Gas and Pipelines Ltd., CU Inc. and Canadian Utilities Limited. Disposition of Muskeg River Pipeline Assets, Application No. 1607867, Proceeding ID No. 1552, Released: April 20, 2012.

<sup>2</sup> Alberta Energy and Utilities Board, Decision [2005-128](#): ATCO Pipelines Muskeg River Pipeline Application, page 6, Application No. 1393613, Released: November 29, 2005.

<sup>3</sup> Decision 2012-110, paragraphs 40 and 41, pages 8 and 9.

13. In the Commission's view, the responsibility to contribute positively to the process is inherent in the choice to intervene in a proceeding. The Commission expects that those who choose to participate will prepare and present a position that is reasonable in light of the issues arising in the proceeding and necessary for the determination of those issues. To the extent reasonably possible, the Commission will be mindful of participants' willingness to co-operate with the Commission and other participants to promote an efficient and cost-effective proceeding. As the costs of a utility proceeding are generally passed on to customers, it is the Commission's duty to ensure that customers receive fair value for a party's contribution.

### **3 Views of the Commission - assessment**

14. On February 27, 2012, the CCA submitted a costs claim in the amount of \$5,470.92. The claim is comprised of consulting fees for Regulatory Services Inc. in the amount of \$5,198.00, disbursements of \$12.40 and GST of \$260.52. The consulting fees consist of 22.6 hours, which include 19.6 hours of preparation and three hours for argument and reply argument.

15. The Commission notes that the claim for consulting fees is in accordance with the *Scale of Costs*. The Commission finds that the CCA's participation was effective and of assistance in reviewing the application. The hours claimed were reasonable considering the nature of the issues addressed by the CCA. The Commission notes that the disbursements claimed were for photocopying costs charged within the allowed amounts under the *Scale of Costs*. The Commission awards the disbursements for photocopying costs as claimed. The Commission considers the CCA's claim for fees, disbursements, and applicable GST in the total amount of \$5,470.92 to be reasonable and approves these costs.

### **4 GST**

16. In accordance with the Commission's treatment of GST on costs awards, AP is required to pay only the portion of the GST paid by the interveners that may not be recoverable through the GST credit mechanism. Eligible GST approved by the Commission amounts to \$260.52. The GST allowed by the Commission may be charged to AP's hearing costs reserve account.

17. The Commission emphasizes that its treatment of the GST claimed in no way relieves participants or their lawyers and consultants from their GST obligations pursuant to the *Excise Tax Act*, R.S.C. 1985, c.E-15.

### **5 Order**

18. It is hereby ordered that:

- (1) ATCO Pipeline shall pay the Consumers' Coalition of Alberta's intervener costs in the amount of \$5,470.92, as set out in column (h) of Appendix A.

- (2) ATCO Pipelines shall record in its hearing costs reserve account the allowed intervener costs in the amount of \$5,470.92, as set out in column (h) of Appendix A.

Dated on June 28, 2012.

**The Alberta Utilities Commission**

*(original signed by)*

Anne Michaud  
Panel Chair



AP, AGPL, CUI, CU  
 Disposition of Muskeg River Pipeline Assets  
 App No. (1607867)1608199  
 Proc ID No. 1742

**Total Costs Claimed/Awarded**

|  | Total Fees Claimed (a) | Total Expenses Claimed (b) | Total GST Claimed (c) | Total Amount Claimed (d) | Total Fees Awarded (e) | Total Expenses Awarded (f) | Total GST Awarded (g) | Total Amount Awarded (h) |
|--|------------------------|----------------------------|-----------------------|--------------------------|------------------------|----------------------------|-----------------------|--------------------------|
| <b>INTERVENERS</b>                     |                        |                            |                       |                          |                        |                            |                       |                          |
| <b>Consumers' Coalition of Alberta</b> |                        |                            |                       |                          |                        |                            |                       |                          |
| Regulatory Services Inc.               | \$5,198.00             | \$12.40                    | \$260.52              | \$5,470.92               | \$5,198.00             | \$12.40                    | \$260.52              | \$5,470.92               |
| <b>Sub-Total</b>                       | <b>\$5,198.00</b>      | <b>\$12.40</b>             | <b>\$260.52</b>       | <b>\$5,470.92</b>        | <b>\$5,198.00</b>      | <b>\$12.40</b>             | <b>\$260.52</b>       | <b>\$5,470.92</b>        |
| <b>TOTAL INTERVENER COSTS</b>          | <b>\$5,198.00</b>      | <b>\$12.40</b>             | <b>\$260.52</b>       | <b>\$5,470.92</b>        | <b>\$5,198.00</b>      | <b>\$12.40</b>             | <b>\$260.52</b>       | <b>\$5,470.92</b>        |