



AUC

Alberta Utilities Commission

ATCO Gas & Pipelines Ltd.

**Issuance of 3.805 Per Cent Debenture,
3.825 Per Cent Debenture and
3.857 Per Cent Debenture**

December 31, 2012



The Alberta Utilities Commission

Decision 2012-369: ATCO Gas & Pipelines Ltd.

Issuance of 3.805 Per Cent Debenture, 3.825 Per Cent Debenture and 3.857 Per Cent Debenture

Application Nos. 1609045, 1609048, and 1609043

Proceeding ID No. 2257

December 31, 2012

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1 Introduction

1. ATCO Gas & Pipelines Ltd. (AGPL or corporation) filed three applications to issue long-term debt (applications) to its parent company, CU Inc., on November 19, 2012, with the Alberta Utilities Commission (AUC or Commission) for a total aggregate amount of \$179,000,000. More specifically, AGPL requested approval for the following three debentures (the debentures):

- a. \$122,000,000 principal amount 3.805 per cent debenture due September 10, 2042¹
- b. \$49,000,000 principal amount 3.825 per cent debenture due September 11, 2062²
- c. \$8,000,000 principal amount 3.857 per cent debenture due November 14, 2052³

2 Process

2. AGPL filed the applications on November 19, 2012. The Commission decided to process the applications under one proceeding to expedite the review process.

3. On November 21, 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 December 4, 2012. No SIPs were filed.

4. After reviewing the applications, the Commission found that no additional information was required to make a determination on the Applications. The Commission considers the record of this proceeding to have closed on December 4, 2012.

3 Background

5. AGPL is the owner of a public utility to which Section 26(2)(a) of the *Gas Utilities Act*, RSA 2000, c. G-5 applies. 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

¹ Application No. 1609045, Proceeding ID No. 2257.

² Application No. 1609048, Proceeding ID No. 2257.

³ Application No. 1609043, Proceeding ID No. 2257.

- (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, ...

6. Consequently, AGPL is required to obtain approval from the Commission before issuing any bonds or other evidences of indebtedness for terms greater than one year.

4 Details of the applications

7. On September 10, 2012, CU Inc. completed the sale of two debentures in the principal amounts of \$500,000,000 at a coupon rate of interest of 3.805 per cent with a maturity date of September 10, 2042 and \$200,000,000 at a coupon rate of interest of 3.825 per cent with a maturity date of September 11, 2062. Both the \$500,000,000 issue and the \$200,000,000 issue were completed through agents to the public and priced at 100.00 to yield 3.805 per cent and 3.825 per cent respectively.

8. CU Inc. issued another debenture on November 14, 2012 in the principal amount of \$200,000,000 at a coupon rate of 3.857 per cent with a maturity date of November 14, 2052 at a price of 100.00 to yield 3.857 per cent through agents to the public.

9. AGPL claims in its application that the issuances made by CU Inc. were in compliance with Order [U99115](#)⁴ and Decision [U99118](#)⁵ of the Alberta Energy and Utilities Board, the Commission's predecessor which, among other things, exempt CU Inc. from the requirement to obtain the approval of the Commission prior to issuing securities.

10. AGPL submits that all proceeds from the sale of the debentures were advanced by CU Inc. to ATCO Electric Ltd. (AE) and AGPL on September 10, 2012 and November 14, 2012 on each of their respective issuance dates, subject to the assumption by AE and AGP of their pro rata share of the fees and expenses paid by CU Inc. in connection with the issuance of the three debentures. Subsequently, AGPL is requesting Commission approval to issue the debentures to CU Inc. with maturities and rates mirroring the three issuances made by CU Inc. for AGP's pro rata share of the proceeds. More specifically, the debentures AGPL will issue to CU Inc. include:

- a. \$122,000,000 principal amount 3.805 per cent debenture due September 10, 2042
- b. \$49,000,000 principal amount 3.825 per cent debenture due September 11, 2062
- c. \$8,000,000 principal amount 3.857 per cent debenture due November 14, 2052

⁴ Order U99115: CU Inc., Application Regarding Exemption from Certain Sections of the Public Utilities Board Act and Gas Utilities Act, Application 990182, File 6640-179, November 23, 1999.

⁵ Decision U99118: CU Inc., Variance of the Order Approved as part of Decision U99115, Application No. 990182, File No. 6640-170, December 21, 1999.

11. The estimated net proceeds to AGPL from the sale of the 3.805 per cent, 3.825 per cent and 3.857 per cent debentures to CU Inc. will amount to approximately \$121,261,900, \$48,699,875 and \$7,950,400 respectively after deducting the fees and estimated expenses to be paid in connection with the issuance of the debentures.

12. Of the net proceeds from the 3.805 per cent and 3.825 per cent debentures, \$96,413,150 and \$38,761,125 will be allocated to the ATCO Gas division of the corporation (ATCO Gas) respectively and \$24,848,750 and \$9,938,750 will be allocated to the ATCO Pipelines division of the corporation (ATCO Pipelines) respectively. All of the net proceeds from the 3.857 per cent debenture will be allocated to ATCO Pipelines. The proceeds will be applied to finance capital expenditures, repay existing indebtedness and for other general corporate purposes.

13. In addition to the debentures, AGPL has concurrently applied to the Commission for approval to issue 61,719 Class A non-voting and 37,827 Class B common shares (applied-for shares) to its parent corporation, CU Inc., with a share price of approximately \$286.30 for each Class A non-voting share and each Class B Common share, for a total aggregate consideration of \$28,500,000.

14. AGPL submitted that issuance of the debentures would help maintain ATCO Gas's and ATCO Pipelines' capital structures at the levels established in Decision 2011-474.⁶ The decision determined a common equity ratio of 39 per cent and 38 per cent for ATCO Gas and ATCO Pipelines, respectively. AGPL provided a forecast of its pro forma capital structure, following the issuance of the applied-for-shares and the debentures, in Exhibit "E" of each of the applications.

Table 1. Pro forma capital structure

ATCO Gas				
	June 30, 2012		June 30, 2012 as adjusted ¹	
	Amount (\$000,000s)	%	Amount (\$000,000s)	%
Long-term debt	893.2	52.8	1,029.2	55.4
Preferred shares	114.6	6.8	114.6	6.2
Common equity	683.8	40.4	712.3	38.4
Total	1,691.6	100.0	1,856.1	100.0

¹After giving effect to the issuance of the applied-for shares and the debentures

⁶ Decision 2011-474: 2011 Generic Cost of Capital, Application No. 1606549, Proceeding ID No. 833, December 8, 2011.

ATCO Pipelines				
	June 30, 2012		June 30, 2012 as adjusted ¹	
	Amount (\$000,000s)	%	Amount (\$000,000s)	%
Long-term debt	456.4	52.2	499.4	54.4
Preferred shares	38.1	4.3	38.1	4.2
Common equity	380.3	43.5	380.3	41.4
Total	874.8	100.0	917.8	100.0
¹ After giving effect to the issuance of the applied-for shares and the debentures				

15. The applications requesting approval for the issuance of the debentures and the applied-for shares were considered concurrently. The application⁷ in consideration of the applied-for shares was conducted under Proceeding ID No. 2258.

16. AGPL submitted that the proposed issuance of the debentures will have no effect on the control of the corporation or on the voting power related to the shares of the corporation.

17. Attached to each of the applications, as Exhibit “F,” was a letter from Bennett Jones LLP which opines, among other things, that AGPL has complied with the securities laws of the Province of Alberta, being the province in which the debentures will be issued.

5 Commission findings

18. In determining whether to grant AGPL’s applications, the Commission must consider Section 26(2)(a) of the *Gas Utilities Act*. Therefore, the primary focus of this review is to determine (a) whether the proposed issuances is to be made in accordance with law and (b) whether the Commission approves the purpose of the issue.

19. In determining whether a debt issuance will be made in accordance with law, the Commission is primarily focused on whether the proposed issuance meets the corporate and securities law requirements pertaining to such transactions. The Commission typically requests and relies upon the opinion of the applicant’s legal counsel to confirm that the utility is authorized to undertake the issuance of the debenture proposed and that the form and content of the debenture issuance is in compliance with applicable laws. Based on the opinion provided by AGPL’s legal counsel, Bennett Jones LLP, dated November 16, 2012, the Commission is satisfied that issuances of the debentures will be made in accordance with law.

20. The Commission is satisfied, based on AGPL’s submissions, that proceeds from issuances of the debentures will be used to repay existing indebtedness, finance capital expenditures and for other general corporate purposes.

21. The Commission understands that the cost of debt financing directly affects the cost of gas transmission and distribution borne by customers. The Commission notes that the yield on the 30-year debenture being issued pursuant to this decision is much lower than any prior debt

⁷ Application No. 1609050, Proceeding ID No. 2258.

issues. By further securing 40 and 50-year debentures at minimal spreads to the 30-year debenture yield, AGPL extended the certainty of affordable debt yields. The Commission recognizes the magnitude of the debt issuances and the substantial savings arising from the issuances of this debt at these historic low yields that AGPL has been able to lock in for extended periods on behalf of ratepayers.

6 Order

22. It is hereby ordered that:

- (1) In accordance with the findings in this decision, ATCO Gas & Pipelines Ltd. is authorized pursuant to Section 26(2) of the *Gas Utilities Act* to issue to CU Inc., its parent company:
 - (a) a 3.805 per cent debenture in the principal amount of \$122,000,000 with a maturity date of September 10, 2042;
 - (b) a 3.825 per cent debenture in the principal amount of \$49,000,000 with a maturity date of September 11, 2062; and,
 - (c) a 3.857 per cent debenture in the principal amount of \$8,000,000 with a maturity date of November 14, 2052.

Dated on December 31, 2012.

The Alberta Utilities Commission

(original signed by)

Bill Lyttle
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) counsel or representative
ATCO Gas & Pipelines Ltd. (AGPL) C. Warkentin A. Green
ATCO Electric Ltd. (AE) B. Yee L. Kerckhof

The Alberta Utilities Commission
Commission Panel B Lyttle, Commission Member
Commission Staff D. A. Larder, QC (Commission Counsel) N. Mahbub B. Whyte