



ATCO Gas & Pipelines Ltd.

**Issue of Class A Non-Voting and
Class B Common Shares to CU Inc.**

December 31, 2012

The Alberta Utilities Commission

Decision 2012-370: ATCO Gas & Pipelines Ltd.

Issue of Class A Non-Voting and Class B Common Shares to CU Inc.

Application No. 1609050

Proceeding ID No. 2258

December 31, 2012

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The Alberta Utilities Commission

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1 Introduction

1. ATCO Gas & Pipelines Ltd. (AGPL) filed an application (application) on November 19, 2012 with the Alberta Utilities Commission (AUC or 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.

2 Process

2. 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 regarding this proceeding.

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

3 Background

4. 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

(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, ...

5. Consequently, AGPL is required to obtain approval from the Commission before issuing any shares or stock.

4 Details of the application

6. CU Inc., the parent corporation, owns all the common shares of AGPL and its divisions, ATCO Gas and ATCO Electric Ltd.

7. AGPL indicated that issuance of the applied-for shares would help maintain ATCO Gas's and ATCO Pipelines' capital structures at the levels established in Decision 2011-474.¹ The decision determined a common equity ratio of 39 per cent and 38 per cent for ATCO Gas and ATCO Pipelines, respectively.

8. AGPL submitted that all of the proceeds from the issuances would be used to finance capital expenditures and other general corporate purposes of ATCO Gas. None of the proceeds from the sale of the applied-for shares will be applied to ATCO Pipelines.

9. AGPL submitted in the application that issuance of the applied-for shares will have no effect on the control of AGPL or on the voting power related to the shares of AGPL.

10. AGPL also attached in the application a resolution of the board of directors of AGPL authorizing the issuance of the applied-for shares, as Exhibit "A," and a table demonstrating the manner of determination of the price per share of the applied-for shares, as Exhibit "B."

Table 1. Manner of determination of the price per share

Aggregate value of equity issuance	\$28,500,000
Number of shares to be Issued:	
Class A non-voting shares	61,719
Class B common shares	37,827
Total	99,546
Approximate price per share	\$286.30

11. In addition to the applied-for shares, AGPL noted that its directors have also approved, subject to Commission approval, the issuance to CU Inc. of three long-term debentures (the debentures). More specifically, the debentures include a:

- \$122,000,000 principal amount 3.805 per cent debenture due September 10, 2042²
- \$49,000,000 principal amount 3.825 per cent debenture due September 11, 2062³
- \$8,000,000 principal amount 3.857 per cent debenture due November 14, 2052⁴

12. Separate applications for the debentures were considered concurrently with this application under Proceeding ID No. 2257.

¹ Decision 2011-474: 2011 Generic Cost of Capital, Application No. 1606549, Proceeding ID No. 833, December 8, 2011.

² Application No. 1609045, Proceeding ID No. 2257.

³ Application No. 1609048, Proceeding ID No. 2257.

⁴ Application No. 1609043, Proceeding ID No. 2257.

13. AGPL provided a forecast of its pro forma capital structure, following issuance of the applied-for shares and the debentures, in Exhibit “C.”

Table 2. 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	1029.2	55.4
Preferred shares	114.6	6.8	114.6	6.2
Common equity	683.8	40.4	712.3	38.4
Total	1691.6	100.0	1856.1	100.0
¹ After giving effect to the issuance of the applied-for shares and the debentures				

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				

14. Attached to the application, as Exhibit “D,” 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 applied-for shares will be issued.

5 Commission findings

15. The Commission has reviewed the application, and based on the legal opinion of Bennett Jones LLP and the submission of AGPL that the proceeds from the sale of the applied-for shares will be applied to finance capital expenditures and other general corporate purposes of ATCO Gas, is satisfied that AGPL has complied with the requirements of Section 26(2)(a) of the *Gas Utilities Act*.

6 Order

16. It is hereby ordered that:

- (1) ATCO Gas & Pipelines Ltd. is authorized to issue 61,719 Class A non-voting and 37,827 Class B common shares to CU Inc. with a share price of approximately \$286.30 for each Class A non-voting share and each Class B Common share, with a total aggregate consideration of \$28,500,000 in the manner requested in the application.

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. C. Warkentin A. Green
ATCO Electric Ltd. 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