


MADE at the City of Calgary, in the Province of Alberta, on 7th day of October 2005.	 ALBERTA ENERGY AND UTILITIES BOARD
ATCO Electric Ltd., ATCO Gas and ATCO Pipelines Master Services Agreements and Benchmark Extension	Application No. 1398892

1 BACKGROUND AND DETAILS OF THE APPLICATION

On May 2, 2005, ATCO Electric Ltd. (AE), ATCO Gas (AG) and ATCO Pipelines (AP) (collectively the ATCO Utilities or ATCO) applied to the Alberta Energy and Utilities Board (the Board or EUB) for approval of certain Customer Care and Billing (CC&B) Master Services Agreements (CC&B MSAs), approval of certain Information Technology (IT) Renewal Master Services Agreements (IT Renewal MSAs) and approval of an extension to the period covered by the benchmarking project (the Application).

Notice with respect to the Application was e-mailed on May 12, 2005, to all parties on the distribution lists of the most recent AE General Tariff Application (GTA), AG General Rate Application (GRA) and AP GRA. In the Notice, the Board indicated that in filing an intervention a party was expected to indicate its support of or opposition to the Application.

On May 26, 2005, the Board received comments from The City of Calgary (Calgary) and the Alberta Urban Municipalities Association (AUMA). Calgary indicated that it had been an integral participant in the collaborative benchmarking process with the ATCO Utilities which resulted in the agreements filed with the Application and accordingly, it supported the Application. AUMA indicated that it represented the FIRM Customers¹ (Electric) and the North Core Customers² (Gas) on the Collaborative Process Committee (CPC)³ in negotiating the revisions to the CC&B MSAs and IT Renewal MSAs. AUMA indicated that the FIRM

¹ FIRM Customers are comprised of AUMA, Alberta Irrigation Projects Association (AIPA), the Alberta Association of Municipal Districts and Counties (AAMD&C), the Consumer's Coalition of Alberta (CCA), the Alberta Federation of REA's Ltd. (AFREA's) and the Public Institutional Consumers of Alberta (PICA).

² North Core Customers are comprised of PICA, AAMD&C, AUMA, CCA, Canadian Forest Products & Ainsworth Lumber Co. Ltd., the City of Edmonton, Federation of Alberta Gas Co-ops Ltd, Gas Alberta Inc. and Aboriginal Communities.

³ Interested parties represented on the CPC included AAMD&C, AFREA's, AIPA, CCA, PICA, Municipal Interveners, the Federation of Alberta Gas Co-ops Ltd, Gas Alberta Inc, Aboriginal Communities, Canadian Forest Products, Industrial Power Consumers and Cogenerators Association of Alberta, Calgary, the City of Edmonton, Board observers and ATCO.

Customers and the North Core Customers supported the Application and did not object to the Board dealing with the Application without further process. AUMA also indicated that it understood that the Office of the Utilities Consumer Advocate also supported the Application.

On May 27, 2005, the Board issued IRs to the ATCO Utilities and the CPC. Responses were received on June 7, 2005 and July 14, 2005. For purposes of this Order, the Board considers that the record closed on July 14, 2005.

Background

In a previous application which resulted in Decision 2004-057⁴ (the Decision), dated July 13, 2004, the ATCO Utilities filed a proposed IT benchmarking terms of reference document (IT TOR) and a request for proposal document (IT RFP) on behalf of the CPC. In the Decision, the IT RFP was accepted for information and the IT TOR were approved as filed, subject to the development of the CC&B terms of reference (CC&B TOR) and request for proposal (CC&B RFP) or to subsequent changes, if any, related to outstanding items. The Decision noted that the CPC would be turning its attention to developing the CC&B TOR and CC&B RFP. The Decision also noted that the CPC agreed to wait until completion of CC&B TOR and CC&B RFP before issuing the IT RFP. The CPC planned to issue the IT RFP and CC&B RFP together.

The Application

Customer Care and Billing

The CPC noted that it was very close to completing a final CC&B TOR and CC&B RFP and submitted that Board approval of the CC&B MSAs was a critical component of these documents. The CPC noted that it intended to wait until Board approval was received before submitting the CC&B TOR to the Board for approval and the CC&B RFP for information.

In Appendix 1 of the Application, ATCO included an April 29, 2005 letter agreement between ATCO I-Tek Business Services Ltd. (ATCO I-Tek) and AG and AE clarifying the ATCO-CIS License Agreement dated effective as of December 1, 1998 (ATCO-CIS Clarifying Agreement). The CPC indicated that it was seeking approval of the ATCO-CIS Clarifying Agreement because it confirms the ongoing rights of the ATCO Utilities under the ATCO-CIS License Agreement which underpins the terms and conditions in the CC&B MSAs dealing with intellectual property and the term "Supplier System".

The CPC requested approval of the CC&B MSAs and statements of work contained in Appendix 2 of the Application and submitted that Board approval was required before the CPC can finalize the CC&B TOR and CC&B RFP. The CPC indicated that the approved MSA documents will be used as the foundation for benchmarking. Appendix 2 includes:

- Statements of work for the period January 1, 2003 to May 31, 2004 related to the CC&B MSAs effective January 1, 1999⁵ for the integrated gas retail and distribution business of AG and the integrated electricity retail and distribution business of AE;

⁴ Decision 2004-057 dated July 13, 2004 ATCO Utilities Benchmarking Terms of Reference Pursuant to Decisions 2003-073 & 2004-026 ATCO I-Tek Master Services Agreement Module

⁵ The CC&B MSAs were between ATCO Singlepoint Ltd. and AG and ATCO Singlepoint Ltd. and AE.

- Statements of work for the period June 1, 2004 to September 30, 2004 that are in addition to those covered in the June 1, 2004 distribution CC&B MSAs for AG and AE and which were provided under the terms and conditions set forward in such distribution MSAs (Continuing CC&B Retail Statements of Work);
- CC&B MSAs for AG and AE effective June 1, 2004,⁶ for the ongoing respective gas and electricity distribution businesses (Distribution CC&B MSAs);
- Statements of work related to the Distribution CC&B MSAs (Distribution CC&B Statements of Work);
- Amending agreements to the Distribution CC&B MSAs dated April 29, 2005 (Amending Distribution CC&B Agreements).

The CPC indicated that the Distribution CC&B MSAs were negotiated between ATCO Utilities and ATCO I-Tek and the role of the CPC was to review the Distribution CC&B MSAs to determine if a recommendation could be made to the Board to approve them. The CPC also indicated that the Amending Distribution CC&B Agreements were the result of the CPC's review and were required in order for the CPC to recommend that the Board approve the Distribution CC&B MSAs. The CPC indicated that it used the IT MSAs approved in Decision 2004-055⁷ as an important input into its decision to recommend that the Board approve the MSAs contained in the Application.

With respect to the IT MSAs and the termination provisions and intellectual property right provisions approved in Decision 2004-055, the CPC indicated that consistency with Decision 2004-055 was maintained in developing the Distribution CC&B MSAs to the extent that it made sense given that the IT MSAs and CC&B MSAs cover significantly different services.

With respect to the Distribution CC&B MSAs, ATCO indicated that the differences in the general terms and conditions in the AG version and AE version reflect the differences in terminology used in their respective regulatory environments, and the fact that AE has distributor site customers, while AG does not.

ATCO indicated that it had intended to file all schedules related to the Distribution CC&B MSAs but Schedule D had been inadvertently missed and therefore, was attached to an IR response⁸ ATCO also indicated that Appendix A to Schedule G, the Corporate Network Access Guidelines, contained confidential information regarding system access and was not filed as part of the Application to avoid creating a security risk.

With respect to the Distribution CC&B Statements of Work, ATCO indicated that statement of work AE PD00311 was not provided in the original filing; a submission oversight and therefore, was included in response to a Board IR.⁹ In addition, ATCO indicated that statement of work AG PD00311 was comparable to AE PD00311 and statement of work AG PD00311 (Phase II) was comparable to AE PD00340.

⁶ The CC&B MSAs were between ATCO I-Tek Business Services Ltd. and AG and ATCO I-Tek Business Services Ltd. and AE.

⁷ Decision 2004-055 dated July 13, 2004 ATCO Utilities Second Compliance Filings Pursuant to Decisions 2003-073 and 2004-026 ATCO I-Tek Master Services Agreement Module

⁸ BR-CPC-6 (a) Attachment 1 for AG and BR-CPC-6 (a) Attachment 2 for AE.

⁹ BR-ATCO-3

Information Technology

The CPC requested approval of the IT Renewal MSAs dated effective January 1, 2005 which were attached as Appendix 3 to the Application. The IT Renewal MSAs included MSAs for AE, AG and AP. The CPC recommended that the Board approve the IT Renewal MSAs including Schedules A through G, including amendments, since they form part of the MSAs which must be approved by the Board prior to benchmarking. Upon approval of the IT Renewal MSAs, the CPC noted that it will ask the Board to amend the IT TOR approved in the Decision 2004-057 so that it incorporates the IT Renewal MSAs and the benchmark extension noted below.

The ATCO Utilities confirmed that the IT MSAs approved in Decision 2004-055 were the base documents to which the IT Renewal MSAs were developed. The ATCO Utilities indicated that based on the renewal and termination provisions of the IT MSAs, it entered into negotiations to renew the IT MSAs. ATCO indicated that if the ATCO Utilities had failed to renew the IT MSAs by June 30, 2005, then either an automatic renewal would have occurred or the ATCO Utilities would have had to provide notice of termination of the contract. The ATCO Utilities indicated that they renewed the agreements.

The ATCO Utilities submitted that the IT Renewal MSAs were designed to preserve the then existing agreements and that the only changes made were necessary to keep the MSAs current with business changes that have occurred since the last agreements were signed. ATCO Utilities indicated that these business changes included such items as job title changes, company names, changes to the applications inventory, as well as ATCO I-Tek Inc. service offerings.

With respect to the changes proposed in the IT Renewal MSAs, the CPC indicated that the changes were either administrative in nature or reflected updates to technology and systems. The CPC also indicated that a new Category of Service in Schedule B called Application Service Provider was introduced for Oracle Financials, the Service Levels in Schedule C on response times was changed, and the Pricing Schedule D was changed.

The ATCO Utilities also indicated that the IT MSAs approved in Decision 2004-055 were effective January 1, 2002 with a term expiring December 31, 2006. With respect to the IT Renewal MSAs, ATCO Utilities indicated that the initial term was effective January 1, 2005 and will end on December 31, 2009. The ATCO Utilities also indicated that the IT Renewal MSAs have a term of five years, with the last two years of the contract being used for transitioning services resulting from expiry or termination of the contract. ATCO Utilities indicated that the contract can be renewed every three years for a five year term and that the MSAs were essentially a three year contract with a two year transition period, if required for an orderly contract expiry or termination.

Other Board Decisions and the Benchmarking Process

The CPC noted that it came to agreement on the CC&B MSAs and IT Renewal MSAs prior to the Board directions outlined in Decisions 2005-037¹⁰ and 2005-039¹¹ (the Retail Impact Decisions). The CPC submitted that directions from the Retail Impact Decisions will be complied with in their entirety and that the responses to the directions will become part of the IT TOR and CC&B TOR. However, ATCO reserved the right to file a review and variance application (R&V) regarding the Retail Impact Decisions. ATCO agreed that subject to any outcomes or other Board sanctioned changes to the Retail Impact Decisions, the responses to the directions would become part of the terms of reference filed with the Board.

The CPC indicated that the benchmarking process was designed to estimate the fair market value of the services provided in accordance with the CC&B MSAs and the IT MSAs. In addition, the CPC indicated that it was not the purpose of the benchmarking process nor was it expected that the benchmarking process would alter the schedules to the IT Renewal MSAs. The CPC also indicated that the benchmarking process was generally not expected to alter the terms and conditions of the statements of work and the schedules to the Distribution CC&B MSAs. The CPC indicated that, as directed by the Board in 2003-073, the benchmarking consultant was expected to report on non-standard clauses, terms and conditions and service levels and submitted that while this may have an impact on the benchmark result, it may also give rise to consideration for amendments.

Benchmarking Extension

The CPC requested approval to extend the period covered by the benchmarking from 2003 and 2004 to cover the years 2005 and 2006. The CPC indicated that the requested extension would apply to the benchmarking of both the CC&B MSAs and IT MSAs. Later in response to a Board IR,¹² the CPC indicated that it only sought to amend the IT TOR approved in Decision 2004-057 to include the IT Renewal MSAs for the years 2005 and 2006 and expand the period covered by the yet to be developed CC&B TOR to include 2005 and 2006.

The CPC submitted that the requested extension would be cost effective and help reduce regulatory lag and would facilitate the Board's work in approving costs related to the IT MSAs and CC&B MSAs in the AE 2005-2006 GTA and AG 2005-2007 GRA.

2 VIEWS OF THE BOARD

The Collaborative Process

The Board notes that the first meeting regarding the ATCO IT services benchmarking took place in December 2002 and at that time the intent was to only do benchmarking on IT services (CC&B was included at a much later date). The agenda for the meeting was sent to those interveners who had previously expressed interest in the process and to Board staff observers.

¹⁰ Decision 2005-037 dated April 29, 2005, AE 2003/2004 GTA, Impact of the Retail Transfer and ITBS Volume Forecast, Application 1355435

¹¹ Decision 2005-039 dated May 3, 2005, AG 2003/2004 GRA, Impact of the Retail Transfer and ITBS Volume Forecast, Application 1355457

¹² BR-CPC-4

Board staff observers indicated that between December 2002 and the date of the filing of the Application, numerous meetings and e-mails were exchanged between parties. The intervenor participants of the CPC (the Customer Group) were largely represented by two representatives from Calgary.¹³ When it was necessary to have agreement on an item, a representative from Calgary generally accepted the responsibility to go back to the Customer Group and receive their input and/or consent. In some cases the position that Calgary had previously expressed was varied based on the input from the wider group. Board staff observed that all parties appeared to treat each other fairly and there was ample opportunity to contribute to the extent that they so desired. It was also noted that that CPC process involved concessions on the part of all parties. It appeared to Board staff that parties adhered to the rules established to manage the collaborative process. No complaints to the contrary were noted. Overall, the process appeared to be fair to all parties and to have been conducted in good faith.

Customer Care and Billing Services

With respect to CC&B, the Board notes that the CPC recommended that the Board approve the ATCO-CIS Clarifying Agreement¹⁴ and the documents included in Appendix 2. The Board notes that, as part of Appendix 2, ATCO had intended to file Schedule D to the Distribution CC&B MSAs and statement of work AE PD00311, but both documents were filed as part of the IR process.

The Board notes that the ATCO-CIS Clarifying Agreement and the documents included in Appendix 2 will be utilized in the benchmarking of ATCO Utilities CC&B services and that Board approval of such documents is requested to allow the CPC to finalize the CC&B TOR and CC&B RFP. The Board notes that the CPC intends to wait until Board approval has been received before submitting the CC&B TOR to the Board for approval and the CC&B RFP for information.

The Board also notes that the Amending Distribution CC&B Agreements were the result of the CPC's review and were required in order for the CPC to recommend that the Board approve the Distribution CC&B MSAs. The Board also notes that the CPC used the IT MSAs approved in Decision 2004-055 as an important input into its decision to recommend that the Board approve the Distribution CC&B MSAs contained in the Application and that consistency with Decision 2004-055 was maintained in developing the Distribution CC&B MSAs where practical.

While the Board considers the information contained in Appendix 1 and 2 to be an important part of the overall package of information that will be provided to potential benchmarking consultants, the Board notes that the CC&B TOR and CC&B RFP are still to be filed with the Board and that the CPC submitted that responses to the directions from the Retail Impact Decisions will become part of the CC&B TOR, subject to ATCO's potential R&V.

The ATCO collaborative process has been a long process involving several Board proceedings to develop the base agreements on which the present ones are modeled. Given the contested nature of those previous applications and the fact that all the principle parties were involved in the CPC,

¹³ Mr. Greg Matwichuk and Mr. Jim Stephens

¹⁴ Included in Appendix 1 of the Application.

the Board has substantial comfort that the agreements are in the public interest and that they should be approved. The Board further notes that the final result as reflected in the Application was a result of a series of compromises between the Customer Group and ATCO.

Based on the foregoing and the consistency of the CC&B MSAs with prior Board decisions, where practical, and in consideration of the extensive efforts of the parties in the collaborative process, the Board will accept the CPC's recommendation and approve, for the purposes of benchmarking, the ATCO-CIS Clarifying Agreement (Appendix 1), the documents included in Appendix 2, the noted Schedule D and statement of work AE PD00311. However, the Board's approval is subject to any changes that may be required to conform with the Retail Impact Decisions. In addition, the Board notes that changes may be required to the noted documents as a result of the future benchmarking process. If changes are required, the Board expects to receive requests for approval of revised agreements in due course.

Information Technology Services

The Board notes that the CPC recommended that the Board approve the IT Renewal MSAs contained in Appendix 3 including Schedules A through G since they form part of the MSAs which must be approved by the Board prior to benchmarking. The Board also notes that upon approval of the IT Renewal MSAs, the CPC indicated that it will ask the Board to amend the IT TOR approved in the Decision 2004-057 so that it incorporates the IT Renewal MSAs and the benchmark extension discussed below.

The Board notes that the IT MSAs approved in Decision 2004-055 were the base documents on which the IT Renewal MSAs were developed and that the only changes made to the base documents were necessary to keep the MSAs current with business changes that have occurred since the last agreements were signed and that the changes were either administrative in nature or reflected updates to technology and systems. However, the Board also notes that forecast volumes for the various service categories are included for 2005 to 2010 in Schedule D of the IT Renewal MSAs and that prices are based on such volumes categories.

While the Board considers the information contained in Appendix 3 to be an important part of the overall package of information that will be provided to potential benchmarking consultants, the Board notes that amendments to the IT TOR and IT RFP will still be filed with the Board and that the responses to the directions from the Retail Impact Decisions will become part of the IT TOR, subject to ATCO's potential R&V. Given this and the type of changes made to the previously approved IT MSAs and in consideration of the extensive efforts of the parties in the collaborative process, the Board will accept the CPC's recommendation and approve, for the purposes of benchmarking, the IT Renewal MSAs included in Appendix 3. However, the Board's approval is subject to any changes that may be required to conform with the Retail Impact Decisions. In addition, the Board's approval does not include approval of the above noted forecast volumes contained in the IT Renewals MSAs. The Board notes that changes may be required to the noted documents as a result of the future benchmarking process. If changes are required, the Board expects to receive requests for approval of revised agreements in due course.

Benchmarking Extension

The Board notes that the CPC requested approval to extend the period covered by the IT and CC&B services benchmarks from 2003 and 2004 to cover the years 2005 and 2006. The Board notes that in regard to this request, the CPC indicated that it only sought to amend the IT TOR approved in Decision 2004-057 to include the IT Renewal MSAs for the years 2005 and 2006 and to expand the period covered by the yet to be developed CC&B TOR to include 2005 and 2006.¹⁵

With respect to 2005 and 2006, the Board would expect that the Distribution CC&B MSAs, the applicable CC&B statements of work, the Amending Distribution CC&B Agreements and the IT Renewal MSAs would be considered by the benchmark consultant.

Therefore, in consideration of the CPC submission that the requested extension would be cost effective and improve the timeliness of the 2005 and 2006 benchmarking and that it would facilitate the Board's work in approving costs related to the IT MSAs and CC&B MSAs contained in the AE 2005-2006 GTA and AG 2005-2007 GRA, the Board approves the request to amend the IT TOR approved in Decision 2004-057 to include the IT Renewal MSAs for the years 2005 and 2006 and expand the period covered by the yet to be developed CC&B TOR to include 2005 and 2006.

Joint Utility Benchmark Approach

With respect to whether the potential benchmark consultant, selected to do the benchmark of the IT services for ATCO Utilities and CC&B services for AE and AG, could also do a similar benchmark at the same time for other utilities who are regulated by the Board and who outsource a significant portion of their IT and/or CC&B services to affiliates or other service providers (the Joint Approach), the Board notes that ATCO and the Customer Group provided separate responses.¹⁶ While the Customer Group suggested the Joint Approach would provide significant benefits, ATCO did not believe there would be significant benefits and suggested that such an approach could add cost and delays. Both parties outlined certain issues that would have to be addressed in order for the Joint Approach to be viable and both parties also outlined the major tasks that would have to be completed in order for the Joint Approach to be implemented.

Given the status of the ATCO collaborative process and work completed by the CPC to date, the Board does not consider it appropriate to consider the Joint Approach for the benchmarking period 2003 to 2006.

While the Board acknowledges that the Joint Approach would require dealing with many issues, the Board believes there could be merit in utilizing the Joint Approach in the longer term. In that regard, it would likely be helpful to complete and assess the CPC efforts prior to considering the introduction of additional utilities into the process by way of a Joint Approach.

¹⁵ BR-CPC-4

¹⁶ The Customer Group response to BR-CPC-3 and the ATCO response to BR-CPC-3.

3 ORDER

For the foregoing reasons and subject to the conditions and qualifiers set out in this Decision, it is hereby ordered that:

- (1) The ATCO-CIS Clarifying Agreement, the Customer Care and Billing related documents included in Appendix 2 of the Application, Schedule D¹⁷ and statement of work AE PD00311,¹⁸ are approved for the purposes of the ATCO 2003-2006 benchmarking initiative.
- (2) The Information Technology Renewal Master Services Agreements included in Appendix 3 of the Application are approved for the purposes of the ATCO 2003-2006 benchmarking initiative.
- (3) The Information Technology Terms of Reference approved in Decision 2004-057 can be amended to include the Information Technology Renewal Master Services Agreements for the years 2005 and 2006.
- (4) The period covered by the Customer Care and Billing Terms of Reference shall include the years 2003, 2004, 2005 and 2006.

END OF DOCUMENT

¹⁷ Schedule D is related to the Distribution CC&B MSAs and was filed as BR-CPC-6 (a) Attachment 1 for AG and BR-CPC-6 (a) Attachment 2 for AE.

¹⁸ BR-ATCO-3