



**ATCO Gas and Pipelines Ltd.
ATCO Electric Ltd.
CU Water Ltd.**

**Inter-Affiliate Code of Conduct
Compliance Plan Amendments**

Cost Awards

The Alberta Utilities Commission

Decision 2011-021: ATCO Gas and Pipelines Ltd.

ATCO Electric Ltd., CU Water Ltd.

Inter-Affiliate Code of Conduct Compliance Plan Amendments

Application Nos. 1605379, 1605741, 1605744, 1605753, 1605754, 1605755, 1605767, 1605768

Proceeding ID No. 899

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1 Introduction

1. The ATCO Group consists of ATCO Gas, a division of ATCO Gas and Pipelines Ltd., ATCO Electric Ltd., ATCO Pipelines, a division of ATCO Gas and Pipelines Ltd. and CU Water Ltd (collectively ATCO or the ATCO Group).

2. The Alberta Utilities Commission's (AUC or Commission) predecessor, the Alberta Energy and Utilities Board (EUB or Board) issued Decision [2003-040](#)¹ in the spring of 2003. The decision dealt with inter-affiliate transactions and activity among the ATCO Group as well as between the ATCO Group and other non-regulated affiliated companies.

3. The ATCO Group filed reports which stated that it was in non-compliance with section 3.3.1 of the code, the sharing of employee's provision. The AUC sent letters dated December 1, 2009 to ATCO directing it to comply with section 3.3.1. ATCO filed four letters in response to the letter of December 1, 2009.

4. Subsequent to ATCO's filing of the four response letters, ATCO filed four applications in late December 2009 requesting approval for amended versions of the ATCO Plans. The amendments also included numerous other changes.

5. The Commission dealt with the four Applications by way of a written proceeding. On October 4, 2010, the Commission issued Decision [2010-481](#)² with respect to these Applications.

6. On October 21, 2010, a summary of the costs being claimed was circulated to interested parties. Parties were advised that any comments regarding the figures listed in the summary or the merits of the total costs claimed were to be filed by November 4, 2010. The Commission did not receive any comments. Accordingly, the Commission considers the cost process to have closed on November 4, 2010.

¹ Decision 2003-040: ATCO Group, Affiliate Transactions and Code of Conduct Proceeding Part B: Code of Conduct, Application No. 1237673, Released: May 22, 2003.

² Decision 2010-481: ATCO Gas and Pipelines Ltd., ATCO Electric Ltd., CU Water Ltd., Inter-Affiliate Code of Conduct Compliance Amendments, Application No. 1605730; Proceeding ID. 594, Released: October 4, 2010.

2 Views of the Commission – Authority to Award Costs

7. When assessing a cost claim pursuant to Section 21 of the *Alberta Utilities Commission Act* (AUC Act), the Commission applies Rule 022, *Rules on Intervener Costs in Utility Rate Proceedings* (Rule 022).

8. 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.

9. 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.

10. 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. As such, the Commission only approves those costs that are reasonable and directly and necessarily related to the party's participation in the proceeding.

3 Views of the Commission – Assessment

11. ATCO submitted a cost claim totaling \$1,575.00. The claim is comprised of legal fees incurred by Bennett Jones LLP.

12. The Commission has considered the costs submitted by ATCO. The Commission finds that the participation of ATCO was effective and of assistance in reviewing the Applications. The Commission also notes that the claims for professional fees and other claims were in accordance with the *Scale of Costs*. Accordingly, the Commission considers ATCO's claims for fees in the total amount of \$1,575.00 to be reasonable.

3.1 Allocation of Allowed Costs

13. The Allocation of allowed costs for ATCO Utilities are to be allocated 40% to ATCO Electric, 40% to ATCO Gas and 20% to ATCO Pipelines, as requested by ATCO.

4 GST

14. In accordance with the Commission's treatment of the GST on cost awards, ATCO is required to pay only that portion of the GST paid by interveners that may not be recoverable through the GST credit mechanism. Accordingly where parties are eligible for a GST credit the Commission has reduced this particular portion of their claim. Eligible GST approved by the Commission amounts to \$0.00.

15. 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

It is hereby ordered that:

1. ATCO Electric Ltd.'s external costs in the amount of \$630.00 are approved.
2. ATCO Electric Ltd. shall record in its Hearing Cost Reserve Account the allowed external applicant costs in the amount of \$630.00.
3. ATCO Gas North's external costs in the amount of \$315.00 are approved.
4. ATCO Gas North shall record in its Hearing Cost Reserve Account the allowed external applicant costs in the amount of \$315.00.
5. ATCO Gas South's external costs in the amount of \$315.00 are approved.
6. ATCO Gas South shall record in its Hearing Cost Reserve Account the allowed external applicant costs in the amount of \$315.00.
7. ATCO Pipelines North's external costs in the amount of \$157.50 are approved.
8. ATCO Pipelines North shall record in its Hearing Cost Reserve Account the allowed external applicant costs in the amount of \$157.50.
9. ATCO Pipelines South's external costs in the amount of \$157.50 are approved.
10. ATCO Pipelines South shall record in its Hearing Cost Reserve Account the allowed external applicant costs in the amount of \$157.50.

Dated on January 19, 2011.

The Alberta Utilities Commission

(Original signed by)

Carolyn Dahl Rees
Vice-Chair

(Original signed by)

Anne Michaud
Panel Chair

(Original signed by)

Mark Kolesar
Commission Member