



AUC

Alberta Utilities Commission

AltaGas Utilities Inc.

Natural Gas Settlement System Code Rules Exemption Application

August 23, 2011



The Alberta Utilities Commission

Decision 2011-346: AltaGas Utilities Inc.

Natural Gas Settlement System Code Rules Exemption Application

Application No. 1607324

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1 Introduction

1. On May 13, 2011, the Alberta Utilities Commission (AUC or the Commission) received an application from AltaGas Utilities Inc. (AUI) requesting exemption from compliance with certain sections of AUC [Rule 028](#) (Version 1.0): *Natural Gas Settlement System Code Rules* (Rule 028 or the NGSSC).

2. AUI is requesting AUC approval for a two-year exemption from the following sections of Rule 028, with the exception of Section 11, for which AUI is requesting a permanent exemption.

Section list of AUI exemption request section	Description
2.5(1)	Responsibility for estimating missing meter readings and consumption amounts
2.7	Disclosure and protection
2.9	Estimation and liability for settlement
3.1	Profile generation methods
4.1	Unaccounted-for gas
4.2	Settlement interval
4.3	Estimation and settlement timing
5.2	Pre-final error correction (PFEC)
5.3	Dispute resolution process
6	Functional requirements of the settlement calculation
7.1	Business transactions (specifically SPC, WSI, WSS, WSD and SPV)
8.6.2	Wholesale settlement data transfers
8.6.5.3	Site profile change transaction (SPC) – process rules and content
11	Settlement performance reporting
Appendix A	Table A-1 PFEC Application Form

3. The Commission issued notice of the application on May 16, 2011, to its gas and pipelines email distribution list, including a statement of intent to participate (SIP) deadline of 4 p.m., May 30, 2011, for any parties wishing to intervene.

4. Direct Energy Marketing Limited (DEML) registered a SIP with the Commission on May 26, 2011, submitting that it did not consider AUI's request for a two-year exemption to be

unreasonable considering the system and operational changes required, and that it expected AUI will work towards being compliant with all aspects of the NGSSC as soon as possible.

5. The Commission established the following process and timeline for the application in a letter dated June 2, 2011:

Process step	Deadline date
Information requests (IR) to AUI	Wednesday, June 8, 2011
AUI responses	Wednesday, June 15, 2011
Argument	Tuesday, June 21, 2011
Reply argument	Monday, June 27, 2011

6. DEML did not submit IRs or reply argument. The Commission received reply argument from AUI on June 27, 2011, and considers this the close of the record for the proceeding.

7. In reaching the determinations set out within this decision, the Commission has considered all relevant materials comprising the record of this proceeding. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record with respect to that matter.

2 Background

8. Decision [2010-260](#),¹ ATCO GAS Natural Gas Settlement System Code Revision dated June 8, 2010, approved ATCO Gas' settlement system code, updated to harmonize with AUC [Rule 021: Settlement System Code Rules](#) (Rule 021) for the electric market. At paragraph 13 of Decision 2010-260,² the Commission stated its intention to initiate a consultation on the development of a generic AUC rule "pertaining to natural gas settlement system code, with a view to simplifying the harmonization of Rule 021 and the NGSSC."

9. In Bulletin [2010-22](#), released on August 30, 2010, the Commission notified interested parties of the initiation of a rule development consultation process for the NGSSC. The ATCO Gas NGSSC (which was approved by the Commission in Decision 2010-260), served as the starting point. The Commission asked industry stakeholders for a "collaborative revision of the ATCO Gas NGSSC, making it applicable to the Alberta retail natural gas marketplace while ensuring consistency with Rule 021."³ Interested parties worked with AUC staff to draft the new AUC rule.

10. During the course of the consultation, the Commission gathered feedback on the various provisions of the proposed NGSSC and posted the matrix of comments on the AUC's website. The matrix included comments from AUI regarding its ability to comply with the various sections of the NGSSC by the effective date of Rule 028.

¹ Decision 2010-260: ATCO Gas, Natural Gas Settlement System Code Revision, Application No. 1605983, Proceeding ID. 552, June 8, 2010.

² Decision 2010-260, paragraph 13.

³ Bulletin 2010-22.

11. Bulletin 2011-11 (bulletin), issued on April 1, 2011, announced the approval of Rule 028 which came into effect on April 4, 2011. All natural gas market participants operating in Alberta are required to comply with Rule 028. However, in the bulletin, the Commission temporarily delayed enforcement of AUI's compliance with certain sections of the NGSSC pending AUI's application for exemption⁴ and directed AUI to file an application for any required exemptions prior to May 6, 2011.

3 Discussion of issues

3.1 The time required for compliance with the NGSSC

12. AUI argued that compliance would take a significant effort to achieve as an entirely new settlement system will either have to be built, bought or outsourced.⁵ AUI outlined the various steps it foresaw in outsourcing the system in its answer to information request AUC-AUI-04:⁶

- AUI would need to identify reasonable options for a system that achieves NGSSC compliance while examining the fit with AUI's technological, regulatory, business processes, data management requirements.
- AUI would also need to carry out a Life cycle cost analysis: this would involve examining the build/buy/outsourced, implementation, operation, maintenance and systems integration and modification costs.
- Lastly, AUI would examine Vendor reputation for service, support, longevity, credibility and viability.

13. AUI stated that, due to the costs involved, it proposed to explore reasonable and viable options and implement compliance. Following the assessment of the various options, AUI estimated that it would take approximately 16 months to implement its system.⁷ This was further broken down into components as part of the answer to information request AUC-AUI-05:⁸

- a. Project Initiation Phase – 8 months
 - i. Research and analysis – 4 months
 - ii. RFI to vendors – 2 months
 - iii. Proof of concept – 3 weeks
 - iv. Vendor selection – 2 weeks
 - v. Contract negotiations – 3 weeks
- b. Project planning phase - 4 months
- c. Project construction phase – 6 months
- d. Project implementation phase – 6 months

14. AUI stated that no discussions have taken place regarding outsourcing.

⁴ NGSSC sections 2.5(1), 2.9, 3.1, 4.1, 4.2, 4.3, 5.2, 6, 7.1, 8.6.2, 8.6.5.3, 11, Appendix A.

⁵ Exhibit 12.01, AUI argument, paragraph 16.

⁶ Exhibit 9.01, AUC-AUI-04.

⁷ Exhibit 12.01, AUI argument, paragraph 9.

⁸ Exhibit 9.01, AUC-AUI-05.

15. DEML submitted that given the consistency required in the retail market framework and the feedback provided to the AUC (through the consultation process followed by the AUC when drafting Rule 028), it is no longer a practical approach for AUI to have a settlement process that differs from Rule 028.⁹

16. Nevertheless, DEML agreed that a two-year system implementation exemption for AUI is reasonable.

3.2 Implications of delayed implementation

17. AUI stated in its application and in argument that it relied on a financial settlement process rather than an in-kind process.¹⁰ For this reason, AUI submitted that it is not able to comply with Rule 028 at this time.

18. In its response to AUC-AUI-01 and AUC-AUI-02, AUI outlined its current settlement process as well as the data available to it from the settlement process.

19. In its answer to AUC-AUI-01, AUI provided the Commission with the actual 2010 customer composition: retail gas supply (18.9 per cent) and default gas supply (81.1 per cent).¹¹ AUI described its current process as invoicing “no later than the last business day of the second month following a calendar month delivery period.”¹² The rationale for this system, provided in response to AUC-AUI-02, is that a clean monthly cutoff “eliminates the need for future adjustments to nominations related to prior period imbalances.”¹³ AUI argued that as there is no legal separation between its retail and default gas supply customers adding a second internal settlement process between its retail and default gas customers would be an unjustified inefficiency.¹⁴

20. DEML argued that a standard set of settlement rules needs to apply to all natural gas market participants. DEML submitted that a fully compliant NGSSC system is in the interest of customers and necessary for a functioning competitive retail market framework.¹⁵ DEML further stated that an implementation period longer than two years “would not facilitate and encourage the development of a competitive retail gas market in AUI’s territory and is therefore contrary to the government of Alberta’s policy regarding customer choice.”¹⁶

21. In its reply argument, AUI argued that differences in gas and electric markets justify different settlement and billing processes.¹⁷ Further, AUI stated that the settlement process it performs with retailers minimizes the “potential for any settlement-related cross-subsidization between retail and default gas supply customers.”¹⁸

⁹ Exhibit 10.01, DEML argument, page 2.

¹⁰ Exhibit 9.01, AUC-AUI-03 and Exhibit 12.01, AUI argument, paragraph 16.

¹¹ Exhibit 9.01, AUC-AUI-01(b).

¹² Exhibit 9.01, AUC-AUI-01(a).

¹³ Exhibit 9.01, AUC-AUI-02.

¹⁴ Exhibit 12.01, AUI argument, paragraph 15.

¹⁵ Exhibit 10.01, DEML argument, page 2.

¹⁶ Exhibit 10.01, DEML argument, page 2.

¹⁷ Exhibit 15.01, AUI reply argument, paragraph 2.

¹⁸ Exhibit 15.01, AUI reply argument, paragraph 10.

3.3 Section 11 – permanent exemption

22. Section 11 of the NGSSC states the requirements for monthly reports to be made available to the natural gas market participants and the AUC. AUI stated that, unless it becomes compliant with AUC Rule 004: *Alberta Tariff Billing Code Rules (TBC)* in its billing of distribution charges to its default gas supply customers, it will not be able to generate the reports required by Section 11 of the NGSSC.¹⁹

23. In its argument, AUI described its role as fulfilling two functions: gas distribution and default gas supply. As part of its response to AUC-AUI-06, which asked AUI how it currently complies with inter-affiliate reporting requirements and what data from other sources was available for compliance with Section 11, AUI indicated that it could provide the Commission with a semi-annual summary of corrections to retailer settlement.²⁰ AUI argued that there was no justification to warrant a “TBC based method for default gas supply customer billing and does not consider it appropriate to implement a settlement process based on the NGSSC for default gas supply purposes.”²¹

24. DEML argued that an exemption longer than two years would hamper the development of a competitive retail gas market in AUI’s territory and that, as discussed in paragraph 20 above, would not be aligned with government policy.²²

25. AUI responded that there is a distinction between the default gas supply billing process and the competitive retailer billing process due to the latter requiring interaction with third parties.²³ For this reason, AUI requested the Commission approve an ongoing exemption from Section 11.

3.4 Exemption from Section 5.3 – dispute resolution process

26. AUI submitted that it should also be exempted from the dispute resolution process in Section 5.3 until compliance with the other sections is achieved. AUI argued that it is not sufficiently compliant with Rule 028 to be in a position to follow the dispute resolution process defined in Section 5.3.²⁴

27. DEML did not address this issue.

3.5 Commission findings

28. The Commission is concerned that, since the coming into force of Rule 028 and the granting of exemptions to AUI, AUI has not made any progress in sourcing and implementing a settlement system to be in compliance with the NGSSC.

¹⁹ Exhibit 9.01, AUC-AUI-06(a). In its response to AUC-AUI-06, AUI stated that it would not have daily settlement data for default gas supply sites and would, therefore, “not be able to comply with the reporting requirements of Section 11.3.”

²⁰ Exhibit 9.01, AUC-AUI-06(b).

²¹ Exhibit 12.01, AUI argument, paragraph 13.

²² Exhibit 10.01, DEML argument, page 2.

²³ Exhibit 15.01, AUI reply argument, paragraph 8.

²⁴ Exhibit 12.01, AUI argument, paragraph 11.

29. AUI confirmed that no effort has been made to date with regard to exploring options for outsourcing the system to a third party.²⁵ The Commission considers that a significant period of time has passed since the initial discussions of the need for the NGSSC, including an extensive consultative process regarding Rule 028 in which AUI was involved. Consultation with possible third-party suppliers is a key component of the initial research which is necessary to allow AUI to compare the costs and benefits of outsourcing versus the building or buying of a system. This research could also assist AUI to gauge the realistic timing of implementing a new system, and whether it could comply with Rule 028 within the requested two-year exemption period. The Commission is also concerned that the implementation timeline submitted by AUI appears to include several steps premised on the internal development of a system. If a third-party option is found to be the best option, the implementation period required could be shorter than the 16 months contemplated by AUI.

30. AUI argued that the implementation of a new settlement system will be a significant undertaking. The Commission is of the view however that allowance of a blanket two-year exemption for the several NGSSC sections with which AUI is not in compliance and a permanent exemption to Section 11 will not encourage AUI to become compliant within a reasonable time. The consequences of delayed implementation could, as argued by DEML, hinder a competitive market.

31. The Commission is also concerned about potential cross-subsidization of retail customers by rate regulated customers. AUI was not clear how cross-subsidization is currently prevented without the formal or legal separation between retail and default gas supply functions.

32. AUI did not provide an explanation as to why the required reporting under Section 11 of Rule 028 could not be provided without full compliance with TBC. The Commission questions whether an exemption from Section 11 would be necessary if a settlement system separating the retail and the default gas supply portions of AUI's operations were implemented. The Commission is not convinced that a permanent exemption to Section 11 should be granted at this time.

33. The Commission accepts DEML's position that an exemption beyond two years from compliance with the NGSSC would delay a fully functioning market and considers that a shorter compliance period would be desirable.

34. In order to encourage AUI in the selection of a settlement system option within the two-year exemption requested, the Commission considers that a six-month time period should be provided to AUI to investigate available options.

35. Therefore, the Commission grants a six-month exemption in order for AUI to pursue available options. The Commission will deal with a possible further exemption upon AUI's application presenting available options including the related costs and timelines. This application is to be made within six months of this decision.

36. The Commission denies AUI's request to use the dispute resolution process contained in AUI's terms and conditions (T&Cs) rather than Section 5.3 of the NGSSC. The Commission considers that it is in a better position to resolve disputes relative to Rule 028 and, notwithstanding the current T&Cs, directs that any disputes not resolved within 20 business days of

²⁵ AUC-AUI-04.

the delivery of the notice of dispute should be submitted to the Commission in accordance with Section 5.3.4 of the NGSSC during the period of this temporary exemption.

4 Order

37. It is hereby ordered that:

- (1) AltaGas Utilities Inc. is granted a six-month exemption period in which to complete the research and analysis by February 28, 2012, to evaluate all options for implementing a settlement information system that is compliant with the Natural Gas System Settlement Code.
- (2) AltaGas Utilities Inc. is to make further application to the Commission by the end of the six-month exemption period granted in this decision outlining the proposed solution with supporting documentation, making a case to the Commission for the further exemption period required for its compliance with Rule 028.
- (3) AltaGas Utilities Inc. is directed to submit any disputes not resolved within 20 business days of the delivery of the notice of dispute to the Commission in accordance with Section 5.3.4 of the NGSSC during the period of this temporary exemption.

Dated on August 23, 2011.

The Alberta Utilities Commission

(original signed by)

Kay Holgate
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Counsel or representative
AltaGas Utilities Inc. (AUI) R. Koizumi N. McKenzie J. Coleman C. Martin S. Alexander
Direct Energy Marketing Limited (DEML) C. Severson N. Black S. Puddicombe

Alberta Utilities Commission
Commission Panel K. Holgate, Commission Member
Commission Staff S. Russell (Commission Counsel) P. Hlavac-Winsor P. Howard A. Glass

Appendix 2 – Summary of Commission directions

This section is provided for the convenience of readers. In the event of any difference between the directions in this section and those in the main body of the decision, the wording in the main body of the decision shall prevail.

1. The Commission denies AUI’s request to use the dispute resolution process contained in AUI’s terms and conditions (T&Cs) rather than Section 5.3 of the NGSSC. The Commission considers that it is in a better position to resolve disputes relative to Rule 028 and, notwithstanding the current T&Cs, directs that any disputes not resolved within 20 business days of the delivery of the notice of dispute should be submitted to the Commission in accordance with Section 5.3.4 of the NGSSC during the period of this temporary exemption. Paragraph 36