Decision **2011-391**

Alberta Utilities Commission

ATCO Utilities
(ATCO Gas, ATCO Pipelines, and ATCO Electric Ltd.)

2011 Pension Common Matters

September 27, 2011

The Alberta Utilities Commission
Decision 2011-391: ATCO Utilities (ATCO Gas, ATCO Pipelines, and ATCO Electric Ltd.)
2011 Pension Common Matters
Application No. 1606850
Proceeding ID No. 999

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1 Introduction

1. On December 15, 2010, ATCO Gas (AG), ATCO Pipelines (AP) (divisions of ATCO Gas and Pipelines Ltd. (AGPL)) and ATCO Electric Ltd. (AE), (collectively ATCO Utilities) filed a 2011 pension common matters application (2011 pension application) with the Alberta Utilities Commission (AUC or the Commission).[1] The 2011 pension application was filed pursuant to directions set out in Decision 2010-189.[2]

2. On December 17, 2010, the Commission issued a notice of application, which stated that any party that wanted to intervene in the proceeding was required to submit a statement of intent to participate (SIP) to the Commission by January 5, 2011. The Commission received SIPs from the Consumers' Coalition of Alberta (CCA), the Office of the Utilities Consumer Advocate (UCA) and EPCOR Distribution & Transmission Inc. (EDTI). EDTI did not actively participate in the proceeding.

3. As part of its initial review of the 2011 pension application, the Commission noted outstanding 2011 and 2012 pension placeholder amounts in recent general rate and tariff applications of AP,[3] AG[4] and AE,[5] respectively. As each placeholder requires further process to be finalized and the finalization of the placeholders involved similar issues, the Commission considered the 2011 pension application to be the most convenient proceeding to review the placeholder amounts for each of the ATCO Utilities. Consequently, on February 9, 2011 the Commission issued preliminary information requests (IRs) to ATCO Utilities to supplement the information provided in the 2011 pension application.[6] The Commission considered that the additional information would assist the Commission and interested parties in finalizing the placeholder amounts. Further, given that approvals are also required to finalize 2010 pension funding requirements, the Commission will also address in this decision pension funding revenue requirement amounts for 2010.

4. On March 1, 2011, the Commission issued a preliminary schedule for the proceeding, which included a request that parties provide comments on the need for an oral hearing. On

[1] AUC refers to the Alberta Utilities Commission as an organizational entity; Commission refers to the AUC Commission members as a collective body or a panel.
[2] Decision 2010-189: ATCO Utilities, Pension Common Matters, Application No.1605254, Proceeding ID. 226, April 30, 2010.
[3] Decision 2010-228: ATCO Pipelines 2010-2012 Revenue Requirement Settlement and Alberta System Integration, Application No. 1605226, Proceeding ID. 223, May 27, 2010.
[4] AG 2011-2012 General Rate Application, Application No. 1606822, Proceeding ID No. 969.
[5] Decision 2011-134: ATCO Electric Ltd. 2011-2012 Phase I Distribution Tariff and 2011-2012 Transmission Facility Owner Tariff, Application No. 1606228, Proceeding ID No. 650, April 13, 2011.
[6] Exhibit 11.

April 18, 2011,[7] subsequent to receipt of comments from the UCA, the CCA and ATCO Utilities, the Commission scheduled a written process (Appendix 2).

5. The Commission considers that the close of record for this proceeding occurred on June 29, 2011, the filing date of reply argument.

6. In reaching the determinations set out within this decision, the Commission has considered all relevant materials comprising the record of this proceeding, including the evidence and argument provided by each party. 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

7. AE and AGPL are participants, with other affiliated companies, in The Retirement Plan for Employees of Canadian Utilities Limited and Participating Companies (the Pension Plan). The Pension Plan is administered by Canadian Utilities Limited (CUL),[8] which exercises its fiduciary responsibilities through a Management Pension Committee. The Pension Plan has two components operating under a single plan: defined benefit (DB Plan) and defined contribution (DC Plan).[9] However, the DB Plan has been closed to new employees since 1997.[10] The Pension Plan is subject to the *Employment Pension Plans Act, Chapter E-8, RSA 2000.*

8. The DB Plan provides benefits based on a formula setting out how the employee's monthly pension will be calculated at retirement and, for purposes of funding, is subject to actuarial calculations, which must be filed periodically with the Superintendent of Pensions for Alberta. The DC Plan funding is based on specified employer and employee contribution rates. The amount of a pension to be earned from the DC Plan cannot be determined until the time of retirement because it is subject to the amount of contributions and earnings that have been credited to the particular member for the purchase of a pension from a financial institution at that time.[11]

9. From 1996 until the end of 2009, a surplus in the Pension Plan (the actuarial value of the Pension Plan's assets exceeding its liabilities) allowed ATCO Utilities to avoid making employer contributions (payments) to the Pension Plan in respect of both the DB Plan and the DC Plan during that time (a contribution holiday). As they were not required to make contributions, ATCO Utilities also excluded pension plan service costs from their respective revenue requirements.[12] The obligation of ATCO Utilities to make employer contributions to the Pension Plan re-commenced in 2010.[13]

7 Exhibit 22.01.
8 AE and AGPL are subsidiaries of CU Inc., a wholly-owned subsidiary of CUL. CUL is a subsidiary of ATCO Ltd.
9 Decision 2010-189, Section 2.1, paragraph 7, page 2.
10 Exhibit 1, paragraph 15, page 4.
11 Decision 2010-189, Section 2.1, paragraph 8, page 2.
12 ATCO Electric excluded pension plan service costs from its revenue requirements from 1996 until 2009, at which time it included a placeholder amount for 2009 pension costs, which was subsequently refunded to

10. On June 29, 2010, Mercer (Canada) Limited (Mercer), the Pension Plan's actuary, filed a "Report on the Actuarial Valuation for Funding Purposes as at December 31, 2009" (2009 Actuarial Report) for the Pension Plan with Alberta Finance and Enterprise, Superintendent of Pensions, as required under the *Employment Pension Plans Act*. The 2009 Actuarial Report indicated that the DB Plan had an unfunded liability of $157.1 million, which would require annual special payments of $16.4 million (including payments of $2.6 million in respect of DB Plan members in non-regulated affiliated companies) until December 31, 2024.[14] At December 31, 2009, the Pension Plan had 7,229 members of which 1,805 were active members accruing DB benefits, 107 were active members with DB benefits but accruing DC benefits, and 3,542 were active members accruing DC benefits only.[15]

11. ATCO Utilities had projected its aggregate 2010 minimum funding requirements for the Pension Plan would be approximately $53.0 million[16] for ATCO Utilities and approximately $17.5 million for the non-regulated member entities.

12. On April 30, 2010, Decision 2010-189 was issued in respect of ATCO Utilities Pension Common Matters Application, Proceeding ID No. 226. The decision examined the creation of a deferral account for the special payments required in respect of the unfunded liability of the DB Plan and directed that further information be provided on the proposal. ATCO Utilities was directed to apply for final approval of a 2010 pension cost placeholder amount. ATCO Utilities was also directed to submit a compliance filing by June 21, 2010, and to prepare a 2011 pension application by December 15, 2010. The 2011 pension application was to specifically address the use of discretion with respect to the annual cost of living adjustment (COLA) provision in determining the amount of pension expense to be included in revenue requirement.

13. The pension common matters compliance filing was submitted on June 21, 2010 in accordance with the directions set out in Decision 2010-189. In Decision 2010-553[17] the Commission directed ATCO Utilities to provide an amended deferral account proposal for special payments, and to provide further schedules as part of the upcoming 2011 pension application to provide a breakdown of the special payments amount as reported in the 2009 Actuarial Report as well as further details on the composition of the pension funding amounts for 2010 using the schedule format provided.

customers because the charge was later determined not to be required (Direction 11 in 2010-189, paragraph 147).

13 Decision 2010-189, Section 2.2.

14 Exhibit 12.01, response to AUC-AU-1(a), Attachment 3, page 2 of 6.

15 Exhibit 12.01, response to AUC-AU-1(a), Attachment 1, page 35.

16 Exhibit 1.01, application, 2010 Pension Expense Table, page 7, paragraph 23. The total 2010 pension expense forecast was $52.95 million comprised of $20.4 million for AE, $27.2 million for AG, and $5.35 million for AP.

17 Decision 2010-553: ATCO Utilities, Compliance Filing Pursuant to Decision 2010-189, ATCO Utilities Pension Common Matters, Application No. 1606289, Proceeding ID. 693, December 1, 2010.

3 Issues

3.1 Compliance with directions

3.1.1 Decision 2010-189

3.1.1.1 Direction 3 – Consistent pensionable earnings data

14. In Decision 2010-189 ATCO Utilities was directed as follows:

> 105. The Commission understands that there is a difference between pensionable earnings used by Mercer in its calculations and the pensionable earnings used by ATCO Gas and ATCO Electric in their forecasts. In contrast, ATCO Pipelines used the same pensionable earnings amounts as Mercer. The Commission agrees with CCA that these types of inconsistencies should not exist and considers that there should be a better coordination of data between ATCO Gas, ATCO Electric and Mercer. On this basis the Commission directs each of the ATCO Utilities in the 2011 Pension Common Matters application directed in subsequent sections of this Decision and in future pension funding applications to use pensionable earnings data consistent with the data used in the Mercer actuarial evaluations or to provide a complete explanation as to why the use of consistent data was not possible or appropriate in the circumstances.[18]

15. Direction 3 related to the inconsistent use of assumptions on the timing of retirements resulting in inconsistent pensionable earnings data. The assumptions used by AG and AE differed from Mercer's while AP used Mercer's assumptions. The 2011 pension application did not directly address this direction. In an information response,[19] ATCO Utilities explained that the cost that would have been incurred for Mercer to update its valuation report to reflect ATCO Utilities' retirement assumptions was not justified given that it would result in a relatively minor increase to the requested DB Plan funding for 2011 and 2012.

16. ATCO Utilities stated that the 2009 Actuarial Report specified the DB Plan funding for 2010 through 2012, that DB pension amounts were set using Mercer assumptions until the next valuation which would impact 2013 pension costs, and that updated ATCO Utilities retirement assumptions would then be used. ATCO Utilities confirmed that the retirement assumptions have been discussed with Mercer with regard to preparation of future valuations.[20]

17. The interveners did not address ATCO Utilities' compliance with this direction.

Commission findings

18. For purposes of the 2011 pension application, the Commission accepts ATCO Utilities' explanation that incurring the cost to incorporate the consistent retirement assumptions was not justified given the small amount of the increase to revenue requirement that would have resulted. The Commission notes ATCO Utilities' confirmation that the retirement assumptions have been discussed with Mercer with regard to preparation of future valuations. The Commission directs ATCO Utilities to use assumptions, including pensionable earnings data, that are consistent with the information used in the Mercer actuarial evaluations for each of the ATCO Utilities in all future valuations and pension funding applications.

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[18] Decision 2010-189, paragraph 105, Direction 3.
[19] Exhibit 12.01, response to AUC-AU-4.
[20] Exhibit 12.01, information response to AUC-AU-4(b).

3.1.1.2 Direction 6 – Requirement for 2011 pension common matters application

19. In Decision 2010-189 ATCO Utilities was directed as follows:

> 123. The Commission notes that the Application deals only with 2010 revenue requirement amounts. With respect to 2011 and future years, the Commission would like to investigate the possibility of adjusting COLA as a mechanism in prudently managing utility pension expense. Accordingly, the Commission directs ATCO Utilities to prepare a 2011 Pension Common Matters application by December 15, 2010. This application will specifically address the use of discretion with respect to the COLA provision in determining the 2011 pension expense to be included in revenue requirement in the context of related compensation and retention issues. In particular, the Commission directs ATCO Utilities to address the following matters by way of expert evidence, benchmark data and analysis or other means:
>
> (a) Describe the various forms of COLA provisions present in DB or combined DB and DC pension plans of comparable sized entities to Canadian Utilities which include within their corporate structure one or more regulated utilities in North America.
>
> (b) Where the COLA provisions identified in (a) above provide the plan administrator with discretion in determining the annual COLA, describe the form and range of discretion available by category, summary or other means. Include any guidelines provided for the exercise of administrator discretion.
>
> (c) Where the COLA provisions identified in (a) above provide discretion to the plan administrator in determining the COLA, to the extent available, indicate how this discretion has been exercised over the previous 15 years.
>
> (d) Provide an analysis of what factors should be considered on a generic basis by a utility plan administrator when exercising discretion under COLA provisions in its DB or combined DB and DC Pension Plan. This analysis should specifically address situations where either a surplus or an unfunded liability exists or may be created through the exercise of the COLA discretion. Include any additional factors unique to the ATCO Utilities that would require consideration in the exercise of that discretion.
>
> (e) Describe the significance of the COLA provision to the competitiveness and employee retention objectives of the ATCO Utilities compensation and benefits package for DB Plan employees.[21]

20. In accordance with this direction, ATCO Utilities submitted the 2011 pension application on December 15, 2010.

21. With regard to part (a) in the above direction, ATCO Utilities engaged Mercer to provide the information requested.[22] Information responses[23] from ATCO Utilities confirmed that neither the official registered pension plan wording nor historical information on the exercise of the COLA provisions by comparator companies was available to Mercer for any of the comparator

[21] Decision 2010-189, paragraph 123, Direction 6.

[22] Exhibit 2, Analysis of Current Service Cost for Entities Comparable in Size to the ATCO Utilities (Mercer Report), December 14, 2010.

[23] Exhibit 12.01, response to AUC-AU-5 and Exhibit 18.01, response to AUC-AU-15.

companies. As a consequence Mercer was only able to provide summary information with regard to the indexing provisions of the comparator companies.

22. As submitted by ATCO Utilities, the Mercer report included the following:

> ….the various forms of COLA provisions in DB or combined DB/DC pension plans of comparable sized entities to Canadian Utilities. This report also provided a comparison of primary plan provisions affecting pension expense. The information provided confirmed that the annual COLA adjustment is but one of the many factors impacting pension expense.
>
> The Mercer Report also used employee demographics for Canadian Utilities Limited Pension Plan members to calculate the 2010 annual pension expense that would result based on each of the comparator group members pension plan. This analysis confirmed that the ATCO Utilities' current service cost was below the median for the comparator group.[24]

23. ATCO Utilities submitted that the information required to respond to parts (b) and (c) of the direction required review of the related pension plan documents which are confidential and were not publically available.

24. In the 2011 pension application, in response to part (d), ATCO Utilities discussed the generic factors commonly considered by a plan administrator when exercising COLA discretion. ATCO Utilities' submissions in this regard are discussed further below at Section 3.2 of this decision.

25. With regard to part (e) in the above direction, ATCO Utilities engaged Towers Watson to prepare a report using its data base on Alberta industry comparables regarding pension and savings program benchmarking.[25] In the 2011 pension application, ATCO Utilities also briefly discussed the impact of COLA on competitiveness and employee retention. The Towers Watson and ATCO Utilities submissions in this regard are discussed further below at Section 3.2 of this decision.

26. The interveners did not address ATCO Utilities' compliance with this direction.

Commission findings

27. With regard to parts (a) to (c) of Direction 6, the Commission accepts ATCO Utilities' responses that information regarding the registered pension plan wording on the discretion available for determining the annual COLA for the comparator group members, including the exercise of that discretion over the previous 15 years, beyond the summary level provided was not available to either ATCO Utilities or Mercer due to its confidential nature.

28. ATCO Utilities provided brief responses to parts (d) and (e) of Direction 6 as discussed above. Additional Commission findings based on information provided as a result of Direction 6 follow in later sections of this decision.

[24] Exhibit 31.01, page 2, paragraph 6.
[25] Exhibit 3, ATCO Group, 2010 BENVAL Results (Towers Watson Report), November 2010.

29. Given the inability to access the requested information in any manner other than on a summary basis, the Commission finds that ATCO Utilities has satisfactorily complied with Direction 6.

3.1.1.3 Direction 7 – Submission of 2009 pension plan valuation

30. In Decision 2010-189 ATCO Utilities were directed as follows:

> 124. As part of the 2011 Pension Common Matters application … to submit the 2009 Pension Plan Valuation that will be completed by Mercer and submitted to the Superintendent of Pensions and to use this information and any updates thereto in estimating the 2011 pension funding amounts allocated to each utility and the unregulated ATCO companies participating in the Pension Plan with respect to current DB Plan and DC Plan service costs and the DB Plan unfunded liability. In doing this ATCO Utilities and Mercer should utilize the same pensionable earnings calculations or explain the need for any differentiation as contemplated by Section 4.2 of this Decision.[26]

31. In response to an information request,[27] ATCO Utilities submitted the 2009 Actuarial Report and the related Mercer letter that provided a breakdown of the pension amounts by company.

32. The interveners did not address ATCO Utilities' compliance with this direction.

Commission findings

33. The Commission finds that ATCO Utilities has complied with Direction 7 with regard to the submission of the 2009 Actuarial Report onto the record of the current proceeding. Commission determinations related to pension funding requirements are addressed in the pension cost placeholders section of this decision. Matters related to the use of the same pensionable earnings calculations or the explanation of differences was addressed above in Direction 3 – Consistent Pensionable Earnings Data.

3.1.1.4 Direction 8 – Executive compensation and benefits review

34. In Decision 2010-189 ATCO Utilities was directed as follows:

> 127. The lack of contributions by certain executives to the Pension Plan increases the overall pension costs to other employees and ratepayers. The Commission considers this should be dealt with in the context of the overall competitiveness of executive compensation and benefits. Accordingly, the Commission directs that the issue of executive contributions to the Pension Plan should be considered in the next proceeding which reviews the competitiveness of the ATCO Utilities executive compensation and benefits program.[28]

[26] Decision 2010-189, paragraph 124, Direction 7.
[27] Exhibit 12.01, response to AUC-AU-1(a).
[28] Decision 2010-189, paragraph 127, Direction 8.

Commission findings

35. Direction 8 from Decision 2010-189 remains outstanding to be addressed in the next proceeding that reviews the competitiveness of ATCO Utilities' executive compensation and benefits program.

3.1.1.5 Direction 10 – Requirement to apply for 2010 pension funding final approval

36. In Decision 2010-189 ATCO Utilities was directed as follows:

> 146. Each of the ATCO Utilities are directed in due course to apply for:
>
> (a) final approval of the portion of the 2010 pension funding revenue requirement amounts set out in Table 2 which do not represent special payments for the unfunded liability; and
>
> (b) approval of a 2010 placeholder amount equal to the portion of the 2010 pension funding revenue requirement amounts set out in Table 2 that represent special payments for the DB unfunded liability, such placeholder to be reconciled and trued-up through the operation of the special payment deferral accounts of each of the ATCO Utilities directed in this Decision.[29]

Commission findings

37. In Decision 2010-553[30] the Commission stated that it considered ATCO Utilities was in the process of complying with Direction 10(a).

38. Given that approvals are required to finalize 2010 pension funding requirements, the Commission will deal with this matter in the pension cost placeholders section of this decision which also addresses pension funding revenue requirement amounts for 2011 and 2012.

3.1.2 Decision 2010-553

39. As a consequence of Decision 2010-189, ATCO Utilities was required to file a compliance filing by June 21, 2010, which led to Decision 2010-553. In Decision 2010-553 ATCO Utilities was directed to provide additional filings and information.

40. The Commission will address the responses to Directions 1, 2 and 3 of Decision 2010-553 in the later sections of this decision.

3.2 Cost of living adjustment

41. The DB Plan includes a COLA provision. The mechanics of the COLA are set out in sections 6.9(a) and 6.12(a) of the DB Plan[31] and provide as follows:

> Section 6.9(a)
>
> The annual adjustment will be as determined by the Company but will not exceed 3% per annum. In calculating the annual adjustment the Company will take into consideration

29 Decision 2010-189, paragraph 146, Direction 10
30 Decision 2010-553, paragraph 34.
31 Decision 2010-189, page 25, paragraphs 107 and 108.

annual percentage changes in the Consumer Price Index for Canada and any previous adjustments paid. [Company refers to CUL]

Section 6.12(a)

The annual adjustment will be as determined by the Company but will not exceed 3% per annum. In calculating the adjustment the Company will take into consideration the annual percentage changes in the Consumer Price Index for Canada and any previous adjustments paid. [Company refers to CUL]

42. The 2011 pension application identified the COLA process followed by CUL, which culminates in ATCO Utilities issuing retirees a letter for the given year identifying the COLA adjustment approved by the Management Pension Committee.[32]

…. Annually, management recommends COLA to the Management Pension Committee for their approval. The Management Pension Committee then presents the recommendation to the Canadian Utilities Board of Directors ("Board") Pension Committee for their final approval. No COLA can be paid without Board Pension Committee approval.[33]

43. CUL granted COLA from 1972[34] through 1992 and in 2009 at three per cent which represented the maximum allowable and, for 1993 to date excluding 2009, granted COLA at the CPI increase, which was less than three per cent.[35]

44. In Decision 2010-189, the Commission stated:

120. The Commission directs ATCO Utilities to prepare future revenue requirement forecasts of pension costs in a manner which reflects the flexibility and discretion provided by the wording of the Pension Plan in determining the annual COLA. ATCO Utilities should be prepared to fully justify the level of COLA included in pension funding forecasts. Consequently, ATCO Utilities [CUL] may wish to the take the actions necessary to address the possible legal consequences of making a change to its administrative practices, or may wish to take the position that the ATCO Utilities shareholder [CUL] will absorb any incremental costs of the nature described above associated with continued adherence to its current administrative practices with respect to the annual COLA.[36]

45. ATCO Utilities submitted that the annual COLA adjustment was only one of the many factors that impacted pension costs. The Mercer report [37] calculated the 2010 annual pension costs that would result for each of the comparator group members' pension plans using CUL

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32 ATCO Utilities Pension Common Matters Application, Application No. 1605254, Proceeding ID No. 226 Exhibit 57 – Retirement package information with regard to COLA, including draft COLA adjustment letters. The COLA adjustment is based on Canada CPI from August to August of the given year.

33 Application, page 3, paragraph 10.

34 Information response AUC-AU-1(a) Attachment 1 - Appendix F, page 37 states that the DB Plan became effective on January 2, 1962. Information relating to COLA is unavailable between 1962 and 1972.

35 Exhibit 18.01, response to AUC-AU-16(a). The response states that information on historical COLA rates is only available back to 1972.

36 Decision 2010-189, paragraph 120, page 28.

37 Exhibit 1.01, application, Attachment 1.

employee demographics. ATCO Utilities stated that the Mercer report demonstrated that its current service costs were below the median for the comparator group.[38]

46. ATCO Utilities also submitted that the Towers Watson report[39] on the competitiveness of comparator pension benefits showed that ATCO Utilities was below the industry median for pension benefits.[40] The report presented the competitive benchmarking results of ATCO Utilities DB and DC Pension Plans and savings plans. The elements considered in determining comparative values for DB Plans included: normal and early retirement benefits, disability benefits, pre- and post-retirement death benefits, termination benefits, and post-retirement pension benefits.[41]

47. With regard to the factors that should be considered when determining an annual COLA amount, Direction 6(d) of Decision 2010-189 discussed above, required ATCO Utilities to provide the following:

> 123. …
>
> (d) Provide an analysis of what factors should be considered on a generic basis by a utility plan administrator when exercising discretion under COLA provisions in its DB or combined DB and DC Pension Plan. This analysis should specifically address situations where either a surplus or an unfunded liability exists or may be created through the exercise of the COLA discretion. Include any additional factors unique to the ATCO Utilities that would require consideration in the exercise of that discretion.[42]

48. In response to this direction, the 2011 pension application identified the following factors as relevant to a utility plan administrator when exercising discretion under COLA provisions: exercising discretion in good faith, consideration of inflation since the last COLA adjustment, and the financial status of the pension fund, which included the assets in the fund, future expectations for inflation, wage increases, employee contributions, demographic expectations, and investment performance. ATCO Utilities stated that the existence of surpluses or unfunded liabilities was part of the cyclical nature of investments and therefore not considered a primary factor.[43]

49. The UCA submitted that the setting of an annual COLA amount was discretionary and consideration should be given to the financial position of the Pension Plan, competitiveness of the Pension Plan to the members participating, and the constraints on COLA within the Pension Plan.[44] The UCA recommended that the COLA amount be reduced as described below.

50. ATCO Utilities considered that the UCA fundamentally misunderstood the situation regarding the existing COLA provisions reflected in the Pension Plan, including specifically the discretion to be exercised by the CUL in setting an annual COLA allowance. ATCO Utilities

38 Exhibit 31.01, paragraph 6.
39 Exhibit 1, application, Attachment 2.
40 Exhibit 13.01, paragraph 10.
41 Exhibit 1, application, Attachment 2, pages 2 and 13.
42 Decision 2010-189, page 29, paragraph 123, part (d).
43 Exhibit 1, application, page 3, paragraphs 6 through 9.
44 Exhibit 23.02, UCA evidence, Pat Johnston, page 34, answer 26.

acknowledged that CUL has the legal authority to change the level of the COLA as stated below:[45]

> While it is acknowledged that the Plan Administrator have the legal authority to change the level of COLA, two questions must be asked with respect to the future exercise of this discretion. First, one must ask whether this discretion is unconstrained, so that its exercise can have a retroactive impact or effect; and second, one must ask whether the Plan Administrator <u>should</u> exercise this discretion to change the current COLA policy on a go-forward basis, based on the overall circumstances. The answer to both of these questions is no.
>
> Turning to the first question, the ATCO Utilities have consistently maintained that, while the Plan Administrator can adjust the current COLA provision on a go-forward basis, there are legal impediments associated with attempting to change provisions of the Pension Plan for employees who have retired, and therefore vested their entitlement, and employees who would retire during a reasonable notice period required to effect a major change in the existing pension policy. As stated during the proceeding that led to Decision 2010-189, the ATCO Utilities obtained legal advice in this regard and have confirmed to the Commission that, while go-forward changes are possible, the benefits that were given in good faith in the past form part of the company's "promise to pay" under its Pension Plan and cannot be retroactively clawed back. As stated above, awarding COLA in an appropriate good faith manner in the past cannot now be recast as compromising discretion. Fair and reasonable actions taken by the Plan Administrator in the prevailing circumstances remain as such….

51. ATCO Utilities further submitted that CUL received legal advice that it cannot change its long-standing policy on COLA adjustments for existing retirees including those employees who retire within a legally required reasonable notice period as stated below:[46]

> [Q] In the ATCO Utilities view, when advancing his views has Mr. Johnston's testimony considered the legal implications of changing a long-standing employee benefit for active members who have not yet retired?
>
> [A] No, as confirmed in AU-UCA-9, Mr. Johnston's testimony has ignored the legal implications. As previously established in proceeding ID 226, Mr. Johnston has no expert credentials in this field. As was investigated by the ATCO Utilities in the context of Application 1605254 ID 226, the ATCO Utilities Pension Common Matters Proceeding, the legal advice provided to Canadian Utilities was that no adjustment to COLA could be made for existing retirees including those employees who retire within a legally required reasonable notice period before reducing this long-standing benefit of significant value. Failure to provide adequate notice of the change could result in constructive dismissal lawsuits from employees. To be clear, this concern has nothing to do with the discretion reserved for the Plan Administrator. Rather, the concern relates to abrupt changes to a long-standing policy.
>
> Although the length of notice period required to implement a reduction to COLA has not been established, a long notice period is required as the change impacts long service employees and is a material reduction in benefits, the ATCO Utilities are advised that an appropriate notice period could be as long as 2 years…….

45 Exhibit 33.01, ATCO Utilities reply argument, page 3, paragraphs 9 and 10.
46 Exhibit 28.02, ATCO Utilities rebuttal evidence, page 1 paragraphs 5 and 6, and page 2, paragraph 7.

52. ATCO Utilities also submitted that CUL should not exercise its discretion to change the current COLA policy on a go-forward basis. ATCO Utilities asserted that there was no basis to conclude that the long-standing practice and policy for COLA should be changed as stated below:[47]

> Turning next to the second question raised above, quite apart from whether the Plan Administrator have the authority to change the awarded level of COLA on a go-forward basis (which they certainly do), a question arises as to whether this action should be taken. As will be detailed below, the Plan Administrator continue to act in good faith and set an appropriate COLA level based upon a consideration of the various factors and circumstances confronting them at the time. This evaluation is conducted on an annual basis and takes into account a number of relevant considerations, including specifically the overall compensation payable to the comparator peer group. As will be discussed below, there is simply no basis upon which the Commission should conclude that the long-standing practice and policy of the ATCO Utilities should be changed. In fact, to do so would detrimentally and materially impact both the competitiveness of the ATCO Utilities' position in the employment marketplace and its ability to attract and retain employees.

53. ATCO Utilities stated that employee engagement would be impacted by a reduction to the current COLA policy as recommended by the UCA. ATCO Utilities stated:[48]

> [Q] Has Mr. Johnston's testimony considered the impact on employee engagement or reducing the ATCO Utilities' current COLA policy?
>
> [A] No, Mr. Johnston has not considered the employee engagement impact. A focus on the DB pension and specifically COLA costs in isolation is a major flaw in assessing where the ATCO Utilities are in comparison to other companies in respect of total compensation and the effects on employee retention, engagement and attraction. When a company reduces or eliminates a benefit, even if not applicable to all current employees, it can have both financial and psychological effects. Benefit reduction or elimination will impact employee morale and engagement. Impressions of company actions could be passed on through negative comments and disinterest at the workplace – the phenomenon of "presenteeism" is well known. Even those least affected can be influenced by the negativity. Senior employees are mentors to fellow workers.
>
> Benefit reduction can also impact the ATCO Utilities reputation in the labor market and therefore retention and attraction can become serious issues in a very tight labor market. The message of benefit reduction will be perceived very negatively and will make it difficult to attract new hires….

54. The UCA challenged ATCO Utilities' expressed concern that despite the discretion provided to CUL under the terms of the DB Plan to establish COLA, CUL might face legal impediments in exercising the discretion available under the DB Plan due to its long-standing practices in setting COLA amounts.[49] The UCA submitted that ATCO Utilities' concern about

[47] Exhibit 32.01, ATCO Utilities reply argument, page 4, paragraph 13.
[48] Exhibit 28.02, ATCO Utilities rebuttal evidence, page 9, paragraphs 61 through 63.
[49] Exhibit 33.02, UCA reply argument, page 2, paragraph 5.

the legality of CUL's discretionary ability should have no bearing on the amount of pension costs charged to ratepayers.

55. An information response from ATCO Utilities to the UCA indicated "A decrease in the COLA provision equal to 60% of CPI would reduce the liabilities by $125 million as at December 31, 2009".[50] From this information the UCA extrapolated the impact that would result using a COLA level of 50 per cent of CPI. An information response from ATCO Utilities to the UCA submitted that the effect on liabilities and special payments from use of a COLA level of 50 per cent of CPI for all employees was half of the $125 million impact provided above where a 60 per cent COLA level had been used.[51] The UCA challenged the response as being an error.

56. The UCA submitted that by establishing the discretionary level of COLA to be 50 per cent of the increase in CPI, the unfunded liability that was determined as at December 31, 2009 would be eliminated and no special payments to fund the unfunded liability would be required.[52] Such a reduction would also reduce the level of current service cost required.[53] Further, the UCA recommended that setting COLA at 50 per cent of increases in CPI to a maximum of three per cent would need to be reviewed at each subsequent funding valuation.[54]

57. Using information from the Mercer report,[55] the UCA submitted that the discretionary level of COLA could be established at 25 per cent or less of increases in CPI and the DB Plan would still be competitive, because it would be at or above median of the competitor group.[56]

58. ATCO Utilities disagreed with the UCA that a reduction in COLA to 50 per cent of CPI would eliminate the special payments for the DB Plan. ATCO Utilities stated that COLA cannot be reduced for retired employees and that the UCA appears to have based its conclusion on taking away established COLA benefits from current retirees and active members who could retire within a notice period for a material change in existing policy that ATCO Utilities has been advised may be required.[57] ATCO Utilities stated that the legal advice provided to CUL in respect of changes to its established Pension Plan practices was that it could not take existing benefits away from current retirees or persons who vest their pension entitlement within a notice period that could be up to two years.

59. The UCA submitted that it did not suggest that any COLA already granted to pensioners should be reduced. However, the UCA considered that the amount of COLA to be granted does relate to the issue of prudence in determining just and reasonable rates for the future. The UCA submitted that ratepayers should not be required to pay for higher than necessary future COLA awards, including COLA amounts to be paid to existing retirees, resulting from CUL fettering its discretion from setting the COLA level in previous years. The UCA noted that CUL could continue applying its past administrative practice of granting the maximum allowable COLA as allowed under the terms of the Pension Plan. However, the UCA argued that the amount of COLA CUL grants using its discretion should have no bearing on the level of COLA included in

50 Exhibit 17.01, response to UCA-AU-1(g).
51 Exhibit 17.01, response to UCA-AU-6.
52 Exhibit 23.02, UCA evidence, Pat Johnston testimony, page 4.
53 Exhibit 23.02, UCA evidence, Pat Johnston, page 35, answer 26.
54 Exhibit 33.02, UCA reply argument, page 13, paragraph 48.
55 Exhibit 17.01, response to UCA-AU-2(c).
56 Exhibit 23.02, UCA evidence, Pat Johnston testimony, answer 27.
57 Exhibit 28.02, ATCO Utilities rebuttal evidence, page 6, paragraph 40.

pension costs charged to ratepayers and, therefore, CUL and not ratepayers should bear the cost of any increments that are considered to be unreasonable or imprudent in the circumstances.

60. The UCA commented that, despite Towers Watson and Mercer using the same method to determine the respective values, Towers Watson determined that the employer-provided value of the DB Plan was 7.45 per cent of pay while Mercer determined the employer provided value of the current service cost to be 24.69 per cent of pay, which resulted from population differences and differences in actuarial assumptions used in the respective reports. The UCA considered that the differences could partially be explained by the fact that the reports used different membership data. The Mercer report used CUL employee demographics obtained from the CUL DB Plan membership in making its comparative analysis while the UCA submitted that the Towers Watson report compared pension value based on a group with lower age and service demographics as opposed to the CUL DB Plan members, a group with higher age and service demographics.

61. The UCA disputed the value of the Towers Watson report for measuring the competitiveness of the Pension Plan for the specific group of ATCO Utilities employees participating in the DB Plan. The UCA stated that use of the Towers Watson report was inappropriate and misleading because of the demographics used in the preparation of the report.

62. The UCA considered the Mercer report as a more reliable source for measuring the competitiveness of the Pension Plan as it used data obtained from the CUL DB Plan membership.

63. The UCA also submitted that the Mercer report comparative analysis based on the DB Plan only indicated that the DB Plan was actually above the median of the comparator companies, as opposed to being below the median value when both the DB and DC Plans were considered collectively.

64. ATCO Utilities contended that the UCA improperly evaluated the Mercer and Towers Watson reports and, consequently, incorrectly arrived at its conclusion about the competitiveness of the Pension Plan. ATCO Utilities submitted that the Towers Watson report determinations of competitiveness of the Pension Plan examined the entire course of the Pension Plan members' careers, as compared to the UCA's approach, which looked only at a portion of an employee's career towards the end. ATCO Utilities also submitted that isolating COLA as a single component of the overall compensation package was therefore inappropriate and that the current COLA policy yields fair and reasonable costs for ratepayers and yields competitive payments to employees. From an overall compensation perspective, ATCO Utilities submitted that a reduction of a single component such as COLA would result in an offsetting increase in other components to maintain its competitive position, with no net savings.[58]

65. The UCA disagreed with ATCO Utilities that DB Plan employees might choose to terminate their employment if CUL decided to actually change its administrative practice and not absorb any portion of COLA that ATCO Utilities would not otherwise be allowed to charge to ratepayers. The UCA referred to examples that they provided in evidence,[59] with COLA set at different levels, to demonstrate that there was a very high increment in the value of pension

[58] Exhibit 31.01, ATCO Utilities argument, page 10, paragraph 35.
[59] Exhibit 23.02, UCA intervener evidence, pages 11 through 26.

entitlements if a DB Plan member were to remain employed relative to the pension value the member would receive if the member were to terminate employment prior to retirement because of the backend loading of benefits from the DB Plan design. The UCA submitted this resulted in a strong financial incentive for members to continue employment with ATCO Utilities regardless of the administrative practice used for setting COLA for the DB Plan.[60]

66. Further, the UCA stated that since a change in administrative practice for setting COLA had no effect on entitlements for the DC Plan members, it would have no effect on the retention of DC plan members.[61]

67. ATCO Utilities suggested that the UCA appears to have concluded that CUL, in the fulfillment of its fiduciary duties and obligations to the Pension Plan members, should start with a pre-determined result (such as the elimination of special payments) and work backwards to make whatever decisions are required to achieve this pre-determined end result. ATCO Utilities considered that such an approach was not consistent with the proper fulfillment of CUL's fiduciary obligations to consider a variety of relevant factors, including the overall context of the total compensation/remuneration being paid to employees, and a requirement to provide the employees and pensioners with fair and appropriate treatment.[62]

68. ATCO Utilities contended that the UCA, in its submissions to have COLA reduced, did not properly examine or consider the total compensation approach that it employed, which has consistently set the target for overall compensation, including DB Plan members, at or below the median of the compensation and benefit programs provided by its peer group. ATCO Utilities submitted that the UCA failed to recognize or acknowledge that the administrative practice of awarding COLA of 100 per cent of CPI, subject to the cap of three per cent per annum, has been factored into the determination of the competitive positioning and the level and mix of current and deferred compensation to DB Plan members. ATCO Utilities stated that:

> …an abrupt after the fact change to this administrative practice would unfairly benefit ratepayers who have already benefitted from the lower payments in the past; and would additionally unfairly penalize the DB employees who expected to receive their pension, including COLA, which they had been promised and for which they had forgone direct compensation over their past years of employment.[63]

69. In response to ATCO Utilities' argument that the UCA has ignored actions already taken by ATCO Utilities to reduce pension costs, the UCA submitted that despite these actions "the pension cost for the DB Plan Members under the ATCO provisions is still substantially higher than what the median pension costs would be with the plan provisions of the comparator companies."[64] According to the UCA, current service costs for the CUL DB Plan are $37.5 million whereas the median current service cost for the comparator group was between $31.8 million and $30.8 million depending on whether all DB plans were compared or only DB plans that were not closed.[65]

60 Exhibit 33.02, UCA reply argument, page 9, paragraph 30.
61 Exhibit 30.02, UCA argument, page 16, paragraph 76.
62 Exhibit 31.01, ATCO Utilities argument, page 9, paragraph 30, and page 11, paragraph 38.
63 Exhibit 32.01, ATCO Utilities reply argument, page 6, paragraph 18.
64 Exhibit 33.02, UCA reply argument, page 8, paragraph 27.
65 Exhibit 23.02, UCA evidence, Pat Johnston testimony, page 36, answer 26.

70. ATCO Utilities disagreed that changing the COLA practice would not have any effect on employee retention and stated that compensation and pension are key factors that influence employee attraction and retention. ATCO Utilities submitted that its employees, particularly the more experienced employees, focus on and understand pension entitlements and the consequences of any changes made to the Pension Plan. ATCO Utilities submitted that reductions made to pension entitlements would cause employees to take action to preserve their most beneficial position. ATCO Utilities submitted that a change to the administrative practices in setting the COLA would lead directly to a significant number of key long-term employees retiring in short order, which would be detrimental to ATCO Utilities and its ability to meet customer needs and deliver safe and reliable service.[66]

71. With regard to ATCO Utilities' position that COLA was a key benefit for DB Plan members, the UCA responded that the key benefit that DB plan members "have had all along is a lifetime pension that is indexed after commencement at a level that is determined each year by the Company. That key benefit is not changing."[67]

72. The UCA recommended that ratepayers should only be charged with the pension amounts for the DB Plan equal to the current service costs and special payments, if any, determined on the basis of a COLA established annually at a level that eliminates or minimizes to the maximum extent possible, any unfunded liability or solvency deficiency. The UCA submitted that, as there is currently no solvency deficiency, only the going concern unfunded liability would currently be reflected. The UCA recommended, based on its evidence, that a reasonable COLA level for 2011 and subsequent years that could be supported by the December 31, 2009 actuarial valuation would be to set COLA at 50 per cent of increases in CPI to a maximum annual COLA increase of three per cent. This amount would be re-evaluated at each subsequent funding valuation.[68] The UCA considered that any amount of COLA granted by CUL in its discretion over the UCA's recommended amount should be at the expense of CUL.

73. The UCA submitted that if CUL chose not to change its administrative practices for COLA, and instead chose to absorb any incremental costs over the level of COLA established by the Commission to be charged to ratepayers, there will be no effect on the funding required by the DB Plan since there would be no change to the amount of COLA being provided or to the expected amount of COLA for DB Plan members. Under this option, the only change would be the allocation of the employer pension contribution amount between ratepayers and CUL.

74. ATCO Utilities submitted that no action is required by the Commission with respect to potential adjustments to the current practice or policy with respect to the awarding of COLA. ATCO Utilities asserted that CUL has always exercised, and continues to exercise, its discretion in good faith in order to ensure that ATCO Utilities remains competitive in the employment marketplace.[69]

75. The CCA supported the positions and recommendations proposed by the UCA in its argument.[70]

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[66] Exhibit 32.01, paragraph 27.
[67] Exhibit 33.02, UCA reply argument, page 9, paragraph 29.
[68] Exhibit 33.02, UCA reply argument, page 13, paragraph 48.
[69] Exhibit 32.01, paragraph 34.
[70] Exhibit 29.01, paragraph 3.

Commission findings

76. Decision 2010-189 and the related compliance Decision 2010-553 were the genesis of the 2011 pension application and the following direction established the intended focus of the current proceeding:

> ….With respect to 2011 and future years, the Commission would like to investigate the possibility of adjusting COLA as a mechanism in prudently managing utility pension expense. Accordingly, the Commission directs ATCO Utilities to prepare a 2011 Pension Common Matters application by December 15, 2010. This application will specifically address the use of discretion with respect to the COLA provision in determining the 2011 pension expense to be included in revenue requirement in the context of related compensation and retention issues….[71]

77. The 2009 Actuarial Report indicated that the DB Plan had an unfunded liability of $157.1 million which required annual special payments starting in 2010. Employer contributions to the Pension Plan were not required from 1996 to 2009 due to a surplus which had led to a contribution holiday. As a result of the contribution holiday, revenue requirements paid by ratepayers would not have included pension expense as employer contributions to the Pension Plan were not required. Similarly, no amounts for pension costs would have been capitalized in the rate bases of the respective ATCO Utilities.

78. An information response provided by ATCO Utilities confirmed that no updates to the 2009 Actuarial Report had been submitted to the Superintendent of Pensions to supersede the current actuarial valuation which otherwise requires preparation of an updated valuation by December 31, 2012.[72] ATCO Utilities confirmed that the preliminary financial position of the DB Plan had not improved as of December 31, 2010. ATCO Utilities stated:

> Preliminary work conducted by Mercer indicates that the going-concern results of Plan 1 [DB Plan] as of December 31, 2010, has a higher funded shortfall than forecast compared to December 31, 2009. Should a new actuarial valuation be filed with the pension regulator, this result would increase the amount of the special payments since the improvement during 2010 is smaller than was expected at the time of the 2009 valuation report. Based on Alberta pension regulation, the funding shortfall was amortized over a 15 year period, as such, the $157 million shortfall as of December 31, 2009, was expected to improve to approximately $140 million by December 31, 2010. Mercer's preliminary estimate indicates that the shortfall as of December 31, 2010 is larger than $140 million but smaller than $157 million. For example, using a figure of $154 million for the shortfall increases special payments by approximately $1 million per year.[73]

79. The Commission observes that both ATCO Utilities and the UCA identified the financial position of the DB Plan as one of the factors that should be considered when establishing COLA.

80. The DB Plan and DC Plan combined pension cost amounts requested by ATCO Utilities for the respective regulated utilities after the contribution holiday represent material amounts, being approximately $53 million for 2010, $58 million for 2011 and $59 million for 2012. The calculation of these amounts involves numerous input assumptions and complex information

[71] Decision 2010-189, page 29, paragraph 123.
[72] Exhibit 18.01, information response AUC-AU-1(d).
[73] Exhibit 18.01, information response AUC-AU-10.

which relies on actuarial modeling of pension plan requirements and results in period specific pension cost estimates that include both current service costs and special payment amounts. A material change in actuarial assumptions would impact the funding requirements and the annual revenue requirement for the regulated entities covered by the Pension Plan.

81. Estimates of the DB Plan funding shortfall or unfunded liability amount will change with each pension asset valuation calculation. In Decision 2010-189 it was noted that the estimated unfunded liability amount changed from $176 million to $199.8 million.[74] In the 2009 Actuarial Report the shortfall is estimated to be $157.1 million. In the current proceeding, the shortfall originally anticipated by Mercer for 2010 was $140 million[75] but later estimated as $154 million.[76] The Commission had determined in Decision 2010-189, subject to the resolution of placeholders, that an allocated portion of the unfunded liability of $199.8 million was reasonable to include in the pension expense for ATCO Utilities' revenue requirement[77] and also of pension costs capitalized for rate base purposes.

82. In Decision 2010-189 the Commission considered the discretion available to the pension administrator in setting the annual COLA amount as one of the tools available to assist with addressing the current DB unfunded liability. The Commission stated:

> 118. A change to the ATCO Utilities long standing administrative practice of granting COLA equivalent to 100 percent of the increase in the CPI, up to the three percent cap, represents a possible means of mitigating a significant portion of the projected Pension Plan deficit. While ATCO Utilities have argued that there may be legal issues associated with a change to this long standing administrative practice, the Commission considers that these legal considerations are primarily a product of ATCO Utilities' own creation as a result of employee/pensioner communications and/or administrative practices that do not reflect the full discretion provided in the COLA provisions in the Pension Plan. The Commission considers that ratepayers should not bear any incremental pension funding costs which arise as a result of reduced Pension Plan flexibility with respect to annual COLA where it is demonstrated that such incremental costs prove to be unreasonable or imprudent in the circumstances. This is true particularly if current administrative practices prevented Canadian Utilities from reducing the COLA in order to reduce an unfunded liability when it may have been prudent to have done so in the circumstances.[78]
>
> 122. ….While the Commission does not consider that ratepayers should bear the costs of adherence to an administrative practice which may not be warranted and that the level of COLA may be one of many tools available to assist with managing the pension deficit, the COLA provision should be evaluated as part of the overall compensation available from a competitive employer who must also balance its long term pension funding obligations as a regulated utility in a prudent manner.[79]

83. The Commission continues to view the discretion allowed by the DB Plan with respect to the annual COLA amount as an available tool to the pension administrator and Management Pension Committee in actively managing the DB unfunded liability in carrying out their

74 Decision 2010-189, page 8, paragraphs 26 and 27.
75 Ibid.
76 Ibid.
77 Decision 2010-189, page 33, paragraphs 145 and 146.
78 Decision 2010-189, page 28, paragraph 118.
79 Decision 2010-189, page 28, paragraph 122.

fiduciary and contractual obligations. Further, the availability of that discretion and the exercise, or lack thereof, of that discretion is a relevant and material consideration for the Commission to take into account in determining the reasonableness of the pension expense which ATCO Utilities has requested be included in its respective revenue requirements and therefore customer rates. Also relevant is the need to maintain a competitive pension plan as a key component of total compensation available to employees of ATCO Utilities.

84. In considering the impact that would result from a change in the use of discretion in granting COLA, the Commission notes that ATCO Utilities provided an information response[80] which estimated that a one per cent reduction of the COLA amount starting in 2011 (from 2.25 per cent to 1.25 per cent) would result in reducing the pension deficit by $51 million, and reduce the special payment amount by $5.4 million. Annual revenue requirement amounts for each of 2011 and 2012 would be reduced by $2.8 million for AG, $2.1 million for AE, and $0.5 million for AP. A one per cent reduction would set the COLA at approximately 55 per cent of the CPI assumption used in the 2009 Actuarial Report.

85. In an information response to the Commission on the potential impacts resulting from a reduction to COLA in the 50 per cent to 75 per cent range of CPI, ATCO Utilities expressed concern over possible early retirement of long term employees in an attempt to grandfather benefits, although the decision to retire was a personal one which depended on many factors.[81]

86. The Commission has considered the information available on the record, including the positions taken by ATCO Utilities and the UCA which range from 100 per cent of CPI to 50 per cent of CPI respectively, up to a three per cent cap. The Mercer report analysis illustrates the wide range of COLA percentages used by DB pension plans for entities in the comparator group as of the date of the report in 2010. Some members of the comparator group set COLA at a two per cent minimum with any increase above that being done on an ad hoc basis while others tied COLA to CPI with a range from 50 per cent to 100 per cent of CPI as shown in Table 1 below. The most frequent COLA provision for the comparator group set COLA in the 50 per cent to 60 per cent of CPI range[82] with the majority using CPI in the 50 per cent to 75 per cent of CPI range.

80 Exhibit 18.01, information response AUC-AU-16 (b).

81 Exhibit 18.01, information response AUC-AU-8.

82 Exhibit 1.00, application, Attachment 1, Mercer Report, Analysis of Current Service Cost for Entities Comparable in Size to the ATCO Utilities, page 13.

Table 1. Summary of COLA provisions from Mercer report[83]

Company	Plan Type	COLA %	COLA for Non Retirees
A	DB	100% of CPI, 8% max	100% of CPI, 8% max
B	DB	66.7% of CPI	66.7% of CPI
C	DB	60% of CPI (ad hoc target)	None
D	DB	75% of CPI, 5% max	75% of CPI, 5% max
E	Closed DB Open DC	2% per year min (ad hoc above)	2% per year
F	DB	100% of CPI	100% of CPI
G	Closed DB Open DC	60% of CPI	60% of CPI
H (Canadian Utilities)	Closed DB, Open DC	100% of CPI, 3% max	None
I	Closed DB Open DC	2% per year min (ad hoc above)	2% per year
J	DB or DC	100% of CPI, 6% max	None
K	DB	60% of CPI	60% of CPI
L	DB or DC	50% of CPI	None

87. While the fact that none of the comparator companies set a maximum for COLA as low as three per cent of CPI is a relevant consideration, and given that in high inflation years the COLA award for some comparator companies could be in excess of three per cent, the Commission does not consider that the evidence prepared by Mercer supports ATCO Utilities' position. The evidence does not support a finding that ATCO Utilities' practice of awarding in each and every year an annual COLA award of 100 per cent of CPI up to three per cent is an acceptable standard practice when this practice is examined in light of the COLA provisions of the comparator group identified in the Mercer report. Similarly, the evidence can not support a finding that the annual COLA amount determined under ATCO Utilities' policy is necessarily a reasonable expense for inclusion in the revenue requirement for regulated utilities. The reasonableness of the COLA amount must be evaluated in the circumstances applicable at the time that ATCO Utilities apply to include pension expense in revenue requirement. The current circumstances in respect of the existing pension cost placeholders include a significant unfunded liability that requires ratepayers to fund an allocated share of special payments.

88. With respect to the competitiveness of the DB Plan, the Mercer report calculated the total 2010 annual pension expense based on each of the comparator companies' pension plans. ATCO Utilities submitted that the Mercer report had shown that ATCO Utilities' 2010 current service

83 Ibid.

costs were below the median for the comparator group based on the combined DB Plan and DC Plan current service costs, calculated using ATCO Utilities' employee demographics. The UCA's evidence observed that when only the DB Plan information is compared, ATCO Utilities was ranked third out of the 12 comparator companies with regard to the current service costs being compared and therefore above the median for the comparator group based on the DB Plan.

89. The Commission accepts the UCA position that the most useful comparison is based on the DB Plan only which was the intended focus of the required competitiveness comparison for DB Plans on the potential impacts from a change in COLA.

90. The Commission agrees with the UCA that the issue of COLA impacts is not relevant to retention issues for DC Plan members as DC Plan members are not entitled to COLA. DC members currently represent approximately half of the Pension Plan membership. The Commission also notes that the DB Plan has been closed to new membership since 1997 resulting in new employees only participating in the DC Plan. The Commission also agrees with the UCA position wherein it disagreed with ATCO Utilities that DB Plan employees might choose to terminate their employment if CUL decided to actually change its administrative practice and not absorb any portion of COLA that ATCO Utilities would not otherwise be allowed to charge to ratepayers. The UCA argued that there was a very high increment in the value of pension entitlements if a DB Plan member were to remain employed relative to the pension value the member would receive if the member were to terminate employment prior to retirement because of the backend loading of benefits from the DB Plan design. The Commission agrees with the UCA that this provides a strong financial incentive for members to continue employment with ATCO Utilities regardless of the administrative practice used for setting COLA for the DB Plan.

91. For these reasons the Commission does not accept ATCO Utilities' position that a change in COLA would detrimentally and materially impact both the competitiveness of ATCO Utilities' position in the employment marketplace and its ability to attract and retain employees.[84] While ATCO Utilities asserted that a total overall compensation view was required before COLA should be adjusted, limited evidence was provided to support this assertion.

92. Based on the above considerations and analysis and subject to the directions below, the Commission finds that until the Commission otherwise directs, 50 per cent of Canada CPI up to the three per cent maximum permitted by the DB Plan represents a reasonable level for setting the COLA amount for the purposes of determining the pension cost amounts for regulatory purposes for all employees, including both retirees and active employees, which are components of revenue requirements or capital amounts for each of the ATCO Utilities.

93. The Commission notes that pension cost placeholders currently exist for 2010, 2011, and 2012 which would enable implementation of the determined COLA level for regulatory purposes as of 2010 onwards. However, according to an ATCO Utilities' information response,[85] CUL has already awarded the COLA adjustment amounts for 2010 and 2011. The COLA amount has not yet been awarded for 2012 because consideration of the COLA adjustment occurs towards the end of the calendar year. The Commission wishes to balance the interests of the applicant and ratepayers without unduly impacting the COLA awards already communicated to CUL

[84] Exhibit 32.01, ATCO Utilities reply argument, page 4, paragraph 13.
[85] Exhibit 18.01, information response AUC-AU-16(a).

pensioners. Accordingly, the Commission does not consider it appropriate to implement a change for regulatory purposes to the calculation of the COLA adjustment prior to January 1, 2012. Implementation on January 1, 2012 will also allow CUL and ATCO Utilities to prospectively decide whether to separately fund any difference CUL may choose to pay beyond the COLA level approved for regulatory purposes for 2012 onwards. Further, CUL can examine the merits of filing an updated actuarial report with the Superintendent of Pensions should it wish to revisit the COLA assumptions built into the report. The Commission is not persuaded by ATCO Utilities' argument regarding a required period of notice which would prevent a January 1, 2012 implementation. In this regard, the Commission notes that ATCO Utilities could have made employees and retirees aware of potential impacts to the COLA adjustments in light of the content and directions in Decision 2010-189. For these reasons, the Commission finds that implementation of COLA at 50 per cent of Canada CPI, up to a three per cent annual maximum, shall be effective as of January 1, 2012 onwards, subject to the exception described below with respect to the 2012 special payments.

94. With regard to ATCO Utilities' concerns over legal impediments related to COLA discretion, the Commission continues to hold the same view as discussed in Decision 2010-189 as follows:

> 118. …While ATCO Utilities have argued that there may be legal issues associated with a change to this long standing administrative practice, the Commission considers that these legal considerations are primarily a product of ATCO Utilities' own creation as a result of employee/pensioner communications and/or administrative practices that do not reflect the full discretion provided in the COLA provisions in the Pension Plan. The Commission considers that ratepayers should not bear any incremental pension funding costs which arise as a result of reduced Pension Plan flexibility with respect to annual COLA where it is demonstrated that such incremental costs prove to be unreasonable or imprudent in the circumstances. This is true particularly if current administrative practices prevented Canadian Utilities from reducing the COLA in order to reduce an unfunded liability when it may have been prudent to have done so in the circumstances.[86]

95. While the Commission is not commenting on the legal position asserted by ATCO Utilities, the Commission considers that ratepayers should not bear any responsibility or additional costs related to reduced annual COLA flexibility for existing retirees as well as for DB Plan active employees that may be eligible to retire. With respect to the suggestion that current employees may pursue options for early retirement in order to assert a possible claim to COLA awards of 100 per cent of CPI up to a maximum of three per cent, the Commission notes that this possibility is also a consequence of past communications and practices, and those practices are properly the responsibility of CUL and ATCO Utilities.

96. The Commission directs that the COLA amounts included in the annual pension costs of each of the ATCO Utilities for regulatory purposes for 2012 onwards be based on 50 per cent of Canada annual CPI to a maximum of three per cent. This approved level of COLA shall be used for all calculations of all future pension costs used for regulatory purposes beginning with 2012 onwards, subject to the exception described below with respect to the 2012 special payments, for both retired and active employees until such time as the Commission otherwise directs.

[86] Decision 2010-189, page 28, paragraph 118.

97. The Commission notes that the 2009 Actuarial Report incorporated COLA inflation of 2.25 per cent.[87] ATCO Utilities' response to Direction 3 from Decision 2010-189 discussed earlier in this decision confirms that the 2009 Actuarial Report specified the DB Plan funding for 2010 through 2012 and that Mercer's assumptions were used to set DB Plan pension amounts.

98. The Commission further directs ATCO Utilities to provide the changes to each of their capital and revenue requirements resulting from use of a COLA adjustment based on 50 per cent of Canada CPI to a maximum of three per cent for regulatory purposes for use on 2012 pension costs onwards for allowed pension current service cost amounts.

99. The Commission is aware that reducing the COLA level to 50 per cent of CPI, which is currently awarded, could reduce the current service costs and will reduce the future remaining liability of the plan, when compared to the existing 2009 Actuarial Report holding other actuarial assumptions the same. However, with regard to special payments for 2012 the Commission will not direct ATCO Utilities to file an updated actuarial valuation and report with the Superintendent of Pensions for 2012 to reflect this change in assumptions nor will it require a change to the amount of the 2012 special payments allocated to ATCO Utilities required pursuant to the existing 2009 Actuarial Report because any such new filing would be costly, and consume an undue amount of company, intervener and Commission resources given the time remaining in 2011 to complete a new report and file it for approval with the Commission and subsequently with the Superintendent of Pensions. Such regulatory inefficiency is unwarranted in light of the fact that a new report must be in place with the Superintendent of Pensions by January 1, 2013. Further, a new report would undoubtedly also require updates and adjustments to various other assumptions, including interest rates, impacts from weakened equity markets, mortality tables, and so on.

100. The Commission considers that it is not apparent that it would be in the best interest of ATCO Utilities, ratepayers or pensioners to implement a change to the COLA calculation with respect to 2012 special payments given the uncertain pension funding impacts that may result from a new actuarial valuation and report. Further, the Commission notes that any potential under or over payment with regard to special payments for 2012 within the deferral account would effectively increase or reduce the ongoing liability of the pension fund. Because a new plan must be filed with the Superintendent of Pensions by January 1, 2013, any reductions that may result from the reduction in COLA to 50 per cent of CPI will be captured in ongoing special payments subsequently set by the Superintendent of Pensions. Special payment adjustments could also evolve due to other changes occasioned by the actuarial assumptions. The Commission will require that the reduced COLA calculation be made for regulatory purposes in calculating the special payments allocated to ATCO Utilities commencing January 1, 2013. Accordingly, in the event that CUL and ATCO Utilities elect not to reflect the regulatory reduction required by this decision to the COLA provision in the assumptions used in preparing the actuarial report filed with the Superintendent of Pensions, each of the ATCO Utilities are directed to make the necessary adjustment in their respective special payment deferral account reconciliation applications for 2013 and for each year thereafter until otherwise ordered by the Commission.

101. As part of the compliance filing for the current decision, ATCO Utilities is directed to inform the Commission whether CUL intends to continue its past administrative practice of

[87] Exhibit, 18.01, information response AUC-AU-16(b).

granting the maximum allowable COLA under the existing terms of the DB Plan or whether it intends to amend the COLA administrative practice of the DB Plan to align with the COLA approved for regulatory purposes. If ATCO Utilities intends to continue its past administrative practice of granting the COLA at 100 per cent of CPI up to three per cent maximum, the Commission directs ATCO Utilities, commencing January 1, 2012 to exclude from the head office component of revenue requirement of ATCO Utilities, all affiliate allocations or charges included within revenue requirement, and from all other revenue requirement components, all amounts representing an allocation of utility, head office or affiliate pension expense which can be attributed to a COLA set higher than 50 per cent of CPI up to a maximum of three per cent, subject to the exception described above with respect to the 2012 special payments.

102. Further, if ATCO Utilities continues its past administrative practice of granting the COLA at 100 per cent of CPI up to a three per cent maximum, the Commission, subject to the exception described above with respect to the 2012 special payments, directs ATCO Utilities commencing January 1, 2012 onwards to exclude all incremental differences, and related compounding impacts on future years, between COLA awarded by CUL that exceeds the COLA level approved by the Commission for regulatory purposes. These incremental differences shall be excluded from the base used for calculating future period pension costs for regulatory purposes and no compounding impacts related to these incremental amounts shall be included in future years.

103. In making its determination and issuing its directions to ATCO Utilities with respect to the use of a 50 per cent of Canada CPI up to a maximum of three per cent of COLA, the Commission is making a determination as to what is reasonable to include as the pension cost amounts for regulatory purposes which are components of revenue requirements or capital amounts for each of the ATCO Utilities in the circumstances, based on the evidence before it. The Commission is not making any determination as to what is the appropriate COLA for CUL to use based on its fiduciary or contractual obligations or as a result of other legal obligations it may have as a result of a course of conduct and prior practice with DB Plan beneficiaries. The Commission accepts the position of the UCA that CUL may continue its past administrative practice of granting the maximum allowable COLA under the terms of the DB Plan to DB Plan beneficiaries, however, any excess over the allowed amount for COLA allocated to ATCO Utilities above 50 per cent of Canada CPI up to a maximum of three per cent shall not be the responsibility of the ratepayers.

104. The Commission’s direction to reduce the pension costs permitted into ATCO Utilities’ respective revenue requirements by restricting annual COLA amounts to 50 per cent of CPI up to a maximum of three per cent starting January 1, 2012 will remain in effect until such time as the Commission may direct otherwise. Before the Commission will reconsider this direction, ATCO Utilities will be required to file a new DB Plan funding valuation submission based on the next actuarial valuation to be filed with and accepted by the Superintendent of Pensions. At the time of the filing of the next valuation submission, the Commission will review all of the relevant circumstances, including the size of any unfunded liability, when considering any adjustment for regulatory purposes to the COLA amount used in determining the pension cost component of revenue requirement. In this context, the Commission will consider increasing the percentage of CPI included in the annual COLA amount included in pension expense should the current DB Plan unfunded liability significantly decrease. Similarly, the Commission will consider further decreasing the percentage of CPI included in the annual COLA amount included in pension expense should the current DB Plan unfunded liability significantly increase.

3.3 Pension deferral accounts

105. In its application leading to Decision 2010-189, ATCO Utilities had requested deferral account treatment in response to the changes in the pension cost funding amounts submitted for 2010.[88]

106. In Decision 2010-189 the Commission addressed the issue of "whether there is any basis to suggest that the risk associated with forecasting pension expenses merits any different consideration than the risk associated with other types of cost forecasts that are not subject to deferral account treatment."[89] Criteria used by the Commission in evaluating the need for deferral accounts included:

- materiality of the forecast amounts
- uncertainty regarding the accuracy and ability to forecast the amounts
- whether or not the factors affecting the forecasts are beyond ATCO Utilities' control, and
- whether or not ATCO Utilities are typically at risk with respect to the forecast amounts[90]

107. The Commission also considered a symmetry factor, stating:

> 73. In another Board decision, also referenced in Decision 2003-100, the Board, when examining the merits of an application for a deferral account on the facts of that proceeding, took the view that "deferral accounts should not be for the sole benefit of either the company or the customers." Deferral accounts, rather, should "provide a degree of protection to both the Company and the customers from circumstances beyond their control," and hence "[s]ymmetry must exist between costs and benefits for both the Company and its customers." The Board also noted that it expected that "the individual mechanisms involved in the use of each deferral account should be applied in a consistent and fair manner in both test years and non-test years." This will be referred to as the symmetry factor.[91] (footnotes omitted)

108. With respect to the DC Plan, the Commission concluded that the associated risk lay mainly in forecasting employee complements and that, given the significant effort dedicated by ATCO Utilities to these forecasts, the risk was minimal. The Commission denied the use of deferral accounts for the DC Plan.

109. Similarly, the Commission considered that forecasting employee complements under the DB Plan involved minimal risk and did not require deferral account treatment. Further, the Commission considered that, as current service costs for the DB Plan were funded in accordance with the requirement of the Superintendent of Pensions, minimal risk and uncertainty was involved in the forecasts of those costs and therefore deferral account treatment was not needed.

110. However, the Commission found that there were circumstances related to the valuation of the Pension Plan's assets which warranted a limited use of deferral accounts by ATCO Utilities in respect of annual special payments amortizing an unfunded liability (excess of liabilities over assets) in the DB Plan. The Commission recognized that significant differences between the

88 Decision 2010-189, page 13, paragraphs 49 and 50.
89 Decision 2010-189, page 17, paragraph 70.
90 Decision 2003-100: ATCO Pipelines 2003/2004 General Rate Application – Phase I Application No. 1292783, December 2, 2003, page 116.
91 Decision 2010-189, paragraph 73.

Pension Plan's assets and liabilities associated with the DB plan can result from fluctuations in market prices and that the impact of those fluctuations, especially in the short term, are largely beyond the control of ATCO Utilities. Given that the annual special payments required to amortize the unfunded liability determined by Mercer were forecast to continue for an extended period of time, there was a risk that this might result in a substantial under collection or over collection of funds from ratepayers in respect of those payments.

111. Therefore, to minimize this particular market price risk, the Commission in Decision 2010-189 considered that it would be in the interests of both ATCO Utilities and ratepayers to establish a deferral account to track the difference between the actual special annual payments paid by ATCO Utilities pursuant to the 2009 Actuarial Report and the annual special payment amounts either included in revenue requirement or charged to capital for each test year.

112. In Decision 2010-553, the Commission clarified the intended purpose of special payment deferral account to be used by ATCO Utilities as follows:

- The deferral account was to capture any changes to the special payments amount,
- The Commission understands that once the Pension Valuation is filed and accepted by the Superintendent of Pensions, ATCO Utilities [are] obligated to make the special payments required by the Pension Valuation,
- Pension Valuations are normally submitted to the Pension Superintendent every three years, however, [CUL] may opt to submit an evaluation sooner than the three year period,
- There is a potential mismatch due to timing between amounts approved by the Pension Superintendent and pension amounts approved by the Commission for inclusion in revenue requirement,
- The Commission wishes to capture these differences in a deferral account to keep both customers and shareholders whole,
- Accordingly the deferral account should be calculated as the annual difference between the amounts collected in rates in respect of the special payments and the special payment amounts actually paid by ATCO Utilities pursuant to the Pension Valuation(s) accepted by the Superintendent of Pensions that were in force during such year.[92]

113. Further, in Decision 2010-553 (Direction 1) ATCO Utilities was directed to provide a revised deferral account proposal as follows:

> 18. Based on these clarifications, the Commission will not approve ATCO Utilities' proposed deferral account treatment for special payments. The Commission notes that deferral account treatment directed in Decision 2010-189 was to commence in 2010. The Commission directs ATCO Utilities to revise its deferral account proposal accordingly and include an amended proposal in the 2011 Pension Common Matters application directed by the Commission in paragraph 123 of Decision 2010-189.[93]

114. In response to the above direction, ATCO Utilities confirmed that each of the utilities separately identify actual special payments made to the pension plan as required by the 2009 pension valuation filed with the Superintendent of Pensions. ATCO Utilities further advised that differences between the actual special payments made and the amounts forecast in revenue

[92] Decision 2010-553, paragraph 17, page 4.
[93] Decision 2010-553, paragraph 18, page 4.

requirements, including those differences related to forecasted employee information, will be recorded to the pension deferral account.[94]

115. None of the registered parties expressed an opinion with regard to ATCO Utilities' special payments deferral account on the record of this proceeding.

Commission findings

116. The Commission considers that the changes to the Pension Plan deficit because of the impact of market volatility continue to support the use of the special payments deferral account. The Commission notes that ATCO Utilities' ability to reasonably forecast employee complements was the reason that the Commission excluded the current service costs for the DB Plan and the DC Plan from being included in the allowed deferral account in Decision 2010-189. The ability of ATCO Utilities to reasonably forecast employee numbers also leads the Commission to reject ATCO Utilities' revised deferral account proposal. In the 2011 pension application, ATCO Utilities had proposed to include forecast to actual differences related to forecasted employee information during the period that the Pension Plan valuation is in effect.

117. The Commission acknowledges that special payments are required because of the unfunded liability of $157.1 million which was set out in the 2009 Actuarial Report. This amount remains in effect for the years 2010 through 2012 unless a new actuarial report is filed with the Superintendent of Pensions. Membership in the Pension Plan consists of both regulated and non-regulated entities with the total special payment amount being allocated to each entity based on the future liabilities by employee.[95] Based on the timing of regulatory applications, the special payment amounts forecasted and included in revenue requirement and approved by the Commission for the different ATCO Utilities in respect of each of these test years may be somewhat different than the amounts that are actually paid by each utility into the DB Plan as an annual special payment in each test year. The deferral account is intended to true-up those timing related differences. The deferral account is not intended to capture differences between the special payment forecasted amount and the actual amount paid which arise as a result of differences between forecasted versus actual employee information.

118. The Commission determination related to the COLA level approved for regulatory purposes for 2012 will not impact the actual special payment amounts allowed for purposes of the special payments deferral account unless a new actuarial report is filed and accepted by the Superintendent of Pensions. The Commission finds that the treatment and scope of the special payments deferral account shall be reviewed to evaluate the ongoing requirement for the account in conjunction with the submission of any updated or ongoing actuarial reports with the Superintendent of Pensions. For this reason, the Commission directs ATCO Utilities to submit all updated and ongoing actuarial valuation reports for approval by the Commission for regulatory purposes.

119. The amounts to be included in the special payments deferral account for 2010, 2011 and 2012 and future years until otherwise directed by the Commission shall be a positive or negative amount representing the difference between:

(a) that portion of the actual special payment paid by each utility, and

[94] Exhibit 1.01, application, page 6, paragraph 21.
[95] Exhibit 12.01, information response AUC-AU-1(a) – Mercer letter.

(b) the forecast special payment amounts included in the respective revenue requirement forecasts approved as final amounts for each of the ATCO Utilities.

120. In the compliance filing to this decision each of the ATCO Utilities is directed for the years 2010, 2011 and 2012 to provide, to the extent available, details of the forecast special payment amounts used in the development of the existing pension cost placeholder amounts and the actual special payment amounts paid including information with respect to the allocation of the total special payment amounts, on both a forecasted and actual basis, between the regulated and non-regulated entities. The details provided shall include, to the extent available:

- the total number of members in the DB Plan at the end of each year for each of the ATCO Utilities, with a separate total for ATCO non-regulated entities
- the total pensionable earnings for the DB Plan at the end of the year for each of the ATCO Utilities, with a separate total for ATCO non-regulated entities
- will quantify the movement of members in the DB Plan between each of the ATCO entities that participate in the Pension Plan for each year

121. With regard to the clearing of the special payment deferral account, the Commission directs ATCO Utilities to utilize, after a decision on the compliance filing to this decision is rendered, the existing process followed by each of the ATCO Utilities to address other deferral account balances. AE, for example, shall use its annual Rider G application to clear accumulated deferral account balances. As part of the submissions for these filings, each of the ATCO Utilities is directed to provide a reconciliation of the special payment amounts approved for inclusion in revenue requirement and the special payment amounts actually paid in respect of a particular test year and shall provide information similar to the information requested in paragraph 120 above in respect of the compliance filing.

3.4 Pension cost placeholders

122. The following ATCO Utilities pension matters were deferred to the present proceeding:

- ATCO Gas has prepared its 2011-2012 GRA Application consistent with the funding approach approved in the Pension Common Matters Decision. The placeholder for pension costs forecast for the test years will be finalized through the issuance of the Commission's decision on the 2011 Pension Common Matters proceeding.[96]

- Decision 2010-228 approved a settlement agreement for ATCO Pipelines which included the 2010-2012 test years but excluded pension and hearing costs. 'Pension and Hearing costs will be determined for each year by the AUC and will be flow through.'[97]

- ATCO Electric has forecasted pension costs in this 2011-2012 GTA Application starting in 2010 based on a 6% contribution rate for employees under the Defined Contribution Plan and a 38% contribution rate for employees under the Defined

[96] ATCO Gas 2011-2012 General Rate Application, Proceeding ID No. 969, application, Section 9.0 Other Matters, page 9.0-8, paragraph 24.

[97] Decision 2010-228: ATCO Pipelines 2010-2012 Revenue Requirement Settlement and Alberta System Integration, Application No. 1605226, Proceeding ID. 223, May 27, 2010, page 12, Section 3(c).

> Benefit Plan. These rates are based on the information provided in the ATCO Utilities Pension Common Matters Proceeding.
>
> ATCO Electric has prepared its 2011-2012 GTA Application consistent with the funding approach approved in the Pension Common Matters Decision."[98]

123. In AE's 2011-2012 GTA, "pension" was listed as a placeholder for both the 2011 and 2012 test years.[99] Schedule 29-6 provided forecast pension amounts for the test years.[100]

124. In Decision 2010-189, ATCO Utilities was directed to apply for final approval of the 2010 pension funding revenue requirement. In Decision 2010-553 the Commission stated that it considered ATCO Utilities was in the process of complying with the direction to apply for final approval. Direction 10 of Decision 2010-189 is discussed in an earlier section of this decision.

125. In Decision 2010-553 (Direction 2) ATCO Utilities was directed to provide a breakdown of the special payment amounts as follows:

> 34. …The Commission also accepts the 2010 placeholder amounts proposed by ATCO Utilities in respect of the special payment amounts for ATCO Electric, ATCO Gas and ATCO Pipelines. In accepting these amounts the Commission directs ATCO Utilities to provide a schedule in the 2011 Pension Common Matters application that provides a breakdown of the special payments amount as reported in the 2009 Pension Valuation for each regulated and unregulated ATCO entity, the corresponding allocation percentage used, and the source of the allocation percentages.[101]

98 ATCO Electric Ltd. 2011-2012 General Tariff Application, Proceeding ID No. 650, application, Section 1 page 1-12, paragraphs 37-38.

99 ATCO Electric Ltd. 2011-2012 General Tariff Application, Proceeding ID No. 650, application, Section 1, Attachment 3, Placeholder and Other Outstanding Matters Summary, page 1 of 1.

100 ATCO Electric Ltd. 2011-2012 General Tariff Application, Proceeding ID No. 650, Section 29, Schedule 29-6, page 1 of 1.

101 Decision 2010-553, paragraph 34, page 7.

126. ATCO Utilities provided the following table[102] in the 2011 pension application in response to the direction:

Table 2. 2010 special payments per 2009 pension valuation

	2010 SPECIAL PAYMENTS ($ Millions)		
	Special Payment		
	Amount	Allocation Percent	Source of Allocation Percentage
ATCO Electric	$5.3	N/A - The amount being charged	Refer to AUC-ATCO-4 Attachment 2 Proceeding ID 693
ATCO Gas	$7.2	"	"
ATCO Pipelines	$1.4	"	"
Total ATCO Utilities	$13.9	"	"
Total Other ATCO Companies	$2.5	"	"
Total 2010 Special Payments per Mercer 2009 Pension Valuation	$16.4	"	"

127. Further, in Decision 2010-553 (Direction 3) ATCO Utilities was directed to provide a breakdown of the composition of the 2010 pension funding amounts as follows:

> 35. In addition, the Commission would like further details on the composition of the pension funding amounts and directs ATCO Utilities to complete the following table and include it with the 2011 Pension Common Matters application.[103]

128. In response to the direction ATCO Utilities provided the following table[104] in the 2011 pension application:

Table 3. 2010 pension expense forecast

	2010 PENSION EXPENSE ($ millions)					
	Defined Benefit Pension Expense				Defined Contribution Pension Expense	
	Service Amount		Special Payment		Service Amount	
	Utility	Head Office	Utility	Head Office	Utility	Head Office
ATCO Electric	11.0	.1	5.2	.1	3.8	.2
ATCO Gas	14.8	.05	7.1	.05	5.1	.1
ATCO Pipelines	3.0		1.3	.05	.95	.05
Total	28.8	.15	13.6	.2	9.85	.35
Total Service/Special	$28.95		$13.8			
Total DB/DC	$42.75				$10.2	
Total 2010 Pension Expense	$52.95					
Total 2010 Pension Expense (allocated to unregulated entities)	$17.45					

129. In the 2011 pension application, ATCO Utilities advised that for each of the regulated utilities, current service payment amounts for both the DB Plan and DC Plan were calculated and allocated by employee and special payments were allocated based on the future liabilities by

102 Exhibit 1.01, application, 2010 Special payments per 2009 pension valuation table, page 6, paragraph 22.
103 Decision 2010-553, page 7, paragraph 35.
104 Exhibit 1.01, application, 2010 Pension expense table, page 7, paragraph 23.

employee. DB Plan assumptions were based on information provided by Mercer and used a contribution rate of 38 per cent.[105] DC Plan amounts were determined by applying a rate of six per cent to estimated pensionable earnings of DC Plan members. Placeholder amounts were recorded as operating expense or capital as follows:

- For AE, the allocation of pension contributions between operating expenses and capital was based on the forecasted allocation of pensionable payroll dollars.
- For AG, the allocation of pension contributions between operating expenses and capital was based on the three year historical averages.
- For AP, the allocation of pension contributions between operating expenses and capital was based on the 2008/09 split of labour costs between operating expenses and capital.[106]

130. A comparison of ATCO Utilities' 2011 and 2012 placeholder amounts[107] for pension costs allocated between operating expense and capital is shown in the following table:

Table 4. Operating vs. capital split of 2011 and 2012 pension placeholder costs for regulated ATCO Utilities

	2011	2011	2012	2012
	($ millions)		($ millions)	
Operating vs. capital cost	**GTA/GRA**	**Updated**	**GTA/GRA**	**Updated**
ATCO Electric				
Operating	11.3	11.3	11.5	11.7
Capital	12.6	12.6	12.6	13.0
ATCO Electric total	**23.9**	**23.9**	**24.1**	**24.7**
ATCO Gas				
Operating	17.2	17.2	17.7	17.7
Capital	11.3	11.3	11.6	11.6
ATCO Gas total	**28.5**	**28.5**	**29.3**	**29.3**
ATCO Pipelines				
Operating	3.2	3.4	3.4	3.4
Capital	1.8	2.0	2.0	2.0
ATCO Pipelines total	**5.0**	**5.4**	**5.4**	**5.4**
Utilities pension cost total	**57.40**	**57.80**	**58.80**	**59.40**

105 Decision 2010-189 - Exhibit 59, page 7, paragraph 22.
106 Exhibit 12.01, information response to AUC-AU-3.
107 Exhibit 12.02 and 12.03, information responses AUC-AU-2(a), Attachment 1and AUC-AU-3(a), Attachment 1.

131. In an information response,[108] ATCO Utilities summarized the accounting treatment of pension funding costs under the cash basis that was approved by the Commission in Decision 2001-105.[109] In the response ATCO Utilities stated:

> The capitalization of pension funding related to capital labour is a long standing practice, consistently applied by the ATCO Utilities. The setting up of no cost capital is to credit ratepayers based on receiving cash for the capital portion of pension cost recover.

132. The response indicated that for both AG and AE, the capital portion collected through revenue requirement under the cash basis is recorded as no-cost capital to provide an offsetting credit to ratepayers. The response also identified that for AP the capital portion collected was not set up as no-cost capital to provide an offset as the 2010-2012 AP negotiated settlement had not specifically deal with the capital portion of pension funding.

133. A comparison of ATCO Utilities' 2010, 2011 and 2012 placeholder amounts[110] for pension costs proposed is shown in the following table:

Table 5. Comparison of pension placeholder costs for regulated ATCO Utilities

	2010	2010	2011	2011	2012	2012
	($ millions)		($ millions)		($ millions)	
Regulated pension cost	**Exh. 59**	**Updated**	**GTA/GRA**	**Updated**	**GTA/GRA**	**Updated**
DB service cost						
ATCO Electric	16.60	11.10	11.00	11.10	10.40	11.10
ATCO Gas	23.00	14.85	14.85	14.85	14.85	14.85
ATCO Pipelines	4.50	3.00	3.00	3.00	3.00	3.00
DB service cost total	44.10	28.95	28.85	28.95	28.25	28.95
DB special payment						
ATCO Electric	Not separated	5.30	5.30	5.30	5.30	5.30
ATCO Gas	Not separated	7.15	7.15	7.15	7.15	7.15
ATCO Pipelines	Not separated	1.35	1.00	1.35	1.35	1.35
DB special payment total	Not separated	13.80	13.45	13.80	13.80	13.80
DB cost total	**44.10**	**42.75**	**42.30**	**42.75**	**42.05**	**42.75**
DC service cost						
ATCO Electric	3.50	4.00	7.60	7.50	8.40	8.30
ATCO Gas	4.50	5.20	6.50	6.50	7.30	7.30
ATCO Pipelines	0.90	1.00	1.00	1.00	1.00	1.00
DC cost total	**8.90**	**10.20**	**15.10**	**15.00**	**16.70**	**16.60**
DB/DC pension cost total	**53.00**	**52.95**	**57.40**	**57.80**	**58.80**	**59.40**

[108] Exhibit 18.01, information response AUC-AU-11.
[109] Decision 2001-105: ATCO Electric Ltd., ATCO Gas and Pipelines Ltd. and Northwestern Utilities Limited (ATCO Companies) Pension Filing – Negotiated Settlement, Application No. 2000328, File No. 5678-2, December 31, 2001.
[110] Exhibit 1, application, page 7; Exhibit 12.02 and 12.03, information responses AUC-AU-2(a), Attachment 1 and AUC-AU-3(a), Attachment 1, and Decision 2010-189 - Exhibit 59, page 7, paragraph 23. Pension costs displayed include utility plus head office allocated amounts costs as submitted by ATCO Utilities.

Commission findings

134. The Commission finds that ATCO Utilities has complied with Direction 2 from Decision 2010-553 which requested the breakdown of the special payment amounts for 2010.

135. The Commission finds that ATCO Utilities has complied with Direction 3 from Decision 2010-553 which requested a breakdown of the composition of the 2010 pension funding amounts. The breakdown of the 2010 pension funding amounts, as provided by ATCO Utilities, is reflected in the comparison shown in Table 5 above.

136. The Commission notes that Table 4 above includes capital components for the pension funding costs for 2011 and 2012 for each of the ATCO Utilities. No-cost capital is recorded for AG and AE to provide ratepayers with an offset to the capital component being collected from customers under the cash basis previously approved by the board.[111] AP indentified a capital component related to the pension funding costs without recording no-cost capital as an offset. Without this offset, AP is able to collect the capital amount under the cash basis and is able to also collect a return on the capital since no-cost capital is not recorded as an offset.

137. The Commission finds the collection of both the capital and operating portion of pension funding for AP, combined with the ability to earn a return in rate base on that capital due to the absence of the offsetting no-cost capital to be unfair to ratepayers. For this reason, the Commission directs AP to make an adjustment to its pension cost placeholders for 2010-2012 in the compliance filing to reflect the impact of recording no-cost capital as an offset for 2010-2012 where pension funding under the cash basis contains a capital component. As pension funding resumes in 2010, due to the elimination of the pension surplus, the Commission directs ATCO Utilities to ensure this no-cost capital treatment is consistently applied for 2010 onwards for each of the ATCO Utilities.

138. The Commission recognizes that its determination related to the COLA level approved for regulatory purposes will impact the pension cost placeholder amounts for the 2012 test year for each of the ATCO Utilities. As part of the compliance filing for the current decision, the Commission directs ATCO Utilities to update Table 5 shown above with the recalculated numbers which reflect the COLA level approved for 2012 for regulatory purposes. Further, the Commission directs each of the ATCO Utilities to update Table 4 above, which provides the operating expense vs. capital splits by each ATCO utility for the pension cost amounts.

139. With regard to approvals of the placeholder amounts proposed by ATCO Utilities as summarized in Table 5 above, the Commission considers that certain portions may be approved as being reasonable based on the record of this proceeding, while other portions require additional clarification and shall remain as placeholders until the Commission has reviewed the information requested below.

140. The Commission considers that the special payments as summarized in Table 5 for 2010, 2011 and 2012 shown for each of the ATCO Utilities in the updated columns are based on the 2009 Actuarial Report and represent consistent amounts across the three test years. The Commission notes that these amounts are subject to deferral account treatment as approved earlier in this decision. Accordingly, the Commission approves the special payments portion of

111 The Commission's predecessor was the Alberta Energy and Utilities Board (board).

the pension cost placeholders for each of the ATCO Utilities for inclusion in revenue requirement subject to deferral account reconciliations.

141. The Commission finds that the remainder of the placeholders, specifically the DB Plan service costs and the DC Plan service costs shall remain as placeholders until the information requested has been reviewed as part of the pending compliance filing.

142. The Commission requires further details to be provided to finalize portions of the proposed placeholders shown in Table 5 above. ATCO Utilities is directed to provide the additional information set out below as part of the upcoming compliance filing related to this decision:

(a) The Mercer letter provided with information response AUC-AU-1(a) states the following:

> The funding report provides a rule for determining service cost as a percentage of capped earnings. The purpose of this rule is to provide an automatic adjustment to contributions if earnings are different from expected, which is particularly important for defined benefit provisions that are open to new members. Since Plan 1 only allows new members to participate in the defined contribution provision (i.e., the defined benefit provision is closed) and the active members are older, we are indifferent as to whether Canadian Utilities contributes the dollar amounts outlined in our report or applies the service cost rule to actual capped earnings in 2010.

The 38 per cent used to determine current service costs for 2010, 2011 and 2012 for ATCO Utilities appears to have been derived from Exhibit 59 provided in ATCO Utilities Pension Common Matters Proceeding, Proceeding ID No. 226, which is referenced in Decision 2010-189.[112] The 2009 Actuarial Report prepared by Mercer shows the Employer's Contribution Rule to be 24.69 per cent.[113]

In the compliance filing ATCO Utilities shall indicate the source, and provide the calculation of the 38 per cent for each of the ATCO Utilities by year for each of 2010, 2011 and 2012. Given that the 38 per cent indicated by Exhibit 59 preceded the 24.69 per cent used in the 2009 Actuarial Report, the compliance filing shall explain why 38 per cent should be used for 2010, 2011 and 2012 given that 2010 represented the only year specified in the Mercer letter. ATCO Utilities shall also explain what the service cost rule is that is referred to by Mercer in the above quote and discuss how it is used.

(b) Table 5 shown above displays a significant increase in the DC service cost for ATCO Electric between 2010 and 2011 from $4.0 million to $7.5 million. ATCO Utilities shall provide an explanation in the compliance filing for the increase and show the calculation of both numbers in the compliance filing.

(c) In the compliance filing ATCO Utilities shall explain what amounts and adjustments are included in ATCO Utilities/Mercer's calculations of pensionable earnings used for calculation of the placeholder and proposed final amounts for 2010, 2011 and 2012.

[112] Decision 2010-189 - Exhibit 59, page 7, paragraph 22.
[113] Exhibit 12.01, information response AUC-AU-1(a), page 15.

Further ATCO Utilities shall explain the difference between capped earnings as used by Mercer and pensionable earnings as used by ATCO Utilities.

(d) In the compliance filing each of the ATCO Utilities shall provide the following information for each of the years from 2009, 2010, 2011, and 2012 (for 2009 and 2010 provide both forecast and actual amounts):

(i) gross salaries in $ million
(ii) total FTE's at the end of each year
(iii) FTE additions in each year
(iv) pensionable earnings used for DB Plan
(v) pensionable earnings used for DC Plan
(vi) a reconciliation of the gross salaries and the pensionable earnings used for each of the DB and DC Plans by year for each of the ATCO Utilities

4 Order

143. It is hereby ordered that:

(1) ATCO Utilities is directed to submit a compliance filing in accordance with the directions set out in this Decision by November 30, 2011.

Dated on September 27, 2011.

The Alberta Utilities Commission

(original signed by)

Anne Michaud
Panel Chair

(original signed by)

Bill Lyttle
Commission Member

(original signed by)

Moin A. Yahya
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) **counsel or representative**
ATCO Utilities (AU) L. Keough K. Worton D. Freedman W. Wright N. MacLean V. Porter D. Werstiuk D. Zavaduk L. Kizuk B. Yee
The Consumers' Coalition of Alberta (CCA) J. A. Wachowich A. P. Merani
The Office of the Utilities Consumer Advocate (UCA) C. R. McCreary S. Mattuli B. Shymanski R. Bell
EPCOR Distribution & Transmission Inc. (EDTI) D. Tenney P. Laderoute

The Alberta Utilities Commission Commission Panel A. Michaud, Panel Chair B. Lyttle, Commission Member M. A. Yahya, Commission Member Commission Staff B. McNulty (Commission counsel) D. Cherniwchan B. Whyte

Appendix 2 – Process schedule

(return to text)

Process step	Deadline date
Preliminary:	
Information requests to ATCO Utilities (Round 2)	March 11, 2011
Information responses from ATCO Utilities (Round 2)	March 25, 2011
Interveners to advise parties and the Commission of intention to file evidence and shall provide submissions with respect to the need for an oral hearing	March 31, 2011
ATCO Utilities to reply to intervener submissions on the need for an oral hearing	April 5, 2011
Final:	
Intervener evidence	April 26, 2011
Information requests to interveners	May 10, 2011
Information responses from interveners	May 25, 2011
Rebuttal evidence	June 1, 2011
Argument	June 15, 2011
Reply argument	June 29, 2011

Appendix 3 – 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. For purposes of the 2011 pension application, the Commission accepts ATCO Utilities' explanation that incurring the cost to incorporate the consistent retirement assumptions was not justified given the small amount of the increase to revenue requirement that would have resulted. The Commission notes ATCO Utilities' confirmation that the retirement assumptions have been discussed with Mercer with regard to preparation of future valuations. The Commission directs ATCO Utilities to use assumptions, including pensionable earnings data, that are consistent with the information used in the Mercer actuarial evaluations for each of the ATCO Utilities in all future valuations and pension funding applications. .... Paragraph 18

2. The Commission directs that the COLA amounts included in the annual pension costs of each of the ATCO Utilities for regulatory purposes for 2012 onwards be based on 50 per cent of Canada annual CPI to a maximum of three per cent. This approved level of COLA shall be used for all calculations of all future pension costs used for regulatory purposes beginning with 2012 onwards, subject to the exception described below with respect to the 2012 special payments, for both retired and active employees until such time as the Commission otherwise directs. .... Paragraph 96

3. The Commission further directs ATCO Utilities to provide the changes to each of their capital and revenue requirements resulting from use of a COLA adjustment based on 50 per cent of Canada CPI to a maximum of three per cent for regulatory purposes for use on 2012 pension costs onwards for allowed pension current service cost amounts. .... Paragraph 98

4. The Commission considers that it is not apparent that it would be in the best interest of ATCO Utilities, ratepayers or pensioners to implement a change to the COLA calculation with respect to 2012 special payments given the uncertain pension funding impacts that may result from a new actuarial valuation and report. Further, the Commission notes that any potential under or over payment with regard to special payments for 2012 within the deferral account would effectively increase or reduce the ongoing liability of the pension fund. Because a new plan must be filed with the Superintendent of Pensions by January 1, 2013, any reductions that may result from the reduction in COLA to 50 per cent of CPI will be captured in ongoing special payments subsequently set by the Superintendent of Pensions. Special payment adjustments could also evolve due to other changes occasioned by the actuarial assumptions. The Commission will require that the reduced COLA calculation be made for regulatory purposes in calculating the special payments allocated to ATCO Utilities commencing January 1, 2013. Accordingly, in the event that CUL and ATCO Utilities elect not to reflect the regulatory reduction required by this decision to the COLA provision in the assumptions used in preparing the actuarial report filed with the Superintendent of Pensions, each of the ATCO Utilities are directed to make the necessary adjustment in their respective special payment deferral account reconciliation applications for 2013 and for each year thereafter until otherwise ordered by the Commission. .... Paragraph 100

5. As part of the compliance filing for the current decision, ATCO Utilities is directed to inform the Commission whether CUL intends to continue its past administrative practice of granting the maximum allowable COLA under the existing terms of the DB Plan or whether it intends to amend the COLA administrative practice of the DB Plan to align with the COLA approved for regulatory purposes. If ATCO Utilities intends to continue its past administrative practice of granting the COLA at 100 per cent of CPI up to three per cent maximum, the Commission directs ATCO Utilities, commencing January 1, 2012 to exclude from the head office component of revenue requirement of ATCO Utilities, all affiliate allocations or charges included within revenue requirement, and from all other revenue requirement components, all amounts representing an allocation of utility, head office or affiliate pension expense which can be attributed to a COLA set higher than 50 per cent of CPI up to a maximum of three per cent, subject to the exception described above with respect to the 2012 special payments. .... Paragraph 101

6. Further, if ATCO Utilities continues its past administrative practice of granting the COLA at 100 per cent of CPI up to a three per cent maximum, the Commission, subject to the exception described above with respect to the 2012 special payments, directs ATCO Utilities commencing January 1, 2012 onwards to exclude all incremental differences, and related compounding impacts on future years, between COLA awarded by CUL that exceeds the COLA level approved by the Commission for regulatory purposes. These incremental differences shall be excluded from the base used for calculating future period pension costs for regulatory purposes and no compounding impacts related to these incremental amounts shall be included in future years. .... Paragraph 102

7. The Commission determination related to the COLA level approved for regulatory purposes for 2012 will not impact the actual special payment amounts allowed for purposes of the special payments deferral account unless a new actuarial report is filed and accepted by the Superintendent of Pensions. The Commission finds that the treatment and scope of the special payments deferral account shall be reviewed to evaluate the ongoing requirement for the account in conjunction with the submission of any updated or ongoing actuarial reports with the Superintendent of Pensions. For this reason, the Commission directs ATCO Utilities to submit all updated and ongoing actuarial valuation reports for approval by the Commission for regulatory purposes. .... Paragraph 118

8. In the compliance filing to this decision each of the ATCO Utilities is directed for the years 2010, 2011 and 2012 to provide, to the extent available, details of the forecast special payment amounts used in the development of the existing pension cost placeholder amounts and the actual special payment amounts paid including information with respect to the allocation of the total special payment amounts, on both a forecasted and actual basis, between the regulated and non-regulated entities. The details provided shall include, to the extent available:

   - the total number of members in the DB Plan at the end of each year for each of the ATCO Utilities, with a separate total for the ATCO non-regulated entities
   - the total pensionable earnings for the DB Plan at the end of the year for each of the ATCO Utilities, with a separate total for the ATCO non-regulated entities
   - will quantify the movement of members in the DB Plan between each of the ATCO entities that participate in the Pension Plan for each year. .... Paragraph 120

9. With regard to the clearing of the special payment deferral account, the Commission directs ATCO Utilities to utilize, after a decision on the compliance filing to this decision is rendered, the existing process followed by each of the ATCO Utilities to address other deferral account balances. AE, for example, shall use its annual Rider G application to clear accumulated deferral account balances. As part of the submissions for these filings, each of the ATCO Utilities is directed to provide a reconciliation of the special payment amounts approved for inclusion in revenue requirement and the special payment amounts actually paid in respect of a particular test year and shall provide information similar to the information requested in paragraph 120 above in respect of the compliance filing. .... Paragraph 121

10. The Commission finds the collection of both the capital and operating portion of pension funding for AP, combined with the ability to earn a return in rate base on that capital due to the absence of the offsetting no-cost capital to be unfair to ratepayers. For this reason, the Commission directs AP to make an adjustment to its pension cost placeholders for 2010-2012 in the compliance filing to reflect the impact of recording no-cost capital as an offset for 2010-2012 where pension funding under the cash basis contains a capital component. As pension funding resumes in 2010, due to the elimination of the pension surplus, the Commission directs ATCO Utilities to ensure this no-cost capital treatment is consistently applied for 2010 onwards for each of the ATCO Utilities. ...... Paragraph 137

11. The Commission recognizes that its determination related to the COLA level approved for regulatory purposes will impact the pension cost placeholder amounts for the 2012 test year for each of the ATCO Utilities. As part of the compliance filing for the current decision, the Commission directs ATCO Utilities to update Table 5 shown above with the recalculated numbers which reflect the COLA level approved for 2012 for regulatory purposes. Further, the Commission directs each of the ATCO Utilities to update Table 4 above, which provides the operating expense vs. capital splits by each ATCO utility for the pension cost amounts. .... Paragraph 138

12. The Commission requires further details to be provided to finalize portions of the proposed placeholders shown in Table 5 above. ATCO Utilities is directed to provide the additional information set out below as part of the upcoming compliance filing related to this decision:

(a) The Mercer letter provided with information response AUC-AU-1(a) states the following:

> The funding report provides a rule for determining service cost as a percentage of capped earnings. The purpose of this rule is to provide an automatic adjustment to contributions if earnings are different from expected, which is particularly important for defined benefit provisions that are open to new members. Since Plan 1 only allows new members to participate in the defined contribution provision (i.e., the defined benefit provision is closed) and the active members are older, we are indifferent as to whether Canadian Utilities contributes the dollar amounts outlined in our report or applies the service cost rule to actual capped earnings in 2010.

The 38 per cent used to determine current service costs for 2010, 2011 and 2012 for ATCO Utilities appears to have been derived from Exhibit 59 provided in

ATCO Utilities Pension Common Matters Proceeding, Proceeding ID No. 226, which is referenced in Decision 2010-189. The 2009 Actuarial Report prepared by Mercer shows the Employer's Contribution Rule to be 24.69 per cent.

In the compliance filing ATCO Utilities shall indicate the source, and provide the calculation of the 38 per cent for each of the ATCO Utilities by year for each of 2010, 2011 and 2012. Given that the 38 per cent indicated by Exhibit 59 preceded the 24.69 per cent used in the 2009 Actuarial Report, the compliance filing shall explain why 38 per cent should be used for 2010, 2011 and 2012 given that 2010 represented the only year specified in the Mercer letter. ATCO Utilities shall also explain what the service cost rule is that is referred to by Mercer in the above quote and discuss how it is used.

(b) Table 5 shown above displays a significant increase in the DC service cost for ATCO Electric between 2010 and 2011 from $4.0 million to $7.5 million. ATCO Utilities shall provide an explanation in the compliance filing for the increase and show the calculation of both numbers in the compliance filing.

(c) In the compliance filing ATCO Utilities shall explain what amounts and adjustments are included in ATCO Utilities/Mercer's calculations of pensionable earnings used for calculation of the placeholder and proposed final amounts for 2010, 2011 and 2012. Further ATCO Utilities shall explain the difference between capped earnings as used by Mercer and pensionable earnings as used by ATCO Utilities.

(d) In the compliance filing each of the ATCO Utilities shall provide the following information for each of the years from 2009, 2010, 2011, and 2012 (for 2009 and 2010 provide both forecast and actual amounts):

(i) gross salaries in $ million
(ii) total FTE's at the end of each year
(iii) FTE additions in each year
(iv) pensionable earnings used for DB Plan
(v) pensionable earnings used for DC Plan
(vi) a reconciliation of the gross salaries and the pensionable earnings used for each of the DB and DC Plans by year for each of the ATCO Utilities .... Paragraph 142