



## ATCO Gas

2008-2009 General Rate Application Phase I  
Second Compliance Filing

January 13, 2010



**ALBERTA UTILITIES COMMISSION**

Decision 2010-025: ATCO Gas

2008-2009 General Rate Application Phase I Second Compliance Filing

Application No. 1605412

Proceeding ID. 294

January 13, 2010

Published by

Alberta Utilities Commission

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## **1 INTRODUCTION**

1. ATCO Gas (AG) filed its 2008-2009 General Rate Application - Second Refiling (Second Compliance Filing or Application) on September 1, 2009 with the Alberta Utilities Commission (AUC or the Commission) pursuant to [Decision 2009-109](#).<sup>1</sup>
2. In its Second Compliance Filing, AG provided a summary of capital adjustments and operating and maintenance (O&M) adjustments which summarized the impact on capital expenditures and O&M expenses based on specific Commission Directions from Decision 2009-109. AG also updated its transmission service charges to reflect recent changes to ATCO Pipelines rates. This update, in combination with one-time adjustments and the impact of interim rates, resulted in a revenue shortfall for AG North of \$12,362,000 and a revenue shortfall for AG South of \$2,936,000.
3. The Commission issued Notice of Application and received Statements of Intent to Participate from BP Canada Energy Company (BP), the Consumers' Coalition of Alberta (CCA), and the Office of the Utilities Consumer Advocate (UCA). The Commission considered that the Second Compliance Filing could be dealt with through a short written process, and established a process schedule.
4. By letter dated October 27, 2009, AG submitted an update to its Application which proposed to correct information technology (IT) capital updates and to annualize the 2009 transmission charge rate change for rate design purposes (Compliance Update). By letter dated October 29, 2009 the Commission allowed AG to amend its Application by way of the Compliance Update, but considered that in order to provide a fair and transparent process, parties should have the opportunity to review and test the Compliance Update. Consequently, the Commission established a process to deal with the Compliance Update by way of simultaneous argument and reply argument on November 17, 2009 and November 24, 2009 respectively.
5. By letter dated November 27, 2009 AG proposed to file updated revenue requirement schedules reflecting the impact of the [Generic Cost of Capital Decision](#)<sup>2</sup> (GCC Update), on its 2008-2009 revenue requirements in this proceeding, rather than initiate a separate compliance process. AG indicated that it had brief discussions with the UCA and CCA, and it appeared that there was no objection to the proposal pending confirmation with UCA and CCA consultants.

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<sup>1</sup> Decision 2009-109 – ATCO Gas 2008-2009 General Rate Application Phase I Compliance Filing (Application No. 1603068) (Proceeding ID. 154) (Released: July 28, 2009).

<sup>2</sup> Decision 2009-216 – 2009 Generic Cost of Capital (Application No. 1578571) (Proceeding ID. 85) (Released: November 12, 2009).

6. AG proposed that interested parties provide comments by December 7, 2009 to address whether any further process was required to implement the Generic Cost of Capital Decision. UCA submitted a letter dated December 8, 2009, recommending that the date for comments be moved forward to December 8, 2009. The Commission received comments on the GCC Update from the UCA and CCA.

7. The Commission considers that the record with respect to this proceeding closed on December 8, 2009. The Division of the Commission assigned to deal with this matter consisted of Commission Chair, Willie Grieve and Commissioners Bill Lyttle and N. Allen Maydonik, Q.C.

8. 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

9. In its GCC Update, AG provided the following applied-for revenue requirements summaries for AG North and AG South, for each of 2008 and 2009:

Table 1. ATCO Gas North Utility Revenue Requirement

	2008 (\$000)			2009 (\$000)		
	AUC 2009-109	Compliance II Update	GCC Update	AUC 2009-109	Compliance II Update	GCC Update
Required Invested Capital	664,340	663,104	663,165	763,017	762,306	762,209
Return on Rate Base	7.251%	7.251%	7.278%	7.166%	7.166%	7.295%
Utility Income	48,172	48,081	48,268	54,680	54,629	55,603
Cash Operating Expenses						
Other Taxes	326	326	326	341	341	341
Other Operating Expenses	161,329	161,329	161,329	181,098	182,598	182,598
Total Cash Operating Expenses	161,655	161,655	161,655	181,439	182,939	182,939
Depreciation	48,500	48,500	48,500	53,893	53,708	53,708
Provision for Income Taxes	5,999	6,371	6,471	6,981	6,904	7,544
Base Rate Revenue Requirement	264,326	264,607	264,894	296,993	298,180	299,794
Less Revenue on Existing Rates	255,470	255,470	255,470	263,448	263,448	263,448
Revenue Shortfall (Surplus)	8,856	9,137	9,424	33,545	34,732	36,346

Table 2. ATCO Gas South Utility Revenue Requirement

	2008 (\$000)			2009 (\$000)		
	AUC 2009-109	Compliance II Update	GCC Update	AUC 2009-109	Compliance II Update	GCC Update
Required Invested Capital	563,854	562,624	563,392	622,452	621,705	621,564
Return on Rate Base	7.501%	7.501%	7.525%	7.454%	7.454%	7.581%
Utility Income	42,296	42,202	42,398	46,400	46,343	47,123
Cash Operating Expenses						
Other Taxes	41	41	41	42	42	42
Other Operating Expenses	120,739	120,739	120,739	132,737	133,154	133,154
Total Cash Operating Expenses	120,780	120,780	120,780	132,779	133,196	133,196
Depreciation	41,697	41,697	41,697	45,683	45,499	45,499
Provision for Income Taxes	4,814	5,180	5,278	6,252	6,171	6,667
Base Rate Revenue Requirement	209,587	209,859	210,153	231,114	231,209	232,485
Less Revenue on Existing Rates	217,550	217,550	217,550	214,427	214,427	214,427
Revenue Shortfall (Surplus)	(7,963)	(7,691)	(7,397)	16,687	16,782	18,058

### 3 ISSUES

10. In this Section the Commission addresses items at issue, including Xerox charges, annualization of transmission charges and the treatment of the Harvest Hills surplus land.

#### 3.1 Xerox Charges

11. In the Compliance Update, AG stated that the IT and customer care and billing (CC&B) placeholders originally reported in the Second Compliance Filing were incorrect for the following reasons:

1. The compliance filings treated Xerox charges as a flow through item which excluded them from the O&M IT placeholder. Xerox charges are in fact subject to true up in the Evergreen process and therefore Xerox charges must be part of the O&M IT placeholder.
2. The capital impact of the IT pricing updates filed by ATCO Gas on February 28, 2008 was not incorporated into the compliance filings.
3. The capital impact of the change in timing of the Service Initiation (SI) and Non-Gas Billing (NGB) project, which was updated in rebuttal evidence, was not incorporated into the compliance filings.<sup>3</sup>

<sup>3</sup> Exhibit 21.01 – ATCO Gas 2008-2009 General Rate Application – Second Compliance Filing, October 27, 2009, paragraph 1.

12. AG indicated that the overall impact on revenue requirement as a result of correcting these errors was a net decrease of \$88,000. Xerox charges had no impact on revenue requirements as it was an update to the reported O&M IT placeholders for 2008 and 2009.

13. CCA argued that AG failed to justify the change in the placeholder. In this case, CCA submitted that AG had not provided reasons for the inclusion of these Xerox charges nor had AG cited any approvals from the AUC to include the Xerox charges. Given that the Second Compliance Filing relates to compliance with Decision 2009-109, CCA submitted that if AG wanted to review and vary the substantive decision with respect to Xerox charges the AUC had specific procedures for doing so. To ask for adjustments the day before argument was initially due was inappropriate and should not be permitted.

14. Initially, UCA considered that AG was attempting to correct errors to the placeholders for IT Capital Costs, and that there was no benefit in updating these placeholders at this time. However, subsequent to the Commission's revised process schedule to deal with the Compliance Update, UCA did not object to the updated IT and CC&B placeholders being reflected in AG's Second Compliance filing.

15. AG argued that the review and true up of Xerox charges for 2008 and 2009 in the Evergreen process can only occur if Xerox charges are part of the O&M IT placeholders. The Xerox charges should have been included in the placeholder amounts and were not. AG submitted that the update that was filed related to Xerox charges was simply to correct this oversight. Further, the adjustment to the O&M IT placeholders for Xerox charges does not impact the revenue requirements; it is merely a correction to the table which summarizes the IT placeholders.

16. Based on the information filed, the Commission agrees with AG that the update to the Xerox charges was made to correct an oversight. The impact of all three IT capital cost updates resulted in an overall decrease of \$88,000 to AG's 2008-2009 revenue requirements. The Commission accepts AG's update for IT and CC&B placeholders because they are not final and will be dealt with on a final basis in the 2008-2009 Evergreen proceeding.<sup>4</sup>

### **3.2 Annualization of Transmission Charges**

17. AG incorporated the impact of the ATCO Pipelines transmission rates approved in [Decision 2009-110](#)<sup>5</sup> on its 2009 revenue requirement forecast. However, for 2010 the revenue requirement component for transmission charges would be insufficient to address the full year impact of the approved transmission rates. AG proposed to adjust the 2009 transmission expense to ensure that the approved transmission rate change was incorporated into revenue requirement on a going forward basis.

18. CCA did not agree with AG's increase to its revenue requirement for 2010 to incorporate transmission rate changes without an examination of all items. CCA submitted that if AG wanted to adjust its rates for 2010 it should apply for a general rate application where all revenues and costs can be examined. CCA also considered that it was inappropriate to apply for

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<sup>4</sup> ATCO Utilities 2008-2009 Evergreen Application (Application No. 1577426) (Proceeding ID. 77).

<sup>5</sup> Decision 2009-110 – ATCO Pipelines 2008-2009 Rate Compliance Filing to [Decision 2009-033](#), (Application No. 1604966) (Proceeding ID. 187) (Released: July 29, 2009).

a 2010 revenue requirement item in a 2008-2009 revenue requirement compliance process, particularly the day before initial arguments were due.

19. Subsequent to the Commission's revised process schedule to deal with the update, UCA did not object to the annualization of transmission charges being reflected in AG's Second Compliance filing.

20. AG submitted that a general rate application was not required to adjust for changes to ATCO Pipelines rates and that the method proposed by AG was the most administratively efficient.

21. While AG has a deferral account to capture changes in transmission charges from ATCO Pipelines, the Commission finds that it is preferable to include amounts in revenue requirement that reflect current circumstances. In this situation, updating the transmission charges and including the amounts in revenue requirement will result in fewer true-ups in the future, and avoid a separate application to include the change in transmission charges in revenue requirement. On this basis the Commission approves AG's adjustments to transmission charges and related revenue requirement amounts.

### **3.3 Harvest Hills Surplus Land**

22. In the cover letter to its Second Compliance Filing AG made the following comments and request for written confirmation from the Commission:

5. In light of the recent rulings of the Alberta Court of Appeal (2009 ABCA 171 [Harvest Hills] and 2009 ABCA 246 [Salt Caverns]), ATCO Gas has removed from its rate base effective January 1, 2008 the costs relating to the surplus Harvest Hills land that was the subject of Application No. 1512932 and [Decision 2007-101](#) issued December 11, 2007. The combined effect of those two judgements on the impugned Decision is that the Board's conclusion that the surplus Harvest Hills asset is neither used nor required to be used for gas distribution purposes remains in effect. Only the condition as to the allocation of the related proceeds was subsequently vacated by the Court per the Judgement Roll dated August 13, 2009. Accordingly, the related costs should not be included in the approved rate base for the 2008-2009 test period since ATCO Gas' management and the Commission's predecessor had concluded that asset is not operationally required for gas distribution purposes.

6. The practical result of this disputed process is that all owning and operating costs relating to this surplus asset must be borne by shareholders in ATCO Gas' non-utility accounts. Consistent with the relevant case law as confirmed most recently in the Salt Caverns decision (particularly paras 55 and 56), section 26 does not apply to a former utility asset that the utility has determined has no utility purpose. Accordingly, ATCO Gas considers that it is free to dispose of the non-utility property without further application to the Commission.

7. Although ATCO Gas does not require further approval to dispose of its surplus assets, it would appreciate the Commission's concurrence that the utility is free to deal with non-utility assets as it sees fit. Such written confirmation would remove any uncertainty surrounding the utility's ability to manage or dispose of non-utility assets and operations on a going forward basis. (...)



23. UCA argued that this request by AG for confirmation from the Commission was not part of AG's GRA and should be addressed, if at all, in a separate proceeding focusing on this issue. UCA submitted that AG's statements invited the Commission to abdicate its authority to determine whether an asset is required to provide utility service.

24. In the event the Commission chooses to address this issue, the UCA submitted that the Salt Caverns decision does not support the position advanced by AG and made the following submission:<sup>6</sup>

13. The Salt Caverns decision focuses on the interpretation of "disposition" and there are still circumstances to which Sec. 26 applies. Each situation will differ and it is the Commission, not the utility, which must decide what are "non-utility assets". This requires a finding of fact on the part of the Commission.

14. Although the UCA is fully aware of the findings of the Alberta Court of Appeal in the Salt Caverns and Harvest Hills Decisions, it should be noted that both are the subject of applications for Leave to Appeal to the Supreme Court of Canada. Even if the Commission were so inclined, it would be premature to grant AG's request for an omnibus approval to allow AG, or any other utility, to "manage or dispose" of assets that it arbitrarily determines are non-utility assets. Clearly, the utility has the onus of satisfying the Commission that a particular asset is no longer required for utility service. Irrespective of whether a Sec. 26 approval is required, this may entail significant discussions and debate....

25. In its argument the CCA supported the arguments of the UCA.

26. At paragraph 40 of the Salt Caverns decision cited above, the Court stated that it was addressing the following question (Question):

If a utility company owns an asset whose price or value in previous rate hearings has been included in the rate base calculation, and the company now alleges that the asset is no longer used, nor useful, nor needed for its regulated utility business, or alleges that it will soon become none of those things, does s. 26 of the *Gas Utilities Act* apply, and does the company need leave under that section?

27. Section 26 of the *Gas Utilities Act*, subsection (2)(d) reads as follows:

(2) No owner of a gas utility designated under subsection (1) shall

...

(d) without the approval of the Commission,

- (i) sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part of it or them, or
- (ii) merge or consolidate its property, franchises, privileges or rights, or any part of it or them,

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<sup>6</sup> UCA Argument dated October 28, 2009, paragraph 14.

and a sale, lease, mortgage, disposition, encumbrance, merger or consolidation made in contravention of this clause is void, but nothing in this clause shall be construed to prevent in any way the sale, lease, mortgage, disposition, encumbrance, merger or consolidation of any of the property of an owner of a gas utility designated under subsection (1) in the ordinary course of the owner's business.

28. The Court in the Salt Caverns decision, in determining that the Question should be answered in the negative, made the following comments:

[51] So I interpret the words of s. 26 as not applying to ending a use. If that produced an absurd result, or crippled the Commission's power to regulate rates, then one might have to look harder at s. 26 and even try to stretch its words.

[52] But I see no hiatus here. It is common ground that as part of a normal rate hearing, the Commission can and must decide what items (property) are to be considered part of the rate base and given a value on which the utility company is entitled to recover a return on investment: s. 37 of the Gas Utilities Act. (See Part F. above.)

[53] Indeed, counsel for the appellant stressed to us what the Commission could do when hearing a rate application if it found want of due prudence in starting or stopping the use of some asset in the regulated utility. It could make some adjustment of values in the rate base or in the expenses or return on investment, so that rates approved would not make the consumers pay rates based on that type of imprudence.

and:

[55] So the philosophy in those court decisions would not expand the scope of s. 26, and would do a good deal to restrict it. Both sides suggested in argument to us that if s. 26 applied, there is a good chance that the Commission would inquire into whether ceasing use of the asset in question harmed the consumer, and if so, what remedy for the harm could be imposed. Where merely ending use or usefulness (or both) is involved, that inquiry and remedy would be incompatible with the courts' "**Stores Block**" and "**Carbon**" decisions, *supra*, and so not a ground to expand s. 26's application. Indeed, the "**Harvest Hills**" decision, *supra*, discusses that topic in detail. The Supreme Court of Canada's 2006 "**Stores Block**" decision, *supra*, is also very clear on the subject of s. 26. That section does not even apply to non-utility assets (or former utility assets), nor to sales in the ordinary course of business, and it gives no power to earmark or allocate sale proceeds (paras. 40-46).

[56] Ceasing to use an asset for utilities purposes involves the traditional criteria for what is in the rate base (discussed in Part F above), and does not involve or require a s. 26 application at all. The 2008 "**Carbon**" decision (cited in the previous paragraph) clearly adopts the decisions about the "used or required to be used" test, and defines that as operational use in the utility: see para. 25 for example.

29. In response to AG's submission regarding the Harvest Hills land, the Commission acknowledges the removal from AG's rate base effective January 1, 2008 of the costs relating to the surplus Harvest Hills land that was the subject of Application No. 1512932 and Decision 2007-101<sup>7</sup> issued on December 11, 2007.

30. With regard to AG's request for the Commission's written concurrence with AG's position that AG "is free to dispose of [the] non-utility property without further application to the Commission," the Commission considers that in light of the express language of section 26 of the *Gas Utilities Act*, the Commission cannot simply allow AG to dispose of the asset. Subsection 26(2)(d) of the *Gas Utilities Act* requires that an application be filed with the Commission for approval when a designated gas utility seeks to "sell, lease, mortgage or otherwise dispose of or encumber its property" outside of the ordinary course of business. The Supreme Court in *Stores Block* explained that the reason for this requirement is "to ensure that the asset in question is indeed non-utility, so that its loss does not impair the utility function or quality."<sup>8</sup>

#### **4 COMPLIANCE WITH DIRECTIONS FROM DECISION 2009-109**

##### **4.1 Contract Services, General Materials and Supplies Inflation – Directions 3, 4 & 7**

31. In Decision 2009-109 the Commission issued the following Directions with respect to inflation:

3. Therefore the Commission directs AG in the Second Refiling to provide detailed calculations of the resulting impacts on the remainder of its forecasts that have contract services and general materials and supplies inflation components using the methodology outlined above to calculate AG's 2009 supervisory labour forecast. Further, the Commission directs AG in the Second Refiling to further adjust its 2009 revenue requirement to reflect the forecasts adjusted in this manner. The Commission considers that these calculations will apply to both capital and O&M forecasts as discussed in Section 3.4 of this Decision.
4. Further, the Commission directs AG in the Second Refiling to further adjust its 2009 revenue requirement to reflect the forecasts adjusted in this manner. The Commission considers that these calculations will apply to both capital and O&M forecasts as discussed in Section 3.4 of this Decision.

and

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<sup>7</sup> Decision 2007-101 – ATCO Gas Disposition of Land in the Harvest Hills Area (Application No. 1512932) (Released: December 11, 2007).

<sup>8</sup> *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4, [2006] 1 S.C.R. 140, para 44: 44 It is interesting to note that s. 26(2) does not apply to all types of sales (and leases, mortgages, dispositions, encumbrances, mergers or consolidations). It excludes sales in the ordinary course of the owner's business. If the statutory scheme was such that the Board had the power to allocate the proceeds of the sale of utility assets, as argued here, s. 26(2) would naturally apply to all sales of assets or, at a minimum, exempt only those sales below a certain value. It is apparent that allocation of sale proceeds to customers is not one of its purposes. In fact, s. 26(2) can only have limited, if any, application to non-utility assets not related to utility function (especially when the sale has passed the "no-harm" test). The provision can only be meant to ensure that the asset in question is indeed non-utility, so that its loss does not impair the utility function or quality.

**Table 4. Commission's Expectation of Inflationary Reductions for Capital Contractor Amounts**

	2008		2009		Source
	(\$000)	Inflation %	(\$000)	Inflation %	
Supply Dollar	157,172	11.06	158,757	17.90	Exhibit 0170 Attachment
Updated Supply Dollar (1)	156,701	10.58	157,952	17.90	Exhibit 0170 Update
Less Updated Inflation Dollar	<u>14,989</u>		<u>23,984</u>		
Base Amount	141,712		133,968		
Plus Approved Inflation Amount	<u>14,171</u>	10.00	<u>6,698</u>	5.00	Decision 2008-113
Commission Supply Dollar (2)	155,883		140,666		
Commission Calculated Reduction	818		17,286		(1) - (2)
AG Supply Dollar Reduction	(1,781)		15,029		Summary of Capital Adjustments Attachment
Further Reduction Required	2,599		2,257		

7. The Commission directs AG in the Second Refiling to incorporate the above noted reductions and update all appropriate schedules and categories to reflect these changes.

32. In response, AG noted that Directions 3 and 4 applied a year over year method for updating inflation while Direction 7 adjusted each year independently. AG submitted that each method will result in different adjustments to the capital inflation forecasts. AG submitted that whichever methodology was used it should be consistent for both capital contract inflation costs and capital materials inflation costs. AG indicated that it used the methodology associated with Direction 7, as it resulted in the largest reduction to its capital expenditure forecasts.

33. The Commission agrees with AG that it is preferable to have a consistent approach to such items as inflation. While the Commission strives for consistency in its treatment of regulatory issues within each application and across utilities, the Commission recognizes that there may be exceptions to this practice. In Decision 2009-109 the Commission stated the following:

31. The Commission recognizes that the choice of methodology used to calculate inflationary adjustments will impact any forecast that have an inflation component.

34. For cost items that are generally static in nature, it would be reasonable to take the base year amount and inflate it on a year over year basis to determine the forecast amounts. For items that have changes in volume or work mix that result in significant variations from year to year, unique methods may be required to arrive at the forecast amount. In order to prevent future misinterpretations of Commission directions, such as occurred after [Decision 2008-113](#)<sup>9</sup> where the direction<sup>10</sup> to AG to reduce its 2008 contractor inflation to 10 percent from 11 percent resulted in an increase in costs, the Commission considers that it may be necessary to require greater detail with respect to inflation forecasts in future GRAs. While this greater detail - such as requiring the listing of all accounts that a particular inflation rate is applied to - may result in an increasing regulatory burden, it may also potentially prevent such misinterpretations from occurring and necessitating additional compliance proceedings.

35. With respect to the inflation reductions proposed by AG in its Second Compliance Filing relating to Commission Directions 3, 4 and 7, the Commission accepts the methodology used by AG. Accordingly the Commission considers AG has complied with these Directions.

#### **4.2 Information Technology and Customer Care and Billing Capital – Direction 17**

36. In Decision 2009-109 the Commission issued the following Direction:

17. The Commission directs AG in the Second Refiling to clarify its response to this Direction, by providing sufficient documentation and explanations that will clearly demonstrate that AG has used the originally filed 2008 opening balances for IT and CC&B capital.

37. In response AG stated the following:

ATCO Gas has not used the originally filed 2008 opening balances for IT and CC&B capital as it views that it was directed elsewhere in Decision 2008-113 to use actual amounts and submits that it is not appropriate to use forecast amounts.

and provided the following quote from Decision 2008-113:<sup>11</sup>

...the Commission approves as final the actual fixed capital volumes for 2005, 2006 and 2007 to be used together with the pricing which is to be approved in the Benchmark & True Up proceeding.

38. The Commission concludes that AG has adhered to the Commission's findings in Decision 2008-113, and that further compliance with this Direction is not required.

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<sup>9</sup> Decision 2008-113 – ATCO Gas, 2008-2009 General Rate Application Phase I (Application No. 1553052) (Proceeding ID. 11) (Released: November 13, 2008).

<sup>10</sup> Direction 4 – However, AG indicated that inflation forecasts were based on AG's actual experience for 2007, with the assumption that the pace of growth in 2006 and 2007 will continue in 2008 and 2009. The Commission notes that during the hearing it was acknowledged that the pace of growth in Alberta had decreased from previous levels.<sup>69 70</sup> On this basis, the Commission considers that it would be appropriate to reduce AG's 2008 forecast level for contractor inflation to 10%. Therefore the Commission directs AG in the refiling to apply a contractor inflation rate of 10% to all appropriate forecasts.

<sup>11</sup> Decision 2008-113, page 90.

### 4.3 Allocation Methodology – Direction 19

39. In Decision 2009-109 the Commission gave the following Direction:

19. The Commission considers there may be other alternatives to tracking or applying an equal allocation that would be acceptable without increasing the costs; for example, by using the number of customers. The expenses associated with Customer Billing and Accounting, as an example, suggest that costs should not be equally divided between AG North and AG South, given the different parameters of their service territories. The Commission directs AG in the Second Refiling to provide further discussion on this issue.

40. In response AG stated the following:

ATCO Gas provided the customer forecast in Tab 7.6 of its application. The 2009 forecast customers at year end are provided in Table 1 below. As can be seen, the north has 50.3% of the total customers while the south has 49.7%. ATCO Gas does not consider this to be a significant difference from using an equal allocation however, if the Commission views that using total customers would be more appropriate ATCO Gas does not have any concerns with making that change to the policy.

41. The Commission accepts AG's explanation and rationale for using an equal allocation at this time, given the minor difference in the number of customers between North and South. However, the passage of time may cause a divergence in the number of customers' metric or other metrics that could take the place of equal allocation. Therefore, the Commission will expect AG to revisit the issue of using equal allocation in future GRAs. For the purpose of this proceeding the Commission considers AG has complied with this Direction.

## 5 BALANCE OF DIRECTIONS FROM DECISION 2009-109

42. With regard to the balance of the Directions not specifically discussed herein and not to be brought forward to a future GRA, the submissions by AG are accepted and the Commission considers that AG is in compliance with Directions 2, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18 and 20.

## 6 GENERIC COST OF CAPITAL UPDATE

43. In [Decision 2009-216](#) (2009 Generic Cost of Capital) the Commission approved a capital structure of 39 percent equity for 2008 and 2009 for AG, and a generic return on equity of 9.000 percent for 2009. In [Order U2007-347](#),<sup>12</sup> a generic return on equity of 8.750 percent for 2008 was approved. Based on these inputs AG indicated that implementing the findings from Decision 2009-216 would increase its revenue requirement for 2008 and 2009 as follows:

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<sup>12</sup> Order U2007-347 – Board Initiated Proceeding 2008 Generic Return on Equity Formula Result (Application No. 1548232) (Released: November 30, 2007).

**Table 3. Impact of 2009 Generic Cost of Capital Decision on Revenue Requirement**

	2008 (\$)	2009 (\$)	Total (\$)
ATCO Gas North	287,000	1,614,000	1,901,000
ATCO Gas South	294,000	1,276,000	1,570,000
<b>Total</b>	<b>581,000</b>	<b>2,890,000</b>	<b>3,471,000</b>

44. UCA indicated that it did not object to the above changes, however, in reducing the debt issue to account for the change in the equity ratio from 38 percent to 39 percent, AG had reduced the most recent debt issues which had a relatively low embedded cost rates. Since the amount of the debt deemed to be included in rate base was notional, UCA considered that using the average cost of debt would be more reasonable.

45. UCA acknowledged that this was a question of principle and the amount involved was relatively small. However, in the absence of a Commission decision, UCA reserved the right to raise the issue in other proceedings.

46. CCA did not oppose the proposal made by AG to true-up the Generic Cost of Capital decision impacts and to do so within the compliance filing mechanism.

47. The Commission considers that including the Generic Cost of Capital updates in this proceeding to be an efficient approach in managing the regulatory workload. Further, the Commission considers this type of update to generally be mechanical in nature, and having reviewed the changes, finds the updates to be reasonable.

48. The Commission recognizes the principle raised by the UCA, however given the relatively small amount that would result from adjusting the debt on a different basis, the Commission is prepared to accept AG's position on this matter.

49. On this basis the Commission approves the updates to revenue requirement proposed by AG as a result of Decision 2009-216.

## **7 2008-2009 REVENUE REQUIREMENT**

50. As a result of the Compliance Update and GCC Update, AG requested the following revenue requirements:

**Table 4. Summary of Requested Revenue Requirement Amounts**

	2008 (\$000)	2009 (\$000)
ATCO Gas North	264,894	299,794
ATCO Gas South	210,153	232,485
<b>Total</b>	<b>475,047</b>	<b>532,279</b>

51. Based on the examination of the revenue requirement amounts commencing with the original GRA, the Commission finds that the applied for revenue requirements for 2008 and 2009 for ATCO Gas North and ATCO Gas South will result in rates that are just and reasonable. Therefore the Commission approves the revenue requirement as requested.

## **8 ORDER**

52. IT IS HEREBY ORDERED THAT:

- (1) The revenue requirement for ATCO Gas North for 2008 and 2009 respectively shall be \$264,894,000 and \$299,794,000.
- (2) The revenue requirement for ATCO Gas South for 2008 and 2009 respectively shall be \$210,153,000 and \$232,485,000.

Dated in Calgary, Alberta on January 13, 2010.

### **ALBERTA UTILITIES COMMISSION**

*(original signed by)*

Willie Grieve  
Chair

*(original signed by)*

Bill Lyttle  
Commissioner

*(original signed by)*

N. Allen Maydonik, Q.C.  
Commissioner



## APPENDIX 1 – PROCEEDING PARTICIPANTS

Name of Organization (Abbreviation) Counsel or Representative
ATCO Gas (AG) B. Bale
BP Canada Energy Company (BP) C. Worthy G. Boone
Consumers' Coalition of Alberta J. A. Wachowich A. P. Merani J. J. Jodoin
Office of the Utilities Consumer Advocate J. A. Bryan, Q.C. B. Shymanski R. L. Bruggeman R. Bell

Alberta Utilities Commission
Commission Panel W. Grieve, Chair B. Lyttle, Commissioner N. A. Maydonik, Q.C., Commissioner
Commission Staff V. Slawinski (Commission Counsel) C. Burt R. Armstrong, P.Eng