Decision 2010-437

Alberta Utilities Commission

ATCO Gas

Measurement Adjustments Outside of the Deferred Gas Account Limitation Period

September 9, 2010

ALBERTA UTILITIES COMMISSION
Decision 2010-437: ATCO Gas
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Deferred Gas Account Limitation Period
Application No. 1606079
Proceeding ID. 587

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Contents

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MEASUREMENT ADJUSTMENTS OUTSIDE OF THE DEFERRED GAS ACCOUNT LIMITATION PERIOD

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1 INTRODUCTION

1. On April 12, 2010, ATCO Gas (AG), a division of ATCO Gas and Pipelines Ltd., filed an application (Application) with the Alberta Utilities Commission (AUC or the Commission) for approval to process gas measurement volume adjustments (measurement adjustments) for periods which were outside of the two-year deferred gas account (DGA) adjustment limitation period established in Decision 2006-042.[1] These adjustments pertained to gas flows incorrectly included in AG's firm service utility account (FSU) with ATCO Pipelines (AP), also a division of ATCO Gas and Pipelines Ltd. If approved by the Commission, the adjustments would affect the determination of Direct Energy Regulated Services' (DERS)[2] gas cost flow-through rate for energy sold to customers served in ATCO Gas' south service territory.

2. The Commission issued a Notice of Application on April 13, 2010. Any party who wished to intervene in this Proceeding was requested to submit a Statement of Intent to Participate (SIP) to the Commission by April 26 2010.

3. The Commission received SIPs from DERS and the Office of the Utilities Consumer Advocate (UCA). While neither party objected to the Application, the UCA stated that it would issue information requests to AG for clarification purposes.

4. By letter dated May 4, 2010, the Commission set a process schedule to deal with the Application. However, the Commission subsequently considered that interveners may wish to comment on whether or not the measurement adjustments would satisfy certain conditions necessary for them to be granted approval. Accordingly, by letter dated May 13, 2010, the process schedule was revised as follows to allow for the possibility of evidence to be submitted by interveners:

Process Step	Alternative A Due Date	Alternative B Due Date
Information requests to AG	May 19, 2010	May 19, 2010
Information responses from AG	May 26, 2010	May 26, 2010
Intervener submission respecting evidence	May 31, 2010	May 31, 2010
Intervener evidence	June 3, 2010	N/A
Information requests on Intervener evidence from AG	June 10, 2010	N/A
Information responses from Interveners	June 17, 2010	N/A
Argument	June 24, 2010	June 7, 2010
Reply Argument	July 2, 2010	June 14, 2010

[1] Decision 2006-042: ATCO Gas, A Division of ATCO Gas and Pipelines Ltd., Deferred Gas Account Limitation Period (Application No. 1407502) (Released: May 11, 2006), page 17.
[2] DERS, a business unit of Direct Energy Marketing Limited, is the default supply provider for ATCO Gas.

5. The UCA, the only intervener to respond by the due date for submissions respecting intervener evidence, advised that it would not be filing evidence. Accordingly, the schedule for Alternative B was followed for the proceeding.

6. The Commissioners assigned to the Application were Dr. Moin A. Yahya (Panel Chair), Mr. Mark Kolesar and Mr. Bill Lyttle. The Commission considers that the record for this proceeding closed on June 14, 2010.

7. In reaching the determinations contained within this Decision, the Commission has considered all relevant materials comprising the record of this proceeding, including the evidence and argument as 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

8. The purpose of the DGA is to ensure that customers pay for the actual costs of gas consumed by them under a regulated rate and that the utility incurs neither profit nor loss related to such sales of gas. In Decision 2006-042, the Alberta Energy and Utilities Board (Board) allowed for adjustments related to revenues or gas acquisition costs that occurred in a time that is outside of a two-year limitation period to be processed through a DGA provided that two conditions are met:

(a) the adjustment sought exceeds the threshold value by being greater than 5 percent of the average monthly DGA gas commodity costs of the previous 12 months, and

(b) the adjustment arose from special circumstances that were not within the control of the utility concerned.[3]

9. The measurement adjustments related to the balancing of AG's system relative to AP's system and involved five master meters for gas co-ops, which had been erroneously included in AG's FSU account by AP. The gas co-ops were not customers of AG. The errors were discovered in a measurement integrity review undertaken by AP in 2009 and were related to the period from April 2006 to September 2008. AP corrected the errors and AG's FSU account was adjusted on a go-forward basis in October 2009. As a result of these errors, AG's FSU balances were overstated and DERS's gas cost flow-through rate for energy sold to customers served in AG's south service territory were overstated on a monthly basis while these errors continued. Decision 2008-105[4] provided that adjustments made to AG's FSU account for periods prior to October 1, 2008 should be charged or refunded to DERS on a go-forward basis.[5]

[3] Decision 2006-042, pages 8 and 17.
[4] Decision 2008-105: ATCO Pipelines and ATCO Gas, Divisions of ATCO Gas and Pipelines Ltd., 2008-2009 Unaccounted for Gas and Fuel Gas Rates – Rider "D" and Load Balancing Deferral Account Rider "F" (Application No. 1583677, Proceeding ID. 96) (Released: October 28, 2008).
[5] Ibid., page 13.

10. In applying the two-year limitation period, DGA adjustments are based on the month prior to the month in which the adjustment would be processed in determining DERS's monthly gas cost flow-through rates. Based on an April 2010 filing of the Application and because the measurement adjustments covered the period from April 2006 to September 2008, AG determined that the errors related to the co-op master meters, which occurred between April 2006 and February 2008, would be outside the two-year limitation period.[6] Accordingly, errors from March 2008 until September 2008, which were within the limitation period for adjustments, could proceed. AG thus submitted credit invoices to DERS, aggregating $529,000 for processing through DERS's DGA in March 2010 and April 2010 to reflect the amounts of the measurement adjustments that occurred during the allowed two-year limitation period. These credit invoices reflected the number of gigajoules of gas improperly added to the DERS's DGA. This gas was valued at the weighted average of the NGX[7] AB-NIT[8] Same Day Index, as published by the Canadian Gas Price Reporter, for the months in which the adjustments were processed in AG's FSU account.

11. The measurement adjustments for the April 2006 to February 2008 period aggregated 433,842 gigajoules, with a value at the time of the Application of approximately $1.5 million. AG proposed correcting these errors upon receipt of Commission approval by crediting DERS in the same manner as the March 2008 to September 2008 adjustments had been made using the weighted average of the NGX AB-NIT Same Day Index, as published by the Canadian Gas Price Reporter, for the month in which the adjustments are processed in AG's FSU account.

3 DISCUSSION

12. The UCA submitted that approving the requested measurement adjustments was reasonable given that the errors were on the part of AG. The UCA further submitted that "[i]f the Commission were to disallow the adjustment, ATCO Gas would be permitted to retain these funds and, in effect, profit from its own error at the expense of consumers."[9]

13. The UCA disagreed, however, with the method by which AG valued the measurement adjustments, which excluded timing adjustments related to the price of gas in the periods in which the measurement errors occurred. The UCA submitted that the errors resulted in DERS incurring additional charges of approximately $2.8 million[10] and considered that customers should be made whole in respect of that amount, not the lesser amount calculated by AG. The UCA was also concerned that excluding timing differences in determining the value of the measurement adjustments could provide an incentive for a utility to delay in disclosing and dealing with errors of this type until market conditions were considered most favorable.

14. The UCA submitted that the pricing method used by AG would also result in AG's shareholders bearing only a portion of the consequences of the errors, with customers bearing

[6] Exhibit 16.02, AG Argument, page 3, paragraph 3.
[7] Natural Gas Exchange Inc. (headquartered in Calgary, Alberta, provides electronic trading, central counterparty clearing and data services to the North American natural gas and electricity markets).
[8] The Nova Inventory Transfer System operated by Trans Canada Pipelines Limited in Alberta (a group of hubs and pipelines which form a "virtual hub" and the primary single pricing point for gas in Alberta).
[9] Exhibit 17.01, UCA Argument, page 3, paragraph 11.
[10] Exhibit 14.01, Response to UCA-AG-1(b, c).

almost an equal share. The UCA considered that such a result would not serve to encourage AG to conduct operations in a careful and prudent manner.

15. With respect to the first condition set out in Decision 2006-042 for considering adjustments beyond the two-year limitation period, AG provided details of the measurement adjustments to demonstrate that the threshold value, being greater than five percent of the average monthly DGA gas commodity costs of the previous 12 months, was met.[11] With respect to the second condition, dealing with special circumstances that were not within the control of the utility concerned, AG referred to the difficulties associated with implementation of measurements at AP/AG interconnects, noting that a "significant amount of change occurred within both AG and AP with the implementation of the custody transfer meters between the two pipeline systems"[12] within the relevant time period.

16. AG referred to the implementation of the custody meters enhancing the separation and restructuring of AG and AP and stated:

> Here transition issues associated with industry restructuring gave rise to the need for adjustments. The fact they were transitional demonstrates that they were, at the time, beyond utility control.[13]

17. AG noted that the method it used to value the measurement adjustments was consistent with the determination of other similar adjustments that were processed through DERS's DGA. AG submitted that price timing differences have always existed within the DGA, sometimes for the benefit of the DGA and sometimes not, and that fairness to all parties concerned dictates consistency in approach. AG referred to Decision 2004-013,[14] in which the Board considered the difference in the price of gas at various times and denied the use of timing cost adjustments.

3.1 Views of the Commission

18. In Decision 2006-042, the Board established the two-year limitation period for DGA adjustments in an effort to define what a reasonable period for DGA adjustments would be absent special circumstances in order "to provide some certainty with respect to finalizing the customer rates and to provide regulatory efficiency."[15] The two-year limitation period for DGA adjustments applies to both adjustments in favor of the utility and to those in favor of customers. The Board stated:

> Overall, however, the Board would not find it fair to establish an asymmetrical approach to limitation periods for adjustments to the DGA, for example, where the utility would face threshold amounts or time limits for collections from customers but would face no such threshold amounts or time limits for rebates to customers.[16]

[11] Exhibit 1, Application, Schedule B – Calculation of Condition 2(a), page 1 of 1.
[12] Exhibit 1, Application, page 5, paragraph 12.
[13] Exhibit 18.02 Reply Argument. page 3, paragraph 5.
[14] Decision 2004-013: ATCO Gas South, Jumping Pound Meter Station – Gas Measurement Adjustment, (Application No. 1314487) (Released: February 17, 2004).
[15] Decision 2006-042, page 8.
[16] Decision 2006-042, page 13.

19. The Board did, however, note that mismanagement or imprudent operations by the utility could be grounds for an adjustment in favor of customers even if outside the two-year limitation period. The Board stated:

> The Board is sympathetic to the customer position that the company should not benefit from errors or mismanagement. The Board considers that, as a matter of principle, a utility should not be allowed to recover amounts from customers, either within or outside the two-year limitation period, to the extent the adjustment arose due to its own mismanagement or imprudent operations. However, if the adjustment resulted in a refund to customers, even if it arose to some extent from mismanagement or imprudent operations by the utility, the Board considers that the adjustment could be allowed if the circumstances so warrant.[17]

20. The Commission observes that no party suggested that granting the requested adjustments would be unreasonable or that the two criteria for DGA adjustments beyond the two-year limitation period were not satisfied. The Commission accepts AG's submissions with respect to satisfying the conditions established in Decision 2006-042 before adjustments can be made outside of the two-year limitation period. In support of this conclusion, the Commission notes that the record does not disclose any evidence of inadequate internal AG system communications, AG system design issues or AG system process controls. The Commission considers that the requested adjustments that resulted from the wrongful inclusion by AP of five master meters for gas co-ops in AG's FSU account are similar to measurement adjustments previously approved by the Board for processing through a DGA.

21. The length of time, however, that elapsed before the measurement adjustments were detected, and given that the errors were detected by AP rather than by AG, suggests that any internal controls within ATCO Gas and Pipelines Ltd., whereby verification or confirmation of the receipt points measured and total volumes measured by AP in tabulating the volumes of gas delivered into the AG system could be made, were not sufficient in the circumstances. While little evidence appears on the record with respect to what procedures would be required for AG to be able to verify the measurement data it receives from AP, the Commission considers that it is incumbent on AG to take such reasonable steps that may be necessary to enable it in the future to accurately verify the volumes of gas which AP purports to have delivered into the AG distribution system. Verification of AP gas delivery volumes to AG is required given the impact of daily volumes on AG's FSU account, which in turn impacts DERS's DGA and the costs of gas it charges to customers.

22. The UCA and AG differed with respect to the amount of the credit to be provided to DERS for deduction in its deferred gas account used to determine the gas cost flow-through rate for energy sold to customers served in ATCO Gas' south service territory. AG asserted that the gas value should be determined by using the weighted average of the NGX AB-NIT Same Day Index, as published by the Canadian Gas Price Reporter, for the month in which the adjustments are processed in AG's FSU account. The UCA submitted that the measurement adjustments should be valued at $2.8 million in order to keep customers whole after giving consideration to the costs of gas at the time when the errors occurred.

[17] Decision 2006-042, page 13.

23. The Commission considers that valuing the measurement adjustments in the manner proposed by the UCA would not be consistent with the method AG has used to previously determine similar prior period adjustments that have been processed in DERS's DGA that would have favored AG. Barring imprudent or negligent action on the part of AG of the type described by the Board in Decision 2006-042 in either detecting or rectifying measurement errors, or significant passages of time the Commission considers that DGA adjustments benefiting either the utility or customers should be calculated on the same basis and without timing adjustments for the price of gas. The Commission notes that the Board previously addressed the issue of timing costs in Decision 2004-013 and stated:

> The Board notes in particular that timing costs resulting from imbalance adjustments have not previously been included in the DGA, nor is it a procedure that the Board has previously approved for the DGA. As well, the Board notes that <u>in the submissions of interveners there was unanimity in their opposition to the timing costs</u>. The Board also notes that gas prices have been in the past, and most likely will continue to be, somewhat volatile on a daily basis, with the consequence that timing cost differences will continue to exist. The Board also considers that this proceeding is not the appropriate venue to introduce new DGA procedures. Therefore, the Board will not allow the timing cost adjustment, …[18] [emphasis added]

24. The Commission therefore accepts the volumes and the method that AG used to determine the value of the measurement adjustments. More specifically, AG is directed to determine the value of the amounts to be credited to DERS for the measurement adjustments using the weighted average of the NGX AB-NIT Same Day Index, as published by the Canadian Gas Price Reporter, for the month in which the adjustments are processed in AG's FSU account.

[18] Decision 2004-013, page 10.

4 ORDER

25. IT IS HEREBY ORDERED THAT:

(1) ATCO Gas shall process measurement adjustments in the amount of 433,842 gigajoules of gas to be credited to Direct Energy Regulated Services and shall determine the value of the measurement adjustments in accordance with the direction issued in this Decision.

(2) ATCO Gas shall submit the credit measurement adjustments to Direct Energy Regulated Services for processing in its deferred gas account used for the determination of the gas cost flow-through rate for energy sold to customers served in ATCO Gas' south service territory for October 2010.

Dated on September 9, 2010.

ALBERTA UTILITIES COMMISSION

(original signed by)

Moin A. Yahya
Panel Chair

(original signed by)

Mark Kolesar
Commissioner

(original signed by)

Bill Lyttle
Commissioner

APPENDIX 1 – PROCEEDING PARTICIPANTS

Name of Organization (Abbreviation) Counsel or Representative
ATCO Gas (AG) R. Trovato
Office of the Utilities Consumer Advocate (UCA) T. Marriott R. Bruggeman
Direct Energy Regulated Services (DERS) A. Preston

Alberta Utilities Commission
Commission Panel M. A. Yahya, Panel Chair M. Kolesar, Commissioner B. Lyttle, Commissioner
Commission Staff B. McNulty (Commission Counsel) R. Armstrong, P.Eng D. R. Weir, CA

APPENDIX 2 – SUMMARY OF COMMISSION DIRECTIONS

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

1. The Commission therefore accepts the volumes and the method that AG used to determine the value of the measurement adjustments. More specifically, AG is directed to determine the value of the amounts to be credited to DERS for the measurement adjustments using the weighted average of the NGX AB-NIT Same Day Index, as published by the Canadian Gas Price Reporter, for the month in which the adjustments are processed in AG's FSU account. .... Paragraph 24