



## AltaGas Utilities Inc.

Application to Issue a Debenture in the  
Principal Amount of \$30,000,000

September 20, 2010



**ALBERTA UTILITIES COMMISSION**

Decision 2010-448: AltaGas Utilities Inc.

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Application No. 1606535

Proceeding ID. 818

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Alberta Utilities Commission  
Fifth Avenue Place, 4th Floor, 425 - 1 Street SW  
Calgary, Alberta  
T2P 3L8

Telephone: (403) 592-8845

Fax: (403) 592-4406

Web site: [www.auc.ab.ca](http://www.auc.ab.ca)

# ALBERTA UTILITIES COMMISSION

Calgary Alberta

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**ALTAGAS UTILITIES INC.  
APPLICATION TO ISSUE A DEBENTURE IN THE  
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## 1 INTRODUCTION

1. On September 2, 2010 AltaGas Utilities Inc. (AUI) filed an application (Application) with the Alberta Utilities Commission (AUC or the Commission) pursuant to section 26(2)(a)(ii) of the *Gas Utilities Act* requesting approval and authority to issue a debenture in the principal amount of \$30,000,000 (Debenture).
2. Specifically, AUI requested an order:
  - a. approving and authorizing AUI to issue to AltaGas Utility Holdings Inc. an inter-company debenture in the principal amount of \$30,000,000, maturing on March 27, 2017 (Debenture);
  - b. approving the purpose of the issue;
  - c. approving October 4, 2010 as the issue date for the Debenture;
  - d. stipulating the annual coupon rate and issue costs of the Debenture are to be dealt with in AUI's next General Rate Application; and
  - e. providing such further and other relief as AUI may request and the AUC may grant in the circumstances.
3. AUI indicated that the purpose of the issue is to repay a \$30,000,000 five-year debenture maturing on October 4, 2010.<sup>1</sup> AUI has requested that the Commission approve the Application no later than September 23, 2010 in order to meet the proposed October 4, 2010 debenture issuance date.
4. Notice of the Application was issued on September 3, 2010 and one Statement of Intent to Participate (SIP) was received from the Office of the Utilities Consumer Advocate (UCA). In its SIP the UCA indicated that it did not object to the Application and that there was no need for further process as long as the interest rates and issue costs of the Debenture are dealt with in the broader context of AUI's next general rate application (GRA) in conjunction with the full and comprehensive review of AUI's debt financing as directed in Decision [2010-266](#).<sup>2</sup>
5. In light of the comments received, and in the interests of regulatory efficiency, the Commission has determined to proceed directly to issuing a decision.

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<sup>1</sup> Exhibit 1, Application, Affidavit of Patricia Newson, paragraph 21.

<sup>2</sup> Decision 2010-266: AltaGas Utilities Inc., Application to Issue 2009 Debentures: 7.42 Percent in the Principal Amount of \$40,000,000 and 6.94 Percent in the Principal Amount of \$20,000,000 (Application No. 1605686, Proceeding ID. 418) (Released: June 9, 2010).

6. The Commission considers the record for the proceeding to have closed on September 13, 2010.

## 2 VIEWS OF THE COMMISSION

7. Section 26(2)(a) of the *Gas Utilities Act* states:

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

(a) issue any

(i) of its shares or stock, or

(ii) bonds or other evidences of indebtedness, payable in more than one year from the date of them,

unless it has first satisfied the Commission that the proposed issue is to be made in accordance with law and has obtained the approval of the Commission for the purposes of the issue and an order of the Commission authorizing the issue, (...)

8. In determining whether a debt issuance will be made in accordance with law, the Commission is primarily focused on whether the proposed issuance meets the corporate and securities law requirements pertaining to such transactions. The Commission typically requests and relies upon the opinion of the applicant's legal counsel to confirm that the utility is authorized to undertake the issuance of the debt proposed and that the form and content of the debt issuance is in compliance with applicable laws.

9. Based on the opinion provided by AUI's external legal counsel, MacPherson Leslie & Tyerman LLP, dated September 2, 2010, the Commission is satisfied that the issuance will be made in accordance with law.

10. As noted above, AUI stated that the purpose of the issuance was to repay a \$30,000,000 five-year debenture maturing on October 4, 2010. The Commission approves this purpose, given that the issuance will enable AUI to maintain the capital structure approved by the Commission.

11. In Decision 2010-266, at paragraph 50, the AUC stated the following regarding AUI's 2009 debenture issuance:

50. A number of other issues were raised during this proceeding, in particular, the appropriateness of the interest rate, the term of the debt and issue cost, which the Commission considers would be better reviewed in the broader context of AUI's next GRA. The Commission considers that conducting a separate, stand-alone review of these issues within this proceeding would be inefficient. It is more thorough to conduct a complete review of AUI's cost of debt as part of the GRA.

12. Consistent with the approach outlined in Decision 2010-266, the Commission considers that matters related to the interest rate, term of the debt, and issue costs of the Debenture are best addressed within the broader context of AUI's next GRA wherein all costs are subject to scrutiny by the Commission and interveners.

13. As one example, an area on which the Commission anticipates seeking more detailed information from AUI in the GRA is the allocation of issuance costs to AUI. To that end, the Commission directs AUI to provide more information on the allocation methodology used in allocating the issuance costs of the Debenture to AUI in its next GRA filing.

14. The Commission therefore approves and authorizes AUI to issue to AltaGas Utility Holdings Inc. an inter-company debenture in the principal amount of \$30,000,000, maturing on March 27, 2017, subject to detailed cost examination within AUI's next GRA.

15. The Commission notes that the Application was filed on September 2, 2010 and requested an AUC decision no later than September 23, 2010. Depending on intervenor submissions and Commission assessment of the need for process, in the future 21 days may not be sufficient time to dispose of a similar application. The Commission encourages AUI in future applications to ensure the filing date affords the Commission and intervenors enough time to scrutinize the Application, which may include process steps for Information Requests, Argument, and Reply Argument.

16. IT IS HEREBY ORDERED THAT:

- (1) AltaGas Utilities Inc. is authorized, pursuant to section 26(2)(a)(ii) of the *Gas Utilities Act* to issue an inter-company debenture in the principal amount of \$30,000,000 on October 4, 2010 that matures on March 27, 2017, in accordance with the findings in this Decision;
- (2) all other matters related to this Debenture, including but not limited to issuance cost and coupon rates are to be dealt with as part of AUI's next GRA; and
- (3) AltaGas Utilities Inc. is directed to provide a detailed explanation of the method used to allocate issue costs of the Debenture to AUI in its next GRA filing.

Dated on September 20, 2010.

**ALBERTA UTILITIES COMMISSION**

*(original signed by)*

Mark Kolesar  
Commissioner