



## ATCO Gas South, a division of ATCO Gas and Pipelines Ltd.

Compliance Filing Pursuant to Decision 2010-494

November 19, 2010

**ALBERTA UTILITIES COMMISSION**

Decision 2010-534: ATCO Gas South, a division of ATCO Gas and Pipelines Ltd.

Compliance Filing Pursuant to Decision 2010-494

Application No. 1606707

Proceeding ID. 910

November 19, 2010

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# ALBERTA UTILITIES COMMISSION

Calgary Alberta

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**ATCO GAS SOUTH, A DIVISION OF  
ATCO GAS AND PIPELINES LTD.  
COMPLIANCE FILING PURSUANT TO DECISION 2010-494**

**Decision 2010-534  
Application No. 1606707  
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## 1 INTRODUCTION

1. On October 28, 2010, ATCO Gas South (ATCO), a division of ATCO Gas and Pipelines Ltd., submitted a compliance filing (Application) to the Alberta Utilities Commission (AUC or Commission) pursuant to Decision [2010-494](#).<sup>1</sup>

2. ATCO proposed to make a payment to Direct Energy Regulated Services (DERS)<sup>2</sup> in the amount of \$9,726,946.57 in the month of December 2010 upon the issuance of a decision from the Commission. ATCO's expectation was that DERS would then include that amount in its deferred gas account, which is used to determine the gas cost flow-through rate (GCFR)<sup>3</sup> used in ATCO's service territory.

3. On October 29, 2010, the Commission issued notice of the Application. Pursuant to the notice, interested parties had until November 8, 2010 to indicate whether they supported or objected to the Application and submit a statement of intent to participate (SIP) to the Commission. No SIPs were filed by the deadline.

4. The Commissioner assigned to deal with the Application was Mr. M. Kolesar.

5. The Commission considered that further process for the Application was not necessary and that the close of record was November 8, 2010.

## 2 BACKGROUND

6. On April 23, 2010, the Alberta Court of Appeal released its reasons for judgment in *Calgary (City) v. Alberta (Energy and Utilities Board)*, 2010 ABCA 132, 477 A.R. 1 (DGA Appeal Decision). In that decision the Court of Appeal found that the Alberta Energy and Utilities Board (Board) had the authority to use deferral accounts, and that its authority to make adjustments to those accounts was not limited by section 40 of the *Gas Utilities Act*. The Court found, however, that the Board exercised its authority in an unreasonable manner based on the facts of the case before it. The Court directed that the orders under appeal be vacated and the matter returned to the Board (now Commission) for consideration in accordance with the Court's reasons for judgment.

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<sup>1</sup> Decision 2010-494: ATCO Gas South, a division of ATCO Gas and Pipelines Ltd. Reconsideration of Application No. 1347852 and Decision 2005-036 and Application No. 1524763 and Decision 2008-001 Pursuant to the Judgment of the Court of Appeal of Alberta dated April 23, 2010 (Application No. 1606175, Proceeding ID. 623) (Released: October 15, 2010).

<sup>2</sup> DERS is a business unit of Direct Energy Marketing Limited.

<sup>3</sup> The GCFR, also known as a gas cost recovery rate, is the rate for marketable gas charged to customers in ATCO's service territory under the *Default gas Supply Regulation*, AR184/2003, as amended.

7. On June 3, 2010, the Commission issued notice of a Commission initiated process in which the original Board decisions subject to appeal in the DGA Appeal Decision would be reconsidered. Following due process, Decision 2010-494 was issued which ordered that:

- (1) ATCO Gas refund to sales customers served by DERS in ATCO Gas' south distribution service territory the amount of \$7,996,105.36 plus interest calculated in accordance with Rule 023.
- (2) ATCO Gas submit a compliance filing by November 15, 2010 setting out in accordance with this Decision its proposal for the manner and timing in which the refund will be made and its calculation of the amount of interest to be paid to sales customers.<sup>4</sup>

### 3 DISCUSSION

8. ATCO proposed that the amount of \$9,726,946.57, which included interest, be paid to DERS in December 2010. DERS, in turn, would then include the amount in the determination of its GCFR. The payment would be credited to customers in ATCO's service territory through a reduction in the GCFR for the month in which the payment is applied. The payment to DERS concerns amounts for gas measurement adjustments relating to years prior to March 2004 and for which the Board had ordered ATCO, in Decision [2005-093](#),<sup>5</sup> to "recover a total of \$9,575,419.58 from sales customers served by Direct Energy Regulated Services in the ATCO Gas South distribution service territory by October 31, 2005." This order was the subject of the DGA Appeal Decision and it is appropriate that the refund be paid using the GCFR.

9. ATCO noted that Decision 2010-494 contained a typographical error in the principal amount, which should have read \$7,966,105.36 rather than \$7,996,105.36.<sup>6</sup>

10. The Commission agrees that the principal amount included in Decision 2010-494 contained a typographical error and concurs with ATCO that the correct principal amount is \$7,966,105.36. ATCO calculated the interest from October 2005 to November 2010 using AUC [Rule 023: Rules Respecting Payment of Interest](#), as directed in Decision 2010-494, and determined the interest to be \$1,760,841.21.<sup>7</sup> The Commission accepts ATCO's calculation of interest.

11. The Commission has reviewed the Application and finds it to be in compliance with Decision 2010-494. In as much as there were no SIPs submitted and no objections received, the Commission approves the Application as filed. The approval requires that ATCO pay to DERS the amount of \$9,726,946.57 by December 7, 2010 in order that DERS can include the amount in the determination of its GCFR for the month of January 2011.

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<sup>4</sup> Decision 2010-494, paragraph 91.

<sup>5</sup> Decision 2005-093: ATCO Gas, A Division of ATCO Gas and Pipelines Ltd. Imbalance and Production Adjustments, Deferred Gas Account, Compliance Filing Pursuant to Decision 2005-036 (Application No. 1401921) (Released: August 23, 2005).

<sup>6</sup> Refer to [Appendix 1](#) (Application, Appendix A, Table 1).

<sup>7</sup> Refer to [Appendix 1](#) (Application, Appendix A, Table 2).

**4 ORDER**

12. IT IS HEREBY ORDERED THAT:

- (1) ATCO Gas South pay Direct Energy Regulated Services the sum of \$9,726,946.57 by December 7, 2010 to be refunded to sales customers by inclusion in the deferred gas account of Direct Energy Regulated Services for January 2011.

Dated on November 19, 2010.

**ALBERTA UTILITIES COMMISSION**

*(original signed by)*

Mark Kolesar  
Commissioner



## **APPENDIX 1 – APPLICATION, APPENDIX A, TABLES 1 AND 2**

[\(return to text\)](#)



Appendix 1 -  
Application Appendix

(consists of 2 pages)

Appendix A  
Table 1  
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| <b>Table 1 South Updated GCFR Receivable/(Payable)</b> | <u>\$</u>                  |
|--|----------------------------|
| Booked Imbalances (\$)                                 | (11,996,786.20)            |
| Updated L-T-D Reviewed Imbalances (GJ)                 | (68,029.00)                |
| February '04 Market Price (\$/GJ)                      | 5.78                       |
| Reviewed Imbalances at Feb '04 Market Price (\$)       | <u>(393,207.62)</u>        |
| Imbalances Recovery/(Refund) (\$)                      | 11,603,578.58              |
| Imbalances disallowance 15% of Above (\$)              | 1,740,536.79               |
| Net Purchase/Sales Adjustment (\$)                     | (338,379.07)               |
| Purchase/Sales disallowance of 15% of Above (\$)       | <u>(50,756.86)</u>         |
| South GCFR Receivable/(Payable) (\$)                   | 9,575,419.58               |
| One seventh of total amount of Imbalance Adjustments   | <u>1,609,314.22</u>        |
| South GCFR Payable excluding interest                  | 7,966,105.36               |
| Interest from Table 2                                  | <u>1,760,841.21</u>        |
| Total South GCFR Payable                               | <b><u>9,726,946.57</u></b> |



**Table 2 - Calculation of Interest as per AUC Rule 23**

| Column       | (5)                   | (6)       | (6)          | (6)                   | (7)                       |
|--------------|-----------------------|-----------|--------------|-----------------------|---------------------------|
| Month        | Cumulative            | Bank Rate | Plus<br>1.5% | Interest \$           | Total Owed by<br>ATCO Gas |
| Oct-05       | (7,966,105.36)        | 3.25      | 4.75         | (31,533)              | (7,997,637.86)            |
| Nov-05       | (7,966,105.36)        | 3.25      | 4.75         | (31,532.50)           | (8,029,170.36)            |
| Dec-05       | (7,966,105.36)        | 3.5       | 5            | (33,192.11)           | (8,062,362.47)            |
| Jan-06       | (7,966,105.36)        | 3.75      | 5.25         | (34,851.71)           | (8,097,214.18)            |
| Feb-06       | (7,966,105.36)        | 3.75      | 5.25         | (34,851.71)           | (8,132,065.89)            |
| Mar-06       | (7,966,105.36)        | 4         | 5.5          | (36,511.32)           | (8,168,577.21)            |
| Apr-06       | (7,966,105.36)        | 4.25      | 5.75         | (38,170.92)           | (8,206,748.13)            |
| May-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,246,578.66)            |
| Jun-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,286,409.19)            |
| Jul-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,326,239.72)            |
| Aug-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,366,070.25)            |
| Sep-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,405,900.78)            |
| Oct-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,445,731.31)            |
| Nov-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,485,561.84)            |
| Dec-06       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,525,392.37)            |
| Jan-07       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,565,222.90)            |
| Feb-07       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,605,053.43)            |
| Mar-07       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,644,883.96)            |
| Apr-07       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,684,714.49)            |
| May-07       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,724,545.02)            |
| Jun-07       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (8,764,375.55)            |
| Jul-07       | (7,966,105.36)        | 4.75      | 6.25         | (41,490.13)           | (8,805,865.68)            |
| Aug-07       | (7,966,105.36)        | 4.75      | 6.25         | (41,490.13)           | (8,847,355.81)            |
| Sep-07       | (7,966,105.36)        | 4.75      | 6.25         | (41,490.13)           | (8,888,845.94)            |
| Oct-07       | (7,966,105.36)        | 4.75      | 6.25         | (41,490.13)           | (8,930,336.07)            |
| Nov-07       | (7,966,105.36)        | 4.75      | 6.25         | (41,490.13)           | (8,971,826.20)            |
| Dec-07       | (7,966,105.36)        | 4.5       | 6            | (39,830.53)           | (9,011,656.73)            |
| Jan-08       | (7,966,105.36)        | 4.25      | 5.75         | (38,170.92)           | (9,049,827.65)            |
| Feb-08       | (7,966,105.36)        | 4.25      | 5.75         | (38,170.92)           | (9,087,998.57)            |
| Mar-08       | (7,966,105.36)        | 3.75      | 5.25         | (34,851.71)           | (9,122,850.28)            |
| Apr-08       | (7,966,105.36)        | 3.25      | 4.75         | (31,532.50)           | (9,154,382.78)            |
| May-08       | (7,966,105.36)        | 3.25      | 4.75         | (31,532.50)           | (9,185,915.28)            |
| Jun-08       | (7,966,105.36)        | 3.25      | 4.75         | (31,532.50)           | (9,217,447.78)            |
| Jul-08       | (7,966,105.36)        | 3.25      | 4.75         | (31,532.50)           | (9,248,980.28)            |
| Aug-08       | (7,966,105.36)        | 3.25      | 4.75         | (31,532.50)           | (9,280,512.78)            |
| Sep-08       | (7,966,105.36)        | 3.25      | 4.75         | (31,532.50)           | (9,312,045.28)            |
| Oct-08       | (7,966,105.36)        | 2.5       | 4            | (26,553.68)           | (9,338,598.96)            |
| Nov-08       | (7,966,105.36)        | 2.5       | 4            | (26,553.68)           | (9,365,152.64)            |
| Dec-08       | (7,966,105.36)        | 1.75      | 3.25         | (21,574.87)           | (9,386,727.51)            |
| Jan-09       | (7,966,105.36)        | 1.25      | 2.75         | (18,255.66)           | (9,404,983.17)            |
| Feb-09       | (7,966,105.36)        | 1.25      | 2.75         | (18,255.66)           | (9,423,238.83)            |
| Mar-09       | (7,966,105.36)        | 0.75      | 2.25         | (14,936.45)           | (9,438,175.28)            |
| Apr-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,451,452.12)            |
| May-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,464,728.96)            |
| Jun-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,478,005.80)            |
| Jul-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,491,282.64)            |
| Aug-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,504,559.48)            |
| Sep-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,517,836.32)            |
| Oct-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,531,113.16)            |
| Nov-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,544,390.00)            |
| Dec-09       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,557,666.84)            |
| Jan-10       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,570,943.68)            |
| Feb-10       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,584,220.52)            |
| Mar-10       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,597,497.36)            |
| Apr-10       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,610,774.20)            |
| May-10       | (7,966,105.36)        | 0.5       | 2            | (13,276.84)           | (9,624,051.04)            |
| Jun-10       | (7,966,105.36)        | 0.75      | 2.25         | (14,936.45)           | (9,638,987.49)            |
| Jul-10       | (7,966,105.36)        | 1         | 2.5          | (16,596.05)           | (9,655,583.54)            |
| Aug-10       | (7,966,105.36)        | 1         | 2.5          | (16,596.05)           | (9,672,179.59)            |
| Sep-10       | (7,966,105.36)        | 1.25      | 2.75         | (18,255.66)           | (9,690,435.25)            |
| Oct-10       | (7,966,105.36)        | 1.25      | 2.75         | (18,255.66)           | (9,708,690.91)            |
| Nov-10       | (7,966,105.36)        | 1.25      | 2.75         | (18,255.66)           | (9,726,946.57)            |
| <b>TOTAL</b> | <b>(7,966,105.36)</b> |           |              | <b>(1,760,841.21)</b> | <b>(9,726,946.57)</b>     |