



ATCO Gas

Request to Negotiate and ENMAX Rate Class Issue
2008-2009 General Rate Application – Phase II

September 25, 2009

ALBERTA UTILITIES COMMISSION

Decision 2009-150: ATCO Gas

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Application No. 1604944

Proceeding ID. 184

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Published by

Alberta Utilities Commission

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**ATCO GAS
REQUEST TO NEGOTIATE AND
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1 INTRODUCTION

1. ATCO Gas (AG) filed a 2008-2009 General Rate Application (GRA) Phase II on March 30, 2009 (Application), with the Alberta Utilities Commission (AUC or the Commission). The Commission received Statements of Intent to Participate (SIP) from BP Canada Energy Company, Shell Energy North America, Nexen Marketing, the Rate 13 Group (R13 Group), AltaGas Utilities Inc., the Office of the Utilities Consumer Advocate (UCA), and the Consumers Coalition of Alberta (CCA). The Commission also received a late SIP from ENMAX Energy Corporation (EEC) and granted EEC's request to participate. A proceeding (Proceeding) and schedule was established, including technical workshops and a potential oral hearing.

2. By letter dated August 20, 2009, the Commission received notification from AG that as a result of negotiation meetings related to another proceeding, a number of other proceedings currently before the Commission had been identified for potential negotiation. This Proceeding was one of those identified. The Commission issued a response on August 24, 2009 acknowledging the AG letter and reminding AG and interested parties that all negotiations must comply with AUC *Rule 018*.¹

3. On September 2, 2009, the Commission received a letter from EEC advising that EEC intends to build the Bonnybrook Energy Centre (BEC), a 165 megawatt natural gas-fired combined heat and power facility which will consume 33,600 gigajoules (GJ)/day of natural gas. EEC intends to source its gas from the AG system and requested that the establishment of a separate delivery service rate class for larger gas consumption customers (Delivery Service for Large Customers Rate Class) be added to the proceeding. EEC acknowledged that the information request and response process had been completed and that the introduction of a new issue at this stage of the Proceeding could affect the proposed schedule. However, due to the importance of the issue to EEC and the fact that there might be other similarly situated AG customers, EEC considered its request to add the matter to the Proceeding to be warranted.

4. The Commission issued a letter on September 3, 2009 requesting comments on the EEC request by September 9, 2009.

5. By letter dated September 4, 2009, AG expressed concerns with the timing of the EEC request and the deadline for filing of its rebuttal evidence, and requested a suspension of the process schedule. Further, if the Commission granted the request to add this issue to the current Phase II proceeding, all interested parties would be prejudiced if they were not allowed the proper opportunity to test any evidence to be filed by EEC in support of the Delivery Service for

¹ Rule 018 – *Rules on Negotiated Settlements (formerly Directive 018)*

Large Customers Rate Class. However, AG also considered that the current Phase II proceeding was the appropriate and most cost effective forum in which to address this issue. AG also advised there appeared some willingness to treat the upcoming workshops as a negotiated settlement process and requested approval from the Commission to enter into a negotiated settlement process for this Proceeding.

6. By letter dated September 9, 2009, the Commission suspended the remaining process steps associated with the Application and requested comments from interested parties on the issues raised by AG in its September 4, 2009 letter and its request to enter into a negotiated settlement process.

2 DISCUSSION

2.1 Delivery Service for Large Customers Rate Class

7. In a letter dated September 8, 2009, the R13 Group indicated that the rate design principles regarding very High Use customers were not in substance restricted to EEC but were at play for all large High Use customers who may potentially be served by identifiable facilities. As such, the R13 Group did not oppose EEC's proposal and stated that, if this issue was added, it seemed reasonable that the proceeding be expanded to consider whether other large customers with dedicated or relatively low-cost interconnections should be eligible for similar types of rates.

8. The CCA responded in a letter dated September 9, 2009, objecting to the inclusion of the EEC issue to the 2008-2009 GRA Phase II process, for the following reasons:

- the Phase II process steps (applicant information requests and responses, intervener evidence, intervener information requests and intervener responses) and test years were nearly completed;
- EEC should have pursued its proposal earlier;
- neither the AG associated costs nor the revenues had been forecast in the 2008-2009 GRA Phase I portion of the rate application;
- the EEC proposal did not directly impact the current AG Phase II test years 2008 and 2009 as it appeared from published information that the project was not expected to be operational until at least the end of 2011.

For these reasons, the CCA submitted that the appropriate place and time for this issue is the next AG Phase II proceeding.

9. The CCA further stated that the AUC and its predecessor (Alberta Energy and Utilities Board) had established procedures to create rates for unique circumstances. If a special rate was needed by a utility it was generally filed outside test years as a “Filing for Acknowledgement” and was thereafter generally examined at the next GRA Phase II when the costs and revenues have been determined from the associated Phase I.

10. By letter dated September 9, 2009, the UCA concurred with and supported the positions taken by AG in its September 4, 2009 letter. The UCA expressed concern with EEC’s timing in bringing this request forward as the test period for the Application was 2008-2009 while the

BEC was not anticipated to be operational until 2011. It also noted that under the current schedule final rates for 2009 would not be implemented before the second quarter of 2010 (and perhaps even later) and that further delay would only compound the issue. The UCA further stated that it had no knowledge of the process engaged in by EEC and AG leading up to the EEC letter and observed that the ECC letter lacked specifics on what was being proposed.

Views of the Commission

11. The Commission is of the view that EEC's proposed issue is relevant to a Phase II proceeding but notes a large portion of the proceeding schedule has already been completed (only rebuttal evidence, technical workshops, a potential oral hearing, argument and reply remain).

12. The Commission is not persuaded that EEC's requested issue of a separate delivery service rate class fits within the current Proceeding. The inclusion of this issue into the Proceeding would require a revised schedule including evidence filed by EEC and the opportunity to test that evidence. Given that the test years for this proceeding are 2008 and 2009 and the expected completion date for the BEC, while not finalized at this time, is suggested to be in 2011, the Commission considers the timeframes are an ill fit. Further, to set a process and properly deal with this issue would unnecessarily complicate and slow down the current GRA timeline. Accordingly, EEC's request to include Delivery Service for Large Customers Rate Class as an issue within this Proceeding is denied.

2.2 Negotiated Settlement

13. By letter dated September 15, 2009, the UCA stated that it supported AG's request to enter into a negotiated settlement process for this Proceeding ID. 184.

14. CCA and R13 Group did not submit comment on the AG request to commence a negotiated settlement process.

Views of the Commission

15. The Commission observes that the UCA supported AG's request for the commencement of a negotiated settlement process and there were no objections by other parties. In these circumstances the Commission considers that regulatory efficiencies may result if parties are able to reach a settlement. On this basis, the request to commence a negotiated settlement with respect to the 2008-2009 GRA Phase II matters, excluding the EEC request for a Delivery Service for Large Customers Rate Class, is granted.

16. If a settlement is reached, in order to demonstrate to the Commission that the settlement is in the public interest, AG is directed to file a Settlement Brief that provides a detailed explanation of all issues settled and supporting schedules. The Brief will also outline what issues, if any, remain outstanding and AG's view on the appropriate process to deal with the remaining matters.

17. The Commission reminds AG that it is required to comply with the negotiated settlement rules as per AUC *Rule 018*. A member of the Commission staff will participate as an observer to the negotiated settlement process. AG is directed to formally report on the progress of

negotiations and the prospect of a successful negotiation by October 9, 2009. The report should include:

- (a) if a settlement has been reached or if negotiations are expected to be successful, the expected date when a settlement agreement will be completed and filed with the Commission for consideration. If the settlement is not expected to resolve all matters between the parties, AG will outline which matters are not expected to form part of the settlement and AG will provide its view on the appropriate process to deal with the remaining matters, including whether the process should be written or oral and whether the existing oral hearing dates of October 19-23, 2009 should be maintained; or
- (b) if a settlement is not expected to be achieved, AG's view on the appropriate process to resume the proceeding including whether the existing oral hearing dates of October 19-23, 2009 should be maintained.

18. In the event that AG advises the Commission on October 9, 2009 that a negotiated settlement is unlikely to be achieved or if the settlement is unlikely to be comprehensive with issues left to be decided by the Commission, AG is directed to file its rebuttal evidence on October 14, 2009.

3 DECISION

19. IT IS HEREBY ORDERED THAT:

- (1) ENMAX Energy Corporation's request to add the issue of a separate delivery service rate class for larger gas consumption customers to the current proceeding is denied.
- (2) ATCO Gas' Application to negotiate its 2008-2009 General Rate Application – Phase II is approved, subject to the required filings and excluding issues identified in this Decision.

Dated in Calgary, Alberta on September 25, 2009.

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 (APPLICANTS)
ATCO Gas (AG) M. Buchinski R. Trovato
AltaGas Utilities Inc. (AUI) J. Coleman
BP Canada Energy Company (BP) C. Worthy G. Boone
Consumers Coalition of Alberta (CCA) J. Wachowich J. Jodoin
ENMAX Energy Corporation (EEC) A. Morgans
Nexen Marketing (Nexen) D. White
Rate 13 Group (R13 Group) L. Manning D. Hildebrand
Shell Energy North America (Canada) Inc. (SENAC) J. Haskey
Office of the Utilities Consumer Advocate (UCA) J. A. Bryan, Q.C. H. Vander Veen R. Bruggeman

Alberta Utilities Commission

Commission Panel

W. Grieve, Chair

B. Lyttle, Commissioner

N. A. Maydonik, Q.C., Commissioner

Commission Staff

B. McNulty (Commission Counsel)

P. Howard

A. Laroia

C. Burt

R. Armstrong, P.Eng.

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. If a settlement is reached, in order to demonstrate to the Commission that the settlement is in the public interest, AG is directed to file a Settlement Brief that provides a detailed explanation of all issues settled and supporting schedules. The Brief will also outline what issues, if any, remain outstanding and AG’s view on the appropriate process to deal with the remaining matters. Paragraph 16
2. The Commission reminds AG that it is required to comply with the negotiated settlement rules as per *AUC Rule 018*. A member of the Commission staff will participate as an observer to the negotiated settlement process. AG is directed to formally report on the progress of negotiations and the prospect of a successful negotiation by October 9, 2009. The report should include:
 - (a) if a settlement has been reached or if negotiations are expected to be successful, the expected date when a settlement agreement will be completed and filed with the Commission for consideration. If the settlement is not expected to resolve all matters between the parties, AG will outline which matters are not expected to form part of the settlement and AG will provide its view on the appropriate process to deal with the remaining matters, including whether the process should be written or oral and whether the existing oral hearing dates of October 19-23, 2009 should be maintained; or
 - (b) if a settlement is not expected to be achieved, AG’s view on the appropriate process to resume the proceeding including whether the existing oral hearing dates of October 19-23, 2009 should be maintained. Paragraph 17
3. In the event that AG advises the Commission on October 9, 2009 that a negotiated settlement is unlikely to be achieved or if the settlement is unlikely to be comprehensive with issues left to be decided by the Commission, AG is directed to file its rebuttal evidence on October 14, 2009. Paragraph 18