ATCO Gas

Retailer Service and Gas Utilities Act Compliance
Module 3, Part 1

March 17, 2008

Alberta Energy and Utilities Board

ALBERTA ENERGY AND UTILITIES BOARD
Decision 2008-021: ATCO Gas
Retailer Service and Gas Utilities Act Compliance
Module 3, Part 1

Application No. 1482246

March 17, 2008

Published by
Alberta Energy and Utilities Board
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Contents

1 INTRODUCTION 1

2 BACKGROUND...1

3 DISCUSSION OF THE ISSUES 4

3.1 Imbalance Purchase/Sale Price 4

3.2 Retailer Prudential Requirements 6

3.3 Account Monitoring Rules 13

3.4 Load Balancing Deferral Account Administration 14

3.4.1 Timing Trigger to File an LBDA Rider Application 14

3.4.2 Other Charges Proposed to be Included in the LBDA 15

3.4.2.1 Carrying Charge Rate 15

3.4.2.2 Credit Support Charges Associated with Gas Acquisition for Load Balancing 17

3.4.2.3 ATCO Pipelines OPR/OPDC associated with NGTL Sourced Load Balancing Gas Acquisition...17

3.4.2.4 Board Approved ATCO Pipelines LBDA Charges to ATCO Gas 18

3.4.2.5 Transaction Costs Respecting Gas Co-ops in the Special Transition Circumstances Related to Annexations 19

3.4.2.6 Revenue from Unmetered Gas Lights Credited to the LBDA........................19

3.4.2.7 Hit Line Revenue Recovered from Third Parties Credited to the LBDA 20

3.4.2.8 Un-recovered Account Balancing Amounts Related to Retailers...................20

3.4.3 Deferral of Income Tax Effect of LBDA Amounts 21

4 ORDER 22

APPENDIX 1 – ATCO GAS PROPOSED ACCOUNT MONITORING RULES 23

APPENDIX 2 – SUMMARY OF BOARD DIRECTIONS 24

APPENDIX 3 – SUMMARY OF BOARD FINDINGS AND APPROVALS........................25

List of Tables

Table 1. Imbalance Purchase/Sale Price Illustration.. 5

Table 2. Additional Prudential Requirement Calculation Provided by ATCO Gas 8

ALBERTA ENERGY AND UTILITIES BOARD
Calgary Alberta

ATCO GAS
RETAILER SERVICE AND
GAS UTILITIES ACT COMPLIANCE **Decision 2008-021**
MODULE 3, PART 1 **Application No. 1482246**

1 INTRODUCTION

This Decision deals with a subset of issues associated with Retailer Service and Gas Utilities Act Compliance under Application 1482246. On October 3, 2007, ATCO Gas requested the Alberta Energy and Utilities Board (EUB or the Board) to address the following issues:

1. Imbalance Purchase/Sale Price
2. Retailer Prudential Requirements
3. Account Monitoring Rules
4. Load Balancing Deferral Account Administration

The Division of the Board was comprised of Brad McManus (Presiding Member) and Carolyn Dahl Rees (Member).

2 BACKGROUND

This Decision is the latest in a series of several decisions resulting from Application No. 1308709, ATCO Gas Retailer Service and Gas Utilities Act Compliance, which was filed with the Board on July 25, 2003 (the 2003 Application). The 2003 Application was filed by ATCO Gas in response to amendments to the *Gas Utilities Act*, R.S.A. 2000, c.G-5 (GUA) as well as the introduction of new regulations under the GUA. The Board established a process to review the 2003 Application in two phases. Phase 1 would deal with interim matters related to the Terms & Conditions of Service (T&Cs) proposals, as well as the continuation of the Rate 11/13 processes with respect to load balancing. Phase 2 would deal with final approval of the T&Cs, load balancing and load settlement issues.

The Phase 1 issues were addressed in Decision 2003-102.[1] That decision also provided direction to ATCO Gas to address, jointly with ATCO Pipelines, an application with respect to SCADA facilities between ATCO Pipelines and ATCO Gas. ATCO had indicated that these facilities would be required to provide the data necessary for load balancing the system which was to be considered in the Phase 2 process. That SCADA application was approved by the Board in Decision 2004-078.[2]

[1] Decision 2003-102 – ATCO Gas North and South Retailer Service and Gas Utilities Act Compliance - Phase 1 (Application 1308709) Released: December 22, 2003

[2] Decision 2004-078 – ATCO Gas and ATCO Pipelines SCADA Project (Application 1308709), Released: September 17, 2004

Phase 2 of the ATCO Gas Retailer Service and Gas Utilities Act Compliance Application was subsequently divided between Phase 2, Part A and Phase 2, Part B. Phase 2 Part A was to consider the principle of separating the load balancing function from the Default Supply Provider (DSP) and shifting the cost burden for load balancing from DSP customers to all end use customers. Phase 2 Part B was to deal with account balancing and load balancing directly.

Decision 2005-081[3] dealt with Phase 2 Part A. In that Decision, the Board approved the conceptual separation of the load balancing function from the DSP and shifting the cost burden for load balancing from DSP customers to all end use customers.

The application dealing with Phase 2 Part B was received by the Board on July 29, 2005. In the application ATCO Gas proposed a consultative process to advance topics using modules. In a letter of October 3, 2005, the Board provided direction with respect to the potential for overlap between the Phase 2 Part B application and the ATCO Gas South 2005/2006 Carbon Storage Plan Part 1 Module (Carbon Part 1 Module) associated with Application No. 1357130, to the extent both applications could involve a consideration of the potential use of the Carbon storage facility in connection with load balancing of the ATCO Gas system. The Board concluded that, in the interests of efficiency and completeness, it would be appropriate for the issues related to load balancing, including the use of physical storage, to be assessed through a single process within the Phase 2 Part B application.

The Board provided further direction and identified the following process modules by letter dated December 22, 2005:

Module 1 – Customer Account Balancing Fundamentals
Module 2 – Load Balancing
Module 3 – Load Settlement Information Systems
Module 4 – Procedural Documentation
Module 5 – Phase 2 Part B Application

Concepts associated with Modules 1 and 2 were addressed in Decision 2006-098[4] with the understanding that some procedural detail refinement associated with customer account balancing and load balancing could be further addressed through collaborative discussions associated with Modules 3 and 4. Decision 2006-098 also directed that Module 3 should also include an assessment of the accuracy arising from a one-year test of the Daily Forecasting and Settlement System (DFSS) that commenced on November 1, 2006.

In accordance with directions provided in Decision 2006-098, ATCO Gas filed Application 1482246 (the Original Application) addressing a proposal for commencement of the Module 3 collaborative process to advance Retailer Service and GUA Compliance (Retailer Service) on October 11, 2006. The Board requested parties to advise ATCO Gas of their intentions to

[3] Decision 2005-081 ATCO Gas Retailer Service and Gas Utilities Act Compliance Phase II Part A (Application 1380942) was issued July 26, 2005 and dealt with Board approval for the separation of the load balancing function from the DSP, and shifting the cost burden for load balancing from Default Supply Provider customers to all end use customers and identified that the future process for the balance of the application would be dealt with in an associated Board letter.

[4] Decision 2006-098 – ATCO Gas Retailer Service and Gas Utilities Act Compliance Phase 2 Part B Customer Account Balancing and Load Balancing (Application No. 1411635), Released: October 10, 2006, Errata released: November 7, 2006

participate in a letter of October 12, 2006, and ATCO Gas commenced these consultative discussions.

In a letter of May 30, 2007, the Board provided a letter of clarification with regard to the treatment of DFSS costs in response to a May 22, 2007 inquiry from ATCO Gas.

Parties met on September 17, 2007, to discuss a preliminary draft of an updated application. On October 3, 2007, the Board received an update to the Original Application (the Updated Application) reflecting proposals and associated ballot responses from interested parties respecting a subset of Retailer Service Module 3 issues.

ATCO Gas proposed that in order to implement Retailer Service with a target date of October 1, 2008, the remainder of the Retailer Service process be completed in three parts:

- Part 1 - Issues that are not related to the DFSS test results
- Part 2 - Issues that are related to the DFSS test results and revisions to the T&Cs
- Part 3 - Development of a gas settlement system code

Specifically, the Updated Application requested that the Board deal with Part 1 issues that are separate from the DFSS testing process including:

1. Imbalance Purchase/Sale Price
2. Retailer Prudential Requirements
3. Account Monitoring Rules
4. Load Balancing Deferral Account Administration

These issues are the subject of this Decision.

Incorporating consultation from interested parties, the Board established a written process to deal with the four issues in the Updated Application. In that process, evidence was submitted by The City of Calgary (Calgary).

The Board received written argument followed by reply argument from interested parties on January 11, 2008. ATCO Gas provided comments of clarification in a letter of January 14, 2008. The Board considers that the record for the Updated Application closed on January 14, 2008.

Further topics in relation to Retailer Service and Gas Utilities Act Compliance are expected to be dealt with subsequently by the Alberta Utilities Commission.

In reaching the determinations contained within this Decision, the Board 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 Board's reasoning relating to a particular matter and should not be taken as an indication that the Board did not consider all relevant portions of the record with respect to that matter.

3 DISCUSSION OF THE ISSUES

3.1 Imbalance Purchase/Sale Price

In Decision 2006-098, the Board discussed the treatment of daily imbalances outside of established tolerance thresholds.[5] The Board considered that daily imbalances outside tolerance[6] should be settled financially each day, but that it would be appropriate for parties to further discuss whether the contemplated purchase/sale penalties of 75%/130% of the daily index gas price would be appropriate. The Board also indicated in Decision 2006-098 that it considered it reasonable that a retailer[7] account imbalance outside the imbalance window should be financially settled by purchase/sale within the Load Balancing Deferred Account (LBDA).

In the Updated Application, ATCO Gas proposed that the settlement price for imbalance purchases from retailers would be the lowest Same Day (SD) or Yesterday (YD) market trade price that occurs on the Natural Gas Exchange (NGX) for the gas day as reported by NGX. Similarly, the price for imbalance sales to retailers would be the highest SD or YD market trade price for the gas day, as reported by NGX. ATCO Gas considered that the 75%/130% arrangement would cause potential significant hardship to retailers (and their customers) and might inadvertently create incentives for retailers to “game the system” by purchasing or selling gas rather than balancing their accounts. ATCO Gas suggested that the use of the highest/lowest SD or YD gas would have merit as it would provide a mechanism for account balancing that would closely track market conditions on a daily basis. ATCO Gas suggested that this approach would provide better cost causation linkages reducing the potential amounts accumulating in the LBDA. In support of this recommendation, ATCO Gas provided a historic file showing the wide variation of the 75%/130% of daily index pricing versus the narrower range of the lowest/highest SD or YD gas pricing.

The City of Edmonton and Utilities Consumer Advocate (EDM/UCA) did not consider there was sufficient evidence in support of a change from 75%/130% of the daily index price and considered the status quo arrangement would continue to provide an incentive for retailers to balance their accounts. EDM/UCA submitted that the change proposed by ATCO Gas would represent a significant loss of incentive for retailers to balance their accounts and would instead provide a possible opportunity for retailers to benefit from a decision not to fully balance.

In contrast to the EDM/UCA, Nexen Marketing (Nexen) suggested that a retailer would be unable to effectively manipulate the market under the ATCO Gas proposal as the market prices would not be established for YD gas until the morning following the gas day. Nexen considered that the differentials associated with the highest/lowest SD or YD gas would provide sufficient and reasonable incentive for retailers to balance their accounts without more excessive penalties. Nexen considered it would be reasonable to review the effectiveness of the imbalance purchase/sale price from time to time.

No other parties provided specific comments or concerns on the ATCO Gas proposal although Alberta Energy Savings (AES), Nexen, Direct Energy Partnership (DEP) and Direct Energy

[5] Decision 2006-098, pages 34-35

[6] Calculated as the difference between the daily energy supplied versus the backcast delivery requirement (including Unaccounted For Gas and other adjustments) reduced by the imbalance window tolerance

[7] For clarity, all references to a “retailer” and “retailers” will include the DSP unless otherwise noted.

Regulated Services (DERS) all expressed support for the ATCO Gas approach and recommendations associated with the Updated Application.

The Board considers that it is important that the purchase or sale price associated with daily Retailer imbalances outside tolerance should motivate the retailers to remain within tolerance.

In this respect, the Board considers that it is informative to examine the pricing data for a sample day as illustrated in Table 1.[8]

Table 1. Imbalance Purchase/Sale Price Illustration

Date	Daily Index ($/GJ)	75% Daily ($/GJ)	130% Daily ($/GJ)	SD High ($/GJ)	SD Low ($/GJ)	YD High ($/GJ)	YD Low ($/GJ)
Dec. 1 06	7.92	5.94	10.30	8.15	7.60	7.87	7.50

The daily index price on December 1, 2006, was $7.92/GJ. Under the ATCO Gas proposal, the price paid to a retailer for imbalance purchase quantities outside tolerance would be $7.50/GJ, or $0.42/GJ less than the daily index. The price charged to a retailer for imbalance sale quantities outside tolerance would be $8.15/GJ or $0.23/GJ more than the daily index. These differentials appear to provide appropriate directional signals for retailers to be balancing their accounts in a fashion that closely tracks the daily market conditions.

In contrast, the corresponding differentials with the 75%/130% approach on the same day would be $2.18/GJ and $2.38/GJ. The Board concurs with ATCO Gas that these greater differentials may be unnecessarily punitive to retailers and may even be of a magnitude to provide motivation for retailers to pursue more manipulative balancing strategies.

As suggested by ATCO Gas, the Board considers that the LBDA balances should be reduced with the ATCO Gas proposal. This could provide a benefit in reducing the frequency of LBDA reconciliation proceedings and diminishing any corresponding rider levels.

For these reasons the Board approves the ATCO Gas proposal that the settlement price for imbalance purchases would be the lowest SD or YD market trade price occurring on the NGX for the gas day as reported by NGX, and that the settlement price for imbalance sales would be the highest such SD or YD price for the gas day. Implementation of this settlement pricing scheme would be concurrent with the future implementation of daily balancing. The Board concurs with the suggestion by Nexen that it would be reasonable to review the effectiveness of the imbalance purchase/sale price from time to time, and considers that could be done effectively as part of an application for an LBDA rate rider.

In response to inquiries from parties respecting the continuity of information systems, ATCO Gas introduced the concept of a disaster contingency plan in association with a failure of its proposed DFSS system. ATCO Gas proposed a cold standby system that could be implemented within a time period of 72 hours in a catastrophic disaster for a cost of $100,000. With this scenario, a more minor equipment operational failure could be restored within 24 hours. Alternatively, ATCO Gas suggested that a higher cost hot standby system for $250,000

[8] Reference Application, Issue 1 Attachment Update, page 8. The sample was chosen by the Board to reflect a typical day.

could be implemented within a time period of 24 hours for a catastrophic DFSS disaster, but stated that the higher cost has not been incorporated into its 2008-2009 General Rate Application (GRA) forecast. ATCO Gas did not consider the incremental cost of the hot standby alternative to be warranted. ATCO Gas considered that it would be unreasonable to not provide any backup as there would be no mechanism to adequately update retailer accounts in response to supply and demand variations. ATCO Gas did not consider that it could effectively provide manual backup because of the number of sites and complexity of calculations.

ATCO Gas requested confirmation that the proposed cold standby system would be adequate. In reply argument, ATCO Gas indicated that it is assessing a possibility of implementing the hot standby option at the same or even a lower cost than the cold standby option. ATCO Gas expects to discuss this possibility further in its GRA process.

Nexen concurred with ATCO Gas that the cold standby option would be appropriate while EDM/UCA considered that the modest incremental cost of $0.001 per GJ to implement the hot standby option would provide a level of insurance that would not be unreasonable.

The Board notes that no parties expressed opposition to the proposal to implement at least a cold standby system that would backup the DFSS system from catastrophic failure within 72 hours. The Board further notes that ATCO Gas has indicated that it has a short-term contingency plan utilizing the last system data to bridge the gap from the time of a failure until the cold standby backup system could be implemented. The Board considers the cold standby system, together with the proposed short-term contingency plan, to be adequate and that they should be implemented as soon as possible, subject to ATCO Gas' advice as to the availability of a hot standby system at an equivalent price or lower price.

3.2 Retailer Prudential Requirements

In Decision 2006-098, the Board discussed its expectation that a prudent gas distributor ought to have contingency plans in place to deal with the potential circumstance where a retailer might fail to provide supply in extraordinary circumstances.[9] In order to position itself to respond to a potential failure of supply, ATCO Gas proposed account monitoring criteria in conjunction with recommendations to amend its prudential requirements for retailers.[10] The account monitoring rules are discussed subsequently in Section 3.3 of this Decision.

ATCO Gas considered its current retailer prudential requirements to be inadequate, in that they did not cover the potential load balancing related gas supply costs in the event of supply failure by a retailer, and they did not provide sufficient incentive for retailers to appropriately manage and balance their accounts. To remedy the concerns with prudential requirements, ATCO Gas sought approval to amend its Terms & Conditions of Distribution Access Service (DAS) to essentially define the amount of the retailer's security deposit as being equal to the total estimated charge to the retailer for 60 calendar days of distribution service under the ATCO Gas distribution tariff. This change reflects an increase from the current requirement of coverage for approximately 40 days of distribution service charges.

More specifically, ATCO Gas proposed to adjust its DAS T&Cs as described below (with changes noted) upon commencement of Retailer Service:

[9] Decision 2006-098, page 17
[10] Note that these prudential requirements would not apply to the DSP in ATCO Gas' proposal.

7.3 Late or Unpaid Bills

(a) If a Retailer defaults or is late in paying charges, the Company will provide the Retailer notice as required below in (b)(1), and will be entitled to draw on the credit facility of the Retailer if the Retailer's arrears are not paid within (3) three Business Days after the date of the notice. The Retailer must provide an additional deposit to replace the funds drawn down because of the default or late payment.

(b) (1) If a Retailer defaults in its payments the Company must provide the Retailer with **a** notice in writing stating that the Retailer is in default in its payment**s** to the Company under the Company's Rate Schedule ***and/or its Terms and Conditions of Distribution Access Service***, and advising that the Company may make a claim against the Retailer's security if the arrears are not paid within (3) three Business Days after the date of ~~**the**~~ notice.

……..

11.1 Setting of Prudential Requirements

(a) The Retailer must fulfill the requirements as set forth in this Article to the satisfaction of the Company before the Company will provide Distribution Access Service to that Retailer.

(b) Subject to review and reassessment of the Prudential Requirements of a Retailer by the Company from time to time, a Retailer shall meet and maintain such financial and other Prudential Requirements as set out in the Natural Gas Billing Regulation, A.R. 185/2003, to ensure that the Retailer is and remains of sufficient financial standing to meet its ongoing financial obligations.

(c) The Company will confirm the credit rating of the Retailer, affiliate or person which guarantees the financial obligation of the Retailer. The credit rating will mean the bond rating according to Standard and Poor's Bond Rating Service or an equivalent bond rating from Dominion Bond Rating Service or Moody's Investors Service.
The minimum credit rating that will qualify a Retailer for a reduction in security or allowing a person to provide an irrevocable guarantee of the Retailer's financial obligation is BBB-, as set out in Section 6(3) of the Natural Gas Billing Regulation A.R 185/2003 as amended from time to time.
If a Retailer has obtained more than one credit rating, the lowest credit rating will be used in the assessment.

(d) Subject to review and reassessment, the Company shall determine the amount of the security reduction available for each Retailer, and the maximum amount of any guarantee required from the person guaranteeing the financial obligations of the Retailer, subject to sections 5, 6 and 7 of the Natural Gas Billing Regulation, A.R. 185/2003. The Company shall notify the Retailer of its security requirement within 20 (twenty) Business Days from the receipt of the Retailer's complete application for service.

(e) For the purposes of calculating the amount of the Retailer's security deposit pursuant to section 5(2) of the Natural Gas Billing Regulation, A.R. 185/2003, ~~the Retailer must project its payments under the Company's Rate Schedule over a~~

> ~~period equal to the lesser of (A) 75 days, or (B)~~ the total of (i) 20 days, plus (ii) the number of days between consecutive bills issued by the ~~Company~~ ***owner*** to the Retailer, plus (iii) the number of days from the issuance of a bill by ~~the Company~~ ***an owner*** until payment is due from the Retailer, ***shall equal 60 calendar days***.

ATCO Gas suggested that this level of prudential requirements would be appropriate in conjunction with the account monitoring rules discussed in Section 3.3. However, a higher level of prudential requirements would be required in the event that account monitoring rules might be modified to provide a longer time period from when a problem with retailer gas supplies might be identified until the affected customers are transferred to the DSP.

ATCO Gas provided the following information for interested parties summarizing equivalencies of the associated number of days of load balancing gas supply that would be covered at varying gas costs:[11]

Table 2. Additional Prudential Requirement Calculation Provided by ATCO Gas

Assumed Gas Price ($/GJ)	5.00	7.00	9.00	11.00
AG Delivery Charge ($/GJ)	1.8	1.8	1.8	1.8
Multiple	2.78	3.89	5.00	6.11
Days Delivery charges covered	20	20	20	20
Equivalent days gas supply covered	7.20	5.14	4.00	3.27

As an example, Table 2 indicates that at a replacement gas cost of $11.00/GJ, the incremental 20 days of prudential requirement provision would provide the equivalent of three days of load balancing gas supply.

In association with this proposed increase in prudential requirements, as discussed in Section 3.3, ATCO Gas is also proposing to implement revised account monitoring procedures where ATCO Gas could include up to three days of load balancing gas costs in the LBDA before closing the retailer's account and transferring the customers to the DSP. If this was the case and the costs remained in the LBDA, all customers would share the costs upon disposition of the LBDA balances.

ATCO Gas considered that the arrangement addressing prudential requirement obligations with DERS as the DSP was commercially established between ATCO Gas and Direct Energy Marketing Limited (DEML) in the Amended and Restated Gas Assets Transfer Agreement and the DSP Arrangement Agreement (Gas)[12] and remains adequate.

The CCA considered it likely in the future that retailers would fail or withdraw from the Alberta market place. In an effort to protect customers from such concerns, the CCA supported the ATCO Gas proposal to increase the prudential requirements.

Calgary understood the concern of ATCO Gas to protect itself from situations of default by retailers. Calgary submitted that in providing that protection, the rules should not make it overly onerous for retailers to function nor should the rules be prejudicial to the retailers vis-à-vis the

[11] August 23, 2007 ATCO Gas submission, page 13

[12] Reference Application 1299855; $300,000,000 maximum Direct Energy Marketing Limited liability and $235,000,000 Centrica letter of credit support

DSP. Calgary submitted that it is not just and reasonable that all users of ATCO Gas bear the costs of a default by a retailer or the DSP to the extent not covered by the prudential requirements. In Calgary's view, it would be more appropriate for the customers of the retailer or the DSP, as the case may be, to bear those costs. Calgary indicated that this approach would provide ATCO Gas with its desired protection without unfairly burdening all customers.

EDM/UCA opposed the proposal to adjust the prudential requirements suggesting that the impact of the change would only reduce risk for ATCO Gas by increasing the effective prudential requirement from 40 to 60 days. EDM/UCA considered the proposed change would tend to provide a barrier to new retail competition and might hinder market development. Moreover EDM/UCA considered that the prudential requirements were prescribed by Section 5(2) of the *Natural Gas Billing Regulation*, A.R. 185/2003, as amended, (the Regulation) and could not be changed by the Board.[13]

EDM/UCA supported Calgary's view that the customers of the defaulting retailer or DSP should be required to bear any default costs not covered by the prudential requirements of their retailer/DSP. EDM/UCA submitted that all other customers should not be required to backstop those who signed with a particular retailer for some perceived advantage.

ATCO Gas responded to the position of Calgary and EDM/UCA by stating that the effect of charging retailer default costs not covered by their prudential requirements to the LBDA is to reverse the portion of the imbalance sales that ATCO Gas was unable to recover from the defaulting retailer from the LBDA. ATCO Gas indicated that if it were to do as Calgary proposes, all ATCO Gas customers would benefit from the imbalance sale reflected in the LBDA, while only the customers of the defaulting retailer would be responsible for the costs in excess of the prudential requirements. ATCO Gas considered that this would be inequitable.

With regard to the EDM/UCA perspective that the ATCO Gas proposal with respect to recovery of retailer default related costs in excess of their prudential requirements is an attempt by ATCO Gas to reduce or virtually eliminate its risks, ATCO Gas indicated it assumed that EDM/UCA was referring to the risks associated with the recovery of gas supply expense related costs from retailers who have defaulted. ATCO Gas suggested that it does not bear this risk today and is not compensated for this risk in either its equity thickness or its return on equity. ATCO Gas stated that if it is expected to absorb this risk, there must be recognition of the increased risk ATCO Gas would be taking on in its equity thickness and/or return on equity. Furthermore, ATCO Gas suggested there is no reason why ATCO Gas should bear this risk as the legislation has clearly indicated that the responsibility for the provision of gas services to customers lies with retailers and the DSP, not with the distribution company.

Nexen indicated that while it had initial concerns respecting the ATCO Gas prudential requirement proposal, it was satisfied that the proposal is appropriate.

The Board considers that it is appropriate to first review the legislation and the administration of procedures respecting the provision of retailer prudential requirements. The Regulation addresses security requirements as follows:

[13] EDM/UCA Argument of December 21, 2007, page 4

Security requirement

5(1) A gas distributor must require a retailer to provide a security deposit before the gas distributor provides service to the retailer under the gas distributor's gas distribution tariff.

(2) The security deposit must be in an amount equal to the value, as projected by the retailer, of the retailer's payments under the gas distributor's gas distribution tariff over a period equal to the lesser of

(a) 75 days, or

(b) the total of

(i) 20 days, plus

(ii) the number of days between consecutive bills issued by the gas distributor to the retailer, plus

(iii) the number of days from the issuance of a bill by a gas distributor until payment is due from the retailer.

(3) Subject to section 6, the security must be provided in the form of a financial deposit, a bond, an irrevocable letter of credit or an irrevocable guarantee from a person, other than the retailer, with a credit rating.

(4) If one or more persons provide an irrevocable guarantee under subsection (3),

(a) the amount of each guarantee must not exceed the amount by which the retailer would have its security deposit reduced under section 6(3) if the retailer had the same credit rating as the person providing the guarantee, and

(b) the total of the guarantees must not exceed the maximum amount of the largest single guarantee that is allowed under clause (a).

(5) A gas distributor must confirm the amount of security required to be provided by a retailer within 20 business days of receipt of the retailer's complete application for service under the gas distributor's gas distribution tariff.

(6) If a retailer's actual outstanding charges under the gas distributor's gas distribution tariff are materially greater than the value projected by the retailer under subsection (2), the gas distributor must update the projection under subsection (2) and, if additional security is required based on the updated projection, require the retailer to provide the additional security.

(7) A retailer that is required under subsection (6) to provide additional security must provide the additional security to the gas distributor within 5 business days of the gas distributor's requiring the additional security.

(8) A gas distributor must use reasonable diligence to advise a retailer if additional security is required in accordance with subsection (6).

(9) All costs incurred by a retailer in providing the security required under this Regulation are the responsibility of the retailer.

The retailer security requirement described in Section 5(2) of the Regulation is to provide protection for ratepayers with respect to the recovery of the distributor's distribution tariff charges in the event of a retailer default. The Board agrees with EDM/UCA that the amount of the security to be provided in respect of distribution tariff charges is prescribed by the regulation and the Board does not have the discretion to alter that amount.

Section 5(2) of the Regulation prescribes a retailer security requirement to be the lesser of 75 days or the numerical total of 5(2)(b). The Board understands based upon information provided[14] by ATCO Gas that when the calculation called for by Section 5(2) is performed that the required security would approximate 40 days of distribution tariff charges.

The Board recognizes however, that the request for additional prudential security, along with the account monitoring process discussed in Section 3.3 of this Decision, portions of which would be applicable to the DSP as well as to retailers, was an attempt by ATCO Gas to address the Board's concerns expressed in Decision 2006-098 wherein the Board emphasized an expectation that ATCO Gas should have contingency plans in place to deal with the potential circumstance where a retailer or the DSP might fail to provide supply in extraordinary circumstances. At page 17 of that Decision, the Board stated:

> The Board agrees with ATCO Gas that the procurement of the gas supply is a function and responsibility of the DSP and of retailers and is not a load balancing function of the distributor. For clarity, however, the Board considers that in certain extraordinary conditions, such as a temporary failure to supply by retailers and/or the DSP, the load balancing requirement of the distributor could increase significantly on a temporary basis until the failure was rectified by the defaulting party. In the case of a longer term default, the load balancing obligations of ATCO Gas would increase as the circumstances dictate, which in the case of a default by the DSP would be until that role was reassumed by ATCO Gas, and in the case of a retailer, would be until that retailer's customers became self retailers, or were assumed by another retailer or by the DSP. The defaulting party, in either case, would still be subject to the penalty provisions associated with the account balancing rules. ATCO Gas would be expected to work with the defaulting party in managing any such situation to ensure the continuing integrity of the distribution system and to minimize impacts to consumers.
>
> The Board considers that a prudent distribution system operator should have contingency plans in place to address the situation where a retailer and/or DSP failed to provide supply in circumstances such as those described above. These contingency plans should be available for review by the Board upon request. The Board would also expect that ATCO Gas would presently have in place, to the extent reasonably possible, a transition plan to resume the role of DSP should it become clear that DERS would not be able to carry on with its role as the DSP.

The Board considers that a distinction must be made between the security associated with the coverage linked to the distribution tariff as prescribed in Section 5 of the Regulation and any additional security that a prudent distributor may require with respect to the provision of load balancing gas in the event of a failure by a retailer to nominate gas to its account. The Board considers that such additional security would be appropriate to protect ratepayers and considers this load balancing related security to be incremental to, and distinct from, the distribution tariff related security required pursuant to the provisions of Section 5 of the Regulation. Given that Section 5 of the Regulation deals only with security with respect to tariff charges ordinarily billed to retailers, the Board considers that Section 5 of the Regulation does not preclude the Board from directing ATCO Gas to require such incremental security from retailers with respect

[14] ATCO Gas information response AES-ATCO-1, dated October 26, 2007

to the potential load balancing obligations ATCO Gas may be required to perform in the event of a retailer default.

Although the Board agrees in principle with the requirement for additional security from retailers with respect to the load balancing obligations of ATCO Gas in the event of a retailer supply default, the Board recognizes that the calculation of the appropriate security amount needs to be administratively straightforward while being fair to retailers with different supply commitments. One attempt to outline a process for determining load balancing related security requirements was initially suggested[15] by DEP and DERS:

> DERS would potentially support an ATCO Gas proposal which considers using the volume associated with a high load period such as a very cold winter day in combination with the AECO forward curve (AECO one-year strip) and a standard deviation mechanism to help absorb some additional variability. This alternate methodology provides adequate security to ATCO Gas while minimizing the financial impact of additional prudential requirements on retailers.

While this approach may have some conceptual merit, the Board considers that implementation of such a methodology would likely be cumbersome to both determine and to administer. A methodology which uses a fraction of the prudential security for tariff obligations as a proxy would be appropriate to alleviate this concern. In this regard, the Board considers that the ATCO Gas approach of three days of load balancing[16] yielding an additional 20 days of security would provide an appropriate proxy.

The Board directs ATCO Gas to update its DAS T&Cs in a subsequent Retailer Service application to require retailers to provide ATCO Gas with additional security, separate and distinct from the security provided in respect of its distribution tariff payment obligations required under Section 5 of the Regulation. This new additional security (the Load Balancing Security) shall be in an amount equivalent to 20 days of security for the retailer's distribution tariff payment obligations and shall serve as security in respect of the enhanced load balancing obligations that ATCO Gas may be required to perform in the event of a retailer failure to supply.

The EDM/UCA expressed concern that the proposed administration of incremental security might present a barrier to new retail competition. The Board is not convinced this would be the case and notes that an effective 60 day distribution tariff security provision is not uncommon.[17] While EDM/UCA opposed the proposal to adjust the prudential requirements suggesting that the impact of the change would only reduce risk for ATCO Gas by increasing the effective prudential requirement from 40 to 60 days, CCA expressed a supportive viewpoint that it would reduce risk to customers. The Board considers that the additional Load Balancing Security, when combined with the proposed account monitoring rules outlined in Appendix 1, portions of which would be applicable to the DSP as well as to retailers, will help to address the concerns raised by

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[15] Direct Energy Partnership as well as Direct Energy Regulated Service contemplated this approach in initial stakeholder ballot comments of July 27, 2007, although they subsequently supported the more simplistic ATCO Gas recommendation

[16] ATCO noted in its Application that this result would flow using a price of $11.00/GJ

[17] Reference page 9 of August 23, 2007 ATCO Gas submission indicating a prudential requirement of 60 days is consistent with other DSPs, wire service providers and the AESO.

the Board in Decision 2006-098 and will strike an appropriate balance in mitigating risk to both customers and the distributor.

The Board notes that ATCO Gas has indicated that its security arrangements with the DSP are subject to a separate commercial arrangement between ATCO Gas and DEML, and remain adequate at this time. The Board has not reviewed the prudence of these arrangements and reminds ATCO Gas that it bears the responsibility to ensure prudent provisions and contingency arrangements are in place with respect to the consequences of a default by the DSP.

The Board considers that it would be appropriate for ATCO Gas to review the administration of its prudential requirements for retailers and the DSP, incorporating any practical experiences, in its first general rate application subsequent to the 2008-2009 test years.

3.3 Account Monitoring Rules

In conjunction with the proposed changes to prudential requirements discussed in Section 3.2, ATCO Gas proposed to implement account monitoring rules (the Account Monitoring Rules) for retailers.[18] The detailed rules and a flow chart demonstrating the process logistics as proposed by ATCO Gas are attached in Appendix 1 to this Decision. Additionally, ATCO Gas indicated that it would utilize certain steps[19] of the Account Monitoring Rules for the DSP account to provide early detection of issues that may result in obligations under its agreements with DEML.[20]

In general, the account monitoring proposed by ATCO Gas would involve the monitoring of the daily balancing activities of each retailer and the DSP. In the event there is no evidence of a nomination to a retailer's account over a continuous period of three days, the retailer's account will be permanently closed. ATCO Gas will commence de-enrollment of sites associated with the retailer's account and re-enrollment of these sites with the DSP. Interim steps would be taken by ATCO Gas to acquire supplies in the SD market where monitoring of a specific retailer's accounts demonstrated a lack of effort to balance the account.

ATCO Gas proposed that the costs associated with any such interim quantities of gas will flow into the LBDA and the associated transaction(s) will be recorded in ATCO Gas' FSU account, rather than the retailer's account.

The Account Monitoring Rules are intended to alert ATCO Gas to potential supply concerns while minimizing any unintended provision of gas supply by the distributor in the event that the retailer might be subsequently taking action to balance its account using a mechanism such as the YD.

ATCO Gas proposed that the Account Monitoring Rules would become effective with implementation of Retailer Service and the LBDA.

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18 Portions of the account monitoring rules would apply to the DSP as well as retailers in the ATCO Gas proposal.

19 Reference Information Response BR-AG-2 of October 26, 2007 wherein ATCO Gas confirmed that steps 1 and 2 would be applied for the DSP. However, ATCO Gas indicated Steps 3 - 5 inclusive describe the processes to be used to transfer a defaulting Retailer's sites to the DSP and as such are not applicable to the DSP. ATCO Gas considered that at Step 3, if there is no evidence of a nomination in the DSP's account by 10:00 a.m. local time, this would constitute a Step-In Event as described in section 5.5(c) of the DSP Arrangement Agreement (Gas). Accordingly, at that point ATCO Gas indicated it would implement the remedies available to it as described in that agreement.

20 Reference Application 1299855

EDM/UCA considered the proposed new rules should be approved in conjunction with the existing method of calculating prudential requirements. Nexen concurred that the rules would be appropriate and ought to be documented in the ATCO Gas T&Cs.

The Board notes that no party expressed concerns with the implementation of the proposed rules and considers that the proposed rules are appropriate and assist in addressing the concerns expressed by the Board in Decision 2006-098. However, the Board considers that the rules should be amended to deal with a situation where a retailer has declared itself or has been declared to be insolvent prior to the full three days of account monitoring. In this event customers could be transferred to the DSP earlier, thereby saving the accumulation of load balancing costs that would be shared among all customers into the LBDA.

The Board directs ATCO Gas to file amended Account Monitoring Rules in a subsequent Retailer Service application. The Board concurs with Nexen that it would be appropriate to incorporate the amended Account Monitoring Rules in the ATCO Gas T&Cs.

3.4 Load Balancing Deferral Account Administration

ATCO Gas requested approvals associated with the following administrative aspects associated with the LBDA:

1. Timing trigger to file an LBDA rider application
2. Other charges proposed to be included in the LBDA
3. Deferral of income tax effect of LBDA amounts

The Board will deal with each of these topics in the following sections.

3.4.1 Timing Trigger to File an LBDA Rider Application

In Decision 2006-098, the Board considered that it would be appropriate for ATCO Gas to allow the monthly LBDA balances to accumulate to a level of $2 million prior to making application to clear the account with a rate rider.[21] However, the Board also indicated that the $2 million threshold could be subsequently reviewed by parties with an opportunity to propose changes to the Board with agreement among parties. In Decision 2006-098, the Board also considered that if an LBDA application were made, it might be appropriate to consolidate the administration with other deferral amounts.

ATCO Gas proposed that an application to refund or recover the LBDA balance not be made until the amount of $2 million has been exceeded for three consecutive months. ATCO Gas noted that this provision would recognize that transactions in the LBDA may be offsetting from month to month, and allowing the balance to ride may reduce customer costs associated with LBDA rider applications. Nonetheless, ATCO Gas expressed a desire to be able to waive the three consecutive month provision if it considered the LBDA balance to be significantly material. Additionally, ATCO Gas indicated that an LBDA application may incorporate other outstanding deferral accounts.

[21] Reference Decision 2006-098, page 48

ATCO Gas indicated that subsequent to the implementation of load balancing, it would report each of the North and South LBDA balances for information each month with the format of the report being similar to that currently provided by ATCO Pipelines.

The CCA supported the ATCO Gas proposal and requested that ATCO Gas file monthly status reports with all interested parties as well as the Board. Nexen also supported the ATCO Gas LBDA proposal as well as its proposal to review the LBDA trigger value once Retailer Service account balancing is implemented and sufficient actual LBDA experience under these rules is established. No parties expressed opposition to the proposal.

The Board considers the proposed approach to monitor the LBDA and to file an application to refund or recover the LBDA balance if it exceeds $2 million for three consecutive months is reasonable and agrees that this approach may reduce costs associated with rate rider applications. Any application to waive this amount, as contemplated by ATCO Gas, would be considered by the Board presumably based on extenuating circumstances. The Board expects that ATCO Gas would make the historic information on the monthly balances publicly available on its website following the implementation of Retailer Service, and understands that is its intention.

3.4.2 Other Charges Proposed to be Included in the LBDA

ATCO Gas proposed that the following charges should be included in the LBDA:

a) Carrying charges based on Weighted Average Cost of Capital (WACC)
b) Credit support charges associated with gas acquisition for load balancing
c) ATCO Pipelines OPR/OPDC associated with NGTL sourced load balancing gas acquisition
d) Board approved ATCO Pipelines LBDA charges to ATCO Gas
e) Transaction costs respecting gas co-ops in the special transition circumstances related to annexations
f) Revenue from unmetered gas lights credited to the LBDA
g) Hit line revenue recovered from third parties credited to the LBDA
h) Un-recovered account balancing amounts related to retailers

The Board will deal with each of these topics in the following sections.

3.4.2.1 Carrying Charge Rate

ATCO Gas indicated that utilization of carrying costs at its WACC would be consistent with the ATCO Pipelines LBDA administration as approved in Order U2005-261,[22] and reflects the premise that balances could be outstanding for extended periods of time before a rate rider application might be triggered. ATCO Gas proposed a monthly calculation for carrying charges to reflect the fact that the account can readily move from a receivable to a payable position on a month to month basis.

EDM/UCA, CCA and Calgary recommended use of a short-term interest rate equal to the Bank of Canada bank rate plus 1 ½ % as referenced in IL 2000-1.[23] Parties opposed to the use of WACC highlighted that short-term financing is available to ATCO Gas from CU Inc. in

[22] Order U2005-261 – ATCO Pipelines Settlement for ATCO Pipelines Customer Account Balancing - Part B: Load Balancing (Application 1396460), Released: June 24, 2005

[23] Information Letter IL 2000-1 General Policy for Payment of Interest issued February 16, 2000

short-term increments[24] and it would be unlikely that ATCO Gas would be acquiring any sort of long-term capital for these balances. These parties did not consider that the current administration of the ATCO Pipelines LBDA at WACC was relevant and that ATCO Gas should be administered on its own merit. The CCA considered that excluding equity from the calculation, as would be required with the use of WACC, would simplify the process by avoiding consideration of income tax complexities.

ATCO Gas did not consider that use of a short-term interest rate as described in IL 2000-1 would be appropriate citing the following reasons:

- IL 2000-1 indicates the regulatory lag before implementation of the rate adjustment must exceed 12 months, but the LBDA balances will continuously impact ATCO Gas
- No ability to track which balances have been outstanding for more than 12 months
- IL 2000-1 references a minimum threshold amount of $1 million which ATCO Gas considered to be inappropriate and not fully defined with respect to the LBDA
- IL 2000-1 references a requirement for approval of an estimate of the interest rate and the aggregate amount of interest being paid, which cannot be accurately forecast.

The Board acknowledges the concerns highlighted by ATCO Gas respecting IL 2000-1 in the context of this matter.

The Board considers that it is appropriate to allow the collection or reciprocal refund of carrying charges on balances in a deferred account which may accumulate to material amounts. If carrying charges are applied consistently, both customers and shareholders will be treated in a generally equitable fashion, particularly if the balances may be carried for an extended period. Applying carrying costs consistently for all balances on a monthly basis would avoid any need to review materiality thresholds.

The Board notes the consistency of the ATCO Gas proposal with the WACC rate approved for the ATCO Pipelines LBDA in association with the negotiated settlement approved in Order U2005-261, but also notes that ATCO Pipelines is expected to review its application of carrying charges in its current GRA.

The Board expects that the balances in the LBDA will be uncertain and impossible to accurately forecast. The LBDA is expected to fluctuate between positive and negative balances and significant balances could persist for extended time periods without necessarily reaching a level where a rider might be implemented to clear the imbalances.

After consideration of these factors, the Board approves the request by ATCO Gas to calculate LBDA carrying charges on monthly balances at the most recently approved WACC after the LBDA is implemented.

The Board directs ATCO Gas to review and explain the use of WACC for the LBDA at its first general rate application subsequent to the 2008-2009 test years.

With regard to the determination of the monthly balances to be utilized in the carrying charge calculations, ATCO Gas proposed use of the month-end balance. Calgary and CCA proposed use

[24] Reference Cal-AG-4(b)

of a mid-month determination based upon an average of month-end balances for two months. CCA further considered use of a daily balance would be the fairest approach. ATCO Gas disagreed with use of a mid-month average or a daily calculation as the balance can swing from a receivable to a payable position from month to month. Additionally, ATCO Gas indicated that not all charges would be known on a daily basis therefore precluding the use of daily balances.

The Board considers the ATCO Gas concerns respecting use of a mid-month average or a daily balance to be valid and approves use of a month-end LBDA balance calculation as proposed by ATCO Gas.

3.4.2.2 Credit Support Charges Associated with Gas Acquisition for Load Balancing

ATCO Gas indicated that it may be required to incur credit support costs associated with executing purchase or sales transactions on NGX and /or to other parties in association with load balancing its FSU accounts each day. ATCO Gas considered that these costs should be included in the LBDA as they are integral to the load balancing function.

No parties expressed specific disagreement with including credit related charges in the LBDA, although Calgary cautioned that the LBDA should not become a dumping ground for unusual or stranded costs.

The Board considers the inclusion of reasonable charges directly associated with credit support for gas purchases to load balance the ATCO Gas system to be appropriate and approves that approach.

3.4.2.3 ATCO Pipelines OPR/OPDC associated with NGTL Sourced Load Balancing Gas Acquisition

ATCO Gas indicated that it must load balance its systems and in performing this function it may be required to acquire gas or sell gas on the NGTL system. ATCO Gas also stated that ATCO Pipelines' OPR/OPDC tariffs are approved by the Board and apply to gas energy transferred from/to NGTL's systems. ATCO Gas proposed that when it incurs those charges for balancing its FSU accounts it is appropriate that those charges be recorded to the LBDA. ATCO Gas indicated that it would endeavour to ensure that it optimizes costs in this process.

Calgary expressed concerns respecting the inclusion of ATCO Pipelines OPR and OPDC charges. Instead of incurring these affiliate-related charges, Calgary proposed that ATCO Gas ought to avoid or minimize such charges to the extent possible by utilizing the ATCO Pipelines system rather than NGTL, and/or by using Carbon storage.

Calgary submitted that before any OPR or OPDC charges are included in the LBDA, the Board should require ATCO Gas to demonstrate that gas actually flowed to or from NGTL to ATCO Pipelines before such costs are imposed on ratepayers. The Board should direct ATCO Gas to submit, with any filing to collect or refund LBDA costs which include OPR or OPDC charges, a full and complete documented disclosure. That disclosure should indicate the volumes and the costs thereof which actually flowed between NGTL and ATCO Pipelines causing the cost which is sought to be recovered.

EDM/UCA agreed with the City of Calgary that ATCO Gas must demonstrate that it has acquired or sold gas on the ATCO Pipelines system to eliminate or mitigate to the extent possible, the incurrence of OPR/OPDC costs paid to its affiliate, ATCO Pipelines.

In reply argument, ATCO Gas concurred that when the price of gas on ATCO Pipelines' system is equal to or is at a discount to gas on NGTL's system it should be transacted on ATCO Pipelines' system and that it would undertake to perform such comparisons once Retailer Service is implemented.

The Board considers reasonable the inclusion of OPR and OPDC charges associated with purchase or sale of NGTL based load balancing supplies, when such supply is the most economic for load balancing the ATCO Gas system, and approves that approach.

The Board concurs with Calgary that it would be appropriate for ATCO Gas to provide documentation supporting the OPR and OPDC charges and directs ATCO Gas to provide that supporting information in LBDA rider applications.

3.4.2.4 Board Approved ATCO Pipelines LBDA Charges to ATCO Gas

In Decision 2006-098, the Board noted the following:[25]

> While ATCO Gas specifically requested approval to include load balancing transactions and account imbalance settlements in the LBDA, which the Board approved in Section 8.2 above, the Board notes that ATCO Gas did not explicitly request approval for the "Other Charges" shown in Sample Schedule LB-1. The Board notes that the Other Charges include ATCO Pipelines charges associated with Other Pipeline Receipt service and Other Pipeline Delivery Commodity service, credit charges and the carrying charges noted above. The Board also notes that ATCO Gas did not specifically include adjustments related to its FSU account that may be required if ATCO Pipelines sought recovery or provided refunds associated with the balances in its transmission load balancing account(s).

ATCO Gas indicated that in the process associated with Decision 2006-098, it had inadvertently excluded provision to recover adjustments related to its FSU account that may be required if ATCO Pipelines sought recovery or provided refunds associated with the balances in its transmission load balancing accounts. ATCO Gas requested approval to include Board approved ATCO Pipelines LBDA adjustments related to ATCO Gas in the ATCO Gas LBDA.

Calgary noted that the Board had not explicitly approved the inclusion of these adjustments. Calgary submitted that in order to protect customers, these adjustments should not be included in the ATCO Gas LBDA until ATCO Gas demonstrates that it challenged the ATCO Pipelines cost in a manner similar to other shippers on ATCO Pipelines.

The Board concurs with ATCO Gas that it would be appropriate for it to include in its LBDA any ATCO Pipelines LBDA charges or credits to ATCO Gas, after the ATCO Pipelines adjustments have been approved by the Board in an ATCO Pipelines proceeding.

[25] Decision 2006-098, page 49

3.4.2.5 Transaction Costs Respecting Gas Co-ops in the Special Transition Circumstances Related to Annexations

ATCO Gas identified that as a result of some annexations by municipalities, certain customers previously served by gas co-ops become ATCO Gas customers. In circumstances where ATCO Gas' distribution lines are not yet in place, the gas co-ops continue to provide physical gas supply to these customers and receive payment from ATCO Gas. As this gas supply impacts ATCO Gas' FSU account(s) balance, ATCO Gas proposed that the cost of these transactions should be administered through the LBDA.

Calgary considered that the impacted co-op customers will be customers of the DSP or a retailer. Calgary suggested that ATCO Gas has provided no justification for why it would be paying for the gas, or why other customers should be in any way affected. As a result Calgary considered that this element of the Updated Application should not be approved.

The Board does not consider the record to be clear on this matter and directs ATCO Gas in a subsequent Retailer Service application to clearly outline what type of costs (gas supply, delivery, etc) ATCO Gas pays to gas co-ops in the noted circumstances above. ATCO Gas should also indicate whether the customers in the annexed areas are billed by the DSP or retailers and whether these customers are billed for gas supply and delivery charges. ATCO Gas should also explain fully how its FSU account(s) are impacted.

3.4.2.6 Revenue from Unmetered Gas Lights Credited to the LBDA

ATCO Gas proposed that the revenue generated from unmetered gas lights be administered as a credit to the LBDA because the associated gas consumption impacts the ATCO Gas FSU account balances.

ATCO Gas indicated[26] that revenue from unmetered gas light service is currently credited to DERS as DERS is currently absorbing the impact of unmetered gas lights and hit lines through its current provision of aggregate load balancing. Upon implementation of Retailer Service this load balancing function will transfer from DERS to ATCO Gas, therefore ATCO Gas will incur the day-to-day impact and proposed to credit the LBDA with the revenue. ATCO Gas indicated that unmetered amounts are not reported in the UFG calculation and therefore are a component of UFG recovered in Rider D, so over time ATCO Gas expects a positive residual LBDA amount.

Calgary and EDM/UCA considered that volumes of gas associated with unmetered gas light service should not be included in the LBDA as they suggested such volumes will be recovered through the unaccounted for gas (UFG) Rider D.

ATCO Gas clarified that its proposal was to deal with the revenue, rather than the volumes of gas. ATCO Gas commented that UFG is an energy-only calculation; therefore it is not possible to include revenue in the UFG calculation. Calgary considered it would be possible to convert the revenue from unmetered gas lights to a heat value.

[26] Reference Information Response CAL1-AG7

The Board considers that the ATCO Gas proposal is reasonable and approves the inclusion of the revenue component from unmetered gas lights as a credit to the LBDA, commencing effective upon implementation of the LBDA.

3.4.2.7 Hit Line Revenue Recovered from Third Parties Credited to the LBDA

ATCO Gas proposed that the revenue generated from gas losses associated with hit lines by third parties be administered as a credit to the LBDA since it impacts the ATCO Gas FSU account balances.

Calgary and EDM/UCA disagreed with this treatment on the same basis as referenced for the unmetered gas lights.

The Board considers that the ATCO Gas proposal is reasonable and approves the inclusion of the revenue generated from gas losses associated with hit lines by third parties as a credit to the LBDA, commencing effective upon implementation of the LBDA.

3.4.2.8 Un-recovered Account Balancing Amounts Related to Retailers

ATCO Gas proposed to charge account balancing related costs invoiced to a retailer which cannot be recovered after the application of any security provided to ATCO Gas by the retailer to the LBDA.[27]

ATCO Gas suggested that while the proposal for the addition of the un-recovered balancing cost component to the LBDA was not collaboratively discussed, it believes the inclusion of this component is consistent with the intent of Section 9(5) of the Regulation which indicates that a gas distributor is entitled to recover as part of its gas distribution tariff any costs not covered by a claim against the retailer's security.

No parties provided evidence specifically in conflict with the ATCO Gas proposal for account balancing amounts not recovered after the application of security. However, Calgary and EDM/UCA did note their perspectives with respect to the matters addressed under Section 3.2 of this Decision, that it would be more appropriate for customers of the retailer or DSP to bear the costs incremental to the security deposit associated with a retailer or DSP failure.

The Board believes that an underlying concept associated with the Regulation is for the gas distributor to be held harmless with respect to the recovery of costs incurred in the circumstances where the distributor was acting in a prudent fashion. The Board considers that to the extent that ATCO Gas has followed appropriate procedures, particularly with respect to the Account Monitoring Rules as approved in Section 3.3 of this Decision, and acquired the appropriate amount of security, as approved by the Board, it would be appropriate for ATCO Gas to include in the LBDA account balancing related costs that are invoiced to retailers, but which cannot be recovered after the application of any security provided by the retailer.

Accordingly, the Board approves the applied-for recovery through the LBDA of unrecovered costs for account balancing that exceed the funds available from the retailer security.

[27] The Board understands that these charges would not apply to the DSP since security from the DSP is dealt with outside the ATCO Gas T&Cs.

The Board considers that any costs subsequently recovered from a defaulting party would be credited to the LBDA.

3.4.3 Deferral of Income Tax Effect of LBDA Amounts

ATCO Gas is seeking approval to defer any income tax effect of amounts recorded to the LBDA. Given that there may be a timing difference between when amounts charged to the LBDA will be recognized for income tax purposes and when ATCO Gas will implement a rider related to the LBDA, ATCO Gas indicated there will also be an income tax expense timing difference. In order to ensure that this income tax expense timing difference does not impact the earnings of ATCO Gas from year to year, ATCO Gas proposed to defer these income tax expense timing differences.

The CCA concurred with ATCO Gas that deferred income tax credits may be generated dependent upon the methodology determined by the Board respecting the LBDA carrying costs. It considered that deferred income taxes related to the LBDA should either be included as no cost capital in the capital structure of ATCO Gas, or alternatively within the calculation of WACC in the LBDA, but not in both places. The CCA cautioned that ATCO Gas should not benefit from the deferred income taxes of the LBDA as customers are responsible for the income tax expense of the utility operations.

No other parties expressed explicit concerns with respect to the ATCO Gas proposal to defer any income tax effect of amounts recorded in the LBDA.

In response to the CCA comments, ATCO Gas stated that deferred income tax will arise regardless of what interest rate methodology is used. Further, ATCO Gas considered that it would be inconsistent to consider treating the LBDA as short-term for carrying costs, but long term with respect to deferred income taxes.

The Board notes that ATCO Gas has requested additional deferred account treatment, including weather-related deferrals in its 2008-2009 GRA application. In that GRA application ATCO Gas also requested continuation of previously approved deferred tax treatments respecting deferral accounts.

The Board considers that it would be preferable to consolidate the assessment of the treatment of tax deferrals within the 2008-2009 GRA and directs ATCO Gas to request the Alberta Utilities Commission to further consider the issue of deferring any income tax effect of amounts recorded to the LBDA in that proceeding.

4 ORDER

IT IS HEREBY ORDERED THAT:

1) ATCO Gas shall comply with the approvals and directions in this Decision.

Dated in Calgary, Alberta on March 17, 2008.

ALBERTA ENERGY AND UTILITIES BOARD

(original signed by)

B. T. McManus, Q.C.
Presiding Member

(original signed by)

C. Dahl Rees, LL.B.
Member

APPENDIX 1 – ATCO GAS PROPOSED ACCOUNT MONITORING RULES

Appendix 1 -
Account Monitoring R

(consists of 5 pages)

APPENDIX 2 – SUMMARY OF BOARD 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 Board directs ATCO Gas to update its DAS T&Cs in a subsequent Retailer Service application to require retailers to provide ATCO Gas with additional security, separate and distinct from the security provided in respect of its distribution tariff payment obligations required under Section 5 of the Regulation. This new additional security (the Load Balancing Security) shall be in an amount equivalent to 20 days of security for the retailer's distribution tariff payment obligations and shall serve as security in respect of the enhanced load balancing obligations that ATCO Gas may be required to perform in the event of a retailer failure to supply. 12
2. The Board directs ATCO Gas to file amended Account Monitoring Rules in a subsequent Retailer Service application. The Board concurs with Nexen that it would be appropriate to incorporate the amended Account Monitoring Rules in the ATCO Gas T&Cs. 14
3. The Board directs ATCO Gas to review and explain the use of WACC for the LBDA at its first general rate application subsequent to the 2008-2009 test years. 16
4. The Board concurs with Calgary that it would be appropriate for ATCO Gas to provide documentation supporting the OPR and OPDC charges and directs ATCO Gas to provide that supporting information in LBDA rider applications. 18
5. The Board does not consider the record to be clear on this matter and directs ATCO Gas in a subsequent Retailer Service application to clearly outline what type of costs (gas supply, delivery, etc) ATCO Gas pays to gas co-ops in the noted circumstances above. ATCO Gas should also indicate whether the customers in the annexed areas are billed by the DSP or retailers and whether these customers are billed for gas supply and delivery charges. ATCO Gas should also explain fully how its FSU account(s) are impacted. 19
6. The Board considers that it would be preferable to consolidate the assessment of the treatment of tax deferrals within the 2008-2009 GRA and directs ATCO Gas to request the Alberta Utilities Commission to further consider the issue of deferring any income tax effect of amounts recorded to the LBDA in that proceeding. 21

APPENDIX 3 – SUMMARY OF BOARD FINDINGS AND APPROVALS

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

1. For these reasons the Board approves the ATCO Gas proposal that the settlement price for imbalance purchases would be the lowest SD or YD market trade price occurring on the NGX for the gas day as reported by NGX, and that the settlement price for imbalance sales would be the highest such SD or YD price for the gas day. Implementation of this settlement pricing scheme would be concurrent with the future implementation of daily balancing. The Board concurs with the suggestion by Nexen that it would be reasonable to review the effectiveness of the imbalance purchase/sale price from time to time, and considers that could be done effectively as part of an application for an LBDA rate rider. 5
2. The Board notes that no parties expressed opposition to the proposal to implement at least a cold standby system that would backup the DFSS system from catastrophic failure within 72 hours. The Board further notes that ATCO Gas has indicated that it has a short-term contingency plan utilizing the last system data to bridge the gap from the time of a failure until the cold standby backup system could be implemented. The Board considers the cold standby system, together with the proposed short-term contingency plan, to be adequate and that they should be implemented as soon as possible, subject to ATCO Gas' advice as to the availability of a hot standby system at an equivalent price or lower price. 6
3. The Board notes that no party expressed concerns with the implementation of the proposed rules and considers that the proposed rules are appropriate and assist in addressing the concerns expressed by the Board in Decision 2006-098. However, the Board considers that the rules should be amended to deal with a situation where a retailer has declared itself or has been declared to be insolvent prior to the full three days of account monitoring. In this event customers could be transferred to the DSP earlier, thereby saving the accumulation of load balancing costs that would be shared among all customers into the LBDA. 14
4. The Board considers the proposed approach to monitor the LBDA and to file an application to refund or recover the LBDA balance if it exceeds $2 million for three consecutive months is reasonable and agrees that this approach may reduce costs associated with rate rider applications. Any application to waive this amount, as contemplated by ATCO Gas, would be considered by the Board presumably based on extenuating circumstances. The Board expects that ATCO Gas would make the historic information on the monthly balances publicly available on its website following the implementation of Retailer Service, and understands that is its intention. 15
5. After consideration of these factors, the Board approves the request by ATCO Gas to calculate LBDA carrying charges on monthly balances at the most recently approved WACC after the LBDA is implemented. 16
6. The Board considers the ATCO Gas concerns respecting use of a mid-month average or a daily balance to be valid and approves use of a month-end LBDA balance calculation as proposed by ATCO Gas. 17
7. The Board considers the inclusion of reasonable charges directly associated with credit support for gas purchases to load balance the ATCO Gas system to be appropriate and approves that approach. 17

8. The Board considers reasonable the inclusion of OPR and OPDC charges associated with purchase or sale of NGTL based load balancing supplies, when such supply is the most economic for load balancing the ATCO Gas system, and approves that approach. 18

9. The Board concurs with ATCO Gas that it would be appropriate for it to include in its LBDA any ATCO Pipelines LBDA charges or credits to ATCO Gas, after the ATCO Pipelines adjustments have been approved by the Board in an ATCO Pipelines proceeding. 18

10. The Board considers that the ATCO Gas proposal is reasonable and approves the inclusion of the revenue component from unmetered gas lights as a credit to the LBDA, commencing effective upon implementation of the LBDA. 20

11. The Board considers that the ATCO Gas proposal is reasonable and approves the inclusion of the revenue generated from gas losses associated with hit lines by third parties as a credit to the LBDA, commencing effective upon implementation of the LBDA. 20

12. Accordingly, the Board approves the applied-for recovery through the LBDA of unrecovered costs for account balancing that exceed the funds available from the retailer security. 20

ATCO Gas Account Monitoring Rules

Step 1

If there is no evidence of a nomination in the Retailer's account by 10:00 a.m. local time of the current Gas Day (Gas Day 1), which has not been pre-authorized by ATCO Gas, ATCO Gas will attempt to contact the Retailer for an explanation. If Retailer indicates in writing (by email or FAX) that it intends to balance its account[1] within the Account Balancing Timeline[2], then ATCO Gas will take no further action at Step 1.

If at Step 1

a) ATCO Gas, with reasonable effort by telephone and email, is unable to contact the Retailer by the time of the release of the F3 forecast for Gas Day 1, or

b) the Retailer has indicated an inability to make nominations to its account for Gas Day 1, or

c) there continues to be no evidence of a nomination in the Retailer's account by the time of the release of the F3 forecast[3] for Gas Day 1,

then ATCO Gas will transact on the Same Day market based on the F3 forecast for Gas Day 1. The transaction(s) will be recorded in ATCO Gas' FSU account, not the Retailer's account, and charged to the LBDA. The Retailer's account will be closed for the remainder of Gas Day 1 and the rules related to Imbalance purchase/sales as stipulated in ATCO Gas' Terms & Conditions will be in effect for the Retailer's account on Gas Day 1.

Step 2

If there is no evidence of a nomination in the account by 10:00 a.m. local time of the Gas day following Gas Day 1 (i.e. Gas Day 2), which has not been pre-authorized by ATCO Gas, ATCO Gas will attempt to contact the Retailer for an explanation. This rule will also apply to those Retailers who made a commitment to balance their account in Step 1, but did not fulfill that commitment, even if a nomination was made for Gas Day 1. The Retailer will be required to nominate gas supply equal to the F3 forecast for Gas Day 2 no later than one half (½) hour after the F3 forecast has been issued.

If at Step 2

a) ATCO Gas, with reasonable effort by telephone and email, is unable to contact the Retailer by the time of one half (½) hour after the release of the F3 forecast for Gas Day 2, or

b) Retailer has indicated an inability to make the nominations to its account for Gas Day 2, or

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[1] "[B]alance its account" means Retailer provided sufficient gas supply for Gas Day 1 such that the resulting account imbalance on Gas Day 1 was within the Imbalance Window and no imbalance purchase/sale was triggered.

[2] The Account Balancing Timeline referred to was initially proposed in Issue 3 but has been deferred and will be established in the Nominations Cycles Timing.

[3] The third forecast produced by ATCO Gas for the Gas Day or the last forecast available for the Retailer's account in the event of a system failure.

c) the gas supply in the Retailer's account does not equal the F3 forecast energy by the time of one half (½) hour after the release of the F3 forecast for Gas Day 2,

then ATCO Gas will transact on the Same Day market based on the F3 forecast for Gas Day 2. The transaction(s) will be recorded in ATCO Gas' FSU account, not the Retailer's account, and charged to the LBDA. The Retailer's account will be closed for the remainder of Gas Day 2 and the rules related to Imbalance purchase/sales as stipulated in ATCO Gas' Terms & Conditions will be in effect for the Retailer's account on Gas Day 2.

ATCO Gas will also provide electronic notice to the Retailer indicating that unless Retailer takes action to provide gas supply to its account sufficient to alleviate ATCO Gas' concerns by 10:00 a.m. local time of the next Gas Day (i.e. Gas Day 3), ATCO Gas intends to permanently close the Retailer's account during Gas Day 3.

Step 3

If there is no evidence of a nomination in the Retailer's account by 10:00 a.m. local time of the current Gas Day (Gas Day 3), which has not been pre-authorized by ATCO Gas, ATCO Gas will provide electronic notice to Retailer that its account is permanently closed. ATCO Gas will commence de-enrollment of sites associated with Retailer's account during Gas Day 3[4].

ATCO Gas will transact on the Same Day market based on the F3 forecast for Gas Day 3. The transaction(s) will be recorded in ATCO Gas' FSU account, not the Retailer's account, and charged to the LBDA. The rules related to Imbalance purchase/sales as stipulated in ATCO Gas' Terms & Conditions will be in effect for the Retailer's account.

Step 4

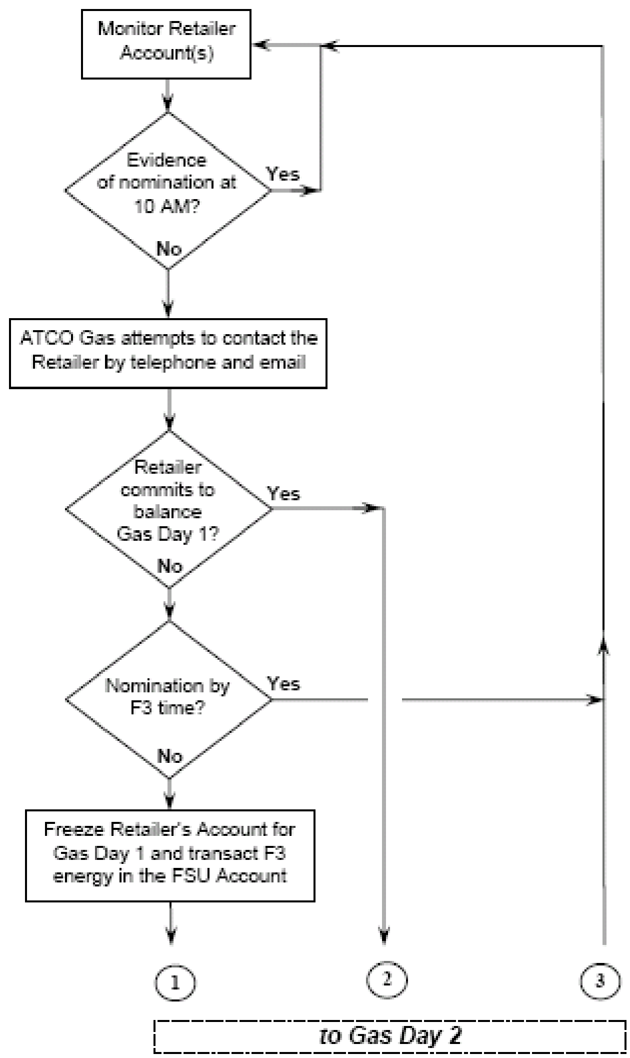
ATCO Gas will continue to transact in the Same Day market based on the F3 forecast for the Retailer who has defaulted until all the Retailer's sites have been de-enrolled and successfully re-enrolled with the DSP. The transaction(s) will be recorded in ATCO Gas' FSU account, not the Retailer's account and the rules related to Imbalance purchase/sales as stipulated in ATCO Gas' Terms & Conditions will be in effect. When all of the defaulting Retailer's sites have been successfully enrolled with the DSP, the termination of Distribution Access Service will be complete and ATCO Gas will not undertake any further transactions on behalf of the defaulting Retailer. ATCO Gas will continue to apply the rules related to Imbalance purchase/sales to the Retailer's account as a result of adjustments related to settlement or other matters which occur after the Retailer's account has been permanently closed.

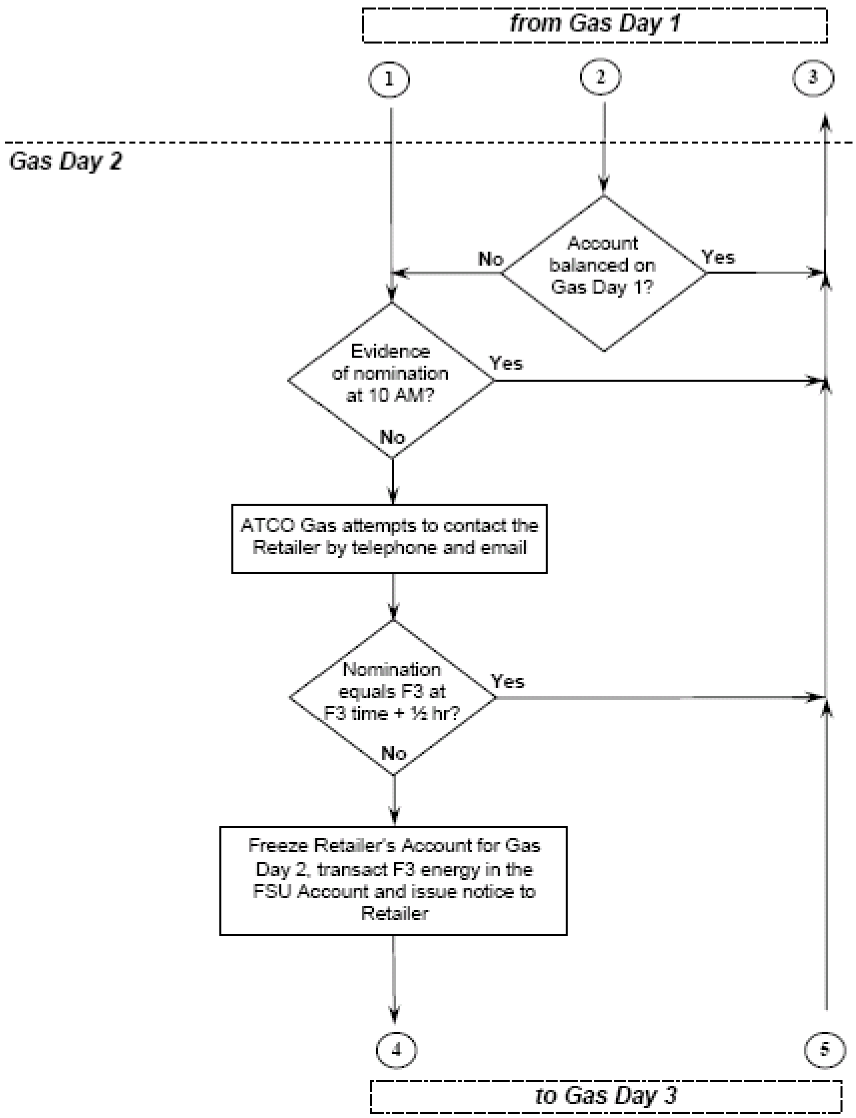
Step 5

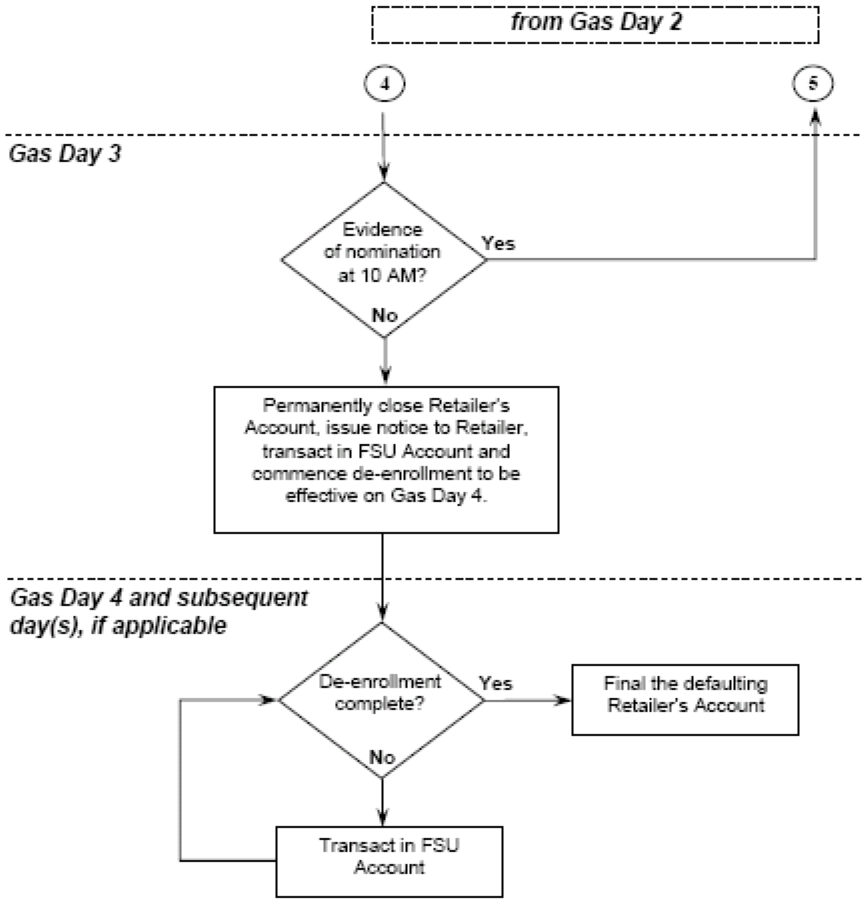
In the event of non-payment on the part of the Retailer, and without limiting ATCO Gas' rights or remedies at law or in equity, ATCO Gas shall have the right to recover any charges to a Retailer by claiming against the Retailer's or Agent's performance bond (as stipulated in Article 11 of the Terms and Conditions of Distribution Access Service) which exists to secure due performance by the Retailer or Agent of its obligation under the Distribution Access Service Agreement.

[4] De-enrollment will first take effect on Gas Day 4

Gas Day 1


Monitor Retailer Account(s)
Evidence of nomination at 10 AM?
Yes
No
ATCO Gas attempts to contact the Retailer by telephone and email
Retailer commits to balance Gas Day 1?
Yes
No
Nomination by F3 time?
Yes
No
Freeze Retailer's Account for Gas Day 1 and transact F3 energy in the FSU Account
1
2
3
to Gas Day 2


from Gas Day 1
1
2
3
Gas Day 2
Account balanced on Gas Day 1?
No
Yes
Evidence of nomination at 10 AM?
Yes
No
ATCO Gas attempts to contact the Retailer by telephone and email
Nomination equals F3 at F3 time + ½ hr?
Yes
No
Freeze Retailer's Account for Gas Day 2, transact F3 energy in the FSU Account and issue notice to Retailer
4
5
to Gas Day 3


from Gas Day 2
4
5
Gas Day 3
Evidence of nomination at 10 AM?
Yes
No
Permanently close Retailer's Account, issue notice to Retailer, transact in FSU Account and commence de-enrollment to be effective on Gas Day 4.
Gas Day 4 and subsequent day(s), if applicable
De-enrollment complete?
Yes
No
Final the defaulting Retailer's Account
Transact in FSU Account