



## AltaGas Utilities Inc.

Decision on Preliminary Question  
Review and Variance of Alberta Energy and Utilities Board  
Decision 2007-094

August 22, 2008

**ALBERTA UTILITIES COMMISSION**

Decision 2008-079: AltaGas Utilities Inc.

Decision on Preliminary Question

Review and Variance of Alberta Energy and Utilities Board Decision 2007-094

Application No. 1564573

August 22, 2008

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**ALTAGAS UTILITIES INC.  
DECISION ON PRELIMINARY QUESTION  
REVIEW AND VARIANCE OF  
ALBERTA ENERGY AND UTILITIES BOARD  
DECISION 2007-094**

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Application No. 1564573**

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**1 INTRODUCTION**

The Alberta Utilities Commission (Commission or AUC) received an application for review and variance dated March 10, 2008 from AltaGas Utilities Inc. (AUI) of Alberta Energy and Utilities Board (Board) Decision 2007-094<sup>1</sup> issued on December 11, 2007. The application for review and variance was made in accordance with AUC Rule 016, *Review and Variance of Commission Decisions*.<sup>2</sup> Decision 2007-094 determined AUI's 2007 General Rate Application which was heard at a public hearing held in August 2007.

In Decision 2007-094, the Board denied AUI recovery of various costs in AUI rates for the reasons set out in the Decision. In its application for review and variance, AUI alleges that the Board in Decision 2007-094 erred in law or in fact by

- finding, in respect of inter-affiliate costs, that financial harm to customers had resulted from the Transaction;<sup>3</sup>
- failing to consider and correctly calculate the financial benefits of the Transaction in the determination of financial harm;
- disallowing certain material, contractor and other expense costs on the basis of perceived potential double recovery or inflated forecasting, contrary to the evidence; and
- applying an incorrect legal standard to the determination of the rates of AUI.

By letter dated March 14, 2008, the Commission notified interested parties of the application for review and variance and provided them with an opportunity to make submissions on the application as well as allowing for a reply submission from AUI. On April 4, 2008, the Commission received submissions from the Consumers' Coalition of Alberta (CCA), the

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<sup>1</sup> Decision 2007-094 – AltaGas Utilities Inc. 2007 General Rate Application Phase I (Application No. 1494406, Released: December 11, 2007)

<sup>2</sup> As the review was filed after the coming into force of the *Alberta Utilities Commission Act* and the decision that is the subject of the review is within the jurisdiction of the Commission, the review is being dealt with by the Commission, pursuant to subsection 80(4) of this Act.

<sup>3</sup> Transaction refers to the share transfer transaction approved in Decision 2005-112, following a request by AUHI (an indirect subsidiary of AIT) for approval to transfer 100% of the outstanding shares in the capital stock of AUHI from AltaGas Holding Limited Partnership No. 1 to AUGI, as part of the larger Transaction, described more fully in Decision 2005-112. The Transaction would ultimately result in the spinoff of AUI into a subsidiary of AUGI, which is a publicly traded company.

Municipal and Gas Co-ops Intervenors (MGCI) and the Office of the Utilities Consumer Advocate (UCA). CCA and MGCI supported the submissions of the UCA. Moreover, CCA specified that in its view AUI's review application appeared to be more of an expression of AUI's dissatisfaction with the outcome of the Board's deliberations as reflected in Decision 2007-094, as concluded by the UCA in its submission. On April 22, 2008, AUI submitted its reply submission.

## 2 DECISION

The Commission has considered AUI's application for review and variance of Decision 2007-094, the submissions of the interveners, and AUI's reply submission. On an application for review and variance, the Commission must decide the preliminary question of whether the decision made by it should be reviewed as requested in the application for review and variance. In making its decision on the preliminary question, the Commission has applied the test set out in section 12(a) (i) of the AUC Rule 016, *Review and Variance of Commission Decisions* which states:

**12** The Commission shall grant an application for review,

(a) with respect to a review of a decision, other than a review under section 4(1), if the Commission determines that;

(i) in the case where the applicant has alleged an error of law or jurisdiction or an error of fact, in the Commission's opinion, the applicant has raised a substantial doubt as to the correctness of the decision, or,

Therefore, the Commission has scrutinized Decision 2007-094 and has reviewed the portion of the transcript from the above-mentioned Board hearing relating to the issues raised and submissions to the Board in that hearing to determine whether AUI has raised a substantial doubt as to the correctness of the Decision 2007-094. The Commission has set out below under each of the grounds raised by AUI whether AUI, as the review applicant, has raised a substantial doubt as to the correctness of the Board's decision.

### 2.1 Finding, in respect of inter-affiliate costs, that financial harm to customers had resulted from the Transaction

#### 2.1.1 Views of the Parties

AUI took issue with the following finding of the Board:

The Board finds that due to the Transaction, AUI will receive a much greater allocation of inter-affiliate shared costs. As indicated by AUI, prior to the Transaction, AUI was allocated 21.45% of fiduciary costs, based on AUI's total assets as a percentage of the total assets of all of ASI's [(AltaGas Services Inc.)] businesses. The Board finds that as a result of the Transaction, AUI's customers will experience an additional cost of \$632,573, as demonstrated in Table 56 of the Application, given that there has been a significant change to the asset base on which fiduciary costs are allocated to AUI.<sup>4</sup>

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<sup>4</sup> Board Decision 2007-094 2007 General Rate Application Phase I, page 50-51

AUI argued that:

- Any transaction related to the assets of the parent company does impact the illustrated allocation of costs to its subsidiary, but that does not mean financial harm has been caused to utility customers.
- Evidence presented during the proceedings proves the change in costs charged to AUI for 2007 were caused by the correction of a long-standing inequitable subsidy of the utility by its parent, not the Transaction.
- Table 56 does not illustrate the effect of the Transaction, but rather the effect of implementation of the assessment of KPMG of the fair and reasonable costs of the utility; there is no causal link between the Transaction and the fair and reasonable level of inter-affiliate costs to be allocated to AUI, nor is there evidence of financial harm.<sup>5</sup>

UCA stated that while AUI claims the Board erred in finding financial harm based on the evidence before it, AUI does not question that evidence or suggest there was other evidence on the record which the Board failed to consider. Also, the UCA added that AUI's argument in this regard is simply restating what it had previously argued; it has not presented an argument for error in fact or law.

Further, UCA argued that, regardless of whether the evidence was refuted or not, the key point is that it was not accepted by the Board as demonstrated by the Board's statement at page 51 of Decision 2007-094, that "while AUI provided a list of services in dollar amounts, the manner in which the information provided was derived was not substantiated by AUI."<sup>6</sup>

In its Reply Submission, AUI agreed with the UCA that it is not questioning the evidence before the Board. Rather, it is questioning the conclusions purportedly drawn from that evidence; from AUI's perspective, such conclusions cannot be reasonably drawn from the evidence presented.<sup>7</sup>

### **2.1.2 Views of the Commission**

The Commission notes that the issue of the no-harm test arose in the context of AUI forecast of total inter-affiliate charges of \$1,858,510 in 2007. These charges relate to direct services and fiduciary services provided to AUI by its indirect owner, AltaGas Utilities Group Inc. (AUGI). The total inter-affiliate charges allowed in 2006 was \$518,294 when these services were provided by AltaGas Income Trust (AIT). The interveners argued that as a result of the Transaction, AUI had gone from a shared services arrangement with AIT where it was charged 21.45% of the fiduciary costs based on its proportion of the total assets as a percentage of the total assets of all of ASI's businesses to a new arrangement with AUGI where it was charged 91.4% of the costs incurred by AUGI with the remaining costs being charged to Inuvik Gas Limited and Heritage Gas Limited. The interveners submitted to the Board that new arrangement resulted in AUI bearing the majority of direct and fiduciary costs which were substantially higher than the previous arrangement with AIT and that this constituted a breach of AltaGas Utility Holdings

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<sup>5</sup> AUI Application for Review and Variance No. 1564573 , paragraphs 8-15

<sup>6</sup> UCA Submission, page 4

<sup>7</sup> Ibid, paragraph 13

Inc. (AUHI) assurances during the Transaction proceeding, that the share transfer would have no adverse impacts on the customers of AUI.

In Decision 2007-094, the Board cited lengthy excerpts from Board Decision [2005-112](#)<sup>8</sup> in which the Board approved the Transaction in support of its conclusion that the no-harm test applied in the proceeding before it. This argument is discussed under section 2.4.

The Commission is also of the opinion that the Board weighed the evidence and conducted a balancing of both the positive and negative financial impacts of the Transaction, as set out in Decision 2007-094. The Commission is of the view that AUI has reiterated in its application for review and variance its arguments made to the Board in the hearing that resulted in Decision 2007-094 and which were not accepted by the Board for the reasons set out in Decision 2007-094. The following paragraphs encapsulated AUI's arguments and the Board's reasons that the Board was not persuaded by AUI's arguments:

AUI argued that the actual inter-affiliate services received had not substantially changed since the Transaction, but instead a historic and propagating error in the application of the methodology had been corrected. AUI argued that the substantial increase in AUI's 2007 forecast for inter-affiliate charges was not directly or indirectly related to the Transaction. It argued that there was no causal connection and that no harm had occurred to its ratepayers as a result of the Transaction.

...

AUI indicated that the significant increases in inter-affiliate costs were the result of AIT's cost allocation model not being updated regularly and rigorously. However when in BR-AUI-27(b) the Board requested substantiation of this claim, AUI produced a table that showed the 2007 forecast amounts and reduced those amounts by inflation to show the alleged shortfalls in those charges in the years 1999-2006. The Board does not find AUI's response or attempt at substantiating its claim to be persuasive, given that it began with the very figures that the Board is being asked to approve in this Decision. The Board also notes that KPMG testified that it was not asked to substantiate the subsidy claim.

One of the witnesses on AUI's witness panel, who was representing AIT, also referred to a lack of understanding at the corporate level that inter-affiliate charges could be passed on to the customer.<sup>193</sup> The Board does not find the position of AUI in this regard to be completely credible, given the weakness of the evidence offered to demonstrate its claim, and given the general capability and sophistication level of AUI and its parent organizations.

In objecting to the proposed cost increases associated with inter-affiliate shared costs contained in the Application, AUMA/UCA considered that the Transaction resulted in harm to customers. Table 56 of the Application indicates that as a result of the Transaction, AUI now receives 91.40% of fiduciary costs based on its proportion of the total assets of the operating businesses owned by AUGI.

...

...

The Board finds that the positive impact of the Transaction of \$640,000 as argued by AUI is not adequately supported by the evidence, and that AUI has not demonstrated sufficient financial benefits to offset the financial impact of the Transaction. The Board

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<sup>8</sup> Decision 2005-112 – AltaGas Utility Holdings Inc. Request for Approval of Share Transfer (Application No. 1408750, Released: October 14, 2005)



finds that the Transaction has left customers worse off in financial terms, and that as a result, without mitigation efforts, customers have suffered financial harm.<sup>9</sup>

The Commission is of the opinion that AUI has not raised a substantial doubt as to the correctness of the Board's finding that the Transaction resulted in financial harm to customers.

## **2.2 Failure to consider and correctly calculate the financial benefits of the Transaction in the determination of financial harm**

### **2.2.1 Views of the Parties**

AUI asserted that the Board failed to consider evidence submitted during the proceeding in support of the financial benefits of the Transaction that AUI's insurance costs decreased with the change in ownership from AIT to AUGI. Also, AUI submitted that clear and unrefuted evidence establishes that had the Transaction not occurred, the estimated 2006 inter-affiliate shared costs charged by the former parent to AUI would have been approximately \$640,000 more than the forecast cost of the same inter-affiliate services charged by AUGI to AUI. In overlooking and dismissing this factual evidence, the Board erred in fact.<sup>10</sup>

The UCA submitted that:

- AUI's evidence regarding savings on insurance is misleading once one considers the actual insurance costs rather than the allowed costs.
- AUI has not submitted new evidence to further support their claims of what insurance costs would have been under AIT ownership.
- The Board acknowledged the evidence before it and determined it was not sufficient; it did not "dismiss" evidence. Arriving at this conclusion is consistent with the Board's absolute discretion in considering and weighing evidence.<sup>11</sup>

In its Reply Submission, AUI explained that the focus of its argument in this instance was on the fact that the Board did not take into account the reduction in insurance costs when purportedly balancing the positive and negative impacts of the Transaction. AUI added that UCA made a misleading comparison of the AUI 2006 allowed and the actual insurance expense. AUI contends that the "best comparators of insurance expense pre- and post- Transaction are the forward looking numbers."<sup>12</sup>

AUI asserts that the only evidence before the Board was that of AUI and that that evidence demonstrated a positive financial benefit. The evidence was not refuted and hence stands as a statement of fact.

### **2.2.2 Views of the Commission**

With regards to the forecast insurance expense under operating, maintenance and business expenses, the Commission is of the view that AUI placed before the Board that in 2006 AUI

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<sup>9</sup> Decision 2007-094, pages 47, 50 and 51

<sup>10</sup> AUI Application for Review and Variance No. 1564573 paragraphs 18-20

<sup>11</sup> UCA Submission, page 5

<sup>12</sup> AUI Reply Submission, paragraph 17

commenced obtaining insurance through its new parent AUGI and this resulted in a lower insurance premium than under the previous parent AIT in support of its submission that this cost was reasonable. AUI added that the net result was that AUI's 2007 forecast for insurance expense was \$473,800 which was \$197,200 less than its 2006 actual expense.<sup>13</sup> However, the Commission was unable to find that AUI had argued before the Board that the reduction in insurance expense was a financial benefit arising from the Transaction or any further explanation about the reduction. The Commission also notes that insurance expenses were itemized under the inter-affiliate services for shared costs. The Commission is of the view that AUI argued that the Transaction had resulted in a positive impact of \$640,000 in relation to the inter-affiliate services received but did not argue that the reduction in insurance expense was a positive impact of the Transaction. The Commission is of the view that the Board assessed the evidence and submissions before it and determined that

For these reasons, the Board is not persuaded that there has been a \$640,000 cost saving as suggested by AUI in Reply Argument. Other than the suggestion of a \$640,000 cost saving, AUI has not provided any evidence of financial benefits arising from the Transaction. The Board finds that the positive impact of the Transaction of \$640,000 as argued by AUI is not adequately supported by the evidence, and **AUI has not demonstrated sufficient financial benefits to offset the financial impact of the Transaction.** The Board finds that the Transaction has left customers worse off in financial terms, and that as a result, without mitigation efforts, customers have suffered financial harm. (emphasis added).<sup>14</sup>

Based on the above, the Commission is of the view that AUI has not raised a substantial doubt as to the correctness of the Board's determination that AUI has not demonstrated sufficient financial benefits to offset the financial impact of the Transaction.

## **2.3 Disallowance of certain material, contractor and other expense costs on the basis of perceived potential double recovery or inflated forecasting, contrary to the evidence**

### **2.3.1 Views of the Parties**

AUI contended that in making its decision, the Board took the position that amounts forecast for 2006 to be spent on material, contractor and other goods and services as expense were instead spent on material, contractor and other goods and services as capital and argued that such a position was not supported by the transcript or any other fact, evidence or logic.<sup>15</sup> AUI explained that there is not a "zero-sum" relationship between expense costs and capital costs; amounts not spent on one are not necessarily spent on the other. AUI added that while labour for capital and expense projects is mutually exclusive, the same is not true for material, contractor and other costs. AUI argued that since AUI resources were utilized to plan and administer an unexpected significant increase in the capital program, less time could be devoted to operations and as a result, contractors were not engaged to do all the planned expense projects.

AUI submitted that Mr. Tuele's testimony did not support any conclusion of double recovery of expenditures on material, contractor and other goods and services. Rather, it provided an explanation of the reason that actual expense project costs were less than forecast in 2006. AUI

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<sup>13</sup> AUI Final Argument dated September 12, 2007, page 27

<sup>14</sup> Board Decision 2007-094, page 51

<sup>15</sup> AUI Application for Review and Variance No. 1564573, paragraph 22

added that there was no evidence indicating that the 2007 forecast is inaccurate or unreasonable.<sup>16</sup>

The UCA contended that AUI was simply restating the argument it made during the original proceedings. The UCA argued that AUI had over-simplified the issues, neglecting to consider that the Board's decision in regarding material, contractor and other expenses were based on forecasting accuracy, lack of detail on certain expenditures as well as the possibility of duplication, as noted on page 38 of Decision 2007-094.<sup>17</sup>

In its Reply Submission, AUI contended that even if the disallowance was due to forecast accuracy, it would be "unfair, inappropriate and punitive for any regulator to base future allowed costs on a single year difference between forecast and actual costs."<sup>18</sup> AUI argued that there was no justification in the evidence for a disallowance of future forecast costs on the basis of a single year forecast that proved to be inaccurate and it has a strong track record of forecast accuracy.

### **2.3.2 Views of the Commission**

The Commission is of the view that the Board considered a number of factors before determining a reduction in AUI's forecast for material, and other costs. One factor was a utility's ability to forecast by comparing actual expenditures to previously approved allowed totals and the Board considered the variance of 20% in forecast versus actual expenditures for 2006. Another consideration was that there were factors beyond the company's control such as weather, the tight labour market and prioritization of capital related work in 2006. Other factors were that the majority of the increase in staff in 2006 was to keep up with the increased level of capital projects and due to a shift of existing resources to capital work, the expense component of salary costs decreased.

The Commission is of the view that the Board did not conclude that there was double recovery of expenditures on material, contractor or other goods and services, as the Board stated "some of the concerns relating to under-spending of prior allowed costs, are that the utility might recover deferred costs twice..."<sup>19</sup> Also, the Commission is of the opinion that the Board did not purport that there was a "zero-sum" between expense costs and capital costs. Rather, the Board simply acknowledged that AUI concentrated on capital projects rather than expense projects in 2006, accounting for why actual expense costs were lower than forecast expense costs. The Commission is of the opinion that AUI has not raised a substantial doubt as to the correctness of the Board's decision on this ground.

## **2.4 Application of an incorrect legal standard to the determination of the rates of AUI**

### **2.4.1 Views of the Parties**

AUI submitted that the no harm test is the incorrect legal standard to apply when determining whether an expenditure may be included in utility revenue requirement for recovery in just and reasonable rates; rather the Board should have applied the prudence test as expressed in the *Roles, Relationships and Responsibilities Regulation* (Regulation). Specifically, AUI argued that

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<sup>16</sup> AUI Application for Review and Variance No. 1564573 , paragraphs 23-24

<sup>17</sup> UCA Submission, page 5-6

<sup>18</sup> AUI Reply Submission, paragraph 20

<sup>19</sup> Decision 2007-094, page 38

a gas utility is entitled to recover in its tariffs prudent costs as determined by the Commission. AUI refers to two Alberta Court of Appeal cases in support of its argument: *ATCO Electric Ltd. v. Alberta (Energy and Utilities Board)*, [2004] ABCA 215, and *ATCO Gas and Pipelines Ltd v. Alberta (Energy and Utilities Board)*, [2005] ABCA 122.<sup>20</sup>

UCA contested AUI's claim, stating that "it is patently unreasonable to suggest that the correct (and only) legal standard applicable is 'prudency'."<sup>21</sup> It refers to a Board statement in Decision 2005-112 to support its argument. There, the Board states:

[the no harm test] is an appropriate means of ensuring that the Board's public interest mandate is met, while customers of AUI are, to the maximum extent possible, protected against any negative ramifications arising from the [corporate restructuring] Transaction.<sup>22</sup>

UCA also points to paragraph 2 of the Board's Order in Decision 2005-112 in support of its argument that "harm" is a generic term and it is disingenuous of AUI to suggest harm to customers resulting from the Transaction should be ignored. The UCA refers to the term in the Order that the Board may consider "any other areas that may give rise to potential harm to AUI customers as a direct or indirect result of the Transaction..."<sup>23</sup> AUI agreed to this condition. Further, as "prudency" is only referenced in the Board's rate-making legislation in relation to the cost of property for the purpose of determining a rate base for the utility, there is no basis for AUI's assertion that the relevant legal test is prudence.<sup>24</sup>

Referencing case law, UCA submits the following:

- the "no harm" test is alive and well. In the Calgary Stores Block Decision<sup>25</sup> the Supreme Court of Canada referred to the Board's public interest mandate "to prevent harm to rate payers" and "its discretion to act in the public interest when customers would be harmed or would face some risk of harm."<sup>26</sup>
- AUI took the two ATCO cases it referenced out of context. While the 2005 *ATCO Gas and Pipelines* case upheld the "prudence" test, it does not support the notion that harm to customers is an inappropriate standard. The 2004 *ATCO Electric* case provided an irrelevant context for the prudency test; it is of little if any precedential value in the current context.<sup>27</sup>

In its Reply Submission, AUI contends that the "no harm" test only applies, at best, to the divestiture of utility assets. Further:

- UCA may submit the "prudence" test only appears in the *Public Utilities Act*, but it does not provide a reference for the "no-harm" test in any legislation.

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<sup>20</sup> AUI Application for Review and Variance No. 1564573, paragraphs 25-27

<sup>21</sup> UCA Submission, page 6

<sup>22</sup> UCA Submission, page 7; quoting Board Decision 2005-112, page 4

<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, [2006] 1 S.C.R. 140

<sup>26</sup> UCA Submission, page 9

<sup>27</sup> Ibid, page 8

- The lack of express reference to inter-affiliate services does not rule out the applicability of the Regulation as the same provisions apply to other areas that are not expressly referenced within the provision. For example, the hiring of employees and purchasing of equipment in order to construct, maintain and operate utility assets.
- Inter-affiliate services received by AUI are necessary for it to meet its obligations under the Regulation, and AUI is entitled to recovery of the prudent costs, as determined by the Board, for those services. AUI submits that the Regulation is express and clear in the applicability of the prudence standard in this regard and the Board's failure to follow suit is an error in law.
- The 2004 *ATCO Electric* case "stands for the proposition that is articulated in the Regulation with respect to a utility being entitled to recover its prudent costs without any reference to the no-harm standard."<sup>28</sup> The 2005 *ATCO Gas & Pipelines* case supports AUI's submission that the no-harm standard has no application in the determination of gas utility rates.

#### 2.4.2 Views of the Commission

The Commission considered the following passages of Decision 2007-094:

The Board does not agree with AUI's argument that the no-harm test may not be applied in this proceeding. In the proceeding resulting in Decision 2005-112, both interveners and AUHI supported deferring a detailed examination of the ramifications of the Transaction to the next GRA of AUI. For AUHI to encourage that a detailed assessment of the ramifications of the Transaction be deferred until AUI's next GRA, and for AUI to now argue that the Board may not apply the "no-harm" test in this proceeding, is disingenuous.

In Decision 2003-098,<sup>29</sup> the Board stated that in previous Board decisions respecting the sale of a business, the Board has determined that to the extent that it could deal with any potential financial impact of a sale in future rate applications, it would do so.<sup>30</sup> In Decision 2005-112, the Board also considered the availability of future regulatory proceedings to address any potential adverse impacts that could arise from the Transaction.

The Board acknowledges the concerns raised by the customer groups in the proceeding leading to Decision 2005-112, that the actual negative ramifications to customers would not be capable of precise exploration until the next GRA and/or debenture application of AUI. The Board considered in Decision 2005-112 that the ramifications of the Transaction should be addressed in the next GRA and that the customers should be no worse off after the Transaction.<sup>31</sup> The present proceeding is the next GRA of AUI, and the first proceeding in which the Board has had an opportunity to fully assess the financial impacts that have arisen subsequent to the Transaction.

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<sup>28</sup> AUI Reply Submission, Paragraph 26

<sup>29</sup> Decision 2003-098 – ATCO Electric Ltd., ATCO Gas North and ATCO Gas South, Both Operating Divisions of ATCO Gas and Pipelines Ltd. Trans of Certain Retail Assets to Direct Energy Marketing Ltd and Proposed Arrangement with Direct Energy Reg Services to Perform Certain Regulated Retail Functions (Application 1299855) (Released: December 4, 2003)

<sup>30</sup> Decision 2003-098, page 18

<sup>31</sup> Decision 2005-112, pages 5, 8, 9

The Board considers that making a determination at this stage on whether any financial harm has arisen from the Transaction is consistent with Decision 2005-112, and the submissions of the parties in that proceeding, and is appropriate and warranted. With respect to assessments of financial harm, the Board must be satisfied that the Transaction has either not harmed customers or, on balance, has left them at least no worse off than before the Transaction in terms of financial impacts. In order to assess financial harm, the Board will consider the evidence and conduct a balancing of both the positive and negative financial impacts of the Transaction. If, having regard to all of the circumstances, the balance favours customers, or leaves them no worse off, no financial harm will be found.<sup>32</sup>

The Commission is of the view that the Board provided ample reasons for applying the no-harm test in the context of the inter-affiliate costs for shared services. The Commission considers that the application of the no-harm test resulted from the Board's previous decision approving the Transaction, i.e. Decision 2005-112. In that Decision, the Board specified that the ramifications arising from the Transaction including affiliate or shared services agreements that may give rise to potential harm to AUI customers should be reviewed at AUI's next General Rate Application as it applies to the allocation of costs to the utility. Also, of importance to the Commission is the fact that the no-harm test was only applied when inter-affiliate costs for shared services as these were tied to the Transaction and the Board did not use this test in any other area of the forecast expenses. As a result, the Commission is of the opinion that AUI did not raise a substantial doubt as to the correctness of the Board's conclusion that the no-harm test applied in its consideration of inter-affiliate shared costs.

### **3 DECISION**

Based on the above, the Commission denies AUI's application for review and variance of Decision 2007-094.

Dated in Calgary, Alberta on August 22, 2008.

**ALBERTA UTILITIES COMMISSION**

*(original signed by)*

Tudor Beattie, Q.C.  
Commissioner

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<sup>32</sup> Decision 2007-094, page 49