



AltaGas Utilities Inc.

**Decision on Request for a Permanent Exemption from
AUC Rule 004: Alberta Tariff Billing Code**

September 5, 2008

ALBERTA UTILITIES COMMISSION

Decision 2008-084: AltaGas Utilities Inc.

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AUC Rule 004: Alberta Tariff Billing Code

Application No. 1493238

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ALTAGAS UTILITIES INC.

DECISION ON REQUEST FOR A PERMANENT EXEMPTION

Decision 2008-084

FROM AUC RULE 004: ALBERTA TARIFF BILLING CODE

Application No. 1493238

1 INTRODUCTION

AltaGas Utilities Inc. (AUI), by Application No. 1493238 (the Application), registered on December 19, 2006, applied to the Alberta Energy and Utilities Board (EUB) for a permanent exemption from complying with the requirements of EUB *Directive 012: Alberta Tariff Billing Code*.

On January 1, 2008, the *Alberta Utilities Commission Act (AUC Act)* came into force, establishing the Alberta Utilities Commission (the Commission) and granting it the power to regulate utilities. The Commission adopted EUB *Directive 012* as *AUC Rule 004: Alberta Tariff Billing Code (the Code)*, pursuant to its rule making authority granted under s. 129(1)(h) of the *Electric Utilities Act*, 2003 c. E-5.1, and s.28.3(1) of the *Gas Utilities Act*, RSA 2000 c. G-5. Although submitted prior to the enactment of the *AUC Act*, the Application falls under the jurisdiction of the Commission. Under s. 80 of the *AUC Act*, all outstanding applications in which a notice of hearing had not been issued by the EUB and related to utilities are under the jurisdiction of the Commission.

2 BACKGROUND

The EUB relied on its power to make rules respecting service quality standards, under section 129 of the *Electric Utilities Act*, S.A. 2003, c. E-5.1 to implement the *Code* in 2004. The EUB acted pursuant to this provision and the Government of Alberta's policy of developing a competitive retail market in electricity and natural gas and promoting customer choice for end-use customers as expressed in its *Retailer Information Management Committee's November 2002 Final Report*. The *Code* defines the necessary business rules and processes to enable the transfer of billing and energy usage information between the electric and natural gas distribution companies that fall under its scope and the retailers that are responsible for billing the end-use customers.

The *Code* was initially intended to apply to the Alberta electricity market, but the rules were structured to accommodate the natural gas market as well. The natural gas distributors became members of the Alberta Tariff Billing Code working group when the EUB approved ATCO Gas' proposal for industry compliance with the *Code* in late 2005.

On December 22, 2005, the EUB released EUB *Bulletin 2005-034*, announcing the implementation of version 1.3 of the *Code* on July 1, 2006, and stating it would apply to both electricity and natural gas distributors.

AUI had originally been granted a year-long temporary exemption under section 6.1.5 of the *Code* in June 2006 to provide additional time to implement compliance measures. This temporary exemption was further extended until March 31, 2008, to accommodate the enactment of the *AUC Act* and the subsequent transfer of utility-related matters from the EUB to its successor; the Commission.

3 APPLICATION

AUI provides two grounds in support of its application for permanent exemption from the *Code*, namely: (a) financial risk to customers and shareholders and (b) public interest in retail market development.

(a) Financial Risk to Customers and Shareholders

Regarding the financial risk to customers and shareholders, AUI contends the capital investment needed to make its billing processes compliant with the *Code* is significant, “in terms of both cost and percentage of AUI’s net rate base.”¹ As a small distributor, AUI would have to accept a greater risk to become *Code* compliant than that associated with larger utilities. These risks extend to customers through the rate base and to shareholders in the event that the EUB denies cost recovery.

(b) Public Interest – Retail Market Development

Regarding public interest concerns in retail market development, AUI argues that its customers are “currently able to exercise their right to choose retail natural gas supply and will continue to be able to exercise that right, even if AUI’s billing processes are exempted from compliance with the [*Code*].”² Further, AUI contends that its market share is small enough at 6% of Alberta natural gas customers to not materially impact the development of the Alberta natural gas retail market should an exemption be granted.

3.1 Related Submissions

During AUI’s 2007 GRA Phase I hearing, the Municipal Gas Co-op Intervenors (MGCI) submitted arguments in favour of AUI’s permanent exemption. MGCI reasoned that “customers would not support an order or direction forcing AUI into full compliance with the [*Code*].”³ Further, MGCI believed that the costs associated with compliance far outweighed the benefits that would be derived from such compliance as retailers were more interested in the Edmonton and Calgary market. The Board considered the issue of AUI’s permanent exemption to be outside the realm of the proceeding in question and deferred comment until future proceedings.

¹ AUI Tariff Billing Code Exemption Application, page 3

² Ibid, page 4

³ EUB Decision 2007-094: AltaGas Utilities Inc. 2007 GRA Phase I Application 1494406, December 11, 2007, page 62

4 DECISION

In making its determination, the Commission considered that the *Code* does not provide for a permanent exemption. Under section 1.2 of the *Code*, both distributors and retailers are required to comply with its provisions. Further, to support the policy relating to customer choice for retail natural gas and electricity markets, it is necessary that all distributors and retailers are in compliance with the *Code*. The Commission does not accept AUI's contention that because its total market share of the Alberta natural gas customer is small enough at 6%, an exemption would not materially impact the development of the natural gas retail market. An exemption would deny 100% of the customers in the AUI service area the opportunity to choose a natural gas retailer. This would be a material impact on the development of a retail market in the AUI service area.

AUI was granted its original one year temporary exemption in order to provide more time for the assessment and implementation of necessary compliance measures. As part of the assessment process, AUI met with retailers and EUB staff to discuss compliance solutions that would accommodate the requirements of the *Code*. In addition, it seems that the exemption extension into 2008 was granted to deal with the transition from the EUB to the Commission and the potential for changes to the legislative framework rather than because AUI demonstrated a need for a further extension.

AUI stated in its 2007 Phase I General Rate Application, that it was to begin a review of its customer billing function and system. The Commission is of the view that AUI in the context of such a review is to assess, evaluate and incorporate the requirements of the *Code*. The Commission did take into account AUI's statement that the growth in its customer base has led to an increased activity that has placed pressures on, among other things, its customer billing and customer care functions.⁴ It has been the Commission's experience that distributors facing the same situation as AUI, i.e., contemplating the re-work of its customer billing system at the same time as having to implement the requirements of the *Code*, used the opportunity to incorporate the requirements of the *Code* in arriving at their preferred option. The Commission is aware that on two occasions in 2008, AUI held discussions with Commission staff to provide an update on AUI's assessment for compliance with the requirements of the *Code*.

Therefore, for the reasons set out above, AUI's request for a permanent exemption from AUC *Rule 004: Alberta Tariff Billing Code* is denied. As previously noted, AUI's temporary exemption expired on March 31, 2008. AUI must now prepare a compliance plan outlining the activities and timelines to achieve full compliance with the *Code* and consult with Commission staff for any matters related to compliance.

Dated in Calgary, Alberta on September 5, 2008.

ALBERTA UTILITIES COMMISSION

(original signed by)

Willie Grieve
Chair

⁴ AltaGas Utilities 2007 GTA-Phase I Application, page 135