



## ATCO Gas

2005-2007 General Rate Application – Phase I  
Compliance Filing to Decision 2006-004  
Part B

August 11, 2006

**ALBERTA ENERGY AND UTILITIES BOARD**

Decision 2006-083: ATCO Gas  
2005-2007 General Rate Application – Phase I  
Compliance Filing to Decision 2006-004  
Part B  
Application No. 1452948

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# ALBERTA ENERGY AND UTILITIES BOARD

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Calgary Alberta

## ATCO GAS

### 2005-2007 GENERAL RATE APPLICATION – PHASE I COMPLIANCE FILING TO DECISION 2006-004 PART B

Decision 2006-083  
Application No. 1452948

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## 1 INTRODUCTION

On January 27, 2006, the Alberta Energy and Utilities Board (the Board) issued Decision [2006-004](#)<sup>1</sup> relating to the ATCO Gas (AG or the Company) 2005-2007 General Rate Application (GRA) Phase I (the Application). In Decision 2006-004, the Board directed AG to re-file its 2005-2007 Phase I GRA to incorporate the Board's findings and to provide all of the supporting schedules necessary for the Board to make its final determination respecting the 2005-2007 revenue requirement.

On February 7, 2006, AG submitted a letter seeking clarification concerning the treatment of \$2.8 million actually expended in connection with customer requested meter moves performed in 2005 under the meter relocation and replacement project (MRRP). AG requested approval to treat the \$2.8 million of 2005 actual expenditures for customer requested meter moves as utility property, plant and equipment in the next GRA. In a letter dated February 23, 2006, Consumer Group (CG)<sup>2</sup> opposed AG's proposal. In a letter of February 24, 2006 to AG, the Board advised that it would consider the matter regarding actual expenditures for the 2005 MRRP in the compliance filing to Decision 2006-004.

In addition, on February 24, 2006, the Board issued errata Decision [2006-014](#)<sup>3</sup> to correct certain errors and omissions in Decision 2006-004.

On March 17, 2006, AG submitted its 2005-2007 GRA Phase I refiling (the Compliance Filing) incorporating Board adjustments pursuant to Decision 2006-004. AG identified revenue shortfalls for 2005 and 2006 in combination with one-time adjustments and some of the outstanding placeholders from the 2003-2004 GRA. AG provided a summary of outstanding placeholders amounts updated for the Compliance Filing. AG requested approval of a Rider J for ATCO Gas South (AGS) to be effective on the first of the month following the decision on the Compliance Filing until December 31, 2006 to:

1. Collect the forecast shortfall amount for the South zone relating to the 2005-2007 GRA,
2. Collect outstanding amounts from the 2003-2004 GRA,

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<sup>1</sup> Decision 2006-004 – ATCO Gas 2005-2007 General Rate Application Phase I (Application No. 1400690) (Released: January 27, 2006)

<sup>2</sup> Consumer Group consists of Alberta Irrigation Projects Association, Alberta Urban Municipalities Association, Consumers' Coalition of Alberta, First Nations, The Public Institutional Consumers of Alberta, and Utilities Consumer Advocate.

<sup>3</sup> Decision 2006-014 – ATCO Gas 2005-2007 General Rate Application – Phase I Errata of Decision 2006-004 (Application No. 1400690) (Released: February 24, 2006)

3. Collect a repayment for the amount related to the accumulated depreciation and carrying charges refunded to customers in the South zone from the proceeds from the sale of the Stores Block

By letter dated March 22, 2006, the Board set a schedule to deal with any issues arising from the Compliance Filing. On May 5, 2006, the Board received submissions on the Compliance Filing from The City of Calgary (Calgary) and the CG. AG replied to these submissions on May 12, 2006.

On May 11, 2006, AG submitted a letter requesting interim approval of Rider J for the South effective June 1, 2006. On May 15, 2006, CG submitted a letter opposing the implementation of Rider J on an interim basis stating that several matters related to the Compliance Filing were at issue. The Board dealt with Rider J in Decision [2006-064](#): ATCO Gas 2005-2007 General Rate Application Compliance Filing to Decision 2006-004 Part A, released on June 27, 2006.

The Board considers that the record for this proceeding closed on May 15, 2006.

## **2 EFFECT OF DIRECTIONS IN THIS DECISION**

The Board does not expect that the directions in this Decision will have a significant effect on total revenue requirement or forecast revenues and considers that any revisions required as a result of this Decision can be dealt with in a second compliance filing (the Second Refiling) to be submitted by AG.

Intervenors did not raise issues with the majority of matters in the Compliance Filing. Upon review, except for the items listed in Section 3 below, the Board finds that AG has complied with the directions in Decision 2006-004 and approves the Compliance Filing in that respect.

## **3 ISSUES RAISED BY PARTIES**

This section deals with those items in the Compliance Filing where parties had concerns and where the Board found issues of non-compliance related to Decision 2006-004.

### **3.1 Necessary Working Capital**

In its May 5, 2006 submission, Calgary advised that it would be filing an application for review and variance of Decision 2006-004 regarding the issue of necessary working capital (NWC) related to storage gas inventory at Carbon.

CG advised that its position regarding the NWC for Carbon storage gas was essentially the same as that of Calgary.

On May 19, 2006 Calgary filed an application for review and variance (R&V) of Decision 2006-004 regarding the issue of NWC related to storage gas inventory at Carbon and CG's support for Calgary's request.

## Views of the Board

In Decision 2003-072,<sup>4</sup> the Board directed AG at the next GRA, to recalculate the NWC balances of natural gas in storage, materials and supplies inventory and the payment equalization plan (PEP) program, all on a consistent basis. The Board expected AG to propose a method to achieve consistency by adopting a monthly average methodology, or indicate why this should not be done.

In Decision 2006-004, the Board noted that AG's application for the working capital amount for gas in storage at Carbon was calculated using the mid-year methodology, consistent with past practice. The Board also noted Calgary's and CG's proposal to change the method to determine gas in storage inventory from mid-year to thirteen month average. No recommendation was made by Calgary or CG to change the NWC amount for materials and supplies inventory.

During its evaluation of the issues in the ATCO Gas 2005-2007 GRA, the Board addressed the NWC for gas in storage at Carbon for the period from January until March 2005. The Board considered that the mid-year method to determine the NWC had been in place for a significant number of years, when in the past the NWC was determined using a mid-year method for gas in storage, materials and supplies inventory and PEP program, resulting in an amount where the differences between the mid-year method and thirteen month average method were largely offset and the results using either method yielded a reasonable overall NWC amount. However, in this GRA, the NWC component for gas in storage is not offset to any extent by the inventory component and furthermore, the PEP program no longer resides with AG. Therefore, the NWC component for gas in storage appears to be excessive for 2005. However, in Decision 2006-004, the Board considered that a reduction in the amount for NWC for the gas in storage only, without considering the remaining components of NWC that are determined using the mid-year method, would be choosing a component that is advantageous to the customers. The Board does not consider it appropriate to do so without adjusting the remaining components that may not be advantageous to customers. As noted previously, the long standing use of the mid-year method persuaded the Board that a change at this time would be inappropriate. Furthermore, the Board notes that since AG did not have gas in storage inventory at Carbon after April 2005, this issue is only pertinent to 2005 at this time.

Therefore, the Board wishes to clarify the extent of the Board's determination in Decision 2006-004 regarding the NWC component attributable to gas in storage inventory at Carbon. The Board confirms that it approved the amount in NWC capital for gas in storage at Carbon for 2005, as filed in the GRA application.

### **3.2 Board Direction 1 - Customer Requested Meter Moves Outside of the Planned 2005 Meter Relocation Areas**

In Decision 2006-004, the Board denied the inclusion into rate base of the forecast amount of \$5.343 million, \$5.323 million and \$4.677 million for customer requested meter moves outside of the planned relocation areas for 2005, 2006 and 2007 respectively.

In the Compliance Filing, AG requested confirmation that it was not the intention of the Board in Decision 2006-004 to disallow from utility rate base forever, all actual 2005 expenditures related

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<sup>4</sup> Decision 2003-072 – ATCO Gas 2003/2004 General Rate Application Phase 1 (Application 1275466) (Released: October 1, 2003)

to customer requested meter moves outside of the planned meter relocation areas under the MRRP.

The Board notes that CG opposed the inclusion of all actual costs associated with the actual expenditures for the 2005 customer requested meter moves, including at the time of the next GRA.

### **Views of the Board**

The Board notes that in the adjusted capital expenditure forecast,<sup>5</sup> AG has reduced the forecast by the amounts previously stated for customer requested meter moves outside of the planned relocation areas. Therefore, the Board considers that AG has complied with Direction 1. The Board notes that in response to BR-AG-2, AG replied that in 2005 there were 3104 actual meter moves outside of the planned areas and that the total expenditures for these moves were \$2.807 million. The actual expenditure per move was \$904.00<sup>6</sup> as compared with the forecast expenditure per move amount of \$1628.00.<sup>7</sup> The Board notes the favorable variance in cost per move for outside of planned areas as compared with the moves inside that planned areas, and expects that AG will address this observation in the next GRA.

Regarding AG's request that the Board consider allowing into rate base in future GRA's, the 2005 actual amount expended for customer requested meter moves outside the planned relocation areas, the Board agrees that the meter moves outside of the planned areas will be beneficial to the system in the future and that the meter moves would have been performed at some point in the future according to the Board approved meter replacement program. The Board considers that the entire expenditure amount of \$2.807 million would have been necessary in the near future and given the unique circumstances of this proceeding wherein the actual costs incurred were tested and reviewed by the Board, the Board agrees with AG's request. Accordingly, AG will be entitled to include this amount into the opening balance of utility rate base on January 1, 2008 to be included in revenue requirements of GRAs in 2008 and subsequent years.

### **3.3 Board Direction 7 – Brooks Facility**

In Decision 2006-004, the Board noted that in AG's view, the disposition of the Brooks facility would be outside the ordinary course of business and that, accordingly, AG intended to submit an application for disposition.<sup>8</sup> The Board agreed that the disposition of the Brooks facility would be outside of the ordinary course of business and, therefore, expected AG to apply in due course for sale of the Brooks facility and disposition of proceeds. Therefore, the Board directed AG to treat the Brooks facility as assets held for future disposition. The determination of whether or not any return would be applicable to these assets held for future disposition was to be determined subsequent to a decision of the Supreme Court of Canada (SCC or Supreme Court) relating to the Calgary Stores Block. On February 9, 2006, the SCC issued its decision relating to the AG Calgary Stores Block<sup>9</sup> (the Supreme Court Decision). The background to the Supreme Court Decision is provided in Section 3.14.

<sup>5</sup> Compliance Filing Summary of Capital Expenditure Adjustments Attachment P1 - 9 of 9

<sup>6</sup> BR-AG-2 Compliance Filing Moves 3104, Cost \$2.807 million

<sup>7</sup> Application P2.1-43 L12 Incremental units 1900, Cost \$3.093 million

<sup>8</sup> Tr P544 L3-7

<sup>9</sup> ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board), 2006 SCC 4



In light of the SCC regarding the disposition of proceeds from the sale of the Stores Block, AG's view was that it was appropriate to transfer the Brooks assets to non-utility service since AG has no intention of returning these assets back to utility service. In the 2005-2007 GRA Application, no amount was included in revenue requirements related to the vacated facility.

CG submitted that AG has not been given permission to transfer the assets to non-regulated status. CG also submitted that the SCC did not address the Board's authority to include, exclude or maintain assets in rate base.

### **Views of the Board**

In Decision 2006-004, the Board accepted AG's rationale and Business Case as appropriate justification for the need to build a new operating center in Brooks on land newly acquired for the proposed building. This acceptance was determined upon examining the operational needs in Brooks which the Board concurred were beneficial. The Board did not approve the proposal by AG to move the remaining net book value of the vacated facility into non-utility accounts nor was AG's proposed accounting treatment given any specific or implied approval. In Decision 2006-004, the Board stated:

The Board also notes AG's view that the disposition of the Brooks facility would be outside the ordinary course of business and that, accordingly, AG intends to submit an application for disposition. The Board agrees that the disposition of the Brooks facility falls outside of the ordinary course of business and, therefore, expects AG to apply, in due course, for sale of the Brooks facility and disposition of proceeds.<sup>10</sup> [footnote excluded]

The Board considers that the removal of a utility asset out of regulated rate base and into a non-utility account requires specific approval from the Board. Therefore, in Decision 2006-004, the Board agreed that the disposition of the vacated Brooks facility would fall outside of the ordinary course of business and expected AG to apply, in due course, for the sale of the vacated Brooks facility and disposition of proceeds. However, the Board waited for the decision of the SCC related to the Stores Block appeal to determine what course of action may be appropriate as a consequence of any directions resulting from the Supreme Court Decision.

The Supreme Court Decision provided the Board with directions related to its authority to examine and assess applications in respect of the disposition of an asset by a utility.

In Decision 2006-004, the Board expected AG to treat the remaining net book value of the Brooks facility as regulated assets held for future disposition. This includes the undepreciated capital cost for tax purposes.<sup>11</sup> In Alberta Regulation 546/63, Account 103, Retirement Work in Progress, provides accounting direction for treatment of assets prior to disposal. The Board will await the AG application for sale and disposition of the Brooks vacated assets prior to making any further determination regarding the accounting treatment of the asset arising from its consideration of the related issues of harm, terms of sale and disposition of net proceeds, if any, in light of the guidance provided by the Supreme Court Decision.

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<sup>10</sup> Decision 2006-004 S2.1.5.6, page 23

<sup>11</sup> Ibid

### 3.4 Board Direction 10 – Forecast Cost of New Debt Issue

In Decision 2006-004, the Board directed AG, in its refiling to use a forecast cost for the new debt issue of 5.54% for 2005 and 5.94% for 2006 and 2007.

#### Views of the Board

The Board notes that in the Compliance Filing, AG forecast the debt coupon rates per the percentages stated above and added an amount to amortize the issue costs over the term of the issue to result in an embedded cost rate. The Board notes this method was approved in Decision 2004-036.<sup>12</sup>

The Board also notes CG’s argument that in the Decision, the Board did not direct AG to further gross up the Board’s award of 5.54% and 5.94 %. The CG submitted that the Decision took into account the debt issue costs in the approved debt rates.

In Decision 2006-004, the Board awarded the debt coupon rates as stated. The Board considers that AG’s addition to the coupon rate to result in an embedded cost rate that includes amortization of debt issue costs is appropriate. Therefore, the Board considers that AG has appropriately complied with Direction 10.

### 3.5 Board Direction 12 – Deemed Capital Structure to include Short-Term Debt

The Board directed AG to use a deemed capital structure to determine its cost of capital and return according to the following in determining its capital structure ratios and cost of capital:

AG would earn a return only on Required Invested Capital determined by the following formula:<sup>13</sup>

- $\text{Required Invested Capital}_{MY} = \text{Rate Base}_{MY} - \text{No-Cost Capital}_{MY}$
- The Common Equity Ratio will be the approved GCC Equity Ratio (38% for AG). The amount of Common Equity will be calculated by multiplying this ratio by the total Required Invested Capital.
- The use of preferred shares is currently before the Board in a Common Matters<sup>14</sup> proceeding. Pending the outcome of that proceeding, AG is directed to include a placeholder amount for Preferred Shares in the capital structure at current book value.
- The total amount of debt in the capital structure is determined by the following formula:
  - $\text{Debt}_{MY} = \text{Required Invested Capital}_{MY} - \text{Common Equity}_{MY} - \text{Preferred Shares}_{MY}$
- The cost of debt for the purposes of setting rates is calculated as the weighted average cost of debt, including short-term debt.

#### Views of the Board

The Board notes that in the Compliance Filing, AG eliminated short-term debt (STD) from the mid-year cost of capital schedules<sup>15</sup> entirely and replaced the forecast mid-year long-term debt

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<sup>12</sup> Decision 2004-036 – ATCO Gas 2003/2004 General Rate Application Compliance Filing (Application No. 1323828) (Released: April 28, 2004)

<sup>13</sup> Decision 2006-004, pages 45-46

<sup>14</sup> Application No. 1407946

6 • EUB Decision 2006-083 (August 11, 2006)

(LTD) resulting from the calculation of LTD in schedules 3.1L and 3.2L, with a deemed LTD per the calculations shown in schedules 3.1A and 3.1B. The result was that no STD was included in any of the deemed mid-year cost of capital.

The Board notes CG's view that AG replaced STD with a higher cost LTD in its cost of debt calculations. CG argued that it was prudent to maintain a certain percentage of STD in a utility's capital structure as forecast by AG. CG recommended that the same amount of positive STD as forecast in the AG capital structure, reduced by the percentage of disallowed rate base divided by the applied for rate base for each test year, be maintained in the revised capital structure.

In response to the CG, AG stated that it did not include STD in the calculation of the weighted average cost of debt because the amount of deemed debt, as per the Board formula, was less than the amount of LTD on the balance sheet (for AG in total). Furthermore, AG stated that if the deemed amount of debt was higher than the financial statement LTD, then AG would have included that difference as STD in the calculation of weighted average cost of debt.

The Board agrees with AG that Directive 12 did not require AG to use a specified percentage of STD. Rather, Directive 12 required AG to include in its debt cost calculation any STD which it has forecast for each utility. In this Decision, the Board is not addressing the amount of STD which AG should use, but rather seeks to ensure that in its refiling, AG has included in its debt cost calculation any STD which it has forecast for each of AG South and AG North individually.

In the Board's view, the use of STD must be addressed for each of AG South and AG North, rather than for AG in total. The Board directs AG, in its Second Refiling, to review its debt cost calculations and to ensure that any amount of positive mid-year STD included within the forecast relied upon by AG in the first Compliance Filing for each of the test years is reflected in the debt calculations for each of AG South or AG North as separate utilities.

### **3.6 Board Direction 13 – Placeholder Amounts**

This direction required AG to provide "the placeholder amounts for each test year that will be dealt with in the Common Matters proceeding."

The CG took issue with AG's determination of the executive compensation placeholder and suggested that the placeholder as originally filed should be reduced by 14.6%, 14.3% and 14.4% for 2005, 2006 and 2007, respectively. They also indicated they would discuss it further under Board Direction 40.

AG stated that they had used the formula developed by the Board in Direction 40 to make an overall adjustment to Account 721 and applied it to the sub accounts. AG considered that it would not be consistent to treat the sub accounts in any other way.

### **Views of the Board**

The Compliance Filing provided a Placeholder Summary and a discussion under Direction 13 regarding how AG calculated certain placeholder amounts referencing Direction 40. However, AG appears to have misunderstood the Board's Direction. AG was asked to provide the placeholder amounts applied for as part of the revenue requirement to be dealt with in the

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<sup>15</sup> Schedules 3.1A and 3.1B

Common Matters proceeding. AG was not directed to alter the placeholders. A review of the Common Matters filing indicates the following with respect to executive compensation and head office rent:

Reference: Section 4, Executive Compensation, Appendix 4.5, Table for ATCO Gas as confirmed in Exhibit 02-037 filed in the Common Matters proceeding on May 19, 2006.

ATCO Gas Forecast (\$000)

	2005	2006	2007
<u>Utility Executive Compensation</u>			
ATCO Gas North	937	960	985
ATCO Gas South	936	960	984
Total	1,873	1,920	1,969
<u>Corporate Office</u>			
ATCO Gas North	482	498	511
ATCO Gas South	523	540	556
Total	1,005	1,038	1,067

Reference: Section 3, Head Office Rent, page 3-3 as confirmed in Exhibit 02-037 filed in the Common Matters proceeding on May 19, 2006.

ATCO Gas North forecast for each of 2005, 2006 and 2007 is \$791,000.

ATCO Gas South forecast for each of 2005, 2006 and 2007 is \$755,000.

The Board considers that the above amounts were the placeholder amounts that AG was directed to provide. The Board considers these amounts are the ones that can be used to determine the adjustment to revenue requirement attributed to Account 721 for 2005, 2006 and 2007. The amounts of the adjustments are subject to the findings in the Common Matters proceeding as stated at page 73 of Decision 2006-004. See Direction 40 in this decision for further discussion.

The placeholder amounts for Pension Expense were provided in response to Direction 16 and are noted to be the same as in the original GRA filing and as confirmed in Exhibit 02-037 filed in the Common Matters proceeding on May 19, 2006.

### **3.7 Board Direction 17 – Placeholder Amounts for I-Tek Operating Expenses**

This direction required AG “to reduce its placeholder forecast I-Tek Operating Expenses by 7.5% in all applicable schedules.”

The CG took issue with AG’s determination of the I-Tek placeholder and suggested that the placeholder as originally filed should be reduced by 14.6%, 14.3% and 14.4% for 2005, 2006 and 2007, respectively. They also indicated they would discuss it further under Board Direction 40.

AG stated that they had used the formula developed by the Board in Direction 40 to make an overall adjustment to Account 721 and applied it to the sub accounts. AG noted that in so doing it included the 7.5% reduction directed by the Board.

## Views of the Board

As directed in its Compliance Filing, AG provided a Placeholder Summary and a discussion under Direction 17 regarding how AG calculated the I-Tek placeholder amounts referencing Direction 40. However, AG appears to have misunderstood the Board’s Direction. AG was only asked to reduce the placeholder amounts by 7.5% from those submitted in the original GRA filing. The following table provides the Board’s expected result.

(\$000)	2005			2006			2007		
	North	South	Total	North	South	Total	North	South	Total
I-Tek O&M Placeholder as filed	6,938	7,062	14,000	6,888	6,992	13,880	7,002	7,078	14,080
7.5% Reduction	(520)	(530)	(1,050)	(517)	(524)	(1,041)	(525)	(531)	(1,056)
Total Revised Placeholder	6,418	6,532	12,950	6,371	6,468	12,839	6,477	6,547	13,024

The Board did not direct AG to apply the formula to sub accounts. For purposes of the placeholder for I-Tek, the amounts in the above table are those approved by the Board pending the results of the benchmarking process. See Direction 40 in this decision for further discussion.

### 3.8 Board Direction 40 – Add back Administrative Expenses to Account 721

This direction required AG “to adjust the revenue requirement, including Carbon, using the approved totals and clearly identify placeholder amounts in each sub-category when submitting its Compliance filing.” The totals amounts approved by the Board for Administrative Expense, Account 721, were \$35.562 million, \$36.344 million and \$37.107 million for 2005, 2006 and 2007, respectively.<sup>16</sup>

The CG disagreed with AG’s interpretation of the Board’s findings where AG added back \$1.4 million, \$1.6 million and \$1.6 million to Account 721 for 2005, 2006 and 2007, respectively. The CG were of the opinion that the amounts approved were those stated above and that all components making up Account 721 as originally filed should be reduced by 14.66%, 14.26% and 14.42% for 2005, 2006 and 2007, respectively.

AG stated that they had used the formula developed by the Board in Direction 40 to make an overall adjustment to Account 721 and applied it to the sub accounts. AG provided a table<sup>17</sup> to show the adjustments made to the Board’s approved totals for Account 721 to arrive at “Approved Administrative (Account 721) Costs.” AG considered that the Board had approved certain test year expenses and since they were not included in the base year 2004 used by the Board to determine the amounts for the test years, it was reasonable to add them back. In particular, AG added back labour related to two Human Resource positions, an Accountant, Financial Planning, a Director, Regulatory and the approved 50% of the Variable Pay Program. AG also added back supplies related to Head Office Costs and a share of the Manager, Internal Controls.

## Views of the Board

The Board did not require AG to adjust the sub accounts of Account 721 by 14.66%, 14.26% and 14.42% for 2005, 2006 and 2007, respectively. Nor did the Board say that the formula used to make the overall adjustment should be used to adjust any of the sub accounts as was performed by AG. The Board only intended to make an adjustment to the total and to confirm the

<sup>16</sup> Decision 2006-004, page 73

<sup>17</sup> Compliance Filing - Board Direction 40 Attachment

placeholder amounts as submitted in the Common Matters Proceeding. Also, the I-Tek expense in Account 721, as filed, was only to be reduced by 7.5%. Other than identifying the placeholder and benchmarking amounts for the record, the Board did not intend AG to make any additional adjustments. As for the remainder of the sub accounts, it was left up to AG to determine how to distribute the overall adjustment made by the Board in Decision 2006-004.

In Decision 2006-004 at page 73 the Board stated:

Cost categories included within Administrative and General Expenses that are not specifically addressed elsewhere in this Decision are hereby approved.

This statement by the Board was meant to give approval firstly, to all other expenses under Administrative and General expense which were included in accounts 722, 723, 724, 725, and 728 that had not been specifically addressed in the decision, and secondly, where specifically addressed the costs could be included. Therefore, since they were specifically approved, AG is correct in adding back the expenses for the two Human Resource positions, the Manager, Internal Controls and 50% of the Variable Pay Program. Also adding back the Accountant, Financial Planning and Director, Regulatory is appropriate since these costs had been identified but were not specifically addressed. However, AG incorrectly made an adjustment related to Head Office Costs. AG is directed to use the attached Appendix A for Account 721 in its Second Refiling.

### **3.9 Changes in Income Tax Rates**

In Decision 2006-004, the Board approved AG's assumptions and methods used to forecast the revenue requirement to provide for income tax expense based upon federal and provincial rates in effect at the time of the Application.

#### **Views of the Board**

The Board notes CG's submission that changes to income tax rates<sup>18</sup> were significant and that the income tax calculations should be updated to reflect the Provincial income tax changes. CG submitted that adjusting income tax rates for a legislative change unknown at the time of a general rate application is an appropriate adjustment. Additionally, CG argued that it would be inappropriate for a utility to keep funds associated with reduced income tax rates.

AG responded that the change in Provincial income tax rates was new evidence arising some six full months after AG submitted its GRA.

The Board concurs with CG that a change in income tax rates or methodology is one of a few unique changes requiring special consideration as compared to other items that affect revenue requirement. An income tax rate is not forecast; there is no expectation that a utility will try to anticipate what changes may be made to the income tax rates or policies. As a legislated item, the utility does not have the ability to forecast and/or influence changes to the income tax rate. The Board notes that changes in income tax rates that occur after a rate application has been filed have typically been dealt with in a manner that reflects this unique characteristic.

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<sup>18</sup> Alberta Provincial income tax rate was reduced from 11.5% to 10% effective April 1, 2006

CG noted several past decisions which dealt with changes in income tax rates that arose after the period when updates to the forecast are allowed or are able to be accounted for. In Decision 2005-127,<sup>19</sup> the Board reflected changes to CCA rates that had been enacted at the time of the compliance filing. In Order E92046,<sup>20</sup> the Board accepted a request by Northwestern Utilities Limited (NUL) for a review and variance of a Phase I decision on the basis with respect to a change in income tax rates. In Order E92046, the Board stated that it recognized that “...NUL is not requesting a change in the forecast to reflect actuals but rather a change in a constant used in determining the forecast.”<sup>21</sup> In Order E92046, the Board accepted a change in revenue requirement that arose in a review and variance application filed by the utility, related to a change in income tax rates. In this instance, the change in income tax rates was introduced prior to the start of the hearing and an adjustment has been requested by an intervener in a compliance filing. The Board does not consider that this distinction in circumstance between Order E92046 and this Application would cause it to conclude any differently.

In Decision 2006-004, the Board stated at page 3:

The Board has not, however, substituted the forecasts with the updated information, except with respect to certain specific forecast items. For example, the Board has updated interest rate forecasts in determining the cost of capital, income tax rates, opening balances for plant property and equipment and has excluded amounts forecast for capital projects that did not proceed.<sup>22</sup> The Board has determined that the use of updated information in these particular types of categories was in the overall public interest and had as its objective an appropriate revenue stream without undue benefit or detriment to the regulated utility.

The Board agrees that the 2006 and 2007 revenue requirement should reflect the change in Alberta provincial income tax rate. Therefore the Board directs AG, in the Second Refiling, to use the updated Alberta provincial income tax rate and to reflect the reduction in revenue requirements for the test years.

### **3.10 Compliance with Directions**

In Decision 2006-004, the Board issued a series of directions requiring AG to refile its 2005-2007 GRA incorporating the findings of the Board including all of the supporting schedules necessary for the Board to make its final determination respecting AG’s 2005-2007 revenue requirements in sufficient detail to reconcile with the original filing and to demonstrate compliance with the Board findings.

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<sup>19</sup> Decision 2005-127 – AltaGas Utilities Inc. 2005/2006 General Rate Application – Phase I (Application No. 1378000) (Released: November 29, 2005)

<sup>20</sup> In the matter of an Application by Northwestern Utilities Limited for a review and variance of Public Utilities Board Decision E91044 dated November 18, 1991, as amended by Order E91094 dated November 22, 1991, respecting the determination of the Utility Revenue Requirement for the test years 1991 and 1992. Dated December 30, 1992

<sup>21</sup> Order E92046, page 40

<sup>22</sup> See for example: Decision U97065 1996 Electric Tariff Applications Alberta Power Limited, Edmonton Power Inc., TransAlta Utilities Corporation, Grid Company of Alberta, dated October 31 1997 (opening balances); Decision 2000-9 Canadian Western Natural Gas Company Limited Phase I, dated March 2, 2000 (risk free rate); Decision 2001-97 ATCO Pipelines South 2001/2002 General Rate Application Phases I and II, dated December 12, 2001 (opening balances, income tax rate adjustment); Decision 2003-100 ATCO Pipelines 2003/2004 General Rate Application Phase I, dated December 2, 2003 (opening balances, disallowance of costs for cancelled project, income tax rate adjustment).

## Views of the Board

Calgary submitted that the Compliance Filing was materially deficient and suggested that the Board adopt a consistent, thorough and effective process to enforce compliance.

AG disagreed with the position of Calgary that there were material deficiencies in the Compliance Filing. AG submitted that it responded to 46 directions of the Board in the Decision and, in addition, AG responded to information requests from the Board and interveners along with supplementary information when requested.

The Board provided AG and the interveners with a process and schedule to address the compliance evaluation. The Board agrees that AG has provided a reasonable response to all of the Board directions in the Decision and, in addition, has responded in a timely manner to the information requests related to the Compliance Filing.

### 3.11 Work Management

Decision 2006-004 directed ATCO to reduce its placeholder amount for the entire Phase II of the Work Management (WM) project from 2005 until 2008 by 20% from \$9.8 million to \$7.8 million. This direction included reductions applicable to Stages I, II and III forecast expenses for 2005, 2006 and 2007 respectively and the decommissioning costs for the existing system in the amount of \$477,000 forecast beyond 2007.

In the Compliance Filing, ATCO reduced the forecasts for WM in the amounts of \$630,000, \$422,000 and \$701,000 for 2005, 2006 and 2007 respectively,<sup>23</sup> these amounts being 20% of the forecast amounts in the Application.<sup>24</sup> Subsequently, in response to CAL-AG-13(c), submitted on April 25, 2006, ATCO submitted total costs for the WM system for the test years which were different from those shown in the Compliance Filing. In its Reply Submission to Calgary, on May 12, 2006, ATCO provided an explanation as to why the amounts shown for WM in the Compliance Filing were different from the amounts for WM shown in CAL-AG-13(c)<sup>25</sup>.

The Board considers that ATCO's Compliance Filing properly calculated the reductions in the forecast WM project in the amounts of \$630,000, \$422,000 and \$701,000 for the 2005, 2006 and 2007 test years respectively and have provided acceptable reasons regarding the differences in the amounts shown for WM in the Compliance Filing and in CAL-AG-13(c).

### 3.12 Other I-Tek and ITBS Matters

In its submission of May 5, 2006 regarding ATCO's Compliance Filing, Calgary indicated its concern regarding ATCO's failure to provide I-Tek labor hours for 2006 and 2007 in a manner that reflects the pricing schedules for which the benchmarking process will be conducted.

In its Reply to Calgary, ATCO explained that the estimates of hours for IT projects cannot be provided for 2006 and 2007 because detailed business requirements are not yet known for those

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<sup>23</sup> Summary of Capital Expenditure Adjustments Attachments March 17, 2006 and Board Direction 31 Attachment

<sup>24</sup> Exhibit 25-015

<sup>25</sup> Reply Submission May 12, 2006, pages 12-16



years and will not be available until the completion of a second Statement of Work prepared for the approval of the development and implementation of the project.<sup>26</sup>

The Board accepts ATCO's explanation regarding its inability to provide the I-Tek labor hours for 2006 and 2007 as reasonable. However, this acceptance should not be construed in any way as permitting ATCO to withhold the I-Tek hours for the 2006 and 2007 projects when the benchmarking process is invoked. At the time of the benchmarking process, the information must be provided as required to complete the benchmarking exercise.

### **3.13 Transmission Rider**

In the Application, AG proposed the establishment of several new deferred accounts, including a deferred account for transportation charges from ATCO Pipelines. In Decision 2006-014, the Board approved the establishment of a deferred account for transportation charges from ATCO Pipelines. In the Compliance Filing, AG proposed the establishment of a Rider J to collect the forecast transportation charges from ATCO Pipelines.

#### **Views of the Board**

The Board notes Calgary's submission that in the Phase II discussions for 2006 and 2007, there is a potential for a review of risk and return to the extent that they have been affected by the transmission deferred account which could possibly alter the revenue requirements established in Phase I.

In Decision 2004-052,<sup>27</sup> section 5.7, the Board determined a process to adjust capital structure wherein:

The Board agreed with the general consensus that it would be more appropriate to address any future changes in capital structure in utility-specific GRA/GTAs. The Board also agreed with the general consensus that such changes should only be pursued if parties perceive that there has been a material change in investment risk since the time of this Proceeding, except as otherwise specifically directed in this Decision.

In Decision 2006-014, the Board included a new AG deferral account for transportation service from ATCO Pipelines. In the GRA Application, AG forecast the Transmission Service Charges from ATCO Pipelines on the basis of ATCO Pipelines transportation rate to Utilities (FSU) and AG's forecast peak demand for the test years. The Board considers that AG remains at risk for errors in forecast demand of its distribution systems on ATCO Pipelines, however, AG is not at risk for changes in the rates charged by ATCO Pipelines. Therefore, the deferral account should collect the differences in costs resulting from changes in ATCO Pipeline's rates as approved by the Board from time to time.

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<sup>26</sup> ATCO Gas Reply Submission May 12, 2006, pages 17-18 of 23

<sup>27</sup> Decision 2004-052 – Generic Cost of Capital - AltaGas Utilities Inc., AltaLink Management Ltd. ATCO Electric Ltd. (Distribution), ATCO Electric Ltd. (Transmission), ATCO Gas, ATCO Pipelines, ENMAX Power Corporation (Distribution), EPCOR Distribution Inc., EPCOR Transmission Inc., FortisAlberta (formerly Aquila Networks), Nova Gas Transmission Ltd. (Application 1271597) (Released: July 2, 2004)

The Board notes that in Decision 2001-96<sup>28</sup> and Decision 2001-97,<sup>29</sup> the transmission charges by ATCO Pipelines to AG were forecast using the existing ATCO Pipeline rates in effect at the time of the AG applications and, were approved as a flow through charge in the revenue requirements on an interim basis pending ATCO Pipelines refiled cost of service.<sup>30</sup> Furthermore, the Board also notes that in Decision 2003-072, the Board recognized and approved the amount of the fee for transmission service from ATCO Pipelines as a placeholder in the test year forecasts pending the outcome of the ATCO Pipelines' 2003-2004 GRA.<sup>31</sup>

The Board confirms that in each of the 2001-2002 and 2003-2004 GRA's for AG, the Board determined that the transmission charges from ATCO Pipelines would be included as a placeholder in the revenue requirements based upon a forecast demand prepared by AG and subject to the final rates approved by the Board for ATCO Pipelines GRAs.

Therefore, the Board considers that during 2003 and 2004 when the Board conducted the Generic Cost of Capital proceeding, the risk profile for AG at that time, included the approved process for forecasting the transmission charges from ATCO Pipelines wherein AG was subject to forecast risk for changes in the transmission charges due to changes in AG's demand forecast but not subject to forecast risk for changes in the ATCO Pipelines transmission charges due to changes in the ATCO Pipelines rates.

Therefore, the Board considers that there has been no change in risk profile for AG established in Decision 2004-052 for AG resulting from the approval of the transmission deferral account and therefore, no change to the cost of capital is required for this Application.

However, the issue of risk profile remains reviewable in the next GRA consistent with Decision 2004-052 for all matters affecting financial risk.

### **3.14 Calgary Stores Block**

The February 9, 2006, Supreme Court Decision regarding the AG Calgary Stores Block was released. The Supreme Court Decision overturned a decision of the Alberta Court of Appeal (Court of Appeal) to the extent that the Court of Appeal had allowed, upon the sale of the Calgary Stores Block property, the return to customers of the accumulated depreciation previously paid by customers on the asset.

#### ***Background***

##### ***Prior Proceedings***

In Decision 2001-78,<sup>32</sup> the Board approved the sale of the property and facilities know as the Calgary Stores Block owned by ATCO Gas South subject to a further proceeding with respect to the disposition of the sale proceeds. In reaching its Decision the Board applied the "no-harm test" and determined:

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<sup>28</sup> Decision 2001-96 – ATCO Gas South 2001/2002 General Rate Application Phase I (Application 2000350) (Released: December 12, 2001)

<sup>29</sup> Decision 2001-97 – ATCO Pipelines South 2001/2002 General Rate Application Phases I and II (Application 2000365) (Released: December 12, 2001; Errata released: January 15, 2002)

<sup>30</sup> EUB Decision 2001-96, page 102

<sup>31</sup> Decision 2003-100 – ATCO Pipelines 2003/2004 General Rate Application – Phase I, dated December 2, 2003 (See Errata released as Decision 2004-003)

<sup>32</sup> Decision 2001-78 ATCO Gas and Pipelines Ltd. Disposition of Calgary Stores Block and Distribution of Net Proceeds – Part 1, dated October 24, 2001

In applying the no-harm test to the Application, it is the Board's view that the test has been satisfied. Based on a review of the Application, the Board is persuaded that customers will not be harmed by the Sale, with a prudent lease arrangement to replace the sold facility. The Board accepts the Company's submission that there will not be a negative impact on customer rates, at least during the five-year initial term of the lease; in fact there appears to be cost savings to customers. The Board is also convinced that there should be no impact on the level of service to customers as a result of the Sale. Finally, the Board notes that customers have not specifically objected to the Sale based on the information that was before them.<sup>33</sup>

In Decision 2002-037,<sup>34</sup> the Board made a determination with respect to the allocation of proceeds from the Calgary Stores Block property between ratepayers and shareholders of ATCO Gas South. This Decision was appealed by ATCO Gas to the Court of Appeal which granted leave on July 12, 2002. The Court of Appeal allowed the appeal in its Decision<sup>35</sup> issued January 27, 2004 (the Court of Appeal Decision). The Court of Appeal vacated Decision 2002-037 and directed the matter back to the Board pursuant to section 26(10)(c) of the *Alberta Energy and Utilities Board Act*.<sup>36</sup> The Court of Appeal further directed the Board to allocate to ATCO Gas South the gross proceeds of sale less accumulated depreciation.

In Decision 2004-030,<sup>37</sup> the Board implemented the directions of the Court of Appeal and directed that the gross proceeds of sale from the Calgary Stores Block disposition, less accumulated depreciation be allocated to ATCO Gas South. Accumulated depreciation, plus interest was directed to be divided among customers of ATCO Gas South (74.83%) and customers of ATCO Pipelines South (25.17%).

The Court of Appeal Decision was further appealed by Calgary and cross-appealed by ATCO Gas to the Supreme Court which dismissed the appeal and allowed the cross-appeal.

In the Supreme Court Decision, Bastarache J. speaking for the majority of the Supreme Court held:

...I am of the view that the Court of Appeal made no error of fact or law when it concluded that the Board acted beyond its jurisdiction by misapprehending its statutory and common law authority. However, the Court of Appeal erred when it did not go on to conclude that the Board has no jurisdiction to allocate any portion of the proceeds of sale of the property to ratepayers.<sup>38</sup>

The Supreme Court went on to conclude at paragraph 87:

The Board did not have the jurisdiction to allocate the proceeds of the sale of the utility's asset; its decision did not meet the correctness standard. Thus, I would dismiss the City's appeal and allow ATCO's cross-appeal, both with costs. I would also set aside the

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<sup>33</sup> Decision 2001-78, page 3

<sup>34</sup> Decision 2002-037 – ATCO Gas and Pipelines Ltd. Disposition of Calgary Stores Block and Distribution of Net Proceeds - Part 2 (Application 1247130) (Released March 21, 2002)

<sup>35</sup> ATCO Gas and Pipelines Ltd. v. Alberta (Energy and Utilities Board), 2004 ABCA 3, 24 Alta. L.R. (4<sup>th</sup>) 205

<sup>36</sup> Alberta Energy and Utilities Board Act R.S.A. 2000 c. A-17

<sup>37</sup> Decision 2004-030 Addendum to Decision 2002-037 Disposition of Calgary Stores Block and Distribution of Net Proceeds – Part 2, dated March 30, 2004

<sup>38</sup> Supreme Court Decision paragraph 34

Board’s decision and refer the matter back to the Board to approve the sale of the property belonging to ATCO, recognizing that the proceeds of the sale belong to ATCO.

By letter dated March 14, 2006, ATCO Gas indicated that it would include a request for a return of proceeds from the Calgary Stores Block equal to the accumulated depreciation allocated to its customers of \$361,665, plus interest, for a total of \$483,316 in the Compliance Filing which is the subject of this Decision. ATCO Pipelines would seek a return of proceeds from the Calgary Stores Block equal to the accumulated depreciation allocated to its customers of \$121,651, plus interest in its next general rate application.

By letter dated March 22, 2006, the Board agreed that this Compliance Filing would be the appropriate place in which to deal with the directions to the Board in the Supreme Court Decision.

#### *Discussion on Impact of Supreme Court Decision*

The CG has argued that the directions of the Supreme Court to set aside the Board’s decision and to refer the matter back to the Board meant that the Board’s decision is a nullity and the Board must re-open its consideration of the Calgary Stores Block approval which would include a review of the options available to it, as approved by the Supreme Court, for application of all of the sale proceeds, not just accumulated depreciation.<sup>39</sup> The CG was supported by Calgary insofar as it argued that the Board must issue a new decision with respect to the second portion of the Calgary Stores Block approval process.<sup>40</sup>

The CG acknowledged that the Board has already determined that “no harm” will result from the sale<sup>41</sup> of the Calgary Stores Block facility. Calgary also does not appear to take issue with the no harm determination in Decision 2001-78, arguing that the Board is only required to deal with the second portion of the Calgary Stores Block approval process, Decision 2002-037.<sup>42</sup> CG and Calgary appeared, therefore to suggest that Decision 2002-037 is a nullity and that the Board must reconsider the disposition of the sale proceeds from the Calgary Stores Block in light of the guidance provided by the Supreme Court.

ATCO Gas responded to these arguments by stating:

The Consumer Group says that the Board is directed to make a re-determination which “takes into account” any direction of guidance provided by the Supreme Court. The Supreme Court has not invited the Board to re-examine the matter and merely take into account its observations. The Supreme Court has, in very clear words, set aside the Board’s decision as to the disposition of proceeds and directed the Board to issue a new decision as to proceeds, which new decision is to recognize that all the proceeds of sale belong to ATCO Gas and Pipelines Ltd. The direction, as is apparent from the reasoning, is that ratepayers are not in any form entitled to those proceeds of sale.<sup>43</sup>

ATCO Gas went on to refer to Decision 2004-030 which implemented the decision of the Court of Appeal. Decision 2004-030 had not been appealed nor overturned by implication. Further, the

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<sup>39</sup> Submission of the Consumer Group dated May 5, 2006, page 15 (the CG Submission)

<sup>40</sup> Submission of the City of Calgary dated May 5, 2006, page 6

<sup>41</sup> CG Submission, page 23

<sup>42</sup> Submission of the City of Calgary dated May 5, 2006, page 6

<sup>43</sup> ATCO Gas Reply Submission dated May 12, 2006 (the ATCO Gas Reply Submission), page 20

Supreme Court had upheld the decision of the Court of Appeal except with respect to the Court of Appeal's award of accumulated depreciation to ratepayers. The award of accumulated depreciation to rate payers by the Court of Appeal was expressly overturned by the Supreme Court. Accordingly, the only action required by the Board was to address the direction of the Supreme Court as it related to accumulated depreciation by directing that this amount, plus interest, be paid to ATCO.<sup>44</sup>

Further, ATCO argued that any ability that the Board may have to attach conditions with respect to the disposition of proceeds of sale only arises in the context of a proposed asset sale which does not satisfy the no-harm test.

The observations of the Court as to the ability of the Board to attach conditions in approving a sale, such as to replace assets and re-invest, are in the context of a proposed sale not meeting the no harm test. This is apparent not just from the general tenor of the remarks in the decision but from the comments that follow these observations as to conditions, at paragraph 78, that any confiscation of the net gain on sale would "completely disregard the economic rationale of rate setting."<sup>45</sup>

ATCO also referred to Paragraph 84 of the Supreme Court Decision which indicated that given the Board's finding of no harm, there was no legitimate customer interest to be protected by either denying approval of the sale or by attaching conditions with respect to the proceeds which would allocate any portion thereof to customers

The CG also argued that the Supreme Court has concluded that the Board does not have the ability to allocate proceeds to third parties; including the ATCO shareholder and that there is a distinction to be made between an allocation of proceeds of sale to ATCO Gas, the utility, and the ATCO Gas shareholder. It argued that the Supreme Court's direction to allocate the proceeds of sale to ATCO does not mean that such proceeds should be considered as "non-utility" and available only to the ATCO shareholder.<sup>46</sup>

The CG goes on to suggest that the Board might wish to consider the funds directed by the Supreme Court to be payable to ATCO Gas as utility revenue under the provision of Section 91(1)(a) of the *Public Utilities Board Act*<sup>47</sup> (PUBA) and Section 40(a) of the GUA. This utility revenue should then be used to reduce utility revenue requirement in setting rates for the 2005-2007 period.<sup>48</sup>

ATCO Gas responded to the CG submission by again referring to Paragraph 84 of the Supreme Court Decision which refers to the Board's finding of no harm. Given this finding, the Supreme Court could find no legitimate customer interest to be protected that would justify the attachment of sale proceeds for the benefit of customers whether under the "guise" of "rate making or some other vehicle".<sup>49</sup> Further, ATCO Gas argued:

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<sup>44</sup> ATCO Gas Reply Submission, pages 20-21

<sup>45</sup> ATCO Gas Reply Submission, page 22

<sup>46</sup> CG Submission, pages 18 and 19

<sup>47</sup> *Public Utilities Board Act*, R.S.A. 2000 c. P-45

<sup>48</sup> CG Submission, page 22

<sup>49</sup> ATCO Gas Reply Submission, page 23

...the Court recognized that utility assets are certainly considered in rate setting, but said that they did not detract from the principle that the profits or losses from the sale of those assets are solely for the utility, not the rate payers.<sup>50</sup>

## **Views of the Board**

### *Proceeds to ATCO*

The Board agrees with ATCO Gas that the direction of the Supreme Court is clear with respect to the proceeds arising from the disposition of the Calgary Stores Block. Paragraph 87 of the Supreme Court decision provides that the Board is to approve the sale “recognizing that the proceeds of the sale belong to ATCO”.

All parties agree, as does the Board, that the question of harm with respect to the disposition of the Calgary Stores Block was addressed in Decision 2001-78 and is not now open for re-determination. Given this determination that no harm arose as a result of the asset disposition the Supreme Court concluded that:

In my view, as I have already stated, the power of the Board to allocate proceeds does not even arise in this case. Even by the Board's own reasoning, it should only exercise its discretion to act in the public interest when customers would be harmed or would face some risk of harm. But the Board was clear: there was no harm or risk of harm in the present situation (Decision 2002-037; para. 54):

With the continuation of the same level of service at other locations and the acceptance by customers regarding the relocation, the Board is convinced there should be no impact on the level of service to customers as a result of the Sale. In any event, the Board considers that the service level to customers is a matter that can be addressed and remedied in a future proceeding if necessary.

After declaring that the customers would not, on balance, be harmed, the Board maintained that, on the basis of the evidence filed, there appeared to be a cost savings to the customers. There was no legitimate customer interest which could or needed to be protected by denying approval of the sale, or by making approval conditional on a particular allocation of the proceeds.<sup>51</sup>

The Supreme Court concluded further:

In consequence, I am of the view that, in the present case, the Board did not identify any public interest which required protection and there was therefore, nothing to trigger the exercise of the discretion to allocate the proceeds of sale.<sup>52</sup>

In light of the Board's finding of no harm and the guidance supplied by the Supreme Court, the Board does not consider that it has the jurisdiction, in the circumstances of the Calgary Stores Block proceeding, to attach conditions to the disposition of the sale proceeds or to consider the proceeds of sale as utility revenue for purposes of Section 91(1)(a) of the PUBA and Section 40(a) of the GUA. To do so would be contrary to the reasoning of the Supreme Court as expressed in the following passage:

In my view, allowing the Board to confiscate the net gain of the sale under the pretence of protecting rate-paying customers and acting in the "public interest" would be a serious

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<sup>50</sup> ATCO Gas Reply Submission, page 22

<sup>51</sup> Supreme Court Decision, paragraph 84

<sup>52</sup> Supreme Court Decision, paragraph 85

misconception of the powers of the Board to approve a sale; to do so would completely disregard the economic rationale of rate setting...<sup>53</sup>

#### *Decision 2002-037*

The Board agrees with ATCO Gas that Decision 2004-030<sup>54</sup> implemented the directions of the Alberta Court of Appeal and amended Decision 2002-037 to bring it into compliance with the Decision of the Court of Appeal. The Supreme Court overturned the portion of the Court of Appeal decision that permitted an allocation of proceeds in an amount equal to the accumulated depreciation to rate payers. This portion of the Court of Appeal Decision was overturned by the Supreme Court on the basis “that the Board has no jurisdiction to allocate any portion of the proceeds of sale of the property to ratepayers”.<sup>55</sup> Consequently, in this Decision, the Board need only deal with an amount representing the accumulated depreciation plus interest thereon, being the balance of the proceeds arising from the disposition of the Calgary Stores Block that have not yet been allocated to ATCO.

#### *Directions*

The Board directs the payment to ATCO Gas South of an amount equal to \$361,665, plus interest, for a total of \$483,316, representing the accumulated depreciation component of the Calgary Stores Block sale proceeds which had previously been allocated to ATCO Gas South customers pursuant to Decision 2002-037 as amended by Decision 2004-030. Decisions 2002-037 and 2004-030 are hereby amended accordingly.

Further, in order to fully comply with the directions of the Supreme Court to the Board, the Board notes that a payment is due to ATCO Pipelines South in an amount equal to \$121,651, plus interest thereon, representing the accumulated depreciation component of the Calgary Stores Block sale proceeds which had previously been allocated to ATCO Pipelines South customers pursuant to Decision 2002-037 as amended by Decision 2004-030. Decisions 2002-037 and 2004-030 are hereby amended accordingly. The Board notes ATCO Pipelines South will use a deferred account which will include a return of proceeds from the Calgary Stores Block equal to the accumulated depreciation allocated to its customers of \$121,651, plus interest, within the calculation of its revenue requirement filed with its next general rate application.

The Board’s findings herein are not intended in any manner to limit the arguments of any party with respect to the application or interpretation of the Supreme Court Decision as they may relate to any other asset disposition by a utility.

### **3.15 Rider J**

On June 27, 2006, the Board released Decision 2006-064: ATCO Gas 2005-2007 General Rate Application Compliance Filing to Decision 2006-004 Part A - Interim Rates ATCO Gas South, wherein a 20.52% Rider J surcharge was approved on an interim basis for the ATCO Gas South service zone, applicable to all consumption for the period from July 1, 2006 through December 31, 2006.

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<sup>53</sup> Supreme Court Decision, paragraph 78

<sup>54</sup> Decision 2004-030 – Addendum to Decision 2002-037 ATCO Gas and Pipelines Ltd. Disposition of Calgary Stores Block and Distribution of Net Proceeds – Part 2 (Application 1247130) (Released: March 30, 2004)

<sup>55</sup> Supreme Court Decision, paragraph 34

#### **4 PROCESS FOR FUTURE COMPLIANCE FILINGS**

The Board notes that AG identified certain placeholder amounts in the Compliance Filing<sup>56</sup> that were included in the revenue requirements. In this Decision the Board has adjusted some of the amounts as submitted by AG and directs AG to resubmit the placeholder summary in the Second Refiling. The Board recognizes that the 2005-2007 revenue requirements will be impacted by the outcome of various ongoing proceedings and benchmarking processes.

The Board directs that, within 30 days of issue of a Board decision affecting the revenue requirements for any placeholder amount not already adjusted in the Second Refiling, AG shall file for information its calculation of the difference between the final amount approved in any future decision and the placeholder amount in this Decision, and to place the difference in a deferral account for subsequent disposition at an appropriate time in the future.

#### **5 SUMMARY OF BOARD DIRECTIONS**

1. In the Board’s view, the use of STD must be addressed for each of AG South and AG North, rather than for AG in total. The Board directs AG, in its Second Refiling, to review its debt cost calculations and to ensure that any amount of positive mid-year STD included within the forecast relied upon by AG in the first Compliance Filing for each of the test years is reflected in the debt calculations for each of AG South or AG North as separate utilities. .... 7
2. The Board agrees that the 2006 and 2007 revenue requirement should reflect the change in Alberta provincial income tax rate. Therefore the Board directs AG, in the Second Refiling, to use the updated Alberta provincial income tax rate and to reflect the reduction in revenue requirements for the test years. .... 11
3. The Board directs the payment to ATCO Gas South of an amount equal to \$361,665, plus interest, for a total of \$483,316, representing the accumulated depreciation component of the Calgary Stores Block sale proceeds which had previously been allocated to ATCO Gas South customers pursuant to Decision 2002-037 as amended by Decision 2004-030. Decisions 2002-037 and 2004-030 are hereby amended accordingly. .... 19
4. The Board notes that AG identified certain placeholder amounts in the Compliance Filing that were included in the revenue requirements. In this Decision the Board has adjusted some of the amounts as submitted by AG and directs AG to resubmit the placeholder summary in the Second Refiling. The Board recognizes that the 2005-2007 revenue requirements will be impacted by the outcome of various ongoing proceedings and benchmarking processes. .... 20
5. The Board directs that, within 30 days of issue of a Board decision affecting the revenue requirements for any placeholder amount not already adjusted in the Second Refiling, AG shall file for information its calculation of the difference between the final amount approved in any future decision and the placeholder amount in this Decision, and to place the difference in a deferral account for subsequent disposition at an appropriate time in the future. .... 20

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<sup>56</sup> Placeholders Summary, pages 1-3  
20 • EUB Decision 2006-083 (August 11, 2006)



**6 ORDER**

IT IS HEREBY ORDERED THAT:

- (1) ATCO Pipelines shall submit a Second Refiling by September 11, 2006, reflecting the directions in this Decision.

Dated in Calgary, Alberta on August 11, 2006.

**ALBERTA ENERGY AND UTILITIES BOARD**

*(original signed by)*

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

*(original signed by)*

Gordon J. Miller  
Member

*(original signed by)*

Laurie J. Bayda  
Acting Member

**APPENDIX A – ACCOUNT 721 ADJUSTMENTS**

**Account 721 Adjustments  
(\$000)**

	Decision Reference	2005			2006			2007		
		North	South	Total	North	South	Total	North	South	Total
1 Administrative Expense (Including Carbon) per Application	BR-38(a) Attach 2	21,067	20,607	41,674	21,354	21,037	42,391	21,870	21,493	43,363
2 Administrative Adjustment to account 721 from Decision 2006-004		-3,275	-2,837	-6,112	-3,171	-2,876	-6,047	-3,305	-2,951	-6,256
3 Approved 2004 base plus inflation Decision 2006-004	BD 40	17,792	17,770	35,562	18,183	18,161	36,344	18,565	18,542	37,107
<b>Additional to 2004 Board Approved: Labor</b>										
4 HR Advisors	BD 14	31	29	60	65	59	124	67	61	128
5 Variable Pay Program 50% approved	BD 36	49	49	98	50	51	101	52	53	105
6 Accountant, Financial Planning, Director Regulatory	P 73	53	53	106	68	66	134	188	182	370
7 Total Labour and O & M Adjustments		133	131	264	183	176	359	307	296	603
<b>Supplies:</b>										
8 Manager Internal Controls	BD 35	10	11	21	10	11	21	11	12	23
9 Adjust I-Tek Placeholder from Application 7.5%	BD 17	-520	-530	-1,050	-517	-524	-1,041	-525	-531	-1,056
10 Total Supplies and Adjustments		-510	-519	-1,029	-507	-513	-1,020	-514	-519	-1,033
11 Approved Account 721 Expense (Note 1)		<b>\$ 17,415</b>	<b>\$ 17,382</b>	<b>\$ 34,797</b>	<b>\$ 17,859</b>	<b>\$ 17,824</b>	<b>\$ 35,683</b>	<b>\$ 18,358</b>	<b>\$ 18,319</b>	<b>\$ 36,677</b>

Note 1 Subject to adjustments for differences between applied placeholder amounts shown below and awarded placeholder amounts resulting from benchmarking

**(\$000)**

**O & M Placeholders per Application**

12 Executive Salaries	BR-AU-29 AU	937	936	1,873	960	960	1,920	985	984	1,969
13 Corporate Office Executive Salaries	Exh 30-06	482	523	1,005	498	540	1,038	511	556	1,067
14 Directors Fees AG	Exh 30-06	18	19	37	19	19	38	20	19	39
15 Directors Fees Corporate	Exh 30-06	142	142	284	147	147	294	151	151	302
16 Pension	Compl Filing	359	302	661	372	313	685	386	324	710
17 Deferred Asset Amortization	Exh 30-06	642	1,050	1,692	577	941	1,518	511	836	1,347
18 Supplemental Pension & OPEB	Exh 30-06	701	590	1,291	722	607	1,329	743	624	1,367
19 Rent Expense	Exh 30-06	791	755	1,546	791	755	1,546	791	755	1,546
20 I-Tek Computer Services (Note 2)	Exh 30-06	6,418	6,532	12,950	6,371	6,468	12,839	6,477	6,547	13,024
21 Gas Balancing (Note 3)	BD 20			0			0			0

Note 2 Adjusted to reflect Decision 2002-069  
Note 3 Retailer Service Phase II Part B