



## **ATCO Gas**

A Division of ATCO Gas and Pipelines Ltd.

**Imbalance and Production Adjustments  
Deferred Gas Account**

**April 28, 2005**

**ALBERTA ENERGY AND UTILITIES BOARD**

Decision 2005-036: ATCO Gas, A Division of ATCO Gas and Pipelines Ltd.  
Imbalance and Production Adjustments – Deferred Gas Account  
Application No. 1347852

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# **ALBERTA ENERGY AND UTILITIES BOARD**

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**Calgary Alberta**

## **ATCO GAS A DIVISION OF ATCO GAS AND PIPELINES LTD. IMBALANCE AND PRODUCTION ADJUSTMENTS DEFERRED GAS ACCOUNT**

**Decision 2005-036  
Application No. 1347852**

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### **1 INTRODUCTION**

The Alberta Energy and Utilities Board (the Board) received an application (the Application), dated May 31, 2004, from ATCO Gas (AG), a division of ATCO Gas and Pipelines Ltd. (ATCO), requesting approval to include prior period adjustments for imbalances in the Deferred Gas Account (DGA) for each of its South gas distribution service territory (AGS) and its North gas distribution service territory (AGN). The adjustments resulted from errors found in AG's review of certain imbalances recorded in the DGAs and filed in previous gas cost recovery rate (GCRR) applications for both AGS and AGN. For AGS, the errors occurred during the period January 1999 to February 2004; for AGN, the period was January 1998 to February 2004 (collectively and individually, the Adjustment Period).

AG also requested approval for an adjustment to AGN's DGA related to production assets, all of which had been sold by the year 2003. This adjustment resulted from corrections made in 2003 to certain charges, mainly in respect of royalties paid to the Province of Alberta that had been previously included in determinations of the GCRR.

Imbalances are mainly applicable to gas managed as transportation service by both AG and ATCO Pipelines (AP), another division of ATCO, and are generally defined as the difference between the gas energy received from transportation customers and the gas energy delivered to them, net of certain adjustments. Imbalances also affect the total gas costs recovered from the sale of natural gas through the DGA, as positive/negative imbalances tend to reduce/increase gas purchases required for sales customers, which in the aggregate are considered to be the unbalanced shipper on the AG and AP pipeline systems. Imbalances are thus considered as an adjustment component to the total purchase costs of gas used in setting a GCRR.

AG had included in its GCRR filings for the month of December 2003, amounts that it had originally determined for the imbalances errors concerned as prior period adjustments to the respective DGAs for AGS and AGN. In its review of these filings, the Board sought further information from AG about the proposed adjustments. On examination of the supporting detail for the filings, AG found additional errors related to the imbalances. Accordingly, by letter dated November 26, 2003, AG revised its December 2003 GCRR filings to remove the prior period adjustments, pending further review of the imbalance errors.<sup>1</sup>

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<sup>1</sup> The prior period imbalance adjustments removed from the filings was a recovery of \$12,534,000 from customers of AGS and a refund of \$5,796,000 to customers of AGN.

Consequently, after conducting the review, and recalculating the imbalance errors, AG filed the Application. The specific approvals sought were:

1. to refund transportation imbalance purchase/sales costs in the amount of \$335,870 to the AGS DGA;
2. to recover imbalance costs in the amount of \$11,621,329 from the AGS DGA;
3. to recover transportation imbalance purchase/sales costs in the amount of \$145,773 from the AGN DGA;
4. to refund Imbalance costs in the amount of \$1,254,655 to the AGN DGA; and
5. to refund costs related to AGN production assets in the amount of \$879,322 to the AGN DGA.

ATCO engaged KPMG LLP, Chartered Accountants, to undertake a review in connection with ATCO's calculation of the closing imbalance volumes as at February 29, 2004. KPMG reported to the directors of ATCO that, as a result of applying specifically agreed upon procedures, it found no exceptions, other than differences in volumes transferred out of the Gas Management System (GMS) into the Transportation Information System (TIS).<sup>2</sup> KPMG's review did not constitute an audit of the closing imbalance volumes as at February 29, 2004. Copies of KPMG's Engagement Letter, dated March 9, 2004, and Report, dated May 20, 2004, were submitted with the Application.

Effective May 4, 2004, Direct Energy Regulated Services (DERS), a business unit of Direct Energy Marketing Limited, assumed the role of the Default Supply Provider (DSP) for AG, wherein it undertook the function of selling natural gas under a regulated rate to sales customers. Therefore, AG proposed that any adjustments to the DGA for each of AGS and AGN be recorded in the respective DGAs for AGS and AGN that are administered by DERS for recovery of gas costs through its Gas Cost Flow-through Rate (GCFR).<sup>3</sup>

By letter dated September 27, 2004, the City of Calgary (Calgary) filed a motion for an order of the Board that would require AG to respond more fully to certain of Calgary's information requests. Given the nature of the information requested by Calgary, the Board considered that a possibility existed that AG might not be able to clarify its responses in writing to Calgary's satisfaction. Consequently, the Board directed AG to hold a technical meeting to address Calgary's concerns. The meeting was held on October 29, 2004.<sup>4</sup>

The Panel assigned to deal with the Application consisted of B. T. McManus, Q.C. (Presiding), J. I. Douglas, F.C.A., and C. Dahl Rees. The Board served notice of the Application electronically to parties listed on AG's GCRR filings and its previous unaccounted for gas application (No. 1286668) on June 14, 2004 and published the notice in daily newspapers in AG's service territories on June 17, 2004. The Board advised interested parties that it was prepared to consider the need for an oral hearing to address issues raised; however, the parties

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<sup>2</sup> Transportation administration was moved into TIS from the GMS subsequent to new transmission transportation services implemented in January 1998 (North) and February 1999 (South).

<sup>3</sup> References herein to the GCRR would similarly apply to DERS's Gas Cost Flow-through Rate.

<sup>4</sup> The meeting was attended by representatives of Calgary and the Alberta Urban Municipalities Association and the Public Institutional Consumers of Alberta (together, AUMA/PICA)

that registered as interveners<sup>5</sup> ultimately agreed that the Application could be dealt with in a written process.<sup>6</sup> The Board considered that the record for the proceeding closed on January 28, 2005.

## 2 ISSUES

### 2.1 Imbalances – Discovery of Rate 11 Error

AG submitted that there were two distinct aspects of imbalances: the management, control and reporting of other gas owners' imbalances that result from the shipment of other owners' gas through the pipeline network (collectively referred to herein as Transportation Processes), and the recognition of the effect that other gas owners' imbalances have on regulated gas supply procurement and the timing of cost recovery from regulated sales customers (DGA/GCRR Processes).

AG submitted that other gas owners' imbalances were made up of transportation imbalances and exchange imbalances. Transportation imbalances are associated with active transportation contracts, which reflect the physical movement of gas through ATCO's pipeline system. AG described Transportation Processes as including, without limitation, measurement, nomination, allocation, reporting, preparing statements, invoicing and receiving payment from other gas owners who contract for transportation service. AG also noted that exchange imbalances are those associated with active exchange contracts, which reflect a physical swap of gas between ATCO and a counterparty and in which there are no monthly imbalance settlement provisions.

AG described the DGA/GCRR Processes as including acquisition of gas supply, recognition of related costs, recoveries, prior period adjustments, imbalances and the determination of the GCRR. The purpose of recognizing imbalances in the DGA was to match the cost recovery of gas acquired in a period for sales customers with their consumption in that period. Without recognition of imbalances, sales customers would have otherwise over-paid or under-paid for their gas, depending on the net draft (receipts less than deliveries) or pack (receipts greater than deliveries) of the pipeline system by transportation customers in the period.

AG contended that each of the Transportation Processes and DGA/GCRR Processes, and the systems supporting them, were sound, had been subjected to internal and external audit, had been independently scrutinized and were not the subject of the Application. AG further stated that scrutiny of statements of account by the other gas owners and ATCO provided control in the detection and timely correction of errors and imbalances. The concern therefore, in AG's opinion, was not in respect of the processes but for a problem that occurred in the TIS transportation imbalance report (the TIS Report) prepared by AP with respect to the actual imbalances reported in the Transportation Processes and the amounts of imbalances that were reported in the DGA/GCRR Processes. More particularly, in the preparation of the TIS Report,

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<sup>5</sup> Registered parties included the Alberta Irrigation Projects Association (AIPA), AUMA/PICA, BP Canada Energy Company, Calgary, the City of Edmonton, the Consumers Coalition of Alberta (CCA), DERS, and the Office of the Utilities Consumer Advocate. AUMA/PICA, Calgary and DERS participated in the proceeding.

<sup>6</sup> Refer to Appendix 2 for the final Schedule set for the Application.

amounts for Rate 11 service<sup>7</sup> were added by AP. However, Rate 11 service was managed manually and was not administered in the TIS Report.

AG contended that it was not until the May 2002 monthly imbalances were reported that it became clear that the imbalances recovery pattern for AGS was not repeating as expected. At that time, ATCO initiated internal reviews of the components that made up the amounts of imbalances being reported in an effort to determine whether a problem existed and, if so, the nature of the problem. As of February 2003, while it was concerned about the magnitude of imbalances, ATCO considered that it still did not have direct evidence that reported imbalances were incorrect. ATCO initiated a formal review of DGA balances in November 2003. This formal review was completed in May 2004.

AUMA/PICA questioned why it took ATCO so long to commence a formal review of the problem and whether other gas owners properly reviewed ATCO's billings to determine their accuracy. AUMA/PICA submitted that ATCO was imprudent, given the manner and timeliness in which it handled the imbalances errors. They considered that the errors resulted from a serious breakdown of internal controls within ATCO with respect to the DGA function. They were particularly concerned that neither AG nor its internal or external auditors reconciled individual transportation account statements to the aggregate reports generated by the old TIS system on which AG relied to determine the imbalances attributable to the DGA. Consequently, they considered that AG should bear some of the responsibility for the errors and recommended that a 15% penalty should apply to the AGS imbalances adjustment.

Calgary submitted that ATCO did not provide any evidence from either its internal or external auditors to support its contention that its processes and supporting systems were sound. Calgary noted that the accounting errors related to the imbalances went undetected for five years in both the DGAs for AGS and AGN. Calgary also noted that other measurement error problems that went undetected over an extended period of time occurred at ATCO's Jumping Pound metering station and at its Carbon storage facility.

### **Views of the Board**

The Board agrees with AG that this Application concerns the disconnection that occurred between the true and correct imbalances reported in the Transportation Processes and the representation of those imbalances reported in the DGA/GCRR Processes. The Board considers that the error in the design of the TIS Report along with the management practices related to process control, including those related to the TIS Report, are of concern.

Imbalances occur in the normal course of AG's operations and have historically been a legitimate part of the DGA process in that sales customers have been considered the residual shipper. The Board, however, notes a lack of documented audit evidence that would support the correctness of the imbalances reporting systems in the present case, and is thus concerned with the degree of accuracy that AG contends exists for the present imbalances adjustments. Moreover, the Board is concerned with the amount of time, dating back to 1998, that it took ATCO to find, and ultimately make, the imbalances corrections.

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<sup>7</sup> Rate 11 refers to the rate available to all customers that use less than 8,000 gigajoules per year and purchase their natural gas requirements from a retailer.



The Board is troubled by what it considers to be an apparent lack of diligence exhibited by either of AG or AP or both of them over the reporting of imbalances in as much as the errors included in the review had occurred since at least 1998. The Board notes AG's assertion that the processes were subject to both internal and external audit review, and particularly AG's statement that "the controls and the DGA process within ATCO Gas were in place and were working"<sup>8</sup>. However the Board believes that AG's controls were not working effectively, at least not on a timely basis.

The Board considers that, in its review of the TIS Reports, AG had an obligation to its customers to ensure the completeness and accuracy of these reports. While the Board accepts that errors do occur in the ordinary course of conducting business operations, customers should be able to expect that proper internal controls would be in place to detect material errors in a timely fashion.

The Board acknowledges that AG has explained in significant detail the circumstances that led to the reporting of the incorrect imbalances, and is satisfied that AG acted appropriately to investigate and determine the root of the problem. There is nevertheless a concern with the timeliness of the investigations. The Board notes that AG stated in the Application that "ATCO found that the original design specification for the monthly TIS Report was not correct."<sup>9</sup> This acknowledgment would indicate that before the imbalances problem was identified there had been a lack of system control over, and audit of, the design. In addition, the Board notes that ATCO did not appear to take the appropriate action to modify the functionality of the TIS system with respect to Rate 11 delivery input which ultimately led AP employees to input inaccurate delivery data in order to 'quiet' an error message. It appears to the Board that if AP employees had not entered the inaccurate Rate 11 delivery data, the incorrect TIS Report may not have been noticed by AG in the normal course of business, given that it does not appear that ATCO tested or planned to test the integrity of the report.<sup>10</sup> In addition, these conditions suggest that necessary supervisory controls in ATCO were absent.

In circumstances such as these, the Board believes that allowing full recovery by AG could be considered by some interested parties as a reward for poor management. The Board will address this view later in this Decision.

## 2.2 Reconciliation of Reviewed Imbalances

"Reviewed Imbalances" refers to AG's re-determination of the imbalance amounts during the Adjustment Period. AG stated that the Reviewed Imbalances were based on the active statements contained in the TIS, GMS and AG's manual Rate 11 administrative process, which had potential to produce imbalances in the pipeline system and which reflected true imbalances that were used to invoice transportation customers and manage exchange agreements. A statement, in turn, referred to a summary of the gas energy received, delivered, deducted, adjusted, transported or exchanged on behalf of each other gas owner in a calendar month. In determining the Reviewed Imbalances amounts for AGS and AGN, AG asserted that it aggregated the relevant

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<sup>8</sup> AG Argument, p. 3

<sup>9</sup> Application, p. 8

<sup>10</sup> Application Appendix 1, Table 1-1 South Booked Imbalances; Application Appendix 3, Table 3-1 South Reviewed Imbalances; and AG Submission dated November 9, 2004 with respect to information to address Calgary's motion, Table 1-1 South Incorrect R11 Detail Recreated from Screen Prints, Table 2-1 South Reviewed R11 Detail and Table 3 South and North Incorrect vs. Reviewed Rate 11 Imbalances.

imbalances information accurately and that its analysis did not depend on any incorrect data. AG's position was that:

- the Reviewed Imbalances reconciled to the sum of imbalances recorded on active statements;
- the new TIS Report reconciled to the active statements contained in the TIS;
- the Reviewed Imbalances were tested by ATCO's Internal Audit group and contained no material misstatement of the active statement imbalances, and;
- the results of Internal Audit testing were subjected to review by KPMG LLP and no material exceptions were found.

AUMA/PICA questioned the integrity of the Reviewed Imbalances due to the prior reporting problems that existed in ATCO and because of the use of sampling to determine the accuracy of the amounts. AUMA/PICA also questioned whether the non-audit review work undertaken by KPMG LLP was sufficient to corroborate that the life-to-date imbalances attributed to the DGAs were correct. Further, they questioned how closely transportation customers actually reviewed their statements of account and consequently, what comfort could be derived from such a review. They were concerned that AG was not able to indicate how much of the Rate 11 imbalances originally reported in the TIS skewed those reports. AUMA/PICA concluded that an independent verification of the Reviewed Imbalances should be undertaken, including a reconciliation of the life-to-date imbalances for the DGAs against life-to-date imbalances for all other transportation and other accounts, based on statements rendered and transactions completed as of the end of February 2004.

Calgary argued that ATCO had not demonstrated, or explained in detail, that the Revised Imbalances were correct and accurate in relation to the incorrect numbers. It considered that ATCO's method of adjusting the Imbalances errors was flawed but that it might have been acceptable if:

- i) the differences between the corrected Reviewed Imbalances and the incorrect booked imbalances for each month equaled the Rate 11 error for the corresponding month;
- ii) the opening imbalances based on the recalculated or Reviewed Imbalances reconciled with the original opening imbalances before the errors occurred (i.e., January 1, 1999);
- iii) the extraordinarily large booked imbalances that occurred in April 2001, May 2002 and February 2003 could be explained; and
- iv) it was practical to audit the data supporting the Reviewed Imbalances.

Calgary questioned the accuracy of the opening balances and argued that if opening balances were incorrect, then the aggregate value was also incorrect.<sup>11</sup> Calgary noted particularly that ATCO, and KPMG LLP, presumed that imbalances data in transportation customer statements was correct, that KPMG LLP performed a review, and not an audit, of the Reviewed Imbalances, that the Reviewed Imbalances used different opening balances from previous incorrect reports, and that ATCO lost or destroyed Rate 11 imbalance data related to the imbalances errors. It also argued that AG had not reconciled the incorrect imbalances originally charged to the DGAs with the Reviewed Imbalances to determine whether the revised amounts were actually accurate. Calgary therefore concluded that the Reviewed Imbalances were not correct, that ATCO had not

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<sup>11</sup> Calgary Argument, p. 16 of 29

identified all of the errors in its systems, that existing errors may relate to transportation customer imbalances rather than to the DGA, and that there was no basis for ATCO's assumption that all of the Imbalances errors should be allocated to sales customers.

In Calgary's view, the improper reporting of amounts for Rate 11 service in the TIS by employees of AP was the most significant contributing factor of the Imbalances errors. Calgary noted that for those months when AP staff used a proxy for daily Rate 11 deliveries that equaled daily Rate 11 receipts, thereby producing no Rate 11 imbalance, that proxy could be used as an accurate representation of the monthly Rate 11 error (i.e., zero) in a monthly reconciliation. Calgary suggested that this proxy could also be used in a reconciliation of the imbalances errors. Calgary provided a formula for a monthly reconciliation procedure, which it expressed as:

$$\text{Correct Imbalance}_n + (\text{Error}_n) = \text{Booked Imbalance}_n$$

Where:

$$\begin{aligned} \text{Error}_n = & \text{Erroneous Rate 11 Imbalance Reported by TIS}_n + \\ & \text{Imbalance Purchase/Sale Error}_n + \\ & \text{Erroneous Actual to Estimate Variance Adjustments}_n \end{aligned}$$

n = Each month in the Adjustment Period

AG stated that Calgary's proposed reconciliation procedure would not have adjusted Rate 11 imbalances properly as it would have failed to adjust for required gas-in-kind adjustments. AG noted that Rate 11 service commenced after the implementation of the TIS and was administered manually because Rate 11 account management was not compatible with the account management for other transportation customers. Additionally, AG stated that Rate 11 accounts

- did not have an imbalance limit, as did other transportation service accounts, and accordingly, there were no imbalances purchase/sales settlements for energy amounts outside the limit;
- were not required to trend to zero for the purpose of maintaining daily imbalances within a daily or monthly tolerance level, and
- were only required to supply gas on the basis of a normalized forecast of monthly consumption.

### **Views of the Board**

The Board agrees with Calgary that the possibility of incorrect opening balances creates a degree of uncertainty as to the total accuracy of AG's calculations. The Board believes that obvious errors have resulted causing the need for adjustments because of AP's substitution of incorrect information for Rate 11 transactions. The Board accepts that the lack of documentation prevented AG from doing a better reconciliation. While it would appear that AP's actions precipitated the errors, the onus was on AG to verify the accuracy of AP's calculations when the imbalances reports, now known to be incorrect, were first used by AG.

With respect to the review undertaken by KPMG, the Board notes that the circumstances involved did not make it practical for KPMG to undertake an audit of the Reviewed Imbalances or to fully examine the processes, including TIS. Rather, KPMG, under the terms of its engagement with ATCO, essentially checked data and calculations used to arrive at the imbalance quantities. Under those circumstances, the Board considers that the KPMG review does not provide the Board with complete confidence in the accuracy of the Reviewed Imbalances. While it does not fault KPMG in its undertakings, the Board maintains that the onus was on ATCO to ensure that a sufficient audit trail would be available to substantiate the data output from the TIS.

With respect to Calgary's suggested reconciliation method, the Board considers it would still not provide a high level of confidence as AG explained that some elements needed to complete the reconciliation would be missing.

### **2.3 Nature of DGA Adjustments & Recovery Period**

DGA procedures were initially approved by the Board in 1987<sup>12</sup> and finally approved in 1988<sup>13</sup> for the purpose of reconciling actual costs of gas incurred by a utility with forecasts that it used in setting a GCRR, i.e. the rate it used to recover the commodity costs of gas from sales customers. These procedures ensured that customers paid only the actual cost of gas consumed by them. In addition, they ensured that the utility neither profited from nor suffered losses in the course of selling the gas. This premise currently remains in effect for the sale of gas under a regulated rate.

Initially, reconciliation of the DGA was made on a winter and summer seasonal basis when the application for the respective period's GCRR was filed. In 2001, the Board approved a change in the methodology for determination of a GCRR from a seasonal to a monthly basis. This change in methodology was implemented in April 2002.<sup>14</sup> The purpose of allowing prior period adjustments in the DGA was to allow for forecasting inaccuracies, relative to the timing of actual gas acquisition costs incurred, that would have otherwise impacted the determination of a GCRR.<sup>15</sup>

AG considered that the proposed imbalances adjustments in the Application fell within the procedures approved for a DGA as noted above. It submitted that its DGAs have been in continuous existence since 1987 and that the imbalances errors were similar in nature to measurement errors resulting from meter problems, which had received previous approvals for inclusion in the DGAs. AG argued that, as a deferral account, the DGA is by its nature interim and therefore not subject to the ratemaking principle that precludes retroactivity.

AUMA/PICA and Calgary were concerned that correcting the DGA because of clerical errors discovered long after the fact constituted retroactive ratemaking and caused inter-generational inequities.

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<sup>12</sup> Refer to Orders E87117 and E87118, dated December 2, 1987

<sup>13</sup> Refer to Decision E88018, dated March 18, 1988, and Order E88019, dated March 18, 1988

<sup>14</sup> Refer to Decision 2001-75, dated October 30, 2001

<sup>15</sup> Decision E88018, p. 305 and p. 313

AUMA/PICA submitted that the original intent of the DGA procedures was to deal with the uncertainty and fluctuations in gas prices. They did not consider that the DGA was originally intended to capture volume changes or that it was ever intended to deal with the imbalance errors contemplated in the Application.

AUMA/PICA submitted that the imbalances errors adjustment may fall within the Alberta *Limitations Act*, R.S.A. 2000, c.L-12 (Limitations Act) if ATCO ought to have known about the problem prior to 2001, under which a two-year limitation would have applied. They also referenced Section 9(2) of the *Regulated Default Supply Regulation*, AR 168/2003,<sup>16</sup> which sets out a time restriction for an electric utility to charge a customer for an incorrect meter reading.

Calgary submitted that, historically, approved DGA procedures did not contemplate the type of adjustments proposed in the Application. The procedures were established to set GCRRs with reasonable accuracy, and for reconciling forecasts with actual gas costs over a short period of time. Calgary argued that the use of a DGA does not automatically provide an entitlement for making any and all desired adjustments in the context of gas costs during the life of that account. Therefore, adjustments to the DGA could only be made in certain limited circumstances, including where there were cogent reasons in the form of unusual circumstances in which recovery was sought through no fault on the part of the utility. Calgary contended that without these parameters, the DGA would effectively, and incorrectly, provide a guarantee for AG to recover all of its gas costs without limitation as to time, or for reasons unassociated with proper gas cost forecasting. In Calgary's view, accounting errors could be distinguished from measurement errors. It agreed that the latter type of error was subject to adjustment in the DGA because measurement errors resulted from equipment malfunctions, whereas the imbalances errors were the result of inappropriate accounting practices on the part of ATCO. Calgary also submitted that any over-recoveries resulting from an error on the part of a utility should be refunded, regardless of timing, because consumers would not have caused the error.

Calgary argued that, while the Limitations Act referenced by AUMA/PICA would not apply, nonetheless a similar limitation should be applied in the circumstances in order to bring finality to the setting of rates.

In response to the position taken by the interveners that a limitation period should be imposed on the recovery period for adjustments to the DGA, AG argued that the definitions set out in the Limitations Act did not apply to the Application. Further, AG argued that statutory interpretation of the *Gas Utilities Act*, R.S.A. 2000, c. G-5 (GUA), would rule out the imposition of a restricted time period for adjustments to the DGA. AG submitted that the provision of prior period adjustments contradicted the notion of a limitation period applying to the DGA and any limitation would defeat the purpose of having a DGA.

### Views of the Board

Decision E88018, dated March 18, 1988, stated:

The DGA procedure was proposed [by AG's predecessors] to be in place until gas costs could be forecast with a reasonable degree of certainty.<sup>17</sup>

<sup>16</sup> Pursuant to the *Electric Utilities Act*, S.A. 2003, c.E-5.1

<sup>17</sup> Decision E88018, p. 21

and in a later section also stated:

NUL contended that once gas prices attain some stability and can be forecast with some degree of accuracy, there likely will be no need for a DGA type account. If a DGA mechanism is not approved, NUL suggested that there would be significant swings to its earnings. NUL confirmed that when the first reconciliation proceedings are held, the Board and the Intervenors may examine not only the projected gas costs for the next reconciliation period but also those costs that are related to the period under review. (Tr. p. 488) And further:

‘There’s no attempt in the deferred gas account mechanism that’s been proposed to bypass the Board’s ability to rule on the prudence of a cost.’  
(Tr. p. 489)<sup>18</sup>

The Board concludes from this prior decision that the DGA was not intended to be a permanent fixture, but was expected to be in place until the volatility of gas prices had decreased to a point where AG could revert to its previous practice of forecasting the gas costs on a prospective basis. The difference between the two practices was that prior to the implementation of the DGA, any difference between forecast and actual was to the account of the shareholder, whereas in the DGA process the differences fell to the account of the customer.

It is clear to the Board that the only purpose of the DGA was to provide a method of correcting the customer rates due to the volatility in the purchase price of natural gas. Decision E88018 noted that:

...the expense booked each month would be the product of the actual sales in GJ [gigajoule] and the GCRR effective for that particular month. Once the actual costs for that month have been determined, the difference between this amount and the booked cost would be held in a Deferred Gas Account for refund or recovery to or from the sales customers in a future period.<sup>19</sup>

A question that is central to the Application, is whether or not it is appropriate for the DGA to be a vehicle for all and any updates and corrections other than for price and actual gas sales (or deliveries). The description of adjusting refunds or recoveries as previously noted does not include anything else that needs to be accounted for. However, the Board is aware that, during the approximate 16 years that the DGA has been in place, it has been used to update adjusted imbalance amounts from shippers, producers and interconnecting pipelines. Prior period adjustments for various types of corrections have been relatively common occurrences. While the Board and interested parties may not have previously taken issue with these types of corrections, the Board is concerned that the DGA seems to have evolved into a vehicle to fix all possible errors as a cost of gas to be charged to sales customers under a regulated rate.

The Board has generally considered that most prior period adjustments have been made within a reasonable time period. In some cases, such as the recent proceeding that dealt with AG’s Jumping Pound measurement adjustment,<sup>20</sup> prior period adjustments have been specifically

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<sup>18</sup> Ibid, p. 313

<sup>19</sup> Ibid, p. 305

<sup>20</sup> Refer to Decision 2004-013, dated February 17, 2004

approved for imbalances resulting from measurement errors that have related to periods of over one year.

When the DGA was first approved, reconciliations were normally done between a summer/winter season and the previous summer/winter season. The Board believes that, normally, reconciliations were not expected to look back further than 12 months. As the process evolved, some prior period adjustments were made which extended back further than 12 months. Under special circumstances, for example, involving measuring equipment malfunctions, prior period adjustments involving longer periods have been accepted by the Board. However, the Board considers that the DGA was never set up with the intention of permitting all prior period accounting errors, particularly those that would have been subject to ATCO's management and control, to be processed and rectified through the DGA.

The Board is troubled by the evolutionary use of the DGA. The DGA replaced a prospective process where accounting errors, such as those that are the subject of the Application, should typically have been absorbed by the utility's shareholder. It now appears that the DGA is being treated as a catch-all for fixing errors, including those that have a long history, or appear to be the result of human error, where adequate processes have not been in place to capture and correct the problem at an early stage. Notwithstanding that some prior period adjustments previously approved by the Board may have covered an extended period of time, the Board considers that seven years represents a significant lag presenting obvious intergenerational equity issues.

In its review of the entire record of the Application, the Board has concluded that there was an onus on ATCO to ensure the TIS was working properly over time and giving reasonably correct output that would not precipitate an application such as this one. ATCO does not appear to have implemented an appropriate and timely review process for TIS design. The Board notes that no evidence was submitted of actual internal or external audits being performed to ensure the design was valid as the new system was being put into service. Later, during use of the TIS between 1998 and 2002, there was an apparent lack of oversight by ATCO to properly test and develop appropriate controls to ensure that the output generated was as intended. These circumstances cause some degree of concern with respect to the ultimate accuracy of the amounts determined for the Reviewed Imbalances.

Notwithstanding all of the foregoing considerations, the Board must remain mindful of the essential nature of the DGA as a deferral account and the allowances in the past of certain prior period adjustments spanning a number of years. Accordingly, the Board is inclined to allow AG substantial recovery of the applied for prior period adjustments. However, as discussed in the following Section 2.4, the Board considers AG is not entitled to full recovery of the applied for prior period adjustments.

## **2.4 Approved Imbalances Adjustment**

### **Views of the Board**

As previously discussed in the preceding sections, the Board has some doubt as to the extent that it can rely on AG's revised imbalance amounts. Regrettably there is little on the present record to demonstrate the extent to which the numbers are faulty. The Board recognizes that part of the problem may lie in the fact that some of the data is no longer available due to the unilateral

actions taken by ATCO. In this regard the Board believes that AG should assume some responsibility.

The following factors contribute to the Board's view that AG should, in part, be held accountable for the accounting errors precipitating the Application:

- no demonstration that the TIS Report was adequately tested at the time of inception
- lack of audits of the TIS system
- unilateral destruction of data by AG
- lack of adequate internal controls and supervisory systems
- inadequate proof of corrections and opening balance
- lengthy delay in discovery

Accordingly, the Board directs AG to reduce the imbalance adjustment amounts by 15% for both the North and the South. The Board recognizes that the present filed amounts will be subject to any revisions to imbalances that are applicable to the period prior to March 2004 that are to be submitted in a compliance filing as discussed in Section 2.7 of this Decision. Therefore in accordance with the Board direction, the ultimate imbalance adjustment amounts will be reduced by 15% for both the North and the South. The final approved recovery and refund amounts will be based on the amounts as shown in the Application at line 7, Table 6-3 and the sum of lines 5 and 6, Table 6-6,<sup>21</sup> as revised by the compliance filing which will take into account other adjustments by ATCO up to March 2004.

## **2.5 Production Adjustments**

AG submitted that an adjustment was required for AGN, the majority of which was with respect to credits related to Crown Royalties that were associated with production assets sold prior to 2004. The adjustment resulted in a refund due in the amount of \$879,322.

### **Views of the Board**

The Board notes that there were no challenges to AG's submission and therefore the Board will accept AG's proposal to refund the monies to customers of AGN.

## **2.6 Significance of Imbalances Adjustment**

AG requested a net recovery of \$11,285,459 from customers of AGS and a net refund of \$1,988,204 to customers of AGN. If the recovery and refund were to be made in the month of April 2005, DERS estimated that its respective GCFRs for the month would be increased by approximately \$1.655/GJ in the South and reduced by approximately \$0.287/GJ in the North. DERS proposed that the recovery from AGS customers could be spread over the summer period, April 1 to October 31, 2005. In addition DERS proposed that AGS Rate 5 (irrigation) customers could be provided with a separate GCFR to more appropriately reflect a fair allocation to those customers. The proposals would result in a monthly increase over the summer period of about \$0.376/GJ for customers other than Rate 5 and an increase of about \$0.128/GJ for Rate 5 customers. AG did not oppose the proposals.

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<sup>21</sup> Refer to Appendix 1



AG submitted that the imbalances errors adjustments were insignificant in the context of gas purchases recorded in the DGA. AG, however, noted that the error for AGS would represent approximately 40% of the approved utility earnings. AG noted that it has financed the net Imbalances errors but is not seeking recovery of interest.

Calgary considered the Imbalances adjustments to be material relative to the balance in the DGA.

### **Views of the Board**

The Board acknowledges that the magnitude of the amounts in question are not significant in comparison to the gas purchases each month, but considers that it may be reasonable to reduce their impact, especially in the South. Therefore, the Board accepts DERS' suggestion to spread the collection of the final approved amount from AGS customers during the summer period commencing at the first of the month following the release of the compliance decision report, referenced in section 2.7 of this Decision, so that it has been fully collected by October 31, 2005.

With respect to the refund of the final approved amount to AGN customers, the Board considers that this can be accomplished in one month by including it in the next billing period following the Compliance Decision.

These approvals may be revised if the final approved amounts differ significantly from those in the Application.

AG and DERS are directed to work together to accomplish the foregoing.

### **2.7 Compliance Filing**

AG stated that, as imbalances reflect a continuum in service to other gas owners, the adjustment calculated and applied for was necessarily based on a snapshot at the time the application was prepared. AG advised that the reporting of imbalances in DERS' GCFR was current for months subsequent to February 2004. However, imbalances for the months prior to March 2004 have been subject to revisions which are not reflected in either DERS' GCFR or the Application. Further, the current life-to-date imbalances positions reflected in DERS' DGAs/GCFRs, were re-instituted using an opening imbalance of zero (to reflect the fact that the Application was not approved at the time of re-institution). Therefore, ATCO proposed that the final determination of the imbalance adjustments, taking into account prior period adjustments that have occurred subsequent to the filing date of the Application, would be made through a compliance filing subsequent to the Board's decision.

### **Views of the Board**

The Board accepts AG's recommendation to submit a compliance filing that will incorporate revisions to imbalances that were not reflected in the Application and are applicable to the months prior to March 2004. The Board directs AG to submit a compliance filing by May 24, 2005 that is to be completed with each month's adjustment, prior to March 2004, being individually explained as to their cause.

## 2.8 Other Matters

The Board has considered the notion put forward by the AUMA/PICA that the *Limitations Act* could provide some guidance regarding the timeliness of adjustments, in as much as there is no regulation imposed by the *GUA*. The Board is interested in examining a policy that would limit the extent to which retroactive adjustments are made, especially those that the utility has some control over and therefore some accountability. However, the Board is not prepared to make a determination in this proceeding that sets a limitation period for prior period adjustments to the DGA. The Board does not consider there has been sufficient evidence on the record or precedent to allow it to reach a considered opinion.

Nevertheless, the Board wishes to pursue this topic and therefore directs AG to submit an application by May 31, 2005 that sets out AG's views on the merits of a policy that would limit prior period adjustments to the DGA, to a specific limitation period, and which may also determine any restrictions on the types of adjustments which should be allowed to flow through the DGA. Following due process that includes the participation of interested parties, likely including DERS, the Board will issue a decision in this regard.

### 3 ORDER

IT IS HEREBY ORDERED THAT ATCO Gas:

- (1) submit a compliance filing by May 24, 2005, which is to be completed with each month's adjustment prior to March 2004, being individually explained as to its cause.
- (2) be allowed to recover from and be directed to refund to the appropriate DGAs, 85% of the amounts shown in the Application at line 7, Table 6-3 and the sum of lines 5 and 6, Table 6-6, subsequent to the amounts being revised by the compliance filing which will take into account other adjustments by ATCO up to March 2004.
- (3) refund to the AGN DGA credits related to AGN production assets in the amount of \$879,322.
- (4) file an application with the Board by May 31, 2005 respecting principles for a potential Board policy addressing limitation periods for prior period adjustments to the DGA and clarification of the types of adjustments which should be allowed recovery through the DGA.

Dated in Calgary, Alberta on April 28, 2005.

#### ALBERTA ENERGY AND UTILITIES BOARD

*(original signed by)*

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

*(original signed by)*

J. I. Douglas, FCA  
Member

*(original signed by)*

C. Dahl Rees  
Acting Member



**APPENDIX 1 – SUMMARIES OF DGA ADJUSTMENTS****ATCO Gas South – DGA Adjustment to February 29, 2004  
(Application Appendix 6 Table 6-3)**

1	Booked Imbalances (\$)	\$(11,996,786)	
2	Life-to-date Reviewed Imbalances (GJ)	(64,958)	
3	February 2004 Market Price (\$/GJ)	\$5.7800	from CGPR *
4	Reviewed Imbalances at Market Price (\$)	<u>(\$375,457)</u>	line 2 times line 3
5	Imbalances Recovery/(Refund) (\$)	\$11,621,329	line 4 minus line 1
6	Net Purchase/Sales Adjustment (\$)	<u>(\$335,870)</u>	
7	South GCFR Receivable	<u>\$11,285,459</u>	line 5 plus line 6

**ATCO Gas North – DGA Adjustment to February 29, 2004  
(Application Appendix 6 Table 6-6)**

1	Booked Imbalances (\$)	\$2,978,379	
2	Life-to-date Reviewed Imbalances (GJ)	298,222	
3	February 2004 Market Price (\$/GJ)	\$5.7800	from CGPR *
4	Reviewed Imbalances at Market Price (\$)	<u>\$1,723,724</u>	line 2 times line 3
5	Subtotal Recovery/(Refund) (\$)	(\$1,254,655)	line 4 minus line 1
6	Net Purchase/Sales Adjustment (\$)	\$145,773	
7	Production Adjustment (\$)	<u>(\$879,322)</u>	
8	North GCFR Payable	<u>(\$1,988,204)</u>	line 5 plus lines 6 and 7

\* Total Weighted Average price including Weekend deals published by Canadian Gas Price Reporter.

**APPENDIX 2 – SCHEDULE FOR THE APPLICATION**

Information Requests to AG	August 9, 2004
Information Request Responses from AG	August 27, 2004
Clarification Information Requests to AG	September 14, 2004
Clarification Information Request Responses from AG	September 21, 2004
Responses to a Motion by Calgary regarding Clarification	
Information Request Responses from AG	October 1, 2004
Issues Lists from Interveners Relating to Motion by Calgary	October 21, 2004
Technical Meeting	October 29, 2004
Intervener Evidence	November 23, 2004
Information Requests on Intervener Evidence	December 3, 2004
Information Request Responses from Interveners	December 15, 2004
Rebuttal Evidence	December 23, 2004
Argument	January 21, 2005
Reply Argument	January 28, 2005

### APPENDIX 3 – SUMMARY OF BOARD DIRECTIONS

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

1. Accordingly, the Board directs AG to reduce the imbalance adjustment amounts by 15% for both the North and the South. The Board recognizes that the present filed amounts will be subject to any revisions to imbalances that are applicable to the period prior to March 2004 that are to be submitted in a compliance filing as discussed in Section 2.7 of this Decision. Therefore in accordance with the Board direction, the ultimate imbalance adjustment amounts will be reduced by 15% for both the North and the South. The final approved recovery and refund amounts will be based on the amounts as shown in the Application at line 7, Table 6-3 and the sum of lines 5 and 6, Table 6-6, as revised by the compliance filing which will take into account other adjustments by ATCO up to March 2004. .... 12
2. AG and DERS are directed to work together to accomplish the foregoing..... 13
3. The Board accepts AG’s recommendation to submit a compliance filing that will incorporate revisions to imbalances that were not reflected in the Application and are applicable to the months prior to March 2004. The Board directs AG to submit a compliance filing by May 24, 2005 that is to be completed with each month’s adjustment, prior to March 2004, being individually explained as to their cause. .... 13
4. Nevertheless, the Board wishes to pursue this topic and therefore directs AG to submit an application by May 31, 2005 that sets out AG’s views on the merits of a policy that would limit prior period adjustments to the DGA, to a specific limitation period, and which may also determine any restrictions on the types of adjustments which should be allowed to flow through the DGA. Following due process that includes the participation of interested parties, likely including DERS, the Board will issue a decision in this regard. .... 14