



# **AltaGas Utilities Inc.**

**2003/2004 General Rate Application  
Phase I**

**Request for Approval of Negotiated Settlement  
and Memorandum of Agreement**

**August 3, 2004**

**ALBERTA ENERGY AND UTILITIES BOARD**

Decision 2004-063: AltaGas Utilities Inc.

2003/2004 General Rate Application – Phase I

Request for Approval of Negotiated Settlement and Memorandum of Agreement

Application No. 1305995

Published by

Alberta Energy and Utilities Board

640 – 5 Avenue SW

Calgary, Alberta

T2P 3G4

Telephone: (403) 297-8311

Fax: (403) 297-7040

Web site: [www.eub.gov.ab.ca](http://www.eub.gov.ab.ca)

## Contents

<b>1</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2</b>	<b>BACKGROUND .....</b>	<b>1</b>
<b>3</b>	<b>PARTICULARS OF THE APPLICATION.....</b>	<b>2</b>
<b>4</b>	<b>NEGOTIATED SETTLEMENT GUIDELINES.....</b>	<b>3</b>
<b>5</b>	<b>VIEWS OF THE BOARD.....</b>	<b>5</b>
<b>6</b>	<b>ORDER .....</b>	<b>7</b>

## List of Tables

<b>Table 1.</b>	<b>2003/2004 GRA Forecast Compared to 2002 Actual.....</b>	<b>6</b>
-----------------	--	----------



# ALBERTA ENERGY AND UTILITIES BOARD

---

Calgary Alberta

**ALTAGAS UTILITIES INC.  
2003/2004 GENERAL RATE APPLICATION  
PHASE I – REQUEST FOR APPROVAL OF  
NEGOTIATED SETTLEMENT AND  
MEMORANDUM OF AGREEMENT**

**Decision 2004-063  
Application No. 1305995  
File No. 1402-12**

---

## 1 INTRODUCTION

On March 12, 2004, AltaGas Utilities Inc. (AltaGas, AUI, or the Company) filed an application with the Alberta Energy and Utilities Board (EUB or the Board), requesting approval of AUI's Negotiated Settlement (the Settlement) and Memorandum of Agreement (MOA or the Agreement) on the Phase I portion of its 2003/2004 General Rate Application (GRA). The Settlement and MOA are based on AUI's original GRA Phase I, filed by letter dated June 27, 2003.

In a letter dated May 10, 2004, the Board provided Notice of Application to interested parties. Any party wishing to provide a submission was to do so by May 19, 2004. The Board received a letter of intervention dated May 19, 2004, from Mr. Russ Duncan, a natural gas end user on both ATCO Gas and AltaGas distribution systems. In a letter dated June 21, 2004, the Board dismissed Mr. Duncan's intervention as it failed to raise issues relevant to AUI's application.

The Board considers that the record with respect to this application closed on June 21, 2004.

## 2 BACKGROUND

In [Decision 2003-060](#), dated July 29, 2003, the Board approved AltaGas' Application requesting approval to commence negotiations with respect to all components of the Phase I portion of the 2003/2004 GRA, except for the 2004 rate of return on common equity and capital structure as requested by AUI. With respect to cost of capital and capital structure, AltaGas indicated that it wished to negotiate a settlement with its customer representatives for 2003, but that for 2004, AltaGas preferred the 2004 Placeholder approach to deal with return on equity and capital structure until the outcome of the Board's Generic Cost of Capital Proceeding was known.

- In [Decision 2003-090](#), dated November 25, 2003, the Board approved interim refundable rates effective December 1, 2003, until such time as the Board approved other rates for AltaGas. Also, effective December 1, 2003, the Board approved harmonization of rates for the Bonnyville District service area, which resulted in uniform class rates for all of AltaGas' service area. The Board also directed AltaGas to file a 2004 Cost of Service Study with its 2003/2004 Phase II General Rate Application.

### 3 PARTICULARS OF THE APPLICATION

AUI reached the Settlement and MOA on the Phase I portion of its 2003/2004 GRA with the following customer groups: Alberta Urban Municipalities Association (AUMA), Consumers Coalition of Alberta, Municipal & Gas Co-op Intervenors, and the Energy Users Association of Alberta (collectively, the Customers). All parties ratified the Agreement.

In AUI's original filing, AUI forecast before-tax revenue deficiencies of \$1,028,357 and \$2,271,280 for 2003 and 2004 respectively. The Settlement proposed before-tax revenue deficiencies of \$2,200 and \$608,800 for 2003 and 2004, respectively.

As part of the Settlement, the Company agreed to adjust the Phase I portion of its 2003/2004 GRA as follows:

- Forecast Operating Expenses for 2003 and 2004 were reduced by \$195,400 and \$512,500 for each respective test period.
- Adjustments to plant and depreciation expense resulted in an increase in depreciation expense in 2003 of \$67,000 and a reduction in depreciation expense of \$126,400 in 2004. Reclassification of computer hardware and software assets resulted in reductions in depreciation expense of \$88,900 in 2003 and \$87,800 in 2004.
- Capital additions for 2003 were decreased by \$905,200. Capital additions for 2004 increased by a net amount of \$112,700, which includes the transfer of \$417,600 in capital additions from 2003.
- The Customers and AUI agreed to a forecast mid-year capital structure ratio of 59:41 debt-to-equity for 2003 and 2004. However, as with return on common equity, capital structure for 2004 serves only as a placeholder and will be updated as determined by the Generic Cost of Capital Proceeding.
- The Customers and the Company agreed to a rate of return on common equity (ROE) for 2003 of 9.5 per cent. However, the 2004 rate of return on common equity serves only as a placeholder and will be updated as determined by the Generic Cost of Capital Proceeding.
- The 2003 mid-year cash working capital was reduced by \$1,410,400 and the 2004 mid-year cash working capital was reduced by \$408,000. The 2003 mid-year other working capital was reduced by \$32,100 and the 2004 mid-year other working capital was reduced by \$48,400.
- The Customers and AUI agreed that the mid-year New Debt would be deemed to be \$20.9 million in 2003 and \$29.2 million in 2004. An amount of \$30 million debt has been deemed to be in place commencing January 1, 2003, and will continue to be accessible for Company financing for a period of 5 years, maturing on December 31, 2007. In support of the Agreement, the cost of the New Debt was set at 6.0%. The Company undertakes to issue actual New Debt, maturing in 2007. Upon completion of the issuance of the New Debt, the actual interest rate for the New Debt would be used in determination of the final revenue requirement. The Customers and the Company agreed that regardless of the interest rate at which the debt is actually placed, for ratemaking purposes the cost of the New Debt would not exceed 6.0% over the period 2003-2007.

- The Customers and AUI agreed that the deemed and actual issuance of the New Debt results in the elimination of Deemed Long-Term Debt for mid-year 2003 and 2004. The Company further agreed that in the event the New Debt is not issued in 2004, a Debt Cost Reserve Account will be created for revenues received over and above the cost of short-term debt in place since January 1, 2003 and the funds in the Reserve Account will be returned to customers.
- The Customers and the Company agreed to increase sales revenue, net of cost of gas, by \$100,000 in 2003 and \$100,000 in 2004. The Customers and the Company agreed to increase penalty revenue by \$15,800 in 2004.
- The Customers and the Company agreed that if any income tax rates pertaining to the test period were substantially changed before the completion of Phase II of the 2003/2004 GRA, the Company would adjust the calculated revenue deficiency/surplus for the affected test period. Any substantial change in income tax rates pertaining to the test period enacted after the Phase II proceeding has been completed would be dealt with as a deferred item at the time of the Company's next GRA.
- AltaGas agreed to respond to the Customers' request with respect to depreciation accounting and to provide a related Uniform System of Accounts document in the Company's next GRA.
- By letter dated July 3, 2003, the Board accepted the Company's proposal to "roll the remaining balance from Board Order (3) of [Decision 2003-024](#) ... into the determination of the 2003/2004 GRA revenue deficiency/excess." The Customers and the Company agreed to apply the \$79,900 as a reduction to the 2004 forecast revenue deficiency.
- The Settlement is subject to the right of the Customers to review the results of a run of the Company's financial model using the agreed upon modified inputs, and, working with the Company, to correct any technical errors in the result.

#### 4 NEGOTIATED SETTLEMENT GUIDELINES

The EUB is committed to the negotiated settlement process as part of its objective of achieving greater regulatory efficiency and effectiveness. Negotiated settlement is a process that is alternative or complementary to the traditional hearing process in dealing with utility-related issues such as tolls, tariffs, and terms and conditions of service. The Board believes that the negotiated settlement process can enhance meaningful public participation and encourages stakeholders to make greater use of this process.

The criteria for negotiated settlement processes are set out in section 1.3 of the [IL 98-04 \(Revised-2003\)](#) Revised Negotiated Settlement Guidelines: Tolls, Tariffs, and Terms and Conditions of Service Guidelines (the Guidelines).

The Board's expectations with respect to the negotiated settlement process are based on the following key principles:

- Parties involved in the process will participate in good faith.

- The negotiated settlement process must be:
  - open and fair to all interested parties,
  - conducted on a confidential, without prejudice basis, and
  - sufficiently flexible to accommodate unique circumstances and requirements.

Sufficient information must be available at the outset and during the course of the settlement process to facilitate understanding and review of the issues being negotiated.

The Guidelines make it clear that participation in the process is voluntary and the information provided during the process should be available to all parties having an interest in the issues subject to negotiation. Section 3.1 requires that proper notice of the process must be given and documented in any resulting negotiated settlement agreement. Sections 7 and 8 of the Guidelines provide for the involvement of Board staff in the negotiated settlement process.

Sections 10 and 12 of the Guidelines contemplate an application for approval of a negotiated settlement being filed with the Board. Section 10 emphasizes that the onus is on the applicant to provide sufficient evidence to support the application whereas Section 12 sets out procedures and criteria the Board may follow in considering an application for approval of a negotiated settlement.

In Section 12.2 of the Guidelines, the Board in determining the acceptability of a settlement agreement will address any deviation from existing law and policies of the Board and will consider, inter alia, whether the agreement:

- is in the public interest,
- is reasonable and fair to all parties,
- is rationally substantiated, and
- is supported by a complete and adequate application, subject to Section 4.1.

In Section 12.3 of the Guidelines, the Board recognizes that an agreement reached as a result of a successful negotiation will likely reflect a number of compromises respecting the different interests and positions of the parties. The Board will not approve part of a settlement agreement if the parties have negotiated on the basis that the agreement is contingent on the Board's accepting the entire agreement.

In Section 12.5 of the Guidelines, the Board considers that upon presentation of a unanimous settlement or a settlement that is unopposed, the Board in determining the acceptability of such settlements will consider the following factors:

- provision of proper notice,
- receipt of negative responses to the publication of notice of the application,
- meaningful participation in settlement process by all participants, including funding of interveners' participation,
- participation of EUB staff as observers in the settlement discussions,



- sign-off by all parties expressing an interest in the subject matter of the settlement,
- overall compliance with the Negotiated Settlement Guidelines, and
- assessment of the public interest.

If the Board is satisfied that a unanimous settlement meets the above-described criteria, it will then assess whether the settlement results in rates and terms and conditions that are just and reasonable. In circumstances where a unanimous settlement is determined by the Board to be patently against the public interest or contrary to law, the Board will intervene.

## **5 VIEWS OF THE BOARD**

In this Application, the Board notes that no parties have objected to the MOA and the Settlement reached with customers for the Phase I portion of AUI's 2003/2004 GRA. The Board further notes that the Customers have ratified the MOA.

The first issue for the Board to address is whether the settlement process was fair and conducted in accordance with the Negotiated Settlement Guidelines. The Board notes that documentation filed with the MOA included a copy of the Public Notice issued by the Board to initiate the negotiation process, details of all changes to the Application and related rationale, copies of interrogatories exchanged during the process, as well as detailed regulatory schedules supporting the Application setting out the forecasts as originally filed, and as adjusted to reflect the revisions agreed to in the MOA.

In addition, an EUB staff member attended all negotiation meetings, and confirmed that the process was fair and transparent. The Board is satisfied that the materials filed with the MOA, and the attendance of Board staff provide a level of assurance that interested parties were provided with the opportunity to participate, and participants were afforded due process.

The Board is satisfied that the MOA indicates unanimous agreement for the negotiated settlement, and notes that no valid objections were received in response to the Board's public notice.

The second question for the Board to address is whether the settlement could lead to rates that are not just and reasonable. With this in mind, the Board has analyzed the regulatory information filed in the MOA, in particular, the comparison of the forecast revenue requirement for the test years with actual financial results for the immediately preceding year. The following table summarizes the forecast and actual items that were reviewed for AltaGas.

**Table 1. 2003/2004 GRA Forecast Compared to 2002 Actual**

	(\$000)		
	2002 Actual	2003 Forecast	2004 Forecast
Mid-Year Rate Base	137,736	139,134	142,925
Percent increase over previous year for mid-year rate base		1.0	2.7
Return on Rate Base	7,392	6,915	7,172
Natural Gas Supply	61,143	109,454	94,790
Operating and Maintenance Expense	13,892	15,090	15,755
Percent increase over previous year for operating and maintenance		8.6	4.4
Taxes Other than Income	47	52	54
Net Depreciation Expense	4,661	5,161	5,306
Income Taxes	1,548	1,518	1,441
<b>Utility Revenue Requirement</b>	88,683	138,191	124,520
Less Gas Supply	61,143	109,454	94,790
<b>Net Revenue Requirement</b>	27,540	28,737	29,730
Percent increase over previous year for net revenue requirement		4.3	3.5

From the table above, the Board considers that the test year increases of 4.3% and 3.5% in Net Revenue Requirement in 2003 and 2004 respectively to be reasonable in light of the information supporting the increases. The Board does note that the operating and maintenance increase in 2003 appears somewhat high, however, the Board recognizes that an agreement reached as a result of a successful negotiation reflects a number of compromises respecting the different interests and positions of the parties. In addition, the Board considers the information responses provided with the settlement package adequately addressed the Board's concerns regarding the increase in operating and maintenance in the test year.

The Board notes that the Settlement is subject to the right of the Customers to review the results of a run of the Company's financial model using the agreed upon modified inputs, and, working with the Company, to correct any technical errors in the result. The Board considers this provision offers some additional assurance to customers that the results of the various input are consistent with the terms of the settlement.

The Board is satisfied that the results of this examination support the conclusion that the forecast revenue requirement and revenue deficiencies for the test years as determined by the parties in the negotiated settlement are reasonable. In addition, the Board is satisfied that no public interest concerns have been identified.

The Board expects that a full GRA in 2005 should allow the Board and customers an opportunity to further examine AUI's revenue requirement and rates without some of the limitations that exist with negotiated settlement applications.

The Customers and the Company also agreed to a rate of return on common equity for 2003 of 9.5 per cent. However, the 2004 rate of return on common equity serves only as a placeholder and is to be updated as determined by the Generic Cost of Capital Proceeding.

The Board notes that the Customers and AUI agreed to a forecast mid-year capital structure ratio of 59:41 debt-to-equity for 2003 and 2004. However, as with return on common equity, capital structure for 2004 serves only as a placeholder and is to be updated as determined by the Generic Cost of Capital Proceeding.

On July 2, 2004, the Board released [Decision 2004-052](#), which dealt with the Generic Cost of Capital Proceeding. In Decision 2004-052 the Board established a common approach for setting the ROE for all electric and natural gas utilities regulated by the EUB. Further, the Decision approved the capital structure for each of the utilities. The Board notes that AltaGas Utilities Inc. was awarded a capital structure comprised of 41% equity and 59% debt, consistent with the 2003 capital structure levels reached via settlement with customers.

In Decision 2004-052, the Board established a common ROE for 2004 of 9.6%, applicable to all utilities that did not have a 2004 ROE approved by the Board in a previous GRA/GTA decision. As AUI does not have a previously approved ROE, the Board replaces the return on equity placeholder for 2004 to 9.6%, as per the Board's findings in Decision 2004-052.

The Board directs AUI to file a submission within two weeks of the release of this decision reflecting the changes arising from the Board's Generic Cost of Capital Decision 2004-052.

The Board concludes that the settlement is just and reasonable, but consistent with the Board's approval to negotiate the Phase I 2003/2004 GRA, the Board expects AUI to file a full GRA application for its next test year(s) and that the 2005 application will be fully litigated.

Therefore, the Board approves the settlement as filed and set out in the MOA.

The Board notes that AUI failed to comply with the Board's direction requiring AUI to submit a detailed list of unresolved issues from the 2000/2001/2002 GRA Phase II with AUI's GRA Phase I Application or Settlement Application for the 2003 and 2004 test years. However, as these issues related to unresolved issues arising from AUI's 2000/2001/2002 Phase II GRA, the Board is prepared to accept this non-compliance provided that these issues are addressed in AUI's 2003/2004 Phase II Application.

In [Decision 2003-089](#), dated November 25, 2003, the Board granted AltaGas a further delay in order to comply with the directions from [Decision 2001-75](#), dated October 30, 2001, but expects it to comply with those directions in its 2003/2004 Phase II Application. The Board reiterates its expectation that AUI and its customers address the unbundling issues in its 2003/2004 Phase II Application, as no further extension will be granted on the issues arising from Decision 2001-75.

## 6 ORDER

In the event of any difference between the wording of the Directions listed below and the wording of the main body of the Decision, the wording of the Direction in the main body of the Decision shall prevail.

Having regard to the evidence and submissions, and having regard to its own knowledge and findings in this Decision, the Board hereby orders as follows:

- (1) The Memorandum of Agreement and Negotiated Settlement reached between AltaGas Utilities Inc. and customers for the 2003/2004 General Rate Application Phase I are approved as filed.
- (2) The Board directs AltaGas Utilities Inc. to file either a GRA Phase II Application or Settlement Application for the 2003 and 2004 test years by September 8, 2004.
- (3) The Board directs AltaGas Utilities Inc. to submit a detailed list of unresolved issues from the 2000/2001/2002 GRA Phase II with AUI's GRA Phase II Application or Settlement Application for the 2003 and 2004 test years.
- (4) The Board expects AltaGas Utilities Inc. to comply with the directions from Decision 2001-75, that were granted an extension in Decision 2003-089 (AUI's 2000/2001/2002 Phase II Settlement Application), in its 2003/2004 Phase II Application or Settlement Application.
- (5) The Board directs AltaGas Utilities Inc. to apply the generic ROE and capital structure, as determined in Decision 2004-052, to the 2004 test year forecasts, incorporate the results into the placeholder, and advise the Board as to the appropriate amount within two weeks of the date of this Decision.

Dated in Calgary, Alberta on August 3, 2004.

**ALBERTA ENERGY AND UTILITIES BOARD**

*(original signed by)*

R. G. Lock, P.Eng.  
Presiding Member

*(original signed by)*

Gordon J. Miller  
Board Member

*(original signed by)*

J. G. Gilmour  
Acting Member