



# AUC

Alberta Utilities Commission

## **ATCO Pipelines**

**Request for Review and Variance of Decision 21515-D01-2016  
ATCO Pipelines' 2015-2016 Revenue Requirements  
Compliance Filing to Decision 3577-D01-2016**

**April 5, 2017**

**Alberta Utilities Commission**

Decision 22166-D01-2017

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Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Website: [www.auc.ab.ca](http://www.auc.ab.ca)

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## **1 Decision summary**

1. In this decision, the Alberta Utilities Commission must decide whether to grant an application (the review application) filed by ATCO Gas and Pipelines Ltd. (ATCO Pipelines) requesting a review and variance of Commission Decision 21515-D01-2016 (original decision).<sup>1</sup> The original decision addressed ATCO Pipelines' compliance with Commission directions set out in Decision 3577-D01-2016,<sup>2</sup> which approved ATCO Pipelines' 2015-2016 revenue requirements. The compliance application was filed on April 14, 2016 and was assigned Proceeding 21515. In the compliance application, ATCO Pipelines' also requested adjustments to its 2015-2016 revenue requirements to reflect certain information technology (IT) costs, including carrying charges, which were approved for three ATCO utilities in Decision 3378-D01-2016<sup>3</sup> (Evergreen II compliance decision). The Evergreen II compliance decision was issued following the release of Decision 3577-D01-2016.

2. In the review application, ATCO Pipelines submitted that the Commission committed an error of fact, law or jurisdiction in the original decision by awarding carrying charges on IT costs calculated using the weighted average cost of capital (WACC) method directed in the Evergreen II compliance decision rather than calculating carrying costs under AUC Rule 023: *Rules Respecting Payment of Interest* (Rule 023).

3. The Commission denies the review application for the reasons provided below.

## **2 Introduction**

4. On November 10, 2016, ATCO Pipelines filed the review application requesting a review and variance of the original decision. The review application was filed pursuant to sections 3, 4(b) through 4(e) of Rule 016: *Review of Commission Decisions* (Rule 016). The Commission designated the review application as Proceeding 22166.

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<sup>1</sup> Decision 21515-D01-2016: ATCO Pipelines 2015-2016 Revenue Requirements Compliance Filing to Decision 3577-D01-2016, Proceeding 21515, September 13, 2016.

<sup>2</sup> Decision 3577-D01-2016: ATCO Pipelines, 2015-2016 General Rate Application, Proceeding 3577, February 29, 2016.

<sup>3</sup> Decision 3378-D01-2016: Evergreen II Application, Compliance Filing to Decision 2014-169, Proceeding 3378, March 4, 2016; and a compliance filing decision related to Decision 2014-169: ATCO Utilities 2010 Evergreen Proceeding for Provision of Information Technology and Customer Care and Billing Services Post 2009 (2010 Evergreen Application), Application 1605338, Proceeding 240, June 13, 2014. The three regulated ATCO utilities are: ATCO Pipelines (a division of ATCO Gas and Pipelines Ltd. who provides transmission service in Alberta), ATCO Gas (a division of ATCO Gas and Pipelines Ltd. who provides distribution service in Alberta), and ATCO Electric Ltd.

5. In its review application, ATCO Pipelines submitted that the Commission made errors of fact, law or jurisdiction in the original decision with respect to the portion of the decision directing ATCO Pipelines to refund interest on carrying charges calculated at an interest rate equal to ATCO Pipelines' WACC rather than the rate provided for in Rule 023.

6. On November 14, 2016, the Commission issued a filing announcement of the review application. By letter dated November 29, 2016, the Commission invited parties from Proceeding 21515 to register to participate in Proceeding 22166, and established a process for submissions and reply submissions. No parties intervened, and as a result, on January 5, 2017, ATCO Pipelines confirmed that reply submissions were not required. The Commission considers the close of record to be January 5, 2017.

7. In this decision, the Commission panel that authored the original decision will be referred to as the "hearing panel" and the Commission panel that authored this decision will be referred to as the "review panel."

8. In reaching its determinations, the review panel reviewed the pertinent portions of the original decision and relevant materials comprising the record of this proceeding and of proceedings 3577, 21515 and 3378. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the each of the records with respect to the matter.

### **3 Background**

9. On April 14, 2016, ATCO Pipelines filed its application for approval of a compliance filing as directed in the 2015-2016 general rate application decision, Decision 3577-D01-2016. On April 15, 2016, ATCO Pipelines filed revisions to one paragraph of its compliance filing application. In its application, ATCO Pipelines calculated carrying charges related to customer refund of amounts collected over the 2010-2014 period with respect to Evergreen II operating and maintenance (O&M) IT costs using Rule 023 and capital costs using WACC. As an intervener in Proceeding 21515, the City of Calgary objected to ATCO Pipelines' application of Rule 023 to carrying charges on O&M IT costs, stating that the calculation of carrying charges was contrary to the Commission's direction in paragraphs 162-163 of the Evergreen II compliance decision. In its reply argument, ATCO Pipelines disagreed it had improperly calculated carrying costs indicating that it had calculated carrying costs using Rule 023 based on the nature of the amounts and the similarity of the circumstances related to prior Commission decisions. ATCO Pipelines submitted that Rule 023 should apply to O&M IT amounts, WACC did not apply to O&M costs and therefore it had been unable to earn WACC on the O&M portion of disallowed IT amounts.

10. The Commission issued the original decision on September 13, 2016. In the original decision, the hearing panel determined that ATCO Pipelines' carrying cost calculations were not consistent with the Evergreen II compliance decision. The hearing panel's findings are set out at paragraphs 132 and 133:

The Commission considers that ATCO Pipelines' carrying cost calculations with respect to IT costs are not consistent with the Commission's findings from Decision 3378-D01-2016. In Decision 3378-D01-2016, the Commission stated that:

162. In the present case, final approved pricing was applied to both O&M and capital projects and the resulting adjustments by the ATCO Utilities were all in the form of refunds to customers. Consequently, the use of WACC to determine carrying costs would not be unreasonable in the circumstances. Calgary's argument that the ATCO Utilities had earned a return on projects incorporating MSA pricing prior to their approval or adjustment in Decision 2014-169 (Errata) is also of some merit.

163. The Commission is satisfied that in these specific circumstances, the ATCO Utilities' use of WACC to calculate the carrying charges is acceptable. Accordingly, the ATCO Utilities are directed to calculate these amounts using WACC.

The Commission's decision in paragraphs 162 and 163 clearly relates to both O&M and capital amounts, and the Commission is not persuaded that O&M should be subject to different carrying cost treatment than capital based on the evidence filed in this compliance filing. ATCO Pipelines has not complied with the direction in paragraph 163 of Decision 3378-D01-2016 and there is an insufficient basis, and no request for review of Decision 3378-D01-2016, for the Commission to deviate from this decision where the use of WACC was directed. As a result, ATCO Pipelines is directed, in its second compliance filing, to file a recalculation of all Evergreen II related carrying charges, in Appendix 4 format, using the WACC method, in order to comply with the direction from Decision 3378-D01-2016.

11. As shown in the findings above, the hearing panel found that ATCO Pipelines' carrying cost calculations were not consistent with the Commission's prior findings in the Evergreen II compliance decision, and the application of Rule 023 was denied in the original decision. ATCO Pipelines was directed to make a second compliance filing using WACC to calculate carrying costs on O&M IT amounts.

12. ATCO Pipelines filed its application for review and variance of the original decision on November 10, 2016.

#### **4 The Commission's authority to review its own decisions**

13. The Commission's authority to review its own decisions is found in Section 10 of the *Alberta Utilities Commission Act*. The Court of Appeal has found that the Commission's authority to review its own decisions is a discretionary authority.<sup>4</sup> Section 10 authorizes the Commission to make rules governing reviews of its own decisions and the Commission established Rule 016 under that authority. Rule 016 sets out the process for considering an application for review. A person who is directly and adversely affected by a decision may file an

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<sup>4</sup> *AltaGas Utilities Inc. v Alberta (Energy and Utilities Board)*, 2008 ABCA 46, [2008] AJ No 112 (QL) at paragraph 33, and *Atco Electric Ltd. v Alberta (Energy and Utilities Board)*, 2004 ABCA 254, 33 Alta LR (4th) 207, at paragraph 29.

application for review within 60 days of the issuance of the decision, pursuant to Section 3(3) of Rule 016. ATCO Pipelines filed its review application within the required period.

14. Section 6(3) describes the circumstances in which the Commission may grant a review. The applicable portion of this section states:

6 (3) The Commission may grant an application for review of a decision, in whole or in part, where it determines, for an application for review pursuant to subsections 4(d)(i), (ii) or (iii), that the review applicant has demonstrated:

(a) In the case of an application under subsection 4(d)(i), the existence of an error of fact, law or jurisdiction is either apparent on the face of the decision or otherwise exists on a balance of probabilities that could lead the Commission to materially vary or rescind the decision.

15. Section 4(d) provides an application for review must set out the grounds for the application, which grounds may include, under Section 4(d)(i), that the Commission made an error of fact, law or jurisdiction. In its review application, ATCO Pipelines relies on Section 4(d)(i) and submits that the hearing panel committed an error of fact, law or jurisdiction.

16. The review process has two stages. In the first stage, a review panel must decide whether there are grounds to review the original decision; this is sometimes referred to as the “preliminary question.” If the review panel decides that there are grounds to review the decision, it moves to the second stage of the review process where the Commission holds a hearing or other proceeding to decide whether to confirm, vary, or rescind the original decision. In this decision, the Commission has addressed the preliminary question.

17. In Decision 2012-124, the Commission addressed the role of a review panel and concluded that it should apply the following principles to its consideration of the review applications before it:

- First, decisions of the Commission are intended to be final; the Commission’s rules recognize that a review should only be granted in those limited circumstances described in Rule 016.
- Second, the review process is not intended to provide a second opportunity for parties with notice of the application to express concerns about the application that they chose not to raise in the original proceeding.
- Third, the review panel’s task is not to retry the ... application based upon its own interpretation of the evidence nor is it to second guess the weight assigned by the hearing panel to various pieces of evidence. Findings of fact and inferences of fact made by the hearing panel are entitled to considerable deference, absent an obvious or palpable error.<sup>5</sup>

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<sup>5</sup> Decision 2012-124: AltaLink Management Ltd. and EPCOR Distribution & Transmission Inc., Decision on Request for Review and Variance of Decision 2011-436 Heartland Transmission Project, Proceeding 1592, Applications 1607924-1, 1607942-1, 1607994-1, 1608030-1, 1608033-1, May 10, 2012, at paragraph 31.

18. The review panel finds these principles apply equally to its consideration of the review application filed in this proceeding. Commission decisions are intended to be final and a review should only be granted in limited circumstances.<sup>6</sup>

## 5 Grounds for review

19. ATCO Pipelines alleged that the Commission erred in fact, law or jurisdiction by:

- fettering its discretion and taking into consideration irrelevant factors in applying WACC to O&M amounts for IT by incorrectly or unreasonably relying on the absence of a review and variance of the Evergreen II compliance decision;
- failing to consider relevant factors, and the only evidence on the issue, in concluding that there was insufficient evidence regarding carrying charges and the application of Rule 023;
- basing its decision not to apply Rule 023, in part, on the mistaken fact that ATCO Pipelines had earned a return on projects incorporating Master Service Agreement (MSA) pricing prior to their approval or adjustment in Decision 2014-169 (Errata); and
- deviating from Rule 023 and past practice without providing adequate or any reasons for doing so, contrary to ATCO Pipelines' reasonable expectations.<sup>7</sup>

20. The Commission has summarized ATCO Pipelines' submissions on each of these grounds in the paragraphs below.

21. With respect to the first ground, consideration of irrelevant factors, ATCO Pipelines noted paragraph 133 of the original decision where the hearing panel referred to the fact that ATCO Pipelines had not applied for a review of the Evergreen II compliance decision in the hearing panel's reasons in denying ATCO Pipelines' calculation of carrying costs on O&M IT costs using Rule 023. ATCO Pipelines submitted that this fact was an irrelevant consideration and it shows a failure of the Commission to consider the issue on its merits. The fact that ATCO Pipelines did not challenge a prior decision of the Commission does not estop ATCO Pipelines from taking an arguably different position in a later proceeding. ATCO Pipelines stated, "It is well established that a board's previous decisions are not binding, and the principle of *stare decisis* does not apply to administrative tribunals."<sup>8</sup> ATCO Pipelines asserted that failure to consider argument and considering evolving circumstances and evidence, in assessing each case on its merits, can give rise to a fettering of discretion. Quoting *De Smith's Judicial Review*,<sup>9</sup>

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<sup>6</sup> For example see Decision 3733-D01-2015: Decision on Preliminary Question, Application for Review of AUC Decision 2014-167: 2013-2014 Transmission General Tariff Application Compliance Filing, Proceeding 3733, January 19, 2015, paragraph 25 and Decision 2012-124, paragraph 31.

<sup>7</sup> Exhibit 22166-X0002, ATCO Pipelines review application, paragraph 19.

<sup>8</sup> Exhibit 22166-X0002, ATCO Pipelines review application, paragraph 22.

<sup>9</sup> Exhibit 22166-X0002, ATCO Pipelines review application, paragraph 24 referring to Woolf, Jowell QC, Le Sueur, Donnelly and Hare, *De Smith's Judicial Review*, 7<sup>th</sup> Edition, 2013, Sweet & Maxwell and Thomson Reuters, page 305.



ATCO Pipelines submitted the hearing panel's determination that there was a failure to file a review of the Evergreen II compliance decision may have had at least some influence or a material or substantial influence on the original decision, rendering it unreasonable.

22. The second ground is the failure to consider relevant factors. ATCO Pipelines submitted the only other reason for the hearing panel decision was that there was an "insufficient basis" for the Commission to deviate from its findings in the Evergreen II compliance decision where the use of WACC was directed and the Commission did not provide reasons on what constituted an insufficient basis. ATCO Pipelines stated it could, "only speculate as to why the Commission felt there was an insufficient basis and notes that the Commission may have been influenced by its mistaken impression . . . that AP earned a WACC return on the O&M portion of carrying charges."<sup>10</sup> The utility argued that, in the original decision, the Commission did not refer to the ATCO Utilities' evidence from the Evergreen II proceeding supporting ATCO Pipelines' position that Rule 023 should apply to the O&M portion of IT amounts. This resulted in a failure to consider relevant evidence and can be considered an improper fettering of discretion.

23. ATCO Pipelines' third ground is that the hearing panel relied on a mistaken fact. In paragraph 132 of the original decision, the hearing panel quoted from 162 of the Evergreen II compliance decision, specifically the finding that, "Calgary's argument that the ATCO Utilities had earned a return on projects incorporating MSA pricing prior to their approval or adjustment in Decision 2014-169 (Errata) is also of some merit." ATCO Pipelines referred to its reply argument in Proceeding 21515 where it stated it did not earn a return on O&M related IT amounts that were disallowed. ATCO Pipelines submitted the reliance of the hearing panel on the assertion that the ATCO Utilities earned a return on projects incorporating MSA pricing, amounts to a finding of fact in the absence of evidence, and represents a breach of the duty of procedural fairness.<sup>11</sup>

24. The final ground is that the Commission deviated from Rule 023 and past practice without providing adequate, or any, reasons. ATCO Pipelines stated that it appears the hearing panel is saying in paragraph 133 that the Evergreen II compliance decision should have been interpreted by ATCO Pipelines, and presumably other utilities, to effectively amend Rule 023. Although the Commission states in paragraph 133 that the Evergreen II compliance decision "clearly relates to both O&M and capital amounts," ATCO Pipelines submitted a review of paragraphs 162 and 163 suggests that the Commission's intentions are not clear. ATCO Pipelines stated that it interpreted the decision in the Evergreen II compliance filing as applying to capital and not to O&M, and this is a reasonable interpretation of the Evergreen II compliance decision. It was incumbent on the Commission to make it clear if it intended that Rule 023 should not apply to the calculation of carrying charges on O&M IT costs, which ATCO Pipelines considered to be a departure from past practice, and that the Commission erred in not doing so contrary to the utility's legitimate expectations and without notice.

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<sup>10</sup> Exhibit 22166-X0002, ATCO Pipelines review application, paragraph 27.

## 6 Review panel findings

25. The Commission's authority to review its own decisions is discretionary. The Commission denies ATCO Pipelines' review application because it has failed to demonstrate, on a balance of probabilities, the existence of an error in fact, law or jurisdiction that could lead the review panel to materially vary or rescind the original decision.

26. ATCO Pipelines disputed that the Evergreen II compliance decision directed the payment of carrying charges for O&M IT amounts using WACC. The first three grounds put forward allege that the hearing panel in the original decision erred in relying on irrelevant factors, by failing to consider relevant factors in determining there was insufficient evidence for the Commission to deviate from its findings in the Evergreen II compliance decision where the use of WACC was directed, and by relying on mistaken facts.

27. The fourth ground put forward in the review application relates to the hearing panel's findings on the Commission's application of WACC to O&M IT costs and the adequacy of reasons for not applying Rule 023. This ground is related to the second ground alleging that the Commission did not consider relevant factors in determining there was insufficient evidence. The second and fourth grounds also relate to the findings of the Commission panel in the Evergreen II compliance decision proceeding, as well as to the hearing panel's consideration of the parties' evidence in the original decision when applying the Commission directions set out in the Evergreen II compliance decision.

28. The review panel considers that the third ground relates primarily to the determinations made in the Evergreen II compliance decision.

29. The review panel does not agree that the hearing panel committed a reviewable error in fact, law or jurisdiction on the grounds that it considered irrelevant factors, mistaken facts or that it failed to consider relevant factors in the interpretation and application of the Commission's findings and directions in the Evergreen II compliance decision, for the reasons set out below.

30. The review process is not intended to provide a second opportunity for parties to reargue the issues in a proceeding, nor is it an opportunity to express concerns about a decision determining issues in a related proceeding. In this case, the proper forum for ATCO Pipelines to raise concerns about findings or directions made by the Commission in the Evergreen II compliance decision was in that proceeding where the issue was determined, or by way of an application to review and vary that decision. Similarly, compliance filing proceedings are not intended to provide a second opportunity for parties to re-argue issues already decided in the earlier proceeding. Findings or directions from earlier proceedings will only be addressed in a compliance filing to the extent necessary to ensure the compliance with the previous Commission decision or if a utility is unable to comply with a direction for reasons not known when the substantive decision was made. The purpose of a compliance filing has been well established, as reflected in Decision 2006-068:

The purpose of a compliance filing is to provide the utility with an opportunity to reflect the full and interrelated impact of all the Board's findings from the GRA [general rates application] decision in the utility's rates and charges. In a compliance filing, it is inappropriate for a party to introduce new evidence. It is also not the appropriate forum to dispute the Board's decision. If a

party believes there are new facts or circumstances that may change the Board's original decision in the GRA, or believes the Board has erred, then the appropriate process for that party to follow is to bring a review and variance application (R&V) of the original decision to the Board.<sup>12</sup>

31. ATCO Pipelines' submissions and the City of Calgary submissions on the adjustments of the carrying charges for O&M IT costs and the issue of compliance with the Evergreen II compliance decision were considered by the hearing panel. The scope of Proceeding 21515, however, was limited to consideration of ATCO Pipelines' compliance with respect to the reconciliation of placeholder amounts previously established for certain IT costs in the Evergreen II compliance decision. This limited scope included interpreting the Commission's directions on IT costs as reflected in paragraphs 132 to 134 of the original decision. Although the scope of the original decision included interpreting these directions, it did not include a reconsideration or modification of these findings or directions.

32. The hearing panel's findings noted ATCO Pipelines did not request a review and variance of the Commission's findings and directions as set out in the Evergreen II compliance decision, which would have been the appropriate mechanism for pursuing a disagreement with those findings and directions. It was the Commission panel assigned to the Evergreen II compliance decision that was seized with the issue of whether WACC or Rule 023 applied to carrying charges on IT O&M and capital costs for the ATCO Utilities, as evidenced by the findings made in paragraph 160 of that decision:

The Commission considers that while Rule 023 has been used extensively in the past to determine carrying charges, the use of WACC to make such determinations is not otherwise precluded in this case.

33. Having heard the evidence and the argument of the parties, the Commission panel assigned to the Evergreen II compliance application concluded in paragraph 162, "In the present case, final approved pricing was applied to both O&M and capital projects and the resulting adjustments by the ATCO Utilities were all in the form of refunds to customers. Consequently, the use of WACC to determine carrying costs would not be unreasonable in the circumstances."

34. It was not within the scope of the proceeding before the hearing panel to reopen these findings. It was charged with interpreting and applying these findings in the compliance proceeding.

35. ATCO Pipelines stated that "nowhere in the Decision does the Commission refer to this evidence from the EV2 [Evergreen II] Proceeding, evidence supporting ATCO Pipelines' position that Rule 023 should apply." ATCO Pipelines contends that it was denied the opportunity in the proceeding leading to the original decision to provide evidence and make submissions on its compliance with the directions from the Evergreen II compliance decision on the treatment of carrying charges for its O&M IT costs. These positions are inconsistent with the hearing panel's review of the record where the parties' views on carrying charges were summarized in Section 4 of the original decision. The submissions of parties are found in Section 4 and the hearing panel considered these submissions in interpreting and applying the directions

<sup>12</sup> Alberta Energy and Utilities Board Decision 2006-068: Langdon Waterworks Limited, 2004, 2005 and 2006 GRA Compliance Application, Application 1456917, July 5, 2006, page 3.

of the Commission in the Evergreen II compliance decision with respect to the calculation of carrying charges on the refund of IT costs.

36. The hearing panel considered ATCO Pipelines' position on past practice in applying Rule 023 and its explanation with respect to compliance with the Evergreen II compliance decision directions. The hearing panel also considered the alternate view of the City of Calgary. Having considered the parties' evidence and submissions, the hearing panel determined that it was clear the Evergreen II compliance decision applied to both capital and O&M costs. The review panel notes that in the original decision, the hearing panel found, "The Commission's decision in paragraphs 162 and 163 clearly relates to both O&M and capital amounts, and the Commission is not persuaded that O&M should be subject to different carrying cost treatment than capital based on the evidence filed in this compliance filing."<sup>13</sup>

37. Based on the above, the review panel concludes ATCO Pipelines' evidence and arguments on the calculation of carrying charges for O&M IT costs were considered by the hearing panel in the context of the compliance filing and that the findings of the hearing panel were consistent with its role of interpreting and applying the direction from the Evergreen II compliance decision. The ATCO Pipelines evidence and argument were simply found to be insufficient to persuade the hearing panel to deviate from what it found to be a clear direction in the Evergreen II compliance decision.

38. As mentioned above, Decision 2012-124 clarified that the review panel's task is not to retry the application based upon its own interpretation of the evidence, nor is it to second guess the weight assigned by the hearing panel to various pieces of evidence. Findings of fact and inferences of fact made by the hearing panel are entitled to deference. It is not the role of the review panel to second guess the interpretation and findings made by the hearing panel with respect to the directions on carrying costs set out in the Evergreen II compliance decision, absent an error of fact, law or jurisdiction that is either apparent on the face of the decision or otherwise exists on a balance of probabilities that could lead the Commission to materially vary or rescind the decision.

39. The hearing panel denied the ATCO Pipelines' request for Rule 023 treatment of carrying charges related to Evergreen II O&M IT costs because it was not in compliance with the Evergreen II compliance decision and there was an insufficient basis for the Commission to deviate from that decision. Bearing in mind the scope of the compliance proceeding reviewed in the original decision, the review panel finds that the hearing panel provided sufficient reasons to explain why ATCO Pipelines' position on carrying costs was not accepted.

40. Parties to proceedings before the Commission have remedies available to them should they consider that the Commission erred in its determinations or adopted a process that was procedurally unfair prior to, or if the circumstances warrant, directly following the release of a decision, and these remedies include seeking a review of the decision pursuant to Rule 016 or seeking leave to appeal the decision to the Court of Appeal of Alberta pursuant to Section 29 of the *Alberta Utilities Commission Act*. If ATCO Pipelines considered that the Commission committed an error in the Evergreen II compliance decision with respect to carrying costs, it was

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<sup>13</sup> Decision 21515-D01-2016, paragraph 133.

open for ATCO Pipelines to seek a review and variance of that decision or seek permission to appeal the decision. It did not do so.

41. Further, the review panel does not consider the hearing panel erred in not issuing further notice or setting out further process for ATCO Pipelines to provide additional information and clarification on the application of Rule 023 or WACC. No authorities were provided to support why the Commission should take this approach in a compliance filing after the matter had already been considered by the panel to the Evergreen II compliance decision, which had the full record to address the substantive matters before it.

42. In summary, the review panel finds ATCO Pipelines has not shown, either on a balance of probabilities or apparent on the face of the original decision, that an error in fact, law or jurisdiction has occurred on the basis of the above noted grounds that could lead the Commission to materially vary or rescind the original decision.

## 7 Decision

43. The review panel finds that ATCO Pipelines has not met the requirements for a review of Decision 21515-D01-2016 and the application for review is dismissed.

44. The costs incurred by ATCO Pipelines in connection with the review application shall be borne by its shareholders and may not be included in or form the basis of any application to recover these costs through customer rates.

Dated on April 5, 2017

### Alberta Utilities Commission

*(Original signed by)*

Mark Kolesar  
Vice-Chair

*(Original signed by)*

Neil Jamieson  
Commission Member