



AltaGas Utilities Inc.

**2000/2001/2002 General Rate Application
Phase II**

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

November 25, 2003

ALBERTA ENERGY AND UTILITIES BOARD

Decision 2003-089: AltaGas Utilities Inc.

2000/2001/2002 General Rate Application – Phase II

Request for Approval of Negotiated Settlement Brief and Memorandum of Agreement

Application No. 1283486

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ALBERTA ENERGY AND UTILITIES BOARD

Calgary Alberta

**ALTAGAS UTILITIES INC.
2000/2001/2002 GENERAL RATE APPLICATION
PHASE II – REQUEST FOR APPROVAL OF
NEGOTIATED SETTLEMENT BRIEF AND
MEMORANDUM OF AGREEMENT**

**Decision 2003-089
Application No. 1283486
File No. 1402-09**

1 INTRODUCTION

The Alberta Energy and Utilities Board (the Board) received AltaGas Utilities Inc.'s (AUI or AltaGas) September 29, 2003 letter, requesting approval of the Memorandum of Agreement (MOA) and Negotiated Settlement Brief (the Agreement) reached with customers for the 2000-2002 General Rate Application (GRA) Phase II for AUI and Bonnyville Gas Company Limited (BGCL). The Agreement and MOA were in support of the AUI's 2000/2001/2002 GRA Phase II (Phase II) application filed with the Board on November 15, 2002 (the Application).

In a letter dated October 9, 2003, the Board provided Notice of Application to interested parties. Any party wishing to provide a submission was to do so by October 21, 2003.

The Board considers that the record with respect to this application was closed on October 31, 2003, the date on which the Board received the final ratification of the MOA from the Alberta Urban Municipalities Association.

2 PARTICULARS OF THE APPLICATION

AUI and the Customers Groups¹ agreed to finalize the Application without the need for revisions to rates pertaining to the 2000, 2001, or 2002 test periods on the following basis:

- The rates in place during the 2000, 2001, and 2002 test periods, as approved in Board [Decisions U97128](#), dated October 31, 1997, (Centra Gas Alberta Inc.) and [U98059](#), dated May 20, 1998, (Bonnyville Gas Company Ltd.);
- The distribution of revenue excesses for 2000, 2001 and 2002 as determined in Board [Decision 2002-067](#), dated August 6, 2002, and distributed in accordance with [Board 2003-024](#), dated March 25, 2003, were just and reasonable; and
- By letter dated July 3, 2003, the Board acknowledged completion of Board Order 3 of [Decision 2003-024](#), and accepted the deferral of the handling of the undistributed funds as proposed by the Company. More specifically, that the \$80,300 be credited to the Company's revenue requirement in 2003/2004.

¹ List of Customer Groups- The Municipal and Gas Co-op Intervenors & Bonnyville Municipal Intervenors, The Alberta Urban Municipalities Association, The Public Institutional Consumers of Alberta, The Consumers Coalition of Alberta, The Energy Users Association of Alberta, and Alexander First Nation.

AltaGas submitted that together with the refund of revenue excesses, the rates throughout the 2000, 2001, and 2002 test periods essentially recovered the Company's revenue requirements as approved by the Board in [Decision 2002-067](#). AltaGas indicated that there was no need to change rates for the 2000, 2001, or 2002 test periods to recover the approved revenue requirements.

As AltaGas had no current retailer activity in its service areas, AltaGas and Customers requested the Board's permission for AUI to defer addressing directives from Board [Decision 2001-75](#), pertaining to matters of gas rate unbundling, in the Company's Phase II portion of its 2003/04 GRA.

AUI submitted that the Company and the Customer Groups had come to the conclusion that they could better address the unbundling issues in the framework of time, data, and analysis made possible by the 2003/2004 GRA process. The reasons for considering this a more productive framework included:

- The timing of applying the directives from [Decision 2001-75](#) to the 2003/2004 GRA will be appropriate given the timing of ATCO Gas' Transfer of Retail Assets to Direct Energy, Retailer and Gas Utilities Act Compliance, and Unbundling proceedings.
- There was an expectation that the hearing on ATCO Gas' Transfer of Retail Assets to Direct Energy (Application No. 1299855) and upcoming Unbundling (Application No. 1303682) proceedings might help identify issues and options that could be useful in addressing the issues facing AltaGas Utilities and its customers.
- The Company was participating in the ATCO Gas Retailer and Gas Utilities Act Compliance application (Application No. 1308709). As with the abovementioned ATCO Gas processes, the information on potential issues and options explored to deal with such issues might prove to be invaluable to AltaGas Utilities' process.
- Most of the Customers are also interested parties to the abovementioned ATCO Gas processes. As such, there would be the benefit to the Board, to the Customers, and to the Company of what could be learned in the ATCO Gas proceedings and subsequently applied in the context of AltaGas.
- The outcome of the ATCO Gas proceedings would impact approximately 90% of all natural gas consumers in the Province of Alberta. The Company and the Customers recognize the importance of those proceedings and acknowledge that to some degree, the ATCO proceedings would impact the industry's expectations of the Company.
- Currently, there is no natural gas retailer activity in the Company's service areas.

AUI and the Customer Groups agreed to incorporate unresolved issues from the Application into the 2003/2004 GRA Phase II. In addition, AltaGas and the Customer Groups determined that the rates existing in 2000/2001/2002 as modified by the distribution of revenue excesses and gains

approved in [Decision 2003-024](#) are just and reasonable, and should be approved by the Board to achieve a more efficient regulatory process and the Board's underlying objective of prospective ratemaking.

AUI indicated that the need for adjustments in rates for 2002 was rendered moot by virtue of the return of excess funds adjusted for AUI and BGCL customers respectively for the period ending December 31, 2002. Faced with these realities, the Customer Groups agreed that the most productive approach would be to seek the Board's support in winding up the Phase II of the 2000/2001/2002 GRA proceedings and focus on the application for 2003/2004 that was already before the Board. As a result, the Customer Groups ratified the MOA and supported the Company's request to have the Board consider and approve the Application without the necessities of a formal hearing.

Both ENMAX Energy Corporation and EPCOR Utilities Inc. registered as interveners in the Application, but did not participate in the negotiated settlement process.

3 BACKGROUND

In [Decision 2002-027](#), the Board approved a Memorandum of Agreement for AltaGas' 2000/2001/2002 GRA Phase I (the Phase I MOA) with interested parties. In the Phase I MOA, the parties indicated that an agreement had been reached on all issues raised in the Phase I portion of the GRA with the exception of Rate of Return on Common Equity/Capital Structure and Post-Employment Benefits, which the Board determined after a public hearing. The Board directed AltaGas to refile detailed schedules, incorporating the Board's findings in [Decision 2002-027](#).

In [Decision 2002-067](#), the Board approved the revenue requirements for 2000, 2001, and 2002. The Decision set the revenue requirements on a non-consolidated basis for 2000 and on a consolidated basis for 2001 and 2002.

On November 15, 2002, AltaGas filed its 2000/2001/2002 Phase II General Rate Application. On December 10, 2002, the Board advertised a Notice of Application for AltaGas Utilities Inc. (AltaGas or the Company) for the Phase II portion of its 2000/2001/2002 General Rate Application (GRA), whereby AUI indicated that it intended to negotiate with customers on the application. Any party wishing to participate in the negotiated settlement process was instructed to set out their name, address and the way the Application affects them in a written notice by January 10, 2003. On January 14, 2003, AltaGas and interested parties began Negotiated Settlement discussions regarding Phase II for 2000/2001/2002.

In [Decision 2003-024](#), dated March 25, 2003, the Board approved AUI's method of allocation of revenue excess/deficiency for the year 2000 and proceeds of sales based on the former separate utilities and service areas; and the allocation of 2001 and 2002 revenue excess, as well as tax savings, on a company-wide basis, as proposed by AUI. The Board directed AUI to refund the net of revenue excess/deficiency and other gains totaling \$3.51 million based on AUI's calculated refund rates proposed in Application No. 1292331 as a one-time credit on bills processed in April 2003's billing cycle.

In Decision 2003-024, paragraph (3) of the Board Order, directed AltaGas to file a reconciliation report of the total dollars distributed to customers on or before June 30, 2003. The report provided a reconciliation of the distribution of the funds and indicated that, as of June 25, 2003, \$80,259 remained to be distributed out of a total of \$3,508,151. On June 26, 2003, AltaGas proposed to roll the remaining balance after the distribution into the determination of the 2003/2004 GRA revenue deficiency/excess. Given the materiality of the funds remaining to be distributed, the Board approved the proposal.

In its letter dated July 3, 2003, the Board set an oral hearing date of October 21, 2003, which the Board later cancelled as the ATCO Unbundling proceeding was scheduled for the same week.

4 VIEWS OF THE BOARD

The Board notes that AltaGas was able to reach a Settlement Agreement with interested parties on the Phase I portion of its last GRA, which included the 2000, 2001, and 2002 test years. In [Decision 2002-067](#), the Board approved the revenue requirements for 2000, 2001, and 2002.

In the Application, the Board notes that no parties have objected to the MOA and the Agreement reached with customers for Phase II for AUI and BGCL. The Board further notes that the following the Customer Groups have ratified the MOA:

- The Municipal and Gas Co-op Intervenors & Bonnyville Municipal Intervenors.
- The Alberta Urban Municipalities Association, and
- The Public Institutional Consumers of Alberta.
- The Consumers Coalition of Alberta,
- The Energy Users Association of Alberta, and
- Alexander First Nation.

The Board notes that together with the refund of revenue excesses, the rates throughout the 2000, 2001, and 2002 test periods appear to essentially recover the Company's revenue requirements approved by the Board in Decision 2002-067. In light of the fact that the Customer Groups all supported the MOA, and that no party indicated any opposition to the MOA, the Board agrees with AltaGas that there is no need to change rates for the 2000, 2001, or 2002 test periods. The Board therefore approves the MOA and Agreement, and the continuation of rates existing in 2000/2001/2001 as modified by the distribution of revenue excesses and gains approved in [Decisions 2003-024](#).

However, the Board notes that AUI and its customers in the Application indicated that there were unresolved issues arising from the Phase II Settlement, but failed to submit to the Board a list of these unresolved issues. Despite assurances of AUI and the Customer Groups that these issues will be incorporated from the Application into the 2003/2004 Phase II GRA, the Board believes that full disclosure and transparency is imperative in evaluating future applications. Therefore, the Board directs AltaGas, with input from the Customer Groups, to submit a detailed list of unresolved issues remaining from the Phase II with AUI's GRA Phase I Settlement Application for the 2003 and 2004 test years. In the event that any interested parties disagree with the submitted unresolved issues list, interested parties may file their own submission within 14 days after the aforementioned filing.

The Board further notes that AltaGas submitted that as it has had no retailer activity in its service areas, and therefore AltaGas and the Customer Groups requested the Board's permission for AUI to address directions from Board [Decision 2001-75](#), pertaining to matters of gas rate unbundling, in the Company's Phase II portion of its 2003/04 GRA. The Board agrees with AUI's submission that the various ATCO Gas proceedings (ATCO Gas' Transfer of Retail Assets to Direct Energy (Application No. 1299855), Unbundling (Application No. 1303682), and ATCO Gas Retailer and Gas Utilities Act Compliance Application (No. 1308709)) offers interveners, the Board, and AltaGas an opportunity to gain a better understanding of similar issues which may be applied to AltaGas. As the outcome of the ATCO Gas proceedings will impact a large proportion of all natural gas consumers in Alberta, the Board considers these proceedings will be a guide or benchmark for industry and customers as they assess AltaGas. Therefore, the Board grants AUI a further delay in complying with directives from Decision 2001-75, but expects it to comply with these directions in its 2003/2004 GRA Phase II Application or Settlement Application. However, the Board is unlikely to grant any further extension beyond the 2003/2004 GRA Phase II proceeding.

The Board is of the view that in an effort to promote regulatory efficiency and maintain the Board's objective of prospective ratemaking, a deadline for 2003/2004 GRA Phase I negotiations is required to prevent a recurrence of delays that impacted AUI's 2000/2001/2002 GRA. Therefore, the Board directs AUI to file either a detailed Phase I Application or a Settlement Application for the 2003 and 2004 test years by February 23, 2004.

5 ORDER

IT IS HEREBY ORDERED THAT:

- (1) The Memorandum of Agreement (MOA) and Negotiated Settlement Brief (the Agreement) reached between AltaGas Utilities Inc. and customers for the 2000-2002 General Rate Application (GRA) Phase II are approved as filed.
- (2) The Board directs AltaGas Utilities Inc. to file either a GRA Phase I Application or Settlement Application for the 2003 and 2004 test years by February 23, 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 I Application or Settlement Application for the 2003 and 2004 test years.
- (4) The Board grants AltaGas Utilities Inc. a further delay in complying with the directions from [Decision 2001-75](#), but expects it to comply with those directions in its 2003/2004 Phase II Application or Settlement Application.

Dated in Calgary, Alberta on November 25, 2003.

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