

**DECISION 2002-2**

**METHODOLOGY FOR MANAGING GAS SUPPLY PORTFOLIOS AND  
DETERMINING GAS COST RECOVERY RATES PROCEEDING  
AND  
GAS RATE UNBUNDLING PROCEEDING**

**PART B-2: DEFERRED GAS ACCOUNT RECONCILIATION  
FOR ATCO GAS NORTH**



**GCRR METHODOLOGY PROCEEDING AND  
GAS RATE UNBUNDLING PROCEEDING  
PART B-2: DEFERRED GAS ACCOUNT  
RECONCILIATION FOR ATCO GAS NORTH**

**Decision 2002-2  
Application No. 2001040  
File No. 5680-1**

---

## **1 INTRODUCTION**

The Alberta Energy and Utilities Board (EUB or the Board) held two proceedings concerning gas commodity cost recovery methods, which encompassed related material and included a review of outstanding Deferred Gas Account (DGA) reconciliations. Described in greater detail below is the process and the scope of the proceedings and the nature of the resulting decisions.

### **1.1 Scope of Part B-2 of this Decision**

In its determinations, the Board decided that it was appropriate to set out its findings into three parts:

- Part A, Decision 2001-75 dated October 30, 2001 dealt with gas cost recovery rate (GCRR) and policy issues for gas utilities regulated by the Board,
- Part B-1, Decision 2001-110 dated December 13, 2001 dealt with the review and reconciliation of previous DGAs for ATCO Gas – South (AGS) only, and the issue of allocation of DGA balances between Option A and B customers<sup>1</sup> of ATCO Gas-North (AGN) and AGS.
- Part B-2 (this Decision) deals with the reconciliation of previous DGAs for AGN.

### **1.2 Scope and Schedule of Proceedings**

On February 14, 2001 the Board issued a notice to convene a public hearing amongst interested parties and the Alberta natural gas utilities regulated by it. The proceeding was known as Methodology For Managing Gas Supply Portfolios And Determining Gas Cost Recovery Rates - Application No. 2001040 (Methodology Proceeding).

The EUB initiated the proceeding to deal with the positions of the utilities and consumers on the methods that could be used to manage the gas supplies for sales customers, and to determine a GCRR on a going forward basis.

The EUB also considered outstanding matters as they pertained to the reconciliation of the 2000 summer period and 2000/2001 winter period DGA balances of AGN and AGS. This review

---

<sup>1</sup> Option A applied to sales service customers in Rate 1, comprising mainly residential customers, and the University of Alberta; Option B applied to customers in all other rates. The distinction between Option A and Option B customers was removed effective November 1, 2001 (refer to Decision 2001-80, *ATCO Gas – North, A Division of ATCO Gas and Pipelines Ltd. Winter Period Gas Cost Recovery Rate*, dated October 30, 2001).

examined the prudence of strategies used by the companies in the use of company-owned production (COP) and Carbon storage, and any resulting required GCRR adjustments.

The EUB received submissions from the organizations or their representatives listed in Appendix 1 of this Decision. The submissions included claims that AGN had been imprudent with respect to the use of COP and that, accordingly, customers had overpaid a considerable amount for gas supplies. The Methodology Proceeding included a public hearing in Calgary for nine days commencing on April 30, 2001, before Board members Mr. B. T. McManus, Q.C., Chair, Dr. B. F. Bietz and Mr. T. M. McGee.

On April 4, 2001, the EUB issued a notice to convene another public hearing amongst interested parties and the Alberta natural gas utilities. The proceeding was known as Gas Rate Unbundling - Application No. 2001093 (Unbundling Proceeding). The EUB initiated the proceeding to deal with the positions of the utilities and customers on the proper allocation of costs between the utilities' transportation and gas procurement functions. The public hearing was convened on May 23, 2001 and lasted five days before Board members Mr. B. T. McManus, Q.C., Chair, Dr. B. F. Bietz and Mr. T. M. McGee.

During the Methodology Proceeding it was decided to combine the argument and reply process for both the Methodology Proceeding and the Unbundling Proceeding. Included as part of the evidence for both proceedings was the record dealing with Application numbers 2001017, 2001020, 2001030 and 2001070, regarding the sale of certain AGN COP facilities, including those of the Viking field.

On November 14, 2001 AGN and the customer representatives of the North Core Committee<sup>2</sup> (NCC) submitted Opening Statements<sup>3</sup> which together contained a Joint Recommendation concerning resolution of the Viking Sale Review and Variance proceeding, Application No. 1244045 (the Viking R&V Proceeding). The Opening Statement of the NCC contained a Collateral Commitment to withdraw their prudence applications regarding production from the Viking, Lloydminster and Westlock properties. As a result of this Collateral Commitment, the Board deferred this Decision until after Decision 2001-104<sup>4</sup> regarding the Viking R&V Proceeding was issued.

The Board issued Decision 2001-104 with respect to the Viking R&V Proceeding on December 11, 2001 and received a letter from the NCC, dated December 13, 2001, requesting a withdrawal of the NCC claims of imprudence.

---

<sup>2</sup> Appendix 2 lists the members of the North Core Customer Group.

<sup>3</sup> The Opening Statements of AGN and the NCC are provided as Appendix 3 and Appendix 4 respectively.

<sup>4</sup> Decision 2001-104, *ATCO – Gas North, A Division of ATCO Gas and Pipelines Ltd.: Review and Variance of Decisions* 2001-46 and 2001-65

## 2 DEFERRED GAS ACCOUNT (DGA) PROCEDURES

ATCO Gas is an operating division of ATCO Gas and Pipelines Ltd. (AGPL). AGPL was formerly known as Canadian Western Natural Gas Company Limited (CWNG). In 2000, through a corporate restructuring within the ATCO Group of companies, AGPL acquired Northwestern Utilities Limited (NUL). NUL was subsequently wound-up into AGPL on January 1, 2001. Within ATCO Gas, whose business includes the distribution and supply of natural gas to its customers, there are also two divisions, ATCO Gas – South and ATCO Gas – North, each of which has separate franchise areas. The businesses of AGS and AGN were previously carried on by CWNG and NUL, respectively. ATCO Gas's supply function has historically utilized a gas contract year that begins November 1 and has included two periods: a winter period from November through March and a summer period from April through October. Each period has ordinarily maintained distinct GCRRs and has been subject to separate DGA reconciliations. References to ATCO Gas also apply to either AGS or AGN or both, as the case may be.

### 2.1 Current DGA Procedures

Under the procedures previously approved by the EUB respecting ATCO Gas's DGAs and the reconciliation of gas supply costs, customers are charged with the actual cost of gas supplies experienced by ATCO Gas. In the past, ATCO Gas has been making separate applications for each GCRR applicable to the winter and summer periods.

The DGA procedures have been set up by the EUB to account for ATCO Gas's gas supply costs. The DGA procedures permit ATCO Gas to recover gas commodity costs in a manner that ensures its customers pay neither more nor less than the cost of gas actually incurred by it in acquiring the gas supplied to them. Conversely, these procedures also have the effect of providing that the shareholder of AGPL does not gain or lose as a result of fluctuations in the market price of gas.

A GCRR is calculated by adding the balance in the DGA at the end of the preceding winter/summer period to the gas costs forecast for the upcoming winter/summer period and dividing the result by the forecast winter/summer period gas sales volume. Including the DGA balance from the previous winter/summer period ensures that any cumulative under-/over-recovery from that period will be collected/refunded in the upcoming winter/summer period, if the weather is normal and actual sales equal forecast sales.

In practice, actual cumulative gas costs may vary considerably from gas cost recoveries, particularly at times when prices for natural gas experience volatility in the market place. With the objective of minimizing DGA balances, the EUB has directed that, should a significant change in gas supply costs occur during a period, ATCO Gas should apply to the EUB for an adjustment to the GCRR. The EUB specified the tolerance level that ATCO Gas should use to determine when to apply to adjust its GCRR to be the greater of  $\pm 3\%$  or  $\pm \$2$  million, relative to the gas costs forecast for the particular period.

Revised procedures to be used in the determination of a GCR by a gas utility subject to the Board's jurisdiction take effect April 1, 2002. These procedures were set out in Decision 2001-75.

### **3 AGN – 2000 SUMMER PERIOD AND 2000/2001 WINTER PERIOD DGA RECONCILIATIONS**

At the hearing in May 2001, the Board heard detailed evidence from members of the NCC alleging that AGN had not made prudent use of COP during the 2000 summer period and 2000/2001 winter period. NCC argued that customers had overpaid for gas supplies in the amount of \$24.289 million.

As stated in Section 1 of this Decision, on November 14, 2001, AGN and the customer representatives of the NCC submitted a Joint Recommendation to the Board regarding the Viking R&V Proceeding. As a Collateral Commitment to the Joint Recommendation or compromise reached by AGN and the NCC in the Viking R&V Proceeding, the NCC indicated that they would withdraw their prudence applications relating to the 2000 summer and 2000/2001 winter GCR periods and any other prudence claims regarding production from the Viking, Lloydminster and Westlock properties. The NCC also stated that the Joint Recommendation was without prejudice to any claims that the NCC may advance regarding prudence or otherwise, regarding the Beaverhill Lake and Fort Saskatchewan properties. In a subsequent letter dated November 22, 2001, the NCC clarified that the intention of the Joint Recommendation was that the issue of prudence for AGN would be left open until the Board had issued its decision in the Viking R&V application. Decision 2001-104, with respect to the Viking R&V Proceeding, was issued on December 11, 2001, and the Board subsequently received the NCC's letter dated December 13, 2001 advising that the NCC wished to withdraw their claims of imprudence.

It is the Board's policy to encourage utilities and customer groups to reach agreement where appropriate. Negotiation of issues can result in greater regulatory efficiency and enhance meaningful public participation provided that the negotiation process is fair and open. The Board considers helpful the principle set forth in Decision 2000-85 that the Board would not ordinarily interfere with a settlement unless it is patently against the public interest or contrary to law.<sup>5</sup>

With respect to the process followed, the Board noted in Decision 2001-104 that the representation of customers as shown in Appendix 2 was extensive and appeared to provide representation for the majority of AGN's customers. The Board went on to state:

Based on responses to Information Requests from AGN and NCC, the Board is satisfied that all the members of the NCC had the opportunity to review and comment on the Joint Recommendation. The Board also acknowledges that the

---

<sup>5</sup> Decision 2000-85, *Northwestern Utilities Limited Approval of Rates, Tolls, Charges, and Terms and Conditions of Service for Core Customers, and Approval of Amendments to the North Core Agreement*, p.7

members of NCC unanimously ratified the Joint Recommendation reflected in the Opening Statements of AGN and the NCC.<sup>6</sup>

The Board considers that the Joint Recommendation is not patently against the public interest or contrary to law. In Decision 2001-104 the Board held that the Joint Recommendation was in the public interest.

In Decision 2001-104 the Board also noted certain significant Collateral Commitments made by AGN which have the effect of balancing the interests of customers and shareholders. For example, AGN committed to refund previously recovered negative salvage which, when adjusted to a revenue requirement basis, would equal approximately \$9 million. In addition, AGN indicated that it would abandon its application for leave to appeal Decisions 2001-46 and 2001-65. The costs of Court of Appeal proceedings could have been significant for both AGN and customer groups. While the Collateral Commitments did not form part of the Joint Recommendation, the parties did commit to complete their Collateral Commitments provided that the Board approved the sale of the Viking Assets on the terms and conditions as set forth in the Joint Recommendations, which the Board did in Decision 2001-104.

Given the argument of NCC that customers had overpaid for gas supplies in the amount of \$24.289 million, the Board considers that AGN and the NCC were fully aware of the potential magnitude of the imprudence allegations. The Board also accepts that both AGN and the NCC were satisfied that their respective concerns were adequately addressed by the compromise that was reached, as evidenced in the Opening Statements filed in the Viking R&V proceeding. The Board is satisfied that while it cannot quantify the precise amount of all aspects of the compromise, the compromise as a whole provides benefits to all parties. Therefore, the Board accepts the NCC's request to withdraw its prudence applications.

The Board notes that the NCC had objected to AGN's DGA reconciliations and GCRR calculations since the 2000 summer period because of its concerns related to COP. This issue led to the GCRRs in the 2000 summer period and the 2000/2001 winter period to be approved on an interim refundable basis, pending determination of a final GCRR for those periods. The Board also notes that there were no other matters raised in the Methodology or Unbundling Proceedings that would otherwise preclude the Board from approving the GCRRs for those periods on a final basis. The Board thus accepts AGN's reconciliation of actual gas costs and actual gas cost recoveries for the 2000 summer period and the 2000/2001 winter period and will approve the GCRRs for the periods concerned as final.

---

<sup>6</sup> Decision 2001-104, p.9

#### 4 BOARD ORDER

Therefore the Board orders that for ATCO Gas – North, a Division of ATCO Gas and Pipelines Ltd.:

- (a) with respect to the 2000 summer period, the Gas Cost Recovery Rate of \$2.716/GJ, effective April 1, 2000, and the cumulative increases thereto of \$0.623/GJ for the period May 1, 2000 to June 30, 2000, \$1.043/GJ for the period July 1, 2000 to October 13, 2000, and \$1.391/GJ for the period October 14, 2000 to October 31, 2000, inclusive, approved on an interim refundable basis in Order U2000-153, dated March 29, 2000, Order U2000-176, dated April 28, 2000, Order U2000-226, dated June 23, 2000, and Order U2000-298 dated October 10, 2000, respectively, are confirmed as final for all natural gas consumption on and after October 14, 2000 to October 31, 2000, inclusive, based on actual or estimated meter readings.
- (b) with respect to the 2000/2001 winter period as it related to Option B customers in sales service rate classes other than Rate 1 and other than the University of Alberta, the Gas Cost Recovery Rate of \$5.773/GJ, effective November 1, 2000, and the cumulative increases thereto of \$2.999/GJ effective January 24, 2001, and \$1.750/GJ effective March 1, 2001 approved on an interim refundable basis in Order U2000-307, dated October 27, 2000, Order U2001-002, dated January 24, 2001, and Decision 2001-16, dated February 28, 2001, respectively, are confirmed as final for all natural gas consumption on and after March 1, 2001 to March 31, 2001, inclusive, based on actual or estimated meter readings.
- (c) with respect to the 2000/2001 winter period as it related to Option A customers in sales service Rate 1 and the University of Alberta, the Gas Cost Recovery Rate of \$5.773/GJ, approved on an interim refundable basis effective November 1, 2000 to January 23, 2001 in Order U2000-307, dated October 27, 2000 and the Gas Cost Recovery Rate of \$8.772/GJ, approved on an annualized interim refundable basis effective January 24, 2001 to January 31, 2002, unless otherwise changed by the Board, in Order U2001-002, dated January 24, 2001, as confirmed by Decision 2001-16, dated February 28, 2001, are confirmed as final in respect of all natural gas consumption on and after November 1, 2000 to March 31, 2001, based on actual or estimated meter readings.



Dated in Calgary, Alberta on January 4, 2002

**ALBERTA ENERGY AND UTILITIES BOARD**

*<Original signed by>*

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

*<Original signed by>*

B. F. Bietz, Ph.D.  
Member

*<Original signed by>*

T. M. McGee  
Member



## APPENDIX 1

## THOSE WHO APPEARED AT THE HEARING

Principals and Representatives  
Abbreviations used in Report

## Methodology Proceeding

ATCO Gas and Pipelines Ltd. ATCO Gas.	Mr. L. E. Smith Ms. K. Illsey Mr. T.J. Simard Mr. J. Engler Mr. R. Trovato Mr. M. Hagan Mr. J. Gordon
Aboriginal Communities	Mr. J. Graves
Alberta Irrigation Projects Association (AIPA) and, Energy Users Association of Alberta (EUAA)	Mr. J. H. Unryn
AltaGas Utilities Inc. (AltaGas)	Mr. F. V. Martin Mr. L Heikkinen Mr. A. Mantei
City of Calgary (Calgary)	Mr. R. B. Brander Ms. P. Quinton-Campbell Dr. N. Carruthers Mr. H. Johnson Ms. N. Stewart Mr. K. VanderSchee Mr. P. Milne Mr. H. Vander Veen
City of Edmonton (Edmonton)	Mr. W. Follett
Consumers Coalition of Alberta (CCA)	Mr. J. A. Wachowich Mr. J. Todd Mr. J. Jodoin
ENMAX Energy Corporation (ENMAX)	Mr. L. A. Cusano Mr. D. Wood Mr. K. Willerton Dr. E. Overcast

Enron Canada Corp. (Enron)	Mr. H. Huber
EPCOR Energy Services (Alberta) Inc. (EPCOR)	Mr. H. Williamson Mr. E. de Palezieux
Federation of Alberta Gas Co-ops Ltd. and Gas Alberta Inc, and Municipal Gas and Co-op Intervenors (FGA)	Mr. T. Marriott Mr. M. Heck Mr. D. Campbell Mr. D. Symon
Mirant Americas Energy Marketing Canada Ltd. (Mirant)	Ms. E. Decter Mr. T. Lange
Municipal Intervenors and Urban Municipalities (MI/UM)	Mr. C. R. McCreary Mr. R. Bruggeman
North Core Committee (NCC)	Mr. J. A. Bryan Mr. R. Liddle Ms. N. Stewart
Public Institutional Consumers Association (PICA)	Ms. N. McKenzie Mr. R. Retnanandan
EUB Board Panel	Mr. B. T. McManus, Q.C., Chairperson Dr. B. F. Bietz, Member Mr. T. M. McGee, Member
EUB Board Counsel	Ms. J. Hocking Mr. A. E. Domes
EUB Board Staff	Mr. W. Vienneau, CMA Mr. D. R. Weir, C.A. Mr. R. Armstrong, P.Eng

## APPENDIX 2

### Members of the North Core Customer Group

	Represented Parties
Aboriginal Communities and Saddle Lake First Nation	Treaty 8 Aboriginals
Canadian Forest Products Limited, Vanderwall Contractors (1971) Ltd., Spruceland Millworks Inc., and Zavisha Saw Mills Ltd.	
City of Edmonton	
Consumers Coalition of Alberta	The Consumers' Association of Canada (Alberta) The Alberta Council on Aging
Federation of Alberta Gas Co-ops and Gas Alberta Inc.	
Public Institutional Consumers Association	Provincial Health Authorities of Alberta Alberta School Boards Association Council of Presidents Public Colleges and Technical Institutes
University of Alberta	

Municipal Intervenors

City of Camrose  
City of Cold Lake  
Town of Drayton Valley  
Town of Edson  
Town of Fairview  
City of Fort Saskatchewan  
Town of Fox Creek  
Town of Gibbons  
Town of Grande Prairie  
Town of Hinton  
Town of Lacombe  
City of Lloydminster  
Town of Peace River  
Town of Ponoka  
City of Red Deer  
Town of Rocky Mountain House  
City of St. Albert  
City of Spruce Grove  
Town of Stony Plain  
Town of Vegreville  
Town of Vermillion  
Town of Westlock  
City of Wetaskiwin  
Town of Whitecourt  
Regional Municipality of Wood  
Buffalo

## APPENDIX 3

### ATCO GAS

#### OPENING STATEMENT

#### REVIEW AND VARIANCE APPLICATION

Since the filing of ATCO Gas' rebuttal evidence, ATCO Gas and the North Core Customer Group (the "NCC") realized that there was the potential to bridge the gap in their evidentiary positions in order to make a Joint Recommendation (the "Recommendation") to the Board. The consensus which has emerged relates to both the matters at issue in this proceeding as well as certain collateral matters between the parties in respect of which no Board decision is required here.

This Opening Statement sets out the terms upon which consensus was reached and requests that the Board approve the sale of the Viking properties in accordance with such terms. It also sets out various commitments of ATCO Gas in respect of the collateral issues. In the event that the sale is not approved upon the Recommendation set out below, ATCO Gas will not be bound by these collateral commitments or the Recommendation, and will maintain its application for review and variance based on the evidence filed in this proceeding to date.

#### 1.0 Joint Recommendation

ATCO Gas and the NCC are prepared to recommend Board approval of the sale of the Viking properties pursuant to the terms of the Amending Agreement with Burlington Resources, provided the net proceeds available for disposition are also approved for disposition in the following manner:

First, customers will receive \$385 million net of income tax to be distributed during the month of January. This amount reflects an agreed to no-harm compensation related to the sale of the Viking production properties plus the value of actual production consumed by customers for 2001. Production for the balance of 2001 shall be maintained at levels contemplated in the Amending Agreement with Burlington Resources.

Second, ATCO Gas will receive its net book value on an after-tax basis. Related collateral issues such as a requirement to access small amounts of additional tax pools in order to shelter the net book value from any income tax will be dealt with in a subsequent compliance filing.

In addition to the items above, the Company is prepared to recommend a refund of deferred income tax related to the Viking producing properties totaling approximately \$11.6 million.

In making this Opening Statement, ATCO Gas has also reviewed and relies upon the Opening Statement of Robert Liddle and the Joint Recommendation and collateral commitments made on behalf of the NCC for the benefit of ATCO Gas. ATCO Gas emphasizes that in the event that

the sale is not approved upon the terms set out in both opening statements, ATCO Gas will maintain its application for review and variance based on the evidence filed in this proceeding.

## 2.0 Collateral Commitments

Provided the Board approves the sale of the Viking properties on the terms and conditions set forth above, ATCO Gas is committed to the following collateral undertakings which do not require Board approval as part of these proceedings:

1. The Company will refund previously recovered negative net salvage. The amount, on a revenue requirements basis, would be approximately \$9 million. This would address the Viking, Lloydminster and Westlock properties. In exchange for this refund, the NCC agree that they are responsible for any additional abandonment or removal costs related to the producing assets owned and previously abandoned by ATCO Gas or its predecessor companies.
2. Aside from the negative salvage proceeds, ATCO Gas and the NCC agree that the Board should continue to address the matters before it in the compliance filing related to Decisions 2001-46 and 2001-65 insofar as Lloydminster and the Westlock properties are concerned.
3. ATCO Gas will abandon its Court appeal of Decisions 2001-46 and 2001-65 related to the Lloydminster, Westlock and Viking properties.
4. ATCO Gas will advise the NCC of its long-term plans for disposition/production from the Beaverhill Lake and Fort Saskatchewan properties on or before July 1, 2002.
5. ATCO Gas will seek to reduce its rates effective January 1, 2002 to reflect the removal of all costs relating to the Lloydminster, Westlock, and Viking properties. ATCO Gas and the NCC recognize that the North Core PBR agreement will govern any related rate impacts subject to the subsequent approval of the Board.
6. All costs relating to this R&V Application and to the original sales applications shall be paid from ATCO's hearing cost reserve account based on the Board's guidelines subject to Board subsequent approval. Each party will bear its own costs of proceedings before the Alberta Court of Appeal. The customers' portion related to the Alberta Court of Appeal will be deducted from the proceeds payable to customers. Properly documented cost claims against the hearing cost reserve account shall be submitted to ATCO Gas and the Board within 15 days following approval of the Viking sale and paid within 30 days thereafter.
7. ATCO Gas has advised the NCC that it is not aware of any material information pertaining to the Joint Recommendation and collateral commitments which has not been disclosed to the NCC.



ATCO Gas reiterates that in the event that the Board does not approve the sale upon the terms set out in this Opening Statement and the Opening Statement of Robert Liddle, it will not be bound by these collateral commitments nor will it be bound by the Recommendation, defaulting instead to the position already in evidence in this proceeding.

Mr. Chairman, ATCO Gas considers that the Recommendation now available in respect of the matters for determination in this proceeding represent a fair and reasonable approach to the interests of customers and shareholders. Approval of the sale of the Viking properties in accordance with the terms and conditions of the Recommendation combined with the collateral commitments not subject to approval now, which have been set forth in both Opening Statements will allow parties to bring finality to a very contentious set of issues which have been ongoing for a very long time. Expedient approval by the Board will allow ATCO Gas to provide significant refunds to ATCO Gas North customers as soon as possible and will further the public interest.



## APPENDIX 4

### Opening Statement of Robert Liddle

[North Core Customer group]

### Review and Variance Application

Mr. Chairman and panel members:

On the basis of the evidence filed, the North Core Customer group (“NCC”) and ATCO Gas agreed that it should be possible to reconcile the differences in their evidence. Subsequent discussions resulted in a position which both are prepared to jointly recommend to the Board along with certain collateral commitments which are not the subject of this proceeding. The NCC respectfully requests the Board to approve the application on the basis of this Opening Statement as well as the Opening Statement of Jerome Engler which we have read and upon which we expressly rely in making the commitments and recommendations set forth in the Opening Statements. Failure to approve this Application on those terms would cause the NCC to revert to the position expressed in its evidence.

The NCC submits that there are three separate components of the Board Decision or Decisions that are ultimately necessary for Board approval of the Viking sales transaction and the subsequent allocation and distribution of proceeds.

In the first instance, the Board must determine whether to approve the sale of the Viking production and gathering properties to Burlington Resources on the basis of the terms and conditions set out in the Purchase and Sale Amending Agreement dated September 11th, 2001 between ATCO Gas and Burlington Resources.

ATCO Gas and the NCC have agreed that this amended sale should proceed. The NCC notes that the record in this proceeding, already confirms the NCC position that the sale should proceed since the proceeds from the sale are now sufficient to meet the no harm test. In particular, in response to AG-NCC.2, the NCC made the following statement:

"Therefore, although the net proceeds of the sale are sufficient to meet the no harm test, the amount proposed to be paid in mitigation, being \$331,998,000, is significantly less than the amount required to satisfy the test."

This statement made it clear that the issue of the North Core Committee was not with regard to the sufficiency of the total proceeds rather its issue was with the quantum of the no harm calculation proposed by ATCO Gas.

The matters that were the subject of the further discussions with ATCO Gas all relate to the quantum of the proceeds to be received by ATCO Gas and customers, that is the remedy sought

by ATCO Gas in paragraphs 42 and 44 of its Review and Variance Application. (Since the total proceeds to be received by customers are now different from the amount proposed in the evidence filed by the NCC, it is obviously necessary for the NCC to receive specific approval from all its members for this revised amount. The NCC has agreed that it will recommend approval to its constituent members and will endeavour to obtain that approval by November 16 or as soon as possible thereafter.)

#### 1. JOINT RECOMMENDATION

The NCC and ATCO Gas are prepared to recommend Board approval of the sale of the Viking properties pursuant to the terms of the Amending Agreement with Burlington Resources, provided the net proceeds available for disposition are also approved in the following manner:

First, customers will receive \$385 million net of income tax as its share of proceeds from the transaction. This amount, when added to the estimated actual value to be received by customers from the actual production occurring from the Viking field during 2001 will satisfy the no harm test as of January 1, 2001, which is the reference date used by the Board and both parties in evidence. Production from the Viking field for the balance of 2001 shall be at levels contemplated in the amended Burlington Resources Purchase and Sale Agreement.

Secondly, ATCO Gas has agreed to refund deferred income tax related to the Viking properties totaling approximately \$11.6 million.

Thirdly, in order for ATCO Gas to receive its net book value as part of its share of the proceeds on an after tax basis, it is agreed at this point in time that it may be necessary for ATCO Gas to access small amounts of additional tax pools in order to shelter the net book value from any income tax. NCC will support such treatment at the time of the subsequent compliance filing.

#### 2. COLLATERAL COMMITMENTS

*Provided the Board approves the sale of the Viking properties on the terms and conditions set forth above, the NCC is committed to the following collateral undertakings which do not require Board approval as part of this proceeding:*

1. The NCC will withdraw their prudence applications currently before the Board relating to the summer 2000 and winter 2000/2001 GCRR periods and any other prudence claims regarding production from the Viking, Lloydminster and Westlock properties. This agreement is without prejudice to any claims that the NCC may advance regarding prudence or otherwise, regarding the Beaverhill Lake and Fort Saskatchewan properties.
2. Customers will waive any adjustment to 2001 rates resulting from the disposition of the Westlock properties and for the Lloydminster properties. Any other adjustment arising under the terms of the existing PBR negotiated settlement will be deferred to 2002.

3. The terms of the recommendations and the collateral commitments are subject to ratification by the members of the North Core Customer Group consisting of Canadian Forest Products Limited, the City of Edmonton, the Consumers' Coalition of Alberta, the Federation of Alberta Gas Co-ops Ltd. and Gas Alberta Inc., the Municipal Intervenors, the Public Institutional Consumers of Alberta, Treaty 8 Aboriginals and the University of Alberta. All parties will use their best efforts to obtain ratification of this settlement of this agreement on or before November 16, 2001.

Mr. Chairman, the NCC submits that the compromise recommendation and the collateral commitments in both Opening Statements represent a fair balance of the interests of customers and ATCO Gas shareholders.

As stated previously, the NCC believes that there are three elements that would make up the Board's approval. The first approval is that of the amended sales transaction with Burlington Resources. The NCC would restate its position that its members have already given their approval of this transaction and that the Board can proceed to a decision on this aspect immediately, since the proceeds were sufficient to meet the quantum of the "no harm" test as found by the Board in Decision 2001-65, and either of the versions advanced in evidence by the NCC and ATCO Gas.

The second necessary step requiring Board approval is the allocation of proceeds between shareholders and customers. While it has always been the preference of the NCC to have coincident approval of the sales transaction and the allocation of proceeds, the NCC recognizes that it cannot yet confirm to the Board that it has received formal approval from its constituents of the principles of the new agreement on allocation of proceeds and related considerations. The NCC recognizes that time is of the essence with respect to the approval of the Burlington Resources sale, and if the Board finds it necessary to separate its approval of the sale *per se* from the allocation of proceeds approval in order to meet the timing requirements of the Burlington sale, then the NCC would agree with that procedure.

The NCC will complete the formal ratification process no later than November 30, 2001. Immediately upon receipt of ratification, the NCC will advise the Board and request a decision on the joint recommendation.

Finally, the Board must approve the actual distribution of the proceeds to customers on the basis of a specific methodology. This approval is not requested as a part of this proceeding and will be dealt with as directed by the Board in Decision 2001-65. The NCC wishes to advise the Board that other than a desire to commence the distribution of proceeds as soon as possible, the NCC has not yet had time to address this issue to reach internal agreement or with ATCO Gas on the details of that distribution. As the preferred process enunciated in Decision 2001-65, the NCC would respectfully request the Board to await the joint recommendations of the NCC and ATCO Gas which we undertake to develop as soon as possible.