Decision **2002-081**

ATCO Pipelines

Transmission Transportation Rates
Time Limited Amendment to Exchange Fee and Exchange Fee Discounts

September 3, 2002

Alberta Energy and Utilities Board

ALBERTA ENERGY AND UTILITIES BOARD
Decision 2002-081: ATCO Pipelines
Transmission Transportation Rates, Time Limited Amendments to Exchange Fee Discounts
Application No. 1273172

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1 INTRODUCTION

By letter dated November 29, 2000, ATCO Pipelines (ATCO or the Company), a division of ATCO Gas & Pipelines Ltd.,[1] filed an application requesting approval of rates and terms and conditions of service for Industrial and Producer (I/P) customers in 2001 and 2002. The application was the product of agreements (the Agreements) resulting from a successfully negotiated settlement (the Settlement) with representatives of I/P customers of ATCO Pipelines North and South.

The Board approved the Settlement, including the methodology for setting the Exchange Fees and related discounts, in Decision 2001-53, dated June 11, 2001.

By letter dated May 9, 2002, ATCO advised the Board of proposed revisions to the standard Exchange Fee in accordance with the methodology outlined in the Company's Transmission Transportation Business Policy and Practices (BP&P), filed with the Board for information as part of the Settlement package. In the letter, ATCO also advised the Board of proposed revisions to Exchange Fee discounts at certain receipt points in the North. The Exchange Fee discounts as originally established, and the calculation methodology, are also set out in the Company's BP&P.

ATCO indicated that the standard Exchange Fee would drop from 6.47¢/GJ to 4.82¢/GJ effective April 1, 2002, resulting in the need for related time-limited adjustments to Exchange Fee discounts in order to remain competitive with NOVA Gas Transmission Ltd. (NGTL). Accordingly, in the letter, ATCO proposed reductions effective April 1, 2002 to October 31, 2002 to:

- the discount at the Ansel receipt point from 5.4¢/GJ to 2¢/GJ
- the discount at the Bonnie Glen receipt point from 3.5¢/GJ to 2¢/GJ
- the discount at the Lloyd Creek receipt point from 6.4¢/GJ to 3.09¢/GJ.

2 BACKGROUND

Section 13.2 of the BP&P, filed as Schedule C to the Settlement, establishes the mechanism for calculation of Exchange Fees assessed for use of Exchange Service for delivery of gas from the ATCO system to the NGTL system. Section 13.2 requires that the standard Exchange Fee will be

[1] ATCO Gas and Pipelines Ltd. comprises two divisions, ATCO Gas and ATCO Pipelines. Each division is subdivided into North and South, i.e. ATCO Gas North, ATCO Gas South, ATCO Pipelines North and ATCO Pipelines South.

adjusted three times per year. On January 1 of each year, the fee is to be adjusted to reflect changes in the NGTL Firm Service receipt charge. On April 1 and November 1 of each year, the fee is to be adjusted to reflect changes in the NGTL fuel charge. In accordance with the mechanism, the standard Exchange Fee established effective April 1, 2002 was 4.82¢/GJ.

Section 13.2 also specifies that receipt points that are dually connected with the Company pipeline system and the NGTL system are to attract a reduced Exchange Fee charge (discount) provided ATCO's firm service receipt rate plus the Exchange Fee is greater than the NGTL 3-year receipt toll at that location. In the May 9, 2002 letter, ATCO provided a detailed calculation to support the proposed revisions to the Exchange Fee discounts for the identified receipt points in the North. The calculation, based on a comparison of the forecast ATCO and NGTL costs from April 1, 2002 to October 31, 2002, indicated that, to maintain a minimum targeted differential with NGTL of 1¢/GJ, the proposed revisions to the Exchange Fee discounts would be required.

3 SUBMISSIONS FROM INTERESTED PARTIES

The Board received the following submissions from interested parties with respect to ATCO's proposals.

3.1 Producers Marketing Ltd. (ProMark)

In a letter dated April 25, 2002, ProMark expressed concern that ATCO's calculation of the Exchange Fee (4.82¢/GJ) effective April 1, 2002, was not in compliance with the methodology approved by the Board in Decision 2001-53. ProMark indicated that a calculation pursuant to the approved methodology would result in a fee of 5.67¢/GJ.

In a letter dated May 13, 2002, ProMark opposed ATCO's proposal to revise the Exchange Fee discount at the Lloyd Creek receipt point from 6.4¢/GJ to 3.09¢/GJ. ProMark submitted that the Exchange Revenue Deferred Account (ERDA), established to account for Exchange Fee revenues, has been negatively impacted by as much as $1 million as a result of these time-limited discounts, and that this amount constitutes a loss of revenue ultimately recoverable from other customers.

On June 13, 2002, ProMark filed a further submission in response to comments by ATCO with respect to the issues raised. ProMark asserted that all receipt points off the NGTL system should be included in the Exchange Fee calculation, and that such a calculation would be consistent with section 13.1 of the BP&P. ProMark indicated that it would reserve comment on the appropriate composition of throughput at each interconnection point with NGTL, pending clarification of ATCO's comments regarding "usable exchange capacity" in the context of ATCO system receipt backhauls and associated specific receipts from NGTL.

ProMark acknowledged ATCO's concerns with the ERDA deficit. However, ProMark submitted that, while ATCO may have consulted with the Canadian Association of Petroleum Producers (CAPP) as a deemed proxy for I/P customers, ATCO has not pursued these concerns sufficiently or appropriately with the Company's contracted and invoice paying customers. ProMark expressed concern with ATCO's ERDA disclosure commitments. Specifically, ProMark referred to ATCO's letter to the Board dated June 4, 2001, which included the principle that ATCO will report monthly on the status of the ERDA. ProMark submitted that the responsibility for this and related reporting has not been adhered to by ATCO.

With respect to the amendments to Exchange Fee discounts, ProMark left it up to the Board to determine whether or not discounting has constituted a loss of revenue ultimately recoverable from other customers. Noting ATCO's comment that failure to approve the revision to the discount at Lloyd Creek would result in increased rates for customers in future, ProMark suggested that ATCO needed to explain the difference between this outcome and the ultimate recovery of a deficit in the ERDA.

Finally, ProMark strongly disagreed with ATCO's position that the South ERDA is the primary issue of concern rather than the North. ProMark noted that the North ERDA has actually experienced a greater downward adjustment to its forecast closing balance than the South, based on comparison of current versus original forecasts. ProMark submitted that ATCO should take immediate steps to address the significant combined deficit in the North and South ERDAs through direct communication with its customers.

3.2 CAPP

In a letter dated May 21, 2002, CAPP expressed concern with ATCO's request for a further 1.09¢/GJ discount at Lloyd Creek in addition to the standard 2¢/GJ discount generally provided to dually-connected plants in the North as agreed in the I/P Settlement. CAPP noted that ATCO calculated the revised discount by comparing the costs at this receipt point to the competitively available alternative, and ensured that the cost was 1¢/GJ less than the alternative. CAPP considered that the additional 1¢/GJ discount is no longer warranted.

CAPP pointed out that the North ERDA has a surplus balance of approximately $100,000, and that it did not believe that the I/P Settlement contemplates that the Company would make money on incremental receipts while shippers pay the cost. CAPP requested that the Board deny ATCO's application for a time limited discount at Lloyd Creek, on the basis that customers derive no net benefit in the shifting of costs to shippers through the ERDA.

On June 14, 2002, CAPP filed a further submission in response to comments by ATCO with respect to the issues raised. CAPP reiterated its view that the principle embedded in the ATCO May 9, 2002 application, that ATCO must retain a 1¢/GJ advantage over the corresponding NGTL toll plus fuel, is no longer warranted. CAPP considered that the 1¢/GJ competitive advantage is no longer required because the reason for that discount (lack of liquidity on the ATCO system) has changed. CAPP noted that this is demonstrated by the fact that exchanges between NGTL and ATCO have decreased as the ATCO market has become more efficient. By way of illustration, CAPP noted that exchange volumes in the North have gone from 226 TJ/day average in March 2001 to 138 TJ/day average in March 2002, with a corresponding reduction in the annual average from 172 TJ/day in 2001 to a forecast average of 145 TJ/day in 2002.

CAPP did not object to the additional time limited discount concept in the event that it serves to make the cost of moving gas on the ATCO system equal to the cost of moving gas on the NGTL system. However, CAPP objected to ATCO requesting further discounting over the balance of the term of this application in order to maintain its 1¢/GJ competitive advantage over NGTL.

CAPP considered that time limited discounts do not provide a net benefit to shippers if the marginal costs of moving the discounted gas exceed the revenue that is collected. CAPP submitted that, if ATCO can demonstrate to the Board's satisfaction that its time limited discount request at Lloyd Creek of 1.09¢/GJ serves to equalize the cost of moving gas on ATCO vis-à-vis NGTL, and not provide a 1¢/GJ advantage to ATCO, CAPP would no longer object to this time limited discount application.

3.3 KeySpan Energy Canada (KeySpan)

By letter dated June 19, 2002, KeySpan indicated support for ATCO's request for a revision to the time-limited discount at Lloyd Creek for the April 1, 2002 to October 31, 2002 period. KeySpan provided a calculation of the comparative transportation costs currently being incurred by shippers flowing gas to ATCO at this dually connected receipt point. The calculation demonstrated that an Exchange Fee discount of 3.09¢/GJ on the ATCO North system will equalize the pipeline charges on the ATCO and NGTL systems at that receipt point. KeySpan submitted that the revision to the discount should be sufficient to maintain ATCO's 1¢/GJ competitive advantage over NGTL, an advantage which industry and CAPP have historically supported.

KeySpan pointed out that shippers have contractual obligations for business from April 1, 2002 to October 31, 2002, and that transactions have been executed based on the assumption that ATCO's rates would be competitive with NGTL. KeySpan indicated that the 1¢/GJ differential has been included and approved since August 1, 2001.

In addition to providing support for the Exchange Fee discount, KeySpan expressed concern with CAPP's singling out of Lloyd Creek and linking it to issues with the ATCO Exchange Revenue deferral accounts. KeySpan agreed that, while there are issues with the deferral accounts that need to be addressed, it is inappropriate to single out Lloyd Creek as contributing to the problem or providing a solution to the problem. KeySpan submitted that the issue with respect to the deferral accounts is one that all ATCO shippers should address.

4 ATCO'S RESPONSE TO ISSUES RAISED

In correspondence dated May 27, 2002, the Board requested that ATCO provide a response to the issues raised by interested parties. ATCO filed the following response to the issues raised by ProMark and CAPP by June 5, 2002.

4.1 ProMark Issues

ATCO noted ProMark's submission that all receipt points off NGTL should be included in the calculation of the Exchange Fee as opposed to the volumes receipted at the integrated system interconnections with NGTL. ATCO pointed out that exchange deliveries from ATCO Pipelines to NOVA take place almost exclusively on the integrated system, and that farm taps and isolated system receipts from NGTL do not provide usable exchange capacity, since little or no customer receipt gas is located on these isolated systems. In response to a request by ProMark for clarification, ATCO indicated that "usable exchange capacity" is provided by customer deliveries from NGTL to ATCO at interconnections where the Company has customer requests to deliver gas to NGTL. ATCO explained that this allows the Company to move volumes to NGTL without physical deliveries.

ATCO submitted that the calculation of the Exchange Fee provided for the Board's consideration by ProMark is inconsistent with the methodology set out in the BP&P, to the extent that the calculation includes volumes at interconnection points in addition to those on the integrated system. ATCO considered that calculation of the Exchange Fee using ProMark's methodology would be contrary to both the BP&P and prior calculations of Exchange Fee revisions.

With respect to ProMark's concern regarding the adjustment to the Exchange Fee discount at Lloyd Creek, ATCO pointed out that, as set out in the BP&P, dually connected receipt points in the North are all subject to a 2¢ reduction, except for Lloyd Creek. ATCO stated that, at the time of the negotiations leading to the Settlement, it was already recognized that some points may need higher discounts to remain competitive with NGTL and a discount of 3.3¢/GJ at Lloyd Creek was agreed to. ATCO indicated that other time limited discounts have been implemented since April 1, 2001.

Noting ProMark's concern that the ERDA has been negatively impacted by as much as $1 million, constituting a loss of revenue ultimately recoverable from other customers, ATCO pointed out that the Exchange Fee discounts are intended to keep ATCO competitive at points where the postage stamp rate is not competitive on its own. ATCO indicated that NGTL tolls at Lloyd Creek have been reduced by 4.5¢/GJ between January 2000 and January 2002, while ATCO tolls have remained flat. ATCO stated that customers have enjoyed the benefits of the postage stamp rate in areas where the tolls are lower than they would otherwise be under a point-to-point design. ATCO submitted that customers should not expect to enjoy favorable tolls in some areas and then take issue with their agreement to keep ATCO competitive at otherwise noncompetitive points.

ATCO expressed concern with the forecast deficit in the ERDA, particularly in the south, noting that the negative balance is the result of exchange revenues not keeping up with the costs incurred in flowing volumes to the NGTL system. ATCO indicated that the Company has had discussions with CAPP and other customers and contemplates ongoing discussions to resolve this issue. ATCO noted that the South ERDA is the primary issue of concern, not the North.

ATCO submitted that, if the time-limited discount is not approved, customers at Lloyd Creek have indicated they will move volumes away from the ATCO system, which will result in increased rates for the remaining customers in future as lower volumes will be available to recover the Company's revenue requirement. Noting ProMark's observation that this outcome appeared to be no different than the ultimate recovery of a deficit in the ERDA, ATCO pointed out that the Exchange Fee discount will not impact the ERDA revenue, since the first 3.4¢/GJ does not go to the ERDA in the North, as agreed in the Settlement.

In response to ProMark's concerns regarding failure to maintain reporting at previous levels, ATCO indicated that the reporting previously provided consisted of detailed information issued as backup to forecast information posted on a monthly basis on the Company's website. ATCO stated that experience during 2001 demonstrated that provision of information at that level of detail in a timely manner was impractical. ATCO indicated that, as agreed with CAPP in February 2002, the Company recommended provision of the backup information on a quarterly basis with key deviations from monthly forecasts issued each month to supplement the forecast information. ATCO indicated that work is still ongoing with respect to some aspects of these reporting revisions.

Noting ProMark's comment that immediate steps should be taken through dialogue with customers to address the combined balances in the North and South ERDAs, ATCO indicated that discussions with CAPP on this issue were unsuccessful, and acknowledged that other customers may have different interests than CAPP. ATCO indicated willingness to participate in direct communication with all interested customers, and pointed out that the Company was attempting to schedule a meeting with all I/P customers to discuss and address the issue.

4.2 CAPP Issues

ATCO pointed out that the intent of the Exchange Fee, as agreed in the Settlement, was to make a shipper indifferent as to whether gas is sourced on the ATCO system or the NGTL system if the ultimate market is off the NGTL system. ATCO noted that, as a result, the postage stamp rate structure was retained on the understanding that Exchange Fees could be reduced at interconnection points that were not competitive with NGTL to enable ATCO to retain these volumes. ATCO also pointed out that, since the Settlement, Exchange Fees have been increased to recognize the inclusion of NGTL receipt point fuel, effectively increasing the exchange rate by about 4¢/GJ.

Noting CAPP's comment that time limited discounts do not provide a net benefit to shippers if the marginal costs of moving the discounted gas exceed the revenue collected, ATCO submitted that the intent of the Settlement was clearly to enable the Company to remain competitive. ATCO pointed out that the BP&P, filed with the Settlement, included a paragraph demonstrating the allocation of costs between ATCO and the ERDA with respect to incremental volumes from dually connected plants. ATCO stated that CAPP should not be able to alter the Settlement in hindsight.

ATCO indicated that discussions with I/P customers, including CAPP, during the negotiations leading to the Settlement identified the need to adjust Exchange Fees at some interconnection points. Referring to CAPP's concern that the additional 1¢/GJ competitive differential is no longer warranted, ATCO submitted that this 1¢/GJ difference has been included in all previous requests for time limited discounts in 2001 and 2002. ATCO noted that customers have indicated that with the greater price transparency on the NGTL system there needs to be a financial incentive to remain on the ATCO system. ATCO submitted that the 1¢/GJ differential was a compromise that has kept gas from interconnected plants flowing on the Company's system to date.

ATCO referred to Decision 2001-85 dated November 15, 2001, in which the EUB acknowledged the Company's submission that "to maintain a minimum targeted differential with NGTL of 1¢/GJ, the proposed revisions to the Exchange Fee discounts would be required." ATCO pointed out that, in approving the revisions to Exchange Fee discounts in that Decision, the Board noted that no parties expressed objection to the application.

ATCO submitted that, while CAPP has not provided any basis for its belief that the1¢/GJ differential is no longer necessary, ATCO's customers continue to tell the Company that the differential is still necessary to keep them on the system. ATCO stated that this is the last year of the current agreement and that a change at this point is not appropriate. ATCO considered that the issue of the 1¢/GJ differential represents a perception of an advantage rather than the reality of an advantage. ATCO submitted that the 1¢/GJ differential is required to maintain ATCO's competitiveness.

ATCO referred to CAPP's comment that the justification for the 1¢/GJ differential is unwarranted, given that there is no longer a liquidity concern, since exchange volumes have decreased as the ATCO market has become more efficient. ATCO pointed out that the market has become more efficient with respect to exchange volumes, which have decreased since 1998, indicating that buyers and sellers are conducting more on system business. ATCO submitted that its market is still not nearly as liquid as NGTL's market. ATCO submitted that the volume comparisons provided by CAPP for 2001 and 2002 to support its efficiency observation, demonstrated that those efficiencies were in fact, in place by August 2001, from which time exchange volumes have remained constant. ATCO questioned why CAPP did not object to the validity of the 1¢/GJ differential when revisions to exchange discounts were made in that timeframe.

ATCO referred to CAPP's request that the Company demonstrate, to the Board's satisfaction, that the revision to the Exchange Fee discount at Lloyd Creek serves to equalize the cost of moving gas on both systems, rather than to provide a 1¢/GJ advantage to ATCO. ATCO submitted that, given the option of connecting directly to the liquid NGTL NIT market versus ATCO, shippers require a price differential as compensation for the additional administrative costs and risks involved in dealing with an additional party.

With reference to CAPP's comment that it "does not believe that the amended I/P Settlement contemplates ATCO making money on incremental receipts while shippers pay the cost", ATCO pointed out that receipt volumes at Lloyd Creek have remained relatively constant over the 2001 to April 2002 period with some seasonal fluctuations. ATCO submitted that the intent of the deferred exchange account was for shippers to pay the costs of flowing volumes to NGTL through the exchange mechanism instead of through a double tolling system. Noting that CAPP referred to Article 13 of the Settlement in support of its statement, ATCO pointed out that Article 13 refers to discounted receipt and delivery tolls, not to the Exchange Fee. ATCO referred to Decision 2001-53, where the Board noted that Exchange Fees are not designed to generate revenue, but rather as an offset to NGTL tolls required to provide exchange service. ATCO noted that, in that Decision, the Board agreed with the Company that the amendment to the Exchange Fee discount then under consideration would have no effect on the revenue-generating toll at that receipt point.

5 BOARD FINDINGS

5.1 Overview

In Decision 2002-058 dated July 2, 2002, the Board acknowledged that there are currently many issues facing NGTL, ATCO and their customers, and indicated that, since the settlements on both NGTL and ATCO are coming up for expiry at the end of 2002, this would be a timely opportunity to conduct a broader-based industry discussion, with the intent to formulate a comprehensive plan for cost-effective transportation service in the province. The Board recognizes that the issues referred to in that Decision are extensive and wide-ranging, and could include some, if not all, of the issues being addressed in this Proceeding. In the Board's view, the issues raised in this Proceeding indicate a need to re-evaluate the Exchange Fee and discount methodology in light of changes that may have taken place in the marketplace since the Settlement was approved. However, the Board considers that any such process would extend beyond the scope of the issues raised in this Proceeding. Accordingly, while there may be merit in the concerns raised by customer groups with respect to ATCO's proposals for revision to Exchange Fees and related discounts effective April 1, 2002, the Board is reluctant to recommend amendments to the calculation process at this late stage in the Settlement, particularly given the broader implications of such amendments to the Settlement.

Although Decision 2002-058 contemplates a broad–based industry discussion, the Board recognizes that ATCO and its customers will enter into an adjudicated or negotiated process to address tolling issues and determine tolls to be effective after the termination of the Settlement. The issues raised in this Proceeding might be most appropriately addressed in such a GRA process. However, in the event that ATCO does not file a GRA application prior to the end of the Settlement, the Board does not wish to unduly delay implementation of any revisions deemed necessary to the Exchange Fee methodology and calculations.

The Board notes that ATCO has scheduled a meeting with industry participants on September 6, 2002 to address concerns relating to the significant negative balances in the ERDAs. The Board considers that this presents an appropriate opportunity for ATCO to initiate discussions with its customer groups with a view to addressing the issues raised in this Proceeding.

Accordingly, the Board directs ATCO to consider the issues identified in this Proceeding in consultation with customer groups, as an extension of the discussions around the ERDA balances in the collaborative process commencing September 6, 2002. The Board recognizes that this may require an extension to the timetable initially contemplated for dealing with the ERDA balances. The Board directs ATCO, on or before October 31, 2002, to file with the Board, and with the parties on the I/P Settlement Mailing List attached as Appendix A to this Decision, a report detailing resolution of the issues identified in sections 5.2, 5.3, 5.4 and 5.5 of this Decision. Parties on the I/P Settlement Mailing List will then have until November 16, 2002 to comment on the proposed resolution.

In the event that ATCO and its customers are unable to resolve the issues in the consultative process outlined in the previous paragraph, the Board directs ATCO to provide a recommendation to the Board on or before October 31, 2002 as to an alternative process to resolve the issues.

In the event that neither the consultative process nor ATCO's suggested alternative process outlined above are successful in whole or in part, the Board directs ATCO to file with the Board, on or before December 20, 2002, with a copy to all parties on the I/P Settlement Mailing List, an application for Board determination of any unresolved issues as identified in sections 5.2, 5.3, 5.4, and 5.5 of this Decision, such determination to be effective commencing January 1, 2003.

In the following sections of this Decision, the Board will discuss the issues raised by customer groups in this Proceeding, and outline the issues to be discussed in the consultation process with customer groups or alternatively in an application to the Board.

5.2 Calculation of Exchange Fees

The Board notes ProMark's concern that ATCO's proposed revision to the Exchange Fee effective April 1, 2002 is not in compliance with the methodology approved by the Board in Decision 2001-53, on the basis that the calculation fails to take into account all eligible receipt points. The Board understands why ProMark proposed that ATCO re-evaluate the calculation, given the lack of clarity in the Settlement documentation with respect to this issue. Specifically, Section 13.1 of the BP&P, filed in Schedule C of the Settlement package, is not explicit as to whether volumes at all receipt points off the NGTL system should be included in the Exchange Fee calculation or only those volumes receipted at the integrated system interconnections with NGTL. However, while recognizing ProMark's position, the Board agrees with ATCO that the calculation of the revision to the Exchange Fee appears consistent with the illustrative example included in the BP&P, and acknowledges ATCO's comment that no concerns have been expressed by customers with respect to previous revisions to the Exchange Fee.

The Board accepts for acknowledgement ATCO's filing reducing the Exchange Fee from 6.47¢/GJ to 4.82¢/GJ effective April 1, 2002. The Board also directs ATCO, in consultation with customers, as outlined in section 5.1 above, to take the steps necessary to reach agreement on the volumes and receipt points eligible for inclusion in the Exchange Fee calculation. The Board expects that ATCO will clarify the relevant details in section 13.1 of the BP&P. Failing agreement with customers, the Board directs ATCO to include this issue in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 of this Decision.

5.3 Calculation of the Exchange Fee Discount at Lloyd Creek

The Board notes CAPP's submission that the proposed discount at Lloyd Creek, effective April 1, 2002, is in excess of the standard discount of 2¢/GJ as agreed in the I/P Settlement, and its concern with ATCO's continued collection of a 1¢/GJ differential between the ATCO costs and the competitive alternative. The Board also notes ATCO's submission that at the time of the Settlement, dually connected receipt points in the North were all subject to a 2¢ reduction, except for Lloyd Creek, which was set at 3.3¢/GJ to recognize competitive concerns at that location. The Board also notes ATCO's comment that other time limited revisions to the discount at Lloyd Creek and other receipt points, which have included recognition of the 1¢/GJ differential have been implemented since April 1, 2001, without comment from customer groups.

The Board acknowledges ATCO's submission that "the intent of the Exchange Fee is to make a shipper indifferent to whether gas is sourced on the ATCO system or the NGTL system", and that the 1¢/GJ differential serves as a financial incentive to customers to remain on the ATCO system given the greater price transparency on the NGTL system. However, although ATCO has applied the methodology as set out in section 13.1 of the BP&P in implementing revisions to the Exchange Fee discount since April 1, 2001, the Board notes that the rationale supporting the establishment and continued application of the 1¢/GJ differential is not completely clear in the BP&P or other documentation filed with the Settlement.

The Board acknowledges ATCO's observation that no concerns have been raised with respect to any of the previous revisions to the discount at Lloyd Creek, or with respect to the continued need for a 1¢/GJ differential. However, the Board considers that the respective submissions of CAPP and ATCO regarding the issue of increased liquidity on the ATCO system, suggest that the market has evolved since the Settlement was approved. Potential changes in the market in turn raise the question as to whether the Exchange Fee discount process should be reconsidered**.** However, in the absence of specific evidence to support such a change, and recognizing the impracticality of initiating a separate process to address this issue so close to the end of the Settlement period, the Board considers that the issue should be dealt with by ATCO and customer groups in the context of further discussions in a consultative process or other subsequent process.

The Board accepts for acknowledgement ATCO's filing indicating a reduction of the Exchange Fee discount at Lloyd Creek to 3.09¢/GJ for the period from April 1, 2002 to October 31, 2002. The Board directs ATCO, in consultation with customers, to evaluate the concept of liquidity on the ATCO system, and whether there is an ongoing need for the 1¢/GJ ATCO/NGTL toll differential. ATCO should file its evaluation with the Board as part of its resolution of the issues as outlined in section 5.1 of this Decision.

Failing agreement with customers, the Board directs ATCO to include these issues in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 above.

5.4 Effect of Discounts on the Exchange Revenue Deferred Account

The Board notes ProMark's concern that the revisions to the Exchange Fee discounts have negatively impacted the ERDA, and that the reduction in available funds will result in customers having to pay for capital projects rather than having them funded through the ERDA. The Board also notes CAPP's request that ATCO's application for a time limited discount at Lloyd Creek be denied, on the basis that customers derive no net benefit in the shifting of costs to shippers through the ERDA.

The Board recognizes that, while Exchange Fee discounts at dually-connected receipt points are required to retain volumes on the system, the disadvantage is that they will negatively impact the balance in the ERDA. In Decision 2000-16, dated June 13, 2000, the Board recognized that, clearly, producers provide the funds that generate the balances in the ERDA. In that Decision, the Board also recognized that funds accumulated in the ERDA would be available for mainline pipeline infrastructure extensions or for future reductions to rates for the I/P customers. Accordingly, the Board agrees that reductions to credit balances or negative balances in the ERDA will adversely impact those objectives.

The Board, however, agrees with KeySpan that it is inappropriate to single out Lloyd Creek as contributing to the problem or providing a solution to the problem, and agrees with ATCO that it is inefficient to alter the Settlement at this time when the Settlement is almost at an end. Nevertheless, the Board considers that there is clearly a need to address the issue of the continuing appropriateness of the Exchange Fee concepts and methodologies in light of the significant deficiencies in the deferral accounts. In this regard, the Board acknowledges KeySpan's observation that the issue with respect to the balances in the deferral accounts is one that all ATCO shippers should address. The Board notes that this observation is consistent with the Company's commitment, as documented in Decision 2000-16, that any deficit balances in the ERDAs would be subject to negotiation with I/P customers.

In Decision 2001-76, dated October 24, 2001, the Board approved certain revisions to the Settlement designed specifically to eliminate a forecast deficiency in the South ERDA as at

December 31, 2002. The revisions approved in that Decision had been filed with the Board by ATCO after having reached a consensus position with I/P customers on the strategies required to eliminate the negative balance. The Board understands that the deficiencies currently forecast, as at December 31, 2002 in the North and South ERDAs, are $1.8 million and $8.3 million respectively. The Board again notes ATCO's scheduled meeting with industry participants on September 6, 2002 to address the issue of the ERDA deficiencies.

As discussed above, the Board considers that the issues raised in this Proceeding could be appropriately addressed in consultation with customers. The Board directs ATCO in its consultation with customers as outlined in section 5.1 to clarify and reach agreement on the primary function of the Exchange Fee and its role in revenue generation for the Company, and to discuss and resolve the deficiencies in the North and South ERDAs. Failing agreement with customers, the Board directs ATCO to include these issues in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 above.

5.5 Reporting on ERDA Status

The Board notes ProMark's concern that responsibility for monthly reporting on the status of the ERDA and related reporting has not been adhered to by ATCO.

The Board also notes ATCO's submission that work is still ongoing with respect to some aspects of the reporting revisions agreed upon with CAPP. The Board further notes ATCO's comment that the revisions in reporting were appropriate since timely provision of information at the previous level of detail had become impractical. However, given the concerns expressed by ProMark, it appears clear to the Board that the reporting revisions referred to by ATCO have not been communicated to all customer groups. Accordingly, the Board directs ATCO to discuss the issue of reporting on the status of the ERDA with customers in the process referred to in section 5.1. Failing agreement with customers, the Board directs ATCO to include this issue in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 above.

5.6 Other Exchange Fee Discount Revisions

In addition to the amendment filed by ATCO in respect of the Exchange Fee discount at Lloyd Creek, the Board further accepts for acknowledgement the following amendments to Exchange Fee discounts filed by ATCO:

- reduction of the Exchange Fee discount at the Ansel receipt point from 5.4¢/GJ to 2.0¢/GJ for the period from April 1, 2002 to October 31, 2002

- reduction of the Exchange Fee discount at the Bonnie Glen receipt point from 3.5¢/GJ to 2.0¢/GJ for the period from April 1, 2002 to October 31, 2002.

The Board notes that no issues were raised by parties with respect to these two proposals.

6 SUMMARY OF DIRECTIONS

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

1. Accordingly, the Board directs ATCO to consider the issues identified in this Proceeding in consultation with customer groups, as an extension of the discussions around the ERDA balances in the collaborative process commencing September 6, 2002. The Board recognizes that this may require an extension to the timetable initially contemplated for dealing with the ERDA balances. The Board directs ATCO, on or before October 31, 2002, to file with the Board, and with the parties on the I/P Settlement Mailing List attached as Appendix A to this Decision, a report detailing resolution of the issues identified in sections 5.2, 5.3, 5.4 and 5.5 of this Decision. Parties on the I/P Settlement Mailing List will then have until November 16, 2002 to comment on the proposed resolution.. 8
2. In the event that ATCO and its customers are unable to resolve the issues in the consultative process outlined in the previous paragraph, the Board directs ATCO to provide a recommendation to the Board on or before October 31, 2002 as to an alternative process to resolve the issues.. 8
3. In the event that neither the consultative process nor ATCO's suggested alternative process outlined above are successful in whole or in part, the Board directs ATCO to file with the Board, on or before December 20, 2002, with a copy to all parties on the I/P Settlement Mailing List, an application for Board determination of any unresolved issues as identified in sections 5.2, 5.3, 5.4, and 5.5 of this Decision, such determination to be effective commencing January 1, 2003. 8
4. The Board accepts for acknowledgement ATCO's filing reducing the Exchange Fee from 6.47¢/GJ to 4.82¢/GJ effective April 1, 2002. The Board also directs ATCO, in consultation with customers, as outlined in section 5.1 above, to take the steps necessary to reach agreement on the volumes and receipt points eligible for inclusion in the Exchange Fee calculation. The Board expects that ATCO will clarify the relevant details in section 13.1 of the BP&P. Failing agreement with customers, the Board directs ATCO to include this issue in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 of this Decision. 9
5. The Board acknowledges ATCO's observation that no concerns have been raised with respect to any of the previous revisions to the discount at Lloyd Creek, or with respect to the continued need for a 1¢/GJ differential. However, the Board considers that the respective submissions of CAPP and ATCO regarding the issue of increased liquidity on the ATCO system, suggest that the market has evolved since the Settlement was approved. Potential changes in the market in turn raise the question as to whether the Exchange Fee discount process should be reconsidered**.** However, in the absence of specific evidence to support such a change, and recognizing the impracticality of initiating a separate process to address this issue so close to the end of the Settlement period, the Board considers that the issue should be dealt with by ATCO and customer groups in the context of further discussions in a consultative process or other subsequent process.. 9

6. The Board accepts for acknowledgement ATCO's filing indicating a reduction of the Exchange Fee discount at Lloyd Creek to 3.09¢/GJ for the period from April 1, 2002 to October 31, 2002. The Board directs ATCO, in consultation with customers, to evaluate the concept of liquidity on the ATCO system, and whether there is an ongoing need for the 1¢/GJ ATCO/NGTL toll differential. ATCO should file its evaluation with the Board as part of its resolution of the issues as outlined in section 5.1 of this Decision. 10

7. Failing agreement with customers, the Board directs ATCO to include these issues in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 above. 10

8. As discussed above, the Board considers that the issues raised in this Proceeding could be appropriately addressed in consultation with customers. The Board directs ATCO in its consultation with customers as outlined in section 5.1 to clarify and reach agreement on the primary function of the Exchange Fee and its role in revenue generation for the Company, and to discuss and resolve the deficiencies in the North and South ERDAs. Failing agreement with customers, the Board directs ATCO to include these issues in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 above. 11

9. The Board also notes ATCO's submission that work is still ongoing with respect to some aspects of the reporting revisions agreed upon with CAPP. The Board further notes ATCO's comment that the revisions in reporting were appropriate since timely provision of information at the previous level of detail had become impractical. However, given the concerns expressed by ProMark, it appears clear to the Board that the reporting revisions referred to by ATCO have not been communicated to all customer groups. Accordingly, the Board directs ATCO to discuss the issue of reporting on the status of the ERDA with customers in the process referred to in section 5.1. Failing agreement with customers, the Board directs ATCO to include this issue in its October 31, 2002 filing proposing an alternative process or in its December 20, 2002 application as outlined in section 5.1 above. 11

7 ORDER

Having regard for the submissions presented and considered in this Proceeding, and having regard for the Board's own knowledge herein,

(1) the Board hereby orders ATCO to carry out all the directions set out in this Decision.

(2) The Board accepts for acknowledgement the following amendments to Exchange Fees and Exchange Fee discounts filed by ATCO:

(a) the reduction to the standard Exchange Fee from 6.47¢/GJ to 4.82¢/GJ for all volumes exchanged effective April 1, 2002;

(b) the reduction to the Exchange Fee discount at the Lloyd Creek receipt point from 6.4¢/GJ to 3.09¢/GJ for the period from April 1, 2002 to October 31, 2002;

(c) the reduction to the Exchange Fee discount at the Ansel receipt point from 5.4¢/GJ to 2.0¢/GJ for the period from April 1, 2002 to October 31, 2002; and

(d) the reduction to the Exchange Fee discount at the Bonnie Glen receipt point from 3.5¢/GJ to 2.0¢/GJ for the period from April 1, 2002 to October 31, 2002.

Dated in Calgary, Alberta, on September 3, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

(original signed by)

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

(original signed by)

Gordon J. Miller
Member

(original signed by)

C. Dahl Rees
Acting Member

APPENDIX A – INDUSTRIAL/PRODUCERS SETTLEMENT MAILING LIST

01-2000348-Address
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(Consists of 10 pages)

Updated: August 30

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100. Sherritt International Corporation
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101. Shiningbank Energy Ltd.
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102. Suncor Energy Inc.
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103. Syncrude
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