



# AUC

Alberta Utilities Commission

## **AltaGas Energy Limited Partnership and ECNG Energy LP**

***Gas Utilities Act Code of Conduct Regulation, AR 183/2003***  
**Audit Exemption**

**May 3, 2011**

The Alberta Utilities Commission  
Decision 2011-194: AltaGas Energy Limited Partnership  
*Gas Utilities Act Code of Conduct Regulation*, AR 183/2003  
Audit Exemption  
Application No. 1607107 and

ECNG Energy LP  
*Gas Utilities Act Code of Conduct Regulation*, AR 183/2003  
Audit Exemption  
Application No. 1607108

Proceeding ID No. 1122

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Alberta Utilities Commission  
Fifth Avenue Place, 4th Floor, 425 - 1 Street SW  
Calgary, Alberta  
T2P 3L8

Telephone: (403) 592-8845  
Fax: (403) 592-4406

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

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ECNG Energy LP  
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## 1 Introduction

1. On March 15, 2011, AltaGas Ltd. (AltaGas), as administrator for AltaGas Energy Limited Partnership (AltaGas Energy)<sup>1</sup> and ECNG Energy LP (ECNG) filed an application with the Alberta Utilities Commission (the AUC or the Commission). The application requests an exemption for AltaGas Energy and ECNG from conducting compliance audits for the 2010 audit year, pursuant to Section 41(1) (a) of the *Gas Utilities Act Code of Conduct Regulation, AR 183/2003*. This section enables a gas distributor or default supply provider or its affiliated retailer to apply to the Commission for an exemption from all or any provision of the *Code of Conduct Regulation*.

2. Section 37 of the *Gas Utilities Act Code of Conduct Regulation* requires a gas distributor or default supply provider and its affiliated retailer to each appoint an independent auditor to perform a compliance audit on an annual basis in accordance with the *Gas Utilities Act Code of Conduct Regulation*.

3. Pursuant to Section 41(2) (a) of the *Gas Utilities Act Code of Conduct Regulation* the Commission can not approve an exemption unless the Commission is satisfied that it is in the public interest to do so and that any exemption does not significantly affect the obligations of the applicant, or that the obligations can be or will be met in other ways.

4. The Commission issued a notice of application on March 22, 2011, requesting parties who wished to intervene in the proceeding to submit a statement of intent to participate (SIP) to the Commission by 2 p.m. April 5, 2011.

5. The Commission did not receive a SIP from any party and considers that the record for this proceeding closed on April 5, 2011.

## 2 Background

6. The purpose of the *Gas Utilities Act Code of Conduct Regulation* is:

“...to ensure that distribution companies, default supply providers and [affiliated] retailers conduct themselves in a manner that supports the competitive operation of the

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<sup>1</sup> Effective January 1, 2011, AltaGas Energy was wound up and all of its assets and liabilities were conveyed to its parent, AltaGas Ltd.

retail natural gas market and that their conduct does not distort that market by offering unfair advantages to retailers.”<sup>2</sup>

7. Operations are to be conducted in a manner that is consistent with the Gas Utilities Act Code of Conduct Regulation with regard to:

- equality of treatment for customers
- confidentiality of customer information
- equality of treatment of retailers
- business practices
- prevention of unfair competitive advantage
- maintenance of separate records and accounts
- development of a compliance plan, and related reporting and monitoring
- compliance audits

8. AltaGas Energy and ECNG are the affiliated retailers of AltaGas Utilities Inc. (AUI). Since the approval of the Compliance Plans in August 2005 and through December 31, 2010, there has been modest growth in the marketing activities of AltaGas Energy and ECNG in Alberta. As of December 31, 2005, PremStar Energy Limited Partnership (PremStar), the predecessor to AltaGas Energy and ECNG had 25 customers in Alberta. Today, AltaGas Energy and ECNG have a total of approximately 325 commercial and industrial gas customers, some with several locations in Alberta.

9. Prior to January 1, 2010, AltaGas Energy and ECNG did not operate or have any customers in AUI’s service territory. AUI has an application (Application 1607029, Proceeding ID No. 1189) currently before the Commission requesting an exemption from conducting an audit for the 2010 audit year. AltaGas Energy and ECNG acknowledge that in 2010 several of their commercial and industrial customers carried on business in AUI’s service territory.

### **3 The application**

10. AltaGas on behalf of AltaGas Energy and ECNG provided the following basis in support of this application for an exemption from the requirement to conduct compliance audits in 2011 for the 2010 audit year.

- a) For 2010, AltaGas Energy and ECNG have made all required filings under the *Gas Utilities Act Code of Conduct Regulation* and the Compliance Plan, including their annual filing with the Commission. Since January, 2010, there have been no instances of non-compliance identified by AltaGas Energy and ECNG and accordingly none were reported to the Board of Directors of AltaGas or to the Commission. There have been no complaints from the public.
- b) AltaGas submits that the requirement to conduct a 2010 audit for AltaGas Energy and ECNG is disproportionate to the benefit to the public that could result from conducting

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<sup>2</sup> [Bulletin 2010-25](#), *Gas Utilities Act Code of Conduct Regulation* AR 183/2001 process changes and clarification of requirements, September 17, 2010.

such an audit, particularly in light of the lack of identified instances of non-compliance in 2010 and no complaints from the public.

#### 4 Views of the Commission

11. The Commission recognizes that AltaGas Energy and ECNG have filed reports in compliance with the *Gas Utilities Act Code of Conduct Regulation*. In 2010 there were no instances of non-compliance identified by AltaGas Energy and ECNG and accordingly none reported to AltaGas' Board of Directors or to the Commission.
12. The Commission is of the view that, since January 1, 2010, when AltaGas Energy and ECNG began to operate in AUI's service territory the risk of non-compliance with the *Gas Utilities Act Code of Conduct Regulation* has increased.
13. The Commission notes that since the approval of the Compliance Plan in August 2005 and through December 31, 2010, AltaGas Energy (successor to PremStar) and ECNG have been audited once. An audit was performed by Ernst & Young for the period August 31, 2005 to December 31, 2005. The regulations provide for an audit opinion with respect to Sections 7, 17, 22 to 24 and 26 to 29. In their audit<sup>3</sup> opinion Ernst & Young stated that except for the items listed in their separate contraventions reports, PremStar and ECNG were in substantial compliance with the *Gas Utilities Act Code of Code Regulation* and the Compliance Plans. With respect to Sections 3 to 6, 8 to 16, 18 to 21, 25, 32 to 34, 37, 39, 40 and 42, for which a review engagement was undertaken, Ernst & Young again referred to separate contraventions reports and stated that nothing further had come to their attention that caused them to believe that the companies were not in compliance with the Regulation.
14. Since the 2005 audit, AltaGas Energy and ECNG have received audit exemptions for the years 2006 through 2009. The Commission notes that AltaGas Energy and ECNG customers have realized a benefit in cost savings from these exemptions.
15. The Commission is of the view that given the time that has elapsed since the audit in 2005 the cost of an audit for 2010 would not be disproportionate to the benefit the public would receive. An audit would provide assurance that the gas distributors, default supply providers and affiliated retailers had complied with the *Gas Utilities Act Code of Code Regulation* and their respective Compliance Plans.
16. For the foregoing reasons, AltaGas Ltd's application for exemptions for AltaGas Energy and ECNG from the requirement to conduct compliance audits for the 2010 audit year, pursuant to Section 41(1) (a) of the *Gas Utilities Act Code of Conduct Regulation*, AR 183/2003 is denied.

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<sup>3</sup> PremStar Energy Limited Partnership Compliance Audit Report, Application 1488367, August 23, 2006, ECNG Energy LP, Compliance Audit Report, Application 1488374, August 23, 2006.

17. The Commission recommends that AltaGas Energy and ECNG explore the opportunity to reduce their audit costs by undertaking a joint audit with AUI. The Commission would be willing to waive the requirement in Section 37 of the *Gas Utilities Act Code of Conduct Regulation*, for each gas distributor or default service provider and its affiliated retailer to each appoint an independent auditor, if AltaGas Energy, ECNG and AUI conclude a combined audit could achieve the purpose of the regulation on a cost effective basis.

## 5 Order

18. It is hereby ordered that:

AltaGas Ltd., as administrator for AltaGas Energy and ECNG file an application requesting approval of their auditors and a work plan describing the audit, the review procedures to be used and the scope of the work by May 31, 2011, as required under Sections 37 and 38 of the *Gas Utilities Act Code of Conduct Regulation*, AR 183/2003.

Dated on May 3, 2011.

**The Alberta Utilities Commission**

*(original signed by)*

Kay Holgate  
Commission Member