



# AUC

Alberta Utilities Commission

## **ATCO Gas & Pipelines Ltd.**

**Issuance of 4.722 Per Cent Debenture**

**December 5, 2013**



**The Alberta Utilities Commission**  
Decision 2013-433: ATCO Gas & Pipelines Ltd.  
Issuance of 4.722 Per Cent Debenture  
Application No. 1609978  
Proceeding ID No. 2864

December 5, 2013

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## 1 Introduction

1. ATCO Gas & Pipelines Ltd. (AGPL or corporation) filed an application with the Alberta Utilities Commission (AUC or Commission) on October 11, 2013, requesting approval to issue a 4.722 per cent debenture to CU Inc. in the principal amount of \$130,000,000 at a price of 100.00 to yield 4.722 per cent through its agents to the public.

## 2 Process

2. On October 16, 2013, the Commission issued a notice of application advising interested parties to file a statement of intent to participate to the Commission no later than October 30, 2013. No statements of intent to participate were filed.

3. After reviewing the application, the Commission found that no additional information was required to make a determination on the application. The Commission considers the record of this proceeding to have closed on October 30, 2013.

## 3 Background

4. AGPL is the owner of a public utility to which Section 26(2)(a) of the *Gas Utilities Act*, RSA 2000, c. G-5 applies. Section 26(2)(a) of the *Gas Utilities Act* states:

(2) No owner of a public utility designated under subsection (1) shall

(a) issue any

(i) of its shares or stock, or

(ii) bonds or other evidences of indebtedness, payable in more than one year from the date of them,

unless it has first satisfied the Commission that the proposed issue is to be made in accordance with law and has obtained the approval of the Commission for the purposes of the issue and an order of the Commission authorizing the issue,...

5. Consequently, AGPL is required to obtain approval from the Commission before issuing any bonds or other evidences of indebtedness for terms greater than one-year.

#### 4 Details of the applications

6. On September 9, 2013, CU Inc. completed the sale of a debenture in the principal amount of \$600,000,000 at a coupon rate of interest of 4.722 per cent with a maturity date of September 9, 2043, at a price of 100.00 to yield 4.722 per cent through agents to the public.

7. AGPL indicated in its application that the issuances made by CU Inc. were in compliance with Order [U99115](#)<sup>1</sup> and Decision [U99118](#)<sup>2</sup> of the Alberta Energy and Utilities Board, the Commission's predecessor which, among other things, exempt CU Inc. from the requirement to obtain the approval of the Commission prior to issuing securities.

8. AGPL submitted that all proceeds from the sale of the debenture were advanced by CU Inc. to ATCO Electric Ltd. (AE) and AGPL on September 9, 2013, subject to the assumption by AE and AGPL of their pro rata share of the fees and expenses paid by CU Inc. in connection with the issuance. Accordingly, AGPL is requesting Commission approval to issue a debenture to CU Inc. with the maturity and rate mirroring the issuance made by CU Inc. for AGPL's pro rata share of the proceeds.

9. The estimated net proceeds to AGPL from the sale of the 4.722 per cent debenture to CU Inc. will amount to approximately \$129,191,000 after deducting the fees and estimated expenses to be paid in connection with the issuance. Of the net proceeds, \$69,564,500 will be allocated to the ATCO Gas division of the corporation (ATCO Gas) and \$59,626,500 will be allocated to the ATCO Pipelines division of the corporation (ATCO Pipelines). All of the net proceeds will be applied to finance capital expenditures, repay existing indebtedness and for other general corporate purposes.

10. AGPL submitted that the proposed issuance of the debenture will have no effect on the control of the corporation or on the voting power related to the shares of the corporation.

11. AGPL included in the application a resolution of the board of directors of AGPL authorizing issuance of the debenture to CU Inc., as Exhibit "B," and a schedule showing recent similar corporate debt issues, as Exhibit "D."

12. AGPL submitted that issuance of the debentures would help maintain ATCO Gas's and ATCO Pipelines' capital structures at the levels established in Decision [2011-474](#).<sup>3</sup> The decision determined a common equity ratio of 39 per cent and 38 per cent for ATCO Gas and ATCO Pipelines, respectively.

13. AGPL provided a forecast of its pro forma capital structure, following the issuance of the debenture, in Exhibit "E" of the application.

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<sup>1</sup> Order U99115: CU Inc., Application Regarding Exemption from Certain Sections of the Public Utilities Board Act and Gas Utilities Act, Application 990182, File 6640-179, November 23, 1999.

<sup>2</sup> Decision U99118: CU Inc., Variance of the Order Approved as part of Decision U99115, Application No. 990182, File No. 6640-170, December 21, 1999.

<sup>3</sup> Decision 2011-474: 2011 Generic Cost of Capital, Application No. 1606549, Proceeding ID No. 833, December 8, 2011.

**Table 1. AG pro forma capital structure after the proposed debenture issue**

ATCO Gas				
	June 30, 2013, actual		June 30, 2013 as adjusted <sup>1</sup>	
	Amount (\$000,000)	%	Amount (\$000,000)	%
Long-term debt	1,029.2	53.5	1,099.2	55.2
Preferred shares	114.6	6.0	114.6	5.7
Common equity	779.3	40.5	779.3	39.1
Total	1,923.1	100.0	1,993.1	100.0

<sup>1</sup>After giving effect to the issuance of the applied-for shares and the debentures

**Table 2. AP pro forma capital structure after the proposed debenture issue**

ATCO Pipelines				
	June 30, 2013, actual		June 30, 2013 as adjusted <sup>1</sup>	
	Amount (\$000,000)	%	Amount (\$000,000)	%
Long-term debt	502.0	56.5	562.0	59.3
Preferred shares	38.0	4.3	38.0	4.0
Common equity	348.0	39.2	348.0	36.7
Total	888.8	100.0	948.0	100.0

<sup>1</sup>After giving effect to the issuance of the applied-for shares and the debentures

14. Attached to the application, as Exhibit “F,” was a letter from Bennett Jones LLP which opines, among other things, that AGPL has complied with the securities laws of the Province of Alberta, being the province in which the debenture will be issued.

## 5 Commission findings

15. In determining whether to grant AGPL’s application, the Commission must consider Section 26(2)(a) of the *Gas Utilities Act*. Therefore, the primary focus of this review is to determine (a) whether the proposed issuance is to be made in accordance with law and (b) whether the Commission approves the purpose of the issue.

16. In determining whether a debt issuance will be made in accordance with law, the Commission is primarily focused on whether the proposed issuance meets the corporate and securities law requirements pertaining to such transactions. The Commission typically requests and relies upon the opinion of the applicant’s legal counsel to confirm that the utility is authorized to undertake the issuance of the debenture proposed and that the form and content of the debenture issuance is in compliance with applicable laws. Based on the opinion provided by AGPL’s legal counsel, Bennett Jones LLP, dated October 11, 2013, the Commission is satisfied that issuance of the debenture will be made in accordance with law.

17. The Commission is also satisfied, based on AGPL's submissions, that proceeds from issuance of the debenture will be used to repay existing indebtedness, finance capital expenditures and for other general corporate purposes. The Commission accepts these purposes and approves AGPL's application, for the issuance of a 4.722 per cent debenture, as filed.

## 6 Order

18. It is hereby ordered that:

- (1) In accordance with the findings in this decision, ATCO Gas & Pipelines Ltd. is authorized pursuant to Section 26(2) of the *Gas Utilities Act* to issue to CU Inc., its parent company, a 4.722 per cent debenture in the principal amount of \$130,000,000 with a maturity date of September 9, 2043.

Dated on December 5, 2013.

### The Alberta Utilities Commission

*(original signed by)*

Bill Lyttle  
Commission Member



**Appendix 1 – Proceeding participants**

<b>Name of organization (abbreviation) counsel or representative</b>
ATCO Gas & Pipelines Ltd. (AGPL) C. Warkentin A. Green

The Alberta Utilities Commission
Commission Panel B. Lyttle, Commission Member
Commission Staff A. Sabo (Commission Counsel) C. Pham M. McJannet M. Rocque