Alberta Utilities Commission

AltaGas Utilities Inc.

Phase II Review and Variance Decision on Decision 2013-072
2012 Performance-Based Regulation Compliance Filings

February 21, 2014

The Alberta Utilities Commission
Decision 2014-042: AltaGas Utilities Inc.
Phase II Review and Variance Decision on Decision 2013-072
2012 Performance-Based Regulation Compliance Filings
Application No. 1610181
Proceeding ID No. 2981

February 21, 2014

Published by
The Alberta Utilities Commission
Fifth Avenue Place, Fourth Floor, 425 First Street S.W.
Calgary, Alberta
T2P 3L8

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

Website: www.auc.ab.ca

Contents

The Alberta Utilities Commission
Calgary, Alberta

AltaGas Utilities Inc.	**Decision 2014-042**
Phase II Review and Variance Decision on Decision 2013-072	**Application No. 1610181**
2012 Performance-Based Regulation Compliance Filings	**Proceeding ID No. 2981**

1 Introduction

1. On September 12, 2012, the Alberta Utilities Commission (AUC or Commission) issued Decision 2012-237, Rate Regulation Initiative, Distribution Performance-Based Regulation (PBR).[1] This decision approved PBR plans for five distribution companies, including AltaGas Utilities Inc. (AltaGas), for a five-year term commencing January 1, 2013.

2. In Decision 2013-072,[2] dealing with the 2012 PBR compliance filings pursuant to Decision 2012-237, the Commission determined that based on the application of the mid-year convention, the capital costs of the first phase of AltaGas' Natural Gas Settlement System Code (NGSSC) project were reflected in the going-in revenue.

3. The Commission denied AltaGas' requested recovery of the applicable return, depreciation and tax related to one half of the NGSSC phase one capital expenditures from 2012 and directed AltaGas to remove these amounts from its Y factor calculations.[3] A Y factor is an adjustment outside the PBR formula for certain flow-through costs that should be directly recovered from customers or refunded to them.

4. On September 26, 2013, the Commission issued Decision 2013-365,[4] granting AltaGas' request to review the findings in Decision 2013-072 with respect to the recovery of the 2012 full-year return, depreciation and interest for phase one of its NGSSC project. The review panel noted that the issue of whether capital costs incurred in 2012 for capital projects that did not continue into 2013, which would have otherwise satisfied the capital tracker criteria, qualify for treatment outside the I-X mechanism had been raised in the 2013 PBR capital trackers proceeding, Proceeding ID No. 2131.

---

[1] Decision 2012-237: Rate Regulation Initiative, Distribution Performance-Based Regulation, Application No. 1606029, Proceeding ID No. 566, September 12, 2012.

[2] Decision 2013-072: 2012 Performance-Based Regulation Compliance Filings, AltaGas Utilities Inc., ATCO Electric Ltd., ATCO Gas and Pipelines Ltd., EPCOR Distribution & Transmission Inc. and FortisAlberta Inc., Application No. 1608826, Proceeding ID No. 2130, March 4, 2013.

[3] Decision 2013-072, paragraph 130.

[4] Decision 2013-365: AltaGas Utilities Inc. Decision on Request for Review and Variance of Decision 2013-072: 2012 Performance-Based Regulation Compliance Filings, Application No. 1609567, Proceeding ID No. 2586, September 26, 2013.

5. Given that a similar issue was being decided in the capital trackers proceeding, the review panel agreed with AltaGas that the Commission should review whether a similar approach should be considered for the full-year recovery of return, depreciation, and interest for capital costs associated with phase one of NGSSC project. In addition to granting the Phase I review, the review panel directed AltaGas to include in its discussion of the merits of its Phase II review and variance application:

- the resulting impact of the Commission's decision on Issue 4 in the capital trackers proceeding on AltaGas' Phase II review and variance application; and
- the proposed recovery of the applied-for full year return, depreciation and interest for the first phase of the settlement system code project, if the Phase II review and variance is granted.[5]

6. Issue 4 in the capital trackers Proceeding ID No. 2131 states:

> **4. Capital trackers arising from 2012.**
>
> Should the Commission consider for possible capital tracker treatment in 2013, capital costs incurred in 2012 in respect of unique company projects that did not continue into 2013 and which would have satisfied the capital tracker criteria (e.g., EPCOR's Poundmaker project)?[6]

7. On December 6, 2013, the Commission issued Decision 2013-435[7] on the five distribution companies' 2013 PBR capital tracker applications. The Commission found that any costs incurred for a capital project in 2012 will be considered for capital tracker treatment, if it can be demonstrated, using the mid-year convention in combination with accounting tests described in the decision, that the associated 2013 revenue requirement is not adequately funded under the I-X mechanism and the project satisfies the other three capital tracker criteria.[8]

8. On December 19, 2013, the Commission issued a notice of review in respect of this Phase II review and variance proceeding, and requested interested parties not already registered in Proceeding ID No. 2586 to submit a statement of intent to participate by January 6, 2014. The following parties were registered in the proceeding: ATCO Electric Ltd., ATCO Gas North, FortisAlberta Inc. and the Office of the Utilities Consumer Advocate (UCA).

9. In its notice of review, the Commission directed AltaGas to file an update to its review and variance application, including any relevant evidence from Proceeding ID No. 2130 and Proceeding ID No. 2131, by January 14, 2014. Registered parties were to refile any evidence that was filed as part of the original 2012 PBR compliance filings (Proceeding ID No. 2130), and the PBR 2013 capital tracker applications (Proceeding ID No. 2131), which they intended to rely upon, and that is relevant to the issues under review, by January 28, 2014. In a January 12, 2014 letter, the Commission extended the deadline date for AltaGas to file its updated application to January 21, 2014 and for registered parties to file submissions by February 4, 2014.

[5] Decision 2013-365, paragraph 49.
[6] Exhibit 147.01, Proceeding ID No. 2131, AUC letter – capital tracker proceeding final issues list and procedural schedule, May 15, 2013, page 3.
[7] Decision 2013-435: Distribution Performance Based Regulation 2013 Capital Tracker Applications, AltaGas Utilities Inc., ATCO Electric Ltd., ATCO Gas and Pipelines Ltd., EPCOR Distribution & Transmission Inc. and FortisAlberta Inc., Application No. 1608827, Proceeding ID No. 2131, December 6, 2013.
[8] Decision 2013-435, paragraph 425.

10. In a letter dated February 4, 2014, the UCA advised that "taking into account the January 21, 2014 filing from AltaGas and the recent Decisions from the AUC, the UCA no longer opposes the relief requested by AltaGas."[9] The Commission did not receive any other submissions from any other registered parties by the deadline date. Accordingly, the Commission considers the close of record for this proceeding to be February 4, 2014.

2 Review and variance: the legislative framework

11. The Commission has authority to review its own decision pursuant to Section 10 of the *Alberta Utilities Commission Act*, SA 2007, c. A-37.2. AUC Rule 016: *Review and Variance of Commission Decisions* (AUC Rule 016) establishes the procedure and test to be applied to applications for review and variance of Commission decisions.

12. A review process under AUC Rule 016 is a two-phase process. The first phase, described in Section 11, requires the review panel to answer the preliminary question of whether to grant a review. Section 12 sets out circumstances where the Commission shall grant a review of a decision. The Commission granted AltaGas' Phase I review application in Decision 2013-365.

13. Having granted a review in Decision 2013-365, in the second phase, in respect to AltaGas' review and variance application, the Commission is required to decide, on the basis of the evidence presented, whether Decision 2013-072 should be materially varied or rescinded.

14. In reaching its determinations set out within this decision, the Commission has considered all relevant materials comprising the record of this proceeding and the record of the Proceeding ID No. 2130 and Proceeding ID No. 2131. Accordingly, references in this decision to specific parts of the record of either proceeding are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that it did not consider all relevant portions of the record of this proceeding with respect to that matter.

3 Discussion of the grounds for review

15. In its Phase II review and variance submission,[10] AltaGas stated that its request for the AUC to vary Decision 2013-072 to allow for the recovery of the second half of the 2012 NGSSC capital revenue requirement should be granted for the following reasons:

- The capital investment in AUI's NGSSC project, and the calculation of the associated Y Factor adjustment, should not be any different than the investment and calculation used in relation to K Factor (capital tracker) adjustments;

- AUI's NGSSC project is not unlike EPCOR Distribution and Transmission Inc.'s (EDTI, EPCOR) category 3 projects, for which the AUC approved, in Decision 2013-[435], recovery of the full 2012 capital investment; and

- As indicated in AUI's application for Review and Variance, failure to allow AUI recovery of the incremental revenue requirement would effectively result in the

[9] Exhibit 5.01, paragraph 1.
[10] Exhibit 4.01, AltaGas submission on Review and Variance of 2013-072, January 21, 2014.

> mid-year convention being improperly applied and maintained in relation to a single, integrated project, in two different years (i.e. 2012 and 2013). In AUI's submission, there are no accounting or regulatory precedents supporting such treatment.[11]

16. AltaGas noted that, in Decision 2013-435, the Commission approved the capital tracker treatment for EPCOR's Category 3 capital projects, which were described as "capital projects proposed for capital tracker treatment for the primary purpose of recovering the capital funding shortfall due to the effect of the mid-year rule on EPCOR's 2012 going-in year rates."[12] In AltaGas' submission, its 2012 NGSSC investment is not unlike the EPCOR Category 3 projects.

17. AltaGas calculated a shortfall in the capital-related revenue requirement for 2013 of approximately $192,000 if the full 2012 NGSSC capital investment is not recognized.[13]

18. The NGSSC was developed and implemented to achieve compliance with AUC Rule 028: *Natural Gas Settlement System Code Rules*. The revenue requirement impact related to AltaGas' NGSSC capital investment is material and failure to recover those amounts would have a material impact on the company's finances. AltaGas contended that "there is no rational basis for treating this shortfall and capital investment differently than the capital investment and calculation approved in relation to AUI and other utilities' capital trackers."

19. Therefore, consistent with the AUC's findings in Decision 2013-435 and Decision 2013-072, the Commission's decisions ought to be varied to allow incremental recovery of the capital related revenue requirement associated with the full 2012 investment in the NGSSC project.[14]

20. Separate from the Commission's findings in Decision 2013-435, AltaGas submitted that "the denial of incremental recovery of the 2012 capital related revenue requirement is inconsistent with normal accounting and regulatory practice."[15] The effect of Decision 2013-072 would be to apply the mid-year convention to more than one year when calculating the current year's revenue requirement in relation to a single, multi-year project, i.e., 2012 for phase one and 2013 for phase two of the NGSSC. According to AltaGas, unless Decision 2013-072 is varied, there would be a failure to recognize the full amount of capital in service in the years following the original investment, thereby denying the company full recovery of the revenue requirement associated with the capital in service for the entire year.

4 Commission findings

21. With respect to AltaGas' submission that "the denial of incremental recovery of the 2012 capital related revenue requirement is inconsistent with normal accounting and regulatory practice,"[16] the Commission determined in Decision 2012-311[17] that, for regulatory purposes, there were two distinct phases of the settlement system code project. This view was upheld in

[11] Exhibit 4.01, paragraph 18.
[12] Decision 2013-435, paragraph 100.
[13] Exhibit 4.02, Schedule 1.
[14] Exhibit 4.01, paragraphs 21, 22 and 26.
[15] Exhibit 4.01, paragraph 27.
[16] Exhibit 4.01, paragraph 27.
[17] Decision 2012-311 (Errata): AltaGas Utilities Inc. 2010 - 2012 General Rate Application – Phase I Compliance Filing Pursuant to Decision 2012-091, Application No. 1608512, Proceeding ID No. 1921, December 5, 2012.

Decision 2013-072 and Decision 2013-365. Accordingly, the Commission does not agree that "the effect of Decision 2013-072 would be to apply the mid-year convention to more than one year when calculating the current year's revenue requirement in relation to a single, multi-year project (e.g., 2012 and 2013)," resulting in treatment that "is inconsistent with normal accounting and regulatory practice."[18]

22. In Proceeding ID No. 2131, AltaGas and EPCOR expressed concern that half the cost for certain 2012 capital projects was not included in the 2012 going-in rates due to the use of the mid-year convention.[19]

23. In Decision 2013-435, the Commission stated the following with respect to the use of the mid-year convention and recovery of capital costs:

> 424. The Commission considers that maintaining the mid-year convention in combination with the accounting test discussed in sections 3.1.2 and 3.1.3 of this decision, is sufficient to demonstrate whether the I-X mechanism provides sufficient revenue to recover the 2013 revenue requirement for capital projects with additions incurred in 2012 that were not fully recognized in the 2012 going-in rates due to the mid-year convention. This is because half of the costs for capital projects not accounted for under the mid-year convention in 2012 will be accounted for in the accounting test under the project net cost approach when the 2013 forecast revenue requirement is calculated using the mid-year convention.
>
> 425. Therefore, any costs incurred for a capital project in 2012 will be considered for capital tracker treatment, if it can be demonstrated, using the mid-year convention in combination with the accounting test described in sections 3.1.2 and 3.1.3 of this decision, that the associated 2013 revenue requirement is not adequately funded under the I-X mechanism, and the project satisfies the balance of the Commission's three criteria.
>
> 426. The adjustments to going-in rates proposed by the ATCO companies in the PBR proceeding, and denied by the Commission in Decision 2012-237, differ from the circumstances presented in this proceeding. The original adjustments to going-in rates proposed by the ATCO companies encompassed all capital projects, including those that can reasonably be expected to be covered under the I-X mechanism, whereas the adjustments in this proceeding were specific to the capital tracker projects, which were determined to be underfunded by the I-X mechanism.[20]

24. The review panel finds that AltaGas has sufficiently demonstrated that the 2013 revenue requirement associated with the 2012 phase one NGSSC project costs is not adequately funded under the I-X mechanism, as shown in the application and supporting calculations. The Commission considers that phase one of the NGSCC project is not adequately funded by the I-X mechanism. The Commission agrees with AltaGas that the "capital investment in AUI's NGSSC project, and the calculation of the associated Y Factor adjustment, should not be any different than the investment and calculation used in relation to K Factor (capital tracker) adjustments."[21]

18 Exhibit 4.01, paragraph 27.
19 Decision 2013-435, page 94, paragraph 414.
20 Decision 2013-435, paragraphs 424 to 426.
21 Exhibit 4.01, paragraph 18.

25. For these reasons, the Commission grants AltaGas' request for a variance of Decision 2013-072 to allow for the full-year recovery, outside the PBR indexing mechanism, of the incremental capital-related revenue requirement associated with the 2012 capital investment in the NGSSC project to be recovered. For purposes of regulatory efficiency, AltaGas is directed to file an updated application in Proceeding ID No. 3055, for AltaGas' 2013 deficiency Rider F, to include AltaGas' proposed recovery of the identified shortfall of some $192,000 associated with the full-year return, depreciation and interest for phase one of the NGSSC project in 2012. Unless otherwise directed by the Commission, recovery of the NGSSC projects costs for 2014 and subsequent years will be dealt with by way of a Y factor as part of AltaGas' annual PBR rate adjustment filings.

5 Order

26. It is hereby ordered that:

(1) AltaGas Utilities Inc.'s application for a Phase II review and variance of Decision 2013-072 with respect to the recovery of the 2012 full-year return, depreciation and interest for phase one of its NGSSC project is granted.

(2) AltaGas shall file an updated application in Proceeding ID No. 3055 to include proposed recovery of the shortfall associated with the full-year return, depreciation and interest for phase one of its NGSSC project in 2012.

Dated on February 21, 2014.

The Alberta Utilities Commission

(original signed by)

Mark Kolesar
Vice-Chair

(original signed by)

Neil Jamieson
Commission Member

(original signed by)

Kay Holgate
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) counsel or representative
AltaGas Utilities Inc. (AltaGas) N. J. McKenzie
ATCO Electric Ltd. (AE) B. Yee L. Kerckhof
ATCO Gas North (AG) D. Wilson A. Green M. Bayley R. Trovato
FortisAlberta Inc. (Fortis) J. Walsh
Office of the Utilities Consumer Advocate (UCA) B. Shymanski R. Mirth, Richard & Farmer LLP M. Stauft

The Alberta Utilities Commission Commission Panel M. Kolesar, Vice-Chair N. Jamieson, Commission Member K. Holgate, Commission Member Commission Staff A. Sabo (Commission counsel) O. Vasetsky E. Deryabina