



AUC

Alberta Utilities Commission

AltaGas Utilities Inc.

**Application for Approval to Issue a Debenture in the
Principal Amount of \$60,000,000**

March 11, 2014



The Alberta Utilities Commission

Decision 2014-057: AltaGas Utilities Inc.

Application for Approval to Issue a Debenture in the Principal Amount of \$60,000,000

Application No. 1610264

Proceeding ID No. 3035

March 11, 2014

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1 Introduction

1. On January 21, 2014, AltaGas Utilities Inc. (AUI) filed an application (application) with the Alberta Utilities Commission (the AUC or the Commission) pursuant to Section 26(2)(a)(ii) of the *Gas Utilities Act*, RSA 2000, c. G-5 requesting approval and authorization to issue debentures in the principal amount of \$60,000,000.
2. In the application, AUI requested an order:
 - (i) Approving and authorizing AUI to issue to AltaGas Utility Holdings Inc. (AUHI) inter-company debentures in the aggregate principal amount of \$60,000,000 comprised of a \$40,000,000 debenture maturing on March 15, 2024 (\$40 million debenture) and \$20,000,000 debenture maturing on January 13, 2044 (\$20 million debenture).
 - (ii) Approving the purposes of the issue.
 - (iii) Approving the issue date for the \$40 million debenture and the \$20 million debenture as at the earlier of the date of AUC approval or April 29, 2014.
 - (iv) Approving the annual coupon rate of 4.40 per cent and the annual issue cost of 0.08 per cent for the \$40 million debenture.
 - (v) Approving the annual coupon rate of 5.16 per cent and the annual issue cost of 0.05 per cent for the \$20 million debenture.
3. AUI requested Commission approval by no later than April 29, 2014, in order to coincide with an inter-company debenture maturing on April 29, 2014.
4. The Commission issued a notice of application on January 23, 2014, which included a deadline for the filing of statements of intent to participate of February 6, 2014. The Commission did not receive any statements of intent to participate for the application.
5. Accordingly, the Commission considers the record for this proceeding to have closed on February 6, 2014. In reaching the determinations set out in this decision, the Commission has considered all relevant materials comprising the record of this proceeding. References in this decision to specific parts of the record 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 the Commission did not consider all relevant portions of the record with respect to that matter.

2 Background

6. AUI is the owner of a gas utility to which Section 26(2)(a) of the *Gas Utilities Act* applies. Section 26(2)(a) of the *Gas Utilities Act* states:

(2) No owner of a gas 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,

7. Consequently, AUI is required to obtain approval from the Commission before issuing any bonds or other forms of indebtedness for terms of greater than one year.

3 Details of the application

8. In the prospectus attached to the debenture application, AUI submitted that the net proceeds from the issuance of the \$60 million in debentures will be used to finance capital expenditures, working capital requirements, to maintain an appropriate capital structure and for general corporate purposes.¹

9. AUI provided an affidavit from an officer of AUHI in support of AUI's debenture application.

10. AUI submitted that it has been its long-standing practice to finance primarily with long-term debt facilities so that financing more closely aligns with the long term nature of utility assets. It has also been AUI's practice to obtain long-term debt financing from its ultimate corporate parent, AltaGas Ltd. (AL), through its direct corporate parent, AUHI.²

11. According to the directive established by the AUC in Decision [2009-176](#),³ if AUI obtains inter-company debt financing, the rates for debt incurred by the ultimate corporate parent should be applied to the debt of AUI. Therefore, in compliance with the AUC's directive, AUI determined that when it needs long-term fixed rate debt financing, it will borrow inter-company debt at the same annual coupon rate as AL's most immediately preceding term debt issuance to the market.⁴

¹ Exhibit 1, AUI 2014 debenture application, affidavit of Jeremy Baines, paragraph 32.

² Exhibit 1, AUI 2014 debenture application, affidavit of Jeremy Baines, paragraph 14.

³ Decision 2009-176: AltaGas Utilities Inc. 2008-2009 General Rate Application Phase I, Application No. 1579247, Proceeding ID No. 88, October 29, 2009, paragraph 387.

⁴ Exhibit 1, AUI 2014 debenture application, affidavit of Jeremy Baines, paragraph 17.

12. AUI submitted that the most immediately preceding term AL debt issuance to the market was an aggregate \$300,000,000 of medium term notes dated January 13, 2014, comprised of \$200,000,000 of medium term notes with a coupon rate of 4.40 per cent, maturing on March 15, 2024 and \$100,000,000 of medium term notes with a coupon rate of 5.16 per cent, maturing on January 13, 2044 (medium term notes).⁵ AUI stated that consistent with the directives in Decision 2009-176, the annual coupon rate, issue costs and the maturity date of the applied-for \$40 million and \$20 million debentures in this application are the same as AL's recent debt issuances of the medium term notes.⁶

13. Consistent with Decision 2012-091,⁷ AUI proposed to calculate the annual issue costs for the debentures as the pro rata allocation of the estimated issuance costs associated with AL's debt issuances of each of the respective medium term notes.⁸ The calculation of the issue costs for the two applied-for debentures were attached as Exhibit C to the affidavit included in support of the application.

14. AUI proposed that annual coupon and issue costs for the debentures are to be calculated and payable semi-annually. The first interest payment date for the \$40 million debenture would be September 15, 2014, the same date as the interest payment date of AL's \$200 million 10-year medium term note. The first interest payment date for the \$20 million debenture would be July 13, 2014, the same date as the interest payment date of AL's \$100 million 30-year medium term note. In addition to Exhibit C, the following exhibits were attached to the affidavit in support of the application:

- Exhibits A and B included the proposed form of the AUI \$40 million and \$20 million debentures which, among other things, sets forth and specifies the terms and conditions upon which the debentures are issued and held and the respective rights of AL and AUI.
- Exhibit D was a copy of the pricing supplements, the prospectus supplement and base shelf prospectus for AL's medium term notes.
- Exhibit E was a certified copy of a resolution of the board of directors of AUI passed on January 17, 2014, approving the creation of the debentures, to be issued subject to obtaining an order of the AUC for approval of the debentures.
- Exhibit F was a January 20, 2014 opinion of Macpherson Leslie & Tyerman LLP, AUI's legal counsel, confirming that the proposed issuance of the debentures are to be made in accordance with the securities law of the province of Alberta at the time of issuance.

4 Commission findings

15. In determining whether to approve AUI's application, the Commission must consider Section 26(2) of the *Gas Utilities Act*. Therefore, the primary focus of this review is to determine

⁵ Exhibit 1, AUI 2014 debenture application, affidavit of Jeremy Baines, paragraph 19.

⁶ Exhibit 1, AUI 2014 debenture application, affidavit of Jeremy Baines, paragraph 20.

⁷ Decision 2012-091: AltaGas Utilities Inc. 2010-2012 General Rate Application – Phase I, April 9, 2012, Proceeding ID No. 904, April 9, 2012, paragraph 222.

⁸ Exhibit 1, AUI 2014 debenture application, affidavit of Jeremy Baines, 24(e) and 25(e).

(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 AUI's legal counsel, MacPherson Leslie & Tyerman LLP, the Commission is satisfied that issuance of the debenture will be made in accordance with law.

17. The Commission is also satisfied, based on AUI's submission and its compliance with the directions in Decision 2009-176 and Decision 2012-091, that proceeds from issuance of the debenture will be used to finance capital expenditures, working capital requirements, to maintain an appropriate capital structure and for general corporate purposes. The Commission accepts these purposes and approves AUI's application for the issuance of the debentures, as filed.

5 Order

18. It is hereby ordered that:

- (1) In accordance with the findings in this decision, AltaGas Utilities Inc. is authorized pursuant to Section 26(2)(a)(ii) of the *Gas Utilities Act* to issue to AltaGas Utilities Holdings Inc., its parent company:
 - (a) an inter-company debenture in the principal amount of \$40 million on or before April 29, 2014, that matures on March 15, 2024, with a coupon rate of 4.40 per cent per annum and an issue cost of 0.08 per cent per annum;
 - (b) an inter-company debenture in the principal amount of \$20 million on or before April 29, 2014, that matures on January 13, 2044, with a coupon rate of 5.16 per cent per annum and an issue cost of 0.05 per cent per annum.

Dated on March 11, 2014.

The Alberta Utilities Commission

(original signed by)

Mark Kolesar
Vice-Chair

Appendix 1 – Proceeding participants

Name of organization (abbreviation) counsel or representative
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AltaGas Utilities Inc. (AUI) G. Johnston

The Alberta Utilities Commission

Commission Panel

M. Kolesar, Vice-Chair

Commission Staff

A. Sabo (Commission counsel)

M. Rocque

N. Mahbub
