REGULATORY LAW CHAMBERS

ENERGY REGULATORY REPORT

This monthly report summarizes matters under the jurisdiction of the Alberta Energy Regulator ("AER"), the Alberta Utilities Commission ("AUC" or "Commission") and the National Energy Board ("NEB" or "Board") and proceedings resulting from these energy regulatory tribunals. For further information, please contact a member of the RLC Team.

Regulatory Law Chambers is a Calgary based boutique law firm, specializing in energy and utility regulated matters. RLC works at understanding clients' business objectives and develops legal and business strategies with clients. RLC follows a team approach, including when working with our clients and industry experts. Visit our website to learn more about RLC.

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ALBERTA ENERGY REGULATOR

AER Bulletin 2019-19: Directive 050 Updated With New Soil Endpoint and Post-Disposal Sampling Value for Zinc

Directive 050 - New Soil Endpoint and Post-Disposal Sampling Values - Zinc

The AER released a new edition of *Directive 050: Drilling Waste Management.* The zinc endpoint and threshold zinc concentrations were updated to align with the latest edition of the Government of Alberta's *Alberta Tier 1 Soil and Groundwater Remediation Guidelines.*

AER Bulletin 2019-20: Public Land Disposition Applications Moving to OneStop

Bulletin 2019-11 - OneStop Pre-Application Manual

On May 16, 2019, the AER issued *Bulletin 2019-11: Public Land Disposition Applications Moving to OneStop*. The updates were delayed and implemented effective August 22, 2019.

The AER indicated that as of August 22, 2019 submissions outlined in *Bulletin 2019-11* would move from the Electronic Disposition System to OneStop.

The AER also released *Manual 018: OneStop Pre-Application Manual*, outlining preapplication considerations for operators applying through the AER's OneStop system for public land dispositions for energy resource activities. However, *Manual 018* only applies to dispositions issued by the AER under the *Public Lands Act*, the *Public Lands Administration Regulation*, and the *Mines and Minerals Act*, including formal dispositions, authorizations, and approvals as announced in *Bulletin 2019-11*.

ALBERTA UTILITIES COMMISSION

AltaLink Management Ltd. 2014-2015 Deferral Accounts Reconciliation Compliance with Directions from Decision 22542-D02-2019 (AUC Decision 24329-D01-2019)

Deferral Accounts Reconciliation

In this decision, the AUC determined if AltaLink Management Ltd. ("AltaLink") had complied with the AUC's directions from *Decision 22542-D02-2019*. In *Decision 22542-D02-2019* the AUC considered an application filed by AltaLink on April 5, 2017, for approval of the reconciliation of certain 2014 and 2015 deferral accounts, including AltaLink's direct-assign capital deferral account ("DACDA") in respect of transmission capital projects directly assigned to AltaLink by the Alberta Electric System Operator.

The AUC found AltaLink to partially have met the requirements of the directions from *Decision 22542-D02-2019*.

Compliance with Commission Directions from *Decision 22542-D02-2019*

SNC Settlement Disallowance - Direction 2

Direction 2 of *Decision 22542-D02-2019* required AltaLink to apply a disallowance of $7,837,938. AltaLink noted that a portion of the $7,837,938 amount related to the Southern Alberta Transmission Reinforcement Medicine Hat area reconfiguration project ("Medicine Hat Project") that was included in AltaLink's 2016 DACDA application. As a result, AltaLink proposed to reduce the 2014-2015 DACDA by an amount less than $7,837,938 to reflect the disallowed SNC settlement costs that AltaLink attributed to the Medicine Hat Project. The AUC found this proposal to be reasonable.

The AUC also agreed with AltaLink's proposal that any contribution refunds triggered by the disallowance in Direction 2 be addressed in a future AltaLink DACDA application.

Directions 9, 10 and 11

The AUC was satisfied AltaLink applied the correct disallowance costs to comply with directions 9-Matting Costs Disallowance, 10-Tower inspection costs disallowance and 11-Disallowance related to material vs labour classification of SNC Surcharge on high-voltage direct-current project costs.

Information Related to Ipatik Substation Move - Direction 12

In its findings in *Decision 22542-D02-2019*, the AUC determined that AltaLink's decision to relocate the Ipiatik substation was reasonable. However, because the amount of the actual costs incurred as a result of the decision to move the substation was unclear, the AUC requested AltaLink provide additional information in its compliance filing.

The AUC found that AltaLink's response to Direction 12 provided some, but not all, of the information requested. However, AltaLink was able to provide subcontract amendment cost information related to relocation expenditures. Because the services provided by these subcontractors represented the largest component of the estimated total cost of the relocation, the AUC indicated that its decision that relocation of the substation was reasonable and prudent was unchanged. No further action was required from AltaLink.

Removal of Costs Related to Bowmanton-Whitla Project Bolt Replacement Costs - Direction 13

The AUC found that AltaLink complied with Direction 13 as AltaLink had applied the disallowance specified therein.

Fortis Connection Projects Contribution Update - Directions 15 and 18

In Direction 15 from *Decision 22542-D02-2019*, the AUC directed AltaLink to provide an update of the contribution amounts for each of the FortisAlberta Inc. ("Fortis") connection projects considered in the 2014-2015 DACDA application.

Direction 18 noted the Commission's findings in section 7.1 from *Decision 22542-D02-2019* and directed AltaLink to provide the same information in respect of Fortis connection projects which were considered in AltaLink's 2014-2015 DACDA application as trailing cost additions. The AUC found AltaLink had supplied information and information request responses complying with Directions 15 and 18.

Inclusion of Cancelled Project Costs - Direction 16

In Direction 16, the AUC asked AltaLink to confirm that none of the costs of the Fortis connection

projects considered in AltaLink's 2014-2015 DACDA application included costs that were transferred in from another project.

AltaLink indicated that costs initially incurred for the (eventually cancelled) Waiparous substation project were transferred to the Cochrane 291S upgrade project and noted that the Cochrane 291S upgrade project included costs transferred from the Waiparous project, a matter that had been identified in AltaLink information responses during the 2014-2015 DACDA application.

The AUC considered that only a portion of the costs incurred on the Waiparous project, to the point of cancellation, could be recoverable as part of the prudent final cost of the Cochrane 291S project. The AUC therefore found that the balance of the Waiparous project costs totalling $1,754,585 should be recovered by AltaLink from Fortis in accordance with the applicable provisions of the construction commitment agreement for that project. The AUC directed AltaLink to remove $1,754,585 from the cost of the Cochrane 291S project and to apply any changes in the contribution offset arising from this change in its second refiling application.

Subject to the above, AltaLink was found to have complied with Direction 16.

Heartland Project Land Cost Disallowance - Direction 17

In *Decision 22542-D02-2019*, the AUC found that the net cost of properties acquired for the Heartland project was $12.8 million. Of this $12.8 million, the AUC found that AltaLink expenditures of $5.1 million were required to keep landowners whole. After deducting the $5.1 million from the $12.8 million, the AUC applied a 50 percent disallowance to the residual $7.7 million cost. Direction 17 to *Decision 22542-D02-2019* directed AltaLink to apply this disallowance in its compliance filing. The AUC found that AltaLink had applied the Heartland project land cost disallowances in its compliance filing as required by Direction 17.

Long-Term Debt Deferral Account - Direction 19

Direction 19 required AltaLink to calculate the true-up of its long-term debt deferral account ("LTDDA") using the same true-up mechanism on only the portions of debt that had been used to fund assets added to rate base.

The AUC accepted AltaLink's evidence that $1.1 million of the $2.0 million LTDDA variance was related to allowance for funds used during construction ("AFUDC"). In the circumstances, given the amount and the effort that would be required to adjust the accounting for all or even a select number of projects, the AUC considered AltaLink's request to continue to settle the full 2014 LTTDA variance of $2.0 million by way of a cash payment by AltaLink to be reasonable.

Re-Accrual of Allowances for Funds Used During Construction - Direction 20

Due to gaps in AltaLink's application and information request responses, in Direction 20, the AUC required that AltaLink provide a detailed AFUDC reconciliation in its refiling application. The AUC accepted AltaLink's calculations of AFUDC on the cancelled projects and directed AltaLink to remove the $13,752 related to AFUDC from its recovery of cancelled project costs. Subject to the removal of $13,752, the AUC approved AltaLink's reaccrual of AFUDC amounts.

Order

AltaLink was ordered to provide a second refiling of its 2014 and 2015 deferral accounts reconciliation application on or before September 23, 2019.

ATCO GAS and Pipelines Ltd. Franchise Agreement with the Town of Drayton Valley (AUC Decision 24733-D01-2019)

Natural Gas - Franchise Agreement

In this decision, the AUC approved an application (the "Application") made by ATCO Gas and Pipelines Ltd. ("ATCO") on July 12, 2019, requesting approval of a natural gas franchise agreement (the "Franchise Agreement") renewal with the Town of Drayton Valley ("Drayton Valley").

Proposed Franchise Agreement and Franchise Fee Rate Rider Schedule

Under the Franchise Agreement, Drayton Valley granted ATCO the exclusive right to provide natural gas distribution services. ATCO was granted the exclusive right to perform necessary construction, operation and maintenance actions on designated land owned, controlled or managed by Drayton Valley.

The Franchise Agreement was to be valid until September 30, 2039. It would take effect the later of October 1, 2019, and the first business day after (i) the Commission has approved and acknowledged the agreement; and (ii) Drayton Valley's Bylaw No. 2019/08/F, adopting the agreement has received third reading.

The Franchise Agreement changed the standard natural gas franchise agreement template (the "Franchise Agreement Template"). *Clause 4(b) - Grant of Franchise* grants exclusive rights to ATCO to construct a natural gas system and provide a natural gas distribution system. Language was added to *Clause 4(b),* stating that the exclusive rights granted to ATCO would not apply to consumers who consume more than 500,000 gigajoules annually. Information was added to *Clause 5(a) - Calculation of Franchise Fee*, regarding the collection from consumers and payment to Drayton Valley of a franchise fee.

The franchise fee replaced the payment of other taxes by ATCO. *Clause 8 - Municipal Taxes* was removed from the Franchise Agreement Template. The maximum franchise fee payable by any consumer in the Drayton Valley area was set at $10,000. Drayton Valley could change the franchise fee of 22.00 percent of ATCO's actual total revenue annually upon written notice to ATCO and Commission approval. The franchise fee derived from the Delivery Tariff in that year for natural gas distribution service within the municipal service area,

Commission Findings

The AUC noted that section 45 of the *Municipal Government Act* deals with Franchise Agreements and provides, among other things, that a municipal council may, by agreement, grant a right, exclusive or otherwise, to a person to provide utility service in all or part of the municipality. It also provides that the agreement may grant a right to use the municipality's property for the construction, operation and extension of a public utility in the municipality.

In considering whether to approve a Franchise Agreement, the AUC noted that it must determine whether the proposed agreement is necessary and proper for the public convenience, and properly conserves the public interests, as set out in section 49(2) of the *Gas Utilities Act*.

In making this determination, the AUC indicated that its review is focused primarily on provisions which may cause concern with respect to the public interest; and, ensuring that rates are just and reasonable, including whether the proposed franchise fee will result in rates that are just and reasonable.

The AUC considered the content of the proposed changes to the Franchise Agreement Template; that these terms were previously approved by the AUC's predecessor and have been in place since at least 2004; and, that no objections were received to the currently proposed agreement. The AUC found the proposed changes were reasonable. The AUC also noted that, as ATCO has provided natural gas distribution service to Drayton Valley since 1999, both parties desire the renewal of that exclusive franchise on the terms and conditions detailed in the proposed Franchise Agreement. Therefore, the AUC considered that the proposed Franchise Agreement was necessary and proper for the public convenience and properly conserved the public interests.

Pursuant to section 45 of the *Municipal Government Act* and section 49 of *Gas Utilities Act*, the AUC approved the proposed Franchise Agreement as filed.

ATCO Electric Ltd. 2018 Depreciation Application (AUC Decision 24195-D01-2019)

Electricity - Depreciation Application

In this decision, the AUC considered a 2018 depreciation application (the "Application"), filed by ATCO Electric Ltd. ("ATCO Electric") on December 31, 2018, which was supported by a depreciation study prepared by Mr. Larry Kennedy of Concentric Advisors, ULC ("Concentric"). The AUC determined that the life-curves and estimated net salvage percentages as proposed by ATCO Electric for its depreciation study accounts were a reasonable future expectation for the assets in those accounts, except for the net salvage percentage proposed for Account 473.00 Poles and Fixtures and the life-curve proposed for Account 476.30 Automated Meter Reading.

The AUC directed ATCO Electric to provide specific information related to oilfield sites and to incorporate the depreciation rates reflective of the approved life-curves and net salvage percentages in its 2020 annual performance-based regulation ("PBR") rate adjustment filing.

ATCO Electric's Depreciation Study

ATCO Electric's current depreciation parameters were approved by the AUC in *Decision 2011-134*. The proposed depreciation parameters would result in an overall net increase of $1.1 million in depreciation expense over that resulting from the depreciation parameters approved in *Decision 2011-134* (composed of a decrease of $2.1 million due to changes in the depreciation parameters and an increase in the amortization of reserve differences of $3.2 million).

Depreciation Parameters

Accounts for which No Issues Were Raised

The asset accounts in respect of which no issues were raised by the interveners fell generally into three categories: generation plant accounts; accounts for which no changes were proposed and no issues were raised; and accounts for which changes were proposed but no issues were raised.

The proposed depreciation parameters for the generation plant accounts, including the mobile generation unit, were approved. For the assets in the accounts for which no changes were proposed, the AUC accepted ATCO Electric's continued use of the approved net salvage percentages. For accounts for which changes were proposed and no issues were raised, the AUC accepted ATCO Electric's proposed life-curve parameters.

Account 473.00 Poles and Fixtures

The AUC approved the continuation of the previously approved life-curve for Account 473.00 Poles and Fixtures as filed by ATCO Electric. The AUC found that a continuation of the presently approved negative fifty per cent salvage percentage was reasonable for this account.

Account 476.10 Meters

The AUC approved an 18-R1.5 life-curve for Account 476.10 Meters, as filed. The estimated net salvage percentage of zero was also approved. ATCO Electric was directed to incorporate the depreciation rate reflecting the 18-R1.5 life-curve and an estimated net salvage percentage of zero for Account 476.10 Meters in its 2020 annual PBR rate adjustment filing.

Account 476.30 Automated Meter Reading

The AUC found no compelling evidence on the record of this proceeding for the continuation of the previously approved life curve of 15-R2.5 as recommended by Concentric and found the recommendation from the Utilities Consumer Advocate ("UCA") for an Iowa 20-R2.5 life-curve to be reasonable. The AUC found no reason to adjust the net salvage percentage and, therefore, the estimated net salvage percentage of zero was approved as filed.

The AUC directed ATCO Electric to incorporate the depreciation rate reflective of a 20-R2.5 life-curve and an estimated net salvage percentage of zero for Account 476.30 Automated Meter Reading in its 2020 annual PBR rate adjustment filing.

Change to Amortization Accounting for some Accounts

ATCO Electric proposed changes to amortization accounting for multiple accounts. The AUC approved the use of amortization accounting and the corresponding amortization periods for the non-software accounts. The AUC found the amortization accounting to be reasonable for the non-software accounts given the administrative benefits, that a similar approach for similar accounts has been adopted by most other North American utilities, and neither the Consumers Coalition of Alberta ("CCA") nor the UCA identified any concerns with this approach.

The AUC directed ATCO Electric to incorporate in its 2020 annual PBR rate adjustment filing the depreciation rates reflective of the proposed changes to the life-curve parameters and estimated net salvage percentages.

Additional Issues Raised

In response to additional issues raised by the CCA, the AUC directed ATCO Electric to include new information in its 2020 annual PBR rates filing. The AUC directed the inclusion of information regarding age, cost and value of salvaged assets by asset class for each year 2013-2017. ATCO Electric was also directed to provide verification with supporting evidence with respect to each retirement of assets that were salvaged because of a customer request. Finally, the AUC directed that ATCO Electric include in its 2020 annual PBR rates filing, contractual requirements or customer terms and conditions for

electric service applied by ATCO Electric that could potentially mitigate the risk of stranded assets if a customer discontinued electric service before full depreciation of the asset.

Compliance with Minimum Filing Requirements for Depreciation Studies

Under the circumstances of this application, the AUC did not require ATCO Electric to provide detailed packages of working papers to comply with section 16 of the minimum filing requirement ("MFR") due to the significant effort and additional costs this would have imposed.

The AUC found that the information provided by ATCO Electric in its application and through the interrogatory process was generally sufficient to meet the intention of the filing requirements of section 16 of the MFR. However, the AUC directed ATCO Electric to include in future filings that require either a depreciation study or a technical update, comprehensive physical records containing all relevant correspondence between ATCO Electric and its depreciation experts that support the selected life and net salvage accounts and sub-accounts that were selected or explain the rejection of the alternative life or net salvage patterns that were examined.

Order

The AUC ordered ATCO Electric to incorporate depreciation rates reflective of the findings, conclusions and directions in this decision in its 2020 annual performance-based regulation rate adjustment filing. However, the AUC noted that the resulting adjustments would be interim pending the outcome of Proceeding 24609.

AUC Announcement: Alberta Utilities Commission Chair Mark Kolesar Announces Appointment of Commission Member Henry Van Egteren As a Vice-Chair

AUC Vice-Chair Appointment - Henry van Egteren

The AUC announced that Commission member Henry van Egteren was appointed as a vice-chair.

Mr. van Egteren joined the AUC in 2012. He has contributed to decisions in the AUC's facilities, rates and markets-related proceedings, including performance-based regulation, electricity price-setting plans and enforcement. His expertise has also helped the AUC in producing efficient regulatory outcomes.

Aura Power Renewables Ltd. Fox Coulee Solar Project (AUC Decision 23951-D01-2019)

Solar Power Plant - Facilities Application

In this decision, the AUC considered whether to approve a power plant application (the "Application") from Aura Power Renewables Ltd. ("Aura") to construct and operate a 75-megawatt (MW) solar power plant designated as the Fox Coulee Solar Project, and to interconnect the power plant to the ATCO Electric Ltd. electric distribution system (the "Project").

The AUC found that approval of the Project was in the public interest having regard to the social, economic and other effects of the project, including its effects on the environment.

Project Description

The proposed power plant would consist of approximately 271,000 solar photovoltaic modules, and up to 60 inverter transformer units with a nominal rating of 2,500 kilovolt amperes each. The power plant would also include 30 lithium-ion battery cell modules. Underground feeder lines would be installed to connect the power plant to the existing ATCO Electric distribution feeder lines. Aura anticipated construction would begin in the fall of 2019, with a completion date in the fall of 2020.

Legislative Scheme

Sections 11 and 18 of the *Hydro and Electric Energy Act* states that no person could construct or operate a power plant or connect a power plant to the interconnected Alberta system without the AUC's approval.

This was the first occasion the AUC had to decide upon a power plant application that included a battery storage component. Neither the legislative scheme, nor the AUC's rules specifically addressed battery storage. However, because the storage component of the Project was included as a component of the Application, the AUC considered the implications of the battery storage component in that context.

In accordance with section 17 of the *Alberta Utilities Commission Act* ("*AUC Act*"), the AUC must assess

whether the Project, including the battery storage component of the power plant, is in the public interest, having regard to its social, economic and other effects, including its effects on the environment.

The AUC also had to determine whether Aura met the requirements of *Rule 007: Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations and Hydro Developments* and *Rule 012: Noise Control*.

Project Consultation

Rule 007 requires an applicant to conduct a participant involvement program ("PIP") that provides information about the Project to parties whose rights may be directly and adversely affected by it. The AUC was satisfied that Aura's PIP provided parties with sufficient information to understand the nature of the project, identify areas of concerns and engage in dialogue with the goal of eliminating or minimizing those concerns.

Project Location

The Project was proposed to be located on 380 acres of privately-owned cultivated land north of the Drumheller airport.

The Solar Opposition Participants Group ("SOP") made an argument regarding the change in use of land. The AUC found that there was no basis upon which to conclude that the proposed change in land use is contrary to provincial or municipal laws or policies. The AUC found that an adverse social or economic effect would not result from a change of the land use from agricultural to electric power generation.

Both Aura and the SOP filed a copy of an easement agreement made in 1968 between the then owner of the Project lands and the Town of Drumheller which created an airport safety protection zone. The AUC found that no portion of the solar panel array or any other element of the Project would be located on the 8.10 acres that comprise the easement lands.

Safety Concerns

Emergency Response Planning and Fire Prevention and Response

Aura did not provide an emergency response plan when it filed the Application with the AUC. The AUC found that while *Rule 007* may not require an emergency response plan, the unique topography surrounding the Project site as well as concerns expressed by stakeholders throughout the PIP warranted emergency response planning by Aura. Consequently, the AUC found that should it decide to approve the Project, it would impose as a condition of approval that Aura develop and finalize a site-specific emergency response plan in consultation with all local emergency responders and stakeholders.

Solar Glint and Glare

Aura stated that although *Rule 007* did not require it to provide a solar glint and glare study as part of a power plant application, it did so in response to stakeholder concerns. Nonetheless, the AUC found that the effect of solar glare was expected to be minimal. This finding was made in part on the basis that the Project's solar panels would include standard anti-reflective coating.

Emergency Landings

The AUC found that the Project presented an incremental risk in circumstances of an emergency landing when compared to the current undeveloped state of the land north of the Drumheller airport. Despite this risk, the applied-for design was nevertheless reasonable from a flight safety perspective the design retained adequate and acceptable forced landing areas that could be used in the event of an emergency.

Residential Impacts

Visual Impacts and Mitigation

The AUC found that Aura's commitment to identify and implement tree screening or other suitable screening for affected residents, in consultation with an agrologist, was an acceptable approach to mitigate the visual effects of the project.

Vegetation, Weed and Dust Control and Overland Water Flows

The AUC found that, should it decide to approve the Project, it would impose conditions of approval regarding the development of a vegetation control plan and a dust control plan, both of which Aura had committed to develop. The AUC accepted Aura's assertion that the Project's solar panels were not

expected to restrict the overland flow of water from the Project site to residential property.

Property Devaluation

The AUC noted that concerns over property value impacts require specialized expertise and evidence for the AUC to conclude that a given project will have an adverse effect on land and property values. No such evidence was filed in this proceeding.

Noise Impacts

The AUC found that the noise impact assessment conducted by Aura met the requirements of *Rule 012* regarding the permitted sound levels at affected receptors. A condition requiring a post-construction comprehensive sound level survey was therefore not warranted.

Environmental Impacts

The AUC was satisfied that, with diligent application of Aura's mitigation measures, construction and post-construction monitoring, implementation of any additional mitigation measures directed by Alberta Environment and Parks and implementation of the AUC's conditions of approval, the potential adverse environmental effects could be adequately mitigated.

Concerning reclamation, the AUC noted that the *Conservation and Reclamation Regulation* was recently amended to specifically address the reclamation of solar projects in Alberta. Solar projects are now expressly subject to the reclamation obligations set out in section 137 of the *Environmental Protection and Enhancement Act*. Operators of renewable energy operations are now required to obtain a reclamation certificate at the project's end of life.

Battery Storage

The AUC noted that battery energy storage is a new technology and there are potential environmental concerns related to the replacement and recycling of degraded battery cells. Improper disposal of battery cells could result in significant adverse environmental effects. Consequently, the AUC found that should it approve the Project, it would impose as a condition of approval that Aura confirm that it has selected a battery supplier that has a recycling program compliant with applicable environmental protection laws and established best practices.

Interconnection

The AUC found that Aura's application to connect the Project using underground feeder lines met the technical requirements of *Rule 007*. *Rule 007* requires minimal information for a connection order application if the project is to be connected at voltage less than 69 kilovolts.

Finalized Equipment and Design

The AUC noted that its review of the Application, and associated findings, were based on Aura's submission of generic equipment. These findings could change dependent on Aura's final equipment selection. Consequently, the AUC found that should the Project be approved, it would impose as a condition of approval that Aura file a letter with the AUC three months before construction of the project after making its final equipment selection. The letter was to include the make, model, and quantity of the equipment and include an updated site plan if the equipment layout changed.

Conclusion

The AUC found that Aura satisfied the requirements of *Rule 007* and *Rule 012* and that in accordance with section 17 of the *AUC Act*, approval of the Project and the interconnection was in the public interest having regard to the social, economic, and other effects of the project, including its effect on the environment.

EPCOR Distribution & Transmission Inc. 2017 Performance-Based Regulation Capital Tracker True-Up Application – Module Two (AUC Decision 23571-D02-2019)

Application - Capital Tracker True-Up - Module Two

In this decision (the "Module Two Decision"), the AUC considered an application (the "Application") filed by EPCOR Distribution & Transmission Inc. ("EPCOR") on May 17, 2018, requesting approval of its 2017 capital tracker true-up amount and associated K factor adjustment to be reflected in its distribution rates under performance-based regulation ("PBR"). Specifically, as part of the Module Two Decision, the AUC considered the METSCO Energy Solutions Inc. ("METSCO") related aspects of the Application. Non-METSCO-related matters of the Application were considered by the AUC in *Decision 23571-D01-2019* (the "Module One Decision").

The AUC approved the METSCO-related matters of the Application, subject to some adjustments and directions.

Background

On September 12, 2012, the AUC issued *Decision 2012-237*, which set out the PBR framework for the distribution utility services of certain Alberta electric and gas companies, including EPCOR. Within these PBR plans, the AUC approved a rate adjustment mechanism to fund certain capital-related costs, referred to as a "capital tracker". The revenue requirement associated with approved amounts was to be collected from ratepayers by way of a "K factor" adjustment to the annual PBR rate-setting formula.

The three criteria that must be satisfied for each project or program to receive capital tracker treatment are:

> Criterion 1 – The project must be outside the normal course of the company's ongoing operations;
>
> Criterion 2 – Ordinarily the project must be for replacement of existing capital assets or undertaking the project must be required by an external party; and
>
> Criterion 3 – The project must have a material effect on the company's finances.

In *Decision 20407-D01-2016*, the AUC found that for forecast capital projects or programs for 2016 and 2017, when a company is seeking capital tracker treatment, the AUC would generally undertake assessments with respect to all three criteria. However, in instances where a project or program is part of an ongoing multi-year program, or if a project or program is of an annual recurring nature for which the need has been previously approved by the AUC, the AUC would not undertake a reassessment under all aspects of each criterion.

Summary of Projects Included in the Application

As part of the 2017 capital tracker true-up, EPCOR applied for the true-up of twenty-seven programs or projects. The AUC addressed twenty-one out of twenty-seven programs or projects regarding the non-METSCO-related matters in the Module One Decision. In this decision, the AUC examined the remaining METSCO-related programs or projects. They were:

(a) Life Cycle Replacement and Extension of Underground Distribution Cable;

(b) Distribution Pole and Aerial Line Life Cycle Replacements;

(c) Aerial and Underground Distribution Transformers – New Services and Life Cycle Replacement;

(d) Life Cycle Replacement of Paper-Insulated, Lead-Covered Cable Systems;

(e) Switching Cubicle Life Cycle Replacement; and

(f) Network Transformer Life Cycle Replacement.

The AUC also examined the Cable Test Lab Project. In the Module One Decision, the AUC determined that because the Cable Test Lab Project was related to EPCOR's contract with METSCO, it should be examined in this proceeding.

Project Assessment under Criterion 1

The AUC assessed EPCOR's METSCO-related programs or projects against the second part of the project assessment requirements of Criterion 1. The second part of Criterion 1 considers whether the actual scope, level, timing and costs of the project are prudent.

METSCO Framework and Models

In 2015, EPCOR selected METSCO to complete a detailed engineering review and assessment of its distribution asset maintenance and replacement strategies and planning criteria. After its review, METSCO prepared two reports collectively referred to as the "METSCO Framework and Models".

In the Application, EPCOR requested AUC approval of the costs associated with developing the METSCO Framework and Models, which for the capital tracker programs or projects would be used as a key component of its asset management and capital planning process. The total cost incurred was $550,000. The AUC approved this cost.

METSCO-Related Capital Tracker Projects or Programs for Which No Issues Were Raised

The AUC had previously determined that each of the programs or projects satisfied the project assessment requirement of capital tracker Criterion 1. There was nothing to indicate any of the programs or projects addressed in this section were not required in 2017.

The AUC reviewed EPCOR's 2017 actual capital additions associated with each of METSCO-related capital tracker projects or programs and found that the capital additions were generally consistent with the scope, level and timing of the work outlined in the business cases for these capital trackers and approved in *Decision 20407-D01-2016*. The AUC also found the actual costs for the METSCO Framework and Models associated with certain projects, namely, the Distribution Pole and Aerial Line Life Cycle Replacements Project, Life Cycle Replacement of Network Transformers Project and the Switching Cubicle Life Cycle Replacement Project, to be prudent.

Life Cycle Replacement of PILC Cable Systems

The need for this project in 2017 was approved in *Decision 20407-D01-2016*. The AUC found no evidence on the record of this proceeding to indicate that the Life Cycle Replacement of PILC Cable Systems Project was not required in 2017.

The AUC reviewed EPCOR's 2017 actual capital additions and found that the capital additions were generally consistent with the scope, level and timing of the work outlined in the business case for this capital tracker. The AUC indicated that EPCOR's use of the METSCO Framework and Models was a reasonable course of action. For these reasons, the AUC found the actual costs for this project to be prudent.

Life Cycle Replacement and Extension of Underground Distribution Cable

The need for this project in 2017 was approved in *Decision 20407-D01-2016*. The AUC found no evidence on the record of this proceeding to indicate that the Life Cycle Replacement and Extension of the Underground Distribution Cable Project was not required in 2017.

The AUC reviewed EPCOR's 2017 actual capital additions and found that the capital additions were generally consistent with the scope, level and timing of the work outlined in the business case for this capital tracker. EPCOR provided evidence explaining the differences between approved forecast and actual costs, and the AUC accepted those explanations. Therefore, the AUC found the actual costs for this project, subject to the removal of the capital additions associated with the development of the METSCO Framework and Models for this project, to be prudent.

Aerial and Underground Distribution Transformers - New Services and Life Cycle Replacement

The need for this project and forecast cost in 2017 were approved in *Decision 20407-D01-2016*. The AUC found no evidence on the record of this proceeding to indicate that the Aerial and Underground Distribution Transformers – New Services and Life Cycle Replacement Project was not required in 2017.

The AUC reviewed EPCOR's 2017 actual capital additions and found that the capital additions were generally consistent with the scope, level and timing of the work outlined in the business case for this capital tracker and approved in *Decision 20407-D01-2016*. EPCOR explained the differences between approved forecast and actual costs, and the AUC accepted EPCOR's explanation that more aerial transformers were required for EPCOR's circuit reconfiguration work and for utility pole replacements associated with the TELUS Fibre Project than forecast.

Medium Voltage Cable Test Lab

The AUC was satisfied with EPCOR's explanation that the construction of the Cable Test Lab would help improve cable reliability over the long term due to the data that would be obtained from the lab. The AUC therefore found the construction of the Cable Test Lab to be reasonable and the associated $0.5 million in capital additions for 2017 to be prudent.

Commission Conclusion on Criterion 1

The AUC approved the need, scope, level, timing and the prudence of actual capital additions for each of the METSCO-related programs or projects that EPCOR included in the 2017 true-up, subject to some adjustments and directions provided in this and the Module One Decision.

Order

The AUC directed EPCOR to file one compliance filing application in accordance with the directions in this decision and the Module One Decision within 45 days of the date of this decision.

Market Surveillance Administrator Application for Approval of a Settlement Agreement Between the Market Surveillance Administrator and the Balancing Pool (AUC Decision 23828-D01-2019)

Negotiated Settlement - Balancing Pool - Power Purchase Agreement

In this decision, the AUC considered the Market Surveillance Administrator ("MSA")'s August 15, 2018 application (the "Application") for approval of a settlement agreement (the "Settlement Agreement") between the MSA and the Balancing Pool ("BP"), pursuant to sections 44 and 51(1)(b) of the *Alberta Utilities Commission Act* ("*AUC Act*") regarding several power purchase agreements ("PPAs"). The AUC decided to refer the Settlement Agreement back to the parties with reasons explaining the AUC's concerns, and giving the MSA and BP an opportunity to address those concerns.

Relevant Statutory and Regulatory Provisions

Section 44 of the *AUC Act* allows the MSA to enter into a settlement and, if a settlement agreement is reached, to file that agreement with the Commission for approval. Subsection 56(3) of *AUC Act* allows the AUC to make an order regarding a matter that the MSA has submitted before it under subsection 51(1)(b). Under subsection 56(4), the AUC may provide direction, or make any order it considers appropriate, in respect of such matters.

Termination of the Power Purchase Arrangements

Pursuant to subsection 96(3) of the *Electric Utilities Act* ("*EUA*") a terminated PPA is deemed to have been sold to the BP, and is to be held by the BP in the capacity of a buyer for all purposes of the *EUA*, the regulations and the PPA. Once the BP becomes a deemed buyer of a PPA, it has the duties, *inter alia*, set out in paragraphs (b) and (d) of subsection 85(1) of the *EUA* and subsection 2(1) of the *Balancing Pool Regulation*.

ENMAX Corporation, a PPA buyer, gave notice of termination of its Battle River PPA to the BP in December 2015. In the spring of 2016, within a two-month period, all remaining PPA buyers also sought to terminate their PPAs. Early termination was made possible due to amendments to the *Specified Gas Emitters Regulation*, constituting a change of law under the PPA entitling PPA buyers to terminate the their PPAs.

Investigation and Contraventions

The Application and Settlement Agreement related to the conduct of the BP in the period following receipt of the notice of termination of the Battle River PPA, commencing in December 2015, until the Balancing Pool's acceptance of the Keephills PPA notice of termination on December 6, 2017 and offer control on December 8, 2017.

The MSA submitted that, following its investigation, it was satisfied that the BP had breached subsection 85(1)(b) of the *EUA* and subsections 2(1)(g) and 2(1)(h) of the *Balancing Pool Regulation*. As this was a matter related to its mandate, the MSA therefore negotiated a settlement with the BP pursuant to subsection 44(1) of the *AUC Act*.

Commission Findings

The AUC stated that the central question was whether approval of the Settlement Agreement would be in the public interest.

Test for Assessing Negotiated Settlements

The AUC confirmed the two-stage process that had been established in prior decisions to assess whether a negotiated settlement should be approved. First, the AUC must be satisfied that a contravention occurred. If this criterion is met, the second step requires the AUC to determine whether a settlement falls within a range of acceptable outcomes.

Did the Balancing Pool Contravene Subsections 2(1)(g) and 2(1)(h) of the Balancing Pool Regulation?

Subsections 2(1)(g) and 2(1)(h) of the *Balancing Pool Regulation* require the BP, on receipt of notice of an extraordinary event, to conduct any investigation it determines appropriate and to assess and verify the extraordinary event. Based on the facts as presented, it is clear that the event (the amendment of the *Specified Gas Emitters Regulation* under Article 4.3(j) of the PPA, as amended) that resulted in the notices of termination

of the PPAs was an extraordinary event as defined in subsection 1(d) of the *Balancing Pool Regulation.* As such, the BP had a duty to take action as required by the regulation. The AUC found that the BP declined to or did not promptly assess or verify the validity of the terminations of the PPAs.

Did the BP Contravene Subsection 85(1)(b) of the EUA?

Once the BP became the deemed owner of the PPAs, it was required by subsection 85(1)(b) of the *EUA* to manage these PPAs in a commercial manner during the period in which it held them. The AUC found that the BP failed to take timely action to stem the losses from the unprofitable PPAs by terminating them as soon as possible. In doing so, the BP failed to manage the PPAs in a commercial manner.

Is the Settlement within the Range of Acceptable Outcomes?

The AUC laid out several concerns that it viewed as preventing it from making a finding on whether the proposed settlement agreement fell within a range of acceptable outcomes.

The AUC's principal concern with the settlement agreement was that it failed to stand on its own as a clear and comprehensive statement of the agreed-to facts, contraventions, and remedial measures to be taken to address past breaches and deter similar breaches going forward.

Other concerns included:

(a) the MSA combined its application with the settlement agreement (the "combined document"), styling it as a submission that was narrative in nature, contained facts, argument and advocacy;

(b) the combined document failed to clearly, and in one place, set out the conduct constituting the agreed-to contraventions;

(c) discussion in the Settlement Agreement regarding the BP's reliance on an independent agent to handle day-to-day commercial operations caused confusion;

(d) the Settlement Agreement made no mention of any monitoring or enforcement activities undertaken by the MSA;

(e) the parties appeared to be of different minds as to what the full scope of the Settlement Agreement entailed;

(f) it was unclear from the Settlement Agreement how the failure to "unconditionally assume the Buyer role on a timely basis" with respect to the PPAs contravened subsections 2(1)(g) and 2(1)(h) of the *Balancing Pool Regulation*;

(g) the level of detail the Settlement Agreement required of the BP in its financial reporting fell short of the level of detail provided by the BP, meaning the detail provided from one report to the next would depend largely on the discretion of the BP; and

(h) it was unclear why the Settlement Agreement included a statement from the MSA regarding how BP's ability to recover losses through a consumer charge or government loan did not have a direct impact on competition in the electricity market. The potential significance of the statement only heightened the AUC's concern.

The AUC noted that the evaluation of every settlement agreement must be undertaken on a case-by-case basis. In the circumstances of this case, the AUC found that it was unable to make a finding on whether the proposed Settlement Agreement fell within a range of acceptable outcomes. Instead, the AUC indicated it would be referring the Settlement Agreement back to the parties to give them an opportunity to understand and address the AUC's list of concerns.

Order

The AUC ordered that the Settlement Agreement be referred back to the MSA and BP to give them an opportunity to understand and address the Commission's concerns.

The AUC further ordered that the parties advise the AUC of how they propose to proceed in light of the Commission's concerns.

Tracking Compliance with Certain Directions from Rates Decisions (AUC Bulletin 2019-14)

Bulletin 2019-14 - eFiling System Update

To track compliance with directions from facilities and markets decisions, the AUC updated its eFiling system in 2018. On August 1, 2019 the AUC extended the use of this tracking function to track certain directions resulting from rates decisions. Only decisions released after August 1, 2019 have directions tracked.

The AUC made this change to ensure visibility and transparency with respect to compliance with directions from its rates-related decisions. The AUC's long-standing practice of including a separate appendix in rates-related decisions that summarizes the directions made throughout the decision was not changed.

AUC staff will be responsible for identifying the directions that are logged in the eFiling System and initiating the tracking process. The eFiling System will then create tasks within the system for the parties responsible for complying with the directions.

NATIONAL ENERGY BOARD

Abandonment Hearing Obsidian Energy Ltd. Application for Approval to Abandon One Lateral Pipeline (NEB Decision MHW-002-2019)

Natural Gas - Lateral Pipeline Abandonment

In this decision, the NEB considered an application (the "Application"), filed on September 25, 2019 by Obsidian Energy Ltd. ("Obsidian") for leave to abandon an in-place pipeline (the "Project"). The NEB issued Order ZO-O115-006-2019 (the "Order") granting Obsidian leave to abandon the natural gas Esther Court Pipeline (the "Pipeline").

Application and Project Overview

The Project was located close to and crossing the Alberta-Saskatchewan border within agricultural lands which included freehold land and land used for livestock pasture and cultivation.

Assessment of the Application

Engineering Matters

Obsidian noted that it would conduct hazard assessments on the Pipeline to be abandoned to ensure proper handling, storage, and/or disposal of onsite infrastructure, waste, and materials.

The NEB found that the Project's abandonment activities complied with the *Canadian Standards Association Standard Z662-15: Oil and Gas Pipeline Systems* ("*CSA Z662-15*") and the *NEB Onshore Pipeline Regulations*.

The NEB noted that the new edition of the *Canadian Standards Association Standard: Z662-19: Oil and Gas Pipeline Systems* was released to the general public on June 19, 2019 and reminded Obsidian of its obligation to comply with the new requirements.

Economic Matters

Obsidian stated that the estimated cost of the Project would be $45,485, that it considered the Project to have limited size and scope and that it would have no implications to existing service on the Obsidian system.

Given the small size of the Project, the Board was satisfied that funds would be available to finance the abandonment through the financial resources of Obsidian. The NEB noted that Obsidian would remain financially responsible for the Pipeline abandoned in-place.

Environment Matters

Obsidian stated that the proposed abandonment activities were limited to areas at either end of the Pipeline right of way ("RoW") and would take place under frozen conditions to minimize environmental impacts. Obsidian indicated it intended to clean-up and reclaim the disturbed portions following the abandonment procedures.

Obsidian indicated that it would submit reports to the NEB following the abandonment activities that describe the post-abandonment monitoring conducted and its progress.

The NEB was of the view that there is low environmental risk of leaving the Pipeline in-place.

The NEB found that mitigation measures outlined in Obsidian's Environmental Protection Plan (the "EPP") would sufficiently avoid or minimize adverse environmental effects.

The NEB imposed *Condition 5 – Reclamation Reporting,* which set out requirements and a schedule for filing reports demonstrating that the disturbed areas are restored. Obsidian was required to file a reclamation report to demonstrate that the entire Pipeline RoW has or would reach equivalent land capability.

The NEB anticipated that potential adverse environmental effects arising from the Project would be of limited geographic extent, short-term, reversible, and are not likely to cause any significant adverse environmental effects.

Public Consultation, Lands and Socio-Economic Matters

Five landowners and one occupant were directly affected by the abandonment activities. Obsidian stated that the proposed abandonment activities would be limited to work areas at either end of the Pipeline RoW, located on privately-owned agricultural land. Obsidian explained that following abandonment activities the land use would remain the same and reclamation, as outlined in the

Project's EPP, would occur as soon as possible and would follow agreements with landowners.

Obsidian notified landowners, occupants and local authorities before filing the Application and did not receive any issues or concerns regarding the abandonment plans.

The NEB was of the view that the design and implementation of consultation activities correlated with the scale and scope of the Project.

The NEB was also satisfied that Obsidian identified and addressed all relevant socio-economic effects of the Project. The NEB was of the view that significant socio-economic effects were unlikely.

Indigenous Matters

The NEB required Obsidian to serve a copy of the January 25, 2019 Notice of Abandonment Hearing MHW-002-2019 issued by the Board on 21 Indigenous communities identified by the NEB.

The NEB was of the view that all potentially affected Indigenous communities were given sufficient notice and had the opportunity to raise any concerns. It was also of the view that any potential adverse effects were not likely to be significant and could be effectively addressed.

Decision

The NEB granted Obsidian leave to abandon the Pipeline.

AltaGas Holdings Inc. on Behalf of AltaGas Pipeline Partnership Application for Approval to Abandon the Pouce Coupe B Pipeline (NEB Decision MHW-005-2019)

Natural Gas - Pipeline Project Abandonment

In this decision, the NEB considered an application by AltaGas Holdings Inc. ("AltaGas") on October 31, 2018 to abandon the Pouce Coupe B Pipeline Project (the "Project" or "Pipeline") in-place (the "Application"). The NEB issued Order ZP-A174-005-2019 (the "Order") granting leave to abandon the Project subject to conditions.

Project Overview and the NEB Process

The Project was located on private land in Alberta and British Columbia leased by Canadian Natural Resources Limited ("CNRL"). AltaGas indicated no new land or facilities would be required for abandonment of the Project. Abandonment work would be conducted within the existing lease boundaries at the Pipeline endpoints.

Assessment of the Application

Engineering Matters

The NEB was satisfied with AltaGas' approach to engineering matters as it found that the Project's abandonment activities as described in the Application were consistent with the engineering requirements in the *Canadian Standards Association Standard Z662-15: Oil and Gas Pipeline Systems* and the *NEB Onshore Pipeline Regulations*.

Economic Matters

AltaGas performed a commercial evaluation of the Pipeline and determined that there was no future potential for this asset and no current customers and as such proposed to abandon the Pipeline. The NEB found that because there were no current customers, there would be no material impact on tolls or shippers from the abandonment.

AltaGas stated that the estimated cost of the abandonment would be $93,500. AltaGas confirmed available funding for the proposed abandonment and post-abandonment monitoring and contingency. AltaGas acknowledged their financial responsibility for abandonment, monitoring, and any potential remediation required, for as long as it retains ownership of the Pipeline.

The NEB found that given the small size of the abandonment relative to AltaGas' Abandonment Cost Estimate ("ACE"), the NEB did not require changes to AltaGas' ACE. To continuously improve the accuracy of ACEs the NEB imposed *Condition 4 – Quarterly Physical Abandonment Activity Report* requiring AltaGas to provide actual cost data broken down by abandonment activity.

Environment Matters

The endpoints of the Pipeline were within CNRL active leases. Internal cold cutting technology would be used to eliminate the need for ground disturbance.

AltaGas indicated it did not expect reclamation for areas where physical abandonment activities were occurring to be necessary. Reclamation of the lease

sites would be the responsibility of the lease-holder, CNRL.

The NEB noted that the Project was not subject to the requirements of an Environmental Assessment.

The NEB was of the view that leaving the Pipeline in-place posed a low environmental risk.

The NEB found that AltaGas' proposed mitigation measures as described in its Environmental Protection Plan followed the industry standards and were suitable given the Project scope and nature of the activities.

The NEB considered the nature and scope of the Project, the proposed mitigation measures, and implemented conditions. The NEB determined that the Project was not likely to cause significant adverse environmental effects.

Public Consultation, Lands and Socio-Economic Matters

AltaGas stated that no outstanding issues or concerns were raised by potentially interested stakeholders.

According to the NEB's Filing Manual, applicants are expected to initiate project-specific consultation activities as soon as possible in the planning and design phase of the Project. The NEB noted that AltaGas provided potentially interested stakeholders with notification before it filed the Application with the Board.

The Board was satisfied that anyone potentially affected by the Project was given notice of the Project and had the opportunity to voice their concerns to AltaGas and the NEB. The NEB stated that the consultation activities were appropriate given the scale and scope of the Project.

The NEB was satisfied that AltaGas had identified and addressed all relevant socio-economic effects of the Project. The NEB noted the limited scope and duration of abandonment activities and that the Project was located within leased and previously disturbed lands. The NEB determined that significant socio-economic effects by the project were unlikely.

Indigenous Matters

AltaGas stated that it did not identify any Indigenous communities that would be affected by the Project.

The NEB directed AltaGas to serve the notice on the nine Indigenous communities having asserted traditional territory within which the Project area is located.

The NEB noted that AltaGas did not initiate consultation with Indigenous communities until after it was directed to by the NEB and that the notification was not completed within the imposed timeframe. However, the NEB found that AltaGas ultimately notified potentially impacted Indigenous communities sufficiently.

AltaGas concluded that due to the small nature and short duration of the Project, potential effects were not expected to affect Indigenous communities. The NEB agreed with AltaGas that the Project would not impact the rights and interests of Aboriginal communities.

Decision

The NEB granted AltaGas leave to abandon the Pipeline.

Maritimes & Northeast Pipeline Management Ltd. Application for Approval of 2020-2021 Toll Settlement (NEB Letter Decision and Order TG-007-2019)

Natural Gas - Toll Settlement

In this decision, the NEB considered an application (the "Application") from Maritimes & Northeast Pipeline Management Ltd. ("M&NP") pursuant to Part IV of the *National Energy Board Act* and the Board's *Revised Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs* ("*Settlement Guidelines*"), for approval of a toll settlement for tolls over the period of 1 December 2019 through December 31, 2021 (the "2020-2021 Toll Settlement"). The NEB approved the 2020-2021 Toll Settlement and Application as filed.

Background

M&NP submitted that its system is faced with the unique challenge of essentially losing its domestic gas supply, as well as losing 95 percent of its firm contract determinants all at one time. The contract commitments currently held by ExxonMobil Canada Properties, the lead operator of the permanently shut-in Sable Offshore Project, expire on November 30, 2019. M&NP stated that it engaged with its shipper group in the first half of 2018 to collaborate on solutions to the toll uncertainty resulting from these challenges. The 2020-2021 Toll Settlement was the result of negotiations with the M&NP Tolls and Tariff Working Group, which is comprised of representatives of M&NP and other parties interested in M&NP's tolls and tariff matters.

Views of the Board

The NEB found that the 2020-2021 Toll Settlement was an acceptable negotiated response to significant change on the M&NP system. While confronted with the expiry of contract commitments resulting from the termination of production, M&NP had taken steps to keep tolls at reasonable levels. This included accelerating depreciation in the 2017-2019 Toll Settlement, as well as measures taken in the 2020-2021 Toll Settlement such as reducing the revenue requirement by 59 percent, the introduction of the new Interruptible Transportation Minimum Revenue ("MNITMR") service to ensure minimum interruptible revenues of $37.5 million over the settlement term, and the restructuring of existing services.

The Board found that the 2020-2021 Toll Settlement complied with the *Settlement Guidelines* and provided interested parties with a fair opportunity to participate and have their interests recognized and weighed.

The NEB was not persuaded by the Notices of Opposition submitted by Emera Energy Limited Partnership and New Brunswick Power Corporation. The Board found that the MNITMR service was an acceptable negotiated service, and that fundamental risk had not materialized on the M&NP system at this time. In the Board's view, the objections raised by Emera and New Brunswick Energy Marketing did not warrant rejection of the 2020-2021 Toll Settlement as a whole and did not require additional process to adjudicate.

Disposition

The NEB found that the 2020-2021 Toll Settlement would result in tolls that are just and reasonable, tolls and services that are not unjustly discriminatory, and that the 2020-2021 Toll Settlement met the requirements of the Settlement Guidelines. As such, the NEB approved the 2020-2021 Toll Settlement and Application as filed and issued Toll order TG-007-2019 to give effect to the decision.