



ENERGY REGULATORY REPORT

This monthly report summarizes matters under the jurisdiction of the Alberta Energy Regulator (“AER”), the Alberta Utilities Commission (“AUC”) and the Canada Energy Regulator (“CER”) and proceedings resulting from these energy regulatory tribunals. For further information, please contact a member of the [RLC Team](#).

Regulatory Law Chambers (“RLC”) 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, consistent with the legislative scheme and public interest requirements. RLC follows a team approach, including when working with our clients and industry experts. [Visit our website to learn more about RLC.](#)

IN THIS ISSUE:

Alberta Energy Regulator	3
New Edition of Manual 002: Drilling Waste Inspections, AER Bulletin 2022-27	3
Invitation for Feedback on Proposed New Requirements for Brine-Hosted Mineral Resource Development and Directive 056, AER Bulletin 2022-28	3
Validate WIP Information Accuracy, AER Bulletin 2022-29	3
Alberta Utilities Commission.....	4
Stakeholder Consultation Regarding the Standards of Service for New Home Connections and Associated Maximum Investment Levels for 2023-2028 – Update, AUC Bulletin 2022-11	4
ATCO Gas and Pipelines Ltd. 2022 Unaccounted-For Gas Rider D and Rider P, AUC Decision 27583-D01-2022.	4
ATCO Gas and Pipelines Ltd. Disposition of Land Parcel 6090JK;2, AUC Decision 27580-D01-2022	5
ATCO Gas Apex Utilities Inc 2023 Cost-of-Service Review, AUC Decision 26616-D01-2022.....	5
ATCO Power (2010) Ltd. Empress Solar Power Plant Amendment, AUC Decision 27572-D01-2022	7
Apex Utilities Inc. 2022-2023 Unaccounted-For Gas Rider E and Rider H, AUC Decision 27552-D01-2022.....	8
BTG Power Corp. Approval Transfers for Power Plants Near Nevis and Lacombe, AUC Decision 27573-D01-2022.....	8
Hydrogen Inquiry Final Report, AUC Proceedings 27256.....	9
Kiwetinohk Energy Corp. Homestead Solar Energy Project, AUC Decision 27345-D01-2022.....	10
SR Scotford Inc. Scotford Solar Power Project, AUC Decision 27314-D01-2022	11
Canada Energy Regulator.....	13
Kingston Midstream Westspur Limited and Secure Energy Services Inc. Joint Submission on Disposition of Kingston’s Review Application and Order MO-020-2021, CER Letter Decision File OF-Tolls-Group2-K103-2019-01 01	13

Trans Mountain Pipeline ULC Trans Mountain Expansion Project Certificate of Public Convenience and Necessity
OC-065 Request for Partial Relief from Condition 67 G) for Coldwater River (BC-548) Located at KP 954 on Spread
5A (Phase 30), CER Letter Decision File OF-Fac-Oil-T260-2013-03 6114

ALBERTA ENERGY REGULATOR***New Edition of Manual 002: Drilling Waste Inspections, AER Bulletin 2022-27******Drilling Waste Inspections***

On September 6, 2022, the AER released a new *Manual 002: Drilling Waste Inspections* (“*Manual 002*”), replacing the 2012 edition. *Manual 2* is divided into six sections: Notification and Approvals; Storage; Cement Returns; Sampling and Analysis; Disposal; and Treatment. The AER updated *Manual 002* as follows:

- noncompliance statements were added or removed as needed to reflect the current edition of *Directive 050: Drilling Waste Management*;
- noncompliance statements to reflect other current AER requirements and energy resource enactments were added or removed as needed (i.e., *Directive 058: Oilfield Waste Management Requirements for the Upstream Petroleum Industry and Oil and Gas Conservation Act*);
- the low- and high-risk ratings were removed to align *Manual 002* with the *Integrated Compliance Assurance Framework* and *Manual 013: Compliance and Enforcement Program*; and
- *Manual 002* was formatted to meet the AER’s current publication standards.

Invitation for Feedback on Proposed New Requirements for Brine-Hosted Mineral Resource Development and Directive 056, AER Bulletin 2022-28***Brine-Hosted Mineral Resources***

The AER sought feedback on a new *Draft Directive: Brine-Hosted Mineral Resource Development*. The draft directive is proposed in response to *Bill 82: Mineral Resource Development Act*, which provides the AER with the authority to regulate the development of Alberta’s mineral resources. The draft directive sets out the requirements for mineral resource development and covers the entire development life cycle. The draft directive introduces processes and requirements that are unique to brine-hosted minerals development while incorporating applicable oil and gas regulatory instruments.

Directive 056: Energy Development Applications and Schedules (“*Directive 056*”) has been updated to include geothermal and brine-hosted mineral development. It now enables well, pipeline, and facility licensing requirements for geothermal and brine-hosted minerals development. While the proposed updates to *Directive 056* include consequential amendments related to *Directive 089: Geothermal Resource Development*, the AER requested that input on *Directive 056* during this public comment period should focus on the brine-hosted mineral content.

Validate WIP Information Accuracy, AER Bulletin 2022-29***Wells and Facilities – WIP Information Accuracy***

In order to maintain eligibility, *Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals*, requires licensees to keep accurate information on file, including working interest participant (“WIP”) information. A WIP is a person who owns a beneficial or legal undivided interest in a well or facility under agreements that pertain to the ownership of that well or facility.

Licensees can review and update their WIP information through the Closure Activity and Spend Report in OneStop. WIP records reflect private agreements between parties and must be managed by the licensee. The AER noted that it will not update records managed by active licensees. In the case of defunct licensees supporting documentation is required by the AER before a request to alter WIP records will be considered.

ALBERTA UTILITIES COMMISSION***Stakeholder Consultation Regarding the Standards of Service for New Home Connections and Associated Maximum Investment Levels for 2023-2028 – Update, AUC Bulletin 2022-11***
Consultation - Standards of Service

The AUC will initiate an AUC proceeding for formal examination of new home connections and associated cost responsibilities of the distribution utilities for 2024, given the information gathered in the stakeholder consultation process. The AUC determined that changing Maximum Investment Levels (“MILs”) over the longer term will not involve a simple mechanical process to update the amount of the MILs, as initially expected. Updating MILs will require consideration of several broad regulatory principles before the AUC can reach a decision on new home connections and the associated MILs.

For 2023, the AUC is considering extending the MILs currently in place by approving the MILs as filed by the distribution utilities in the compliance filings to the 2023 cost-of-service applications. That would result in no change in the process through which MILs are determined as the 2023 MILs submitted in the cost-of-service applications were based on an escalation of 2022 MIL amounts.

The AUC will allow for further comments before it finalizes 2023 MILs. As such, parties who register a statement of intent to participate in the AUC-initiated proceeding, Proceeding 27658, will have an opportunity to submit any comments on the setting of final MILs for 2023. A notice of proceeding will be issued in Proceeding 27658 with further details.

ATCO Gas and Pipelines Ltd. 2022 Unaccounted-For Gas Rider D and Rider P, AUC Decision 27583-D01-2022*Gas - Rates*Application

ATCO Gas and Pipelines Ltd. (“ATCO Gas”) filed an application with the AUC requesting approval of its 2022-2023 unaccounted-for gas (“UFG”) Rider D and Rider P, effective November 1, 2022. ATCO Gas calculated Rider D to increase from the currently approved value of 1.176 percent to 1.271 percent, and Rider P to increase from 1.162 percent to 1.270 percent.

Decision

The AUC approved UFG rate Rider D of 1.271 percent and Rider P of 1.270 percent, effective November 1, 2022.

Applicable Legislation

AUC Rule 028: [Natural Gas Settlement System Code Rules](#)

Pertinent Issues

For various reasons, in the process of delivering natural gas to customers through the distribution system, some gas goes unaccounted for and a variance results between the amount of natural gas that goes into the distribution system and the deliveries actually received by customers. The difference is referred to as UFG. In accordance with the current regulatory framework, the cost of UFG is ultimately passed on to the customers. Rider D recovers UFG in-kind from all retailers and default supply providers that use the ATCO Gas distribution system. Rider P recovers UFG associated with producer accounts, specifically producers’ volumes transacted off the ATCO Gas distribution system. Rider P ensures that exporting producers account for their share of UFG, in-kind.

Both riders are similarly designed and follow the same AUC-approved methodology to calculate the amounts. Specifically, Rider D is calculated annually using the most recent three-year average of ATCO Gas’s annual UFG percentages, which are derived by dividing UFG (system receipts minus deliveries) by system deliveries. Rider P

is similarly calculated using the most recent three-year average of annual UFG percentages but uses system receipts as the denominator to calculate the annual UFG recovery requirement.

The AUC recognized that, due to the many factors that impact UFG, the UFG amount fluctuates over time. The AUC, therefore, accepted the percentage increase from the 2021-2022 period. The AUC stated that it is cognizant of the unpredictable nature of UFG and the need to have a sound monitoring and mitigation program to control it. The AUC directed ATCO Gas to continue to provide relevant information in the next UFG application.

ATCO Gas and Pipelines Ltd. Disposition of Land Parcel 6090JK;2, AUC Decision 27580-D01-2022
Approval - Sale of Land Parcel

Application

ATCO Gas and Pipelines Ltd. (“AGPL”) filed an application with the AUC requesting the AUC to either approve the disposition of a parcel of land under s. 26 of the *Gas Utilities Act* or confirm that s. 26 does not apply to this transaction.

Decision

The AUC found that the proposed sale is within the ordinary course business for AGPL and consequently does not require AUC approval under s. 26(2)(d) of the *Gas Utilities Act*.

Applicable Legislation

[Gas Utilities Act](#), RSA 2000, c G-5 – ss. 2(c), 26 and 27.

Pertinent Issues

AGPL explained that ATCO Pipelines, a division of AGPL, determined that the relevant parcel of land was no longer required for utility service because the facilities previously located on this land were relocated as part of the approved Urban Pipeline Replacement Project. The land was therefore removed from its rate base in 2020.

S. 26(2)(d) of the *Gas Utilities Act* prevents a designated owner of a gas utility from selling its property outside the ordinary course of business, without first obtaining AUC approval. If the sale is in the ordinary course of business, AUC approval is not required. In determining whether a disposition is outside the ordinary course of business, the AUC considers the frequency and type of sale, the quantum and materiality of the proceeds of disposition, and the net book value in relation to the total rate base. The AUC found that the land’s net book value is immaterial when compared to ATCO Pipelines’ mid-year rate base of approximately \$2.0 billion. The fair market value, considered to be representative of the expected proceeds of sale, is also relatively immaterial. Moreover, the sale in this case deals with what is now a non-utility asset, and ATCO Pipelines has continued to provide safe and reliable utility service without the use of this land since 2020. The AUC therefore determined that the proposed sale is inside the ordinary course of ATCO Pipelines’ business and AUC approval of the sale is therefore not required.

ATCO Gas Apex Utilities Inc. 2023 Cost-of-Service Review, AUC Decision 26616-D01-2022
Electricity – Gas - Rates

Applications

This decision deals with the 2023 cost-of-service (“COS”) applications from two natural gas distribution facility owners (“DFOs”), ATCO Gas and Pipelines Ltd. (“ATCO Gas”) and Apex Utilities Inc. (“Apex”). The rates approved for 2023 on a forecast cost basis will also serve as going-in rates for the third term of performance-based regulation (“PBR”) that will commence on January 1, 2024.

Decision

The AUC accepted the hybrid methodologies put forward by ATCO Gas and Apex, which use mechanistic and non-mechanistic approaches to arrive at their respective 2023 forecasts. The AUC did however direct adjustments to the applied-for escalation factors. Specifically, both ATCO Gas and Apex are to: (1) use their actual labour cost increases for the period 2019-2020 in calculating their inflation escalators; and (2) reduce their proposed customer growth escalator by 15 percent. The AUC further directed both ATCO Gas and Apex to recalculate their respective 2023 forecasts under the mechanistic approach to reflect the escalation factors approved in this decision.

The AUC found that ATCO Gas's and Apex's 2023 operating and maintenance ("O&M") and capital additions forecasts to be reasonable for 2023, subject to the incorporation of the approved escalation factors and the following O&M and respective capital disallowances.

Applicable Legislation

AUC Decision 20414-D01-2016 - [2018-2022 Performance-Based Regulation Plans for Alberta Electric and Gas Distribution Utilities](#)

AUC Bulletin 2021-04: [Stakeholder consultations to evaluate performance-based regulation in Alberta and to determine process to establish 2023 rates for distribution facility owners](#)

AUC Decision 26356-D01-2021 - [Evaluation of Performance-Based Regulation in Alberta](#)

Pertinent Issues

Rates for the electric and natural gas distribution utilities under the AUC's jurisdiction are currently set according to the PBR plans established in Decision 20414-D01-2016 (Errata). These plans are effective from January 1, 2018, to December 31, 2022, and apply to the four large electric distribution facility owners ("DFOs") in Alberta and the two large natural gas DFOs in Alberta, ATCO Gas and Apex. Under both the previous (PBR1) and current (PBR2) plans, each utility's rates (or revenue-per-customer in the case of the two gas DFOs) are adjusted annually.

The AUC issued Bulletin 2021-04 where it expressed its intention to engage the DFOs and consumer groups to assess the approach to distribution rate regulation in Alberta following the expiration of the current PBR2 plans in 2022. The AUC initiated two related streamlined processes: (i) a review and assessment of legacy PBR performance; and (ii) a COS review to establish 2023 rates. Decision 26356-D01-2021 related to the former process, in which the AUC, *inter alia*, determined that it would proceed with a one-year COS review based on the 2023 forecast costs. Because 2023 is an intervening COS rebasing year that falls between two PBR terms (i.e. between PBR2 and PBR3, the latter commencing in 2024), the approach taken by the AUC in reviewing these applications involved examining not only those issues typically encountered in traditional COS or rate base rate-of-return regulation proceedings but also the types of issues more likely to require scrutiny during the rebasing process under PBR.

Unlike the PBR2 rebasing approach, which used the notional revenue requirement on which to base the going-in rates, each utility was allowed to develop its 2023 revenue requirement forecast in this proceeding. The utilities bore the onus of demonstrating and supporting the reasonableness of the elements comprising its revenue requirement.

The AUC examined issues related to the identification and quantification of efficiencies, escalation factors, 2023 forecast O&M, 2023 forecast capital additions and IT costs.

The AUC largely accepted the hybrid methodologies approach applied. Specifically, under the mechanistic approach, the utilities forecast costs by calculating the average of actual costs incurred in the 2018 to 2020 period and then escalating that average by certain proposed escalation factors such as inflation and customer growth. Under the non-mechanistic approach, the utilities forecast from the bottom up, which is a traditional way to forecast costs under COS regulation.

ATCO Power (2010) Ltd. Empress Solar Power Plant Amendment, AUC Decision 27572-D01-2022
*Solar - Facilities*Application

ATCO Power (2010) Ltd (“ATCO Power”) has approval to construct and operate a power plant, which contains up to 115,492 bi-facial solar photovoltaic panels mounted on a single-axis tracking system, and nine inverter-transformer units, with a total generating capability of 39 megawatts. Construction of the power plant was to be completed by January 31, 2023.

ATCO Power filed an application with the AUC for approval of amendments to the power plant and a time extension to complete construction. The proposed amendments include reducing the number of photovoltaic modules to approximately 89,000 VSUN540-144BMH-DG, each rated at 540 watts, and increasing the number of inverter-transformer units to 12. The total generating capability of the power plant is unchanged. ATCO Power requested a new construction completion date of December 31, 2023, to facilitate the amendments.

Decision

The AUC approved the application for amendments to the previously approved plant and a time extension to complete construction to January 31, 2024, under s. 17 of the *Alberta Utilities Commission Act* and ss. 11 and 19 of the *Hydro and Electric Energy Act*.

Applicable Legislation

AUC Rule 007: [Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines.](#)

[Wildlife Directive for Alberta Wind Energy Projects.](#)

AUC Rule 033: [Post-approval Monitoring Requirements for Wind and Solar Power Plant](#)

[Hydro and Electric Energy Act](#), RSA 2000, c H-16 - ss. 11 and 19.

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2 - s. 17.

Pertinent Issues

A new solar glare assessment was submitted because the previously submitted solar glare predictions were no longer applicable due to the design change. The AUC found that glare was not expected to be an issue and that there were sufficient mitigation measures in place, in the event that glare on the roads becomes an issue. The AUC imposed the following conditions of approval in respect of solar glare: (1) ATCO Power shall file a report with the AUC detailing any complaints or concerns it receives or is made aware of regarding solar glare; (2) anti-reflective coating shall be utilized on the solar panels.

The power plant initially did not have internal gravel roads so that movement of animals would not be restricted. ATCO Power submitted this was not practical because gravel roads are required to support vehicles that will deliver and install equipment during construction, and for emergency response during operation. ATCO Power outlined proposed mitigation measures. The AUC found that the amendments to the power plant will not result in significant incremental impacts on the environment or wildlife. The AUC imposed as a condition of approval that ATCO Power submits an annual post-construction monitoring report to Alberta Environment and Parks and the AUC after the commencement of operations.

Apex Utilities Inc. 2022-2023 Unaccounted-For Gas Rider E and Rider H, AUC Decision 27552-D01-2022
*Gas - Rates*Application

Apex Utilities Inc. (“Apex”) applied for approval of its 2022-2023 unaccounted-for gas (“UFG”) Rider E and Rider H, effective November 1, 2022. Apex calculated Rider E to increase from the currently approved value of 0.97 percent to 1.02 percent, and Rider H to increase from 0.98 percent to 1.03 percent.

Decision

The AUC approved a UFG rate Rider E of 1.02 percent and Rider H of 1.03 percent, effective November 1, 2022.

Applicable Legislation

AUC Rule 028: [Natural Gas Settlement System Code Rules](#)

Pertinent Issues

For various reasons, in the process of delivering natural gas to customers through the distribution system, some gas goes unaccounted for and a variance results between the amount of natural gas that goes into the distribution system and the deliveries received by customers. The difference is referred to as UFG. In accordance with the current regulatory framework, the cost of UFG is ultimately passed on to the customers. Rider H recovers UFG in-kind from all retailers and default supply providers that use the Apex distribution system. Rider E recovers UFG associated with producer transportation service to ensure the quantity of gas Apex delivers for producer transportation customers is kept in balance with the quantity of gas Apex receives from these customers. Rider E is also used in the determination of Apex’s gas cost recovery rate (Rider D) and third-party transportation rate (Rider G).

Both riders are similarly designed and follow the same AUC-approved methodology to calculate the amounts. Specifically, Rider E is calculated annually using the most recent five-year average of Apex’s annual UFG percentages, which are derived by dividing UFG (system receipts minus deliveries) by system receipts. Rider H is calculated using the most recent five-year average of Apex’s annual UFG percentages but uses system deliveries as the divisor in the calculation, as required by AUC Rule 028.

The AUC recognized that, due to the many factors that impact UFG, the UFG amount will fluctuate over time. The AUC, therefore, accepted the percentage increase from the 2021-2022 period. The AUC is satisfied with Apex’s explanation of the most significant causes of UFG for the reporting period. The AUC directed Apex to provide relevant information in the next UFG application.

BTG Power Corp. Approval Transfers for Power Plants Near Nevis and Lacombe, AUC Decision 27573-D01-2022*Approval Transfer*Application

BTG Power Corp. (“BTG”) and Horseshoe Power GP Ltd. (“Horseshoe”) filed applications with the AUC to transfer the approvals related to two power plants located near Nevis and Lacombe from Horseshoe to BTG. Transfer of the connection orders for the respective power plants is also sought. The proposed approval transfer relates to facilities previously approved by the AUC under Approval 22987-D02-2017 and Order 22987-D03-2017 regarding a 3.6-megawatt (“MW”) natural gas-fired power plant located near Nevis and connected to FortisAlberta Inc.’s distribution system and Approval 22987-D04-2017 and Order 22987-D05-2017 2017 regarding a 3.9-MW natural gas-fired power plant located near Lacombe and connected to FortisAlberta Inc.’s distribution system.

Decision

The AUC approved the requested power plant approval transfers outlined in the applications.

Applicable Legislation

[Hydro and Electric Energy Act](#), RSA 2000, c H-16 - ss. 23.

Hydrogen Inquiry Final Report, AUC Proceedings 27256

Hydrogen

The Government of Alberta issued an Order-in-Council 70/2022 directing the AUC to inquire into and report to the Minister of Energy on matters relating to hydrogen blending into natural gas distribution systems. The *Hydrogen Inquiry Final Report* contains the steps taken by the AUC and its findings. After contextualizing the characteristics of hydrogen, the natural gas distribution system in Alberta, and the competitive retail supply of natural gas to customers, the report proposes that:

1. the definition of “gas” in the *Gas Utilities Act* be amended to reference “up to 20 percent hydrogen by volume blended within a low-pressure natural gas distribution system” and include this definition in the *Gas Distribution Act*;
2. if no competitive market for hydrogen exists (to be determined by further study), hydrogen procurement could be performed by distributors;
3. a government-initiated review of agency responsibilities, with input from hydrogen proponents, be conducted;
4. federal and provincial hydrogen regulations are harmonized to support the development of national and provincial codes and standards for safety purposes; and that safety and engineering assessments be conducted prior to hydrogen blending into distribution systems;
5. a maximum hydrogen blending threshold of 20 percent by volume, with no minimum threshold, is reasonable, but pilot projects should start at lower levels;
6. the initial focus should be on hydrogen integration within larger municipal systems but there likely should not be a regulatory requirement for rural utilities, nor for any gas utility or gas co-operative, to blend hydrogen;
7. a slow, phased approach should be taken to regulating hydrogen blending:
 - (a) natural gas distribution utilities should have authority over the blending function and be permitted to recover blending facility costs through its revenue requirement and rates;
 - (b) all other hydrogen market segments (production, storage, and transportation) likely require further study and a better understanding of the impact on customers; and
 - (c) a regulated natural gas utility should, absent the exceptions listed above, be limited to hydrogen blending and distribution functions;
8. with respect to the factors that regulatory agencies should consider, the AUC is of the view that it is important for regulators to take into account public interest factors when assessing hydrogen blending projects and the respective costs, including assessments of cost-benefit analysis, safety, reliability, environmental impacts, emissions targets, carbon tax considerations, economic efficiency, and rate impacts to consumers. The AUC considers it reasonable to move forward with targeted pilot projects to better ascertain the impact of hydrogen blending, emissions reductions, carbon intensity of various hydrogen options and resulting carbon offset, and cost information. Moreover, in respect of increased costs and cost recovery:
 - (a) The AUC is of the view that it is premature to consider the allocation of capital and commodity costs for hydrogen blending;

- (b) The AUC recognizes that the short-term adoption and the support for hydrogen blending face cost and rate impact challenges. The inclusion of the incremental costs that customers would be required to bear should be balanced against the affordability of utility service for customers; and
- (c) The AUC recommends that the Alberta government consider providing support for customers such as credits, tax rebates, or subsidies as mechanisms to reduce the burden on individual citizens during the early stages of hydrogen blending when costs are greater than carbon tax savings.

The report concludes that further study is required to assess the technical and economic feasibility of different types of hydrogen (e.g., green, grey, blue) to properly allocate costs and apply the proper offset to carbon tax based on lower carbon emission intensity.

Kiwetinochk Energy Corp. Homestead Solar Energy Project, AUC Decision 27345-D01-2022

Solar - Facilities

Application

Kiwetinochk Energy Corp. ("KEC") filed applications with the AUC for approval to construct and operate the 400-megawatt Homestead solar power plant and substation. The power plant consists of approximately 1,100,000 Longi LR5-72HBD-545M bi-facial solar photovoltaic modules on a single-axis tracking system, 100 4600-UP-US inverters, and underground collector lines that would connect to the Homestead 1111S Substation. The Homestead 1111S Substation contains two 240/34.5-kilovolt ("kV"), 225-megavolt ampere transformers, one 240-kV circuit breaker, eight 34.5-kV circuit breakers, and associated substation equipment. A separate application will be submitted for transmission infrastructure to connect the project to the Alberta Interconnected Electric System.

Decision

The AUC approved the application to construct and operate the power plant under ss. 11 and 19 of the *Hydro and Electric Energy Act*. The AUC approved the application to construct and operate the substation under ss. 14, 15 and 19 *Hydro and Electric Energy Act*.

Applicable Legislation

AUC Rule 007: [*Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines*](#)

AUC Rule 033: [*Post-approval Monitoring Requirements for Wind and Solar Power Plant*](#)

AUC Rule 012: [*Noise Control*](#)

[*Alberta Utilities Commission Act*](#), SA 2007, c A-37.2 - s. 17.

[*Hydro and Electric Energy Act*](#), RSA 2000, c H-16 - ss. 11, 14, 15 and 19.

Pertinent Issues

KEC did not prepare a stand-alone environmental evaluation, instead filing the renewable energy project submission, responses to Alberta Environment and Parks information requests, the environmental protection plan, and the conservation and reclamation plan. While the application should have addressed all the environmental information requirements set out in Rule 007, KEC addressed missing information in responses to two rounds of information requests by the AUC.

The AUC approved the application but imposed additional conditions of approval regarding solar glare.

SR Scotford Inc. Scotford Solar Power Project, AUC Decision 27314-D01-2022
Solar Power Plant Approval

Application

SR Scotford Inc (“SR Scotford”) filed an application with the AUC for approval to construct and operate a 58-megawatt solar power plant, designated as the Scotford Solar Power Project (the “Power Plant”). The application did not include the construction and operation of a transmission line, amendments to an existing transmission facility, or amendments to the Scotford industrial system designation (“ISD”) order.

Decision

The AUC approved the application for the construction of the Power Plant under ss. 11 and 19 of the *Hydro and Electric Energy Act*.

Applicable Legislation

[Alberta Environment and Parks: Conservation and Reclamation Directive for Renewable Energy Operations](#)

AUC Rule 012: [Noise Control](#)

[Historical Resources Act](#), RSA 2000, c H-9.

AUC Rule 001: [Rules of Practice](#). – s. 7.

[Hydro and Electric Energy Act](#), RSA 2000, c H-16 - ss. 11 and 19.

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2 - s. 17.

AUC Rule 007: [Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines](#)

AUC Rule 033: [Post-approval Monitoring Requirements for Wind and Solar Power Plant](#)

Pertinent Issues

Heartland Generation Ltd (“Heartland”), filed a submission in response to the AUC’s notice of application. Heartland noted concerns with the inclusion of the Power Plant into the Scotford ISD order but had no concerns with the Power Plant itself. The AUC was of the view that deciding issues pertaining to the Power Plant’s connection to the Scotford 409S substation and amendment of the existing ISD order is premature.

The AUC found that the Power Plant will not result in a significant effect on the environment and wildlife due to the industrial nature of the project area and SR Scotford’s mitigation measures. Alberta Environment and Parks (“AEP”) assessed the risk to sensitive habitats within valley breaks as high because they are generally considered key wildlife and biodiversity zones. However, the proposed mitigation reduces the risk for important habitats, species, and wildlife features associated with valley break features to low to moderate.

The AUC imposed a condition of approval pursuant to *Rule 033: Post-approval Monitoring Requirements for Wind and Solar Power Plants* directing SR Scotford to submit an annual post-construction monitoring report to AEP – Fish and Wildlife Stewardship and the AUC, by no later than January 31.

The AUC found that the Power Plant is expected to comply with the no net increase requirement for noise from new facilities in the National Capital Industrial Association boundary.

A solar glare assessment identified four roads, two railways, and the Redwater (Pembina) Heliport as receptors of

solar glare from the Power Plant. The AUC found that overall, the Power Plant is not expected to present a significant hazard to drivers, train operators, or pilots near the Power Plant. The AUC imposed as a condition of approval the following in respect of solar glare: (1) SR Scotford shall file a report with the AUC detailing any complaints or concerns it receives or is made aware of regarding solar glare; and (2) anti-reflective coating shall be utilized on the project solar panels.

CANADA ENERGY REGULATOR***Kingston Midstream Westspur Limited and Secure Energy Services Inc. Joint Submission on Disposition of Kingston's Review Application and Order MO-020-2021, CER Letter Decision File OF-Tolls-Group2-K103-2019-01 01******Facilities – Amendment Order – Discontinuation of Review***Application

In a previous decision, the CER found Kingston Midstream Westspur Limited (“Kingston”) to be in breach of common carrier obligations. Kingston was ordered to provide new facilities for connection at its Westspur Pipeline (the previous “Order”). The Westspur Pipeline is operated under the Westspur tariff (“Westspur Tariff”). Kingston, its affiliates, and Secure Energy Services Inc (“Secure”) subsequently negotiated an agreement to use existing provincially regulated facilities to access the Westspur Pipeline. Kingston and Secure filed a joint submission to the CER requesting that the CER amend certain aspects of its previous Order, provide tariff direction, and discontinue the review and variance application filed by Kingston in July 2021. Several shippers on the Westspur Pipeline the (“Producer Group”) raised concerns regarding the relief requested.

Decision

The CER granted the following relief:

- the Order was varied as Kingston and Secure requested, to remove Condition 2, that required Kingston to provide new facilities connecting the Westspur Pipeline to the Secure Alida Terminal, and Condition 4, that sets the tolls for the use of the new facilities;
- Kingston was directed to include the Kingston Saskatchewan Pipeline Alida Interconnection as receipt and delivery points in the Westspur Tariff; and
- the proceedings related to the review and variance application were discontinued.

Applicable Legislation

[Canadian Energy Regulator Act](#), SC 2019, c 28, s 10 – ss. 69(1), 239(1), 239(3)

Pertinent Issues

In respect of procedural aspects, the CER was of the view that the requested relief in the amendment and directive constitutes an application for review and variance of a decision or order pursuant to subsection 69(1) of the *CER Act*. The CER found that the threshold for Phase I was met. The CER was of the view that the resulting settlement negotiated by Secure, Kingston, and their affiliates constituted changed circumstances and new facts that have arisen since the close of the original proceeding, which raised doubt as to the correctness of the previous decision and Order. The CER proceeded to Phase II of the review and set out a process inviting comments on the merits of the relief requested.

The CER found that utilizing existing facilities, as envisioned in the settlement removed the need for new facilities and associated tolls. The Producer Group, however, argued that the amendment relief would alter the CER's assertion of regulatory oversight over transportation service afforded to the Kingston Alida and Secure terminals. The CER was not persuaded that the amendment would affect the CER's regulatory oversight and found that the variation of the Order should be granted.

The CER agreed with Secure and Kingston that it is not appropriate to list the Secure Alida Terminal as a receipt or delivery point on the Westspur Pipeline as the terminal is not directly connected to the Westspur Pipeline. However, the CER also agreed with the Producer Group that the fact that Kingston would only provide an indirect connection through its affiliate does not reduce or limit the need for Kingston to have and maintain receipt and

delivery points at the point of interconnection. Kingston and Secure's joint preference were to maintain the historical practice of transferring crude as part of the Notice of Shipment process. The CER did not accept this historical practice, as this process has resulted in confusion in at least two regulatory proceedings. The CER's direction to include the Kingston Saskatchewan Pipeline Alida Interconnection as a receipt and delivery point reflects the alternate approach that was proposed by Kingston if the CER did not accept the historical practice.

Finally, given Kingston and Secure's negotiated settlement and the relief granted in this proceeding, the relief sought in the review and variance application was no longer relevant and therefore discontinued.

Trans Mountain Pipeline ULC Trans Mountain Expansion Project Certificate of Public Convenience and Necessity OC-065 Request for Partial Relief from Condition 67 (g) for Coldwater River (BC-548) Located at KP 954 on Spread 5A (Phase 30), CER Letter Decision File OF-Fac-Oil-T260-2013-03 61
Cold Water Drilling – Relief from Condition 67(g)

Application

Condition 67(g) of the Certificate of Public Convenience and Necessity OC-065 for the Coldwater River located at Kilometer Post ("KP") 954 in Spread 5A requires Trans Mountain Pipeline ULC ("Trans Mountain") to file geotechnical and feasibility studies for trenchless watercourse crossings. Trans Mountain filed an application seeking an order relieving it from this obligation for Crossing C20738.

Decision

The CER granted the relief sought. Trans Mountain is not required to provide a Geotechnical Report and a Horizontal Directional Drilling Feasibility and Design Report for Crossing C20738.

Pertinent Issues

Trans Mountain indicated that it intends to employ a new contingency method for trenchless crossings. The new contingency method provides flexibility to execute the crossing at any time while maintaining the existing instream window if needed in early 2023. Trans Mountain advised that Crossing C20738 was short (69 meters) and will be executed using the guided horizontal auger bore ("GHAB") method. Trans Mountain stated that typically, GHABs are completed without detailed geotechnical investigations, rather, test-pits or auger bores are used to identify the materials present at the depth of the crossing and to identify conditions present that would indicate a need to change techniques. The CER noted that a geotechnical feasibility study was completed with the proposed GHAB crossing methodology and alignment, the closest borehole to the crossing is situated on the north bank of the river and is within the GHAB path.

The CER also noted that upon opening the launch and receiving pit excavations for the GHAB crossing, the geology at the Coldwater River crossing will be confirmed by Trans Mountain using the excavations as 'test-pits'. Trans Mountain stated that the GHAB technique is suitable for construction in cohesive (clay-like) and cohesionless (sand and gravel-like) conditions. Neither soft cohesive nor boulder-containing cohesionless ground conditions are anticipated at the Coldwater River crossing at KP 954. Trans Mountain stated that if saturated conditions are encountered, these conditions can be mitigated.

The CER was satisfied that Trans Mountain provided appropriate rationale for the relief sought and granted the application. The CER reminded Trans Mountain that Condition 67(g) applies to all remaining trenchless watercourse crossings.