

(“NGTL”) and NGTL’s customer in the Edmonton area. Accordingly, the AUC found that ATCO demonstrated there is a need for the project and that the considered alternatives were not feasible for delivering natural gas to NGTL’s customer.

Project Costs

In assessing the need for the Project, one important component of the need assessment is the costs for the alternatives assessed by ATCO. The AUC’s task is not to determine whether the proposed costs are prudent but rather consider the estimated project costs to assess the reasonableness of the alternatives proposed as part of its overall assessment of whether approval of the preferred alternative is in the public interest.

ATCO estimated the total Project cost to be approximately \$13,618,000, of which NGTL’s customer would pay \$10,600,000 through a contribution in aid of construction. As a result, the total net cost to ATCO would be approximately \$3,018,000. The AUC found that the Project was the only viable option that will provide the most effective means of delivering natural gas to NGTL’s customer.

Green Block Mining Corp. Decision on Application for Review and Variance of Decision 26379-D05-2023 Settlement Agreement with Green Block Mining Corp., formerly Link Global Technologies Inc., AUC Decision 28792-D01-2024 Review and Variance – Administrative Penalty

Application

Green Block Mining Corp. (“Green Block”) requested a 30-day extension for payment of the penalty ordered in Decision 26379-D05-2023, which directed payment of an administrative penalty of \$346,500 and Alberta Utilities Commission (“AUC”) enforcement staff’s legal expenses of \$60,000, within 30 days of the date of the decision. Green Block advised the AUC that it made a \$140,000 partial administrative penalty payment to the Government of Alberta General Revenue Fund and the full \$60,000 legal expenses payment to the AUC.

Decision

The AUC extended the deadline for Green Block to pay the outstanding \$206,500.00 of the administrative penalty specified at paragraph 25 of Decision 26379-D05-2023 to February 21, 2024.

Pertinent Issues

In light of Green Block’s partial payment of the administrative penalty and full payment of legal expenses specified in Decision 26379-D05-2023, the AUC was satisfied that granting Green Block’s request was in the public interest. The AUC determined that in the circumstances, extending the deadline by a month, as proposed by Green Block, facilitates full payment of the administrative penalty.

ATCO Renewables Ltd. Application for an Order Permitting the Sharing of Records Not Available to the Public Regarding the Oldman River Hydro Power Plant, AUC Decision 28760-D01-2024
Hydro Power - Markets

Application

ATCO Renewables Ltd. (“ATCO Renewables”) applied pursuant to s 3 of the *Fair, Efficient and Open Competition Regulation* (“*FEOCR*”) seeking permission to share records not available to the public regarding the 32-megawatt Old Man River Hydro Power Plant. ATCO Renewables applied to share records between ATCO Renewables and URICA Energy Real Time Ltd.

Decision

The AUC was satisfied that ATCO Renewables demonstrated that: (i) the sharing of records was reasonably necessary for ATCO Renewables to carry out its business; and (ii) the subject records would not be used for any purpose that did not support the fair, efficient and openly competitive operation of the Alberta electricity market. The AUC was also satisfied that the total offer control of the parties would not exceed the offer control limit of 30 percent under s 5(5) of the *FEOCR*. The AUC approved the application.

ATCO Pipelines 2024 Interim Revenue Requirement Application, AUC Decision 28764-D01-2024
Rates – Revenue Requirement

Application

ATCO Pipelines (“AP”) requested approval of the 2024 revenue requirement of \$362,852,000 on an interim and refundable basis.

Decision

The AUC approved AP's 2024 interim revenue requirement of \$362,852,000 (before the removal of forecast franchise fees) as filed, effective January 1, 2024.

Pertinent Issues

The AUC approved the 2024 interim revenue requirement and the recovery from NOVA Gas Transmission Ltd. ("NGTL") through a monthly rate of \$29,949,583 after the removal of the forecast franchise fee recovered through Rider A. The interim revenue requirement represented an increase of approximately \$12.3 million over AP's 2023 revenue requirement. The 2024 interim revenue requirement reflected 100 percent of the amount agreed to by parties in the negotiated settlement agreement ("NSA") in relation to AP's 2024-2026 general rate application in AUC Proceeding 28369.

The AUC determined that the applied-for interim revenue requirement is reasonable because: the amounts were not contentious for parties as they were reached through the NSA; the final revenue requirement will be determined in Proceeding 28369; the majority of AP's proposed interim increase (\$9,479,000) was made in response to the AUC's approval of a 9.28 percent return on equity for 2024; and the requested interim revenue requirement will assist AP in meeting its financial obligations, ensuring safe utility operations.

ATCO Electric Ltd. Approval of Sale Offering for Narrows Point Power Plant, AUC Decision 28699-D01-2024

Electricity - Facilities

Application

ATCO Electric Ltd. ("AE") applied for approval of a sale offering for isolated generating units CUL 483, CUL 429, CUL 430 and CUL 280 ("Isolated Units") contained within its Narrows Point Power Plant (the "Power Plant").

Decision

The AUC approved AE's sale offering for the Isolated Units located at the Narrows Point Power Plant.

Pertinent Issues

AE requested approval of the sale offering stating that the Isolated Units were no longer required because the community of Narrow Points, which was supplied with power by the Isolated Units, connected to the Alberta interconnected electric system in July 2020.

The AUC was satisfied that the sale offering complied with the criteria set out in the *Isolated Generating Units and Customer Choice Regulation ("IGUCCR")*. The AUC noted that no customer representatives or other interested parties applied to intervene or otherwise objected to the proposed sale offering. The AUC was satisfied that, as required by the *IGUCCR*, the sale offering was widely publicized and conducted in a manner that it did not make the sale offering less attractive and it did not discourage or restrict potential bids in response to the sale offering.

Direct Energy Marketing Limited Amendments to the Code of Conduct Regulation and Inter-Affiliate Code of Conduct Compliance Plan, AUC Decision 28623-D01-2024

Markets – Code of Conduct Compliance

Application

Direct Energy Marketing Limited ("DEML") applied for approval of amendments to the *Code of Conduct Regulation* Compliance Plan of Direct Energy Regulated Services ("DERS"), Direct Energy Partnership and XOOM Energy Canada ULC, and the DERS Inter-Affiliate Code of Conduct and Compliance Plan. The changes involved removing references to an old billing system and eliminating duplicate language in relation to Mechanism 34.1, which discusses the complaint process for contraventions of the regulation or compliance plan. DEML also applied for approval of an update to the internet address.

Decision

The AUC approved the applied-for changes to the *Code of Conduct Regulation* Compliance Plan and Inter-affiliate Code of Conduct Compliance Plan.

Pertinent Issues

The AUC was satisfied that the applied-for amendments to the *Code of Conduct Regulation* Compliance Plan simplify the language and remove

duplication but do not substantively alter the compliance plan. The AUC found that the proposed changes do not create barriers to understanding information about how to report an alleged contravention of the *Code of Conduct Regulation* on the DERS' and DEP's external websites.

2171802 Alberta Ltd. Bull Pound Solar Project Termination of Community Generation Designation, AUC Decision 28703-D01-2024
Solar Power – Generation Program Cancellation

Application

2171802 Alberta Ltd., operating as Bull Pound Solar Partners (“BPSP”), requested that the AUC rescind the community generating unit designation for the 15-megawatt (“MW”) Bull Pound Community Solar Project (the “Power Plant”) located in the Dorothy area.

Decision

The AUC approved the application and rescinded the Power Plant's designation as a community generating unit.

Pertinent Issues

Pursuant to the *Small Scale Generation Regulation* (“SSGR”), the owner of a community generating unit must notify the AUC of any changes that may lead to the generating unit no longer qualifying as a community generating unit. This includes changes to the owner's community benefits agreement (“CBA”). BPSP notified the AUC of the termination of the CBA with the Municipal District of Acadia #34 (the “Municipality”).

BPSP stated that the CBA required that the Power Plant secure a power purchase agreement under the Government of Alberta's “Community Generation Program.” The power purchase agreement component of the Community Generation Program was discontinued, requiring BPSP and the Municipality to either terminate or renegotiate the CBA. BPSP and the Municipality mutually agreed to terminate the CBA.

BPSP submitted that the CBA had been terminated without replacement. As BPSP no longer qualified for a community generating unit designation, the AUC rescinded the Power Plant's community generating unit designation.

Enforcement Staff of the Alberta Utilities Commission Phase 2 Enforcement Proceeding with Salt Box Water Coulee Water Supply Company Ltd. – Denial of Negotiated Settlement Agreement Application, AUC Decision 28021-D02-2024

Water – Financial Statements

Application

In Decision 28201-D01-2023, the Alberta Utilities Commission (“AUC”) determined that Salt Box Coulee Water Supply Company Ltd. (“Salt Box”) committed two contraventions: failing to file audited financial statements contrary to the AUC's direction in Decision 24295-D02-2020; and charging monthly fees and rate riders to unconnected lot owners contrary to the terms and conditions (“T&Cs”) of service approved in Decision 24295-D02-2020. AUC enforcement staff (“Enforcement Staff”) applied for approval of a negotiated settlement agreement (“NSA”) reached between Enforcement Staff and Salt Box in this Phase 2 of the enforcement proceeding.

Decision

The AUC denied the application for approval of the NSA as contrary to the public interest since it was clear that Salt Box was unwilling or unable to adhere to the terms to which it has agreed.

The AUC also established an updated process schedule to complete the proceeding, which included steps for the AUC and Enforcement Staff to ask information request and conduct an oral hearing, including making submissions on the appropriate penalty.

Pertinent Issues

NSA

Despite having agreed to the terms of the proposed NSA, Salt Box subsequently filed further correspondence setting out that:

- Salt Box did not expect to provide audited financial statements by December 15, 2023, as previously agreed;
- Salt Box did not believe it can fund any refunds at this time; and

- Salt Box's approved rates were not sufficient to allow water utility operations to continue.

In addition, in January 2024, Salt Box was struck from the register of Alberta Corporate Registries for a failure to file annual returns.

The AUC found that approval of the NSA would be contrary to the public interest. The AUC noted that, in part due to the benefits of promoting negotiated settlements, it generally does not disturb a settlement agreement reached between parties unless the proposal would bring the administration of justice into disrepute or otherwise be contrary to the public interest. The AUC found that approval of this NSA would be contrary to the public interest, as it was clear to the AUC that Salt Box, based on its own statements, was unwilling or unable to adhere to the terms in the NSA. There is no benefit to the public in approving an NSA that cannot or will not realistically be fulfilled.

Production of Financial Documents

The AUC held that the consequences of Salt Box's continued failure to provide audited financial statements were severe and affect all parties. The AUC was aware that Salt Box may have been operating with a revenue shortfall, however, it was unable to ascertain the existence and severity of this shortfall due to a lack of transparency into Salt Box's operations. Salt Box did provide unaudited financial statements for 2019 and 2020 on December 15, 2023, but these financial statements were not verified by an accountant. The AUC previously specifically ruled that it required audited financial statements from Salt Box.

The AUC also noted that the lack of audited financial statements hinders its ability to resolve this enforcement proceeding. It was faced with having to determine a penalty without any insight as to the effect of the potential penalty on the financial viability of the utility. Accordingly, to resolve this proceeding, the AUC decided to compel the production of financial documents to scrutinize the financial situation of Salt Box.

Consequently, the AUC issued an order directing Salt Box and its sole director to file with the AUC all documents in their possession relating to the financial position of the utility dating from January 1, 2018, to December 31, 2023.

Further Process

The AUC established further process steps for this proceeding setting deadlines for Salt Box to provide the required information and for parties to file submissions, and established an oral hearing.

Northstone Power Corporation Application for an Order Permitting the Sharing of Records Not Available to the Public Regarding the Elmworth Generation Station, AUC Decision 28781-D01-2024

Electricity - Markets

Application

Northstone Power Corporation ("Northstone") applied pursuant to s 3 of the *Fair, Efficient and Open Competition Regulation* ("FEOCR") seeking permission to share records not available to the public regarding the 18.7-megawatt Elmworth Generation Station. Northstone applied to share records between Northstone and URICA Energy Real Time Ltd.

Decision

The AUC was satisfied that Northstone demonstrated that: (i) the sharing of records was reasonably necessary for Northstone to carry out its business; and (ii) the subject records would not be used for any purpose that did not support the fair, efficient and openly competitive operation of the Alberta electricity market. The AUC was also satisfied that the total offer control of the parties would not exceed the offer control limit of 30 percent under s 5(5) of the FEOCR. The AUC approved the application.

PGI Processing ULC Power Plant Application for Kybob #3 South Gas Plant, AUC Decision 28337-D01-2024

Gas – Facilities

Application

PGI Processing ULC ("PGI") applied for approval to construct and operate a new 33-megawatt cogeneration power plant within the fenceline of the existing Kaybob #3 South Gas Plant (the "K3 Plant") near Fox Creek, in Woodlands County (the "Project").

Decision

The AUC approved the application from PGI to construct and operate the Project.

Pertinent Issues

The AUC determined that the information requirements in *Rule 007: Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines* ("Rule 007") were met and that the participant involvement program for the Project met the requirements of *Rule 007*.

The AUC held that the noise impact assessment submitted by PGI met the requirements of *Rule 012: Noise Control* and that the predicted cumulative noise levels showed that the facilities were expected to meet the permissible sound levels during daytime and nighttime hours.

The Project did not require a federal impact assessment or an environmental evaluation because it is situated on an AER-regulated industrial site. The Project did not require a *Historical Resources Act* approval since it is located on previously disturbed brownfield space within the existing boundary of the K3 Plant.

The AUC accepted the conclusions of the air quality assessment report that air emissions will comply with *Alberta Ambient Air Quality Objectives Guidelines*. The submitted environmental protection plan concluded that the environmental effects of the Project due to pre-construction, construction and post-construction activities will be limited if PGI adheres to applicable guidelines and implements the mitigation measures identified in the report. Given its location within a developed plant site, it was not anticipated that wildlife and vegetation species of management concern, including species at risk, will be found in the vicinity of the Project. As a result, the AUC did not anticipate significant adverse effects from the Project.

The AUC found the Project to be in the public interest in accordance with s 17 of the *Alberta Utilities Commission Act*.

AESO Application for Approval of Proposed Amendments to Section 306.4 of the ISO Rules, AUC Decision 28605-D01-2024
Electricity - ISO Rules

Application

The Alberta Electric System Operator ("AESO") applied for approval of amendments to s 306.4, *Transmission Planned Outage Reporting and Coordination* of the Independent System Operator ("ISO") Rules.

Decision

The AUC approved the amendments as submitted by the AESO, effective April 1, 2024.

Pertinent Issues

When deciding whether to approve amendments proposed by the AESO, the AUC must consider whether the AESO adequately consulted on the proposed amendments, and whether the amendments meet the following factors set out in the *Electric Utilities Act*: the ISO rule is not technically deficient; the ISO rule supports the fair, efficient and openly competitive operation of the market; and ISO rule is in the public interest.

The AESO stated that, beginning in June 2023, and in several rounds, the AESO issued a letter of notice to stakeholders and received comments from stakeholders.

The AESO submitted that the proposed amendments to Section 306.4 are not technically deficient because they remove the requirement to resubmit planned outages, which is obsolete due to the new Control Room Operations Window web interface and the Application Programming Interface.

The AESO explained that the proposed amendments to Section 306.4 support the fair, efficient and openly competitive operation of the Alberta electricity market by improving clarity, which will lead to greater compliance from all market participants, who will, therefore, be able to provide more accurate information to the AESO.

The AESO submitted that the proposed amendments to Section 306.4 are in the public interest because requiring that market participants submit changes as well as cancellations in a

scheduled outage request, will improve the clarity of the required information under subsection 4(2).

The AUC was satisfied that the proposed amendments to Section 306.4 are not technically

deficient, support the fair, efficient and openly competitive operation of the market to which they relate, and are in the public interest.

CANADA ENERGY REGULATOR

Trans Mountain Pipeline ULC Trans Mountain Expansion Project Certificate of Public Convenience and Necessity OC-065 Application for Variance and Condition Relief under the Certificate Mountain 3 Horizontal Directional Drill, CER Reasons for Decision (C28265-3; A8W1D0)

Gas - Facilities

Application

Trans Mountain Pipeline ULC (“Trans Mountain”), pursuant to s 190 of the *Canadian Energy Regulator Act*, submitted an application to vary (“Application”) Schedule A of Certificate of Public Convenience and Necessity OC-065 (the “Certificate”). The Application sought to vary the diameter, wall thickness and coating of pipe for the Mountain 3 horizontal directional drilling (“HDD”) crossing for the Trans Mountain Expansion Project (“TMEP”), and associated facilities.

Trans Mountain also applied, pursuant to Condition 1 of the Certificate, for relief from the requirement to adhere to the Quality Management Plan (“QMP”) filed under Condition 9 of the Certificate with respect to the pipe and other related materials to be used for the Mountain 3 HDD crossing.

Decision

The CER granted the Application with reasons to follow, and this decision contains the CER’s reasons for the approval.

Pertinent Issues

Trans Mountain Submissions

Trans Mountain stated that during construction of the Mountain 3 HDD crossing, it encountered several complex challenges, including hard rock conditions and the presence of multiple fractured areas within the bedrock. These complications were expected to get materially worse if Trans Mountain continued with the current plan of construction. The challenges led to premature and accelerated tooling wear and high rates of water ingress.

Trans Mountain further submitted that if it proceeded with its current plan to install a nominal pipe size (“NPS”) 36 pipe, there was a significant risk that the borehole would become compromised or the HDD

will fail altogether. This would lead to significant construction delays and profit losses.

To alleviate the issue, Trans Mountain considered several alternatives. The preferred option would permit Trans Mountain to install NPS 30 pipe within the already completed 42-inch ream pass for the Mountain 3 HDD crossing, eliminating the need to continue with the previously planned 48-inch ream pass and avoiding the associated risks.

Trans Mountain submitted that this was the most prudent option in the circumstances. This option could be executed quickly and safely, with minimal technical risk and without impact to the capacity of the expanded system.

Trans Mountain committed to installing trap facilities capable of providing full in-line inspection of the pipeline from Hope Station to Burnaby Terminal.

CER Findings

The CER noted that, with respect to economics, environmental and socio-economic effects, rights and interests of Indigenous Peoples, and engagement, there were no material changes between the information contained in the previous variance application and the Application. As a result, the CER adopted the analysis and findings related to these matters in the reasons for decision issued for the previous variance.

The CER acknowledged the difficulties with rock hardness and water ingress relating to Mountain 3 HDD but found that Trans Mountain has not encountered any technical challenges that were not identified by the feasibility study and geotechnical assessments carried out for the Mountain 3 HDD.

The CER recognized the risks associated with completing the 48-inch ream pass of the Mountain 3 HDD to install the 36-inch pipeline and the choice to make a risk-based decision to stop the 48-inch ream and install the 30-inch pipeline to avoid those risks.

The CER accepted that the installation of NPS 30 pipe at the Mountain 3 HDD would not have a significant effect on the design and operation of the rest of the TMEP and that the maximum operating pressure and nominal capacity of the pipeline will not be affected. The CER, however, did not agree with portions of Trans Mountain's analysis related to pipe

stresses in the Mountain 3 HDD section and found that it may contain errors related to unsupported span lengths, boundary conditions, and reaction loadings on the spans. The CER was of the view that, in light of the errors in that analysis, it was prudent for Trans Mountain to review the analysis of pipe stresses, particularly the accuracy of unsupported lengths, boundary conditions, reaction loads on the span and acceptance criteria, and inform the CER of any resulting clarifications or corrections.

The CER noted that Trans Mountain's QMP was developed specifically for the TMEP as a pre-construction requirement and that it was assessed and accepted by the National Energy Board ("NEB") under Condition 9. The CER found that, although Trans Mountain provided additional documentation in the Application, Trans Mountain still did not demonstrate that it fully conformed to its QMP processes, specifically in the areas of vendor quality inspection activities and oversight. For the Application, the CER accepted Trans Mountain's assertions that the Engineer of Record carried out a review and approval of the documents, while the process of signing all records by Trans Mountain was carried out later or is still ongoing. To ensure

adherence to material quality standards, the CER imposed Condition 3 (pipe material testing). Condition 3 requires Trans Mountain to provide a letter signed by its Accountable Officer confirming that chemical and mechanical testing of a sufficient sample size of the procured NPS 30 pipe has been conducted and that the pipe and related components conform to TMEP pipe and component specifications.

Consequently, the CER granted Trans Mountain relief from Certificate Condition 9 for materials procured and installed to construct the variance.

The CER was satisfied that the pig trap facilities proposed by Trans Mountain in the Application will provide full in-line inspection capability for the section of pipeline between Hope Station and Burnaby Terminal. The CER imposed Condition 2 (in-line inspection) requiring Trans Mountain to confirm the mechanical completion of the trap facilities at the north and south ends of the Mountain 3 HDD segment before the completion of Line 2 line fill. Condition 2 also required Trans Mountain to file for leave to open those pig trap facilities within three weeks of confirming the mechanical completion.