



# ENERGY REGULATORY REPORT

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## ALBERTA UTILITIES COMMISSION

***ATCO Pipelines, a division of ATCO Gas and Pipelines Ltd. 2024-2026 General Rate Application Negotiated Settlement Agreement and Excluded Matters, Decision 28369-D01-2024 Gas - Rates***

### Application

ATCO Pipelines (“ATCO”) filed its general rate application (“GRA”) for 2024-2026, seeking AUC approval of the amount of revenue it requires to provide safe and reliable gas transmission service for the 2024, 2025 and 2026 test years. ATCO requested the following approvals:

- Revenue requirements of approximately \$358.62 million for 2024, \$371.37 million for 2025 and \$388.13 million for 2026;
- Compliance with the AUC directions;
- The continued use of certain deferral and reserve accounts, and the creation of the Information Technology (“IT”) Transition Temporary deferral account, and the discontinuation of the Pandemic Cost deferral account; and
- Establishing the NOVA Gas Transmission Ltd. (“NGTL”) identified growth deferral account (“Deferral Account”) and a zero-dollar placeholder for construction work in progress (“CWIP”) in rate base for the Yellowhead Mainline Project (“Yellowhead”).

### Decision

The AUC approved the negotiated settlement agreement (“NSA”) regarding the GRA and denied the matters excluded from the negotiated settlement process (“NSP”), namely the Deferral Account and CWIP treatment of Yellowhead (collectively, “Excluded Matters”). Yellowhead is a proposed 200 km pipeline expected to cost up to \$2.5 billion. As a result of the denial of the Excluded Matters, the GRA test period included 2024 and 2025 and excluded 2026. The approved revenue requirement for 2024 was \$362.852 million, and for 2025 was \$374.488 million.

### Pertinent Issues

The AUC approved ATCO’s request to enter into the NSP and explore the possibility of reaching the NSA. The AUC excluded from the NSP ATCO’s requests to establish the Deferral Account and include CWIP in rate base for Yellowhead.

ATCO and the parties who participated in the NSP reached the NSA and agreed that, if the AUC approved the Excluded Matters, the test period would be three years, and if the AUC denied the Excluded Matters, the test period would be two years.

**AUC Findings***Deferral Account*

The AUC considers the following factors when evaluating a request for a deferral account: (i) materiality of the forecast amount; (ii) uncertainty regarding accuracy and ability to forecast the amount; (iii) factors affecting the forecasts being beyond the utility's control; and (iv) whether or not the utility is typically at risk for the forecast amount. In addition, the AUC considers the symmetry factor, which requires symmetry between costs and benefits for both the company and its customers. These factors, however, are not exhaustive and meeting these factors does not necessarily mean that a deferral account will be automatically granted.

The AUC found that information concerning the Deferral Account was materially deficient and that additional details regarding the scope, timing and forecast costs of Yellowhead will be filed in a future needs application. As a result, the AUC found the request for the Deferral Account premature. The AUC also found the request for the Deferral Account inconsistent with the expected evolution of the working dynamics of the Alberta Integrated System. The onus rests with ATCO to justify its forecasts, and integration should not act as an impediment to properly scrutinize proposed capital projects that will ultimately go into rate base.

If a particular project, such as Yellowhead, was uncertain to the extent that ATCO could not justifiably include it in its forecast for the test period to allow proper testing, the AUC was not persuaded that it was symmetrical and that it was in the public interest to approve a deferral account for that project. ATCO stated that if Yellowhead were cancelled, it could recover costs related to it, such as operating and maintenance expenses, in its next GRA. As a result, the AUC found that the Deferral Account and the related uncertainty associated with the project and its costs shifted a disproportionate amount of risk onto ratepayers.

*CWIP*

The AUC found that ATCO provided a cursory level of information on its credit rating metrics concerns regarding its request for a zero-dollar placeholder for CWIP in rate base. Absent more information on the project, such as a business case, tangible annual cost forecasts, and related credit rating metric impacts, the AUC considered the information on the

record insufficient to warrant a zero-dollar placeholder for CWIP in rate base for Yellowhead.

**Negotiated Settlement**

When assessing negotiated settlements that reach a unanimous agreement, the AUC applies a test that requires consideration of three factors: (i) was the negotiation process fair, including with respect to notice and the conduct of the process itself; (ii) will the settlement result in just and reasonable rates; and (iii) are any of the settlement provisions, individually or collectively, patently against the public interest or contrary to law? In performing this assessment, the AUC reviews the individual provisions of the NSA and the NSA as a whole.

*NSP*

The NSP and NSA do not replace a full and informed review by the AUC regarding what is in the public interest. Because ATCO requested and received AUC approval to negotiate a settlement and applied for approval of the executed NSA in its entirety, the AUC assumed the NSA satisfied ATCO's interests and assessed the NSA from the ratepayers' point of view only.

The AUC was satisfied that parties had the opportunity to participate meaningfully in the NSP, that the negotiations were conducted in an open and fair manner, and that ATCO provided adequate notice to parties interested in participating in the negotiations.

*NSA*

In conducting the public interest assessment, the AUC considered each element of the NSA and the NSA as a whole. The AUC considered the public interest from the perspective of ratepayers by reviewing each of the material provisions of the NSA to determine if any of these provisions appear to be unusual, contrary to accepted regulatory practices or could result in undue rate effects, service concerns, preferences or other concerns in future rate applications. The AUC also considered whether the effect of the NSA would lead to rates, and terms and conditions of service that are just and reasonable.

Based on the assessment of the provisions of the NSA, along with the detailed analysis of the application and information request ("IR") responses, the AUC found that the NSA, taken as a whole, was not patently against the public interest or contrary to



law. The AUC also found that the NSA resulted in rates, and terms and conditions that are just and reasonable. Accordingly, the AUC approved the NSA as filed, applicable to the 2024 and 2025 test years.

The AUC also directed ATCO to provide, as a post-disposition filing, updated schedules reflecting the removal of the 2026 test year and the zero-dollar placeholders for expenditures related to Yellowhead, within 30 days of the issuance of the decision.

### **Compliance with the AUC Directions**

In its application, ATCO also responded to five directions from *Decision 25663-D01-2021*, one direction from *Decision 26443-D01-2021*, three directions from *Decision 23793-D01-2019* and one direction from *Decision 22011-D01-2017*. The AUC determined that ATCO complied with the directions and that no further action was required, reminding ATCO that it must still comply with all directions that require ATCO to provide information in future GRA filings.