



Canadian Utilities Limited

**Transfer of Deerfoot Solar Project and Barlow Solar Project from
ATCO Power (2010) Ltd. to Deerfoot Barlow Solar Limited
Partnership**

March 14, 2023

Alberta Utilities Commission

Decision 28034-D01-2023

Canadian Utilities Limited

Transfer of Deerfoot Solar Project and Barlow Solar Project from ATCO Power (2010) Ltd. to
Deerfoot Barlow Solar Limited Partnership

Proceeding 28034

March 14, 2023

Published by the:

Alberta Utilities Commission
Eau Claire Tower
1400, 600 Third Avenue S.W.
Calgary, Alberta T2P 0G5

Telephone: 310-4AUC (310-4282 in Alberta)
1-833-511-4AUC (1-833-511-4282 outside Alberta)

Email: info@auc.ab.ca

Website: www.auc.ab.ca

The Commission may, no later than 60 days from the date of this decision and without notice, correct typographical, spelling and calculation errors and other similar types of errors and post the corrected decision on its website.

Contents

1	Decision summary	1
2	Background	1
3	Commission findings	2
4	Order	4
	Appendix 1 – Proceeding participants	5
	Appendix 2 – Current and future ownership structure for the Projects	6

Canadian Utilities Limited
Transfer of Deerfoot Solar Project and Barlow Solar Project
from ATCO Power (2010) Ltd. to
Deerfoot Barlow Solar Limited Partnership

Decision 28034-D01-2023
Proceeding 28034

1 Decision summary

1. In this decision, the Alberta Utilities Commission approves an application to transfer ownership of all of the assets comprising the Deerfoot Solar Project and the Barlow Solar Project (together, the Projects) from ATCO Power (2010) Ltd. to ATCO DB Solar GP Services Ltd. and from ATCO DB Solar GP Services Ltd. to Deerfoot Barlow Solar Limited Partnership.

2 Background

2. On February 21, 2023, Canadian Utilities Limited filed an application with the Commission for approval to transfer ownership of the Projects to a newly formed Alberta limited partnership, Deerfoot Barlow Solar Limited Partnership. Deerfoot Barlow Solar Limited Partnership is proposed to be co-owned between a new wholly owned subsidiary of ATCO Power (2010) Ltd. and two Stoney Nakoda Nations: the Chiniki First Nation and the Goodstoney First Nation.¹ Canadian Utilities Limited made the application pursuant to Section 101(2)(d)(i) of the *Public Utilities Act*, and Section 26(2)(d)(i) of the *Gas Utilities Act*.

3. Canadian Utilities Limited is a designated owner of a public utility for the purposes of Section 101 of the *Public Utilities Act*. It is also a designated owner of a gas utility for the purposes of Section 26 of the *Gas Utilities Act*. Under Section 101(2)(d)(i) of the *Public Utilities Act* and Section 26(2)(d)(i) of the *Gas Utilities Act*, Commission approval is required for Canadian Utilities Limited to sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part of them, outside the ordinary course of its business.

4. The Projects are not directly held by Canadian Utilities Limited. The Projects are property that is owned by ATCO Power (2010) Ltd., a direct, wholly owned subsidiary of Canadian Utilities Limited; however, Canadian Utilities Limited made its application because the proposed transfer of ownership of the Projects from ATCO Power (2010) Ltd. to Deerfoot Barlow Solar Limited Partnership will have the effect of reducing Canadian Utilities Limited's aggregate indirect ownership interest in the Projects.

5. The change in ownership structure for the Projects will be effected through a series of steps, two of which involve transfers of the Projects requiring Commission approval.

¹ Exhibit 28034-X0001, application, paragraph 4.

6. The following summary of the steps which precede the transfer of the Projects from ATCO Power (2010) Ltd. to Deerfoot Barlow Solar Limited Partnership do not require Commission approval:²

- (a) ATCO Power (2010) Ltd. will form a wholly owned subsidiary corporation, ATCO DB Solar GP Services Ltd., which will serve as the operating general partner of Deerfoot Barlow Solar Limited Partnership;
- (b) ATCO Power (2010) Ltd., together with the Chiniki Goodstoney Solar Limited Partnership, in which the Chiniki and Goodstoney First Nations are equal partners, will form a jointly owned corporation, Deerfoot Barlow Solar GP Ltd., which will serve as the governance general partner of Deerfoot Barlow Solar Limited Partnership. ATCO Power (2010) Ltd. will hold 49 per cent of the issued and outstanding shares in Deerfoot Barlow Solar GP Ltd., while Chiniki Goodstoney Solar Limited Partnership will hold 51 per cent; and
- (c) Chiniki Goodstoney Solar Limited Partnership, ATCO DB Solar GP Services Ltd., and Deerfoot Barlow Solar GP Ltd. will form Deerfoot Barlow Solar Limited Partnership. As noted above, each of ATCO DB Solar GP Services Ltd. and Deerfoot Barlow Solar GP Ltd. will be general partners in Deerfoot Barlow Solar Limited Partnership, while Chiniki Goodstoney Solar Limited Partnership will be a limited partner.³

7. With the creation of ATCO DB Solar GP Services Ltd., Deerfoot Barlow Solar GP Ltd. and Deerfoot Barlow Solar Limited Partnership, the following steps, which require Commission approval, will be undertaken to effect the transfer of the Projects from ATCO Power (2010) Ltd. to Deerfoot Barlow Solar Limited Partnership:⁴

- (d) ATCO Power (2010) Ltd. will transfer the Projects to ATCO DB Solar GP Services Ltd.; and
- (e) ATCO DB Solar GP Services Ltd. will subsequently transfer the Projects to Deerfoot Barlow Solar Limited Partnership.⁵

8. Diagrams showing the current and future ownership structure for the Projects are set out in [Appendix 2](#) to this decision.

3 Commission findings

9. The Commission finds it is appropriate to approve Canadian Utilities Limited's application.

² Exhibit 28034-X0001, application, paragraph 6.

³ Steps (a), (b) and (c) involve the creation of new legal entities, and do not involve the transfer, disposition or merger of property by Canadian Utilities Limited or another designated entity within the Canadian Utilities Limited corporate structure.

⁴ Exhibit 28034-X0001, application, paragraph 8.

⁵ Steps (d) and (e) will hereinafter be referred to as the "Transfers."

10. Canadian Utilities Limited applied to the Commission for approval to undertake the Transfers as a disposition of its property outside the ordinary course of its business. The Commission accepts that the Transfers are dispositions outside of the ordinary course of Canadian Utilities Limited's business.

11. The Commission applies a "no-harm test" to assess whether it should approve a disposition that is outside the ordinary course of business under Section 101(2)(d) of the *Public Utilities Act* and Section 26(2)(d) of the *Gas Utilities Act*. The no-harm test requires the Commission to examine the Transfers in the context of both potential financial effects and service level effects to customers to consider whether or not the Transfers will adversely affect rates or the quantity or quality of service, among other things.⁶ Under the no-harm test, the Commission weighs the potential positive and negative impacts to determine whether the balance favours customers or at least leaves them no worse off, having regard to all of the circumstances of the case. If so, then the Commission considers that the Transfers should be approved.⁷

12. In assessing the no-harm test, the Commission expressly relies on the representations of Canadian Utilities Limited in its application.

13. The Commission finds that there will be no harm if the Transfers are approved. Specifically:

- The Transfers will not adversely affect customers of regulated ATCO Utilities (ATCO Electric Ltd. and ATCO Gas and Pipelines Ltd.).
- The Transfers will not affect Canadian Utilities Limited's credit rating or have any adverse impact on the financing costs of the regulated ATCO Utilities, the costs of the Transfers will not be allocated to the regulated ATCO Utilities and the Transfers are not expected to result in any incremental corporate cost allocations to be recovered through the rates of the regulated ATCO Utilities.
- The Transfers involve unregulated subsidiaries of Canadian Utilities Limited transacting unregulated electricity generation assets.

14. The Commission notes that shortly after the completion of the Transfers, ATCO Power (2010) Ltd. intends to submit further applications to the Commission for the transfer of the power plant approvals and connection orders associated with the Projects.

15. For the above reasons, the Commission finds that the requirements of the no-harm test have been satisfied and approves the Transfers, as filed.

⁶ Decision 20329-D01-2015: ATCO Electric Ltd., Disposition of Land and Buildings Located in Grande Prairie and Lloydminster, Proceeding 20329, September 16, 2015, paragraphs 66-70.

⁷ Decision 2000-41: TransAlta Utilities Corporation, Sale of Distribution Business, Application 2000051, File 6404-3, July 5, 2000, page 8

4 Order

16. It is hereby ordered, pursuant to Section 101(2)(d) of the *Public Utilities Act* and Section 26(2)(d) of the *Gas Utilities Act*, that:

- (1) the transfer of the Barlow Solar Project and Deerfoot Solar Project from ATCO Power (2010) Ltd. to ATCO DB Solar GP Services Ltd. is approved.
- (2) the transfer of the Barlow Solar Project and Deerfoot Solar Project from ATCO DB Solar GP Services Ltd. to Deerfoot Barlow Solar Limited Partnership is approved.

Dated on March 14, 2023.

Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Chair

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
Canadian Utilities Limited

Alberta Utilities Commission
Commission panel C. Dahl Rees, Chair
Commission staff P. Khan (Commission counsel) B. Edwards E. Davis

Appendix 2 – Current and future ownership structure for the Projects

[\(return to text\)](#)



Appendix 2 -
Current and future ownership structure
(consists of 2 pages)

APPENDIX A

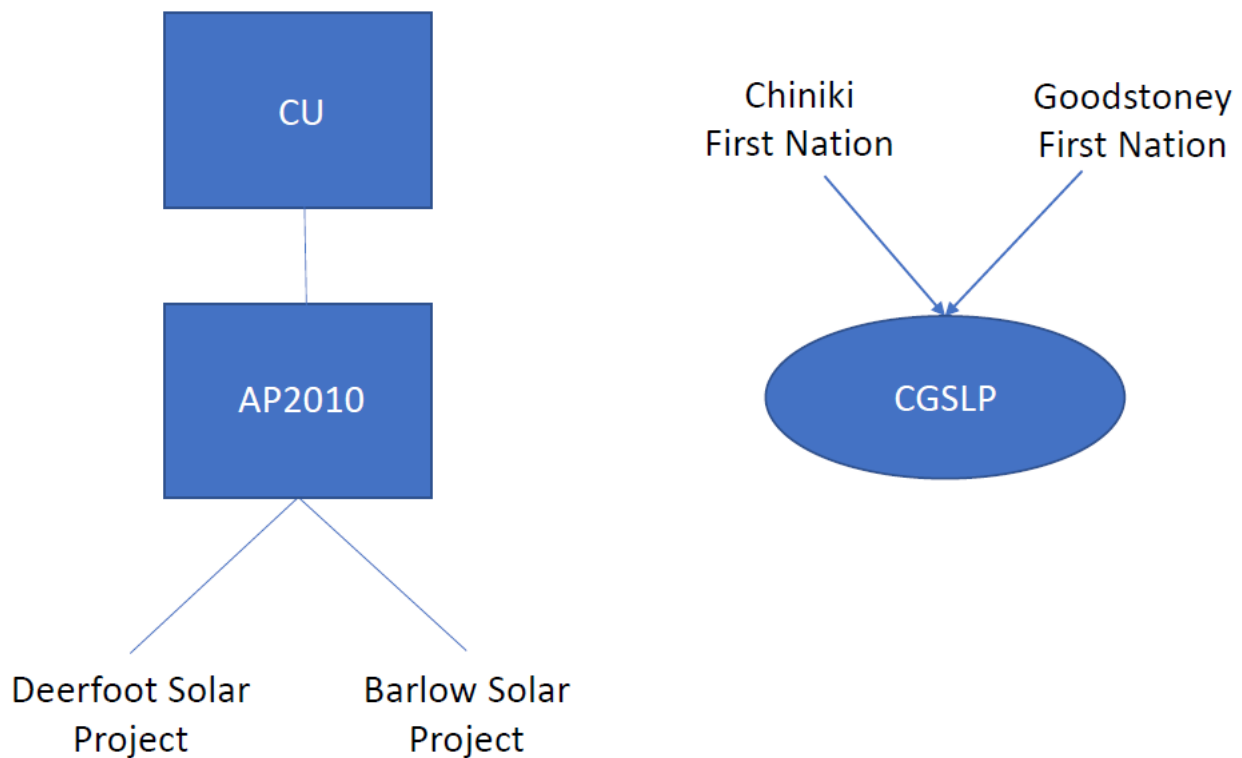
SCHEMATIC RE: OWNERSHIP STRUCTURE FOR THE DEERFOOT AND BARLOW SOLAR PROJECTS

LEGEND

CU	-	Canadian Utilities Limited
AP2010	-	ATCO Power (2010) Ltd.
CGSLP	-	Chiniki Goodstone Solar Limited Partnership
ATCO DBCo	-	ATCO DB Solar GP Services Ltd.
DBSCo	-	Deerfoot Barlow Solar GP Ltd.
DBSLP	-	Deerfoot Barlow Solar Limited Partnership

BACKGROUND AND OBJECTIVE

The current ownership structure of the Deerfoot and Barlow Solar Projects is depicted below:



The ownership structure for the Deerfoot and Barlow Solar Projects, following the completion of the Transfers on March 21, 2023 will be as follows:

