Alberta Utilities Commission

ATCO Electric Ltd.

2023-2025 General Tariff Application and Negotiated Settlement Agreement

May 5, 2023

Alberta Utilities Commission
Decision 27062-D01-2023
ATCO Electric. Ltd.
2023-2025 General Tariff Application and Negotiated Settlement Agreement
Proceeding 27062

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ATCO Electric Ltd.
2023-2025 General Tariff Application and Negotiated Settlement Agreement — **Decision 27062-D01-2023**
Proceeding 27062

1 Decision summary

1. This decision provides the Alberta Utilities Commission's determinations regarding ATCO Electric Ltd.'s (ATCO Electric or AET) application for approval of a Negotiated Settlement Agreement (NSA) regarding its 2023-2025 general tariff application (GTA). It also provides the Commission's determinations on two issues that were excluded from the NSA by the Commission and a further issue that was initially part of the negotiated settlement process (NSP), but in respect of which parties were unable to reach agreement.

2. The Commission finds that the NSA between ATCO Electric and interveners was negotiated under a fair process, is in the public interest and results in just and reasonable rates. Therefore, the Commission approves the NSA application. Of the three issues that were not part of the NSA, the Commission has:

(i) Determined that the vegetation management reserve will apply to ATCO Electric's 2023 vegetation management costs only and approves the elimination of the vegetation management reserve beginning in 2024.

(ii) Approved ATCO Electric's amendments to the Variable Pay Program (VPP) reserve.

(iii) Denied ATCO Electric's request to collect $7.5 million in depreciation related to the Jasper Palisades amounts that were incorrectly accounted for, and determined that the correct undepreciated balance in relation to the Jasper Palisades switchgear assets should be $0.

3. The Commission requires ATCO Electric, in its compliance filing to this decision and on a go-forward basis, to continue to present its tax schedules identifying permanent and temporary differences, including presenting the equity portion of allowance for funds used during construction (AFUDC) as a permanent difference.

4. The Commission directs ATCO Electric to provide construction work in progress (CWIP) continuity schedules as requested by the Commission in its letter of July 13, 2022,[1] and in Section 6.1 below, in future GTAs.

5. ATCO Electric is to file its compliance filing to this decision no later than June 12, 2023. As detailed in Decision 26573-D01-2023,[2] ATCO Electric is to incorporate the findings,

[1] Exhibit 27062-X0242, Further process, paragraphs 12-14.
[2] Decision 26573-D01-2023: ATCO Electric Ltd., Disposal of 2018-2021 Transmission Deferral Accounts and Annual Filing for Adjustment Balances, Proceeding 26573, April 26, 2023.

conclusions and directions of the Commission in that decision together with its compliance filing addressing the Commission's directions in this decision.

2 Introduction and background

6. ATCO Electric is a transmission facility owner that provides regulated electric transmission service in Alberta. ATCO Electric recovers the costs of providing electric transmission service through its transmission tariff, which must be approved by the Commission. Once approved, ATCO Electric recovers its tariff amounts from Alberta ratepayers through the Alberta Electric System Operator (AESO), which collects the costs from the ratepayers' respective distribution facility owners, and from ratepayers directly connected to the transmission system.

7. ATCO Electric made the following applications seeking various approvals from the Commission in each of them:

(i) ATCO Electric's 2023, 2024 and 2025 GTA; and

(ii) the 2021 settlement of deferral accounts and adjustment balances.

8. In its letter,[3] dated July 13, 2022, the Commission:

(i) Determined that additional information was required in order for the Commission to consider the application complete, which included providing missing business cases, missing IBM/Kyndryl information technology (IT) Master Service Agreement and IBM/Kyndryl 2021 and 2022 IT cost information and confirmation of accounting policy updates.

(ii) Required supplementary information that included the CWIP continuity schedules for capital programs.

(iii) Denied ATCO Electric's request to update inflation parameters and isolated generation fuel forecast costs with its rebuttal evidence; and

(iv) Directed ATCO Electric to move its 2021 settlement of deferral accounts and adjustment balances from the 2023-2025 GTA to Proceeding 26573,[4] where the Commission was considering similar issues as part of ATCO Electric's 2018-2020 deferral application.

9. On July 28, 2022 ATCO Electric filed a motion asking the Commission to reconsider its ruling denying its request to update its proposed inflation factors and fuel prices when rebuttal evidence is filed. ATCO Electric admitted in its motion that it believed its originally filed application would not result in just and reasonable rates.[5] The Commission exercised its discretion to reconsider its July 13, 2022, ruling given the new information provided in ATCO Electric's motion. ATCO Electric was directed to submit its updated application, including

3 Exhibit 27062-X0242.
4 Proceeding 26573, ATCO Electric Transmission, Application for Disposal of 2018-2020 Transmission Deferral Accounts and Annual Filing for Adjustment Balance.
5 Exhibit 27062-X0243, paragraph 6.

revised inflation and fuel prices, no later than September 5, 2022. The Commission also set out the issues list, provided its approval for ATCO Electric and interveners to enter into an NSP on all matters with the exception of two issues,[6] and established the proceeding process schedule.

10. In its ruling, dated October 21, 2022, the Commission granted ATCO Electric's request for additional time to respond to information requests (IRs) and revised the proceeding schedule.[7] On December 21, 2022, ATCO Electric filed a letter[8] with the Commission advising that it had reached a NSA in principle with the intervening parties.[9] The Commission approved ATCO Electric's proposed timeline for the remainder of the proceeding process that concluded with oral argument and reply argument.[10] The Commission considers the close of record to be February 7, 2023, the date of oral reply argument.

11. The Commission has reviewed the entire record in coming to this decision; lack of reference to a matter addressed in evidence or argument does not mean that it was not considered.

12. This decision addresses the contentious cost items forecast in the application, and any matters that the Commission has otherwise determined are required to be specifically addressed. If a matter is not specifically addressed in this decision, it is because the Commission finds the applied-for costs associated with the matter to be reasonable and the applicant's request is therefore approved as filed. All directions in this decision are subject to all findings and other directions made elsewhere in this decision.

13. The Commission directs ATCO Electric to submit a compliance filing that reflects the findings, conclusions and directions of the Commission in this decision on or before June 12, 2023.

3 Negotiated settlement

3.1 Requirements governing negotiated settlements

14. Section 6 of Rule 018: *Rules on Negotiated Settlements* under Section 132 of the *Electric Utilities Act*[11] sets out requirements for the contents of a negotiated settlement application, and places the onus on the applicant to provide sufficient evidence to support the application and to enable the Commission to understand and assess the agreement. Section 7 of Rule 018 includes requirements for the Commission's assessment of the agreement. The Commission structured the settlement process in this proceeding in accordance with Rule 018.

15. The Commission has previously considered negotiated settlements in rate cases where there has been unanimous agreement. The Commission has consistently indicated that the test requires consideration of three questions: (i) was the negotiation process fair, including with

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[6] Those two issues were removal of the vegetation management reserve and modifications to the VPP reserve.
[7] Exhibit 27062-X0328, AUC letter - Ruling on ATCO Electric's request for time extension to file responses to information requests.
[8] Exhibit 27062-X0486, Letter to AUC re NSA - December 21 2022.
[9] Intervening parties included: Consumers' Coalition of Alberta, the Office of the Utilities Consumer Advocate, The City of Calgary, the Industrial Power Consumers Association of Alberta and the City of Grande Prairie
[10] Exhibit 27062-X0487, AUC letter - Ruling and process schedule update – negotiated settlement process.
[11] Section 132 of the *Electric Utilities Act* requires that the Commission recognize or establish rules, practices and procedures to facilitate the negotiated settlement of matters arising under the act.

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?[12] Performing this assessment requires the Commission to review both the individual provisions of the NSA and the NSA as a whole.

16. In considering these requirements, the Commission has taken into account the direction of the Alberta Court of Appeal as set out in *ATCO Electric Limited v Alberta (Energy and Utilities Board)*[13] (ATCO Electric decision). In that decision, the court found that the ultimate responsibility for approving negotiated settlements resides with what is now the AUC. The Commission proceeds on that basis herein, as it has in the past, with a view to ensuring that the NSA will result in just and reasonable rates, that none of the NSA provisions, individually or collectively, are patently against the public interest or contrary to law, and that the process used to arrive at the NSA was fair.

17. In assessing a negotiated settlement, the Commission is aware that, while one or more of the interested parties to a settlement may represent certain stakeholders, none will represent all stakeholders. Further, as noted by the court at paragraph 138 of the ATCO Electric decision, "… even a broad range of Interveners will not necessarily translate into a wide spectrum of positions since parties may make trade-offs which leave other issues unresolved, unaddressed or compromised."[14] Consequently, the NSP and NSA do not replace a full and informed review by the Commission as to what is in the overall public interest. Because ATCO Electric had requested and received Commission approval to negotiate a settlement; subsequently negotiated with parties representing ratepayers; executed the NSA; and then applied to the Commission for approval of the NSA in its entirety, the Commission has proceeded on the basis that the NSA satisfies ATCO Electric's interests and has only assessed the NSA from the point of view of ratepayers. This is consistent with the ATCO Electric decision.[15]

18. Given the statutory requirements, Rule 018 and the relevant case law, the Commission has considered all of the following factors in making its determination on whether the NSA should be accepted or rejected in its entirety:

- **Review of the NSP:** Was the NSP procedurally fair, both with respect to adequate notice having been served and with respect to the conduct of the negotiation process itself?

12 See, for example, Decision 21149-D01-2016 (Errata): ENMAX Power Corporation, Distribution 2015-2017 Performance-Based Regulation – Negotiated Settlement Application and Interim X Factor, Proceeding 21149, October 3, 2016, paragraph 29; Decision 25726-D01-2021: ENMAX Power Corporation, 2021-2022 General Tariff Application Negotiated Settlement Agreement and Excluded Matters, Proceeding 25726, June 16, 2021, paragraph 23; Decision 23966-D01-2020 (Corrigenda): ENMAX Power Corporation, 2018-2020 General Tariff Application Negotiated Settlement Agreement and Excluded Matters, Proceeding 23966, July 30, 2020; and Decision 26207-D01-2021: Direct Energy Regulated Services, 2020-2022 Default Rate Tariff and Regulated Rate Tariff – Negotiated Settlement Agreement, Proceeding 26207, June 4, 2021, paragraph 18.

13 *ATCO Electric Limited v Alberta (Energy and Utilities Board)*, 2004 ABCA 215.

14 ATCO Electric decision, paragraph 138.

15 ATCO Electric decision, paragraph 146.

- **Review of the NSA**
  - Does the settlement result in rates, and terms and conditions that are just and reasonable?
  - Is the settlement patently against the public interest or contrary to law?

19. The Commission's findings on the NSP and on the provisions of the NSA are discussed below. The Commission notes that while parties were permitted to negotiate the issue of ATCO Electric's proposed treatment of the one-time depreciation adjustment for the Jasper Palisades isolated generation plant, they did not reach a settlement on this matter. ATCO Electric's proposed treatment of the one-time depreciation adjustment for the Jasper Palisades isolated generation plant and the Commission excluded matters[16] are therefore addressed in Section 4.

3.2 Review of the NSP

20. The first factor that the Commission considers is whether the NSP that resulted in the NSA was fair.

21. Starting with the conduct of the negotiation process, ATCO Electric submitted that the settlement negotiations were fair, and that all parties were well-informed and able to meaningfully participate.[17] The CCA, the UCA, The City of Calgary, the City of Grande Prairie and the Industrial Power Consumers Association of Alberta also filed correspondence with the Commission attesting to the fair and open manner in which the negotiation was conducted.[18] The Commission notes that all participants in the negotiations are sophisticated parties, and considers that they represent a reasonable cross-section of ratepayers. The Commission is satisfied that parties had the opportunity to participate meaningfully, and that the negotiations were conducted in an open and fair manner.

22. Turning to the issue of adequate notice, Section 3 of Rule 018 deals with the provision of notice by a utility to parties who may be interested in participating in negotiations. Under Section 3, the Commission requires a statement in a settlement agreement confirming that proper notice was provided by the applicant to all interested parties. ATCO Electric submitted that adequate notice was provided to parties, noting that the Commission's approval of the NSP was posted on the public record of the proceeding, and that the NSA includes a statement confirming that ATCO Electric provided proper notice to all interested parties.[19] The Commission finds that ATCO Electric provided adequate notice to parties.

23. Finally, Section 6(1) of Rule 018 provides that, when an agreement is reached on all or some of the issues, the text of the agreement, including a representation that no party has withheld relevant information, must be circulated to all parties to the agreement. ATCO Electric

16 Exhibit 27062-X0273: In its letter dated August 5, 2022, the Commission gave its approval for ATCO Electric and interveners to enter into an NSP on all matters with the exception of the following two items: (i) Removal of the vegetation management reserve; and (ii) modifications to the variable pay program reserve
17 Exhibit 27062-X0495.01, paragraphs 47-50.
18 Exhibits 27062-X0489, 27062-X0490, 27062-X0491, 27062-X0493 and 27062-X0494.
19 Exhibit 27062-X0495.01, paragraphs 19-21 and Section 8(b) on PDF page 27.

addressed this requirement under Section 8 of the NSA.[20] The Commission finds that the requirements of Section 6(1) of Rule 018 have been met with respect to relevant information.

24. In view of the above and having considered the parties' submissions with respect to the NSP, the Commission is satisfied that the NSP was fair and that ATCO Electric has complied with the requirements set out in sections 3, 6(1) and 6(3) of Rule 018.

3.3 Review of the NSA

25. The second factor the Commission must consider is whether the NSA is in the public interest, including whether it will result in just and reasonable rates, Section 8(1) of Rule 018. The Commission is also guided by the *Electric Utilities Act* and Rule 018 and, in particular, Section 8(2) of Rule 018, which states that the Commission must intervene if it determines that a unanimous settlement agreement is patently against the public interest or contrary to law.

26. In conducting the public interest assessment, the Commission considered each individual element of the NSA and the NSA as a whole. As to what constitutes the public interest when assessing the attributes and merits of an NSA, the Commission followed the guidance provided by the Alberta Court of Appeal in the ATCO Electric decision discussed above. That is, it considered the public interest from the perspective of ratepayers. In arriving at its findings, the Commission reviewed each of the material provisions of the NSA to determine if any of these provisions appears 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 Commission has also considered whether the effect of the NSA would lead to rates and terms and conditions of service that are just and reasonable.

27. ATCO Electric submitted that the NSA results in just and reasonable tariffs for 2023, 2024 and 2025, is in the public interest and is not contrary to law.[21]

28. ATCO Electric filed a summary of the terms of the NSA for ATCO Electric's 2023-2025 GTA, reproduced in Table 1 below. All adjustments to the revenue requirement listed in Table 1 are in addition to the errors and omissions updates that were included in response to a Commission IR.[22] In total, the adjustments resulting from the NSA amount to a $113.8 million[23] reduction to ATCO Electric's 2023-2025 revenue requirements.

Table 1. Impact to revenue requirement of agreed adjustments

	2023	2024	2025
	($ million)		
O&M [operating and maintenance] Negotiated Items			
Diesel Fuel Volume Reduction	(0.3)	(0.3)	(0.3)
Vacancy Rate	(0.5)	(0.6)	(0.7)
Inflation - In/Out Scope, Contractor and Other	(1.0)	(1.5)	(1.8)
USA 560 - Supervision and Engineering	(0.1)	(0.1)	(0.1)
USA 561 - Control Centre Operations	(0.2)	(0.2)	(0.2)

20 Exhibit 27062-X0495.01, PDF page 27.
21 Exhibit 27062-X0495.01, paragraph 59.
22 AET-AUC-2022SEP21-130.
23 = $34.5 million + $38.2 million + $41.1 million.

	2023	2024	2025
	($ million)		
USA 562 - Station Equipment Expenses	(0.4)	(0.5)	(0.6)
Insurance Premiums	(0.3)	(0.2)	(0.2)
Variable Pay Program	(0.6)	(0.7)	(0.8)
Shared Services FTE Reduction	(0.2)	(0.2)	(0.1)
IT Transition Costs & Reduction of IT Costs per Decision 26616-D01-2022	(0.5)	(4.6)	(1.5)
General O&M Reduction	(0.3)	(0.3)	(0.3)
Total O&M Negotiated Items	**(4.3)**	**(9.0)**	**(6.5)**
Capital Negotiated Items			
IT Capital – Reduction to Opening Rate Base	(1.1)	(1.1)	(1.0)
Removal of DA Capital (CETO/PENVT)	0.0	0.2	(6.7)
Global TCM 7.5% Reduction	(0.2)	(1.2)	(2.0)
One-time TCM Reduction	(0.0)	(0.2)	(0.2)
Return on Increased Rate Base due to FIT Reserve Refund	0.6	2.0	3.3
Increase to Income Tax Expense due to Increase to Return on Rate Base	0.1	0.3	0.5
Total Capital Negotiated Items	**(0.5)**	**0.0**	**(5.9)**
Future Income Tax (FIT) Reserve Refund	(22.9)	(22.5)	(22.1)
Decrease to Income Tax Expense due to FIT Reserve Refund	(6.8)	(6.7)	(6.6)
Total Negotiated Reduction	**(34.5)**	**(38.2)**	**(41.1)**

Source: Exhibit 27062-X0495.01, Table 1, PDF page 11.

29. Parties to the NSA also agreed to implement two new deferral accounts in the test period, and to extend ATCO Electric's existing deferral account for statutory tax rates to include changes to income tax legislation or policy that relate to the ability to claim accelerated capital cost allowance. The NSA also includes commitments made by ATCO Electric to provide certain information in its next GTA. These commitments are included in Section 5 of the NSA, found in Appendix 4.

30. The NSA represents a unanimous agreement reached as a result of a successful negotiation. Such negotiations and the resultant NSA typically reflect a number of compromises of different interests and positions of the parties. The signatories to the NSA in this case, with the exception of the City of Grande Prairie, have historically participated in the testing of ATCO Electric’s GTAs and represent a broad cross-section of Alberta ratepayers. The involvement of sophisticated participants representing a number of different constituencies supports a finding that the NSA is in the public interest.

31. Having reviewed the individual provisions of the NSA and considered the NSA as a whole as described above, along with the detailed analysis of the application and IR responses, the Commission finds that the NSA, taken as a whole, is not patently against the public interest or contrary to law, and finds that the NSA results in rates and terms and conditions that are just

and reasonable, as required by Section 8 of Rule 018. Accordingly, the Commission approves the NSA as filed, and attached as Appendix 4 to this decision.

4 Excluded matters

32. In its August 5, 2022, letter, the Commission gave its approval for ATCO Electric and interveners to enter into an NSP on all matters with the exception of the following two items: (i) removal of the Vegetation Management reserve; and (ii) modifications to the Variable Pay Program reserve.[24]

33. ATCO Electric subsequently advised, as part of its NSA submission, that parties were unable to agree on the treatment of the $7.5 million undepreciated balance for the Jasper Palisades isolated generation plant. As a result, the Commission must likewise separately determine this issue (along with the other two formally excluded matters).[25]

34. In the following sections, the Commission provides its findings with respect to these three matters.

4.1 Vegetation management reserve

Why is ATCO Electric asking the Commission to remove the vegetation management reserve account?

35. ATCO Electric requested that the vegetation management reserve be discontinued because the reasons it was originally created no longer apply.[26] In particular, ATCO Electric indicated that the variances between forecast expenditures and actual expenditures that were once a concern to the Commission have diminished to the point where they are no longer material. ATCO Electric explained that it has diversified its contractor resources and converted its vegetation management program from mechanical removal to predominantly herbicide treatment, resulting in smaller and more predictable vegetation treatment volumes.[27]

Why was the vegetation management reserve established?

36. In Decision 20272-D01-2016,[28] the Commission expressed concern with the historical variances between forecast and actual vegetation management costs. The Commission found that a significant amount of ATCO Electric's 2015 actual vegetation management costs and its 2016 forecast costs had been deferred from prior years.[29] ATCO Electric attributed its inability to complete the vegetation management work from prior years to the unavailability of contractors and weather related difficulties.[30] As a result, the Commission determined that electricity ratepayers should not bear a disproportionate share of the risk that ATCO Electric may be unable to complete its forecast vegetation management work and therefore retain, for the benefit of its

24 Exhibit 27062-X0273, AUC letter - Ruling on ATCO Electric motion to update application for inflation and fuel, issues list, negotiated settlement and process schedule, PDF pages 5-6.
25 Exhibit 27062-X0273, AUC letter - Ruling on ATCO Electric motion to update application for inflation and fuel, issues list, negotiated settlement and process schedule, paragraph 27.
26 Exhibit 27062-X0014.02, PDF page 17.
27 Transcript, Volume 1, page 17, lines 8-25.
28 Decision 20272-D01-2016: ATCO Electric Ltd. 2015-2017 Transmission General Tariff Application, Proceeding 20272, August 22, 2016.
29 Decision 20272-D01-2016, paragraphs 256-259.
30 Decision 20272-D01-2016, paragraph 260.

shareholders, revenues that were collected from ratepayers for forecast costs of vegetation management that were not spent.

The Commission has previously ruled on ATCO Electric requests to remove its vegetation management reserve account

37. ATCO Electric has requested the removal of the vegetation management reserve in each of its tariff applications following the Commission's direction in Decision 20272-D01-2016.

38. In Decision 22742-D01-2019,[31] the Commission denied ATCO Electric's request to remove the vegetation management reserve account. In that decision, the Commission found that there was merit in maintaining the reserve account, as it supported stability and aided ATCO Electric in managing its forecast costs.[32]

39. In Decision 24964-D02-2021,[33] the Commission again denied ATCO Electric's request to remove the vegetation management reserve account. While the Commission acknowledged ATCO Electric's improved forecast accuracy and a trend of cost reductions, it denied ATCO Electric's request for the following reason:[34]

> 196. However, the Commission finds that these improved costs do not outweigh the fact that the execution of ATCO Electric's Vegetation Management Program remains, to a large degree, unpredictable and subject to forecast risk. As acknowledged by ATCO Electric, weather conditions and contractor availability are factors that can influence the success of ATCO Electric's Vegetation Management Program.
>
> > Projected treatment volumes are based on ideal weather conditions and contractor availability. Actual treatment volumes may be different than projected volumes due to abnormally warm winters that increase the cost and reduce the productivity associated with mulching operations, or abnormally wet or windy summers that reduce the window for effective herbicide application.[173]
>
> [173] Exhibit 24964-X0001.03, application update, paragraph 226, PDF page 189.

Is there sufficient support to justify removing the vegetation management reserve in the current proceeding?

40. In an IR from the Commission, ATCO Electric was asked to provide detailed vegetation management information by line number and substation that included the year work was deferred from (if applicable), removal method, volume of work performed and cost information.

[31] Decision 22742-D01-2019: ATCO Electric Ltd. 2018-2019 Transmission General Tariff Application, Proceeding 22742, July 4, 2019, paragraphs 209-211.
[32] Decision 22742-D01-2019: paragraph 211
[33] Decision 24964-D02-2021: ATCO Electric Ltd. 2020-2022 Transmission General Tariff Application, Proceeding 24964, March 19, 2021, paragraphs 195-197.
[34] Decision 24964-D02-2021, paragraph 196.

41. As part of its response to the Commission's IR,[35] ATCO Electric stated the following:

> The information by line does not include any "Year work deferred from" information, as AET no longer defers vegetation work on lines. Lines are patrolled every three to four-years and assessed for vegetation risk. AET focuses its vegetation management activities on a risk-based approach. Work is done, as required, based on AET's risk assessment and timing of next planned patrol/program.[36]

42. While ATCO Electric explained that its lines are patrolled every three to four years, it did not indicate when the last patrol was done and what test period years' costs were forecast based on its last line patrol and risk assessment. The Commission therefore cannot ascertain whether the vegetation management forecasts in the test periods currently under consideration were all the subject of a risk-based assessment conducted following line patrols.

43. The Commission has reviewed the proportion of the actual costs and volumes of vegetation management work completed, to the approved forecast costs and volumes of work in past GTAs.

44. Based on the information provided by ATCO Electric in its IR response, it has spent almost 94 per cent (on average) of its approved forecast for line clearing, and completed 90 per cent of the work volume (on average) approved in its last GTA.

45. The Commission observes that ATCO Electric, in total, has managed its vegetation management spending to be in line with its approved forecast costs. It has also completed the volume of work it had forecast over the prior GTA period. The 2023 to 2025 test period forecast volume of work is less than in prior GTAs, which, in the Commission's view, reduces the risk that ATCO Electric will be unable to complete it. Given that the evidence demonstrates that ATCO Electric's forecasts have been more closely aligned with its actual vegetation management, the Commission finds that it is reasonable to transition away from the vegetation management reserve over the 2023-2025 test period as directed below.

46. The Commission directs ATCO Electric to maintain the reserve account treatment for 2023, but approves the elimination of the vegetation management reserve beginning in 2024. This transition period will permit the Commission to monitor the vegetation management program to ensure continued alignment of forecast and actual costs and work volumes at the time of the next GTA. For all test period years in the current and next GTA, ATCO Electric is directed to provide the same information that it filed in response to 27062-X0416, updated for the appropriate years. Should significant variances reoccur in the costs and volumes for ATCO Electric's vegetation management program, the Commission may reinstate the past reserve treatment.

35 Exhibit 27062-X0330.02, AET Responses to AUC IRs, AET-AUC-2022SEP21-114, PDF pages 621-625; and exhibits 27062-X0416, AET-AUC-2022SEP21-114 Attachment 1, and 27062-X0417, AET-AUC-2022SEP21-114 Attachment 2.

36 Exhibit 27062-X0330.02, AET Responses to AUC IRs, AET-AUC-2022SEP21-114, PDF page 622.

4.2 Variable Pay Program reserve

ATCO Electric's requested changes to the VPP reserve account

47. ATCO Electric requested two changes to its VPP reserve mechanics. In particular, it sought to:

(i) Exclude direct assigned capital VPP from the VPP reserve account; and

(ii) Include the revenue requirement amount related to the portion of capitalized VPP amounts in the reserve account, rather than the total amount of the non-direct assigned capital VPP forecast costs.

48. ATCO Electric explained that in Decision 24964-D02-2021, it was directed to manage the VPP reserve account by disaggregating O&M, direct assigned, and non-direct assigned capital VPP amounts effective January 1, 2020, and to prepare the continuity Schedule of Reserve for VPP on a disaggregated basis. As a result of that direction, ATCO Electric separately examined the mechanics of the O&M VPP, direct assigned capital VPP and non-direct assigned VPP components.[37]

49. In its application, ATCO Electric proposed to exclude direct assigned capital VPP from the VPP reserve account because differences between forecast and actual direct assigned capital amounts are already trued up through the settlement of the direct assigned capital deferral account.

50. ATCO Electric also submitted that the amount to include in the non-direct assigned VPP reserve account should never exceed the revenue requirement amount actually collected (being an amount equal to non-direct assigned VPP amounts capitalized). ATCO Electric argued that the revenue requirement impact is the appropriate amount to include in the reserve as it is the amount which ATCO Electric actually collects as a result of having the forecast VPP included in its rate base.

Why was the variable pay program reserve established?

51. In Decision 2013-358,[38] the Commission explained that deferral account treatment had originally been applied to VPP costs[39] because it was a new program and, absent a deferral account, the utility might be incented to keep, for the benefit of shareholders, funds collected from ratepayers to support the utility's recruitment and retention efforts. In Decision 2013-358, the Commission determined that deferral treatment was no longer required because ATCO Electric had established a history of paying the VPP amounts.

52. In Proceeding 27062, the Commission observed that ATCO Electric had not fully paid out VPP amounts in 2013 and 2014, and planned to withhold all VPP amounts initially forecast to be paid in 2015. It was unclear to the Commission, at that time, whether ATCO Electric would pay VPP to its employees in 2016 and 2017.

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37 Exhibit 27062-X0014.02, paragraphs 679-680.

38 Decision 2013-358: ATCO Electric Ltd., 2013-2014 Transmission General Tariff Application, Application 1608610, Proceeding 1989, September 24, 2013.

39 The deferral account for ATCO Electric's VPP was first approved in EUB Decision 2006-024: ATCO Electric Ltd. General Tariff Application, Application 1399997, March 17, 2006, PDF page 80.

53. In Decision 20272-D01-2016, the Commission directed ATCO Electric to establish a reserve account for its ratepayer funded VPP. The reserve account mechanics were structured such that ATCO Electric could not recover costs in excess of its approved VPP forecast amounts for a given year, nor carry over any unused VPP funds into a future test period. The Commission-approved, but unused, VPP amounts in any given GTA test period would be added to the VPP reserve account for the next GTA test period. As detailed in Decision 2013-358,[40] the VPP reserve was designed to address ATCO Electric's need to fund VPP in support of its recruitment, retention and operational performance goals, while ensuring that any incentive to withhold VPP amounts to increase the utility's retained earnings was removed.

54. The mechanics of the VPP reserve have evolved since its inception to ensure that the reserve continues to meet these objectives.

55. In reply argument, the CCA stated that it did not oppose ATCO Electric's proposed modifications to the VPP reserve or how the components were calculated.[41]

Are ATCO Electric's proposed changes to the VPP mechanics reasonable?

56. For the reasons set out below, the Commission finds that ATCO Electric's proposed changes to the mechanics of the VPP reserve are reasonable and approves them as filed.

57. The Commission agrees with ATCO Electric that as a result of disaggregating the three components of the VPP,[42] and given that variances between actual and approved capitalized expenditures are settled through the direct assigned capital deferral account, there is no need to track these costs through the VPP reserve. The Commission also acknowledges ATCO Electric's reply argument, in which it stated that "in future direct-assign capital deferral accounts, AET will continue to report on VPP paid and remove any amounts in excess of approved VPP amounts."[43]

58. The Commission also accepts ATCO Electric's proposed treatment of non-direct assigned capital VPP. A reserve account is used to fund specific expenses that are paid out infrequently or at unpredictable intervals, and are funded in advance through rates. Now that the VPP reserve account has been disaggregated, the revenue requirement amount related to the portion of capitalized VPP amounts in the reserve account, rather than the total amount of the non-direct assigned capital VPP forecast costs, is the proper amount that should be reflected in the VPP reserve account. This is because these amounts reflect what ATCO Electric has collected from ratepayers over each of the test periods towards the funding of ATCO Electric's non-direct assigned VPP, prior to ATCO Electric actually distributing the VPP payout to its employees.

[40] Decision 2013-358.
[41] Transcript, Volume 2, page 134, lines 5-18.
[42] The three components being O&M, non-direct assigned capital and direct assigned capital.
[43] Transcript, Volume 2, page 143, lines 1-9.

4.3 Proposed one-time adjustment to depreciation expense for the Jasper Palisades isolated generation plant

59. ATCO Electric proposed a one-time $7.5 million adjustment to its 2023 depreciation expense to correct an accounting error it made in recording certain Jasper Palisades switchgear assets (that are no longer in service)[44] to an incorrect depreciable asset account.

60. The Commission denies ATCO Electric's proposed adjustment to its 2023 depreciation expense. As detailed in the reasons that follow, ATCO Electric has failed to persuade the Commission that it is just and reasonable, in the circumstances of this case, for: (i) ATCO Electric to recover the undepreciated capital amounts associated with the Jasper Palisades switchgear assets which arose as a result of its historical accounting errors; and (ii) current Alberta electricity ratepayers to bear the financial burden of ATCO Electric's accounting errors in relation to the Jasper Palisades switchgear assets.

Background – Supply of electricity to Jasper

61. Prior to 2021, the Municipality of Jasper, Jasper National Park and the surrounding area were not connected to the Alberta Interconnected Electric System (AIES). Since 1975, these areas received electricity service from natural gas and diesel-powered generation produced by the Jasper Palisades Power Plant, which ATCO Electric owned and operated.

62. The Jasper Palisades Power Plant is an isolated generating unit under the *Isolated Generating Unit and Customer Choice Regulation* (*Iso Gen Regulation*).

63. In 2018, the Commission approved an application filed by ATCO Electric and AltaLink to construct and operate a transmission line, the Jasper Transmission Interconnection, that would connect the Municipality of Jasper, Jasper National Park and the surrounding area to the AIES.[45] The Jasper Palisades Power Plant would no longer be required once the Jasper Transmission Interconnection was placed into service.

64. In 2019,[46] the Commission authorized ATCO Electric to discontinue operation of the Jasper Palisades Power Plant, and to decommission and salvage it.

44 The Jasper Palisades Power Plant comprises several isolated generation units.

45 Decision 22125-D01-2018. Jasper Interconnection Project, Alberta Electric System Operator, Needs Identification Document, Application 22125-A001; AltaLink Management Ltd., Facility Applications, Applications 22125-A002 and 22125-A003; ATCO Electric Ltd., Facility Applications, Applications 22125-A004 to 22125-A006, May 4, 2018.

46 Decision 24183-D03-2019: ATCO Electric Ltd., Decommission and Salvage of Palisades Power Plant, Proceeding 24183, Application 24183-A001, January 21, 2019.

Background – depreciation

65. At the time of ATCO Electric's last depreciation study, it anticipated that 2020 would be the year of final retirement for all of the assets comprising the Jasper Palisades Power Plant.[47] [48] [49] Accordingly, commencing in 2021, ATCO Electric set a depreciation rate for all Jasper Palisades Power Plant asset accounts to zero per cent, notwithstanding that ATCO Electric intended to continue to record an annual amortization of reserve differences true up amount over the 2023-2025 test period. ATCO Electric indicated that it would calculate an updated amortization of reserve differences true-up amount for the Jasper Palisades Power Plant asset accounts at the time of its next depreciation study. ATCO Electric anticipated that it would file its next depreciation study in its next GTA (commencing in 2026).[50]

66. The currently approved annual amortization of reserve differences true-up for the Jasper Palisades Power Plant assets, which was calculated as of December 31, 2018,[51] consists of a refund of "life" depreciation expense of $2.05 million and collection of "net salvage" depreciation expense of $3.37 million; or a net $1.32 million increase to depreciation expense in each of 2023-2025.

67. For greater clarity, the recovery of the net $1.32 million in each of the test years is part of the Commission-approved NSA. These amounts will be recovered through the amortization of reserve differences mechanism, do not include amounts requested by ATCO Electric in respect of the Jasper Palisades switchgear assets discussed below, and are unaffected by the findings below.

Discovery and nature of error

68. ATCO Electric advised that it discovered an accounting error "in the process of preparing the sales offering for the Jasper Palisades Isolated Generation plant."[52] ATCO Electric indicated that the error arose because certain Jasper Palisades assets (primarily "switchgear assets")[53] had

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47 Proceeding 24964, Exhibit 24964-X0033.02, Appendix D, Depreciation Study, PDF pages 43-44: In ATCO Electric's depreciation study, the year of final retirement for all Jasper Palisades power plant isolated generation facilities was expected to be 2020.

48 Decision 24964-D02-2021, Appendix 3, PDF pages 106-106. Please refer to the following accounts for Jasper Palisades isolated generation plant facilities:
USA 341.10 – Gas turbine structures;
USA 341.20 – Internal combustion structures – Palisades;
USA 343.10 – Gas turbine generators;
USA 342.20 – Internal combustion fuel holders – Palisades;
USA 343.25 – Internal combustion generators – Palisades;
USA 345.10 – Gas turbine accessory electric equipment;
USA 345.20 – Internal combustion accessory electrical equipment - Palisades;
USA 346.10 – Gas turbine miscellaneous equipment and
USA 346.20 – Internal combustion miscellaneous electrical equipment – Palisades.

49 Exhibit 27062-X0529, AET-AUC-2023FEB01-001, Table 1, PDF page 5: As of December 31, 2022, for all Jasper Palisades isolated generation assets there is Original Cost of $52.8 million, Accumulated Depreciation – Life of $41.4 million and Accumulated Depreciation – Net Salvage of $17.2 million for a net book value of $(5.9) million before additional sales proceeds or dismantling costs.

50 Exhibit 27062-X0525.01, AET-AUC-2023FEB01-001(e), PDF page 6.

51 Exhibit 27062-X0015.02, MFR Schedule 6-4.1, Life Analysis, and Schedule 6-4.2, Net Salvage Analysis.

52 Exhibit 27062-X0014.02, application, PDF page 297, paragraph 285.

53 Exhibit 27062-X0014.02, application, PDF page 297, paragraph 285: "… AET identified that a switchgear building and associated equipment for the Palisades Isolated Generation plant had been misclassified as transmission assets upon capitalization rather than Isolated Generation assets."

been incorrectly recorded in the transmission function and general plant accounts, rather than the correct Jasper Palisades internal combustion accessory electrical equipment account (USA 345.20). ATCO Electric submitted that, as a result, from 2009 to 2020 these switchgear assets were depreciated incorrectly at depreciation rates consistent with longer-lived transmission and general plant assets, rather than at a depreciation rate reflecting the expected shorter-lived Jasper Palisades Power Plant assets. ATCO Electric indicated that in 2021 it transferred the historical cost and accumulated depreciation balances for these switchgear assets from the four incorrect transmission and general plant accounts to the correct account, being the Jasper Palisades internal combustion accessory electrical equipment account (USA 345.20), and which is applicable to the switchgear assets at issue.[54]

69. Had the assets been placed in the correct account from the outset, they would have been fully depreciated by the end of 2020. However, the accounting error resulted in a remaining undepreciated balance of $7.5 million at the time all Jasper Palisades Power Plant assets were removed from service. This was acknowledged by ATCO Electric in its application where it stated:

> AET has included a one-time adjustment of $7.5 million to its 2023 depreciation expense.… Had the switchgear building and associated equipment been appropriately classified as a Jasper Palisades Isolated Generation asset in Account 345.20 Accessory Electric Equipment in AET’s last depreciation study filed in the 2020-2022 GTA, its original cost would have been fully reserved / depreciated by December 31, 2020 - the updated year of final retirement for the Jasper Palisades Isolated Generation site forecast in AET's last depreciation study.[55]

70. The following table identifies the historical cost and accumulated depreciation associated with each of the four (incorrect) accounts in which the switchgear assets resided, between 2009 and 2020, as well as the total combined amount that was transferred into the correct account, being USA 345.20.

Table 2. Commission-prepared summary of historical cost and accumulated depreciation for Jasper Palisades switchgear assets as of 2020 on a mid-year basis

	USA 353.00 Transmission substation	**USA 353.10 Communication equipment**	**USA 390.00 Structures and improvements**	**USA 350.10 Land rights**	**USA 345.20* Jasper Palisades internal combustion accessory electrical equipment Total historical cost and accumulated depreciation transferred from incorrect accounts.**
	($ million)				
Historical cost of additions:					
2009	9.6	0.4			10.0
2010			0.1		0.1
2015	0.1		0.1		0.2
Total historical cost 2020	**9.7**	**0.4**	**0.2**	**0.0**	**10.3**

54 Exhibit 27062-X0330.02, AET-AUC-2022SEP21-112 (a)(i), PDF pages 616-617.
55 Exhibit 27062-X0014.02, application, PDF page 297, paragraphs 285-286.

	USA 353.00 Transmission substation	USA 353.10 Communication equipment	USA 390.00 Structures and improvements	USA 350.10 Land rights	USA 345.20* Jasper Palisades internal combustion accessory electrical equipment Total historical cost and accumulated depreciation transferred from incorrect accounts.
Less: accumulated depreciation as of 2020	2.6	0.2	0.0	0.0	2.8
Net book value 2020	**7.1**	**0.2**	**0.2**	**0.0**	**7.5**

Source: Summarized from Exhibit 27062-X0330.02, AET-AUC-2022SEP21-112, tables 1 and 2, PDF pages 619-620. Rounding may result in zero amounts reported.
*In Exhibit 27062-X0525.01, AET-AUC-2023FEB01-001, footnote to Table 1, PDF page 4, ATCO Electric has also identified this account as Account 345.25: "The historical cost and accumulated depreciation of the switchgear building and associated equipment are included in Account 345.25 (USA Account 345.20) Int Combust Accessory Electric Equipment. …"

Request to recover $7.5 million through the tariff

71. ATCO Electric submitted that it is just and reasonable for the Commission to approve the proposed $7.5 million one-time true-up of the switchgear assets in its 2023 tariff because, among other things, ATCO Electric must have a reasonable opportunity to recover the costs and expenses associated with its prudent capital investment in the utility, including depreciation.

72. In the alternative, ATCO Electric argued that it was entitled to this amount under Section 22 of the *Iso Gen Regulation*, and would seek recovery of amounts not approved in this decision in a forthcoming *Iso Gen Regulation* application.

73. ATCO Electric explained that its proposed $7.5 million one-time true-up in 2023 of the Jasper Palisades switchgear assets would align with the anticipated timeline of the settlement process outlined in Section 22 of the *Iso Gen Regulation*. The provisions of the regulation allow ATCO Electric to seek recovery of (or provide payment for) any remaining net book value (NBV), which it had not recovered (or had over-recovered) from (to) the Balancing Pool. ATCO Electric expected that the currently outstanding decommissioning and salvaging activities for the Jasper Palisades isolated generation site would be completed in 2024. Accordingly, it said that the timelines between the Balancing Pool settlement and final decommissioning and salvaging activities were generally aligned with ATCO Electric's proposed 2023 true-up.[56]

74. As noted earlier, ATCO Electric stated that at the time of its next depreciation study, it will update the amortization of reserve differences true-up to incorporate any additional information available with respect to remediation and reclamation of the entire Jasper Palisades isolated generation site. This will result in a final true-up for the amortization of reserve differences for all Jasper Palisades isolated generation facilities and will occur after reclamation and remediation is complete, forecast as 2030.[57]

75. ATCO Electric further clarified that once the Jasper Palisades power plant isolated generation site has been "fully decommissioned, remediated and reclaimed" in 2030, all Jasper

56 Exhibit 27062-X0330.02, AET-AUC-2022SEP21-112 (a)(i), (b), PDF pages 616-617 and 620.
57 Exhibit 27062-X0525.01, AET-AUC-2023FEB01-001, PDF pages 5-6.

Palisades isolated generation plant assets will be retired from the accounting records.[58] Until that time, ATCO Electric indicated that the historical cost of all Jasper Palisades isolated general plant asset accounts and the corresponding accumulated depreciation balances will remain on the accounting records of ATCO Electric, notwithstanding that the assets are no longer being used for the provision of utility service. This includes those assets that were held and depreciated within the wrong accounts during the period 2009-2020.

76. ATCO Electric submitted that Section 20 of the *Iso Gen Regulation* provides it with an entitlement to recover the undepreciated capital cost of an isolated generating unit, which it said is "even stronger and more specific" than the right of every owner of an electric utility, pursuant to Section 122 of the *Electric Utilities Act*, to a reasonable opportunity to recover its capital investment.[59] Specifically, ATCO Electric submitted that Section 20 of the *Iso Gen Regulation* constrains the Commission's authority to deny ATCO Electric's entitlement to the undepreciated capital costs of the Jasper Palisades switchgear assets at issue (which ATCO Electric submitted was $7.5 million). While ATCO Electric indicated that it was reasonable for the Commission to approve the $7.5 million as part of ATCO Electric's tariff in this proceeding, ATCO Electric argued that if the Commission did not approve the full amount, then it was entitled to collect the outstanding amount in a forthcoming Section 20 *Iso Gen Regulation* application.[60]

77. The CCA, the UCA and The City of Calgary, opposed ATCO Electric's request for a $7.5 million one-time adjustment to its depreciation expense.

78. Dustin Madsen, on behalf of the CCA, likened the proposed one-time adjustment to a "write-off of unrecovered investment" as opposed to a depreciation charge. Further, D. Madsen submitted that the requested adjustment does not fall within the amortization of reserve differences mechanism: first, because the amortization for reserve differences is intended to correct for a change in estimate, not for the correction of an error and second, because the Jasper Palisades assets no longer exist. Specifically, D. Madsen indicated that "it would be inappropriate to amortize the remaining cost of an asset over the life of other assets when the asset in question is no longer in service."[61] D. Madsen stated that the NBV of the assets should be recognized as a loss in 2021, not as an adjustment in any period in 2023 to 2025.

79. The UCA stated that ATCO Electric has already had an opportunity to recover the cost of the switchgear assets and was effectively asking to retroactively adjust past approved revenue requirements in the year 2023. The UCA also alleged that ATCO Electric would have earned a return during 2020-2022 on the switchgear assets in addition to charging depreciation expense for 2021 and 2022. This was in addition to ATCO Electric asking for the full $7.5 million (as of 2020) which it said constituted "double dipping" that the Commission should not permit.[62] The Commission discusses ATCO Electric's over recovery of return on rate base as a result of the rate base value declining more slowly than it would have had the switchgear assets been in the correct account in paragraph 94 below.

58 Exhibit 27062-X0330.02, AET-AUC-2022SEP21-112 (a)(i), (b), PDF pages 616-617 and 620.
59 Transcript, Volume 2, pages 145-149.
60 ATCO Electric anticipated that further applications to settle amounts owing to and received from the Balancing Pool under the *Iso Gen Regulation* would be completed by 2024.
61 Exhibit 27062-X0450, CCA evidence of Dustin Madsen, PDF page 79.
62 Transcript, Volume 1, pages 95-97.

80. According to Calgary, the question to be addressed is who should bear the "responsibility and risk for the utility error or misallocation"[63] with respect to the switchgear assets. Calgary argued that ATCO Electric has had a number of opportunities to adjust for the "misallocation," and stated that the Commission elsewhere has set a two-year limitation period[64] for adjustments to the extent they arose due to the utility's own error. Calgary questioned whether, because the assets were no longer in service after 2020, the costs for those assets should be recovered from ratepayers who will receive no benefit of any service from those assets.[65] Calgary also made submissions with respect to the appropriateness of using of the amortization of reserve differences mechanism in the circumstances of this case.

Commission findings

81. For the reasons that follow, the Commission is not persuaded that it is reasonable to allow ATCO Electric to recover $7.5 million in depreciation expense (through a one-time adjustment or otherwise) related to the Jasper Palisades amounts that were incorrectly accounted for, and finds that the correct undepreciated balance in relation to the Jasper Palisades switchgear assets should be $0.

The unrecovered capital for the switchgear assets arose because of ATCO Electric's error

82. First, the Commission disagrees with ATCO Electric's description of the circumstances leading up to its request for a one-time collection of depreciation expense related to the Jasper Palisades switchgear assets. In particular, the Commission finds ATCO Electric's explanation of how the $7.5 million undepreciated balance arose to be incomplete. ATCO Electric emphasized its right to recovery of its prudently incurred investment in these assets and either downplayed, or offered no mention whatsoever of, specific events subsequent to that investment which, in the Commission's view, resulted in the $7.5 million undepreciated balance that it now seeks to collect from ratepayers.

83. In the Commission's view, the $7.5 million amount arose from the following three events:

(i) ATCO Electric's investment in the switchgear assets in 2009;

(ii) ATCO Electric's error in booking the investment in these assets into four incorrect uniform system of accounts at the time the investment was made. This resulted in ATCO Electric depreciating the investment at a rate that returned capital to ATCO Electric more slowly compared to the depreciation rate that would have been applied had the investment been booked into the correct Jasper Palisades uniform system of account; and

(iii) ATCO Electric's ongoing failure to discover and correct its error over a continuous period of at least 12 years, despite reasonable opportunities to do so, such that the

63 Transcript, Volume 1, page 99.

64 Transcript, Volume 1, page 101, referring to Decision 2006-042: ATCO Gas, A Division of ATCO Gas and Pipelines Ltd., (This Decision is also applicable to Direct Energy Regulated Services and AltaGas Utilities Inc.), Deferred Gas Account Limitation Period, Application 1407502, May 11, 2006.

65 Transcript, Volume 1, page 101, referring to Decision 2006-042.

accumulated depreciation for the Jasper Palisades switchgear assets was $7.5 million less than it would have been had the assets been booked into the correct account.

84. Without events (ii) and (iii) above, ATCO Electric would not have applied to collect $7.5 million in this proceeding for the switchgear assets, as detailed in paragraph 68 above.

85. In so far as the existence of reasonable opportunities for ATCO Electric to discover and correct its mistake is concerned, it is noteworthy that, in 2016 in Decision 20272-D01-2016, the Commission directed ATCO Electric to confirm that its then calculated accumulated depreciation balances for the Jasper Palisades Power Plant were accurate. The Commission stated:

> 660. The Commission accepts ATCO Electric's revised year of final retirement of 2018 and net negative salvage estimates for Jasper Palisades generation assets as being related to the energization of the Jasper transmission interconnection thereby eliminating the need for the Jasper Palisades isolated generation plant.
>
> 661. However, as part of ATCO Electric's compliance filing, **the Commission requires confirmation that ATCO Electric's calculated accumulated depreciation balances related to life and net salvage as of December 2017 are correct in that approximately $12.7 million in life and net salvage remains to be recovered in the year 2018 and beyond. ATCO Electric is directed to provide the requested confirmation and explain why the unrecovered balance is so large. ATCO Electric is also directed to describe the proposed method and period of recovery of the $12.7 million.** [emphasis added]

86. Despite being required to verify its unrecovered balance regarding all of the Jasper Palisades Power Plant assets, ATCO Electric did not disclose any error with respect to the (misclassified) switchgear assets when it responded to this Commission direction in Proceeding 22050. There, ATCO Electric did disclose an error related to the balance of unrecovered investment, but that error did not relate to the switchgear assets at issue in this proceeding. ATCO Electric disclosed the following:

> AET has updated 20272-X1275.01 with the revised depreciation rates reflecting the 2018 year of final retirement. AET notes that 20272-X1275.01 erroneously excluded depreciation incurred in 2014. Inclusion of depreciation incurred in 2014 as well as the updated rates as provided by Gannett Fleming results in an updated forecast of $14.2 million rather than $12.7 million as indicated in the above direction.
>
> As shown in Schedule 6-3 of AET's 2015-17 compliance filing, AET's previous depreciation parameters were based on a forecast year of final retirement of 2026 to 2038 depending on the asset class. **With the proposed Jasper interconnection project scheduled to be completed by 2018, AET has adjusted the year of final retirement to 2018 and is recovering the remaining undepreciated capital cost and associated net salvage over this accelerated time frame**.
>
> AET will update the amount to be recovered in 2018 as part of its next GTA. At that time, it is expected that forecasts for future removal costs and capital requirements will be known with more certainty.[66] [emphasis added]

[66] Proceeding 22050, Exhibit 22050-X0019.01, AET 2015-2017 GTA Compliance Filing, PDF pages 69-70.

87. Had ATCO Electric, during the course of its response to the Commission direction, uncovered the error and thus properly verified the remaining unrecovered balances for all its Jasper Palisades isolated generation assets, including the switchgear assets, the matter would have been placed squarely before the Commission much earlier and under a different set of factual circumstances.

88. The Commission also disagrees with ATCO Electric that the Commission must approve its requested one-time collection to comply with the *Electric Utilities Act*, Section 122(1)(a). That section requires the Commission to have regard for the principle that a tariff approved by the Commission must provide a utility with a reasonable opportunity to recover its prudently incurred costs and expenses associated with capital related to the owner's investment in the electric utility, including depreciation.

89. ATCO Electric had a reasonable opportunity to recover its investment in the switchgear assets under its tariff from 2009 to 2020. The Commission's approved depreciation parameters for the Jasper Palisades assets, from which depreciation rates for these assets were derived, would have fully returned ATCO Electric's capital in the switchgear assets, had ATCO Electric not erroneously placed the switchgear assets into four incorrect asset accounts. There was no way for the Commission or ratepayers to know that the investment was being depreciated in the incorrect accounts. When the Commission flagged a concern regarding the size of the undepreciated balance in the Jasper Palisades isolated generation asset accounts, ATCO Electric did not apply sufficient diligence in addressing the Commission's direction to detect its longstanding error. The Commission finds that ATCO Electric had a reasonable opportunity to recover its investment in the assets, but through its own errors, on two separate occasions in relation to the same assets, was not able to realize on that opportunity.

90. When viewed in this context, the error that resulted in the $7.5 million in undepreciated capital costs associated with the switchgear assets can more fairly be characterized as ATCO Electric's forgone reasonable opportunity to recover its prudently incurred investment related to the switchgear assets under its approved tariff from 2009 to 2020.

Should Alberta ratepayers bear the risks associated with ATCO Electric's error?

91. In the Commission's view, the fundamental question raised by ATCO Electric's request is whether it is just and reasonable for Alberta's current ratepayers to bear the risk and associated costs of an electric utility's accounting error in relation to assets that were used by past ratepayers, whatever the circumstance. In other words, does Section 122 of the *Electric Utilities Act* guarantee the recovery of[67] a utility's investment, regardless of whether that utility exercised reasonable diligence in terms of its accounting practices, in relation to that investment? ATCO Electric did not persuade the Commission that this should be the case.[68]

[67] Section 122 of the *Electric Utilities Act* requires the Commission to provide the owner of an electric utility with a reasonable opportunity to recovery of and a return on its investment in the electric utility, but the Commission is here only concerned with the recovery "of" ATCO Electric's investment.

[68] The Commission has considered the evidence of ATCO Electric's depreciation expert, Larry Kennedy, regarding transfers of assets necessitated and/or occasioned by new depreciation studies, but finds that evidence to be neither particularly relevant nor helpful in the circumstances of ATCO Electric's current request.

92. Under the legislative scheme, the Commission has broad discretion to set just and reasonable rates.[69] In the circumstances of this case and for the reasons below, the Commission finds it neither just nor reasonable to impose upon current Alberta ratepayers, the costs associated with ATCO Electric's ongoing and discoverable accounting error. The Commission equally finds that it is neither just nor reasonable to shield ATCO Electric from the consequences of its accounting error and associated failure to take advantage of the reasonable opportunities available to it to recover its investment. ATCO Electric had a span of more than a decade in which to recover its capital investment. It is now requesting that current Alberta ratepayers bear (i) the risk of such error (over which Alberta ratepayers had no control or awareness); and (ii) the associated cost burden of keeping ATCO Electric financially whole despite having caused the error itself. In other words, ATCO electric is seeking to use Section 122 of the *Electric Utilities Act*, or, in the alternative, the *Iso Gen Regulation*, to be fully indemnified for its own errors in relation to the accounting treatment of the switchgear assets.

Incentives

93. The Commission finds that placing costs associated with ATCO Electric's error on Alberta ratepayers provides the wrong incentives to ATCO Electric. Doing so, does not incent ATCO Electric:

(i) to accurately record its investment in the proper USA account applicable to that investment;

(ii) to proactively review its books and accounts for errors either on its own initiative or in response to Commission directions; and

(iii) to raise with the Commission any errors that are found, as soon as possible after they are detected.[70]

94. The Commission's concerns about incentives are elevated in this case. Here, ATCO Electric has earned a greater return than it otherwise would have earned had it placed the switchgear assets in the correct account in 2009. This is because the switchgear assets were being depreciated (in the incorrect transmission accounts) over a longer period of time resulting in an overstated rate base between the years 2009 and 2022. As a result, since 2009 ATCO Electric has benefited from a higher return on rate base in relation to the Jasper Palisades Power Plant switchgear assets than would otherwise be the case had the assets been depreciated in a manner consistent with Commission-approved depreciation parameters. Indeed, ATCO Electric has asked to be held whole for the return of its capital investment without consideration of (and without accounting for) the additional return on rate base it has earned since 2009.[71]

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69 See, e.g., *Equs Rea Ltd v Alberta (Utilities Commission)*, 2023 ABCA 142, paragraph 91; *ATCO Electric Ltd v Alberta Utilities Commission*, 2023 ABCA 129, paragraph 44.

70 The Commission is not suggesting that in the present instance ATCO Electric in any way delayed disclosing to the Commission the particulars of its accounting error upon having discovered it. The Commission's point here relates solely to the absence of an incentive for prompt disclosure of newly discovered accounting errors if indemnification for those errors is automatic whatever the circumstances.

71 In its response to Exhibit 27062-X0353, AET-UCA-2022SEP27-006(a), PDF pages 4-6, ATCO Electric provided "a schedule separately indicating the impact to the depreciation and return on rate base components of the 2020 through 2022 revenue requirement related to the Jasper Palisades assets if they had been properly recorded in the correct property accounts" to be a net increase in revenue requirement of $1.4 million.

Intergenerational equity

95. The Commission is also concerned about intergenerational equity issues that would arise if current Alberta ratepayers were required to bear the risk of ATCO Electric's error in this case. If the Commission were to approve ATCO Electric's request, Alberta's 2023 ratepayers would be responsible for paying $7.5 million attributable to switchgear assets that are no longer used to provide electricity service. ATCO Electric also seeks to recover the costs of assets from a generation of ratepayers, some of whom will have received no benefit whatsoever from the Jasper Palisades switchgear assets. The duration of the accounting error (over 12 years) and the magnitude of the amount to be recovered relative to the original historical cost of the assets[72] are also significant considerations for the Commission in coming to this finding.

Improper use of the amortization reserve for differences mechanism

96. ATCO Electric also argued that its adjustment was appropriate because it would be consistent with the amortization reserve for differences mechanism.

97. The amortization of reserve differences is a mechanism approved by the Commission that, in general terms, is used by utilities to recover no more or no less than their full capital investment in utility assets. The mechanism trues up differences between estimates of depreciation parameters, such as estimated versus actual services lives of assets, among other things.[73] This implies that the depreciation parameter elements (used by the utility to determine depreciation rates) are interim until better information becomes available. In the case before the Commission, however, ATCO Electric seeks a permanent true-up of capital costs that is unrelated to past mis-estimates of depreciation parameters.

98. The Commission finds that ATCO Electric's request is inconsistent with the purpose of the amortization of reserve differences mechanism, in the specific circumstances of this case and for reasons already discussed. In particular, the Commission rejects ATCO Electric's suggestion that this mechanism, in effect, confers a specific entitlement that provides it with an indemnity for its errors related to mass property accounting and depreciation practices.

The Iso Gen Regulation does not entitle ATCO Electric to recovery of the undepreciated capital

99. ATCO Electric relied heavily on the *Iso Gen Regulation* in support of its request. ATCO Electric points to the word "entitle" in Section 20 of the *Iso Gen Regulation*, as constraining the meaning of undepreciated capital cost, under both Section 122 of the *Electric Utilities Act* and Section 20 of the *Iso Gen Regulation*.

100. The Commission disagrees with ATCO Electric's interpretation.

101. The *Iso Gen Regulation* does not confer an unconstrained right on ATCO Electric to recover from the Balancing Pool amounts recorded on its books of account as undepreciated capital.

102. Section 20(1)(a)(i) of the *Iso Gen Regulation* is the relevant provision that applies in this case. Section 20(1)(a)(i) provides that the owner of an isolated generating unit is entitled to

72 As noted in Table 4 above: As of 2020, the $7.5 million of undepreciated capital of the switchgear assets comprises $10.3 million historical cost less accumulated depreciation of $2.8 million.

73 These include average service life, Iowa curve, net salvage per cents and capital-related forecasts.

receive from the Balancing Pool the undepreciated capital cost of the isolated generating unit. The Commission observes that the phrase “is entitled to receive” expresses a right to receive something or be benefited in some respect, and puts emphasis on the subject of the provision’s claim. In this context, Section 20 of the *Iso Gen Regulation* creates a legal right for the owner to receive payment from the Balancing Pool (this is the right to receive a benefit) for the amount of the undepreciated capital cost of the generating unit, **as determined by the Commission** (this is the quantum of the benefit), which the Balancing Pool must honour.

103. The Commission emphasizes that the benefit at issue is “as determined by the Commission.” The regulation confers discretion upon the Commission to make a determination about the amount of undepreciated capital cost of the isolated generating unit. The regulation would not have conferred upon the Commission that discretion, if the Commission had no choice but to accept that cost from ATCO Electric’s books of account. The Commission is not persuaded by ATCO Electric’s argument that the regulation’s use of language highlighting an owner’s claim to a benefit changes the nature of the benefit itself, particularly given that the Commission has discretion to determine the amount of benefit.

104. The discretion conferred on the Commission allows the Commission to order an amount to be paid to the Balancing Pool by, or from the Balancing Pool to, the owner of an isolated generating unit in cases where that amount is different from the amount set out on the owner’s books of account. While in the normal course there is often no difference between the amount on an owner’s books of account and what the Commission would order to be paid to or by the Balancing Pool, the circumstances of this case are not the normal course given ATCO Electric’s failures already outlined.

105. In addition, the Commission is mindful that the *Iso Gen Regulation* is made under the *Electric Utilities Act.* It is presumed that subordinate legislative provisions are meant to work with their own enabling legislation. If conflict is unavoidable, in the absence of a contrary legislative intent, the statutory provision prevails.[74] Conflict should be avoided through interpretation, rather then resolved through paramountcy, if possible.

106. In reaching its conclusion on ATCO Electric’s ability to recover any of the undepreciated capital cost of the switchgear assets, the Commission is of the view that the undepreciated capital cost of these assets is the same under either the *Electric Utilities Act* or the *Iso Gen Regulation*. Otherwise, this would mean that for regulatory purposes the same assets can have two different values. In the Commission’s view, this result is nonsensical. Whether the costs are refunded or recovered through ATCO Electric’s tariff or paid to or from the Balancing Pool, in either case recovery flows to Alberta ratepayers through the Independent System Operator tariff.[75] The amount of undepreciated capital cost should be the same for tariff-making purposes under the *Electric Utilities Act* and the *Iso Gen Regulation*.

Conclusion

107. The Commission finds that the $7.5 million of undepreciated capital cost connected with Jasper Palisades switchgear assets is not recoverable from current ratepayers and is a permanent

74 *Friends of Oldman River Society v Canada (Minister of Transport)*, [1992] 1 SCR 3, paragraph 38.
75 Transcript, Volume 1, page 29.

capital disallowance. ATCO Electric is directed to remove the historical cost and accumulated depreciation related to these assets from the accounting records of its regulated utility assets.

5 Compliance with prior directions

108. In its application, ATCO Electric responded to one direction issued in Decision 24964-D01-2021[76] and to four directions issued in Decision 24964-D02-2021[77] with respect to the ATCO Electric 2020-2023 GTA, one direction from Decision 26264-D01-2021[78] regarding the ATCO Electric 2018-2019 General Tariff Application Second Compliance Filing, and two directions from Decision 26519-D01-2021[79] from the ATCO Electric Stage 2 Review and Variance of 2018-2019 General Tariff Application Compliance.

109. The Commission asked ATCO Electric to confirm that the negotiated settlement made no determination in relation to compliance with prior outstanding Commission directions. In response, ATCO Electric stated:[80]

> … The NSA is intended to be a comprehensive settlement of AET's revenue requirement, except for the Excluded Matters. As such, to the extent that the Commission were to consider that AET's compliance with any prior Commission direction impacts AET's 2023-2025 revenue requirement, then the NSA is intended to settle any such revenue requirement impact. Regardless, however, should the Commission consider that further actions are required by AET in respect of the above-reference directions, AET submits that such further actions could be the subject of a further Commission direction, including for AET's next general tariff application.

110. In the current decision, the Commission has reviewed the record as it pertains to all outstanding directions. Where the Commission has identified issues or concerns with ATCO Electric's responses to a direction, the Commission has provided reasons for its specific findings. Where no specific finding is provided, the Commission has determined that ATCO Electric's responses comply with the directions given and that no further action is required.

111. In Decision 26519-D01-2021, the Commission issued the following direction:[81]

> In the Commission's July 8, 2021, letter, the Commission took note of ATCO Electric's treatment of the equity portion of AFUDC as a temporary rather than a permanent tax difference, despite acknowledgment by ATCO Electric that the equity portion of AFUDC is a permanent difference. The Commission confirms that it will consider, in ATCO Electric's next GTA, whether the collection of future income tax should continue. The Commission's consideration will also include whether ATCO Electric should be permitted to continue to treat the equity portion of AFUDC as a temporary rather than a

76 Decision 24964-D01-2021: ATCO Electric Ltd. 2020-2022 Transmission General Tariff Application, Proceeding 24964, March 1, 2021.

77 Decision 24964-D02-2021: ATCO Electric Ltd. 2020-2022 Transmission General Tariff Application, Proceeding 24964, March 19, 2021.

78 Decision 26264-D01-2021: ATCO Electric Ltd. 2018-2019 General Tariff Application Second Compliance Filing, Proceeding 26264, June 29, 2021.

79 Decision 26519-D01-2021: ATCO Electric Ltd., Stage 2 Review and Variance of 2018-2019 General Tariff Application Compliance, Proceeding 26519, October 6, 2021.

80 Exhibit 27062-X0505, AET Information Responses Round 2 to AUC, AET-AUC-2023JAN25-002, PDF page 6.

81 Decision 26519-D01-2021, paragraph 30.

permanent tax difference in the calculation of its tax expense. ATCO Electric is therefore directed to provide relevant evidence on this issue in its next GTA.

112. In response to Decision 26519-D01-2021, Direction 3, ATCO Electric stated:[82]

> Given AET has proposed to discontinue collection of FIT in this application, the distinction between permanent and temporary differences is no longer relevant. Amounts collected based on the previous classification are held in no cost capital and will be refunded when appropriate. Refer to Section 7 where AET has proposed to discontinue the collection of FIT for the Test Period.

113. The Commission disagrees with ATCO Electric's assertion that the distinction between permanent and temporary differences is no longer relevant. First, ATCO Electric stated, in response to the direction, that the previously collected FIT amounts accumulated in the reserve account (no cost capital) will be refunded when appropriate. In its application, however, ATCO Electric did not provide a refund proposal nor an appropriate time to refund the accumulated FIT amounts. Ratepayers have funded the FIT reserve balance to offset current tax expense, at some future date, when the net income for tax purposes exceeds the calculated financial accounting net income. At a minimum, it would be appropriate for the accumulated FIT amounts in the reserve to be refunded to ratepayers when that occurs, regardless of whether ATCO Electric continues to collect FIT expense. In addition, Schedule 5 – Summary of utility income tax, in Rule 005[83] requires utilities to report on their permanent differences. The MFRs filed with a utility's tariff application should provide detailed support of the information disclosed in that utility's Rule 005 submissions.

114. ATCO Electric is directed in its compliance filing to this decision, and on a go-forward basis, to continue to present its tax schedules identifying permanent and temporary differences. This also includes presenting the equity portion of the AFUDC tax adjustment as a permanent difference.

6 Other – Proceeding efficiencies

115. The Commission continues to emphasize the importance of increasing regulatory efficiency. It has implemented a number of changes to its application review processes, including its GTA review process. Examples of the Commission's efforts in the current proceeding include the use of an issues list, establishing a limit on the number of IRs, limiting parties to one round of IRs, encouraging parties from the start of the proceeding process to pursue – to the extent possible – a negotiated settlement of the issues, holding a virtual process meeting regarding ATCO Electric's request for an extension to respond to IRs, undertaking a fully written evidentiary process, and the use of oral argument and reply argument.

116. The Commission emphasizes, however, that regulatory efficiency is a shared responsibility and the ability to achieve a more streamlined regulatory process requires effort and commitment by the Commission, applicants and interveners. For certain portions of ATCO Electric's application, the record was sufficient to support ATCO Electric's applied-for amounts. However, the Commission also identified deficiencies in the information on the record and was

82 Exhibit 27062-X0014.02, application, PDF page 174.

83 Rule 005: *Annual Reporting Requirements of Financial and Operational Results*, Appendix 1 – Schedules for an electric utility.

required to request information to consider ATCO Electric's application complete, such as missing business cases and missing IT cost information.

117. The Commission also notes that there were instances where information was ultimately provided, but not without significant process. An example of this is the Commission granting ATCO Electric approximately one month to revise its application for updates to the applied-for inflation factors and fuel prices, even though ATCO Electric should have filed its application using the inflation factors and fuel prices that it considered would result in just and reasonable rates when its application was first submitted. In addition, in its November 21, 2022, letter, the Commission identified a number of responses that required further and better responses, and also provided ATCO Electric further opportunity to provide more substantive responses to other Commission IRs that it deemed to be deficient or created factual discrepancies and further questions.[84]

118. The Commission has no statutory obligation to provide ATCO Electric the opportunity to repair its deficient responses to IRs or even to point them out after they have been made. ATCO Electric should consider the opportunity provided by the Commission to supplement responses an exception, and not an expectation going forward. The Commission expects that an applicant will provide all information necessary to support its requests in its application and will fully respond to all Commission IRs at the first instance or to clearly explain if the information cannot be provided. The onus is on ATCO Electric to show that its forecast tariffs are just and reasonable, and it must provide the necessary supporting evidence to make its case.

119. In the following two subsections, the Commission describes, as specifically as possible, what better information ATCO Electric must provide should it seek approval of costs for similar projects or programs in future GTAs. The Commission's intention is not to encourage ATCO Electric to file a greater volume of information. Rather, it is to ensure that future proceedings are more efficient, which requires a record that contains the specific and relevant information necessary for the Commission and parties to test the applied-for revenue requirement amounts and for the Commission to be able to more efficiently and effectively adjudicate ATCO Electric's GTAs.

6.1 Capital information

120. The Commission observed, in its initial review of ATCO Electric's application, that some of ATCO Electric's capital program business cases lacked specific information to evaluate their reasonableness. In several instances, ATCO Electric's business cases for individual projects also included several subprojects. However, in other instances, ATCO Electric aggregated the costs of several subprojects into a single line item identified as a capital expenditure (on a project level and not on a subproject level). This type of aggregation impairs the ability of the Commission and parties to scrutinize ATCO Electric's forecast costs.

121. In its July 13, 2022, letter,[85] the Commission directed ATCO Electric to provide the following supplemental information for each capital program, consistent with the requirements of Bulletin 2006-25:[86]

84 Exhibit 27062-X0442, Process for further and better responses to Commission information requests.
85 Exhibit 27062-X0242, AUC letter - Further process.
86 Bulletin 2006-25, Announcing the Approval in Principle of the Form and Content of a Uniform System of Accounts and Minimum Filing Requirements for Alberta Electric Utilities, July 12, 2006.

(i) CWIP continuity schedule consisting of opening CWIP balances;

(ii) capital expenditures;

(iii) capital additions; and

(iv) closing CWIP balances detailed and identified by each individual project name (and subproject if multiple subprojects are included within a business case), and the applicable project number for all capital categories (transmission capital maintenance, Telecommunication, Supervisory Control and Data Acquisition/ Energy Management System, Direct General Property Plant and Equipment, Software, Buildings).

122. In response, ATCO Electric indicated that the detail requested by the Commission, by project level, was not available for every individual subproject identified in its Business Cases. ATCO Electric was able to provide additional detail in response to the request that was consistent with the level of detail that AltaLink was able to provide in its 2022-2023 GTA. ATCO Electric stated in order to provide the level of detail by each individual project or program identified in its Business Cases, it would have been required to update its Project Management and Regulated Project Accounting processes and procedures, and as a result the requested level of information would only be available for the year 2023 and beyond.[87]

123. ATCO Electric is directed to provide the project CWIP continuity schedules as requested by the Commission in its July 13, 2022, letter,[88] in all future GTA submissions.

6.2 Shared services, head office and common group allocations

124. In this proceeding, the Commission sought to obtain head office and shared services group information through the IR process. ATCO Electric stated it required additional time to respond. In a virtual process meeting, held October 20, 2022, to discuss ATCO Electric's extension request, ATCO Electric made submissions about the scope of work required by ATCO Electric employees and the need to co-ordinate with ATCO Electric's affiliates to complete the responses.[89]

125. Given the past Commission direction, quoted below, the Commission expected ATCO Electric to have the information that was requested in the IRs readily available.

126. In Decision 22859-D01-2018,[90] the Commission stated:

> 49. As noted above, the Commission did not find credible ATCO Electric - Transmission's explanation that it could not reconcile its updated placeholder amounts to the requested common group compliance filing amounts. In this regard, ATCO Electric has not met its onus. The limited information detailing the substantive adjustments that occurred in creating and supporting the entire pool of "common group" FTEs and costs is inadequate in justifying the portion of costs allocated to ATCO Electric's transmission

87 Exhibit 27062-X0243, AET Letter enclosing Supplemental Information.
88 Exhibit 27062-X0242, AUC letter - Further process.
89 Exhibit 27062-X0328, AUC letter - Ruling on ATCO Electric's request for time extension to file responses to information requests.
90 Decision 22859-D01-2018: ATCO Electric Ltd. Transmission Common Group Compliance Filing, Proceeding 22859, March 20, 2018, paragraph 49.

> function. The Commission acknowledges that ATCO Electric - Distribution is under performance-based regulation (PBR) and is only subject to minimum filing requirement (MFR) schedules. However, further information about common costs is required in future GTAs to support the costs allocated to ATCO Electric - Transmission. **ATCO Electric Ltd. is directed, on a go-forward basis, to provide all cost-information for every ATCO affiliate, comprising the total costs and supporting detail, that substantiate and justify the costs allocated to, or from, ATCO Electric's transmission function**.[91] [footnotes removed; emphasis added]

127. The Commission also notes that ATCO Electric's responses to some shared services and head office IRs were deficient. In particular, ATCO Electric's response to an IR asking it to describe new initiatives and services gave no indication of how the identified work or initiative related to transmission utility service.

128. The Commission expects that this information will be provided in compliance with the above direction in ATCO Electric's future GTAs. Should that not be the case, and to promote regulatory efficiency, the Commission cautions ATCO Electric that it may apply Section 6.3 part (b) or (c), of Rule 001 where information that is the subject of an ongoing direction or is otherwise fundamental to its GTA, is not provided as part of its application filings.[92]

7 Order

129. It is hereby ordered that:

(1) ATCO Electric submit a compliance filing that reflects the findings, conclusions and directions of the Commission in this decision on or before June 12, 2023. As detailed in Decision 26573-D01-2023, ATCO Electric is to incorporate the findings, conclusions and directions of the Commission in that decision together with its compliance filing to the Commission's determinations in this decision.

Dated on May 5, 2023.

Alberta Utilities Commission

(original signed by)

Kristi Sebalj
Vice-Chair

[91] Decision 22859-D01-2018: ATCO Electric Ltd., Transmission Common Group Compliance Filing, Proceeding 22859, March 20, 2018, PDF pages 16-17.

[92] Rule 001: *Rules of Practice*.

(original signed by)

Matthew Oliver, CD
Commission Member

(original signed by)

Vera Slawinski
Commission Member

(original signed by)

Bohdan (Don) Romaniuk
Acting Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) **Company name of counsel or representative**
ATCO Electric Ltd. (ATCO Electric or AET) Bennett Jones LLP Osler, Hoskin & Harcourt LLP
Consumers' Coalition of Alberta (CCA) J. Wachowich, KC Bema Enterprises LTD. Emrydia Consulting Corporation
Office of the Utilities Consumer Advocate (UCA) Brownlee LLP InterGroup Consultants
The City of Calgary (Calgary) McLennan Ross Barristers & Solicitors
Industrial Power Consumers Association of Alberta Richard Penn
City of Grande Prairie Michelle Gairdner

Alberta Utilities Commission Commission panel K. Sebalj, Vice-Chair M. Oliver, CD, Commission Member V. Slawinski, Commission Member B. Romaniuk, Acting Commission Member Commission staff J. Graham (Commission counsel) C. Strasser A. Starkov E. Chu E. Davis L. Mullen

Appendix 2 – Virtual oral argument and reply argument – registered appearances

Name of organization (abbreviation) **Name of counsel or representative**
ATCO Electric Ltd. (ATCO Electric or AET) Deirdre Sheehan
Consumers' Coalition of Alberta (CCA) James Wachowich, KC
Office of the Utilities Consumer Advocate (UCA) Thomas Marriott, KC Keegan Rutherford
The City of Calgary (Calgary) Douglas Evanchuk

Appendix 3 – Summary of Commission directions

This section is provided for the convenience of readers. In the event of any difference between the directions in this section and those in the main body of the decision, the wording in the main body of the decision shall prevail.

1. The Commission directs ATCO Electric to submit a compliance filing that reflects the findings, conclusions and directions of the Commission in this decision on or before June 12, 2023. .... paragraph 13
2. The Commission directs ATCO Electric to maintain the reserve account treatment for 2023, but approves the elimination of the vegetation management reserve beginning in 2024. This transition period will permit the Commission to monitor the vegetation management program to ensure continued alignment of forecast and actual costs and work volumes at the time of the next GTA. For all test period years in the current and next GTA, ATCO Electric is directed to provide the same information that it filed in response to 27062-X0416, updated for the appropriate years. Should significant variances reoccur in the costs and volumes for ATCO Electric's vegetation management program, the Commission may reinstate the past reserve treatment. .... paragraph 46
3. The Commission finds that the $7.5 million of undepreciated capital cost connected with Jasper Palisades switchgear assets is not recoverable from current ratepayers and is a permanent capital disallowance. ATCO Electric is directed to remove the historical cost and accumulated depreciation related to these assets from the accounting records of its regulated utility assets. .... paragraph 107
4. ATCO Electric is directed in its compliance filing to this decision, and on a go-forward basis, to continue to present its tax schedules identifying permanent and temporary differences. This also includes presenting the equity portion of the AFUDC tax adjustment as a permanent difference. .... paragraph 114
5. ATCO Electric is directed to provide the project CWIP continuity schedules as requested by the Commission in its July 13, 2022, letter, in all future GTA submissions. .... paragraph 123

Appendix 4 - NSA

(return to text)

Appendix 4 - NSA

(consists of 23 pages)

NEGOTIATED SETTLEMENT AGREEMENT

ATCO ELECTRIC LTD.
2023-2025 GENERAL TARIFF APPLICATION

THIS NEGOTIATED SETTLEMENT AGREEMENT for the negotiated settlement of the 2023-2025 General Tariff Application, which is the subject of Alberta Utilities Commission Proceeding No. 27062, is made and entered into as of **January 19, 2023**.

AMONG:

ATCO ELECTRIC LTD. ("**AET**")

- and -

CONSUMERS' COALITION OF ALBERTA (the "**CCA**")

- and -

OFFICE OF THE UTILITIES CONSUMER ADVOCATE (the "**UCA**")

- and -

THE CITY OF CALGARY ("**Calgary**")

- and -

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA ("**IPCAA**")

- and -

CITY OF GRANDE PRAIRIE ("Grande Prairie")

each, a "**Party**" and collectively, the "**Parties**"

WHEREAS:

A. AET ("the **Applicant**") submitted its 2023-2025 General Tariff Application ("**Application")** to the Alberta Utilities Commission ("**AUC**" or "**Commission**") on May 19, 2022 for the purpose of

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obtaining approval for its revenue requirement for the 2023-2025 Test Period, which is the subject of AUC Proceeding No. 27062;

B. On May 26, 2022, the Commission issued a Notice of Application informing potentially interested parties that it would be considering the Application, and inviting submissions for participation in AUC Proceeding 27062;

C. The CCA, the UCA, Calgary, IPCAA and Grande Prairie (collectively, the "**Interveners**") are participants in Proceeding 27062;

D. On August 5, 2022, the Commission issued an initial process schedule and an issues list for Proceeding 27062 and provided its approval for the Parties to enter into a negotiated settlement process under AUC Rule 018. The Commission directed that:

(i) the following issues be excluded from the negotiated settlement process: (a) removal of the Vegetation Management reserve; and (b) Modifications to the Variable Pay Program reserve; and

(ii) if the Parties negotiated on full-time equivalents ("**FTEs**"), then the negotiated settlement agreement identify whether the FTE adjustment was made to capital FTEs or to operations and maintenance ("**O&M**") FTEs, and which O&M USA the adjustment is applicable to.

E. AET filed supplemental information for the Application on July 28, 2022 and an application update on September 6, 2022;

F. AET responded to information requests from the AUC and the Interveners on October 18 and November 4, 2022, with further responses provided on November 14-15, 18, and 25, 2022;

G. The Interveners filed evidence on December 2, 2022;

H. The Parties (AET, the CCA, the UCA, Calgary, IPCAA and Grande Prairie) entered into a negotiated settlement process commencing with a preliminary meeting on September 16, 2022, with settlement negotiations taking place from December 12 through 20, 2022;

I. On December 20, 2022, the Parties reached an agreement in principle for a negotiated settlement on all elements of AET's 2023-2025 GTA, except for specifically excluded matters identified in section 2 below;

J. The term of this settlement is the 2023-2025 Test Years Period ("**Test Period**").

IN CONSIDERATION of the mutual promises made in this negotiated settlement agreement ("**Settlement Agreement**") and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged by each of the Parties, and subject to the conditions hereinafter set out, the Parties agree as follows:

1. **Scope of this Settlement Agreement**

(a) This Settlement Agreement settles all aspects of and relief requested in the Application, except for the Excluded Items identified in section 2 below.

(b) Unless otherwise agreed by the Parties in writing, if the AUC declines to approve this Settlement Agreement in its entirety, the Settlement Agreement will be of no force and effect, in accordance with Section 135 of the *Electric Utilities Act*.

2. **Excluded Matters**

(a) AET and the Interveners agree that the following matters are specifically excluded from this Settlement Agreement:

(i) the removal of the Vegetation Management reserve;

(ii) modifications to the Variable Pay Program reserve; and

(iii) Issue 8(b) from the Commission's approved Issues List - Proposed treatment of the one-time depreciation adjustment for the Jasper Palisades Isolated Generation Plant of depreciation related to the Jasper Palisades Isolated Generation Plant;

collectively referred to herein as the "**Excluded Matters**".

3. **Revised Revenue Requirement**

(a) The overall revenue requirement adjustments agreed to in this Settlement Agreement are set out in Schedule 3-1 attached hereto as Appendix "A".

(b) Revised Minimum Filing Requirement ("**MFR**") schedules that reflect the specific adjustments and modifications agreed to herein are attached hereto as Appendix "A". A Summary of Changes to AET's Revenue Requirement is attached as Appendix "B" to this Settlement Agreement.

(c) Except for the Excluded Matters, the Parties agree that the AUC should approve the Application, with the specific adjustments and modifications identified in this Settlement Agreement and in Appendix "A" hereto. The Parties agree to support AET's application to the AUC for approval of this Settlement Agreement.

4. **Specific Adjustments and Modifications**

(a) **Errors and Omissions:** In addition to the adjustments and modifications identified herein, the revenue requirement shall reflect AET's correction of errors and omissions described in AET's response to AET-AUC-2022SEP21-130 filed on the record of Proceeding 27062.

(b) **Diesel Fuel Volume Forecast:** The forecast diesel fuel volumes set out in Table 4.2 of the Application, with the corrections identified in response to AET-AUC-2022SEP21-105(d), will be reduced by 5% in each year of the Test Period.

(c) **Fuel Price Deferral Account:** A fuel price deferral account, as proposed in the Application, will be implemented for the Test Period.

(d) **Vacancy Rate:** AET will apply a vacancy rate of 5% in each year of the Test Period. A schedule identifying the impact of the 5% vacancy rate to capital FTEs and O&M FTEs, and to O&M USAs, is attached hereto as Appendix "**C**".

(e) **Inflation Assumptions ("Other"):** Forecast inflation assumptions for "Inflation - Other" will be 4.4% in 2023, 3.0% in 2024, and 2.2% in 2025.

(f) **Information Technology ("IT") Transition Costs:** The Parties agree to the implementation of a temporary deferral account for potential IT transition costs following a competitive bidding process for IT managed services in advance of the expiry of the current IBM/Kyndryl MSA in 2025 as described in the Application, with a placeholder amount of $0.00 for such costs in the Test Period. The deferral account will have an opening balance of $0 and the disposition of any non-zero balance in this deferral account will be reviewed as part of AET's next general tariff application, including the prudency and recovery of any such costs incurred in AET's revenue requirement.

(g) **Supervision and Engineering (USA Acct No. 560):** Forecast costs for USA 560 will be $3.3 million in 2023, $3.4 million in 2024, and $3.5 million in 2025, which amounts are inclusive of the vacancy, inflation and escalation rate adjustments identified in clauses 4(d), (e), (l) and (m) herein.

(h) **Control Centre Operations (USA Acct No. 561):** Forecast costs for USA 561 will be $5.4 million in 2023, $5.6 million in 2024, and $5.8 million in 2025, which amounts are inclusive of the vacancy, inflation and escalation rate adjustments identified in clauses 4(d), (e), (l) and (m) herein.

(i) **Station Equipment Expenses (USA Acct No. 562):** Forecast costs for USA 562 will be $9.9 million in 2023, $10.0 million in 2024, and $10.1 million in 2025, which amounts are inclusive of the vacancy, inflation and escalation rate adjustments identified in clauses 4(d), (e), (l) and (m) herein.

(j) **Insurance Premiums (USA Acct No. 924):** Forecast costs for insurance premiums included in USA 924 will be $5.3 million for 2023, $5.4 million for 2024, and $5.6 million for 2025.

(k) **Variable Pay Program ("VPP"):** Forecast VPP for the Test Period will be $4.5 million in 2023, $4.6 million in 2024, and $4.7 million in 2025.

(l) **In-scope Salaries:** Forecast in-scope salary inflation will be 1.0% in 2022, 2.5% in 2023, 3.0% in 2024, and 1.8% in 2025.

(m) **Out-of-Scope Salaries:** Out-of-scope salary inflation will be 2.9% in 2022, 2.9% in 2023, 2.5% in 2024, and 2.5% in 2025.

(n) **Income Tax:** AET agrees to expand the scope of its current deferral account for statutory tax rates during the Test Period, to include changes to income tax legislation or policy that relate to the ability to claim accelerated capital cost allowance ("**ACCA**"), including if the ability to claim ACCA is discontinued or enhanced. To clarify, this deferral will capture such changes to non-direct assigned capital only, as direct assigned capital tax impacts are currently captured in the direct assigned capital deferral account.

(o) **Shared Services FTEs:** Forecast pre-allocated Shared Services Innovation Function FTEs will be 10.4 FTEs in each year of the Test Period, consistent with 2021 actuals. Forecast pre-allocated Shared Services Indigenous and Government Relations & Sustainability Function FTEs will be 11.0 FTEs in each year of the Test Period, consistent with FTE levels approved in Proceeding 24964. The impact of these FTE adjustments to capital FTEs and O&M FTEs, and to O&M USAs, is included in Appendix "**C**" attached hereto.

(p) **Additions to Opening 2023 Rate Base for 2022 Forecast IT Capital:** Forecast 2022 additions to GP&E Software opening rate base will be $12.3 million.

(q) **General Reductions in Operating Costs:** AET's applied-for forecast operating costs shall reflect a reduction in the amount of $0.25 million for each year in the Test Period This reduction is not tied to any specific USA account or accounts, but is a holistic reduction that AET may apply to any operating expense, USA account or accounts as it sees fit.. For presentation purposes, AET has included this adjustment within USA 566.

(r) **Project 57259 ("PENVTD"):** The forecast capital addition of $60.1 million associated with PENVTD will be removed from the Test Period.

(s) **Project 58112 ("CETO"):** For the purpose of setting interim rates for the Test Period, AET agrees to remove the financial impact of the forecast $141.1 million addition for the December 2025 energization of CETO Project from the Application. For clarity, AET's deferral application to establish the final revenue requirement related to CETO Project will be based on and include the financial impacts of the actual in-service date of the CETO Project.

(t) **Transmission Capital Maintenance ("TCM") and General Property and Equipment Projects ("GPE"):** AET agrees to an overall reduction of 7.5% to its combined TCM and GPE capital forecast over the Test Period and a one-time reduction of $2 million in 2023 to its combined TCM and GPE capital forecast. These reductions are not tied to any specific project or program, but are holistic reductions that AET may apply as it sees fit. AET shall retain discretion to manage the forecast reduction from projects or programs in assessing the impact on the safety and reliability of its assets.

(u) **Federal Future Income Taxes ("FIT"):** AET will discontinue the collection of Federal FIT as applied-for in the Application, and AET will refund $30 million of previously collected FIT in each year of the Test Period.

(v) AET has assessed and confirms that the reductions in revenue requirement identified herein, according to the facts currently known by AET and to the best of AET's knowledge, will not compromise the provision of safe and reliable transmission service during the Test Period.

5. **Prospective Commitments**

(a) AET will conduct an analysis of property insurance level of deductibles and potential self-insurance and present the findings of this analysis in its next general tariff application.

(b) AET will present a refund strategy in its next general tariff application for refunding the remaining FIT reserve balance.

(c) AET agrees to review its existing risk assessment for Capital Maintenance programs, including enhancements to the numerical quantification of costs and benefits, and to report on this review in its next general tariff application. This review will focus on at least five new or existing sub-programs forecast in the next general tariff application test period.

(d) AET's operations and maintenance forecasts are activity-based. AET agrees to review and examine the level of detail provided to support its activity-based forecasts for USA 560, 561, 562 and 563/9. AET agrees to provide additional detail supporting these activity-based forecasts in its next general tariff application. Such additional details will include activities, activity volumes, time and costs to complete the activities, as applicable.

(e) AET will review and examine the data, the data's integrity, and its current processes supporting the Transmission Line to Ground Clearance Mitigation ("**LGCM**") and the Cross-Arms and Insulator Replacement programs and provide an update on its findings in its next general tariff application. The update will include additional explanation of how such data will be used in the next general tariff application test period to support the strategies chosen to correct LGCM issues and for cross-arm and insulator replacements, or if not used, a full justification as to why not.

(f) AET agrees to develop and maintain a contamination map of its service area depicting zones of contamination and insulation values based on IEC 60815-1-2-3, and to present the findings of such map and the associated potential implications for future transmission capital maintenance and operations and maintenance costs in the next general tariff application. Forecast costs for Project 50020 will be increased by $0.3 million in 2023 to fund the development of the contamination map.

(g) AET agrees to provide additional detail regarding the value engineering (whether different methods can be identified to provide the required function, and an assessment of the tradeoff between cost, risk and performance in evaluating alternatives) applied to LGCM, significant cross-arms and insulator replacements, and line rebuilds in its next general tariff application.

(h) AET agrees that, before undertaking any broad mitigation application to address performance issues of synthetic or polymer insulation effects, where Corona Rings are a potential solution, it will complete a full electrical and mechanical assessment by an independent lab on such suspect insulation according to specific manufacturer and specific insulator type before any installation of Corona Rings on synthetic or polymer insulators. AET agrees to report the results of these activities (if any) in its next general tariff application. The commitment is intended to capture a larger application of corona rings (for instance an entire line that has polymer/ synthetic lines performance issues) as opposed to mitigation of unique or isolated structures.

(i) AET agrees to provide the detailed information on total IT expenditures in one place in its next GTA, as was directed in Decision 26616-D01-2022 paragraph 390, for the ATCO Distribution Utilities. This information will include information on total IT expenditures (including IT O&M (direct, shared services, head office), and IT capital (including additions, indirect and direct capital)), the MFR accounts in which these costs are recorded, an identification of all IT corporate costs, and the method used to allocate IT costs to ATCO distribution and transmission utilities.

(j) AET will review and report on any savings or reduction to costs in the 2023-2025 Test Period realized from Project 82664 and Project 82660, in its next general tariff application.

6. **Prudence**

(a) The Parties agree that nothing in this Settlement Agreement, including the reductions to the 2023-2025 GTA revenue requirement, is an admission by AET that those revenue requirement amounts are imprudent. The Parties further agree that no Party may rely on anything in this Settlement Agreement as evidence in any future proceeding that any revenue requirement amounts are either prudent or imprudent.

7. **Confidentiality and Privilege Without Prejudice**

(a) The negotiated settlement reflected in this Settlement Agreement is a compromise and was reached in part as a result of the desire of the Parties to avoid the significant resources associated with a fully litigated process. This Settlement Agreement is for the purpose of AET's 2023-2025 GTA only, unless expressly stated otherwise, and it is without prejudice to the positions that any of the Parties may take in any subsequent negotiations and regulatory proceedings. For greater clarity, the Parties' proposal, which was accepted by the Commission, to not expend resources on advancing the preparation and filing of Information Request responses and rebuttal evidence on the issues included in this Settlement Agreement, does not constitute an admission by any Party that it accepts or agrees with the positions or evidence advanced in intervener evidence or information requests.

(b) All discussions among the Parties during the negotiated settlement process are privileged and confidential, and no matter discussed and no information provided during the negotiated settlement process may be disclosed to any person or to the AUC without the express written consent of all Parties.

8. **General**

(a) Each Party represents that it has not withheld relevant information.

(b) The Parties agree that proper notice of the negotiated settlement process was provided to all interested parties.

(c) The Parties further agree:

(i) The division of this Settlement Agreement into headings and paragraphs is for convenience and reference only and should not affect the interpretation or construction of this Settlement Agreement.

(ii) This Settlement Agreement sets out the entire understanding and agreement of the Parties and there are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, among the Parties in connection with the subject matter of this Settlement Agreement except as specifically set out herein.

(iii) Any alteration or amendment of this Settlement Agreement must be in writing and signed by the Parties. This Settlement Agreement will be binding upon and inure to the benefit of the Parties and each of their respective successors and permitted assigns. A Party may not assign their rights and/or obligations under this Settlement Agreement without the consent of all other Parties, provided such consent is not unreasonably withheld. This Settlement Agreement may be executed in any number of counterparts.

(iv) This Settlement Agreement is to be interpreted pursuant to the laws of the Province of Alberta.

(v) If any provision of this Settlement Agreement is found to be invalid by a court of law, this Settlement Agreement will be read and interpreted as if the provision were omitted.

(vi) The failure of any Party to exercise any right, power or option given to it under this Settlement Agreement or to insist upon the strict compliance with any of the terms or conditions in this Settlement Agreement will not constitute a waiver of any provision with respect to any other or subsequent breach.

(vii) Unless otherwise stated, any dollar amounts, prices or amounts stated in this Settlement Agreement are in the lawful currency of Canada.

(viii) Unless otherwise stated, all accounting matters or terms in this Settlement Agreement will be interpreted and construed in accordance with International Financial Reporting Standards.

(ix) References to any statute, legislation or regulation include all subsequent additions, amendments, re-enactments or replacements enacted from time to time during the period covered by this Settlement Agreement.

(d) This Settlement Agreement may be executed in any number of counterparts (including by facsimile or other electronic means) with the same effect as if all signing Parties had signed the same document. All counterparts shall be construed together and constitute the same agreement.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have duly executed this Settlement Agreement as of the date set out above.

ATCO ELECTRIC LTD.

Per: C. S

Name: Corinne Severson
Title: Vice President, Regulatory

Per: M Bayley

Name: Melanie Bayley
Title: President ATCO Electric

CONSUMERS' COALITION OF ALBERTA

Per:

Name:
Title:

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per:

Name:
Title:

THE CITY OF CALGARY

Per:

Name:
Title:

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per:

Name:
Title:

CITY OF GRANDE PRAIRIE

Per:

Name:
Title:

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ATCO ELECTRIC LTD.

Per: ______________________
Name:
Title:

Per: ______________________
Name:
Title:

CONSUMERS' COALITION OF ALBERTA

Per: ______________________
Name: J.A. WACHOWICH
Title: legal counsel to CCA
AET 2023 - 2025 GTA
I.D. 27062 / Jan 20 2023

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per: ______________________
Name:
Title:

THE CITY OF CALGARY

Per: ______________________
Name:
Title:

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per: ______________________
Name:
Title:

CITY OF GRANDE PRAIRIE

Per:
Name:
Title:

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Title:

Per: ______________________________
Name:
Title:

CONSUMERS' COALITION OF ALBERTA

Per: ______________________________
Name:
Title:

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per: C. W. Hunt
Name: Chris Hunt
Title: Executive Director, UCA

THE CITY OF CALGARY

Per: ______________________________
Name:
Title:

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per: ______________________________
Name:
Title:

CITY OF GRANDE PRAIRIE

Per:
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Per: ______________________
Name:
Title:

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per: ______________________
Name:
Title:

THE CITY OF CALGARY

Per: ______________________
Name: E. Lynne Davies
Title: Director - Law on behalf of the City Solicitor & General Counsel

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per: ______________________
Name:
Title:

CITY OF GRANDE PRAIRIE

Per:
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Per: ______________________
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Title:

THE CITY OF CALGARY

Per: ______________________
Name:
Title:

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per: ______________________
Name:
Title:

Richard Penn
Executive Director
IPCAA

CITY OF GRANDE PRAIRIE

Per:
Name:
Title:

WSLEGAL\008794\03001\33365887v1

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Per: ______________________________
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Title:

THE CITY OF CALGARY

Per: ______________________________
Name:
Title:

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per: ______________________________
Name:
Title:

CITY OF GRANDE PRAIRIE

Per:
Name: Danielle Whiteway
Title: Chief Financial Officer

Adobe Acrobat Sign Transaction Number: CBJCHBCAABAAG7vm11Qtw0BT5ynoqTio1gacYoU5cX0X

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AMENDING AGREEMENT

ATCO ELECTRIC LTD.
2023-2025 GENERAL TARIFF APPLICATION

THIS AMENDING AGREEMENT is made and entered into as of **January 31, 2023**.

AMONG:

ATCO ELECTRIC LTD. ("**AET**")

- and -

CONSUMERS' COALITION OF ALBERTA (the "**CCA**")

- and -

OFFICE OF THE UTILITIES CONSUMER ADVOCATE (the "**UCA**")

- and -

THE CITY OF CALGARY ("**Calgary**")

- and -

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA ("**IPCAA**")

- and -

CITY OF GRANDE PRAIRIE ("Grande Prairie")

each, a "**Party**" and collectively, the "**Parties**"

WHEREAS:

A. The Parties entered into a Negotiated Settlement Agreement made as of January 19, 2023 (the "**Settlement Agreement**") in respect of the negotiated settlement of the Application, which is the subject of AUC Proceeding No. 27062 (the "**Proceeding**");

B. On January 25, 2023, the Commission issued an information request to AET which raised questions regarding provision 4(u) of the Settlement Agreement related to Federal Future Income Taxes ("**FIT**");

C. Having reviewed such information request, AET acknowledges the presentation of the proposed FIT refund in the Settlement Agreement, including Appendix "A", did not properly account for the income tax impact of the FIT refund;

D. In order to address this, the Parties have agreed to enter into this Amending Agreement pursuant to the terms and conditions contained herein.

IN CONSIDERATION of the mutual promises made in this Amending Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged by each of the Parties, and subject to the conditions hereinafter set out, the Parties agree as follows:

1. **Definitions**

(a) Unless otherwise specified herein or unless otherwise required by the context hereof, capitalized terms utilized herein, including the recitals hereof will have the meanings given to them in the Settlement Agreement.

2. **Amendments to the Settlement Agreement**

(a) The Settlement Agreement is hereby amended as follows:

(i) Section 4(u) of the Settlement Agreement: Section 4(u) of the Settlement Agreement is amended by deleting the paragraph in its entirety and replacing it with the following:

"(u) Federal Future Income Taxes ("FIT"): AET will discontinue the collection of FIT as applied-for in the Application, and AET will refund previously collected FIT of $22.9 million in 2023, $22.5 million in 2024 and $22.1 million in 2025, and reflect the resulting impacts of such refunds on income tax expense and return on rate base in revenue requirement in each year of the Test Period."

(ii) Appendix "A" to the Settlement Agreement: Appendix "A" to the Settlement Agreement is amended by rescinding it in its entirety and replacing it with the amended "Appendix A – Revised MFRs Amended January 31, 2023" attached hereto and to be filed in the Proceeding as Exhibit 27062-X0496.01.

(iii) Appendix "B" to the Settlement Agreement: Appendix "B" to the Settlement Agreement is amended by rescinding it in its entirety and replacing it with the amended "Appendix B – Summary of Changes to Rev Req Amended January 31, 2023" attached hereto and to be filed in the Proceeding as Exhibit 27062-X0497.01.

3. **General**

(a) **Continuity**: The provisions of the Settlement Agreement shall, save as amended by this Amending Agreement, continue in full force and effect, and shall be read and construed as one document with this Amending Agreement.

(b) **Governing Law:** Section 8(c)(iv) of the Settlement Agreement shall apply to this Amending Agreement *mutatis mutandis*.

(c) **Counterparts:** This Amending Agreement may be executed in any number of counterparts (including by facsimile or other electronic means) with the same effect as if all signing Parties had signed the same document. All counterparts shall be construed together and constitute the same agreement.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have duly executed this Amending Agreement as of the date set out above.

ATCO ELECTRIC LTD.

Per: C. S
Name: Corinne Severson
Title: Vice President, Regulatory

Per: M Bayley
Name: Melanie Bayley
Title: President, Electric

CONSUMERS' COALITION OF ALBERTA

Per:
Name:
Title:

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per:
Name:
Title:

THE CITY OF CALGARY

Per:
Name:
Title:

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per:
Name:
Title:

CITY OF GRANDE PRAIRIE

Per:
Name:
Title:

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ATCO ELECTRIC LTD.

Per: ______________________________
Name:
Title:

Per: ______________________________
Name:
Title:

CONSUMERS' COALITION OF ALBERTA

Per: ______________________________
Name: JAMES A. WACHOWICH
Title: Legal Counsel to CCA
27062 Amended NSA-Ycopy
Jan 31/2023

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per: ______________________________
Name:
Title:

THE CITY OF CALGARY

Per: ______________________________
Name:
Title:

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

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Per: ______________________
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CONSUMERS' COALITION OF ALBERTA

Per: ______________________
Name:
Title:

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per: C. W. Hunt
Name: Chris Hunt
Title: Executive Director, UCA

THE CITY OF CALGARY

Per: ______________________
Name:
Title:

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Per: ______________________
Name:
Title:

OFFICE OF THE UTILITIES CONSUMER ADVOCATE

Per: ______________________
Name:
Title:

THE CITY OF CALGARY

Per: ______________________
Name: Lynne Davies
Title: Director, Law by delegated authority from the City Solicitor & General Counsel

INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per: ______________________
Name:
Title:

CITY OF GRANDE PRAIRIE

Per: ______________________
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Per: ______________________
Name:
Title:

Richard Penn
Executive Director - IPCAA

CITY OF GRANDE PRAIRIE

Per: ______________________
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INDUSTRIAL POWER CONSUMERS ASSOCIATION OF ALBERTA

Per: ______________________________
Name:
Title:

CITY OF GRANDE PRAIRIE

Per: ______________________________
Name: Danielle Whiteway
Title: Chief Financial Officer

Adobe Acrobat Sign Transaction Number: CBJCHBCAABAAKFrhWszNt6P8mW1Ju32ms31QTw7QDhqg

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