



AUC

Alberta Utilities Commission

AltaGas Utilities Inc.

**Application for Approval of an Exemption
Extension for Rule 004 and Rule 028**

April 29, 2019

Alberta Utilities Commission

Decision 23948-D01-2019

AltaGas Utilities Inc.

Application for Approval of an Exemption
Extension for Rule 004 and Rule 028

Proceeding 23948

Application 23948-A001

April 29, 2019

Published by the:

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

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1 Decision summary

1. In this decision, the Alberta Utilities Commission considers whether to approve an application¹ from AltaGas Utilities Inc. (AltaGas) for an extension of previously granted temporary exemptions from specific sections of Rule 004: *Alberta Tariff Billing Code*^{2,3} and Rule 028: *Natural Gas Settlement System Code Rules*.^{4,5}

2. For the reasons and subject to the conditions that follow, AltaGas is granted an extension of the Rule 004 exemptions until April 30, 2019, and of the Rule 028 exemptions until December 31, 2021.

2 Introduction

3. By an application filed with the Commission on October 1, 2018, AltaGas requested an extension of temporary exemptions from specific sections of Rule 004 and Rule 028 granted in Decision 20428-D01-2015 and Decision 3606-D01-2015, respectively.

4. More specifically AltaGas requested an extension of its current temporary exemption from the following sections of Rule 004 (the Rule 004 exemptions):

- Section 3.2, Table 3-1, Line 14: which requires distributors to split the billing period to show separate charges (old and new rates) when a change in tariff pricing occurs within a billing period.
- Section 3.2, Table 3-1, Line 15: which requires distributors to split the billing period to show separate usages associated with each rate when a change in tariff pricing occurs within a billing period.

¹ Exhibit 23948-X0001, AUI Rule 004 - Rule 028 Exemption Extension Application 2018-10-01, October 1, 2018.

² Decision 20428-D01-2015: AltaGas Utilities Inc., Rule 004 Alberta Tariff Billing Code Exemption, Proceeding ID No. 20428, December 4, 2015.

³ Decision 21211-D01-2016: AltaGas Utilities Inc., Rule 004 Exemption Compliance Filing, Proceeding ID No. 21211, February 17, 2016.

⁴ Decision 3606-D01-2015: AltaGas Utilities Inc., Rule 028 Natural Gas Settlement System Code Exemption, Proceeding ID No. 3606, March 11, 2015.

⁵ Decision 20885-D01-2016: AltaGas Utilities Inc., Rule 028 Natural Gas Settlement System Code Exemption Extension, Proceeding ID No. 20885, January 8, 2016.

- Sections 4.3.1(4) and 5.4.1(1): which require distributors to present one-time charges including cancelled and rebilled one-time charges independently from other tariff charges.
- Section 5.4.1(2): which requires canceled bill records and associated rebill records to be presented in the same tariff bill file.

5. AltaGas further requested that the AUC replace the current Tariff Billing Code Compliance Plan approved in Decision 21211-D01-2016 with the updated plan included as Appendix 1 to the application.

6. By its application, AltaGas also requested an extension of the previously granted temporary exemption from the following sections of Rule 028 (the Rule 028 exemptions):

- Section 2.11: which requires that distributors report the time of meter reading as either the actual meter read time or a consistently deemed meter read time on the date of the meter read.
- Section 8.6.1.1(1)(b): which requires that the Current Reading Date Time field of the Daily cumulative meter consumption transaction be populated with actual or deemed values.
- Section 8.6.3.2, Table 9, Sequence 8 Profiling Class: which requires consistent populating of the profiling class in the Select retailer notification transaction content.

7. AltaGas requested that the exemptions be extended from their stated December 31, 2018 expiration date until April 30, 2019 for Rule 004 and December 31, 2021 for Rule 028.

8. On October 10, 2018, the Commission issued a notice of application. The only party to register was Direct Energy Marketing Limited⁶ (Direct Energy). In its statement of intent to participate, filed on October 10, 2018, Direct Energy stated that it does not support the granting of further exemptions to AltaGas.

9. A process schedule for this proceeding was established on November 23, 2018. In view of that schedule, the December 31, 2018 expiration date of the previously granted exemptions, and following its consideration of submissions received, the Commission issued an interim approval on December 21, 2018, extending the Rule 004 and Rule 028 exemptions until a final decision was issued in this proceeding.⁷

10. The process schedule established by the Commission for this proceeding included: information requests to AltaGas and Direct Energy, information request responses from each of these parties, submissions on the need for further process, a second round of information requests from the Commission to AltaGas, responses from AltaGas and argument from AltaGas. Direct Energy filed a letter with the Commission on February 7, 2019, stating that it would not

⁶ Exhibit 23948-X0007, Direct Energy Comments on Extension Request, October 23, 2018.

⁷ Exhibit 23948-X0017, AUC Letter to AltaGas Utilities - Interim exemption extension, December 21, 2018.

be submitting argument.⁸ Accordingly, the Commission considers the record of this proceeding to have closed on February 8, 2019, with the submission of AltaGas's argument.

11. In reaching the determinations set out within this decision, the Commission has considered all relevant materials comprising the record of this proceeding. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record with respect to that matter.

2.1 Background

12. To provide context for the discussion that follows, a description of the purpose of Rule 004 and Rule 028 and a brief review of AltaGas's historical exemptions and related extension requests is warranted.

2.1.1 Rule 004: Alberta Tariff Billing Code

13. Rule 004 defines the business processes and mechanics for the production and transmission of timely and accurate tariff bill-ready information to retailers by electricity and natural gas distributors for distribution and system access service in Alberta. Amendments to Rule 004 are developed through a consultative process with industry stakeholders, including AltaGas.

14. In 2004, the AUC's predecessor, the Alberta Energy and Utilities Board (the Board), implemented Directive 012: *Alberta Tariff Billing Code*, which is the precursor to Rule 004. In 2005, the Board released Bulletin 2005-034, announcing the implementation of version 1.3 of Directive 012: *Alberta Tariff Billing Code* and its application to both electricity and natural gas distributors effective July 1, 2006. AltaGas had been granted a year-long exemption in June of 2006,⁹ to provide it additional time to implement compliance measures. This temporary exemption was extended to March 31, 2008 to accommodate the enactment of the *Alberta Utilities Commission Act* and the ensuing transfer of utility-related matters from the Board to the Commission.¹⁰

15. In September 2008, AltaGas applied for a permanent exemption from Rule 004.¹¹ The Commission denied the request in Decision 2008-084¹² and directed AltaGas to prepare a compliance plan detailing how it would achieve full compliance with the requirements of Rule 004.

16. On May 28, 2010, AltaGas submitted a compliance plan to the Commission, providing its schedule and details of the activities that it would undertake to become fully compliant with

⁸ Exhibit 23948-X0024, Direct Energy Comments on Argument, February 7, 2019.

⁹ Decision 2008-084: AltaGas Utilities Inc., Decision on Request for a Permanent Exemption from AUC Rule 004: Alberta Tariff Billing Code, Application No. 1493238, September 5, 2008.

¹⁰ Decision 2008-084: AltaGas Utilities Inc., Decision on Request for a Permanent Exemption from AUC Rule 004: Alberta Tariff Billing Code, Application No. 1493238, September 5, 2008.

¹¹ Application 15918-A001, filed December 19, 2006.

¹² Decision 2008-084: AltaGas Utilities Inc., Decision on Request for a Permanent Exemption from AUC Rule 004: Alberta Tariff Billing Code, Application No. 1493238, September 5, 2008.

Rule 004. It also requested that its previously granted exemptions remain in effect and that a further exemption to table reference ID 15 of Table 3-1 be granted.¹³

17. In a letter dated June 4, 2010, the Commission approved the requested exemptions as well as AltaGas's submitted compliance plan, but stated that full or nearly complete compliance with Rule 004 was expected by December 31, 2012.¹⁴

18. On April 4, 2011, Rule 028 came into effect. AltaGas explained that in 2012, both its resources and those of the billing system vendor were focused on becoming compliant with Rule 028.¹⁵ Accordingly, AltaGas did not proceed with the implementation of its customer information and billing system (CIS), which it had previously outlined as necessary for achieving Rule 004 compliance. As a further consequence of the Rule 028 compliance effort, the filing of a revised compliance plan pursuant to the Commission's deadline of December 31, 2012, was overlooked by AltaGas.¹⁶

19. As a result of rule revisions in version 2.0 of Rule 004, on May 12, 2015, AltaGas filed an application for further exemptions to December 31, 2018,¹⁷ and indicated that it would be compliant with Rule 004 by mid-2019, when the replacement of its CIS would be complete. The Commission granted the request for reasons that included: evidence of the costs associated with a temporary solution; evidence of limited customer and market impact; and AltaGas's compliance timeline, which indicated that full compliance would be achieved by no later than mid-2019. The Commission directed AltaGas to file a revised compliance plan. AltaGas was also required to report on an annual basis advising the Commission, among other things, of any slippage in the compliance timeline and of the measures taken by AltaGas to address any such delay.¹⁸

20. In the same decision, the Commission reiterated that full compliance with Rule 004 is important in ensuring an open, fair and effective retail market; all market participants should abide by the same rules and therefore, exemptions should be temporary in nature. In paragraph 55 of the decision, the Commission expressed its concern with AltaGas's repeated applications for temporary exemptions from the requirements of Rule 004 stating:

The Commission does not consider that multiple, temporary exemptions, extending for over a decade, were contemplated when Rule 004 and its predecessor code were issued.¹⁹

21. Pursuant to the direction in Decision 20428-D01-2015, AltaGas submitted its compliance filing for its revised compliance plan and stated that there had been no changes to the timeline

¹³ Proceeding 20428-X0010, June 4 2010 Letter, June 25, 2015.

¹⁴ Proceeding 20428-X0010, June 4 2010 Letter, June 25, 2015.

¹⁵ Exhibit 20428-X0013, Rule 004 TBC Exemption - AUC IR Response 2015-06-25, June 25, 2015, PDF page 18.

¹⁶ Exhibit 20428-X0013, Rule 004 TBC Exemption - AUC IR Response 2015-06-25, June 25, 2015, PDF page 16.

¹⁷ Application 20428-A001, filed May 12, 2015.

¹⁸ Decision 20428-D01-2015: AltaGas Utilities Inc., Rule 004 Alberta Tariff Billing Code Exemption, Proceeding ID No. 20428, December 4, 2015, PDF page 19.

¹⁹ Decision 20428-D01-2015: AltaGas Utilities Inc., Rule 004 Alberta Tariff Billing Code Exemption, Proceeding ID No. 20428, December 4, 2015, PDF page 19.

for Rule 004 compliance. The Commission approved AltaGas's compliance plan in Decision 21211-D01-2016.²⁰

2.1.2 Rule 028: Natural Gas Settlement System Code Rules

22. Rule 028 defines the business processes and mechanics for how natural gas settlement is to be carried out in the Alberta natural gas retail market. As with Rule 004, amendments to Rule 028 are developed through a consultative process with industry stakeholders, including AltaGas.

23. On April 4, 2011, Rule 028 (version 1.0) came into effect. AltaGas stated that, in relying on a financial settlement process rather than an in-kind process, it could not generate the reports required by Section 11 of the Rule 028 without an entirely new settlement system.²¹ In Decision 2011-346,²² AltaGas was granted a six-month exemption from compliance with the requirements of Rule 028 to evaluate all options for implementing a new settlement information system.

24. On February 28, 2012, AltaGas submitted a plan for updating its settlement system and requested further exemptions to Rule 028.²³ In Decision 2012-189,²⁴ the Commission approved the exemption until the implementation of phase one of the submitted plan on December 14, 2012. However, the Commission expressed concerns with phase two and deemed the plan incomplete. AltaGas was directed to consult with industry to jointly develop a phase two implementation plan by October 31, 2012, and to file the plan by December 1, 2012.²⁵

25. AltaGas applied for an exemption extension in December of 2012, stating that the phase two implementation would be delayed due to a need to expand the scope of the project to properly assess market readiness. In Decision 2013-084,²⁶ the Commission approved an extension until September 1, 2013, and directed AltaGas to provide monthly updates on the project implementation.

26. In Decision 2013-339,²⁷ AltaGas was granted a further extension to November 1, 2013, based on AltaGas's claim that more time was needed for post-programming activities such as

²¹ Decision 2011-346: AltaGas Utilities Inc., Natural Gas Settlement System Code Rules Exemption Application, Proceeding ID No. 1236, August 23, 2011.

²² Decision 2011-346: AltaGas Utilities Inc., Natural Gas Settlement System Code Rules Exemption Application, Proceeding ID No. 1236, August 23, 2011.

²³ Application 1746-A001.

²⁴ Decision 2012-189: AltaGas Utilities Inc., Application for a Further Exemption from the Requirements of AUC Rule 028 Pursuant to Alberta Utilities Commission Decision 2011-346, Proceeding ID No. 1746, July 18, 2012.

²⁵ Decision 2012-189: AltaGas Utilities Inc., Application for a Further Exemption from the Requirements of AUC Rule 028 Pursuant to Alberta Utilities Commission Decision 2011-346, Proceeding ID No. 1746, July 18, 2012, PDF page 10.

²⁶ Decision 2013-084: AltaGas Utilities Inc., Compliance Filing to AUC Decision 2012-189 and Application for a Further Exemption from the Requirements of AUC Rule 028 Pursuant to AUC Decision 2011-346, Proceeding ID No. 2335, March 13, 2013.

²⁷ Decision 2013-339: AltaGas Utilities Inc., Application for Extension to Exemption from Compliance with AUC Rule 028, Proceeding ID No. 2700, September 10, 2013.

testing. The Commission noted that AltaGas did not provide monthly updates as had been directed in Decision 2013-084.

27. On January 26, 2014, Rule 028 version 1.3 came into effect. AltaGas stated in the related industry consultation meetings that it would not be compliant with the revisions to sections 2.11 and 8.6.1.1 of the rule due to the timing of when AltaGas deems meter reads. The Commission directed AltaGas to apply for an exemption from these sections.

28. AltaGas applied for further exemptions from Rule 028 requirements on December 29, 2014, stating that it required upgrades to its CIS and that it would become compliant with Rule 028 in three to five years, following implementation of the new CIS.²⁸ The Commission approved the requested exemptions in Decision 3606-D01-2015, for reasons that included the evidence that an interim solution to bring AltaGas into compliance would result in AltaGas incurring significant time and expense, and because manual workarounds were in place.

29. In Decision 20885-D01-2016, the Commission again approved a request from AltaGas to extend its exemptions under Rule 028 to December 31, 2018. AltaGas advised that its timeline had not changed, and that it expected to be fully compliant with Rule 028 by June 30, 2019, following its CIS replacement. It argued that granting the extension would avoid the significant time and costs required to implement temporary solutions and would minimize the overall costs to consumers. The Commission granted the request for reasons that included: the absence of evidence of major impacts to retailers resulting from AltaGas's non-compliance; evidence that temporary solutions were associated with significant time; and AltaGas's representations that it would be fully compliant with Rule 028 by mid-2019. Although the Commission was satisfied that it was in the public interest to grant the requested extension on that occasion, it again emphasized the importance of all natural gas market participants being compliant with Rule 028 and imposed a requirement for annual reports from AltaGas. These reports were to confirm, among other things, that AltaGas was still on schedule to be fully compliant with Rule 028 by June 30, 2019, and to provide details of the steps taken to achieve that compliance.

3 The current application

3.1 Views of AltaGas

The rationale for the requested extensions, in general

30. Compliance with all Rule 004 and Rule 028 exemptions was expected to be achieved as part of the CIS replacement project originally planned for implementation by mid-2019. The CIS replacement program proceeded as scheduled until Q1 2018, when AltaGas was unable to come to an agreement on pricing with the vendor.²⁹ This led to a delay in the CIS replacement project, as well as a need for AltaGas to examine alternative options to address Rule 004 and Rule 028.

²⁸ Application 3606-A001.

²⁹ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, PDF page 8.

The resulting delay from the vendor disagreement is the main reason for the requested extensions.³⁰

31. AltaGas submitted that its "... applied-for approach for the Rules 004 and 028 exemptions is practical, rational and in the best interests of retailers and customers. It ensures that the exemptions with the greater impact to market participants are addressed in the near term and that significant time and resources of AUI and retailers are not expended imprudently to address exemptions with minimal or no impact on market participants.".³¹

32. Although Direct Energy has stated that AltaGas should comply with regulations that all industry participants are required to follow, AltaGas has received no indication of customer dissatisfaction or negative feedback regarding the specific exemptions from retailers, including Direct Energy.³² Further, Direct Energy has confirmed in this proceeding that no significant financial harm is caused by AltaGas's exemptions, as operational workarounds are currently in place and the financial impacts are immaterial.³³

33. Contrary to the assertions of Direct Energy, approval of the requested extensions would not be preferential treatment.³⁴ Further, the imposition of financial penalties related to the exemptions requested by Direct Energy is unwarranted. AltaGas has not contravened any legislative requirements or caused identifiable harm to any industry participants, and it has reported to the Commission as directed.³⁵

Concerning the Rule 004 exemptions

34. AltaGas remains fully committed to ensuring full compliance with Rule 004 by April 30, 2019, as represented in previous proceedings.

35. Following a re-evaluation of its options to replace the CIS,³⁶ AltaGas identified cost-effective system enhancements to its current CIS that would achieve compliance with Rule 004 by April 30, 2019. Accordingly, a short extension to April 30, 2019 is requested to provide adequate time to implement system enhancements and internal workarounds.³⁷

36. Feedback from retailers regarding exemption-related concerns for 2016 and 2017 was requested as directed by the Commission. No negative feedback or customer dissatisfaction was identified as a result of the Rule 004 exemptions, and all retailers indicated that they were willing

³⁰ Exhibit 23948-X0025, AUI Rule 004 – Rule 028 Exemption Extension Argument, February 8, 2019, PDF pages 3-4.

³¹ Exhibit 23948-X0025, AUI Rule 004 – Rule 028 Exemption Extension Argument, February 8, 2019, PDF page 5.

³² Exhibit 23948-X0025, AUI Rule 004 – Rule 028 Exemption Extension Argument, February 8, 2019, PDF page 7.

³³ Exhibit 23948-X0009, Direct Energy Comments in Response to AUC Procedural Letter, December 6, 2018.

³⁴ Exhibit 23948-X0025, AUI Rule 004 – Rule 028 Exemption Extension Argument, February 8, 2019, PDF page 6.

³⁵ Exhibit 23948-X0025, AUI Rule 004 – Rule 028 Exemption Extension Argument, February 8, 2019, PDF page 8.

³⁶ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, AltaGas-AUC-2018DEC13-001, PDF page 6.

³⁷ Exhibit 23948-X0001, AUI Rule 004 – Rule 028 Exemption Extension Application, October 1, 2018, page 9.

to continue with the current workarounds until AltaGas achieved full compliance with Rule 004.³⁸

37. Because the Rule 004 exemptions would not be required after April 30, 2019, AltaGas has updated its Tariff Billing Code Compliance Plan and will submit a self-certification statement of compliance, as required by Rule 004, by May 15, 2019.³⁹

Concerning the Rule 028 exemptions

38. AltaGas has explored options, but has been unable to identify any reasonable interim alternatives to achieve compliance with Rule 028 within its current CIS that would not result in significant effort and expense.⁴⁰⁻⁴¹ The interim solutions identified would involve a fundamental design change to the current CIS system, extensive market participant testing and retailer engagement of cutover strategies, to ensure that the changes have no unintended negative effects.⁴²

39. Responding to a Commission information request, AltaGas more specifically explained that any temporary solution would involve a two-phase project approach, with phase one focusing on developing requirements, scope, and a project schedule, and phase two focusing on consultation with stakeholders and implementation of new processes. It is estimated that a temporary solution would cost roughly \$500,000.00, would require significant participation from retailers in testing and implementation, and would be in place for two years, at most, until the replacement CIS is completed in 2021.⁴³ Any resources devoted to a temporary solution would essentially be wasted on a duplicative effort, as none of the required work would contribute to the CIS replacement and would be fully supplanted by the new CIS a short time later.⁴⁴

40. As directed by the Commission, feedback was requested from retailers regarding exemption-related concerns for 2016 and 2017. No negative feedback or customer dissatisfaction was identified as a result of the Rule 028 exemptions. All retailers indicated that they were willing to continue with the current workarounds until the implementation of the new CIS, which will allow AltaGas to achieve full compliance with Rule 028.⁴⁵ Also of note is the fact that no temporary solutions were suggested by retailers.⁴⁶

41. Given the above factors, it would be prudent and in the best interests of retailers and customers to maintain the currently approved Rule 028 exemptions until the CIS replacement

³⁸ Exhibit 23948-X0001, AUI Rule 004 – Rule 028 Exemption Extension Application, October 1, 2018, page 10.

³⁹ Exhibit 23948-X0001, AUI Rule 004 – Rule 028 Exemption Extension Application, October 1, 2018, pages 10-11.

⁴⁰ Exhibit 23948-X0001, AUI Rule 004 – Rule 028 Exemption Extension Application, October 1, 2018, page 8.

⁴¹ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, AltaGas-AUC-2018DEC13-001(D)(i), PDF page 5.

⁴² Exhibit 2348-X0023, AUI IR Round 2 Responses to AUC, February 1, 2019, AltaGas-AUC-2019JAN22-002, PDF page 11.

⁴³ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, AltaGas-AUC-2018DEC13-001, PDF pages 6-7.

⁴⁴ Exhibit 23948-X0023, AUI IR Round 2 Responses to AUC, February 1, 2019, pages 11-12.

⁴⁵ Exhibit 23948-X0001, AUI Rule 004 – Rule 028 Exemption Extension Application, October 1, 2018, PDF pages 15-16.

⁴⁶ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, PDF pages 19-21.

project is in place. As the CIS replacement project is expected to be completed on December 31, 2021, an extension of the Rule 028 exemptions until that date is requested.⁴⁷

42. The tentative schedule for AltaGas's CIS replacement project (and compliance with Rule 028 by December 31, 2021), is as follows:

Project Feasibility Phase

- January 2019 - Release of RFP to vendors
- February 2019 - Finalize vendor demonstration scripts and agenda
- March 2019 - Evaluation of RFP responses and vendor short list
- April 2019 - Vendor short list demonstration and selection of vendor finalist
- May 2019 - Vendor finalist drill down sessions and updated costs
- June 2019 - Contract negotiations, statement of work, final contracts signed

Project Implementation Phase

- July to December 2019 - Business process workshops, project kick-off, analysis/design workshops
- 2020 - Design, configuration & development, data conversion, testing
- 2021 - Testing (system integration testing, user acceptance testing), go-live/end user training, post-implementation support⁴⁸

3.2 Views of Direct Energy

43. Direct Energy is a retailer operating in the Alberta competitive marketplace.

44. The requested Rule 004 and Rule 028 exemptions place a burden upon Direct Energy that is unfair and should not be allowed to continue.⁴⁹

45. AltaGas's eight-year history of exemptions is to the detriment and cost of other market participants and hinders the fair, efficient and openly competitive nature of the Alberta electricity market.⁵⁰ Because retailers are required to use workarounds in AltaGas's service territory, there are barriers to entry for small retailers who may not be able to accommodate the exemptions. According to the Market Surveillance Administrator Retail Statistics, 23.4 per cent of customers are serviced by retailers in the AltaGas territory compared with 50 per cent retailer market share in ATCO Gas⁵¹ territories.⁵²

46. Further, while Direct Energy and other retailers are not significantly financially harmed by the AltaGas exemptions, Direct Energy objects to the appearance of preferential treatment to AltaGas through the propagation of exemption extensions to Rule 004 and Rule 028.

⁴⁷ Exhibit 23948-X0001, AUI Rule 004 – Rule 028 Exemption Extension Application, October 1, 2018, PDF pages 13-14.

⁴⁸ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, AltaGas-AUC-2018DEC13-003, PDF pages 17-18.

⁴⁹ Exhibit 23948-X0007, Direct Energy Comments on Extension Request, October 23, 2018.

⁵⁰ Exhibit 23948-X0007, Direct Energy Comments on Extension Request, October 23, 2018.

⁵¹ ATCO Gas is a division of ATCO Gas and Pipelines Ltd.

⁵² Exhibit 23948-X0018, Direct Energy Information Responses to AUC, January 9, 2019.

47. The Commission should consider the possibility of subjecting AltaGas to administrative or specified penalties to address ongoing non-compliance, rather than the granting of another exemption extension.⁵³

4 The Commission's authority

48. The Commission's authority to impose and also to grant relief from time limits, derives from Section 23 of the *Alberta Utilities Commission Act*, which states in its material parts:

23(1) The Commission may order

- (a) any person to do any act, matter or thing, forthwith or within or at a specified time and in any manner directed by the Commission, that the person is or may be required to do under this Act or any other enactment or pursuant to any decision, order or rule of the Commission.

...

23(2) If a rule, order or decision of the Commission requires that an act, matter or thing be done within a specified time and in the opinion of the Commission the circumstances so require, the Commission may, on giving any notice that it considers reasonable, or in its discretion without notice, extend the time so specified

49. Section 6.1.5 of Rule 004 expressly allows a regulated party to apply to the Commission for a temporary exemption from all or any provision of Rule 004. Subsection (1) of that same section identifies that the Commission will not approve an exemption unless it is satisfied that:

- a) It is in the public interest to do so
- b) The exemption does not significantly affect that obligations of the regulated party, or its obligations can or will be met in other ways for the duration of the exemption
- c) The exemption does not affect the obligation of the regulated party to comply with the *Regulated Default Supply Regulation*.

50. Under Section 6.1.5(2) of Rule 004, the Commission may approve an exemption with or without conditions, and the exemption will remain in effect for the period of time specified, or until revoked by the Commission.

⁵³ Exhibit 23948-X0009, Direct Energy Comments in Response to AUC Procedural Letter, December 6, 2018.

5 Commission findings

51. As reviewed in Section 2.1, over the years and through a number of decisions, AltaGas has been granted multiple temporary exemptions from certain sections of Rule 004 and Rule 028. On these previous occasions, temporary exemptions were granted to allow AltaGas an opportunity to achieve compliance with these rules for reasons that included: evidence that the effort and cost associated with temporary solutions would be significant and not in the public interest; evidence of limited customer and market impact; and, AltaGas's expected compliance timelines.⁵⁴

52. However, the Commission has also consistently expressed the view that full compliance with the Commission's rules is important and is required. The Commission continues to hold the view that:

- a) It is important for the fair, efficient and openly competitive nature of the Alberta retail market that all market participants be compliant with all Commission rules.
- b) Rule 004 requires that tariff-bill information be timely and accurate and Rule 028 requires appropriate processes for natural gas settlements. All market participants, including gas distributors, are required to comply with Rule 004. All natural gas market participants are likewise required to comply with Rule 028.
- c) AltaGas, as both a gas distributor and natural gas market participant, is required to comply with both Rule 004 and Rule 028. Compliance with these rules is not optional for AltaGas.
- d) Exemptions to Rule 004 and Rule 028 potentially act to the detriment and cost of other market participants and customers, and potentially hinder the fair, efficient and openly competitive nature of the Alberta retail market.

53. With all of the above in mind, the Commission has considered the specific extensions requested and its findings are detailed in the sections below.

5.1 Rule 004 exemption request

54. Extension of the Rule 004 exemptions to April 30, 2019 is in the public interest and is granted for the following reasons.

55. In Decision 20428-D01-2015, the Commission reviewed the effects of AltaGas's non-compliance with the four sections of Rule 004 identified in Section 2.1.1 above and found that granting the requested exemptions did not affect AltaGas's obligation to comply with the *Regulated Default Supply Regulation* nor the obligations of AltaGas. Concerning the exemption from Section 5.4.1.(2) of that rule, the Commission acknowledged that it had greater effect, as a manual workaround that would directly affect retailers and potentially affect customers was required. However, the Commission found that the evidence on the record of that proceeding did

⁵⁴ Decision 20428-D01-2015, Decision 3606-D01-2015.

not identify that incremental monetary costs would be incurred by retailers as a result of the manual workaround, and no party presented a better solution.

56. No persuasive evidence has been presented to warrant a different conclusion or contrary findings in respect of AltaGas's current application for an extension of the Rule 004 exemptions.

57. While Direct Energy argued in this application that the exemptions create the potential for adverse impact, it acknowledged that it has not been financially harmed by the exemptions granted to AltaGas and the Commission has received no other evidence of direct adverse impacts to customers or other market participants resulting from the exemptions.

58. Further and significantly, in the current application, AltaGas has expressly and repeatedly assured the Commission that it is on schedule to and will achieve full compliance with Rule 004 by April 30, 2019.⁵⁵ This timeline is consistent with the information that was presented to the Commission at the time of the last extension in Decision 21211-D01-2016 and represents an additional delay of very limited duration.

59. In granting the requested extension to the exemptions concerning Rule 004, the Commission expects full compliance by AltaGas with Rule 004 by April 30, 2019. Should AltaGas fail to achieve full compliance by this date, the Commission may pursue all enforcement actions available to it, including the imposition of penalties.

60. Section 6.1.1 of Rule 004, sets out the requirements for the Tariff Billing Compliance Plan and the self-certification statement as follows:

6.1.1 Compliance plan requirements

All regulated parties must, while other parties to this rule may:

- (1) Prepare a compliance plan confirming:
 - ...
 - (d) Either:
 - (i) the party's intent to issue a self-certification statement, as prescribed in Section 7, or
 - (ii) the timing by which the party will be prepared to certify that it has met rule requirements by issuing a self-certification statement, as set out in Section 7
 - (e) The name, postal address, phone number and email address of the senior authority accountable for compliance with this rule.
- (2) File its compliance plan with the Commission.
- (3) Receive approval of its compliance plan from the Commission, if the party filing its compliance plan is a regulated party.

⁵⁵ Exhibit 23948-X0019.01, 23948 AUI IR Responses to AUC 2019-01-10, January 11, 2019, AltaGas-AUC-2018-DEC13-002 (b), PDF page 13.

61. Pursuant to Section 6.1.1 of Rule 004, the Commission approves AltaGas's Tariff Billing Code Compliance Plan as filed with an effective date of April 30, 2019 and directs AltaGas to submit the self-certification statement letter by May 15, 2019, as requested in the application.

5.2 Rule 028 exemption request

62. AltaGas requested an extension of the Rule 028 exemptions to December 31, 2021. This is more than two years beyond the timeline for full compliance with Rule 028 identified in the last extension application (Proceeding 20885). The reason offered by AltaGas for the delay is the same as that offered in many of AltaGas's previous applications seeking exemptions from the requirements of Rule 004 and Rule 028: the need to amend or replace its CIS. Notably, AltaGas's efforts to upgrade the CIS software were first undertaken in 2006 and the CIS replacement project was initiated in Q4 2015.⁵⁶

63. The Commission has grown increasingly concerned about and has expressed its displeasure over AltaGas's repeated applications for temporary exemptions and its failure to achieve compliance with Rule 004 and Rule 028.

64. Compliance with the Commission's rules is important and exemptions are granted with the expectation and intention that they will be temporary and of a reasonable duration. This is consistent with the denial of AltaGas's previous application for a permanent exemption from Rule 004 and Rule 028.⁵⁷

65. AltaGas's temporary exemptions have extended over 14 years in the case of Rule 004 and eight years for Rule 028. Excessive cumulative exemptions and extensions strain the credibility of a temporary exemption, undermine the integrity, purpose and object of Commission rules, and circumvent the Commission's expectation of compliance. These repetitive applications also undermine the strength of any representation by AltaGas that it will achieve compliance by a specific date.

66. Nevertheless, and with continued concern, the Commission grants the requested extension to the Rule 028 exemptions as it is in the public interest to do so, for reasons that include the following.

67. The Commission has received no evidence of direct adverse impact to customers or significant adverse impact to any market participants as a result of the Rule 028 exemptions. The Commission has likewise received no evidence that adverse effects are reasonably expected to result from the requested extension of the Rule 028 exemptions.

68. In contrast and significantly, AltaGas has provided a persuasive argument against the implementation of an interim solution, noting the high cost, concentrated effort, and disruption to retailers that implementation and testing of an interim solution would cause. Further, the cost and

⁵⁶ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, AltaGas-AUC-2018DEC13-002, PDF pages 3-6.

⁵⁷ Decision 2008-084: AltaGas Utilities Inc., Decision on Request for a Permanent Exemption from AUC Rule 004: Alberta Tariff Billing Code, Application No. 1493238, September 5, 2008.

effort associated with any interim solution to achieve compliance with Rule 028 would be duplicated upon implementation of the full CIS.

69. Finally, no party, including Direct Energy, has contested AltaGas's estimated cost of an interim solution or submitted a viable alternative solution that would allow AltaGas to achieve compliance with Rule 028 sooner than AltaGas's proposed timelines.

70. Subject to the conditions specified below, the Commission therefore grants AltaGas's requested extension of the Rule 028 exemptions to December 31, 2021. At that time, full compliance with Rule 028 will be required.

71. In response to an information request from the Commission, AltaGas identified the steps required to achieve full compliance with Rule 028, and provided a timeline as well as a list of action items (detailed in paragraph 42). The extension of the Rule 028 exemptions is granted on the express condition that AltaGas will maintain careful control over the remaining process steps and will take all reasonable steps to ensure that the CIS replacement project is progressed in a timely fashion consistent with the identified timeline. AltaGas is directed to monitor and report its progress in achieving compliance with Rule 028 to the Commission as follows:

- a) Until the latter of July 1, 2019 or the completion of phase one of the CIS project, monthly attestation reports must be submitted to the Commission, comparing actual progress to planned progress, as outlined in AltaGas's first round information request responses and quoted in paragraph 42 above.⁵⁸ These reports must be signed by a senior authority accountable for compliance with Rule 028, and must include the project milestones. These reports should be filed as responses to directions in the Commission's eFiling System. A template has been provided in Appendix 2 of this decision.
- b) Upon completion of the project feasibility phase (described above), AltaGas is directed to submit a detailed and specific timeline for the project implementation phase, including milestones, in the eFiling System. Reporting frequency and requirements will be established by the Commission through a direction compliance letter, which will include further directions for each of the milestone timelines received.

72. Any deviations from AltaGas's planned progress must be justified to the Commission's satisfaction and a new timeline submitted. Following the Commission's review of the attestation reports, the Commission may require AltaGas to meet with the Commission to discuss delays, failures in meeting milestones, and plans to address schedule slippage.

73. The Commission may also, on notice, reassess continuation of the Rule 028 exemptions, impose further conditions on AltaGas and consider enforcement proceedings as well as the imposition of financial penalties if, at any time prior to December 31, 2021, the Commission:

- a) becomes aware that the Rule 028 exemptions approved in this decision may be having an adverse impact on customers or market participants

⁵⁸ Exhibit 23948-X0019.01, AUI IR Responses to AUC, January 11, 2019, AltaGas-AUC-2018DEC13-003, PDF pages 17-18.

- b) believes that AltaGas has failed to offer reasonable and sufficient justification for any deviation from the compliance timeline
- c) finds that AltaGas is in contravention of directions given to it by the Commission

6 Order

74. It is hereby ordered that:

- a) AltaGas Utilities Inc. is granted a temporary exemption extension from the requirements of Section 3.2, Table 3-1, Line 14; Section 3.2, Table 3-1, Line 15; sections 4.3.1(4) and 5.4.1(1); and Section 5.4.1(2) of Rule 004 until April 30, 2019.
- b) AltaGas Utilities Inc.'s Rule 004 compliance plan is approved as filed.
- c) AltaGas Utilities Inc. is granted a temporary exemption extension from the requirements of Section 2.11, Section 8.6.1.1(1)(b), and Section 8.6.3.2, Table 9, Sequence 8 of Rule 028 until December 31, 2021 subject to the conditions and directions detailed above.

Dated on April 29, 2019.

Alberta Utilities Commission

(original signed by)

Carolyn Hutniak
Commission Member

Appendix 1 – Proceeding participants

Name of organization Counsel or representative
AltaGas Utilities Inc. L. Chan
Direct Energy Marketing Limited N. Black

Alberta Utilities Commission
Commission Panel C. Hutniak
Commission Staff S. Sajnovics (Commission Counsel) M. Baitoiu H. Gnez P. Howard J. Wright

Appendix 2 – Attestation report template

Attestation of Senior Officer of AltaGas Utilities Inc.

I, _____, of _____, in the Province of _____, in my capacity as _____ attest that:

1. I have reviewed AltaGas Utilities Inc.'s (AltaGas) progress of its **[INSERT: Project Feasibility Phase or Project Implementation Phase]** of the customer information system project for the month of **[INSERT], [2019/2020/2021]** and certify that AltaGas is in compliance with the schedule outlined in section 35 of Decision 23948-D01-2019 of the Alberta Utilities Commission (“Schedule”).

2. I confirm that in the month of **[INSERT], [2019/2020/2021]** AltaGas has completed the following tasks as per the Schedule:

- a)
- b)
- c)

Attested on this _____ day of _____, _____, in the City of _____, Province of _____.

Signed by:

Witnessed by: