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Our File No.: 8794-1914

June 29, 2004

Alberta Energy and Utilities Board  
640 - 5th Avenue, S.W.  
Calgary, Alberta  
T2P 3G4

Attention: Ms. Holly Lee  
Legal Assistant

Dear Ms. Lee:

**Re: ATCO Gas and Pipelines Ltd. and ATCO Electric Ltd. ("ATCO Utilities") Executive Compensation Review, Application No. 1310259**

The ATCO Utilities are in receipt of the City of Calgary's letter to the Board dated June 25, 2004, which is intended to respond to the request by the ATCO Utilities for a disallowance of certain costs claimed by Calgary in respect of its participation in the above noted proceeding (the "Cost Letter"). It is noted however, that in addition to addressing the ATCO Utilities' request for a partial disallowance of Calgary's cost claim, the Cost Letter recommends that the ATCO Utilities' cost claims be denied in part (pp. 2 and 4). It is submitted that such a request is completely inappropriate at this stage and should be disregarded by the Board.

If Calgary had legitimate concerns and wished to comment on the merits of the ATCO Utilities' cost claims, it should have done so in accordance with the process established by the Board in its letter dated May 6, 2004.<sup>1</sup> This process specifically provided the opportunity to comment on cost claims of other parties as follows:

Please provide the Board with any comments regarding the figures listed in the attached summaries or the merits of the total costs claimed. *If the Board receives no comment from you by **May 21, 2004** it will assume that you are in agreement with the sums listed in the summaries and that you have no comments with regard to the claims of others listed in the summaries.*

[Emphasis added.]

<sup>1</sup> See also section 54(2) of the Rules of Practice.

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Calgary did not file comments on the ATCO Utilities' cost claims by the specified date. Therefore, Calgary was and is assumed to be in agreement with the sums listed in the summaries. It is unfair and completely inappropriate for Calgary to attempt to call into question the merits of the ATCO Utilities' cost claims at this late date. The Board provided Calgary an opportunity to respond to the submission of the ATCO Utilities' regarding the merits of its cost claim. Such an opportunity, if submitted, should not be abused. Calgary's response appears to be more in the nature of retaliation to the ATCO Utilities' submission than an expression of concern, which if valid, should have been filed in accordance with the Board's process.

The ATCO Utilities will not respond further to the other liberties Calgary has taken with the facts and the record, as the Board is undoubtedly aware of the manner in which Calgary participated in this proceeding, including specifically the pursuit of issues not relevant to the case.

We trust that the foregoing is of assistance to the Board. If you have any questions, please do not hesitate to contact the undersigned.

Yours truly,

**BENNETT JONES LLP**

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