AUC
Alberta Utilities Commission

AUC-Initiated Review Under the Reopener Provision of the 2018-2022 Performance-Based Regulation Plans for ATCO Electric Ltd. and ATCO Gas – Phase 2

May 28, 2025

Alberta Utilities Commission
Decision 29064-D01-2025
AUC-Initiated Review Under the Reopener Provision of the 2018-2022 Performance-Based Regulation Plans for ATCO Electric Ltd. and ATCO Gas – Phase 2
Proceeding 29064

May 28, 2025

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

Telephone: 310-4AUC (310-4282 in Alberta)
1-833-511-4AUC (1-833-511-4282 outside Alberta)
Email: info@auc.ab.ca
Website: www.auc.ab.ca

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

Contents

1 Decision summary 1

2 Introduction and background 1

3 Procedural summary 4

4 Characterization of the problem 6

5 Nature of the remedy 10
5.1 Performance incentive mechanism remedy proposed by the ATCO Utilities 10
5.2 The ATCO Utilities' notional spend scenario 15
5.3 Financial remedy models proposed by the UCA 18
5.3.1 Revenue requirement model 19
5.3.2 Threshold model 23
5.4 Financial remedy model proposed by IPCAA and supported by the CCA 24

6 Quantum of the remedy 27

7 Implications of the remedy 29
7.1 Other elements of the ATCO Utilities' PBR2 plans 29
7.2 The ATCO Utilities' PBR3 plans 29

8 Implementation mechanism for the refund 31
8.1 Mechanism and timing to implement the refund 31
8.2 Carrying costs associated with the refund 33

9 Prudence of 2022 actual capital additions and finalization of the 2023 opening rate base 34
9.1 ATCO Electric 36
9.2 ATCO Gas 38

10 Order 40

Appendix 1 – Proceeding participants 41

Appendix 2 – Summary of Commission directions 42

List of tables

Table 1. ATCO Electric and ATCO Gas 2021 and 2022 ROE results 3

Table 2. The SAIDI results from 2014 to 2023, excluding fire- and flood-caused outages that do not meet the major event threshold to establish ATCO Electric's proposed PIM target 12

Table 3. ATCO Electric 2025 PIM financial consequences 13

Table 4. ATCO Electric 2022 actual vs. forecast capital additions 36

Table 5. ATCO Gas 2022 actual vs. forecast capital additions 38

1 Decision summary

1. This decision is the conclusion of the reopener proceeding, which proceeded in two phases.[1] The first phase of the reopener proceeding[2] (Phase 1) resulted in Decision 28300-D01-2024[3] (the Phase 1 decision), in which the Alberta Utilities Commission determined that it would reopen the performance-based regulation (PBR) plans for the 2018-2022 period (PBR2) of ATCO Electric Ltd. (distribution) and ATCO Gas and Pipelines Ltd. (distribution), collectively referred to as the ATCO Utilities. Specifically, the Commission found that the PBR2 plans of ATCO Electric and ATCO Gas did not operate as intended in each of 2021 and 2022.

2. The result was rates that were not just and reasonable in those years because customers were required to pay rates (including the rates of return achieved by the ATCO Utilities that exceeded the approved return and the threshold for the reopener) without receiving the benefit of more efficient utility service. In other words, the operation of the plans was inconsistent with the incentives inherent in PBR, and electric distribution customers of ATCO Electric and natural gas distribution customers of ATCO Gas paid more than what was reasonably required for the provision of safe and reliable utility service.

3. In this second phase of the reopener proceeding (Phase 2), the Commission determines the appropriate remedy to address the problem identified in the Phase 1 decision. In this decision, the Commission determines that the appropriate remedy is a refund of $35 million to customers of ATCO Electric and a refund of $36 million to customers of ATCO Gas. The refunds will be allocated to customers based on the ATCO Utilities' existing Phase 2 allocations and distributed through a stand-alone rider over a six-month period from September 1, 2025, to February 28, 2026.

2 Introduction and background

4. The rates of the ATCO Utilities, together with the other electric and natural gas distribution utilities under the Commission's jurisdiction, are set pursuant to a PBR framework

[1] Proceeding 28300, Exhibit 28300-X0017, AUC letter – Directions on procedure, PDF page 2, paragraph 6.
[2] Proceeding 28300, AUC-Initiated Review under the Reopener Provision of the 2018-2022 Performance-Based Regulation Plans for ATCO Gas and ATCO Electric.
[3] Decision 28300-D01-2024: AUC-Initiated Review Under the Reopener Provision of the 2018-2022 Performance-Based Regulation Plans for ATCO Electric and ATCO Gas, Proceeding 28300, May 22, 2024.

using a formula established by the Commission.[4] In Decision 2012-237,[5] the Commission implemented the first PBR framework for the 2013-2017 term (PBR1). In Decision 20414-D01-2016 (Errata),[6] the Commission established the second generation of PBR plans for each of the distribution utilities for the 2018-2022 term (PBR2). Most recently, the Commission established PBR plans for the 2024-2028 term (PBR3) in Decision 27388-D01-2023.[7] Those decisions set out in detail the rationale for the PBR framework and its substantial history in Alberta, which will not be repeated here.

5. By way of summary, PBR aims to address the mismatched incentives associated with cost-of-service regulation by more closely providing a proxy for the workings of competitive markets and focusing on prices (i.e., utility rates) and quality of service, while reducing the number of regulatory filings to permit the utility to direct its efforts on managing its costs over a longer period. This is done by temporarily severing the link between costs and revenues, and permitting the utility to retain all, or a portion of, profits[8] achieved during the PBR term by keeping its costs below authorized revenues. Establishing prices in this way during the term of a PBR plan creates stronger incentives for the utilities to improve their efficiency through cost reductions and other actions because they are able to retain the profits generated by those cost reductions longer than they would under cost-of-service regulation, where rates are reset more frequently.[9]

6. Every generation of PBR for Alberta distribution utilities has included a reopener provision as a safeguard against unexpected results.[10] A reopener is a parameter of the PBR framework that, among other triggers, defines return on equity (ROE) limits, which if triggered, permit the Commission, either on its own or pursuant to application by another party, to review and consider whether the PBR plan in question should be reopened. For both the PBR1 and PBR2 plans, the reopener thresholds were set as follows: a utility achieving a ROE[11] that is 500 basis points above or below the approved ROE[12] in a single year, or 300 basis points above

[4] Decision 20414-D01-2016 (Errata): 2018-2022 Performance-Based Regulation Plans for Alberta Electric and Gas Distribution Utilities, Proceeding 20414, December 16, 2016, Errata issued February 6, 2017, Appendix 5, PDF page 98. During the PBR2 term (2018-2022), the Commission continued to employ a price cap for electric distribution utilities (ATCO Electric, ENMAX, EPCOR and FortisAlberta Inc.) and a revenue-per-customer cap for natural gas distribution utilities (AltaGas [now Apex Utilities Inc.] and ATCO Gas). "Both price cap and revenue-per-customer cap plans rely on an I-X indexing mechanism that eliminates the link between revenues from the costs of service over the course of the PBR term, thus creating efficiency incentives, as illustrated by the following general formulas."

[5] Decision 2012-237: Rate Regulation Initiative, Distribution Performance-Based Regulation, Proceeding 566, Application 1606029-1, September 12, 2012.

[6] Decision 20414-D01-2016 (Errata).

[7] Decision 27388-D01-2023: 2024-2028 Performance-Based Regulation Plan for Alberta Electric and Gas Distribution Utilities, Proceeding 27388, October 4, 2023.

[8] Profit is the difference between revenue and total costs and expenses.

[9] Decision 27388-D01-2023, paragraphs 11 and 14.

[10] Decision 2009-035: ENMAX Power Corporation, 2007-2016 Formula Based Ratemaking, Proceeding 12, Application 1550487, March 25, 2009, PDF pages 61-62, paragraphs 256-257; Decision 2012-237, PDF page 165, paragraphs 727-729; Decision 20414-D01-2016 (Errata), paragraphs 261-280; Decision 27388-D01-2023, paragraphs 374-378.

[11] The ROE reported in a utility's annual Rule 005: *Annual Reporting Requirements of Financial and Operational Results* filing or a subsequent ROE restatement filed as part of the annual PBR rate adjustment filing: Decision 20414-D01-2016 (Errata), paragraph 277.

[12] As determined by the Commission in a generic cost of capital proceeding: see Decision 20414-D01-2016 (Errata), paragraph 280.

or below the approved ROE for two consecutive years.[13] The reopener provision included as part of each of the PBR2 plans was largely unchanged from the provision in the PBR1 plans.[14]

7. The Commission initiated the Phase 1 proceeding upon learning that in 2021 and 2022, each of ATCO Electric and ATCO Gas had achieved ROEs that exceeded the approved ROE of 8.5 per cent for their PBR2 plans.[15] Specifically, both ATCO Utilities exceeded the +/-300 basis point reopener threshold for 2021 and 2022, and the +/-500 basis point reopener threshold for 2022. This is shown in Table 1 below.

Table 1. ATCO Electric and ATCO Gas 2021 and 2022 ROE results

	2021	2022
Approved ROE	8.50%	
ATCO Electric		
Actual ROE	12.85%	14.52%
Difference (basis points)	435	602
ATCO Gas		
Actual ROE	11.81%	14.39%
Difference (basis points)	331	589

8. In the Phase 1 decision, the Commission determined that reopening the ATCO Utilities' PBR2 plans was warranted because the Commission found that the PBR2 plans of ATCO Electric and ATCO Gas did not operate as intended in each of 2021 and 2022, which resulted in unjust and unreasonable rates in those years because customers were required to pay rates without benefitting from more efficient utility service.[16] The Commission stated in the Phase 1 decision that since the PBR2 plans were complete, an adjustment to the PBR2 plans on a go-forward basis was not a possible remedy. The Commission considered that an appropriate remedy may be in the nature of refunds to the ATCO Utilities' customers that relate to the quantum of savings that were not supported through evidence of quantified efficiencies and explanations of the drivers and sources of those efficiencies, which resulted in savings.[17] This Phase 2 proceeding is to determine the appropriate remedy to address the problem identified in Phase 1 of the reopener proceeding.

9. The Phase 1 proceeding and this proceeding form part of the same reopener proceeding and the evidence filed in the Phase 1 proceeding forms part of the evidentiary record of this proceeding.[18] Further, the Phase 1 decision was subject to a review and variance (R&V) application, which resulted in Decision 29106-D01-2024 (R&V decision).[19] While the Commission denied the R&V application, it identified two factual errors in the Phase 1

[13] Decision 20414-D01-2016 (Errata), paragraphs 262 and 280.
[14] In Decision 20414-D01-2016 (Errata), the Commission addressed the calculation of the ROE for reopener purposes. All other reopener considerations remained unchanged and were outside of the scope of the decision: see paragraphs 3 and 279.
[15] Decision 28300-D01-2024, paragraphs 4-5.
[16] Decision 28300-D01-2024, paragraph 112.
[17] Decision 28300-D01-2024, paragraphs 176-177.
[18] Exhibit 29064-X0022, AUC letter - Process directions and ruling on motion regarding further fact evidence, PDF page 4, paragraph 15.
[19] Decision 29106-D01-2024: ATCO Electric Ltd. and ATCO Gas and Pipelines Ltd., Decision on Preliminary Question Application for Review of Decision 28300-D01-2024, AUC-Initiated Review Under the Reopener Provision of the 2018-2022 Performance-Based Regulation Plans for ATCO Electric and ATCO Gas, Proceeding 29106, August 1, 2024.

decision.[20] Accordingly, for completeness, this decision should be read together with the Phase 1 decision and the R&V decision.

10. ATCO Electric and ATCO Gas were represented by the same counsel and provided a combined submission, rebuttal submission and argument in this proceeding. In certain contexts, it is appropriate in this decision to refer to the ATCO Utilities collectively. However, they are independent entities with PBR2 plans that recognize their unique circumstances, and the Commission considered the remedy separately for each of them.

3 Procedural summary

11. Proceeding 29064 was initiated on June 3, 2024, shortly after the Commission issued the Phase 1 decision and in accordance with the procedural directions therein.[21]

12. In the Phase 1 decision, the Commission authorized and encouraged the parties to commence a negotiated settlement process (NSP) pursuant to Rule 018: *Rules on Negotiated Settlements* in an attempt to reach agreement on a proposed remedy that addresses the problem identified in the Phase 1 decision. The Commission also provided the following general guidance concerning the contents of the parties' submissions should Phase 2 not be resolved through a NSP:

> 181. No further fact evidence will be permitted to be filed in Phase 2. The factors that contributed to the ATCO Utilities' achieved ROEs in each of 2021 and 2022 were squarely at issue and have been thoroughly addressed in Phase 1. The Commission set a robust process to ensure that all available relevant evidence was filed on the record and made the findings set out in this decision based on that record. To be clear, the Commission is not precluding the filing in Phase 2 of submissions that analyze, consolidate or utilize the fact evidence filed in Phase 1 of this proceeding or submissions that relate to options or methodological approaches for an appropriate remedy based on the fact evidence in Phase 1.
>
> 182. Phase 2 will address the quantum of the remedy and the mechanism by which the remedy is to be implemented. As such, the process steps will seek evidence and submissions that (i) provide the proposed quantum of any adjustments, in dollars, broken out by utility and specify to which period(s) they apply; (ii) explain the mechanism/ methodology used to effect the remedy (including all necessary assumptions); (iii) clearly specify what Phase 1 evidence is being relied on to support or justify the proposed remedy and recovery mechanism; and (iv) justify the choice of methodology/mechanism, including an explanation of how it results in a just and reasonable outcome for each of the utilities and their customers

13. The Commission pre-registered each of the ATCO Utilities as participants, and invited the Consumers' Coalition of Alberta (CCA), the Industrial Power Consumers Association of Alberta (IPCAA), the Office of the Utilities Consumer Advocate (UCA) and The City of Calgary – the interveners that participated in Proceeding 28300 – to submit a statement of intent to participate (SIP) if they wished to participate in Phase 2 of the reopener review. The Commission

[20] Decision 29106-D01-2024, see sections 5.1.1 and 5.1.3.
[21] Exhibit 29064-X0005, AUC letter – Initiation of Phase 2 proceeding.

received SIPs from the UCA, the CCA, Calgary and IPCAA. After filing its SIP, Calgary did not participate further in the process.

14. On June 28, 2024, the ATCO Utilities filed a letter advising the Commission on the status of the NSP and requesting that the Commission place the proceeding in abeyance pending the determination of the ATCO Utilities' application for R&V of the Phase 1 decision and application for permission to appeal the Phase 1 decision to the Court of Appeal of Alberta.[22] The Commission issued the R&V Decision on August 1, 2024. On August 9, 2024, the Commission issued a ruling denying the ATCO Utilities' request for an abeyance pending the determination of the permission to appeal the application.[23]

15. On October 10, 2024, the interveners[24] and the ATCO Utilities[25] filed letters notifying the Commission that the NSP was unsuccessful, with the interveners requesting that the Commission establish a process for the Phase 2 proceeding in order to resolve it in a timely manner.

16. On October 18, 2024, the ATCO Utilities filed a motion concerning the Commission's procedural direction in the Phase 1 decision that, "[n]o further fact evidence will be permitted to be filed in Phase 2." In its ruling on the motion, the Commission provided the following clarifications:[26]

> The scope of the first phase of the reopener proceeding (the Phase 1 proceeding) was to determine whether there was a problem that cannot be resolved without re-opening and reviewing the ATCO Utilities' PBR2 plans. As set out in Decision 28300-D01-2024, this necessitated an inquiry into the factors that led the ATCO Utilities' earnings to trigger the PBR2 reopener thresholds. Subject to the ongoing appeal process, the Commission's determinations in Decision 28300-D01-2024 are final.
>
> The scope of the Phase 2 proceeding is to determine the appropriate remedy to address the problem identified in Decision 28300-D01-2024. It is not an opportunity to relitigate the issues determined in the Phase 1 proceeding.

17. The main process steps, as amended by the Commission in response to party requests throughout the course of the proceeding, were set out in October 2024 and December 2024 and are reproduced below:

Process step	Date received
Filing of submissions	November 29, 2024
Information requests (IRs) to all parties	January 10, 2025
IR responses from all parties	January 24, 2025
Rebuttal submissions	February 12, 2025
Oral argument and reply argument	February 26-27, 2025

[22] Exhibit 29064-X0010, 2024-06-28 ATCO Utilities Letter to AUC re Proceeding 29064 Update.
[23] Exhibit 29064-X0016, AUC letter – Ruling on request from ATCO Electric and ATCO Gas to hold Proceeding 29064 in abeyance and procedural matters, PDF pages 5-6, paragraphs 23-24.
[24] Exhibit 29064-X0018, Interveners' Update re NSP, October 10, 2024.
[25] Exhibit 29064-X0019, ATCO Utilities update on Status of Negotiated Settlement Process.
[26] Exhibit 29064-X0022, AUC letter – Process directions and ruling on motion regarding fact evidence, October 23, 2024, PDF page 2.

18. Following the filing of submissions, the interveners filed a joint motion to strike certain evidence filed by the ATCO Utilities.[27] The Commission denied the motion and again clarified the scope of evidence permitted in the Phase 2 proceeding.[28]

19. On January 2, 2025, the ATCO Utilities filed a second request for an adjournment or abeyance of this proceeding.[29] The Commission denied the request noting that it may seek further submissions from parties with respect to the impacts and timing of the implementation of a remedy once it has determined the nature and quantum of such remedy.[30]

20. In the covering letter to its IR responses, the ATCO Utilities requested that the Commission hold an oral hearing.[31] On February 13, 2025, the Commission issued a ruling denying the ATCO Utilities' request.[32] The Commission explained that it was not persuaded that the nature of the issues in this second phase, which relate to remedy, necessitated an oral hearing in addition to the full written process that had been set out in late 2024. The Commission further reasoned that the ATCO Utilities had been given an opportunity to ask IRs of the interveners and chose not to ask questions on some of the very issues it sought to question on in an oral hearing. The Commission also noted that the ATCO Utilities had not filed a motion for further and better IR responses in respect of the IRs that were asked of the interveners. Finally, the Commission explained that there had been a full oral hearing during the first phase of the reopener proceeding, and that the parties had engaged in a lengthy negotiation period at the outset of the second phase of the reopener proceeding. The Commission had also set out a process for oral argument and reply.

21. The record for this proceeding closed on February 27, 2025, at the conclusion of oral argument and reply argument.

4 Characterization of the problem

22. The purpose of this proceeding is to determine the appropriate remedy to address the problem identified in the first phase of the reopener proceeding. The remedy must be responsive to the substance of the problem it is intended to address. Therefore, proper characterization of the problem is critical to the Commission's determination of the appropriate remedy. The Commission clearly characterized the problem in the Phase 1 proceeding, as was reflected in the interveners' submissions.[33] The Commission has also emphasized that the purpose of this

[27] Exhibit 29064-X0048, UCA-CCA-IPCAA Motion to Strike Evidence - Proceeding 29064, December 13, 2024.
[28] Exhibit 29064-X0058, AUC letter - Reasons for ruling on motion to strike, January 10, 2025.
[29] Exhibit 29064-X0053, Process Motion re Adjournment (2 January 2025).
[30] Exhibit 29064-X0072, AUC letter - Ruling on ATCO Utilities second request to hold proceeding in abeyance, January 23, 2025, PDF page 3, paragraph 11.
[31] Exhibit 29064-X0087, IR Responses Round 1 to Interveners, January 24, 2025, PDF page 2.
[32] Exhibit 29064-X0142, AUC letter - Ruling on request for oral hearing, February 13, 2025, PDF pages 2-4, paragraphs 10-17.
[33] The interveners generally agreed that the core problem found by the Commission in the Phase 1 decision was that rates were not just and reasonable in 2021 and 2022 because customers paid rates without receiving the benefit of more efficient utility service, and therefore paid more than what was reasonably required for the provision of safe and reliable utility service: Transcript, Volume 1, pages 84-85 (R. Secord, IPCAA) and pages 103-104, 118 (J. Wachowich, CCA); Transcript, Volume 2, pages 179-180 (C. Auch, UCA).

proceeding is not to relitigate the issues it previously determined.[34] Despite this, the ATCO Utilities attempted to recharacterize the problem.

23. In the Phase 1 decision, the Commission found that there was a problem with the operation of each of ATCO Electric's and ATCO Gas's PBR2 plans resulting in customers paying more than what was reasonably required for the provision of safe and reliable utility service.[35] In this remedy proceeding, the ATCO Utilities interpreted the problem to be related to their costs being lower in 2021 and 2022 due to the operational decisions they took in response to their PBR2 plans to not spend the funding provided through customer rates as determined by the PBR formula. In short, the ATCO Utilities argued that the problem was "an underspend problem, not a revenue problem."[36] The ATCO Utilities specifically submitted that since the Commission determined that there were no problems with the design of the PBR2 plans, which set revenues for the PBR2 term, there could be no problem with the ATCO Utilities' revenues collected in 2021 and 2022. This line of reasoning led to the ATCO Utilities' position that a refund to customers was not an appropriate remedy.[37]

24. The ATCO Utilities' reframing of the problem is inconsistent with the Commission's findings in the Phase 1 decision, summarized below.

25. By design, the Commission did not exercise extensive regulatory oversight with respect to a utility's operations, deployment of capital and costs to provide service during the operation of the PBR2 term.[38] As noted in the Phase 1 decision, rates set pursuant to the PBR2 plans would be just and reasonable unless and until a reopener threshold was triggered and a reopening of a PBR plan was found to be warranted.[39] However, in accordance with the design of the PBR2 plans, after each of the ATCO Utilities triggered the reopener thresholds in each of 2021 and 2022, the Commission engaged in a detailed review of the each of the utilities' plans and the utilities' performance and operations pursuant to those plans.[40]

26. The Commission's conclusion that customers paid rates in each of 2021 and 2022 that were not just and reasonable was reached based on the evidence on the record about how the ATCO Utilities' cost savings were achieved. Both ATCO Utilities provided evidence that explained how known amounts of cost savings were achieved (the quantified and explained cost savings) and how unknown amounts of cost savings were achieved (the qualitatively described cost savings). However, this accounted for a small proportion of the ATCO Utilities' total

[34] Exhibit 29064-X0022, AUC letter - Process directions and ruling on motion regarding fact evidence, PDF page 3, paragraph 13.
[35] Decision 28300-D01-2024, paragraph 112.
[36] Transcript, Volume 1, page 61, lines 24-25 (S. Assie).
[37] Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 5-6, paragraphs 11-13, 16; Exhibit 29064-X0137, ATCO Utilities rebuttal submissions, PDF pages 10 and 17, paragraphs 28, 51-52.
[38] Decision 28300-D01-2024, paragraphs 25-26.
[39] Decision 28300-D01-2024, paragraph 166. As outlined in Section 8 of Decision 2012-237 and adopted in Decision 20414-D01-2016 (Errata), a reopener proceeding may be triggered for a variety of reasons, such as financial performance, material misrepresentation, substantial change in circumstances, default supply obligations, and material change in a service area or the number of customers.
[40] Decision 28300-D01-2024, paragraphs 37 and 39.

achieved cost savings.[41] The evidence on the record did not explain how the majority of the ATCO Utilities' cost savings were achieved.[42]

27. For the purposes of its analysis in the Phase 1 decision, the Commission took a conservative approach and accepted the ATCO Utilities' position that all quantified and explained cost savings, including those related to full-time equivalent (FTE) reductions, resulted in efficiency gains.[43] The Commission also accepted that the qualitatively described cost savings that the ATCO Utilities were unable to quantify created a tolerance band around the quantified and explained cost savings that the Commission accepted resulted in efficiency gains.[44] This conservative approach was adopted notwithstanding that certain of the quantified and explained or qualitatively described cost savings were similar in nature to factors that the Commission indicated may not result in efficiencies.[45] Even with this conservative approach, the Commission found that a significant magnitude of cost savings could not be attributed to utility-driven efficiency gains because the majority of cost savings was not explained, quantified or qualitatively described.[46] This was based, in part, on the Commission's assessment of the ATCO Utilities' evidence that they do not have a record of what management decisions or initiatives resulted in a significant majority of capital cost savings during the PBR2 term, and in the case of ATCO Gas, operating and maintenance (O&M) cost savings in 2022.[47]

28. A summary of the Commission's key findings is set out at paragraphs 111 and 112 of the Phase 1 decision:

> 111. The magnitude of the savings that were neither quantified nor attributed to particular projects, programs or initiatives by the ATCO Utilities has led the Commission to conclude that the savings cannot be attributed to utility-driven efficiency gains resulting from the incentives intended under PBR. The Commission's view is that much of the ATCO Utilities' unquantified and unexplained savings were the result of factors other than efficiencies, including those asserted by the interveners, such as the ATCO Utilities opting to not pursue certain capital projects (what the UCA and the CCA referred to as "lower workloads"), and realizing cost savings as a result of COVID-related externalities including supply chain disruptions that prevented the ATCO Utilities from executing certain required projects. These decisions are made by each of the ATCO Utilities in response to their PBR2 plans and are therefore operational, rather than structural in nature.
>
> 112. The Commission therefore finds that the PBR2 plans of ATCO Electric and ATCO Gas did not operate as intended in each of 2021 and 2022. The result is rates that were not just and reasonable in those years because customers were required to pay rates (including the rates of return achieved by the ATCO Utilities that exceeded the approved return and the threshold for the reopener) without receiving the benefit of more efficient utility service. In other words, the operation of the plans was inconsistent with the

41 Decision 28300-D01-2024, paragraphs 101-106.
42 Decision 28300-D01-2024, paragraphs 101, 107-109.
43 Decision 28300-D01-2024, paragraphs 102-103.
44 Decision 28300-D01-2024, paragraph 105.
45 Examples of savings related to initiatives that were qualitatively explained but not quantified were explained in paragraph 92 of Decision 28300-D01-2024. Some examples for both ATCO Gas and ATCO Electric are organizational realignment and activity/role consolidation, work prioritization and aggregation, prioritization of projects; and maintenance optimization and operation technology.
46 Decision 28300-D01-2024, paragraph 111.
47 Decision 28300-D01-2024, paragraphs 106-108.

> bargain that is inherent in PBR, and customers paid more than what was reasonably required for the provision of safe and reliable utility service. The Commission finds that this constitutes a problem with the operation of each of ATCO Electric's and ATCO Gas's PBR2 plans.

29. It is a fundamental premise of PBR that a utility must achieve efficiency gains for it to retain profits realized over the term,[48] where profits are equal to a utility's revenues less its costs. Put another way, PBR may be seen as a bargain between the utilities and customers, the premise of which is that utility-retained profits should be attributable to achieved efficiencies in the provision of safe and reliable utility service to customers.[49] Thus, the "performance" aspect of **performance**-based ratemaking. As described in the Phase 1 decision:

> 24. … If a utility is able to improve its efficiency and lower costs while maintaining safe and reliable service, it is entitled to retain the increased profits that result from those achieved efficiencies over the course of the PBR term. For the customers, some portion of the rates that they pay (including any returns in excess of the approved return) may be retained as profit by the utility during the PBR term if the utility is able to achieve greater efficiencies in its business. In the long term, as the utility becomes increasingly efficient at providing safe and reliable service at the same or better levels, the customers will receive the benefit of lower rates under PBR than would be expected under COS regulation. Importantly, the PBR construct is premised on the achievement by the utility of efficiencies in a similar way that a competitive business would be incented to lower its production costs so that it can offer the same or a similar or better product or service at a lower overall cost in order to achieve higher profits. [footnote removed][50]

30. The Commission is of the view that the Phase 1 decision was clear in setting out the problem and finds that the ATCO Utilities have mischaracterized the problem. First, the Commission determined that there was a problem with the operation of each of ATCO Electric's and ATCO Gas's PBR2 **plans**. In other words, the operational problem identified in the Phase 1 decision is related to the ATCO Utilities retaining revenues collected from customers through rates during the PBR2 term without providing evidence of achieved efficiencies associated with those revenues. While the discretionary actions of a utility may form the basis for an operational problem,[51] the operation of the PBR plan is not equivalent to the operation of a utility.

31. Second, the Commission's finding that there was no flaw with the design of the PBR plan[52] does not mean that the problem must relate to costs. The ATCO Utilities collected revenues derived from the unjust and unreasonable rates paid by customers in 2021 and 2022. This means the problem is related to revenues retained by the ATCO Utilities that were not

---

[48] In Bulletin 2010-20, Regulated Rate Initiative – PBR Principles, July 15, 2010, in addition to establishing the five PBR principles as a statement of objectives for PBR, the Commission reaffirmed the objectives for PBR: "The first is to develop a regulatory framework that creates incentives for the regulated companies to improve their efficiency while ensuring that the gains from those improved efficiencies are shared with customers. The second purpose is to improve the efficiency of the regulatory framework and allow the Commission to focus more of its attention on both prices and quality of service important to customers."

[49] While in general the Commission and customers assume that retained profits can be attributed to lower costs arising from increased utility performance and related efficiency gains, the need to demonstrate how cost savings were derived is not required unless a reopener is triggered and a review initiated.

[50] Decision 28300-D01-2024, paragraph 24.

[51] Decision 28300-D01-2024, paragraph 35.

[52] Decision 28300-D01-2024, paragraph 90.

substantiated by evidence of more efficient service by the utilities, rather than to the costs incurred (or not) by those utilities.

32. Reduced spending is one of the primary goals of PBR and is therefore not a problem in and of itself; however, in the context of a reopener, the utility must be able to show that its achieved cost savings resulted in the utility becoming more efficient over time. The problem identified in the Phase 1 decision is therefore neither overfunding, nor underspending alone, but rather the retention of profits above the Commission-approved return that cannot be attributed to decisions of the utility to provide the same or better utility service at a lower cost by deploying capital or operating and maintaining its system more efficiently. The ATCO Utilities could not, upon triggering the reopener thresholds known to all distribution utilities and after repeated requests for information, explain the decisions they made or initiatives they undertook to cut costs or achieve performance or efficiency gains that caused the majority of their cost savings in 2021 and 2022. The Commission concluded that customers paid more than what was just or reasonable for safe and reliable utility service in those years.

5 Nature of the remedy

33. The ATCO Utilities, the UCA and IPCAA each proposed different remedies intended to address the problem with the ATCO Utilities' PBR2 plans. The CCA supported IPCAA's proposed remedy. The nature of the remedies proposed by the parties was informed by each party's characterization of the problem identified in the Phase 1 decision.

34. The ATCO Utilities proposed a performance incentive mechanism (PIM) remedy. The interveners proposed refunds to the ATCO Utilities' customers as the remedy. The ATCO Utilities also provided a counterfactual to the interveners' proposed remedies called the "notional spend scenario."[53]

35. In the following sections, the Commission assesses the different remedies and models proposed by the parties and finds that the appropriate remedy to the problem identified in the Phase 1 decision is a financial remedy. Specifically, the Commission concludes that a refund to the ATCO Utilities' customers determined based on the UCA's proposed threshold model applied only to 2022, less a 10 per cent tolerance band, is reasonable. This results in a refund to ATCO Electric customers of $35 million and to ATCO Gas customers of $36 million.

5.1 Performance incentive mechanism remedy proposed by the ATCO Utilities

36. As discussed in Section 4, the ATCO Utilities interpreted the problem identified by the Commission in the Phase 1 decision as being the ATCO Utilities' "operational decisions" to not spend all of the funding provided by the PBR formula; for example, on certain capital projects, and the ATCO Utilities took the position that an "operational remedy" is appropriate to address this problem.[54] The ATCO Utilities retained Nick Crowley and Dr. Dan McLeod of Christensen Associates Energy Consulting (Christensen) to prepare an expert report regarding the appropriate remedy. The report included a review of the ATCO Utilities' financial remedy proposal (i.e., the notional spend scenario) and an opinion on whether that proposal results in a just and reasonable

[53] Exhibit 29064-X0038, ATCO Utilities submission, Section 5.1.
[54] Exhibit 29064-X0038, ATCO Utilities submission, PDF page 6, paragraph 13.

outcome for the ATCO Utilities and their customers. Christensen's report proposed alternative remedies – the two operational remedies described in this section.[55]

37. Christensen's first proposal, which the ATCO Utilities did not recommend and did not put forward for consideration as a remedy, is a commitment from the ATCO Utilities to spend some portion of the 2021 and 2022 cost savings that the Commission found in the Phase 1 decision were unquantified and unexplained on future projects. Specifically, Christensen's first proposed operational remedy was for the ATCO Utilities to spend the unquantified and unexplained cost savings from the last two years of the PBR2 term in the last two years of PBR3 (in 2027 and 2028) and to incorporate the associated capital additions into rate base and K-bar[56] thereafter, in order to mirror what would have happened had the ATCO Utilities spent the unquantified and unexplained savings in 2021 and 2022.[57]

38. The Commission initially reviewed Christensen's first proposal but has not undertaken a detailed assessment because the Commission finds it is not reasonable. The Commission does not consider that additional capital spending in a future PBR term would be a reasonable remedy because it does not address the PBR2 problem that customers paid unjust and unreasonable rates in 2021 and 2022. In addition, incurring more capital expenditures in PBR3 for the sole purpose of catching up to the unspent capital funding in the PBR2 term may run against the intent of PBR that incentivizes utilities to reduce their costs overall.

39. Christensen's second proposal, which the ATCO Utilities recommended, is the adoption of reliability PIMs for each of ATCO Electric and ATCO Gas for PBR3. With the PIM remedy, ATCO Gas and ATCO Electric would track and monitor certain reliability metrics established for each utility during the PBR3 term. If in the future, service quality measurably deteriorates based on predetermined, tiered targets associated with those metrics, a predetermined financial consequence would be applied in the form of a refund to customers.[58] If service quality does not deteriorate, the ATCO Utilities would not face any consequences.

40. Christensen proposed different reliability PIMs for each of ATCO Gas and ATCO Electric. For ATCO Electric, the proposed reliability PIM is based on its System Average Interruption Duration Index (SAIDI) metric excluding major events. SAIDI is a measurement of system performance based on the total customer-hours of interruptions in a year that ATCO Electric is currently required to report to the Commission annually under Rule 002: *Service Quality and Reliability Performance Monitoring and Reporting for Owners of Electric Distribution Systems and for Gas Distributors*. Christensen opined that the SAIDI measure is a reasonable proxy for company service quality.[59]

41. The proposed SAIDI threshold is tiered and derived from ATCO Electric's 2014-2023 (10-year) average SAIDI, plus one or two standard deviations of those 10 years excluding all major events beyond management control, including fire and flood outage events that do not meet the major event threshold as defined in the current Rule 002 report as summarized Table 2 below. ATCO Electric proposed to include this measure as a supplemental template or appendix

[55] Exhibit 29064-X0039, Christensen report, PDF pages 4-5, paragraphs 4-6.
[56] K-bar was approved for the PBR2 and PBR3 plans to provide for supplemental capital funding, in addition to revenues provided under I-X and other available mechanisms (such as Y and Z factors).
[57] Exhibit 29064-X0039, Christensen report, PDF pages 28-29, paragraphs 73-77.
[58] Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 12-13, paragraphs 35, 39-40.
[59] Exhibit 29064-X0039, Christensen report, PDF page 31, paragraph 84.

to its future Rule 002 annual reporting in addition to the currently reported SAIDI metrics. The ATCO Utilities stated that this is efficient and reduces regulatory burden.[60]

42. In response to a Commission IR, ATCO Electric explained that it accepted the use of a 10-year average proposed by Christensen as it is representative of ATCO Electric's typical performance and a dataset of 10 years improves the statistical significance as compared to assessing shorter term averages.[61]

Table 2. The SAIDI results from 2014 to 2023, excluding fire- and flood-caused outages that do not meet the major event threshold to establish ATCO Electric's proposed PIM target

Year	SAIDI as reported in Rule 002	Less: non-major fire and flood	PIM SAIDI measure
2014	6.04	(0.03)	6.01
2015	4.81	(0.02)	4.79
2016	4.81	(0.40)	4.41
2017	4.98	(0.01)	4.97
2018	4.23	(0.06)	4.17
2019	4.32	(0.08)	4.24
2020	4.09	(0.06)	4.03
2021	4.41	(0.08)	4.33
2022	4.85	(0.19)	4.66
2023	5.99	(1.25)	4.74
		10-yer average	**4.63**
		Standard deviation	0.54
		Tier 1 threshold	**5.17**
		Tier 2 threshold	**5.71**

Source: Exhibit 29064-X0038, ATCO Utilities submission, paragraph 43, Table 4.1.

43. Unlike ATCO Electric, ATCO Gas does not report a measure that is representative of its overall distribution system reliability in its annual Rule 002 filing. As such, ATCO Gas does not have an available System Average Interruption Frequency Index (SAIFI) or SAIDI equivalent reliability metric that captures total unplanned outages or the duration of outages.[62]

44. ATCO Gas stated that effective January 1, 2025, it will begin tracking and annually reporting unplanned outages, adjusted for items outside of management's control such as third-party hit lines and natural disasters. ATCO Gas explained that these adjustments are necessary due to the practical limitations around detecting gas service outages, and that some outages result from events that the utility has limited ability to influence. Specifically, ATCO Gas indicated that it intends to track the number of customers impacted by unplanned outages, and to measure event frequency by taking a count of events that led to unplanned outages. ATCO Gas stated that it will use this data over the period of 2025 to 2027 to evaluate possible reliability metrics, such as a gas-equivalent SAIFI, for the purpose of establishing a reliability PIM for implementation in 2028. Christensen explained that a three-year measurement allows for the use of more meaningful values while minimizing the amount of time before a penalty is possible under the PIM. Consistent with ATCO Electric's proposed PIM, two tiers would be set for ATCO Gas

[60] Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 13-14, paragraphs 41-43; Exhibit 29064-X0088, ATCO-AUC-2025JAN10-009(b) and (d), PDF page 58.

[61] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-010(a), PDF pages 61-62; ATCO-AUC-2025JAN10-011(b) PDF page 68.

[62] Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 15-16, paragraphs 45-46.

using the one and two standard deviations as the thresholds for each associated financial consequence.[63]

45. Based on the above, the proposed 2025 PIM financial consequences for ATCO Electric are summarized in the table below.

Table 3. ATCO Electric 2025 PIM financial consequences

	Proposed PIM target	Financial consequence (basis points of ROE)[1]	Financial consequence (earnings)[2] ($000)	Financial consequence (refund to customers)[3] ($000)
Tier 1	5.17 – 5.70	10	1,099	1,427
Tier 2	5.71+	40	4,396	5,709

Note 1: The ATCO Utilities' proposed Tier 1 threshold would align with the PBR3 Type 1 capital materiality threshold of 10 basis points of the applicable distribution utility's ROE, and the Tier 2 threshold would align with the PBR3 Z factor event materiality threshold of 40 basis points.
Note 2: Proceeding 29298, Exhibit 29298-X0044, Z factor materiality, line 10.
Note 3: Earnings / (1 – income tax rate of 23 per cent).
Source: Exhibit 29064-X0038, ATCO Utilities submission, paragraphs 49 and 51, Table 4.2.

46. Under the PIM remedy, if a financial consequence is triggered, the resulting refund to customers would be included as a Y factor and allocated to the rate classes based on approved Phase 2 allocations in the subsequent annual PBR rate adjustment filing. As any customer refund would pertain to the operational results from a prior year, the PIM amount would be excluded from the reported ROE for that year, and included as an adjustment to the prior year's reported ROE.[64] Both ATCO Electric and ATCO Gas confirmed that the cost of implementing, tracking and reporting new additional measures and relevant reliability metric PIMs would be managed under existing PBR funding.[65]

47. The underlying logic of the PIM remedy is that customers should only be compensated if, and when, the purported problem of underspending by the ATCO Utilities in 2021 and 2022 results in reduced service quality and reliability degradation.[66] In the ATCO Utilities' view, this remedy addresses what they interpret to be "the Commission's uncertainty around the impact to safety and reliability in future years as a result of the operational decisions made by the ATCO Utilities in 2021 and 2022."[67] The ATCO Utilities argued that customers have already benefited from the ATCO Utilities' underspending through the 2023 rebasing, and so customers should only receive financial compensation if 2021 and 2022 spending was insufficient to maintain safe and reliable service in the long term. The ATCO Utilities further argued that the PIM remedy ensures that benefits shared at rebasing are not unwound through deterioration in the safety and reliability of the ATCO Utilities' distribution systems. The ATCO Utilities therefore submitted that the proposed PIMs are a just and reasonable remedy for both the ATCO Utilities and their customers.[68]

63 Exhibit 29064-X0038, ATCO Utilities submission, PDF page 16, paragraphs 47-48; Exhibit 29064-X0088, ATCO-AUC-2025JAN10-010(g), PDF pages 64-65.
64 Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 17-18, paragraphs 52-53.
65 Exhibit 29064-X0088, ATCO-AUC-2025JAN10-010(e) and (f), PDF page 64.
66 Exhibit 29064-X0039, Christensen report, PDF pages 29-30, paragraphs 79-80; Exhibit 29064-X0138, Christensen rebuttal, PDF pages 8-9, paragraph 16; Exhibit 29064-X0137, ATCO Utilities rebuttal submissions, PDF pages 24-25, paragraphs 73-74.
67 Exhibit 29064-X0038, ATCO Utilities submission, PDF page 13, paragraph 40.
68 Exhibit 29064-X0038, ATCO Utilities submission, PDF page 13, paragraph 40.

48. The interveners challenged the PIM remedy on several grounds. IPCAA submitted that the PIM remedy is an after-the-fact tool that was not in place during the PBR2 term and could not have changed how the ATCO Utilities acted during the term. It further submitted that the PIM remedy does not address the problem that the Commission found existed during the term. In IPCAA's view, the PIMs would not be effective and are unlikely to ever be triggered. This is because the ATCO Utilities did spend on essential services during the PBR2 term and no system deterioration occurred. Counsel for IPCAA indicated that the ATCO Utilities' over-return is not linked to any future reliability issues.[69]

49. The CCA also submitted that the PIM remedy is not a remedy to the problem identified in the Phase 1 decision because it does not adjust or refund the 2021 and 2022 rates that the Commission found were not just and reasonable. The CCA argued that it is not clear what the expected costs and penalties are because there is no assurance that an established PIM threshold (or target) will be breached and trigger a financial consequence. The CCA indicated further that such a breach is unlikely. The CCA also submitted that since any compensation resulting from the PIMs would be related to future events, there is no association between the PIM proposal and the 2021 and 2022 rates that were not just and reasonable. The CCA expressed concern that the ATCO Utilities' proposed tiered PIM targets and financial penalties would introduce new incentives; for example, to calculate whether the expected costs to remain below the tiered PIM targets are less than the penalties to exceed them.[70]

50. The PIM remedy is premised on a misinterpretation of why the Commission found that rates were unjust and unreasonable during 2021 and 2022. Christensen opined that "rates can be unjust and unreasonable because rates were too high or spending to maintain safe and reliable service in the long term is potentially insufficient. As stated above, we believe the balance of the [Phase 1] Decision lends itself to the latter interpretation, and the PIM approach is the natural solution in this case."[71] This interpretation is inconsistent with the Commission's express findings in the Phase 1 decision.

51. The PIM remedy attempts to address an issue – underspending that results in a deterioration of system safety and reliability – that the Commission expressly did not find existed. In the Phase 1 decision, the Commission explicitly found that it "cannot conclude based on the record of this proceeding that the capital savings achieved during PBR2 came at the expense of the safety and reliability of ATCO Electric's and ATCO Gas's distribution systems during the PBR2 term and thus demonstrate a flaw in the respective ATCO Utilities' plans."[72]

52. Although the fact that the overwhelming majority of the ATCO Utilities' capital savings during PBR2 were unquantified and unexplained prevented the Commission from conclusively determining that the ATCO Utilities' actions over the PBR2 term would not have an adverse impact on safety and reliability of their systems over time, the Commission did find that the Rule 002 safety and reliability metrics of ATCO Electric and ATCO Gas showed no material

[69] Transcript, Volume 1, page 89, line 25; page 90, lines 1-6; page 98, lines 12-16; page 100, lines 6-7 (R. Secord).

[70] Transcript, Volume 1, page 131, lines 16-25; page 132, lines 4-12 (J. Wachowich); Exhibit 29064-X0074, CCA-AUC-2025JAN10-008(b), PDF pages 19-24. In the Christensen rebuttal report, Christensen agreed with the CCA that PIM introduced new incentives and opined that the advantage of the PIM approach is that it incentivizes the utility to make management decisions in the best interests of customers: see Exhibit 29064-X0138, Christensen rebuttal report, PDF page 6, paragraph 11.

[71] Exhibit 29064-X0138, Christensen rebuttal, PDF page 8, paragraph 15.

[72] Decision 28300-D01-2024, paragraphs 147; also see paragraph 152.

deterioration during the PBR2 term. The Commission placed significant weight on the ATCO Utilities' assurances with respect to investments in system safety and reliability during the PBR2 term.[73] Further, the Commission determined that it "expects that the ATCO Utilities' actions in [the PBR2 term] should not have negative ratepayer consequences in future PBR terms either in terms of future rate increases to address expenditures not made in [the PBR2 term] or of degradation in service quality that becomes detectable in the future."[74]

53. The proposed PIMs are intended to address reliability concerns in the future PBR3 term with financial consequences attached; however, in both phases of this proceeding, the ATCO Utilities confirmed that they do not expect any degradation of service quality, safety and reliability performance of the ATCO Utilities' respective distribution systems during the PBR3 term.[75]

54. The Commission finds that the proposed PIM targets a non-existent problem. The Commission's findings on system safety and reliability in the Phase 1 decision, and the ATCO Utilities' own confirmation that they expect no deterioration in system service quality, safety or reliability during the PBR3 term, means the PIM is unlikely to trigger any financial consequences. The Commission is not persuaded by the ATCO Utilities' arguments that in the absence of a deterioration in service quality, there is no need for refunds to customers.

55. The Commission finds that the PIM remedy does not address the unjust and unreasonable rates paid by the ATCO Utilities' customers in 2021 and 2022. While PIMs may be useful mechanisms in some circumstances, the PIM remedy is not a reasonable remedy for the problem in PBR2.

5.2 The ATCO Utilities' notional spend scenario

56. Notwithstanding that the ATCO Utilities took the position, supported by Christensen, that a refund to customers is not appropriate, the ATCO Utilities included a counterfactual scenario for a financial remedy that they called the "notional spend scenario." The ATCO Utilities argued that the notional spend scenario is a better approach to calculate "the value of a cash transfer to customers" than the refund methodologies proposed by the interveners.[76]

57. The notional spend scenario is a hypothetical scenario in which the ATCO Utilities assume that they operated differently and incurred all of the costs in the amount equal to realized savings that the Commission found were neither quantified nor explained in the Phase 1 decision. In this way, the notional spend scenario was created to be responsive to the ATCO Utilities' position (discussed in Section 4) that the problem identified in the Phase 1 decision was the operational decisions of the ATCO Utilities that resulted in cost savings in 2021 and 2022 that were unquantified and unexplained. The ATCO Utilities acknowledged that the notional spend scenario does not reflect what actually happened; rather, they explained that the intention was to use assumptions to understand what would have been different had the ATCO Utilities

[73] Decision 28300-D01-2024, paragraphs 148-152.
[74] Decision 28300-D01-2024, paragraph 152.
[75] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-014(a), PDF page 78; and Proceeding 28300, Transcript, Volume 2, page 359, lines 13-25; page 360, lines 1-16.
[76] Transcript, Volume 1, page 53, lines 13-17 (S. Assié).

spent the unquantified and unexplained cost savings in 2021 and 2022.[77] After applying their assumptions based on the notional spend scenario, the ATCO Utilities recalculated their returns in 2021 and 2022, and then calculated the difference between these notional returns and the actual returns in 2021 and 2022.[78]

58. The ATCO Utilities explained that the calculations show that had they spent all of their capital and O&M funding in 2021 and 2022, their notional returns would have been comparable or even higher (in the case of ATCO Electric) than the actual returns that the ATCO Utilities achieved in those years.[79] Further, the ATCO Utilities explained that under the notional spend scenario, the benefits received by their customers in the 2023 rebasing would have decreased.[80] The ATCO Utilities' position is that the ultimate result of the notional spend scenario is that "the value of a cash transfer to customers" is negative – meaning that customers would owe the ATCO Utilities money. Specifically, a financial remedy based on the notional spend scenario would require customers to pay ATCO Electric $109 million and ATCO Gas $89.2 million over the 2021 to 2028 timeframe.[81]

59. This notional balance owing by customers to the ATCO Utilities is primarily the result of the following assumptions made by the ATCO Utilities:

(i) the ATCO Utilities would have applied for and realized immediate cost savings associated with all available tax deductions;

(ii) the ATCO Utilities would have requested and received Commission approval for more funding in their 2023 rebasing applications, which would have increased the ATCO Utilities' going-in rate bases for their PBR3 plans and therefore also increased the funding that the ATCO Utilities receive under those plans;

(iii) the ATCO Utilities would have received more Type 2 supplemental capital funding (K-bar) under their PBR3 plans; and

(iv) customers would currently be receiving fewer financial benefits from the ATCO Utilities' 2023 rebasing in PBR3.[82]

60. In argument, the ATCO Utilities clarified that they are not proposing the notional spend scenario as a potential remedy and are not proposing to recover additional revenues from customers for the PBR2 period.[83] Instead, the ATCO Utilities explained that the notional spend

[77] Exhibit 29064-X0038, ATCO Utilities submission, paragraphs 59, 70; Transcript, Volume 1, page 74, lines 23-25; page 75, lines 1-5 (S. Assié).

[78] Exhibit 29064-X0038, ATCO Utilities submission, paragraphs 58-60, 62-70; Exhibit 29064-0137, ATCO Utilities rebuttal submission, paragraph 81.

[79] Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 19-20 and 22-23, paragraphs 60, 71-72. The ATCO Utilities explained that "[t]his is primarily due to immediate cost savings associated with tax deductions."

[80] Exhibit 29064-X0038, ATCO Utilities submission, PDF page 23, paragraph 72.

[81] Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 22-23, paragraphs 71-72; Exhibit 29064-X0042, Appendix 4, Notional Spend Remedy Quantification – ATCO Electric, Remedy tab; Exhibit 29064-X0043, Appendix 5, Notional Spend Remedy Quantification – ATCO Gas, Remedy tab.

[82] Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 19-20 and 22-23, paragraphs 60 and 71-72, tables 5.1 and 5.2; Transcript, Volume 1, page 53, lines 23-24 (S. Assié).

[83] Transcript, Volume 1, page 53, lines 11-19 (S. Assié).

scenario provides a counterfactual that explains that whether or not the ATCO Utilities had spent the unquantified and unexplained capital savings in 2021 and 2022, the rates in those years would not have changed.[84]

61. Notwithstanding the ATCO Utilities' confirmation that they are not proposing the notional spend scenario as a remedy, the Commission has assessed this evidence to determine whether it represents a reasonable approach to calculate the value of a refund to customers, including as compared with the refund models proposed by the interveners.

62. In Section 4, the Commission explicitly rejected the ATCO Utilities' position that the problem identified in the Phase 1 decision was the operational decisions of the ATCO Utilities not to spend amounts in 2021 and 2022 equal to the amounts that the Commission ultimately found were unquantified and unexplained. The notional spend scenario assumes that the ATCO Utilities incurred all of the costs, i.e., spent every dollar of the funding provided during 2021 and 2022. This scenario is neither reflective of reality, nor consistent with the PBR framework that is intended to create incentives for regulated utilities to seek out ways to continue to deliver safe and reliable utility service at a lower cost by adopting more efficient business practices.

63. As is clear from the Phase 1 decision, the problem was not that the ATCO Utilities did not spend the cost-savings amounts, but rather, that there was no evidence that these unspent amounts were the result of efficiencies, which would in turn provide the assurance that customers were paying rates that were just and reasonable. In this way, the notional spend scenario appears to the Commission to have been designed to address the ATCO Utilities' inaccurate characterization of the problem. The Commission finds that the notional spend scenario is inconsistent both with what actually occurred in the PBR2 term and with the problem identified in the Phase 1 decision.

64. Further, the outcome of applying the proposed notional spend scenario would be a net recovery from the ATCO Utilities' customers. Such an outcome is clearly contrary to the Commission's determination in the Phase 1 decision that the rates paid by customers in 2021 and 2022 were not just and reasonable.[85] This means that customers paid more than was reasonably required for the provision of safe and reliable utility service, not less. The Commission agrees with the UCA that the notional spend scenario is "entirely incompatible with the Commission's findings" in the Phase 1 decision.[86] This hypothetical spend scenario obfuscates rather than assists in resolving the problem. In conclusion, the Commission finds the notional spend scenario is not reasonable.

65. Having rejected the ATCO Utilities' proposed remedies, the Commission turns to assess the remedies proposed by the interveners. Every intervener submitted that the appropriate remedy is a refund to customers. The Commission finds that a refund to customers is an appropriate remedy because it is responsive to the problem identified in the Phase 1 decision: that customers paid unjust and unreasonable rates in 2021 and 2022 because the ATCO Utilities did not uphold their end of the PBR bargain by providing more efficient utility service. Specifically, a refund adjusts the ATCO Utilities' revenues derived from the unjust and

[84] Transcript, Volume 1, page 53, lines 20-25 to page 54, line 2 (S. Assié).
[85] Decision 28300-D01-2024, paragraphs 1 and 112.
[86] Transcript, Volume 1, page 163, lines 3-8 (K. Rutherford).

unreasonable rates paid by their customers in 2021 and 2022, and results in just and reasonable rates for customers.

5.3 Financial remedy models proposed by the UCA

66. The UCA retained Russ Bell as its expert for this proceeding to prepare evidence on its behalf. R. Bell stated that based on the Commission's determination in the Phase 1 decision that the rates paid by the ATCO Utilities' customers in 2021 and 2022 were not just and reasonable, the starting point for his submission was that any remedy should be in the form of a material refund to customers.[87]

67. R. Bell offered nine scenarios for how the Commission could determine the quantum of the refund in the current proceeding. In the Commission's view, R. Bell effectively offered two general models for the Commission's consideration.

68. The first model (the threshold model), which R. Bell referred to as Scenario 1, calculated the refund to customers as the quantum of revenue reduction required to bring the ATCO Utilities' achieved ROE to the reopener threshold of 11.5 per cent (being the approved ROE of 8.5 per cent plus 300 basis points) in each of 2021 and 2022. The threshold model results in a $55.84 million refund from ATCO Electric and $44.34 million refund from ATCO Gas.[88] The UCA noted this model has appeal because of its simplicity.[89]

69. The second model (the revenue requirement model), variations of which R. Bell provided in scenarios 2 to 9, determines the quantum of the refund by calculating the revenue requirement associated with unexplained and unquantified capital additions savings realized in the PBR2 term. R. Bell applied various offsets to this revenue requirement in recognition that the utilities may have used capital additions savings to fund other activities such as O&M. In his calculations, R. Bell relied on a number of assumptions for the allocation of FTE savings between O&M and capital, the amount of FTE savings embedded in other related savings, and the amount of O&M funded through capital savings. By applying different combinations of adjustments and assumptions, each of scenarios 2 through 9 of the revenue requirement model[90] resulted in markedly different quanta of financial remedy.[91]

70. Ultimately, out of the nine scenarios, R. Bell recommended that the Commission adopt Scenario 9 of the revenue requirement model. In Scenario 9, R. Bell assumes that: (i) all O&M savings or shortfalls were funded by capital savings; (ii) FTE savings were used to offset capital

87 Exhibit 29064-X0027.02, UCA submissions, PDF page 5, paragraph 9.

88 Exhibit 29064-X0027.02, UCA submissions, PDF page 9, paragraphs 19-20.

89 Exhibit 29064-X0027.02, UCA submissions, PDF page 9, paragraph 21.

90 Exhibit 29064-X0027.02, UCA submissions, PDF page 8, paragraph 18: "ii. All FTE savings were O&M, and that the net O&M savings (or shortfall) were NOT funded by Capital Savings; iii. Scenario ii but assuming 50% of FTE savings were embedded in other O&M and Capital savings; iv. All FTE savings were Capital and that the net O&M savings (or shortfall) were NOT funded by Capital Savings; v. Scenario iv but assuming 50% of FTE savings were embedded in other O&M and Capital savings; vi. FTE savings were allocated 50/50 between O&M and Capital, the net O&M savings (or shortfall) were NOT funded by Capital Savings; vii. Scenario vi but assuming 50% of FTE savings were embedded in other O&M and Capital savings; viii. All O&M savings or shortfalls were funded by Capital savings, and FTE savings were also an offset to Capital Savings; and ix. Scenario viii but assuming 50% of FTE savings were embedded in other O&M and Capital savings."

91 See exhibits 29064-X0118 to 29064-X0125 for all working papers provided by the UCA as they relate to the revenue requirement model; the "Summary" tabs of each working paper demonstrate how the alterations of different assumptions change the quanta of the remedy.

savings; and (iii) 50 per cent of FTE savings were embedded in other O&M and capital savings.[92] In response to a Commission IR, the UCA provided new working papers that incorporated income tax deductions savings as a direct reduction, lowering the remedy amounts from its original submissions.[93] This updated Scenario 9 results in a financial remedy that would require a payment from ATCO Electric of $20.77 million and a payment from ATCO Gas of $20.18 million, for a total refund of $40.95 million payable by the ATCO Utilities to their respective customers.[94]

71. The Commission asked the ATCO Utilities in an IR to comment on the UCA's models, provide any adjustments to assumptions or inputs used by the UCA and calculate the resulting remedy based on the ATCO Utilities' proposed adjustments. In response, the ATCO Utilities emphasized they did not agree with the overall premise of the UCA's models that result in a refund to customers but provided a list[95] that addressed what the ATCO Utilities described as input errors impacting the UCA's remedy calculations, calculation errors and methodological calculation errors as well as other input errors that do not impact the remedy calculation. The ATCO Utilities also provided a version of the revenue requirement model, based on R. Bell's scenarios, that incorporated their proposed corrections,[96] but noted that their proposed corrections should not be construed as acceptance of this model.[97]

72. The Commission has assessed R. Bell's scenarios filed by the UCA, broken into the threshold and revenue requirement models, to determine whether they could assist in determining the appropriate remedy. Both the threshold model (Scenario 1) and the revenue requirement model (scenarios 2-9) calculate refunds that adjust the ATCO Utilities' revenues. This is consistent with the characterization of the problem identified in the Phase 1 decision. Explained in Section 4 above, a utility's entitlement to retain profits collected during the PBR2 term is dependent on having fulfilled its end of the PBR bargain by achieving efficiencies over the course of the PBR2 term. In the Phase 1 decision, the Commission determined that rates were unjust and unreasonable in 2021 and 2022 because customers paid rates without receiving the benefit of more efficient utility service in those years. Consequently, the ATCO Utilities' revenues derived from the unjust and unreasonable rates paid by their customers in 2021 and 2022 must be adjusted to arrive at just and reasonable rates. Both of the UCA's models achieve this outcome. The Commission therefore assesses each of these models, and in the case of the revenue requirement model, the scenarios developed within the model.

5.3.1 Revenue requirement model

73. The revenue requirement model attempts to calculate the amount of refund by calculating the revenue requirement associated with the quantum of unquantified and unexplained capital additions cost savings using accepted accounting principles. While appealing in concept, the Commission finds that applying this model necessarily requires a level of precision that is unattainable given the lack of quantification and explanation of cost savings provided by the

[92] Exhibit 29064-X0027.02, UCA submissions, PDF page 3, paragraph 4.
[93] Exhibit 29064-X0085, UCA-AUC-2025JAN10-001, PDF page 1; and Exhibit 29064-X0117, UCA Letter Re. Updated Working Papers – 29064.
[94] Exhibit 29064-X0125, RAB WP9 - FTE O M and FTE offset capital 50 per cent of FTE savings embedded in other savings Adj, Summary.
[95] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-004(a), PDF pages 25-30.
[96] Exhibit 29064-X0091, ATCO-AUC-2025JAN10-004(a), Attachment 1.
[97] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-004(a), PDF page 25.

ATCO Utilities in the Phase 1 reopener proceeding. In light of these limitations, as further set out in this section, the Commission determines that it will therefore not rely on the revenue requirement model to calculate the refund.

74. R. Bell's eight variations, which are expressed as scenarios 2 to 9 of this model, produced markedly different results. This points to the sensitivity of the model to certain key assumptions and highlights the importance of choosing correct assumptions and therefore, the need for detailed information that was not provided in the first phase of this proceeding.

75. The Commission takes note of the fact that Dustin Madsen of Emrydia Consulting Corporation, who was retained by IPCAA and who the Commission recognizes as having significant accounting expertise, considered but ultimately did not pursue refund calculations based on the revenue requirement model. D. Madsen explained that the purpose of this proceeding is to determine the remedy based on the over-earnings in PBR2. He indicated, however, that it is difficult to reconcile how the identified capital-related savings, or lack thereof, resulted in the earnings achieved by the ATCO Utilities.[98] The Commission agrees it is difficult to reconcile capital-related savings with the ATCO Utilities' earnings. However, while D. Madsen thought this problem may be resolved through obtaining more precise accounting data from the ATCO Utilities (such as monthly accounting of the capital additions including depreciation, return and income taxes),[99] this would not fully resolve the Commission's concern with the appropriateness of the revenue requirement model. As discussed throughout this section, the revenue requirement model requires the Commission to assume a level of precision in setting a remedy based on evidence that was found to be significantly lacking in the Phase 1 reopener proceeding.

76. The Commission has considered whether it can determine appropriate assumptions to use in a revenue requirement calculation and has concluded that it is not reasonable to do so in the circumstances. This is because, as discussed above, the choice of assumptions has a material impact on the outcome of a revenue requirement calculation. Therefore, the assumptions must be sufficiently precise and be supported by evidence. Here, due to the lack of quantification and explanation of cost savings by the ATCO Utilities in the Phase 1 proceeding, there is an insufficient basis on which to assess the appropriateness of, and ultimately choose assumptions, such as the cumulative impacts of capital, FTE allocations and offsets.

77. For example, how to account for the cumulative effect of capital addition cost savings in the refund is a key question and point of disagreement between the ATCO Utilities and the UCA. R. Bell based his remedy calculations on the cumulative amount of unquantified and unexplained capital additions cost savings realized over the entire 2018-2022 term.[100] In their corrections to R. Bell's model, the ATCO Utilities included the unquantified and unexplained capital additions cost savings achieved only in 2021 and 2022.[101] Both the UCA and the ATCO Utilities referenced the Commission's various statements in the Phase 1 decision that support their respective views.

[98] Exhibit 29064-X0024, IPCAA evidence, PDF pages 9-11.
[99] Exhibit 29064-X0075, IPCAA-AUC-2025JAN10-001(a) and (b), PDF pages 1-2.
[100] Exhibit 29064-X0027.02, UCA submissions, PDF page 8, paragraph 17.
[101] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-004(a), PDF page 29.

78. The ATCO Utilities submitted that no cumulative capital effects were permissible because cost savings in 2018-2020 were sustained through 2021 and 2022. While the ATCO Utilities did not endorse the UCA model, with the ATCO Utilities' adjustments, they arrived at a total 2021 and 2022 revenue requirement of $14.71 million for ATCO Electric and $14.24 million for ATCO Gas, a total of $29 million for the ATCO Utilities.[102] In contrast, the UCA included the cumulative effect of capital additions cost savings to arrive at a total 2021 and 2022 revenue requirement of $57.44 million for ATCO Electric and $35.73 million for ATCO Gas, a total of $93 million for the ATCO Utilities.[103] The UCA calculations were based on a scenario with the same FTE and O&M assumptions proposed by the ATCO Utilities.[104]

79. The ATCO Utilities' approach in calculating the refund amount ignores in its entirety the cumulative effect of capital additions cost savings realized in 2018, 2019 and 2020 on the 2021 and 2022 earnings. Accepting this approach requires the Commission to subscribe to the ATCO Utilities' view that they should be permitted to benefit from operational decisions to reduce capital costs in the first three years of the PBR2 plan, including the impact of those reductions as reflected in their 2021 and 2022 earnings.[105] At the opposite end, the UCA's approach effectively returns to customers in its entirety the portion of the ATCO Utilities' 2021 and 2022 earnings arising from unquantified and unexplained savings achieved by each of the ATCO Utilities in earlier years of the PBR2 plan.

80. Determining the amounts of capital additions cost savings that accumulated across the PBR2 term was an area the Commission was unable to explore in the first phase proceeding because of material evidentiary gaps. As the Commission explained in the Phase 1 decision, cumulative capital savings prior to 2021 have an impact on earnings in 2021 and 2022;[106] however, the remedy in this case will be limited to what occurred in the years in which the reopener thresholds were exceeded.[107] Assessing whether a remedy determined using the revenue requirement model is consistent with these two concepts requires a level of precision with respect to capital additions cost savings that is not supported by the record. Given the insufficient information from the ATCO Utilities in the Phase 1 reopener proceeding on the quantum and nature of the savings, including whether some or all of these savings were sustained through the entirety of the PBR2 term, the Commission cannot accept an all-or-nothing approach.

81. Another example of a key assumption that would need to made is the allocation of FTE savings. In the Phase 1 decision, the Commission accepted quantified savings related to FTEs in the amount of $21.2 million annually for ATCO Electric and $16.3 million for ATCO Gas.[108] The Commission noted that some portion of these FTE reductions would reasonably relate to capital and some to O&M; however, because the ATCO Utilities expressly stated that they were unable to separate the FTE reductions into capital and O&M, the Commission could not assign

[102] Exhibit 29064-X0093, ATCO-AUC-2025JAN10-004(b) attachment 2, "Capital," line 78.
[103] Exhibit 29064-X0122, RAB WP6 - FTE Savings split 50 50 Capital and o and m 50 percent each Adj "Capital," line 70.
[104] As noted in Exhibit 29064-X0091, the ATCO Utilities made additional changes that impact the difference in revenue requirement between the UCA and the ATCO Utilities' calculations. However, the cumulative effect of capital additions cost savings from 2018 to 2020 has an outsized impact on and therefore accounts for a majority of the difference the revenue requirement figures between the UCA and the ATCO Utilities.
[105] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-004(a), PDF page 29.
[106] Decision 28300-D01-2024, paragraph 51.
[107] Decision 28300-D01-2024, paragraphs 165-166.
[108] Decision 28300-D01-2024, paragraph 69.

them into those categories.[109] In this proceeding, the ATCO Utilities stated in an IR response that a 50/50 split between O&M and capital is a reasonable proxy to be used as it is materially in alignment with the ATCO Utilities' overall O&M and capital internal labour split.[110] In contrast, all the interveners pointed out that there is no basis, apart from speculation, to split FTE savings between O&M and capital given the ATCO Utilities' statements in the Phase 1 reopener proceeding that they were unable to separate the FTE reductions into capital and O&M.[111]

82. The Commission lacks a sufficient evidentiary basis to determine a precise FTE split for the purposes of the revenue requirement model. As can be seen in R. Bell's scenarios, assumptions regarding the allocation of FTEs significantly and materially affect the amount of the refund. While the ATCO Utilities provided a proxy based on their overall O&M and capital labour split in 2021 and 2022, the basis for the proxy is new fact evidence that was requested but not provided in the Phase 1 proceeding.[112]

83. The Commission is sometimes called upon to apply its judgment and expertise in setting just and reasonable rates with imperfect information, as it does in Section 6. However, in the current case, the Commission is of the view that it would be improper to apply a set of precise assumptions that could lead to a materially incorrect refund amount that would substantially favour either the utilities or their customers depending on the inputs chosen.

84. Additionally, regarding offsets, the Commission does not agree with the offsets proposed by R. Bell and the ATCO Utilities to reduce the calculated amount of the revenue requirement associated with unquantified and unexplained capital additions cost savings. First, the effect of the proposed O&M-related offsets is that the explained and quantified O&M savings are used to reduce the unexplained capital additions savings. The Commission finds doing so is inconsistent with the determinations in the Phase 1 decision where the Commission accepted the ATCO Utilities' approach and considered the effect on earnings of O&M and capital costs and savings separately. Second, R. Bell and the ATCO Utilities assumed that any residual O&M cost deficit should be first applied against any refunds calculated on the ATCO Utilities' unquantified capital cost savings. The Commission is not persuaded this should be the case: in the Commission's view, both quantified savings and unquantified savings would have been available to the ATCO Utilities to offset any O&M cost deficit under the single envelope of funding.[113] It therefore stands to reason that known and explained savings (such as income tax deductions,[114] quantified capital addition savings and savings in the "Other"[115] category from Table 2 of the Phase 1 decision) would be used to offset O&M cost deficit first.[116] These known and explained savings

[109] Decision 28300-D01-2024, paragraphs 69 and 101; Proceeding 28300, Exhibit 28300-X0046.02, ATCO-UCA-2023OCT16-002(b), PDF page 3 and ATCO-UCA-2023OCT16-006(b), PDF page 13.
[110] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-008(d)(i), PDF page 55.
[111] Exhibit 29064-X0024, IPCAA evidence, PDF pages 13-14; Exhibit 29064-X0027.02, UCA submission, PDF page 7, paragraph 14; Exhibit 29064-X0074, CCA-AUC-2025JAN10-004(a) and (b), PDF pages 5-7; Exhibit 29064-X0026, CCA submissions, PDF pages 6 and 8, paragraphs 13, 19-21.
[112] See Decision 29106-D01-2024, paragraph 33.
[113] Decision 28300-D01-2024, paragraph 57: "… the PBR2 plans provided a single envelope of funding. This means that no specific funding was earmarked for specific categories of utility costs. Instead, to maximize the incentive power of the PBR2 plans, the Commission determined that the revenue provided by the PBR2 formula (inclusive of K-bar) could be used for both capital and O&M costs."
[114] Decision 28300-D01-2024, Appendix 5, PDF page 59.
[115] Decision 28300-D01-2024, Appendix 4, PDF page 55.
[116] Decision 28300-D01-2024, Appendix 5, PDF page 60.

were likely to be sufficient to completely deal with any O&M cost deficit amounts.[117] In short, to the extent offsets were assumed in the setting of a remedy, the Commission does not consider that the ATCO Utilities should get the benefit of offsetting O&M cost deficit amounts using unexplained and unquantified cost savings.

5.3.2 Threshold model

85. In contrast to his revenue requirement model, R. Bell's threshold model does not require the level of precision discussed above. Rather than attempting to calculate the revenue impact of unquantified and unexplained savings precisely and based on widely varying input assumptions, the correctness of which is impossible to ascertain, the threshold model adjusts the ATCO Utilities' revenue to bring their respective 2021 and 2022 ROEs to the 300 basis point reopener threshold level. This recognizes the fact that the ATCO Utilities could not explain the majority of the savings achieved during the PBR2 term that contributed to their earnings exceeding the approved level. In other words, the logic behind this adjustment is to reduce the ATCO Utilities' earnings to the level at which the Commission would not have reopened the plan to investigate the causes of the threshold-exceeding returns.

86. The Commission finds this to be a reasonable approach to determining the quantum of the refund, particularly given the constraints with the revenue requirement model articulated above. The Commission agrees with R. Bell that the threshold model is simple; however, it allows the Commission to address the problem identified in the Phase 1 decision and calculate the refund amount on a principled basis while overcoming the need to choose input assumptions, the precision and therefore the correctness of which cannot be determined because of the lack of quantification and explanation of cost savings provided by the ATCO Utilities in the Phase 1 proceeding. As set out in sections 5.3.1 and 5.4 of this decision, ultimately, the Commission is not in a position to apply any detailed accounting methodology or model in calculating the refund because it lacks sufficient information upon which to do so. As the Commission emphasized in the Phase 1 decision, the ATCO Utilities did not provide the Commission with sufficient factual evidence as to a significant portion of their cost savings, or to support other items such as the FTE split between capital and O&M despite the robust evidentiary process provided.[118]

87. Here, this information deficit limits the Commission's ability to apply a more detailed accounting methodology in determining the refund amount. The Commission therefore finds that a threshold-based approach to calculating the refund is most reasonable. While relatively simpler than other accounting methodologies assessed by the Commission, the threshold model has the benefit of relying on the actual achieved returns in 2021 and 2022 filed by the ATCO Utilities using the established methodology under Rule 005. Further, the threshold-based approach has a direct relationship with the reopener threshold that triggered this reopener proceeding. Another advantage of the threshold model is that it focuses directly on earnings, avoiding the difficulties pointed out by D. Madsen of linking how the identified capital-related savings, or lack thereof, resulted in the earnings achieved by the ATCO Utilities. For the reasons set out in this section

[117] For example, in 2021, ATCO Electric had an O&M cost deficit of $16.7 million. In the same year, it had $10.50 million in income tax deductions and $8.1 million in "other" earnings. ATCO Electric would also have received revenue requirement benefits from quantified capital addition savings if the "other" earnings and income tax deductions had not or were not sufficient.

[118] Decision 28300-D01-2024, paragraphs 108-109.

and below in Section 5.4, the Commission finds the threshold-based approach is the most reasonable method for setting the remedy in all the circumstances.

5.4 Financial remedy model proposed by IPCAA and supported by the CCA

88. IPCAA retained D. Madsen as its expert in this proceeding. Among other things, D. Madsen gave evidence on the appropriate quantum of the remedy to address the problem identified by the Commission in the Phase 1 decision.

89. The CCA, as part of its intervention in this proceeding, retained Jan Thygesen to prepare evidence in this proceeding.[119] The CCA did not provide its own remedy model or independently calculate a proposed remedy amount, but worked with the UCA and IPCAA. Initially, IPCAA provided a model only for ATCO Electric, but based on the Commission's request for further information, D. Madsen provided a similar model for ATCO Gas that was also supported by the CCA.[120] The CCA indicated it supported the IPCAA model because it more closely aligned with the CCA's position that there be no allocation of FTE savings to capital.[121]

90. D. Madsen opined that a just and reasonable remedy would be the refund to customers of all capital-related excess revenues received by the ATCO Utilities but ultimately proposed a more conservative quantification of the refund. The total remedy amount proposed by D. Madsen is a refund to customers of $80.9 million from ATCO Electric[122] and of $54.4 million from ATCO Gas.[123] Both numbers represent a sum of the calculated remedy amounts for 2021 and 2022, before the application of carrying costs.

91. D. Madsen explained that in determining an appropriate remedy amount, he placed significant reliance on the summaries prepared by the Commission as appendixes 4 and 5 of the Phase 1 decision. Appendix 4 compared actual and approved ROEs and summarized capital additions. Appendix 5 summarized cost savings. In his calculations, D. Madsen explained that he adjusted the ATCO Utilities' calculated earnings and ROE on a pro-rata basis instead of calculating the revenue requirement impact of the identified savings. D. Madsen opined that this approach is more accurate in quantifying the remedy as it aligns the Commission-recognized efficiencies with the ATCO Utilities' reported earnings, rather than estimating those earnings through revenue requirement impact based on incomplete information that relates to the realization of income tax deductions, the timing of asset additions and the timing of realized savings in relation to depreciation rates.[124] D. Madsen also explained that the quantification of the remedy accounts for the compounded savings from 2018 to 2020 that contributed to the earnings achieved by the ATCO Utilities in 2021 and 2022.[125]

92. In his model, D. Madsen first reconstructed the impact of each of the ATCO Utilities' capital savings on earnings (in dollars) and ROE (in per cent) in 2021 and 2022 by component: return, depreciation, and income tax (further broken into income tax deductions and income tax excluding deductions). He then calculated the ratio of explained savings (per Appendix 5 of the

[119] Exhibit 29064-X0131, CCA Response to AUC Direction – 29064.
[120] Exhibit 29064-X0045, AUC letter - Request for additional information and further process directions, December 10, 2024.
[121] Exhibit 29064-X0026, CCA submissions, PDF page 10, paragraph 32.
[122] Exhibit 29064-X0024, IPCAA evidence, PDF page 6.
[123] Exhibit 29064-X0051.01, DMM-002, Tab: Capital Savings, line 52.
[124] Exhibit 29064-X0024, IPCAA evidence, PDF pages 10-11.
[125] Exhibit 29064-X0134, IPCAA rebuttal evidence, PDF page 17.

Phase 1 decision, excluding FTE savings and income tax deductions) to the total capital savings achieved by each of ATCO Electric and ATCO Gas in 2021 and 2022, on a mid-year basis. This resulted in a ratio for both 2021 and 2022 of four per cent for ATCO Gas and 27 per cent for ATCO Electric. In the final step, D. Madsen used this ratio to remove the earnings impact of the unexplained and unquantified capital additions in 2021 and 2022 to only reflect the quantified capital savings from Appendix 5 of the Phase 1 decision.[126]

93. With respect to the earnings impact of the income tax deductions, D. Madsen explained that for purposes of his analysis, he accepted the Commission's treatment of the income tax deductions as capital savings. D. Madsen explained that income taxes of this nature directly impact the level of earnings reported by the ATCO Utilities. As a result, his analysis treated the deductions as a capital savings, but in estimating the impact on the reported earnings, he reduced the impact on a pro-rata basis by the recognized capital savings.[127]

94. D. Madsen did not account for the FTE savings of the ATCO Utilities in calculating his remedy. D. Madsen pointed to paragraph 101 of the Phase 1 decision, where the Commission observed that the ATCO Utilities could not separate the amounts related to FTE savings into capital or O&M labour. D. Madsen concluded that as a result, any possible allocation of FTE savings would be arbitrary and cannot be substantiated with the evidence.[128]

95. D. Madsen also made submissions in support of the overall reasonableness of IPCAA's proposed remedy. First, D. Madsen stated that under IPCAA's proposed remedy, the ATCO Utilities will continue to earn, and in fact somewhat exceed, the approved ROE over the PBR2 term, including in 2021 and 2022. According to D. Madsen, his remedy maintains the trade-off under PBR where the ATCO Utilities are incented to achieve efficiencies greater than under the traditional cost-of-service and are rewarded for achieving those efficiencies. D. Madsen stated that under this proposed remedy, the ATCO Utilities receive 100 per cent of the efficiency gains that were found by the Commission to be supported in the Phase 1 decision.[129]

96. The Commission asked the ATCO Utilities in an IR to explain whether the ATCO Utilities proposed any adjustments to assumptions, variables or inputs to the model provided by IPCAA and if so, to calculate the resulting remedy based on the ATCO Utilities' proposed adjustments. In response, the ATCO Utilities identified and corrected for errors related to the capital savings used in D. Madsen's remedy calculation. First, the ATCO Utilities asserted that the IPCAA model did not gross up the revenue requirement for taxes, and that since the ATCO Utilities are taxable entities, IPCAA incorrectly assumed that the value of an adjustment to the ATCO Utilities' revenues would have the same impact on their returns. The ATCO Utilities also responded that D. Madsen did not incorporate the clarifications provided in the Commission's R&V decision regarding the quantified and explained capital-related income tax deductions. The ATCO Utilities further submitted that any savings related to 2018-2020 should be removed, and only the capital savings related to 2021 and 2022 should be included in the calculations. Finally, they submitted that the calculation should include 50 per cent of the quantified FTE reductions savings as part of the quantified capital savings (mid year) for 2021 and 2022.[130] The ATCO

[126] Exhibit 29064-X0025.01, DMM-001, Tab: Capital Savings; and Exhibit 29064-X0051.01, DMM-002, Tab: Capital Savings.
[127] Exhibit 29064-X0024, IPCAA evidence, PDF pages 11-12.
[128] Exhibit 29064-X0024, IPCAA evidence, PDF pages 13-14.
[129] Exhibit 29064-X0024, IPCAA evidence, PDF page 20.
[130] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-006(a), PDF pages 39-42.

Utilities also provided a recalculation of IPCAA's remedy amounts that incorporated their proposed corrections,[131] but noted that their proposed corrections should not be construed as acceptance of this model.[132]

97. The Commission also asked IPCAA whether its proposed remedy reflected the Commission's findings in the R&V decision related to capital-related income tax deductions. In response, D. Madsen indicated that his calculations did not, and he provided schedules to show the impacts. The changes related to the R&V findings decision reduced the remedy for ATCO Electric and ATCO Gas, before interest, to $67.2 million from $80.9 million and $41.6 million from $54.4 million, respectively. D. Madsen explained that he still recommends his original remedy amounts as, in his view, directly verifiable capital-related income tax savings that were achieved by the supported avoidance should be accounted for in the remedy to the extent those savings were driven by the excess capital-related revenues received and capital-related decisions that were made.[133]

98. As discussed in Section 5.3 above, a remedy that uses the amount of unquantified and unexplained cost savings as a basis to determine an adjustment to the earnings of each of ATCO Electric and ATCO Gas is consistent with the nature of the problem identified in the Phase 1 decision. The Commission considers that D. Madsen's proposed remedy model would address the unjust and unreasonable rates paid in 2021 and 2022. This model has an advantage over R. Bell's revenue requirement model as it calculates the impact of capital savings on earnings through pro-ration, which sidesteps the problem with revenue requirement calculations set out in Section 5.3.1 of this decision that relate to the uncertainty how the identified capital-related savings, or lack thereof, resulted in the earnings achieved by the ATCO Utilities.

99. However, D. Madsen's earnings model suffers from the same main drawback as the revenue requirement model of R. Bell, in that it depends on certain critical assumptions that cannot be determined with sufficient precision given the lack of quantification and explanation of cost savings by the ATCO Utilities in the Phase 1 proceeding. First, D. Madsen's model assumes the cumulative effect of 2018-2020 savings, and the ATCO Utilities disagree with it. As in the case of the revenue requirement model by R. Bell, the chosen approach has a dramatic difference on the resulting refund.[134] Second, the FTE split remains unresolved with D. Madsen simply excluding all FTE savings from his calculations. Lastly, while R. Bell and the ATCO Utilities appeared to be aligned in treating the income tax deductions as an offset to the revenue requirement associated with capital additions savings, D. Madsen advocated for a more nuanced treatment of these amounts in the remedy calculation given a direct relationship between income tax deductions and capital additions.[135]

---

131 Exhibit 29064-X0101, ATCO-AUC-2025JAN10-006(b), Attachment 1; Exhibit 29064-X0102, ATCO-AUC-2025JAN10-006(b), Attachment 2.

132 Exhibit 29064-X0088, ATCO-AUC-2025JAN10-006(b), PDF page 40.

133 Exhibit 29064-X0075, IPCAA-AUC-2025JAN10-002(a)-(b), PDF pages 3-5.

134 In Exhibit 29064-X0100, the ATCO Utilities explained that that D. Madsen's model should remove $33 million from the suggested refund of $54.4 million for ATCO Gas and $64 million from the suggested refund of $80.9 million for ATCO Electric to exclude the cumulative effect of 2018-2020 capital savings.

135 In Exhibit 29064-X0101, "capital savings" for ATCO Gas, and Exhibit 29064-X0102, "capital savings" for ATCO Electric, the ATCO Utilities explained that D. Madsen's model should remove the earnings impact of the immediate income tax deductions of $17.1 million from the suggested refund of $54.4 million for ATCO Gas and $23.6 million from the suggested refund of $80.9 million for ATCO Electric.

100. For these reasons, the Commission will not rely on the remedy model provided by IPCAA when determining the amount of customer refund.

6 Quantum of the remedy

101. In Section 5, the Commission assessed the remedies and models proposed by the parties. The Commission found that the ATCO Utilities' remedy proposals did not address the problem identified in the Phase 1 decision and agreed with the interveners that an appropriate remedy is a refund to customers. In assessing the models proposed by the interveners, the Commission determined that although the revenue-based model provided by the UCA and the earnings model provided by IPCAA would address the problem in the Phase 1 decision by remedying the unjust and unreasonable rates paid by customers in 2021 and 2022, these models require the Commission to ascribe to certain key assumptions surrounding the quantum of unexplained and unquantified capital additions that it cannot reasonably do given the lack of underlying information provided by the ATCO Utilities in the Phase 1 proceeding. The Commission therefore is using the threshold model provided by the UCA as the basis for calculating the amount of refund payable by ATCO Gas and ATCO Electric to their respective customers.

102. In 2021 and 2022, each of ATCO Electric and ATCO Gas achieved actual ROEs that exceeded the approved ROE of 8.5 per cent for their PBR2 plans.[136] As shown in Table 1 above, both ATCO Utilities exceeded the +/-300 basis point reopener threshold for 2021 and 2022, and the +/-500 basis point reopener threshold for 2022. In this section, the Commission finds that the appropriate remedy is a refund by each of ATCO Gas and ATCO Electric to their customers based on the +/-300 basis points reopener threshold, applied to only 2022. That is, the remedy amount will be calculated based on the difference between the actual achieved ROEs of each of the ATCO Utilities in 2022 and 11.5 per cent, which is 300 basis points above the ATCO Utilities' approved ROE of 8.5 per cent for the term of their PBR2 plans.

103. The Commission finds it appropriate to use the +/-300 basis point reopener threshold in calculating the refund because both ATCO Gas and ATCO Electric exceeded this lower reopener threshold in both 2021 and 2022, while the higher reopener threshold of +/-500 basis points was only triggered in 2022. Further, in calculating the refund amount, the Commission will only consider the ATCO Utilities' 2022 actual ROE; it will exclude the 2021 ROE in the calculation.

104. The Commission finds that applying the +/-300 basis point reopener threshold to 2022 achieved returns is reasonable. Using only 2022 ensures that the cumulative impact of the ATCO Utilities' capital cost savings over the entire 2018-2022 PBR2 term on the 2021 and 2022 returns that are above the reopener threshold is accounted for and eliminates any risk that the ATCO Utilities' earnings from earlier years of the term (2018-2020) are clawed back. In this way, the relief directed ensures the ATCO Utilities earned a fair return throughout the PBR2 term. At the same time, the Commission considers that because the ATCO Utilities triggered the +/-300 basis point reopener threshold in 2021 and 2022, using this lower threshold ensures that the remedy is also fair to customers who paid unjust and unreasonable rates in both 2021 and 2022.

[136] For all of the PBR2 plans, an achieved ROE that is 500 basis points above or below the approved ROE in a single year, or 300 basis points above or below the approved ROE for two consecutive years, is sufficient to warrant consideration of a reopening and review of a PBR plan: see Decision 28300-D01-2024, paragraph 3.

105. Both the UCA and the ATCO Utilities provided a calculation of what the refund amount would be if the ATCO Utilities' respective ROEs were to be reduced to the +/-300 basis point threshold of 11.5 per cent. Reducing ATCO Gas's ROE in 2022 from the actual ROE of 14.39 per cent to 11.5 per cent would result in a refund to customers of $40 million. Reducing ATCO Electric's ROE in 2022 from the actual ROE of 14.52 per cent to 11.5 per cent would result in a refund to customers of $39 million.[137] The Commission accepts these numbers but finds that a further adjustment is warranted.

106. As explained in Section 4 above, in the Phase 1 decision, the Commission adopted a conservative approach and accepted that all the ATCO Utilities' quantified and explained cost savings were evidence of efficiencies without probing into the nature of those cost savings. As part of this conservative approach, the Commission also accepted that the qualitatively described cost savings that the ATCO Utilities were unable to quantify created a tolerance band around the quantified and explained cost savings that the Commission accepted resulted in efficiency gains.[138]

107. The Commission is of the view that, because in the Phase 1 decision it accepted that the qualitatively described cost savings were attributable to efficiency gains and created a tolerance band, it is appropriate to reduce the amount of the refund by some amount to account for this tolerance band. In the Phase 1 decision, the Commission did not assign any value to the tolerance band.[139] In this proceeding, parties were asked to explain whether the remedies they proposed considered any of the qualitative efficiencies and the resulting tolerance band or considered any of the programs that the ATCO Utilities described but did not quantify in the Phase 1 proceeding. No party considered the qualitative efficiencies or proposed a specific tolerance band.[140] In the absence of contrary evidence, the Commission exercises its expert judgment and finds that reducing the refund amount by 10 per cent reasonably accounts for revenues associated with the unquantified but qualitatively described efficiencies that were accepted by the Commission in the Phase 1 decision. As a result, the refund for ATCO Gas is reduced from $40 million to $36 million, and for ATCO Electric the refund is reduced from $39 million to $35 million.

108. The ATCO Utilities argued that a refund to customers such as suggested by the interveners' models or using the reopener thresholds is an after-the-fact earnings sharing mechanism (ESM), which is a mechanism that the Commission did not include in PBR2.[141] In PBR1 and PBR2, the Commission relied solely on the reopener provision to provide adequate safeguards to protect both the distribution utilities and customers. An ESM is a comparable or complementary way to safeguard the distribution utilities and customers; however, for PBR1 and PBR2, the Commission relied on the reopener provision, explaining that it does not exhibit the disincentives that arise with ESMs.[142] Once a reopener provision has been triggered, the Commission may, if it determines that there is a problem with the design or operation of the plan

[137] Exhibit 29064-X0028, RAB WP1 - Refund based on Reopener Thresholds, "Summary"; Exhibit 29064-X0098, ATCO-AUC-2025JAN10-005c, attachment 1, "summary."
[138] Decision 28300-D01-2024, paragraph 105.
[139] Decision 28300-D01-2024, paragraph 105.
[140] Exhibit 29064-X0088, ATCO-AUC-2025Jan10-012; Exhibit 29064-X0085, UCA-AUC-2025JAN10-006; Exhibit 29064-X0075, IPCAA-AUC-2025JAN10-004; Exhibit 29064-X0074, CCA-AUC-2025JAN10-005.
[141] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-005; Exhibit 29064-X0137, ATCO Utilities rebuttal submission, PDF page 7, paragraph 16.
[142] Decision 2012-237, paragraph 819.

pursuant to which the reopener threshold was triggered, decide on an appropriate remedy. In this case, the Commission has determined that an appropriate remedy is a refund to customers calculated using a threshold-based approach. As a result, the refund does not constitute an after-the-fact ESM. While it may share some of the aspects of an ESM, this is not by design or intention. Rather, the Commission is requiring a refund by the ATCO Utilities as the mechanism to remedy the problem identified in the Phase 1 decision.

109. Based on the above, the Commission directs ATCO Gas to refund its customers $36 million, and for ATCO Electric to refund its customers $35 million. The implementation of the refund is discussed in Section 8 below.

7 Implications of the remedy

7.1 Other elements of the ATCO Utilities' PBR2 plans

110. The ATCO Utilities argued that a remedy for a problem with a PBR plan must be considered together with all other elements of that plan.[143] In particular, the ATCO Utilities argued that the Commission should consider that had the prospect of a remedy in the nature of an after-the-fact ESM been known, the benefits shared at rebasing would have been lower.[144] In support of this argument, the ATCO Utilities relied on footnote 131 of the Phase 1 decision:[145]

> The Commission acknowledges, however, that depending on the nature of a reopener remedy, it may affect the quantum of benefits shared with customers at rebasing. For example, if a reopener remedy results in greater sharing of benefits with customers during the PBR term, this may reduce the amount of benefits shared at rebasing, all other things being equal.

111. This line of argument is incorrect. First, as discussed in Section 6, a reopener remedy in the nature of a refund is not equivalent to an ESM. Second, while the Commission agrees that reopener remedies need to be considered in the context of the PBR plan as a whole, the 2023 rebasing is not an element of the PBR2 plans. Finally, the Commission stresses that footnote 131 must be read in the full context of the Commission's discussion of rebasing in the Phase 1 decision.[146] In that decision, the Commission concluded that rebasing was not the appropriate tool to address the possibility of a utility achieving returns significantly higher or lower than the Commission's approved ROE because if that were the case, there would be no need for a reopener,[147] and further noted that the PBR3 cost-of-service rebasing presents an opportunity for the utility to make its case to the Commission to set rates that will allow the utility a reasonable opportunity to earn the approved rate of return in the future.[148]

7.2 The ATCO Utilities' PBR3 plans

112. The ATCO Utilities stated that if the Commission determines that the appropriate remedy is a refund, a combination of fairness and PBR principles would require the Commission to make

[143] See Transcript, Volume 1, pages 34-35 (S. Assié).
[144] Transcript, Volume 1, pages 37-39 (S. Assié).
[145] Decision 28300-D01-2024, PDF page 34.
[146] Decision 28300-D01-2024, paragraphs 114-119.
[147] Decision 28300-D01-2024, paragraph 116.
[148] Decision 28300-D01-2024, paragraph 117.

a corresponding adjustment (i.e., increase) to the ATCO Utilities' PBR3 revenues. The ATCO Utilities argued that without an adjustment, customers would benefit twice from the subject cost savings: once through a refund and once through lower PBR3 rates that resulted from rebasing, while the ATCO Utilities will not benefit at all from those cost savings.[149]

113. The ATCO Utilities explained that, as a result of rebasing, their revenue requirements decreased from 2022 to 2023, by $51 million for ATCO Gas and $41 million for ATCO Electric. Therefore, they stated that their customers are benefitting from the cost savings achieved during the PBR2 term, while the ATCO Utilities are operating with lower funding in PBR3 as compared to PBR2 as a result of those same cost savings. On this basis, the ATCO Utilities submitted that if the Commission determines that a refund of a portion of the 2021 or 2022 revenues is an appropriate remedy, it is just and reasonable that a corresponding adjustment is made to the ATCO Utilities' PBR3 revenues.

114. For the reasons that follow, the Commission finds that no adjustments to the ATCO Utilities' PBR3 revenues are required as a result of the remedy determined in this decision.

115. As described in Section 4, the problem identified in the Phase 1 decision relates to revenues, not costs, and therefore, the appropriate remedy must also relate to revenues and not costs. In the 2023 rebasing, the ATCO Utilities utilized actual costs during the PBR2 term as a basis to forecast some of their 2023 costs, not revenues.[150] In PBR3, K-bar is based on actual costs during the PBR2 term, not revenues.[151] The remedy set out in Section 6 adjusts revenues, not costs. Accordingly, as there has been no adjustment to the ATCO Utilities' actual PBR2 costs, there is no reason to permit the ATCO Utilities to revise their forecasts for the purposes of determining 2023 rates and the PBR3 going-in rates, nor to adjust the calculation of K-bar in the ATCO Utilities' PBR3 plans.

116. The Commission also notes that the refund remedy will not impact the ATCO Utilities' ROEs in their regulatory reporting during the PBR3 term. In response to a Commission IR, the ATCO Utilities explained how they would treat a revenue-based refund. The ATCO Utilities explained for Rule 005 annual reporting purposes, any refund amount and associated income tax would be normalized through adjustments of Schedule 10: Reconciliation of financial reports to audited financial statements – income statements[152] and therefore excluded from the ATCO Utilities' return and ROE calculation in the year that the refund occurs.[153] The ATCO Utilities further explained that as directed by the Commission, as part of its annual PBR filing, the ATCO Utilities file an ROE adjustment schedule for each completed year to capture the effects of any regulatory decision not included in the original Rule 005 report that affects the utility's revenues and costs. As such, the ROE adjustment schedule for 2021 and 2022 would reflect the earnings

149 Exhibit 29064-X0038, ATCO Utilities submission, PDF pages 11-12, paragraph 33.

150 See Decision 26615-D01-2022: ATCO Electric Ltd., FortisAlberta Inc., 2023 Cost-of-Service Review, Proceeding 26615, July 28, 2022; Decision 26616-D01-2022: ATCO Gas, Apex Utilities Inc., 2023 Cost-of-Service Review, Proceeding 26616, September 1, 2022.

151 See Decision 27388-D01-2023, Section 8.3.

152 Rule 005, Section 4.1.3, requires a utility (gas or electric) to provide, as part of its annual reporting information, a completed reconciliation of its audited financial statements to the results of the utility pursuant to required schedules including Schedule 10: Reconciliation of financial reports to audited financial statements – income statements.

153 Exhibit 29064-X0088, ATCO-AUC-2025JAN10-003(a), PDF page 14.

impact of the refund.[154] The interveners generally recommended the same approach.[155] The Commission agrees that this is an appropriate treatment of the directed refund as it is based on accepted accounting standards.

8 Implementation mechanism for the refund

117. Having determined the appropriate remedy, the Commission now turns to the consideration of how the refund will be allocated among customers, the mechanism by which customers will be refunded, and the period over which the refund to customers will occur.

8.1 Mechanism and timing to implement the refund

118. The ATCO Utilities recommended that any refund amounts be allocated to rate classes based on each of ATCO Electric's and ATCO Gas's allocations approved by the Commission in a process called a "Phase 2 proceeding." A Phase 2 proceeding, as distinct from the second phase of this reopener proceeding, is a process to determine how much of a utility's required revenue should be recovered from each customer rate class and through what type of charges (i.e., fixed, variable and demand). The application of this allocation methodology to any refund in the current proceeding would result in a fixed, variable and demand component for the refund, which would then be distributed to each rate class and returned to customers on that basis. Essentially, this method would refund the amounts to customers of each of ATCO Electric and ATCO Gas in accordance with how their respective distribution rates are determined.

119. The ATCO Utilities also proposed that the mechanism for effecting the refund should be either a Y factor in their 2026 PBR annual rate adjustment filings or a stand-alone rider, as both of these mechanisms would reflect their Phase 2 allocations.[156]

120. The UCA recommended that the refund be clearly identified on the ATCO Utilities' customer bills as a separate line item. The UCA suggested that the refund should occur in a one-month period or, alternatively, a period not longer than 12 months.[157] The UCA did not explicitly recommend how to allocate the refund between customer rate classes.

121. IPCAA recommended that the mechanism to implement the refund consider the specific amounts paid by each customer in 2021 and 2022. IPCAA's preferred approach is for the ATCO Utilities to refund each individual customer based on the actual distribution charges paid by each customer in 2021 and 2022. If the customer is still provided distribution services by ATCO Electric or ATCO Gas, as applicable, the refund to that customer would take the form of a bill credit. If the customer is no longer served by ATCO Electric or ATCO Gas, as applicable, the ATCO Utilities should make every effort to contact the customer and provide each customer with a cheque or transfer, whatever is preferred by the customer.[158] In argument, IPCAA clarified that its refund mechanism is more precise for customers in larger rate classes, whereas rate classes such as residential and farm could be treated in a more uniform manner.[159] During

[154] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-003(a), PDF page 15.
[155] Exhibit 29064-X0024, IPCAA evidence, PDF page 19; Exhibit 29064-X0027.02, UCA submissions, PDF page 15, paragraph 45.
[156] Exhibit 29064-X0088, ATCO-AUC-2025JAN10-003(e), PDF page 21.
[157] Exhibit 29064-X0027.02, UCA submission, PDF pages 14-15, paragraphs 42-43.
[158] Exhibit 29064-X0024, IPCAA evidence, PDF pages 15-17.
[159] Transcript, Volume 1, page 92, lines 3-10 (R. Secord).

argument in response to a Commission question, the UCA and the CCA each indicated that they did not oppose having some sort of an apportionment to customers in larger rate classes as recommended by IPCAA provided there is no cost to other customers on the system.[160]

122. The CCA recommended that "the final refund amount be paid by way of a refund, over a short period of time."[161] The CCA did not propose an allocation methodology, details of its proposed refund mechanism, or a specific period that would be considered "short."

123. The Commission finds that it is reasonable to allocate the refund among the ATCO Utilities' customers based on each of their existing approved Phase 2 allocations because the ATCO Utilities' rates in 2021 and 2022 were calculated based on that allocation methodology. This ensures symmetry between the original unjust and unreasonable rates paid by customers and the refund paid to customers. Further, as the ATCO Utilities' existing distribution rate allocations are determined using the Phase 2 methodology, using that same methodology for the remedy is known, certain and therefore efficient.

124. In addition, the Phase 2 allocation methodology takes into account the costs that each customer rate class causes to the distribution system; therefore, the apportionment of the refund will also take into account the rate design (i.e., the fixed, variable and demand components) for each rate class. The Commission acknowledges that using this allocation methodology may result in customers who were served by the ATCO Utilities' distribution systems in 2021 and 2022, but are no longer ATCO Utilities customers, not receiving their share of the refund. However, the Commission finds that the level of effort and cost associated with tracking down each individual customer could be considerable and is not justified in the circumstances.

125. While there would be less effort required to track down only the prior ATCO Utilities' larger/industrial customers, the Commission finds that it is also complex and would require additional time to implement. Implementing a hybrid methodology of individual refunds to larger/industrial customers based on the actual rates they paid in 2021 and 2022 and a Phase 2 allocation for the ATCO Utilities' other customers would require the ATCO Utilities to find the affected customers and then determine a methodology to calculate the amount refunded to each individual larger/industrial customer.

126. In addition to being complex, this methodology is inconsistent with the ratemaking principles that form the basis of the Phase 2 allocation methodology, which spreads the costs (or in this case, the refund) at the rate class level, including larger customer rate classes such as industrial customers in accordance with the rate design approved by the Commission. This allocation is not done at the individual customer level. The Commission is not persuaded that there is a compelling reason to deviate from this longstanding and well-established methodology for the purposes of a refund.

127. Regarding the mechanism to implement the refund, the Commission finds that it is reasonable to use a stand-alone rider in effect from September 1, 2025, to February 28, 2026. The use of a stand-alone rider over the six-month period allows for the disbursement of the refund amount more quickly than the use of a Y factor, which would be requested as part of the

[160] Transcript, Volume 1, page 168, lines 6-25; page 169, lines 1-7; Transcript, Volume 2, page 216, lines 7-25; page 217, lines 1-15.

[161] Exhibit 29064-X0026, CCA submission, PDF page 11, paragraph 34.

annual PBR filing and take effect January 1 of the following year. The refund amounts should be allocated based on approved Phase 2 methodologies as discussed earlier in this section. Any intergenerational equity concerns related to the timing of the refund are lessened as the refund will be implemented sooner and over a six-month period, beginning September 1, 2025, which is a relatively short period of time.

128. The Commission directs each of the ATCO Utilities to file a compliance filing within 30 days of issuance of this decision that calculates the refund to customers, to be allocated based on the ATCO Utilities' existing Phase 2 allocations and distributed through a stand-alone rider over a six-month period from September 1, 2025, to February 28, 2026.

8.2 Carrying costs associated with the refund

129. In this section, the Commission determines whether carrying costs should apply to the refund amount and, if so, how the carrying costs should be calculated and over what period.

130. Carrying costs are the payment of interest on outstanding balances owing to or from the utility. In this case, carrying charges would be added to the refund amount to be paid to customers by the ATCO Utilities. The parties differed on both the appropriate methodology for calculating any carrying costs and the date on which carrying costs would start to accrue.

131. The two methodologies for calculating carrying costs that the interveners proposed were (i) the weighted average cost of capital (WACC), which calculates a company's cost of capital, proportionately weighing its use of debt and equity financing; and (ii) Rule 023,[162] which is an AUC rule that sets out what interest typically applies to outstanding balances; adjustments of rates, tariffs, tolls or charges; and any other costs that are subject to the Commission's jurisdiction. Rule 023 requires that a balance not be outstanding for less than 12 months for interest to apply and prescribes an interest rate of Bank of Canada policy rate plus 1¾ per cent.

132. The ATCO Utilities submitted that no carrying charges should accrue on the refund amount because a refund should only be considered outstanding once the Commission issues a decision to implement a refund (i.e., this decision). They further submitted that the balance would not be outstanding for a period of greater than 12 months, which means that carrying costs would not apply under Rule 023, if the refund is distributed to customers through a stand-alone rider in 2025 or through customer base distribution rates in 2026.[163] The ATCO Utilities submitted, however, that if carrying costs were to apply, they should be calculated using Rule 023 interest because the Commission previously determined that a rule-based approach to consistently apply interest was a fair, efficient and symmetrical approach.[164]

133. IPCAA submitted that carrying costs should apply from January 1, 2021, as the ATCO Utilities had access to the refund amounts from that date, and this may have reduced the need to access other forms of capital, which benefitted the company.[165] The UCA agreed that as the

[162] Rule 023: *Rules Respecting Payment of Interest.*
[163] Exhibit 29064-X0137, ATCO Utilities rebuttal submissions, PDF page 23, paragraph 71.
[164] https://media.auc.ab.ca/prd-wp-uploads/regulatory_documents/Consultations/2022-02-24-Rule023-commentmatrix.pdf, PDF page 1.
[165] Exhibit 29064-X0024, IPCAA evidence, PDF page 18.

overpayment to the ATCO Utilities occurred between four and five years ago, carrying charges should apply.[166]

134. IPCAA recommended using the ATCO Utilities' pre-tax WACC for calculating carrying costs because WACC better reflects the benefits received by the ATCO Utilities' shareholders from the excess recovery of revenues, than calculating based on Rule 023 does.[167] The UCA also recommended carrying costs based on WACC,[168] but included on a compound interest basis, due to the time that has elapsed since the overcollection and the size of the refund.[169] Similarly, the CCA proposed that carrying costs ought to be calculated based on WACC on a compounding basis[170] because the ATCO Utilities were provided with compounding returns; therefore, customers should be compensated similarly.[171]

135. The Commission is of the view that the refund becomes outstanding and payable to customers as of the date of this decision. As a result, the Commission finds that the date on which carrying costs start to accrue is the date that this decision is issued. Since the Commission is directing the refund be distributed over a six-month period from September 1, 2025, to February 28, 2026, the refund will be fully distributed to customers within 12 months of this decision, and therefore carrying charges will not apply to the refund amount. Should the refund not be paid in accordance with the timing prescribed in this decision and remain outstanding for more than 12 months following the release of this decision for any reason, the Commission finds that the appropriate methodology for determining any carrying costs is in accordance with Rule 023. The Commission is not persuaded to deviate from the use of Rule 023 and instead use WACC in the calculation of carrying costs, nor is it persuaded that compounding is appropriate in the current circumstances. The Commission has adopted a consistent rule-based approach for calculating carrying costs as noted by the ATCO Utilities and sees no reason to deviate from the use of Rule 023 in this circumstance.

136. Finally, the Commission acknowledges that in its ruling denying the ATCO Utilities' second abeyance request, it advised parties that "it may seek further submissions from parties with respect to the impacts and timing of the implementation of a remedy once it has determined the nature and quantum of such remedy."[172] Given the Commission's conclusions on the quantum of the remedy and the timing for implementation, the Commission does not require further submissions on these points. Accordingly, the remedy will be implemented in accordance with the Commission's directions in this decision.

9 Prudence of 2022 actual capital additions and finalization of the 2023 opening rate base

137. In the Phase 1 decision, the Commission indicated that it would determine the prudence of the ATCO Utilities' 2022 actual capital additions and the finalization of their respective 2023

[166] Exhibit 29064-X0085, UCA-AUC-2025JAN10-002(a), PDF page 3.
[167] Exhibit 29064-X0075, IPCAA-AUC-2025JAN10-006(e), PDF page 12.
[168] Exhibit 29064-X0085, UCA-AUC-2025JAN10-002(c), PDF page 4.
[169] Exhibit 29064-X0027.02, UCA submissions, PDF page 15, paragraph 46.
[170] Exhibit 29064-X0026, CCA submissions, PDF page 11, paragraph 34.
[171] Exhibit 29064-X0074, CCA-AUC-2025JAN10-002(c), PDF page 4.
[172] Exhibit 29064-X0072, AUC letter - Ruling on ATCO Utilities second request to hold proceeding in abeyance, January 23, 2025, paragraph 11.

opening rate bases in the Phase 2 decision.[173] In this decision, the Commission finds that ATCO Electric's and ATCO Gas's respective 2022 capital additions have been prudently incurred and are to be used to finalize their respective 2023 opening rate bases.

138. As part of the Phase 1 proceeding, the Commission directed the ATCO Utilities to provide the following information for the 2022 prudence review:

- 2022 actual costs broken up into the groupings used in the ATCO Utilities' PBR3 rebasing applications.
- Updated historical data by including the 2021 and 2022 actuals into the historical data filed in the PBR3 rebasing proceedings and identify and explain any trends.
- An explanation of the differences between the 2022 forecasts submitted in each of the ATCO Utilities' PBR3 rebasing proceedings and their 2022 actuals. This explanation must compare the differences at the rebasing grouping level. As part of the explanation, please provide the following:
    - If the 2022 actuals are less than the 2022 forecast, a comprehensive explanation of whether this was due to costs deferred to later years, to project savings, or to another cause.
    - Quantification of the differences and explanations for the reasons and main drivers of the variances. [footnotes removed][174]

139. In assessing the prudence of the ATCO Utilities' respective capital additions incurred in 2022, the Commission primarily relies on (i) a comparison of 2022 actuals to 2022 forecasts approved on a placeholder basis in the PBR3 rebasing decisions: Decision 26615-D01-2022 for ATCO Electric and Decision 26616-D01-2022 for ATCO Gas; and (ii) the ATCO Utilities' explanations of these differences provided in the Phase 1 proceeding. The Commission finds such an approach to be reasonable in the circumstances given that the 2022 forecasts were created by the ATCO Utilities in alignment with their general approach to 2023 rebasing.

140. For clarity, it should be noted that 2022 was the last year of the PBR2 plan and the rates of ATCO Electric and ATCO Gas in that year reflected the provisions of that plan and not actual utility costs. The 2022 capital additions forecasts were presented by the ATCO Utilities and evaluated by the Commission in the PBR3 rebasing proceedings for the purpose of calculating the 2023 opening rate base for setting of the 2023 rates on a cost-of-service basis. Neither these 2022 forecasts nor the 2022 actual capital additions affect the approved 2022 PBR rates.[175]

141. As further set out in the rebasing decisions, the ATCO Utilities derived their 2022 capital forecasts using the same methodology used to derive their 2023 forecasts in the 2023 cost-of-service application. The mechanistically forecast 2022 programs were reflective of the 2018-2020 average and thus were accepted by the Commission subject to using the approved escalation factors. The 2022 forecasts for non-mechanistic programs were assessed by the

[173] Decision 28300-D01-2024, paragraph 183.
[174] Proceeding 28300, Exhibit 28300-X0017, AUC letter – Directions on procedure, paragraph 14.
[175] Decision 26354-D01-2021: Process to Establish 2023 Rates for Alberta Electric and Gas Distribution Utilities, Proceeding 26354, June 18, 2021, paragraph 45; Decision 26615-D01-2022, paragraphs 231-233; Decision 26616-D01-2022, paragraphs 240-241.

Commission together with 2023 forecasts and were approved subject to directed adjustments.[176] Also reflected in the 2022 forecast was the shift of amounts for the Meter-to-Cash Project from 2022 to 2023 due to a change in the targeted go-live date as part of the ATCO Utilities' Customer Information System Replacement. The 2022 capital additions forecast was therefore adjusted by $53.7 million for ATCO Electric and $97.4 million for ATCO Gas. The Commission approved the change in the respective utilities' 2022 forecasts in decisions 27684-D01-2022[177] and 27672-D02-2022.[178]

142. The Commission's approval of ATCO Electric's and ATCO Gas's 2022 actual capital additions as prudent in this section is not inconsistent with its findings the Phase 1 decision and this decision that there was a problem with the operation of each of the ATCO Utilities' PBR2 plans in 2021 and 2022. As discussed in Section 4, the problem did not relate to costs, but rather to the retention of profits that were not attributed to better utility performance.

9.1 ATCO Electric

143. ATCO Electric's actual capital additions for 2022 were $233.2 million versus forecast capital additions of $297.9 million, for a difference of $64.7 million or 22 per cent. ATCO Electric explained that the capital additions were lower in part due to impacts from the COVID-19 pandemic. While the Alberta economy began to recover during 2022 the elevated interest rates and supply-side constraints, which impacted the pricing and availability of materials and equipment, led to an impact on the capital investments by its customers.[179] ATCO Electric provided variance explanations using the Rule 005 materiality thresholds of $5 million, or 10 per cent and having a dollar amount greater than $1 million.

144. The variance, broken down by approved capital groupings, is summarized in the following table:

Table 4. ATCO Electric 2022 actual vs. forecast capital additions[180]

	2022 Actual	2022 Forecast	Variance	Variance
	($000)			(%)
Externally Driven System Modifications	8,680	17,194	(8,514)	(50)
Customer Growth	64,111	112,622	(48,511)	(43)
Environment, Safety and Reliability	1,028	7,974	(6,946)	(87)
Forestry Protection	27,897	28,320	(423)	(1)
Metering	1,917	9,373	(7,456)	(80)
Rebuilds, Replacements and Life Extensions	44,786	46,130	(1,344)	(3)
General Support	59,059	33,794	25,264	75
Distribution to Transmission Contributions	1,294	-	1,294	100
Grid Modernization	8,017	27,915	(19,898)	(71)
Customer Information System Replacement	16,411	14,598	1,813	12
Total	**233,200**	**297,921**	**(64,720)**	**(22)**

[176] Decision 26615-D01-2022, paragraph 232; Decision 26616-D01-2022, paragraph 240.
[177] Decision 27684-D01-2022: ATCO Gas, 2023 Cost-of-Service Compliance Filing and 2023 Rates, Proceeding 27684, December 15, 2022, paragraph 23.
[178] Decision 27672-D02-2022: ATCO Electric Ltd., 2023 Cost-of-Service Compliance Filing and 2023 Distribution Rates – Reasons for Approval, Proceeding 27672, December 20, 2022, paragraph 33.
[179] Proceeding 28300, Exhibit 28300-X0020.01, Appendix D, PDF pages 56-57, paragraphs 8-12.
[180] Proceeding 28300, Exhibit 28300-X0020.01, Appendix D, PDF pages 56-66.

145. For Externally Driven System Modifications, ATCO Electric explained that the primary driver of the variance was a lower overall increase in load as compared to the 2018-2020 time period, resulting in lower capacity additions. Several projects were also completed earlier than planned, which resulted in higher capital additions in the prior year.

146. The Customer Growth variance was mainly driven by a reduction in capital additions in large new expansion projects, which in 2022 totalled $4.2 million compared to the 2018-2020 indexed average of $28.4 million. There were also lower capital additions for small new extensions for oilfield/industrial customers. This was driven by continued economic uncertainty, customers taking a more conservative approach with developments and supply chain constraints that shifted some projects out to future years.

147. The lower spend in Environment, Safety and Reliability was driven by the deferral of two major projects to 2023: the Wintering Hills Tie Line Project and the Peavine Settlement System Improvements Project. The variance in Metering is related to the reductions in customer growth and ATCO Electric's efforts to redeploy meters that were displaced by the Advanced Metering Infrastructure (AMI) Program where possible, resulting in fewer meters being purchased for replacements.[181]

148. ATCO Electric explained that the higher than forecast spend for General Support was mainly due to the investment and timing of go-live dates for multi-year projects related to Workforce Management and Asset Data Management projects that were completed in 2022. Also, it had higher Transportation Equipment capital additions in 2022 as a result of delays from 2021 regarding the receipt of vehicles. It also had higher 2022 actual capital additions in the Distribution to Transmission Contributions related to a post-completion cost review, which identified capital additions related to the Abee Substation and Weasel Creek projects completed prior to April 23, 2021, with a corresponding and equivalent offsetting contribution resulting in no impact on rate base.

149. For Grid Modernization, ATCO Electric explained that the variance is due to supply chain restraints in 2022, leading to the inability to obtain AMI meters and supervisory control and data acquisition apparatus, resulting in installations being $13.9 million lower than forecast. Also, there was a slight delay for the Advanced Distribution Management System Project that deferred the completion of Stage 1 from Q4 2022 to Q1 2023, resulting in $5.8 million lower capital additions than forecast. The Customer Information System Replacement was higher than forecast due to delaying the go-live date for the Electric System Configuration Information Project from May 2022 to September 2022 as a result of additional testing and training being required.[182]

150. The Commission has reviewed the variance explanations provided by ATCO Electric for each of the capital groupings that exceeded the Rule 005 materiality threshold. The Commission is satisfied that the main drivers of the lower than forecast capital additions were related to factors outside of the control of ATCO Electric, mainly the pricing and availability of materials as well as lower customer growth and externally driven projects. The Commission notes that no party in this proceeding provided any evidence or disputed the prudence of ATCO Electric's 2022 capital additions in argument. The Commission finds that ATCO Electric's 2022 capital

[181] Proceeding 28300, Exhibit 28300-X0020.01, Appendix D, PDF pages 63-66, paragraphs 31-39.
[182] Proceeding 28300, Exhibit 28300-X0020.01, Appendix D, PDF pages 56-66.

additions were prudently incurred, and these amounts will therefore be used to finalize ATCO Electric's 2023 opening rate base.

9.2 ATCO Gas

151. ATCO Gas's actual capital additions for 2022 were $295.6 million versus forecast capital additions of $302.0 million, for a variance of $6.49 million or two per cent. ATCO Gas explained that in 2022 work in the Growth category rebounded, and capital additions were higher than in most pre-pandemic years due to accelerated development in urban centres. Also, for other capital groupings, some projects and programs that were delayed in 2020 and 2021 due to physical distancing requirements and supply chain constraints began in 2022. But, in 2022 there was inflationary pressure on most contracts, equipment and materials influenced by macroeconomic forces. As a result, ATCO Gas's cost-saving measures were offset by cost increases in 2022.[183] ATCO Gas provided variance explanations using the Rule 005 materiality thresholds of $5 million, or 10 per cent and having a dollar amount greater than $1 million.

152. The variance, broken down by approved capital groupings, is summarized in the following table:

Table 5. ATCO Gas 2022 actual vs. forecast capital additions[184]

	2022 Actual	2022 Forecast	Variance	Variance
	($000)			(%)
Growth				
North	44,819	51,553	(6,734)	(13)
South	53,722	45,683	8,039	18
Combined Total	**98,541**	**97,236**	**1,305**	**1**
System Sustainment				
North	35,547	34,936	611	2
South	35,819	43,408	(7,589)	(17)
Combined Total	**71,366**	**78,344**	**(6,978)**	**(9)**
Infrastructure Renewal				
North	32,236	34,670	(2,435)	(7)
South	11,661	20,363	(8,702)	(43)
Combined Total	**43,897**	**55,033**	**(11,136)**	**(20)**
Metering				
North	13,316	12,626	691	5
South	11,627	9,958	1,669	17
Combined Total	**24,944**	**22,584**	**2,360**	**10**
General Support				
North	31,540	27,404	4,137	15
South	25,167	21,442	3,724	17
Combined Total	**56,707**	**48,846**	**7,861**	**16**
CIS Replacement				
North	52	-	52	100
South	52	-	52	100
Combined Total	**104**	**-**	**104**	**100**
North Total	**157,511**	**161,189**	**(3,679)**	**(2)**
South Total	**138,048**	**140,854**	**(2,806)**	**(2)**
Combined Total	**295,558**	**302,043**	**(6,485)**	**(2)**

[183] Proceeding 28300, Exhibit 28300-X0020.01, Appendix M, PDF page 71, paragraphs 7-10.
[184] Proceeding 28300, Exhibit 28300-X0020.01, Appendix M, PDF pages 70-78.

153. ATCO Gas explained that for System Sustainment, the variance to forecast was driven by decreases in Transmission Driven work including fewer requests and smaller scope projects in the south compared to work completed in prior periods. There was also fewer Urban and Rural Relocations; for example, the 2018-2020 indexed average, which was used as the basis of the forecast, included specific larger scope relocation projects in Calgary such as the Green Line LRT and Stoney Trail ring road development, some of which did not proceed as planned in 2022. This was partially offset by higher Regulating Meter Station improvements and Cathodic Protection work.[185]

154. The variance for the Infrastructure Renewal grouping was driven by lower capital additions related to the Meter Relocation and Replacement Program (MRRP). ATCO Gas explained that substantial progress was made in addressing high-risk meter moves through the beginning of PBR2 resulting in lower capital additions in 2022. Cost savings were also achieved in the MRRP through the co-ordination of meter moves with other work such as service line improvements, rider leak repairs and meter exchanges. The variance in the Infrastructure Renewal was also driven by a delay of the City of Edmonton infrastructure projects which impacted ATCO Gas's Steel Mains Replacement Program.[186]

155. With respect to Metering, the actual capital additions were higher than forecast due to an increased number of meters required for both new and replacement purposes compared to the 2018-2020 average, which the forecast was based on. Also, there were 65 per cent higher unit costs for residential meters compared to the 2018-2020 average due to a low-cost meter ending production in 2020.[187]

156. ATCO Gas explained that higher than forecast capital additions for General Support were driven by higher costs for Transportation Equipment, Emergency Supply and General Land and Structures. This was due to supply chain challenges, delay of materials and resource constraints that resulted in some items ordered in 2021 being capitalized in 2022. There were also more end-of-life vehicles being replaced in 2022 compared to the 2018-2020 period with unit cost increases in excess of general inflation.[188]

157. The Commission has reviewed the variance explanations provided by ATCO Gas for each of the capital groupings that exceeded the Rule 005 materiality threshold. The Commission is satisfied that the main drivers of the lower than forecast capital additions were related to factors outside of the control of ATCO Gas, including the pricing and availability of materials as well as delayed projects. The Commission also notes that no party in this proceeding provided any evidence or disputed the prudence of ATCO Gas's 2022 capital additions in argument. The Commission finds that ATCO Gas's 2022 capital additions have been prudently incurred and are to be used to finalize ATCO Gas's 2023 opening rate base.

[185] Proceeding 28300, Exhibit 28300-X0020.01, Appendix M, PDF pages 73-75, paragraphs 18-21.
[186] Proceeding 28300, Exhibit 28300-X0020.01, Appendix M, PDF pages 75-76, paragraphs 22-26.
[187] Proceeding 28300, Exhibit 28300-X0020.01, Appendix M, PDF pages 76-77, paragraphs 27-29.
[188] Proceeding 28300, Exhibit 28300-X0020.01, Appendix M, PDF pages 77-78, paragraphs 30-34.

10 Order

158. It is hereby ordered that:

(1) ATCO Electric Ltd. and ATCO Gas and Pipelines Ltd. shall file a joint compliance filing within 30 days of the issuance of this decision to implement a rider refunding $36 million to the customers of ATCO Gas and $35 million to the customers of ATCO Electric Ltd. over the period of September 1, 2025, to February 28, 2026.

Dated on May 28, 2025.

Alberta Utilities Commission

(original signed by)

Kristi Sebalj
Vice-Chair

(original signed by)

Michael Arthur
Commission Member

(original signed by)

Renée Marx
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) **Company name of counsel or representative**
ATCO Electric Ltd. Bennett Jones LLP
ATCO Gas and Pipelines Ltd. (ATCO Gas) Bennett Jones LLP
Consumers' Coalition of Alberta (CCA)
Industrial Power Consumers Association of Alberta (IPCAA) Ackroyd LLP
Office of the Utilities Consumer Advocate (UCA) Brownlee LLP Russ Bell & Associates Inc.
The City of Calgary (Calgary) McLennan Ross Barristers & Solicitors

Alberta Utilities Commission Commission panel K. Sebalj, Vice-Chair M. Arthur, Commission Member R. Marx, Commission Member Commission staff A. Marshall (Commission counsel) N. Fitz-Simon (Commission counsel) E. Deryabina A. Spurrell B. Edwards

Appendix 2 – 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. Based on the above, the Commission directs ATCO Gas to refund its customers $36 million, and for ATCO Electric to refund its customers $35 million. The implementation of the refund is discussed in Section 8 below. ..... paragraph 109

2. The Commission directs each of the ATCO Utilities to file a compliance filing within 30 days of issuance of this decision that calculates the refund to customers, to be allocated based on the ATCO Utilities' existing Phase 2 allocations and distributed through a stand-alone rider over a six-month period from September 1, 2025, to February 28, 2026. ..... paragraph 128