



ATCO Electric Ltd.

**Discontinuation of the Operation
of an Electric Distribution System
Cadron-Highway Rural Electrification Association Ltd.**

February 16, 2012

The Alberta Utilities Commission

Decision 2012-048: ATCO Electric Ltd.

Discontinuation of the Operation of an Electric Distribution System

Cadron-Highway Rural Electrification Association Ltd.

Application No. 1608096

Proceeding ID No. 1682

February 16, 2012

Published by

The Alberta Utilities Commission

Fifth Avenue Place, Fourth Floor, 425 - First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Website: www.auc.ab.ca

ATCO Electric Ltd.
Discontinuation of the Operation
of an Electric Distribution System
Cadron-Highway Rural Electrification Association Ltd.

Decision 2012-048
Application No. 1608096
Proceeding ID No. 1682

1 Introduction and background

1. ATCO Electric Ltd. (ATCO), by Application No. 1608096, registered on January 27, 2012, applied to the Alberta Utilities Commission (AUC or the Commission) requesting approval for the sale to ATCO of the assets of the Cadron-Highway Rural Electrification Association Limited (Cadron-Highway REA or REA) and for the transfer of the REA's customers to ATCO pursuant to sections 25, 27, 29 and 32 of the *Hydro and Electric Energy Act*.

2 Discussion

2. Cadron-Highway REA is the operator and owner of an electric distribution system in the Andrew area of Alberta, northeast of Edmonton. The original service area boundary and permit to operate Cadron-Highway REA's distribution system was approved on February 16, 1977, by way of Approval No. HE 7703 and amended by amendment of Approval No. HE 7703A dated May 10, 1983. Cadron-Highway REA service area is within the overall service area of ATCO such that a transfer of the REA service area to ATCO will not be required should the Commission approve the application. Customers of Cadron-Highway REA will become customers of ATCO should the REA service area approvals be rescinded.

3. Attached to the application was a certificate from the president of the Cadron-Highway REA dated November 16, 2011, indicating that a special general meeting of the REA was held on November 5, 2011. Notice of the meeting was mailed to each member of the REA on October 12, 2011. A quorum of the REA's registered members was present at the meeting which approved, by way of an extraordinary resolution, the proposed sale of the REA's electrical distribution system to ATCO and the subsequent winding-up and dissolution of the REA. The terms and provisions of the sale were outlined in the asset purchase agreement filed with the application, titled "Memorandum of Agreement" dated November 16, 2011, between Cadron-Highway REA and ATCO (Asset Purchase Agreement). The effective time and date of the sale is proposed to be March 15, 2012.

4. The director of Rural Electrification Associations for the Province of Alberta (Director) approved, by way of a certificate dated November 30, 2011, the sale of the REA's electrical distribution system to ATCO and the subsequent winding-up and dissolution of the REA.

5. In the application ATCO indicated that Cadron-Highway REA had agreed to sell its undertakings and facilities, and to transfer its customers to ATCO. Cadron-Highway REA will discontinue the operation of its electrical distribution system after the transfer of the assets and customers to ATCO.

6. The REA has agreed to support the application. Section 2 of the Asset Purchase Agreement provides:

Subject to the terms and conditions herein contained, the Association hereby agrees to support an application before the AUC to transfer to the Company (ATCO) the right to provide Electrical Services to the Association's Customers.

7. The purchase price negotiated between ATCO and Cadron-Highway REA was \$2,621,374. The agreement also stipulated that customer contributions to construction costs of Cadron-Highway REA will be transferred to ATCO on the closing date.

8. ATCO stated in the application that the sale of Cadron-Highway REA was the result of a voting decision by the membership of the REA in November 2011 and, therefore, was not part of the forecast used in ATCO's 2011-2012 general tariff application.

9. Given that the REA had represented that notice of the special general meeting had been properly given and that a quorum was present which approved the extraordinary resolution which was subsequently approved by the Director, a notice of application was not issued by the Commission. Therefore, a hearing was not required as the Commission considered that its decision or order would not directly and adversely affect the rights of a person pursuant to Section 9 of the *Alberta Utilities Commission Act*.

3 Findings

10. Section 29(1) of the *Hydro and Electric Energy Act* provides:

29(1) The Commission, on the application of an interested person or on its own motion,

(a) when in its opinion it is in the public interest to do so, and

(b) on any notice and proceedings that the Commission considers suitable,

may alter the boundaries of the service area of an electric distribution system, or may order that the electric distribution system shall cease to operate in a service area or part of it at a time fixed in the order.

11. Section 30(1) of the *Hydro and Electric Energy Act*, provides that no holder of an approval of a service area of an electric distribution system may discontinue operations without the prior approval of the Commission.

12. Section 32(1) of the *Hydro and Electric Energy Act* states:

32(1) If a rural electrification association

(a) under any order made under section 29,

(i) has the size of its service area reduced, or

(ii) ceases to operate in a service area or part of it,

or

(b) on being authorized under section 30 to do so, discontinues the operation of its electric distribution system,

the Commission may, when in the Commission's opinion it is in the public interest to do so and on any notice and proceedings that the Commission considers suitable, by order transfer to another person the service area or part of it served by the rural electrification association.

(2) When the Commission makes an order under subsection (1), it may

(a) for the purpose of ensuring the continued distribution of electric energy in the service area or part of it that was served by the rural electrification association, provide for

(i) the transfer of any facilities associated with the electric distribution system from the rural electrification association to another party, and

(ii) the operation of the electric distribution system or part of it by any party that the Commission directs,

4 Decision

13. The Commission understands that Cadron-Highway REA and ATCO have agreed to the sale and transfer of the Cadron-Highway REA electric distribution system as indicated by the Asset Purchase Agreement and the transfer of the REA's customers to ATCO. The Commission understands that the necessary procedures and governance requirements applicable to the REA, with respect to the Asset Purchase Agreement and the transfer of REA customers to ATCO, have been properly followed. The Commission further understands that the Director has approved the resolutions of the Cadron-Highway REA regarding the sale of the electric distribution system, the transfer of REA customers to ATCO, and the subsequent winding-up and dissolution of the Cadron-Highway REA.

14. The Commission has expressly relied on the terms of the extraordinary resolution of the members of the REA, the REA board of directors' resolutions, the Asset Purchase Agreement, and the certificate of the Director filed with the application in the consideration of the application.

15. The Commission has further relied on the statement of ATCO that the customers of the REA will be served by ATCO upon closing of the asset sale transaction. ATCO has also agreed in Section 3 of the Asset Purchase Agreement to "...operate, maintain, replace, reconstruct, alter or upgrade..." the electric distribution system acquired from the REA.

16. Based on the above understandings and reliance, the Commission is satisfied that the discontinuation of the operation of the Cadron-Highway REA distribution system is in the public interest in accordance with sections 29, 30 and 32 of the *Hydro and Electric Energy Act*.

17. Notwithstanding the above, the Commission is expressly not making any finding with respect to the prudence of the acquisition of the Cadron-Highway REA's electric distribution system by ATCO or with respect to the values which the REA assets may subsequently be incorporated into ATCO's rate base.

5 Order

18. Pursuant to sections 29, 30 and 32 of the *Hydro and Electric Energy Act*, the Commission grants the discontinuance of Cadron-Highway REA electric distribution system, as set out in Appendix 1 – Discontinuation of Distribution System – Approval No. U2012-51 – February 16, 2012, to Cadron-Highway REA (appendix 1 will be distributed separately) effective upon closing of the sale contemplated by the Asset Purchase Agreement presently scheduled for March 15, 2012.

19. The Commission rescinds REA Approval No. HE 7703, as amended, effective upon closing of the sale contemplated by the Asset Purchase Agreement presently scheduled for March 15, 2012.

20. ATCO will become the operator of the Cadron-Highway REA electric distribution system and the customers of the Cadron-Highway REA will become customers of ATCO upon closing of the sale contemplated by the Asset Purchase Agreement presently scheduled for March 15, 2012.

Dated February 16, 2012.

The Alberta Utilities Commission

(original signed by)

Mark Kolesar
Commission Member