



## **ATCO Electric Ltd.**

### **Z Factor Adjustment for the 2016 Regional Municipality of Wood Buffalo Wildfire**

**October 2, 2019**

**Alberta Utilities Commission**

Decision 21609-D01-2019

ATCO Electric Ltd.

Z Factor Adjustment for the 2016 Regional Municipality of Wood Buffalo Wildfire  
Proceeding 21609

October 2, 2019

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](mailto:info@auc.ab.ca)

Website: [www.auc.ab.ca](http://www.auc.ab.ca)

The Commission may, within 30 days of 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

<b>1</b>	<b>Decision summary</b> .....	<b>1</b>
<b>2</b>	<b>Introduction and procedural summary</b> .....	<b>1</b>
<b>3</b>	<b>Z factor criteria</b> .....	<b>3</b>
<b>4</b>	<b>The event</b> .....	<b>4</b>
<b>5</b>	<b>Assessment against the five Z factor criteria</b> .....	<b>8</b>
5.1	First and fifth criteria .....	8
5.2	Second criterion .....	8
5.3	Third criterion .....	9
5.4	Fourth criterion.....	10
5.4.1	O&M expenditures.....	10
5.4.1.1	Labour costs.....	12
5.4.1.2	Insurance coverage .....	14
5.4.1.3	IT costs.....	15
5.4.2	Capital expenditures.....	16
5.4.3	Utility asset disposition issues .....	18
5.4.3.1	Regulatory treatment of assets destroyed in the RMWB wildfire .....	18
5.4.3.2	Future considerations.....	30
5.4.3.3	Regulatory treatment of replacement assets .....	33
5.4.4	Lost revenue.....	35
<b>6</b>	<b>Commission conclusions on the Z factor adjustment</b> .....	<b>38</b>
<b>7</b>	<b>Order</b> .....	<b>39</b>
	<b>Appendix 1 – Proceeding participants</b> .....	<b>41</b>
	<b>Appendix 2 – Summary of Commission directions</b> .....	<b>42</b>

## List of tables

<b>Table 1.</b>	<b>Z factor adjustment components</b> .....	<b>2</b>
<b>Table 2.</b>	<b>Characteristics of the wildfires</b> .....	<b>5</b>
<b>Table 3.</b>	<b>Earnings impact</b> .....	<b>9</b>
<b>Table 4.</b>	<b>2016 RMWB wildfire O&amp;M costs</b> .....	<b>11</b>
<b>Table 5.</b>	<b>EOC labour cost component</b> .....	<b>12</b>
<b>Table 6.</b>	<b>ER &amp; PR labour cost component</b> .....	<b>12</b>
<b>Table 7.</b>	<b>History of losses due to nature events</b> .....	<b>19</b>

<b>Table 8. Residual measure with and without the RMWB wildfire data.....</b>	<b>22</b>
<b>Table 9. Number of damaged non-active and active sites May 2016 to December 2017 ..</b>	<b>36</b>

## **1 Decision summary**

1. This decision provides the Alberta Utilities Commission's determination of an application from ATCO Electric Ltd. to recover \$15 million through a Z factor rate adjustment to compensate it for the costs it incurred as a result of the 2016 Regional Municipality of Wood Buffalo (RMWB) wildfire and other northern Alberta wildfires. For the reasons outlined in this decision the Commission determined that:

- The RMWB wildfire, the Boundary Lake area wildfire and the Fox Creek wildfire are separate events for the purpose of determining Z factor eligibility;
- The Boundary Lake area and the Fox Creek wildfires are denied Z factor treatment;
- The 2016 costs claimed for the RMWB wildfire as an exogenous adjustment were prudently incurred, subject to the removal of certain operating and maintenance (O&M) expenditures related to manager and supervisory labour costs and to information technology (IT), and subject to a correction to account for insurance proceeds received by ATCO Electric;
- The 2017 costs claimed for the RMWB wildfire as an exogenous adjustment were prudently incurred, subject to the removal of certain lost revenue costs;
- The RMWB wildfire gave rise to an extraordinary retirement of the destroyed assets;
- All replacement assets were used or required to be used in 2016 and 2017;
- Because the magnitude of the Commission-directed adjustments required for 2016 is relatively small, the Commission finds that ATCO Electric's Z factor for 2016 is material; and
- Because of the removal of certain costs directed by the Commission, a reassessment of whether the Z factor adjustment for 2017 is material and therefore meets Z factor Criterion 2 is required.

2. Based on the above determinations and as further discussed in this decision, the Commission directs that ATCO Electric make certain adjustments to the applied-for amounts and provide specific information in the compliance filing to this decision.

## **2 Introduction and procedural summary**

3. In Decision 2012-237,<sup>1</sup> the Commission established a performance-based regulation (PBR) plan for the Alberta electric and natural gas distribution companies for 2013-2017. The

---

<sup>1</sup> Decision 2012-237: Rate Regulation Initiative, Distribution Performance-Based Regulation, Proceeding 566, Application 1606029-1, September 12, 2012.

plan included provision for a Z factor to allow for the recovery of certain specified costs outside of the I-X mechanism.<sup>2</sup> The Commission's approach regarding Z factors is set out in Section 7.2 of Decision 2012-237. Specifically, at paragraph 517, the Commission stated:

A Z factor is ordinarily included in a PBR plan to provide for exogenous events. The Z factor allows for an adjustment to a company's rates to account for a significant financial impact (either positive or negative) of an event outside of the control of the company and for which the company has no other reasonable opportunity to recover the costs within the PBR formula.<sup>3</sup>

4. Pursuant to Paragraph 540 of Decision 2012-237, on May 13, 2016, ATCO Electric notified the Commission that it anticipated filing a Z factor application for the recovery of costs associated with the 2016 wildfires experienced in the RMWB and other northern Alberta areas (the Boundary Lake area and Fox Creek),<sup>4</sup> collectively referred to as the wildfires. The notification was acknowledged by the Commission on May 17, 2016.<sup>5</sup>

5. On August 3, 2018, ATCO Electric filed an application with the Commission requesting approval to recover from its customers, O&M expenditures and the revenue requirement related to capital and revenue lost as a result of the wildfires. ATCO Electric applied for a total Z factor adjustment of \$15 million, composed of the following:

**Table 1. Z factor adjustment components**

	2016	2017	Total
	(\$ million)		
<b>O&amp;M expenditures<sup>6</sup></b>	3.830	-	3.830
<b>Revenue requirement related to capital expenditures<sup>7</sup></b>	1.048	2.441	3.489
<b>Lost revenue</b>	5.672	2.101	7.773
<b>Total</b>	10.550	4.542	15.092

Source: Exhibit 21609-X0004, ATCO Electric's Z factor adjustment application, paragraph 26, and PDF page 35, Table 7.

6. On August 7, 2018, the Commission issued a notice of application that required interested parties to submit a statement of intent to participate (SIP) by August 22, 2018. SIPs were received from the Office of the Utilities Consumer Advocate (UCA) and the Consumers' Coalition of Alberta (CCA).

7. On November 22, 2018, the UCA submitted a motion to compel further and better responses to certain information requests (IRs) from ATCO Electric.<sup>8</sup> In its ruling dated

<sup>2</sup> The PBR framework provides a formula mechanism for the annual adjustment of rates for those companies under an approved PBR plan. In general, rates are adjusted annually by means of an indexing mechanism that tracks the rate of inflation (I) relevant to the prices of inputs the companies use, less a productivity offset (X) to reflect the productivity improvements the company can be expected to achieve during the PBR plan period.

<sup>3</sup> Decision 2012-237, paragraph 517.

<sup>4</sup> Exhibit 21609-X0001, ATCO Electric's Z factor notification, May 13, 2016.

<sup>5</sup> Exhibit 21609-X0003, Commission letter of acknowledgement, May 17, 2016.

<sup>6</sup> Includes insurance proceeds of \$0.127 million.

<sup>7</sup> Capital expenditures were \$21.9 million in 2016 and \$7.9 million in 2017.

<sup>8</sup> Exhibits 21609-X0041 and 21609-X0042, UCA motion to compel further and better IR responses and Attachment A.

December 20, 2018, the Commission partially granted the requested relief<sup>9</sup> and issued an additional IR to ATCO Electric.<sup>10</sup>

8. The main process steps as amended throughout the course of the proceeding are set out below:

<b>Process step</b>	<b>Date</b>
IR Round 1 to ATCO Electric	September 12, 2018
IR Round 1 responses from ATCO Electric	September 26, 2018
IR Round 2 to ATCO Electric	October 18, 2018
IR Round 2 responses from ATCO Electric	November 13, 2018
Further IR responses from ATCO Electric (in accordance with the Commission's ruling on the UCA's motion for further and better IR responses)	January 21, 2019
Intervener evidence	February 4, 2019
IRs to interveners	February 14, 2019
IR responses from interveners	February 28, 2019
Rebuttal evidence	March 12, 2019
Argument	March 26, 2019
Reply argument	April 9, 2019

9. The Commission considers the record for this proceeding to have closed on April 9, 2019, when parties filed reply argument.

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

### **3 Z factor criteria**

11. In Decision 2012-237, the Commission established the following criteria to be applied when evaluating whether the impact of an exogenous event qualifies for Z factor treatment:

<sup>9</sup> Exhibits 21609-X0049 and 21609-X0050, AUC Letter and Appendix A - Ruling on UCA motion for better IR responses.

<sup>10</sup> Exhibit 21609-X0051, Appendix B - AUC additional IRs to ATCO Electric.

- (1) The impact must be attributable to some event outside management's control.
- (2) The impact of the event must be material. It must have a significant influence on the operation of the company otherwise the impact should be expensed or recognized as income, in the normal course of business.
- (3) The impact of the event should not have a significant influence on the inflation factor in the PBR formulas.
- (4) All costs claimed as an exogenous adjustment must be prudently incurred.
- (5) The impact of the event was unforeseen.<sup>11</sup>

12. All of the above criteria must be met for an event to qualify for a Z factor rate adjustment.<sup>12</sup>

13. In addition, the Commission clarified that the exogenous event which may qualify for a Z factor may include a company-specific event or impact, as this is consistent with providing a company with a reasonable opportunity to recover its prudently-incurred costs.<sup>13</sup> Further, the Commission held that "... Z factors should be symmetrical in that they should apply to exogenous events with both additional costs that the company needs to recover and also reductions to costs that need to be refunded to customers...."<sup>14</sup>

14. Further, in Decision 2738-D01-2016,<sup>15</sup> the Commission determined that the Z factor materiality threshold should be applied on an annual basis.<sup>16</sup>

15. Regarding the process by which Z factor adjustments would be considered, the Commission directed utilities to notify it of all proposed adjustments as soon as possible after the exogenous event is identified, and to submit Z factor applications as soon as possible after the associated cost of the exogenous event has been incurred or the savings have been realized.<sup>17</sup> Also in Decision 2012-237, the Commission held that the nature of the required Z factor rate adjustment would be considered by the Commission on a case-by-case basis.<sup>18</sup>

16. The Commission has applied the principles and factors set out in Decision 2012-237, Decision 2738-D01-2016 and Decision 21608-D01-2018<sup>19</sup> in its evaluation of ATCO Electric's application for a Z factor.

#### 4 The event

17. In its application, ATCO Electric included capital costs incurred to rebuild assets destroyed by the RMWB wildfire (also referred to as the Fort McMurray fire), a wildfire in the

---

<sup>11</sup> Decision 2012-237, paragraph 524. Note: Criteria 1 to 4 for a Z factor were adopted from Decision 2009-035: ENMAX Power Corporation, 2007-2016 Formula Based Ratemaking, Proceeding 12, Application 1550487-1, March 25, 2009, paragraph 247. Criterion 5 was included in the Z factor criteria in Decision 2012-237.

<sup>12</sup> Decision 2012-237, paragraph 525.

<sup>13</sup> Decision 2012-237, paragraph 527.

<sup>14</sup> Decision 2012-237, paragraph 528.

<sup>15</sup> Decision 2738-D01-2016: ATCO Gas and Pipelines Ltd., Z Factor Application for Recovery of 2013 Southern Alberta Flood Costs, Proceeding 2738, March 16, 2016.

<sup>16</sup> Decision 2738-D01-2016, paragraph 63.

<sup>17</sup> Decision 2012-237, paragraph 540.

<sup>18</sup> Decision 2012-237, paragraph 543.

<sup>19</sup> Decision 21608-D01-2018: ATCO Gas, a division of ATCO Gas and Pipelines Ltd., Z Factor Application for Recovery of 2016 Regional Municipality of Wood Buffalo Wildfire Costs, Proceeding 21608, June 5, 2018.



Boundary Lake area<sup>20</sup> (Fairview or also referred to as the Siphon Creek wildfire) and a wildfire in the Fox Creek area.<sup>21</sup> Before assessing the impact of the wildfires against the five Z factor criteria, in this section the Commission determines whether all of the wildfires included in ATCO Electric's application constitute one event for Z factor purposes, or three separate and distinct events: the RMWB wildfire, the Boundary Lake area wildfire and the Fox Creek wildfire.

18. In ATCO Electric's view, the wildfires constitute one event for Z factor purposes, similar to the 2013 Southern Alberta flood event that affected numerous communities, for which ATCO Gas recovered its costs, as approved by the Commission in Decision 2738-D01-2016.<sup>22</sup>

19. The CCA and the UCA opposed the aggregation of the wildfires into a single Z factor adjustment. They argued that the wildfires were three separate and distinct events: the RMWB wildfire, the Boundary Lake area wildfire and the Fox Creek wildfire. They submitted that unlike the 2013 Southern Alberta flood event, there was a wildfire that started in the RMWB, and this wildfire did not spread from that municipality to the Boundary Lake area and Fox Creek several hundred kilometers away.<sup>23</sup> In its evidence, the CCA illustrated how the wildfires differed in size, impact and geographic location by providing a brief summary of the wildfires as set out in the table below.

**Table 2. Characteristics of the wildfires**

	RMWB	Boundary Lake	Fox Creek
<b>Size (hectares)</b>	590,000	85,300	800
<b>People evacuated</b>	88,000	Unknown	Unknown
<b>Poles</b>	654	88	8
<b>Residences destroyed</b>	2,579	Unknown	Unknown
<b>Initiated</b>	near Fort McMurray	British Columbia	Unknown

Source: Exhibit 21609-X0055, CCA evidence of Jan Thygesen, paragraph 41.

20. The CCA further explained its position that the wildfire events differed from the 2013 Southern Alberta flood event, for the purpose of a Z factor adjustment, in response to a Commission IR:

The criteria would be much the same. In the particular case of the floods, it is the CCA's understanding that there was a massive and intense storm system (not systems) which created floods. Rain collects in rivers which becomes one of the main transmission systems for damage. The river is the equivalent to the forest/fuel supply which burns. By their nature rivers flow hundreds of miles so the geographic impact can be spread out whereas fires are more confined. Therefore it may be the case that flood damage is much more spread out geographically and over time but were still triggered by the same large storm cell/system. For example, the event could be triggered outside Alberta but the floodwaters could flow into Alberta triggering damage in multiple locations within Alberta. In this case the cause would be the same – flooding from River X and possibly Y (since a storm system can affect multiple rivers). This is completely different from the

<sup>20</sup> In Exhibit 21609-X0018, AE-UCA-2018SEP12-008(a), ATCO Electric stated that the application included \$0.959 million of capital additions related to the Boundary Lake area (Fairview) wildfire.

<sup>21</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-007(c) Attachment 1, PDF pages 58-60.

<sup>22</sup> Exhibit 21609-X0018, AE-UCA-2018SEP12-008(c).

<sup>23</sup> Exhibit 21609-X0055, CCA evidence of Jan Thygesen, paragraph 42; Exhibit 21609-X0056, UCA evidence of Russ Bell and Associates Inc., Q/A18.

three separate and discrete fires which ATCO is claiming for and to the CCA's knowledge never connected up to the Ft. McMurray fire.<sup>24</sup>

21. To support its position that the wildfire events differed from the flood event, for the purpose of a Z factor adjustment, the UCA explained that in the case of the 2013 Southern Alberta flood, a significant weather event (i.e., extreme rainfall in multiple locations) caused the impact to be felt in numerous communities. However, regarding the wildfires, the UCA stated that it did not seem reasonable that the Fox Creek and Boundary Lake area wildfires, which were a significant distance from the RMWB, would have the same cause.<sup>25</sup>

22. ATCO Electric submitted that the wildfires were similar in nature, in timeframe, area, events and causes.<sup>26</sup> The UCA refuted ATCO Electric's claim that the wildfires were of a similar nature. It noted that the RMWB wildfire was seven times larger in hectares burned than the Boundary Lake area wildfire. Further, while 88,000 people were evacuated as a result of the RMWB wildfire, the Boundary Lake area wildfire resulted in small-scale evacuations.<sup>27</sup>

23. ATCO Electric argued that the wildfires were caused by conditions that were present at the time (drier than normal winter, unseasonably high temperatures and strong winds). Similarly, the floods in 2013 were caused by conditions (saturated soil and a deep snowpack) that were present at that time. In each case, the events were linked by the same underlying conditions that triggered the occurrence of a flood or a fire.<sup>28</sup>

24. The CCA and the UCA did not agree with ATCO Electric's inclusion of generic underlying conditions to group several events into a single event for Z factor adjustment purposes.<sup>29</sup> The UCA clarified that, unlike the wildfires, the floods occurring in numerous communities were linked by the interconnected nature of the affected waterways.<sup>30</sup> The UCA submitted that grouping several not-so-extraordinary events together to qualify for a Z factor adjustment is inconsistent with the Commission's findings in Decision 2012-237 as to the "exceptional nature of a qualifying exogenous event and the equally exceptional measure of authorizing a recovery outside of the I-X mechanism," and therefore, ATCO Electric's approach should be rejected.<sup>31</sup>

25. In its reply argument, ATCO Electric clarified that its references to unifying conditions were made to help explain why the impact on utility operations occurred in dispersed locations over a broad geographical area. Its rationale for Z factor eligibility at the different locations was the significant impact on utility property and operations that were unforecastable and beyond the control of management.<sup>32</sup>

---

<sup>24</sup> Exhibit 21609-X0062, CCA-AUC-2019FEB14-002(b).

<sup>25</sup> Exhibit 21609-X0063, UCA-AUC-2019FEB14-003.

<sup>26</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraph 5.

<sup>27</sup> Exhibit 21609-X0068, UCA argument, paragraph 16.

<sup>28</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraphs 9-10.

<sup>29</sup> Exhibit 21609-X0067, CCA argument, paragraphs 51-53; Exhibit 21609-X0068, UCA argument, paragraphs 18-19.

<sup>30</sup> Exhibit 21609-X0068, UCA argument, paragraph 21.

<sup>31</sup> Exhibit 21609-X0068, UCA argument, paragraphs 25-27.

<sup>32</sup> Exhibit 21609-X0700, ATCO Electric reply argument, paragraph 10.

## Commission findings

26. In Decision 2012-237, the Commission established Z, Y and K factors to recognize that certain prudently incurred costs may not be recoverable through the I-X mechanism. At Paragraph 534 of Decision 2012-237, the Commission made the following determinations to recognize that not all events beyond the control of the company will qualify for a Z factor adjustment because adjustments of this nature have the effect of lessening the efficiency incentives that are central to a PBR plan:

534. Exogenous events may occur during the PBR term but by definition they are exceptional occurrences which may either add costs to, or remove costs from, the provision of utility service. Additionally, not all events beyond the control of the company will qualify under other Z factor criteria, thereby further reducing the number of already rare events that could result in a rate adjustment outside of the I-X mechanism. Given the exceptional nature of a qualifying exogenous event and the equally exceptional measure of authorizing a recovery outside of the I-X mechanism, the Commission considers that the PBR principles require a relatively high threshold and that this threshold should apply to each event unless otherwise permitted in exceptional circumstances. [emphasis added]

27. Accordingly, a Z factor adjustment should only be permitted when it is determined that the impact of an event that is outside of management's control has had a sufficiently significant impact on the operation of the company that the costs of the event cannot be reasonably recovered through the revenues provided under the I-X mechanism.

28. The Commission finds that unlike the 2013 Southern Alberta flood event, whereby Alberta experienced heavy rainfall, resulting in severe flooding along the Bow, Elbow, Red Deer and Highwood rivers, the Alberta wildfires were discrete fires. The Commission does not accept ATCO Electric's approach of including underlying conditions to justify aggregating several discrete fires into a single event for Z factor adjustment purposes. The Commission is of the view that grouping several events together to qualify for a Z factor adjustment is inconsistent with the Commission's findings in Decision 2012-237.

29. Having determined that the Boundary Lake area and Fox Creek wildfires are discrete events, these events must therefore meet the criteria for Z factor treatment on a stand-alone basis. The Commission finds that while the Boundary Lake area and Fox Creek wildfires were unforeseen and out of the control of management, because ATCO Electric aggregated the capital costs of all wildfires in this application, the Commission cannot make a determination regarding whether the costs associated with these fires are material and were prudently incurred. Consequently, the Commission denies Z factor treatment for the capital costs incurred as a result of the Boundary Lake area and Fox Creek wildfires.

30. With regard to the capital-related costs incurred for the Boundary Lake area and Fox Creek wildfires, which have not been approved for Z factor treatment in this decision, because there is insufficient evidence on the record of the proceeding to determine whether these two discrete events qualify for Z factor treatment, the determination of the Commission in this decision does not preclude ATCO Electric from submitting separate Z factor applications or a capital tracker (K factor) true-up application for additional funding for these capital costs.

## 5 Assessment against the five Z factor criteria

31. In the previous section, the Commission determined that the RMWB wildfire, the Boundary Lake area wildfire and the Fox Creek wildfire are separate events, and denied Z factor treatment for the capital costs incurred as a result of the Boundary Lake area and Fox Creek wildfires. Therefore, in the sections that follow, the Commission will only be assessing the RMWB wildfire against the five Z factor criteria.

32. As stated earlier, to satisfy the criteria for a Z factor, the impact of the event, in this case the RMWB wildfire, must be attributable to some event outside management's control, must be material, and must not have a significant influence on the inflation factor in the PBR formula. In addition, all costs claimed as an exogenous adjustment must be prudently incurred and the impact of the event must be unforeseen.

33. Section 5.1 deals with the first and fifth Z factor criteria; that is, the impact must be attributable to some event outside management's control, and the impact of the event was unforeseen. Section 5.2 addresses the materiality criterion, and Section 5.3 assesses whether the impact of the event had a significant influence on the inflation factor in the PBR formula. In Section 5.4 the Commission assesses whether the costs claimed as an exogenous adjustment, specifically capital expenditures, O&M costs and lost revenue were prudently incurred. Section 5.4 also addresses the regulatory treatment of assets destroyed in the RMWB wildfire and assets replaced as a result of the RMWB wildfire.

### 5.1 First and fifth criteria

34. This section deals with the first and fifth Z factor criteria; that is, the impact must be attributable to some event outside management's control, and the impact of the event was unforeseen.

35. In May 2016, a wildfire originating southwest of the urban area of Fort McMurray, Alberta, resulted in a mandatory evacuation of the entire community as well as communities in surrounding areas from May 3, 2016 to June 1, 2016. The wildfire destroyed homes, businesses and critical infrastructure in Fort McMurray.<sup>33</sup> Evacuated residents were only permitted to return once certain re-entry conditions were met, including the availability of essential services such as electric utility service.<sup>34</sup>

### Commission findings

36. The Commission recognizes that the specific timing and location of the RMWB wildfire and its impact to the Fort McMurray area was unforeseen and outside of management's control, thus satisfying the first and the fifth criteria for Z factor treatment.

### 5.2 Second criterion

37. In this section the Commission assesses whether the materiality threshold is achieved. In Decision 2012-237, the Commission approved a Z factor materiality threshold as the dollar value of a 40-basis point change in after-tax return on equity (ROE), which was used to determine the

---

<sup>33</sup> Exhibit 21609-X0004, application, paragraphs 3 and 12.

<sup>34</sup> Exhibit 21609-X0004, application, paragraph 13.

revenue requirement for ATCO Electric's 2012 going-in rates. The threshold is to be adjusted annually by the I-X index.<sup>35</sup>

38. ATCO Electric's 2016 and 2017 materiality thresholds are \$2.330 million and \$2.370 million, respectively. The 2016 threshold and the 2017 threshold were approved in Decision 21516-D01-2016,<sup>36 37</sup> for the purpose of ATCO Electric's K factor calculation, which uses the same 40-basis point ROE methodology for its calculation.

39. In the application, ATCO Electric calculated the after-tax earnings impact for 2016 and 2017 based on a tax rate of 27 per cent as set out below, and noted that the earnings impact from this event of \$7.6 million in 2016 and \$3.3 million in 2017 is in excess of the Commission-approved materiality thresholds for 2016 and 2017.<sup>38</sup>

**Table 3. Earnings impact**

	2016	2017
	(\$ million)	
<b>Total Z factor</b>	10.423	4.542
<b>Earnings impact (Z factor X 0.73)</b>	7.609	3.316

Source: Exhibit 21609-X0005, application, Appendix 1 - Revenue Requirement Schedules.

### Commission findings

40. ATCO Electric's applied-for Z factor adjustment of \$10.4 million for costs incurred in 2016 significantly exceeds the approved 2016 materiality threshold of \$2.330 million. The Commission is therefore satisfied that ATCO Electric's Z factor for 2016 is material, even after accounting for the adjustments directed in Section 6 of this decision, which are relatively small.

41. The magnitude of the adjustments for 2017 as directed in Section 6 are more significant relative to the 2017 materiality threshold of \$2.370 million. The Commission cannot therefore determine in this decision whether ATCO Electric's Z factor for 2017 is material. The Commission therefore directs ATCO Electric to reassess whether its Z factor for 2017 satisfies the materiality threshold requirement of Criterion 2 in its compliance filing to this decision.

### 5.3 Third criterion

42. In this section the Commission assesses whether the impact of the event had a significant influence on the inflation factor in the PBR formula.

43. In the application ATCO Electric submitted that the impact of the wildfire did not have a significant influence on the Alberta consumer price index (CPI) or the Alberta average weekly earnings (AWE) index.<sup>39</sup> In response to an IR by the UCA, ATCO Electric provided a table

<sup>35</sup> Decision 2012-237, paragraph 535.

<sup>36</sup> Decision 21516-D01-2016: ATCO Electric Ltd., 2014 True-Up and 2016-2017 Forecast PBR Capital Trackers Compliance Filing, Proceeding 21516, August 4, 2016.

<sup>37</sup> Decision 21516-D01-2016, paragraph 34. The recalculated four and 40-basis point thresholds were provided in Exhibit 21516-X0003, PDF page 17.

<sup>38</sup> Exhibit 21609-X0004, application, paragraph 8.

<sup>39</sup> Exhibit 21609-X0004, application, paragraph 9.

showing the monthly Alberta CPI and Alberta AWE index for the period January 2016 to December 2017.<sup>40</sup>

44. Neither the UCA nor the CCA raised an issue with regard to whether the impact of the RMWB wildfire (whether or not it is combined with the impacts of the Boundary Lake area and Fox Creek wildfires) had a significant influence on the inflation factor in the PBR formula in their respective arguments and reply arguments.

### Commission findings

45. The Commission finds that there is no evidence on the record of this proceeding to conclude that the RMWB wildfire had a significant influence on the inflation factor in the PBR formula.

## 5.4 Fourth criterion

46. In this section, the Commission assesses whether the costs claimed as an exogenous adjustment, specifically O&M expenditures, capital additions and lost revenue were prudently incurred. The regulatory treatment of assets destroyed in the RMWB wildfire and of assets replaced as a result of the RMWB wildfire are also discussed in this section.

### 5.4.1 O&M expenditures

47. ATCO Electric's evidence is that as a result of the RMWB wildfire, it incurred O&M expenditures in the following four categories: (i) Emergency Operations Centre (EOC); (ii) Emergency Response and Power Restoration (ER & PR); (iii) Building Restoration and Vehicle Refurbishment; and (iv) Customer Care and Billing / IT. ATCO Electric confirmed that it did not incur incremental O&M costs associated with the Boundary Lake area wildfire.<sup>41</sup>

48. The evidence in the application is that ATCO Electric and ATCO Gas personnel coordinated their response to the RMWB wildfire. ATCO Electric indicated that customers benefitted from this coordinated response through increased information sharing between parties affected by the wildfire and from efficiencies in the joint procurement of items such as fuel and line locating services. The application indicated that ATCO Electric and ATCO Gas call centres transferred customers to one another to more efficiently respond to customer questions, and that coordination between the ATCO companies allowed the launch of the "ATCO Responds" website, which included an online utility service restoration tool that provided Fort McMurray and area residents with up-to-date information on whether electric and gas distribution service was available to their homes. ATCO Electric confirmed that costs were accounted for separately, and therefore cost sharing or allocations between the ATCO companies was not required, except for line locating contractor costs related to standby and accommodations, which were allocated based on the relative number of each company's buried facilities.<sup>42</sup>

49. The table below sets out the costs incurred in each of the four categories of O&M expenditures identified by ATCO Electric in the application.

---

<sup>40</sup> Exhibit 21609-X0018, AE-UCA-2018SEP12-002(b).

<sup>41</sup> Exhibit 21609-X0018, AE-UCA-2018SEP12-008(a).

<sup>42</sup> Exhibit 21609-X0004, application, paragraph 14; Exhibit 21609-X0016, AE-AUC-2018SEP12-001; Exhibit 21609-X0054, ATCO Electric motion response, AE-UCA-2018OCT18-002(c-d), PDF pages 111-112.

**Table 4. 2016 RMWB wildfire O&M costs**

	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
	(\$000)								
Emergency Operations Centre	140	231	132						503
Emergency Response and Power Restoration	728	921	146	240	145	628	272	0	3,080
Building Restoration and Vehicle Refurbishment	151								151
Customer Care and Billing / IT	20	60	16						96
<b>Total O&amp;M costs</b>									<b>3,830</b>

Source: Exhibit 21609-X0004, application, paragraph 26, Table 4-1; Exhibit 21609-X0016, AE-AUC-2018SEP12-002(a), AE-AUC-2018SEP12-003(a), AE-AUC-2018SEP12-005(a).

50. In support of the EOC and the Provincial Emergency Operations Centre (collectively, the EOCs) set up in Fort McMurray by the RMWB and in Edmonton by the provincial government, ATCO Electric indicated that it activated a Fort McMurray Incident Command Centre (ICC) and assembled key team members and resources. ATCO Electric explained that its personnel managed the priorities of field staff; coordinated safety and security protocols; coordinated outage restorations; and answered electric- or service-related questions or complaints from customers and municipal officials.<sup>43</sup> ATCO Electric clarified that although the ICC was deactivated on June 14, 2016, it incurred trailing costs related to this activity over the remainder of the year.<sup>44</sup>

51. ATCO Electric explained that the work carried out for ER & PR included, but was not limited to, maintaining power supply to critical sites; developing emergency backup plans; evaluating the distribution system; assessing and repairing damage; troubleshooting; switching power as directed; repairing and restoring underground lines; disconnecting services that were burned; rebuilding destroyed distribution lines; installing temporary overhead lines; assisting customers; cleaning up and removing waste.<sup>45</sup>

52. The UCA, in evidence, challenged ATCO Electric's approach to determining the incremental labour costs related to the EOCs and ER & PR categories. This issue is discussed in Section 5.4.1.1.

53. ATCO Electric explained that the Building Restoration and Vehicle Refurbishment activities consisted of cleaning its service vehicles and buildings damaged by extreme heat, smoke and ash.<sup>46</sup> ATCO Electric's insurance covered costs associated with this category.<sup>47</sup> The CCA expressed a concern with the transparency of the insurance coverage, which is discussed in more detail in Section 5.4.1.2.

54. ATCO Electric explained that it incurred incremental O&M costs related to Customer Care and Billing and IT to manage higher call centre volumes, to suspend and resume customer billing, to provide IT support to Fort McMurray staff responding to the emergency, and to implement and test manual IT billing processes to facilitate the credit provided to customers affected by the mandatory evacuation orders.<sup>48</sup> ATCO Electric clarified in response to a

<sup>43</sup> Exhibit 21609-X0004, application, paragraphs 27-29.

<sup>44</sup> Exhibit 21609-X0004, application, paragraph 34; Exhibit 21609-X0016, AE-AUC-2018SEP12-002(c).

<sup>45</sup> Exhibit 21609-X0004, application, paragraphs 36-42.

<sup>46</sup> Exhibit 21609-X0004, application, paragraphs 44-45.

<sup>47</sup> Exhibit 21609-X0004, application, paragraph 46.

<sup>48</sup> Exhibit 21609-X0004, application, paragraphs 49-51, 54-55.

Commission IR that the IT costs, a total amount of \$0.061 million, consisted entirely of contracted services provided by Wipro.<sup>49</sup> In Section 5.4.1.3, the Commission discusses IT costs in further detail.

55. For the reasons that follow, the Commission has determined that the O&M costs claimed for 2016 as an exogenous adjustment were prudent, with the exception of the supervisory and management labour costs, certain IT costs, and those costs subject to a correction due to insurance proceeds received by ATCO Electric.

#### 5.4.1.1 Labour costs

56. ATCO Electric submitted that it incurred incremental labour costs as a result of the RMWB wildfire and proposed to recover these costs as part of a Z factor adjustment. The following tables set out the labour costs incurred in the EOC and ER & PR categories.

**Table 5. EOC labour cost component**

	Burden	Labour	Total
	(\$000)		
Regular	63	190	253
Overtime	0	94	94
Total	63	284	347

Source: Exhibit 21609-X0037, AE-UCA-2018OCT18-005(a).

**Table 6. ER & PR labour cost component**

	Burden	Labour	Total
	(\$000)		
Regular	327	832	1,159
Overtime	0	501	501
Total	327	1,333	1,660

Source: Exhibit 21609-X0037, AE-UCA-2018OCT18-006(a).

57. ATCO Electric explained that employees were seconded from their active projects or daily jobs to respond to the RMWB wildfire. Costs incurred in response to the RMWB wildfire consisted of salary, wages and overtime for staff involved, as well as costs related to the provision of IT services, miscellaneous supplies, and travel and accommodation costs.<sup>50</sup>

58. In response to a Commission IR, ATCO Electric justified the incremental nature of the labour costs by confirming that normal business activities of both supervisors and managers as well as staff working at the EOCs, at the welcome centre and on ER & PR activities were completed using overtime or additional contract resources. An example of this was the hiring of contractors to perform engineering design duties, and any non-essential work that was deferred was later completed using mainly overtime hours.<sup>51</sup>

59. ATCO Electric explained that such overtime costs to complete normal business activities and additional contractor costs as well as overtime costs to complete the deferred work, all of

<sup>49</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-005(a).

<sup>50</sup> Exhibit 21609-X0004, application, paragraph 33.

<sup>51</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-002(a).



which were incurred outside of the wildfire areas, were not included in the application.<sup>52</sup> ATCO Electric stated that overtime hours for supervisors and managers were not included in the incremental costs, as they do not receive additional pay for overtime hours.<sup>53</sup>

60. ATCO Electric explained that while management and supervisory staff would not be paid overtime, the work of the seconded staff would still have to be backfilled using overtime and contractors to maintain basic system operations both within and outside of the wildfire areas, and that the cost of backfilling is therefore incremental.<sup>54</sup>

61. ATCO Electric explained that it used a “pragmatic” approach to capture the incremental labour costs, which consisted of the seconded staff charging their time to a dedicated project instead of determining incremental labour costs by identifying and including the backfilling costs.<sup>55</sup>

62. Mr. Bell for the UCA submitted that certain costs, including base labour, are covered in base rates, and should not be recovered through a Z factor adjustment, and ATCO Electric’s claimed labour and burden costs for the EOCs and ER & PR activities included regular base labour costs of employees seconded to deal with the RMWB wildfire.<sup>56</sup>

63. Mr. Bell submitted that ATCO Electric failed to provide the calculation of its EOCs and ER & PR labour and burden costs, or provide a clear breakdown of the regular and overtime hours and costs by month and the hourly rates. The UCA recommended that all EOCs and ER & PR labour and burden costs be denied because they cannot be verified. The UCA recommended that if the Commission does not deny these costs in their entirety, the only “truly” incremental costs to be included in the Z factor application with respect to O&M should be staff overtime costs plus any backfill and overtime costs of staff at the home location and any costs related to contractors used in lieu of staff.<sup>57</sup>

64. ATCO Electric explained that its pragmatic approach to tracking the time spent on activities related to the RMWB wildfire by seconded staff avoids any double-counting of incremental costs, and argued that the approach to tracking incremental costs recommended by the UCA is not practical, particularly during an emergency response, when ensuring the safety of the system and reducing the administrative burden on staff in such circumstances must take priority.<sup>58</sup>

65. ATCO Electric further rejected the UCA’s proposed approach arguing that it was not practical as it would require staff and/or contractors working to maintain basic operation of the system throughout all ATCO Electric service points and throughout the years 2016, 2017 and beyond, to determine what part or portion of their work was “normal” versus what was due to

---

<sup>52</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-002(h).

<sup>53</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-002(b); Exhibit 21609-X0064, paragraph 16.

<sup>54</sup> Exhibit 21609-X0054, ATCO Electric motion response, AE-UCA-2018OCT18-004(c), PDF page 120.

<sup>55</sup> Exhibit 21609-X0054, ATCO Electric motion response, AE-UCA-2018OCT18-004(c), PDF page 121.

<sup>56</sup> Exhibit 21609-X0056, UCA evidence of Russ Bell and Associates Inc., page 5; Exhibit 21609-X0068, UCA argument, paragraph 38.

<sup>57</sup> Exhibit 21609-X0056, UCA evidence of Russ Bell and Associates Inc., pages 9-11, 38; Exhibit 21609-X0068, UCA argument, paragraph 30.

<sup>58</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraphs 13-17.

backfilling of staff during the RMWB wildfire secondment and then to allocate the costs of the work order or overtime accordingly.<sup>59</sup>

66. ATCO Electric noted that there is no sound basis for the UCA's proposal that approved Z factor costs should be limited to overtime costs for the EOCs and ER & PR activities, as other costs, including non-overtime costs, burden, vehicles, accommodations and meals, IT services, contract services, material and supplies, were also prudently incurred.<sup>60</sup>

67. ATCO Electric submitted that its approach is consistent with that used by ATCO Gas to determine O&M labour costs in both its Southern Alberta floods and RMWB wildfire Z factor applications and was accepted by the Commission on those two occasions. ATCO Electric indicated that should the Commission determine that these costs were not incremental in nature, the 2016 Rule 005<sup>61</sup> should be restated to include these costs in the going-in rates of the 2018-2022 PBR term.<sup>62</sup>

### Commission findings

68. The Commission is persuaded by the evidence that ATCO Electric worked diligently and effectively to ensure the safety of the electric distribution system, to support critical facilities during the wildfire event and to return electric utility service to its customers to facilitate the re-entry of residents to evacuated areas. The Commission agrees with ATCO Electric that the approach suggested by the UCA to determine incremental labour costs is impractical and accepts that it is unreasonable to limit incremental labour costs to overtime costs.

69. The Commission is satisfied that the timing of these activities, the scope of the work completed, and the O&M costs incurred in response to the RMWB wildfire in 2016 to enable service were reasonable, with the exception of the supervisory and management labour costs, and subject to the adjustments and directions set out by the Commission in Section 6.

70. Regarding the labour costs of supervisory and management employees seconded to the RMWB wildfire, the Commission finds that there is insufficient evidence on the record of this proceeding to support ATCO Electric's contention that all normal business activities of such supervisors and managers in their home locations were backfilled using overtime and contractors. The Commission notes that ATCO Electric confirmed that management and supervisory staff are not paid overtime.

71. The Commission therefore denies Z factor treatment for the supervisory and management labour costs for the RMWB wildfire. Since regular base labour costs of supervisory and management employees seconded to deal with the RMWB wildfire have already been covered in base rates, the restatement of 2016 Rule 005, as noted by ATCO Electric, is not required.

#### 5.4.1.2 Insurance coverage

72. ATCO Electric explained that the extreme heat, smoke and ash from the wildfires caused damage to many of its service vehicles and buildings, which needed to be restored and

---

<sup>59</sup> Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 33.

<sup>60</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraph 18; Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 30.

<sup>61</sup> Rule 005: *Annual Reporting Requirements of Financial and Operational Results*.

<sup>62</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraphs 14 and 19; Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 29.

refurbished.<sup>63</sup> In the application, ATCO Electric included insurance proceeds of \$0.127 million that it received for costs associated with the cleaning of the Fort McMurray Service Centre and Office, and repairs to a mobile piece of equipment located at the Fort McMurray Airport Lease site.<sup>64</sup>

73. In response to a Commission IR, ATCO Electric identified that it had inadvertently included an insured transmission asset, specifically the mobile piece of equipment, a drum puller/tensioner, in its application. ATCO Electric reduced the insurance proceeds in its application by \$0.042 million, resulting in an updated insurance recovery amount of \$0.085 million.<sup>65</sup>

74. In response to the CCA concern regarding the lack of transparency of the ATCO Group insurance policy, ATCO Electric stated that it was unable to provide the insurance coverages carried on all of the ATCO Group's assets and businesses. It explained that since the ATCO Group policy covers all of the ATCO Group of companies, the information is confidential, and further, the insurance held by other ATCO affiliates is not relevant to this proceeding.<sup>66</sup>

75. In argument, the CCA raised the question of whether the policy "somehow has cross subsidy from regulated to unregulated."<sup>67</sup> In its reply argument, ATCO Electric submitted that the CCA's suggestion is "totally baseless."<sup>68</sup>

### Commission findings

76. The Commission is satisfied with the level of detail provided by ATCO Electric with regard to insurance coverage. The Commission continues to be of the same view, as in Decision 21608-D01-2018, that the additional insurance policy information requested by the CCA would have limited probative value to the Commission and concludes that the updated insurance recovery amount is \$0.085 million.

#### 5.4.1.3 IT costs

77. In light of Proceeding 20514, the ATCO Utilities IT common matters proceeding, in response to a Commission IR asking ATCO Electric to explain whether the \$0.061 million paid to Wipro should be treated as a placeholder in the current proceeding, ATCO Electric responded that the \$0.061 million in IT costs were prudently incurred and should be approved. ATCO Electric explained:

Placeholder treatment is not the proper methodology to employ in this circumstance, because the prudence of ATCO Electric-Distribution's IT costs in this Z factor proceeding is not determined in any way in the Information Technology (IT) Common Matters Proceeding (20514). ATCO Electric was called upon to respond to an emergency and to later restore utility service. It did so to the best of its abilities relying upon service providers most familiar with its operations. In these circumstances, it was not reasonable to tender for other service providers for the services WIPRO provided.<sup>69</sup>

---

<sup>63</sup> Exhibit 21609-X0004, application, paragraphs 44-45.

<sup>64</sup> Exhibit 21609-X0004, application, paragraph 46.

<sup>65</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-004(a).

<sup>66</sup> Exhibit 21609-X0022, ATCO-CCA-2018SEP12-003(a).

<sup>67</sup> Exhibit 21609-X0067, CCA argument, paragraph 77.

<sup>68</sup> Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 58.

<sup>69</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-005(b).

## Commission findings

78. In Decision 20514-D02-2019,<sup>70</sup> the Commission determined that the ATCO Utilities failed to demonstrate that their IT services sourcing strategy was prudent and failed to satisfy the Commission of the prudence of the incurred services contract costs.<sup>71</sup> In this decision, the Commission must determine if all costs claimed as an exogenous adjustment for Z factor purposes were prudently incurred, to satisfy Criterion 4.

79. Consistent with the findings in Decision 20514-D02-2019, including that the IT services sourcing strategy was not prudent, the Commission finds that the IT costs paid to Wipro as applied for in this application were not prudently incurred. The Commission does not accept ATCO Electric's explanation above and as such, directs ATCO Electric to adjust the \$0.061 million paid to Wipro to reflect the Commission's disallowance and glide path reductions as directed in Section 6 of Decision 20514-D02-2019 and to clearly show all calculations in the compliance filing to this decision.

### 5.4.2 Capital expenditures

80. ATCO Electric stated that it incurred \$21.9 million in 2016 and \$7.9 million in 2017 in capital expenditures to restore overhead and underground distribution facilities damaged by the wildfires.<sup>72</sup> In the application, it stated that the majority of the capital expenditures were incurred in May and June 2016, when ATCO personnel were restoring distribution service during the mandatory evacuation period and in the time period when residents were returning to the municipality of RMWB.<sup>73</sup>

81. ATCO Electric itemized the following overhead distribution facilities that were damaged or destroyed in the wildfires: 797 poles (701 poles in Fort McMurray (RMWB wildfire) and 96 poles in Fairview (Boundary Lake area wildfire)), over 42 kilometres (km) of primary and secondary conductor, 54 transformers and other related distribution equipment, 129 streetlight davits, 428 streetlight heads and over 1,000 customer meters.<sup>74</sup> To restore underground systems in a number of Fort McMurray communities badly damaged by the RMWB wildfire, ATCO Electric replaced seven km of primary cable, 53 km of secondary cable, 73 transformers, 32 vaults and 257 pedestals.<sup>75</sup>

82. ATCO Electric calculated the revenue requirement related to capital additions of \$1.048 million and \$2.441 million for each of 2016 and 2017, respectively, in Appendix 1 of the application.<sup>76</sup>

83. Mr. Thygesen for the CCA submitted that the unit costs for poles replaced due to the wildfires were 300 per cent higher than historical averages, and unit costs for meters replaced due to the wildfires were 800 per cent higher.<sup>77</sup> Mr. Thygesen submitted that capital expenditures for streetlights and transformers were also overstated.<sup>78</sup> ATCO Electric rejected the CCA

---

<sup>70</sup> Decision 20514-D02-2019: The ATCO Utilities (ATCO Gas and Pipelines Ltd. and ATCO Electric Ltd.) Information Technology Common Matters Proceeding, Proceeding 20514, June 5, 2019.

<sup>71</sup> Decision 20514-D02-2019, paragraphs 96-100.

<sup>72</sup> Exhibit 21609-X0004, application, paragraph 62, Table 5.

<sup>73</sup> Exhibit 21609-X0004, application, paragraph 18.

<sup>74</sup> Exhibit 21609-X0004, application, paragraph 67.

<sup>75</sup> Exhibit 21609-X0004, application, paragraphs 68-69.

<sup>76</sup> Exhibit 21609-X0005, application, Appendix 1 - Revenue Requirement Schedules.

<sup>77</sup> Exhibit 21609-X0055, CCA evidence of Jan Thygesen, paragraph 24.

<sup>78</sup> Exhibit 21609-X0055, CCA evidence of Jan Thygesen, paragraphs 32 and 34.

analysis and conclusions, submitting that the CCA's calculation was flawed and did not take into account the basic variability of actual costs under normal circumstances.<sup>79</sup> In its rebuttal evidence, ATCO Electric stated:

39. The CCA analysis is flawed because it ignores two things: first, the basic variability of actual costs; and second, the fact that the costs at issue were incurred under emergency conditions of the highest order. It is not reasonable, therefore, to expect that approval of those costs should be limited to historical actual results.

40. First, ATCO Electric's general operating experience demonstrates that even though historical capital construction expenditures were generally incurred under normal or typical working conditions, the annual unit costs derived from those Commission approved expenditures can still vary widely. Typical capital projects may be uniquely affected by a myriad of factors including seasonality, weather, terrain, locale, urgency, scope, specifications (e.g. type of transformer), crew/contractor/equipment availability, and so forth.<sup>80</sup>

84. The CCA refuted many of the issues respecting the conditions under which the assets were replaced cited by ATCO Electric in its rebuttal evidence. While the CCA accepted that there may have been some variability and acknowledged that working conditions at the time of the fire may have been as described by ATCO Electric, in the CCA's view, cost differences of 300 to 800 per cent were not justified. The CCA also pointed out that the capital replacements occurred over a period of a year and a half.<sup>81</sup> The CCA recommended that the Commission deny the "over-charges" as identified by the CCA.<sup>82</sup>

85. ATCO Electric submitted that contrary to the CCA's suggestion, it is not reasonable to expect that approval of replacement costs be limited to historical actual results.<sup>83</sup> It challenged the CCA's statement that replacements occurred over a period of a year and a half, noting that as stated in its application, the majority of capital costs were incurred in May and June 2016. Regarding the CCA's submission respecting the conditions under which the assets were replaced, ATCO Electric further explained that extensive debris throughout Fort McMurray, destroyed buildings in subdivisions, and the need to overcome logistical challenges and to proceed cautiously to mitigate the contamination amongst all the devastation, continued long after the actual fire.<sup>84</sup>

### Commission findings

86. In Section 4, the Commission denied Z factor treatment for the Boundary Lake area and Fox Creek wildfires. Accordingly, the Commission makes no determination with respect to these fires and the associated capital costs in this decision and therefore cannot approve the revenue requirement for 2016 and 2017 as applied for by ATCO Electric.

87. The Commission has reviewed the capital costs, in general, that were incurred by ATCO Electric in response to the RMWB wildfire and finds the scope of the work performed, the timing of the restorations and the quantum of the capital costs to be prudent. The Commission is

---

<sup>79</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraphs 35-42.

<sup>80</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraphs 39-40.

<sup>81</sup> Exhibit 21609-X0067, CCA argument, paragraphs 69-70.

<sup>82</sup> Exhibit 21609-X0069, CCA reply argument, paragraph 57.

<sup>83</sup> Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 54.

<sup>84</sup> Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 57.

persuaded by the evidence provided by ATCO Electric indicating that basic variability of actual costs and the fact that the costs at issue were incurred under extreme working conditions resulted in higher costs as compared to historical actual results. Furthermore, the Commission is of the view that the emergency conditions and ATCO Electric's obligation to provide electric utility service to the RMWB in a timely manner may have contributed to the higher costs.

### 5.4.3 Utility asset disposition issues

88. This section discusses two issues relating to matters reviewed by the Commission in the utility asset disposition (UAD decision), Decision 2013-417.<sup>85</sup> In that decision, the Commission reviewed the symmetrical allocation of benefits and risks associated with property ownership by Alberta utilities based on the applicable legislation and the property and corporate law principles established by the courts starting with the *Stores Block* decision.<sup>86</sup> These issues arise from the retirement and replacement of assets as a result of the RMWB wildfire. First, the Commission reviews the treatment of unrecovered investment related to assets destroyed in the RMWB wildfire to determine whether the retirement of these assets constitutes an "ordinary retirement" with the consequence that any unrecovered investment is for the account of customers or an "extraordinary retirement" with the result that ATCO Electric's shareholder would bear any such under-recovery.<sup>87</sup> Secondly, the Commission reviews the specific assets that were replaced to determine if any of these assets are not being used to provide utility service and should be removed from rate base.

#### 5.4.3.1 Regulatory treatment of assets destroyed in the RMWB wildfire

89. In the UAD decision, the Commission confirmed that ordinary retirements result from causes reasonably assumed to have been anticipated or contemplated in prior depreciation provisions, and may normally be expected to occur when a plant reaches the end of its expected service life.<sup>88</sup> Under-recovery or over-recovery of capital investment on ordinary retirements are for the account of customers.<sup>89</sup> The Commission also summarized the basis upon which it would determine whether an extraordinary retirement had taken place and the consequences of such a finding, as follows:

In order to give effect to the court's guidance that the "rate-regulation process allows and compels the Commission to decide what is in the rate base, i.e. what assets (still) are relevant utility investment on which the rates should give the company a return," the Commission directs each of the utilities to review its rate base and confirm in its next revenue requirement filing that all assets in rate base continue to be used or required to be used (presently used, reasonably used or likely to be used in the future) to provide utility services. Accordingly, the utilities are required to confirm that there is no surplus land in rate base and that there are no depreciable assets in rate base which should be treated as extraordinary retirements and removed because they are obsolete property, property to be abandoned, overdeveloped property and more facilities than necessary for future needs, property used for non-utility purposes, property that should be removed because of circumstances including unusual casualties (fire, storm, flood, etc.), sudden and complete obsolescence, or un-expected and permanent shutdown of an entire operating assembly or plant. As stated above, these types of assets must be retired (removed from rate base) and moved to a non-utility account because they have become no longer used or required to

<sup>85</sup> Decision 2013-417: Utility Asset Disposition, Proceeding 20, Application 1566373-1, November 26, 2013.

<sup>86</sup> ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board), 2006 SCC 4, [2006] 1 S.C.R. 140.

<sup>87</sup> Decision 2013-417, paragraph 304.

<sup>88</sup> Decision 2013-417: Utility Asset Disposition, Proceeding 20, November 26, 2013, paragraph 295, footnote 362.

<sup>89</sup> Decision 2013-417, paragraph 304.

be used as the result of causes that were not reasonably assumed to have been anticipated or contemplated in prior depreciation or amortization provisions. ...<sup>90</sup>

90. In response to an IR from the Commission, ATCO Electric provided the history of repair and replacement costs incurred by the utility due to nature-related events including fires. Table 7 below is an extract from that IR response indicating the repair and replacement costs charged to the Reserve for Injuries and Damages (RID) Account from 2002 – 2012. ATCO Electric explained that after 2012, the RID account was no longer used, however ATCO Electric confirmed that no large nature-related retirement events occurred that would be similar to the RMWB wildfire.<sup>91</sup>

**Table 7. History of losses due to nature events**

Event	Year	RID account (\$ million)
House River Forest Fire	2002	0.1
[Chisholm] Forest Fire	2002	0.6
Webbalta Fire	2002	0.1
House River Forecast Fire	2003	0.0
Drumheller Snowstorm	2003	0.3
Woodmere Nursery Fire	2003	0.1
Gregoire Lake Contact	2004	0.5
Red Earth Fire	2004	0.2
Grimshaw / LaCrete Windstorm	2004	0.2
Fort Vermilion / LaCrete Windstorm	2004	0.4
Swan Hills – Fireman River Grass Fire	2006	0.2
Hoar Frost Storm – Jan	2007	0.4
Southeast (SE) Region Snow Storm	2007	0.2
SE Hoar Frost – Jan	2008	0.1
Wind Storm – October	2008	0.4
Slave Lake Pulp Litigation – Mitsue Fire	2009	0.5
SE Wind Storm – March	2009	0.2
Red Earth – Evi / Kidney Oilfield Fire	2009	0.2
SE Wind Storm (Jul / Aug)	2009	0.2
Hoar Frost Storm – Jan	2010	0.2
Hoar Frost Storm – Feb	2010	0.1
Wind and Snow Storm – Apr	2010	0.3
Snow Storm – Apr	2010	1.0
Wind Storm – May	2010	0.4
Wind Storm – July	2010	0.5
Hoar Frost Storm – Mar	2011	0.2
Wind Storm – Jul	2011	0.2
Wind and Lightning Storm – Jul	2011	0.2
Slave Lake Region Fire	2011	23.2
Wind Storm – Sep	2012	0.2
Hoar Frost Storm – Nov	2012	0.5

Source: Exhibit 21609-X0016, AE-AUC-2018SEP12-009(b).

<sup>90</sup> Decision 2013-417, paragraph 327.

<sup>91</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-009(b).

91. ATCO Electric's last Commission-approved depreciation study was filed in its 2011-2012 general tariff application (GTA). The study analyzed historical data up to December 31, 2008.

92. In the current application, ATCO Electric indicated that collectively, the RMWB wildfire, the Boundary Lake wildfire, and Fox Creek wildfire resulted in destroyed assets that had to be physically retired with a remaining net book value of \$3,176,984.<sup>92</sup> <sup>93</sup> The restoration costs, including replacement and repair costs associated with the wildfires totaled \$29.8 million.<sup>94</sup> In response to IRs from the UCA, ATCO Electric stated that it included capital additions of \$0.959 million that were related to the Boundary Lake wildfire<sup>95</sup> and that no costs related to the Fox Creek wildfire were included in this application.<sup>96</sup>

93. The UCA noted that the net book value (approximately \$3.2 million) of the assets destroyed by the wildfires is eight times the magnitude of the Slave Lake Region Fire net book value of \$0.4 million, for which the Commission determined that there was no other comparable fire events and found the retirements to be extraordinary in Decision 2014-297 (Errata),<sup>97</sup> the Slave Lake decision.<sup>98</sup> ATCO Electric refuted the comparison to the Slave Lake Region Fire, noting that in that proceeding, it did not provide an analysis and expert depreciation evidence, which is available to the Commission in this proceeding. ATCO Electric further submitted that the depreciation expert's evidence in two recent proceedings, Proceeding 2738<sup>99</sup> and Proceeding 21608,<sup>100</sup> was influential in persuading the Commission that existing depreciation parameters contemplated the retirements in question.<sup>101</sup>

94. The UCA further observed that the replacement costs of \$28 million associated with the RMWB wildfire were significantly higher than those associated with other weather-related events previously included in the RID account and more than ten times greater than the costs incurred to replace gas distribution infrastructure by ATCO Gas as the result of the RMWB wildfire.<sup>102</sup>

95. Messrs. Bell and Shymanski for the UCA examined the "characteristics of the event,"<sup>103</sup> being the net book value and replacement costs. They compared the net book value of \$400,000 for Slave Lake to the net book value of \$3.2 million for the RMWB wildfire; they noted that the \$28 million replacement costs incurred by ATCO Electric for the RMWB wildfire were ten times greater than costs incurred by ATCO Gas for the same fire.<sup>104</sup> They also noted that ATCO

---

<sup>92</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-007(e).

<sup>93</sup> It is not clear if the retirements of assets destroyed in the Boundary Lake and Fox Creek wildfires are included in this value.

<sup>94</sup> Exhibit 21609-X0004, application, paragraph 62.

<sup>95</sup> Exhibit 21609-X0018, AE-UCA-2018SEP12-008(a)(ii).

<sup>96</sup> Exhibit 21609-X0037, AE-UCA-2018OCT18-013(d).

<sup>97</sup> Decision 2014-297 (Errata): ATCO Electric Ltd. 2012 Distribution Deferral Accounts and Annual Filing for Adjustment Balances, Proceeding 2682, January 8, 2015.

<sup>98</sup> Exhibit 21609-X0068, UCA argument, paragraph 53.

<sup>99</sup> Proceeding 2738, ATCO Gas and Pipelines Ltd., Z Factor Application for Recovery of 2013 Southern Alberta Flood Costs.

<sup>100</sup> Proceeding 21608, ATCO Gas, a division of ATCO Gas and Pipelines Ltd., Z Factor Application for Recovery of 2016 Regional Municipality of Wood Buffalo Wildfire Costs.

<sup>101</sup> Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 48.

<sup>102</sup> Exhibit 21609-X0068, UCA argument, paragraph 54.

<sup>103</sup> Decision 2014-297, paragraph 66.

<sup>104</sup> Exhibit 21609-X0068, UCA argument, paragraphs 53-54.



Electric described the RMWB wildfire as “one of the largest natural disasters Canada has ever faced,”<sup>105</sup> growing to approximately 590,000 hectares and causing 88,000 people to be evacuated.<sup>106</sup> Messrs. Bell and Shymanski submitted that “characteristics of the event” as referred to in the Slave Lake decision, such as the nature of the event leading to the retirement, the net book value of the assets taken out of service as a result of the event and the associated replacement costs are relevant in the determination of whether a retirement is to be considered ordinary or extraordinary.<sup>107</sup>

96. In ATCO Electric’s view, replacement cost is not a factor when determining the type of retirement because depreciation expense provides the recovery of the investment of current assets and is not intended or designed to take into consideration the cost of replacement assets.<sup>108</sup>

97. To support its submission on the accounting treatment to be accorded to the assets destroyed by the wildfires, ATCO Electric included depreciation-related evidence on related retirements in Appendix 2<sup>109</sup> of the application. In its view, the evidence supports a determination that the retirements caused by the RMWB wildfire<sup>110</sup> should be considered ordinary.<sup>111</sup>

98. ATCO Electric’s conclusion that the retirements caused by the wildfires were ordinary is underpinned by its analysis of the following portion of the definition of extraordinary retirement in the *Uniform Classification of Accounts for Natural Gas Utilities Regulation*:<sup>112</sup>

An extraordinary retirement results in a loss (or gain) to the extent that the net charges (or credits) would unduly deplete (or inflate) the accumulated depreciation or amortization accounts. A loss (or gain) is comprised of the differences between plant ledger value plus cost of removal less salvage and insurance recoveries and the related depreciation or amortization determined in an equitable manner.<sup>113</sup>

99. ATCO Electric provided a table showing that the aggregated effect of the wildfire-related retirements on the accumulated depreciation accounts amounted to approximately 1.1 per cent, which in its view did not represent an undue depletion of accumulated depreciation accounts. ATCO Electric submitted that the evidence provided by Mr. Kennedy in this proceeding confirms that the retirements associated with the RMWB wildfire fall within the range of expected retirement activity.<sup>114</sup> Specifically, Mr. Kennedy explained in his evidence that had the retirements from the 2016 RMWB wildfire occurred in 2008, the year-end date of ATCO Electric’s last Commission-approved depreciation study (filed in ATCO Electric’s 2011-2012 general rate application (GRA)), they would not have affected the depreciation results for both the actuarial observed life table and resulting observed life table curve used in the study. Accordingly, Mr. Kennedy concluded that if the impact of the 2016 RMWB wildfire had been considered in that depreciation study, it would not have had an effect on the depreciation

---

<sup>105</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraph 42.

<sup>106</sup> Exhibit 21609-X0068, UCA argument, paragraph 16.

<sup>107</sup> Exhibit 21609-X0068, UCA argument, paragraph 60.

<sup>108</sup> Exhibit 21609-X0064, ATCO Electric rebuttal evidence, paragraph 28.

<sup>109</sup> Exhibit 21609-X0004, application, Appendix 2, Evidence of Mr. Kennedy of Concentric Energy Advisors Inc.

<sup>110</sup> In response to the UCA motion for further and better IR responses, ATCO Electric confirmed that the retirements for the Boundary Lake and Fox Creek wildfires were not included in the historical life analysis. (Exhibit 21609-X0054, PDF page 133).

<sup>111</sup> Exhibit 21609-X0004, application, paragraph 25.

<sup>112</sup> Exhibit 21609-X0004, application, paragraph 67, PDF page 33.

<sup>113</sup> *Uniform Classification of Accounts for Natural Gas Utilities Regulation*, Section 8.

<sup>114</sup> Exhibit 21609-X0004, application, paragraphs 68-69, PDF pages 33-34.

parameters. To confirm his conclusions, Mr. Kennedy performed an analysis that layered the aged retirements from the RMWB wildfire to the retirement database and assumed that they occurred in 2008. In Mr. Kennedy's view, his analysis confirmed that the retirements associated with the RMWB wildfire fall within the range of expected retirement activity for that vintage of assets, and that this range of activity was therefore contemplated in the previous depreciation study.<sup>115</sup>

100. Mr. Shymanski, on behalf of the UCA observed that the historical analysis indicates a shorter average service life and Iowa curve would be applicable if the analysis for Account 47500 (underground conduit) had included the RMWB wildfire retirements for this account.<sup>116</sup> Therefore, the UCA recommended that at a minimum, the retirements in asset account 47500 resulting from the RMWB wildfire should be determined to be extraordinary, however in its view, all retirements related to the RMWB wildfire should be considered extraordinary retirements.<sup>117</sup>

101. The following table shows the residual measures ("goodness of fit" criterion) prepared by Mr. Kennedy for the original data and the revised data which include the RMWB wildfire:

**Table 8. Residual measure with and without the RMWB wildfire data**

Account	Residual measure (original)	Residual measure (revised to include RMWB wildfire)
47300/47302 Poles and Fixtures	5.65	5.56
47500/47502 Underground Conduit	3.19	21.40 or 6.43 once fit to 1% maximum exposure
47910/47912 Line Transformers	15.04	13.75

Source: Exhibit 21609-X0004, application, Appendix 2, Evidence of Mr. Kennedy of Concentric Energy Advisors Inc., Q/A7.

102. In its reply argument, ATCO Electric argued that even though the residual measure for Account 47500 is higher with the inclusion of retirements related to the RMWB wildfire, Mr. Kennedy would not have come to a different conclusion with respect to the depreciation parameters for this account. It noted that the depletion of accumulated depreciation for this account shows that the cost of assets retired would be \$3 million / \$77.7 million or 3.9 per cent, which, in ATCO Electric's view, does not represent an undue depletion of the accumulated depreciation for this account and, therefore, cannot be considered extraordinary.<sup>118</sup>

103. To determine whether a particular retirement is ordinary or extraordinary, the UCA submitted that an analysis similar to the one conducted by Mr. Kennedy for both life and net salvage should be conducted as a starting point, and should include discussions with management and operations staff and a peer analysis. However, the replacement costs and net book value of the assets in question should also be examined, so that a comparison to other events can be made. If a review of all of these other factors indicates that a particular retirement event is significantly different from previous retirement events, that would be sufficient by itself

<sup>115</sup> Exhibit 21609-X0004, application, Appendix 2, Evidence of Mr. Kennedy of Concentric Energy Advisors Inc., Q/A6.

<sup>116</sup> Exhibit 21609-X0056, UCA evidence of Russ Bell and Associates Inc., Q/A 24.

<sup>117</sup> Exhibit 21609-X0068, UCA argument, paragraph 67.

<sup>118</sup> Exhibit 21609-X0070, ATCO Electric reply argument, paragraph 52.

to demonstrate that the depreciation recommendations in the earlier depreciation study would have been different.<sup>119</sup>

### Commission findings

104. The UAD decision reviewed the fundamental corporate and property law principles established by the legislation and the courts in the Supreme Court of Canada's *Stores Block* and the subsequent Alberta Court of Appeal line of cases, and provided direction for identifying and allocating undepreciated capital costs associated with ordinary and extraordinary retirements. The decision was subsequently upheld by the courts.<sup>120</sup> In the UAD decision, the Commission noted that the courts used these fundamental principles in determining entitlements, risks and burdens associated with the ownership and utilization of utility assets. The *Stores Block* decision confirmed that the assets used for utility service are the property of the utility service provider. Customers pay for utility services, which are priced to recover the reasonable costs (including a return on investment) associated with the assets providing those services. However, in paying for utility services, customers do not acquire an ownership interest in the underlying assets. Further, these property and corporate law principles symmetrically allocate to the utility the benefits and risks of property ownership. A literal application of these fundamental principles, as subsequently directed by the courts, would allocate all benefits and risks to the utility shareholder in a symmetrical manner with the shareholder retaining all gains on sale and any benefits from the redeployment of utility property for non-utility purposes as well as absorbing any losses on sale and the costs of any unrecovered capital associated with assets that cease to be used or required to be used in providing utility service. Any gain or risk of loss with respect to the utility's original investment would be for the account of the owner of the property in a symmetrical manner consistent with the principles of property ownership and corporate law.

105. In the Slave Lake decision, the Commission summarized the findings and guidance provided by the courts as reviewed in the UAD decision as follows:

52. ...It is the fundamental principles of corporate law and private property law that the Supreme Court of Canada used in assessing the facts, interpreting the *Gas Utilities Act* and in determining entitlements, risks and burdens in the *Stores Block* decision. The principles that informed the court were, first, that the assets used for utility service are the property of the company. Customers do not acquire an interest in the property merely by paying for the services provided through the assets. And second, along with property ownership comes the right to any gain and the risk of any loss....

...

56. The Commission found in the UAD decision that where the *Electric Utilities Act* defines an "electric utility" in part, as an "electric distribution system" that is "used" to provide utility services and an electric distribution system as the "plant, works, equipment, systems and services necessary to distribute electricity in a service area," the words are to the same effect as the words "used or required to be used" employed in the *Gas Utilities Act* to define facilities to be included in rate base. Application of these fundamental principles requires that the costs associated with assets that are sold or lost due to any cause (and therefore no longer necessary to provide service) be removed from

---

<sup>119</sup> Exhibit 21609-X0063, UCA-AUC-2019FEB14-004(c).

<sup>120</sup> *FortisAlberta Inc. v. Alberta (Utilities Commission)*, 2015 ABCA 295, 389 DLR (4th) 1, leave to appeal refused, SCC File No. 36728.

the calculation of rates and the risk of the loss (or the benefit of any gain) be for the account of the owner of the property. ... [footnotes omitted]

106. Starting with the fundamental principles identified by the courts, the UAD decision reviewed the applicable legislative provisions setting out the Commission's main function of setting just and reasonable rates while protecting the integrity and dependability of the utility service delivery system. In this context, the Commission observed that the legislative provisions relating to the recovery by utilities of prudently incurred costs, including provisions relating to the ability of the Commission to approve methods of depreciation and to set an ROE, together with the *Uniform Classification of Accounts for Natural Gas Utilities Regulation* and the Uniform System of Accounts (USA) approved for electric utilities, provide a framework for the recovery of utility investment and return on that investment.<sup>121</sup> In examining whether this framework, including traditional methods of depreciation approved by the Commission, conflicted with the court enunciated principles, the Commission found no conflict. To the contrary, the Commission observed that these fundamental principles "had been built into these instruments and, it appears, informed their development" because the depreciation methods approved by the Commission were designed to recover the costs of prudent investment over the useful life of the assets while employed in providing utility service. Further, "[t]he effect of this depreciation method is to remove from rate base and customer rates depreciable assets that are no longer used or required to be used to provide utility service."<sup>122</sup>

107. Had the Commission found that traditional depreciation methods were in conflict with the *Stores Block* line of decisions, then utilities would be required to separately account for each asset with the risk of under-recovery of capital if an asset was retired prior to being fully depreciated. The Commission noted this effect in the Slave Lake decision as follows:

In the absence of such an approach, under the *Stores Block* principles and the Alberta Court of Appeal decisions that followed, if an asset ceased to be used for utility service before being fully depreciated, the undepreciated investment in that asset would be removed from the calculation of rates and that undepreciated amount would be transferred to the account of the shareholder.<sup>123</sup>

108. Having found traditional depreciation methods were designed to recover the costs of prudent investment over the useful life of the assets while employed in providing utility service and, thus, in conformity with the principles laid down by the courts, the UAD decision next reviewed the manner in which depreciation parameters were determined. The Commission made a distinction between asset retirement causes or events that had been considered in the determination of the depreciation parameters, which were referred to as "ordinary retirements," and those that had not been considered, which were referred to as "extraordinary retirements."

109. Any unrecovered utility investment in an asset taken out of service as the result of an ordinary retirement would be for the account of customers because the type of retirement had been factored into the determination of the useful life of the applicable class of assets, the depreciation parameters and the resulting rates. The Commission referred to the definition of

---

<sup>121</sup> Decision 2013-417, paragraphs 296 and 304.

<sup>122</sup> Decision 2013-417, paragraphs 296 and 334.

<sup>123</sup> Decision 2014-297 (Errata): ATCO Electric Ltd., 2012 Distribution Deferral Accounts and Annual Filing for Adjustment Balances, Proceeding 2682, January 8, 2015, paragraph 62.

“ordinary retirement” in the *Uniform Classification of Accounts for Natural Gas Utilities Regulation* as follows:

... Section 8 states that “ordinary retirements result from causes reasonably assumed to have been contemplated in prior depreciation provisions, and normally may be expected to occur when plant reaches the end of its expected service life.” [footnote omitted]<sup>124</sup>

110. An asset taken out of service as the result of an extraordinary retirement would be for the account of the utility shareholders because the nature of that retirement had not been factored into the determination of the depreciation parameters. What is important in determining whether a retirement event is ordinary or extraordinary, is whether it is reasonable to assume that the causes of the retirement event have been anticipated or contemplated in the determination of the depreciation parameters, not the impact that the retirement event may or may not have had on those parameters. The UAD decision refers to an extraordinary retirement with reference to Section 8 of the *Uniform Classification of Accounts for Natural Gas Utilities Regulation* as follows:

The UCAGU [*Uniform Classification of Accounts for Natural Gas Utilities Regulation*] also makes provision for “extraordinary retirements” defined as retirements “from causes not reasonably assumed to have been anticipated or contemplated in prior depreciation or amortization provisions.” ... Under-recovery or over-recovery of capital investment on extraordinary retirements (as is the case with assets disposed of outside of the ordinary course of business or moved to a non-utility account) are for the account of the utility. The treatment of retirements for electric utilities is to the same effect under the USA Electric Plant Instructions.<sup>125</sup>

111. Having found that traditional depreciation methods accorded with the legislation and the *Stores Block* line of decisions, the Commission in the UAD decision summarized the applicable principles at paragraph 327 of that decision, quoted at paragraph 89 above. The Commission confirmed that rate base and, therefore, customer rates should not include costs associated with assets that are subject to an extraordinary retirement. Such assets include obsolete property, property to be abandoned, overdeveloped property and more facilities than necessary for future needs, property used for non-utility purposes, property that should be removed because of circumstances including unusual casualties (fire, storm, flood, etc.), sudden and complete obsolescence, or unexpected and permanent shutdown of an entire operating assembly or plant. These types of assets must be retired (removed from rate base) and moved to a non-utility account because they have become no longer used or required to be used as the result of causes that were not reasonably assumed to have been anticipated or contemplated in prior depreciation or amortization provisions approved by the Commission.<sup>126</sup>

112. In the Slave Lake decision, the Commission referred to the review it conducted in the UAD decision. The Commission then engaged in an assessment of whether the ATCO Electric asset retirements resulting from the Slave Lake fires could be said to have been caused by a type of event that could reasonably be assumed to have been anticipated or contemplated in prior depreciation or amortization provisions approved by the Commission. If it could be determined, based on the evidence of the specific circumstances of the event, that the event itself or a similar event could be reasonably assumed to have been anticipated or contemplated in a prior

---

<sup>124</sup> Decision 2013-417, paragraph 304.

<sup>125</sup> Decision 2013-417, paragraph 304.

<sup>126</sup> Also see paragraphs 304 and 305 of Decision 2013-417.

depreciation study, then the consequences of such an event would have been factored into the resulting depreciation parameters and rates at that time, whether the impact was positive, negative or of no effect. The Commission summarized this position at paragraph 66, stating:

The UAD decision recognized the concepts underlying the currently-used depreciation methods as being consistent with the *Stores Block* principles because they are intended to recover the costs of assets used in utility service over their service lives in ordinary circumstances, recognizing that retirements outside of the relevant scope of considered retirement events, regardless of the effect on depreciation parameters, would be classified as extraordinary retirements and, in accordance with the *Stores Block* principles, would be for the shareholder's account.

113. In undertaking its analysis in the Slave Lake decision, the Commission determined that it is the “characteristics of the event” that are relevant to the determination of whether the retirement event could be reasonably assumed to have resulted from causes contemplated or anticipated by a prior depreciation study. If the characteristics of a particular retirement event are sufficiently different from the characteristics of previous events causing retirements, then it cannot be reasonably assumed that the particular retirement event resulted from causes anticipated or contemplated in a previous depreciation study and factored into the derivation of the existing depreciation parameters. The Commission summarized this position as follows:

66. ... it is the characteristics of the event that are relevant to the determination of whether the event had been contemplated or anticipated by a prior depreciation study. If the characteristics of the Slave Lake fires event are sufficiently different to distinguish the Slave Lake fires from the events considered in the previous depreciation study such that the characteristics of the Slave Lake fires cannot be said to have been reasonably contemplated or anticipated in the determination of the depreciation parameters in that study, then the Commission would consider the event to give rise to an extraordinary retirement. [footnotes removed]<sup>127</sup>

114. In the Slave Lake decision, the Commission considered the fact-specific information relating to the Slave Lake fires and the evidence proffered with respect to prior nature-related retirement events to determine if the retirement event was ordinary or extraordinary. ATCO Electric noted factors such as the physical cause, frequency and materiality of the event as relevant when considering whether an event was typical or non-typical.<sup>128</sup> The Commission reviewed the entire record of the proceeding including evidence with respect to the history of nature-related events causing retirements experienced by ATCO Electric over a 10-year period. Based on this review, the Commission determined that the characteristics of these past nature-related retirement events, including asset replacement costs in the range of \$1 million to \$2 million, were sufficiently different from the characteristics of the Slave Lake region fire, which included replacement costs of assets of \$23.7 million to distinguish the Slave Lake fires retirement event from retirement events that could have been considered in the previous depreciation study. Therefore, the Commission concluded that it could not be demonstrated that retirements caused by events similar to the Slave Lake retirements had been reasonably contemplated or anticipated in the determination of the depreciation parameters in that previous study. On this basis, the Commission made the following determination:

---

<sup>127</sup> Decision 2014-297 (Errata), paragraph 66.

<sup>128</sup> Decision 2014-297 (Errata), paragraphs 29 and 64.

Accordingly, for regulatory purposes the Slave Lake fires give rise to an extraordinary retirement of the destroyed assets. As a result of this finding of fact, the principles established by *Stores Block* and the related Court of Appeal decisions dictate that the \$400,000 notional net book value of the destroyed assets must be for the account of the ATCO Electric shareholders. The Commission has no discretion to do otherwise.<sup>129</sup> [footnotes omitted]

115. In making this determination, the Commission considered arguments put forward by ATCO Electric that the Slave Lake fires should be considered to have resulted in the ordinary retirement of assets because the Slave Lake fires and other prior fires would not have made a material impact on net rate base or depreciation rates and, therefore, would not have resulted in an extraordinary retirement.<sup>130</sup> The Commission rejected this position stating:

The Commission does not accept ATCO Electric's submission that an event that could not have been reasonably contemplated in establishing the depreciation parameters cannot cause an extraordinary retirement unless its occurrence had a material impact on net rate base or on depreciation rates.<sup>131</sup>

116. ATCO Electric also argued that since traditional depreciation methods were found by the Commission to comport with the *Stores Block* line of cases, and that these methods provided for the recovery of unrecovered investment through the reserve amortization process, it therefore followed that the losses associated with the Slave Lake fires should be recoverable from customers through the amortization of reserve differences. The Commission stated that it could not "reconcile the *Stores Block* principles of property ownership and symmetrical benefits and risk of loss" with ATCO Electric's position.<sup>132</sup>

117. The Commission has continued to apply the principles reviewed in the UAD decision to the facts associated with the retirement of a specific group of assets when considering whether the retirement should be treated as an ordinary retirement or as an extraordinary retirement. In decisions 2738-D01-2016 and 21608-D01-2018, the Commission followed the analysis conducted in the Slave Lake decision, basing its findings on the characteristics of the retirement event under consideration to determine whether ATCO Gas assets destroyed by the 2013 Southern Alberta flood and the 2016 Regional Municipality of Wood Buffalo wildfire were removed from service as the result of an ordinary or an extraordinary retirement. Similarly, in Decision 24369-D01-2019,<sup>133</sup> the Commission considered the treatment of assets that were retired by FortisAlberta Inc. after they were destroyed by a windstorm and fires in southern Alberta. In that decision, the Commission referred to earlier decisions in which it considered UAD issues and emphasised that each situation is unique and must be evaluated on its individual facts. The Commission stated the following:

118. From these decisions, it is clear that a determination of whether an event is an extraordinary retirement is fact-specific to the particular characteristics of that event and to a particular utility. If the current retirement event exhibits characteristics sufficiently similar to prior events incorporated into the last approved depreciation study for the utility, the retirement events could be considered ordinary retirements. If the current

---

<sup>129</sup> Decision 2014-297 (Errata), paragraph 69.

<sup>130</sup> Decision 2014-297 (Errata), paragraphs 44 and 63.

<sup>131</sup> Decision 2014-297 (Errata), paragraph 65.

<sup>132</sup> Decision 2014-297 (Errata), paragraph 65.

<sup>133</sup> Decision 24369-D01-2019: FortisAlberta Inc. 2017 Capital Tracker True-Up Compliance Filing to Decision 23649-D01-2019, Proceeding 24369, June 19, 2019.

retirement events exhibit sufficiently dissimilar characteristics, the retirement events could be considered extraordinary retirements.<sup>134</sup>

118. ATCO Electric submitted in the current proceeding that the Commission should consider Mr. Kennedy's evidence that the retirements associated with the RMWB wildfire fall within the range of expected retirement activity. ATCO Electric provided a table showing that the aggregated effect of the 2016 wildfire-related retirements on the accumulated depreciation accounts amounted to approximately 1.1 per cent, which in its view did not represent an undue depletion of accumulated depreciation accounts.<sup>135</sup> ATCO Electric also provided an analysis performed by Mr. Kennedy that layered the aged retirements from the RMWB wildfire onto the retirement database assuming that the retirements had occurred in 2008. In Mr. Kennedy's view, his analysis confirmed that the retirements associated with the RMWB wildfire fall within the range of expected retirement activity for all of the age intervals affected by the fire activity, and that this range of activity was therefore contemplated in the previous depreciation study. Further, Mr. Kennedy indicated that, had the retirements from the 2016 RMWB wildfire occurred in 2008, the year-end date of ATCO Electric's last Commission-approved depreciation study (filed in ATCO Electric's 2011-2012 GRA), they would have had little or no effect on the depreciation parameters, again suggesting that the retirements associated with the RMWB wildfire should be considered as ordinary.<sup>136</sup>

119. As noted above, the Commission considered and rejected similar arguments in the Slave Lake decision, namely, that unless it could be demonstrated that a retirement event would have a material impact on net rate base or on depreciation rates it cannot be said to be extraordinary. The Commission also emphasised that a UAD analysis must demonstrate whether the causes of the subject retirement event or a similar event can reasonably be assumed to have been anticipated or contemplated at the time the prior depreciation study that generated the current depreciation rates was prepared. An ex-post analysis is insufficient to demonstrate that the causes of the retirement event can be reasonably assumed to have been factored into the analysis including the judgement of the depreciation consultants when determining the depreciation parameters in the circumstances existing at the time of the prior study.

120. In Decision 2738-D01-2016 dealing with a Z factor application by ATCO Gas relating to the 2013 southern Alberta floods, the Commission again reviewed evidence supporting the following two propositions. First, that had the retirement events caused by the floods been anticipated or contemplated in the previous study, there would not have been any impact on the resulting depreciation parameters. And second, that the retirements resulting from the floods did not unduly deplete the accumulated depreciation accounts.<sup>137</sup> In its decision, the Commission gave no weight to either of these arguments. Instead, the Commission applied a UAD/Slave Lake analysis based on the specific facts of the retirement event, to determine that the characteristics of the event were similar in nature to earlier nature-related events included in a prior depreciation study so as to characterize the retirement event arising from the floods as an ordinary retirement.<sup>138</sup>

---

<sup>134</sup> Decision 24369-D01-2019 at paragraph 25 referring to Decision 23649-D01-2019, paragraph 118.

<sup>135</sup> Exhibit 21609-X0004, application, paragraphs 68-69, PDF pages 33-34.

<sup>136</sup> Exhibit 21609-X0004, application, Appendix 2, Evidence of Mr. Kennedy of Concentric Energy Advisors Inc., Q/A6, PDF pages 47-48.

<sup>137</sup> Decision 2738-D01-2016, paragraphs 79-80.

<sup>138</sup> Decision 2738-D01-2016, paragraph 93.



121. Again in Decision 21608-D01-2018 dealing with the ATCO Gas Z factor application relating to the retirement of assets as the result of the Regional Municipality of Wood Buffalo wildfire, ATCO Gas raised similar arguments relating to the non-material impact to accumulated depreciation accounts and to depreciation parameters had the fire been anticipated or contemplated in the previous depreciation study.<sup>139</sup> As before, the Commission rejected both of these arguments. Instead, the Commission arrived at its finding of an ordinary retirement on a basis consistent with the Slave Lake decision and the 2013 Southern Alberta Floods decision, both of which were premised on the characteristics of the retirement event.<sup>140</sup>

122. Similar to its findings outlined above with respect to decisions 2738-D01-2016 and 21608-D01-2018, the Commission remains unpersuaded in this proceeding that there is any basis, whether founded on past precedent or otherwise, to attribute any weight to (1) Mr. Kennedy's evidence on the layering exercise he performed, or (2) Mr. Kennedy's ex-post findings on depreciation parameter impacts assuming that the RMWB wildfire had occurred in 2008 or (3) the analysis relating to the depletion of accumulated depreciation accounts.

123. The Commission next reviews the characteristics of the RMWB wildfire retirement event to determine whether the asset retirements should be characterized as an ordinary or as an extraordinary retirement, consistent with the principles established in the UAD decision and subsequent Commission decisions.

124. As a preliminary matter, the Commission notes that the continued use of traditional depreciation methods to recover utility capital investment accords with the *Stores Block* line of cases as reviewed by the Commission in the UAD decision precisely because these methods are intended to result in depreciation parameters and depreciation rates that will recover the utility's investment over the period of time that the associated class of assets is anticipated to be used or required to be used in providing utility service. If events of dissimilar characteristics to those considered when a depreciation study was prepared occur, they cannot be said to have resulted from causes that were reasonably anticipated or contemplated in the analysis undertaken at the time the study was done.

125. ATCO Electric's last Commission-approved depreciation study before the Commission in the Slave Lake decision and in this proceeding was filed in its 2011-2012 GTA. The study analyzed historical data up to December 31, 2008. In assessing the characteristics of the retirements resulting from the RMWB fire, the Commission makes a finding of fact that the characteristics of this retirement event are very similar to the characteristics associated with the Slave Lake retirements that led to the Commission finding that those retirements resulted from causes that "could not reasonably have been anticipated or contemplated in the determination of the parameters used in the previous depreciation study dated as at December 31, 2008" and that "for regulatory purposes the Slave Lake fires give rise to an extraordinary retirement of the destroyed assets."<sup>141</sup> The evidence confirms that the RMWB fire was "one of the largest natural disasters Canada has ever faced" devastating the community and its electric distribution utility infrastructure. Further, as noted above, in the Slave Lake decision, the Commission reviewed the evidence including the history of nature-related events causing retirements experienced by ATCO Electric over a 10-year period and determined that the nature of these past retirement events, which generally involved replacement costs in the range of \$1 million to \$2 million, were

---

<sup>139</sup> Decision 21608-D01-2018, paragraph 33.

<sup>140</sup> Decision 21608-D01-2018, paragraph 47.

<sup>141</sup> Decision 2014-297 (Errata), paragraph 69.

sufficiently different from the Slave Lake region fire, which required replacement costs of assets of \$23.7 million. Similarly, in this proceeding, the Commission has considered the information provided by ATCO Electric in Table 7 above on the history of retirements on similar assets due to nature-related events that occurred prior to the completion of the previous depreciation study approved by the Commission. The Commission observes that the repair/replacement costs due to nature-related events prior to 2009 range from \$0.0 million to \$0.6 million. The replacement costs associated with the RMWB wildfire totaled \$28.8 million, a characteristic that is comparable to the replacement costs associated with the Slave Lake region fire.

126. As noted above, if the characteristics of a particular retirement event are sufficiently different from the characteristics of previous events causing retirements, then it cannot be reasonably assumed that the particular retirement event resulted from causes anticipated or contemplated in a previous depreciation study and factored into the derivation of the existing depreciation parameters.

127. Relying on its review of the record of this proceeding with respect to the characteristics of the retirements caused by the RMWB wildfire, the Commission makes a finding of fact that a retirement event with similar characteristics to the retirements caused by the RMWB wildfire could not reasonably have been anticipated or contemplated in the determination of the parameters used in the previous depreciation study.

128. Accordingly, for regulatory purposes the RMWB wildfire gives rise to an extraordinary retirement of the destroyed assets. As a result of these findings, the principles established by *Stores Block* and the related Court of Appeal decisions dictate that the remaining net book value of the destroyed assets associated with the RMWB wildfire must be for the account of the ATCO Electric shareholders. ATCO Electric is directed, in the compliance filing to this decision, to provide all accounting entries reflecting the retirement of the assets destroyed by the RMWB wildfire.

#### 5.4.3.2 Future considerations

129. In the previous section of this decision, the Commission determined that in the circumstances of this proceeding the retirements resulting from the RMWB wildfire were extraordinary. Accordingly, the unrecovered capital investment in the retired assets is for the account of the shareholder of ATCO Electric.

130. The Commission's finding that costs of the retirement event should be allocated to shareholders results in just and reasonable rates. This finding is consistent with the governing legislation, the fundamental property and corporate law principles established by the courts and the guidance of the courts on the allocation of risk and benefits associated with property ownership. This guidance was reviewed by the Commission in the UAD decision and subsequently upheld on appeal.<sup>142</sup> The guidance limits the Commission's flexibility in dealing with cost allocation upon the retirement of utility assets, both those reasonably anticipated and those that are unanticipated. The regulatory framework resulting from this guidance is bounded in part by the following findings by the courts:

The argument that assets purchased are reflected in the rate base should not cloud the issue of determining who is the appropriate owner and risk bearer....the utility absorbs

---

<sup>142</sup> *FortisAlberta Inc. v. Alberta (Utilities Commission)*, 2015 ABCA 295, 389 DLR (4th) 1, leave to appeal refused, SCC File No. 36728.

losses and gains, increases and decreases in the value of assets, based on economic conditions and occasional unexpected technical difficulties...<sup>143</sup>

The concept of assets becoming “dedicated to service” and so remaining in the rate base forever is inconsistent with the decision in *Stores Block* (at para. 69). Such an approach would fetter the discretion of the Board in dealing with changing circumstances. Previous inclusion in the rate base is not determinative or necessarily important; as the Court observed in *Alberta Power Ltd. v. Alberta (Public Utilities Board)* (1990), 72 Alta. L.R. (2d) 129, 102 A.R. 353 (C.A.) at p. 151: “That was then, this is now.”<sup>144</sup>

Past or historical use of assets does not permit their inclusion in rate base unless they continue to be used in the system.<sup>145</sup>

Since the authorities have established that ratepayers cannot share in any of the sales of assets, it follows that holding property within the rate base, once its use has expired, works to the detriment of the ratepayer. ...since ratepayers cannot share in sale proceeds of utility assets, their protection for fair treatment lies in excluding assets not required for utility operations from the rate base.<sup>146</sup>

... the terms of the regulatory compact have always been subject to evolution and the re-balancing of competing interests of consumers and utility companies when times and circumstances change. ...There is no industry today that is immune to change. Or that enjoys a right to be protected from the consequences of change, whether those arise from legislative choices, deregulation or court decisions.<sup>147</sup>

The Commission provided a reasonable rationale for its conclusion that there is and should be a distinction between ordinary depreciation and unforeseen loss or obsolescence of capital, which was characterized as a form of extraordinary depreciation. I am persuaded that it was reasonable for the Commission to conclude that the extraordinary depreciation situations were outside the definition of what would be a reasonable opportunity of return for utility investors. The Commission, in its expert and policy role, could reasonably conclude that the legislation indicated that whereas ordinary depreciation is a legitimate matter for a form of shared risk between utilities and ratepayers, these forms of extraordinary depreciation of prudently acquired capital are not risks to be shared with ratepayers.<sup>148</sup>

... In the absence of *Stores Block* and the subsequent jurisprudence from this Court, other policy choices would have been open to the regulator. Although it would be tempting to confine the application of these decisions only to gas utilities, (to minimize what I consider to be deleterious effects on the regulation of utilities in Alberta), the legal principles in *Stores Block* remain good law.<sup>149</sup>

---

<sup>143</sup> *Stores Block* decision - *ATCO Gas and Pipelines Ltd. Alberta (Energy and Utilities Board)*, 2006 SCC 4, paragraph 69.

<sup>144</sup> *ATCO Gas and Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2008 ABCA 200, paragraph 29.

<sup>145</sup> *ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission)*, 2009 ABCA 246, paragraph 14.

<sup>146</sup> *ATCO Gas and Pipelines v. Alberta (Utilities Commission)*, 2014 ABCA 28, paragraph 86.

<sup>147</sup> *ATCO Gas and Pipelines Ltd v Alberta (Utilities Commission)*, 2014 ABCA 397, paragraph 3, referred to in *FortisAlberta Inc. v. Alberta (Utilities Commission)*, 2015 ABCA 295 at 13

<sup>148</sup> *FortisAlberta Inc. v. Alberta (Utilities Commission)*, 2015 ABCA 295, paragraph 144

<sup>149</sup> *FortisAlberta Inc. v. Alberta (Utilities Commission)*, 2015 ABCA 295, paragraph 161.

131. Although the Court of Appeal emphasised that the *Stores Block* line of cases remains good law, it also noted that more than a decade of incremental litigation on individual, fact-specific Commission decisions, has arguably resulted in some “deleterious effects on regulation of utilities in Alberta.” In making this observation, the Court indicated that the Commission would have greater flexibility to deal with UAD matters in the absence of this line of court decisions and reminded lawmakers that they have the ability to consider these issues from a broader public policy perspective should they wish to alter the status quo and provide the Commission with greater discretion in addressing UAD fact-specific issues as noted below:

Absent the pronouncements in *Stores Block*, the Commission would likely have greater flexibility on the issue of who bears the undepreciated cost of assets rendered useless as the result of extraordinary events.<sup>150</sup>

The Commission, and this Court, are bound by *Stores Block* and the subsequent decisions from this Court. Only legislative amendment, reconsideration, or a reversal of *Stores Block* by the Supreme Court of Canada can change that.<sup>151</sup>

132. The Commission appreciates the difficulty utilities face operating in an environment where they must anticipate reasonably foreseeable future events, not just to properly align depreciation parameters but also to reduce the risk of shareholder losses due to an extraordinary retirement. Notwithstanding these efforts, utilities recognize that shareholder losses are likely to occur despite having acted prudently in conducting their operations. Similarly, it is not in the interest of customers that they pay higher rates that reflect risk-adjusted returns or depreciation parameters and investment decisions which factor in every possible retirement contingency. It is also not in the interest of customers that utilities incur higher borrowing costs or that the delivery of safe and reliable service be compromised due to financial hardship resulting from an extraordinary retirement. Further, it is in the interest of neither utilities nor customers to engage in continual fractious debate in characterizing retirements. Again, no party benefits if utilities are compelled to respond to negative economic incentives by adopting risk-averse policies that impede regulatory efficiencies or improvements in service or reliability where prudent investment would otherwise occur. These are perhaps some of the possible deleterious effects on the regulation of utilities in Alberta noted by the courts.

133. UAD matters are complex and include not only the allocation of risk for ordinary and extraordinary retirements, but also involve the disposition of utility property, the withdrawal of utility property for non-regulated purposes, the underutilization of utility assets and the determination of a fair return on utility investment. Each aspect of these issues goes directly to the setting of just and reasonable rates in the context of the applicable law and the relevant circumstances.

134. The Commission makes the above comments in the expectation that they will encourage debate on the evolution of public utility regulation in Alberta while the Commission continues to carry out its “main function of fixing just and reasonable rates (‘rate setting’) and in protecting the integrity and dependability of the supply system”<sup>152</sup> as directed by the legislation as interpreted and applied by the courts.

---

<sup>150</sup> *FortisAlberta Inc. v. Alberta (Utilities Commission)*, 2015 ABCA 295, paragraph 160.

<sup>151</sup> *FortisAlberta Inc. v. Alberta (Utilities Commission)*, 2015 ABCA 295, paragraph 76.

<sup>152</sup> *Stores Block* paragraph 7

### 5.4.3.3 Regulatory treatment of replacement assets

135. ATCO Electric added \$26.0 million<sup>153</sup> in capital additions to its rate base as a result of the wildfires that destroyed overhead and underground distribution facilities in several neighbourhoods in the RMWB and in the Boundary Lake and Fox Creek areas. In this section, the Commission examines the status of the services, active or inactive, in each neighbourhood in RMWB only and considers whether the assets providing utility service are used or required to be used, as contemplated by the Commission in the UAD decision, Decision 2013-417.

136. To assist the Commission in its determinations, it requested a set of maps from ATCO Electric showing the location of the overhead and underground rebuilds and the status of associated services as at three different time periods: December 2016, December 2017 and August 2018. ATCO Electric provided maps of the Fort McMurray neighbourhoods affected by the wildfire, which identified active services with a black dot, and inactive services with a red dot for the three time periods.<sup>154</sup>

137. ATCO Electric explained that it rebuilt, repaired and replaced assets within the RMWB at the municipality's request and approval. Timelines were driven by biweekly utility coordination meetings. ATCO Electric submitted that it only sought to repair and rebuild portions of its system that were used, or likely to be used, by returning customers.<sup>155</sup>

138. ATCO Electric confirmed that it will remove from rate base any specific assets that are not used or required to be used at such time as the RMWB advises that the lines require abandonment because no customers will be permitted by the municipality to build in the area served by them.<sup>156</sup>

### Commission findings

139. Section 37 of the *Gas Utilities Act* describes the assets that determine a gas utility's rate base as those assets that are "used or required to be used to provide service to the public":

37(1) In fixing just and reasonable rates, tolls or charges, or schedules of them, to be imposed, observed and followed afterwards by an owner of a gas utility, the Commission shall determine a rate base for the property of the owner of the gas utility used or required to be used to provide service to the public within Alberta and on determining a rate base it shall fix a fair return on the rate base. [emphasis added]

140. In the UAD decision, the Commission reviewed the interpretation placed on the meaning of "used or required to be used" by the courts, noting the following:

102. The Commission considers the following principles have been established by *Stores Block* and subsequent court and AUC decisions:

...

(j) The words "used or required to be used" in Section 37 of the *Gas Utilities Act* "are intended to identify assets that are presently used, are reasonably used, and are likely to be used in the future to provide services. Specifically, the past or

<sup>153</sup> Exhibit 21609-X0005, application, Appendix 1 - Revenue Requirement Schedules.

<sup>154</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-010.

<sup>155</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-010(a); Exhibit 21609-X0034, AE-AUC-2018OCT18-011(a-c).

<sup>156</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-011(d).

historical use of assets will not permit their inclusion in the rate base unless they continue to be used in the system.” (*Carbon*, paragraph 23)

(k) The “only reasonable reading of s. 37 is that the assets that are ‘used or required to be used’ to provide service are only those used in an operational sense.” (*Carbon*, paragraph 25; *Salt Caverns*, paragraph 56)

...

(s) The effective date for removal of a gas utility asset from rate base and customer rates is the earlier of: (i) the date that the utility advises the Commission that the asset is no longer used or required to be used; or (ii) the date the Commission determines that an asset no longer has an operational purpose and is no longer used or required to be used to provide service to the public. (*Salt Caverns*, paragraphs 28, 31, 51, 52, 53 and 56; Decision 2009-253,<sup>[157]</sup> paragraph 54; *Calgary Leave*, paragraphs 23 and 25; Decision 2012-068,<sup>[158]</sup> paragraphs 146 and 147) [citation omitted in part and emphasis added]

141. The Commission examined the maps that were provided by ATCO Electric showing the status of the services affected by the RMWB wildfire and observed that by August 31, 2018, most services were active and therefore most assets were being used to provide electric utility service. The Commission noted two neighbourhoods, Abasand and Beacon Hill/Waterways, where the maps showed destroyed properties and inactive sites not interspersed with active sites, indicating that potentially no utility service was being provided in these areas. If this was the case, the related assets should be removed from rate base. In response to a Commission IR, ATCO Electric explained that the areas of interest in the Abasand area consisted of condominium sites with planned in-service dates of 2018 and later, noting that service was restored to streetlights within the noted areas and some of the sites were energized as at November 2018. Regarding the Waterways area, ATCO Electric stated that this area was energized in December 2016;<sup>159</sup> however, it did not indicate the specific status of the sites in the area.

142. Regarding the areas of interest in the Abasand area, the Commission is satisfied that utility service is being provided in these areas. From an operational perspective, the Commission accepts ATCO Electric’s explanation that facilities were required in order to restore streetlights for public safety<sup>160</sup> and to supply service to sites in the reasonably foreseeable future. Regarding the areas of interest in the Waterways area, the Commission is satisfied that for 2016 and 2017, ATCO Electric was required to ensure facilities were in place to provide utility service to customers when they returned to the area in order to meet its obligation to supply service as required by the municipality. However, the Commission finds that in the case of the Waterways area, it is unclear whether all assets in this area are used or required to be used to provide electrical service after 2017.

---

<sup>157</sup> Decision 2009-253: ATCO Gas South, Review and Variance Proceeding Of Decision 2009-004 and Decision 2009-067 (Removal of Carbon Related Assets from Utility Service), Proceeding 281, Application 1605365-1, December 16, 2009.

<sup>158</sup> Decision 2012-068: ATCO Pipelines, ATCO Gas and Pipelines Ltd., CU Inc., Canadian Utilities Limited, Disposition of Surplus Salt Cavern Assets in the Fort Saskatchewan Area, Proceeding 1196, Application 1607245-1, March 16, 2012.

<sup>159</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-012.

<sup>160</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-012(a).

143. Accordingly, the Commission finds that, for 2016 and 2017, the replacement assets were presently used, reasonably used and likely to be used in the future to provide service. However, the Commission does not have sufficient evidence on the record of this proceeding to determine whether certain lines require abandonment because customers have not returned to certain areas or customers will not be permitted to build in the area served by those lines. Therefore, the Commission is not making any determination as to whether all the replacement assets were used or required to be used after 2017.

144. Given the uncertainty of whether all of the repaired and replaced assets continue to be used or required to be used after 2017, the Commission considers that a verification of the continued use of the assets is warranted. Therefore, ATCO Electric is directed to include the following submissions in its compliance filing to this decision:

- (i) whether ATCO Electric has been advised by the municipality of RMWB that certain lines require abandonment because no customers will be permitted to build in the area served by the lines, the location of such lines and the net book value of the related assets;
- (ii) whether all or any of the assets that the Commission found were used or required to be used in 2016 and 2017 continue to be used or required to be used after 2017;
- (iii) a map showing the locations of the assets that do not supply any customers;
- (iv) the net book value of the assets that do not supply any customers;
- (v) for any assets that do not supply any customers, but which ATCO Electric submits are required to be used:
  - (a) the month and year that ATCO Electric expects customers to connect to the assets
  - (b) the basis of the forecast for the month and year that ATCO Electric expects customers to connect to the assets
- (vi) with respect to the assets that the Commission found were used or required to be used in 2016 and 2017, whether UAD principles apply after 2017 so as to exclude all or a portion of these assets from rate base after 2017; and
- (vii) if all or any of the assets that the Commission found were used or required to be used in 2016 and 2017 are no longer used or required to be used in subsequent years, what, if any adjustments to rate base are required and when such adjustments would be made.

#### 5.4.4 Lost revenue

145. In addition to the O&M expenditures and revenue requirement related to the capital expenditures claimed, ATCO Electric also applied to recover \$3.075 million of waived charges in 2016, \$2.597 million of lost revenue for 2016 and \$2.101 million of lost revenue for 2017.<sup>161</sup> ATCO Electric explained that lost revenue arises as a result of the evacuation of customers and an overall decrease in consumption caused by the delay in returning customers as the RMWB recovered from the effects of the wildfire.<sup>162</sup> Customers affected by the May 3, 2016, to June 3, 2016, mandatory evacuation received a one-time credit for this 32-day period; in effect waiving

<sup>161</sup> Exhibit 21609-X0004, application, paragraph 56.

<sup>162</sup> Exhibit 21609-X0004, application, paragraph 22.

fixed charges that were billed during this period. Many customers were not re-energized during the 2016 calendar year due to the destruction of approximately 2,500 homes and businesses.<sup>163</sup>

146. ATCO Electric determined the loss in revenue by calculating the difference between the amount of revenue charged and the estimated revenue that was expected to be received using actual customer charge information over the immediately preceding 12-month period running from May 2015 to April 2016.<sup>164</sup> ATCO Electric submitted that this method provided the most representative information of what each customer's billing charges would have been after the wildfire and takes factors such as rate adjustments, economic activity and weather into account.<sup>165</sup>

147. In response to an IR, ATCO Electric provided the following monthly breakdown of non-active and active sites from May 2016 to December 2017. ATCO Electric explained that it tracked the number of sites that were affected by the RMWB wildfire based on a list of destroyed or materially damaged sites as provided by the RMWB. Each month it examined its billing system to determine if the site was inactive and not being billed or active and being billed and used this information to calculate lost revenue.<sup>166</sup>

**Table 9. Number of damaged non-active and active sites May 2016 to December 2017**

Month	Non-active sites	Active sites
May16	2,560	-
Jun16	2,560	-
Jul16	2,526	34
Aug16	2,521	39
Sep16	2,518	42
Oct16	2,513	47
Nov16	2,490	70
Dec16	2,453	107
Jan17	2,427	133
Feb17	2,360	200
Mar17	2,323	237
Apr17	2,259	301
May17	2,165	395
Jun17	2,108	452
Jul17	2,056	504
Aug17	1,971	589
Sep17	1,880	680
Oct17	1,788	772
Nov17	1,668	892
Dec17	1,556	1,004

Source: Exhibit 21609-X0016, AE-AUC-2018SEP12-006(g-h), tables G-1 and H-1.

<sup>163</sup> Exhibit 21609-X0004, application, paragraphs 57-58.

<sup>164</sup> Exhibit 21609-X0004, application, paragraph 58.

<sup>165</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-006(f).

<sup>166</sup> Exhibit 21609-X0016, AE-AUC-2018SEP12-006(g-h).



148. ATCO Electric argued that its claim for compensation of lost revenue was justified because the loss was not within its control and because it is obligated to provide service at regulated rates.<sup>167</sup> It stated that it lost significant revenue from sites for which it normally would have received revenue had it not been for the wildfire.<sup>168</sup>

### Commission findings

149. A Z factor allows for an adjustment to a company's rates to account for the significant financial impact of an event outside of the control of management. In Decision 2738-D01-2016 and later in Decision 21608-D01-2018, the Commission did not restrict Z factor adjustments to the recovery of replacement costs and operating costs, but also included loss of revenue that would otherwise have been earned, but for the event.<sup>169</sup>

150. The Commission has reviewed the data and information provided by ATCO Electric showing how it calculated the waived charges and lost revenue and finds the methodology used by ATCO Electric to be reasonable.

151. In Section 5.4.3.3, the Commission agreed it was incumbent on ATCO Electric to meet its obligation to supply service to active sites, and to inactive sites, to ensure that facilities were in place to provide utility service to its customers when they returned. The Commission acknowledges that ATCO Electric lost significant revenue from sites for which it normally would have received revenue had it not been for the wildfire. However, given the terms of Section 14.1 of ATCO Electric's Customer Terms and Conditions for Electric Distribution Service, approved by the Commission in Decision 23895-D01-2018,<sup>170</sup> it is not clear to the Commission that, but for the wildfire, ATCO Electric would have received revenues from all inactive sites after April 2017. This section of the Customer Terms and Conditions for Electric Distribution Service permits ATCO Electric to permanently disconnect a service if the service has been disconnected for greater than 12 months, finalize customer billing for that service and, at its discretion, remove the related facilities unless the customer, or the customer's retailer, agrees to pay idle service charges. After a year of inactivity, the Commission would have expected ATCO Electric to exercise its right to permanently disconnect a service if it was not receiving revenues from that service. Therefore, in the Commission's view, ATCO Electric should not have any expectation that revenue from inactive sites should be recovered after April 2017.

152. The Commission finds that the waived charges and revenue lost for 2016 as a result of the RMWB wildfire are eligible for inclusion in the Z factor adjustment, and are therefore recoverable. However, given the ability of ATCO Electric to disconnect a service after 12 months where it is not receiving any revenue from that service, the Commission denies Z factor treatment for the lost revenue for sites that remained inactive after May 2, 2017, 12 months after the start of the mandatory evacuation period.

---

<sup>167</sup> Exhibit 21609-X0022, ATCO-CCA-2018SEP12-006(n).

<sup>168</sup> Exhibit 21609-X0034, AE-AUC-2018OCT18-009(a).

<sup>169</sup> Decision 2738-D01-2016, paragraph 43.

<sup>170</sup> Decision 23895-D01-2018: ATCO Electric Ltd., 2019 Annual Performance-Based Regulation Rate Adjustment Filing, Proceeding 23895, December 18, 2018.

## 6 Commission conclusions on the Z factor adjustment

153. In Section 4 of this decision, the Commission denied Z factor treatment for the capital costs incurred as a result of the Boundary Lake area and Fox Creek wildfires. In Section 5, the Commission determined that most of the O&M costs, all of the capital additions, and all of the 2016 lost revenue related to the RMWB wildfire, for which ATCO Electric proposed a Z factor adjustment were prudent. In Section 5.4.1, the Commission denied certain labour and IT costs and determined that a correction to the insurance proceeds received by ATCO Electric is required. In Section 5.4.4, the Commission denied certain lost revenue for 2017.

154. In the application, ATCO Electric sought approval for a recovery mechanism for the applied-for Z factor amount. ATCO Electric requested that this recovery mechanism be approved when more information is available regarding the timing of the decision in this proceeding, as well as other proceedings that would possibly impact the recovery of the approved Z factor amounts.<sup>171</sup>

155. Since the filing of the current application, in Decision 23895-D01-2018, the Commission approved a 90 per cent Z factor placeholder to be included in ATCO Electric's 2019 PBR rates, subject to true up in subsequent PBR annual filings to reflect the approved amount.<sup>172</sup>

156. Given the above, the Commission directs ATCO Electric, in the compliance filing to this decision, to remove any costs associated with the Boundary Lake area and Fox Creek wildfires, recalculate the revenue requirement for 2016 and 2017, identify and remove the manager and supervisory labour costs from the O&M expenditures, adjust the insurance proceeds amount, adjust the IT service costs to reflect the directions in Decision 20514-D02-2019, recalculate the lost revenue for 2017 by excluding inactive sites after May 2, 2017, and recalculate the total Z factor amount for 2016 and 2017 to reflect these adjustments.

---

<sup>171</sup> Exhibit 21609-X0004, application, paragraph 5.

<sup>172</sup> Decision 23895-D01-2018, paragraph 69.

**7 Order**

157. It is hereby ordered that:

- (1) ATCO Electric Ltd. is directed to file a compliance filing application in accordance with the directions within this decision on or before November 13, 2019.

Dated on October 2, 2019.

**Alberta Utilities Commission**

*(original signed by)*

Neil Jamieson  
Panel Chair

*(original signed by)*

Mark Kolesar  
Chair

*(original signed by)*

Kristi Sebalj  
Commission Member



**Appendix 1 – Proceeding participants**

<b>Name of organization (abbreviation) Company name of counsel or representative</b>
ATCO Electric Ltd. Bennett Jones LLP
Consumers' Coalition of Alberta (CCA)
Office of the Utilities Consumer Advocate (UCA) Reynolds, Mirth, Richards & Farmer LLP

Alberta Utilities Commission
Commission panel N. Jamieson, Panel Chair M. Kolesar, Chair K. Sebalj, Commission Member
Commission staff S. Sajnovics (Commission counsel) A. Corsi E. Deryabina

## 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 determinations and as further discussed in this decision, the Commission directs that ATCO Electric make certain adjustments to the applied-for amounts and provide specific information in the compliance filing to this decision. .... paragraph 2
2. The magnitude of the adjustments for 2017 as directed in Section 6 are more significant relative to the 2017 materiality threshold of \$2.370 million. The Commission cannot therefore determine in this decision whether ATCO Electric’s Z factor for 2017 is material. The Commission therefore directs ATCO Electric to reassess whether its Z factor for 2017 satisfies the materiality threshold requirement of Criterion 2 in its compliance filing to this decision. .... paragraph 41
3. Consistent with the findings in Decision 20514-D02-2019, including that the IT services sourcing strategy was not prudent, the Commission finds that the IT costs paid to Wipro as applied for in this application were not prudently incurred. The Commission does not accept ATCO Electric’s explanation above and as such, directs ATCO Electric to adjust the \$0.061 million paid to Wipro to reflect the Commission’s disallowance and glide path reductions as directed in Section 6 of Decision 20514-D02-2019 and to clearly show all calculations in the compliance filing to this decision. .... paragraph 79
4. Accordingly, for regulatory purposes the RMWB wildfire gives rise to an extraordinary retirement of the destroyed assets. As a result of these findings, the principles established by Stores Block and the related Court of Appeal decisions dictate that the remaining net book value of the destroyed assets associated with the RMWB wildfire must be for the account of the ATCO Electric shareholders. ATCO Electric is directed, in the compliance filing to this decision, to provide all accounting entries reflecting the retirement of the assets destroyed by the RMWB wildfire. .... paragraph 128
5. Given the uncertainty of whether all of the repaired and replaced assets continue to be used or required to be used after 2017, the Commission considers that a verification of the continued use of the assets is warranted. Therefore, ATCO Electric is directed to include the following submissions in its compliance filing to this decision:
  - (i) whether ATCO Electric has been advised by the municipality of RMWB that certain lines require abandonment because no customers will be permitted to build in the area served by the lines, the location of such lines and the net book value of the related assets;
  - (ii) whether all or any of the assets that the Commission found were used or required to be used in 2016 and 2017 continue to be used or required to be used after 2017;
  - (iii) a map showing the locations of the assets that do not supply any customers;
  - (iv) the net book value of the assets that do not supply any customers;

- (v) for any assets that do not supply any customers, but which ATCO Electric submits are required to be used:
  - (a) the month and year that ATCO Electric expects customers to connect to the assets
  - (b) the basis of the forecast for the month and year that ATCO Electric expects customers to connect to the assets
- (vi) with respect to the assets that the Commission found were used or required to be used in 2016 and 2017, whether UAD principles apply after 2017 so as to exclude all or a portion of these assets from rate base after 2017; and
- (vii) if all or any of the assets that the Commission found were used or required to be used in 2016 and 2017 are no longer used or required to be used in subsequent years, what, if any adjustments to rate base are required and when such adjustments would be made. .... paragraph 144

6. Given the above, the Commission directs ATCO Electric, in the compliance filing to this decision, to remove any costs associated with the Boundary Lake area and Fox Creek wildfires, recalculate the revenue requirement for 2016 and 2017, identify and remove the manager and supervisory labour costs from the O&M expenditures, adjust the insurance proceeds amount, adjust the IT service costs to reflect the directions in Decision 20514-D02-2019, recalculate the lost revenue for 2017 by excluding inactive sites after May 2, 2017, and recalculate the total Z factor amount for 2016 and 2017 to reflect these adjustments. .... paragraph 156

7. It is hereby ordered that:  
 ATCO Electric Ltd. is directed to file a compliance filing application in accordance with the directions within this decision on or before November 13, 2019 . .... paragraph 157