

**BEFORE THE ALBERTA UTILITIES COMMISSION**

**IN THE MATTER OF** the *Alberta Utilities Commission Act*, SA 2007 c A-37.2 (the "**AUC Act**"),  
and Alberta Utilities Commission ("**Commission**" or "**AUC**") *Rule 007: Facility Applications*  
("**Rule 007**").

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**COMMENTS OF ATCO GAS AND PIPELINES LTD. AND ATCO ELECTRIC LTD. ON  
PROPOSED AMENDMENTS TO ALBERTA UTILITIES COMMISSION RULE 007**

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May 23, 2025

## I. INTRODUCTION

1. On May 2, 2024, the Commission issued Bulletin 2024-08, which advised that the Commission would be conducting a review of *Rule 007* (as it then existed) and initiated a series of consultations on specific topics in relation thereto. On March 24, 2025, the Commission issued Bulletin 2025-02, which advised that it has issued a draft blackline version of the rule formerly known as *Rule 007: Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines* (the "**Blackline**") based on the feedback received through its written and oral consultation and certain other considerations. Bulletin 2025-02 invited interested parties to submit written feedback on the Blackline until May 23, 2025.

2. ATCO Gas and Pipelines Ltd. and ATCO Electric Ltd. (together, "**ATCO**") appreciate the opportunity to submit feedback on the Blackline, and provide the following comments for the Commission's consideration.

## II. COMMENTS OF ATCO ON THE BLACKLINE

3. ATCO provides the following substantive comments on certain proposed amendments below.

### A. TS35 & GU34 – Historical Resources

4. ATCO has significant concerns with the proposed TS35 and GU34 requirements in relation to applications for transmission lines, substations, and other transmission facilities and gas utility pipelines, respectively. As proposed, TS35 and GU34 would require an applicant to "[p]rovide the *Historical Resources Act* approval"<sup>1</sup> at the time of filing their facility application under *Rule 007*. Currently, TS31 (proposed TS35) and GU33 (proposed GU34) require an applicant to "[c]onfirm that a *Historical Resources Act* approval has been obtained or has been applied for" [emphasis added].

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<sup>1</sup> *Historical Resources Act*, RSA 2000, c H-9.

5. For the reasons outlined below, ATCO submits that requiring an applicant to undergo and complete the *Historical Resources Act* ("**HRA**") clearance process and obtain an approval before filing their facility application under *Rule 007* would impair regulatory and economic efficiency, increase project complexity and uncertainty, and extend project timelines and introduce a real risk of substantial project delays, all while resulting in limited to no additional benefits and contradicting the red tape reduction initiatives undertaken by the Commission over the last several years.

#### **A.1 The Proposed Changes Increase Regulatory Burden and Inefficiencies**

6. As the Commission is aware, depending on the scope of a proposed facility, a large amount of pre-filing work may be required to prepare an application for transmission facilities or gas utility pipelines, including work in respect of public engagement, engineering and feasibility studies, and route selection. It is not until such work is completed that preferred and potentially alternate routes are selected and an application can be assembled. However, the majority of such work must also be completed prior to submitting an application for approval under the *HRA* given that Alberta Art, Culture, and Status of Women ("**AACSW**") will only accept an *HRA* application once the footprint is nearly finalized.

7. In effect, applicants would now be required to conduct the potentially extensive requisite pre-filing work before submitting an *HRA* approval application, at which point they would then be forced to wait until the completion of the *HRA* clearance process before they can file their facility application under *Rule 007*. Such a framework would add an additional stage to the regulatory process and result in sequential regulatory applications when they can presently be processed concurrently in time. If field work is required as part of the *HRA* process, there may be additional seasonal or other timing restrictions that impose further delays and increase the overall amount of time before a facility

application can be filed under *Rule 007*. Among other things, this would have the effect of impairing regulatory efficiency, introducing delays and extending project timelines, and increasing project costs.

8. Moreover, it is not uncommon for multiple routes to be proposed in an application for a linear project. Under the current *Rule 007* requirements, applicants for linear projects can obtain an *HRA* approval upon satisfying *HRA* requirements, which often include a historic resource impact assessment ("**HRIA**"), in respect of the proposed final route, provided that further *HRA* requirements or HRIAs may be required if alternative routes are reinstated. Such an *HRA* approval was obtained in respect of the Central East Transfer-out Transmission Development Project, which facilitated regulatory and economic efficiencies in that case.

9. To the extent that the proposed TS35 and GU34 requirements would require an applicant to complete all *HRA* requirements (potentially including multiple HRIAs) and obtain *HRA* approval in respect of all proposed routes prior to filing the facility application, such added complexity and increased regulatory burden would further complicate project planning and execution, introduce further inefficiencies, and further increase project costs.

10. It is also not uncommon for the proposed or preferred route(s) to change throughout the course of a Commission proceeding following the submission of the facility application. Requiring an applicant to undergo the entirety of the *HRA* approval process in respect of routes that may be subject to change would significantly exacerbate the above-mentioned inefficiencies.

## **A.2 *HRA* Clearance Process can be Onerous and Lengthy**

11. The new regulatory process proposed in the Blackline is particularly problematic given that the *HRA* clearance process is not a straightforward administrative exercise; rather, as detailed below, it can

be, and often is, an onerous undertaking. This is especially the case in the context of linear projects, such as transmission lines and gas utility pipelines.

12. After the initial submission of a nearly final footprint, AACWS will conduct a review that typically takes 1-4 months. Upon completion of that review, AACWS will issue an "*HRA* Requirements Letter" setting out the conditions that the applicant must meet to obtain approval. In the context of applications for linear projects, such conditions may require a HRIA pursuant to section 37(2) of the *HRA*, which involves an archaeological survey with ground truthing and shovel testing and may require deep testing using heavy equipment.

13. Following the completion of the HRIA, a report must be prepared. Preparing a HRIA report typically takes four weeks or longer, depending on the results of the HRIA. AACWS then reviews the HRIA report. As a conservative estimate, this review process typically takes 1-4 months.

14. If historic resources are identified within the project footprint or the project footprint crosses known historic resources, and they are considered to be significant by AACSW (i.e., HRV 1, 2, 3 or 4), a Stage 1 historic resource impact mitigation ("**HRIM**") will likely be required. AACSW will prescribe the required work, which will typically be a certain amount of excavation that must be conducted to collect enough scientific data to ensure that impacts to the historic resource are mitigated. After the HRIM is complete, the applicant must prepare another report and submit another *HRA* application. AACSW's review of those materials typically takes another 1-4 months.

15. Following AACSW's review, it would decide whether the Stage 1 HRIM collected enough data to mitigate impacts to the historic resource. If AACSW determines further scientific data is required or the historic resource has scientific information potential, it will prescribe a Stage 2 HRIM. The scope of a Stage 2 HRIM is typically larger than the prescription for the Stage 1 HRIM. Following the completion of the Stage 2 HRIM, the applicant must prepare another report and submit another *HRA*

application, which would result in another 1-4 month review period. Following AACSW's review, a Stage 3 HRIM may be required for very significant sites.

16. In short, the *HRA* approval process for linear projects, including the requisite pre-application work and any timing restraints on field work, can be, and often is, an onerous and lengthy process. Based on the higher end of the timing estimates provided above, this process could take up to 12 months to complete or perhaps even longer in certain circumstances. The significance of the implications flowing from the requirement to undergo and complete the *HRA* clearance process before applicants are permitted to file their facility application under *Rule 007* cannot be overstated.

### **A.3 Current Process is Sufficient**

17. The current TS31 and GU33 requirements, which permit applicants to provide confirmation that an *HRA* approval has been applied for before filing their facility application under *Rule 007*, provide the necessary flexibility to undergo the *HRA* clearance process concurrently with their facility application process. The current process facilitates efficient and timely approvals, which are necessary to meet customer in-service dates.

18. For example, in Proceeding 24827 regarding ATCO's Northwest Calgary Connector Pipeline Project ("**NWCC Project**"),<sup>2</sup> ATCO explained that it had submitted a historical resources application to Alberta Culture and Tourism for clearance under the *HRA*, and stated that would not start construction of the pipeline until *HRA* approval has been obtained and that it would abide by the conditions set out in the approval.<sup>3</sup> In Decision 24827-D01-2020, the Commission concluded that the NWCC Project was in the public interest and "acknowledge[d] that ATCO Pipelines will have to obtain

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<sup>2</sup> See Commission Decision 24827-D01-2020, *Northwest Calgary Connector Pipeline Project* (April 1, 2020).

<sup>3</sup> *Ibid* at para 75; Exhibit 24827-X0001, PDF p. 8.

a *Historical Resources Act* approval from Alberta Culture and Tourism prior to construction of the project and abide by the conditions set out in that approval."<sup>4</sup>

19. ATCO obtained Commission approval of the NWCC Project on April 1, 2020, approximately eight months after filing its application on August 22, 2019. In addition, ATCO initially submitted its *HRA* application for the NWCC Project on September 25, 2018, and did not receive approval until January 8, 2020, approximately 16 months after filing. Under the proposed TS35 and GU34 requirements, the NWCC Project would have required a cumulative **23** months from ATCO's submission of the *HRA* approval application and its receipt of Commission approval. This example, among many others, illustrates the real potential for major project delays resulting from the proposed TS35 and GU34 requirements.

20. Another example of the importance of these processes occurring in parallel is the ATCO Project RESC Oyen Wind. The *HRA* application was submitted on April 9, 2024, however, it was determined that an *HRIA* was required. ATCO has only received final approval for this project as of May 21, 2025. In this case, ATCO was still able to file the corresponding facilities application on December 4, 2024. Under the proposed changes to Rule 007, the facilities application would have been extended approximately five months in order to wait for *HRIA* approval, which would negatively impact customers and the in-service-date.

21. ATCO submits that the requirement to obtain *HRA* approval prior to commencing construction of a project, while allowing applicants to undertake the *HRA* approval process concurrently with their facility application under *Rule 007*, is an effective means to achieve the goal of protecting historic resources. As in the NWCC Project and RESC Oyen Wind, ATCO would ensure that approval from both the Commission and AACWS is obtained before commencing construction. Therefore, there is

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<sup>4</sup> *Ibid* at para 98.

no benefit to receiving *HRA* approval prior to filing a facility application with the Commission given that the Commission ultimately approves the final route prior to construction.

22. For the foregoing reasons, ATCO submits that the proposed TS35 and GU34 requirements would significantly impair regulatory efficiency in respect of project applications and introduce a real risk of substantial delays and cost increases thereto. In contrast, ATCO submits that the current TS31 and GU33 requirements promote regulatory efficiency and adequately protect historic resources. Accordingly, ATCO requests that the amendments to the current TS31 and GU33 requirements as reflected in the proposed TS35 and GU34 requirements be reverted to require an applicant to confirm that a *HRA* approval has been obtained or has been applied for, instead of requiring an applicant to provide a *HRA* approval as part of its *Rule 007* facility application.

**B. TS27 & GU26 – Environmental Evaluation Qualifications**

23. ATCO submits that additional clarity is necessary with respect to the proposed TS27 and GU26 requirements in relation to applications for transmission lines, substations, and other transmission facilities and gas utility pipelines, respectively. Among other things, the proposed TS27 and GU26 requirements add additional environmental informational requirements, including that the applicant "[l]ist the qualifications of the individual(s) who conducted or oversaw the environmental evaluation and indicate the respective practice areas, practice standards or standards of competence demonstrated by these individuals" [emphasis added].

24. ATCO is unclear on the meaning of the terms "practice areas", "practice standards", and "standards of competence" as outlined above, and requests that the Commission provide further clarification on this point. Additionally, ATCO submits that providing all definitions and standards can be overly burdensome when those definitions can be found within the standards.



**C. Appendix A1-B – Participant involvement program guidelines for Indigenous groups**

25. ATCO submits that additional reference to the exemptions described in Sections 13.1 and 13.2 is required in Section 5, as ATCO considers that the proposed addition may be misinterpreted to include all Indigenous lands, including those that are exempt. Further, ATCO submits that clarification is required in Section 6 regarding what is considered as proof of project submission to Indigenous Service Canada (ISC). ATCO is of the view that email communication of project submission to the ISC should be sufficient proof.

**III. CONCLUSION**

26. ATCO thanks the Commission for the opportunity to provide comments on the Blackline, and requests that the Commission consider ATCO's comments provided herein as it proceeds with its review of *Rule 007*. In particular, ATCO requests that the amendments to the current TS31 and GU33 requirements, as reflected in the proposed TS35 and GU34 requirements, be reverted to maintain the status quo.

27. Please contact the undersigned with any questions.

Submitted this 23<sup>rd</sup> day of May, 2025.

**ATCO Gas and Pipelines Ltd. and ATCO Electric Ltd.**

Per: \_\_\_\_\_  
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