

NATURAL GAS DISTRIBUTION SYSTEM TAX AGREEMENT

2025

BETWEEN:

THE CITY OF CALGARY

-AND-

ATCO GAS AND PIPELINES LTD.

NATURAL GAS DISTRIBUTION SYSTEM TAX AGREEMENT

THIS AGREEMENT made the ____ day of July 2025

BETWEEEN:

THE CITY OF CALGARY, a municipal corporation established
pursuant to the laws of the Province of Alberta
(hereinafter the “**Municipality**”)

OF THE FIRST PART

-and-

ATCO Gas and Pipelines Ltd., a corporation having its head office at the
City of Edmonton, in the Province of Alberta
(hereinafter “**Company**”)

OF THE SECOND PART

WHEREAS pursuant to an agreement dated October 24, 1958 (the “**Tax Agreement**”) between the Municipality and the Company (collectively, the “**Parties**”), as amended on January 1, 1964, January 1, 1967, August 1, 1974, and April 30, 1991, and most recently approved by the Board of Public Utilities Commissioners (“**PUB**”) by way of Order No. C91009 dated April 30, 1991, it was agreed that, during the term of the Tax Agreement, the Company would pay and the Municipality would accept a franchise fee equal to certain of its actual gross revenues from the sale of natural gas to consumers within the Municipality in lieu of paying certain taxes and other fees and charges to the Municipality under the *Municipal Government Act* (Alberta) (the “**MGA**”) other than special frontage assessment or taxes on property not used by the Company in producing, selling and distributing natural gas;

AND WHEREAS as a result of amendments to the MGA and *Gas Utilities Act* (Alberta) in 2024, the Parties executed a Natural Gas Distribution System Franchise Agreement under section 45 of the MGA with an effective date of March 1, 2025 (“**Franchise Agreement**”);

AND WHEREAS the Franchise Agreement was approved by the Alberta Utilities Commission, as established under the *Alberta Utilities Commission Act* (Alberta) (“**Commission**”), on February 13, 2025;

AND WHEREAS Canadian Western Natural Gas Company Limited and ATCO Gas and Pipelines Ltd. amalgamated on January 1, 1989, and continued as one corporation under the name ATCO Gas and Pipelines Ltd. Notwithstanding the amalgamation, title to some properties remain in the name Canadian Western Natural Gas Company;

AND WHEREAS section 360(1.1) of the MGA provides that a council may make a tax agreement with an operator of a public utility or of linear property who occupies the municipality's property, including property under the direction, control and management of the municipality;

AND WHEREAS section 360(2) of the MGA provides that instead of paying the tax imposed under Division 2 of Part 10 of the MGA and any other fees or charges payable to the municipality, a tax agreement may provide for an annual payment to the municipality by the operator calculated as provided in the agreement;

AND WHEREAS section 360(3) of the MGA provides that a tax agreement must provide that the municipality accepts payment of the amount calculated under the agreement in place of the tax and other fees or charges specified in the agreement;

AND WHEREAS section 360(5) of the MGA provides that a tax agreement under section 360 of the MGA with an operator who is subject to regulation by the Commission is of no effect unless it is approved by the Commission;

AND WHEREAS the Parties have agreed to enter into a tax agreement under section 360 of the MGA with respect to the tax imposed under Division 2 of Part 10 of the MGA.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises herein contained, the Parties hereby agree as follows:

1) **Definitions**

Unless otherwise expressly provided in this Agreement, the words, phrases and expressions in this Agreement will have the meanings attributed to them as follows:

- a) **"Agreement"** means this Natural Gas Distribution System Tax Agreement;
- b) **"Assessed Person"** has the meaning as set out in the section 304 of the MGA.
- c) **"Commission"** shall have the meaning set out in the Recitals;

- d) “**Company**” means the Party of the second part to this Agreement and includes its successors and permitted assigns.
- e) “**Council**” means the municipal council of The City of Calgary;
- f) “**Electronic Format**” means any document or other means of communication that is created, recorded, transmitted or stored in digital form or in any other intangible form by electronic, magnetic or optical means or by any other computer-related means that have similar capabilities for creation, recording, transmission or storage;
- g) “**Franchise Agreement**” shall have the meaning set out in the Recitals;
- h) “**Legislation**” means all applicable provincial and federal statutes and regulations;
- i) “**MGA**” shall have the meaning set out in the Recitals;
- j) “**Municipality**” means the Party of the first part of this Agreement;
- k) “**Party**” means any party to this Agreement and “**Parties**” means all of the parties to this Agreement;
- l) “**Person**” includes any individual, corporation, limited liability company, unlimited liability company, body corporate, partnership, limited partnership, limited liability partnership, firm, joint venture, syndicate, association, capital venture fund, trust, trustee, executor, administrator, legal personal representative, estate, government, governmental authority and any other form of entity or organization, whether or not having legal status;
- m) “**PUB**” shall have the meaning set out in the Recitals;
- n) “**Tax Agreement**” shall have the meaning set out in the Recitals;
- o) “**Term**” means the term of this Agreement set out in paragraph 3; and
- p) “**Third Party**” means a Person other than the Parties, but does not include any subsidiary or affiliate of a Party.

2) **Scope of Agreement**

This Agreement is effective only within the Municipality.

3) **Term**

- a) This Agreement will be for a term of three (3) years, commencing on March 1, 2025 and expiring on the earlier of (a) December 31, 2027 and (b) termination pursuant to subparagraph 3(b).
- b) This Agreement shall terminate immediately on the earliest of the following:
 - (i) the termination of the Franchise Agreement;
 - (ii) written notice from the Municipality to terminate pursuant to subparagraph 6(b) of this Agreement; and
 - (iii) written agreement of the Parties to terminate the Agreement.
- c) Either Party may request to renegotiate the terms of this Agreement by providing written notice to the other Party at least ninety (90) days prior to the desired renegotiation date. If the Parties are unable to re-negotiate the Agreement, then the unresolved matters may be referred, by either Party, to arbitration in accordance with the provisions of paragraph 8 for resolution.

4) **Municipal Taxes**

- a) Instead of paying the municipal tax imposed under Division 2 of, Part 10 of the MGA, the Company will provide for payment to the Municipality consisting of the franchise fee pursuant to the Franchise Agreement.
- b) The Municipality shall accept the payments made to it by the Company throughout the Term of this Agreement as specified in sub-paragraph 4(a) in lieu of municipal tax imposed under Division 2 of Part 10 of the MGA payable by the Company to the Municipality. This applies to all properties where the Company is the Assessed Person and where the properties are used for the purpose of buying, producing, selling, transporting and distributing natural gas.
- c) The Company shall not pay any municipal taxes for each and every year of the Term of this Agreement but shall receive at the same time as the Municipality's other taxpayers, assessment and tax notices.

- d) Upon the termination of the Agreement, the Company acknowledges and agrees that municipal taxes shall be imposed upon the Company under Division 2 of Part of 10 of the MGA going forward, including a prorated portion for any balance of a taxation year, and be payable by the Company to the Municipality.

5) **Subject to Commission Approval**

The Parties acknowledge that this Agreement shall not take effect until it receives approval from the Commission. The Parties further agree to cooperate and undertake any reasonable actions to secure such approval.

6) **Assignment**

- a) The Company shall not assign this Agreement in whole or in part without the prior written consent of the Municipality, which consent may be withheld in the Municipality's sole discretion.
- b) If the Company assigns the Franchise Agreement to a Third Party, the Municipality shall be entitled in its sole discretion to terminate this Agreement by providing written notice to the Company.

7) **Notices**

- a) All notices, demands, requests, consents or approvals required or permitted to be given pursuant to the terms of this Agreement will be in writing and will be deemed to have been properly given if personally served, sent by registered mail or sent in Electronic Format to the Municipality or to the Company as the case maybe, at the addresses set forth below:

- i) To the Company:

ATCO Gas and Pipelines Ltd
5302 Forand Street, SW
Calgary, Alberta T3E 8B4

Attention: Vice President, Operations
Telephone: (403) 292-7500

with a copy to:

franchisecoordinatorgas@atco.com
propertytax@atco.com

ii) To the Municipality:

The City of Calgary
Chief Financial Office (#8065)
P.O. Box 2100, Station M
2nd Floor, 800 Macleod Trail SE
Calgary, Alberta
T2P 2M5

Attention: Chief Financial Officer
Fax No.: (403) 268-2578

with a copy to:

The City of Calgary
Law Department (#8053)
P.O. Box 2100, Station "M"
12th Floor, 800 Macleod Trail S.E.
Calgary, Alberta
T2P 2M5

Attention: City Solicitor & General Counsel
Fax No.: (403) 268-4634

- b) Each Party may, from time to time, by notice to the other, change their address or the Persons authorized to receive communications.
- c) The date of receipt of any such notice as given above, will be deemed to be as follows:
- i) in the case of personal service, the date of service;
 - ii) in the case of registered mail, the seventh (7th) business day following the date of delivery to the Post Office, provided, however, in the event of an interruption of normal mail service, receipt will be deemed to be the seventh (7th) day following the date on which normal service is restored; or

- iii) in the case of delivery in Electronic Format, the date the notice was actually received by the recipient or, if not a business day, then the next business day.

8) **Dispute Settlement**

- a) If any dispute or controversy of any kind of nature arises relating to this Agreement or the Parties' rights or obligations hereunder, the Parties agree such dispute or controversy will be resolved by negotiation, and where such negotiation does not result in the settlement of the matter within thirty (30) days of notice of such dispute being provided by one Party to the other Party, and to the extent permitted by law, the Company and Municipality agree the unresolved disputes pertaining to this Agreement will be submitted to arbitration for determination and may be commenced by either Party providing written notice to the other Party stating the dispute to be submitted to arbitration.

The Parties will attempt to appoint a mutually satisfactory arbitrator within ten (10) business days of the said notice. In the event the Parties cannot agree on a single arbitrator within the ten (10) business days, the dispute will be forwarded to the Commission for resolution or determination.

In the event the Commission declines to assist to assist in resolving the dispute or declines to exercise or claim jurisdiction respecting the dispute, both Parties agree to have the dispute resolved by an arbitration panel in accordance with the following procedure.

Each Party will appoint an arbitrator within the ten (10) business days thereafter by written notice, and the two arbitrators will, together, appoint a third arbitrator within twenty-five (25) business days of written notice for arbitration. The dispute will be heard by arbitration panel within forty-five (45) business days of the written notice for arbitration unless extended by mutual agreement between the Parties. The arbitration panel will render a decision within twenty (20) business days of the last day of hearing. Subject to any award of costs by the arbitration panel, each Party will be responsible for its own costs incurred during the arbitration process and one half of the cost of the arbitrator chosen.

Except as otherwise expressly provided in this Agreement, the provisions of the *Arbitration Act (Alberta)* (as amended from time to time) will apply to any arbitration undertaken under this Agreement subject always to the Commission's jurisdiction over any matter submitted to arbitration. Pending resolution of any

dispute, the Municipality and the Company will continue to perform their respective obligations hereunder.

- b) The Company will advise the Commission of any dispute submitted to arbitration within ten (10) business days of it being submitted and will advise of the Commission of the results of arbitration within ten (10) business days following receipt of the decision of the arbitrator(s).

9) **Confidentiality**

The Company acknowledges the Municipality is governed by the provisions of *Access to Information Act* (Alberta).

10) **Legislative or Regulatory Change**

- a) If a legislative or regulatory authority, other than the Municipality, acting within its jurisdiction, enacts Legislation, makes orders, or directs or mandates anything which affects any material terms of this Agreement, either Party may notify the other of its intention to re-negotiate the terms and conditions of this Agreement.
- b) If the Parties are unable to re-negotiate the Agreement under subparagraph (a), then the unresolved matters may be referred, by either party, to arbitration in accordance with the provisions of paragraph 8 for resolution.

11) **Entire Agreement**

This Agreement shall constitute the entire agreement between the Parties relating to the taxes imposed pursuant to Division 2 of Part 10 of the MGA, and there are no other related representations, conditions, covenants, or warranties with respect thereto other than those expressed herein.

12) **Severability**

If any of the terms and conditions as contained in this Agreement are at any time during the continuance of this Agreement held by any Court of competent jurisdiction to be invalid or unenforceable in the manner contemplated herein, then such terms and conditions shall be severed from the rest of the said terms and conditions, and such severance shall not affect the enforceability of the remaining terms and conditions in this Agreement.

13) **Governing Laws**

This Agreement shall be governed by and interpreted in accordance with the laws in force in the Province of Alberta and the federal laws of Canada applicable therein, and the Municipality and the Company irrevocably attorn to the jurisdiction of the court of the Province of Alberta.

14) **Interpretation**

- a) All references shall be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.
- b) All references to paragraphs are to this Agreement unless expressly stated otherwise.
- c) The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.
- d) The reference to any legislation or regulations in this Agreement shall be deemed to include all amendments thereto and all regulations thereunder and all legislation, statues or regulation, including all amendments thereto and regulations thereunder, that may be substituted for that legislation or regulation.
- e) The word “shall” is to be read and interpreted as mandatory.
- f) The recitals to this Agreement are incorporated into and form an integral part of this Agreement.

15) **Other Acts**

Each of the Parties covenants and agrees with the other that each shall, from time to time and at all times hereafter, make, do, and execute or cause or procure to be made, done or executed such further acts, deeds and assurances as may be necessary to carry into effect the terms of this Agreement.

16) **Amendments**

This Agreement may not be amended other than by the written agreement of the Parties.

17) **Waiver**

A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver will be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-observance of by anything done or omitted to be done by the other Party.

The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent breach, or non-compliance under this Agreement (whether of the same nature or of any other nature).

18) **Enurement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their successors and permitted assigns.

19) **Counterparts and Electronic Execution**

This Agreement may be executed in counterparts each of which so executed shall constitute one document, notwithstanding that the Parties are not signatories to the same counterpart. Electronic transmission of an executed signature page to this Agreement by a party will be effective as delivery of a manually executed copy of the Agreement by such Party.

[Signature Page follows.]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

THE CITY OF CALGARY

PER: _____

Name: Les Tochor

Title: Chief Financial Officer/GM

PER: _____

Name:

Title:

I/We have the authority to bind the above.

ATCO GAS AND PIPELINES LTD.

PER: _____

Name: Shane Ellis

Title: Vice President, Engineering and Construction

PER: _____

Name: Jacqueline Smith

Title: Vice President, Regulatory

I/We have the authority to bind the above.

APPROVED	
AS TO CONTENT MUNICIPAL ASSESSOR EDWIN LEE	
AS TO FORM LAW, LEGAL SERVICES MITALI KAUL	