

www.albertaMSA.ca



MSA NOTICE OF APPLICATION AND DECISION

Revised Application No. 2004 - 00104
ATCO Electric Ltd.
Request for Extension
to Decision 2004-00102
Code of Conduct Regulation
AR 160/2003

23 April, 2004

MARKET SURVEILLANCE
ADMINISTRATOR

TABLE OF CONTENTS

	PAGE
1 INTRODUCTION.....	1
1.1 Application and Process.....	3
1.1.1 Application.....	3
1.1.2 Process.....	3
2 EXEMPTION APPLICATION.....	3
3 VIEWS OF THE MSA	4
4 MSA DECISION.....	5

APPENDIX A

ATCO Electric Letter dated April 14, 2004	6
--	----------

APPENDIX B

Market Surveillance Administrator Letter dated April 15, 2004	8
--	----------

APPENDIX C

Market Surveillance Administrator Notice to Interested Parties dated April 16, 2004	10
--	-----------

APPENDIX D

ATCO Electric Letter dated April 22, 2004.....	12
Direct Energy Letter dated April 21, 2004	14

MARKET SURVEILLANCE ADMINISTRATOR

ATCO Electric Ltd.

Request for Extension to Approval given in MSA Decision 2004 – 00102

1 INTRODUCTION

On November 25, 2003, the Market Surveillance Administrator (“MSA”) issued its Decision in relation to Application 2003 – 00101 (“Decision”). The Decision was issued pursuant to section 43 of the *Code of Conduct Regulation* AR 160/2003 (“Code”).

The Decision granted approval for the disclosure and use of customer information upon certain conditions, including conditions which effectively established an end date to the approval.

Condition 5 g) stipulated as follows: *In the event that the retail sale transaction involving ATCO Electric and the Direct parties does not close by February 29, 2004, all customer information received from ATCO Electric pursuant to this exemption, and all information derived from that customer information, will be returned to ATCO Electric or destroyed, and the return and destruction will be confirmed to ATCO Electric in writing by the Supervisory Person.*

Condition 6 stipulated as follows: *In the event that the retail sale transaction involving ATCO Electric and the Direct parties does not close by February 29, 2004, ATCO Electric will confirm in writing to the MSA that all customer information provided by ATCO Electric pursuant to this exemption, and all information derived from that customer information, has been returned to ATCO Electric or destroyed, as confirmed to ATCO Electric in writing by the Supervisory Person.*

A copy of the Decision is available on the MSA website www.albertamsa.ca.

By letter dated February 27, 2004, ATCO Electric Ltd. (“ATCO Electric”) requested an extension to the date contained in condition 6 of the Decision. The MSA issued its approval for the extension via email on February 27, 2004 subject to the following stipulation:

The MSA has agreed to extend the exemption to and including April 15, 2004 (that is, amending the February 29, 2004 date in the relevant conditions accordingly), as requested, on the condition(s) that DEML provide to ATCO Electric the revised form of written undertaking contemplated in the request for extension (as set out in the letter from Jim Beckett of today's date) and that ATCO Electric provide written confirmation of same to the MSA, not later than March 5, 2004.

All other terms and conditions attached to the exemption remain as before, except to the extent altered by the change of date from February 29, 2004 to April 15, 2004 agreed to herein.

A copy of Decision 2004-00102 is available on the MSA website www.albertamsa.ca.

In a letter dated April 14, 2004, ATCO Electric notified the MSA that it was requesting another extension to the date by which Direct Energy Marketing Limited (“DEML”) must return certain “scrambled” customer information to ATCO Electric and to request approval to update the “scrambled” customer information which is currently in DEML’s possession.

A copy of the letter received by the MSA from ATCO Electric is attached as Appendix A hereto.

The MSA acknowledged the new requests made by ATCO Electric in a letter dated April 15, 2004 (attached as Appendix B hereto), and indicated that it is treating the requests as a new application. For administrative purposes, the new application has been designated Application 2004-00104 (“Application”). Further, the MSA issued a Notice to Interested Parties (attached as Appendix C hereto) indicating that it had not made a formal decision on how to proceed on the matter. However, the MSA allowed the customer information to continue to reside with the DEML parties in the manner contemplated by Decision 2004-00102, provided that the following conditions were met:

1. The customer information will not be used in any manner by the Direct parties or any person acting on their behalf;
2. The Supervisory Person will forthwith confirm in writing to ATCO Electric that the customer information will not be used in any manner by the Direct parties or any person acting on their behalf during the Application Period;
3. ATCO Electric will forthwith confirm in writing to the MSA that the customer information will not be used in any manner by the Direct parties or any person acting on their behalf during the Application Period; and
4. These confirmations will be delivered to the MSA, attention Rob Spragins, Manager, Investigations, via fax or courier not later than close of business April 19, 2004.

In the event that the foregoing conditions are not met, the MSA specified that the customer information should be handled as required by Decision 2004-00102.

On April 22, 2004, the MSA met with representatives of DEML to discuss the process contemplated by the MSA in relation to consideration of the new application by ATCO Electric. Due to time constraints facing DEML and its obligations with respect to the Regulated Default Supply Amendment Regulation and the Energy Price Setting Plan, it was concluded that there would be minimal benefit of proceeding with the application, as filed.

1.1 Application and Process

1.1.1 Application

By letter dated April 22, 2004, ATCO Electric requested, pursuant to a letter from DEML dated April 21, 2004, that the process initiated by its letter of April 14, 2004 be placed on hold indicating that it was pursuing an alternate course of action. Accordingly, ATCO Electric revised its April 14, 2004 application by requesting an extension to the exemption date specified in Decision 2004 – 00102 from April 15, 2004 to July 1, 2004. For administrative purposes, the MSA has designated ATCO Electric's request as Revised Application 2004 – 00104.

In support of its request, ATCO Electric enclosed correspondence received from DEML dated April 21, 2003 (sic), providing the rationale for extending the date.

A copy of the letter and enclosure received by the MSA from ATCO Electric are attached as Appendix D hereto.

1.1.2 Process

After due consideration of the circumstances, including timing constraints and the extent of due process, the MSA came to the conclusion that the Application should be handled through a concurrent Notice of Application and Decision.

2 EXEMPTION APPLICATION

Section 43 of the Code allows the certain powers in relation to the approval of an exemption or alternate compliance plan.

Section 43 is set out below, for reference.

Alternative compliance arrangements

43(1) An owner or affiliated retailer may apply to the Market Surveillance Administrator

- (a) for an exemption from all or any provision of this Regulation,*
 - (b) for approval of an alternative compliance plan that meets the objectives of this Regulation but in a way that is different from the requirements of this Regulation, or*
 - (c) an exemption from some provisions of this Regulation and an alternative compliance plan for others.*
- (2) The Market Surveillance Administrator must not approve an exemption or an alternative compliance plan unless the Market Surveillance Administrator is satisfied that it is in the public interest to do so and*
- (a) any exemption does not significantly affect the obligations of the applicant or that the obligations can be or will be met in other ways, and*
 - (b) any alternative compliance plan*
 - (i) contains overall, requirements and responsibilities that are at least as stringent as this Regulation,*

- (ii) *is enforceable,*
- (iii) *is in the best interests of customers, and*
- (iv) *would not have any appreciable anti-competitive effects.*

(3) *The Market Surveillance Administrator may approve an exemption or alternative compliance plan with or without changes and with or without conditions, and the exemption or alternative compliance plan remains in effect for the period of time specified by, or until revoked by, the Market Surveillance Administrator.*

3 VIEWS OF THE MSA

Pursuant to section 43 of the Code, the MSA is given the power to approve an exemption where certain criteria are met. While section 43 does not directly address the notion of extending an exemption already granted, in the view of the MSA this power is implied by the wording set out in the regulation. The criteria applicable to the extension would be the same as those applicable to the granting of the exemption at first instance.

A request to extend an exemption can be treated as a distinct application for exemption. Alternatively, such a request may be treated as a new part of the original process.

The MSA has chosen to administer this request for extension as a distinct application. The record of the original proceeding (2003 – 00101) and the subsequent proceeding (2004 – 00102) are brought into the new proceeding in order to provide the necessary context and record in relation to this Application.

Based upon the information provided by ATCO Electric in its letter, and for the reasons set out in the Decision, the MSA is satisfied that the approval granted in the Decision can properly be extended as requested.

The April 15, 2004 set in the Decision 2004 – 00102 provided certainty to the approval granted. That is, condition 5 g) and condition 6 would ensure that the customer information did not remain outside the hands of ATCO Electric if the transaction between ATCO Electric and DEML does not close as contemplated.

The following is excerpted from Section 4.4 of the Decision, in respect of conditions attached to the approved exemption:

The MSA is concerned that the exemption should have a clear expiration date, being some reasonable time after the approval of an exemption by the MSA. The evidence did not show why the Direct parties would need the customer information past the initial testing period and subsequent time needed to make any necessary configuration changes.

The MSA notes that in the event that the retail sale transaction is approved by the EUB and the parties close their transaction as contemplated, the requested disclosure of customer information to the Direct parties would be allowed pursuant to the Code of Conduct Regulation. The exemption therefore seeks to take this into account.

As set out in letter from ATCO Electric (see Appendix D), the parties are still working toward closing their transaction. In addition, other factors such as the Regulated Default Supply Amendment Regulation passed in November 2003, the Energy Price Setting Plan, and DEML's continued need for data for system testing and load forecasting to meet these regulatory requirements are significant factors supporting the need for an extension. Further, the correspondence indicates that, at this time, DEML does not anticipate that a further request for a further extension will be necessary in the future

4 MSA DECISION

Given the need to expedite the Application, the MSA issued its approval for the extension via email on April 23, 2004.

The approval granted on April 23, 2004 is as follows:

The MSA has agreed to extend the exemption to and including July 1, 2004 (that is, amending the April 15, 2004 date in the relevant conditions accordingly), as requested, on the condition(s) that DEML and ATCO Electric provide the equivalent written undertakings as contemplated and set out in Decision 2004 – 00102. ATCO Electric must provide its written confirmation to the MSA, not later than July 7, 2004.

All other terms and conditions attached to the exemption remain as before, except to the extent altered by the change of date from April 15, 2004 to July 1, 2004 agreed to herein.

The MSA thus gives notice that the within Application is approved, and the exemption approved in the Decision therefore extended, as set out above.

Dated at Calgary, Alberta on April 23, 2004.

MARKET SURVEILLANCE ADMINISTRATOR

“Original signed by W.W. (Wayne) Silk on behalf of”

Martin J. Merritt
Market Surveillance Administrator

Appendix A
Appendix B
Appendix C
Appendix D



April 14, 2004

Market Surveillance Administrator
Suite 500, 400 - 5th Avenue S.W.
Calgary, Alberta
T2P 0L6

Sent via email

Attention: Douglas Wilson, Legal Counsel

RE: MSA Decision 2003-00101 (ATCO Electric Request for Exemption)

I am writing this letter to update you on the status of our work on achieving an agreement under which DEML will assume responsibility for providing regulated retail services within the ATCO Gas and ATCO Electric service areas; to request another extension of the date by which DEML must return certain "scrambled" customer information to ATCO Electric; and to request approval to update the "scrambled" customer information which is currently in DEML's possession.

Although both DEML and ATCO are working hard to complete the necessary agreements to transfer the regulated retail services of ATCO Gas and ATCO Electric to DEML, we have not yet completed the necessary agreements. However, in anticipation of successful completion of the agreements, DEML has filed an Energy Price Setting Plan with the EUB. The Plan, which has the support of representatives of consumer groups, contains the terms under which DERS will provide a RRT transition rate to eligible customers in the ATCO Electric service area between July 1, 2004 and June 30, 2006.

As described more fully in the attached letter from Direct Energy Regulated Services (DERS), DERS requires continued access to the data which was provided to them as a result of your decision 2003-00101. This is necessary to fulfill their obligations under the Energy Price Setting Plan. Specifically, DERS is asking ATCO Electric, and ATCO Electric is asking the MSA for permission to:

- 1) Allow DEML to retain the ATCO Electric data already provided to them in "scrambled" form beyond the April 15, 2004 date (which was set in your letter to me of February 27, 2004) to July 1, 2004.

- 2) Provide an additional "scrambled" data set to DEML that reflects ATCO Electric RRT customer information from January 1, 2003 to March 31, 2004.
- 3) Provide REA customer information to DEML that reflects the RRT customer information (again from January 1, 2003 to March 31, 2004) for those REAs which have consented in writing to ATCO Electric granting DEML the right and licence to perform the RRT function on closing of the transaction between the ATCO Group and DEML. This request is supported by an email from Mick Davies, which is included with the DEML correspondence.

ATCO Electric supports the requests of DERS, and respectfully requests MSA approval for these requests.

If I may be of assistance to the MSA on this issue, please do not hesitate to contact me. I would like to express my appreciation in advance of your consideration of this issue.

Yours truly,

Original Signed by W. James Beckett

W. JAMES BECKETT, P. ENG.
EXECUTIVE VICE PRESIDENT, REGULATORY

WJB/pc
Att. (1)
M:\Data\Jim\Letter 2003-04-14 to MSA Compliance with 2003-00101 date extension1.doc

cc: **Robert Hemstock**
Vice-President, Government and Regulatory Affairs, Western Region
Direct Energy Marketing Limited

Mick Davies, Partner
Collins Barrow Red Deer LLP, Chartered Accountants

APPENDIX “B”

April 15, 2004

Delivered via email to: jim.beckett@atcoelectric.com

ATCO Electric Ltd.
10035-105 Street
Edmonton, Alberta
T5J 2V6

ATTENTION: W. JAMES BECKETT

Dear Jim:

RE: “MSA Decision 2003-00101 (ATCO Electric Request for Exemption)”

On behalf of the Market Surveillance Administrator (MSA), I am responding to your letter of April 14, 2004 in relation to these matters.

For reference purposes, I first note that the April 15, 2004 date mentioned in your letter reflects an extension to certain conditions set in Decision 2003-00101. The extension to April 15, 2004 was granted in Decision 2004-00102, dated February 27, 2004.

Also by way of clarity, references to “ATCO”, “Direct parties” and “Supervisory Person” in this letter will have the same meaning as in those Decisions.

As your letter and attachments set out, the extension granted in Decision 2004-00102 requires that if the retail sale transaction between ATCO and the Direct parties does not close by April 15, 2004, the customer information at issue, and all related information, (collectively, the “customer information”) will be returned or destroyed. I would refer to Condition 5g) and Condition 6 of the Decision for the precise wording.

The MSA acknowledges the requests brought forward by your letter of April 14, 2004, and the critical nature of the timing. I can confirm that your letter is being treated as a new application (the “Application”).

Having only received the Application on this timing, the MSA has not concluded its process for review. However, given that the existing extension will expire at the end of today, the MSA does feel it appropriate under the circumstances to clarify its expectations of how the customer information will be handled after today’s date.

While a formal decision in relation to the Application is pending and until further written notice from the MSA in this regard (the "Application Period"), the MSA will allow the customer information to continue to reside with the Direct parties in the manner contemplated by Decision 2004-00102, provided that the following conditions are met:

1. The customer information will not be used in any manner by the Direct parties or any person acting on their behalf;
2. The Supervisory Person will forthwith confirm in writing to ATCO that the customer information will not be used in any manner by the Direct parties or any person acting on their behalf during the Application Period;
3. ATCO will forthwith confirm in writing to the MSA that the customer information will not be used in any manner by the Direct parties or any person acting on their behalf during the Application Period; and
4. These confirmations will be delivered to the MSA, attention Rob Spragins, Manager, Investigations, via fax or courier not later than close of business April 19, 2004.

The MSA will be issuing further communications as to the Application in due course.

In the event that the foregoing conditions are not met, the customer information should be handled as required by Decision 2004-00102.

I trust that the foregoing is clear, and will be of assistance. Please do not hesitate to contact me with any questions or clarifications in relation to these matters.

Yours truly,

"Original signed"

W.W. (Wayne) Silk,
Vice President, C.O.O.,
Market Surveillance Administrator.

cc. Martin Merritt

APPENDIX 'C'

April 16, 2004

Notice to Interested Parties

RE: MSA Decision 2003-00101 (ATCO Electric Request for Exemption from Certain Provisions of the Electric Utilities Act Code of Conduct Regulation, AR 160/2003), and MSA Notice of Application and Decision 2004-00102 (Request for Extension to Decision 2003-00101), and Application 2004-00104 (Request for Extension to Decision 2004-00102).

On November 25, 2003, the Market Surveillance Administrator (“MSA”) issued pursuant to section 43 of the *Code of Conduct Regulation* AR 160/2003 (“Code”) its Decision in relation to Application 2003 – 00101.

The Decision granted approval for the disclosure and use of customer information upon certain conditions, including conditions which effectively established an end date to the approval.

Condition 5 g) stipulated as follows: *In the event that the retail sale transaction involving ATCO and the Direct parties does not close by February 29, 2004, all customer information received from ATCO pursuant to this exemption, and all information derived from that customer information, will be returned to ATCO or destroyed, and the return and destruction will be confirmed to ATCO in writing by the Supervisory Person.*

Condition 6 stipulated as follows: *In the event that the retail sale transaction involving ATCO and the Direct parties does not close by February 29, 2004, ATCO will confirm in writing to the MSA that all customer information provided by ATCO pursuant to this exemption, and all information derived from that customer information, has been returned to ATCO or destroyed, as confirmed to ATCO in writing by the Supervisory Person.*

A copy of Decision 2003-00101 is available on the MSA website www.albertamsa.ca.

By letter dated February 27, 2004, ATCO Electric Ltd. (“ATCO”) requested an extension to the date contained in condition 6 of the Decision. The MSA issued its approval for the extension via email on February 27, 2004 subject to the following stipulation:

The MSA has agreed to extend the exemption to and including April 15, 2004 (that is, amending the February 29, 2004 date in the relevant conditions accordingly), as requested, on the condition(s) that DEML provide to ATCO Electric the revised form of written undertaking contemplated in the request for extension (as set out in the letter from Jim Beckett of today's date) and that ATCO Electric provide written confirmation of same to the MSA, not later than March 5, 2004.

All other terms and conditions attached to the exemption remain as before, except to the extent altered by the change of date from February 29, 2004 to April 15, 2004 agreed to herein.

A copy of Decision 2004-00102 is available on the MSA website www.albertamsa.ca

In a letter dated April 14, 2004, ATCO notified the MSA that it was requesting another extension to the date by which Direct Energy Marketing Limited (“DEML”) must return certain “scrambled” customer information to ATCO and to request approval to update the “scrambled” customer information which is currently in DEML’s possession.

A copy of the letter received by the MSA from ATCO is attached as Appendix A hereto.

The MSA acknowledged the new requests made by ATCO in a letter dated April 15, 2004 (attached as Appendix B hereto), and indicated that it is treating the requests as a new application. For administrative purposes, the new application has been designated Application 2004-00104 (“Application”).

At this point in time, the MSA has not yet determined how to proceed on this matter. However, the MSA believes it is appropriate under the circumstances to clarify its expectations of how the customer information will be handled after April 15, 2004. Pending a formal decision on how to proceed, the MSA will allow the customer information to continue to reside with the Direct parties in the manner contemplated by Decision 2004-00102, provided that the following conditions are met:

1. The customer information will not be used in any manner by the Direct parties or any person acting on their behalf;
2. The Supervisory Person will forthwith confirm in writing to ATCO that the customer information will not be used in any manner by the Direct parties or any person acting on their behalf during the Application Period;
3. ATCO will forthwith confirm in writing to the MSA that the customer information will not be used in any manner by the Direct parties or any person acting on their behalf during the Application Period; and
4. These confirmations will be delivered to the MSA, attention Rob Spragins, Manager, Investigations, via fax or courier not later than close of business April 19, 2004.

In the event that the foregoing conditions are not met, the MSA has specified that the customer information should be handled as required by Decision 2004-00102.

The MSA will be issuing further communications as to the Application in due course.

Please do not hesitate to contact me with any questions or clarifications in relation to these matters.

Robert F. Spragins
Manager, Investigations

APPENDIX "D" (1)

sent via email from ATCO Electric

April 22, 2004

Market Surveillance Administrator
Suite 500, 400 - 5th Avenue S.W.
Calgary, AB T2P 0L6

Attention Douglas Wilson, Legal Counsel

RE: MSA Decision 2003-00101 (ATCO Electric Request for Exemption)

Further to my February 14, 2004 letter, ATCO Electric has received a revised request from Direct Energy for release from certain conditions contained in decision 2003-00101. As a result, I am writing to ask you to place the process initiated by my previous letter on hold, and to consider the following request.

Decision 2003-00101 required Direct Energy to return the customer information provided them to ATCO Electric by February 29, 2004. This date was subsequently extended by the MSA to April 15, 2004. Direct Energy has requested, and ATCO Electric supports, the extension of this date to July 1, 2004. As discussed in further detail in the attached letter from Direct Energy, this date is consistent with the implementation of their proposed Regulated Rate Option.

As a result of this updated request, ATCO Electric is not seeking to provide additional information to Direct Energy in the form of REA information or additional RRT customer load information. Therefore the processes implemented to consider these requests are no longer required.

Again, if there are any questions about this submission, please do not hesitate to contact me.

W. JAMES BECKETT P. ENG.
EXECUTIVE VICE PRESIDENT, REGULATORY

Cc: **Robert Hemstock**
Vice-President, Regulatory Affairs, Western Region
Direct Energy Marketing Limited

Mick Davies, Partner
Collins, Barrow Red Deer LLP, Chartered Accounts
Attach:(1)

APPENDIX "D" (2)



April 21, 2003

VIA E-MAIL

Mr. J. Beckett
Executive Vice President, Regulatory
ATCO Gas and ATCO Electric
10035 105th Street
Edmonton, Alberta T5J 2V6

Dear Jim:

RE: Direct Energy Marketing Limited Request for Disclosure of ATCO Electric Customer Information

By letter dated April 13, 2004 Direct Energy Regulated Services ("DERS") a business unit of Direct Energy Marketing Limited ("DEML"), requested ATCO Electric seek the approval of the Market Surveillance Administrator ("MSA") of the following:

- 1) The MSA extend the date beyond April 15, 2004 to July 1, 2004 upon which DEML must return or destroy the scrambled customer information provided by ATCO Electric;
- 2) ATCO Electric be authorized to provide an updated set of scrambled customer information for the time period January 1, 2003 to March 31, 2004;
- 3) ATCO Electric be authorized to included scrambled REA customer information in the updated data set referred to in 2).

By letter dated April 14, 2004, ATCO Electric sought the above mentioned approvals from the MSA. By letter dated April 15, 2004, the MSA advised ATCO Electric that this matter would be treated as a new application by the MSA.

On April 21, 2004, DEML met with representatives from the MSA to discuss the process contemplated by the MSA in relation to its consideration of the new application. During these discussions it became apparent that it would not be practical for the MSA to deal with the new application within the time frame required by DERS, given DERS' is obligated to deliver a load forecast to the Regulated Rate Tariff ("RRT") Consultation Parties in early May 2004, pursuant to the Energy Price Setting Plan agreed to between DERS and the Consultation Parties. In view of this, DERS has determined that there would be little benefit of proceeding with the new application, as filed.

Therefore, DERS requests ATCO Electric not proceed with its April 14, 2004 application to the MSA at this time. In its place, DERS requests ATCO Electric seek approval from the MSA of the following relief in relation to Decision 2003-00101:

- 1) That the date of February 29, 2004 referred to in conditions 5(g) and 6 contained in the approval granted by the MSA in Decision 2003-00101, be extended to July 1, 2004.

Page 14

The grounds for the extension request to July 1, 2004 are as follows:

Suite 1000, 111 – 5th Avenue S.W.
Calgary, Alberta T2P 3Y6

tel. 403.266-6393 fax 403.266.6684
www.directenergy.com

- (a) DEML and the ATCO Group are continuing to work toward achieving an agreement under which DEML will assume responsibility for providing the Regulated Rate Tariff services to eligible customers in the ATCO Electric service territory and Direct Energy Partnership will perform the role of Default Supply Provider to non-eligible customers in the ATCO Electric service territory. This agreement has not yet been finalized.
- (b) The Regulated Default Supply Amendment Regulation was passed in November 2003 after the initial application to the MSA for release of ATCO Electric customer information to DEML. This new regulation requires the regulated rate tariff provider in the ATCO Electric service territory to provide a RRT transition rate (fixed priced energy rate) commencing July 1, 2004. Following the transaction between DEML and the ATCO Group being finalized, DERS will assume the role of regulated rate tariff provider in the ATCO Electric service territory. DERS has agreed to an Energy Price Setting Plan with representatives of consumers groups ("the Consultation Parties") which contains the terms under which DERS will provide a RRT transition rate to eligible customers in the ATCO Electric service territory between July 1, 2004 and June 30, 2006. Use of the ATCO Electric customer data by DERS for system testing and load forecasting is essential for DERS to comply with its obligations to the Consultation Parties under the Energy Price Setting Plan. An application for approval of the negotiated settlement, including the Energy Price Setting Plan, is presently before the EUB;
- (c) Following the transaction between DEML and the ATCO Group being finalized, Direct Energy Partnership will assume the role of Default Supply Provider to non-eligible customers in the ATCO Electric service territory. Use of the ATCO Electric customer data by Direct Energy Partnership for system testing and load forecasting is essential for Direct Energy Partnership to perform this service.

DEML acknowledges that in Decision 2003-00102 the MSA previously granted an extension of the date referred to in paragraphs 5(g) and 6 of Decision 2003-00101 to April 15, 2004. If the MSA is inclined to grant a further extension to July 1, 2004, DEML does not anticipate, at this time, that a further request for an additional extension will be necessary in the future.

Yours truly,



Robert Hemstock
Vice President, Government & Regulatory Affairs
Western Region
Direct Energy Marketing Limited

/smb