

proceeded with filing a motion for the adoption of a proposed penalty,⁴ and DCG filed comments on AltaGas's motion and filed a cross-motion for the adoption of a different proposed penalty;⁵

WHEREAS, the Commission denied both motions in Order No. 21966 and directed AltaGas to show cause why it should not be assessed the maximum daily penalty under D.C. Code § 34-706 of \$5,000 per day,⁶ and AltaGas filed a response to Order No. 21966, arguing that it should be assessed a lesser penalty than the maximum allowed by D.C. Code § 34-706,⁷ and DCG responded to AltaGas's response, arguing, in turn, that the maximum daily penalty allowed by D.C. Code § 34-706 should be assessed against AltaGas;⁸

WHEREAS, the Parties engaged in ongoing good faith negotiations and have reached an agreement on the penalty to be assessed for AltaGas's non-compliance with Merger Term No. 5 ("Term 5") as determined by the Commission;

NOW, THEREFORE, the Parties agree to the following terms and conditions in full settlement and compromise of AltaGas's non-compliance with Merger Term 5 as determined by the Commission in Order No. 21890 and shall also resolve any and all issues regarding the monetary penalty that AltaGas must pay in connection therewith, including the Commission's order to AltaGas to show cause in Order No. 21966:

Terms:

1. **(Lump Sum Settlement Payment)** As the total and final payment to be imposed in accordance with Term 83 (Penalty Provision) of the Merger Order (Order No. 19396), for its noncompliance through December 31, 2024 with Merger Term 5's five-year deadline to develop or cause to be developed 10 MW of Tier One renewable energy resources in the District as determined by the Commission in Order No. 21890, AltaGas shall pay, within thirty (30) days of a final, non-appealable order approving this Consent Decree without modification, a one-time payment of **\$2,100,000.00** to the General Fund of the District of Columbia (the "Settlement Payment") for purposes DCG deems appropriate.

⁴ FC1142, Motion for Adoption of AltaGas Ltd.'s Proposed Penalty for Breach of Term No. 5 (filed, Nov. 21, 2023).

⁵ FC1142, Dkt. 961 (Dec. 19, 2023).

⁶ FC1142, Order No. 21966 (Mar. 8, 2024).

⁷ FC1142, Dkt. 981 (Mar. 25, 2024).

⁸ FC1142, Dkt. 986 (Apr. 4, 2024). In addition, the Office of People's Counsel of the District of Columbia ("OPC") filed a "Letter in Support" of DCG's comments on and response to AltaGas's response to Order No. 21966. *See* FC1142, Dkt. 989 (Apr. 11, 2024).

2. **(New SREC Agreement and Parental Guaranty)** The Parties understand that AltaGas is requesting a Commission determination that [REDACTED]
[REDACTED]
[REDACTED] is consistent with AltaGas’s obligation to cause the development of 7.6 megawatts (MW) of solar renewable electric generation in the District in fulfillment of its remaining obligations under Merger Order Term No. 5. The Parties understand that DCG expressed concerns about the use of AltaGas’s new SREC agreement and parental guaranty as a means of compliance without the Commission conducting additional due diligence, and nothing herein should be interpreted as an endorsement, agreement, or consent by DCG as to whether AltaGas’s new SREC agreement and parental guaranty, or any similar future agreement, is an appropriate means of compliance with Term 5. However, DCG agrees not to oppose or challenge AltaGas’s request for this Commission determination and further agrees not to challenge any such determination by the Commission. Notwithstanding the foregoing, the Parties agree that AltaGas may defend [REDACTED]
[REDACTED] from challenge by any other party to this proceeding. The Parties agree that the Commission’s determination with respect to whether [REDACTED]
[REDACTED] is consistent with AltaGas’s obligation under Merger Order Term No. 5 is an independent determination by the Commission that will have no bearing on the continuing applicability of the penalty provisions set forth in Paragraphs 1, 9, and 10 of this Consent Decree. The foregoing Paragraphs will continue to apply until AltaGas fulfills its obligation under Merger Term No. 5.
3. **(Additional Agreements as Needed)** The Parties understand and agree that it is AltaGas’s exclusive right to find additional counterparties to develop and construct projects under a similar agreement to the [REDACTED]
[REDACTED].
4. **(2.4 MWs Already Developed)** The Parties understand and agree that the Commission determined in Order No. 21603 and affirmed in Order No. 21890 that AltaGas should be credited with having caused to be developed 2.4 MW out of 10 MW of solar generation capacity, leaving 7.6 MW of solar generation capacity undeveloped under Term 5 as of July 7, 2023.
5. **(Remaining MWs Developed by December 31, 2024)** The Parties understand and agree that at least 7.6 MW of the solar renewable electric generation that AltaGas shall cause to be developed under the [REDACTED]
[REDACTED] is intended to be constructed and in operation by **December 31, 2024.**

6. **(Projects Will Not Participate in Department Of Energy and Environment (DOEE) Programs)** The Parties understand and agree that none of the projects that AltaGas will claim as credit towards fulfilling the remaining 7.6 MW required to be developed or caused to be developed under AltaGas’s Term 5 obligation, which AltaGas will cause to be developed via the [REDACTED] [REDACTED] will participate in the District of Columbia’s Solar for All program, including but not limited to Solar for All’s Community Renewable Energy Facility program.
7. **(Continuing Quarterly Reports)** AltaGas will continue filing quarterly reports with the Commission, pursuant to Order No. 20250, until it has caused all 10.0 MW of solar generation capacity in the District to be constructed and put into operation in accordance with Term 5.
8. **(February 15, 2025 Report Required)** On or by February 15, 2025, AltaGas shall file a report with the Commission stating whether AltaGas caused 10.0 MW of solar generation capacity to be developed in the District of Columbia by December 31, 2024.⁹ If AltaGas causes a total of 10.0 MW of solar generation capacity in the District of Columbia to be constructed and put into operation by December 31, 2024, the Parties agree that this report shall include the following: (i) list all solar projects that AltaGas caused to be developed in compliance with Term 5; (ii) identify the MW of solar renewable generation associated with each project; and (iii) identify the date on which it caused 10.0 MW of solar renewable electric generation in the District to be constructed and achieve commercial operation. If AltaGas causes 10.0 MW of solar generation capacity to be developed in the District of Columbia by December 31, 2024, no further penalty beyond the Lump Sum Payment described in Paragraph 1 of this Consent Decree shall be required and AltaGas’s performance of the actions described in Paragraph 1 of this Consent Decree will release, resolve, and settle any penalty claims against AltaGas for noncompliance with Term No. 5.
9. **(Non-Compliance Resolution Payment if 10 MW Not In Operation by December 31, 2024)** If AltaGas fails to cause a total of 10.0 MW of solar generation capacity in the District of Columbia to be constructed and put into operation by December 31, 2024 but causes a total of 10.0 MW of solar generation capacity in the District of Columbia to be constructed and put into operation by March 31, 2025, and provided that the Commission

⁹ As noted in Paragraphs 4 and 5 of this Consent Decree, the Commission has already credited AltaGas with having developed 2.4 MW of the 10.0 MW of solar generation capacity by July 6, 2023, such that as of July 7, 2023, AltaGas need only cause the development of the remaining 7.6 MW of the 10.0 MW of solar generation capacity in the District of Columbia as provided for in Term No. 5.

has issued a final, non-appealable order approving this Consent Decree without modification:

- a. AltaGas will accrue additional penalties of **\$1,500 per day from January 1, 2025 to March 31, 2025** until the date within that period that it caused to be developed 10.0 MW of solar generation capacity to be constructed and achieve commercial operation in the District of Columbia.¹⁰
- b. On or by May 15, 2025, AltaGas shall file a report with the Commission confirming that AltaGas caused 10.0 MW of solar generation capacity to be developed in the District of Columbia by March 31, 2025. The Parties agree that this report shall include the following: (i) list of all solar projects that AltaGas caused to be developed in compliance with Term 5; (ii) identify the MW of solar renewable generation associated with each project; and (iii) identify the date on which AltaGas caused 10.0 MW of solar renewable electric generation in the District of Columbia to be constructed and achieve commercial operation. If the Commission issues an order finding the same as AltaGas's report, then within thirty (30) days of the Commission order, AltaGas shall pay to DCG the amount that is equivalent to \$1,500 per day for the total number of days within the period from January 1, 2025 to March 31, 2025, inclusive, that AltaGas had not caused to be developed 10.0 MW of solar generation capacity to be constructed and achieve commercial operation.¹¹ Payment under this subparagraph shall be deposited into the Renewable Energy Development Fund (REDF) administered by the Department of Energy and Environment. If AltaGas causes to be developed 10.0 MWs of solar generation capacity to be constructed and achieve commercial operation in the District of Columbia by March 31, 2025, the Parties agree that AltaGas's performance of the actions described in Paragraph 1 and 9 of this Consent Decree will release, resolve, and settle any penalty claims against AltaGas for noncompliance with Term No. 5

10. (Non-Compliance Resolution Payment if 10 MW Not In Operation by March 31, 2025) If AltaGas fails to cause a total of 10.0 MW of solar generation capacity in the District of Columbia to be constructed and put into operation by March 31, 2025, but causes a total of 10.0 MW of solar generation capacity in the District of Columbia to be constructed and put into operation on a date after March 31, 2025 and provided that the

¹⁰ See supra n.9.

¹¹ See supra n.9.

Commission has issued a final, non-appealable order approving this Consent Decree without modification:

- a. AltaGas will accrue additional penalties of **\$3,800 per day from April 1, 2025**, inclusive, until the date it has caused a total of 10.0 MW of solar generation capacity to be constructed and achieve commercial operation in the District of Columbia.¹²
 - b. No later than forty-five (45) days after the date that AltaGas has caused 10.0 MW of solar generation capacity to be constructed and achieve commercial operation in the District of Columbia, AltaGas shall file a report with the Commission confirming that AltaGas caused 10.0 MW of solar generation capacity to be developed in the District of Columbia. The Parties agree that this report shall include the following: (i) list all solar projects that AltaGas caused to be developed in compliance with Term 5; (ii) identify the MW of solar renewable generation associated with each project; and (iii) identify the date on which AltaGas caused 10.0 MW of solar renewable electric generation in the District to be constructed and achieve commercial operation. If the Commission issues an order finding the same as AltaGas's report, then within thirty (30) days of the Commission order, AltaGas shall pay to DCG the amount that is equivalent to \$3,800 per day for the total number of days within the period from April 1, 2025, inclusive, to the day that AltaGas caused 10.0 MW to be constructed and achieve commercial operation,¹³ except that if amounts combined from provisions 9 above and 10 herein should exceed \$2.1 million, then \$2.1 million will be paid to the REDF and the excess amount above \$2.1 million shall be paid to the General Fund of the District of Columbia for purposes that DCG deems appropriate. If AltaGas causes to be developed 10.0 MW of solar generation capacity to be constructed and achieve commercial operation in the District of Columbia by sometime after April 1, 2025, the Parties agree that AltaGas's performance of the actions described in Paragraphs 1, 9, and 10 of this Consent Decree will release, resolve, and settle any penalty claims against AltaGas for noncompliance with Term No. 5.
11. **(Mutual General Releases)** The Parties agree that the Consent Decree, including AltaGas's performance of the actions and reporting described in Paragraphs 1 through 10, represents a full and final resolution of each Party's claims and positions regarding AltaGas's compliance with Term 5, and upon execution of this Consent Decree, the DCG shall not take any actions or pursue any civil or administrative claims relating to any matter

¹² See supra n.9.

¹³ See supra n.9.

expressly addressed in this Consent Decree, with the exception of any actions necessary to enforce the terms of the Consent Decree.

12. **(Joint Motion for Adoption of Consent Decree)** Following the Parties' execution of this Consent Decree, the Parties shall prepare a joint motion for the adoption of the proposed Consent Decree, notify and use reasonable efforts to seek the agreement of the other parties to FC1142 to their agreement to the Consent Decree, and thereafter execute and file a joint motion for the adoption of the proposed Consent Decree.¹⁴
13. **(Adoption and Approval Required)** Unless and until this definitive agreement has been adopted and approved by the Commission without modification, no Party shall have any legal obligation of any kind to the other Party with respect to the subject matter of this Consent Decree, including but not limited to any payment obligations.
14. **(Force Majeure)** The Parties agree and understand that AltaGas may request, and the Commission may grant, an extension of the terms of the Consent Decree based on extraordinary circumstances, such as natural disasters, acts of war or terrorism, or other force majeure circumstances.
15. **(Consent of Other Settling Parties to be Attempted but Not Required)** Upon the execution of this agreement between the Parties, DCG shall deliver to all other parties to the June 5, 2018, settlement agreement executed in FC1142 and approved by the Commission on June 29, 2018 and a copy of the proposed Consent Decree and shall use reasonable efforts to seek and obtain those settling parties' review of and agreement with the Consent Decree. If DCG is unable to obtain all other parties' agreement with the Consent Decree, the Parties will nevertheless file the Consent Decree with the Commission for approval within 7 days of seeking the other parties' agreement. DCG's failure to obtain any other party's agreement to the Consent Decree shall have no bearing on the Commission's approval of the Consent Decree Order approving the terms of this Consent Decree.
16. **(No Waiver of Rights)** The execution of this Consent Decree shall not be deemed to waive any rights of any Party unless expressly stated herein.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

¹⁴ On June 14, 2024, AltaGas filed a letter advising the Commission that the Company reached a tentative agreement and respectfully asked the Commission to hold the matter in abeyance until AltaGas and DCG filed a status update on negotiations concerning the Consent Decree. *See* FC1142, Dkt. 1007 (June 14, 2024). On August 13, 2024, DCG filed a letter advising the Commission that the Parties were continuing to work together to draft the Consent Decree and asked that the Commission continue to hold the matter in abeyance. *See* FC1142, Dkt. 1020 (Aug. 13, 2024).

Each Party has duly executed and delivered this Consent Decree as of October 8, 2024.

ALTAGAS LTD.

By _____
Name: J. Joseph Curran, III
Title: Counsel to AltaGas Ltd.

DISTRICT OF COLUMBIA GOVERNMENT

By: *Brian Caldwell*
Name: Brian R. Caldwell
Title: Senior Assistant Attorney General

Each Party has duly executed and delivered this Consent Decree as of October 4, 2024.

ALTAGAS LTD.

By 

Name: J. Joseph Curran, III

Title: Counsel to AltaGas Ltd.

DISTRICT OF COLUMBIA GOVERNMENT

By _____

Name: Brian R. Caldwell

Title: Senior Assistant Attorney General