

**ATCO ELECTRIC LTD.**

**Application to the Alberta Utilities Commission**

**for authority to issue a 5.563% Debenture**

**in the principal amount of \$50,000,000 at a price of 100.00 to yield 5.563%**

**TO: ALBERTA UTILITIES COMMISSION**

Application is hereby made by ATCO Electric Ltd. to the Alberta Utilities Commission for the authority to issue a 5.563% Debenture in the principal amount of \$50,000,000 at a price of 100.00 to yield 5.563%.

DATED at Edmonton, Alberta this 18th day of August, 2008.

**ATCO ELECTRIC LTD.**

Per: (signed) "D.A. DeChamplain"  
D.A. DeChamplain  
Vice President, Controller

IN THE MATTER OF the Public Utilities Act;

AND IN THE MATTER OF an application by ATCO Electric Ltd. to the Alberta Utilities Commission for the authority to issue a 5.563% Debenture in the principal amount of \$50,000,000 at a price of 100.00 to yield 5.563%;

I, CHARLES S. McCONNELL, of the City of Calgary, in the Province of Alberta, make oath and say that:

1. I am the Treasurer of CU Inc. and as such have knowledge of the matters herein sworn to.
2. CU Inc. owns all of the common shares of ATCO Electric Ltd. (hereinafter called the "Corporation") and its affiliate, ATCO Gas and Pipelines Ltd. (hereinafter called "AGP").
3. The Corporation is making application to the Alberta Utilities Commission (hereinafter called the "Commission") for the authority to issue to CU Inc. a 5.563% Debenture (hereinafter called the "5.563% Debenture") in the principal amount of \$50,000,000 at a price of 100.00 to yield 5.563%.
4. The business and operations of the Corporation are subject to the legislative authority of the Province of Alberta.
5. Since December 6, 2007, the date of the Corporation's most recent application to the Board respecting the authority to issue securities, there have no amendments to the articles or by-laws of the Corporation, other than an amendment to the by-laws effective January 1, 2008, relating to the execution of instruments.
6. On May 26, 2008, CU Inc. completed the sale of \$125,000,000 principal amount of 5.563% Debentures due May 26, 2028, at a price of 100.00 to yield 5.563% through agents to the public. A copy of the Pricing Supplement and the Base Shelf Prospectus of CU Inc. is attached hereto and marked Exhibit "A" to this my Affidavit. This issue was made in compliance with Decisions U99115 and U99118 of the Commission which, among other things, exempt CU Inc. from the requirement to obtain the approval of the Commission prior to issuing securities. All of the proceeds from the sale of the 5.563% Debentures were advanced by CU Inc. to the Corporation and AGP on May 26, 2008, subject to the assumption by these subsidiaries of their pro rata share of the fees and expenses to be paid by CU Inc. in connection with this issue. Accordingly, it is proposed that the Corporation issue a 5.563% Debenture to CU Inc. in the principal amount of \$50,000,000 at a price of 100.00 to yield 5.563% in respect of the advance of \$50,000,000 made to the Corporation by CU Inc.
7. Attached hereto and marked Exhibit "B" to this my Affidavit is a copy of a resolution of the board of directors of the Corporation passed on May 26, 2008, authorizing the creation of the 5.563% Debenture and, subject to obtaining the prior consent of the Commission, the issue thereof at a price of 100.00 to yield 5.563% to CU Inc. for aggregate proceeds of \$50,000,000, which resolution has not been amended or modified,

is in full force and effect, and is the only resolution of the board of directors of the Corporation or any committee thereof relating to the 5.563% Debenture.

8. It is proposed that the 5.563% Debenture shall have the form set out in Exhibit "C" to this my Affidavit and, among other things, contain the following terms and conditions:
  - (a) The 5.563% Debenture will be issued in the principal amount of \$50,000,000, will be dated as of May 26, 2008, will mature on May 26, 2028, and will bear interest at the rate of 5.563% per annum calculated and payable half-yearly on the 26th day of May and November in each year, commencing November 26, 2008. These terms and conditions reflect the comparable provisions applicable to the 5.563% Debentures of CU Inc. referred to in Exhibit "A" attached hereto.
  - (b) The repayment and redemption provisions are set forth in paragraphs 3, 4 and 5 of the 5.563% Debenture and Sections 3.01, 3.02, 3.03, 3.04 and 3.06 of the Schedule to the 5.563% Debenture attached as Exhibit "C" hereto and reflect the comparable provisions applicable to the 5.563% Debentures of CU Inc. referred to in Exhibit "A" attached hereto.
  - (c) The 5.563% Debenture will be redeemable at the option of CU Inc. in the event of the expropriation of either the assets and undertaking of the Corporation or of sufficient shares of the Corporation to represent effective voting control, as set out in Section 3.05 of the Schedule to the 5.563% Debenture attached as Exhibit "C" hereto.
9. Attached hereto and marked Exhibit "D" to this my Affidavit is information indicating the reasonableness of the pricing arrangements made by CU Inc. in connection with the issue of its 5.563% Debentures on May 26, 2008.
10. The rate of interest payable by the Corporation on the 5.563% Debenture to be issued to CU Inc. is the rate payable by CU Inc. on its 5.563% Debentures. This rate of interest and other terms and conditions attaching to the 5.563% Debenture are, in the opinion of the management of the Corporation, more favorable to the Corporation than would have been the case if the Corporation had carried out long-term debt financing on its own. Accordingly, the proposed issue of the 5.563% Debenture to CU Inc. will not be prejudicial to the interests of the customers of the Corporation nor to the interest of the public of the Province of Alberta.
11. The estimated net proceeds from the sale of the 5.563% Debenture will amount to approximately \$49,696,000 after deducting the Corporation's pro rata share of the fees and estimated expenses to be paid by CU Inc. in connection with the issue of its 5.563% Debentures. The net proceeds will be applied to finance capital expenditures, repay existing indebtedness and for other general corporate purposes.
12. In addition to the issue of the 5.563% Debenture, the directors of the Corporation have also approved, subject to prior consent of the Commission, the issue of a \$75,000,000 principal amount 5.580% Debenture due May 26, 2038, ("5.580% Debenture") to CU Inc. The net proceeds of this issue will be applied to finance capital expenditures, repay

existing indebtedness and for other general corporate purposes. Each of these issues is independent and delivery and closing of either issue does not depend on delivery or closing of the other. An application to approve the issue of the 5.580% Debenture is being submitted to the Commission concurrently with this application.

13. On June 2, 2008, \$14,700,000 principal amount of 6.97% Debenture of the Corporation matured. This maturity was financed from the funds advanced to the Corporation by CU Inc. on May 26, 2008.
14. The Corporation is issuing the 5.563% Debenture to help maintain ATCO Electric's capital structure at the levels established in the Generic Cost of Capital proceeding (Decision 2004-052). Attached hereto and marked Exhibit "E" to this my Affidavit is a statement showing the pro forma capital structure of the Corporation after giving effect to the transactions described in Paragraphs 11, 12 and 13 of this my Affidavit.
15. The proposed issue of the 5.563% Debenture by the Corporation will have no effect on the control of the Corporation or on the voting power related to the shares of the Corporation.
16. Attached hereto and marked Exhibit "F" to this my Affidavit is an opinion of Bennett Jones LLP, Barristers and Solicitors, Legal Counsel for the Corporation, evidencing, among other things, compliance with the securities laws of the Province of Alberta, being the province in which the 5.563% Debenture will be issued.

SWORN before me at the City of Calgary, in the )  
Province of Alberta, this 18th day of August, )  
2008.

(signed) "W.S. Osler" )

W.S. Osler

A Commissioner for Oaths in and for the )  
Province of Alberta )

(signed) "C.S. McConnell"

CHARLES S. McCONNELL

This is Exhibit "A"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day  
of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

**EXHIBIT "A"**

**CU Inc.**

**Pricing Supplement dated May 21, 2008  
Respecting an Issue of 5.563% Debentures**

**and**

**Base Shelf Prospectus dated May 15, 2008**

Pricing Supplement No. 2 dated May 21, 2008  
(To base shelf prospectus dated May 15, 2008)



An **ATCO** Company

## **CU INC.**

### **Debentures (Unsecured)**

<b>Amount of Issue:</b>	\$125,000,000	<b>Agent Commission (%):</b>	0.50%
<b>Issue and Delivery Date:</b>	May 26, 2008	<b>Net Proceeds (Cdn. \$):</b>	\$124,375,000
<b>Maturity Date:</b>	May 26, 2028	<b>Interest Payment Dates:</b>	May 26 and November 26
<b>Interest Rate:</b>	5.563%	<b>Initial Interest Payment Date:</b>	November 26, 2008
<b>Price:</b>	100.00	<b>Agents:</b>	BMO Nesbitt Burns Inc. RBC Dominion Securities Inc. TD Securities Inc.
<b>Yield to Maturity:</b>	5.563%		
		<b>ISIN Number:</b>	CA12657ZAR43

#### Redemption Provision

The Corporation shall be entitled to redeem the Debentures in whole at any time, or in part from time to time, on notice given not more than 60 days and not less than 10 days prior to the date fixed for redemption (the "Redemption Date") at the greater of the Canada Yield Price (as defined below) and par, together with accrued and unpaid interest to the Redemption Date.

"Canada Yield Price" shall mean the price of the Debentures determined on the third business day prior to the Redemption Date (the "Redemption Price Calculation Date") and calculated to provide a yield to maturity equal to the Government of Canada Yield (as defined below) plus 0.37%.

"Government of Canada Yield" shall mean the yield to maturity which a non-callable Government of Canada Bond (issued in Canadian dollars in Canada with interest compounded semi-annually in arrears and having a term equal to the remaining term to maturity of the Debentures) would carry if issued at 100% of its principal amount on the Redemption Price Calculation Date. The Government of Canada Yield will be the average of the yields determined by two major Canadian investment dealers selected by the Corporation.

#### Documents Incorporated by Reference

In addition to this pricing supplement, the following documents of the Corporation which have been filed with securities regulatory authorities in each of the provinces of Canada are incorporated by reference into the Corporation's base shelf prospectus dated May 15, 2008, as of the date of this pricing supplement:

- (a) annual information form dated February 19, 2008;
- (b) comparative financial statements, together with the accompanying report of the auditors, for the year ended December 31, 2007;
- (c) management's discussion and analysis for the year ended December 31, 2007;
- (d) comparative interim financial statements for the three months ended March 31, 2008; and
- (e) management's discussion and analysis for the three months ended March 31, 2008.

*This short form prospectus has been filed under legislation in each of the provinces of Canada that permits certain information about these securities to be determined after this prospectus has become final and that permits the omission from this prospectus of that information. The legislation requires the delivery to purchasers of a prospectus supplement containing the omitted information within a specified period of time after agreeing to purchase any of these securities.*

*No securities regulatory authority has expressed an opinion about these securities and it is an offence to claim otherwise. Information has been incorporated by reference in this prospectus from documents filed with securities commissions or similar authorities in Canada. Copies of the documents incorporated herein by reference may be obtained on request without charge from the Corporate Secretary of CU Inc. at 1400 ATCO Centre, 909 - 11<sup>th</sup> Avenue S.W., Calgary, Alberta T2R 1N6 (telephone: (403) 292-7500), and are also available electronically at [www.sedar.com](http://www.sedar.com).*

## Base Shelf Prospectus

New Issue

May 15, 2008



An **ATCO** Company

### **\$1,500,000,000 Debentures (Unsecured)**

The Debentures (the "Debentures") will be issued in book-entry-only form in denominations of \$1,000 and integral multiples thereof. The Debentures will be unsecured, will rank *pari passu* with all other unsecured indebtedness of CU Inc. (the "Corporation"), and will be issued upon terms determined by the Corporation from time to time based on a number of factors, including market conditions at the time of issue and advice from the Dealers (as defined below). See "Description of the Debentures".

The Debentures will be offered on a continuous basis pursuant to an MTN program established by the Corporation. The Debentures will be issued from time to time in an aggregate principal amount of up to \$1,500,000,000 during the 25-month period that this short form prospectus remains valid. The specific variable terms of any offering of Debentures, including the aggregate principal amount of Debentures offered, the issue and delivery date, the maturity date, the interest rate, the interest payment date(s), the Dealers' commission, the method of distribution, and the actual proceeds to the Corporation, will be set forth in a pricing supplement which will accompany this short form prospectus. The Corporation reserves the right to issue securities under its MTN program on terms which are outside the intended parameters disclosed in this short form prospectus.

**There is no market through which these securities may be sold and purchasers may not be able to resell securities purchased under this short form prospectus. This may affect the pricing of the securities in the secondary market, the transparency and availability of trading prices, the liquidity of the securities, and the extent of issuer regulation. See "Risk Factors".** In the opinion of counsel, the Debentures, if issued on the date hereof, would be eligible for investment under certain statutes as set out under "Eligibility for Investment".

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#### **Rates on Application**

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The Debentures may be offered severally by BMO Nesbitt Burns Inc., RBC Dominion Securities Inc. and TD Securities Inc. (the "Dealers") acting as exclusive agents of the Corporation, subject to confirmation by the Corporation. The Debentures also may be purchased from time to time by any of the Dealers, as principals, at such prices and with such commissions as may be agreed between the Corporation and any such Dealers, for resale to the public at prices to be negotiated with each purchaser. Such resale prices may vary during the distribution period and as between purchasers. The Dealers' compensation will be increased or decreased by the amount by which the aggregate price paid for Debentures by purchasers exceeds or is less than the aggregate price paid by the Dealers, acting as principals, to the Corporation.

**The Dealers are subsidiaries of Canadian chartered banks which have extended credit facilities to the Corporation and certain of its affiliates. Accordingly, under certain circumstances, the Corporation may be considered to be a "connected issuer" of the Dealers under applicable securities legislation. See "Plan of Distribution".**



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### DOCUMENTS INCORPORATED BY REFERENCE

The following documents of the Corporation filed with securities commissions or similar authorities in Canada are specifically incorporated by reference in this short form prospectus:

- (a) annual information form dated February 19, 2008;
- (b) comparative financial statements, together with the accompanying report of the auditors, for the year ended December 31, 2007;
- (c) management's discussion and analysis for the year ended December 31, 2007;
- (d) comparative interim financial statements for the three months ended March 31, 2008; and
- (e) management's discussion and analysis for the three months ended March 31, 2008;

provided that these documents are not incorporated by reference to the extent their contents are modified or superseded by a statement contained in this short form prospectus or in any other subsequently filed document that is also incorporated by reference in this short form prospectus.

Any material change reports (except confidential material change reports), financial statements and related management's discussion and analysis, information circulars, and business acquisition reports filed by the Corporation after the date of this short form prospectus and before the termination of the distribution are deemed to be incorporated by reference in this short form prospectus. Upon a new annual information form and the related annual financial statements and managements' discussion and analysis being filed by the Corporation, the following documents shall no longer be incorporated by reference in this short form prospectus for purposes of future offers and sales of Debentures hereunder:

- (a) the previous annual information form;
- (b) the previous annual financial statements and related management's discussion and analysis;
- (c) all previous interim financial statements and related interim management's discussion and analysis;
- (d) any material change reports filed prior to the end of the financial year in respect of which the new annual information form is filed;

- (e) any information circular prepared in connection with an annual general meeting if an information circular for a subsequent annual general meeting has been filed and incorporated by reference; and
- (f) any business acquisition reports for acquisitions completed before the beginning of the financial year in respect of which the new annual information form is filed.

All information permitted by *National Instrument 44-102 – Shelf Distributions* to be omitted from this base shelf prospectus will be contained in one or more shelf prospectus supplements that will be delivered to purchasers together with this base shelf prospectus. Each shelf prospectus supplement will be incorporated by reference into this base shelf prospectus for the purposes of securities legislation as of the date of the shelf prospectus supplement and only for the purposes of the distribution of the securities to which the shelf prospectus supplement pertains.

## CU INC.

CU Inc., a wholly owned subsidiary of Canadian Utilities Limited, was incorporated under the laws of Canada on March 12, 1999. The address of the head and registered office of the Corporation is 1400 ATCO Centre, 909 - 11<sup>th</sup> Avenue S.W., Calgary, Alberta T2R 1N6.

The Corporation is a holding company. Its principal operating subsidiaries are engaged in regulated natural gas and electric energy operations, primarily in Alberta.

## RECENT DEVELOPMENTS

On May 7, 2008, Messrs. R.D. Southern, W.L. Britton, B.K. French and H.M. Neldner retired from the Board of Directors of the Corporation and Ms. L.M. Charlton, Mr. J.W. Simpson, Ms. N.C. Southern, Mr. R.J. Urwin and Ms. K.M. Watson were appointed the directors.

## PLAN OF DISTRIBUTION

Pursuant to a dealer agreement dated May 15, 2008 (the “Agreement”), between the Corporation and BMO Nesbitt Burns Inc., RBC Dominion Securities Inc. and TD Securities Inc. (collectively, the “Dealers”), the Dealers are authorized, as exclusive agents of the Corporation for this purpose only, to solicit offers to purchase Debentures directly and through other Canadian investment dealers. The Agreement also provides that Debentures may be purchased from time to time by any of the Dealers, as principals, at such prices and with such commissions as may be agreed between the Corporation and any such Dealers, for resale to the public at prices to be negotiated with each purchaser. The obligations of any such Dealer as principal may, if agreed to by the applicable Dealer and the Corporation at the time of such sale, be subject to certain conditions and may be subject to the Dealer’s right to terminate such obligations at its discretion upon the occurrence of certain stated events. Such resale prices may vary during the distribution period and as between purchasers. The Dealers’ compensation will be increased or decreased by the amount by which the aggregate price paid for Debentures by purchasers exceeds or is less than the aggregate price paid by the Dealers, acting as principals, to the Corporation.

The Dealers are subsidiaries of Canadian chartered banks which have extended credit facilities to the Corporation and certain of its affiliates. Accordingly, under certain circumstances, the Corporation may be considered to be a “connected issuer” of the Dealers under applicable Canadian securities legislation. The aggregate amount of such credit facilities available to the Corporation and its affiliates is approximately \$1.3 billion, of which approximately \$275.6 million was drawn as of March 31, 2008. These facilities include non-recourse debt of the Corporation’s affiliates for which the lender’s recourse in the event of default is limited to the business and assets of the project in question and to the affiliates’ equity therein. The Corporation and its affiliates are in compliance with the terms of these credit facilities. At March 31, 2008, the Corporation had available credit facilities of \$329.0 million. Of this amount, \$300 million is a term facility established in 1999. This facility is used as a backstop for the Corporation’s

commercial paper program and for occasional issues of letters of credit. The remaining \$29.0 million are demand operating facilities of the Corporation's subsidiaries. At March 31, 2008, \$10.5 million was outstanding under these facilities, and this status has not changed substantially since that date. The decision of each Dealer to participate in this offering was made independently of its bank parent. None of the proceeds of this offering will be applied for the benefit of the Dealers or any of their related issuers.

In connection with any offering of Debentures, the Dealers may over-allot or effect transactions which stabilize or maintain the market price of the Debentures offered at a level above that which might otherwise prevail in the open market. Such transactions, if commenced, may be discontinued at any time.

The Dealers may from time to time purchase and sell Debentures in the secondary market but are not obligated to do so. There can be no assurance that there will be a secondary market for the Debentures. The offering price and other selling terms for such sales in the secondary market may, from time to time, be varied by the Dealers.

The Corporation has agreed to indemnify the Dealers and their shareholders, agents, directors, officers and employees against liabilities arising out of, among other things, any misrepresentation in this short form prospectus and the documents incorporated by reference therein, other than liabilities arising out of any misrepresentation made by the Dealers.

The Corporation and, if applicable, the Dealers reserve the right to reject any offer to purchase Debentures in whole or in part. The Corporation also reserves the right to withdraw, cancel or modify the offering of Debentures under this short form prospectus without notice.

#### **USE OF PROCEEDS**

The net proceeds to be received by the Corporation from the issue and sale from time to time of the Debentures will be added to the general funds of the Corporation to be used to finance the Corporation's capital expenditures, to repay existing indebtedness and for other general corporate purposes. All expenses relating to an offering of Debentures, including any compensation paid to the Dealers, will be paid out of the Corporation's general funds. The Corporation may, from time to time, issue debt instruments and incur additional indebtedness otherwise than through the issue of Debentures pursuant to this short form prospectus.

#### **DESCRIPTION OF THE DEBENTURES**

The following description sets forth certain general terms and provisions of the Debentures. For full particulars reference should be made to the Trust Indenture referred to below. The specific variable terms of any offering of Debentures will be set forth in a pricing supplement which will accompany this short form prospectus. The Corporation reserves the right to issue securities under its MTN program on terms which are outside the intended parameters disclosed in this short form prospectus.

##### **General**

The Debentures will be issued under a trust indenture dated as of July 1, 1999 (the "Trust Indenture"), made between the Corporation and CIBC Mellon Trust Company, as Trustee. The Trust Indenture provides for the issuance of debentures in addition to the Debentures without limit as to principal amount, subject to compliance with the conditions contained in the Trust Indenture.

The Debentures will be direct unsecured obligations of the Corporation and will rank *pari passu* (except as to sinking funds) with all other unsubordinated and unsecured indebtedness of the Corporation, including other debentures issued under the Trust Indenture.

The Debentures will have maturities of not less than one year and will be interest-bearing. The Debentures will be issued in denominations of \$1,000 and integral multiples thereof.

All Debentures will be represented in the form of fully registered book-entry-only debentures ("BEO Debentures") held by, or on behalf of, The Canadian Depository for Securities Limited or a successor thereof (the "Depository") as custodian of the BEO Debentures (for its participants) and registered in the name of the Depository or its nominee (the "Nominee"). Except as described below, purchasers of Debentures will not receive Debentures in definitive form ("Definitive Debentures"). Beneficial interests in the Debentures will be represented through book-entry accounts of institutions (including the Dealers) acting on behalf of beneficial owners, as direct and indirect participants of the Depository ("participants"). Each purchaser of a Debenture represented by a BEO Debenture will receive a customer confirmation of purchase from the Dealer from whom the Debenture is purchased in accordance with the practices and procedures of the selling Dealer. The practices of the Dealers may vary, but generally customer confirmations are issued promptly after execution of a customer order. The Depository will be responsible for establishing and maintaining book-entry accounts for its participants having interests in BEO Debentures.

Debentures will not be redeemable at the option of the Corporation or repayable at the option of the holder prior to maturity, unless otherwise specified in the applicable pricing supplement. The Corporation may purchase Debentures at any time and at any price on the open market or otherwise.

### **Transfer**

Transfers of beneficial ownership of Debentures represented by BEO Debentures will be effected through records maintained by the Depository for such BEO Debentures or the Nominee (with respect to interests of participants) and on the records of participants (with respect to interests of persons other than participants). Beneficial owners who are not participants in the Depository's book-entry system, but who desire to purchase, sell or otherwise transfer ownership of or other interest in BEO Debentures, may do so only through participants in the Depository's book-entry system. A beneficial owner's interest in a Debenture represented by a BEO Debenture may be exchanged for a Definitive Debenture only in the limited circumstances set forth below.

The ability of a beneficial owner of an interest in a Debenture represented by a BEO Debenture to pledge the Debenture or otherwise take action with respect to such owner's interest in a Debenture represented by a BEO Debenture (other than through a participant) may be limited due to the lack of a physical certificate.

If the Depository notifies the Corporation that it is unwilling or unable to continue to act as depository in connection with the BEO Debentures, or if at any time the Depository ceases to be a clearing agency or otherwise ceases to be eligible to be a depository and the Corporation is unable to locate a qualified successor, or if the Corporation elects to terminate the book-entry system, beneficial owners of Debentures represented by BEO Debentures will receive Definitive Debentures.

The registered holder of a Definitive Debenture may transfer it upon payment of any taxes and transfer fees incidental thereto by executing a form of transfer and returning it along with the Definitive Debenture to the principal corporate trust office of CIBC Mellon Trust Company in the cities of Montreal, Toronto, Calgary and Vancouver for issuance of one or more new Definitive Debentures in authorized denominations in the same aggregate principal amount registered in the name(s) of the transferee(s).

### **Payment of Interest and Principal**

Payments of interest and principal on each BEO Debenture will be made to the Depository or the Nominee, as the case may be, as registered holder of the BEO Debenture. A record date will be established at least ten business days (and not more than 30 business days) prior to a payment date. Interest payments on BEO Debentures will be made by cheque dated the date interest is payable and delivered to the Depository or the Nominee, as the case may be, at least two business days before the date interest is payable, or in any other manner acceptable to the Trustee. As long as the Depository or the Nominee is the registered holder of a BEO Debenture, the Depository or the Nominee, as the case may be, will be considered the sole owner of the BEO Debenture for the purposes of receiving payment on the Debenture and for all other purposes under the Trust Indenture and the Debenture.

The Corporation expects that the Depository or Nominee, upon receipt of any principal or interest payment in respect of a BEO Debenture, will credit on the date principal or interest is payable participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of such BEO

Debenture as shown on the records of the Depository or Nominee. The Corporation also expects that payments of principal and interest by participants to the owners of beneficial interests in such BEO Debenture held through such participants will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name", and will be the responsibility of such participants. The responsibility and liability of the Corporation and the Trustee in respect of Debentures represented by BEO Debentures is limited to making payment of any principal and interest due on such BEO Debentures to the Depository or the Nominee.

#### **Covenants**

The Trust Indenture contains covenants, which should be read in conjunction with the definitions referred to below, to the effect that so long as any of the Debentures remain outstanding:

##### ***Encumbrances on Assets***

The Corporation will not, and will not permit any subsidiary to, create, assume or suffer to exist any Security Interest on any of its assets to secure any Indebtedness unless at the same time the Corporation shall secure or cause to be secured equally and rateably with such Indebtedness all of the debentures issued under the Trust Indenture which are then outstanding; provided that this covenant will not apply to nor operate to prevent, among other things: (i) pre-existing Security Interests or Security Interests granted in connection with the refinancing of outstanding secured Indebtedness, provided that the security for such refinancing Indebtedness is limited to all or a part of the property which secured the Indebtedness refinanced and the principal amount of obligations secured is not increased; (ii) the creation, issue or assumption by the Corporation or any subsidiary of Capital Lease Obligations or Purchase Money Mortgages; (iii) Security Interests granted by law or incurred in the ordinary course of business which do not materially impair the use or value of the property in question; and (iv) Security Interests between the Corporation and its subsidiaries.

##### ***Additional Funded Indebtedness***

The Corporation will not issue or become liable in respect of any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by the Corporation to a subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of the Corporation in an amount not exceeding the principal amount of the Funded Indebtedness being refunded) unless after giving effect thereto Consolidated Indebtedness will not exceed 75% of Total Consolidated Capitalization.

The Trust Indenture contains provisions contemplating the deferred delivery of a portion of an issue of Funded Indebtedness for a period of up to one year. Under such provisions, the portion of any such issue, delivery of which is deferred, will be deemed to have been issued on the date of the first delivery of the issue of which it forms part and will not be deemed to be issued thereafter.

##### ***Indebtedness of Subsidiaries***

The Corporation will not permit any subsidiary of the Corporation to issue or in any other manner become liable in respect of:

- (a) any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by a subsidiary to the Corporation or to another subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of a subsidiary in an amount not exceeding the principal amount of the Funded Indebtedness being refunded); or
- (b) any Indebtedness (other than Indebtedness issued to the Corporation or to another subsidiary) unless after giving effect thereto the aggregate amount of Indebtedness of the subsidiaries will not exceed an amount equal to 10% of the aggregate Funded Indebtedness of the Corporation.

##### ***Sale of Assets and Amalgamations***

The Corporation will not enter into any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other person, whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale, or otherwise, provided that nothing contained in the Trust Indenture will prevent any such transaction:

- (a) if the surviving or purchasing company assumes all of the obligations of the Corporation under the Trust Indenture and otherwise meets the requirements of the Trust Indenture; or
- (b) if such transaction is between or among the Corporation and its subsidiaries.

#### **Events of Default**

The holders of all debentures issued under the Trust Indenture are entitled to the rights provided to debenture holders in the Trust Indenture upon the occurrence of an event of default. For the purposes of the Trust Indenture, an event of default includes the failure of the Corporation or any subsidiary to pay when due (after giving effect to any applicable grace periods, waivers and extensions) any amount owing in respect of any Indebtedness other than the debentures, provided that the aggregate principal amount of such Indebtedness in respect of which payment has not been made exceeds \$25 million.

#### **Definitions**

The Trust Indenture contains, among others, definitions substantially to the following effect:

“Capital Lease Obligation” means the obligation of a person, as lessee, to pay rent or other amounts to the lessor under a lease of real or personal property which is required to be classified and accounted for as a capital lease on a consolidated balance sheet of such person in accordance with generally accepted accounting principles in effect in Canada.

“Consolidated Indebtedness” means the aggregate amount of all Indebtedness of the Corporation and its subsidiaries determined on a consolidated basis.

“Financial Instrument Obligations” means obligations arising under interest rate, currency or commodity swap agreements, forward rate agreements, floor, cap or collar agreements, futures or options, or other similar agreements or arrangements.

“Funded Indebtedness” means Indebtedness of a person that on the date of issue thereof by such person or on the date that such person otherwise becomes liable in respect thereof has a term to maturity greater than 18 months after taking into account any renewals or extensions which are available at the sole option of such person.

“Indebtedness” means, with respect to any person, without duplication,

- (a) all obligations of such person for borrowed money, including obligations with respect to bankers’ acceptances and contingent reimbursement obligations relating to letters of credit and other financial instruments,
- (b) all Financial Instrument Obligations,
- (c) all obligations issued or assumed by such person in connection with the acquisition of property in respect of the deferred purchase price of property;
- (d) all Capital Lease Obligations and Purchase Money Obligations of such person, and
- (e) all obligations of the type referred to in clauses (a) through (d) of this definition of another person, the payment of which such person has guaranteed or for which such person is responsible or liable,

provided that obligations of such person or of another person of the type referred to in clauses (a) through (c) of this definition shall exclude trade accounts payable, dividends and other distributions payable to shareholders, future income taxes, obligations in respect of preferred shares, accrued liabilities arising in the ordinary course of business which are not overdue or which are being contested by such person or such other person in good faith, and non-monetary obligations in respect of performance guarantees.

“Purchase Money Mortgage” means any Security Interest created, issued or assumed by a person to secure a Purchase Money Obligation, provided that such Security Interest is limited to the property (including the rights associated therewith) purchased, constructed, installed or improved in connection with such Purchase Money Obligation.

“Purchase Money Obligation” means Indebtedness of a person incurred or assumed to finance the purchase price, in whole or in part, of any property (excluding any Indebtedness which constitutes Funded Indebtedness and which was incurred or assumed to finance the purchase price, in whole or in part, of any securities) or incurred to finance the cost, in whole or in part, of construction or installation of or improvements to any property, provided that such Indebtedness is incurred or assumed within 24 months after the purchase of such property or the completion of such construction, installation or improvements, as the case may be, and includes any extension, renewal or refunding of any such Indebtedness so long as the principal amount thereof outstanding on the date of such extension, renewal or refunding is not thereby increased.

“Security Interest” means any assignment, mortgage, charge (whether fixed or floating), hypothec, pledge, lien, or other encumbrance on or interest in property or assets that secures payment of Indebtedness.

“Total Consolidated Capitalization” means, at a particular time, without duplication, the sum of

- (a) the principal amount of all Consolidated Indebtedness at such time,
- (b) the total capital represented by the issued and outstanding share capital, including preferred shares, of the Corporation at such time, based, in the case of shares having a par value, upon their par value, and, in the case of shares of no par value, upon the value stated on the books of the Corporation,
- (c) the total amount of (or less the amount of any net deficits in) the consolidated contributed or capital surplus and retained earnings of the Corporation, and
- (d) the amount of any provision for future income taxes,

all as shown on a balance sheet of the Corporation prepared on a consolidated basis in accordance with generally accepted accounting principles in effect in Canada at such time.

### **Modification**

The Trust Indenture provides that modifications and alterations thereto and to the debentures, including the Debentures, may be made if authorized by extraordinary resolution. The term “extraordinary resolution” is defined in the Trust Indenture to mean, in effect, a resolution passed by the affirmative vote of the holders of not less than 66 <sup>2</sup>/<sub>3</sub>% of the debentures represented and voting at a meeting of debenture holders or an instrument in writing signed by the holders of not less than 66 <sup>2</sup>/<sub>3</sub>% of the debentures. In certain cases, the modification will require separate assent by the holders of the required percentages of debentures of each series. However, if the modification does not adversely affect the rights of the holders of debentures of a particular series, the assent of the holders of debentures of such particular series is not required.

### **RATINGS**

The debentures of the Corporation are rated A (high) with a stable trend by DBRS Limited (“DBRS”) and A with a stable outlook by Standard & Poor’s, a division of the McGraw-Hill Companies Inc. (“S&P”).

An A rating by DBRS is the third highest of ten categories. Long term debt rated A is of satisfactory credit quality. Protection of interest and principal is substantial, but the degree of strength is less than that of AA rated entities. While A is a respectable rating, entities in this category are considered to be more susceptible to adverse economic conditions and have greater cyclical tendencies than higher-rated securities. Each rating category is denoted by the subcategories “high” and “low”. The absence of either a “high” or “low” designation indicates the rating is in the “middle” of the category.

An A rating by S&P is the third highest of ten categories. Obligations rated A by S&P are somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher-rated categories, however, the obligor’s capacity to meet its financial commitment on the obligations is still strong. The addition of a plus or minus sign shows relative standing within the rating categories.

A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time by the rating organization.

### **EARNINGS COVERAGE RATIOS**

The Corporation’s interest requirements amounted to \$165.8 million for the 12 months ended December 31, 2007. The Corporation’s earnings before interest and income taxes for the 12 months then ended were \$366.2 million, which is 2.21 times the Corporation’s interest requirements for this period. This earnings coverage ratio does not reflect any offering of Debentures under this short form prospectus as the aggregate principal amounts and the terms of such Debentures are not presently known.

The Corporation’s interest requirements amounted to \$168.7 million for the 12 months ended March 31, 2008. The Corporation’s earnings before interest and income taxes for the 12 months then ended were \$381.5 million, which is 2.26 times the Corporation’s interest requirements for this period. This earnings coverage ratio does not reflect any offering of Debentures under this short form prospectus as the aggregate principal amounts and the terms of such Debentures are not presently known.

### **PRIOR SALES**

On November 1, 2007, the Corporation issued \$220,000,000 aggregate principal amount of 5.556% Debentures due October 30, 2037, and \$35,000,000 aggregate principal amount of 4.883% Debentures due November 1, 2012.

### **RISK FACTORS**

A prospective purchaser of Debentures should carefully consider the information described under the heading “Business Risks” in the Corporation’s management’s discussion and analysis for the year ended December 31, 2007, incorporated by reference in this short form prospectus, as well as the other information contained or incorporated by reference in this short form prospectus.

There is no market through which these securities may be sold and purchasers may not be able to resell securities purchased under this short form prospectus. This may affect the pricing of the securities in the secondary market, the transparency and availability of trading prices, the liquidity of the securities, and the extent of issuer regulation.

### **ELIGIBILITY FOR INVESTMENT**

In the opinion of Bennett Jones LLP and Blake, Cassels & Graydon LLP, subject to compliance with the prudent investment standards and general investment provisions of the following statutes (and, where applicable, the regulations thereunder) and, in certain cases, subject to the satisfaction of additional requirements relating to investment or lending policies or goals and, in certain circumstances, the filing of such policies or goals, the Debentures are not, at the date hereof, precluded as investments under the following statutes:



*Insurance Companies Act* (Canada)  
*Trust and Loan Companies Act* (Canada)  
*Pension Benefits Standards Act, 1985* (Canada)  
*Insurance Act* (Alberta)  
*Loan and Trust Corporations Act* (Alberta)  
*Employment Pension Plans Act* (Alberta)  
*Loan and Trust Corporations Act* (Ontario)  
*Pension Benefits Act* (Ontario)  
an Act respecting insurance (Quebec)  
an Act respecting trust companies and savings companies (Quebec)  
*Supplemental Pension Plans Act* (Quebec)  
*Financial Institutions Act* (British Columbia)

In the opinion of such counsel, provided that Canadian Utilities Limited has a class of shares listed on a prescribed stock exchange, the Debentures will be qualified investments under the *Income Tax Act* (Canada) for a trust governed by a registered retirement savings plan, a registered education savings plan, a registered retirement income fund or a deferred profit sharing plan (other than a trust governed by a deferred profit sharing plan for which the named employer is the Corporation or a corporation that does not deal at arm's length with the Corporation).

#### **INTERESTS OF EXPERTS**

Certain legal matters relating to the offering of Debentures will be passed upon by Bennett Jones LLP on behalf of the Corporation and by Blake, Cassels & Graydon LLP on behalf of the Dealers. As at May 15, 2008, partners and associates of Bennett Jones LLP and of Blake, Cassels & Graydon LLP as a group beneficially owned, directly or indirectly, less than 1% of any class of securities of the Corporation.

#### **STATUTORY RIGHTS OF WITHDRAWAL AND RESCISSION**

Securities legislation in certain of the provinces of Canada provides purchasers with the right to withdraw from an agreement to purchase securities. This right may be exercised within two business days after receipt or deemed receipt of a prospectus and any amendment. In several of the provinces, the securities legislation further provides a purchaser with remedies for rescission or, in some jurisdictions, revisions of the price or damages if the prospectus and any amendment contains a misrepresentation or is not delivered to the purchaser, provided that the remedies for rescission, revision of the price or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province for the particulars of these rights or consult with a legal adviser.

## CERTIFICATES

Dated: May 15, 2008

This short form prospectus, together with the documents incorporated in this prospectus by reference, will, as of the date of the last supplement to this prospectus relating to the securities offered by this prospectus and the supplement(s), constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and the supplement(s) as required by the securities legislation of each of the provinces of Canada.

*(signed) "N.C. Southern"*  
President &  
Chief Executive Officer

*(signed) "K.M. Watson"*  
Senior Vice President  
& Chief Financial Officer

On behalf of the Board of Directors

*(signed) "L.M. Charlton"*  
Director

*(signed) "J.W. Simpson"*  
Director

To the best of our knowledge, information and belief, this short form prospectus, together with the documents incorporated in this prospectus by reference, will, as of the date of the last supplement to this prospectus relating to the securities offered by this prospectus and the supplement(s), constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and the supplement(s) as required by the securities legislation of each of the provinces of Canada.

BMO NESBITT BURNS INC.

RBC DOMINION SECURITIES INC.

By: *(signed) "Aaron M. Engen"*

By: *(signed) "Jill V. Gardiner"*

TD SECURITIES INC.

By: *(signed) "Alec W. G. Clark"*

### **AUDITORS' CONSENT**

We have read the short form prospectus of CU Inc. (the "Company") dated May 15, 2008, relating to the issuance in an aggregate amount of up to \$1,500,000,000 of Debentures of the Company. We have complied with Canadian generally accepted standards for an auditor's involvement with offering documents.

We consent to the incorporation by reference in the above-mentioned prospectus of our report to the shareholders of the Company on the balance sheets of the Company as at December 31, 2007 and 2006 and the statements of earnings and retained earnings, cash flows, and comprehensive income for each of the years in the two-year period ended December 31, 2007. Our report is dated February 19, 2008.

Calgary, Alberta  
May 15, 2008

(Signed) PRICEWATERHOUSECOOPERS LLP  
Chartered Accountants

This is Exhibit "B"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day  
of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

## **EXHIBIT "B"**

### **Directors' Resolution**

**Certified Copy of a Resolution of the Directors**

**ATCO ELECTRIC LTD.  
(the "Corporation")**

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I, CAROL GEAR, do hereby CERTIFY THAT I am the duly elected and qualified Assistant Secretary of the Corporation.

I DO FURTHER CERTIFY THAT the following Resolution was duly adopted by the Board of Directors of the Corporation, being passed by way of a written Resolution on May 26, 2008:

**5.563% DEBENTURE**

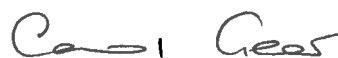
**BE IT RESOLVED THAT:**

1. subject to obtaining an order of the Alberta Utilities Commission approving the issue thereof and the purposes of the issue, the creation, issue and sale by the Corporation of a \$50,000,000 principal amount 5.563% Debenture priced at 100.00 to yield 5.563%, to be dated May 26, 2008, and to mature on May 26, 2028, with interest thereon to be payable semi-annually on the 26th day of May and November in each year, is hereby authorized and approved;
2. the proceeds from the issue of the 5.563% Debenture will be applied to finance capital expenditures, to repay existing indebtedness and for other general corporate purposes of the Corporation;
3. the payment by the Corporation to CU Inc. of its proportionate share of the fees and other expenses of the issue to be incurred by CU Inc. relating to the issue by CU Inc. of its 5.563% Debentures due May 26, 2028, on May 26, 2008, be and the same is hereby authorized; and
4. any two directors and/or officers of the Corporation are authorized and directed for and on behalf of the Corporation to execute and deliver the 5.563% Debenture and all such other agreements, certificates, documents and other instruments and to do all such acts and things as such directors or officers may consider necessary, desirable or useful for the purpose of giving effect to this resolution and completing the sale of the 5.563% Debenture substantially on the terms and conditions contained in the Summary Sheet attached to this resolution.

\*\*\*\*\*

AND I, CAROL GEAR, of the City of Calgary, in the Province of Alberta, do hereby FURTHER CERTIFY THAT, as of the date hereof, the foregoing Resolution has not been modified or rescinded and remains in full force and effect.

DATED at Calgary, Alberta, this 18<sup>th</sup> day of August, 2008.



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Carol Gear  
Assistant Secretary

**ATCO ELECTRIC LTD.  
5.563% Debenture**

**Summary Sheet**

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<b>Amount:</b>	\$50,000,000
<b>Maturity:</b>	May 26, 2028
<b>Interest Rate:</b>	5.563%
<b>Embedded Rate:</b>	5.61% (1)
<b>Price:</b>	100.00 to yield 5.563%, plus accrued interest, if any
<b>Agents' Fee:</b>	\$250,000
<b>Issue Expenses:</b>	\$54,000 (estimate)
<b>Interest Payment Dates:</b>	26th day of May and November in each year
<b>Sinking Fund:</b>	None
<b>Redemption:</b>	In whole at any time or in part from time to time at the greater of the Canada Yield Price and par.
<b>Rank:</b>	Direct unsecured obligations ranking pari passu with all other outstanding unsecured indebtedness of the Corporation.
<b>Covenants:</b>	Same as CU Inc.
<b>Use of Proceeds:</b>	To finance capital expenditures, to repay existing indebtedness and for other general corporate purposes of the Corporation.
<b>Purchaser:</b>	CU Inc.

**Note:**

(1) Embedded rate includes Agents' fee and estimated issue expenses.

**EXHIBIT "C"**

**FORM OF  
DEBENTURE**

This is Exhibit "C"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day of  
August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

CANADA

**ATCO ELECTRIC LTD.**  
(Incorporated under the laws of Canada)

**DEBENTURE**

Issue Date:	May 26, 2008	Interest Payment Dates:	May 26 and November 26
Interest Rate Per Annum:	5.563%	Initial Interest Payment Date:	November 26, 2008
Maturity Date:	May 26, 2028	Principal Amount:	\$50,000,000

1. ATCO Electric Ltd. (the "Corporation") for value received hereby promises to pay to CU Inc. (who and whose successors and assigns are herein called the "Holder") on the Maturity Date, or on such earlier date as the Principal Amount may become due in accordance with the provisions hereof, on presentation and surrender of this Debenture, the Principal Amount in lawful money of Canada, and to pay interest on the Principal Amount at the Interest Rate Per Annum from the later of the Issue Date and the last Interest Payment Date to which interest has been paid or made available for payment on this Debenture, in like money half-yearly on the Interest Payment Dates in each year, the first such payment to be payable on the Initial Interest Payment Date, and if the Corporation at any time defaults in the payment of any principal or interest, to pay interest on the amount in default at the same rate, in like money, and half-yearly on the same dates. All payments of principal and interest shall be made at the office of the Holder at 1600 ATCO Centre, 909 - 11th Avenue S.W., Calgary, Alberta.
2. The Principal Amount may become or be declared due before the Maturity Date on the conditions, in the manner, with the effect and at the times set forth herein.
3. The Corporation shall be entitled to redeem this Debenture in whole at any time, or in part from time to time, on notice given not more than 60 days and not less than 10 days prior to the

date fixed for redemption (the "Redemption Date") at the greater of the Canada Yield Price (as defined below) and par, together with accrued and unpaid interest to the Redemption Date.

4. "Canada Yield Price" shall mean the price of this Debenture determined on the third business day prior to the Redemption Date (the "Redemption Price Calculation Date") and calculated to provide a yield to maturity equal to the Government of Canada Yield (as defined below) plus 0.37%.
5. "Government of Canada Yield" shall mean the yield to maturity which a non-callable Government of Canada Bond (issued in Canadian dollars in Canada with interest compounded semi-annually in arrears and having a term equal to the remaining term to maturity of this Debenture) would carry if issued at 100% of its principal amount on the Redemption Price Calculation Date. The Government of Canada Yield will be the average of the yields determined by two major Canadian investment dealers selected by the Holder.
6. The Schedule attached hereto contains additional terms and conditions, all of which are incorporated by reference in this Debenture and to all of which the Holder, by acceptance hereof, agrees. In the event of any conflict or inconsistency between this Debenture and the Schedule attached hereto, this Debenture shall govern.

IN WITNESS WHEREOF ATCO Electric Ltd. has caused its corporate seal to be hereunto affixed and this Debenture to be signed by its President and its Secretary as of May 26, 2008.

**ATCO ELECTRIC LTD.**

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

(c/s)

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



## **SCHEDULE**

### **ARTICLE 1 INTERPRETATION**

#### **1.01 Definitions**

In this Debenture, unless there is something in the subject matter or context inconsistent therewith, the following expressions have the respective meanings indicated:

**“Affiliate”** means, with respect to any Person, any other Person which, directly or indirectly through one or more Persons, Controls, is Controlled by, or is under common Control with, such Person.

**“Business Day”** means, with respect to a particular location, a day other than a Saturday or Sunday on which chartered banks are open for the transaction of business at such location.

**“Capital Lease Obligation”** means the obligation of a Person, as lessee, to pay rent or other amounts to the lessor under a lease of real or personal property which is required to be classified and accounted for as a capital lease on a consolidated balance sheet of such Person in accordance with Generally Accepted Accounting Principles.

**“Common Shares”** means shares of any class or classes of the share capital of a corporation or Securities representing ownership interests in any Person other than a corporation, the rights of the holders of which to participate in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding-up of such corporation or other Person are not restricted to a fixed sum or to a fixed sum plus accrued dividends or other periodic distributions.

**“Consolidated Indebtedness”** means the aggregate amount of all Indebtedness of the Corporation and its Subsidiaries determined on a consolidated basis.

**“Control”, “Controlled”** and similar expressions mean a relationship between two Persons wherein one of such Persons has the power, through the ownership of Securities, by contract or otherwise, to direct the management and policies of the other of such Persons, and includes, in the case of a corporation, the ownership, either directly or indirectly through one or more Persons, of Securities of such corporation carrying more than 50% of the votes that may be cast to elect the directors of such corporation either under all circumstances or under some circumstances that have occurred and are continuing, other than Securities held as collateral for a *bona fide* debt, provided that such votes, if exercised, are sufficient to elect a majority of the directors of such corporation.

**“Corporation’s Auditors”** means a firm of chartered accountants duly appointed as auditors of the Corporation.

**“Counsel”** means a barrister or solicitor or firm of barristers and solicitors (who may be counsel for the Corporation) retained by the Holder or retained by the Corporation and acceptable to the Holder, acting reasonably.

**“Directors”** means the directors of the Corporation or, whenever duly empowered by a resolution of the directors of the Corporation, a committee of the directors of the Corporation, and reference to action by the Directors means action by the directors of the Corporation or action by any such committee.

**“Event of Default”** has the meaning ascribed to such term in Section 5.01.

**“Financial Instrument Obligations”** means obligations arising under

- (a) interest rate swap agreements, forward rate agreements, floor, cap or collar agreements, futures or options, insurance or other similar agreements or arrangements, or any combination thereof, entered into by a Person of which the subject matter is interest rates or pursuant to which the price, value or amount payable thereunder is dependent or based upon interest rates in effect from time to time or fluctuations in interest rates occurring from time to time (excluding obligations which are considered to be Indebtedness of such Person by virtue of any provision of the definition of Indebtedness other than clause (b) thereof);
- (b) currency swap agreements, crosscurrency agreements, forward agreements, floor, cap or collar agreements, futures or options, insurance or other similar agreements or arrangements, or any combination thereof, entered into by a Person of which the subject matter is currency exchange rates or pursuant to which the price, value or amount payable thereunder is dependent or based upon currency exchange rates in effect from time to time or fluctuations in currency exchange rates occurring from time to time; and
- (c) commodity swap agreements, floor, cap or collar agreements, commodity futures or options or other similar agreements or arrangements, or any combination thereof, entered into by a Person of which the subject matter is one or more commodities or pursuant to which the price, value or amount payable thereunder is dependent or based upon the price of one or more commodities in effect from time to time or fluctuations in the price of one or more commodities occurring from time to time.

**“Funded Indebtedness”** means Indebtedness of a Person that on the date of issue thereof by such Person or on the date that such Person otherwise becomes liable in respect thereof has a term to maturity greater than 18 months after taking into account any renewals or extensions which are available at the sole option of such Person.

**“Generally Accepted Accounting Principles”** means, as at any date of determination, generally accepted accounting principles in effect in Canada at such date.

**“Indebtedness”** means, with respect to any Person, without duplication,

- (a) all obligations of such Person for borrowed money, including obligations with respect to bankers’ acceptances and contingent reimbursement obligations relating to letters of credit and other financial instruments,
- (b) all Financial Instrument Obligations,
- (c) all obligations issued or assumed by such Person in connection with the acquisition of property in respect of the deferred purchase price of property,
- (d) all Capital Lease Obligations and Purchase Money Obligations of such Person, and
- (e) all obligations of the type referred to in clauses (a) through (d) of this definition of another Person, the payment of which such Person has guaranteed or for which such Person is responsible or liable,

provided that obligations of such Person or of another Person of the type referred to in clauses (a) through (c) of this definition shall exclude trade accounts payable, dividends and other distributions payable to shareholders, future income taxes, obligations in respect of Preferred Shares, accrued liabilities arising in the ordinary course of business which are not overdue or which are being contested by such Person or such other Person in good faith, and non-monetary obligations in respect of performance guarantees.

**“Interest Payment Date”** means a date on which interest is due and payable in accordance with this Debenture.

**“Maturity Date”** means the date on which the principal of this Debenture becomes due and payable, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

**“Officers’ Certificate”** means a certificate of the Corporation signed by any two authorized officers of the Corporation in their capacities as officers of the Corporation and not in their personal capacities.

**“Permitted Encumbrances”** means any or all of the following:

- (a) any Security Interest in respect of the Corporation or a Subsidiary existing at the date of this Debenture or arising thereafter pursuant to contractual commitments entered into, in the case of the Corporation, prior to the date of this Debenture or, in the case of a Subsidiary, prior to the later of the date of this Debenture and the date on which it became a Subsidiary;
- (b) any Security Interest granted by the Corporation or a Subsidiary in connection with an amalgamation, consolidation, merger or reorganization of the Corporation and one or more Subsidiaries or of two or more Subsidiaries, provided that the principal amount of obligations secured thereby is not thereby increased;

- (c) any Security Interest granted by the Corporation or a Subsidiary to secure this Debenture;
- (d) any Purchase Money Mortgage or Capital Lease Obligation of the Corporation or a Subsidiary;
- (e) any Security Interest granted by a Subsidiary in favour of the Corporation or a Wholly Owned Subsidiary;
- (f) any Security Interest in respect of property of a Person which exists at the time of the amalgamation, consolidation, merger or reorganization of such Person and one or more of the Corporation and its Subsidiaries or at the time such property is otherwise acquired by the Corporation or a Subsidiary;
- (g) any Security Interest incidental to the business or operations of the Corporation or a Subsidiary (other than the borrowing of money or the repayment of money borrowed) including, without limitation, the following:
  - (i) liens or deposits under workers' compensation, social security or similar legislation or good faith deposits in connection with bids, tenders, leases, contracts or expropriation proceedings, or deposits to secure public or statutory obligations or deposits of cash or obligations to secure surety and appeal bonds;
  - (ii) liens or privileges imposed by law, such as builders', carriers', warehousemen's, landlords', mechanics' and materialmen's liens and privileges, and liens and privileges arising out of judgments or awards with respect to which the Corporation or a Subsidiary at the time is prosecuting an appeal or proceedings for review and with respect to which it has secured a stay of execution pending such appeal or proceedings for review; or liens for taxes, assessments or governmental charges or levies not at the time due and delinquent or the validity of which is being contested at the time by the Corporation or a Subsidiary in good faith; or undetermined or inchoate liens, privileges and charges incidental to current operations which have not at such time been filed pursuant to law against the Corporation or a Subsidiary or which relate to obligations not due or delinquent; or the deposit of cash or Securities in connection with any lien or privilege referred to in this clause (ii);
  - (iii) minor encumbrances, including, without limitation, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other Persons, rights-of-way for sewers, electric lines, telegraph and telephone lines and oil and natural gas pipe lines and other similar purposes, or zoning or other restrictions as to the use of real properties, which encumbrances, easements, servitudes, rights-of-way or other similar rights and restrictions do not in the aggregate materially detract from the value of such properties or materially impair their use in the operation of the business of the Corporation or a Subsidiary;
  - (iv) rights reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, license, franchise, grant or permit acquired by the Corporation or a Subsidiary, or by any statutory provision, to terminate any

such lease, license, franchise, grant or permit or to purchase assets used in connection therewith or to require annual or other periodic payments as a condition to the continuance thereof;

- (v) liens or rights of distress reserved in or exercisable under any lease for rent and for compliance with the terms of such lease;
  - (vi) security granted by the Corporation or a Subsidiary to a public utility or any municipality or governmental or other public authority when required by such utility, municipality or other authority in connection with the operations of the Corporation or such Subsidiary;
  - (vii) the reservations, limitations, provisos and conditions, if any, expressed in any original grants from the Crown; and
  - (viii) encumbrances the validity of which is being contested by the Corporation or a Subsidiary in good faith or the payment of which has been provided for by deposit with a trustee of an amount in cash sufficient to pay the amount thereof in full; and
- (h) any extension, renewal, alteration, substitution or replacement (or successive extensions, renewals, alterations, substitutions or replacements), in whole or in part, of any Security Interest referred to in the foregoing clauses (a) through (g), provided the extension, renewal, alteration, substitution or replacement of such Security Interest is limited to all or any part of the same property that secured the Security Interest extended, renewed, altered, substituted or replaced (plus improvements on such property) and the principal amount of the obligations secured thereby is not thereby increased.

**“Person”** means any individual, corporation, body corporate, limited partnership, general partnership, joint stock company, association, joint venture, company, trust, bank, fund, governmental authority or other entity or organization, whether or not recognized as a legal entity.

**“Preferred Shares”** means

- (a) Securities which on the date of issue thereof by a Person
  - (i) have a term to maturity of more than 30 years,
  - (ii) rank subordinate to the unsecured and unsubordinated Indebtedness of such Person outstanding on such date,
  - (iii) entitle such Person to satisfy the obligation to pay the principal thereof from the proceeds of the issuance of shares,
  - (iv) entitle such Person to defer the payment of interest thereon for more than 4 years without thereby causing an event of default to occur, and

- (v) entitle such Person to satisfy the obligation to make payments of interest thereon from the proceeds of the issuance of shares, or
- (b) shares of any class of the share capital of a corporation or Securities representing ownership interests in any Person other than a corporation which, in either case, are not Common Shares.

**“Premium”** means, at a particular time, the excess, if any, of the then applicable Redemption Price over the principal amount of this Debenture.

**“Purchase Money Mortgage”** means any Security Interest created, issued or assumed by a Person to secure a Purchase Money Obligation, provided that such Security Interest is limited to the property (including the rights associated therewith) purchased, constructed, installed or improved in connection with such Purchase Money Obligation.

**“Purchase Money Obligation”** means Indebtedness of a Person incurred or assumed to finance the purchase price, in whole or in part, of any property (excluding any Indebtedness which constitutes Funded Indebtedness and which was incurred or assumed to finance the purchase price, in whole or in part, of any Securities) or incurred to finance the cost, in whole or in part, of construction or installation of or improvements to any property, provided that such Indebtedness is incurred or assumed within 24 months after the purchase of such property or the completion of such construction, installation or improvements, as the case may be, and includes any extension, renewal or refunding of any such Indebtedness so long as the principal amount thereof outstanding on the date of such extension, renewal or refunding is not thereby increased.

**“Redemption Date”** has the meaning ascribed to such term in Section 3.02.

**“Redemption Price”** means the amount, excluding interest, payable on the Redemption Date.

**“Redemption Price Calculation Date”** means the date on which the Redemption Price is to be calculated, which date, unless otherwise determined by the Directors, shall be the third Business Day prior to the Redemption Date.

**“Securities”** means any stock, shares, units, instalment receipts, voting trust certificates, bonds, debentures, notes, other evidences of indebtedness, or other documents or instruments commonly known as securities or any certificates of interest, shares or participations in temporary or interim certificates for, receipts for, guarantees of, or warrants, options or rights to subscribe for, purchase or acquire any of the foregoing.

**“Security Interest”** means any assignment, mortgage, charge (whether fixed or floating), hypothec, pledge, lien, or other encumbrance on or interest in property or assets that secures payment of Indebtedness.

**“Stated Maturity”** means the date specified in this Debenture as the fixed date on which the principal of this Debenture is due and payable.

**“Subsidiary”** means

- (a) a corporation Controlled by the Corporation or by one or more Subsidiaries of the Corporation or by the Corporation and one or more Subsidiaries of the Corporation, or
- (b) a Person (other than a corporation) Controlled by the Corporation or by one or more Subsidiaries of the Corporation or by the Corporation and one or more Subsidiaries of the Corporation.

**“Successor”** has the meaning ascribed to such term in Section 7.01.

**“Total Consolidated Capitalization”** means, at a particular time, without duplication, the sum of

- (a) the principal amount of all Consolidated Indebtedness at such time,
- (b) the total capital represented by the issued and outstanding share capital, including Preferred Shares, of the Corporation at such time, based, in the case of shares having a par value, upon their par value, and, in the case of shares of no par value, upon the value stated on the books of the Corporation,
- (c) the total amount of (or less the amount of any net deficits in) the consolidated contributed or capital surplus and retained earnings of the Corporation, and
- (d) the amount of any provision for future income taxes,

all as shown on a balance sheet of the Corporation prepared on a consolidated basis in accordance with Generally Accepted Accounting Principles.

**“Wholly Owned Subsidiary”** means a Subsidiary all of the outstanding shares or ownership interests of which are owned, directly or indirectly, by or for the benefit of the Corporation.

## **1.02 Interpretation Not Affected by Headings**

The division of this Schedule into Articles, Sections and clauses and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Schedule or the Debenture of which this Schedule forms a part.

## **1.03 Extended Meanings**

In this Debenture, unless otherwise expressly provided or unless the context otherwise requires, words importing the singular number include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; references to **“Debenture”** and **“this Debenture”** refer to the Debenture to which this Schedule is attached and of which this Schedule forms a part and include all amendments and modifications or restatements of this Debenture, and the expressions **“Article”**, **“Section”** and **“clause”** followed by a number, letter, or combination of numbers and letters refer to the specified Article, Section or clause of this Schedule.

#### **1.04 Day Not a Business Day**

If any day on which an amount is to be determined or an action is to be taken at a particular location is not a Business Day at such location, then such amount shall be determined or such action shall be taken at or before the requisite time on the next succeeding day that is a Business Day at such location. Except as otherwise specified in this Debenture, all determinations as to Business Days shall be made with reference to Calgary, Alberta.

#### **1.05 Currency**

Except as otherwise provided, all references in this Debenture to “**Canadian dollars**”, “**dollars**” and “**\$**” are to lawful money of Canada.

#### **1.06 Other Currencies**

For the purpose of making any computation under this Debenture, any currency other than Canadian dollars shall be converted into Canadian dollars at the Bank of Canada noon rate of exchange on the date on which such computation is to be made.

#### **1.07 Statutes**

Each reference in this Debenture to a statute is deemed to be a reference to such statute as amended, re-enacted or replaced from time to time.

#### **1.08 Invalidity of Provisions**

Each provision in this Debenture is distinct and severable and a declaration of invalidity or unenforceability of any such provision by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Debenture.

#### **1.09 Conflict With Debenture**

In the event of any conflict or inconsistency between this Schedule and the Debenture of which this Schedule forms a part, the Debenture shall govern.

#### **1.10 Applicable Law**

This Debenture shall be governed by and construed in accordance with the laws of the province of Alberta and the laws of Canada applicable in the province of Alberta and shall be treated in all respects as an Alberta contract.



## **ARTICLE 2 THE DEBENTURE**

### **2.01 Ranking**

This Debenture shall be a direct unsecured obligation of the Corporation ranking equally and *pari passu*, subject to statutory preferred exceptions, with all other present and future unsubordinated and unsecured Indebtedness of the Corporation, except as to sinking fund provisions and other similar types of obligations of the Corporation.

### **2.02 Concerning Interest**

Except as otherwise provided in this Debenture,

- (a) this Debenture shall bear interest from and including the later of
  - (i) its date of issue and
  - (ii) the last Interest Payment Date to which interest shall have been paid or made available for payment;
- (b) interest shall be payable semi-annually in equal instalments;
- (c) interest payable for any period of less than six months shall be computed on the basis of a year of 365 days; and
- (d) whenever interest is computed on the basis of a year (the “**deemed year**”) which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing such product by the number of days in the deemed year.

Subject to accrual of any interest on unpaid interest from time to time, interest shall cease to accrue from the earlier of the Maturity Date and, if this Debenture is called for redemption, the Redemption Date, unless upon due presentation and surrender for payment on or after such Maturity Date or Redemption Date, as the case may be, such payment is improperly withheld or refused.

Wherever in this Debenture there is mention, in any context, of the payment of interest, such mention is deemed to include the payment of interest on amounts in default to the extent that, in such context, such interest is, was or would be payable pursuant to this Debenture, and express mention of interest on amounts in default in any of the provisions of this Debenture shall not be construed as excluding such interest in those provisions of this Debenture in which such express mention is not made.

If the date for payment of any amount of principal or interest is not a Business Day at the place of payment, then payment shall be made on the next Business Day at such place and the Holder shall not be entitled to any further interest or other payment in respect of the delay.

### **2.03 Surrender for Cancellation**

If the principal amount due upon this Debenture shall become payable before the Stated Maturity, the Holder shall surrender the same for cancellation and the Corporation shall pay or cause to be paid the interest accrued and unpaid thereon (computed on a *per diem* basis if the date fixed for payment is not an Interest Payment Date).

## **ARTICLE 3 REDEMPTION AND PURCHASE**

### **3.01 General**

The Corporation, when not in default under this Debenture, shall have the right at its option to redeem, either in whole at any time or in part from time to time before Stated Maturity, this Debenture at such rate or rates of Premium, if any, on such date or dates and on such terms and conditions as provided in this Debenture.

### **3.02 Notice of Redemption**

Notice of intention to redeem this Debenture shall be given by or on behalf of the Corporation to the Holder, not more than 60 days and not less than 10 days prior to the date fixed for redemption (the "**Redemption Date**"), in the manner provided in Section 8.02. Every notice of redemption shall specify the Redemption Date, the Redemption Price or the Redemption Price Calculation Date, as applicable, and the place of payment, and shall state that all interest thereon shall cease from and after the Redemption Date. In addition, unless all of the outstanding principal amount of this Debenture is to be redeemed, the notice of redemption shall specify the principal amount to be redeemed.

### **3.03 Debenture Due on Redemption Date**

Upon notice of redemption having been given as specified in Section 3.02, the principal amount of this Debenture so called for redemption shall thereupon be and become due and payable at the Redemption Price and on the Redemption Date specified in such notice, in the same manner and with the same effect as if such date was the Stated Maturity specified in this Debenture, and from and after such Redemption Date, if the money necessary to redeem this Debenture shall have been paid to the Holder, such principal amount shall not be considered as outstanding and interest upon such principal amount shall cease. This Debenture when so redeemed shall forthwith be delivered to the Corporation and shall be cancelled by it and, subject to the following paragraph of this Section 3.03, no debentures shall be issued in substitution therefor.

If a part only of this Debenture is redeemed, the Holder, upon surrender of this Debenture for payment, shall be entitled to receive, without expense to the Holder, a new debenture for the unpurchased part so surrendered, and the Corporation shall deliver such new debenture upon receipt of the Debenture so surrendered.

### **3.04 Purchase**

The Corporation may, at any time when it is not in default under this Debenture, purchase all or any part of this Debenture in the market or by tender or by private contract, provided that the price at which this Debenture may be purchased by private contract shall not exceed the principal amount thereof together with accrued and unpaid interest thereon and costs of purchase. This Debenture when so purchased shall forthwith be delivered to the Corporation and shall be cancelled by it and, subject to the following paragraph of this Section 3.04, no debentures shall be issued in substitution therefor.

If a part only of this Debenture is purchased, the Holder, upon surrender of this Debenture for payment, shall be entitled to receive, without expense to the Holder, a new debenture for the unpurchased part so surrendered, and the Corporation shall deliver such new debenture upon receipt of the Debenture so surrendered.

### **3.05 Expropriation**

In the event of any taking by power of eminent domain or expropriation or other similar power of (a) all or substantially all of the assets and undertaking of the Corporation and/or (b) sufficient shares in the capital of the Corporation owned by the Holder to give the taker thereof effective voting control of the Corporation or in the event of any sale or conveyance by the Corporation or by the Holder in lieu of such taking and in reasonable anticipation thereof where proceedings therefor might lawfully be taken to vest such assets and undertaking or such shares in the grantee for the same purpose, this Debenture shall, at the option of the Holder, exercisable by notice in writing to the Corporation at any time during a period of eighteen (18) months from the date of such taking by power of eminent domain or expropriation or other similar power or of such sale or conveyance in lieu of such taking, as the case may be, be redeemed by the Corporation at a price equal to the principal amount outstanding at the date of redemption plus accrued and unpaid interest on the principal amount to be redeemed to but excluding the date of redemption.

### **3.06 Cancellation**

Subject to the provisions of Sections 3.02, 3.03 and 3.04 as to this Debenture being redeemed or purchased in part, this Debenture, if redeemed or purchased in whole or in part by the Corporation, shall not be reissued or resold and shall be forthwith delivered to and cancelled by the Corporation, and no debentures shall be issued in substitution therefor.

## **ARTICLE 4 COVENANTS OF THE CORPORATION**

### **4.01 General Covenants**

The Corporation covenants and agrees with the Holder as follows:

- (a) the Corporation will well, duly and punctually pay or cause to be paid to the Holder the principal of this Debenture, interest accrued thereon and Premium payable thereon on the dates, at the places, in the currency, and in the manner specified in this Debenture;
- (b) subject to the express provisions of this Debenture, the Corporation will carry on and conduct or will cause to be carried on and conducted its business and the business of its Subsidiaries in a proper and efficient manner and will keep or cause to be kept proper books of account and make or cause to be made therein true and faithful entries of all its dealings and transactions in relation to its business and the business of its Subsidiaries, as the case may be, all in accordance with Generally Accepted Accounting Principles, provided that nothing contained in this Debenture shall prevent the Corporation from ceasing to operate or from causing any Subsidiary to cease to operate any premises or property if in the opinion of the Directors it shall be advisable and in the best interests of the Corporation or the Subsidiary concerned to do so; and
- (c) at the request of the Holder, the Corporation will furnish to the Holder a copy of the annual financial statements of the Corporation and any report of the Corporation's Auditors thereon within 120 days after the end of each fiscal year and a copy of the interim financial statements of the Corporation within 90 days of the end of each fiscal quarter.

### **4.02 Encumbrances on Assets**

The Corporation will not, and will not permit any Subsidiary to, create, assume or suffer to exist any Security Interest on any of its assets to secure any Indebtedness unless at the same time the Corporation shall secure or cause to be secured equally and rateably therewith this Debenture, provided that this Section 4.02 shall not apply to or operate to prevent Permitted Encumbrances.

### **4.03 Additional Funded Indebtedness**

The Corporation will not issue or in any other manner become liable in respect of any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by the Corporation to a Subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of the Corporation in an amount not exceeding the principal amount of the Funded Indebtedness being refunded) unless after giving effect thereto Consolidated Indebtedness will not exceed 75% of Total Consolidated Capitalization. For this purpose, Consolidated Indebtedness and Total Consolidated Capitalization shall be determined as at the last day of the most recent month for which financial statements of the Corporation have been prepared.

In determining the principal amount of Funded Indebtedness for the purposes of this Section 4.03,

- (a) there may be deducted the principal amount of and Premium on any Funded Indebtedness which is to be repaid contemporaneously with or within 60 days after the taking of the action in respect of which such determination is made, provided the Corporation has made due provision for the repayment of such principal amount and Premium; and
- (b) in the case of Funded Indebtedness the delivery of a portion of which is to be delayed not more than one year after the date of the first issuance of a portion of such Funded Indebtedness, the portion of the Funded Indebtedness the delivery of which is to be delayed shall be deemed to have been issued and the estimated value of the consideration for the issue thereof to have been received on the date of the first delivery of any of such Funded Indebtedness and that portion of such Funded Indebtedness which is issued subsequent to the date of such first delivery shall be deemed not to be an issue of Funded Indebtedness and no further consideration shall be deemed to be received upon the actual issue of such portion of such Funded Indebtedness, provided that if any portion of such Funded Indebtedness is not issued within such period of one year, this Section 4.03(b) shall thereafter not apply to such portion and such portion shall not be issued except in compliance with the provisions of this Section 4.03.

#### **4.04 Indebtedness of Subsidiaries**

The Corporation will not permit any Subsidiary to issue or in any other manner become liable in respect of:

- (a) any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by a Subsidiary to the Corporation or to another Subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of a Subsidiary in an amount not exceeding the principal amount of the Funded Indebtedness being refunded); or
- (b) any Indebtedness (other than Indebtedness issued to the Corporation or to another Subsidiary) unless after giving effect thereto the aggregate amount of Indebtedness of the Subsidiaries will not exceed an amount equal to 10% of the aggregated Funded Indebtedness of the Corporation.

#### **4.05 Sale of Assets and Amalgamations**

The Corporation will not enter into any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other Person, whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale or otherwise, other than in accordance with the provisions of Section 7.01 or as permitted thereby.

## **ARTICLE 5 DEFAULT**

### **5.01 Events of Default**

Each of the following events shall be an “**Event of Default**”:

- (a) the Corporation fails to make payment of the principal of or Premium on this Debenture when the same becomes due;
- (b) the Corporation fails to make payment of any interest due on this Debenture or any sinking fund payment prescribed in this Debenture and any such failure continues for a period of 30 days;
- (c) the Corporation fails to observe and perform any other obligation under the provisions of this Debenture and such failure continues for more than 60 days after written notice thereof is provided to the Corporation by the Holder or for such longer period as may be agreed to by the Holder, provided that in no event shall such longer period extend beyond 90 days after receipt of such notice by the Corporation;
- (d) any one or more of the Corporation and its Subsidiaries fail to pay when due (after giving effect to any applicable grace periods, waivers and extensions) any amount owing in respect of Indebtedness other than this Debenture, provided that the aggregate principal amount of such Indebtedness in respect of which payment has not been made exceeds \$5 million;
- (e) the maturity of the Indebtedness referred to in Section 5.01(d) is accelerated as a result of the failure of the Corporation and its Subsidiaries to perform any other covenant applicable to such Indebtedness, provided that the aggregate principal amount of such Indebtedness accelerated exceeds \$5 million;
- (f) the sale, transfer or other disposition by the Corporation, by one or more transactions, directly or indirectly, of its undertaking or assets representing, in the aggregate, substantially all of the assets of the Corporation other than in accordance with the provisions of Section 7.01 or as permitted thereby;
- (g) one or more final judgments (not subject to appeal) are rendered against any one or more of the Corporation and its Subsidiaries in an aggregate amount in excess of \$5 million (excluding amounts in respect of which the Corporation or its Subsidiaries are insured) by a court or courts of competent jurisdiction and remain undischarged or unstayed for a period of 60 days after the date on which all rights to appeal have expired;
- (h) proceedings are commenced for the winding-up, liquidation or dissolution of the Corporation (except as otherwise permitted under this Debenture), a decree or order of a court of competent jurisdiction is entered adjudging the Corporation a bankrupt or insolvent, or a petition seeking reorganization, arrangement or adjustment of or in respect of the Corporation is approved under applicable law relating to bankruptcy, insolvency or

relief of debtors, unless such proceedings, decrees, orders or approvals are actively and diligently contested by the Corporation in good faith and are dismissed or stayed within 60 days of commencement;

- (i) the Corporation makes an assignment for the benefit of its creditors, or petitions or applies to any court or tribunal for the appointment of a receiver or trustee for itself or any substantial part of its property, or commences for itself or acquiesces in any proceeding under any bankruptcy, insolvency, reorganization, arrangement or readjustment of debt law or statute or any proceeding for the appointment of a receiver or trustee for itself or any substantial part of its property which is material to the conduct of its business, or suffers any such receivership or trusteeship and allows it to remain undischarged or unstayed for 30 days; and
- (j) a resolution is passed for the winding-up or liquidation of the Corporation except in the course of carrying out or pursuant to a transaction in respect of which the conditions of Section 7.01 are duly observed and performed.

## **5.02 Acceleration**

Subject to the provisions of Section 5.03, if an Event of Default shall occur and be continuing, the Holder may in its discretion, by notice in writing to the Corporation, declare the principal of and interest on this Debenture then outstanding and the Premium thereon which would have been payable if the Corporation had redeemed this Debenture (otherwise than out of sinking fund amounts) on the date of such declaration and all other amounts outstanding under this Debenture to be due and payable, and the same shall forthwith become immediately due and payable to the Holder, notwithstanding anything contained in this Debenture to the contrary. Notwithstanding anything contained in this Debenture to the contrary, if the Holder makes such a declaration, the Corporation shall pay to the Holder forthwith the amount of principal of and Premium and accrued and unpaid interest (including interest on amounts in default) on this Debenture and all other amounts payable in regard thereto, together with interest thereon at the Interest Rate Per Annum of this Debenture from the date of such declaration until payment is received by the Holder. Such payment, when made, shall be deemed to have been made in discharge of the Corporation's obligations under this Debenture.

## **5.03 Waiver of Event of Default**

The Holder shall have the power to waive any Event of Default and to cancel any declaration made by the Holder pursuant to Section 5.02.

No delay or omission of the Holder in exercising any right or power accruing upon the occurrence of an Event of Default shall impair any such right or power or shall be construed to be a waiver of such Event of Default or acquiescence therein, and no act or omission shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

#### **5.04 Enforcement by the Holder**

Subject to the provisions of Section 5.03, if the Corporation fails to pay to the Holder, forthwith after the same shall have been declared to be due and payable under Section 5.02, the principal of and Premium and interest on this Debenture then outstanding together with any other amounts due under this Debenture, the Holder may proceed in its name to obtain or enforce payment of such principal of and Premium and interest on this Debenture then outstanding together with any other amounts due under this Debenture by such proceedings authorized by this Debenture or by suit at law or in equity as the Holder shall deem expedient.

The Holder shall also have power at any time and from time to time to institute and to maintain such suits and proceedings as shall be necessary or advisable to preserve and protect its interests.

#### **5.05 Application of Money**

Any money received by the Holder pursuant to the provisions of this Article 5 or as a result of legal or other proceedings, or from any trustee in bankruptcy or liquidator of the Corporation, shall be applied as follows:

- (a) first, in payment or in reimbursement to the Holder of its costs, charges, expenses, borrowings, advances or other amounts furnished or provided by or at the instance of the Holder in relation to this Debenture, with interest thereon as provided in this Debenture;
- (b) second, subject to the provisions of this Section 5.05, in payment of the principal of and Premium and accrued and unpaid interest and interest on amounts in default on this Debenture which shall then be outstanding in the priority of principal first and then Premium and then accrued and unpaid interest and interest on amounts in default; and
- (c) third, in payment of the surplus, if any, of such money to the Corporation or its assigns.

#### **5.06 Remedies Cumulative**

No remedy conferred upon or reserved to the Holder under this Debenture is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Debenture or now existing or hereafter to exist by law.



## **ARTICLE 6**

### **CANCELLATION, DISCHARGE AND DEFEASANCE**

#### **6.01 Cancellation and Destruction**

Any Debenture surrendered to the Corporation for any purpose shall be cancelled by the Corporation forthwith after all payments required in respect thereof to the date of surrender have been made.

#### **6.02 Payment of Amounts Due on Maturity**

The Corporation shall pay to the Holder on the Maturity Date the principal amount of and Premium on this Debenture (less any taxes required by law to be deducted or withheld) upon surrender of this Debenture at the office of the Corporation at 1700 ATCO Centre, 10035 - 105 Street, Edmonton, Alberta, or at such other place as shall be designated for such purpose from time to time by the Corporation and the Holder. The payment of such amount to the Holder shall satisfy and discharge the liability of the Corporation to the extent of the amount paid (plus the amount of any taxes deducted or withheld) and thereafter this Debenture shall not to that extent be considered to be outstanding and the Holder shall have no right with respect thereto.

#### **6.03 Discharge**

Upon the principal of this Debenture and the Premium thereon and interest (including interest on amounts in default) thereon and other amounts payable under this Debenture having been paid or satisfied, and upon payment of all costs, charges and expenses properly incurred by the Holder in relation to this Debenture and all interest thereon, or upon provision satisfactory to the Holder being made therefor, the Holder shall, at the request and at the expense of the Corporation, execute and deliver to the Corporation such deeds or other instruments as shall be required to evidence the satisfaction and discharge of this Debenture and to release the Corporation from its covenants contained in this Debenture.

#### **6.04 Defeasance**

The Corporation shall have the right (the “**defeasance option**”) to be released from the terms of this Debenture specified in a notice to the Holder, and upon receipt of such notice the Holder shall, at the request and expense of the Corporation, execute and deliver to the Corporation such deeds and other instruments as shall be necessary to release the Corporation from the terms of this Debenture specified in such notice, subject to the following:

- (a) the Corporation shall have delivered to the Holder evidence that the Corporation has
  - (i) deposited with a trustee (which may be the Holder) (the “**Trustee**”) sufficient funds for payment of all principal, Premium, interest and other amounts due or to become due on this Debenture to the Stated Maturity,
  - (ii) deposited funds or made provision for the payment of all expenses of the Trustee to carry out its duties under this Debenture, and

- (iii) deposited funds for the payment of taxes arising with respect to all deposited funds or other provision for payment in respect of this Debenture, in each case irrevocably, pursuant to the terms of a trust agreement in form and substance satisfactory to the Corporation and the Holder;
- (b) the Holder shall have received an opinion of Counsel to the effect that the Holder will not be subject to any additional taxes as a result of the exercise by the Corporation of the defeasance option with respect to this Debenture and that the Holder will be subject to taxes, if any, including those in respect of income (including taxable capital gain), on the same amount, in the same manner and at the same time or times as would have been the case if the defeasance option had not been exercised in respect of this Debenture;
- (c) no Event of Default shall have occurred and be continuing on the date of the deposit referred to in Section 6.04(a);
- (d) such release does not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which the Corporation is a party or by which the Corporation is bound;
- (e) the Corporation shall have delivered to the Trustee an Officers' Certificate stating that the deposit referred to in Section 6.04(a) was not made by the Corporation with the intent of preferring the Holder of this Debenture over the other creditors of the Corporation or with the intent of defeating, hindering, delaying or defrauding creditors of the Corporation or others; and
- (f) the Corporation shall have delivered to the Holder an Officers' Certificate stating that all conditions precedent provided for or relating to the exercise of such defeasance option have been complied with.

The Corporation shall be deemed to have made due provision for the depositing of funds if it deposits or causes to be deposited with the Trustee under the terms of an irrevocable trust agreement in form and substance satisfactory to the Corporation and the Holder (each acting reasonably), solely for the benefit of the Holder, money or Securities denominated in the currency in which principal is payable constituting direct obligations of Canada or the United States or an agency or instrumentality of Canada or the United States, which will be sufficient, in the opinion of a firm of independent chartered accountants or an investment dealer acting reasonably and acceptable to the Holder, to provide for payment in full of this Debenture and all other amounts from time to time due and owing under this Debenture.

The Trustee shall hold in trust all money or Securities deposited with it pursuant to this Section 6.04 and shall apply the deposited money and the money derived from such Securities in accordance with this Debenture to the payment of principal of and Premium and interest on this Debenture and, as applicable, other amounts.

If the Trustee is unable to apply any money or Securities in accordance with this Section 6.04 by reason of any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Corporation's obligations under this Debenture shall be revived and reinstated as though no money or

Securities had been deposited pursuant to this Section 6.04 until such time as the Trustee is permitted to apply all such money or Securities in accordance with this Section 6.04, provided that if the Corporation has made any payment in respect of principal, Premium or interest on this Debenture or, as applicable, other amounts because of the reinstatement of its obligations, the Corporation shall be subrogated to the rights of the Holder to receive such payment from the money or Securities held by the Trustee.

## **ARTICLE 7 SUCCESSORS**

### **7.01 Requirements for Successors**

The Corporation will not enter into any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other Person (any such Person being a “**Successor**”), whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale or otherwise, unless

- (a) the Successor shall have executed, prior to or contemporaneously with the consummation of any such transaction, such instruments as in the opinion of Counsel are necessary or advisable to evidence the assumption by the Successor of the due and punctual payment of the principal of and interest on this Debenture and all other amounts payable under this Debenture and the covenant of the Successor to pay the same and its agreement to observe and perform all the covenants and obligations of the Corporation under this Debenture;
- (b) such transaction shall not be prejudicial to the interests of the Holder; and
- (c) no condition or event shall exist as to the Corporation or the Successor either at the time of or immediately after the consummation of any such transaction and after giving full effect thereto or immediately after compliance by the Successor with the provisions of Section 7.01(a) which constitutes or would constitute an Event of Default;

provided, however, the provisions of Section 4.03 and of this Section 7.01 shall not be applicable to any transaction between or among the Corporation and its Subsidiaries.

### **7.02 Vesting of Powers in Successor**

Whenever the conditions of Section 7.01 have been duly observed and performed, the Successor shall possess and from time to time may exercise each and every right and power of the Corporation under this Debenture, in the name of the Corporation or otherwise, and any act or proceeding required by any provision of this Debenture to be done or performed by any directors or officers of the Corporation may be done and performed with like force and effect by the directors or officers of the Successor.

## **ARTICLE 8 NOTICES**

### **8.01 Notice to the Corporation**

Any notice to the Corporation shall be valid and effective if delivered to the Vice President, Controller of the Corporation at 1700 ATCO Centre, 10035 - 105 Street, Edmonton, Alberta, or if sent by facsimile transmission (with receipt confirmed) to the attention of the Vice President, Controller of the Corporation at (780) 420-7120, and shall be deemed to have been validly given at the time of delivery or transmission if it is received prior to 4:00 p.m. on a Business Day, failing which it shall be deemed to have been given on the next Business Day. The Corporation may from time to time notify the Holder of a change in address or facsimile number which thereafter, until changed by like notice, shall be the address or facsimile number of the Corporation for all purposes of this Debenture.

### **8.02 Notice to the Holder**

Any notice to the Holder shall be valid and effective if delivered to the Senior Vice President and Chief Financial Officer of the Holder at 1600 ATCO Centre, 909 - 11th Avenue S.W., Calgary, Alberta, or if sent by facsimile transmission (with receipt confirmed) to the attention of the Senior Vice President and Chief Financial Officer of the Holder at (403) 292-7507, and shall be deemed to have been validly given at the time of delivery or transmission if it is received prior to 4:00 p.m. on a Business Day, failing which it shall be deemed to have been given on the next Business Day. The Holder may from time to time notify the Corporation of a change in address or facsimile number which thereafter, until changed by like notice, shall be the address or facsimile number of the Holder for all purposes of this Debenture.

In determining the date by which notice of any redemption or other event must be given, the date of giving the notice shall be included and the date of the redemption or other event shall be excluded.

### **8.03 Waiver of Notice**

Any notice provided for in this Debenture may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

This is Exhibit "D"  
 Referred to in the Affidavit of  
 CHARLES S. McCONNELL  
 Sworn before me this 18th day  
 of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
 A Commissioner for Oaths in and for  
 the Province of Alberta

## EXHIBIT "D"

### ATCO ELECTRIC LTD. Reasonableness of Pricing Arrangements Recent Similar Corporate Debt Issues

Date	Issuer	Amount (\$ Millions)	Coupon (%)	Maturity	Issue Spread (1)	Ratings DBRS /S&P
Jan 2008	B.C. Ferry Services (2)	200.0	5.581	Jan 2038	150	A(1)/A-
Jan 2008	Sun Life Financial (3)	400.0	5.590	Jan 2023	167	A(h)/A+
Feb 2008	Terasen Gas-Vanc. Is.	250.0	6.050	Feb 2038	183	BBB(h)/NR
Mar 2008	Bank of Montreal (3)	900.0	6.170	Mar 2023	260	AA(1)/A
Mar 2008	Maritime Electric (4)	60.0	6.054	Apr 2038	205	NR/A
Apr 2008	Fortis Alberta	100.0	5.850	Apr 2038	180	A(1)/A-
Apr 2008	EPCOR Utilities	200.0	6.650	Apr 2038	255	A(1)/BBB+
May 2008	Terasen Gas Inc.	250.0	5.800	May 2038	163	A/NR
<b>May 2008</b>	<b>CU Inc.</b>	<b>200.0</b>	<b>5.580</b>	<b>May 2038</b>	<b>148</b>	<b>A(h)/A</b>
<b>May 2008</b>	<b>CU Inc.</b>	<b>125.0</b>	<b>5.563</b>	<b>May 2028</b>	<b>148</b>	<b>A(h)/A</b>

#### Notes:

- (1) Over Government of Canada bonds of equivalent term.
- (2) Secured bonds
- (3) Subordinated bonds
- (4) First mortgage bonds
- (5) "NR" means not rated.

This is Exhibit "E"  
 Referred to in the Affidavit of  
 CHARLES S. McCONNELL  
 Sworn before me this 18th day  
 of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
 A Commissioner for Oaths in and for  
 the Province of Alberta

# **EXHIBIT "E"**

## **ATCO ELECTRIC LTD. Pro Forma Capital Structure**

	<b>March 31, 2008</b>		<b>March 31, 2008 As Adjusted (1)</b>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
	<u>(\$000's)</u>		<u>(\$000's)</u>	
Long Term Debt.....	1,098.3	59.5	1,208.6	61.8
Preferred Shares .....	104.7	5.7	104.7	5.4
Common Equity .....	641.3	34.8	641.3	32.8
Total .....	<u>1,844.3</u>	<u>100.0</u>	<u>1,954.6</u>	<u>100.0</u>

### Note:

- (1) After giving effect to the issue of the 5.563% Debenture and the 5.580% Debenture and the maturity of the \$14.7 million principal amount of 6.97% Debenture.

This is Exhibit "F"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day  
of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

**EXHIBIT "F"**

**Opinion  
of  
Legal Counsel**

August 18, 2008

Alberta Utilities Commission  
Fifth Avenue Place  
4<sup>th</sup> Floor, 425 – 1 Street S.W.  
Calgary, Alberta  
T2P 3L8

Dear Sirs:

**Re: Proposed Issue by ATCO Electric Ltd.  
of a 5.563% Debenture in the Principal Amount of \$50,000,000**

We have acted as counsel to ATCO Electric Ltd. (the "**Corporation**") in connection with the proposed issue by the Corporation to CU Inc. of a 5.563% Debenture in the principal amount of \$50,000,000 (the "**5.563% Debenture**").

In connection with the rendering of this opinion, we have examined the following:

1. copies of the articles and by-laws of the Corporation;
2. the form of the 5.563% Debenture;
3. a certified copy of a resolution of the directors of the Corporation authorizing the creation and issue of the 5.563% Debenture; and
4. such other documents or copies of documents as we have considered necessary for the purposes of this opinion.

Based upon and subject to the foregoing, we are of the opinion that

1. the Corporation is a corporation validly existing under the laws of Canada, has the corporate power to carry on its business, and is a valid and subsisting extra-provincial corporation under the *Business Corporations Act* (Alberta);
2. the Corporation has all requisite corporate power and authority to create and issue the 5.563% Debenture;
3. the 5.563% Debenture, when executed by the Corporation and delivered for value following the approval by the Alberta Utilities Commission of the issue thereof, will be a valid and binding obligation of the Corporation enforceable in accordance with its terms,



and the issue thereof will not, to our knowledge, violate the provisions contained in any debentures of the Corporation that are presently outstanding; and

4. the issue of the 5.563% Debenture is exempt from the registration and prospectus requirements of the *Securities Act* (Alberta).

The opinion expressed in paragraph 3 as to the enforceability of the obligation referred to therein is subject to the qualifications that the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and that specific performance and injunctive relief are equitable remedies that may be ordered by a court in its discretion and may not be available to enforce the covenants therein.

Yours truly,

*Bennett Jones LLP*

**ATCO ELECTRIC LTD.**

Application to the Alberta Utilities Commission

for authority to issue a 5.580% Debenture

in the principal amount of \$75,000,000 at a price of 100.00 to yield 5.580%

**TO: ALBERTA UTILITIES COMMISSION**

Application is hereby made by ATCO Electric Ltd. to the Alberta Utilities Commission for the authority to issue a 5.580% Debenture in the principal amount of \$75,000,000 at a price of 100.00 to yield 5.580%.

DATED at Edmonton, Alberta this 18th day of August, 2008.

**ATCO ELECTRIC LTD.**

Per: (signed) "D.A. DeChamplain"  
D.A. DeChamplain  
Vice President, Controller

IN THE MATTER OF the Public Utilities Act;

AND IN THE MATTER OF an application by ATCO Electric Ltd. to the Alberta Utilities Commission for the authority to issue a 5.580% Debenture in the principal amount of \$75,000,000 at a price of 100.00 to yield 5.580%;

I, CHARLES S. McCONNELL, of the City of Calgary, in the Province of Alberta, make oath and say that:

1. I am the Treasurer of CU Inc. and as such have knowledge of the matters herein sworn to.
2. CU Inc. owns all of the common shares of ATCO Electric Ltd. (hereinafter called the "Corporation") and its affiliate, ATCO Gas and Pipelines Ltd. (hereinafter called "AGP").
3. The Corporation is making application to the Alberta Utilities Commission (hereinafter called the "Commission") for the authority to issue to CU Inc. a 5.580% Debenture (hereinafter called the "5.580% Debenture") in the principal amount of \$75,000,000 at a price of 100.00 to yield 5.580%.
4. The business and operations of the Corporation are subject to the legislative authority of the Province of Alberta.
5. Since December 6, 2007, the date of the Corporation's most recent application to the Board respecting the authority to issue securities, there have no amendments to the articles or by-laws of the Corporation, other than an amendment to the by-laws effective January 1, 2008, relating to the execution of instruments.
6. On May 26, 2008, CU Inc. completed the sale of \$200,000,000 principal amount of 5.580% Debentures due May 26, 2038, at a price of 100.00 to yield 5.580% through agents to the public. A copy of the Pricing Supplement and the Base Shelf Prospectus of CU Inc. is attached hereto and marked Exhibit "A" to this my Affidavit. This issue was made in compliance with Decisions U99115 and U99118 of the Commission which, among other things, exempt CU Inc. from the requirement to obtain the approval of the Commission prior to issuing securities. All of the proceeds from the sale of the 5.580% Debentures were advanced by CU Inc. to the Corporation and AGP on May 26, 2008, subject to the assumption by these subsidiaries of their pro rata share of the fees and expenses to be paid by CU Inc. in connection with this issue. Accordingly, it is proposed that the Corporation issue a 5.580% Debenture to CU Inc. in the principal amount of \$75,000,000 at a price of 100.00 to yield 5.580% in respect of the advance of \$75,000,000 made to the Corporation by CU Inc.
7. Attached hereto and marked Exhibit "B" to this my Affidavit is a copy of a resolution of the board of directors of the Corporation passed on May 26, 2008, authorizing the creation of the 5.580% Debenture and, subject to obtaining the prior consent of the Commission, the issue thereof at a price of 100.00 to yield 5.580% to CU Inc. for aggregate proceeds of \$75,000,000, which resolution has not been amended or modified,

is in full force and effect, and is the only resolution of the board of directors of the Corporation or any committee thereof relating to the 5.580% Debenture.

8. It is proposed that the 5.580% Debenture shall have the form set out in Exhibit "C" to this my Affidavit and, among other things, contain the following terms and conditions:
  - (a) The 5.580% Debenture will be issued in the principal amount of \$75,000,000, will be dated as of May 26, 2008, will mature on May 26, 2038, and will bear interest at the rate of 5.580% per annum calculated and payable half-yearly on the 26th day of May and November in each year, commencing November 26, 2008. These terms and conditions reflect the comparable provisions applicable to the 5.580% Debentures of CU Inc. referred to in Exhibit "A" attached hereto.
  - (b) The repayment and redemption provisions are set forth in paragraphs 3, 4 and 5 of the 5.580% Debenture and Sections 3.01, 3.02, 3.03, 3.04 and 3.06 of the Schedule to the 5.580% Debenture attached as Exhibit "C" hereto and reflect the comparable provisions applicable to the 5.580% Debentures of CU Inc. referred to in Exhibit "A" attached hereto.
  - (c) The 5.580% Debenture will be redeemable at the option of CU Inc. in the event of the expropriation of either the assets and undertaking of the Corporation or of sufficient shares of the Corporation to represent effective voting control, as set out in Section 3.05 of the Schedule to the 5.580% Debenture attached as Exhibit "C" hereto.
9. Attached hereto and marked Exhibit "D" to this my Affidavit is information indicating the reasonableness of the pricing arrangements made by CU Inc. in connection with the issue of its 5.580% Debentures on May 26, 2008.
10. The rate of interest payable by the Corporation on the 5.580% Debenture to be issued to CU Inc. is the rate payable by CU Inc. on its 5.580% Debentures. This rate of interest and other terms and conditions attaching to the 5.580% Debenture are, in the opinion of the management of the Corporation, more favorable to the Corporation than would have been the case if the Corporation had carried out long-term debt financing on its own. Accordingly, the proposed issue of the 5.580% Debenture to CU Inc. will not be prejudicial to the interests of the customers of the Corporation nor to the interest of the public of the Province of Alberta.
11. The estimated net proceeds from the sale of the 5.580% Debenture will amount to approximately \$74,544,000 after deducting the Corporation's pro rata share of the fees and estimated expenses to be paid by CU Inc. in connection with the issue of its 5.580% Debentures. The net proceeds will be applied to finance capital expenditures, repay existing indebtedness and for other general corporate purposes.
12. In addition to the issue of the 5.580% Debenture, the directors of the Corporation have also approved, subject to prior consent of the Commission, the issue of a \$50,000,000 principal amount 5.563% Debenture due May 26, 2028, ("5.563% Debenture") to CU Inc. The net proceeds of this issue will be applied to finance capital expenditures, repay

existing indebtedness and for other general corporate purposes. Each of these issues is independent and delivery and closing of either issue does not depend on delivery or closing of the other. An application to approve the issue of the 5.563% Debenture is being submitted to the Commission concurrently with this application.

13. On June 2, 2008, \$14,700,000 principal amount of 6.97% Debenture of the Corporation matured. This maturity was financed from the funds advanced to the Corporation by CU Inc. on May 26, 2008.
14. The Corporation is issuing the 5.580% Debenture to help maintain ATCO Electric's capital structure at the levels established in the Generic Cost of Capital proceeding (Decision 2004-052). Attached hereto and marked Exhibit "E" to this my Affidavit is a statement showing the pro forma capital structure of the Corporation after giving effect to the transactions described in Paragraphs 11, 12 and 13 of this my Affidavit.
15. The proposed issue of the 5.580% Debenture by the Corporation will have no effect on the control of the Corporation or on the voting power related to the shares of the Corporation.
16. Attached hereto and marked Exhibit "F" to this my Affidavit is an opinion of Bennett Jones LLP, Barristers and Solicitors, Legal Counsel for the Corporation, evidencing, among other things, compliance with the securities laws of the Province of Alberta, being the province in which the 5.580% Debenture will be issued.

SWORN before me at the City of Calgary, in the )  
Province of Alberta, this 18th day of August, )  
2008.

\_\_\_\_\_  
(signed) "W.S. Osler"

W.S. Osler

A Commissioner for Oaths in and for the )  
Province of Alberta )

\_\_\_\_\_  
(signed) "C.S. McConnell"

CHARLES S. McCONNELL

This is Exhibit "A"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day  
of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

**EXHIBIT "A"**

**CU Inc.**

**Pricing Supplement dated May 21, 2008  
Respecting an Issue of 5.580% Debentures**

**and**

**Base Shelf Prospectus dated May 15, 2008**

Pricing Supplement No. 1 dated May 21, 2008  
(To base shelf prospectus dated May 15, 2008)



An **ATCO** Company

**CU INC.**  
**Debentures (Unsecured)**

<b>Amount of Issue:</b>	\$200,000,000	<b>Agent Commission (%):</b>	0.50%
<b>Issue and Delivery Date:</b>	May 26, 2008	<b>Net Proceeds (Cdn. \$):</b>	\$199,000,000
<b>Maturity Date:</b>	May 26, 2038	<b>Interest Payment Dates:</b>	May 26 and November 26
<b>Interest Rate:</b>	5.580%	<b>Initial Interest Payment Date:</b>	November 26, 2008
<b>Price:</b>	100.00	<b>Agents:</b>	BMO Nesbitt Burns Inc. RBC Dominion Securities Inc. TD Securities Inc.
<b>Yield to Maturity:</b>	5.580%		
		<b>ISIN Number:</b>	CA12657ZAQ69

**Redemption Provision**

The Corporation shall be entitled to redeem the Debentures in whole at any time, or in part from time to time, on notice given not more than 60 days and not less than 10 days prior to the date fixed for redemption (the "Redemption Date") at the greater of the Canada Yield Price (as defined below) and par, together with accrued and unpaid interest to the Redemption Date.

"Canada Yield Price" shall mean the price of the Debentures determined on the third business day prior to the Redemption Date (the "Redemption Price Calculation Date") and calculated to provide a yield to maturity equal to the Government of Canada Yield (as defined below) plus 0.37%.

"Government of Canada Yield" shall mean the yield to maturity which a non-callable Government of Canada Bond (issued in Canadian dollars in Canada with interest compounded semi-annually in arrears and having a term equal to the remaining term to maturity of the Debentures) would carry if issued at 100% of its principal amount on the Redemption Price Calculation Date. The Government of Canada Yield will be the average of the yields determined by two major Canadian investment dealers selected by the Corporation.

**Documents Incorporated by Reference**

In addition to this pricing supplement, the following documents of the Corporation which have been filed with securities regulatory authorities in each of the provinces of Canada are incorporated by reference into the Corporation's base shelf prospectus dated May 15, 2008, as of the date of this pricing supplement:

- (a) annual information form dated February 19, 2008;
- (b) comparative financial statements, together with the accompanying report of the auditors, for the year ended December 31, 2007;
- (c) management's discussion and analysis for the year ended December 31, 2007;
- (d) comparative interim financial statements for the three months ended March 31, 2008; and
- (e) management's discussion and analysis for the three months ended March 31, 2008.



*This short form prospectus has been filed under legislation in each of the provinces of Canada that permits certain information about these securities to be determined after this prospectus has become final and that permits the omission from this prospectus of that information. The legislation requires the delivery to purchasers of a prospectus supplement containing the omitted information within a specified period of time after agreeing to purchase any of these securities.*

*No securities regulatory authority has expressed an opinion about these securities and it is an offence to claim otherwise. Information has been incorporated by reference in this prospectus from documents filed with securities commissions or similar authorities in Canada. Copies of the documents incorporated herein by reference may be obtained on request without charge from the Corporate Secretary of CU Inc. at 1400 ATCO Centre, 909 - 11<sup>th</sup> Avenue S.W., Calgary, Alberta T2R 1N6 (telephone: (403) 292-7500), and are also available electronically at [www.sedar.com](http://www.sedar.com).*

## Base Shelf Prospectus

New Issue

May 15, 2008



An **ATCO** Company

### **\$1,500,000,000 Debentures (Unsecured)**

The Debentures (the “Debentures”) will be issued in book-entry-only form in denominations of \$1,000 and integral multiples thereof. The Debentures will be unsecured, will rank *pari passu* with all other unsecured indebtedness of CU Inc. (the “Corporation”), and will be issued upon terms determined by the Corporation from time to time based on a number of factors, including market conditions at the time of issue and advice from the Dealers (as defined below). See “Description of the Debentures”.

The Debentures will be offered on a continuous basis pursuant to an MTN program established by the Corporation. The Debentures will be issued from time to time in an aggregate principal amount of up to \$1,500,000,000 during the 25-month period that this short form prospectus remains valid. The specific variable terms of any offering of Debentures, including the aggregate principal amount of Debentures offered, the issue and delivery date, the maturity date, the interest rate, the interest payment date(s), the Dealers’ commission, the method of distribution, and the actual proceeds to the Corporation, will be set forth in a pricing supplement which will accompany this short form prospectus. The Corporation reserves the right to issue securities under its MTN program on terms which are outside the intended parameters disclosed in this short form prospectus.

**There is no market through which these securities may be sold and purchasers may not be able to resell securities purchased under this short form prospectus. This may affect the pricing of the securities in the secondary market, the transparency and availability of trading prices, the liquidity of the securities, and the extent of issuer regulation. See “Risk Factors”. In the opinion of counsel, the Debentures, if issued on the date hereof, would be eligible for investment under certain statutes as set out under “Eligibility for Investment”.**

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#### **Rates on Application**

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The Debentures may be offered severally by BMO Nesbitt Burns Inc., RBC Dominion Securities Inc. and TD Securities Inc. (the “Dealers”) acting as exclusive agents of the Corporation, subject to confirmation by the Corporation. The Debentures also may be purchased from time to time by any of the Dealers, as principals, at such prices and with such commissions as may be agreed between the Corporation and any such Dealers, for resale to the public at prices to be negotiated with each purchaser. Such resale prices may vary during the distribution period and as between purchasers. The Dealers’ compensation will be increased or decreased by the amount by which the aggregate price paid for Debentures by purchasers exceeds or is less than the aggregate price paid by the Dealers, acting as principals, to the Corporation.

**The Dealers are subsidiaries of Canadian chartered banks which have extended credit facilities to the Corporation and certain of its affiliates. Accordingly, under certain circumstances, the Corporation may be considered to be a “connected issuer” of the Dealers under applicable securities legislation. See “Plan of Distribution”.**

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### DOCUMENTS INCORPORATED BY REFERENCE

The following documents of the Corporation filed with securities commissions or similar authorities in Canada are specifically incorporated by reference in this short form prospectus:

- (a) annual information form dated February 19, 2008;
- (b) comparative financial statements, together with the accompanying report of the auditors, for the year ended December 31, 2007;
- (c) management's discussion and analysis for the year ended December 31, 2007;
- (d) comparative interim financial statements for the three months ended March 31, 2008; and
- (e) management's discussion and analysis for the three months ended March 31, 2008;

provided that these documents are not incorporated by reference to the extent their contents are modified or superseded by a statement contained in this short form prospectus or in any other subsequently filed document that is also incorporated by reference in this short form prospectus.

Any material change reports (except confidential material change reports), financial statements and related management's discussion and analysis, information circulars, and business acquisition reports filed by the Corporation after the date of this short form prospectus and before the termination of the distribution are deemed to be incorporated by reference in this short form prospectus. Upon a new annual information form and the related annual financial statements and managements' discussion and analysis being filed by the Corporation, the following documents shall no longer be incorporated by reference in this short form prospectus for purposes of future offers and sales of Debentures hereunder:

- (a) the previous annual information form;
- (b) the previous annual financial statements and related management's discussion and analysis;
- (c) all previous interim financial statements and related interim management's discussion and analysis;
- (d) any material change reports filed prior to the end of the financial year in respect of which the new annual information form is filed;

- (e) any information circular prepared in connection with an annual general meeting if an information circular for a subsequent annual general meeting has been filed and incorporated by reference; and
- (f) any business acquisition reports for acquisitions completed before the beginning of the financial year in respect of which the new annual information form is filed.

All information permitted by *National Instrument 44-102 – Shelf Distributions* to be omitted from this base shelf prospectus will be contained in one or more shelf prospectus supplements that will be delivered to purchasers together with this base shelf prospectus. Each shelf prospectus supplement will be incorporated by reference into this base shelf prospectus for the purposes of securities legislation as of the date of the shelf prospectus supplement and only for the purposes of the distribution of the securities to which the shelf prospectus supplement pertains.

## CU INC.

CU Inc., a wholly owned subsidiary of Canadian Utilities Limited, was incorporated under the laws of Canada on March 12, 1999. The address of the head and registered office of the Corporation is 1400 ATCO Centre, 909 - 11<sup>th</sup> Avenue S.W., Calgary, Alberta T2R 1N6.

The Corporation is a holding company. Its principal operating subsidiaries are engaged in regulated natural gas and electric energy operations, primarily in Alberta.

## RECENT DEVELOPMENTS

On May 7, 2008, Messrs. R.D. Southern, W.L. Britton, B.K. French and H.M. Neldner retired from the Board of Directors of the Corporation and Ms. L.M. Charlton, Mr. J.W. Simpson, Ms. N.C. Southern, Mr. R.J. Urwin and Ms. K.M. Watson were appointed the directors.

## PLAN OF DISTRIBUTION

Pursuant to a dealer agreement dated May 15, 2008 (the “Agreement”), between the Corporation and BMO Nesbitt Burns Inc., RBC Dominion Securities Inc. and TD Securities Inc. (collectively, the “Dealers”), the Dealers are authorized, as exclusive agents of the Corporation for this purpose only, to solicit offers to purchase Debentures directly and through other Canadian investment dealers. The Agreement also provides that Debentures may be purchased from time to time by any of the Dealers, as principals, at such prices and with such commissions as may be agreed between the Corporation and any such Dealers, for resale to the public at prices to be negotiated with each purchaser. The obligations of any such Dealer as principal may, if agreed to by the applicable Dealer and the Corporation at the time of such sale, be subject to certain conditions and may be subject to the Dealer’s right to terminate such obligations at its discretion upon the occurrence of certain stated events. Such resale prices may vary during the distribution period and as between purchasers. The Dealers’ compensation will be increased or decreased by the amount by which the aggregate price paid for Debentures by purchasers exceeds or is less than the aggregate price paid by the Dealers, acting as principals, to the Corporation.

The Dealers are subsidiaries of Canadian chartered banks which have extended credit facilities to the Corporation and certain of its affiliates. Accordingly, under certain circumstances, the Corporation may be considered to be a “connected issuer” of the Dealers under applicable Canadian securities legislation. The aggregate amount of such credit facilities available to the Corporation and its affiliates is approximately \$1.3 billion, of which approximately \$275.6 million was drawn as of March 31, 2008. These facilities include non-recourse debt of the Corporation’s affiliates for which the lender’s recourse in the event of default is limited to the business and assets of the project in question and to the affiliates’ equity therein. The Corporation and its affiliates are in compliance with the terms of these credit facilities. At March 31, 2008, the Corporation had available credit facilities of \$329.0 million. Of this amount, \$300 million is a term facility established in 1999. This facility is used as a backstop for the Corporation’s

commercial paper program and for occasional issues of letters of credit. The remaining \$29.0 million are demand operating facilities of the Corporation's subsidiaries. At March 31, 2008, \$10.5 million was outstanding under these facilities, and this status has not changed substantially since that date. The decision of each Dealer to participate in this offering was made independently of its bank parent. None of the proceeds of this offering will be applied for the benefit of the Dealers or any of their related issuers.

In connection with any offering of Debentures, the Dealers may over-allot or effect transactions which stabilize or maintain the market price of the Debentures offered at a level above that which might otherwise prevail in the open market. Such transactions, if commenced, may be discontinued at any time.

The Dealers may from time to time purchase and sell Debentures in the secondary market but are not obligated to do so. There can be no assurance that there will be a secondary market for the Debentures. The offering price and other selling terms for such sales in the secondary market may, from time to time, be varied by the Dealers.

The Corporation has agreed to indemnify the Dealers and their shareholders, agents, directors, officers and employees against liabilities arising out of, among other things, any misrepresentation in this short form prospectus and the documents incorporated by reference therein, other than liabilities arising out of any misrepresentation made by the Dealers.

The Corporation and, if applicable, the Dealers reserve the right to reject any offer to purchase Debentures in whole or in part. The Corporation also reserves the right to withdraw, cancel or modify the offering of Debentures under this short form prospectus without notice.

#### **USE OF PROCEEDS**

The net proceeds to be received by the Corporation from the issue and sale from time to time of the Debentures will be added to the general funds of the Corporation to be used to finance the Corporation's capital expenditures, to repay existing indebtedness and for other general corporate purposes. All expenses relating to an offering of Debentures, including any compensation paid to the Dealers, will be paid out of the Corporation's general funds. The Corporation may, from time to time, issue debt instruments and incur additional indebtedness otherwise than through the issue of Debentures pursuant to this short form prospectus.

#### **DESCRIPTION OF THE DEBENTURES**

The following description sets forth certain general terms and provisions of the Debentures. For full particulars reference should be made to the Trust Indenture referred to below. The specific variable terms of any offering of Debentures will be set forth in a pricing supplement which will accompany this short form prospectus. The Corporation reserves the right to issue securities under its MTN program on terms which are outside the intended parameters disclosed in this short form prospectus.

##### **General**

The Debentures will be issued under a trust indenture dated as of July 1, 1999 (the "Trust Indenture"), made between the Corporation and CIBC Mellon Trust Company, as Trustee. The Trust Indenture provides for the issuance of debentures in addition to the Debentures without limit as to principal amount, subject to compliance with the conditions contained in the Trust Indenture.

The Debentures will be direct unsecured obligations of the Corporation and will rank *pari passu* (except as to sinking funds) with all other unsubordinated and unsecured indebtedness of the Corporation, including other debentures issued under the Trust Indenture.

The Debentures will have maturities of not less than one year and will be interest-bearing. The Debentures will be issued in denominations of \$1,000 and integral multiples thereof.

All Debentures will be represented in the form of fully registered book-entry-only debentures ("BEO Debentures") held by, or on behalf of, The Canadian Depository for Securities Limited or a successor thereof (the "Depository") as custodian of the BEO Debentures (for its participants) and registered in the name of the Depository or its nominee (the "Nominee"). Except as described below, purchasers of Debentures will not receive Debentures in definitive form ("Definitive Debentures"). Beneficial interests in the Debentures will be represented through book-entry accounts of institutions (including the Dealers) acting on behalf of beneficial owners, as direct and indirect participants of the Depository ("participants"). Each purchaser of a Debenture represented by a BEO Debenture will receive a customer confirmation of purchase from the Dealer from whom the Debenture is purchased in accordance with the practices and procedures of the selling Dealer. The practices of the Dealers may vary, but generally customer confirmations are issued promptly after execution of a customer order. The Depository will be responsible for establishing and maintaining book-entry accounts for its participants having interests in BEO Debentures.

Debentures will not be redeemable at the option of the Corporation or repayable at the option of the holder prior to maturity, unless otherwise specified in the applicable pricing supplement. The Corporation may purchase Debentures at any time and at any price on the open market or otherwise.

### **Transfer**

Transfers of beneficial ownership of Debentures represented by BEO Debentures will be effected through records maintained by the Depository for such BEO Debentures or the Nominee (with respect to interests of participants) and on the records of participants (with respect to interests of persons other than participants). Beneficial owners who are not participants in the Depository's book-entry system, but who desire to purchase, sell or otherwise transfer ownership of or other interest in BEO Debentures, may do so only through participants in the Depository's book-entry system. A beneficial owner's interest in a Debenture represented by a BEO Debenture may be exchanged for a Definitive Debenture only in the limited circumstances set forth below.

The ability of a beneficial owner of an interest in a Debenture represented by a BEO Debenture to pledge the Debenture or otherwise take action with respect to such owner's interest in a Debenture represented by a BEO Debenture (other than through a participant) may be limited due to the lack of a physical certificate.

If the Depository notifies the Corporation that it is unwilling or unable to continue to act as depository in connection with the BEO Debentures, or if at any time the Depository ceases to be a clearing agency or otherwise ceases to be eligible to be a depository and the Corporation is unable to locate a qualified successor, or if the Corporation elects to terminate the book-entry system, beneficial owners of Debentures represented by BEO Debentures will receive Definitive Debentures.

The registered holder of a Definitive Debenture may transfer it upon payment of any taxes and transfer fees incidental thereto by executing a form of transfer and returning it along with the Definitive Debenture to the principal corporate trust office of CIBC Mellon Trust Company in the cities of Montreal, Toronto, Calgary and Vancouver for issuance of one or more new Definitive Debentures in authorized denominations in the same aggregate principal amount registered in the name(s) of the transferee(s).

### **Payment of Interest and Principal**

Payments of interest and principal on each BEO Debenture will be made to the Depository or the Nominee, as the case may be, as registered holder of the BEO Debenture. A record date will be established at least ten business days (and not more than 30 business days) prior to a payment date. Interest payments on BEO Debentures will be made by cheque dated the date interest is payable and delivered to the Depository or the Nominee, as the case may be, at least two business days before the date interest is payable, or in any other manner acceptable to the Trustee. As long as the Depository or the Nominee is the registered holder of a BEO Debenture, the Depository or the Nominee, as the case may be, will be considered the sole owner of the BEO Debenture for the purposes of receiving payment on the Debenture and for all other purposes under the Trust Indenture and the Debenture.

The Corporation expects that the Depository or Nominee, upon receipt of any principal or interest payment in respect of a BEO Debenture, will credit on the date principal or interest is payable participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of such BEO

Debenture as shown on the records of the Depository or Nominee. The Corporation also expects that payments of principal and interest by participants to the owners of beneficial interests in such BEO Debenture held through such participants will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name", and will be the responsibility of such participants. The responsibility and liability of the Corporation and the Trustee in respect of Debentures represented by BEO Debentures is limited to making payment of any principal and interest due on such BEO Debentures to the Depository or the Nominee.

## **Covenants**

The Trust Indenture contains covenants, which should be read in conjunction with the definitions referred to below, to the effect that so long as any of the Debentures remain outstanding:

### ***Encumbrances on Assets***

The Corporation will not, and will not permit any subsidiary to, create, assume or suffer to exist any Security Interest on any of its assets to secure any Indebtedness unless at the same time the Corporation shall secure or cause to be secured equally and rateably with such Indebtedness all of the debentures issued under the Trust Indenture which are then outstanding; provided that this covenant will not apply to nor operate to prevent, among other things: (i) pre-existing Security Interests or Security Interests granted in connection with the refinancing of outstanding secured Indebtedness, provided that the security for such refinancing Indebtedness is limited to all or a part of the property which secured the Indebtedness refinanced and the principal amount of obligations secured is not increased; (ii) the creation, issue or assumption by the Corporation or any subsidiary of Capital Lease Obligations or Purchase Money Mortgages; (iii) Security Interests granted by law or incurred in the ordinary course of business which do not materially impair the use or value of the property in question; and (iv) Security Interests between the Corporation and its subsidiaries.

### ***Additional Funded Indebtedness***

The Corporation will not issue or become liable in respect of any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by the Corporation to a subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of the Corporation in an amount not exceeding the principal amount of the Funded Indebtedness being refunded) unless after giving effect thereto Consolidated Indebtedness will not exceed 75% of Total Consolidated Capitalization.

The Trust Indenture contains provisions contemplating the deferred delivery of a portion of an issue of Funded Indebtedness for a period of up to one year. Under such provisions, the portion of any such issue, delivery of which is deferred, will be deemed to have been issued on the date of the first delivery of the issue of which it forms part and will not be deemed to be issued thereafter.

### ***Indebtedness of Subsidiaries***

The Corporation will not permit any subsidiary of the Corporation to issue or in any other manner become liable in respect of:

- (a) any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by a subsidiary to the Corporation or to another subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of a subsidiary in an amount not exceeding the principal amount of the Funded Indebtedness being refunded); or
- (b) any Indebtedness (other than Indebtedness issued to the Corporation or to another subsidiary) unless after giving effect thereto the aggregate amount of Indebtedness of the subsidiaries will not exceed an amount equal to 10% of the aggregate Funded Indebtedness of the Corporation.

### ***Sale of Assets and Amalgamations***

The Corporation will not enter into any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other person, whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale, or otherwise, provided that nothing contained in the Trust Indenture will prevent any such transaction:

- (a) if the surviving or purchasing company assumes all of the obligations of the Corporation under the Trust Indenture and otherwise meets the requirements of the Trust Indenture; or
- (b) if such transaction is between or among the Corporation and its subsidiaries.

#### **Events of Default**

The holders of all debentures issued under the Trust Indenture are entitled to the rights provided to debenture holders in the Trust Indenture upon the occurrence of an event of default. For the purposes of the Trust Indenture, an event of default includes the failure of the Corporation or any subsidiary to pay when due (after giving effect to any applicable grace periods, waivers and extensions) any amount owing in respect of any Indebtedness other than the debentures, provided that the aggregate principal amount of such Indebtedness in respect of which payment has not been made exceeds \$25 million.

#### **Definitions**

The Trust Indenture contains, among others, definitions substantially to the following effect:

“Capital Lease Obligation” means the obligation of a person, as lessee, to pay rent or other amounts to the lessor under a lease of real or personal property which is required to be classified and accounted for as a capital lease on a consolidated balance sheet of such person in accordance with generally accepted accounting principles in effect in Canada.

“Consolidated Indebtedness” means the aggregate amount of all Indebtedness of the Corporation and its subsidiaries determined on a consolidated basis.

“Financial Instrument Obligations” means obligations arising under interest rate, currency or commodity swap agreements, forward rate agreements, floor, cap or collar agreements, futures or options, or other similar agreements or arrangements.

“Funded Indebtedness” means Indebtedness of a person that on the date of issue thereof by such person or on the date that such person otherwise becomes liable in respect thereof has a term to maturity greater than 18 months after taking into account any renewals or extensions which are available at the sole option of such person.

“Indebtedness” means, with respect to any person, without duplication,

- (a) all obligations of such person for borrowed money, including obligations with respect to bankers’ acceptances and contingent reimbursement obligations relating to letters of credit and other financial instruments,
- (b) all Financial Instrument Obligations,
- (c) all obligations issued or assumed by such person in connection with the acquisition of property in respect of the deferred purchase price of property;
- (d) all Capital Lease Obligations and Purchase Money Obligations of such person, and
- (e) all obligations of the type referred to in clauses (a) through (d) of this definition of another person, the payment of which such person has guaranteed or for which such person is responsible or liable,

provided that obligations of such person or of another person of the type referred to in clauses (a) through (c) of this definition shall exclude trade accounts payable, dividends and other distributions payable to shareholders, future income taxes, obligations in respect of preferred shares, accrued liabilities arising in the ordinary course of business which are not overdue or which are being contested by such person or such other person in good faith, and non-monetary obligations in respect of performance guarantees.

“Purchase Money Mortgage” means any Security Interest created, issued or assumed by a person to secure a Purchase Money Obligation, provided that such Security Interest is limited to the property (including the rights associated therewith) purchased, constructed, installed or improved in connection with such Purchase Money Obligation.

“Purchase Money Obligation” means Indebtedness of a person incurred or assumed to finance the purchase price, in whole or in part, of any property (excluding any Indebtedness which constitutes Funded Indebtedness and which was incurred or assumed to finance the purchase price, in whole or in part, of any securities) or incurred to finance the cost, in whole or in part, of construction or installation of or improvements to any property, provided that such Indebtedness is incurred or assumed within 24 months after the purchase of such property or the completion of such construction, installation or improvements, as the case may be, and includes any extension, renewal or refunding of any such Indebtedness so long as the principal amount thereof outstanding on the date of such extension, renewal or refunding is not thereby increased.

“Security Interest” means any assignment, mortgage, charge (whether fixed or floating), hypothec, pledge, lien, or other encumbrance on or interest in property or assets that secures payment of Indebtedness.

“Total Consolidated Capitalization” means, at a particular time, without duplication, the sum of

- (a) the principal amount of all Consolidated Indebtedness at such time,
- (b) the total capital represented by the issued and outstanding share capital, including preferred shares, of the Corporation at such time, based, in the case of shares having a par value, upon their par value, and, in the case of shares of no par value, upon the value stated on the books of the Corporation,
- (c) the total amount of (or less the amount of any net deficits in) the consolidated contributed or capital surplus and retained earnings of the Corporation, and
- (d) the amount of any provision for future income taxes,

all as shown on a balance sheet of the Corporation prepared on a consolidated basis in accordance with generally accepted accounting principles in effect in Canada at such time.

### **Modification**

The Trust Indenture provides that modifications and alterations thereto and to the debentures, including the Debentures, may be made if authorized by extraordinary resolution. The term “extraordinary resolution” is defined in the Trust Indenture to mean, in effect, a resolution passed by the affirmative vote of the holders of not less than 66 <sup>2</sup>/<sub>3</sub>% of the debentures represented and voting at a meeting of debenture holders or an instrument in writing signed by the holders of not less than 66 <sup>2</sup>/<sub>3</sub>% of the debentures. In certain cases, the modification will require separate assent by the holders of the required percentages of debentures of each series. However, if the modification does not adversely affect the rights of the holders of debentures of a particular series, the assent of the holders of debentures of such particular series is not required.

### **RATINGS**

The debentures of the Corporation are rated A (high) with a stable trend by DBRS Limited (“DBRS”) and A with a stable outlook by Standard & Poor’s, a division of the McGraw-Hill Companies Inc. (“S&P”).



An A rating by DBRS is the third highest of ten categories. Long term debt rated A is of satisfactory credit quality. Protection of interest and principal is substantial, but the degree of strength is less than that of AA rated entities. While A is a respectable rating, entities in this category are considered to be more susceptible to adverse economic conditions and have greater cyclical tendencies than higher-rated securities. Each rating category is denoted by the subcategories “high” and “low”. The absence of either a “high” or “low” designation indicates the rating is in the “middle” of the category.

An A rating by S&P is the third highest of ten categories. Obligations rated A by S&P are somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher-rated categories, however, the obligor’s capacity to meet its financial commitment on the obligations is still strong. The addition of a plus or minus sign shows relative standing within the rating categories.

A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time by the rating organization.

### **EARNINGS COVERAGE RATIOS**

The Corporation’s interest requirements amounted to \$165.8 million for the 12 months ended December 31, 2007. The Corporation’s earnings before interest and income taxes for the 12 months then ended were \$366.2 million, which is 2.21 times the Corporation’s interest requirements for this period. This earnings coverage ratio does not reflect any offering of Debentures under this short form prospectus as the aggregate principal amounts and the terms of such Debentures are not presently known.

The Corporation’s interest requirements amounted to \$168.7 million for the 12 months ended March 31, 2008. The Corporation’s earnings before interest and income taxes for the 12 months then ended were \$381.5 million, which is 2.26 times the Corporation’s interest requirements for this period. This earnings coverage ratio does not reflect any offering of Debentures under this short form prospectus as the aggregate principal amounts and the terms of such Debentures are not presently known.

### **PRIOR SALES**

On November 1, 2007, the Corporation issued \$220,000,000 aggregate principal amount of 5.556% Debentures due October 30, 2037, and \$35,000,000 aggregate principal amount of 4.883% Debentures due November 1, 2012.

### **RISK FACTORS**

A prospective purchaser of Debentures should carefully consider the information described under the heading “Business Risks” in the Corporation’s management’s discussion and analysis for the year ended December 31, 2007, incorporated by reference in this short form prospectus, as well as the other information contained or incorporated by reference in this short form prospectus.

There is no market through which these securities may be sold and purchasers may not be able to resell securities purchased under this short form prospectus. This may affect the pricing of the securities in the secondary market, the transparency and availability of trading prices, the liquidity of the securities, and the extent of issuer regulation.

### **ELIGIBILITY FOR INVESTMENT**

In the opinion of Bennett Jones LLP and Blake, Cassels & Graydon LLP, subject to compliance with the prudent investment standards and general investment provisions of the following statutes (and, where applicable, the regulations thereunder) and, in certain cases, subject to the satisfaction of additional requirements relating to investment or lending policies or goals and, in certain circumstances, the filing of such policies or goals, the Debentures are not, at the date hereof, precluded as investments under the following statutes:

*Insurance Companies Act* (Canada)  
*Trust and Loan Companies Act* (Canada)  
*Pension Benefits Standards Act, 1985* (Canada)  
*Insurance Act* (Alberta)  
*Loan and Trust Corporations Act* (Alberta)  
*Employment Pension Plans Act* (Alberta)  
*Loan and Trust Corporations Act* (Ontario)  
*Pension Benefits Act* (Ontario)  
an Act respecting insurance (Quebec)  
an Act respecting trust companies and savings companies (Quebec)  
*Supplemental Pension Plans Act* (Quebec)  
*Financial Institutions Act* (British Columbia)

In the opinion of such counsel, provided that Canadian Utilities Limited has a class of shares listed on a prescribed stock exchange, the Debentures will be qualified investments under the *Income Tax Act* (Canada) for a trust governed by a registered retirement savings plan, a registered education savings plan, a registered retirement income fund or a deferred profit sharing plan (other than a trust governed by a deferred profit sharing plan for which the named employer is the Corporation or a corporation that does not deal at arm's length with the Corporation).

#### **INTERESTS OF EXPERTS**

Certain legal matters relating to the offering of Debentures will be passed upon by Bennett Jones LLP on behalf of the Corporation and by Blake, Cassels & Graydon LLP on behalf of the Dealers. As at May 15, 2008, partners and associates of Bennett Jones LLP and of Blake, Cassels & Graydon LLP as a group beneficially owned, directly or indirectly, less than 1% of any class of securities of the Corporation.

#### **STATUTORY RIGHTS OF WITHDRAWAL AND RESCISSION**

Securities legislation in certain of the provinces of Canada provides purchasers with the right to withdraw from an agreement to purchase securities. This right may be exercised within two business days after receipt or deemed receipt of a prospectus and any amendment. In several of the provinces, the securities legislation further provides a purchaser with remedies for rescission or, in some jurisdictions, revisions of the price or damages if the prospectus and any amendment contains a misrepresentation or is not delivered to the purchaser, provided that the remedies for rescission, revision of the price or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province for the particulars of these rights or consult with a legal adviser.

## CERTIFICATES

Dated: May 15, 2008

This short form prospectus, together with the documents incorporated in this prospectus by reference, will, as of the date of the last supplement to this prospectus relating to the securities offered by this prospectus and the supplement(s), constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and the supplement(s) as required by the securities legislation of each of the provinces of Canada.

*(signed) "N.C. Southern"*  
President &  
Chief Executive Officer

*(signed) "K.M. Watson"*  
Senior Vice President  
& Chief Financial Officer

On behalf of the Board of Directors

*(signed) "L.M. Charlton"*  
Director

*(signed) "J.W. Simpson"*  
Director

To the best of our knowledge, information and belief, this short form prospectus, together with the documents incorporated in this prospectus by reference, will, as of the date of the last supplement to this prospectus relating to the securities offered by this prospectus and the supplement(s), constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and the supplement(s) as required by the securities legislation of each of the provinces of Canada.

BMO NESBITT BURNS INC.

RBC DOMINION SECURITIES INC.

By: *(signed) "Aaron M. Engen"*

By: *(signed) "Jill V. Gardiner"*

TD SECURITIES INC.

By: *(signed) "Alec W. G. Clark"*

### **AUDITORS' CONSENT**

We have read the short form prospectus of CU Inc. (the "Company") dated May 15, 2008, relating to the issuance in an aggregate amount of up to \$1,500,000,000 of Debentures of the Company. We have complied with Canadian generally accepted standards for an auditor's involvement with offering documents.

We consent to the incorporation by reference in the above-mentioned prospectus of our report to the shareholders of the Company on the balance sheets of the Company as at December 31, 2007 and 2006 and the statements of earnings and retained earnings, cash flows, and comprehensive income for each of the years in the two-year period ended December 31, 2007. Our report is dated February 19, 2008.

Calgary, Alberta  
May 15, 2008

(Signed) PRICEWATERHOUSECOOPERS LLP  
Chartered Accountants

This is Exhibit "B"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day  
of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

## **EXHIBIT "B"**

### **Directors' Resolution**

**Certified Copy of a Resolution of the Directors**

**ATCO ELECTRIC LTD.  
(the "Corporation")**

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I, CAROL GEAR, do hereby CERTIFY THAT I am the duly elected and qualified Assistant Secretary of the Corporation.

I DO FURTHER CERTIFY THAT the following Resolution was duly adopted by the Board of Directors of the Corporation, being passed by way of a written Resolution on May 26, 2008:

**5.580% DEBENTURE**


**BE IT RESOLVED THAT:**

1. subject to obtaining an order of the Alberta Utilities Commission approving the issue thereof and the purposes of the issue, the creation, issue and sale by the Corporation of a \$75,000,000 principal amount 5.580% Debenture priced at 100.00 to yield 5.580%, to be dated May 26, 2008, and to mature on May 26, 2038, with interest thereon to be payable semi-annually on the 26th day of May and November in each year, is hereby authorized and approved;
2. the proceeds from the issue of the 5.580% Debenture will be applied to finance capital expenditures, to repay existing indebtedness and for other general corporate purposes of the Corporation;
3. the payment by the Corporation to CU Inc. of its proportionate share of the fees and other expenses of the issue to be incurred by CU Inc. relating to the issue by CU Inc. of its 5.580% Debentures due May 26, 2038, on May 26, 2008, be and the same is hereby authorized; and
4. any two directors and/or officers of the Corporation are authorized and directed for and on behalf of the Corporation to execute and deliver the 5.580% Debenture and all such other agreements, certificates, documents and other instruments and to do all such acts and things as such directors or officers may consider necessary, desirable or useful for the purpose of giving effect to this resolution and completing the sale of the 5.580% Debenture substantially on the terms and conditions contained in the Summary Sheet attached to this resolution.

\*\*\*\*\*

AND I, CAROL GEAR, of the City of Calgary, in the Province of Alberta, do hereby FURTHER CERTIFY THAT, as of the date hereof, the foregoing Resolution has not been modified or rescinded and remains in full force and effect.

DATED at Calgary, Alberta, this 18<sup>th</sup> day of August, 2008.

  
\_\_\_\_\_  
Carol Gear  
Assistant Secretary

**ATCO ELECTRIC LTD.  
5.580% Debenture**

**Summary Sheet**

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<b>Amount:</b>	\$75,000,000
<b>Maturity:</b>	May 26, 2038
<b>Interest Rate:</b>	5.580%
<b>Embedded Rate:</b>	5.62% (1)
<b>Price:</b>	100.00 to yield 5.580%, plus accrued interest, if any
<b>Agents' Fee:</b>	\$375,000
<b>Issue Expenses:</b>	\$81,000 (estimate)
<b>Interest Payment Dates:</b>	26th day of May and November in each year
<b>Sinking Fund:</b>	None
<b>Redemption:</b>	In whole at any time or in part from time to time at the greater of the Canada Yield Price and par.
<b>Rank:</b>	Direct unsecured obligations ranking pari passu with all other outstanding unsecured indebtedness of the Corporation.
<b>Covenants:</b>	Same as CU Inc.
<b>Use of Proceeds:</b>	To finance capital expenditures, to repay existing indebtedness and for other general corporate purposes of the Corporation.
<b>Purchaser:</b>	CU Inc.

**Note:**

(1) Embedded rate includes Agents' fee and estimated issue expenses.

**EXHIBIT "C"**

**FORM OF  
DEBENTURE**

This is Exhibit "C"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day of  
August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

CANADA

**ATCO ELECTRIC LTD.**  
(Incorporated under the laws of Canada)

**DEBENTURE**

Issue Date:	May 26, 2008	Interest Payment Dates:	May 26 and November 26
Interest Rate Per Annum:	5.580%	Initial Interest Payment Date:	November 26, 2008
Maturity Date:	May 26, 2038	Principal Amount:	\$75,000,000

1. ATCO Electric Ltd. (the "Corporation") for value received hereby promises to pay to CU Inc. (who and whose successors and assigns are herein called the "Holder") on the Maturity Date, or on such earlier date as the Principal Amount may become due in accordance with the provisions hereof, on presentation and surrender of this Debenture, the Principal Amount in lawful money of Canada, and to pay interest on the Principal Amount at the Interest Rate Per Annum from the later of the Issue Date and the last Interest Payment Date to which interest has been paid or made available for payment on this Debenture, in like money half-yearly on the Interest Payment Dates in each year, the first such payment to be payable on the Initial Interest Payment Date, and if the Corporation at any time defaults in the payment of any principal or interest, to pay interest on the amount in default at the same rate, in like money, and half-yearly on the same dates. All payments of principal and interest shall be made at the office of the Holder at 1600 ATCO Centre, 909 - 11th Avenue S.W., Calgary, Alberta.
2. The Principal Amount may become or be declared due before the Maturity Date on the conditions, in the manner, with the effect and at the times set forth herein.
3. The Corporation shall be entitled to redeem this Debenture in whole at any time, or in part from time to time, on notice given not more than 60 days and not less than 10 days prior to the



date fixed for redemption (the "Redemption Date") at the greater of the Canada Yield Price (as defined below) and par, together with accrued and unpaid interest to the Redemption Date.

4. "Canada Yield Price" shall mean the price of this Debenture determined on the third business day prior to the Redemption Date (the "Redemption Price Calculation Date") and calculated to provide a yield to maturity equal to the Government of Canada Yield (as defined below) plus 0.37%.
5. "Government of Canada Yield" shall mean the yield to maturity which a non-callable Government of Canada Bond (issued in Canadian dollars in Canada with interest compounded semi-annually in arrears and having a term equal to the remaining term to maturity of this Debenture) would carry if issued at 100% of its principal amount on the Redemption Price Calculation Date. The Government of Canada Yield will be the average of the yields determined by two major Canadian investment dealers selected by the Holder.
6. The Schedule attached hereto contains additional terms and conditions, all of which are incorporated by reference in this Debenture and to all of which the Holder, by acceptance hereof, agrees. In the event of any conflict or inconsistency between this Debenture and the Schedule attached hereto, this Debenture shall govern.

IN WITNESS WHEREOF ATCO Electric Ltd. has caused its corporate seal to be hereunto affixed and this Debenture to be signed by its President and its Secretary as of May 26, 2008.

**ATCO ELECTRIC LTD.**

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

(c/s)

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

## **SCHEDULE**

### **ARTICLE 1 INTERPRETATION**

#### **1.01 Definitions**

In this Debenture, unless there is something in the subject matter or context inconsistent therewith, the following expressions have the respective meanings indicated:

**“Affiliate”** means, with respect to any Person, any other Person which, directly or indirectly through one or more Persons, Controls, is Controlled by, or is under common Control with, such Person.

**“Business Day”** means, with respect to a particular location, a day other than a Saturday or Sunday on which chartered banks are open for the transaction of business at such location.

**“Capital Lease Obligation”** means the obligation of a Person, as lessee, to pay rent or other amounts to the lessor under a lease of real or personal property which is required to be classified and accounted for as a capital lease on a consolidated balance sheet of such Person in accordance with Generally Accepted Accounting Principles.

**“Common Shares”** means shares of any class or classes of the share capital of a corporation or Securities representing ownership interests in any Person other than a corporation, the rights of the holders of which to participate in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding-up of such corporation or other Person are not restricted to a fixed sum or to a fixed sum plus accrued dividends or other periodic distributions.

**“Consolidated Indebtedness”** means the aggregate amount of all Indebtedness of the Corporation and its Subsidiaries determined on a consolidated basis.

**“Control”, “Controlled”** and similar expressions mean a relationship between two Persons wherein one of such Persons has the power, through the ownership of Securities, by contract or otherwise, to direct the management and policies of the other of such Persons, and includes, in the case of a corporation, the ownership, either directly or indirectly through one or more Persons, of Securities of such corporation carrying more than 50% of the votes that may be cast to elect the directors of such corporation either under all circumstances or under some circumstances that have occurred and are continuing, other than Securities held as collateral for a *bona fide* debt, provided that such votes, if exercised, are sufficient to elect a majority of the directors of such corporation.

**“Corporation’s Auditors”** means a firm of chartered accountants duly appointed as auditors of the Corporation.

**“Counsel”** means a barrister or solicitor or firm of barristers and solicitors (who may be counsel for the Corporation) retained by the Holder or retained by the Corporation and acceptable to the Holder, acting reasonably.

**“Directors”** means the directors of the Corporation or, whenever duly empowered by a resolution of the directors of the Corporation, a committee of the directors of the Corporation, and reference to action by the Directors means action by the directors of the Corporation or action by any such committee.

**“Event of Default”** has the meaning ascribed to such term in Section 5.01.

**“Financial Instrument Obligations”** means obligations arising under

- (a) interest rate swap agreements, forward rate agreements, floor, cap or collar agreements, futures or options, insurance or other similar agreements or arrangements, or any combination thereof, entered into by a Person of which the subject matter is interest rates or pursuant to which the price, value or amount payable thereunder is dependent or based upon interest rates in effect from time to time or fluctuations in interest rates occurring from time to time (excluding obligations which are considered to be Indebtedness of such Person by virtue of any provision of the definition of Indebtedness other than clause (b) thereof);
- (b) currency swap agreements, crosscurrency agreements, forward agreements, floor, cap or collar agreements, futures or options, insurance or other similar agreements or arrangements, or any combination thereof, entered into by a Person of which the subject matter is currency exchange rates or pursuant to which the price, value or amount payable thereunder is dependent or based upon currency exchange rates in effect from time to time or fluctuations in currency exchange rates occurring from time to time; and
- (c) commodity swap agreements, floor, cap or collar agreements, commodity futures or options or other similar agreements or arrangements, or any combination thereof, entered into by a Person of which the subject matter is one or more commodities or pursuant to which the price, value or amount payable thereunder is dependent or based upon the price of one or more commodities in effect from time to time or fluctuations in the price of one or more commodities occurring from time to time.

**“Funded Indebtedness”** means Indebtedness of a Person that on the date of issue thereof by such Person or on the date that such Person otherwise becomes liable in respect thereof has a term to maturity greater than 18 months after taking into account any renewals or extensions which are available at the sole option of such Person.

**“Generally Accepted Accounting Principles”** means, as at any date of determination, generally accepted accounting principles in effect in Canada at such date.

**“Indebtedness”** means, with respect to any Person, without duplication,

- (a) all obligations of such Person for borrowed money, including obligations with respect to bankers’ acceptances and contingent reimbursement obligations relating to letters of credit and other financial instruments,
- (b) all Financial Instrument Obligations,
- (c) all obligations issued or assumed by such Person in connection with the acquisition of property in respect of the deferred purchase price of property,
- (d) all Capital Lease Obligations and Purchase Money Obligations of such Person, and
- (e) all obligations of the type referred to in clauses (a) through (d) of this definition of another Person, the payment of which such Person has guaranteed or for which such Person is responsible or liable,

provided that obligations of such Person or of another Person of the type referred to in clauses (a) through (c) of this definition shall exclude trade accounts payable, dividends and other distributions payable to shareholders, future income taxes, obligations in respect of Preferred Shares, accrued liabilities arising in the ordinary course of business which are not overdue or which are being contested by such Person or such other Person in good faith, and non-monetary obligations in respect of performance guarantees.

**“Interest Payment Date”** means a date on which interest is due and payable in accordance with this Debenture.

**“Maturity Date”** means the date on which the principal of this Debenture becomes due and payable, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

**“Officers’ Certificate”** means a certificate of the Corporation signed by any two authorized officers of the Corporation in their capacities as officers of the Corporation and not in their personal capacities.

**“Permitted Encumbrances”** means any or all of the following:

- (a) any Security Interest in respect of the Corporation or a Subsidiary existing at the date of this Debenture or arising thereafter pursuant to contractual commitments entered into, in the case of the Corporation, prior to the date of this Debenture or, in the case of a Subsidiary, prior to the later of the date of this Debenture and the date on which it became a Subsidiary;
- (b) any Security Interest granted by the Corporation or a Subsidiary in connection with an amalgamation, consolidation, merger or reorganization of the Corporation and one or more Subsidiaries or of two or more Subsidiaries, provided that the principal amount of obligations secured thereby is not thereby increased;

- (c) any Security Interest granted by the Corporation or a Subsidiary to secure this Debenture;
- (d) any Purchase Money Mortgage or Capital Lease Obligation of the Corporation or a Subsidiary;
- (e) any Security Interest granted by a Subsidiary in favour of the Corporation or a Wholly Owned Subsidiary;
- (f) any Security Interest in respect of property of a Person which exists at the time of the amalgamation, consolidation, merger or reorganization of such Person and one or more of the Corporation and its Subsidiaries or at the time such property is otherwise acquired by the Corporation or a Subsidiary;
- (g) any Security Interest incidental to the business or operations of the Corporation or a Subsidiary (other than the borrowing of money or the repayment of money borrowed) including, without limitation, the following:
  - (i) liens or deposits under workers' compensation, social security or similar legislation or good faith deposits in connection with bids, tenders, leases, contracts or expropriation proceedings, or deposits to secure public or statutory obligations or deposits of cash or obligations to secure surety and appeal bonds;
  - (ii) liens or privileges imposed by law, such as builders', carriers', warehousemen's, landlords', mechanics' and materialmen's liens and privileges, and liens and privileges arising out of judgments or awards with respect to which the Corporation or a Subsidiary at the time is prosecuting an appeal or proceedings for review and with respect to which it has secured a stay of execution pending such appeal or proceedings for review; or liens for taxes, assessments or governmental charges or levies not at the time due and delinquent or the validity of which is being contested at the time by the Corporation or a Subsidiary in good faith; or undetermined or inchoate liens, privileges and charges incidental to current operations which have not at such time been filed pursuant to law against the Corporation or a Subsidiary or which relate to obligations not due or delinquent; or the deposit of cash or Securities in connection with any lien or privilege referred to in this clause (ii);
  - (iii) minor encumbrances, including, without limitation, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other Persons, rights-of-way for sewers, electric lines, telegraph and telephone lines and oil and natural gas pipe lines and other similar purposes, or zoning or other restrictions as to the use of real properties, which encumbrances, easements, servitudes, rights-of-way or other similar rights and restrictions do not in the aggregate materially detract from the value of such properties or materially impair their use in the operation of the business of the Corporation or a Subsidiary;
  - (iv) rights reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, license, franchise, grant or permit acquired by the Corporation or a Subsidiary, or by any statutory provision, to terminate any

such lease, license, franchise, grant or permit or to purchase assets used in connection therewith or to require annual or other periodic payments as a condition to the continuance thereof;

- (v) liens or rights of distress reserved in or exercisable under any lease for rent and for compliance with the terms of such lease;
  - (vi) security granted by the Corporation or a Subsidiary to a public utility or any municipality or governmental or other public authority when required by such utility, municipality or other authority in connection with the operations of the Corporation or such Subsidiary;
  - (vii) the reservations, limitations, provisos and conditions, if any, expressed in any original grants from the Crown; and
  - (viii) encumbrances the validity of which is being contested by the Corporation or a Subsidiary in good faith or the payment of which has been provided for by deposit with a trustee of an amount in cash sufficient to pay the amount thereof in full; and
- (h) any extension, renewal, alteration, substitution or replacement (or successive extensions, renewals, alterations, substitutions or replacements), in whole or in part, of any Security Interest referred to in the foregoing clauses (a) through (g), provided the extension, renewal, alteration, substitution or replacement of such Security Interest is limited to all or any part of the same property that secured the Security Interest extended, renewed, altered, substituted or replaced (plus improvements on such property) and the principal amount of the obligations secured thereby is not thereby increased.

**“Person”** means any individual, corporation, body corporate, limited partnership, general partnership, joint stock company, association, joint venture, company, trust, bank, fund, governmental authority or other entity or organization, whether or not recognized as a legal entity.

**“Preferred Shares”** means

- (a) Securities which on the date of issue thereof by a Person
  - (i) have a term to maturity of more than 30 years,
  - (ii) rank subordinate to the unsecured and unsubordinated Indebtedness of such Person outstanding on such date,
  - (iii) entitle such Person to satisfy the obligation to pay the principal thereof from the proceeds of the issuance of shares,
  - (iv) entitle such Person to defer the payment of interest thereon for more than 4 years without thereby causing an event of default to occur, and

- (v) entitle such Person to satisfy the obligation to make payments of interest thereon from the proceeds of the issuance of shares, or
- (b) shares of any class of the share capital of a corporation or Securities representing ownership interests in any Person other than a corporation which, in either case, are not Common Shares.

**“Premium”** means, at a particular time, the excess, if any, of the then applicable Redemption Price over the principal amount of this Debenture.

**“Purchase Money Mortgage”** means any Security Interest created, issued or assumed by a Person to secure a Purchase Money Obligation, provided that such Security Interest is limited to the property (including the rights associated therewith) purchased, constructed, installed or improved in connection with such Purchase Money Obligation.

**“Purchase Money Obligation”** means Indebtedness of a Person incurred or assumed to finance the purchase price, in whole or in part, of any property (excluding any Indebtedness which constitutes Funded Indebtedness and which was incurred or assumed to finance the purchase price, in whole or in part, of any Securities) or incurred to finance the cost, in whole or in part, of construction or installation of or improvements to any property, provided that such Indebtedness is incurred or assumed within 24 months after the purchase of such property or the completion of such construction, installation or improvements, as the case may be, and includes any extension, renewal or refunding of any such Indebtedness so long as the principal amount thereof outstanding on the date of such extension, renewal or refunding is not thereby increased.

**“Redemption Date”** has the meaning ascribed to such term in Section 3.02.

**“Redemption Price”** means the amount, excluding interest, payable on the Redemption Date.

**“Redemption Price Calculation Date”** means the date on which the Redemption Price is to be calculated, which date, unless otherwise determined by the Directors, shall be the third Business Day prior to the Redemption Date.

**“Securities”** means any stock, shares, units, instalment receipts, voting trust certificates, bonds, debentures, notes, other evidences of indebtedness, or other documents or instruments commonly known as securities or any certificates of interest, shares or participations in temporary or interim certificates for, receipts for, guarantees of, or warrants, options or rights to subscribe for, purchase or acquire any of the foregoing.

**“Security Interest”** means any assignment, mortgage, charge (whether fixed or floating), hypothec, pledge, lien, or other encumbrance on or interest in property or assets that secures payment of Indebtedness.

**“Stated Maturity”** means the date specified in this Debenture as the fixed date on which the principal of this Debenture is due and payable.

**“Subsidiary”** means

- (a) a corporation Controlled by the Corporation or by one or more Subsidiaries of the Corporation or by the Corporation and one or more Subsidiaries of the Corporation, or
- (b) a Person (other than a corporation) Controlled by the Corporation or by one or more Subsidiaries of the Corporation or by the Corporation and one or more Subsidiaries of the Corporation.

**“Successor”** has the meaning ascribed to such term in Section 7.01.

**“Total Consolidated Capitalization”** means, at a particular time, without duplication, the sum of

- (a) the principal amount of all Consolidated Indebtedness at such time,
- (b) the total capital represented by the issued and outstanding share capital, including Preferred Shares, of the Corporation at such time, based, in the case of shares having a par value, upon their par value, and, in the case of shares of no par value, upon the value stated on the books of the Corporation,
- (c) the total amount of (or less the amount of any net deficits in) the consolidated contributed or capital surplus and retained earnings of the Corporation, and
- (d) the amount of any provision for future income taxes,

all as shown on a balance sheet of the Corporation prepared on a consolidated basis in accordance with Generally Accepted Accounting Principles.

**“Wholly Owned Subsidiary”** means a Subsidiary all of the outstanding shares or ownership interests of which are owned, directly or indirectly, by or for the benefit of the Corporation.

## **1.02 Interpretation Not Affected by Headings**

The division of this Schedule into Articles, Sections and clauses and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Schedule or the Debenture of which this Schedule forms a part.

## **1.03 Extended Meanings**

In this Debenture, unless otherwise expressly provided or unless the context otherwise requires, words importing the singular number include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; references to **“Debenture”** and **“this Debenture”** refer to the Debenture to which this Schedule is attached and of which this Schedule forms a part and include all amendments and modifications or restatements of this Debenture, and the expressions **“Article”**, **“Section”** and **“clause”** followed by a number, letter, or combination of numbers and letters refer to the specified Article, Section or clause of this Schedule.



#### **1.04 Day Not a Business Day**

If any day on which an amount is to be determined or an action is to be taken at a particular location is not a Business Day at such location, then such amount shall be determined or such action shall be taken at or before the requisite time on the next succeeding day that is a Business Day at such location. Except as otherwise specified in this Debenture, all determinations as to Business Days shall be made with reference to Calgary, Alberta.

#### **1.05 Currency**

Except as otherwise provided, all references in this Debenture to “**Canadian dollars**”, “**dollars**” and “**\$**” are to lawful money of Canada.

#### **1.06 Other Currencies**

For the purpose of making any computation under this Debenture, any currency other than Canadian dollars shall be converted into Canadian dollars at the Bank of Canada noon rate of exchange on the date on which such computation is to be made.

#### **1.07 Statutes**

Each reference in this Debenture to a statute is deemed to be a reference to such statute as amended, re-enacted or replaced from time to time.

#### **1.08 Invalidity of Provisions**

Each provision in this Debenture is distinct and severable and a declaration of invalidity or unenforceability of any such provision by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Debenture.

#### **1.09 Conflict With Debenture**

In the event of any conflict or inconsistency between this Schedule and the Debenture of which this Schedule forms a part, the Debenture shall govern.

#### **1.10 Applicable Law**

This Debenture shall be governed by and construed in accordance with the laws of the province of Alberta and the laws of Canada applicable in the province of Alberta and shall be treated in all respects as an Alberta contract.

## **ARTICLE 2 THE DEBENTURE**

### **2.01 Ranking**

This Debenture shall be a direct unsecured obligation of the Corporation ranking equally and *pari passu*, subject to statutory preferred exceptions, with all other present and future unsubordinated and unsecured Indebtedness of the Corporation, except as to sinking fund provisions and other similar types of obligations of the Corporation.

### **2.02 Concerning Interest**

Except as otherwise provided in this Debenture,

- (a) this Debenture shall bear interest from and including the later of
  - (i) its date of issue and
  - (ii) the last Interest Payment Date to which interest shall have been paid or made available for payment;
- (b) interest shall be payable semi-annually in equal instalments;
- (c) interest payable for any period of less than six months shall be computed on the basis of a year of 365 days; and
- (d) whenever interest is computed on the basis of a year (the “**deemed year**”) which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing such product by the number of days in the deemed year.

Subject to accrual of any interest on unpaid interest from time to time, interest shall cease to accrue from the earlier of the Maturity Date and, if this Debenture is called for redemption, the Redemption Date, unless upon due presentation and surrender for payment on or after such Maturity Date or Redemption Date, as the case may be, such payment is improperly withheld or refused.

Wherever in this Debenture there is mention, in any context, of the payment of interest, such mention is deemed to include the payment of interest on amounts in default to the extent that, in such context, such interest is, was or would be payable pursuant to this Debenture, and express mention of interest on amounts in default in any of the provisions of this Debenture shall not be construed as excluding such interest in those provisions of this Debenture in which such express mention is not made.

If the date for payment of any amount of principal or interest is not a Business Day at the place of payment, then payment shall be made on the next Business Day at such place and the Holder shall not be entitled to any further interest or other payment in respect of the delay.

### **2.03 Surrender for Cancellation**

If the principal amount due upon this Debenture shall become payable before the Stated Maturity, the Holder shall surrender the same for cancellation and the Corporation shall pay or cause to be paid the interest accrued and unpaid thereon (computed on a *per diem* basis if the date fixed for payment is not an Interest Payment Date).

## **ARTICLE 3 REDEMPTION AND PURCHASE**

### **3.01 General**

The Corporation, when not in default under this Debenture, shall have the right at its option to redeem, either in whole at any time or in part from time to time before Stated Maturity, this Debenture at such rate or rates of Premium, if any, on such date or dates and on such terms and conditions as provided in this Debenture.

### **3.02 Notice of Redemption**

Notice of intention to redeem this Debenture shall be given by or on behalf of the Corporation to the Holder, not more than 60 days and not less than 10 days prior to the date fixed for redemption (the “**Redemption Date**”), in the manner provided in Section 8.02. Every notice of redemption shall specify the Redemption Date, the Redemption Price or the Redemption Price Calculation Date, as applicable, and the place of payment, and shall state that all interest thereon shall cease from and after the Redemption Date. In addition, unless all of the outstanding principal amount of this Debenture is to be redeemed, the notice of redemption shall specify the principal amount to be redeemed.

### **3.03 Debenture Due on Redemption Date**

Upon notice of redemption having been given as specified in Section 3.02, the principal amount of this Debenture so called for redemption shall thereupon be and become due and payable at the Redemption Price and on the Redemption Date specified in such notice, in the same manner and with the same effect as if such date was the Stated Maturity specified in this Debenture, and from and after such Redemption Date, if the money necessary to redeem this Debenture shall have been paid to the Holder, such principal amount shall not be considered as outstanding and interest upon such principal amount shall cease. This Debenture when so redeemed shall forthwith be delivered to the Corporation and shall be cancelled by it and, subject to the following paragraph of this Section 3.03, no debentures shall be issued in substitution therefor.

If a part only of this Debenture is redeemed, the Holder, upon surrender of this Debenture for payment, shall be entitled to receive, without expense to the Holder, a new debenture for the unpurchased part so surrendered, and the Corporation shall deliver such new debenture upon receipt of the Debenture so surrendered.

#### **3.04 Purchase**

The Corporation may, at any time when it is not in default under this Debenture, purchase all or any part of this Debenture in the market or by tender or by private contract, provided that the price at which this Debenture may be purchased by private contract shall not exceed the principal amount thereof together with accrued and unpaid interest thereon and costs of purchase. This Debenture when so purchased shall forthwith be delivered to the Corporation and shall be cancelled by it and, subject to the following paragraph of this Section 3.04, no debentures shall be issued in substitution therefor.

If a part only of this Debenture is purchased, the Holder, upon surrender of this Debenture for payment, shall be entitled to receive, without expense to the Holder, a new debenture for the unpurchased part so surrendered, and the Corporation shall deliver such new debenture upon receipt of the Debenture so surrendered.

#### **3.05 Expropriation**

In the event of any taking by power of eminent domain or expropriation or other similar power of (a) all or substantially all of the assets and undertaking of the Corporation and/or (b) sufficient shares in the capital of the Corporation owned by the Holder to give the taker thereof effective voting control of the Corporation or in the event of any sale or conveyance by the Corporation or by the Holder in lieu of such taking and in reasonable anticipation thereof where proceedings therefor might lawfully be taken to vest such assets and undertaking or such shares in the grantee for the same purpose, this Debenture shall, at the option of the Holder, exercisable by notice in writing to the Corporation at any time during a period of eighteen (18) months from the date of such taking by power of eminent domain or expropriation or other similar power or of such sale or conveyance in lieu of such taking, as the case may be, be redeemed by the Corporation at a price equal to the principal amount outstanding at the date of redemption plus accrued and unpaid interest on the principal amount to be redeemed to but excluding the date of redemption.

#### **3.06 Cancellation**

Subject to the provisions of Sections 3.02, 3.03 and 3.04 as to this Debenture being redeemed or purchased in part, this Debenture, if redeemed or purchased in whole or in part by the Corporation, shall not be reissued or resold and shall be forthwith delivered to and cancelled by the Corporation, and no debentures shall be issued in substitution therefor.

## **ARTICLE 4 COVENANTS OF THE CORPORATION**

### **4.01 General Covenants**

The Corporation covenants and agrees with the Holder as follows:

- (a) the Corporation will well, duly and punctually pay or cause to be paid to the Holder the principal of this Debenture, interest accrued thereon and Premium payable thereon on the dates, at the places, in the currency, and in the manner specified in this Debenture;
- (b) subject to the express provisions of this Debenture, the Corporation will carry on and conduct or will cause to be carried on and conducted its business and the business of its Subsidiaries in a proper and efficient manner and will keep or cause to be kept proper books of account and make or cause to be made therein true and faithful entries of all its dealings and transactions in relation to its business and the business of its Subsidiaries, as the case may be, all in accordance with Generally Accepted Accounting Principles, provided that nothing contained in this Debenture shall prevent the Corporation from ceasing to operate or from causing any Subsidiary to cease to operate any premises or property if in the opinion of the Directors it shall be advisable and in the best interests of the Corporation or the Subsidiary concerned to do so; and
- (c) at the request of the Holder, the Corporation will furnish to the Holder a copy of the annual financial statements of the Corporation and any report of the Corporation's Auditors thereon within 120 days after the end of each fiscal year and a copy of the interim financial statements of the Corporation within 90 days of the end of each fiscal quarter.

### **4.02 Encumbrances on Assets**

The Corporation will not, and will not permit any Subsidiary to, create, assume or suffer to exist any Security Interest on any of its assets to secure any Indebtedness unless at the same time the Corporation shall secure or cause to be secured equally and rateably therewith this Debenture, provided that this Section 4.02 shall not apply to or operate to prevent Permitted Encumbrances.

### **4.03 Additional Funded Indebtedness**

The Corporation will not issue or in any other manner become liable in respect of any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by the Corporation to a Subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of the Corporation in an amount not exceeding the principal amount of the Funded Indebtedness being refunded) unless after giving effect thereto Consolidated Indebtedness will not exceed 75% of Total Consolidated Capitalization. For this purpose, Consolidated Indebtedness and Total Consolidated Capitalization shall be determined as at the last day of the most recent month for which financial statements of the Corporation have been prepared.

In determining the principal amount of Funded Indebtedness for the purposes of this Section 4.03,

- (a) there may be deducted the principal amount of and Premium on any Funded Indebtedness which is to be repaid contemporaneously with or within 60 days after the taking of the action in respect of which such determination is made, provided the Corporation has made due provision for the repayment of such principal amount and Premium; and
- (b) in the case of Funded Indebtedness the delivery of a portion of which is to be delayed not more than one year after the date of the first issuance of a portion of such Funded Indebtedness, the portion of the Funded Indebtedness the delivery of which is to be delayed shall be deemed to have been issued and the estimated value of the consideration for the issue thereof to have been received on the date of the first delivery of any of such Funded Indebtedness and that portion of such Funded Indebtedness which is issued subsequent to the date of such first delivery shall be deemed not to be an issue of Funded Indebtedness and no further consideration shall be deemed to be received upon the actual issue of such portion of such Funded Indebtedness, provided that if any portion of such Funded Indebtedness is not issued within such period of one year, this Section 4.03(b) shall thereafter not apply to such portion and such portion shall not be issued except in compliance with the provisions of this Section 4.03.

#### **4.04 Indebtedness of Subsidiaries**

The Corporation will not permit any Subsidiary to issue or in any other manner become liable in respect of:

- (a) any Funded Indebtedness (other than Capital Lease Obligations, Purchase Money Obligations, Financial Instrument Obligations, Funded Indebtedness issued by a Subsidiary to the Corporation or to another Subsidiary, and Funded Indebtedness issued to refund outstanding Funded Indebtedness of a Subsidiary in an amount not exceeding the principal amount of the Funded Indebtedness being refunded); or
- (b) any Indebtedness (other than Indebtedness issued to the Corporation or to another Subsidiary) unless after giving effect thereto the aggregate amount of Indebtedness of the Subsidiaries will not exceed an amount equal to 10% of the aggregated Funded Indebtedness of the Corporation.

#### **4.05 Sale of Assets and Amalgamations**

The Corporation will not enter into any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other Person, whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale or otherwise, other than in accordance with the provisions of Section 7.01 or as permitted thereby.

## **ARTICLE 5 DEFAULT**

### **5.01 Events of Default**

Each of the following events shall be an “**Event of Default**”:

- (a) the Corporation fails to make payment of the principal of or Premium on this Debenture when the same becomes due;
- (b) the Corporation fails to make payment of any interest due on this Debenture or any sinking fund payment prescribed in this Debenture and any such failure continues for a period of 30 days;
- (c) the Corporation fails to observe and perform any other obligation under the provisions of this Debenture and such failure continues for more than 60 days after written notice thereof is provided to the Corporation by the Holder or for such longer period as may be agreed to by the Holder, provided that in no event shall such longer period extend beyond 90 days after receipt of such notice by the Corporation;
- (d) any one or more of the Corporation and its Subsidiaries fail to pay when due (after giving effect to any applicable grace periods, waivers and extensions) any amount owing in respect of Indebtedness other than this Debenture, provided that the aggregate principal amount of such Indebtedness in respect of which payment has not been made exceeds \$5 million;
- (e) the maturity of the Indebtedness referred to in Section 5.01(d) is accelerated as a result of the failure of the Corporation and its Subsidiaries to perform any other covenant applicable to such Indebtedness, provided that the aggregate principal amount of such Indebtedness accelerated exceeds \$5 million;
- (f) the sale, transfer or other disposition by the Corporation, by one or more transactions, directly or indirectly, of its undertaking or assets representing, in the aggregate, substantially all of the assets of the Corporation other than in accordance with the provisions of Section 7.01 or as permitted thereby;
- (g) one or more final judgments (not subject to appeal) are rendered against any one or more of the Corporation and its Subsidiaries in an aggregate amount in excess of \$5 million (excluding amounts in respect of which the Corporation or its Subsidiaries are insured) by a court or courts of competent jurisdiction and remain undischarged or unstayed for a period of 60 days after the date on which all rights to appeal have expired;
- (h) proceedings are commenced for the winding-up, liquidation or dissolution of the Corporation (except as otherwise permitted under this Debenture), a decree or order of a court of competent jurisdiction is entered adjudging the Corporation a bankrupt or insolvent, or a petition seeking reorganization, arrangement or adjustment of or in respect of the Corporation is approved under applicable law relating to bankruptcy, insolvency or

relief of debtors, unless such proceedings, decrees, orders or approvals are actively and diligently contested by the Corporation in good faith and are dismissed or stayed within 60 days of commencement;

- (i) the Corporation makes an assignment for the benefit of its creditors, or petitions or applies to any court or tribunal for the appointment of a receiver or trustee for itself or any substantial part of its property, or commences for itself or acquiesces in any proceeding under any bankruptcy, insolvency, reorganization, arrangement or readjustment of debt law or statute or any proceeding for the appointment of a receiver or trustee for itself or any substantial part of its property which is material to the conduct of its business, or suffers any such receivership or trusteeship and allows it to remain undischarged or unstayed for 30 days; and
- (j) a resolution is passed for the winding-up or liquidation of the Corporation except in the course of carrying out or pursuant to a transaction in respect of which the conditions of Section 7.01 are duly observed and performed.

## **5.02 Acceleration**

Subject to the provisions of Section 5.03, if an Event of Default shall occur and be continuing, the Holder may in its discretion, by notice in writing to the Corporation, declare the principal of and interest on this Debenture then outstanding and the Premium thereon which would have been payable if the Corporation had redeemed this Debenture (otherwise than out of sinking fund amounts) on the date of such declaration and all other amounts outstanding under this Debenture to be due and payable, and the same shall forthwith become immediately due and payable to the Holder, notwithstanding anything contained in this Debenture to the contrary. Notwithstanding anything contained in this Debenture to the contrary, if the Holder makes such a declaration, the Corporation shall pay to the Holder forthwith the amount of principal of and Premium and accrued and unpaid interest (including interest on amounts in default) on this Debenture and all other amounts payable in regard thereto, together with interest thereon at the Interest Rate Per Annum of this Debenture from the date of such declaration until payment is received by the Holder. Such payment, when made, shall be deemed to have been made in discharge of the Corporation's obligations under this Debenture.

## **5.03 Waiver of Event of Default**

The Holder shall have the power to waive any Event of Default and to cancel any declaration made by the Holder pursuant to Section 5.02.

No delay or omission of the Holder in exercising any right or power accruing upon the occurrence of an Event of Default shall impair any such right or power or shall be construed to be a waiver of such Event of Default or acquiescence therein, and no act or omission shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.



#### **5.04 Enforcement by the Holder**

Subject to the provisions of Section 5.03, if the Corporation fails to pay to the Holder, forthwith after the same shall have been declared to be due and payable under Section 5.02, the principal of and Premium and interest on this Debenture then outstanding together with any other amounts due under this Debenture, the Holder may proceed in its name to obtain or enforce payment of such principal of and Premium and interest on this Debenture then outstanding together with any other amounts due under this Debenture by such proceedings authorized by this Debenture or by suit at law or in equity as the Holder shall deem expedient.

The Holder shall also have power at any time and from time to time to institute and to maintain such suits and proceedings as shall be necessary or advisable to preserve and protect its interests.

#### **5.05 Application of Money**

Any money received by the Holder pursuant to the provisions of this Article 5 or as a result of legal or other proceedings, or from any trustee in bankruptcy or liquidator of the Corporation, shall be applied as follows:

- (a) first, in payment or in reimbursement to the Holder of its costs, charges, expenses, borrowings, advances or other amounts furnished or provided by or at the instance of the Holder in relation to this Debenture, with interest thereon as provided in this Debenture;
- (b) second, subject to the provisions of this Section 5.05, in payment of the principal of and Premium and accrued and unpaid interest and interest on amounts in default on this Debenture which shall then be outstanding in the priority of principal first and then Premium and then accrued and unpaid interest and interest on amounts in default; and
- (c) third, in payment of the surplus, if any, of such money to the Corporation or its assigns.

#### **5.06 Remedies Cumulative**

No remedy conferred upon or reserved to the Holder under this Debenture is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Debenture or now existing or hereafter to exist by law.

## **ARTICLE 6 CANCELLATION, DISCHARGE AND DEFEASANCE**

### **6.01 Cancellation and Destruction**

Any Debenture surrendered to the Corporation for any purpose shall be cancelled by the Corporation forthwith after all payments required in respect thereof to the date of surrender have been made.

### **6.02 Payment of Amounts Due on Maturity**

The Corporation shall pay to the Holder on the Maturity Date the principal amount of and Premium on this Debenture (less any taxes required by law to be deducted or withheld) upon surrender of this Debenture at the office of the Corporation at 1700 ATCO Centre, 10035 - 105 Street, Edmonton, Alberta, or at such other place as shall be designated for such purpose from time to time by the Corporation and the Holder. The payment of such amount to the Holder shall satisfy and discharge the liability of the Corporation to the extent of the amount paid (plus the amount of any taxes deducted or withheld) and thereafter this Debenture shall not to that extent be considered to be outstanding and the Holder shall have no right with respect thereto.

### **6.03 Discharge**

Upon the principal of this Debenture and the Premium thereon and interest (including interest on amounts in default) thereon and other amounts payable under this Debenture having been paid or satisfied, and upon payment of all costs, charges and expenses properly incurred by the Holder in relation to this Debenture and all interest thereon, or upon provision satisfactory to the Holder being made therefor, the Holder shall, at the request and at the expense of the Corporation, execute and deliver to the Corporation such deeds or other instruments as shall be required to evidence the satisfaction and discharge of this Debenture and to release the Corporation from its covenants contained in this Debenture.

### **6.04 Defeasance**

The Corporation shall have the right (the “**defeasance option**”) to be released from the terms of this Debenture specified in a notice to the Holder, and upon receipt of such notice the Holder shall, at the request and expense of the Corporation, execute and deliver to the Corporation such deeds and other instruments as shall be necessary to release the Corporation from the terms of this Debenture specified in such notice, subject to the following:

- (a) the Corporation shall have delivered to the Holder evidence that the Corporation has
  - (i) deposited with a trustee (which may be the Holder) (the “**Trustee**”) sufficient funds for payment of all principal, Premium, interest and other amounts due or to become due on this Debenture to the Stated Maturity,
  - (ii) deposited funds or made provision for the payment of all expenses of the Trustee to carry out its duties under this Debenture, and

- (iii) deposited funds for the payment of taxes arising with respect to all deposited funds or other provision for payment in respect of this Debenture, in each case irrevocably, pursuant to the terms of a trust agreement in form and substance satisfactory to the Corporation and the Holder;
- (b) the Holder shall have received an opinion of Counsel to the effect that the Holder will not be subject to any additional taxes as a result of the exercise by the Corporation of the defeasance option with respect to this Debenture and that the Holder will be subject to taxes, if any, including those in respect of income (including taxable capital gain), on the same amount, in the same manner and at the same time or times as would have been the case if the defeasance option had not been exercised in respect of this Debenture;
- (c) no Event of Default shall have occurred and be continuing on the date of the deposit referred to in Section 6.04(a);
- (d) such release does not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which the Corporation is a party or by which the Corporation is bound;
- (e) the Corporation shall have delivered to the Trustee an Officers' Certificate stating that the deposit referred to in Section 6.04(a) was not made by the Corporation with the intent of preferring the Holder of this Debenture over the other creditors of the Corporation or with the intent of defeating, hindering, delaying or defrauding creditors of the Corporation or others; and
- (f) the Corporation shall have delivered to the Holder an Officers' Certificate stating that all conditions precedent provided for or relating to the exercise of such defeasance option have been complied with.

The Corporation shall be deemed to have made due provision for the depositing of funds if it deposits or causes to be deposited with the Trustee under the terms of an irrevocable trust agreement in form and substance satisfactory to the Corporation and the Holder (each acting reasonably), solely for the benefit of the Holder, money or Securities denominated in the currency in which principal is payable constituting direct obligations of Canada or the United States or an agency or instrumentality of Canada or the United States, which will be sufficient, in the opinion of a firm of independent chartered accountants or an investment dealer acting reasonably and acceptable to the Holder, to provide for payment in full of this Debenture and all other amounts from time to time due and owing under this Debenture.

The Trustee shall hold in trust all money or Securities deposited with it pursuant to this Section 6.04 and shall apply the deposited money and the money derived from such Securities in accordance with this Debenture to the payment of principal of and Premium and interest on this Debenture and, as applicable, other amounts.

If the Trustee is unable to apply any money or Securities in accordance with this Section 6.04 by reason of any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Corporation's obligations under this Debenture shall be revived and reinstated as though no money or

Securities had been deposited pursuant to this Section 6.04 until such time as the Trustee is permitted to apply all such money or Securities in accordance with this Section 6.04, provided that if the Corporation has made any payment in respect of principal, Premium or interest on this Debenture or, as applicable, other amounts because of the reinstatement of its obligations, the Corporation shall be subrogated to the rights of the Holder to receive such payment from the money or Securities held by the Trustee.

## **ARTICLE 7 SUCCESSORS**

### **7.01 Requirements for Successors**

The Corporation will not enter into any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other Person (any such Person being a “**Successor**”), whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale or otherwise, unless

- (a) the Successor shall have executed, prior to or contemporaneously with the consummation of any such transaction, such instruments as in the opinion of Counsel are necessary or advisable to evidence the assumption by the Successor of the due and punctual payment of the principal of and interest on this Debenture and all other amounts payable under this Debenture and the covenant of the Successor to pay the same and its agreement to observe and perform all the covenants and obligations of the Corporation under this Debenture;
- (b) such transaction shall not be prejudicial to the interests of the Holder; and
- (c) no condition or event shall exist as to the Corporation or the Successor either at the time of or immediately after the consummation of any such transaction and after giving full effect thereto or immediately after compliance by the Successor with the provisions of Section 7.01(a) which constitutes or would constitute an Event of Default;

provided, however, the provisions of Section 4.03 and of this Section 7.01 shall not be applicable to any transaction between or among the Corporation and its Subsidiaries.

### **7.02 Vesting of Powers in Successor**

Whenever the conditions of Section 7.01 have been duly observed and performed, the Successor shall possess and from time to time may exercise each and every right and power of the Corporation under this Debenture, in the name of the Corporation or otherwise, and any act or proceeding required by any provision of this Debenture to be done or performed by any directors or officers of the Corporation may be done and performed with like force and effect by the directors or officers of the Successor.

## **ARTICLE 8 NOTICES**

### **8.01 Notice to the Corporation**

Any notice to the Corporation shall be valid and effective if delivered to the Vice President, Controller of the Corporation at 1700 ATCO Centre, 10035 - 105 Street, Edmonton, Alberta, or if sent by facsimile transmission (with receipt confirmed) to the attention of the Vice President, Controller of the Corporation at (780) 420-7120, and shall be deemed to have been validly given at the time of delivery or transmission if it is received prior to 4:00 p.m. on a Business Day, failing which it shall be deemed to have been given on the next Business Day. The Corporation may from time to time notify the Holder of a change in address or facsimile number which thereafter, until changed by like notice, shall be the address or facsimile number of the Corporation for all purposes of this Debenture.

### **8.02 Notice to the Holder**

Any notice to the Holder shall be valid and effective if delivered to the Senior Vice President and Chief Financial Officer of the Holder at 1600 ATCO Centre, 909 - 11th Avenue S.W., Calgary, Alberta, or if sent by facsimile transmission (with receipt confirmed) to the attention of the Senior Vice President and Chief Financial Officer of the Holder at (403) 292-7507, and shall be deemed to have been validly given at the time of delivery or transmission if it is received prior to 4:00 p.m. on a Business Day, failing which it shall be deemed to have been given on the next Business Day. The Holder may from time to time notify the Corporation of a change in address or facsimile number which thereafter, until changed by like notice, shall be the address or facsimile number of the Holder for all purposes of this Debenture.

In determining the date by which notice of any redemption or other event must be given, the date of giving the notice shall be included and the date of the redemption or other event shall be excluded.

### **8.03 Waiver of Notice**

Any notice provided for in this Debenture may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

This is Exhibit "D"  
 Referred to in the Affidavit of  
 CHARLES S. McCONNELL  
 Sworn before me this 18th day  
 of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
 A Commissioner for Oaths in and for  
 the Province of Alberta

## EXHIBIT "D"

### ATCO ELECTRIC LTD. Reasonableness of Pricing Arrangements Recent Similar Corporate Debt Issues

Date	Issuer	Amount (\$ Millions)	Coupon (%)	Maturity	Issue Spread (1)	Ratings DBRS /S&P
Jan 2008	B.C. Ferry Services (2)	200.0	5.581	Jan 2038	150	A(1)/A-
Jan 2008	Sun Life Financial (3)	400.0	5.590	Jan 2023	167	A(h)/A+
Feb 2008	Terasen Gas-Vanc. Is.	250.0	6.050	Feb 2038	183	BBB(h)/NR
Mar 2008	Bank of Montreal (3)	900.0	6.170	Mar 2023	260	AA(1)/A
Mar 2008	Maritime Electric (4)	60.0	6.054	Apr 2038	205	NR/A
Apr 2008	Fortis Alberta	100.0	5.850	Apr 2038	180	A(1)/A-
Apr 2008	EPCOR Utilities	200.0	6.650	Apr 2038	255	A(1)/BBB+
May 2008	Terasen Gas Inc.	250.0	5.800	May 2038	163	A/NR
<b>May 2008</b>	<b>CU Inc.</b>	<b>200.0</b>	<b>5.580</b>	<b>May 2038</b>	<b>148</b>	<b>A(h)/A</b>
<b>May 2008</b>	<b>CU Inc.</b>	<b>125.0</b>	<b>5.563</b>	<b>May 2028</b>	<b>148</b>	<b>A(h)/A</b>

#### Notes:

- (1) Over Government of Canada bonds of equivalent term.
- (2) Secured bonds
- (3) Subordinated bonds
- (4) First mortgage bonds
- (5) "NR" means not rated.

This is Exhibit "E"  
 Referred to in the Affidavit of  
 CHARLES S. McCONNELL  
 Sworn before me this 18th day  
 of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
 A Commissioner for Oaths in and for  
 the Province of Alberta

# **EXHIBIT "E"**

## **ATCO ELECTRIC LTD. Pro Forma Capital Structure**

	<b>March 31, 2008</b>		<b>March 31, 2008 As Adjusted (1)</b>	
	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>
	<u>(\$000's)</u>		<u>(\$000's)</u>	
Long Term Debt.....	1,098.3	59.5	1,208.6	61.8
Preferred Shares .....	104.7	5.7	104.7	5.4
Common Equity .....	641.3	34.8	641.3	32.8
Total .....	<u>1,844.3</u>	<u>100.0</u>	<u>1,954.6</u>	<u>100.0</u>

### **Note:**

- (1) After giving effect to the issue of the 5.580% Debenture and the 5.563% Debenture and the maturity of the \$14.7 million principal amount of 6.97% Debenture.

This is Exhibit "F"  
Referred to in the Affidavit of  
CHARLES S. McCONNELL  
Sworn before me this 18th day  
of August, 2008

*(signed) "W.S. Osler"*

W.S. Osler  
A Commissioner for Oaths in and for  
the Province of Alberta

**EXHIBIT "F"**

**Opinion  
of  
Legal Counsel**



August 18, 2008

Alberta Utilities Commission  
Fifth Avenue Place  
4<sup>th</sup> Floor, 425 – 1 Street S.W.  
Calgary, Alberta  
T2P 3L8

Dear Sirs:

**Re: Proposed Issue by ATCO Electric Ltd.  
of a 5.580% Debenture in the Principal Amount of \$75,000,000**

We have acted as counsel to ATCO Electric Ltd. (the "**Corporation**") in connection with the proposed issue by the Corporation to CU Inc. of a 5.580% Debenture in the principal amount of \$75,000,000 (the "**5.580% Debenture**").

In connection with the rendering of this opinion, we have examined the following:

1. copies of the articles and by-laws of the Corporation;
2. the form of the 5.580% Debenture;
3. a certified copy of a resolution of the directors of the Corporation authorizing the creation and issue of the 5.580% Debenture; and
4. such other documents or copies of documents as we have considered necessary for the purposes of this opinion.

Based upon and subject to the foregoing, we are of the opinion that

1. the Corporation is a corporation validly existing under the laws of Canada, has the corporate power to carry on its business, and is a valid and subsisting extra-provincial corporation under the *Business Corporations Act* (Alberta);
2. the Corporation has all requisite corporate power and authority to create and issue the 5.580% Debenture;
3. the 5.580% Debenture, when executed by the Corporation and delivered for value following the approval by the Alberta Utilities Commission of the issue thereof, will be a valid and binding obligation of the Corporation enforceable in accordance with its terms,

and the issue thereof will not, to our knowledge, violate the provisions contained in any debentures of the Corporation that are presently outstanding; and

4. the issue of the 5.580% Debenture is exempt from the registration and prospectus requirements of the *Securities Act* (Alberta).

The opinion expressed in paragraph 3 as to the enforceability of the obligation referred to therein is subject to the qualifications that the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and that specific performance and injunctive relief are equitable remedies that may be ordered by a court in its discretion and may not be available to enforce the covenants therein.

Yours truly,

*Bennett Jones LLP*