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September 24, 2021

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of
Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission, New
Brunswick
Superintendent of Securities, Department of Justice and
Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Service NL
Northwest Territories Office of the Superintendent of
Securities
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Nunavut

The Secretary
Ontario Securities Commission
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To whom it may concern:

Re: Submissions on Proposed Amendments to National Instrument 51-102 *Continuous Disclosure Obligations*

On behalf of our clients ATCO Ltd. ("**ATCO**") and Canadian Utilities Limited ("**CU**"), we wish to provide comments on the proposed amendments (the "**Amendments**") to National Instrument 51-102 *Continuous Disclosure Obligations* ("**NI 51-102**") proposed by the Canadian Securities Administrators (the "**CSA**"). We welcome the opportunity to make this submission.

The ATCO Group

With approximately \$22 billion in assets and more than 6,200 employees, ATCO is a diversified global corporation with investments in the essential services of Structures & Logistics (workforce and residential housing, innovative modular facilities, construction, site support services, workforce lodging services, facility operations and maintenance, defence operations services and disaster and emergency management services); Utilities (electricity and natural gas transmission and distribution and international electricity operations); Energy Infrastructure (electricity generation, energy storage

and industrial water solutions); Retail Energy (electricity and natural gas retail sales); Transportation (ports and transportation logistics); and Commercial Real Estate.

ATCO is CU's controlling shareholder and currently controls approximately 90% of CU's outstanding voting shares. ATCO's controlling shareholder currently controls approximately 87% of ATCO's outstanding voting shares. ATCO and CU are Canadian reporting issuers with securities listed on the Toronto Stock Exchange.

The controlling interest in ATCO has been maintained since its formation, and the interest in CU since ATCO acquired it in 1980. The companies are of the belief that the existence of the long-standing majority shareholder is of fundamental importance to their governance and operations, and ensures that there is a high degree of alignment between shareholders. This structure enables the companies' boards and managements to focus on long-term success and profitability.

General

ATCO and CU view effective securities legislation as an essential element for the ongoing success of the companies and their shareholders. Both companies strive to ensure that they provide effective stewardship of their businesses and evaluate their disclosure practices on an ongoing basis with changes made as needed. ATCO and CU also strongly believe that disclosure rules imposed by such securities legislation should not only be as clear and streamlined as possible but should also provide issuers with the flexibility to adopt disclosure policies and practices that both comply with applicable legal requirements and suit their own particular needs and circumstances. Rules that provide as much guidance as possible, while still creating a framework within which ATCO and CU can continue to engage in the practices they deem best suited to their businesses, will allow both companies to remain efficient while still meeting stated policy goals, such as the goal of streamlining disclosure proposed by the Amendments.

In this regard, ATCO and CU are fully supportive of the Amendments that clarify and streamline disclosure obligations and reduce the burden of disclosure on reporting issuers.

Assessing Risk via the Impact/Probability Assessment

The Amendments propose, among other things, that issuers disclose risks in order of seriousness from the most to least serious. "Seriousness", in this instance, will refer to the severity of risk as determined by an impact/probability assessment process.

Under NI 51-102's current requirements, ATCO and CU seek to disclose applicable risks in a manner that both meets applicable securities requirements and is broadly comparable to other issuers in similar industries. In contrast, the Amendments propose that each individual issuer disclose applicable risks ranked via their own impact/probability assessment. However, without a level of standardization in impact/probability assessment across each industry or across issuers generally, risk disclosure under this Amendment may be of dubious value. Additionally, unless issuers also disclose their



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impact/probability assessment processes in a manner accessible to the public, the utility of such risk rankings will be further limited by their opacity.

In connection with this, the proposed Amendments may create difficulty in determining the seriousness of risks disclosed by an issuer. Issuers may weight impact and probability differently, which may potentially lead to different rankings of similar risks. For instance, one issuer may consider credit risk a high-probability but low-impact risk, and thus rank it differently from a similar issuer who may see credit risk as a low-probability but high-impact risk. Without further guidance, the proposed Amendments may cause significant investor confusion in making risk-informed investment decisions.

Accordingly, ATCO and CU recommend that the impact/probability risk assessment disclosure requirements proposed in the Amendments be withdrawn, or alternatively that the CSA develop meaningful guidance to address the concerns identified above. It would be appropriate for any such guidance to reflect the fact that controlled companies may assess the impact and probability of risks differently (particularly, for ATCO and CU, in light of the long-term focus described above) than issuers without a controlling shareholders.

Representatives of ATCO and CU would be pleased to discuss the foregoing with you if it would be of assistance.

Yours truly,

BENNETT JONES LLP

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