



ROBERT J. PELLATT
COMMISSION SECRETARY

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TO: INTERESTED PARTIES
(see attached distribution list)

Re: Determining Prudence of Utility Resource Expenditures in British Columbia

On February 23, 1996, the Court of Appeal for British Columbia ("the Court") issued its Reasons for Judgment ("the Judgment") allowing B.C. Hydro's appeal of Order No. G-89-94. The Court concluded that:

"... the appellant is entitled to a declaration that the Directions in the Reasons for Decision for Order G-89-94 issued 24 November 1994 which ordered the application of the Integrated Resource Plan to British Columbia Hydro and Power Authority are beyond the statutory powers of the Commission and are accordingly unenforceable."

The Court found that the IRP process was specific to the planning phase of the utility's response to its statutory obligations and that its enforcement by Order was an exercise in management, as it related to neither the certification process as such nor to the supervision of the utility's use of its property devoted to the provision of service (p. 55). The Court pointed out that the project certification powers in section 51 of the Act provided the Commission with the ability to control expenditures in advance of construction of a project.

The Commission is presently considering seeking leave to appeal certain aspects of the Judgment to the Supreme Court of Canada.

Notwithstanding the possibility of an appeal, the Commission wishes to develop a process which has regard to the Judgment. The Commission therefore wishes to explore with both utilities and stakeholders the development of such a process, especially with respect to the widely-supported objectives of IRP. Moreover, the Commission believes, based in part on the arguments put forward by B.C. Hydro in its request for reconsideration and on the appeal (and as a result of informal discussions with utilities and other participants), that there may be a significant opportunity for a consensus among utilities and stakeholders on the process that the Commission should apply.

The Court noted that the Commission has certification and supervisory powers under section 51. In addition, once a Certificate of Public Convenience and Necessity ("CPCN") application has been filed, section 53 of the Act authorizes the Commission to require information, and hold a hearing if deemed necessary, to determine the prudence of utility resource expenditures. The Commission also has authority under section 85.3 to determine the prudence of utility expenditures when the utility is contracting with third parties for its resources. The Commission is concerned, however, that unless some streamlined process can be developed, the hearings for numerous individual CPCNs will become longer due to detailed examinations of all feasible alternatives to the expenditures in question. In the absence of an early exchange of meaningful information, comparable to that provided by an IRP, the Commission believes that both the Commission and intervenors would have no alternative but to apply the information requests and cross-examination rights available to them to elicit the necessary information to determine the prudence of utility resource expenditures in the CPCN hearings and in the energy supply contract hearings. This would undoubtedly place more demands on the process and result in numerous lengthy hearings.

The Commission believes that no utility or stakeholder is interested in such an outcome. As the Commission understands the argument advanced by B.C. Hydro before the Court, B.C. Hydro did not take issue with the wisdom of the IRP as part of the mix of utility planning and regulatory mechanisms, but with the Commission's authority to specify directly the elements of the utility's resource planning process.

The Commission, therefore, is convening a one day workshop of all utilities and stakeholders to discuss a process for assessing utility resource expenditures on Monday, March 25, 1996 at 9:00 a.m. at a Vancouver location to be announced. Other Commission proceedings scheduled on that day will be rescheduled. Until such a process is established the Commission will be reviewing utility expenditure plans to determine those which will require CPCN applications.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. Pellatt', with a stylized flourish at the end.

Robert J. Pellatt



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February 29, 1996

Mr. Craig P. Donohue
Manager of Regulatory Affairs
Pacific Northern Gas Ltd.
Suite 1400
1185 West Georgia Street
Vancouver, B.C.
V6E 4E6

Dear Mr. Donohue:

Re: 1995/1996 Reference Price Calculation Methodology
Spot Purchases made in Substitution for Baseload Purchases

As you would know, the very high NYMEX prices for January, 1996 caused the commodity portion of the price for deliveries under some baseload contracts to be higher than local spot prices. The Commission understands that some spot purchases were arranged to replace gas which could have been purchased under baseload contracts, in order to reduce gas costs overall. (It should also be noted that the supply contracts for spot gas need to be filed in a timely fashion for Commission approval.)

All spot gas purchases were excluded from the reference price calculations which were filed for January, 1996. This is consistent with the definition of "baseload gas" in the July 7, 1995 Buy/Sell Review Decision.

However, the Commission has reviewed the matter in light of current circumstances and has concluded that spot purchases that were made in substitution for baseload purchases should be viewed as part of baseload purchases and should be included as such in the reference price calculation. (Spot gas purchased for other reasons should continue to be excluded.) To the extent that an LDC has made such spot purchases during the 1995/1996 gas year, it is hereby requested to include the appropriate quantity and cost of spot gas in its reference price calculations for the months involved and to refile the calculations.

Yours truly,

A handwritten signature in black ink, appearing to read "R. Pellatt", is written over a horizontal line.

Robert J. Pellatt

JBW/cms

cc: Mr. David M. Masuhara, Vice President, Legal and Regulatory Affairs
BC Gas Utility Ltd.
Mr. Marcel Reghelini, Manager, Regulatory Affairs & Rates
Centra Gas British Columbia Inc.