



LETTER No. L-29-01

ROBERT J. PELLATT
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September 26, 2001

Ms. Joan Horning
M.V.P. Veneer Inc.
653 W. Sarcee
Kamloops, B.C. V2H 1E4

Dear Ms. Horning:

Re: M.V.P. Veneer Inc.
Customer Complaint dated August 8, 2001

The Commission has reviewed the letter of M.V.P. Veneer Inc. ("MVP") dated August 8, 2001 (the "MVP Letter") and the letter of BC Gas Utility Ltd. ("BC Gas") dated August 29, 2001 (the "BC Gas Letter"). The Commission has also reviewed BC Gas' Rate Schedule 5, General Firm Service, effective November 1, 1996 ("Rate Schedule 5").

The MVP Letter and the BC Gas Letter indicate that a dispute exists between MVP and BC Gas with respect to:

1. The meaning and application of the Force Majeure provisions of Rate Schedule 5; and
2. The meaning of discrimination under the *Utilities Commission Act*, R.S.B.C. 1996, c.473.

Pursuant to section 14.1 of Rate Schedule 5,

"Any dispute between the parties arising from this Rate Schedule or the Service Agreement will be resolved by a single arbitrator pursuant to the *Commercial Arbitration Act* of British Columbia or successor legislation, save as expressly provided therein."

As a result, the Commission takes no position on the interpretation and application of the Force Majeure provisions in Rate Schedule 5 and refers the parties to the dispute resolution procedures contained in Rate Schedule 5.

Determinations as to what constitutes discrimination, within the meaning of the *Utilities Commission Act*, is the jurisdiction of the Commission. The Commission makes no determination, at the present time, as to whether relief from fixed charge obligations in the present circumstances would, or would not, constitute discrimination under the *Utilities Commission Act*.

Upon resolution of the issue on Force Majeure the Commission would be prepared to accept submissions on the issue of discrimination at that time.

Yours truly,

Original signed by:

Robert J. Pellatt

EJR/cms

cc: Mr. David M. Masuhara, Vice President
Legal, Regulatory & Logistics and Secretary
BC Gas Utility Ltd.