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BRITISH COLUMBIA UTILITIES COMMISSION

ORDER NUMBER G-87-03

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IN THE MATTER OF

the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

British Columbia Hydro and Power Authority
Application for a Reconsideration of the June 5, 2003 Decision in the matter of
Centra Gas British Columbia Inc. 2002 Rate Design Application

BEFORE: R.H. Hobbs, Chair)
L.A. Boychuk, Commissioner) December 24, 2003
R.J. Milbourne, Commissioner)

O R D E R

WHEREAS:

A. On June 5, 2003, the Commission issued Order No. G-42-03 and its Decision (available for reference at *www.bcuc.com*) in the matter of the 2002 Rate Design Application of Centra Gas British Columbia Inc. ("the Decision"); and

B. Centra now does business under the name of Terasen Gas (Vancouver Island) Inc. ("TGVI"); and

C. On September 30, 2003, British Columbia Hydro and Power Authority ("BC Hydro") applied ("BC Hydro Application") to the Commission for reconsideration and variance of certain parts of the Decision; and

D. On October 21, 2003, the Commission issued Letter No. L-49-03 inviting Intervenors to comment on the issue of whether the BC Hydro Application met the threshold for reconsideration and setting out a timetable for Intervenor submissions and reply submissions by BC Hydro; and

E. The Commission received a submission from TGVI on October 31, 2003 with respect to the BC Hydro Application and a reply submission from BC Hydro on November 7, 2003; and

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F. The Commission has considered the BC Hydro Application and the submissions all as set forth in the Reasons for Decision attached to this Order.

NOW THEREFORE, pursuant to Section 99 of the Utilities Commission Act, the Commission orders as follows:

1. The Commission allows the BC Hydro Application for reconsideration on the specific issues as set out in the attached Reasons for Decision.

2. New evidence is not required and will not be allowed in the BC Hydro Application for reconsideration; BC Hydro and Intervenors may file argument in respect of the Application for reconsideration according to the following schedule:

BC Hydro Argument	January 19, 2004
Intervenor Argument	February 2, 2004
BC Hydro Reply Argument	February 9, 2004

DATED at the City of Vancouver, in the Province of British Columbia, this 24th day of December 2003.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair

British Columbia Hydro and Power Authority
Application for Reconsideration of the June 5, 2003 Decision in the matter of
Centra Gas British Columbia Inc. 2002 Rate Design Application

REASONS FOR DECISION

1.0 INTRODUCTION

On September 30, 2002 , Centra Gas British Columbia Inc. ("Centra") filed a Rate Design Application ("the Rate Design Application") that proposed rate design principles for 2003 and beyond and approval of final rates for all proposed classes of customers except ACR-2 Pioneer Rate Class customers and those customers with rates determined by existing agreements. The Commission reviewed the Rate Design Application by way of an oral public hearing that took place on February 5, 2003, February 7, 2003 and from March 3 through March 6, 2003. Centra's Final Argument was received on March 17, 2003, Intervenor submissions were received by March 28, 2003, and Centra's Reply Submissions were received on April 7, 2003. On April 25, 2003, shareholders of BC Gas Inc., Centra's parent company, approved a change to its company name to Terasen Inc. and Centra was renamed Terasen Gas (Vancouver Island) Inc. ("TGVI"). The Commission issued its Decision on the Rate Design Application, along with Order No. G-42-03 on June 5, 2003 (together "the Decision"). Recognizing that both "Centra" and "TGVI" refer to the same entity, these Reasons for Decision will use TGVI unless the reference is to a quote from the Decision or to evidence in which the name Centra appears.

The Decision approved, among other things, a permanent rate for Firm Transportation ("FT") service of $1.074/GJ effective January 1, 2003. As well, natural gas was supplied to the Island Cogeneration Plant ("ICP") under the Transportation Service Agreement between TGVI and British Columbia Hydro and Power Authority ("BC Hydro") made as of March 7, 2001 ("BCH TSA"). For the interim period between the ICP's Commercial Operation Date of April 12, 2002 and December 31, 2002, the Decision approved the interim ICP rate, $0.890/GJ, as permanent, for FT service provided to BC Hydro for natural gas supplied for operation of the ICP despite an agreement between TGVI and BC Hydro to retroactively adjust the interim rates to the final rates approved by the Commission.

On September 30, 2003, BC Hydro applied to the Commission for reconsideration and variance of certain parts of the Decision ("BC Hydro Application"). BC Hydro alleges that the Commission erred in two ways in

allocating the cost of service for determining TGVI's rates. It first submits that the Commission accepted TGVI's "residual" method for the Centra Distribution System ("CDS") allocation factor for allocating the cost of service and that it erred in the use of the specific delivery capacity used to derive the allocation factors. Second, BC Hydro submits that the Commission erred in its treatment of peaking costs and demand allocators.

On October 21, 2003, the Commission issued Letter No. L-49-03 inviting Intervenors' comments on whether the BC Hydro Application met the threshold for reconsideration and establishing a timetable for Intervenor submissions and reply submissions by BC Hydro. The Commission received a submission from TGVI on October 31, 2003 with respect to the BC Hydro Application and a reply submission from BC Hydro on November 7, 2003.

2.0 GUIDING PRINICPLES FOR RECONSIDERATION

Section 99 of the Act states:

> "The commission may reconsider, vary or rescind a decision, order, rule or regulation made by it, and may rehear an application before deciding it."

Under Section 99 of the Act, the authority of the Commission to allow a reconsideration is discretionary. To determine if there is a reasonable basis to allow a reconsideration, the Commission assesses an application for reconsideration to determine if the applicant has demonstrated the existence, on a *prima facie* basis, of one or more of the following:

1. an error in fact or law;
2. a fundamental change in circumstance or facts since the decision;
3. a basic principle that had not been raised in the original proceedings; or
4. a new principle that has arisen as a result of the decision.

The Commission exercises its discretion to reconsider in other situations, where it considers there to be just cause. However, the decision to allow a reconsideration is not taken lightly. The Commission's discretion to reconsider and vary a decision or order is applied with a view to ensuring there is consistency and predictability in the Commission's decision-making.

For a reconsideration hearing to proceed, the reconsideration applicant is required, through reference to the Decision, to establish that:

1. the claim of error appears to be substantiated on a *prima facie* basis; and
2. the error has significant material implications.

3.0 BC HYDRO APPLICATION

The BC Hydro Application alleges that the Commission erred in two ways in allocating the cost of service for determining TGVI's rates. BC Hydro submits, as "Issue 1," that the Commission accepted TGVI's "residual" method for the CDS allocation factor for allocating the cost of service and that it "...erred in incorporating Centra's proposed delivery capacity of 145 TJ/day to derive allocation factors when the Commission concluded the delivery capacity was 155.1 TJ/day in 2003 and 5.1/day less in 2003/04."

BC Hydro submits, as "Issue 2," that the Commission erred in its treatment of the allocation of peaking costs. BC Hydro argues that the Commission erred:

(a) in concluding that the peaking arrangements between TGVI and BC Hydro, and between TGVI and the Vancouver Island Gas Joint Venture ("Joint Venture"), provide compensation to both BC Hydro and the Joint Venture, and, as a consequence,

(b) in concluding that all shippers on the High Pressure Transmission System ("HPTS") benefit from the Commission's acceptance of TGVI's proposed treatment of peaking costs and demand allocators, and further, that a new principle had arisen as a result of these conclusions, and

(c) in concluding that the outcome with respect to the treatment of peaking arrangements is not dissimilar to curtailment rights on the BC Gas system.

4.0 DETERMINATIONS OF THE RECONSIDERATION PANEL

<u>Issue 1 – Calculation of Residual</u>

The issue before the Reconsideration Panel is:

> Did the Commission err by using 145 TJ/day to derive allocation factors for the HPTS costs when it concluded that the delivery capacity was 155.1 TJ/day in 2002/03 and 5.1 TJ/day less in 2003/04?

The Reconsideration Panel notes the following three excerpts of the June 5, 2003 Decision (the "capacity references") which describe TGVI's position and the Commission's determination:

Decision, paragraph bottom, page 32 to top of page 33 (references to page numbers are those in the BCUC's official version of the Decision):

> "Specifically, Centra proposes to allocate transmission capacity costs based on the firm contract demands of customers and the *physical design capacity of the system*. Centra allocates transmission capacity for the CDS as the residual of the *total system capacity* less the contract demands of the Joint Venture, BC Hydro and Squamish Gas. When the capacity of the system was increased by more than 10,000 GJ/day (accomplished by the addition of the V4 compressor on Texada Island) to accommodate a BC Hydro demand increase of 10,000 GJ/day, Centra determined that the residual would stay the same by arguing that the needed capacity had only increased by 10,000 GJ/day." (emphasis added)

Decision, page 33, last full paragraph:

> "Concerning Centra's proposal to use the coincident peak methodology in combination with the *physical capacity limit of the HPTS*, BC Hydro submits that a correct application of the method would clearly result in BC Hydro being allocated no HPTS capacity costs (see Exhibit 3, p. 13, Table 5)." (emphasis added)

Decision, page 36, second full paragraph:

> "The Commission accepts Centra's proposal to allocate transmission capacity costs based on the coincident peak of the system with the CDS portion determined on the basis of the residual *capacity of the HPTS.*" (emphasis added)

The Reconsideration Panel finds that the apparent inconsistency between the capacity references and the use of the allocation factors based on 145 TJ/day establishes a *prima facie* basis from the language of the Decision to conclude that an error may have been made. The Reconsideration Panel finds that the BC Hydro Application, page 2, Table 1 establishes a *prima facie* basis that an error related to allocation factors based on 145 TJ/day would have significant material implications. Therefore, the Reconsideration Panel allows the BC Hydro Application to proceed to the second phase of the reconsideration process in respect of this issue.

For the next phase of the reconsideration process, the Reconsideration Panel requests that participants address the issue of whether or not the Commission concluded that the allocation factors were to be based on 145 TJ/day or 155.1 TJ/day and the appropriate findings and conclusions regarding the resolution of the apparent inconsistency between the capacity references and the use of the 145 TJ/day as the basis for the allocation factors.

Issue 2 – Allocation of Peaking Costs

With respect to the allocation of peaking costs, BC Hydro submits that the Commission erred in three ways (hereinafter referred to as the "first error", "second error" and "third error").

First, BC Hydro alleges that the Commission erred in concluding that the peaking arrangements provide compensation to both BC Hydro and the Joint Venture for any associated curtailments. BC Hydro asserts that, where its peaking services are used, it receives only a demand charge credit for the curtailed capacity, and is reimbursed for its gas costs. BC Hydro also submits that rather than being compensated for the provision of peaking services, BC Hydro is merely reimbursed for demand charges for transportation services it did not receive.

TGVI submits that these matters were well canvassed in the proceedings and that BC Hydro is, in effect, seeking to have the Commission reconsider the whole methodology for the allocation of transmission costs. TGVI submits that BC Hydro's dispute is one of nomenclature, noting that BC Hydro does not dispute that it would receive $113,000 per year (response to IR 3-3.3.2). TGVI submits that the Commission did not err in concluding that the peaking arrangements provide compensation to BC Hydro.

BC Hydro, in response, reasserts its position as to the issue and its materiality.

On pages 34 and 35 of its Decision, the Commission addressed the position of parties on matters of compensation to BC Hydro and the Joint Venture, noting in some detail the several factors taken into account as compensation for the provision of peaking services by the Joint Venture, and noting "a contrast" with the arrangements with BC Hydro. A recitation of the factors, comparable or otherwise, providing compensation to BC Hydro is not provided in the Decision, yet TGVI's position that "…. both the Joint Venture and BC Hydro are compensated in the event that Centra curtails them …" is accepted by the Commission in the Decision.

BC Hydro has indicated that it simply receives consideration for services not provided to it when it is called upon to provide peaking services. TGVI asserts that this consideration is in fact compensation. BC Hydro asserts that it is not compensated for the provision of the peaking services per se. TGVI is silent on this matter, as is the Decision.

The *Utilities Commission* Act defines "compensation" in the following manner:

> "compensation" means a rate, remuneration, gain or reward of any kind paid, payable, promised, demanded, received or expected, directly or indirectly, and includes a promise or undertaking by a public utility to provide service as consideration for, or as part of a proposal or contract to dispose of land or any interest in it"

The Decision is unclear as to what the Commission intended by the use of the term "compensation". It is not established in the Decision or the submissions regarding the Reconsideration Application what form and quantum of compensation is provided to BC Hydro in support of the acceptance by the Commission of TGVI's position in the proceedings.

The Reconsideration Panel finds that a *prima facie* case has been established to bring into question the basis on which this aspect of the Decision was reached, and, given the materiality of the issue as asserted by BC Hydro, and not controverted by TGVI, will also allow this issue to proceed to the next phase of the reconsideration process. In that phase, the Commission will hear argument on this issue, including the practices and precedents incorporated in comparable circumstances, in order to establish if the Commission erred in its determination of this issue, and, if so, how the Decision should be varied within the constraints of TGVI's circumstances.

Second, BC Hydro asserts that the first error contributed to other errors, specifically, to a second error in accepting TGVI's assertions that the "peaking arrangements with these shippers were in the interests of all customers when compared to the costs of expanding HPTS capacity." While BC Hydro does not dispute the fundamental rationality of the concept that peaking arrangements are in the interests of all shippers when compared to the cost of expanding HPTS capacity, BC Hydro argues that because of the way that the HPTS costs are allocated by the Decision, the effect is only of benefit to the CDS, and that the non-CDS shippers are penalized.

BC Hydro points to evidence before the Commission which illustrated in quantitative terms circumstances in which with an "expanded" system, albeit one with overall higher transmission costs, non-CDS shippers would receive a lower cost allocation under the proposed cost allocation method. TGVI submits that the evidence in question is illustrative only, and that the assumptions on which it is based are not supported by the evidence.

In response, BC Hydro repeats its submission that peaking arrangements reduce total transmission facilities and installed costs, and emphasizes that the core issue is the proper treatment of the costs of peaking or, failing that, the proper compensation for the costs of peaking services. BC Hydro further points to the difficulty in reaching an agreement with TGVI on these matters in post-Decision negotiations. BC Hydro's preference is to have the recognition of the costs of peaking in the allocation process recognized in this proceeding to preclude a further application to the Commission.

BC Hydro's submits that the Decision on the basis of this second error gives rise to a "new principle" - that the use of the residual method for the CDS allocation factor is appropriate notwithstanding that it streams the system-wide benefit of peaking arrangements to one shipper, the CDS, and not to all shippers. TGVI submits that this matter was raised and addressed in the original proceeding. In response, BC Hydro does not contest this position, but rather again emphasizes that the issue is the treatment of the allocation of the costs of, or the compensation for, peaking services. This appears to relate to the substance of the first error, which the Reconsideration Panel has dealt with above.

The Reconsideration Panel notes that BC Hydro does not dispute the concept that peaking arrangements are in the interests of all shippers when compared to the cost of expanding HPTS capacity. Rather, BC Hydro takes issue with TGVI's proposed allocation of HPTS costs and questions who actually benefits from the peaking arrangements as a result of that allocation. Further, the Reconsideration Panel notes that the cost allocation proposals of both TGVI and BC Hydro were matters that were extensively addressed in the written evidence before the Commission, during cross-examination and in argument.

The Reconsideration Panel acknowledges that the statement at page 37 of the Decision that "The Commission finds that the peaking arrangements are in the interests of all customers when compared to the costs of expanding HPTS capacity" is at technical variance with the evidence presented by BC Hydro. However the Reconsideration Panel does not consider that the statement fundamentally alters the conclusions or decisions of the Commission.

BC Hydro has not demonstrated that this statement, in the context of the proceeding, constitutes a *prima facie* basis on which to call into question the Decision.

Third, BC Hydro submits that the Commission erred in concluding, at page 37 of the Decision, that "the outcome of the peaking arrangements was not dissimilar to curtailment rights on the BC Gas system and is appropriate at this time." BC Hydro asserts that there was no evidence to support the Commission's conclusion, and suggests, rather, that based on the evidence, transportation costs for BC Gas would be allocated based on peak day demand for the firm core market and the full contract demand for the curtailable customers. This, in BC Hydro's view would lead to a cost allocation result close to that submitted by BC Hydro to the Commission in the course of the proceedings.

TGVI submits that the Commission's statement respecting the BC Gas system is correct, as are the other statements in that paragraph **(**when read in the context of the text at page 37 of the Decision). TGVI notes that the statement contains no conclusion about the similarity of the methodologies used by TGVI and BC Gas.

In response, BC Hydro notes that TGVI does not dispute the absence of evidence for the statement at page 37.

The balance of the Decision is silent with respect to the matter.

The Reconsideration Panel does not consider this statement to be significant or material in the context of the matters which were before, or the decisions made by, the Commission. It is not evident from the record that this was a significant matter for the parties and the Reconsideration Panel does not consider it appropriate at this stage to revisit whether and to what extent TGVI's proposal, or the outcome, is not dissimilar to, or is different from, curtailment rights on the BC Gas system as an issue on its own merits.

The Reconsideration Panel does not find that this statement in and of itself constitutes a *prima facie* basis on which to call into question the Decision of the Commission, and that in any event, the participants are at liberty, as appropriate, to address this error within the course of argument in the second phase of the Reconsideration process as provided for the first error above.

4.0 RECONSIDERATION PROCESS

The Reconsideration Panel allows the reconsideration on the specific issues as set out above. The Reconsideration Panel will consider these issues by way of written argument as described below:

- BC Hydro is to file any additional argument that it may wish to make in support of its application for reconsideration by Monday, January 19, 2004;
- Intervenors may file argument with respect to the reconsideration application by Monday, February 2, 2004; and
- BC Hydro may file reply argument by Monday, February 9, 2004.

For greater certainty, as noted above, the Reconsideration Panel does not consider that further evidence to that which was before the Commission is required or appropriate.