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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-135-07

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**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**An Application by Unocal Canada Limited ("Unocal")
for an Exemption from all Provisions of the Utilities Commission Act
for the Aitken Creek Storage Facility**

BEFORE: L.F. Kelsey, Commissioner November 7, 2007
P.E. Vivian, Commissioner

O R D E R

WHEREAS:

- A. The Commission, by Letter No. L-47-06 dated August 25, 2006, advised Unocal Canada Limited ("Unocal") that it had concluded that Unocal, as owner and/or operator of the Aitken Creek Storage Facility, falls within the definition of a public utility under the Utilities Commission Act (the "Act"); and
- B. The Storage Facility refers to the underground reservoir and contained natural gas, wells, on-site equipment and other components of the natural gas storage facility at Aitken Creek that Unocal owns or operates, as they may be modified or expanded from time to time; and
- C. By Order No. G-107-06 dated September 8, 2006, pursuant to Sections 45, 46, 90 and 91 of the Act, the Commission granted Unocal a Certificate of Public Convenience and Necessity ("CPCN") on an interim basis for the operation of the Aitken Creek Storage Facility as it currently exists, and accepted for filing pursuant to Sections 59, 61, 90 and 91 of the Act, five Gas Storage Agreements and the General Terms and Conditions for Firm Natural Gas Storage; and
- D. On September 22, 2006, Unocal applied to the British Columbia Court of Appeal for leave to appeal Letter No. L-47-06 with respect to its conclusion that Unocal falls within the definition of public utility; and
- E. By Order No. G-128-06 dated October 27, 2006, the Commission accepted for filing on an interim basis, effective November 1, 2006, a Firm Natural Gas Storage Agreement between Unocal and Westcoast Energy Inc.; and
- F. By a submission dated October 24, 2006, Unocal applied to the Commission, pursuant to Section 88(3) of the Act, for an order exempting it from all provisions of the Act (the "Application"); and
- G. Section 88(3) of the Act provides that the Commission may, on conditions it considers advisable, with the advance approval of the Lieutenant Governor in Council ("LGIC"), exempt a person, equipment or facilities from the application of all or any of the provisions of the Act; and

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- H. By Order No. G-134-06, the Commission established a written submission process regarding the regulatory process and Regulatory Timetable for review of the Application; and
- I. Six parties registered as Intervenor and two parties registered as Interested Parties in the proceeding; and
- J. The Commission received submissions regarding the regulatory process for the review of the Application, and by Order No. G-155-06 established a written hearing process and Regulatory Timetable to examine the Application; and
- K. Unocal and Terasen Gas Inc. (“Terasen Gas”) responded to Information Requests; and
- L. By letter dated January 24, 2007, Unocal requested a Commission Order directing that it was not required to respond to certain Information Requests from the British Columbia Old Age Pensioners’ Organization et al. (“BCOAPO”) and the Commission. After receiving written submissions on the matter, by Order No. G-12-07, the Commission required Unocal to respond to some of the Information Requests; and
- M. Unocal, Terasen Gas, BCOAPO and Powerex Corp. filed Final Submissions, and Unocal filed its Reply Submission on March 2, 2007; and
- N. The BCOAPO Final Submission included as an appendix a “Critique of Evidence filed in the Unocal Canada Limited Application for an Exemption” that was prepared by Mr. James Wightman of Econalysis Consulting Services, and Unocal in its Reply Submission requested that the Commission strike this document from the record for the proceeding; and
- O. After receiving written submissions on the matter, by Letter No. L-28-07 dated April 4, 2007, the Commission denied the Unocal request, and considered the Wightman document as part of BCOAPO’s Final Submission and Unocal’s observations on it as part of Unocal’s Reply Submission; and
- P. On May 14, 2007 the Commission issued its Reasons for Decision on the Application, and concluded that it would not be in the public interest to exempt Unocal from all provisions of the Act, but that it would seek LGIC approval to exempt Unocal from certain provisions of the Act; and
- Q. By letter dated June 8, 2007 Unocal requested clarification of the Reasons for Decision and the accompanying draft Order, and by Letter No. L-47-07 the Commission responded to the request; and
- R. In the June 8, 2007 letter, Unocal also requested that the interim CPCN for the Storage Facility be permitted to expire effective the date Unocal is exempted from Section 45 of the Act, and by Letter No. L-46-07 the Commission established a written comment process on the request; and
- S. By Order No. C-6-07 dated July 6, 2007, the Commission amended and replaced the interim CPCN with a CPCN pursuant to Section 45 of the Act; and

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- T. By letter dated October 10, 2007, Unocal requested an amendment to the form of LGIC approval recommended by the Commission so that, in the event Unocal transfers the assets at Aitken Creek to a new corporate entity, the Commission would be able to apply the exemption Order to the new corporate entity without having to repeat the LGIC approval process; and
- U. By Order in Council No. 688 dated October 25, 2007 and attached as Appendix I to this Order, the LGIC granted advance approval to the Commission to exempt Unocal from certain provisions of the Act for the purpose and subject to the terms set out in the draft Commission Order attached to the Order in Council, for the Aitken Creek Storage Facility; and
- V. The Commission has considered the Application and submissions it has received, and has determined that an exemption for Unocal from certain provisions of the Act is in the public interest.

NOW THEREFORE the Commission orders as follows:

1. The gas storage agreements and General Terms and Conditions for Firm Natural Gas Storage that the Commission by Orders No. G-107-06 and G-128-06 accepted for filing on an interim basis (and any subsequent agreements that the Commission has accepted for filing on an interim basis prior to the date of this Order) are approved as permanent rates effective the date of the interim approvals, with each agreement subject to review in the event that the Commission receives a complaint within 60 days of this Order, from a person whose interests are affected by the agreement.
2. Pursuant to Section 88(3) of the Act and subject to paragraphs 3, 4 and 6 of this Order, the Commission approves an exemption for Unocal from Part 3 of the Act, effective the date of this Order.
3. The exemption for Unocal from Part 3 of the Act does not include Sections 24, 25, 38, 39, 41, 42, 43 and 52 of the Act related to Unocal's gas storage operations, services and property at the Storage Facility, effective the date of this Order.
4. The exemption for Unocal from Part 3 of the Act does not include Sections 53 and 54 of the Act to the extent that an action of Unocal would result in a change of ownership or control of the Storage Facility, effective the date of this Order.
5. The Commission otherwise denies Unocal's request for an exemption from the remaining sections of the Act.
6. This exemption, granted pursuant to this Order, shall remain in effect until the Commission orders otherwise following the determination of any complaint it receives from a person whose interests are affected.
7. Unocal is requested to enter into discussions with Terasen Gas, BCOAPO, Commission staff and such other persons as appropriate, to develop procedures for the timely disclosure of the terms of future Terasen Gas storage agreements and the process for the regulation on a complaint basis with respect to the Terasen Gas storage agreements.

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8. Unocal is responsible for the safe and proper operation of its facilities consistent with the requirements of the Pipeline Act, the Petroleum and Natural Gas Act and other regulatory requirements.
9. Unocal is directed to file an annual report for the Aitken Creek Storage Facility in the form set out in Appendix II, or as the Commission may otherwise require, and to distribute copies to the parties contracting for service at the facility.
10. Unocal is further directed to pay fees to the Commission in the amounts that the Commission determines are required to defray regulatory costs associated with the Aitken Creek Storage Facility.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of November 2007.

BY ORDER

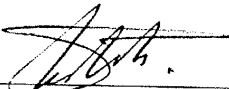
Original signed by

L.F. Kelsey
Commissioner

Attachments

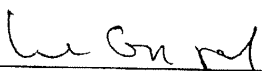
PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 688 , Approved and Ordered OCT 25 2007


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that approval is given to the British Columbia Utilities Commission to exempt Unocal Canada Limited from the provisions of the *Utilities Commission Act* set out in the attached draft order for the purpose and subject to the terms set out in the attached draft order of the British Columbia Utilities Commission.


Attorney General and Minister Responsible
for Multiculturalism
Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- *Utilities Commission Act*, R.S.B.C. 1996, c. 473, s. 88 (3)
Other (specify):-

August 3, 2007

O/809/2007/4

ANNUAL REPORTING REQUIREMENTS

Complaint Oversight of Unocal Canada Limited for the Aitken Creek Storage Facility

(Companies are to file Reports within 90 days after fiscal year-end)

1.0 Previous Year Actuals

- Facility name, location, function, capacity.
- Any significant changes in capacity during the year.
- Throughput during the year, in terms of gas quantity delivered from storage.
- Names, addresses and contact name and telephone number for Unocal and each storage customer