



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

and

An Application by Aitken Creek Gas Storage ULC
for an Exemption from the Utilities Commission Act
for the Aitken Creek Storage Facility

BEFORE: L.F. Kelsey, Commissioner
P.E. Vivian, Commissioner April 17, 2008
A.A. Rhodes, 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 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
- F. 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
- G. 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
- H. On May 14, 2007 the Commission issued its Reasons for Decision on the application for an exemption, and concluded that it would not be in the public interest to exempt Unocal Canada from all provisions of the Act,

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but that it would seek Lieutenant Governor in Council (“LGIC”) approval to exempt Unocal Canada from certain provisions of the Act; and

- I. 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
- J. 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
- K. 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
- L. By Order No. G-135-07 dated November 7, 2007, the Commission approved an exemption for Unocal with regard to the Storage Facility; and
- M. By application dated November 16, 2007, Unocal requested Commission approval to transfer the Storage Facility to its wholly-owned subsidiary Aitken Creek Gas Storage ULC (“ACGS”); and
- N. In the application dated November 16, 2007, ACGS applied to the Commission for a CPCN for the operation of the Storage Facility; and
- O. In the application dated November 16, 2007, ACGS also applied (the “ACGS Exemption Application”) to the Commission for an exemption from the Act for the Storage Facility that is similar to the exemption granted to Unocal by Order No. G-135-07; and
- P. By Order No. G-167-07 dated December 19, 2007, the Commission approved the transfer of the Storage Facility from Unocal to ACGS and granted a CPCN to ACGS for the operation of the Storage Facility. For ease of reference, the May 14, 2007 Reasons for Decision were issued as Appendix B to Order No. G-167-07; and
- Q. By Order No. G-59-08 dated March 27, 2008, the Commission accepted for filing, pursuant to Sections 59, 61, 90 and 91 of the Act, on an interim basis, a Firm Natural Gas Storage Agreement with Powerex Corporation; and
- R. By Order in Council No. 192 dated April 2, 2008 and attached as Appendix I to this Order, the LGIC granted advance approval to the Commission to exempt ACGS 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 Storage Facility; and
- S. The Commission has considered the ACGS Exemption Application and has determined that an exemption for ACGS from certain provisions of the Act is in the public interest.

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NOW THEREFORE the Commission orders as follows:

1. Gas storage agreements and General Terms and Conditions for Firm Natural Gas Storage that the Commission accepted for filing for ACGS 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 5 of this Order, the Commission approves an exemption for ACGS from Part 3 of the Act, effective the date of this Order.
3. The exemption for ACGS from Part 3 of the Act does not include Sections 24, 25, 38, 39, 41, 42, 43 and 52 of the Act related to ACGS' gas storage operations, services and property at the Storage Facility, effective the date of this Order.
4. The exemption for ACGS from Part 3 of the Act does not include Sections 53 and 54 of the Act to the extent that an action of ACGS would result in a change of ownership or control of the Storage Facility, effective the date of this Order.
5. 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.
6. ACGS 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.
7. ACGS is directed to file an annual report for the 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.
8. ACGS 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 Storage Facility.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of April 2008.

BY ORDER

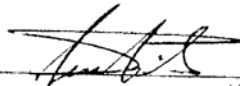
Original signed by:

L.F. Kelsey
Commissioner

Attachments

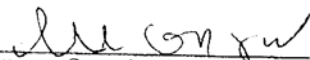
PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 192, Approved and Ordered APR - 2 2008


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 Aitken Creek Gas Storage ULC 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):-

December 18, 2007

Resub 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