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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-130-08

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

**and**

**Terasen Gas Inc. and Terasen Gas (Vancouver Island) Inc.  
Energy Efficiency and Conservation Programs Application**

**BEFORE:** A.W.K. Anderson, Commissioner  
A.A. Rhodes, Commissioner September 18, 2008

**O R D E R**

**WHEREAS:**

- A. On May 28, 2008 Terasen Gas Inc. and Terasen Gas (Vancouver Island) Inc. (collectively "Terasen" or "the Companies") jointly filed an Energy Efficiency and Conservation Application ("Application") for approval of increased expenditures in support of an expanded Energy Efficiency and Conservation ("EEC") strategy, and to capitalize incremental EEC expenditures by charging the expenditures to a regulatory asset deferral account and amortizing the balance over 20 years; and
- B. On June 3, 2008 the Commission issued a letter requesting that interested parties register as Intervenors and file comments on Terasen's proposed timetable by June 11, 2008; and
- C. By Order G-102-08 dated June 19, 2008, the Commission issued a Preliminary Regulatory Timetable that included two rounds of Commission Information Requests and one round of Intervenor Information Requests and Responses from Terasen, and requested comments from all parties on further process for reviewing the Application; and
- D. In response to Order G-102-08, the Commission received replies from the B.C. Ministry of Energy Mines and Petroleum Resources ("MEMPR"), British Columbia Hydro and Power Authority ("BC Hydro"), B.C. Sustainable Energy Association and the Sierra Club of British Columbia ("BCSEA"), the Commercial Energy Consumers Association of British Columbia ("CEC"), B.C. Old Age Pensioners' Organization et al. ("BCOAPO"), and Terasen; and
- E. BCSEA and BCOAPO requested that Intervenors be allowed the opportunity to submit a second round of Information Requests. The CEC and BC Hydro submitted that, although they did not require a second round of Information Requests, they did not object to another round should it be deemed necessary by others. Terasen submitted that a further round of Information Requests was not necessary or warranted; and

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- F. BC Hydro also stated that, although it had stated in a letter dated August 27, 2008 that it intended to file evidence in the proceeding to review the Application, given the request by two Intervenor for a further round of Information Requests, it would wait for the issuance of the BCUC Order setting out the remainder of the timetable for the evidentiary phase of the proceeding before filing its evidence; and
- G. Following the review of comments from the Companies and Intervenor, the Commission issued Letter L-39-08 dated September 8, 2008 granting the request from Intervenor for a second round of Intervenor Information Requests; and
- H. With respect to the further process, MEMPR stated that it would like to reserve the right to provide further comments on the Application regardless of the type of further procedure; BC Hydro and BCSEA were both supportive of a Negotiated Settlement Process ("NSP") and both indicated that they intended to file further evidence. BC Hydro proposed that issues not resolved in an NSP should be reviewed by way of a written hearing. BCOAPO stated that, while willing to attempt an NSP should other stakeholders support the process, "...significant changes to the Application would be required before we could recommend it to our clients." Terasen supported an NSP, followed by a written hearing for issues not resolved in the NSP and requested that the Companies be allowed to ask one round of Information Requests on any Intervenor evidence filed; and
- I. The Commission has considered the submissions.

**NOW THEREFORE** the Commission orders, for the reasons set out in the Reasons for Decision attached as Appendix B to this Order, that the Application will be reviewed by way of a Written Hearing to take place according to the Regulatory Timetable attached as Appendix A to this Order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 18<sup>th</sup> day of September 2008.

BY ORDER

*Original signed by:*

A.A Rhodes  
Commissioner

Attachments

Terasen Gas Inc. and Terasen Gas (Vancouver Island) Inc.  
Energy Efficiency and Conservation Application

**REGULATORY TIMETABLE**

<b>ACTION</b>	<b>DATE (2008)</b>
Intervenor Information Request ("IR") No. 2	Monday, September 15
Terasen Responses to Intervenor IR No. 2	Monday, October 6
Filing of Intervenor Evidence	Tuesday, October 14
Information Requests to Intervenor	Friday, October 24
Responses to Information Requests by Intervenor	Friday, November 7
Terasen Final Submissions	Wednesday, November 19
Intervenor Final Submissions	Friday, November 28
Terasen Reply Submissions	Friday, December 5

**Terasen Gas Inc. and Terasen Gas (Vancouver Island) Inc.**  
Energy Efficiency and Conservation Application

**REASONS FOR DECISION**

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On May 28, 2008 Terasen Gas Inc. and Terasen Gas (Vancouver Island) Inc. (collectively “Terasen” or “the Companies”) jointly filed an Energy Efficiency and Conservation Application (“Application”) for approval of increased expenditures in support of an expanded Energy Efficiency and Conservation (“EEC”) strategy, and to capitalize incremental EEC expenditures by charging the expenditures to a regulatory asset deferral account and amortizing the balance over 20 years.

On June 3, 2008 the Commission issued a letter requesting that interested parties register as Intervenor and file comments on Terasen’s proposed timetable by June 11, 2008. On June 19, 2008, the Commission issued Order G-102-08 and a Preliminary Regulatory Timetable that included two rounds of Commission Information Requests, one round of Intervenor Information Requests and Responses from Terasen, and requested comments from all parties on further process for reviewing the Application.

In response to Order G-102-08, the Commission received replies from the B.C. Ministry of Energy Mines and Petroleum Resources (“MEMPR”), British Columbia Hydro and Power Authority (“BC Hydro”), B.C. Sustainable Energy Association and the Sierra Club of British Columbia (“BCSEA”), the Commercial Energy Consumers Association of British Columbia (“CEC”), B.C. Old Age Pensioners’ Organization et al. (“BCOAPO”), and Terasen.

BCSEA and BCOAPO requested that Intervenor be allowed the opportunity to submit a second round of Information Requests. The CEC and BC Hydro submitted that, although they did not require a second round of Information Requests, they did not object to another round should it be deemed necessary by others. Terasen submitted that a further round of Information Requests was not necessary or warranted.

On September 8, 2008, the Commission Panel issued Letter L-39-08 granting the request for a second round of Intervenor Information Requests.

With respect to the further process, MEMPR stated that it would like to reserve the right to provide further comments on the Application regardless of the type of further procedure; BC Hydro and BCSEA were both supportive of a Negotiated Settlement Process (“NSP”) and both indicated that they intended to file further evidence. BC Hydro proposed that issues not resolved in an NSP should be reviewed by way of a written hearing. Terasen supported an NSP, followed by a written hearing for issues not resolved in the NSP and requested that the Companies be allowed to ask one round of Information Requests on any Intervenor evidence filed.

In an earlier letter to the Commission, dated June 11, 2008, BCOAPO disputed Terasen’s claim in the Application that the Companies had consulted with stakeholders in their preparation of the Application and that feedback was generally supportive. In that letter, BCOAPO stated that the consultation consisted of a brief, general Powerpoint style presentation after which it was asked to provide feedback and that “...given the format of the

consultation process there was really very little opportunity for any stakeholders to provide substantive critiques of Terasen's application".

BCOAPO further commented on what it considered to be Terasen's "...absolute failure to address two serious concerns we raised during the consultation: the unacceptable inclusion of a fuel switching component in the EE funding and the complete lack of funding for low-income DSM/EE programs". BCOAPO stated: "[a]fter reviewing the Application, we remain staunchly opposed to the inclusion of funding for fuel switching and we find the absence of dedicated low income DSM funding unacceptable".

In its August 27, 2008 letter, BCOAPO stated that it was still willing to attempt an NSP should other stakeholders support such a process, but re-iterated that "...significant changes to the Application would be required before we could recommend it to our clients".

#### Commission Panel Determination

The Commission Panel considers that there are three overriding reasons to proceed by way of a written hearing.

First, the Commission Panel notes that BCOAPO represents a substantial segment of the Companies' customer base and, based on the comments of BCOAPO, considers that the likelihood that an NSP would successfully reach a settlement agreement is low. For that reason alone, the Commission Panel considers there is sufficient reason to decline an NSP in this instance.

Second, the Commission also notes that Terasen has put forward the following position in its response to Commission Information Request No. 2, Question 29. 1:

"Additionally, the accounting treatment proposed by the Companies will allow the Terasen Utilities to earn a return on the EEC expenditures, which is consistent with Section 60 (b)(ii) of the Utilities Commission Act that states:

*'Provides to the public utility for which the rates (sic) is set a fair and reasonable return on any expenditure made by it to reduce energy demands'.*" [Italics in the original]

In the same response, Terasen further expresses the view that based on the Companies' understanding of the Shared Savings Mechanisms ("SSM") mandated by the Ontario Energy Board, "the shareholders do not necessarily earn a return on the expenditures made for energy efficiency and conservation programs". Terasen states that such a result "would be contrary to the Utilities Commission Act ['Act']".

In the Commission Panel's view, the question of whether or not a SSM would be contrary to the Act is a legal question which cannot be resolved through negotiation. The appropriate process for the resolution of legal issues is through either oral or written submissions to the Commission. The Commission Panel is of the view that the legal issue is so fundamental to the Application that any attempt to resolve this issue through written submissions separately from an NSP on other issues, exposes any potential settlement agreement resulting from the NSP to the risk of a very short life.

Third, MEMPR, BC Hydro and BCSEA all indicated that they wish to submit evidence concerning the Application. In the Commission Panel's view, a written hearing will provide all Intervenor with the opportunity to file evidence, and provide all parties with the opportunity to ask Information Requests on that evidence.

Therefore, the Commission Panel determines that proceeding with a review of the Application by way of a written hearing is appropriate. A Regulatory Timetable for the remainder of the proceeding forms Appendix A to the Order.