



LETTER NO. L-29-09

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**VIA E-MAIL**

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May 4, 2009

Mr. Tom Loski  
Chief Regulatory Officer  
Terasen Gas Inc.  
16705 Fraser Highway  
Surrey, BC V4N 0E8

Dear Mr. Loski:

Re: Terasen Gas (Whistler) Inc.  
2009 Revenue Requirements Application and  
for a Return on Equity and Capital Structure

Application for Reconsideration of  
Order G-35-09 and Decision dated April 7, 2009

The Commission Panel has reviewed the letter dated April 17, 2009 from Terasen Gas (Whistler) Inc. ("TGW") to the B.C. Utilities Commission (the "Commission") which requests a reconsideration of the Commission Panel's direction to TGW on page 28 of the TGW 2009 Revenue Requirements and Return on Equity and Capital Structure Decision (the "Decision") to decrease the amount of conversion costs by \$1.076 million (the "Reconsideration Application"). TGW submits that the \$1.076 million decrease is based on a mistake of fact that the \$1.076 million referenced in the evidence represented the *tax benefit* associated with a "carry back", and that the *tax benefit* was not returned to customers. Furthermore, TGW states that the direction results in TGW being denied proper recovery of \$1.076 million in conversion costs.

Pursuant to the Commission's publication "Understanding Utility Regulation: A Participants' Guide to the B.C. Utilities Commission" ("Commission's Guide"), an application for reconsideration undergoes an initial screening phase where the applicant must establish a *prima facie* case sufficient to warrant full consideration by the Commission. The criteria, which the Commission generally applies as a guide in determining whether or not a reasonable basis exists for allowing a reconsideration, are the following:

- The Commission has made an error in fact or law;
- There has been a fundamental change in circumstances or facts since the Decision;
- A basic principle has not been raised in the original proceedings; or
- A new principle has arisen as a result of the Decision.

Where an error has been alleged to have been made, in order to advance to the second phase of the reconsideration process, the Application must meet the following criteria:

- the claim of error has been substantiated on a *prima facie* basis; and
- the error has significant material implications.

As noted, a reconsideration application generally involves a two stage process. In this instance, the Commission Panel is of the view that the first phase would not assist the Commission Panel in making a decision and would result in an unnecessary expenditure of time and resources for all parties.

TGW submits that the Reconsideration Application is very limited in scope and based on a mistake of fact that is apparent on the evidentiary record. As a result, TGW requests that the BCUC proceed directly to the second phase of the reconsideration process. TGW also submits that, even with respect to the second phase, an abbreviated process is suitable for the disposition of this reconsideration application on its merits. In addition, TGW has contacted the one registered Intervenor, the British Columbia Public Interest Advocacy Centre on behalf of the British Columbia Old Age Pensioners' Organization *et al* ("BCOAPO") to inform them of this request for reconsideration and the proposal for an abbreviated process.

The Commission Panel finds that the April 17, 2009 letter from TGW raises a valid concern regarding the potential likelihood of an error in the Decision, which directs TGW to decrease the amount of conversion costs by \$1.076 million. Accordingly, the Commission Panel finds that TGW has been able to establish, on a *prima facie* basis, that there is a potential likelihood of an error in fact or law in the direction to TGW on page 28 of the Decision to decrease the amount of conversion costs by \$1.076 million.

The Commission Panel concurs with TGW's view that the Reconsideration Application is very limited in scope and that an abbreviated process is suitable for the disposition of the Reconsideration Application. Therefore, the Commission Panel has decided to proceed directly to the second phase of the reconsideration. The Commission Panel is also of the view that, in this situation, submissions from TGW and BCOAPO would not assist the Commission Panel in making a decision.

Yours truly,

*Original signed by:*

Erica M. Hamilton

SS/yl

cc: Registered Intervenors  
(TGW-09RR-ROE-R)