

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-84-10**

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

and

**Pacific Northern Gas Ltd. and Pacific Northern Gas (N.E.) Ltd.
Application for Capital Structure and Equity Risk Premium**

BEFORE: L.A. O'Hara, Commissioner
M. R. Harle, Commissioner

May 20, 2010

O R D E R

WHEREAS:

- A. By letter dated July 16, 2009, Pacific Northern Gas Ltd. (PNG-West Division) and Pacific Northern Gas (N.E.) Ltd. (Fort St John/Dawson Creek and Tumbler Ridge Divisions) [collectively (PNG)] filed with the British Columbia Utilities Commission (the Commission), an application for Capital Structure and Equity Risk Premium (CAP/ROE Application); and
- B. Specifically, PNG is applying to have the common equity ratio for the PNG-West Division established at 47.5 per cent and to have the common equity ratios for both divisions of PNG (N.E.) set at 42.5 per cent. PNG is also applying to have the rates of return on common equity set at 75 basis points above the Commission's low-risk benchmark utility return on common equity (ROE) for all three divisions; and
- C. Commission Order G-174-08 dated November 27, 2008 determined that the Initial Option Fee and Option Extension Fee related to PNG deactivated assets be reviewed by the Commission as part of the 2009 revenue requirements application. PNG is reapplying in this CAP/ROE Application to recover from the Option Fee and Option Extension Fee the foregone return to date as it believes that it is most efficient to consider this matter during the public hearing into the capital structure and equity risk premium issues; and
- D. PNG requests that the Commission approves a deferral account to record the difference between the approved 2009 cost of service used for rate making purposes and the 2009 cost of service based on the higher common equity thickness and equity risk premium for PNG-West. The CAP/ROE Application also states that PNG (N.E.) is not applying for Commission approval of a common equity deferral account but would do so if there are any adjustments to the benchmark utility ROE in 2009; and

- E. By letter dated August 6, 2009, the Commission replied to PNG and indicated that the Commission would not commence a review of the Application until after the submission of written Arguments in the Terasen Utilities ROE and Capital Structure proceeding then underway; and
- F. By letter dated December 21, 2009, PNG filed its Amendments to the CAP/ROE Application (Amended Application) to reflect the impact of the Commission's determinations in the December 16, 2009 Decision on Terasen Utilities' ROE and Capital Structure Application; and
- G. By Order G-172-09 dated December 24, 2009, the Commission ordered PNG to establish separate deferral accounts for its three divisions to record potential differences in approved cost of service and 2009 cost of service based on higher equity risk premium and equity thickness. The Order also established a Procedural Conference to be held on January 19, 2010; and
- H. By Order G-13-10 dated January 19, 2010, the Commission established a regulatory timetable for a written hearing process but the timetable also provided parties with the opportunity for the review to go to a negotiated settlement process (NSP) if required. By Commission Letter L-28-10 dated April 1, 2010, the Commission accepted the preferences expressed by the major parties and varied the regulatory timetable established in Order G-13-10 to enable an NSP to take place commencing April 26, 2010; and
- I. On February 8 and 9, 2010, negotiations took place in relation to the review of two PNG applications on 2010 revenue requirements for PNG (RR Applications). These negotiations had resulted in two respective agreements for PNG-West and the two divisions for PNG (N.E.); and
- J. The Commission issued Orders G-33-10 and G-34-10 approving respectively the negotiated delivery rates for PNG West and PNG (N.E.) as interim until the review of the CAP/ROE Application is completed. The Interim NSA attached to Order G-33-10 expressly referenced that the issue of the recovery by PNG of legal fees from the MLCI option fees deferral account, the issue of applying the principal balance of the MLCI option fees as a credit to the 2010 cost of service, and the issue of the level of the deferred income taxes draw down in 2010 as issues to be discussed in the context of the CAP/ROE Application; and
- K. The NSP discussions for this CAP/ROE Application took place on April 26 and 27, 2010. A Negotiated Settlement Agreement (NSA) was reached among the participants and circulated to all Registered Interveners and the Commission on May 12, 2010. No comments were received from Interveners who had not participated in the NSP; and
- L. The Commission has reviewed the NSA and considers that approval is warranted.

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NOW THEREFORE the Commission orders as follows:

1. The Negotiated Settlement Agreement dated May 6, 2010 and attached as Appendix A to this Order, is approved.
2. PNG will file revised regulatory schedules which would be reviewed and confirmed as part of the process to finalize the interim NSP 2010 revenue requirement Applications settlement agreements approved by Commission Orders G-33-10 and G-34-10.

DATED at the City of Vancouver, in the Province of British Columbia, this 20th day of May, 2010

BY ORDER

Original signed by:

L.A. O'Hara
Panel Chair/Commissioner