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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-44-10

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

**and**

**An Application by Terasen Gas Inc.  
for Reconsideration of Order G-28-10 regarding  
a Certificate of Public Convenience and Necessity  
for the Tilbury Property Purchase**

**BEFORE:** A.J. Pullman, Panel Chair and Commissioner  
M .R. Harle, Commissioner March 11, 2010

**ORDER**

**WHEREAS:**

- A. On October 28, 2009, Terasen Gas Inc. (Terasen Gas) applied (the Application) to the British Columbia Utilities Commission (the Commission), pursuant to section 45 of the *Utilities Commission Act* (the Act), for a Certificate of Public Convenience and Necessity (CPCN) for the purchase (the Tilbury Property Purchase) of a parcel of land known as the Northwest Hardwoods Site located at 6939, 7150 Tilbury Road, and 7505 Hopcott Road in the Tilbury Industrial Area of Delta, BC (the Property) adjacent to the Tilbury LNG Facility; and
- B. Terasen Gas considers that the Tilbury Property Purchase is necessary to control development of the Property in such a manner that will not jeopardize Terasen Gas' ability to continue to comply with Canadian Standards Association standard CSA Z276, the mandatory standard governing the operation of the Tilbury LNG Facility; and
- C. Terasen Gas has entered into a Contract of Purchase and Sale (the Contract) dated September 4, 2009 amended by the Modification and Ratification Agreement dated October 23, 2009 to acquire the Property, conditional upon (among other things) obtaining Commission approval within 120 days of October 23, 2009; and
- D. The Commission was advised via a confidential letter dated January 5, 2010 that the Contract was further amended such that (amongst other things) the date for obtaining Commission approval was extended to March 11, 2010; and
- E. Terasen Gas states that a duty to consult with First Nations does not arise with respect to the sale of the Property, which represents the transfer of previously developed, fee simple land as between private parties; and

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- F. Terasen Gas states that upon the closing of the purchase transaction it will (a) pursue opportunities to subdivide the Property and sell the portion of the Property south of Tilbury Road that is not required for the purposes of compliance with CSA Z276 and (b) pursue appropriate opportunities outlined in the Application to generate revenue from the remaining Property while remaining compliant with CSA Z276, with the intention that any proceeds from these steps will be used to offset the cost of service impact associated with acquiring the Property; and
- G. The Commission determined that the Application would be reviewed by a Written Public Hearing; and
- H. The Commission Panel considered the Application and the evidence and submissions filed in the Written Public Hearing and determined that the Tilbury Property Purchase is in the public interest and that a CPCN should be granted to Terasen Gas for the Tilbury Property Purchase subject to the conditions set out in Order G-28-10 and the Reasons for Decision attached as Appendix A to that Order; and
- I. On March 9, 2010, Terasen Gas submitted an Application for Reconsideration (Reconsideration Application) of Order G-28-10; and
- J. Terasen Gas applied for reconsideration and variance of conditions 2, 3, 4 and 5 in Order G-28-10 on the grounds that the Commission erred in law and fact by i) excluding a portion of the Property Purchase price from rate base, ii) by pre-determining the amount of property taxes and short-term interest rates rather than allowing Terasen Gas to seek recovery of actual costs as part of future applications, and iii) in requiring Terasen Gas' Shareholders to bear property taxes and short-term interest expense on the portion of Property south of Tilbury Road, after January 1, 2012, without any evidence that subdivision and sale will reasonably occur prior thereto; and
- K. Terasen Gas seeks to have one item of new evidence heard for the purposes of its Reconsideration Application concerning the accuracy of its estimate of Subdivision costs; and
- L. The Commission was advised that the Contract was further amended such that the date for obtaining Commission approval was extended to April 23, 2010; and
- M. Terasen Gas proposed the following procedural timetable based on compressing the two phases of the Commission's normal two-phase reconsideration process:
- |                               |                |
|-------------------------------|----------------|
| Terasen Gas Submission:       | March 9, 2010  |
| Intervener Submissions:       | March 16, 2010 |
| Terasen Gas Reply Submission: | March 22, 2010 |
- N. By letter dated March 10, 2010, the Commission invited the Interveners to make submissions on Terasen Gas' request and proposed timetable by 4:00 p.m., Thursday, March 11, 2010 and directed Terasen Gas to reply on Friday, March 12, 2010; and
- O. British Columbia Old Age Pensioners' organization *et al.* (BCOAPO) submits that it does not oppose collapsing the two-phase procedure for reconsideration. BCOAPO considers the admission of new evidence and points out that new evidence means evidence that was not available when evidential record was being generated. BCOAPO notes

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that the notion of subdividing the Property was raised in the original application, filed on October 28, 2009, and that the discussions with the City of Delta on conditions of subdivision could have been part of a prudent development of cost estimates. Notwithstanding this concern, BCOAPO submits that it is not opposed to the admission of Appendix "A" of Terasen Gas' submission and may rely on its contents. BCOAPO proposes that the proposed schedule be amended as follows:

Terasen Gas Submission:	March 9, 2010
Intervener Submissions:	March 19, 2010
Terasen Gas Reply Submission:	March 26, 2010 (Exhibit C1-1)

- P. Commercial Energy Consumers Association of British Columbia (CEC) endorses BCOAPO's submission (Exhibit C2-1); and
- Q. In Reply, Terasen Gas states that BCOAPO's proposed timelines are acceptable. With respect to the new evidence, Terasen Gas notes that BCOAPO does not oppose its admission that submits that the information is relevant and that no party will be prejudiced by its admission (Exhibit B-2); and
- R. The Commission Panel has considered Terasen Gas' Reconsideration Application and the submissions of the Interveners and has determined that Terasen Gas has put forward a prima facie case to allow the matter to proceed directly to Phase 2 of the Reconsideration Process.

**NOW THEREFORE** the Commission Panel orders as follows:

- 1. The Commission Panel will hear the Reconsideration Application using a written process in accordance with the following timetable:

Intervener Submissions are to be received by March 19, 2010  
Terasen Gas' Reply Submission is to be received by March 26, 2010

**DATED** at the City of Vancouver, in the Province of British Columbia, this 15<sup>th</sup> day of March 2010.

BY ORDER

*Original signed by:*

A.J. Pullman  
Panel Chair/Commissioner

