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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-72-12**

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

and

Generic Cost of Capital Proceeding

BEFORE: D.A. Cote, Commissioner/Panel Chair
M.R. Harle, Commissioner June 1, 2012
L.A. O'Hara, Commissioner

O R D E R

WHEREAS:

- A. On December 16, 2009, the British Columbia Utilities Commission (Commission) issued its Decision on the Return on Equity and Capital Structure Application (2009 ROE Decision) for Terasen Gas Inc. (TGI), Terasen Gas (Vancouver Island) Inc., and Terasen Gas (Whistler) Inc. (TGW), (collectively, Terasen Utilities, now known as FortisBC Energy Utilities);
- B. By Order G-158-09 issued concurrently with the 2009 ROE Decision, the Commission ordered, among other things, that the Return on Equity Automatic Adjustment Mechanism (ROE AAM) in place since 1995 be eliminated; that the appropriate equity ratio for TGI would be 40 percent effective January 1, 2010; that the 9.5 percent ROE approved for TGI effective July 1, 2009, should continue to serve as the Benchmark ROE for FortisBC Inc. and any other utility in British Columbia that uses a Benchmark ROE to set rates; and that TGI was to complete its study of alternative formulas to an ROE AAM and report to the Commission by December 31, 2010;
- C. On December 8, 2010, Terasen Utilities filed their study on ROE alternative formulas with the Commission;
- D. Since the issuance of the 2009 ROE Decision, changes have occurred in the financial markets. On November 28, 2011, the Commission issued a Preliminary Notification of Initiation of a Generic Cost of Capital (GCOC) Proceeding to all regulated entities;
- E. By Order G-20-12 dated February 28, 2012, the Commission established a GCOC Proceeding to review: (a) the setting of the appropriate cost of capital for a benchmark low-risk utility; (b) the possible return to an ROE AAM for setting an ROE for the benchmark low-risk utility; and (c) the establishment of a deemed capital structure and deemed cost of capital methodology, particularly for those utilities without third-party debt. Attached to Order G-20-12 was a list of Affected Utilities that are utilities expected to participate in the GCOC Proceeding and a list of Other Utilities that are utilities who may wish to participate. All Parties were invited to make written submissions on the Preliminary Scoping Document that was also attached to Order G-20-12;
- F. FortisBC Energy Inc. (FEI), FortisBC Energy (Vancouver Island) Inc., FortisBC Energy (Whistler) Inc. and FortisBC Inc. (FortisBC) [collectively (FBCU)]; Corix Multi-Utility Services Inc. (Corix); and Pacific Northern Gas Ltd. and Pacific Northern Gas (N.E.) Ltd. (PNG) registered as Affected Utilities;

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- G. British Columbia Hydro and Power Authority (BC Hydro) and River District Energy (RDE) registered as Other Utilities;
- H. A total of seven parties, made up primarily of ratepayer groups, registered as Interveners;
- I. By Order G-47-12 dated April 18, 2012, the Commission issued the Final Scoping Document for the Proceeding;
- J. By Order G-50-12 dated April 19, 2012, the Commission set out, among other matters, further procedural matters to be addressed in the GCOC Proceeding and a Preliminary Minimum Filing Requirements (MFR) for Affected Utilities document. Parties were invited to make submissions, if any, on the Preliminary MFR for Affected Utilities by May 3, 2012, and on the allocation of Participant Assistance/Cost Awards (PACA), PACA eligibility, and/or the Draft Preliminary Regulatory Timetable by May 9, 2012;
- K. Submissions on the Preliminary MFR document were received from FBCU, Corix, PNG, BC Hydro, Industrial Customers Group of FortisBC Inc. (ICG), the British Columbia Old Age Pensioners' Association *et al.* (BCOAPO), and the Association of Major Power Customers of BC (AMPC);
- L. Submissions on the allocation of PACA, eligibility of PACA and the Draft Regulatory Timetable were received from FBCU, Corix, PNG, BC Hydro, ICG, BCOAPO, AMPC and CEC;
- M. The Commission Panel has reviewed the submissions by all parties.

NOW THEREFORE for the reasons in the Decision attached as Appendix A to this Order, the Commission orders as follows:

- 1. The Final Minimum Filing Requirements for Affected Utilities are set out in the document attached as Appendix B to this Order.
- 2. PACA costs will be allocated amongst Affected Utilities and Other Utilities as defined in this Proceeding in accordance with the principles established in Order F-5-06.
- 3. The Preliminary Regulatory Timetable for Stage 1 of this Proceeding is attached as Appendix C to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this *First* day of June 2012

BY ORDER

Original signed by:

D.A. Cote
Commissioner

Attachments



IN THE MATTER OF

BRITISH COLUMBIA UTILITIES COMMISSION

GENERIC COST OF CAPITAL

REASONS FOR DECISION

June 1, 2012

BEFORE:

D.A. Cote, Panel Chair / Commissioner
M.R. Harle, Commissioner
L.A. O'Hara, Commissioner

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GENERIC COST OF CAPITAL PROCEEDING

1.0 BACKGROUND

The background to this Proceeding up until April 18, 2012 is set out in the Reasons for Decision attached to Order G-47-12. Order G-47-12 issued on that date established the purpose and scope of this Proceeding.

Order G-50-12 dated April 19, 2012 established a regulatory timetable for the filing of submissions by all participants on the Preliminary Minimum Filing Requirements (MFR) document attached as Appendix B to that Order and on the Participant Assistance/Cost Awards (PACA) cost allocation, PACA eligibility and the Draft Preliminary Regulatory Timetable, the latter of which was attached as Appendix D to the Order. Submissions on the Preliminary MFR document were due by May 3, 2012 and submissions on the PACA and other remaining matters were due by May 9, 2012.

Submissions on the Preliminary MFR document were received from FortisBC Utilities (FBCU)¹, Corix Multi-Utility Services Inc. (Corix), Pacific Northern Gas Ltd. and Pacific Northern Gas (N.E.) Ltd. (collectively, PNG), British Columbia Hydro and Power Authority (BC Hydro), Industrial Customers Group of FortisBC Inc. (ICG), the British Columbia Old Age Pensioners' Association *et al.* (BCOAPO), and the Association of Major Power Customers of BC (AMPC). The above participants and the Commercial Energy Consumers of B.C. (CEC) also filed submissions on issues related to PACA and the Draft Preliminary Regulatory Timetable.

Appendix C to Order G-20-12, classifies utilities regulated by the Commission as either Affected Utilities or Other Utilities. Affected Utilities are those who are expected to take a lead role in filing evidence for cost of capital matters that may impact them. FBCU, Corix, and PNG are registered as Affected Utilities in this Proceeding. BC Hydro and River District Energy (RDE) are registered as Other Utilities.

2.0 POSITIONS OF PARTIES ON MINIMUM FILING REQUIREMENTS

Affected Utilities

2.1 FBCU

The submission from the FBCU can be broadly categorized into three groups: (a) minor points of clarification; (b) significant evidentiary issues related to the role of company specific evidence in the Proceeding and the process for identifying the benchmark low-risk utility; and (c) filing requirements that may not be feasible.

2.1.1 Minor Clarifications

The FBCU seek clarification of the meaning of certain terms used in the MFR document:

- 1) "Company-Related Documents", Item 4 (a)(ii) -- the meaning of "trading liquidity". FBCU are uncertain as to the specific measure of trading liquidity being sought;
- 2) "Capital Structure Matters", Item 6 - the meaning of "business profile". FBCU believe this item may have already been dealt with under ROE Matters, Items 2 and 3;
- 3) "Capital Structure Matters", Item 7 -- the meaning of "generic company-specific adjustments". FBCU are of the view that use of both "generic" and "company-specific" appears inconsistent.

¹ FBCU are composed of FortisBC Inc. (FBC), FortisBC Energy Inc. (FEI), FortisBC Energy (Vancouver Island) Inc. (FEVI), and FortisBC Energy (Whistler) Inc. (FEW). FEI, FEVI and FEW were formerly known as Terasen Gas inc. (TGI), Terasen Gas Vancouver Island) inc. (TGVI) and Terasen Gas (Whistler) Inc. (TGW).

- 4) “Capital Structure Matters”, Item 7 - the meaning of “utility-specific” and “sector-specific”, as there is no definition of either utility or sector;”
- 5) “Capital Structure Matters”, Item 7 - the meaning of “adjustments” and whether this means adjustments to capital structure or some other adjustment;
- 6) “Capital Structure Matters”, Item 7 - the meaning of “level of contributed assets”. FBCU are not familiar with what is meant by that term,

(Exhibit B-1-3, pp. 2, 3)

2.1.2 Significant Evidentiary Issues

The FBCU seek clarification on two points which, in their submission, depending on the Commission’s response, will have a significant impact on what evidence is prepared by participating utilities.

The first point relates to the role of company-specific evidence in the Proceeding. The FBCU submit that because the Proceeding is a generic hearing to establish the cost of capital of a benchmark low-risk utility and the Commission has determined that it will address the equity risk premium of individual utilities in subsequent proceedings, the fact that the Commission is seeking some company-specific evidence has given rise to confusion.

The FBCU request that the Commission confirm an approach whereby (i) the FBCU would provide all the listed Company-Related Documents for FortisBC Energy Inc. (FEI) in its current, pre-amalgamation state; and that Items 2, 3 and 6 be addressed in reference to FEI only; and (ii) that this Proceeding will address only the *factors* in the determination of risk premium for FortisBC Inc., FortisBC Energy (Vancouver Island) Inc. (FEVI) or FortisBC Energy (Whistler) Inc. (FEW) and not determine their actual risk premium. (emphasis in original) (Exhibit B-1-3, p. 4)

The second point is related to the process for identifying the benchmark. In their March 21, 2012 submission (Exhibit B1-2), the FBCU proposed that the initial part of the Proceeding should determine the characteristics of a benchmark utility and identify which utility, if any, is the most appropriate benchmark utility in BC for the future determination of allowed ROE and capital structure. In their May 3, 2012 submission, the FBCU, state that the rationale behind their phased approach proposal “was that the ROE and capital structure of any utility, whether the benchmark or otherwise, hypothetical or real – can only be determined with reference to the attributes and characteristics of that utility and the business and financial risks it faces”. (Exhibit B1-3, p.4)

Since Order G-47-12 does not appear to the FBCU to contemplate a phased approach, the FBCU request the Commission’s clarification of its expectations for FBCU and other utilities with respect to filings related to the benchmark low-risk utility. FBCU believe that they cannot provide a number of the items listed under “Other Filing Requirements” in the MFR document unless they are told or they themselves identify the characteristics of, and business and financial risks facing, the benchmark. Specifically they list the following items:

- Proposed Benchmark ROE going forward from 2013 and, if applicable, beyond.
- Proposed capital structure/equity component for a benchmark low risk utility in 2013 and, if applicable, beyond
- Investment and business risks and any other risks faced by the utility’s shareholders and customers
- Equity analyst investment reports on comparable utilities, noting that the point of comparison does not yet exist.
- Credit ratings and reports on comparable utilities

(Exhibit B-1-3, p. 4)

2.1.3 Filing Requirements that may not be feasible

The FBCU believe that neither they nor their experts would be able to provide certain requirements, and request that the following be removed from the Final MFR:

- 1) "ROE Matters", Item 9 [sic] – This reference is in fact to Item 10-Price to Book Value Inputs. The FBCU do not believe that they can provide forecast ROE and estimate of the ROE that can be earned by a purchaser of investments as this involves market forecasts of securities.
- 2) "ROE Matters", Item 13 – This item relates to the filing of equity analyst investment reports on comparable utilities. FBCU states that the reports are proprietary in nature and may not be publicly available. They can request the reports, but are not certain whether they can provide them.
- 3) "Capital Structure Matters", Item 7 [sic] – This reference is in fact related to Item 4 the credit ratings and reports. The FBCU state that rating reports are proprietary and available by subscription service only and rating agencies may place restrictions on the distribution of such reports. The FBCU can request such reports, but may be unable to provide them.

(Exhibit B-1-3, pp. 5, 6)

2.2 Corix

Corix provides no suggestions for amendments to the MFR document. It states that its interest in the Proceeding is narrow. Its specific interest is in developing a framework for determining the risk premium to be added to the low-risk benchmark to establish the allowed return on equity and capital structure for smaller utility operations which will typically have a higher risk profile. (Exhibit B2-3)

2.3 PNG

PNG reviewed a draft of the FBCU submission and confirms that it is in agreement with the comments made with certain exceptions.

PNG submits that it should not be required to file the Company specific documents described in Part A of the MFR document because the material is not considered by PNG to be relevant to the determination by the Commission of the ROE and capital structure for a benchmark utility. In addition, PNG notes that as part of the negotiated settlement of its 2011 revenue requirements application, it agreed to file capital structure and ROE evidence as part of its 2013 revenue requirements application. Since it expects it will need to file the Company specific documents described in Part A in conjunction with its 2013 revenue requirements application, PNG submits that it should not be required to file them in the context of a generic cost of capital proceeding. (Exhibit B3-3)

Other Utilities

2.4 BC Hydro

BC Hydro states that it is making suggestions with the objective of ensuring an efficient and effective proceeding. BC Hydro's submissions can be categorized under the following three headings: (a) the ambiguity with respect to which, if any, of the requirements are mandatory requirements for Affected Utilities due to use of words and phrases such as "minimum requirements" in the title, "requests", "if applicable", and the "Additional Matters" heading; (b) the ambiguity in the references to submissions, evidence and information; and (c) the appearance of some overlap between at least one of the Minimum Requirements – "returns on the book value of equity awarded by other Canadian regulators" and the scope of the BCUC Consultant Survey.

BC Hydro suggests that:

- 1) The list be made expressly mandatory and the optional items be deleted or that the list be made expressly optional for all parties.
- 2) The document makes a clear distinction between submissions, evidence and information in order to manage expectations and avoid unnecessary process.
- 3) To the extent that there is overlap between the Minimum [Filing] Requirement and the Consultant Survey, the former should be expressly made optional. Further, the specific terms and scope of the Survey should be put on the record of this Proceeding.

(Exhibit B4-3)

2.5 Registered Interveners

The Industrial Customers Group, the British Columbia Old Age Pensioners' Organization *et al.*, and the Association of Major Power Customers of BC are the three Registered Interveners who made submissions.

The ICG suggests the following two additions to the MFR document:

- (1) "ROE Matters" – add "Proposed generic methodology or process for each utility to determine its return on equity in reference to the benchmark low-risk utility."
- (2) "Capital Structure Matters" – add "Proposed generic methodology or process for each utility to determine its equity ratio."

(Exhibit C4-3)

BCOAPO suggests certain additions to Part A, "Company-Related Documents":

- adding an Item 8 (c) dealing with deferral/reserve accounts ;
- requiring the filing of documents under Items 2, 3, 4 and 6 from 2006 rather than from 2008;
- requiring the filing of any research, analysis or memoranda that have been generated relating to this or previous GCOC or RRA proceedings that may have a bearing on the Commission's decision with respect to the issues identified in the Final Scoping Document"

BCOAPO also asks to add to the rationale for the proposed benchmark ROE and capital structure to Item 1 under both "ROE Matters" and "Capital Structure Matters". (Exhibit C5-3)

The AMPC does not propose any additions to the MFR. (Exhibit C6-3)

3.0 COMMISSION PANEL DETERMINATIONS

3.1 General

In consideration of the submissions of the parties, the Commission Panel observes that there are potential advantages to expanding the current proceeding to include an examination of each of the Affected Utilities with respect to determining their appropriate ROE and Capital Structure. If such an approach were to be adopted, this would involve conducting the Proceeding in stages. Stage 1 would determine an appropriate ROE and Capital Structure for a benchmark low-risk utility as currently contemplated. In addition, this stage would examine the potential of establishing a methodology to determine each utility's cost of capital based on a benchmark low-risk utility as well as a framework for determining the appropriate

cost of capital for other smaller utilities in the province.

Stage 2, to immediately follow Stage 1, would involve applying the generic benchmark low-risk utility in the determination of an appropriate ROE and capital structure for each utility in the Affected Utilities' group. The potential benefits stemming from this approach would be greater regulatory efficiency as well as improved timeliness and consistency due to the matter being dealt with by the same Commission panel in a contiguous manner. Before making a determination on this process, however, the Commission Panel will consider submissions from the parties at the Procedural Conference which it intends to schedule for September 18, 2012.

3.2 Considerations of the Positions of the Parties on Minimum Filing Requirements

3.2.1 Minor Points of Clarification for FBCU

FBCU requested that the Commission Panel clarify the meaning of (i) "trading liquidity" of Government of Canada bonds and long-term bond issued by the utility; (ii) "business profile" under Capital Structure Matters; (iii) "generic company-specific adjustments"; (iv) "utility-specific" and "sector-specific"; (v) "adjustments"; and (vi) "level of contributed assets".

For the first item, "trading liquidity", the Commission Panel is looking for information on financial metrics to better understand the regulated utility's financial strength in the capital market. Therefore, "trading liquidity" may include metrics such as the average trading volume for a defined period of time, trade and quote frequency or any other measures, as evidence of the utility's ability (or inability) to attract debt capital in different economic cycles.

For the second item, the Commission Panel views changes to "business profile" as the changes in business activities of a utility, whether the changes are a result of factors external to the utility such as changing government policy and the economic environment or demographics; or factors within the utility's control such as corporate plans and directions. The Commission Panel further confirms that "business profile" as used under the heading "Capital Structure Matters" is substantially similar to that applied in items 2 and 3 under the heading "ROE Matters"

With regards to the remaining four items, FBCU seeks clarification for the terms "generic company-specific", "utility-specific", "sector-specific", "adjustments" and "level of contributed assets" which are all found in "Capital Structure Matters", Item 7 which states "Generic company-specific adjustments for: effective income tax rates, size of utility, level of contributed assets, and other utility-specific or sector-specific factors."

The Commission Panel clarifies by way of example as follows: The "generic company-specific" term refers to a generic concept such as income tax that typically applies to **all companies** but is also **specific to an individual company's situation** which will have its own specific effective income tax rate. The Panel accepts that the term "other utility-specific" is less clear and should instead be "company-specific" which has been amended in the wording in the Final Minimum Filing Requirements document which is attached as Appendix B to the Order issued concurrently with this Decision. A "company-specific" factor is a unique factor such as a rate stabilization deferral account or the presence of a large significant customer. The term "sector-specific" is a factor that is unique to a specific sector such as in the natural gas sector or electricity sector that may be not applicable to other sectors. A sector may also be generation, transmission, distribution, and storage depending on its applicability. The term "adjustments" refers to capital structure in this instance. For additional clarity, the term "level of contributed assets" refers to the level of contributions in aid of construction.

With respect to FBCU's submission on page 4 of Exhibit B1-3, requesting clarification as to what is intended by the references to "a utility" and "the utility" under "Other Filing Requirements", the Commission Panel intends that "the utility" refers to the specific Affected Utility, and "a utility" refers to any utility that a participant wishes to address. This distinction has been reflected in the Final Minimum Filing Requirements document.

3.2.2 Minimum Filing Requirements

FBCU have identified three items that they do not believe either they or their experts will be able to provide. The items are (a) Price to Book Value Inputs (ROE Matters, Item 10); (b) Equity analyst investment reports (ROE Matters, Item 13); and (c) Rating Reports (Capital Structure Matters, Item 4).

The Commission Panel appreciates that the Price to Book Value Inputs may require more preparation and is amenable to removing this item from the Minimum Filing Requirements and leaving the information to be provided through responses to Information Requests (IRs).

On issues raised by FBCU regarding the proprietary nature of equity analyst investment reports and credit rating reports, the Commission Panel urges the utilities to provide these reports on a best effort basis, filing them in confidence, if necessary.

PNG submits that it should not be required to file the documents referred to in the Company-Related Documents section in the MFR document because the material is not considered by PNG to be relevant to the determination of the ROE and capital structure for a benchmark utility. The Commission Panel disagrees. The Commission Panel has not yet defined the low-risk benchmark utility for which to determine rates. In the Commission Panel's view, the characteristics of all the utilities comprising each Affected Utility in B.C., as well as information pertaining to their respective operating environment, will serve as reference points and are relevant and required at this time.

The Commission Panel further confirms that the Company-specific documents of PNG and utilities comprising FBCU filed in Stage 1 will likely be needed if there is to be a Stage 2 of this Proceeding. We are of the view that the Company-specific documents will provide information on the characteristics of mature versus growing utilities, gas transmission and distribution utilities, as well as electric utilities, fully integrated or otherwise. This information will be integral to identifying the *factors* in the determination of risk premium for each of these utilities.

3.2.3 Characteristics of a Benchmark Low-Risk Utility

As noted in Section 2.1.2, in their March 21, 2012 submission the FBCU proposed to devote the initial part of the Proceeding to a determination of the characteristics of a benchmark utility and which utility, if any, would make an appropriate benchmark utility. FBCU submit that their rationale for introducing this step prior to determining the ROE and capital structure is that these cannot be determined without reference to the characteristics and attributes of the benchmark utility and the risks it faces. They further submit that if the Commission does not intend to address the Proceeding in phases or provide an outline or guidance as to characteristics of a benchmark low-risk utility at this time, clarification as to whether the Commission expects the following is required:

- “(a) identify in our filing what we consider to be the appropriate benchmark (whether a hypothetical utility or FEI);
- (b) describe the characteristics and risk facing the benchmark we have selected; and
- (c) address the above “Other Filing Requirements” only in respect of the benchmark we have selected.”

(Exhibit B1-3, p. 5)

The Commission Panel confirms that it is not our intention to define the characteristics and attributes identifying a benchmark low-risk utility at the outset in this Proceeding. With respect to FBCU's request for clarification as to the Commission's expectations, the Panel provides the following:

1. In their filings, Affected Utilities are expected to identify what they consider to be the appropriate benchmark. This could be a hypothetical utility, FEI or another utility.

2. Affected Utilities are expected to describe the characteristics and risks facing the benchmark they have selected. The characteristics and attributes described could be hypothetical or descriptive of FEI or a combination of both. Additionally, the Commission is amenable to collaboration among the utilities with respect to this description.
3. The “Other Filing Requirements” within the MFR are to be addressed only in respect of the benchmark each utility has selected.

3.2.4 Other Submissions

BC Hydro suggests that the MFR be made expressly mandatory or expressly optional for all parties and that a better distinction be made between words such as submissions, evidence and information. In addition, it suggests that it would be both appropriate and efficient to place the specific terms and scope of the Consultant Survey on the record of this Proceeding. BC Hydro also suggests that to the extent of any overlap between the Minimum Filing Requirements and the Consultant Survey Report, the former should be expressly made optional. An example provided by BC Hydro is “returns on the book value of equity awarded by other Canadian regulators”.

The Commission Panel wishes to clarify that the “Minimum” in the MFR refers to information necessary for the public hearing to proceed in a meaningful manner. It has not been designated as mandatory because certain information may not be applicable or available to a particular utility. It has not been designated as optional because it is not for the Affected Utility to choose whether or not to bring the information forward. The materials are required unless the Affected Utility can provide circumstances that would change the requirement. The word ‘request’ used in the MFR document has been used in a similar sense as an ‘Information Request’. It is the Commission Panel’s view that establishing the MFR will result in fewer IRs and a more efficient hearing process.

The Commission Panel notes BC Hydro’s comments on evidence and submissions and will be clearer as to its expectations of the Affected Utilities and the other participants in this Proceeding. The Panel also agrees with BC Hydro regarding putting the specific terms and scope of the Consultant Survey on the record. The detailed Terms of Reference have been provided in Attachment 1 to this Appendix A.

The ICG has requested a generic methodology or process for each utility to determine its ROE and its equity ratio in reference to the benchmark low-risk utility. The Commission Panel notes that this matter has been addressed in the Final Scoping Document under point II., “Purpose of the Proceeding”, and therefore considers the ICG’s proposals to be appropriate.

BCOAPo made submissions with respect to additional item and information requirements which should be included in the MFR. The Commission Panel is of the view that the current MFR is sufficiently robust and these additional requirements, while potentially helpful, will likely be addressed within the hearing itself and are not required to be filed at this time. For example, the suggested requirement for Affected Utilities to file “any research, analysis or memoranda that have been generated relating to this or previous GCOC or RRA proceedings that may have a bearing ...” is a very extensive requirement and is best left to the Affected Utilities and stakeholders’ information request and response process. However, the Commission Panel has determined that there is value in going back to 2006 to provide information rather than 2008 as proposed in the MFR and has adjusted the requirements within the MFR accordingly.

The Final Minimum Filing Requirements for Affected Utilities are attached as Appendix B to the Order issued concurrently with this Decision.

4.0 POSITIONS OF PARTIES ON PACA AND THE PRELIMINARY REGULATORY TIMETABLE

4.1 Affected Utilities

FBCU submit that the PACA costs should be shared among all participants pursuant to the formula in Order F-5-06, which was the order with respect to applications for PACA in the TGI/TGVI (now known as FEI/FEVI) Return on Equity and Capital Structure proceeding in 2006. FBCU further submit that funding eligibility for PACA should be based on the Commission's PACA Guidelines.

With regard to the schedule, FBCU submit that the action items beginning with the "Filing of Evidence and Submissions" in the Draft Preliminary Regulatory Timetable be moved back three weeks from July 9, 2012 to August 1, 2012 with the August 1, 2012 date reserved for filing from participants that are not dependent on the knowledge of the benchmark. Participants would file the remaining evidence related to ROE and Capital Structure matters for the benchmark utility following the Commission's determination of the benchmark utility.

Corix submits that the size of regulated utilities varies substantially and is therefore a significant factor in the ability of each utility to absorb the allocation of PACA. Therefore, it submits that Corix has limited ability to pass its regulatory costs on to its regulated customer base. Corix states that it does not intend to apply for PACA funding. It supports the general principles for the allocation of PACA funds as per Order F-5-06, but requests exemption from the PACA allocation of costs.

Corix states that it intends to limit its participation to the discussion regarding risk premium and capital structure for smaller utility operations and will leave the debate on the benchmark utility issues to the utilities that fall into that category.

PNG supports FBCU's proposal regarding the allocation of PACA costs and the Regulatory Timetable. Regarding eligibility for PACA, PNG supports the Commission's PACA Guidelines.

4.2 Other Utilities

BC Hydro submits that all utilities ought to bear some degree of cost responsibility given the generic nature of the proceeding and that there should be no exception based on the degree of a utility's participation. It submits that since utilities benefit from the right to earn a return on equity, they should pay their proportionate costs. BC Hydro submits that Interveners representing common interests must collaborate and that their applications must be scrutinized and that there is no material overlap with applications of others that advanced the same position.

BC Hydro submits that the proposed timeline and activities are appropriate.

4.3 Interveners

The ICG supports the allocation of PACA as per Order F-5-06. Regarding funding eligibility, the ICG submits that it expects to file evidence and apply for PACA and that established customer groups should not be required to join together. With respect to the schedule, the ICG submits that there should be a second round of Information Requests (IRs) on the "Evidence and Submissions" from Affected and Other Utilities. The ICG further submits that the tentative Procedural Conference date should be moved from July 31, 2012 to the week of October 15, 2012.

The BCOAPO supports the implementation of an apportionment model for costs provided for by Order F-5-06, but states that the 50 per cent share for which Terasen Gas Inc. (TGI) and Terasen Gas (Vancouver Island) Inc. (TGVI) (as FEI and FEVI were formerly known) were responsible in the Terasen ROE process, should be modified because they are not responsible for initiating this Proceeding. BCOAPO states that it will be applying for PACA and that it has entered into an agreement with AMPC and CEC to share resources regarding the retainer of an expert witness. BCOAPO submits that it has no concerns with the Draft Preliminary Regulatory Timetable, but seeks clarifications regarding the meaning of "submissions" when the term is used in conjunction with the filing of evidence by both the Affected Utilities and Interveners.

AMPC submits that it will be making a PACA application and expects to join with the CEC and BCOAPO to retain an expert witness under "BC Utility Customers". It made no submissions on PACA cost allocation or the Regulatory Timetable.

The CEC states that it will be making a PACA application and will join with BCOAPO and AMPC to share resources. It further submits that small utilities owned by large, substantive corporations should not be eligible for PACA. It made no submissions on PACA cost allocation or the Regulatory Timetable.

5.0 COMMISSION PANEL DETERMINATIONS

5.1 PACA

The Commission Panel has determined that the allocation of PACA costs for Stage 1 of the Proceeding is most appropriately handled in accordance with the principles established in Order F-5-06 and will apply those principles to both affected Utilities and Other Utilities in this Proceeding. We are of the view that allocating costs to utilities based on their share of the previous year's total utility sales converted to gigajoules represents the fairest way to allocate costs, as it does not inappropriately burden smaller utilities, but also recognizes that all utilities, regardless of size, will be affected by these Proceedings.

With respect to PACA eligibility, the Commission Panel will be guided by the PACA Guidelines. Where there are common interests among the parties, they are requested to make every effort to work together in a collaborative manner.

5.2 Regulatory Timetable

The Commission Panel is prepared to release the Consultant's Survey Report on June 8, 2012. It sets July 19, 2012 as the date for the filing of evidence by Affected Utilities and Other Utilities. That date is six weeks from the release of the Consultant's Survey Report.

The Commission Panel establishes September 18, 2012 as the date for a Procedural Conference. That date is the mid-point between the due date for Responses to IR No. 1 on Affected and Other Utilities' Evidence and the due date for the second round of IRs on Affected and Other Utilities' Evidence. The agenda for the Procedural Conference, to be refined at a later date, will include items related to hearing submissions on issues, the format of the Proceeding going forward, as well as submissions on a possible Stage 2 where the Commission Panel would determine the ROE and Capital Structure of each of the Affected Utilities.

The Preliminary Regulatory Timetable is attached as Appendix C to the Order issued concurrently with this Decision.

DETAILED TERMS OF REFERENCE

The survey report will include the following information, if applicable, in each regulatory jurisdiction:

1. A brief history of cost of capital decisions/orders over the last 10 years.
2. The use of a benchmark in determining return on equity and/or capital structure; their current and historical values for the last 5 years.
3. The current respective rates of return on equity and capital structure components for the major regulated companies; a description of the core activities of those companies; and whether their respective costs of capital were reached as a result of a hearing or a negotiated settlement agreement.
4. The methodology adopted to establish the benchmark or generic return on equity and capital structure. If more than one methodology is used, describe the weighting assigned to each methodology.
5. Any changes in methodology used to determine the cost of capital which occurred over the last five years.
6. A full history of the use of any automatic adjustment mechanism (AAM) to determine cost of capital (ROE and deemed debt interest) and its present status. Describe any material differences in the AAM formulas among various jurisdictions.
7. Differences and similarities in determinations of a methodology for cost of capital among the significant jurisdictions in the survey.
8. The use of deferral accounts by regulated utilities and its relevance on cost of capital decisions.
9. The use of preferred shares in the capital structure and its relevance on cost of capital determinations.
10. The mechanisms used to adjust the benchmark ROE or capital structure for individual regulated companies.
11. The use of a deemed capital structure and deemed interest rate on the debt portion of the capital structure.
12. The methodology adopted to establish the deemed cost of debt. If more than one methodology is used, describe the weighting assigned to each methodology.
13. The current status and any indicated future plans on how the cost of capital is to be addressed and determined.
14. Any other information arising from the review that could be directly relevant to the Commission's Generic Cost of Capital Proceeding.

The report will include objective and neutral comments on the strengths and weakness and/or advantages and disadvantages of the cost of capital estimation methods used by the Canadian utility and pipeline regulators.

The survey report project will require a review of the following documents:

- Commission Order G-20-12 initiating the Generic Cost of Capital Proceeding.
- Any other subsequent orders on the GCOC Proceeding issued since the initial Order and prior to completion of the survey report.
- Commission Decision on the Terasen Utilities Return on Equity and Capital Structure dated December 16, 2009 and Order G-158-09.

- Filing by Terasen Utilities on the Automatic Adjustment Mechanism Review with the Commission dated December 8, 2010.
- Alberta Utilities Commission Decision 2011-474: 2011 Generic Cost of Capital dated December 8, 2011.
- Ontario Energy Board: Report of the Board on the Cost of Capital for Ontario's Regulated Utilities, issued December 11, 2009.

The survey report will be fully referenced. The consultant will also provide in electronic format all referenced decisions and orders.

GENERIC COST OF CAPITAL PROCEEDING

FINAL MINIMUM FILING REQUIREMENTS

A utility listed under Affected Utilities but engaged in certain services that are not regulated by the Commission may customize its financial reports and file only the relevant information on the operational divisions that are regulated.

A registered utility that is classified as an Other Utility should address the matters outlined in the Minimum Filing Requirements for Affected Utilities where they are applicable and relevant to the Other Utility.

A. COMPANY-RELATED DOCUMENTS

The following documents are required for filing by utilities designated as Affected Utilities. Where the required information is not available by the filing date, Affected Utilities must request approval from the Commission Panel for an extension in the time to file or an exemption from the requirement of filing.

1. Most recent annual report.
2. Credit rating agency reports for the utility and corporate parent since 2006:
 - a. Debt rating,
 - b. Schedule showing the history of any debt rating changes since 2002,
 - c. Interest coverage ratio and other agency's key debt ratios since 2006.
3. Reports by investment analysts for the utility and corporate parent since 2006, where applicable.
4. All Prospectuses of Debt Offerings of the utility and/or its corporate parent within the last five years, if applicable:
 - a. Monthly (month end) spread data (market yield minus the yield on a Government of Canada bond with a similar time to maturity remaining) from 2006 to present date for a representative long-term bond issued by the utility:
 - i. The time to maturity of both the utility bond and the government bond,
 - ii. The trading liquidity of both bonds,
 - iii. The ratings on the bond for each quarter,
 - iv. For the latest placement of bond, the spread over the corresponding Government bond yields, the current spread and the maturity date.
5. Full listing of each bond issue applicable for the 2012 Test Year including any future anticipated issues with full details (e.g. principal face value, nominal interest rate, effective rate if issued at discount or premium, relevant benchmark Government of Canada bond, credit spread from benchmark, date of issue, date of maturity, length of maturity, etc.).
6. All Prospectuses of Equity Offerings of the utility and/or its corporate parent within the last six years, if applicable:
 - a. Details of any new equity issues from the financial market for the utility and/or corporate parent, if applicable.
7. Latest annual filing to the Commission of Operational and Financial Results.
8. Historical (2002-2011) regulatory financial information by year:
 - a. Capital Structure Components: common equity, preferred equity, long and short-term debt:
 - i. Rate Base: opening, closing and mid-year,

- ii. Gross rate base if different from rate base that is subject to debt and equity return,
- iii. Income statement:

- Revenue (includes miscellaneous revenue)
- Operations and maintenance
- Depreciation and amortization
- Earnings before Interest and taxes (EBIT)
- Interest
- Current income tax
- Future income tax, if applicable
- Total income taxes and Net income
- Annual actual return on equity (mid-year) and allowed return on equity
- Actual and approved (test year) return on invested capital.

- b. Summary and full detailed description of all deferral and reserve accounts:

- i. Average percentage of delivery revenue covered by each account,
- ii. Average percentage of total revenue (including commodity/energy cost) covered by each account.

- 9. Price to Book Value Ratios (including supporting calculations) since 2000 when the utility or its corporate parent has been acquired by another firm:

- a. Interpretation of the Price to Book Value Ratios.

- 10. Full explanation of any significant changes in accounting policy in the last 10 years.

Note: *All reports should be filed in searchable electronic format. Items regarding the regulatory financial information should also be filed in a fully functional Excel spreadsheet.*

B. OTHER FILING REQUIREMENTS

Each of the Affected Utilities is to file evidence on the following matters with reference to the benchmark low-risk utility that they have described. Where the required information is not available by the filing date, Affected Utilities must request approval from the Commission Panel for an extension in the time to file or an exemption from the requirement of filing.

ROE Matters:

- 1. Proposed Benchmark ROE going forward from 2013 and, if applicable, beyond.

- 2. Business risks faced by a utility in British Columbia.

- a. Present business risks:
 - i. Itemized listing of each risk with full explanation,
 - ii. significance and impact of each risk to a utility,
 - iii. ranking of the business risks,
 - iv. business risks faced by all utilities in Canada, and
 - v. business risks unique to British Columbia.
- b. Changes in business risks in the last 5 years and explanation.

- 3. Changes in:

- a. the global financial markets,

- b. provincial legislative and policy environment in BC, and
 - c. the utility-applicant's business and operations since the last Commission Decision on the capital structure and return on equity for a benchmark utility (December 16, 2009 Decision on Terasen Utilities).
4. Should the Commission return to a formulaic approach to setting a benchmark ROE, and if so, what should the formula be and for what period of time?
 5. Should the GCOC Proceeding set a provision for the future review of a Benchmark ROE?
 6. Capital Asset Pricing Model (CAPM) inputs – Risk-free rate forecasts for 2012, market equity risk premium forecasts or estimates, Beta estimates and flotation allowance and resulting CAPM results.
 7. Discounted Cash Flow Model (DCF) inputs – dividend yields, stage 1 growth rate estimates, stage 2 or terminal growth rate estimates, stage 2 or terminal period nominal GDP growth rate estimates, flotation allowance and resulting DCF result.
 8. Comparable Investments – Estimates of the ROE (on a market value and not a book value basis) available to investors in the public and private markets for investments of similar risk.
 9. Market yields and credit spreads on high-grade utility and other corporate bonds.
 10. Professional pension and investment managers' and economists' estimates of the prospective equity market returns available to investors buying equities at market prices.
 11. Proposed generic methodology or process for each utility to determine its return on equity in reference to the benchmark low-risk utility.

Capital Structure Matters:

1. Proposed capital structure/equity component for a benchmark low-risk utility in 2013 and, if applicable, beyond.
2. Should the GCOC Proceeding set a provision for the future review of a benchmark low-risk utility capital structure?
3. Investment and business risks and any other risks faced by a utility's shareholders and customers.
4. Business risk ranking by industry sector – electricity, natural gas, alternative energy solutions providers, with accompanying reasons.
5. Change in business risks as a result of changes to business profile.
6. Generic company-specific adjustments for: effective income tax rates, size of utility, level of contributed assets, and company-specific or sector-specific factors.
7. The credit environment and how it has changed and the extent to which it is already reflected in the market data above.
8. Proposed generic methodology or process for each utility to determine its equity ratio.

Designation of a Benchmark Low-risk Utility:

1. Whether it is more appropriate that FortisBC Energy Inc. or some other utility be the benchmark utility for purpose of setting a benchmark low-risk utility return on equity and capital structure or whether a hypothetical benchmark low-risk utility be construed instead?

Deemed Capital Structure and Deemed Debt Issue Matters:

1. What are the appropriate applicable circumstances for a utility to utilize a deemed capital structure with a deemed debt?
2. What is an appropriate basis to calculate a deemed interest rate (long and short-term) for a utility without third-party debt or non-arms length debt?
3. Should the deemed long-term interest rate be based on a 10-year, 30-year, or other term-to-maturity Government of Canada bond and/or other term-to-maturity Canadian corporate bond?
4. What is the appropriate credit spread on the Government of Canada bond and/or the Canadian corporate bond for a benchmark low-risk utility?
5. How does the deemed capital structure impact and relate to the credit spreads?
6. What is an appropriate portion of short-term debt and long-term debt on the debt portion of the deemed capital structure?
7. What is an appropriate basis to calculate the deemed interest rate for short-term debt?
8. Should a deemed short-term interest rate be based on 3-month Bankers' Acceptance rate and short-term 90-day loan?
9. What methodology should be applied to calculate the deemed short-term interest rate?

Additional Matters:

The above list is not intended to restrict a utility's evidence. Utilities may provide additional evidence to support their positions on any other matters relevant to the Final Scoping Document not listed above.

GENERIC COST OF CAPITAL PROCEEDING

PRELIMINARY REGULATORY TIMETABLE

ACTIVITY	DATE (2012)
Issuance of Final Minimum Filing Requirements for Affected Utilities	Friday, June 1
Release of the Commission Consultant's Survey Report	Friday, June 8
Information Requests (IRs) on the Commission Consultant's Survey Report from Utilities and Interveners	Friday, June 22
Response to IRs on Commission Consultant Survey from Commission Consultant	Monday, July 9
Closing of Registration for Intervener and Interested Party status	Wednesday, July 11
Filing of Evidence by Affected Utilities and Other Utilities	Thursday, July 19
Participant Assistance/Cost Award Budget Estimate deadline	Friday, July 20
Commission and Interveners' IR No. 1 on Affected and Other Utilities' Evidence	Friday, August 17
Response to IR No. 1 from Affected and Other Utilities	Monday, Sept 10
Procedural Conference	Tuesday, September 18
Commission and Interveners' IR No 2 on Affected and Other Utilities' Evidence	Tuesday, September 25
Response to IR No. 2 from Affected and Other Utilities	Wednesday, October 17
Intervener Evidence	Monday, October 22
IR No. 1 on Intervener Evidence	Monday, November 5
Response to IR No. 1 on Intervener Evidence	Tuesday, November 20
Rebuttal Evidence	Tuesday, November 27