



**ORDER NUMBER  
E-3-17**

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

and

Stargas Utilities Ltd.  
Application for Acceptance of 2016-2017 Annual Contracting Plan

**BEFORE:**

D. J. Enns, Commissioner  
R. I. Mason, Commissioner

on January 12, 2017

**ORDER**

**WHEREAS:**

- A. On September 26, 2016, Stargas Utilities Ltd. (Stargas) submitted an application to the British Columbia Utilities Commission (Commission) for approval to increase the commodity component of rates effective November 1, 2016 (Application). The Application also includes details of Stargas' annual contracting plan (ACP) for the contract year commencing November 1, 2016 (2016-2017 ACP);
- B. On October 26, 2006, the Commission issued Order G-130-06 which set out the Commission's Rules for Natural Gas Energy Supply Contracts as Appendix A to the order;
- C. In Order E-14-13 dated October 17, 2013, the Commission accepted a number of contracts setting out the natural gas purchase arrangements between Stargas, Shell Energy North America (Canada) Inc. (Shell) and Independent Energy Consultants (B.C.) Ltd. (Independent);
- D. In Order G-180-15 dated November 19, 2015, the Commission accepted the Stargas annual contracting plan for the year commencing November 1, 2015 and directed Stargas to file by October 1, 2016, a description of the contracting plans for the year commencing November 1, 2016;
- E. On November 30, 2015, Stargas filed for acceptance of a winter purchase plan to mitigate price volatility for the winter period during the 2016/2017 and 2017/2018 fiscal years (Winter Purchase Plan);
- F. On December 24, 2015, via Letter L-46-15, the Commission accepted the Winter Purchase Plan;
- G. On October 24, 2016, in response to Commission staff questions, Stargas filed a Transaction Confirmation between Stargas and Shell setting out the pricing for natural gas purchases for the contract year commencing November 1, 2016

- H. On October 27, 2016, the Commission issued Order G-158-16 approving a commodity rate increase effective November 1, 2016 and directing Stargas to file a report with the Commission by October 1, 2017 on the Gas Cost Variance Account balances and, if necessary, the proposed changes to commodity rates to be effective November 1, 2017;
- I. On November 28, 2016, in response to Commission staff questions, Stargas filed a revised Schedule A - Agency Authority and Appointment between Stargas and Independent executed June 1, 2016, and a revised Letter Agreement regarding "Agency Authority – Physical Contracts" between Shell, Independent and Stargas executed May 27, 2014;
- J. Stargas requests that the confidential components of the Application be kept confidential as they contain commercially sensitive information; and
- K. The Commission reviewed the Application, the responses to the Commission staff questions and the contracts that were filed with these responses and finds the Stargas 2016-2017 ACP and the filed contracts to be in the public interest.

**NOW THEREFORE** pursuant to section 71 of the *Utilities Commission Act* and the British Columbia Utilities Commission's (Commission) Rules for Natural Gas Energy Supply Contracts and for the reasons attached as Appendix A to this order:

- 1. The Commission accepts as being in the public interest the Stargas Utilities Ltd. (Stargas) annual contracting plan for the contract year commencing November 1, 2016 (2016-17 Contract Year) including the price risk management strategies as described in the application filed September 26, 2016.
- 2. Stargas is directed to file with the Commission by October 1, 2017, Stargas' annual contracting plan for the contract year commencing November 1, 2017 and must include:
  - a. an evaluation of the gas purchase alternatives including supply of gas under a FortisBC Energy Inc. bundled sales gas rate schedule, and
  - b. an evaluation of the effectiveness of the price risk management strategies undertaken by Stargas for the 2016-17 Contract Year. To the extent Stargas elects to not execute the price risk management strategies accepted by the Commission in this order and in Letter L-46-15, Stargas is to provide the reasons.
- 3. The Commission accepts for filing the following contracts as being in the public interest:
  - a. The Transaction Confirmation setting out the details of the gas purchase contract between Stargas and Shell Energy North America (Canada) Inc. (Shell) for the contract year commencing November 1, 2016 (2016-2017 Transaction Confirmation);
  - b. The Schedule A - Agency Authority and Appointment between Stargas and Independent Energy Consultants (B.C.) Ltd. (Independent) executed June 1, 2016 (Revised Agency Appointment); and
  - c. The Letter Agreement regarding "Agency Authority – Physical Contracts" between Shell, Independent and Stargas executed May 27, 2014 (Revised Agency Letter Agreement).

4. Stargas is directed to meet with Commission staff by March 1, 2017, to review whether there are any further energy supply contracts executed by Stargas that have not yet been filed for acceptance by the Commission.
5. The Commission will hold confidential the confidential component of the application filed on September 26, 2016, the confidential responses to the confidential Commission staff questions and the contracts as this information is commercially sensitive and its disclosure could impede Stargas' ability to obtain favorable gas supply terms for its customers in the future.

**DATED** at the City of Vancouver, In the Province of British Columbia, this                      20<sup>th</sup>                      day of January 2017.

BY ORDER

A handwritten signature in black ink, appearing to be 'R. I. Mason', followed by a period.

R. I. Mason  
Commissioner

Attachment

Stargas Utilities Ltd.  
Application for Acceptance of 2016/2017 Annual Contracting Plan

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**REASONS FOR DECISION**

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**1.0 BACKGROUND**

On September 26, 2016, Stargas Utilities Ltd. (Stargas) filed its application with the British Columbia Utilities Commission (Commission) seeking approval to increase the commodity component of its rate effective November 1, 2016 (Application). In compliance with Commission Order G-180-15, Stargas included in the Application its annual contracting plan for the contract year commencing November 1, 2016 (2016/17 ACP). The commodity rate increase was approved October 27, 2016 via Commission Order G-158-16. In Order G-158-16, the Commission deferred the acceptance of the 2016/17 ACP pending further review. This further review by the Commission has now been completed.

**2.0 LEGISLATIVE AUTHORITY AND COMMISSION RULES**

Energy supply contracts are required to be filed with the Commission for acceptance as being in the public interest pursuant to section 71 of the *Utilities Commission Act* (UCA). The Commission developed its Rules for Natural Gas Energy Supply Contracts (Rules) to facilitate the Commission's section 71 review of natural gas energy supply contracts. The Rules are set out in Appendix A to Order G-130-06. Rule 2.0 states:

Under Sections 71(1)(a) and 71(1.1), all energy supply contracts for the sale of natural gas to a public utility, other than those for purchases from another public utility, and all subsequent amendments, must be filed with the Commission. Commission acceptance of the filings required by the Act and these Rules should be obtained before delivery of natural gas occurs. The public utility purchasing the natural gas has the primary responsibility for filing contracts under Section 71.<sup>1</sup>

Rule 14.0 requires natural gas utilities to submit and obtain Commission acceptance of annual contracting plans prior to entering into significant energy supply contract arrangements for the year.<sup>2</sup> Rule 14.0 further elaborates that "the annual contracting plan... shall set out a gas supply portfolio that will reliably meet customer needs at reasonable cost, and shall provide for:

- 14.1 sufficient supply to meet the utility's total firm requirements at the level of the current year, and a mix of one year and longer term contracts that is appropriate for the security needs of its customers, considering current market conditions;
- 14.2 diversity of supply, including where possible a range of suppliers positioned behind alternative processing facilities, or backstopping arrangements; and
- 14.3 diversity of pricing arrangements and other price risk management measures."

A natural gas utility's price risk management strategy and the natural gas purchase contracts it executes directly influence the utility's cost of gas which in turn is recovered on a flow-through basis through the commodity rate charged to utility customers. Commodity rates are approved pursuant to section 61(4) of the UCA which states:

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<sup>1</sup> Commission Order G-130-06, Appendix A, Commission Rules for Natural Gas Energy Supply Contracts, Rule 2.0, p. 1.

<sup>2</sup> Ibid., Rule 14.0, p. 3.

A public utility may file with the commission a new schedule of rates that the utility considers to be made necessary by a change in the price, over which the utility has no effective control, required to be paid by the public utility for its gas supplies, other energy supplied to it, or expenses and taxes, and the new schedule may be put into effect by the public utility on receiving the approval of the commission. [emphasis added]

### 3.0 STARGAS PRICE RISK MANAGEMENT STRATEGIES

In the Application and in earlier filings to the Commission, Stargas has sought Commission acceptance of a number of price risk management strategies.

On November 30, 2015, Stargas filed for acceptance of a winter purchase plan to mitigate price volatility by securing natural gas commodity for the winter period during the 2016/2017 and 2017/2018 fiscal years (Winter Purchase Plan). On December 24, 2015, via Letter L-46-15, the Commission accepted the Winter Purchase Plan.<sup>3</sup>

In the Application Stargas states it seeks approval of its natural gas purchase plan. Stargas describes the price risk mitigation strategy in the purchase plan specifically as follows:

We propose to accept all of our fiscal 2017 deliveries as in the past year; 50% of our deliveries at our supplier's monthly cost with the balance at "index".<sup>4</sup>

**The Panel accepts as being in the public interest Stargas' annual contracting plan for the contract year commencing November 1, 2016 (2016-17 Contract Year) including the price risk management strategies as described in the application filed September 26, 2016.** The prior acceptance of an annual contracting plan outlining the utility's contracting and price risk management strategy facilitates regulatory efficiency by providing the Commission the opportunity to review the contracting strategy before the energy supply contracts are executed and filed for Commission acceptance. To the extent Stargas enters into contracts to execute the price risk management strategies accepted by the Commission in these reasons and in Letter L-46-15, Stargas is reminded these contracts must be filed for acceptance pursuant to section 71 of the UCA and the Commission's Rules.

Ultimately, the costs associated with the purchase of gas are recovered on a flow-through basis via the utility's commodity rates which are approved under section 61(4) of the UCA. The Panel advises that Stargas is at risk of being denied recovery of a portion of the commodity costs if Stargas chooses to not implement its Commission-accepted price risk management strategies and market conditions are such that Stargas incurs higher commodity costs than it might otherwise have incurred had it executed the price risk management strategies. The potential disallowance might be on the basis that these commodity costs should not be flowed through under section 61(4) if they were found to be costs that Stargas had some degree of "effective control" over.

**Stargas is directed to file with the Commission, by October 1, 2017, Stargas' annual contracting plan for the contract year commencing November 1, 2017 and to include:**

- a. an evaluation of the gas purchase alternatives including contracting for the supply of gas under a FortisBC Energy Inc. bundled sales gas rate schedule, and
- b. an evaluation of the effectiveness of the price risk management strategies undertaken by Stargas for the 2016-17 Contract Year. To the extent Stargas elects to not execute the price risk management strategies accepted by the Commission in these reasons and in Letter L-46-15, Stargas is to provide the reasons.

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<sup>3</sup> Commission letter L-46-15, dated December 24, 2015, p. 1.

<sup>4</sup> Stargas September 26, 2016 application to vary commodity rates (non-confidential component), page labelled Exhibit B-1

#### **4.0 FILING OF ENERGY SUPPLY CONTRACTS**

In Order E-14-13 dated October 17, 2013, the Commission accepted for section 71 filing by Stargas, a number of contracts setting out the natural gas purchase arrangements between Stargas, Shell Energy North America (Canada) Inc. (Shell) and Independent Energy Consultants (B.C.) Ltd. (Independent). In response to Commission staff questions in regard to the Application, Stargas filed a number of energy supply contracts and/or amendments to existing contracts that had not previously been filed with the Commission for acceptance under section 71 of the UCA.

Specifically, Stargas filed copies of the following:

- a. The Transaction Confirmation setting out the details of the gas purchase contract between Stargas and Shell for the contract year commencing November 1, 2016 (2016/2017 Transaction Confirmation);
- b. The Schedule A –Agency Authority and Appointment between Stargas and Independent executed June 1, 2016 (Revised Agency Appointment); and
- c. The Letter Agreement regarding “Agency Authority – Physical Contracts” between Shell, Independent and Stargas executed May 27, 2014 (Revised Agency Letter Agreement);

**The Panel accepts for filing the contracts listed above as being in the public interest.**

**Stargas is directed to meet with Commission staff by March 1, 2017, to review whether there are any further energy supply contracts executed by Stargas that have not yet been filed for acceptance by the Commission.**

Stargas is reminded that, pursuant to section 71 of the UCA and the Commission’s Rules, utilities are required to file all energy supply contracts for the sale of natural gas to a public utility and all subsequent amendments for acceptance by the Commission. The contracts and/or amendments should be filed before delivery of natural gas under such contracts occurs.

The Panel advises that failure to file energy supply contracts in a timely fashion is a serious matter and it is important that Stargas comply with the UCA, Commission Rules and orders issued by the Commission. Ultimately, there may be consequences if Stargas fails to comply with the UCA, or a Commission Rule or order. The Commission has a number of powers under the UCA. For instance, under section 109 of the UCA the Commission may, after a hearing where the utility has been found to have contravened a provision of the UCA, or a Commission order or rule, impose administrative penalties.