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ORDER NUMBER
G-159-18

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Stargas Utilities Ltd.
2018 Application for a Regulatory Account to Cover Incident Shortfall

BEFORE:
K. A. Keilty, Panel Chair/Commissioner

on August 27, 2018

ORDER

WHEREAS:

A. On May 28, 2018, Stargas Utilities Ltd. (Stargas) filed an application for approval to establish a regulatory account and accompanying rate rider to recover the incident costs in excess of recoveries resulting from a line break on June 6, 2017 (Application) with the British Columbia Utilities Commission (BCUC). The Application requests approval to, among other things, establish a regulatory account (2018 Regulatory Account to Cover Incident Shortfall) in the amount of $22,079, and to recover this amount over a period of thirty-six months at a rate rider of $0.17481 per gigajoule (GJ). On July 30, 2018 (Exhibit B-2), Stargas revised its request to recover a $14,682 shortfall plus interest, with the revised rate rider of $12.270 per GJ if recovery commences in November 2018 or a revised rate rider of $0.13084 per GJ if recovery commences in November 2019;

B. By Order G-59-17 dated April 27, 2017, the BCUC approved, among other things, the current revenue requirements and delivery rate for the period November 1, 2016 to October 31, 2019 and directed Stargas to file its next application for a delivery rate by July 31, 2019;

C. By letter dated July 12, 2018 (Exhibit A-2), the BCUC invited parties to make submissions on: (i) the approval of the 2018 Regulatory Account to Cover Incident Shortfall; (ii) deferring until the next delivery rate application the review of the costs and rate rider proposed in the Application; and (iii) whether Stargas should be allowed to accrue interest on the regulatory account balance until 2019 rates have been set;

D. A submission was received from the Silver Star Property Owners Association (SSPOA) by letter dated July 25, 2018 (Exhibit C1-1) and a reply submission from Stargas on July 30, 2018 (Exhibit B-2);

E. On July 30, 2018, Stargas submitted a confidential letter, filed as Exhibit B-2-1 on the evidentiary record. On August 3, 2018, the BCUC denied Stargas' request for confidentiality as the only issue relating directly to the Application were comments regarding the incident shortfall and the comments did not meet the BCUC's guidelines pertaining to confidential filings as set out in Part 4.0 of the BCUC's Rules of Practice and Procedure attached as Appendix A to Order G-1-16. In accordance with Section 22.01 of the BCUC's Rules of

Practice and Procedure, the BCUC allowed Stargas the opportunity to make submissions as to what should be done with the document, including the ability to withdraw the document;

F. On August 6, 2018, Stargas requests by letter (Exhibit B-4) that the document previously filed as Exhibit B-2-1 be permanently withdrawn and removed from the proceeding record. In Exhibit B-4, Stargas also provides further comments on the BCUC's request for submissions (Exhibit A-2); and

G. The Panel has reviewed the Application and the related submissions and determines that certain approvals and directives are warranted.

NOW THEREFORE pursuant to sections 59 to 61 of the *Utilities Commission Act* and for the reasons attached as Appendix A to this order, the British Columbia Utilities Commission orders as follows:

1. The establishment of the 2018 Regulatory Account to Cover Incident Shortfall to record the actual incident costs incurred in excess of recoveries associated with the June 6, 2017 incident is approved.
2. Stargas' request to establish a rate rider to cover its costs related to the incident is denied. The review and approval of the costs and determination of the recovery mechanism will be considered in the review of Stargas' 2019 delivery rate application.
3. Stargas is directed to file specific supplemental information related to the 2018 Regulatory Account to Cover Incident Shortfall in its 2019 delivery rate application, as outlined in the reasons for decision attached as Appendix A to this order.
4. Interest is to be applied to the balance in the 2018 Regulatory Account to Cover Incident Shortfall based on Stargas' approved weighted average cost of capital.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of August 2018.

BY ORDER

Original Signed By:

K. A. Keilty
Commissioner

Attachment

Stargas Utilities Ltd.
2018 Application for a Regulatory Account to Cover Incident Shortfall

REASONS FOR DECISION

1.0 Background and approvals sought

Stargas Utilities Ltd. (Stargas) is a natural gas utility in the Silver Star resort community located north-east of Vernon owned by CMI Holdings (1998) Inc. (CMI). Stargas received approval as a natural gas utility by British Columbia Utilities Commission (BCUC) Order C-4-00. As of May 31, 2018, Stargas had 294 customers and a rate base of less than $1 million.

FortisBC Alternative Energy Services Inc. (FAES) provides services pertaining to the operation of the utility, including: emergency standby and response; system maintenance; leak survey and remedial action; and meter servicing and replacement, as well as certain administrative functions under a ten-year contract expiring November 30, 2019 (Order G-93-09).

Okanagan Funding Ltd., a subsidiary of CMI, provides administrative and management services on an as-required basis at rates approved by the BCUC.

By letter dated May 28, 2018, Stargas seeks approval from the BCUC to establish a regulatory account and accompanying rate rider to recover the incident costs in excess of recoveries resulting from a line break on June 6, 2017 (Application). The Application requests approval to, among other things, establish a regulatory account (2018 Regulatory Account to Cover Incident Shortfall) in the amount of $22,079 and to recover this amount over a period of thirty-six months at a rate rider of $0.17481 per gigajoule (GJ). On July 30, 2018 (Exhibit B-2), Stargas revised its request to recover a $14,682 shortfall plus interest, with the revised rate rider of $12.270 per GJ if recovery commences in November 2018 or a revised rate rider of $0.13084 per GJ if recovery commences in November 2019.

Stargas states that on June 6, 2017, a contractor damaged the main gas line leading to the Stargas service area and, in response to safety concerns, Stargas' service provider, FAES, shut off the natural gas supply to the Stargas service area. Stargas requests approval to establish a regulatory account to record incident costs of restoring service to Stargas customers in excess of estimated recoveries.

2.0 Summary of submissions

Since delivery rates were already established for 2018 and to ensure regulatory efficiency and minimize cost, the BCUC requested by letter dated July 12, 2018 (Exhibit A-2) that the parties make submissions on:

(i) The approval of establishment of the 2018 Regulatory Account to Cover Incident Shortfall for actual incident costs incurred;

(ii) The consideration of deferring the review of the justification for the costs and proposed recovery mechanism to Stargas' upcoming 2019 delivery rate application; and

(iii) Whether Stargas should be allowed to accrue interest on the regulatory account balance until 2019 rates have been set.

SSPOA's July 25, 2018 submission (Exhibit C1-1)

SSPOA agrees with the BCUC's proposal to defer consideration of the requested costs until the 2019 delivery rate application and supports Stargas' recovery of interest on any legitimate and reasonable costs incurred.

SSPOA submits that at that time, it would expect the BCUC to assess the reasonableness for Stargas to accept the stated costs incurred before any costs are passed onto ratepayers. SSPOA also supports a short review of the applied for direct and indirect costs, and finds that the burden of proof continues to fall on Stargas or otherwise this lowered regulatory risk should be reflected in a reduced return on equity for Stargas.

SSPOA further submits that Stargas' 15.25 hours dedicated to drafting correspondence and filing this Application appear excessive, which is in addition to certain administrative costs already approved in Stargas' most recent rate application.

Stargas reply submission (Exhibit B-2)

Stargas submits that BCUC's deferral of a decision on the applied for costs would unnecessarily complicate the 2019 delivery rate application and require all parties to revisit the details again. Stargas also submits that the deferral mechanism with interest applied is detrimental to ratepayers as it increases the rate rider. While SSPOA acknowledges that interest is to be applied to the deferral account, Stargas submits this should be calculated based on Stargas' weighted average cost of capital.

In its reply submission, Stargas amends the estimated incident costs to $14,682, including $9,921 in direct costs and $4,761 in indirect costs, as a result of the contractor's insurer causing the incident: increasing its settlement offer by $5,000 and thereby reducing the unrecovered amount incurred by FAES on Stargas' behalf.

Stargas states that the incremental interest will be $322 if recovery commences in November 2018 (rate rider at $0.12270 per GJ) or an incremental interest of $1,318 if recovery commences in November 2019 (rate rider at $0.13084 per GJ).

Stargas makes reference to executive hours which were reduced from 171 hours to 94 hours in accordance with Order G-59-17 and claims that it incurred 33 hours of total indirect costs related to this proceeding, or the $4,761 amount revised above. Stargas further submits it is inefficient and unnecessary to bring these matters to further debate.

Stargas' August 6, 2018 submission (Exhibit B-4)

Stargas submits that it had not provided comments on the considerations raised by the Panel in a helpful manner to the BCUC in its letter filed on July 30, 2018 (Exhibit B-2). Further, Stargas submits that although Exhibit A-2 established a deadline of August 2, 2018 for Stargas' comments on the Panel's considerations, its August 6, 2018 submission should be accepted as no prejudice to SSPOA is likely to result from an extension of one business day.

Stargas submits its request to establish the regulatory account for actual incident costs should be approved as its evidence may be readily corroborated by third parties, and relates to expenditures already made. Stargas further submits that "[e]stablishment of a regulatory account is a well-established regulatory practice for treatment of specific categories of costs and should be seen as having a neutral impact on ratepayers as the determination whether or not to allow recovery of recorded expenditures is a separate step."[1]

[1] Exhibit B-4, p. 2.

Stargas submits that deferring the review of the justification for the incident costs and proposed recovery mechanism to Stargas' upcoming 2019 delivery rate application would be inefficient and inappropriate for several reasons:

1. Evidence justifying the incident costs is currently on the record, conveniently available and has already been reviewed by the BCUC and SSPOA;
2. Stargas' evidence of the reasonableness of the incident costs is compelling and verifiable;
3. Deferring review of the incident costs for more than one year will also be certain to hamper any required efforts to corroborate Stargas' evidence related to those expenditures; and
4. If the accrual of interest on the incident costs regulatory deferral account is allowed, deferring the review of the justification for those costs by a year or more would increase the total rate impact on Stargas' ratepayers.

Stargas confirms its position in the Application that a rate rider would be the most appropriate form of recovery for any balance approved by the BCUC.

With respect to interest costs, Stargas notes that SSPOA supports the recovery of interest on any legitimate and reasonable costs incurred and submits that interest on the regulatory account balance should be accrued at Stargas' weighted average cost of capital, which is consistent with previous BCUC orders related to Stargas.

SSPOA's August 15, 2018 submission (Exhibit C1-2)

SSPOA submits that Stargas' August 6, 2018 submission (Exhibit B-4) deviates from the process outlined in the BCUC's July 12, 2018 letter requesting submissions (Exhibit A-2). Therefore, SSPOA submits that the "supplemental reply is unfair and should therefore be rejected."[2]

SSPOA also submits that since BCUC permission was not sought, the costs associated with the August 6, 2018 submission should be borne by Stargas shareholders. Additionally, SSPOA states that requiring Stargas customers to pay for these costs unduly discourages customers' participation in BCUC processes.

SSPOA submits it has not seen adequate evidence justifying Stargas' claim and reiterates its view that the issue should form part of the next delivery rate proceeding.

3.0 BCUC determination

The Panel approves the establishment of the 2018 Regulatory Account to Cover Incident Shortfall to record the actual incident costs incurred in excess of recoveries associated with the June 6, 2017 incident.

Stargas' request to establish a rate rider to cover its costs related to the incident is denied. The review and approval of the costs and determination of the recovery mechanism will be considered in the review of Stargas' 2019 delivery rate application.

The Panel approves interest is to be applied to the balance in the 2018 Regulatory Account to Cover Incident Shortfall based on Stargas' weighted average cost of capital.

[2] Exhibit C1-2, p. 1.

The Panel finds that Stargas has provided sufficient evidence to support that the incident and the related incident costs are consistent with relevant considerations set out in the BCUC's Regulatory Account Filing Checklist as follows:

- The incident costs were not included or contemplated in the forecasts used to set rates for the 2018 test period;
- The incident was outside the control of management; and
- The incident relates to an unforeseeable event.[3]

Accordingly, it is just and reasonable to establish a regulatory account to capture actual incident costs in excess of recoveries for potential future recovery from ratepayers.

The Panel agrees with Stargas' view that approval to establish the account is a separate step from determining whether or not to allow recovery of recorded expenditures. Since the approval of the amount to be recovered and the mechanism for recovery of approved amounts in delivery rates is a separate matter, the Panel must determine the most cost-effective and efficient regulatory process while ensuring procedural fairness for all parties.

The Panel is not persuaded that deferring the review of the justification for the incident costs and proposed recovery mechanism to Stargas' upcoming 2019 delivery rate application would be "inefficient and inappropriate." While Stargas has provided initial and updated evidence related to the amounts requested and recovery mechanism proposed, this evidence has not yet been subject to information requests from BCUC staff and SSPOA. The Panel does not agree that sufficient evidence justifying the incident costs is currently on the record and been reviewed by the BCUC and SSPOA. The Panel finds that further review of the evidence is necessary to ensure procedural fairness and to inform the BCUC's decision.

Given that further process is necessary, in the Panel's view it is reasonably possible that the cost and effort associated with reviewing the incident costs and recovery mechanism separately from the 2019 delivery rate application will exceed the total amount of interest that would otherwise need to be recovered from ratepayers due to deferring the review of these matters. Also, the consideration of alternatives to the proposed rate rider recovery mechanism, such as including the amortization of the 2018 Regulatory Account to Cover Incident Shortfall account as a component of delivery rates, are more efficiently considered as part of Stargas' next delivery rates application.

In order to ensure an efficient review of these items in the Stargas' 2019 delivery rate application, **Stargas is directed to file the following supplemental information as part of its 2019 delivery rate application:**

- Clarification of the actual location of the incident: whether the damage took place outside of Stargas' service area or in the system not actually owned by Stargas.
- Description of the actions Stargas has taken to resolve the incident issue with the contractor causing the damage (either with or without the assistance with FAES).
- Clarification of whether the direct costs incurred ($9,921) and claimed by Stargas in this Application is a result of direct contractor damages or whether they are indirect costs associated with relighting pilots in Stargas' service area.

[3] http://www.bcuc.com/Documents/Guidelines/2017/05-03-2017_RegulatoryAccountFilingChecklist.pdf.

- Discussion and interpretation of the contractual relationship with FAES. Specifically, any parts of the service agreement with FAES that are (or are not) applicable to this incident (sections relating to emergency situations, indemnity, etc.).
- Discussion of the utilization of alternative recovery mechanisms of the 2018 Regulatory Account to Cover Incident Shortfall balance (including supporting calculations): i) amortizing the deferral balance into 2019 delivery rates; ii) amortizing the deferral balance over 2019 and 2020 delivery rates; and iii) using a rate rider with recovery over 12 and 24 months.
- Detailed supporting documentation for the final costs, direct and indirect, incurred by Stargas related to the incident. Stargas is specifically directed to identify costs associated with its August 6, 2018 submission separately from other direct and indirect costs.

In the Panel's view, timely preparation of this supplemental information will address Stargas' concerns that deferring review of the incident costs will hamper any required efforts to corroborate Stargas' evidence related to those expenditures.

With respect to interest costs, the Panel agrees with Stargas that interest on the 2018 Regulatory Account to Cover Incident Shortfall balance should be accrued at Stargas' weighted average cost of capital based on consistency with previous BCUC orders related to Stargas. Given that Stargas is approved to recover a fair return on actual approved incident costs, the Panel finds it is not unduly disadvantaged by deferring the matter until the 2019 delivery rate application.

The Panel notes SSPOA's objection to Stargas' August 6, 2018 submission (Exhibit B-4) and the reiteration of its view that the issue should form part of the next delivery rate proceeding. However, the Panel agrees with Stargas that its initial submission did not provide comments on the submissions requested by the Panel in a helpful manner to the BCUC. Given that the Panel's decision is consistent with SSPOA's submission, acceptance of Stargas' August 6, 2018 submission is not prejudicial to SSPOA.