

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-28-08**



SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3 CANADA
web site: <http://www.bcuc.com>

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

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

and

An Application for a Participant Assistance / Cost Award
Regarding an Application by Pacific Northern Gas Ltd.
for Approval of a Term Sheet Between Pacific Northern Gas Ltd. and LNG Partners LLC

BEFORE: L.F. Kelsey, Commissioner

December 19, 2008

O R D E R

WHEREAS:

- A. On September 25, 2008, Pacific Northern Gas Ltd. ("PNG") filed with the British Columbia Utilities Commission (the "Commission") a Term Sheet (the "Term Sheet") describing a proposed natural gas transportation agreement between PNG and LNG Partners LLC ("LNG Partners"). The Term Sheet, and a supplementary PNG submission (the "Submission"), proposed an agreement to transport natural gas over the PNG system to a floating Liquid Natural Gas ("LNG") terminal to be operated by LNG Partners in the vicinity of Kitimat, BC; and
- B. The Term Sheet proposed that LNG Partners would pay a non-refundable fee of \$1.5 million ("Initial Option Fee") for transportation services over the PNG network. Services to LNG Partners would utilize currently unused PNG capacity. The option allowed LNG Partners a period of six months, commencing from the date of Commission approval of the Term Sheet (the "Option Period"), to contract for firm pipeline capacity on PNG's pipeline system, for at least 75 MMcf/day; and
- C. The Option Period could be extended for a further six month period in consideration of the payment by LNG Partners to PNG of an additional non-refundable fee of \$1.5 million ("Option Extension Fee"); and
- D. If LNG Partners exercised its option to contract for firm gas service, PNG would file with the Commission a fully-executed, definitive firm gas transportation service agreement that is materially the same as the agreement contemplated under the Term Sheet. The Term Sheet proposed a unity demand charge of \$0.50/GJ, applicable during the initial 3 to 5 year term, to be escalated by inflation for an optional second term. LNG Partners would supply four percent of their gas requirements to PNG for pipeline operations; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-28-08**

2

- E. The Submission proposed that the Commission approve recovery from the Option Fee and Option Extension Fee, and eventually from any annual firm revenue from LNG Partners, the foregone return to date on facilities previously deactivated as a result of the loss of load and revenue due to the closure of the Methanex methanol/ammonia plant in November 2005; and
- F. On October 2, 2008, Commission Order G-149-08 established an initial regulatory review process. The process included one round of Information Requests from the Commission and Registered Intervenors, and invited Interested Parties to make written submissions on the subsequent regulatory review process. The Order requested Interested Party input on the process for considering the allocation of revenues from LNG Partners: whether they should be severed from the request for Commission approval of the Term Sheet, and instead be considered as part of the proceeding to review PNG's next rate design application; and
- G. By letter dated October 7, 2008, PNG submitted that the Commission's preliminary regulatory timetable would provide more than enough time for all interested parties to fully address the revenue allocation between customers and shareholders based on the foregone return proposal that was initially proposed by PNG in its 2006 Revenue Requirements Application. PNG also proposed a timetable for the balance of the regulatory proceedings; and
- H. By letter dated October 9, 2008, the British Columbia Old Age Pensioners Organization et al. ("BCOAPO") registered as an Intervenor and submitted that the Term Sheet should be considered first, with any revenue allocations left to a subsequent rate proceeding. BCOAPO also expressed concerns regarding the treatment of both depreciation and proposed returns related to PNG assets that are currently idle; and
- I. Information Requests were submitted to PNG by the Commission on October 9, 2008 and by BCOAPO on October 20, 2008. On October 31, 2008, PNG responded to the Information Requests of BCOAPO and the Commission; and
- J. On November 6, 2008, Commission Order G-163-08 established that the Term Sheet would be reviewed through a Written Hearing. The Commission determined that issues concerning the Option Fee revenues and cost matters related to deactivated PNG assets will be reviewed by the Commission as part of the next PNG Revenue Requirements proceeding; and
- K. On November 13, 2008, BCOAPO submitted its comments concerning the Term Sheet. Overall, BCOAPO supported approval of the proposed Term Sheet. BCOAPO expressed concern relating to the possibility that, should future capacity expansion be necessary as the result of services to LNG Partners, the rate impact on existing customers could negate any benefits associated with the project. BCOAPO requested PNG's assurance that no such risk existed be incorporated into the Commission decision. BCOAPO also observed that the inflation factor applicable to the LNG Partners' demand charge had not been determined, and advocated the use of compounded inflation; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-28-08**

3

- L. On November 17, 2008, PNG made its final submission in support of the Application. PNG submitted that approval of the Term Sheet must be made without specifying a rate making principle that would somehow be applied by the Commission in subsequent proceedings. PNG acknowledged BCOAPO's comments regarding the use of compounding in the eventual inflation factor. PNG stated its intention to be mindful of that point in negotiating the service agreement with LNG Partners; and
- M. By Order G-174-08 dated November 27, 2008, the Commission approved the Term Sheet, subject to a set of conditions; and
- N. On November 24, 2008, BCOAPO applied for a cost award regarding its participation in the negotiated settlement process; and
- O. The Commission has reviewed the application for cost award with regard to the criteria and rates set out in Order G-72-07.

NOW THEREFORE pursuant to Section 118(1) of the Utilities Commission Act, the Commission awards \$2,320.50 to BCOAPO for its participation in the application by Pacific Northern Gas Ltd. for approval of a Term Sheet between Pacific Northern Gas Ltd. and LNG Partners LLC.

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of December 2008.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner