

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3
CANADA



BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-101-97

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

The Commission's Rules for Energy Supply Contracts for Natural Gas

BEFORE: L.R. Barr, Deputy Chair and)
Acting Chair) September 25, 1997
P. Bradley, Commissioner)

O R D E R

WHEREAS:

- A. The Commission issued Rules for Energy Supply Contracts for Natural Gas (the "Rules") in conjunction with its July 7, 1995 Review of Buy/Sell Deliveries of Natural Gas to the Core Market; and
- B. The Rules require that core market direct purchasers submit gas supply contracts to the Commission for approval, and that an Agent/Broker/Marketer ("ABM") who serves core market direct purchasers apply to the Commission for a licence. These requirements apply whether the customers are buying gas directly using a transportation service arrangement, or are under a buy/sell arrangement; and
- C. The Rules consider core market purchasers to be those consumers who require gas mainly for space heating and exclude those who have alternative fuel capabilities or use gas mainly for manufacturing; and
- D. Commission Order No. G-87-96, dated September 4, 1996, approved Rate Schedule 3 for Pacific Northern Gas Ltd. to provide Commercial Firm Transportation Service to its customers; and
- E. Commission Order No. G-98-96, dated October 17, 1996, approved Rate Schedule 23 for BC Gas Utility Ltd. to provide Commercial Transportation Service to customers using more than 2000 GJ of firm gas per year; and
- F. Discussions with gas utilities and gas marketers indicate that large commercial transportation service customers are generally capable of assessing the potential benefits and liabilities that may result from direct purchase options that are offered to them; and

- G. An ABM, whether licensed or not, is expected to conduct its activities in accordance with the Code of Conduct for Agents/Brokers/Marketers that was approved by Commission Order No. G-49-93 (the "ABM Code of Conduct"), including Article 12 which requires that potential customers be fully and accurately informed about the characteristics of any offer; and
- H. The Commission has considered the foregoing and has decided that, for the 1997/98 gas contract year, it is in the public interest to reduce the level of regulatory supervision that applies to direct purchases by large core market customers.

NOW THEREFORE the Commission orders as follows:

1. Direct purchase consumers who use 2,000 GJ of gas or more per year, and the ABM's who serve them, are exempted from the requirements to obtain an ABM licence and to file gas supply contracts for Commission approval.
2. The Rules, with the amendment highlighted, as set forth in Appendix I to this Order, are approved effective immediately.
3. The Commission will monitor and review the results of this reduction in regulatory supervision over the next year, and confirm whether the changes to the Rules will remain in effect after October 31, 1998.

DATED at the City of Vancouver, in the Province of British Columbia, this 30th day of September, 1997.

BY ORDER

Original signed by:

Lorna R. Barr
Deputy Chair and
Acting Chair

Attachment

BRITISH COLUMBIA UTILITIES COMMISSION **RULES FOR ENERGY SUPPLY CONTRACTS**

The following rules have been developed to facilitate the review by the Commission of energy supply contracts pursuant to Section 71 of the Utilities Commission Act. The review is to ensure that the terms of the contract are in the public interest having regard to the following:

- the quantity of the energy to be supplied under the contract;
- the availability of supplies of the energy;
- the price and availability of any other form of energy, including but not limited to petroleum products, coal or biomass, that could be used instead of the energy,
- in the case only of an energy supply contract that is entered into by a public utility, the price of the energy; or
- any other factor that the Commission considers relevant to the public interest.

NATURAL GAS SUPPLY CONTRACTS

In the case of natural gas supply contracts, the rules have been updated as a result of the continuing development of an efficient gas market in British Columbia.

1.0 GENERAL RULES for All Natural Gas Contract Categories

- 1.1 Under Section 71(1)(a), all natural gas purchasers in British Columbia, other than those purchasing exclusively from a gas utility, must file their supply contracts and all subsequent amendments with the Commission. Any approvals required by these rules should be obtained before delivery of natural gas occurs.
- 1.2 In the case of a buy-sell arrangement involving a gas supply contract between an agent/broker/marketer ("ABM"), on behalf of consumers, and a utility, the utility shall file the contract as part of its baseload portfolio. The Commission's approval of such a contract is subject to the ABM meeting the requirements of Section 3.0 of these rules.
- 1.3 Parties filing gas supply contracts with the Commission under Section 71, either directly or through an LDC, and wishing confidentiality, shall provide written justification as to why, in their view, it is in the public interest that the filed contract be kept confidential. Regardless of the Commission's ruling on confidentiality, price information is only required for utility gas supply contracts.
- 1.4 The reserves, deliverability and delivery arrangements supporting all gas supply contracts requiring approval shall be confirmed by independent third party expert review, or be backed by a corporate warranty from an appropriately qualified supplier which provides indemnification for substitute supply. The initial pre-approval review will be followed up with reviews at intervals as required by the Commission.

- 1.5 Where approval is required, the Commission will issue Orders approving all gas supply contracts which meet the requirements of these rules. Notwithstanding Commission approval, core market purchasers who contract for direct purchase of their natural gas supplies do so at their own risk of availability and price.
- 1.6 Purchasers who wish to displace direct purchases with utility purchases will be accommodated providing they give proper notice. Proper notice will require the customer to be on direct purchase for at least one year, and to give at least 60 days notice to be effective at the beginning of a calendar month. Where the purchaser has not given proper notice, the customer will be accommodated providing that the utility can contract sufficient gas and transportation to meet the additional load and, providing the purchaser assumes responsibility for any resulting incremental LDC costs that are approved by the Commission.
- 1.7 Notwithstanding 1.1 above, purchasers who have satisfied Commission requirements for long-term supply security as per Section 2.0 below and who wish to operate in the "spot" market will be permitted to make special arrangements with the Commission to facilitate timely approvals. Where feasible, this will consist of a verbal request for approval in advance of gas flow followed by filing of an executed contract as soon as possible thereafter. Daily and other short-term spot purchases may require filing of the purchaser's buying procedures and criteria, to be followed by timely filings of purchase contracts and reports of actual purchases.
- 1.8 It is the intention of the Commission to review and approve contracts expeditiously, normally without the requirement for a hearing. It is also the Commission's intention to avoid retroactive Orders. The hearing process, pursuant to Section 71(2) of the Act, will become necessary where the Commission initially determines that the contract may not be in the public interest. A hearing could also be required as a result of a third-party complaint.
- 1.9 The Commission may reconsider the duration of energy supply commitments required by Section 2.0 as gas supply market conditions change. Any change would be prospective and it is the Commission's intent that parties honour existing contracts.

2.0 SPECIFIC CONTRACT RULES by Category of Purchaser

2.1 Purchasers not Subject to Full Review

The Commission will require purchasers in this category to provide the Commission with a statutory declaration which confirms their alternative fuel capability, their use of natural gas mainly for manufacturing purposes rather than space heating, **or their normal use of 2000 GJ of gas or more per year.** If these purchasers have been buying gas on a non-core basis, or were previously sales customers of the LDC **under rate schedules that confirm compliance with the criteria for this category,** no statutory declaration will be required.

Purchasers in this category need only file a copy of their gas supply contracts and all subsequent amendments with the Commission. No approval will be required or issued.

2.2 Utility and Core Market Direct Purchasers

Utilities, and all core market direct purchasers **that normally use less than 2000 GJ per year** must submit gas supply contracts to the Commission for approval, together with all other related contracts which support the gas supply and any information required by 1.4 above. Each gas supply contract shall provide for:

- 2.2.1 in the case of baseload gas supply contracts, a minimum one year term and supply commitment and a minimum 60-day notice period for the supplier to terminate or extend the contract (and, in the case of new seasonal and peaking contracts, equivalent term and termination notice provisions); and
- 2.2.2 in the case of each portfolio, sufficient supply to meet the purchasers' 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; and
- 2.2.3 diversity of supply including where possible a range of suppliers positioned behind alternative processing facilities, or backstopping arrangements; and
- 2.2.4 in the case of utilities only, a prudent combination of terms, conditions, and price.

3.0 RULES PERTAINING to ABMs

3.1 Code of Conduct

All ABM's will be required to comply with the Code of Conduct for Agents/Brokers/Marketers that is approved by the Commission.

3.2 Licensing

Any person intending to act in the capacity of an ABM in order to provide advice to, or act on behalf of, core market consumers **that normally use less than 2000 GJ per year and who are** purchasing gas directly either under T-Service or a buy-sell arrangement will be required to apply to the Commission for a licence. Licences will be issued subject to receipt of a \$100 fee and compliance with the following requirements.

Persons acting as ABM's on their own behalf and purchasing gas solely for their own use and who are not selling to third-party core market consumers, will not be required to comply with Rules 3.3, 3.5, 3.6, and 3.9.

3.3 Bonding

In order to receive a licence, the ABM will be required to post a gas delivery performance bond of \$250,000. The Commission may waive the requirement to post a bond if the ABM is delivering gas exclusively using non-bundled transportation service.

3.3 Code of Conduct

Failure to comply with the **approved** Code of Conduct will result in the licence being revoked.

3.4 Standard Form of Gas Supply Contract

Licensees will be required to incorporate, in their contracts with gas suppliers, all clauses relating to security of supply from the buy/sell gas supply contract between the ABM and the utility approved by the Commission.

3.5 Disclosure Statement and Appointment of Agent Form

It is expected that the arrangements between end-use consumers and ABM's will require the use of some form of "agency agreement". Licensees will be required to receive Commission approval of their form of agreement. The Commission's review of such agreements will not require all agreements to be identical, but will focus on certain key requirements which shall include a minimum term of one year, and confirmation that the consumer understands the risks associated with direct gas purchases. **Different forms of agreement may be appropriate for different categories of customers.**

3.6 Standard Information Booklet

The Commission requires each gas distribution utility, in co-operation with ABM's, to develop a standard information booklet for their service area which outlines the procedures for direct purchase, and which discloses potential benefits and costs of direct purchase.

The Commission will require Licensees to distribute these booklets to all prospective clients and to include reference to the Booklet in their Disclosure Statement and Appointment of Agent Form.

3.7 Administration Fees and Minimum Contract Volumes

The commission will require utilities to collect fees to cover the cost of buy-sell administration. Initially the fee shall be \$150/gas supply contract per month plus \$6/customer account per year. Fees will be subject to periodic review by the Commission. The Commission may require minimum contract volumes if such action becomes necessary in future.

3.8 Requirements for Assignment of Westcoast Transmission Capacity

An LDC will provide Westcoast Zone 4 transportation capacity to an ABM when it is able to do so. Where Zone 4 capacity is available from the LDC, it shall be used. Where an ABM holds Zone 4 and has been using it to serve core market customers, but no longer needs it to serve these customers, and it would otherwise be returned to the Westcoast service queue, the ABM shall offer such capacity to the LDC on a right of first refusal basis.

3.9 Limitation on Direct Sales

Aside from buy-sell arrangements, no utility shall engage in the direct sale of natural gas other than through a non-regulated subsidiary which will be considered to be an ABM subject to these rules. The utility will be required to demonstrate a complete operational separation from any such subsidiary.