

LETTER NO. L-57-97



ROBERT J. PELLATT
COMMISSION SECRETARY

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. CANADA V6Z 2N3
TELEPHONE: (604) 660-4700
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VIA FACSIMILE

September 11, 1997

Mr. David M. Masuhara
Vice President,
Legal and Regulatory Affairs
BC Gas Utility Ltd.
1111 West Georgia Street
Vancouver, B.C.
V6E 4M4

Dear Mr. Masuhara:

Re: BC Gas Utility Ltd.
Homeworks Inc. Advertising Campaign for the New Finance Plan

The Commission has reviewed the correspondent received from BC Gas, the Heating Ventilating Cooling Industry Association of BC ("HVCI") and the Coalition of Gas Contractors, Manufacturers, and Suppliers Association ("the Coalition") concerning the Homeworks Inc. Advertising Campaign for the new finance plan. After review, the Commission finds that the changes to the advertising campaign proposed by BC Gas are sufficient to bring the campaign into accord with the Guidelines. Accordingly the Commission will not proceed further with the complaints.

The Commission wishes to remind BC Gas of the need for clarity in any advertising campaigns undertaken by it or a related NRB and that the use of the Utility name requires prior Commission approval.

Yours truly,

A handwritten signature in black ink, appearing to read "R. Pellatt", written over a horizontal line.

Robert J. Pellatt

CBL/cms
Enclosures

ROBERT J. PELLATT
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September 11, 1997

The Honourable Andrew Petter
Minister
Ministry of Finance and Corporate Relations
Room 248, Parliament Buildings
Victoria, B.C.
V8W 1X4

Dear Minister Peter:

Re: BC Gas Utility Ltd.
Homeworks Inc. Advertising Campaign for New Finance Plan

Please find attached a copy of the letter which the Commission has sent to the Heating, Ventilating, Cooling Industry Association of B.C. ("HVCI") and the Coalition of Gas Contractors, Manufacturers, and Suppliers Association ("the Coalition") concerning a complaint they made against the Homeworks Inc. Advertising Campaign for the new finance plan. Homeworks Inc. is a non-regulated business ("NRB") subsidiary of BC Gas Inc. Specifically, HVCI and the Coalition complained that the advertisements made reference to BC Gas in a manner which contravened the Commission's Retail Markets Downstream of the Utility Meter ("RMDM") Guidelines. The Guidelines require that any use of the utility name by an NRB requires prior Commission approval. The complaint was later extended to the use of the name 'Homeworks' by the NRB since the name had previously been used by the BC Gas as part of the name of a Utility Demand-Side Management program.

Commission staff investigated the complaint and found that the original advertisements made reference to BC Gas without specifying whether it was the Utility or the parent company. To the extent that the reference was to the Utility, this was a contravention of the Guidelines. After discussion with representatives of BC Gas, it was determined that the reference was meant to be to the parent company and that the lack of clarity was a result of the uncertainties associated with the movement to a deregulated

environment. Further BC Gas made immediate moves to change the advertisements make the reference clear and to ensure that similar situations do not arise in the future. Accordingly, the Commission has dismissed the complaint with respect to the use of the BC Gas name.

With respect to the use of the name 'Homeworks', this name is no longer being used by the Utility in any way. Accordingly, the Commission has dismissed this portion of the complaint as well.

The Commission does not expect that either HVCI or the Coalition will be satisfied with this response since they would prefer to see the use of the utility name by an affiliated NRB strictly prohibited. In this case, because the name of the parent company - BC Gas Inc. - is so close to the name of the Utility - BC Gas Utility Ltd. - the Commission expects that both groups would prefer that the restriction be extended to the name of the parent company as well. However, the Commission's understanding of the current law is that a company's name belongs to its shareholders and that the Commission's jurisdiction is limited to ensuring that it is not used in a way that is injurious to ratepayers.

The Commission is satisfied that it has acted in accord with its responsibility and within its jurisdiction.

If you wish to discuss this further, please contact our Executive Director, Bill Grant, at 660-4728.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. Pellatt', with a stylized flourish at the end.

Robert J. Pellatt

cms
Enclosures



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September 12, 1997

Mr. Dana Taylor
Executive Vice President
and Coalition Coordinator
Coalition of Gas Contractors,
Manufacturers and Suppliers Association
3210 Lake City Way
Burnaby, B.C.
V5A 3A4

Dear Mr. Taylor:

Re: BC Gas Utility Ltd.
Homeworks Inc. Advertising Campaign for the New Finance Plan

The Commission has reviewed the correspondent received from BC Gas, the Heating Ventilating Cooling Industry Association of BC ("HVCI") and the Coalition of Gas Contractors, Manufacturers, and Suppliers Association ("the Coalition") concerning the Homeworks Inc. Advertising Campaign for the new finance plan. After review, the Commission finds that the changes to the advertising campaign proposed by BC Gas are sufficient to bring the campaign into accord with the Guidelines. Accordingly the Commission will not proceed further with the complaints.

In reaching this decision, the Commission has been mindful of the jurisdiction it possesses with respect to the downstream retail market. As stated in the Guidelines, the Commission has the jurisdiction to regulate the relationship between a public utility and affiliated NRB to the extent that the relationship affects ratepayers. With respect to the use of the name, the Guidelines are clear that the Commission has accepted that the name, along with any value associated with the name, belongs to the shareholders of the utility, in this case BC Gas Inc., and not with ratepayers. Accordingly, the Commission can limit the use of the name only to the extent that the use negatively affects rate payers. With the changes proposed to the advertising campaign by BC Gas, it is unlikely that ratepayers will be negatively affected by the proposed campaign.

As indicated above, the Commission accepts that the name belongs to the shareholders of the utility, and BC Gas has confirmed this in recent correspondence dated September 4, 1997, attached for your information. As a result, the Commission can not ask that ratepayers be compensated for the use of an asset to which they are not entitled. Nor will the Commission require BC Gas Inc. to allow other parties to use the name on a similar basis to Homeworks Inc. since the name belongs to the parent company.

With respect to other issues raised in the correspondence, the Commission did implicitly grant permission to BC Gas Inc. to use the name "Homeworks" for their new completely arms length NRB when it approved the transfer of the financing plan from BC Gas Utility to Homeworks Inc.

With respect to the issue of monitoring the activity of the NRB as it impacts ratepayers, the Commission is requiring that all utilities provide the following information.

1. Identification of all current non-regulated business activities undertaken by the utility directly or by a related-NRB using some utility facilities or services.
2. Identification of any regulated activities which the utility currently provides but plans to provide on a non-regulated basis, either directly or through a non-regulated company, within the next three years.
3. Based on the items identified in item 2 above, a preliminary strategy for affecting the transfer of any items which the utility currently plans to move to unregulated provision within the next three years. If it is planned to use utility facilities or services in the provision of these services, either through a transition period or on a long term basis, this should be identified. In addition, the utility should provide an initial justification for why the use of utility facilities or services is acceptable.
4. A draft transfer pricing policy to apply to the provision of utility services and facilities to non-regulated activities. If exceptions to the policy are desired for any non-regulated activity, these exceptions should be clearly identified.
5. A draft code of conduct to apply to the provision of utility services and facilities to non-regulated activities. If exceptions to the code are desired for any non-regulated activity, these exceptions should be clearly identified.

The utilities are in the process of providing this information and it is being reviewed by Commission staff for acceptability. Further, as indicated in the Guidelines, utilities will be required to file periodic reports which the Commission will review for compliance with the Guidelines.

The Commission has the ability to establish specific punitive consequences for contravening the RMDM Guidelines. With regard to this case, the Commission does not find that the imposition of punitive consequences are warranted. The problems which were identified do not appear to have been a deliberate attempt to circumvent the Guidelines but rather were a transitional problem resulting from the move from a regulated utility to a non-regulated NRB environment. In addition, the Commission is satisfied that BC Gas is making every effort to ensure that these problems are corrected and will not occur in the future.

The Commission will be monitoring all the utilities for compliance with the Guidelines and will take all necessary action to protect ratepayers from the move to a deregulated environment.

Yours truly,



Robert J. Pellatt

CBL/cms
Enclosure

cc: Mr. David M. Masuhara, Vice President,
Legal and Regulatory Affairs
BC Gas Utility Ltd.

BC Gas Utility Ltd.

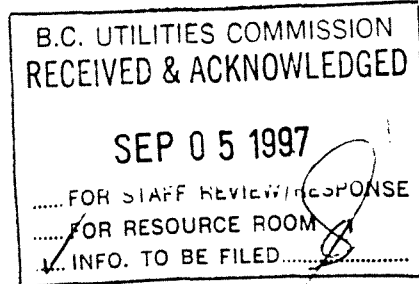
1111 West Georgia Street
Vancouver, British Columbia
Canada V6E 4M4

Tel (604) 443-6607
Fax (604) 443-6789

David M. Masuhara
Vice President
Legal & Regulatory Affairs
and Secretary



September 4, 1997



VIA FAX 660-1102
AND COURIER

BRITISH COLUMBIA UTILITIES COMMISSION
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Mr. Robert J. Pellatt

Dear Mr. Pellatt:

Re: HVCI letter dated August 29, 1997 regarding BC Gas and the "Homeworks"
Program Advertising Campaign

The purpose of this letter is to clarify the use of the name 'Homeworks' by BC Gas Inc. and BC Gas Utility Ltd.

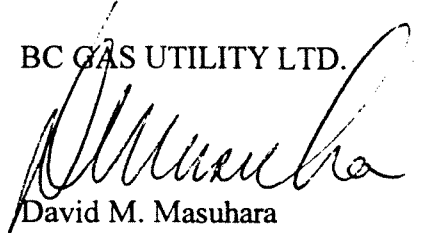
Homeworks Inc. is the company name of a stand alone NRB which is wholly owned by BC Gas Inc., not BC Gas Utility Ltd. The shareholders of BC Gas Inc. own the 'Homeworks' name as part of the goodwill of the Company.

With the removal of the Home Energy Retrofit Program from the Utility, BC Gas Utility Ltd. no longer uses the name 'Homeworks' for any Utility sponsored programs. This includes the Utility sponsored magazine which no longer uses 'Homeworks' as the title. Any use of the name 'Homeworks' in the Utility has been limited in the past, resulting in a very small awareness level by customers.

We trust this clarifies the use of the 'Homeworks' name by BC Gas Inc. and BC Gas Utility Ltd. If further discussion on this matter is required, please contact Brett Hodson at 443-6484 or the writer at your convenience.

Yours truly,

BC GAS UTILITY LTD.


David M. Masuhara

DMM/BTH/brm

cc: B.T. Hodson



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COMMISSION SECRETARY

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VIA FACSIMILE

September 12, 1997

Ms. Nelle Maxey
Manager
Heating Ventilating Cooling Industry
Association of B.C.
1860 Grant Street
Vancouver, B.C.
V5L 2Y8

Dear Ms. Maxey:

Re: BC Gas Utility Ltd.
Homeworks Inc. Advertising Campaign for the New Finance Plan

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cc: Mr. David M. Masuhara, Vice President,
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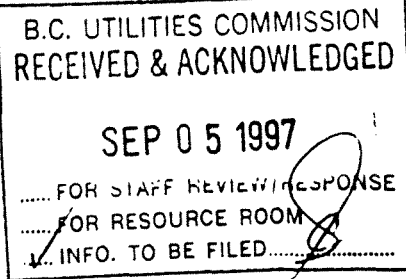
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Fax (604) 443-6789

David M. Masuhara
Vice President
Legal & Regulatory Affairs
and Secretary



September 4, 1997



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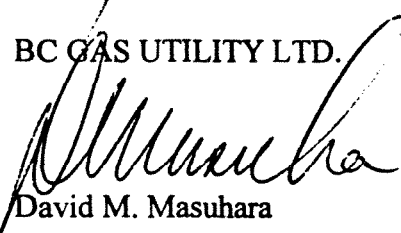
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BC GAS UTILITY LTD.


David M. Masuhara

DMM/BTH/brm

cc: B.T. Hodson