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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-70-04

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

and

**An Application by Pacific Northern Gas Ltd.
to Recapitalize under an Income Trust Ownership Structure**

BEFORE: L.A. Boychuk, Panel Chair)
and Commissioner)
R.J. Milbourne, Commissioner) July 29, 2004
N.F. Nicholls, Commissioner)

O R D E R

WHEREAS:

- A. On November 28, 2003, Pacific Northern Gas Ltd. ("PNG") filed for approval its 2004 Revenue Requirements Application to amend its rates on an interim and final basis, effective January 1, 2004, pursuant to Sections 89 and 58 of the Utilities Commission Act ("the Act"); and
- B. By Order No. G-85-03 dated December 18, 2003, the Commission approved an interim rate increase in the delivery rates for all classes of customers, except Methanex Corporation, effective January 1, 2004 subject to refund with interest and scheduled a Pre-hearing Conference ("PHC") in Vancouver to be held on January 16, 2004 to address procedural matters related to the Application; and
- C. Previously, by Order No. G-71-03, the Commission approved the acquisition by Tricor Acquisition (STP) Inc. of a reviewable interest in PNG and in its subsidiary Pacific Northern Gas (N.E.) Ltd. from Westcoast Energy Inc. In that application PNG advised that it may file an application in late December 2003 or early January 2004 to convert PNG to an income trust structure; and
- D. At the PHC, PNG provided an update on its anticipated application and indicated that it would be filed on or about January 23, 2004; and
- E. Following the PHC, the Commission determined that an oral public hearing should be held and that it would be practical and appropriate to review, during this oral proceeding, both the PNG 2004 Revenue Requirements Application and the Recapitalization Application that PNG planned to file and, by Order No. G-12-04 dated January 26, 2004, the Commission established a Regulatory Timetable for an oral public hearing to consider both applications; and
- F. PNG filed its application to recapitalize under an income trust ownership structure ("Recapitalization Application") on January 30, 2004; and

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- G. The Commission suspended the Regulatory Timetable established under Order No. G-12-04, when PNG's responses to the Commission and Intervenor information requests and the update to the Revenue Requirements Application ("IRRs and Update") were not filed by the deadline of February 18, 2004; and
- H. Subsequent to PNG's filing on February 24, 2004 of the IRRs and Update, the Commission, by Order No. G-22-04 dated February 25, 2004, issued a new Regulatory Timetable for the oral public hearing to commence March 31, 2004 in Terrace, B.C. and to resume in Vancouver, B.C. on April 13, 2004; and
- I. The oral public hearing of the Recapitalization Application was held in Vancouver on April 13 and 14, 2004; and
- J. At the conclusion of the oral public hearing on April 14, 2004, the Commission Panel accepted a schedule proposed by the parties for written argument on the applications; and
- K. The Commission has considered the Recapitalization Application, evidence and argument and, based on the reasons articulated in the Decision issued concurrently with this Order, has determined that PNG's Recapitalization Application should not be approved.

NOW THEREFORE the Commission orders that the Application to Recapitalize PNG under an Income Trust Ownership Structure is denied.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of July 2004.

BY ORDER

Original signed by:

Lori Ann Boychuk
Panel Chair and Commissioner