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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER P-1-06**

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**IN THE MATTER OF
the Pipeline Act, R.S.B.C. 1999, c. 364**

and

**An Application by Terasen Pipelines (Jet Fuel) Inc.
for Approval of 2005 and 2006 Tolls on the Jet Fuel Pipeline**

BEFORE: L.F. Kelsey, Commissioner
L.A. Zaozirny, Commissioner August 10, 2006

O R D E R

WHEREAS:

- A. By letter dated January 27, 2006, Terasen Pipelines (Jet Fuel) Inc. ("Terasen (Jet Fuel)") requested that the current 2005 interim tolls approved by Commission Order No. P-2-05 be set as permanent effective January 1, 2005 and that interim 2006 tolls be set effective February 1, 2006 based on the current cost of service plus an increase to recover a 2005 shortfall of \$140,000 (the "2005-06 Toll Application"). Terasen (Jet Fuel) planned to meet with its Shippers to review the proposed 2006 final tolls and the method of dealing with any overage or shortfall during the interim toll period; and
- B. By letter dated February 1, 2006, the Vancouver Airport Fuel Facilities Corporation (the "Airlines") supported setting the current tolls as final for 2005 but considered that the 2006 tolls should be set as interim at the current level due to insufficient information to justify the 2006 toll increase, all cost items underlying the 2006 tolls need to be justified, throughput is expected to increase in 2006, Terasen (Jet Fuel) took an unreasonable amount of time to finalize the 2005 tolls and the 2006 toll application should have been filed in the fall of 2005; and
- C. By letter dated February 17, 2006, Terasen (Jet Fuel) replied to the Airlines' submission that the 2005-06 Toll Application was issued as a package for finalizing 2005 tolls and setting 2006 interim tolls, the 2005 shortfall is due to decreased throughput, the 2005 shortfall represents approximately 30 percent of expected earnings and no 2006 throughput forecasts have been shared with Terasen (Jet Fuel); and
- D. On April 25, 2006, the Commission issued an Information Request to Terasen (Jet Fuel) regarding the 2005-06 Toll Application and established a timetable for an information response, Shippers' submissions and a Terasen (Jet Fuel) reply. No Shipper submissions were received on the information response; and
- E. The Commission has reviewed the 2005-06 Toll Application and the information responses and finds that the setting of 2005 and 2006 tolls is warranted.

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NOW THEREFORE pursuant to Section 44 of the Pipeline Act the Commission orders as follows:

1. The Commission approves for Terasen (Jet Fuel) the interim 2005 tolls on the Jet Fuel Pipeline established by Order No. P-2-05 as permanent effective January 1, 2005, subject to review in the event of a complaint within 60 days of this Order.
2. The Commission approves for Terasen (Jet Fuel) the current tolls on the Jet Fuel Pipeline as interim effective February 1, 2006, subject to review in the event of a complaint within 60 days of this Order.
3. The Commission will accept, subject to timely filing by Terasen (Jet Fuel), an amended Turbine Fuel Tariff that reflects the permanent tolls effective January 1, 2005 and interim tolls effective February 1, 2006 approved by this Order. A copy of the Order and approved Tariff is to be sent to all Terasen (Jet Fuel) Shippers on the Jet Fuel Pipeline.
4. That all directions given in the Reasons for Decision, attached as Appendix A, shall be followed by Terasen (Jet Fuel).

DATED at the City of Vancouver, in the Province of British Columbia, this 16th day of August 2006.

BY ORDER

Original signed by

L.F. Kelsey
Commissioner

Attachment

TERASEN PIPELINES (JET FUEL) INC.
Application for Approval of 2005 and 2006 Tolls on the Jet Fuel Pipeline

REASONS FOR DECISION

1.0 THE APPLICATION

By letter dated January 27, 2006, Terasen Pipelines (Jet Fuel) Inc. (“Terasen (Jet Fuel)”) requested that the current 2005 interim tolls approved by Commission Order No. P-2-05 be set as permanent effective January 1, 2005 and that interim 2006 tolls be set effective February 1, 2006 based on the current cost of service plus an increase to recover a 2005 shortfall of \$140,000 (the “2005-06 Toll Application”). Terasen (Jet Fuel) indicated that it planned to meet with its Shippers to review the proposed 2006 final tolls and the method of dealing with any overage or shortfall during the interim toll period.

2.0 BACKGROUND

By Order No. P-3-98 the Commission approved an incentive toll agreement that included a methodology for calculating the revenue requirement for Terasen (Jet Fuel) (formerly Trans Mountain Enterprises of British Columbia Limited) for the years 1998 to 2002 inclusive, subject to review in the event of a complaint (the “Incentive Toll Agreement”). The Incentive Toll Agreement established a revenue requirement for 1998, adjusted in subsequent years for inflation, and identified other potential adjustments, with Shippers taking the risk on all throughput volumes and a 50/50 sharing mechanism for annual earnings above a threshold. The Incentive Toll Agreement also deemed that the annual tolls for each year of 1998 to 2002 were to be interim effective January 1st in each year pending an annual tariff filing on or before March 1st in each year to be effective January 1st of that year with direct refund or recovery from shippers of record during the interim period with interest or carrying charges. Toll changes in accordance with the Incentive Toll Agreement from 1999 to 2002 were approved by Orders No. P-2-99, P-2-00, P-2-01 and P-1-02.

On December 18 2002, Terasen (Jet Fuel) filed an application to set interim tolls effective January 1, 2003 that incorporated a decrease of 4.37 percent from the current 2002 tolls. Terasen (Jet Fuel) advised the Commission that a Shippers’ meeting was held on December 3, 2002 with discussions about a second incentive toll settlement agreement and, while an agreement was not reached, Terasen (Jet Fuel) agreed to the interim tolls and to continue further negotiations. The Commission approved the 2003 interim toll application as filed by Order No. P-4-02.

On August 22, 2003, the Vancouver Airport Fuel Facilities Corporation (the “Airlines”) filed a complaint stating that there was no reasonable expectation of a settlement and requested that the Commission direct Terasen (Jet Fuel) to file its 2003 toll application. By letter dated September 17, 2003, Commission staff requested a report on the activities that occurred since the issuance of Order No. P-4-02 and Terasen (Jet Fuel)’s expectations for concluding negotiations. By letter dated October 21, 2003, Terasen (Jet Fuel) provided its Shippers with a proposal that the 2003 tolls be set as final for the year and an expected revenue shortfall of \$167,000 be carried forward to 2004. No letters of acceptance of the proposed tolls were received by the Commission.

On February 4, 2004 Terasen (Jet Fuel) responded to a December 19, 2003 Shipper's counter proposal and requested concurrence from the Shippers that the interim 2003 tolls be ruled as final and that the Commission declare the current tolls as being interim effective as of January 1, 2004. Letters of concurrence were received from a number of Shippers to Terasen (Jet Fuel)'s February 4, 2004 toll proposal and no letters of objection were received. By Order No. P-1-04, the Commission approved for Terasen (Jet Fuel) that the interim tolls on the Jet Fuel Pipeline established by Order No. P-4-02 be made permanent effective January 1, 2003, subject to review in the event of a complaint. Order No. P-1-04 also approved for Terasen (Jet Fuel) that the current tolls on the Jet Fuel Pipeline be made interim effective January 1, 2004, subject to review in the event of a complaint.

On January 5, 2005, Terasen (Jet Fuel) filed an application to set the interim 2004 Terasen (Jet Fuel) tolls as permanent effective January 1, 2004. The application stated that the lease for the Airport Tank Farm was due for renewal as of January 1, 2005. Accordingly, due to a possible rental rate increase for the Airport Tank Farm, Terasen (Jet Fuel) stated that it was not in a position to advance a firm proposal for 2005 tolls and requested that the current tolls be set as interim effective January 1, 2005. By Order No. P-2-05, the Commission approved the application for 2004 and 2005 tolls, subject to review in the event of a complaint within 60 days of that Order.

By letter dated December 14, 2005, Terasen (Jet Fuel) informed the Commission that discussions with its Shippers had occurred during 2005 that centered primarily on the long-term prospects of the jet fuel pipeline rather than finalizing 2005 tolls. By letter dated January 17, 2006, the Airlines confirmed that the first response from Terasen (Jet Fuel) for finalizing 2005 tolls was received on December 21, 2005.

In its 2005-06 Toll Application, Terasen (Jet Fuel) stated that it was able to manage the effect of the 2005 increase in rental rates for the Airport Tank Farm with ongoing activities, but that the 2005 actual throughput was less than forecast. Terasen (Jet Fuel) also stated that its proposal received the support of all of the Shippers except the Airlines.

3.0 INFORMATION REQUESTS, RESPONSES AND SUBMISSIONS ON THE APPLICATION

By letter dated February 1, 2006, the Airlines supported setting the current tolls as final for 2005, but considered that the 2006 tolls should be set as interim at the current level. The Airlines submit that there is insufficient information to justify the 2006 toll increase and that all cost items underlying the 2006 tolls need to be justified. The Airlines also state that throughput is expected to increase in 2006, that Terasen (Jet Fuel) took an unreasonable amount of time to finalize the 2005 tolls and that the 2006 toll application should have been filed in the fall of 2005.

By letter dated February 17, 2006, Terasen (Jet Fuel) replied to the Airlines submission that the 2005-06 Toll Application was issued as a package and explained that the 2005 shortfall is due to decreased throughput, the 2005 shortfall represents approximately 30 percent of expected earnings and no 2006 throughput forecasts have been shared with Terasen (Jet Fuel).

On April 25, 2006, the Commission Issued Information Request No. 1 on the 2005-06 Toll Application and established a timetable for an information response on May 1, 2006 with Shippers' submissions due on May 5, 2006 and a Terasen (Jet Fuel) reply of May 10, 2006. Terasen (Jet Fuel) responded to the information requests but no submissions were received from the Shippers.

In response to Question 1.1 [If the Commission does not accept the 2005 and 2006 Toll Application as a package deal, how, if at all, would Terasen (Jet Fuel) revise its Application?], Terasen (Jet Fuel) restated from its February 17, 2006 letter that the 2006 toll adjustment is to be interim and remain subject to further discussion with its Shippers. Terasen (Jet Fuel) referred to a Shippers' meeting that was scheduled for May 15, 2006 that

was to review 2006 cost projections and if Terasen (Jet Fuel) was able to negotiate a settlement with Shippers then it considered that the current application for interim tolls could be moot.

In response to Question 1.2 [The Application stated that cost of service projections for 2005 were essentially on target but that annualized throughput was 32 m³/day lower than the forecast of 2,700 m³/day resulting in the revenue shortfall of \$140,000. Does the current toll setting mechanism for 2005 and 2006 contain a provision for a revenue shortfall carryforward?], Terasen (Jet Fuel) stated that the interim toll proposal includes a provision for the revenue shortfall and revenue shortfall is one of the items to be discussed at the May 15, 2006 Shippers' meeting.

In response to Question 1.3 [In establishing its tolls for 2005 and 2006, isn't Terasen (Jet Fuel) responsible for the forecast risk on throughput? If not, why not?], Terasen (Jet Fuel) submitted that the current proposal was put forward as a reasonable position given that it is responsible for managing costs while the Shippers control deliveries on the system. Terasen (Jet Fuel) considered this to be a fair starting position for discussions in light of using a 2004 cost base.

In response to Question 1.4 [What is the forecast daily average throughput for 2006? In arriving at the forecast was the lower 2005 actual throughput, as compared to projected, considered?], Terasen (Jet Fuel) responded that the average daily throughput for 2006 is forecast at 2,684 m³, roughly equal to 2005. Terasen (Jet Fuel) stated that the forecast is the sum of the individual delivery forecasts provided by the Shippers, that presumably both the Airlines and Shippers have considered historical volumes including 2005 actuals but Terasen (Jet Fuel) has no specific knowledge of how either party derived the forecast in question.

4.0 COMMISSION DETERMINATION

Terasen (Jet Fuel) has not filed a settlement agreement, nor has it modified its 2005-06 Toll Application following its May 2006 Shippers' meeting. A determination is, therefore, required on the 2005 and 2006 tolls for the Terasen (Jet Fuel) pipeline.

In the Commission's view, the characterization of the 2005-06 Toll Application as a "package deal" would have been appropriate if the 2005 and 2006 proposed tolls had been accepted by all of the Shippers or if it was evident that some proper form of information sharing and negotiated settlement process had been conducted to support the 2005-06 Application. Since the 2005-06 Toll Application was not approved by all of the Shippers and, given the issues raised by the Airlines concerning the "negotiation" process and related to the carry forward issue, the Commission does not accept the 2005-06 Toll Application to be a package deal.

In its January 5, 2005 request to set the 2005 tolls as interim, Terasen (Jet Fuel) cited its concern over a possible rent increase at the Airport Tank Farm, not throughput, as a reason for not proposing firm 2005 tolls. The 2005-06 Toll Application requests approval to set the 2005 interim tolls as permanent effective January 1, 2005 and in its response to Question 1.1, Terasen (Jet Fuel) has not, however, proposed a recalculation of the 2005 tolls based on lower actual throughput. **The Commission approves the request in the 2005-06 Toll Application to set the 2005 interim tolls as permanent effective January 1, 2005.**

The 2005-06 Toll Application states that the carryforward of the 2005 shortfall of \$140,000 was not supported by all of the Shippers and the Commission notes the Airlines' concerns that there is insufficient information to support the 2006 toll increase. **Accordingly, the Commission is not prepared to approve the requested 2006 interim toll increase. The Commission, however, approves the current tolls to be set as interim effective February 1, 2006.** The Commission anticipates that with the provision of sufficient information by Terasen (Jet Fuel) this matter may be resolved through negotiation. Therefore, Terasen (Jet Fuel) should continue negotiations with its Shippers to reach agreement on 2006 tolls, which may include recovery of the 2005 shortfall. The

Commission requires that either these negotiations result in a settlement agreement, supported by the shippers, by October 16, 2006 or that Terasen (Jet Fuel) file, by November 1, 2006, an application to set 2006 permanent tolls following which the Commission will hold a public hearing to dispose of the matter.

As noted in the Background section of these Reasons, the negotiations and filing of the application to establish tolls for 2004 and 2005 took significantly more time than the January 1st to March 1st time period established for toll recalculations under the former expired Incentive Toll Agreement. The Commission expects that in future, if Terasen(Jet Fuel) files for interim tolls, the application, with sufficient supporting information, shall be made at least 30 days before the proposed effective date. Following the approval of interim tolls, a permanent toll application shall be made, with sufficient supporting information, no later than 90 days from the date of the approval of interim tolls. Should Terasen (Jet Fuel) file for permanent tolls and not request interim tolls, the application shall be made with sufficient supporting information at least 90 days before the proposed effective date of those tolls.