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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER C-3-07**

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

and

**An Application by Terasen Gas Inc.
for Approval of an Operating Agreement
with the Westbank First Nation and Amendments to the Gas Tariff**

BEFORE: L.F. Kelsey, Commissioner February 15, 2007

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

WHEREAS:

- A. On October 3, 2003, the Government of Canada granted the Westbank First Nation ("Westbank") self-government status under the Westbank First Nation Self-Government Act ("Self-Government Agreement"). The Self-Government Agreement gives Westbank jurisdiction over five Westbank Indian Reserves ("Westbank Lands") located on the west side of Okanagan Lake, B.C.; and
- B. On August 29, 2006, Commission Orders No. C-7-06, C-8-06, C-9-06, C-10-06, C-11-06, C-12-06, C-13-06, C-14-06, C-15-06 and C-16-06 approved new Operating Agreements between Terasen Gas Inc. ("Terasen Gas", the "Company") and 10 municipalities in the Interior of B.C.; and
- C. On September 20, 2006, Terasen Gas applied to the British Columbia Utilities Commission (the "Commission") for approval of an operating agreement with Westbank (the "Operating Agreement") and amendments to the Terasen Gas Tariff (the "Application"); and
- D. Terasen Gas has both transmission and distribution facilities on Westbank Lands, but prior to the execution of the Operating Agreement, the Company did not have an operating agreement with Westbank; and
- E. The Application requests approval of a 15-year Operating Agreement between Terasen Gas and Westbank, with the same effective date as this Order; and
- F. Under the Operating Agreement all Terasen Gas facilities on Westbank Lands existing at the time of the Operating Agreement are deemed approved; and
- G. The Operating Agreement also sets out the terms and conditions under which Terasen Gas shall exercise its right to construct, maintain and operate its gas transmission and distribution facilities within Westbank Lands, including the payment of a 3 percent operating fee to Westbank; and

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- H. The proposed 3 percent operating fee is of the same rate as the operating fees in the approved operating agreements between Terasen Gas and 10 municipalities in the Interior of B.C.; and
- I. To accommodate the Operating Agreement with Westbank and future similar agreements the Terasen Gas Tariff General Terms and Conditions of Service and Rate Schedules must be amended; and
- J. On October 18, 2006 the Commission issued Information Request No. 1 to Terasen Gas. The Company responded to the information request on October 30, 2006; and
- K. The Commission received four letters of comment from Terasen Gas customers within Westbank Lands opposing the 3 percent operating fee; and
- L. The Commission has reviewed the Application and has determined that Westbank has the authority under the Self-Government Agreement to raise revenue by non-tax means and that the proposed Operating Agreement is substantially similar to the operating agreements between Terasen Gas and 10 municipalities in the Interior of B.C.

NOW THEREFORE pursuant to Section 45 of the Utilities Commission Act, the Commission orders as follows:

1. The Commission approves for Terasen Gas, the Operating Agreement with Westbank First Nation for a period of 15-years, effective February 15, 2007.
2. The Commission approves for Terasen Gas, Amendments to its Gas Tariff Terms and Conditions of Service and Rate Schedule, effective February 15, 2007.

DATED at the City of Vancouver, in the Province of British Columbia, this 21st day of February 2007.

BY ORDER

Original signed by

L.F. Kelsey
Commissioner