



SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-31-13**

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

An Application by Cal-Gas Inc.
for Approval of an Increase to Propane Rates at the Kicking Horse Mountain Resort

BEFORE: R.D. Revel, Commissioner

March 7, 2013

O R D E R

WHEREAS:

- A. By Order C-16-01 dated November 12, 2001, the British Columbia Utilities Commission (Commission) approved a Certificate of Public Convenience and Necessity (CPCN) for Cal-Gas Inc. (Cal-Gas) to construct and operate an underground propane grid system at the Kicking Horse Mountain Resort (KHMR or the Resort) near Golden, British Columbia;
- B. By Order C-19-06 dated October 26, 2006, the Commission issued a CPCN that expanded the area at the Resort to be served by the propane grid system, and approved an Amended Agreement with Kicking Horse Mountain Development Corporation and Terms and Conditions of Service and Rate Schedules for the Resort;
- C. By letter dated October 3, 2012, Cal-Gas applied to the Commission for approval to increase the variable delivery component of propane rates for customers at KHMR by \$0.0241 per litre and charge a fixed administration fee of \$14.00 per monthly invoice (the Application). The requested effective date is December 1, 2012;
- D. Cal-Gas provided a customer notice of the Application and the requested rate increase to all propane customers at KHMR by way of a letter dated October 4, 2012;
- E. By Order G-153-12A dated October 18, 2012, the Commission established a Written Hearing process for review of the Application and a Regulatory Timetable for submissions;
- F. By Order G-164-12 dated November 1, 2012, the Commission established an amended Regulatory Timetable in order to allow additional time for Intervener and Interested Party registration and submissions;
- G. By letter dated January 16, 2013, Cal-Gas requested approval to withdraw the sections of Exhibit B-1-1 that pertain to the proposed fixed monthly \$14 administration fee, pursuant to section 88.1 of the *Utilities Commission Act* (Cal-Gas Letter);

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- H. By Order G-10-13 dated January 17, 2013, the Commission established an amended Regulatory Timetable in order to allow for Intervener comments on the Cal-Gas Letter;
- I. Having received no objections from Interveners, the Commission dismissed the Cal-Gas request for an Administration Fee from the proceeding by Order G-22-13, dated February 7, 2013;
- J. Final and Reply Submissions were made by February 22, 2013 in accordance with the amended Regulatory Timetable;
- K. The Commission has considered the Application, the evidence and the submissions, all as set forth in the Reasons accompanying this Order.

NOW THEREFORE pursuant to section 60 and 61 of the *Utilities Commission Act*, the Commission orders as follows:

1. The Cal-Gas request for approval of the proposed delivery rate increase of \$0.0241 per litre for propane customers at KHMR is approved on a permanent basis, effective December 1, 2012.
2. Cal-Gas is directed to recover the difference between the interim and permanent delivery rate for the period December 1, 2012 to March 31, 2013 by way of a rate rider over a twelve month period commencing April 1, 2013. Cal-Gas is directed to file the detailed calculation of the proposed rate rider with the Commission for approval within 30 days of this Order.
3. Cal-Gas is directed to file amended and up to date tariff pages and General Terms and Conditions in accordance with this Order, within 30 days of this Order.
4. Cal-Gas is directed to file the Operating Agreement dated August 1, 2007 between Cal-Gas and Kicking Horse Mountain Resort Limited Partnership within 30 days of this Order for approval by the Commission.
5. Cal-Gas is directed to file with the Commission a rate design study cost assessment, within 90 days of this Order. The cost assessment should detail the expected costs to perform a rate design study that addresses the rate design issues listed in Section 9.3 of the Reasons accompanying this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th of March 2013.

BY ORDER

Original signed by:

R.D. Revel
Commissioner

Cal-Gas Inc.
Application for Approval of an Increase to Propane Rates
at the Kicking Horse Mountain Resort

REASONS FOR DECISION

1.0 BACKGROUND

By Order C-16-01 dated November 12, 2001, the British Columbia Utilities Commission (Commission) approved a Certificate of Public Convenience and Necessity (CPCN) for Cal-Gas Inc. (Cal-Gas) to construct and operate an underground propane grid system at the Kicking Horse Mountain Resort (KHMR) near Golden, British Columbia. By Order C-19-06 dated October 26, 2006, the Commission issued a CPCN that expanded the area at the Resort to be served by the propane grid system, and approved an Amended Agreement with Kicking Horse Mountain Development Corporation and Terms and Conditions of Service and Rate Schedules for KHMR.

As of September 30, 2012, Cal-Gas had 128 metered propane customers at KHMR. (Exhibit B-8, BCUC IR 2.8.2) The existing Cal-Gas propane rate structure for customers at KHMR is comprised of the following four components:

1. Propane commodity price – Based on the preceding month’s weighted average posted propane price at the Shell Jumping Pound refinery;
2. Primary Freight;
3. Secondary Freight;
4. Operating Margin.

The primary freight, secondary freight and operating margin component of rates amount to the total delivery rate. The last delivery rate increase for Cal-Gas customers at KHMR was approved by Commission Order G-60-08, dated March 27, 2008.

2.0 THE APPLICATION

On October 3, 2012, Cal-Gas applied to the Commission for approval to increase the primary freight, secondary freight and operating margin components of propane rates for customers at KHMR by \$0.0241 per litre and charge a fixed monthly administration fee of \$14.00 (Administration Fee), effective November 1, 2012 (Original Application). Subsequently, Cal-Gas filed an amendment to the Original Application, which revised only the requested effective date from November 1, 2012 to December 1, 2012 (Application).

The following table summarizes the current and proposed rate per litre for each delivery rate component.

Delivery Rate Component	2008 Approved (Order G-60-08)	2012 Proposed (Exhibit B-1-1)	Proposed \$ Increase	Proposed % Increase
Primary Freight (\$ per litre)	\$ 0.0202	\$ 0.0285	\$ 0.0083	41%
Secondary Freight (\$ per litre)	\$ 0.0191	\$ 0.0266	\$ 0.0075	39%
Operating Margin (\$ per litre)	\$ 0.0642	\$ 0.0725	\$ 0.0083	13%
Total (\$ per litre)	\$ 0.1035	\$ 0.1276	\$ 0.0241	23%

The primary freight component of delivery rates recovers the cost of transporting propane from the refinery to the Golden branch. The secondary freight component of delivery rates recovers the cost of transporting propane from the Golden branch to customers at KHMR, including labour, fuel and vehicle repairs and maintenance. Lastly, the operating margin component of rates is intended to recover the overhead cost at the Cal-Gas Golden branch, head

office, depreciation and remaining operational costs and does not include a return on equity or a return on Cal Gas' property at KHMR.

Cal-Gas does not propose a change to the commodity rate in the Application, which is currently calculated as the preceding month's weighted average posted propane price at the Shell Jumping Pound refinery, as approved by Commission Order G-60-08.

3.0 THE WRITTEN HEARING PROCESS

Commission Order G-153-12A dated October 18, 2012, established a written hearing process for review of the Application and a regulatory timetable for submissions. Subsequently, the Commission received correspondence from several Cal-Gas customers objecting to the requested rate increase and the deadline for registration of Interveners and Interested Parties set by Order G-153-12A. Accordingly, Commission Order G-164-12 dated November 1, 2012, established an amended regulatory timetable in order to allow additional time for Intervener and Interested Party registration and submissions.

4.0 PARTICIPANTS IN THE WRITTEN HEARING PROCESS

Seven Interveners and two Interested Parties registered in this proceeding. All registrants are individual residents at KHMR that are affected by the Application. Mr. Alan Shragie, an Intervener, actively participated throughout the proceeding by filing two rounds of Information Requests to Cal-Gas, as well as other submissions. The participation of the remaining six Interveners was limited to comments filed at the outset of the proceeding. The Commission also received several Letters of Comment from individual residents at KHMR affected by the Application.

5.0 ADMINISTRATION FEE

The Commission received objections to the Administration Fee from six Interveners, two Interested Parties and in each Letter of Comment. Following two rounds of Information Requests from Commission Staff and one Intervener, Cal-Gas requested approval to withdraw the sections of the Application that pertain to the Administration Fee. By Order G-10-13 dated January 17, 2013, the Commission established an amended Regulatory Timetable in order to allow for Intervener comments on the Cal-Gas request.

Having received no objections from Interveners, the Commission dismissed the request for an Administration Fee from the proceeding by Order G-22-13 dated February 7, 2013.

6.0 THE INTRODUCTION OF NEW EVIDENCE THROUGH FINAL SUBMISSIONS

The Panel finds that new information was introduced through Final Submissions in this proceeding. The deadline for evidence to be submitted was January 30, 2013, pursuant to Order G-10-13. The Commission did not receive requests to extend the deadline for evidence. Final Submissions may not contain any new information and may only refer to evidence on the record. Specifically, Mr. Shragie introduced new information related to the following topics in his Intervener Reply to Cal-Gas Final Argument Submissions:

- The cost for other suppliers to provide propane to customers at KHMR;
- Aspens strata project;
- Discussions with the resort developer regarding the placement of meters; and
- Distribution charges.

In response, Cal-Gas also introduced new information in their Reply Submission. These references and citations introduced in Final Submissions for this proceeding are not in evidence on the record and, therefore not tested through Information Requests. **For this reason, the Panel determines that it will give no weight to any new information introduced in Final Submissions that is not on the evidentiary record.**

7.0 DELIVERY COMPONENT OF RATES – REQUESTED RATE INCREASE

7.1 Cal-Gas Submissions

Cal-Gas requests Commission approval in the Application to increase the primary freight, secondary freight and operating margin components of the delivery rate for customers at KHMR by \$0.0241 per litre. Cal-Gas submits in the Application that the “requested increase in [the delivery rate] is moderate considering no increase has been applied for in 4 years.” (Exhibit B-1-1)

Cal-Gas submits that the total revenue deficiency at existing delivery rates is \$50,299 for 2013 (Forecast) and \$54,102 for 2012 (Actual). (Exhibit B-8, BCUC IR 2.12.1) The total revenue deficiency using the delivery rates requested in the Application for 2013 (Forecast) is \$42,505. (Exhibit B-8, BCUC IR 2.13.1) These calculated revenue deficiencies do not include any return on equity or a return on Cal-Gas’ property at KHMR in the cost of service.

By letter dated February 14, 2013, Cal-Gas filed an amended response to BCUC IR 2.6.2.1-2.6.3 that reduced the 2013 (Forecast) depreciation expense by \$6,513 from \$25,979 to \$19,466 (Exhibit B-8-4), thereby reducing the total revenue deficiency for 2013 (Forecast) to \$43,786 at existing delivery rates, and to \$35,992 using the delivery rates requested in the Application.

7.2 Intervener Submissions

Mr. Shragie submits that the Commission should not approve the delivery rate increase requested in the Application. Specifically, he argues that “The Commission should totally reject Cal Gas’s application for any rate increase until such time that it provides an independent audit of all its relevant costs, revenues, allocations and other figures as many of its figures submitted originally and in its Responses to the Commission’s first and Second Information Requests reflected errors.” (Shragie Final Submission Reply)

Mr. Shragie gives several reasons for this conclusion, including that the requested rate increase is not supported by evidence and that “The economic burden of the slow expansion of the Resort should fall upon the shareholders of Cal Gas Inc and not the ratepayers.” (Shragie Final Submission Reply)

7.3 Comparable Delivery Rates

Exhibit A-10 includes the following summary of delivery rates for Panorama Division propane customers of Corix Multi-Utility Services Inc. (Corix), effective January 1, 2013:

	Residential	Small Commercial	Large Commercial
Panorama			
Basic Charge	15	25	100
Delivery Charge (GJ)	\$ 5.75	\$ 5.75	\$ 5.75

Using a conversion factor of 1 gigajoule (GJ) to 39.071657 litres¹, the delivery charge per litre for Panorama Division propane customers of Corix is as follows:

	Residential	Small Commercial	Large Commercial
Panorama			
Basic Charge	15	25	100
Delivery Charge (GJ)	\$ 5.75	\$ 5.75	\$ 5.75
Conversion Factor	39.071657	39.071657	39.071657
Delivery Charge (Litres)	\$ 0.15	\$ 0.15	\$ 0.15

In the Panel’s view, the delivery rates for Panorama Division propane customers of Corix of \$5.75 per gigajoule or \$0.15 per litre provide context for Cal-Gas’ current and requested delivery rates for customers at KHMR of \$.1035 per litre and \$0.1276 per litre, respectively.

7.4 Average Bill Impact

Cal-Gas has not provided information regarding the average bill impact of the requested rate increase; however, the Panel has taken into account examples of monthly consumption submitted as evidence in this proceeding by Cal-Gas customers at KHMR. For example:

- Ms. Wenche Sharp, an Intervener, submits in Exhibit C-4-2 that “Our usage is averaging 10 liter per month”. The delivery rate increase requested in the Application would therefore result in an average monthly bill increase of \$0.24 (10 litres multiplied by the requested delivery rate increase of \$0.0241) for those months where the customer is not subject to the minimum monthly charge of \$25.
- Ms. Melanie Sicotte submits in Exhibit E-2, a Letter of Comment, that: “The most propane we have used in 2012 is 31.26L...” The delivery rate increase requested in the Application would therefore result in a maximum monthly bill increase of \$0.75 (31.26 litres multiplied by the requested delivery rate increase of \$0.0241) for those months where the customer is not subject to the minimum monthly charge of \$25.

The Panel is aware that Cal-Gas customers at KHMR are subject to a minimum monthly charge of \$25. Therefore, for those months where less than \$25 worth of propane is consumed, the delivery rate increase requested in the Application would have minimal or no impact. The Panel has further considered the minimum monthly charge in the context of overall rate design in Section 9.0 below.

7.5 Commission Determination

While it is the owner of the propane grid system at KHMR, Cal-Gas accepts responsibility as a public utility, pursuant to the *Utilities Commission Act* (Act). With respect to discrimination in rates for a public utility, section 59 (5) of the Act notes the following:

“... a rate is “unjust” or “unreasonable” if the rate is

- (a) More than a fair and reasonable charge for service of the nature and quality provided by the utility,
- (b) Insufficient to yield a fair and reasonable compensation for the service provided by the utility, or a fair and reasonable return on the appraised value of its property, or
- (c) Unjust or unreasonable for any other reason.”

The Panel has examined all submissions in this proceeding, in addition to Cal-Gas’ historical costs for each delivery rate component, as reported in the Annual Reports for Kicking Horse Operations that are submitted to the

¹ http://www.sbr.gov.bc.ca/documents_library/shared_documents/Conversion_Factors.pdf

Commission annually. In the Panel's view, it is evident that Cal-Gas has not historically recovered its cost of service for operations at KHMR, nor does the delivery rate increase requested in the Application permit Cal-Gas to fully recover the forecast cost of service for operations at KHMR. It is important to note that the historical and forecast cost of service does not include any return on equity or a return on Cal-Gas' property at KHMR. **Accordingly, the Panel is of the view that the current delivery rate, and the requested delivery rate, do not result in a delivery rate that is more than a fair and reasonable charge. Cal-Gas has requested a rate that provides less than a fair and reasonable compensation for the service provided by Cal-Gas to customers at KHMR.** Primary consideration has been given to this in making a determination on the delivery rate increase requested in the Application.

The Panel has reviewed all submissions and considers that approval of the requested delivery rate increase of \$0.0241 per litre for propane customers at KHMR is warranted. The delivery rate of \$0.1276 per litre is approved on a permanent basis, effective December 1, 2012.

Cal-Gas is directed to recover the difference between the interim and permanent delivery rate for the period December 1, 2012 to March 31, 2013, by way of a rate rider over a twelve month period commencing April 1, 2013. Cal-Gas must file the detailed calculation of the proposed rate rider within 30 days of the Order accompanying these Reasons.

Cal-Gas is directed to file amended and up to date tariff pages and General Terms and Conditions in accordance with the Order accompanying these Reasons, within 30 days of the Order.

8.0 OPERATING AGREEMENT WITH KICKING HORSE MOUNTAIN RESORT

By Order C-19-06, the Commission approved the June 6, 2003 Amendment to the Operating Agreement between Cal-Gas and KHMR that extended the term of the Operating Agreement to October 1, 2011 (2003 Agreement). Order C-19-06 included the following directive with respect to the 2003 Agreement:

"Cal-Gas will file any further amendments to the Amended Agreement for approval by the Commission as a change to the tariff for the Resort."

The Application notes that the Operating Agreement between Cal-Gas and KHMR has been extended to 2025. (Exhibit B-1-1) In response to BCUC IR 2, Cal-Gas submits that: "The contract extension (until) 2025 ... was not submitted for approval to the BCUC at the time on execution in August of 2007 between Cal-Gas Inc. and Kicking Horse Mountain Resort." (Exhibit B-8, BCUC IR 2.10.1.1)

The Panel has reviewed the 2007 Operating Agreement and finds that it is in the public interest. The Panel is of the view that the 2007 Operating Agreement does not impact the present determination on the rate increase requested in the Application; **however, in order to comply with Order C-19-06, Cal-Gas is directed to file a formal request for approval of the 2007 Operating Agreement with the Commission within 30 days of the Order accompanying these Reasons. If the Operating Agreement filed for approval with the Commission is of the same form and content as the 2007 Operating Agreement provided by Cal-Gas in Exhibit B-8, the Panel is of the view that it should be approved as filed.**

9.0 OVERALL RATE DESIGN

The Panel is of the view that the broader issue of the rate design for Cal-Gas customers at KHMR has been raised in this proceeding, principally as a result of the request for approval of the Administration Fee. Specifically, rate design issues related to the current minimum monthly charge and single-metered properties at KHMR were brought to the Panel's attention.

9.1 Minimum Monthly Charge

The Commission received objections to the Administration Fee from individual Cal-Gas customers at KHMR in the form of Intervener and Interested Party Comments and Letters of Comment. The comments principally cited the minimum monthly charge of \$25 currently in place as the major reason for objecting to the Administration Fee. For example:

- Ms. Diane Legg, an Intervener, submits that "...Cal Gas already charges a minimum monthly fee of \$25 when no gas, or less than a minimum amount of gas, is used in a month. The additional proposed administration fee of \$14.00 really represents a 56% increase over the current administrative fee of \$25 charged." (Exhibit C-2-2, p. 1)
- Ms. Wenche Sharp, an Intervener, submits that: "We have no objection to a small increase in the cost of propane, as we presume this is based on market forces. However, we do object to paying an additional \$14 per dwelling per month for admin costs. If Cal Gas continues with their minimum charge of \$25 and add the \$14 admin cost, their minimum charge will increase to \$39 + taxes per month – and in our case – we will be paying \$39 for 10 liters of gas per month – and that would be unacceptable." (Exhibit C-4-2)
- Mr. Jeff Husted, an Interested Party, submits that: "As (our) house is vacant for much of the year, we do not consume much propane but are currently on the hook for a minimum \$25 plus tax regardless of usage resulting in a minimum annual charge of \$300.00. With the increase in the administrative fee, the resultant minimum annual charge would be \$468 plus tax." (Exhibit D-3)

Currently, Cal-Gas customers at KHMR are not charged a basic monthly charge. Customers that consume over \$25 in any given month are only charged the variable commodity and delivery rates whilst customers that consume less than \$25 in any given month are charged the minimum monthly charge.

9.2 Single-Metered Properties

Mr. Shragie raised the issue of single-metered properties with multiple dwelling units at KHMR through Information Requests to Cal-Gas, amongst other submissions. Cal-Gas currently has three customers at KHMR that are single metered properties with multiple dwellings. (Exhibit B-5, Intervener IR 1.7) The minimum monthly charge is applied to each single-metered property as a whole and the individual dwellings within these multiple dwelling unit properties are not subject to a basic monthly charge.

9.3 Commission Determination

The Panel is of the view that Cal-Gas should give consideration to the fairness of the minimum monthly charge and the treatment of single-metered properties with multiple dwellings at KHMR.

Cal-Gas acknowledges the rate design issues in their letter dated January 16, 2013:

"After careful consideration to the current customers, future customers and the long term commitment of Cal-Gas Inc. to KHMR we would like to revisit this area of our business with public consultation from the customers, utilities professionals and Cal-Gas personnel to design a new fee structure for this area of business that is fair to all customers and Cal-Gas at KHMR. Following this we will submit a new application for approval to the BCUC." (Exhibit B-1-3)

The Panel agrees that the rate design for customers at KHMR should be examined; however, such an assessment should be undertaken with due consideration for the related costs to the ratepayers at KHMR. **Accordingly, the Panel directs Cal-Gas to file a rate design study cost assessment with the Commission, within 90 days of the Order accompanying these Reasons. The cost assessment should detail the expected costs to perform a rate design study that addresses the following issues:**

- **Minimum monthly charge;**
- **Lack of basic monthly charge;**
- **The treatment of different customer classes, including single metered properties with multiple dwellings and commercial customers;**
- **The treatment of the commodity component of rates;**
- **The treatment of the primary freight component of rates;**
- **Fair and reasonable return on Cal-Gas' property at KHMR.**

The Panel considers that the rate design study cost assessment is an important step towards addressing the rate design issues that have been brought forward in this proceeding.