



**ORDER NUMBER
G-75-20**

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

City of Coquitlam

Application for Reconsideration and Variance of Order G-80-19 in the matter of the FortisBC Energy Inc.
Application for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* in the City of Coquitlam for
the Lower Mainland Intermediate Pressure System Upgrade Projects

BEFORE:

R. I. Mason, Panel Chair
W. M. Everett, QC, Commissioner

on April 2, 2020

ORDER

WHEREAS:

- A. On May 16, 2019, pursuant to section 99 of the *Utilities Commission Act* (UCA), the City of Coquitlam (City) filed with the British Columbia Utilities Commission (BCUC) an application for Reconsideration and Variance of Order G-80-19 (Application);
- B. By Order G-80-19 and accompanying reasons for decision dated April 15, 2019, the BCUC issued its decision regarding FortisBC Energy Inc.'s (FEI) application for use of the City's lands for the construction and operation of the Lower Mainland Intermediate Pressure System Upgrade Projects (LMIPSU Projects), including the disposition of the Nominal Pipe Size (NPS) 20 pipeline which FEI proposed to decommission (Original Proceeding). The BCUC ordered, among other things, the following:
 - 1. Pursuant to section 121 of the UCA, it is affirmed that FEI is authorized to abandon the decommissioned NPS 20 Pipeline in place; and
 - 2. Pursuant to section 32 of the UCA, upon request by the City in circumstances where it interferes with municipal infrastructure, the costs of removal of any portion of the decommissioned NPS 20 Pipeline shall be shared equally between FEI and the City;
- C. In its Application, the City requests that the BCUC reconsider and vary Order G-80-19 on the grounds that the BCUC erred in law by:
 - 1. Finding that the BCUC had jurisdiction to authorize FEI, within the meaning of the term "authorization" as used in section 121 of the UCA, to abandon in place FEI's decommissioned NPS 20 pipes located in Como Lake Avenue; and
 - 2. Finding that section 32 of the UCA provides the BCUC with jurisdiction to specify the manner and terms under which the City may request FEI to remove any portion of the NPS 20 pipes abandoned in place;

- D. Part V of the BCUC's Rules of Practice and Procedure, which are attached to Order G-15-19, provide the Rules for the reconsideration process (Reconsideration Rules);
- E. By Order G-114-19 dated May 29, 2019, the BCUC established a public hearing process for the review of the Application;
- F. By June 13, 2019, the following parties registered as interveners:
- British Columbia Hydro and Power Authority (BC Hydro);
 - Commercial Energy Consumers Association of British Columbia (CEC); and
 - FortisBC Energy Inc. (FEI);
- G. On October 16, 2019, the City filed its final argument with the BCUC, and BC Hydro, CEC and FEI filed final arguments on November 6, 2019. The City filed its reply argument on November 27, 2019; and
- H. The BCUC has reviewed the submissions before it in this proceeding and considers the following determinations are warranted.

NOW THEREFORE the BCUC orders as follows:

1. The City's Reconsideration Application seeking that the BCUC rescind directive 1 of Order G-80-19 is dismissed.
2. Parties are requested to make submissions on further process in accordance with the regulatory timetable attached as Appendix B to this order, on the following matters:
 1. Whether the BCUC's determination on the cost allocation formula was made based on fair process; and
 2. If the BCUC determines that the evidentiary record should be re-opened with respect to the cost allocation formula:
 - What is the appropriate regulatory process, including proposed timelines; and
 - The nature and scope of any additional evidence to be filed, and why this evidence could not have been filed as part of the Original Proceeding.

DATED at the City of Vancouver, in the Province of British Columbia, this 2nd day of April 2020.

BY ORDER



R. I. Mason
Commissioner

Attachment

City of Coquitlam

Application for Reconsideration and Variance of Order G-80-19 in the matter of the FortisBC Energy Inc. Application for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* in the City of Coquitlam for the Lower Mainland Intermediate Pressure System Upgrade Projects

Reasons for Decision

April 2, 2020

Before:

R. I. Mason, Panel Chair
W. M. Everett, QC, Commissioner

Table of Contents

	Page no.
1.0 Introduction	3
1.1 Background.....	3
1.2 Approvals Sought	4
1.3 Regulatory Framework	4
1.4 Regulatory Process	4
2.0 Did the BCUC have the jurisdiction to allow FEI to abandon in place the decommissioned NPS 20 Pipeline?.....	5
3.0 Did the BCUC have the jurisdiction to impose a cost allocation formula on the parties?	16
4.0 Was the cost allocation formula imposed on the parties in the absence of evidence and submissions?	18
 APPENDICES	
APPENDIX B	REGULATORY TIMETABLE
APPENDIX C	LEGISLATIVE FRAMEWORK
APPENDIX D	1955 CPCN and OIC 2133_1955

1.0 Introduction

On May 16, 2019, the City of Coquitlam (City) filed an application for Reconsideration and Variance of Order G-80-19 in the matter of the FortisBC Energy Inc.'s (FEI) Application for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* (UCA) in the City of Coquitlam for the Lower Mainland Intermediate Pressure System Upgrade (LMIPSU) Projects (Reconsideration Application) with the British Columbia Utilities Commission (BCUC).

The City seeks an order that the BCUC rescind directives 1 and 2 of Order G-80-19 in their entirety. The City alleges the BCUC erred in law by finding that it had the jurisdiction to allow FEI to abandon in place its decommissioned gas pipeline which was being replaced by the Coquitlam portion of the LMIPSU Projects. The City further alleges that the BCUC erred in law by specifying a cost allocation formula which applies when the City requests FEI to remove any portion of the gas pipeline which has been abandoned in place.

The issues for the Panel are whether the BCUC had the jurisdiction to allow FEI to abandon in place its decommissioned gas pipe, whether the BCUC had the jurisdiction to impose a cost allocation formula on the two parties in the event the City requests FEI to move abandoned gas pipe, and whether the cost allocation formula was decided in the absence of evidence and submissions.

1.1 Background

The LMIPSU Projects involve construction of a new Nominal Pipe Size (NPS) 30 Intermediate Pressure (IP) gas line (NPS 30 Pipeline), operating at 2,070 kilopascals, that starts at the Coquitlam Gate Station and proceeds in a westerly direction through the cities of Coquitlam, Burnaby and Vancouver and ends at the East 2nd Avenue Woodland Station in Vancouver. The NPS 30 Pipeline will replace the existing NPS 20 IP gas line (NPS 20 Pipeline) which, when decommissioned, FEI proposes to abandon in place. By Order C-11-15 dated October 16, 2015 and its accompanying decision, the BCUC granted a Certificate of Public Convenience and Necessity (2015 CPCN) for the LMIPSU Projects.

The existing NPS 20 Pipeline was constructed in the municipality of Coquitlam pursuant to the grant of a Certificate of Public Convenience and Necessity (CPCN) by the Public Utilities Commission of British Columbia, which was approved by Order in Council on August 23, 1955.¹ The construction of the existing NPS 20 Pipeline was also authorized by section 45(2) of the UCA, which provides that a public utility operating a public utility plant or system on September 11, 1980 is deemed to have received a CPCN, providing authorization to operate that plant or system. Section 46(8) of the UCA authorizes a public utility subject to the Act "to construct, maintain and operate the plant, system or extension authorized in the certificate or exemption."

On June 28, 2018, FEI applied to the BCUC for Use of Lands under Sections 32 and 33 of the UCA in the City of Coquitlam for the LMIPSU Projects (Original Application). The Original Application related to a disagreement between FEI and the City, whereby the City had indicated to FEI that it was withholding formal sign-off of engineering / alignment drawings for the LMIPSU Projects unless FEI agreed to the following conditions:

- FEI must, at its own cost, remove approximately 380 metres of the abandoned NPS 20 Pipeline if the pipe ultimately conflicts with a planned City project that may proceed within three to five years, and patch the pavement to temporarily restore the road; and

¹ Exhibit B-1, FEI Use of Lands in the City of Coquitlam Proceeding, Appendix B, p. 2.

- FEI must agree to repave (including replacing lower layers of asphalt) the entire width of Como Lake Avenue for 5.5 kilometres after completion of the Project, and to provide security in the form of a letter of credit in the amount of \$6 million for all the paving work.²

Following a two-phase review process of the Original Application, by Order G-80-19 and accompanying reasons for decision dated April 15, 2019, the BCUC ordered as follows:

1. Pursuant to section 121 of the UCA, it is affirmed that FEI is authorized to abandon the decommissioned NPS 20 Pipeline in place.
2. Pursuant to section 32 of the UCA, upon request by the City in circumstances where it interferes with municipal infrastructure, the costs of removal of any portion of the decommissioned NPS 20 Pipeline shall be shared equally between FEI and the City.
3. The City's request that FEI should be required to repair and repave the whole 5.5-kilometre section on Como Lake Avenue curb to curb is denied.

1.2 Approvals Sought

In the Reconsideration Application, the City seeks reconsideration and variance of paragraphs 1 and 2 of Order G-80-19. The City is not seeking any reconsideration or variance of paragraph 3 of Order G-80-19.³ The City requests that the BCUC rescind paragraphs 1 and 2 of Order G-80-19 in their entirety.⁴

The City submits that the grounds for reconsideration are that in making Order G-80-19, paragraphs 1 and 2, the BCUC erred in law by:

- 1) Finding that the BCUC had jurisdiction to authorize FEI, within the meaning of the term "authorization" as used in section 121 of the UCA, to abandon in place FEI's decommissioned NPS 20 pipes located in Como Lake Avenue; and
- 2) Finding that section 32 of the UCA provides the BCUC with jurisdiction to specify the manner and terms under which the City may request FEI to remove any portion of the NPS 20 pipes abandoned in place.

The City submits that the BCUC also erred by deciding, in the absence of evidence and submissions from the parties on the matter, that the costs of removal of any portion of the decommissioned FEI NPS 20 Pipeline shall be shared equally between FEI and the City.⁵

1.3 Regulatory Framework

The legislation being considered in this Reason for Decision is sections 32, 41, 45, 46 and 121 of the UCA, and section 2 of the *Gas Utility Act* (GUA), which are attached for convenience in Appendix C.

1.4 Regulatory Process

By Order G-114-19 dated May 29, 2019, the BCUC established a regulatory process for the review of the Reconsideration Application.

By June 13, 2019, the following parties registered as interveners:

² FEI Use of Lands in the City of Coquitlam Proceeding, Exhibit B-1, pp. 1 – 3.

³ Exhibit B-1, p. 2.

⁴ Exhibit B-1, p. 13.

⁵ Exhibit B-1, pp. 4-5.

- British Columbia Hydro and Power Authority (BC Hydro);
- Commercial Energy Consumers Association of British Columbia (CEC); and
- FortisBC Energy Inc. (FEI).

Following requests for submissions on process, the City and interveners submitted that they did not intend to file further evidence at that time. However, the City submitted that if the BCUC determines that section 32 of the UCA is applicable with respect to ordering a cost allocation methodology for the decommissioned pipeline, the BCUC should consider new evidence regarding the cost allocation methodology.⁶ By Order G-150-19 dated July 8, 2019, the BCUC updated the regulatory timetable to include one round of BCUC and intervener information requests (IR) to the City. The BCUC also adjourned the review of the potential need for new evidence regarding the cost allocation methodology for the removal of the decommissioned NPS 20 Pipeline, pending a determination on the BCUC's jurisdiction under section 32 of the UCA.

The BCUC and interveners declined to file IRs with the City. Subsequent to further submissions on process, the BCUC established a further regulatory timetable by Order G-234-19 dated September 27, 2019 to include the parties' written arguments. On October 16, 2019, the City filed its final argument with the BCUC, and BC Hydro, CEC and FEI filed their final arguments on November 6, 2019. The City filed its reply argument on November 27, 2019.

2.0 Did the BCUC have the jurisdiction to allow FEI to abandon in place the decommissioned NPS 20 Pipeline?

The BCUC first addressed abandonment of the NPS 20 Pipeline in the 2015 CPCN proceeding. In its decision accompanying Order C-11-15, the BCUC stated, "The Panel approves FEI's abandonment plans and discontinuance of CP [cathodic protection] as proposed for both the Coquitlam Gate and Fraser Gate IP Projects."⁷

The abandonment of the NPS 20 Pipeline was addressed again in the Original Application. FEI and the City were opposed in their submissions regarding the legal basis for FEI to abandon in place the decommissioned NPS 20 Pipeline. That issue was addressed by the BCUC in Order G-80-19 and accompanying reasons for decision in the Original Application.

In this Reconsideration Application, the City seeks that the BCUC rescind, in its entirety, directive 1 of Order G-80-19⁸, which states:

1. Pursuant to section 121 of the UCA, it is affirmed that FEI is authorized to abandon the decommissioned NPS 20 Pipeline in place.

Position of the Parties

The City argues that the BCUC erred in law by finding, "the BCUC had jurisdiction to authorize FEI and did authorize FEI, within the meaning of the term "authorization" as used in section 121 of the UCA, to abandon in place FEI's decommissioned NPS 20 pipes located in Como Lake Avenue"⁹.

⁶ Exhibit B-2, p. 2.

⁷ Order C-11-15 with Reasons for Decision, p. 24.

⁸ City Final Argument, p. 3.

⁹ City Final Argument, p. 3.

The City submits that, in Order G-80-19, the BCUC has characterized the BCUC's Order C-11-15 allowing FEI to abandon in place the decommissioned NPS 20 Pipeline as being an "authorization" pursuant to section 121 of the UCA. Hence, the City concludes directive 1 of Order G-80-19 is based on a finding that the approval to abandon in place the decommissioned NPS 20 Pipeline is in law a CPCN issued under section 46 of the UCA.¹⁰

The City argues the BCUC does not have jurisdiction to grant a CPCN under section 46 of the UCA for the "abandonment in place of permanently decommissioned equipment that is not used and useful for the utility." In the City's view, a CPCN is granted "to construct and operate a new public utility plant or system, or a new extension to an existing public utility plant or system."¹¹ The City adds that section 46 of the UCA allows a public utility to "construct, maintain and operate" the facilities authorized in the CPCN, but makes no reference to permanently decommissioning equipment.¹²

Further, the City notes that FEI did not apply for a CPCN to decommission the NPS 20 Pipeline, and that while the CPCN granted by Order C-11-15 provided authorization to construct and operate the NPS 30 Pipeline, it did not "grant to FEI a CPCN to abandon in place its permanently decommissioned NPS 20 pipes in Como Lake Avenue."¹³

The City observes that while approval is required under section 41 of the UCA for a public utility to cease operation of facilities, such approval is not permission to abandon the equipment in place, and neither is such permission an "authorization" within the meaning of section 121 of the UCA.¹⁴

Since the BCUC did not issue FEI with a CPCN to decommission in place its NPS 20 Pipeline, the City argues that FEI has no "authorization" for such decommissioning, as the term is used in section 121 of the UCA, and thus the BCUC finding underpinning directive 1 of Order G-80-19 was an error of law.¹⁵

The City submits it is the landowner and primary regulator of all uses of Como Lake Avenue.¹⁶ Even if the BCUC had had the jurisdiction to grant a CPCN for the decommissioning of the NPS 20 Pipeline and had granted such a CPCN, the City argues that this would not have granted FEI the necessary property rights to abandon the NPS 20 Pipeline in Como Lake Avenue.¹⁷ The City cites section 2(3)(a) of the GUA which lists certain activities prescribed for gas utilities operating in municipalities,¹⁸ section 2(3)(b) which prescribes certain ancillary powers of the gas utility,¹⁹ and section 2(3)(c)(i) which prescribes ancillary property usage rights subject to conditions agreed by the municipality. The City observes that the GUA does not refer to decommissioning pipes in its list of prescribed activities for gas utilities, and therefore the statutory scheme does not confer on FEI rights, without the City's agreement, to abandon permanently decommissioned pipes in City lands.²⁰

FEI argues the BCUC has a "broad public interest mandate, a central component of which is to set rates that are just and reasonable." The powers of the BCUC under the UCA cover the entire lifespan of utility assets from

¹⁰ City Final Argument, p. 6.

¹¹ Ibid., p. 7, emphasis added.

¹² Ibid., p. 8.

¹³ Ibid., p. 8-9.

¹⁴ Ibid., p. 8.

¹⁵ Ibid., p. 10.

¹⁶ Ibid., p. 12.

¹⁷ Ibid., p. 10.

¹⁸ "produce, generate, store, mix, transmit, distribute, deliver, furnish, sell, and take delivery of gas"

¹⁹ "construct, develop, renew, alter, repair, maintain, operate and use property for any of those purposes specified in s. 2(3)(a)".

²⁰ City Final Argument, pp. 10-11.

construction and operation to decommissioning, abandonment or removal. In each case, the BCUC has powers to impose terms and conditions on utilities consistent with the BCUC's mandate of setting just and reasonable rates. Since utilities incur costs to decommission assets as well as to construct, operate and maintain them, FEI argues that decommissioning costs directly affect rates charged to utility customers.²¹

FEI observes the BCUC has considered rate and other implications of decommissioning assets in other contexts.²² In FEI's 2012-2013 Revenue Requirement Application,²³ the BCUC accepted the utility's proposed method of forecasting decommissioning costs and directed the utility to make every effort to reduce the cost of removal or abandonment of assets upon retirement.

FEI argues the BCUC did not purport to grant a CPCN for the abandonment of the NPS 20 Pipeline, as alleged by the City. Rather, the decommissioning and abandonment in place of the NPS 20 Pipeline was directed by the BCUC as a term of the 2015 CPCN for the NPS 30 Pipeline.²⁴ The BCUC has powers under section 45(9) of the UCA to impose terms on a CPCN.²⁵

Further, FEI argues the 2015 CPCN and the 1955 CPCN are both "authorizations" in the sense of the term in section 121 of the UCA, and thus section 121 was correctly invoked by the BCUC in directive 1 of Order G-80-19.²⁶

FEI disagrees that the City has property rights over Como Lake Avenue that supersede the BCUC's authority. FEI argues that the authorization for the NPS 20 Pipeline granted by the 1955 CPCN continued after the pipeline was decommissioned.²⁷ Since section 121 of the UCA makes the *Community Charter* subordinate to the UCA, any property rights the City has over Como Lake Avenue are superseded by powers conferred on the BCUC or CPCNs granted by the BCUC to utilities under section 46 of the UCA.²⁸

BC Hydro argues that the BCUC has jurisdiction under the UCA to order equipment to be decommissioned in place. In BC Hydro's view, once a public utility plant or system is constructed, it remains in place subject to an order by the BCUC. Sections 45 and 46 of the UCA are concerned with construction and operation of a public utility plant or system and section 41 addresses cessation of operations of a plant or system. BC Hydro argues that these sections must be "interpreted broadly so the BCUC has the necessary power to regulate all aspects of the utility plant life cycle to protect the public interest."²⁹ BC Hydro goes on to say that the BCUC's approval pursuant to sections 45 and 46 of the UCA to permit FEI to abandon in place the decommissioned NPS 20 Pipeline, based on minimizing cost and environmental and social impacts, is consistent with the object and scheme of the UCA.³⁰

BC Hydro adds that subsection 46(3) of the UCA gives the BCUC the power to attach terms to a CPCN, including terms related to its duration, and subsection 45(9) allows the BCUC to impose conditions about "construction,

²¹ FEI Final Argument, p. 11-12.

²² *Ibid.*, p. 13.

²³ FortisBC Energy Utilities comprised of FortisBC Energy Inc., FortisBC Energy Inc. Fort Nelson Service Area, FortisBC Energy (Whistler) Inc., FortisBC Energy (Vancouver Island) Inc. 2012 and 2013 Revenue Requirements and Natural Gas Rates Application.

²⁴ FEI Final Argument, pp. 29-30.

²⁵ *Ibid.*, p. 32.

²⁶ *Ibid.*, pp. 29, 30, 36.

²⁷ *Ibid.*, p. 30.

²⁸ *Ibid.*, p. 36.

²⁹ BC Hydro Final Argument, p. 6.

³⁰ *Ibid.*, pp. 10-11.

equipment, maintenance, rates or service.” BC Hydro submits that these two subsections of the UCA give the BCUC the power to impose conditions or terms regarding decommissioning utility plant if, in the BCUC’s judgement, such conditions or terms are required by the public convenience or necessity.³¹

BC Hydro argues that the BCUC may impose conditions ordering equipment be decommissioned in place to “avoid adverse economic, environmental and social impacts.”³² This interpretation is consistent with the BCUC’s principal function under the UCA, namely the “determination of rates and protecting the integrity and dependability of the supply system.”³³

BC Hydro adds that, even if the BCUC finds it did not have jurisdiction under sections 45 and 46 of the UCA to order that equipment be decommissioned in place, the BCUC has that jurisdiction by necessary implication.³⁴ Citing the Supreme Court of Canada (SCC) *ATCO*³⁵ decision, BC Hydro argues that not being able to order public utility equipment be decommissioned in place would restrict the BCUC’s ability to regulate rates and utility plant.³⁶

The CEC submits that the City has “fundamentally mischaracterized the approval and authorization at issue.”³⁷ The CEC argues the question is not whether the abandonment approval was in and of itself a CPCN authorization, but rather whether the abandonment in place was “within the proper legislative powers authorized as a term or condition of the CPCN granted in Order C-11-15.”³⁸

The CEC argues that the CPCN granted by the BCUC by Order C-11-15 “reasonably and correctly dealt with all issues related to the new project, including the necessity to deal with the decommissioned pipes.” The CEC observes that sections 46(3) and 45(9) of the UCA give the BCUC the power to attach terms and conditions to a CPCN authorization as the public convenience or necessity may require. The interpretation of the UCA by necessary implication requires the BCUC to have the power to oversee or approve the costs associated with removal or abandonment, in order to protect the interests of public utilities and ratepayers.³⁹

The CEC further argues that the BCUC’s interpretation of section 121 of the UCA was correct, and that the “authorizations” as the term is used in section 121 were identified by the BCUC in Order G-80-19. Thus, in the CEC’s view, the BCUC was correct to invoke section 121 of the UCA to ensure that Order G-80-19 had primacy over anything that could be done under the *Community Charter* or the *Local Government Act*, and that the BCUC consider the broader, province-wide perspective.⁴⁰

In reply, the City states that its final argument “fully addresses all of the issues arising” from its Reconsideration Application. The City submits that all interveners are suggesting the powers of the BCUC be broadened as a “necessary implication” of “certain objectives of the UCA.” The City adds that, in its view, the meaning of the

³¹ BC Hydro Final Argument, p. 6.

³² *Ibid.*, p. 7.

³³ *Ibid.*, p. 7.

³⁴ *Ibid.*, p. 9.

³⁵ *ATCO* at para 50, quoting *Bell Canada v. Canada* (Canadian Radio-Television and Telecommunications Commission), 1989 CanLII 67 (SCC), [1989] 1 SCR 1722 at 1756.

³⁶ BC Hydro Final Argument, p. 10.

³⁷ CEC Final Argument, p. 4.

³⁸ *Ibid.*, p. 4.

³⁹ *Ibid.*, pp. 4-5.

⁴⁰ *Ibid.*, pp. 5, 7.

UCA and GUA is plain, and that there is no basis to imply that the legislature intended to confer different powers on the BCUC.⁴¹

The City also argues that interveners' arguments about the BCUC's core mandate are not applicable to the issues in this proceeding. In the City's view, this dispute is about property rights. It argues that nothing in CPCNs granted under sections 46(3) or 45(2) of the UCA confers property rights on FEI. Rather, the City argues that section 2(3)(c)(i) of the GUA and the 1957 Operating Agreement provide FEI "certain property rights to occupy lands owned and controlled by the City for the purposes specified therein."⁴²

The City states that the statutory scheme set out in sections 2(3)(b) and 2(3)(c)(i) of the GUA does not confer on FEI rights, without the City's agreement, to abandon in City lands permanently decommissioned pipe, and such rights cannot be inferred. The City asserts that FEI's arguments "do not have due regard to the provisions of the GUA that are fundamental to the statutory scheme."⁴³ The City asserts that the currently-operating NPS 20 Pipeline is permitted to occupy space on Como Lake Avenue pursuant to the GUA and the 1957 Operating Agreement, and not pursuant to any CPCN granted to FEI by the BCUC or deemed to have been received by FEI.⁴⁴

Panel Determination

The Panel will consider the following issues in determining whether the BCUC has jurisdiction to approve the abandonment in place of the decommissioned NPS 20 Pipeline:

- Whether FEI was properly authorized to construct, maintain and operate the NPS 20 Pipeline;
- Whether the BCUC properly authorized FEI to decommission the NPS 20 Pipeline;
- Whether the BCUC's jurisdiction over the NPS 20 Pipeline continued after it was decommissioned;
- Whether the BCUC had jurisdiction to authorize that the decommissioned NPS 20 Pipeline be abandoned in place;
- Whether the BCUC's reference in Order G-80-19 to section 121 of the UCA implies that the BCUC believed section 121 ascribes powers to the BCUC to authorize the abandonment in place of the NPS 20 Pipeline; and
- Whether the BCUC properly invoked section 121 of the UCA to determine that the City had no powers to supersede or impair FEI's approval to abandon the decommissioned NPS 20 Pipeline in place.

The Panel finds FEI was properly authorized to construct and operate the NPS 20 Pipeline.

On July 29, 1955, the Public Utilities Commission (now the BCUC), issued a CPCN (1955 CPCN) to the British Columbia Electric Company Limited (now FEI) for "the supply of natural gas in the Lower Mainland area of British Columbia."⁴⁵ The Lower Mainland was defined in the 1955 CPCN to include the District of Coquitlam (now the City). The 1955 CPCN was approved by Order in Council 2133 on August 25, 1955. By necessary implication, granting a CPCN for "the supply of natural gas in the Lower Mainland" means that FEI was authorized under the UCA to install the NPS 20 Pipeline.

⁴¹ City Reply Argument, p. 3.

⁴² Ibid., p. 4.

⁴³ Ibid., p. 7.

⁴⁴ Ibid., p. 9.

⁴⁵ 1955 CPCN and OIC 2133_1955 filed as appendix D to this Reason for Decision, (http://www.bclaws.ca/civix/document/id/oic/arc_oic/2133_1955).

Section 2(2) of the GUA states:

A gas utility to which a certificate of public convenience and necessity is granted after April 14, 1954 under the *Utilities Commission Act* or the legislation that preceded it is authorized and empowered, subject to the *Utilities Commission Act*, to carry on its business as a gas utility in the municipality or rural area mentioned in the certificate. (emphasis added)

The 1955 CPCN was issued after April 14, 1954 and included the City in its geographical reach. On a plain reading, section 2(2) of the GUA provides that FEI is authorized and empowered “subject to the UCA” to carry on its business as a gas utility in the City.

The City submits that FEI is not permitted to occupy space on Como Lake Avenue pursuant to a CPCN, but rather, submits FEI’s permission to occupy the space is pursuant to the GUA and the 1957 Operating Agreement.⁴⁶ The Panel disagrees. The Panel considers that the GUA and the UCA must be viewed together and in their entire context. FEI is permitted to occupy space on Como Lake Avenue pursuant to both the 1955 CPCN and the GUA. The 1955 CPCN, by necessary implication, authorized the construction and operation of the NPS 20 Pipeline as part of FEI’s gas system. The GUA authorized FEI to “carry on its business as a gas utility.” There is no conflict between the provisions of the UCA and GUA in this regard. Section 2(2) of the GUA authorizes FEI to carry on business in the City as a gas utility, and sections 45 and 46 of the UCA empower the BCUC to authorize FEI to construct or operate its public utility plant or system.

The Panel finds the BCUC properly authorized FEI to decommission the NPS 20 Pipeline.

In its Order C-11-15, the BCUC authorized FEI to replace the aging and unsafe NPS 20 Pipeline with the new and larger NPS 30 Pipeline. Order C-11-15 specifically states that FEI was applying to “upgrade and replace an existing NPS 20 IP pipeline.”⁴⁷ The BCUC found that the replacement was justified⁴⁸ and approved FEI’s plans to decommission the NPS 20 Pipeline.⁴⁹ In the result, the 2015 CPCN simultaneously authorized FEI to build the larger NPS 30 Pipeline and to decommission the NPS 20 Pipeline it was replacing.

The Panel views that sections 45 and 46 of the UCA provide the BCUC with express powers to authorize the decommissioning of public utility assets. Even if these powers are not expressly provided in the UCA, the Panel considers that the BCUC has these powers by necessary implication.

Sections 45 and 46 of the UCA, which taken together govern the substance and process for the issuance of CPCNs, provide the BCUC with the powers and mechanism to grant such CPCNs. In particular, section 46(3) of the UCA empowers the BCUC to impose terms on a CPCN, including conditions about the CPCN’s duration, “as, in its judgment, the public convenience or necessity may require.” In issuing the 2015 CPCN, the BCUC imposed as a term that the NPS 20 Pipeline would be decommissioned. Such a term was expressly within its authority to impose under section 46(3) of the UCA.

Alternatively, if sections 45 and 46 of the UCA do not provide the BCUC with express power to approve the decommissioning of the NPS 20 Pipeline, the Panel considers that the power to do so arises under the UCA by

⁴⁶ City Reply Argument, p. 9.

⁴⁷ Order C-11-15, Recital B (a).

⁴⁸ Ibid., pp.8, 69.

⁴⁹ Ibid., pp. 24, 70.

necessary implication. The SCC in the *ATCO* decision has established that administrative tribunals such as the BCUC have powers ascribed to them by the doctrine of necessary implication. As the SCC stated in *ATCO*:

The powers of any administrative tribunal must of course be stated in its enabling statute but they may also exist by necessary implication from the wording of the act, its structure and its purpose. Although courts must refrain from unduly broadening the powers of such regulatory authorities through judicial law-making, they must also avoid sterilizing these powers through overly technical interpretations of enabling statutes.⁵⁰

In the Panel's view, reading sections 45 and 46 in the context of the object and scheme of the UCA, it is reasonable to interpret that those sections, by necessary implication, provide the BCUC with the power to authorize the decommissioning of an asset, such as the NPS 20 Pipeline, that is part of a utility's plant or system. Public utilities must seek the permission of the BCUC under section 41 of the UCA to approve the cessation of all or part of an operation for which a CPCN is necessary. It is a necessary implication, therefore, that the BCUC has the power to grant such permission. Since sections 45 and 46 of the UCA empower the BCUC to issue and amend the CPCNs which underly the operations referred to in section 41, the Panel is satisfied that those sections also empower the BCUC to authorize the decommissioning of assets whose construction and operation were approved under prior CPCNs. To interpret sections 45 and 46 otherwise would, in the Panel's view, lead to an absurd and unintended result that public utilities would be required under section 41 to apply for permission to cease all or part of an operation, but the BCUC would have no power to authorize the public utilities to decommission the assets on which the operation relied.

That said, the Panel observes that the decommissioning of the NPS 20 Pipeline was neither requested nor approved under section 41 of the UCA. Section 41 of the UCA obliges public utilities to seek the permission of the BCUC prior to ceasing part or all of an operation for which a CPCN is necessary. In the 2015 CPCN, the BCUC approved changes to FEI's gas system, but the replacement of the NPS 20 Pipeline by the new and larger NPS 30 Pipeline did not cause any part of FEI's operation to cease. Rather, the pipeline replacement ensured that the current level of operation could be safely sustained, and potentially expanded.

For these reasons, the Panel considers that the BCUC has properly authorized the decommissioning of the NPS 20 Pipeline expressly under sections 45 and 46 of the UCA or by necessary implication.

Further, the Panel finds that nothing in the GUA impairs the jurisdiction of the BCUC to approve the decommissioning of the NPS 20 Pipeline. Section 2(3) of the GUA contains a list of activities in which a gas utility may engage (Gas Activities) and the Panel agrees that the Gas Activities do not specifically reference decommissioning. However, section 2(3) of the GUA specifically states that the Gas Activities do not limit the more general section 2(2), which allows a gas utility "to carry on its business as a gas utility" once the utility is granted a CPCN under the UCA. The Panel considers that decommissioning gas pipe is part of carrying on business as a gas utility, and hence such decommissioning is not excluded from the permitted scope of a gas utility merely by virtue of not being specifically listed in the Gas Activities. Rather, it is included in the permitted scope of a gas utility by virtue of section 2(2) of the GUA.

⁵⁰ *ATCO* at paragraph 50, quoting *Bell Canada v. Canada* (Canadian Radio-Television and Telecommunications Commission), 1989 CanLII 67 (SCC), [1989] 1 SCR 1722 at 1756. Quoted in *BC Hydro Final Argument*, p. 9.

The Panel finds that the BCUC's jurisdiction over the NPS 20 Pipeline continues after it was decommissioned.

The Panel accepts that neither the UCA nor the GUA specifically mention decommissioned equipment or abandonment. Equally, however, neither the UCA nor the GUA state explicitly when the BCUC's jurisdiction over public utility assets ceases. In the Panel's view, to conclude that the BCUC's jurisdiction over public utility assets ends when they are decommissioned is too narrow an interpretation of the BCUC's powers.

The SCC in the oft-quoted decision in *Rizzo* states on the subject of statutory interpretation: "the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament." (emphasis added) ⁵¹ In this instance, the Panel must consider the scheme and object of the UCA in its entire context, and in a manner that is harmonious with the GUA.

In the *ATCO* decision, the SCC considered a case under the public utility legislation in Alberta, and concluded that the main functions of a public utilities regulator are "rate setting" and "protecting the integrity and dependability of the supply system." ⁵² The Panel considers these functions set out the "object" of the UCA, to use the SCC's term in *Rizzo*.

In the *District of Surrey* decision ⁵³, the SCC made it clear that "The whole tenor of the Act [PUC now UCA] shows clearly that the safeguarding of the interests of the public, both as to the identity of those who should be permitted to operate public utilities and to the manner in which they operate, was a duty vested in the Commission."

Considering both the *ATCO* and *District of Surrey* decisions together, the Panel views the primary role of the BCUC to be rate setting and protecting the supply system in a manner which safeguards the public interest (together the Core Mandate).

The UCA gives the BCUC broad powers over public utility assets because the costs of public utility assets are recovered in rates and because public utility assets are essential for the integrity and dependability of the supply system. Sections 45 and 46 of the UCA empower the BCUC to decide whether to issue a CPCN authorizing a public utility to invest in its plant or system, based on the economic impact on ratepayers and on other matters of public interest. The BCUC may also impose conditions on a CPCN, including conditions about its duration. The BCUC's powers over public utility assets also explicitly continue beyond the initial issuance of a CPCN, as evidenced for example by section 32 of the UCA, which deals with ongoing operating agreements. These powers are central to the Core Mandate of the BCUC and are part of the "scheme of the Act", in the sense of the term used by the SCC in *Rizzo*.

Turning to the matter at hand, the Panel must determine whether the BCUC's jurisdiction over the NPS 20 Pipeline ended when the approval was given for it to be decommissioned. If the BCUC's jurisdiction had ended when the NPS 20 Pipeline was decommissioned, the BCUC would not have been able to impose conditions on the decommissioned pipe which might serve the public interest. The BCUC would not have been able to

⁵¹ *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 at para 21 (SCC), quoting Elmer Driedger, *Construction of Statutes* (2nd ed. 1983) at 87; Book of Authorities, Tab 1. (quoted from BC Hydro argument).

⁵² *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, [2006] 1 SCR 140, 2006 SCC 4 (CanLII) at para 7; Book of Authorities, Tab 2. (quoted from BC Hydro argument).

⁵³ *District of Surrey v. British Columbia Electric Company Ltd.*, [1957] SCR 121 at 126, quoted from FEI Final Argument p. 24.

determine whether the public interest was best served by removing the decommissioned pipe from the ground, whether the ratepayers' economic interests were best served by abandoning the pipe in place, or whether environmental interests were served by directing FEI to treat and fill sections of the abandoned pipe.

The Panel's view is that the aforementioned considerations are all fairly encompassed within the BCUC's Core Mandate, namely rate setting and protecting the supply system in a manner which safeguards the public interest. The BCUC has jurisdiction over FEI's decommissioned assets to ensure its gas is supplied at just and reasonable rates because there are significant differences in the cost of different methods of decommissioning assets. The BCUC also has the jurisdiction to ensure that FEI serves the public interest in the manner in which its assets are decommissioned, for example in how the abandoning of assets in place might affect the environment or a municipality's operations. Further, there is nothing in the UCA to expressly state that the BCUC's jurisdiction over public utility assets ends when they are decommissioned.

Even if sections 45 and 46 of the UCA were read not to encompass these powers expressly, the Panel agrees with BC Hydro's submission that the BCUC has these powers by necessary implication. The Panel does not consider the ongoing regulation of decommissioned public utility assets for the purposes of rate setting and maintaining the integrity of the supply system to be "unduly broadening the powers" of the BCUC. To the contrary, the Panel considers these powers to be an integral part of the BCUC's Core Mandate to regulate public utility assets.

The City states that the GUA does not confer on FEI rights, without the City's agreement, to permanently abandon decommissioned pipe in City lands. The Panel agrees that the GUA does not expressly confer these rights, but considers the City's reading of the GUA is too narrow and is not harmonious with the UCA.

Section 2(3) of the GUA contains a list of permitted Gas Activities. The wording "a gas utility authorized under either of those subsections may do one or all of the following" (emphasis added) in section 2(3) indicates the permissive nature of the list. However, section 2(3) also explicitly states that the list of Gas Activities does not limit section 2(2), which permits FEI to "carry on its business as a gas utility" in the City. The list of Gas Activities is therefore not an exhaustive list of the activities permitted under section 2(2). As such, the Panel disagrees with the City's assertion that the absence of decommissioning assets from the list of Gas Activities means that decommissioning is not permitted under the GUA.

Further, the Panel notes that gas utilities are subject to the UCA by virtue of section 2(1) of the GUA, and as described above the Panel considers that the UCA provides the BCUC with the powers to authorize the decommissioning of public utility assets. In the Panel's view, therefore, there is nothing in the GUA which impairs the jurisdiction of the BCUC to regulate the NPS 20 Pipeline after decommissioning.

For these reasons, the Panel finds that the BCUC retains continuing jurisdiction over the NPS 20 Pipeline after the pipeline was decommissioned.

The Panel finds the BCUC had the jurisdiction to authorize that the decommissioned NPS 20 Pipeline be abandoned in place.

As the Panel has established above, the BCUC properly authorized FEI to decommission the NPS 20 Pipeline and retained jurisdiction over the NPS 20 Pipeline after it was decommissioned. Therefore, the BCUC was empowered under section 46(3) of the UCA to add conditions to any CPCN which provided authorization

relevant to the NPS 20 Pipeline as long as such conditions were within the BCUC's Core Mandate. Alternatively, the BCUC had the jurisdiction by virtue of the doctrine of necessary implication, for the reasons previously stated, to authorize the abandonment of the NPS 20 Pipeline in place.

When considering any request for a CPCN to modify or extend an existing gas system, the BCUC may reasonably consider the effects on the entire gas system before determining whether the requested modification or extension is in the public interest. It is therefore necessary and appropriate that the BCUC should be able to attach terms to a CPCN which relate to other parts of the integrated gas system which are affected by the CPCN.

The 2015 CPCN provided FEI with authorization to replace the NPS 20 Pipeline with the NPS 30 Pipeline. This replacement was an incremental change to the gas supply system which FEI already had authorization to operate pursuant to the 1955 CPCN. Once the 2015 CPCN was granted, FEI had authorization to operate its entire gas supply system, which now includes the NPS 30 Pipeline.

In its reasons for decision in both C-11-15 and G-80-19, the BCUC considered both economic and non-economic factors related to the decommissioning of the NPS 20 Pipeline. The BCUC noted FEI's estimate that removal of the decommissioned NPS 20 Pipeline would cost about \$75 million, compared to the estimate of \$3.1 million to abandon the Pipeline in place.⁵⁴ If the City were right in its submissions that decommissioned pipeline cannot be abandoned in place, it would result in the entire cost of removing such pipeline being borne by the utility and therefore its ratepayers. The BCUC also considered non-economic factors in its decision stating it was satisfied with FEI's plans "to minimize environmental and social impacts" and noted that no interveners raised concerns about the abandonment⁵⁵ (the City, which had been consulted by FEI prior to C-11-15, chose not to participate in the proceeding⁵⁶). Further, in G-80-19, the BCUC re-examined the economic and social issues with respect to abandonment⁵⁷ and affirmed the approval provided by C-11-15 to abandon in place.

The Panel is satisfied that the BCUC had appropriate jurisdiction to authorize the NPS 20 Pipeline to be abandoned in place, and appropriately considered the relevant matters within the BCUC's Core Mandate in reaching that decision. The Panel therefore rejects the City's submission that the BCUC does not have the jurisdiction to approve the abandonment in place of the decommissioned NPS 20 Pipeline. The BCUC does indeed have such jurisdiction, and as the Panel explains below, section 121 of the UCA ensures that nothing in the *Community Charter* or the *Local Government Act* gives the City the ability to supersede or impair these powers.

The Panel finds that the BCUC's reference to section 121 of the UCA in directive 1 of G-80-19 does not imply that the BCUC believed section 121 ascribes powers to the BCUC to authorize the abandonment in place of the NPS 20 Pipeline.

Directive 1 of G-80-19 did not provide FEI the original approval to abandon in place the decommissioned NPS 20 Pipeline. Rather, this directive merely affirmed the pre-existing approval that had been provided to FEI as a term of the 2015 CPCN. In the reasons attached to G-80-19,⁵⁸ the BCUC explains that the BCUC "in its 2015 CPCN

⁵⁴ Order C-11-15, p. 24.

⁵⁵ Ibid., p. 24.

⁵⁶ Order G-80-19, p. 15

⁵⁷ Ibid., p. 16.

⁵⁸ Ibid., p. 15.

decision [Order C-11-15], clearly approved FEI's plans to abandon in place the decommissioned NPS 20 Pipeline." The BCUC was well aware that approval for abandonment in place had already been provided in C-11-15 and did not need to be provided anew in Order G-80-19. Further, in the reasons attached to G-80-19,⁵⁹ the BCUC explains that it is relying on section 121 of the UCA solely because that section precludes the City from exercising any purported powers under the *Community Charter* or the *Local Government Act* to require that the NPS 20 Pipeline be removed. The BCUC did not cite section 121 of the UCA to authorize the abandonment in place of the decommissioned NPS 20 Pipeline, but to demonstrate that the City did not have powers under the *Community Charter*, or under common law, to usurp the powers of the BCUC to approve the abandonment in place.

The Panel finds the BCUC properly invoked section 121 of the UCA to determine that the City had no powers to supersede or impair FEI's approval to abandon in place the decommissioned NPS 20 Pipeline.

The City has characterized the approval to discontinue operation of the NPS 20 Pipeline as a "CPCN under section 46 of the UCA for abandonment in place of permanently decommissioned equipment."⁶⁰ The Panel disagrees. The BCUC's direction in C-11-15 allowing FEI to abandon the decommissioned NPS 20 Pipeline in place added a term to FEI's authorization for the construction and operation of the NPS 30 Pipeline. The approval for abandonment in place of the decommissioned NPS 20 Pipeline was not in and of itself a new or separate CPCN.

Section 121 (1) (a) of the UCA states that nothing in or done under the *Community Charter* or the *Local Government Act* "supersedes or impairs a power conferred on the commission or an authorization granted to a public utility." This offers two alternatives for when section 121 of the UCA is applicable, and while meeting one alternative is sufficient, in this circumstance both are applicable.

The power to make orders under sections 45 and 46 of the UCA are powers conferred on the BCUC, and the term regarding abandonment was added to the 2015 CPCN pursuant to section 46(3) of the UCA. Therefore, by the first alternative offered by section 121(1)(a) of the UCA, the addition of the abandonment term cannot be superseded or impaired by anything in or done under the *Community Charter* or the *Local Government Act*.

Additionally, the 2015 CPCN is an "authorization" in the sense used in section 121 of the UCA. The 2015 CPCN meets the test in section 121(2) as it is a CPCN issued under section 46 of the UCA. Therefore, in the second alternative offered by section 121(1)(a), the term which C-11-15 added to the 2015 CPCN to allow abandonment in place cannot be superseded or impaired by anything in or done under the *Community Charter* or the *Local Government Act*.

For these reasons, the Panel finds that the BCUC properly determined that section 121 of the UCA should be invoked in Order G-80-19.

Conclusion

For the above reasons, the Panel finds that the BCUC did not err in law and dismisses the City's Reconsideration Application seeking that the BCUC rescind directive 1 of Order G-80-19.

⁵⁹ Order G-80-19, p. 15.

⁶⁰ City Final Argument, p. 7.

3.0 Did the BCUC have the jurisdiction to impose a cost allocation formula on the parties?

Having concluded that the BCUC had the jurisdiction to allow FEI to abandon in place decommissioned NPS 20 Pipeline, the Panel must also examine its jurisdiction under section 32 of the UCA.

The City also seeks in its Reconsideration Application an order that the BCUC rescind directive 2 of Order G-80-19, which states:

2. Pursuant to section 32 of the UCA, upon request by the City in circumstances where it interferes with municipal infrastructure, the costs of removal of any portion of the decommissioned NPS 20 Pipeline shall be shared equally between FEI and the City.⁶¹

Position of the Parties

The City argues that section 32 of the UCA does not apply to the circumstances where FEI cannot come to an agreement with the City with regards to FEI's plan to abandon in place the decommissioned NPS 20 Pipeline in Como Lake Avenue.⁶² The City states that FEI is not seeking to "place" the NPS 20 Pipeline in Como Lake Avenue. Further, the City notes that section 32(1)(a) refers to "distribution equipment", which term is defined in section 1 of the UCA to include equipment "used to supply service to the utility customers."⁶³ Once the NPS 20 Pipeline is decommissioned, the City argues that it will no longer be "distribution equipment" as defined in the UCA. Therefore, the City submits that section 32 is not applicable.

FEI disputes the City's "strained reading" of section 32, arguing instead that section 32 of the UCA applies to public utility assets throughout their lifecycle, including decommissioning and abandonment. FEI explains that section 32(1)(a) does not cease to apply to assets once they have been placed, but rather continues to apply after they have been placed. The right granted by the CPCN is to leave public utility assets in the ground, not merely to place them. Thus, FEI argues that section 32 of the UCA is applicable to disputes that arise once such assets are in use, not merely until they are placed in the ground and FEI notes that section 32 has been used by the BCUC on many occasions in such circumstances.⁶⁴

FEI also disputes the City's position that distribution equipment ceases to be distribution equipment once it has been decommissioned. In FEI's view, the purpose of sections 32, 33 and 36 of the UCA is to "ensure that a utility is not held to ransom by municipalities in which it operates," and to empower the BCUC to resolve disputes between utilities and municipalities with regard to the interests of ratepayers and the public interest. Since decommissioned public utility assets may give rise to disputes between utilities and municipalities, the BCUC is charged with resolving these disputes with regards to the cost to ratepayers and the public interest, which includes the interests of municipalities and districts.⁶⁵

BC Hydro also argues that the City's interpretation of section 32 of the UCA is too narrow, and that this section applies to decommissioned public utility assets.⁶⁶ BC Hydro views that subsection 32(1) of the UCA describes the conditions that must be met for the BCUC to have jurisdiction under section 32, but that the BCUC does not then lose that jurisdiction once the applicable public utility assets are installed or if they cease to be in service.

⁶¹ Exhibit B-1, p. 4.

⁶² City Final Argument, p. 14.

⁶³ Ibid., pp. 14-15.

⁶⁴ FEI Final Argument, p. 42.

⁶⁵ Ibid., pp. 43-44.

⁶⁶ BC Hydro Final Argument, p. 11-12.

Rather, BC Hydro's view is that the BCUC retains jurisdiction over the public utility assets as long as they are on the municipal lands on which they were constructed.⁶⁷

BC Hydro adds that its interpretation of section 32 of the UCA is consistent with its view of the object and scheme of the UCA, including the legal test applied by the BCUC when exercising its jurisdiction under section 32 – safeguarding the public interest.⁶⁸

The CEC submits that each of the tests set out in section 32(1) of the UCA concerning the applicability of section 32 in these circumstances have been met. The CEC's view is that FEI had a "right to enter" to "place its distribution equipment" pursuant to the 1955 CPCN, and that the abandonment of decommissioned NPS 20 Pipeline is "a continuation of the permitted use in prior CPCNs." Further, the CEC notes that the existence and terms of the Reconsideration Application indicate it is apparent that FEI and the City cannot come to an agreement with respect to use of City lands.⁶⁹

The CEC observes that the purpose of section 32 of the UCA is to protect ratepayer interests in the event of a dispute between utilities and municipalities. The CEC submits this goes to the core of the BCUC's role as regulator of public utilities, as noted by the BCUC in Order G-80-19.⁷⁰

In reply, the City states it relies on the grammatical and ordinary sense of the word place, "to lay down" and thus does not rely on "interpretive gymnastics" as suggested by FEI.⁷¹ Since the NPS 20 Pipeline is not being placed, the City repeats its submission that section 32 of the UCA does not apply.

Further, the City reiterates its position that the NPS 20 Pipeline is not permitted to occupy space in Como Lake Avenue "pursuant to any CPCN granted to FEI by the BCUC pursuant to section 46 of the UCA" or deemed to have been received by FEI. Rather, the City submits that the NPS 20 Pipeline occupies space in Como Lake Avenue pursuant to the 1957 Operating Agreement.⁷²

Panel Determination

The Panel has already determined that the BCUC's jurisdiction over the NPS 20 Pipeline did not cease when the pipeline was decommissioned. The issue for the Panel now is whether the BCUC had the jurisdiction under section 32 of the UCA to impose a cost allocation formula on FEI and the City with respect to the removal of any portion of the decommissioned and abandoned NPS 20 Pipeline.

The Panel finds that section 32 of the UCA applies in these circumstances and that the BCUC had the jurisdiction in Order G-80-19 to impose a cost allocation formula on FEI and the City with respect to the removal of the decommissioned and abandoned NPS 20 Pipeline.

Section 32(1) of the UCA, provides that section 32 applies when a public utility:

- (a) has the right to enter a municipality to place its distribution equipment on, along, across, over or under a public street, lane, square, park, public place, bridge, viaduct, subway or watercourse, and

⁶⁷ Ibid., pp. 12-13.

⁶⁸ BC Hydro Final Argument, p. 13.

⁶⁹ CEC Final Argument, p. 8-9.

⁷⁰ Ibid., p. 9.

⁷¹ City Reply Argument, p. 9.

⁷² Ibid., p. 10.

(b) cannot come to an agreement with the municipality on the use of the street or other place or on the terms of the use.

In the Panel's view, the test set out in section 32(1)(a) is clearly met because FEI has the right to use City lands pursuant to the 1955 CPCN and the GUA. The 1955 CPCN permitted FEI to construct and operate its natural gas system, including the NPS 20 Pipeline, in the Greater Vancouver area, including the City. Section 2(2) of the GUA permits FEI to carry on its business as a gas utility because it has been granted a CPCN under the UCA (the 1955 CPCN).

The Panel disagrees with the City that section 32(1)(a) ceases to apply once the NPS 20 Pipeline was placed or laid down. The placing or laying down of any specific length of pipe, such as the NPS 20 Pipeline, does not extinguish FEI's right to place or lay down pipe in the City. The test in section 32(1)(a) was met when the 1955 CPCN was granted, and the rights granted under the 1955 CPCN continue to exist until the BCUC determines otherwise.

The Panel also disagrees with the City's view that distribution equipment ceases to be distribution equipment when it is decommissioned. The Panel does not dispute the City's assertion that the decommissioned NPS 20 Pipeline will never again be used to distribute gas. However, this is not the point. The BCUC's jurisdiction over FEI's public utility assets continues after those assets are decommissioned, in order that the BCUC may fulfil its Core Mandate and discharge the object and scheme of the UCA.

The Panel also considers that the test set out in section 32(1)(b) is met because FEI and the City cannot come to an agreement with respect to the use of Como Lake Avenue for the abandonment of the decommissioned NPS 20 Pipeline. This is clearly evidenced in the existence and nature of the proceedings for the Original Application and resultant Reconsideration Application, wherein FEI and the City disagree on the terms under which the decommissioned NPS 20 Pipeline may be removed from under Como Lake Avenue, and specifically how the costs of such a removal should be allocated between the parties.

Since both tests set out in section 32(1) of the UCA are met, the Panel finds that section 32(2) applies in these circumstances, and that the BCUC was therefore empowered to "specify the manner and terms of the use" of Como Lake Avenue by specifying a cost allocation formula for the removal of decommissioned NPS 20 Pipeline.

For the above reasons, the Panel finds that the BCUC did not err in law with respect to its jurisdiction under section 32 of the UCA.

4.0 Was the cost allocation formula imposed on the parties in the absence of evidence and submissions?

In addition to the two errors of law by the BCUC alleged by the City, the City also alleges in its Reconsideration Application that the BCUC erred by deciding, in the absence of evidence and submissions from the parties on the matter (Procedural Issues), that the costs of removing any portion of the decommissioned NPS 20 Pipeline shall be shared equally between FEI and the City⁷³.

In Order G-150-19 the BCUC issued the following directive:

⁷³ Exhibit B-1, p. 5.

2. The potential need for new evidence regarding the cost allocation methodology for the removal of the decommissioned NPS 20 Pipeline is adjourned, pending a determination on the BCUC's jurisdiction under section 32 of the UCA, as outlined in the Application.

Panel Determination

Notwithstanding that some of the parties commented on the Procedural Issues in argument, the Panel considers the matter has been adjourned since Order G-150-19 was issued.

In this decision, the Panel has determined that the BCUC did have the jurisdiction to impose a cost allocation formula on FEI and the City with respect to the removal of any portion of the abandoned NPS 20 Pipeline. Therefore, the Panel is now ready to advance this aspect of the proceeding and resolve the Procedural Issues alleged in the City's Reconsideration Application.

The Panel requests submissions from parties on the following matters, pursuant to the regulatory timetable outlined in Appendix B:

1. Whether the BCUC's determination on the cost allocation formula was made based on fair process; and
2. If the BCUC determines that the evidentiary record should be re-opened with respect to the cost allocation formula:
 - What is the appropriate regulatory process, including proposed timelines; and
 - The nature and scope of any additional evidence to be filed, and why this evidence could not have been filed as part of the Original Proceeding.

City of Coquitlam

Application for Reconsideration and Variance of Order G-80-19 in the matter of the FortisBC Energy Inc. Application for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* in the City of Coquitlam for the Lower Mainland Intermediate Pressure System Upgrade Projects

REGULATORY TIMETABLE

Action	Date (2020)
City submission on Procedural Issues	Thursday, April 23
Intervener submissions on Procedural Issues	Thursday, April 30
City reply submission	Thursday, May 7
Further process	To be determined

LEGISLATIVE FRAMEWORK

Utilities Commission Act

In the Reconsideration Application, the City submits that the BCUC has erred with respect to its jurisdiction under sections 32 and 121 of the UCA. These sections of the UCA are outlined in full below.

Use of municipal thoroughfares

- 32** (1) This section applies if a public utility
- (a) has the right to enter a municipality to place its distribution equipment on, along, across, over or under a public street, lane, square, park, public place, bridge, viaduct, subway or watercourse, and
 - (b) cannot come to an agreement with the municipality on the use of the street or other place or on the terms of the use.
- (2) On application and after any inquiry it considers advisable, the commission may, by order, allow the use of the street or other place by the public utility for that purpose and specify the manner and terms of use.

Relationship with Local Government Act

- 121** (1) Nothing in or done under the *Community Charter* or the *Local Government Act*
- (a) supersedes or impairs a power conferred on the commission or an authorization granted to a public utility, or
 - (b) relieves a person of an obligation imposed under this Act or the *Gas Utility Act*.
- (2) In this section, "authorization" means
- (a) a certificate of public convenience and necessity issued under section 46,
 - (b) an exemption from the application of section 45 granted, with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*, by the commission under section 88, and
 - (c) an exemption from section 45 granted under section 22, only if the public utility meets the conditions prescribed by the Lieutenant Governor in Council.
- (3) For the purposes of subsection (2) (c), the Lieutenant Governor in Council may prescribe different conditions for different public utilities or categories of public utilities.

Submissions of the parties also examine the applicability of section 41 and certain subsections of sections 45 and 46 of the UCA with respect to the abandonment of the NPS 20 Pipeline and the relevance to sections 32 and 121 of the UCA. These sections are outlined below:

- 41 - A public utility that has been granted a certificate of public convenience and necessity or a franchise, or that has been deemed to have been granted a certificate of public convenience and necessity, and has begun any operation for which the certificate or franchise is necessary, or in respect

of which the certificate is deemed to have been granted, must not cease the operation or a part of it without first obtaining the permission of the commission.

- 45(2) - For the purposes of subsection (1), a public utility that is operating a public utility plant or system on September 11, 1980 is deemed to have received a certificate of public convenience and necessity, authorizing it
 - (a) to operate the plant or system, and
 - (b) subject to subsection (5), to construct and operate extensions to the plant or system.
- 45(7) - Except as otherwise provided, a privilege, concession or franchise granted to a public utility by a municipality or other public authority after September 11, 1980 is not valid unless approved by the commission.
- 45(8) - The commission must not give its approval unless it determines that the privilege, concession or franchise proposed is necessary for the public convenience and properly conserves the public interest.
- 45(9) - In giving its approval, the commission
 - (a) must grant a certificate of public convenience and necessity, and
 - (b) may impose conditions about
 - (i) the duration and termination of the privilege, concession or franchise, or
 - (ii) construction, equipment, maintenance, rates or service,as the public convenience and interest reasonably require.
- 46(3) - Subject to subsections (3.1) to (3.3), the commission may, by order, issue or refuse to issue the certificate, or may issue a certificate of public convenience and necessity for the construction or operation of a part only of the proposed facility, line, plant, system or extension, or for the partial exercise only of a right or privilege, and may attach to the exercise of the right or privilege granted by the certificate, terms, including conditions about the duration of the right or privilege under this Act as, in its judgment, the public convenience or necessity may require.

Gas Utility Act

Section 2 of the *Gas Utility Act* (GUA) sets out the authority and powers of gas utilities:

(1) A gas utility that on April 14, 1954 was carrying on business as a gas utility in a municipality or rural area is authorized and empowered, subject to the Utilities Commission Act, to carry on its business as a gas utility in the municipality or rural area.

(2) A gas utility to which a certificate of public convenience and necessity is granted after April 14, 1954 under the Utilities Commission Act or the legislation that preceded it is authorized and empowered, subject to the Utilities Commission Act, to carry on its business as a gas utility in the municipality or rural area mentioned in the certificate.

(3) Without limiting subsection (1) or (2), a gas utility authorized under either of those subsections may do one or all of the following:

- (a) produce, generate, store, mix, transmit, distribute, deliver, furnish, sell and take delivery of gas;

(b) construct, develop, renew, alter, repair, maintain, operate and use property for any of those purposes;

(c) place, construct, renew, alter, repair, maintain, operate and use its pipes and other equipment and appliances for mixing, transmitting, distributing, delivering, furnishing and taking delivery of gas on, along, across, over or under any public street, lane, square, park, public place, bridge, viaduct, subway or watercourse

(i) in a municipality, on the conditions that the gas utility and the municipality agree to,

(ii) in a rural area that is not treaty lands, on the conditions that the minister charged with the administration of the Transportation Act approves, or

(iii) in treaty lands, as applicable under the final agreement,

(A) on the conditions the treaty first nation and gas utility agree to,

(B) on notice to the treaty first nation, or

(C) if, on receiving notice under clause (B), a work plan is required by the treaty first nation, as set out in a work plan approved by the treaty first nation.

1955 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY and
ORDER IN COUNCIL 2133_1955

2133.

Approved and ordered this 25th day of August, A.D. 1955,

At the Executive Council Chamber, Victoria,

[Signature]
Lieutenant Governor.

PRESENT:

The Honourable

Mr. Bennett
Mr. Black
Mr. Bonner
Mr. Gagliardi
Mr. Wicks
Mr. Williston
Mr. Martin
Mr.
Mr.
Mr.

in the Chair.

To His Honour
The Lieutenant-Governor in Council:

The undersigned has the honour to REPORT: *see file 2932/55.
Ann. No 2126/52, 7040/54*

THAT the Public Utilities Commission on the 29th day of July, 1955
granted a Certificate of Public Convenience and Necessity to British Columbia
Electric Company Limited for the construction and operation of a natural gas
system in the Greater Vancouver area, a copy of which Certificate is attached
hereto;

AND TO RECOMMEND THAT in accordance with the provisions of the "Public
Utilities Act the said Certificate be approved.

Dated this 23rd day of August, A.D. 1955

[Signature]
Premier

Approved this 23rd day of August, A.D. 1955

[Signature]
Presiding Member of the Executive Council

[Signature]

PROVINCE OF BRITISH COLUMBIA

PUBLIC UTILITIES COMMISSION

IN THE MATTER OF the "Public Utilities Act"

and

IN THE MATTER OF a project for the supply of
natural gas in the Lower
Mainland area of British
Columbia

H. F. ANGUS, B.C.L., LL.D., F.R.S.C.

Chairman

D. K. PENFOLD, M.E.I.C.

Commissioner

P. E. GEORGE

Commissioner

The 29th day of July, A.D. 1955

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

THIS COMMISSION HEREBY CERTIFIES that public convenience and necessity will require the construction and operation by British Columbia Electric Company Limited ("the Company") of a project for the supply of natural gas to the public for compensation in that portion (hereinafter called "the Greater Vancouver area") of the Lower Mainland area of British Columbia comprising City of Vancouver, City of North Vancouver, District of North Vancouver, District of Burnaby, City of New Westminster, Township of Richmond, District of Coquitlam, City of Port Coquitlam, City of Port Moody, District of Fraser Mills, the Annacis Island portion of Delta, District Lot 172 in New Westminster Land District, and University Endowment Lands, and - without limiting the generality of the foregoing - that the said construction and operation will include the doing of the following among other things:

- (a) The laying through the District of Sumas, the District of Matsqui, the Township of Langley, and the District of Surrey of a trunk gas pipe, of a diameter of approximately eighteen inches, from a point in the facilities of Westcoast Transmission Company Limited at or near Huntingdon to a city gate to be constructed in either the District of Surrey or the Greater Vancouver area, including in either case a crossing of the Fraser River.
- (b) In the area that the Company now serves with manufactured gas, the extension of the Company's existing distribution system, and the making of such alterations therein as may be necessary, with a view to changing over from supplying manufactured gas to supplying natural gas, and the operation of the said extended and altered system after such changeover.
- (c) In the area last mentioned the conversion, so that they may burn natural gas, of the appliances of the customers whom the Company may be serving with manufactured gas immediately before the said changeover.
- (d) From time to time as it may appear to be economic to do so, the running throughout the Greater Vancouver area of additional distribution mains and service pipes for the carrying and distribution of gas therein.

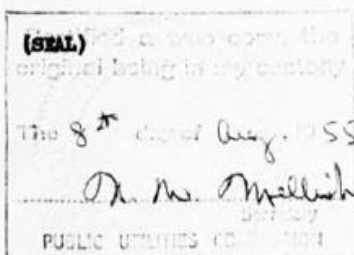
- (e) The establishment in the Greater Vancouver area of a distribution centre for natural gas.
- (f) After the conversion of customers' appliances referred to in clause (c) above, the conversion of the Company's existing gas production (including liquefied petroleum) plants to high B.T.U. gas operation and the abandonment of those portions of the said plants that are not useful in such operation.
- (g) From time to time as they can be done conveniently, the making of such changes in or relocation or abandonment of the presently existing facilities of the Company as may be appropriate in connection with the said changeover.
- (h) From time to time as the Company considers it advisable, to install - for peak shaving, standby and such other purposes as they may be used for - additional liquefied petroleum gas facilities in the Company's system up to a capacity of seven million cubic feet per day of 1,000 B.T.U. per cubic foot gas.
- (i) Generally, from time to time as natural gas is available to the Company from Westcoast Transmission Company Limited and as the Company's system or systems is or are changed over or extended in accordance with the foregoing, to carry on in the Greater Vancouver area the business of supplying to the public for compensation natural gas, or in an emergency liquefied petroleum gas, or mixed gas consisting of two or more of natural gas, liquefied petroleum gas and high B.T.U. oil gas.

AND THIS COMMISSION FURTHER CERTIFIES that the commencement of the said construction will be required if and after the Federal Power Commission of the United States of America shall grant to Pacific Northwest Pipeline Corporation the requisite authorizations in connection with the proposed exportation of natural gas from the United States to Canada at or near Sumas, Washington and Huntington, British Columbia and the proposed importation of natural gas into the United States of America from Canada at or near the same points; and that the continuation and completion of those portions of the said construction that will precede the said changeover will be required at such times as may be appropriate in relation to progress from time to time in the construction of the respective projects of Westcoast Transmission Company Limited and Pacific Northwest Pipeline Corporation referred to in the application herein.

AND THIS COMMISSION DOETH FURTHER CERTIFY that consideration of those portions of the Company's application herein that relate to the supply of natural gas in portions of the Lower Mainland area other than the Greater Vancouver area will be deferred until after further hearings thereon have been held.

This Certificate shall lapse on 1st July, 1956 or such later date as the Commission may fix by Order unless before such day the said Federal Power Commission shall have granted the authorizations referred to above.

"H. F. ANGUS"
Chairman
PUBLIC UTILITIES COMMISSION



PROVINCE OF BRITISH COLUMBIA

PUBLIC UTILITIES COMMISSION

IN THE MATTER OF the "Public Utilities Act"

and

IN THE MATTER OF a project for the supply of
natural gas in the Lower
Mainland area of British
Columbia

H. F. ANGUS, B.C.L., LL.D., F.R.S.C.

Chairman

D. K. PENFOLD, M.B.I.C.

Commissioner

P. E. GEORGE

Commissioner

The 29th day of July, A.D. 1955

REASONS FOR JUDGMENT

By its application dated 16th May, 1955 British Columbia Electric Company Limited ("the Company") applied under section 12 of the Public Utilities Act "for a Certificate of Public Convenience and Necessity in respect of a project for the supply of natural gas in the Lower Mainland area of British Columbia". More specifically, the area in respect of which the Company applied comprised:

City of Vancouver
University Endowment Lands
City of North Vancouver
District of North Vancouver
District of Burnaby
D.L. 172
City of New Westminster
District of Sumas
District of Matsqui
Village of Abbotsford
Township of Langley
City of Langley
District of Surrey
Delta (Anacsis Island portion)
Township of Richmond
City of Port Moody
District of Fraser Mills
District of Coquitlam
City of Port Coquitlam
District of Pitt Meadows
District of Maple Ridge
District of Mission
Village of Mission City
Township of Chilliwack
City of Chilliwack
District of Kent
Village of Harrison Hot Springs
Village of Hope

Because of the importance of the matter, the Commission decided to hold a public hearing, which all interested parties were invited to attend. The hearing extended over June 28th, 29th and 30th, following which it was adjourned until 15th July, 1955.

The application was opposed at the hearing by certain municipalities (on a legal ground only), Valley Natural Gas Distributors Ltd., (a rival would-be distributor of gas in the Fraser Valley area but not in the Greater Vancouver area), and various organizations.

- 2 -

On 30th June it was suggested that, in order to postpone any conflict with Valley Natural Gas Distributors Ltd. the Company's application might be treated as consisting of two parts and accordingly the Company asked the Commission to deal with the first part before the other part. The first part was the Greater Vancouver area, comprising Vancouver, North Vancouver City, North Vancouver District, Burnaby, New Westminster, Richmond, Coquitlam, Port Coquitlam, Port Moody, Fraser Mills, the Annacis Island portion of Delta, University Endowment Lands and District Lot 172. The remainder comprises what was referred to as "the Fraser Valley area". There was no objection to - but rather general agreement with - this division of the application and the bulk of the remainder of the evidence was directed to the Greater Vancouver area portion of the application. What follows will deal only with that portion.

The provision under which the application was made reads as follows:

"12. Except as hereinafter provided:

- (b) No public utility shall hereafter begin the construction or operation of any public utility plant or system, or of any extension thereof, without first obtaining from the Commission a certificate that public convenience and necessity require or will require such construction or operation (in this Act referred to as a 'certificate of public convenience and necessity')."

The Commission's task then is to determine whether public convenience and necessity require, or will require, the construction and operation of the Company's proposed natural gas project in the Greater Vancouver area. In so doing, the Commission must, among other things, bear in mind the following provisions of the Act:

"14. Every applicant for a certificate of public convenience and necessity under either of the Clauses or section 12 shall, in case the applicant is a corporate body, file with the Commission a certified copy of its memorandum and articles of association, charter, or other document of incorporation, and in all cases shall file with the Commission such evidence as shall be required by the Commission to show that the applicant has received the consent, franchise, licence, permit, vote, or other authority of the proper municipality or other public authority, if required"

As stated in the Company's application, the Commission already had on file a copy of the Company's Memorandum and Articles of Association.

It is unnecessary to consider whether any "consent, franchise, licence, permit, vote, or other authority" of any municipality was required, because the Company satisfied the Commission that it already held franchises in Vancouver (part only), North Vancouver City, North Vancouver District, Burnaby and New Westminster, that it was already lawfully giving gas service in University Endowment Lands and D.L. 172, and that the Councils of Vancouver, Richmond, Coquitlam, Port Coquitlam, Port Moody, Fraser Mills, and Delta (with respect only to the Annacis Island portion of the Municipality) had given their specific consent to the Company's application. Consequently, if any consent or franchise was required, it has been received.

The project for the supply of natural gas to the Greater Vancouver area involves, among other things, the building of a trunk line from Huntingdon, near the international border, to a city gate to

- 3 -

be constructed either in the District of Surrey or the Greater Vancouver area, the extension of the Company's existing distribution system in the area it now serves with manufactured gas, and the running throughout the Greater Vancouver area of additional distribution mains and service pipes.

At Huntingdon the trunk line will take gas through facilities to be provided by Westcoast Transmission Company Limited ("Westcoast"). During a period starting when Pacific Northwest Pipeline Corporation ("Pacific") is ready to deliver gas from United States sources to Westcoast at the border, which will be not earlier than 1st July, 1956, the gas that the Company will have for distribution will come from Pacific. That period will end when Westcoast - on or before 1st November, 1957 - is ready to supply natural gas from the Peace River area of Alberta and British Columbia; and thereafter the Company will take Peace River gas from Westcoast.

The successful completion and operation of the Company's project is obviously dependent upon the construction and operation of the projects of Westcoast and Pacific. To help these projects to become actualities - in short to bring about the making of natural gas available in the Lower Mainland area - the Company has over a number of years expended substantial time and money.

There seems to be no difference of opinion as to the desirability of natural gas being made available in the Greater Vancouver area. Experience elsewhere and the average rates at which the Company proposes to sell the gas all point strongly to benefits that will result to residential, commercial and industrial customers from its introduction.

While a rough estimate of cost was presented to indicate the level of rates which might be anticipated, the rates ultimately sanctioned will, of course, depend on the cost actually incurred and will be subject to control by the Public Utilities Commission in accordance with principles established by it.

Among other reasons, because the Company already has in being a distribution system in a large part of the Greater Vancouver area and facilities that can be adapted for standby and peak shaving purposes, it appears to the Commission to be the logical utility to distribute gas in the area; and there is indeed no other applicant to serve the area.

The Commission is satisfied that the Company's project is a feasible one and that the Company will be able to finance the heavy expenditures that it will entail.

It was urged by certain of the interested parties that it would be more desirable to have the area served by the British Columbia Power Commission than by the Company, on the ground that consumers desired the cheapest possible source of supply and believed that a public authority not required to earn profit and not taxed on its corporate income would be in a position to have a lower scale of charges than the Company. This submission appears to us to have no relevance. The Public Utilities Commission has been established to regulate privately owned public utilities and it is quite outside the scope of its functions to express opinions on the relative merits and demerits of public ownership. This question is political and not regulatory.

Objection was also taken to the utility that supplies electricity, which for some purposes is competitive with gas, being permitted to supply gas also. However, apart from a number of arguments that were advanced by the Company in answer to this, the Commission notes that no competitive agency was suggested (except for the suggestion of Government agencies which has been considered above). The Public Utilities Commission is fully aware of the necessity for vigilant supervision of the rate structure to protect consumers from the use of monopolistic power to establish rates not strictly related to the cost of service.

In the result, the Commission is satisfied that public convenience and necessity will require the construction and operation by the Company of its proposed project in the Greater Vancouver area, and the Commission is issuing a certificate accordingly.

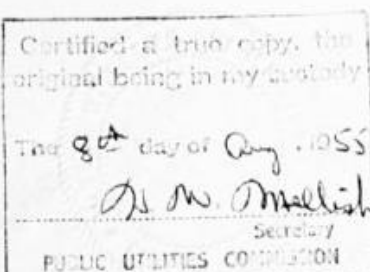
Further consideration of the Company's application with respect to the Fraser Valley area has been deferred until after Labour Day next, when it will come on for further hearing on a day to be set. The competing application of Valley Natural Gas Distributors Ltd. will be set for hearing at about the same time.

"H. F. ANGUS"

Chairman

PUBLIC UTILITIES COMMISSION

(SEAL)



☆ 2000-001-0000 (4)

GOVERNMENT OF BRITISH COLUMBIA

MEMORANDUM



TO The Honourable the Premier,

FROM

BUILDINGS.

Public Utilities Commission

August 5th, 1955

The B.C. Electric Co. Ltd. has applied for a Certificate of Public Convenience and Necessity in respect of a project to sell natural gas in the Lower Mainland of B.C. There has been no material opposition to the project of B.C. Electric in the Greater Vancouver area but in the Fraser Valley area there is another Company that wishes to sell natural gas.

The Commission held public hearings on the Company's application and at these hearings it was agreed that the application should be broken into two parts, 1. the Greater Vancouver area and 2. the Fraser Valley area.

We submit herewith for the approval of the Lieutenant-Governor in Council a Certificate of Public Convenience and Necessity in respect of the Greater Vancouver area portion of the Company's application issued in favour of the B.C. Electric Co. Ltd.

Attached to this Certificate are the reasons for judgment of the Commission.

Chairman
PUBLIC UTILITIES COMMISSION

HWM/EMC
Enc.