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Filed on Commission eFiling System

British Columbia Utilities Commission
6th Floor - 900 Howe Street
Vancouver, BC V6Z 2V3

Attention: Laurel Ross, Acting Commission Secretary

Dear Madame:

Re: Stargas Utilities Ltd. (Stargas) Application to vary delivery rate, amend cost of service formula and approve replacement term financing/redemption of preferred shares (Application), Project No.3698893

Stargas Request for Compliance Filing to “True Up” Application and Legal Costs

We have been retained as legal counsel to the Silver Star Property Owners Association (SSPOA) in this matter. We write on the SSPOA's behalf in response to Stargas' most recent amendment to its Application, dated January 9 and posted publicly January 11 (Exhibit B-1-2).

In that amendment, Stargas essentially seeks a type of deferral account treatment of its regulatory costs, to be cleared through a future process. As explained below, the SSPOA does not oppose a subsequent public proceeding to evaluate such costs in principle. However, it strongly objects to any suggestion that current and future Stargas legal costs be presumptively approved now, before reviewing their prudence or reasonableness. If legal costs prove to be disproportionately high relative to the utility costs they relate to, for example, then that is a strong sign that such costs may not be just and reasonable and should not be borne by customers.

Specifically, Stargas requests the Commission to “confirm that [present and future legal] costs will be allowed in setting Stargas' just and reasonable rates”, notwithstanding “the effect of materially impacting Stargas' proposed \$0.45 reduction in the delivery rate”. The mechanism Stargas proposes is “a subsequent compliance filing” that would “true up the forecast rate application costs to actual costs” and “include [Stargas'] actual costs in rates”.

Under traditional forward test year ratemaking, Stargas would be expected to forecast its application costs for forward test years, bear the risk of under-recovery, and be entitled to retain any portion of rates collected reflecting any over-recovery. The risk of under-recovery is part of what justifies the return that a utility earns on its invested capital, and the potential to over-recover motivates efficient management practices. Where circumstances make forecasting a category of costs impractical or unfair, utilities may record actual costs through the use of deferral accounts. Provided the costs were prudently and reasonably incurred for utility service, customers then pay the actual costs in rates.

Stargas' late September Application comes several months after the start of its test year, seeking interim refundable rates. It is not unusual for utilities in such circumstances to provide revised actual figures to update the “forecast”. However, in this proceeding Stargas' updates to the record virtually in real time are unusual, and harmful to customers. They reduce Stargas' risk without reducing its return, and remove an impetus to be efficient. Commission “confirmation” now for Stargas to “include its actual costs in rates” would lock-in these consequences, harming the interests of Stargas' customers and producing rates that risk being neither just nor reasonable.

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The SSPOA is also concerned that the “confirmation” Stargas seeks would approve costs imprudently incurred in advance of any opportunity to address such costs in argument. The record to date shows multiple re-filings and corrections by Okanagan Funding Ltd. (OKF), potentially reflecting duplicative or otherwise inefficient costs that should not be recovered in rates. The issues of duplication and correcting errors may arise again between counsel’s fees and those of OKF, as may the proper scope and quantum of legal fees generally.

Accordingly, the Commission should deny Stargas any “confirmation” concerning the inclusion of its actual legal costs in rates before they are tested in a public proceeding.

Please contact the undersigned if you have any questions in this matter.

Yours very truly,



Matthew D. Keen

MDK/roe

C. Michael Waberski and Sandy Cook, SSPOA