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Via E-file

September 10, 2020

B.C. Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

File No.: 4.2.7(2020)

Attention: Marija Tresoglavic
Acting Commission Secretary

Dear Ms. Tresoglavic:

**Re: Pacific Northern Gas (N.E.) Ltd.
Application for Approval of the 2019 Franchise Agreement between
Pacific Northern Gas (N.E.) Ltd. and the City of Fort St. John
Applicant's Reply Argument**

Accompanying, please find the written Reply Argument of Pacific Northern Gas (N.E.) Ltd. in the referenced proceeding.

Please direct any questions regarding the application to my attention.

Yours truly,

Original on file signed by:

Verlon G. Otto

Enclosure

PACIFIC NORTHERN GAS (N.E.) LTD.

**APPLICATION
to the
BRITISH COLUMBIA UTILITIES COMMISSION**

**FOR APPROVAL OF THE 2019 FRANCHISE AGREEMENT BETWEEN
PACIFIC NORTHERN GAS (N.E.) LTD. AND THE CITY OF FORT ST. JOHN**

APPLICANT'S REPLY ARGUMENT

September 10, 2020

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1. INTRODUCTION

1. On August 20, 2020, Pacific Northern Gas (N.E.) Ltd. (PNG(NE)) filed a final written submission (PNG(NE) Final Argument), pursuant to the Regulatory Timeline established in this proceeding by Order G-208-20 of the British Columbia Utilities Commission (BCUC).

2. On September 3, 2020, the British Columbia Old Age Pensioners' Organization, Active Support against Poverty, Disability Alliance BC, Council of Senior Citizens' Organization of BC and Tenants Resource and Advisory Centre (BCOAPO), the sole Intervener in this proceeding, filed a final submission (BCOAPO Submission).

3. In the BCOAPO Submission, the BCOAPO continues to provide its general support for PNG(NE)'s Application, recommending that the BCUC approve the 2019 Franchise Agreement between PNG(NE) and the City of Fort St. John (the City), with certain amendments to clause 4.3 and 4.7 (which PNG(NE) and the City have agreed to implement). This recommendation is subject only to a few comments in the BCOAPO Submission. PNG(NE) provides this submission in reply to these comments in the BCOAPO Submission.

4. Unless otherwise specified, capitalized terms used in this Reply Submission are as defined in the PNG(NE) Final Argument. Further, PNG(NE) confirms that it continues to rely on the whole of its Application, the evidence in this proceeding, and its Final Argument, in asking the BCUC to grant the relief sought in the Application. Any points in the BCOAPO Submission that are not specifically responded to should not be taken to be admitted.

2. COMMENCEMENT DATE

5. With respect to the appropriate commencement date for the 2019 Franchise Agreement, the BCOAPO submits that it should be set as the date of BCUC approval.¹ As is set out in more detail in the PNG(NE) Final Argument, PNG(NE) submitted that the commencement date should be set at December 8, 2018 (the day after the expiry of the 1997

¹ BCOAPO Submission, p. 5.

Franchise Agreement). Alternatively, PNG(NE) proposed that the commencement date be set as the date now proposed by the BCOAPO: the date of BCUC approval.

6. PNG(NE) agrees with the BCOAPO's submission that PNG(NE) and the City have been operating under the terms of the Interim Operating Agreement since the expiry of the 1997 Franchise Agreement in December 2018, as opposed to operating under the terms of the proposed 2019 Franchise Agreement. With that said, PNG(NE) confirms that there is no practical impact arising from this distinction that would prevent the BCUC from approving the 2019 Franchise Agreement with a retroactive commencement date. While there are distinctions between the 1997 Franchise Agreement (which the Interim Operating Agreement extends) and the 2019 Franchise Agreement, these distinctions have not been relevant in the intervening period since the expiry of the 1997 Franchise Agreement. As a result, PNG(NE) submits that there is no practical difference between characterizing the parties' relationship as having been governed by the terms of the 2019 Franchise Agreement, as opposed to the terms of the Interim Operating Agreement.

7. In any event, as set out in the PNG(NE) Final Argument, PNG(NE) is agreeable to the commencement date being set as the date of BCUC approval, if that is the BCUC's preference. PNG(NE) notes that BCOAPO does not take issue with PNG(NE)'s ability to pay the City franchise fees during the period of the Interim Operating Agreement or to recover these amounts from ratepayers, and does not take issue with the ability of the BCUC to now approve the Interim Operating Agreement, should the BCUC find it necessary in the circumstances.²

3. SPECIFIC PROVISIONS OF THE 2019 FRANCHISE AGREEMENT

8. In Order G-208-20, the BCUC requested that the parties comment on certain provisions of the 2019 Franchise Agreement (with respect to costs of line relocations, abandoned works and payment of fees and charges), including whether PNG(NE) should be able to recover costs incurred under these provisions from ratepayers. The BCOAPO submits that PNG(NE)'s evidence on the rationality of these clauses is "reasonable", at least in "isolation". However,

² BCOAPO Submission, p. 6.

it goes on to submit that “whether they are actually so should be ... determined by the Panel in the larger context of other approvals granted by the BCUC”, pointing to the extensive experience and institutional memory of the BCUC with franchise agreements.³

9. PNG(NE) acknowledges the experience and history of the BCUC in this regard. However, PNG(NE) observes that BCOAPO has not pointed to any decision of the BCUC to suggest that these clauses are anything other than reasonable. PNG(NE) submits that the BCOAPO’s initial interpretation of these clauses as reasonable, based on the evidence tendered in this proceeding, continues to be the correct interpretation in the greater context of the BCUC’s experience and knowledge.

10. In contrast, PNG(NE) also confirms, as is set out in more detail in the PNG(NE) Final Argument, that it has pointed to past instances where similar clauses have been approved by the BCUC. This includes the approval of the 1997 Franchise Agreement (an agreement involving the same parties as the 2019 Franchise Agreement), as well as other franchise agreements involving PNG(NE) and its parent company, Pacific Northern Gas Ltd.

11. Further, as to the recovery of franchise fees from customers, PNG(NE) agrees with BCOAPO that franchise fees are a cost reasonably and prudently incurred to provide service.⁴ For clarity, PNG(NE) notes that it had referred to franchise fees as a “flow through item”⁵ in the context of responding to a question on whether franchise fees were included in its recent revenue requirements applications, and to explain that franchise fees are not a component of the cost of service that is subject to review and approval as part of the revenue requirements application proceedings.

12. Finally, PNG(NE) disagrees with the BCOAPO’s suggestion that it “is largely (but not completely) indifferent to the impact on ratepayers”.⁶ PNG(NE) specifically considered the

³ BCOAPO Submission, p. 7.

⁴ Ibid.

⁵ Exhibit B-3, BCUC IR 2.3.

⁶ BCOAPO Submission, p. 7.

interests of ratepayers and customers in the City when negotiating the terms of the 2019 Franchise Agreement, which included considerations such as rate impact.

4. CONCLUSION

13. In all the circumstances, PNG(NE) requests that the BCUC approve the proposed 2019 Franchise Agreement, with the agreed upon amendments to clauses 4.3, 4.7 and 5.1.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Vancouver, British Columbia this 10th day of September 2020.

PACIFIC NORTHERN GAS (N.E.) LTD.

Original on file signed by:

Gordon Doyle

Vice President, Regulatory Affairs, Legal & Gas Supply