March 5, 2021

Stargas Response to Silver Star Property Owners Association Final Argument

I. INTRODUCTION AND OVERVIEW:

This is the argument of the Silver Star Property Owners' Association (SSPOA), and responds to Stargas Utilities Inc.'s (Stargas) application under sections 71 and 61(4) of the Utilities Commission Act (UCA) to the British Columbia Utilities Commission (BCUC) seeking approval of its natural gas purchase plan for the contract year from November 1, 2020 to October 31, 2021

Incorporated in 2004 as a registered society, the SSPOA represents 696 property owners at the Silver Star Mountain Resort near Vernon, BC, on matters of common concern. Its membership comprises residential customers (511 condominium owners and 185 residential property owners) and both large and small business customers.

The SSPOA submission in this matter is prepared by the Utility Services Committee of the Association, a team of volunteers with little expertise on matters of commodity rate making. In fact, in the 20 years of Stargas' operations the resort has relied on the normal annual commodity rate making and approval by depending on the BCUC to evaluate and approve the Stargas Commodity Rates.

The application by Stargas on September 15, 2020, requested an increase to the commodity rate from $3.98 per gigajoule (GJ) to $7.48 per GJ. On October 21, 2020, Stargas filed an updated application with the BCUC seeking approval to increase the commodity rate to $7.87 per GJ and on December 15, 2020, Stargas filed further updates to its Application with the BCUC on a confidential basis, and subsequently filed an unredacted version on January 25, 2021, seeking approval to increase the commodity rate to $7.06 per GJ.

On September 22, 2020, Stargas Utilities Ltd. (Stargas) submitted a separate (but related) application to the BCUC seeking approval to decrease its Delivery Rate from $5.77 per gigajoule (GJ) to $4.59 per GJ, effective November 1, 2020.

Stargas is a small natural gas utility built on what was once a resort community propane distribution network. Stargas owns a small distribution system connected by a short pipeline to FortisBC Energy Inc.'s (FortisBC) system. FortisBC's system terminates at the boundary of the Silver Star Resort property, 390 meters from the Creekside Strata, one of the constituents of the SSPOA. Stargas maintains a limited rate base (363 customers), reflecting the scope of its operations.

FortisBC Energy Inc., under contract, physically operates the utility and provides many administrative functions, including emergency standby and response, system maintenance, leak survey and remedial action, meter servicing and replacement, as well as general oversight and operating responsibility.

On December 17th Stargas received an executed document that, subject to BCUC approval, provides for the sale by Stargas of its Regulatory Assets and Operations to FortisBC Energy Inc

A fundamental principle of ratemaking is that the utility applicant bears the onus to establish <u>on a timely basis,</u> the reasonableness of its forecasts. SSPOA submits that Stargas has failed to discharge this onus in delaying the application before the BCUC by one year.

The SSPOA asserts that there are essentially two areas of dispute: Stargas' delay in timely adjustments of the Commodity Rate which caused a large deficit, and Stargas' protracted negotiations for the sale of its assets to FortisBC which also delayed the Delivery Rate application. The SSPOA's positions in response are simple:

- **Gas Cost Variance Account Deficit** (GCVA) due to the Delay in Rate Adjustment

  The GCVA deficit should not be considered in the Commodity Rate calculations for the upcoming year and the GCVA deficit should instead be deferred to the Delivery Rate Proceeding

- **The Effect of the Proposed Purchase of Stargas Assets** by FortisBC.

  The negotiations for the proposed sale of the Stargas assets has negatively impacted the Stargas ratepayers by delaying both the Commodity and Delivery Rate reviews that should have been undertaken in 2019.

Stargas commentary on the "two areas of dispute": Stargas is unaware of any precedent that would have its unrecovered commodity costs addressed and resolved within a delivery rate application. The utility, in its commodity filings, did suggest that upon resolution of each of the delivery rate and commodity applications that the retroactive cost increase in the commodity rate be reduced by the retroactive reduction in delivery rates and recovered over three years with interest at the utility's weighted average cost of debt. As the Joint Application filed by FEI/Stargas provides an alternative benefiting current Stargas ratepayers, Stargas would seek to set off the two amounts only following a determination by the Commission or the parties to the Agreement that the sale of Stargas operations not to proceed.

Stargas submits that in each instance wherein it sought and received deferrals on rate adjustments, its motivation based on the expectation that resolution of an agreement on the sale of its operations eminent. Stargas notes that Resort ratepayers were not "negatively impacted"; rather they benefited in a commodity rate (set as interim to resolution of the current application) of $3.98 per gigajoule when a $4.95 rate was indicated should the utility not have withdrawn an application to increase the rate by 97 cents November 1, 2019.

II. ARGUMENT

1. Delay by Stargas in Submitting Commodity and Delivery Rate Applications

(a) Commodity Rate

Stargas has historically made application to adjust the Commodity rate on an annual basis with the only recent exception being in November 2019. Current rates have been in place for 2 years and continue during these proceedings. .

Time Period	Rate
December 2012 to October 2013	$5.26
November 2013 to October 2014	$5.84

November 2014 to October 2015	$7.69
November 2015 to October 2016	$2.95
November 2016 to November 2017	$5.28
December 2017 to October 2018	$4.14
November 2018 to October 2020	$3.98

When questioning Stargas to the rationale of such a delay their response was

> *"Stargas prepared and filed an application to vary its commodity rate, effective November 1st, 2019 for the contract year ended October 31st , 2020 expecting then, to file annually thereafter, as had it previously. Stargas, expecting to execute an FEI agreement of sale in the next days, on October 3, 2019 filed and subsequently received Commission approval to withdraw that application. In hindsight, had the parties recognized that agreement would be reached only following protracted discussion, Stargas would not have withdrawn its commodity application as were it to have done so, it would have sought approval to move the current $3.98 per gigajoule rate to **$4.95** with a consequent reduction in the deficit (commodity costs recoveries versus commodity costs incurred)."* [1] (emphasis added)

Stargas commentary: The deficit has increased ($91,609 January 31st, 2021) and based on current market pricing will to continue to increase until a revised commodity rate set in ongoing independent operations or until the sale of Stargas operations to FEI completes. Stargas intimates that had the SSPOA been privy to the proposed treatment of Stargas' gas cost deficit in the Joint Application that their response would have narrowly focused on the mechanism for recovery on its continuation in independent operation. Stargas has proposed that in that event, it would seek to recover the retroactive amount of the commodity increase reduced by the amount of the delivery reduction amount over thirty-six months with interest charged at the utilities weighted average cost of debt (not, as is usual in similar determinations, the utilities weight average cost of capital).

Delivery Rate: As noted in the introduction Stargas filed a Delivery Rate application on September 22, 2020. This application was supposed to be filed by July 31, 2019 per Order G-59-17. In its reasons accompanying the order the Panel quoted Stargas.

"Stargas, from June 1st, 2019 forward will record sharply reduced amortization in its accounts. Accordingly, Stargas expects to file an application to amend its delivery rate together with a refinancing application, to establish rates effective from June 1, 2019."

The SSPOA asserts that the Delivery Rate Application, although not a subject of this application, has had an offsetting effect to the GVAC deficit created by the actions of Stargas in its delayed applications. The ratepayers were denied the benefits in the Delivery Rate resulting from the expired amortization while accumulating a large deficit in the Commodity Rate.

Stargas commentary: While a comment outside the commodity rate process, the association takes the opportunity to point to one factor impacting (and recorded) in the companion delivery rate process of benefit to ratepayers will disregarding any of the several competing and mitigating elements.

(b) Proposed Treatment of the GCVA Deficit

In the letters of comments submitted by Gateway Property Management on behalf of five Strata clients, (Snowbird Lodge, Silver Creek Lodge, The Pinnacles, Firelight at the Pond and Creekside), which collectively contain 361 condominium units noted the hardship that the proposed Commodity Rate change would have, stating:

> *"The Strata budgets its expenses for the fiscal year from June 1st to May 30th and to allow such a radical increase with little to no notice is unacceptable."*

"To ask the ratepayer to reduce the Gas Cost Variance Account deficit that was accumulated over the last year and a half in less than a year (considering when the decision will be made by the BCUC) is unfair")

The SSPOA notes that Stargas recognized the effects that the radical increase in the Commodity Rate would have on the ratepayers.

"Stargas is concerned that in the current pandemic environment, that the quantum of the amount to be "extra" billed will be a hardship to both residential and commercial ratepayers. Should the net amount to be recovered exceed $30,000, ($38,095 in the example) Stargas suggests that the amount be captured in a Regulatory Account and recovered over 36 months with interest at the utility's weighted average cost of debt (WACD)."

Stargas is suggesting that a regulatory account be used to lessen the hardship. The SSPOA concurs, however, we raise concerns that under normal GVAC management, interest is not applied as noted in the Stargas response to the SSPOA IR No.1

"Stargas response: *There is no interest included within this account; none charged when there an under recovered balance, nor credited when there an over recovery in the balance."* [5]

The SSPOA suggests that the GCVA deficit be deferred to the Delivery Rate proceeding for consideration as a rate rider. Accompanying the deferral is the caveat that the SSPOA has concerns on the Stargas proposal to include interest applied to the GCVA deficit recovery portion of any rate rider. The deficit situation was not created by the ratepayer, but rather by the deliberate actions of Stargas. The imposition of catchup within a Commodity Rate over a short period is unfair.

Complicating the discussion of the GCVA recovery is the impending application by FortisBC to purchase the assets of Stargas. As stated in the reasons for decision for order G-54-21, the panel finds.

"Even if the treatment proposed in the Asset Purchase Agreement Application is accepted, a BCUC determination of the amount in the Stargas GCVA and any under-recovered gas costs associated with setting a permanent rate will be required to set the amount to be recorded in FEI's CCRA. The Panel considers this proceeding to be the appropriate place to set a permanent rate and determine unrecovered gas costs."

The Stargas response to BCUC IR No1, Stargas in their explanation of the effects on the Commodity Rate based solely on gas costs (removing the GCVA):

"Stargas response*: Based on the Shell Energy North America, December 3rd, 2020 Indicative Natural Gas Prices, raw commodity cost $118,678, Shell additions for transport, fuel and commissions $35,905 and assuming no changes in Fortis Rate 25 underlying rates, $134,510; a total cost estimate of $289,093 equivalent to* ***$5.99*** *per delivered gigajoule"* [6]

(emphasis added)

The SSPOA argues that the GVAC deficit should be removed from the calculation of the Commodity Rate and deferred (transferred) to the Delivery Rate proceeding and the Commodity Rate be set at the gas cost (pending confirmation by the BCUC) of $5.99 per GJ.

Stargas commentary: The Commission within G-54-21 determined that Stargas' ongoing commodity rate to be continued to its resolution as that there no certainty of its approval of the proposed sale and in recognition that elements of the Agreement provide each of the buyer and seller opt-out clauses. Stargas anticipates approval of the sale transaction by the Commission and confirmation of its conclusion by each of itself and of FEI but, should the transaction not complete would follow the Commission's final determination.

2. Proposed Purchase of Stargas Assets by FortisBC

The Silver Star ratepayer has been at the mercy of two monopolies and their protracted negotiations of the sale of the Stargas assets to FortisBC. These negotiations took place through 2019 and continued through 2020, up to and including through this application process, finally resulting in Stargas issuing the following:

> *"Stargas, December 7th , 2020 received an executed document that, subject to BCUC approval of the sale by Stargas of its Regulatory Assets and Operations to FortisBC Energy Inc. A completion date of April 1st, 2021 was selected to allow the parties to allow for the filing of a joint application seeking Commission approval and for adequate time to address Commission interrogatories. As a tangential issue, the closing date of April 1st, 2020* ***[sic]*** *met a further objective of the parties - the achievement of a relatively neutral balance in Stargas' GCVA March 31st, 2020* ***[sic]*** *($170 credit in the current forecast)."*

The SSPOA notes and supports the objective of "a relatively neutral balance in the Stargas GCVA". The joint application by FortisBC and Stargas submitted on February 19th ,2021 has not been made public as of this submission. Whilst no Final Arguments were submitted by Stargas, information gleaned from various Stargas submissions regarding the pending purchase, and specifically, from the latest request by Stargas for an extension for their submission, Stargas states:

> *"The proposed treatment was only resolved when documented in the FortisBC/Stargas Joint Application finalized and filed February I9th, 2021. The Joint Application describes agreement on the proposed treatment of unrecovered gas costs, that subject to BCUC review and approval of same, provides Stargas recovery of its gas cost variance account deficit from FortisBC who proposes to absorb that amount within FortisBC's Commodity Cost Reconciliation Account (CCRA)."*

Based on the information at hand one would assume that in the purchase negotiations the final price would have considered the outstanding regulatory accounts that were in existence or proposed because of current proceedings for Delivery and Commodity Rates. The SSPOA argues that while the ratepayers are not privy to the purchase terms, that it likely that FortisBC would have ensured the protection of their financial position. Outstanding debits and credits would certainly have been addressed in determining the fair value of adding the asset base of Stargas to FortisBC operations.

Stargas in their judgement felt it critical to their negotiations with FortisBC to not adjust the Commodity Rate in November 2019 despite an already looming GCVA deficit. The GCVA deficit in November 2019 was -$239 and by May 2020 it was -$25,090. This GCVA deficit had doubled again by the fall of 2020 to - $52,142 and it probably doubled again since the application was made by Stargas.

The SSPOA fails to recognize how the deferral of the 2019 rate adjustment would have impacted the FortisBC purchase negotiations. The ratepayers do however, see how this delay has impacted sensible rate increases.

Stargas commentary: While existing under the "mercy of two monopolies and their protracted negotiations" current Resort ratepayers are paying $3.98 for the commodity when Stargas is absorbing/financing increased commodity costs ($5.91 per gigajoule in January 2021) and, if the Commission concurs with the treatment of that deficit as negotiated and agreed between the two "monopolies" they will not have been burdened but rather materially benefited in the protracted negotiations.

3. Gas Cost

Silver Star ratepayers are looking forward to the purchase by FortisBC and are supportive (as we presently understand the terms) of the change. One of the prime benefits is the ending of our requirement to include the Fortis Rate 25 in our Commodity Rate. As stated above, FortisBC has most likely ensured that the

purchase fits their balance sheet in a beneficial manner. Silver Star ratepayers, aside from funding the gas line that FortisBC owned to connect Silver Star to their grid over the last 20 years, has also been paying FortisBC under rate 25 reaching rates of $7.97 [9] per GJ in transport costs netting a commodity rate of $10.91 in August 2020. The SSPOA contends that FortisBC has historically done well by Stargas and that the reconciliation of the GCVA should favor the Stargas Ratepayer.

III. CONCLUSION

The Commission is confronted with two key questions:

- Did the delay in Stargas adjusting the Commodity Rate in 2019, cause an unfair status quo calculation by including the GCVA for a permanent rate for the year commencing November 1, 2020?

- Should the proposed purchase of Stargas assets by FortisBC be a consideration in determining the Commodity Rate for the period November 1, 2020 to October 31, 2021?

The answer to both is a clear **"YES".**

The SSPOA board members are not experts on utility rate making nor on corporate purchases, admittedly operating well above our pay grade. The ratepayers of Stargas must therefore rely on the expertise of the BC Utilities Commission to ensure fair treatment in the rates that monopolies can charge. Our layperson advice on these matters is:

- Transfer the GCVA deficit to the Delivery Rate Proceedings so that the debit /credit effects of the delay of both rate applications can be reflected in a fair manner.

- Confirm that the rate of $5.99 per GJ is the commodity rate that represents the cost of gas.

- Determine any Delivery Rate credits before implementing the $5.99 Commodity Rate retroactively to November 1, 2020.

Stargas commentary: Stargas, its investors, were and remain proud of its formation over twenty years ago to bring natural gas to the Resort community as a lower cost, safer alternative to propane and can demonstrate that meaningful savings have resulted over its history. That pride includes the determination to vend its grid and operations to FEI and to, in doing so, bring further savings both in the short term (FEI's absorption of amounts otherwise recoverable from Resort ratepayers in rate riders, inclusions in it allowed revenue requirement or in gas cost recoveries) and in the long term (avoidance of heavily weighted demand charges under either of Fortis Rate 5 or 25, and the reality that FEI rates bring economies of scale to all of its administrative activities that are unmatched and unmatchable in small independent operations).

Stargas will provide all its energies to seeking and obtaining BCUC approval of its sale under the terms of the Agreement and the inclusion in FEI rate base or equivalent category in the accounts of FEI of the amount paid Stargas for each.