SSPOA Silver Star Property Owners Association.

March 12, 2021

VIA E-FILING

Commission Secretary
Patrick Wruck
BC Utilities Commission
6th Floor 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Mr. Wruck,

Re: Stargas Utilities Ltd. – Delivery Rate and Regulatory Account Application – Test Year November 1, 2020 to October 31, 2021 – Project No. 1599141

Silver Star Property Owners Association (SSPOA) Final Argument

Attached please find the SSPOA's Final Argument with respect to the above-noted Application.

Our Argument has been prepared by the Utility Services Committee of the SSPOA and has been reviewed by and approved by the Association's Board of Directors.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Mike Waberski, President, Silver Star Property Owners Association

BRITISH COLUMBIA UTILITIES COMMISSION

Stargas Utilities Ltd.
Delivery Rate and Regulatory Account Application
Test Year November 1, 2020 to October 31, 2021
Project No. 1599141

ARGUMENT OF THE SILVER STAR PROPERTY OWNERS ASSOCIATION

March 12, 2021

I. INTRODUCTION AND OVERVIEW

This is the argument of the Silver Star Property Owners' Association (SSPOA), in response to Stargas Utilities Inc.'s (Stargas) application to the British Columbia Utilities Commission (BCUC) seeking approval for an interim and permanent approval to decrease its delivery rate from $5.77 per gigajoule (GJ) to $4.59 per GJ, effective November 1, 2020

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 utility Delivery Rate making. In fact, since 1999 when Stargas commenced operations, the Resort of Silver Star has relied on the BCUC to evaluate and approve the Stargas' Delivery Rates. That was until 2016 / 2017 when the SSPOA intervened on behalf of the Resort for the first time in the following proceedings:

> **December 16, 2016 ORDER G-192-16** Application to Approve Replacement Term Financing replace its existing term loan with a $300,000 term loan at an interest rate of prime plus 1.25 percent and the Redemption of Preferred Shares, to redeem 1,000 Class G preferred shares having a par value of $100,000
>
> **April 27, 2017 ORDER G-59-17** Application to Vary Delivery Rate, Amend Cost of Service Formula
>
> **July 20, 2017 ORDER G-111-17** Application for Reconsideration and Variance of Order G-59-17 in the matter of an Stargas appeal that it was directed to refund a total of $6,000 to its current customers, related to fiscal 2015 and 2016 preferred share dividend overpayments.
>
> **August 18, 2017 ORDER G-128-17** and **November 8, 2017 ORDER F-14-17** Applications to Include Additional Costs in the 2016 Delivery Rate Application Regulatory Account

Stargas / SSPOA has not been before the BCUC since that time.

The present application was submitted by Stargas on September 22, 2020, seeking interim and permanent approval to decrease its delivery rate from $5.77 per gigajoule (GJ) to $4.59 per GJ, effective November 1, 2020. Stargas requested that the redacted portions of the Application be filed on a confidential basis by the BCUC as the redacted information was of a commercially sensitive nature and Stargas did not have permission to disclose that information publicly.

However, the introduction stated " *in contemplation of its sale of regulatory assets and operations requested and received Commission approval on three occasions to extend its filing date*"

(emphasis added)

On September 15, 2020, Stargas Utilities Ltd. (Stargas) submitted a separate (but related) application to the BCUC seeking approval to increase the Commodity Rate. 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 change the Commodity Rate again to $7.06 per GJ.

The BCUC chose not to grant Stargas the request for interim rates reflecting the proposed permanent rates for both the Delivery Rate and Commodity Rate applications. The result was the Stargas ratepayer continued to pay the same rates since 2016 and 2018 as shown below:

	Effective Date	Present	Proposed	Difference
Delivery Rate	November 1, 2016	$5.77 / GJ	$4.59 / GJ	$1.18 / GJ
Commodity Rate	November 1, 2018	$3.98 / GJ	$7.06 / GJ	$3.08 / GJ

The ratepayers have been paying more than proposed for Delivery and less than for the Commodity, each month, since November 1, 2020. These Stargas applications are in aggregate, accumulating a $1.90 / GJ deficit resulting from the delay in implementing rate changes

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 metres 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.

The application by Stargas was heavily redacted due to the ongoing negotiations with FortisBC for the potential sale.

This Delivery Rate application was originally ordered under Oder G-59-17, to be filed by July 31, 2019.

As stated, Stargas sought Commission approval on three occasions to delay its filing date to, ultimately, September 30th, 2020[1]

On December 7th Stargas executed a document that, subject to BCUC approval, provides for the sale by Stargas of its Regulatory Assets and Operations to FortisBC Energy Inc.

On January 12th 2021 the Panel requested that Stargas review all information filed in confidence, including the Application and IR responses, and resubmit these exhibits such that any information that is no longer commercially sensitive is publicly disclosed.

[1] Ex. B-1 PDF Page 3 https://www.bcuc.com/Documents/Proceedings/2020/DOC_59614_B-1-Stargas-DeliveryRate-RegulatoryAccount-Application-Redacted.pdf

On March 4, 2021 the Commission publicly posted the joint application by FortisBC Energy Inc. (FEI) and Stargas Utilities Ltd. (Stargas) for Approval of an Asset Disposition and a Certificate of Public Convenience and Necessity (CPCN) to Facilitate the Transfer of Natural Gas Utility Assets from Stargas to FEI. This application was filed at the BCUC on February 19, 2021 and can be found at: https://www.bcuc.com/ApplicationView.aspx?ApplicationId=860

The Stargas Delivery Rate application and subsequent information requests followed a process and prescribed procedure of establishing a permanent Delivery Rate. On December 11, 2020 – Stargas requested a further deferment to file the Information Request No. 1 responses to both the BCUC and the SSPOA (Exhibit B-5). On December 16, 2020 Stargas publicly disclosed in the BCUC IR #1 (Exhibit B-6) that it had executed an agreement for sale with FortisBC.

The proposed sale has a profound impact on the current proceeding.

The SSPOA asserts that there are essentially two areas of dispute: Stargas' delay in timely adjustments of the Commodity Rate (a related proceeding) which caused a large ratepayer deficit, and Stargas' protracted negotiations for the sale of its assets to FortisBC delayed the initial filing of the Delivery Rate application as well as delays in the proceeding itself. Most importantly the sale changes the entire focus of the proceeding.

The SSPOA's positions in the argument will address the following:

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

  The negotiations for the proposed sale of the Stargas assets has impacted the Stargas ratepayers by not just delaying both the Commodity and Delivery Rate proceedings but influencing how the ratepayer is affected in the short term (as in this proceeding) as well as in the long-term, assuming approval of the sale by the BCUC.

- **The Impact of the Delay in Adjusting the Delivery Rate Scheduled for November 1, 2019 .**

  A fundamental principle of ratemaking is that the utility applicant bears the onus to establish on a timely basis, the reasonableness of its forecasts. SSPOA asserts that Stargas has failed to discharge this onus in delaying the application before the BCUC by more than one year, negatively impacting the ratepayer.

- **The Effect on the Ratepayer if the Sale does Not Reach Maturity**

  The current proceeding, supposedly addressing long term rate setting, is now an appendix to a sales contract and separate application before the BCUC. The information requests and a "normal" final argument has now become an affirmation of a sales agreement, with ratepayer impacts that cannot be addressed should the sale collapse. If the SSPOA supports the sale to FortisBC, how will this affect the ratepayer should Stargas remain as the Utility servicing Silver Star?

II. ARGUMENT

Preface to the Argument

The SSPOA is fully in support of the acquisition of the Stargas Assets by FortisBC. From the outset of these proceedings the SSPOA has been cognizant of the possible sale, albeit based on the protracted negotiations that culminated in an agreement in the midst of these proceedings. On March 4, the details of the agreement were officially released and contingent in the agreement is the outcome of these proceedings. In fact, the joint submission by FortisBC and Stargas includes in Appendix "C", the 48 pages of the present Delivery Rate application. The joint application indicates that the approval of the Stargas Deliver Rate application is integral to the terms of the sale.

Clearly some of the items in the Stargas Delivery Rate, that normally would have been challenged if ratepayers were considering a long-term Stargas rate setting, are now moot. This is because the terms of the agreement show no negative impacts on the Stargas ratepayer other than the minimal effects that all FortisBC (and new Silver Star customers) will see in the amortized rate base deferral account, named the Stargas Assets Acquisition Deferral Account and the FortisBC Gas Cost Variance Account (GCVA),

As a result, we are not objecting to provisions of the proposed Delivery Rate. The SSPOA recognizes the benefits and supports becoming FortisBC customers.

The focus of the SSPOA final argument is regarding some issues during the interim period from November 1, 2020 to the anticipated FortisBC purchase completion which we have assumed as May 31, 2021. Additionally, we raise some concerns regarding the possible collapse of the sale.

1. The Impact of the Proposed Purchase of Stargas Assets by FortisBC

Current Delivery Rate Application Issues

The application jointly filed by Stargas and FortisBC, included in its proposal the issues that, under normal circumstances, would be addressed in final arguments as they would impact the delivery rate under review. These include:

a) Amortization Items

To be included in the capital assets

Safety Initiative	$25,759
Remediation Costs for Crown Tenue Rights	$8,710
Billing/Read Software	$6,758

b) Rate Rider Items

2017 Installation Application G-164-17	$ 1,951
Incident Shortfall G-159-18	$16,687
2020 Delivery Rate Application	$38,458
Interest Deficit (Jun 1, 2017 to Oct 31, 2020)	$18,005

c) Stargas' Uncollected Amounts

The purchase price includes the remaining balance of Stargas' deferred dividends from Stargas' fiscal years 2002 to 2006 and Stargas undistributed returns on equity from June 1, 2017 to October 31, 2020. These two items are defined as Uncollected Amounts in the executed FEI Stargas APA.

2002-2006 Deferred Dividends (G-157-12)	$ 59,678
Undistributed Returns on Equity (Jun 1, 2017 to Oct 31, 2020)	$45,120

Under the Terms of the Agreement for Sale to FortisBC these items are addressed as part of the sale price, pending BCUC approval, and as a result the Stargas ratepayers are not negatively impacted.

2. The Impact of the Delay in Adjusting the Delivery Rate Scheduled for November 1, 2019

a) The period November 1, 2019 to October 31, 2020

As noted in the introduction, Stargas filed a Delivery Rate application on September 22, 2020. This application was mandated 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."* [2]

The SSPOA asserts that the Delivery Rate Application delay has had the effect of denying the ratepayers the benefit of a reduced delivery rate commencing on November 1, 2019. As stated, Stargas received the reduced amortization as of June 1, 2019 and while their statement notes "effective June 1" for a rate adjustment, Order G-59-17 rates were to expire on October 31, 2019. The ratepayers were nonetheless denied the rate reduction benefits effective November 1, 2019 resulting from

- The expired amortization accounting for $0.94 [3] per GJ of the $5.77 2017 Delivery Rate
- The effect of increased gas consumption since 2017, Fiscal 2018 45,415.7 GJ
Fiscal 2019 45,847.4 GJ
Fiscal 2020 47,826.3 GJ [4]

[2] Appendix A to Order G-59-17 P.25 https://www.bcuc.com/Documents/Proceedings/2017/DOC_49133_G-59-17_Stargas-Vary-Delivery-Rate-Reasons.pdf

[3] EX. B-11 PDF Page 5 https://www.bcuc.com/Documents/Proceedings/2021/DOC_61031_B-11-Stargas-Response-to-SSPOA-IR2.pdf

[4] EX. B-7 PDF Page 19 https://www.bcuc.com/Documents/Proceedings/2020/DOC_60179_B-7-Stargas-Response-to-SSPOA-IR1.pdf

These historical volumes show that had a rate review been completed using the greater denominator of the actual 46,766.6 GJ [5] of consumption in 2019 - as opposed to the G-59-17 test years volume of 41,093.6 GJ - it would have produced a $.070 per GJ savings to the ratepayer.

The SSPOA had planned to demonstrate and argue that the delay in applications caused an offsetting credit due the ratepayer to counter the deficit that was created over the same period in the GCVA. The SSPOA has now had the opportunity to review the particulars of the FortisBC/Stargas purchase agreement outlined in their joint BCUC application. The SSPOA is satisfied on how, by including the GVAC at closing as part of the purchase, the debit/credit issues are resolved.

Under the Terms of the agreement for sale to FortisBC these items are addressed as part of the sale price, and as a result the Stargas ratepayers are not impacted.

b) Proposed Treatment of Interim Delivery and Commodity Rates

The SSPOA submitted their final arguments regarding the Commodity Rates prior to examining the FortisBC/Stargas purchase proposal application to the BCUC. In that SSPOA Commodity Rate argument, concerns were raised about ratepayers having to fund a CGVA deficit from the previous 2 years, as well as the proposed retroactive rates for the interim period commencing November 1, 2020.

As the SSPOA currently understands the purchase proposal for addressing both Delivery Rates and Commodity Rates (having read the submission), the Stargas ratepayer will continue paying the interim rates until closing and then transfer seamlessly to a FortisBC customer. Considering our understanding of the treatment proposed by FortisBC of GCVA and the regulatory accounts, the SSPOA is fully supporting the potential of eliminating retroactive billings.

The SSPOA understanding is from the FortisBC/Stargas submission:

> "For reference, Stargas forecasts their GCVA balance would be $130,969 on April 1, 2021 if the commodity rate were to remain at $3.98 per GJ" [6]
>
> (emphasis added)

Under the Terms of the agreement for sale to FortisBC retroactive billings are addressed as part of the sale price, and as a result the Stargas ratepayers are not impacted.

c) Increased Application Costs

Silver Star ratepayers have become very conscious of the costs of BCUC applications. Historically Stargas has submitted their applications with no opposition or intervenors. The benefit was that costs of applications were minimal (probably contained in general management allocations) and (in our recollection) never resulted in a rate rider until 2017. In 2017 as a novice intervenor (the SSPOA) had no understanding of

[5] EX. B-11 PDF Page 5 https://www.bcuc.com/Documents/Proceedings/2021/DOC_61031_B-11-Stargas-Response-to-SSPOA-IR2.pdf

[6] FortisBC/Stargas Asset Transfer and CPCN Application EX. B-1 PDF Page 15 https://www.bcuc.com/Documents/Proceedings/2021/DOC_61351_B-1-FEI-Stargas-AssetTransfer-CPCN-App.pdf

proceeding costs and submits that even Stargas' initial assessment of the 2017 cost of proceedings was vastly underestimated. The following quote is from the Stargas 2017 application:

> *"included in that estimate is a $6,000 increment anticipated as that relating to the preparation of the "delivery price change and refinancing" components of this application."* [7]

After this long BCUC process, which started in September 2016 and finally concluded on November 8, 2017 with Order F-14-17 determining proceeding costs, the commission commented in bold print that despite the costs:

> **"Nevertheless, the Panel finds SSPOA contributed to a better understanding of the issues in this proceeding and also in the First Reconsideration and Variance of Order G-59-17, and approves its PACA funding requests."** [8]

The Panel concluded that ratepayer involvement in the process was valued, in spite of extending the efforts required and the related costs of the proceedings. And yet (probably because of the limited rate base) the BCUC panel determined that a portion of the proceeding should be covered by the Commission:

> "*Considering the magnitude of the cost to be recovered as well as the rate impact, Panel finds it is in the public interest for the Commission to pay for these costs."* [9]

Today the current application costs of the current proceedings and the application costs of the FortisBC purchase proposal are:

The present application costs as proposed by Stargas	$38,458
Adding the cost of the purchase application from FortisBC	$65,000
Legal expense incurred by FEI	$4,194
	$107,652

Bearing the costs associated with regulatory proceedings for small rate-based utilities is becoming a major concern. It is clear, that it is not sustainable for 363 Stargas ratepayers to bear the costs of these proceedings. For this reason, the SSPOA has chosen not to seek professional assistance for this proceeding. This is yet another reason for our support of the purchase by FortisBC - in order to achieve an economy of scale**. More importantly, who will be responsible for these costs should either FortisBC or Stargas decide not to proceed with the sale as discussed in Section3 of this argument?**

---

[7] Ex B-1 2017 Application PDF Page 16
https://www.bcuc.com/Documents/Proceedings/2016/DOC_47694_B-1_Stargas_Delivery-Rate-Application.pdf

[8] Oder F-14-14 PDF Page 6 https://www.bcuc.com/Documents/Proceedings/2017/DOC_50281_F-14-17_Stargas-2016-DRARA-Additional-Costs-PACA.pdf

[9] Oder F-14-14 PDF Page 6 https://www.bcuc.com/Documents/Proceedings/2017/DOC_50281_F-14-17_Stargas-2016-DRARA-Additional-Costs-PACA.pdf

3. **The Effect on the Ratepayer if the sale does not reach maturity.**

The Silver Star ratepayer has been a bystander 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.

It appears that in the purchase negotiations for the final price, FortisBC 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 it likely that FortisBC have ensured the protection of their financial position in determining the fair value of adding the asset base of Stargas to FortisBC operations.

At this juncture, it is realistic for the Stargas ratepayers to justifiably assume that, because of the extensive experience that FortisBC has in these matters, that the BCUC will probably approve the terms.

However, as noted in the FortisBC/Stargas submission:

> "In accordance with the terms of the executed FEI-Stargas APA, Stargas will have to find the final purchase price as approved by BCUC to be satisfactory." [10]

Of concern is that should the sale collapse, would the ratepayers be facing a repeat regulatory rate process? From the BCUC IR No 2:

> **"*Stargas response***: *Stargas was not and is not now, without contractual continuity in the provision of its technical services; a copy of the latest extension is attached; in it, a specific termination date is not provided but rather the revision* <u>*contemplates extension of technical services 90 days beyond the termination of the Asset Purchase Agreement*</u> *or upon the completion of the purchase of Stargas regulatory assets and operations by FEI."* [11]
>
> *(emphasis added)*

The SSPOA is requesting that the BCUC provides safeguards in the event of a sale collapse. The potential for a new technical services provider (as noted above) may be needed. The current process as it appears to the SSPOA, seems to dictate the acceptance of the Stargas application as presented. This includes the Stargas management costs, the amortization proposals in addition to the rate riders that are now, unopposed because of the purchase agreement benefits. Are they acceptable in the event of a sale collapse? The answer is no.

---

[10] FortisBC/Stargas Asset Transfer and CPCN Application EX. B-1 PDF Page 16 https://www.bcuc.com/Documents/Proceedings/2021/DOC_61351_B-1-FEI-Stargas-AssetTransfer-CPCN-App.pdf

[11] EX. B-10 PDF Page 5 https://www.bcuc.com/Documents/Proceedings/2021/DOC_61007_B-10-Stargas-responses-to-BCUC-IR2.pdf

The dilemma the SSPOA finds itself in is that support of the FortisBC purchase means approval of current Delivery Rate items, that in the long term, under continued Stargas operations would be detrimental to the ratepayer. Examples are the Stargas challenges of the G-59 17 management rates, amortization of software that may never be used or the rate rider proposals covering the incident shortfall and application costs. The SSPOA would be challenging all of this, were it not for the purchase proposal.

All these items, because of the purchase agreement, are rendered moot. An acceptance of the interim rates up until closing, reconciled as part of the purchase, solved the SSPOA's concerns on the high Delivery Rates and low Commodity Rates. This is a solution to addressing the systemic concerns that were raised by the SSPOA

What happens to these ratepayer benefits if the sale collapses?

III. CONCLUSION

The SSPOA is broadly supportive of the acquisition of the regulated assets of Star Gas by FortisBC.

The terms of the sale seem complicated by including the various components of the current application, yet to be approved, as opposed to a simple total cost of purchase. For whatever reason, be it because of the completion of negotiations in the midst of a current proceeding or for BCUC regulatory accounting requirements, the end result appears to solve all the issues the Stargas ratepayers have. Even the SSPOA debit/credit argument resulting from systemic issues are addressed in the proposed sale.

The SSPOA recognizes the ratepayer is receiving some fiscal benefits in the as part of the sale.

An analogy: the SSPOA would argue that its position was $4+ $3+ $3 = $10 and the Stargas/FortisBC sale determined that ratepayer fairness was better accounted at $6+ $1.10+ $1.10 + $1.10 + $1.10 = just over $10.

The SSPOA has no new arguments to put forward at this point in the process and we believe that the points we have made in our questions of Stargas have been clearly articulated. We are happy to leave the BCUC to ensure that in the event of the sale going forward to completion, the issues raised by the SSPOA will be dealt with fairly and equitably and consistent with the approach outlined in the sale and purchase agreement now under consideration by the BCUC.

However, should the sale fail to reach maturity, the Arguments and Information Requests hitherto outlined by the SSPOA should be fully considered by the BCUC and again, a fair and equitable solution determined in terms of future rate setting should Stargas proceed as an independent operation. Again, we are comfortable to leave it to the good offices of the BCUC to determine what the final outcome is.

The SSPOA wishes to confirm to the Panel that the Association will incur no expenses in this proceeding.