



Janet P. Kennedy
Vice President, Regulatory Affairs & Gas Supply

Pacific Northern Gas Ltd.
Suite 950
1185 West Georgia Street
Vancouver, BC V6E 4E6
Tel: (604) 691-5680
Fax: (604) 697-6210
Email: jkennedy@png.ca

CONFIDENTIAL

Via E-Mail

June 12, 2014

BCUC Review Task Force
c/o Generation and Regulatory Branch
Electricity and Alternative Energy Division
Ministry of Energy and Mines
PO Box 9314 Stn Prov Govt
Victoria, B.C.
V8W 9N1

File No.: 4.2(2014)

Attention: Peter Ostergaard
Task Force Chair

Dear Mr. Ostergaard:

Re: Independent Review of the British Columbia Utilities Commission (“BCUC”) Comments for Consideration Put Forth by Pacific Northern Gas Ltd. and Pacific Northern Gas (N.E.) Ltd. (“PNG”)

On April 28, 2014, the BC Provincial Government announced the commencement of a core review of the BCUC with a view to increasing this agency’s effectiveness and efficiency, and the establishment of an independent Task Force. The core review process was designed to include face-to-face meetings with stakeholders as well as written submissions. Please accept this letter as PNG’s written submission and follow-up to PNG’s consultation with the Task Force panel on May 1, 2014.

PNG owns and operates a natural gas transmission and distribution utility operating within the west-central portion of northern British Columbia (“Western system”) extending from Summit Lake to the west coast and a distribution utility in the northeast part of British Columbia (“Northeast system”) consisting of two divisions, the Fort St. John/Dawson Creek division and the Tumbler Ridge division. PNG serves approximately 20,000 residential, commercial and industrial customers in its Western system and 20,000 customers in its Northeastern system.

Request for Confidentiality

PNG requests that the information contained in this submission be kept confidential. PNG appreciates the opportunity to share its views on and experience with the BCUC to assist the Task Force in fulfilling its mandate.

Comments and Considerations

In consideration of PNG's interactions and experience with the BCUC, PNG has focused its comments and considerations on section 2 "BCUC Processes" and section 3 "Structure, resource needs and performance of the BCUC" of the prescribed scope of the Task Force, and presents the discussion of matters in the same chronology that they appear in the scope document.

BCUC Processes

a. Existing levy funding model and possible alternatives;

- PNG is not aware of any particular issues with the existing BCUC funding model, other than the escalating costs to administer the BCUC which are being recovered from utilities and their ratepayers. Levies to the PNG group of companies have increased by 65% from the 2012/2013 period to the 2014/2015 period. This does not take into account the increasing direct billings for Commissioners' fees and Contractor charges for proceedings.
- PNG believes that its ratepayers would support payment of fees that ensures quality and efficiency of process.
- To enhance transparency to ratepayers, consideration might be given to the disclosure of the BCUC annual levy and BCUC proceeding costs as a separate line item on the customer bill.

b. Timeliness, effectiveness, efficiency and cost of reviews;

- In recent years, PNG has been challenged by the nature and efficiency of its regulatory reviews. In particular:
 - PNG has been overwhelmed by the demands of responding to a significant increase in the volume of information requests (IRs) on regulatory reviews in recent years, particularly when resources available to assist with this process have remained static. Illustrative examples of the significant volume of IRs include:
 - Information requests on annual revenue requirements applications (RRAs) have increased from the range of 200 to 300 IRs in 2008 and 2009 proceedings to 1,300 to 1,500 IRs in 2013 and 2014 proceedings.
 - On a recent CPCN application for a capital expenditure of \$3 million, PNG was subject to three rounds of questioning with in excess of 500 IRs.
 - PNG has observed an increasing number of IRs from Commission staff and Commission contractors/consultants that are questionable in regard to the value added to the review process. Specifically:
 - PNG has found that numerous IRs from the BCUC have a tactical rather than strategic nature. That is to say that much of the questioning appears to be focused on cherry picked minor items and issues. This gives the impression of micromanagement of the utility without consideration of the full context of the

issue or a comprehensive understanding of the utility's business. Further, there has been an indication of bias focusing only on unfavourable items without equal consideration given to favourable items or the aggregate view.

- PNG has found an increasing instance where the review of cost of service elements has been absent any sense of materiality. In addition, there have been an increasing number of requests to present and reconcile the same base data in multiple forms and layouts and tables. PNG suggests that the level of detail of questioning and request for reconciliations of figures, reflecting the audit background of Commission staff, should be tempered by the value being added for the rate payer.
- PNG has also found an increasing instance of rehashing matters pertaining to historical information that have been addressed and resolved in prior applications and may not be relevant to the current application.
- Other challenges PNG has encountered pertaining to the efficiency of reviews relate to a lack of timeliness of decision making. The outcomes on many regulatory reviews have a direct impact on matters to be subsequently reviewed by the BCUC. As such, delays in the issuance of a decision often result in PNG having to implement the outcome of the decision while concurrently having to incorporate the outcome in pending submissions. This creates difficulty for PNG from both an administrative and resourcing perspective. Recent examples of what PNG considers untimely decisions include:
 - PNG(NE) 2012 RRA – reply argument submitted by PNG(NE) on June 8, 2012; BCUC Decision issued on November 9, 2012 (5 months); and
 - PNG(NE) CNG CPCN – reply argument submitted by PNG(NE) on December 4, 2013; BCUC Decision issued on March 5, 2014 (3 months).
- Further, PNG has had success with applications for reconsideration of specific elements of recent BCUC decisions. PNG proposes that the Commission consider the introduction of a workshop prior to finalizing decisions to avoid any potential misunderstandings and enhance interactive communication for all parties. PNG submits that this could potentially reduce the need for reconsiderations and would have alleviated the situations that arose and required PNG to seek reconsiderations this past year. Specific examples include:
 - PNG-West and PNG(NE) 2013 RRAs
 - Decision included a directive to file 2-year RRAs for 2014, despite the facts that this issue was not addressed at any point in the proceedings, nor had PNG's input been sought on the feasibility of enacting this directive; PNG successfully applied for a deferral of the 2-year requirement until practicable for the company to do so.
 - The Decisions denied capital projects carried over from 2012 and recorded as 2013 capital additions due to the absence of a listing detailing the composition of the 2012 carry over amounts within the total 2013 capital additions; PNG successfully applied for reconsideration and inclusion of \$808,000 in 2012 carryover projects in PNG(NE)'s 2013 capital additions.

- 2012 Pension and Non-Pension Application
 - Decision included directives specifying financial amounts be applied on a go forward basis; PNG identified an error in the calculation of one of the amounts and had issues with a second amount, the use of which would have been administratively burdensome for the company; PNG successfully applied for reconsideration of the amounts.

c. Standing/funding for interveners;

- In recent years, PNG has had a relatively small number of interested parties to its regulatory applications and therefore has not had any specific issues with the standing/funding requirements and process for interveners to regulatory proceedings.
- However, PNG would like to note that the Commission should apply the PACA Guidelines diligently and consider a Participant's ability to participate in a proceeding without an award if the Participant has the means to do this.

d. Review processes:

d.i Conventional oral and written public hearings;

- It has been some time since PNG has participated in a conventional oral hearing (2005 Income Trust Application), with most applications being undertaken via a written hearing process or settled via the negotiated settlement process (NSP).
- PNG's submits that while oral and written hearing process are generally effective, they can also be very time consuming and very costly processes, particularly when external legal counsel and additional expert witnesses services are required.

d.ii Alternative review processes, including expedited hearing processes and negotiated settlement processes;

- PNG's recent experience with NSPs has been satisfactory, particularly in consideration of the timeliness of reaching a decision on the matter under review.

d.iii Involvement of the BCUC in alternative regulatory processes;

- PNG is undergoing its first NSP process under the BCUC's new Negotiated Settlement Process - Policy, Procedures and Guidelines (updated on February 2012), whereby an independent facilitator was established and different BCUC representatives fulfilled the roles of Active Participant and Advisor. PNG has found this process to date to be quite effective as the clarity of the roles of BCUC staff in the new Guidelines worked well. PNG believes that active interaction between all the parties resulted in a fair, reasonable and balanced outcome through a more informed process. PNG would like to note that it is very early in the NSP process; however, PNG is hopeful that the NSP agreement will be finalized by the participants and a Commission approval will be forthcoming in an efficient and timely manner.

- d.iv Generic proceedings on specific issues that apply to more than one utility;
- PNG considers that generic proceedings are generally effective and most suited for addressing matters of policy (generic cost of capital, transfer pricing, etc.).
 - However, for an organization the scale of PNG it is sometimes easier to navigate these issues on its own given the challenges of keeping up with the submissions of all other parties to the generic processes due to lack of internal resources.
- d.v Opportunities to make hearing processes more efficient and more focused;
- PNG submits that in order to make hearing processes more efficient and more focused, consideration should be given to scaling the level of review to the size of the entity under review.
 - The BCUC appeared to move in this direction when they recently issued a “medium-sized utility template” for PNG to use as a guide to preparing its RRAs. PNG notes that it was advised it was the only “medium-sized utility” under the BCUC’s oversight.
 - PNG complied with the BCUC’s request to adopt the template for its 2014 RRAs and invested significant time and effort to redraft the RRAs and to provide the additional disclosure requested.
 - However, PNG was dismayed that the primary consequence of the significant effort undertaken was a greater volume of more detailed IRs from the BCUC on these applications.
- d.vi The role, effectiveness and use of guidelines and policies;
- PNG has found that BCUC or government issued guidelines on matters of a regulatory nature have generally been useful and practical when applied with knowledge and respect of the specifics of the matter under review.
 - However, PNG submits that a “one-size fits all” approach may not be appropriate when applying guidelines and policies.
 - PNG recently had an unfavourable experience with the application of the BCUC’s Resource Planning Guidelines, whereby the BCUC went to great lengths to require PNG to expend time and resources on developing specific weightings and evaluation criteria for its resource planning objectives. PNG found this particularly troubling as the resource plan in question was not presenting an evaluation of alternative resource options, and the requirement for such a detailed framework has not been required of other BC utilities.
 - PNG submits that guidelines and policies should be applied with the intent for which they were compiled, that they should be handrails and not necessarily handcuffs.
- d.vii Application cycle (turnaround) times and establishing timelines for reviews and decisions;
- PNG observes that subsequent to filing an application for regulatory review, the BCUC is timely in establishing a regulatory timetable and fair consideration is given to the utility’s availability and regard to workload and resource availability.

- As noted above under point b., PNG has encountered challenges due to the lack of timeliness of decision making. PNG suggests that consideration be given to having regulatory timetables specify an anticipated date for issuance of the BCUC's decision on the proceeding. The BCUC panel should be held to the same standard of working to pre-established deadlines incorporated into the regulatory timetable.

d.viii Coordinated regulatory processes.

- PNG has no specific concerns on this matter and observes that the issuance of conditional decisions by the BCUC has been effective in that they allow for additional time to obtain other required approvals (environmental assessments, OGC approvals, etc.).

Structure, Resource Needs and Performance of the BCUC

a. Review the use of stakeholder representation models in other jurisdictions and implications on the role of staff;

- PNG comments on this matter are restricted to the stakeholder representation model presently in place with the BCUC:
 - As noted previously, PNG's most active intervener (BCPIAC/BCPSO) is considered strategic in its review role, with a focus on relevant issues.
 - PNG also submits that at present there may be a conflict in the role of BCUC staff in PNG's regulatory proceedings in that they may have crossed the line to leaning more as ratepayer advocate than a facilitator of an independent process. PNG submits that to ensure absence of bias, Commissioners should be independent of and not have access to Commission staff performing an advocacy role in a regulatory proceeding.

b. Recruitment, retention and compensation of BCUC staff and Commissioners, and staffing levels;

- PNG supports appropriate compensation to ensure attraction and retention of staff and Commissioners with the appropriate skill set and required expertise.

c. Organizational structure and BCUC composition, including:

c.i Potential Vice-Chair and Executive Director positions;

- PNG supports the re-introduction of the Executive Director position to provide appropriate oversight at the executive level and submits that consideration be given to the notion that quality leadership and the appropriate skill set are of the same importance as organizational structure.

c.ii Full-time versus part-time Commissioners;

- PNG has no visibility into the implications that may arise from Commissioners fulfilling their role on a full-time versus part-time basis. PNG submits that a Commissioner's skill set and knowledge, and dedication and commitment to their role are likely more important than their employment terms.

c.iii Experience and knowledge;

- PNG is of the view that it is very important that the BCUC attract and retain qualified individuals to fulfill Commissioner and staff positions. Continuity of BCUC representatives on utility matters is of key importance to the effectiveness and efficiency of the regulatory process.

c.iv The need for regulatory process and utility expertise; and

- PNG believes that prior regulatory and utility experience and expertise are very important requirements for new Commissioners and staff. An understanding of the many unique characteristics of utility operations and operating under a regulatory regime are key to discharging the responsibilities of these roles.
- That said, PNG submits that practical business experience and expertise should also be considered important requirements.

c.v Use of BCUC Counsel.

- PNG has no visibility into this particular matter, however PNG acknowledges that continuity in this role has been considered beneficial to the regulatory process.

d. Efficiency (value for money) and effectiveness of operations and performance, including:

d.i Identify standard (reported) performance measures to be reviewed or recommend measures to be developed;

- As noted previously, PNG submits that consideration should be given to incorporating decision release dates into the regulatory timetable. Further, the turnaround time on proceeding decisions and the meeting of the specified decision dates could be incorporated as a performance measure.

d.ii Identify operational impediments; and

- PNG's sole experience that may have been considered an operational impediment pertains to a lack of Commissioner availability. In this instance, PNG understands that the Commissioner was not available to finalize the decision on its proceeding due to medical reasons, resulting in an unacceptable 5 month gap between reply argument and a Commission decision being rendered. The BCUC should establish contingency plans to address such an unusual situation, perhaps by establishing a pool of alternate Commissioners to step in when circumstances require or to ensure that there is more than one Commissioner assigned to a proceeding.

d.iii Identify specific opportunities for improvements.

- PNG submits that based on its recent experience with the BCUC, the following areas provide opportunities to improve the regulatory process:
 - Consideration of a plan to ensure continuity of staff on regulatory files;
 - Consideration of a plan to ensure proper training of staff new to regulatory files, including the requirement that these staff undertake a high-level review of the utilities previous proceedings; and
 - Consideration of a plan to incorporate a senior-level internal review of information requests compiled as part of the regulatory process to screen out superfluous requests.
 - Consideration of a plan to establish timelines for deliverables from submission to a decision and completion of a proceeding.

PNG appreciates the opportunity to provide input into this review process and encourages the Task Force to look to best practices among North American utility regulators in consideration of the appropriate level of oversight for a utility of PNG's size.

All of the above submissions of PNG are respectfully submitted. Please direct any questions on the foregoing to my attention.

Yours truly,



J.P. Kennedy