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VIA E-MAIL
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April 30, 2007

Mr. David Bennett
Vice President, Regulatory Affairs & General Counsel
Regulatory Affairs Department
FortisBC Inc.
1290 Esplanade
PO Box 130
Trail, BC V1R 4L4

Dear Mr. Bennett:

Re: Fortis Inc. ("Fortis")
Application for Approval of the Acquisition of the Issued and
Outstanding Shares of Terasen Inc. ("Terasen")

Further to your March 1, 2007 application to acquire the issued and outstanding shares of Terasen Inc. from Kinder Morgan Inc., we enclose Commission Order No. G-49-07 and Reasons for Decision.

Yours truly,

Original signed by:

Robert J. Pellatt

RJP/cms
Enclosure

cc: Mr. George K. Macintosh, Q.C.
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Mr. Scott Thomson
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Registered Intervenors & Interested Parties

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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-49-07

TELEPHONE: (604) 660-4700
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**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**An Application by Fortis Inc.
for Approval of the Acquisition of the Issued and Outstanding Shares of Terasen Inc.**

BEFORE: L.A. Zaozirny, Panel Chair & Commissioner
A.W. Keith Anderson, Commissioner April 30, 2007
R.J. Milbourne, Commissioner

ORDER

WHEREAS:

- A. On March 1, 2007 Fortis Inc. ("Fortis") applied pursuant to Section 54 of the *Utilities Commission Act* (the "Act") for an Order approving the acquisition of all of the issued and outstanding shares of Terasen Inc. ("Terasen") which would cause Fortis to have indirect control of certain public utilities regulated by the British Columbia Utilities Commission (the "Commission") (the "Application"); and
- B. The public utilities are Terasen Gas Inc. ("TGI"), Terasen Gas (Vancouver Island) Inc. ("TGVI"), Terasen Gas (Whistler) Inc. ("TGW") and Terasen Energy Services Inc. ("TES") (collectively the "Terasen Utilities"); and
- C. TGI, TGVI, TGW and TES are wholly-owned subsidiaries of Terasen; and
- D. Fortis, 3211953 Nova Scotia Company and Kinder Morgan, Inc. ("KMI") have entered into an agreement dated February 26, 2007 under which Fortis will acquire all of the issued and outstanding shares of Terasen; and
- E. Section 54(9) of the Act states:

"The Commission may give its approval under this section subject to conditions and requirements it considers necessary or desirable in the public interest, but the commission must not give its approval under this section unless it considers that the public utility and the users of the service of the public utility will not be detrimentally affected."; and

- F. Fortis and TGI have jointly undertaken communication and consultation with key stakeholders of the Terasen Utilities and have submitted a summary of comments as part of the materials filed in support of its Application; and
- G. Fortis had proposed a written regulatory schedule (page 13, para. 45 of its Application) with a procedural conference to be held on March 26, 2007, followed by Intervenor written submissions and Fortis reply comments; and
- H. By Order No. G-22-07, the Commission established a Written Public Hearing Process and a Regulatory Timetable setting deadlines for the registration of Intervenors and Interested Parties (March 26, 2007), for a response by Fortis to an initial Commission Information Request (March 19, 2007), for Intervenor Information Requests and Fortis Responses (April 2 and April 5, 2007, respectively) and for a Procedural Conference to be held on March 29, 2007 to consider the further regulatory review of the Application; and
- I. In accordance with Order No. G-22-07 the Commission held a Procedural Conference on March 29, 2007 at which Fortis presented a further proposed schedule which was accepted by parties, as modified by the British Columbia Old Age Pensioners' Organization et al. ("BCOAPO"), during the comment process; and
- J. By Order No. G-39-07 the Commission amended the Regulatory Timetable to provide for the filing of Intervenor Submissions and a Fortis Reply Submission; and
- K. The Ministry of Energy, Mines and Petroleum Resources in its Submission of April 13, 2007, stated that it is encouraged by the amalgamation of Fortis and Terasen, providing an opportunity to enhance Demand Side Management activities and to facilitate and promote better cooperation and coordination among energy utilities regulated by the Commission; and
- L. On April 13, 2007 BCOAPO filed its Submission and stated that it has no objection to this transaction; and
- M. In his April 13, 2007 Submission Mr. Alan Wait stated that Fortis' ownership of FortisBC and Terasen is a concern since both companies are in competition to supply heating needs to the same customers; however, he also stated that there is no compelling reason why the acquisition of Terasen by Fortis should be denied; and
- N. The April 13, 2007 Submission from the Vancouver Island Gas Joint Venture did not take a position with respect to the Application; and
- O. On April 13, 2007 Fortis provided its Reply Submission and responded to Mr. Wait's concern regarding potential competition between FortisBC and Terasen. Fortis submits that it intends to operate each of FortisBC and Terasen on a stand-alone basis, each continuing to supply alternative energy sources to customers. Moreover, Fortis acknowledges and confirms that the operations of both companies will continue to be independently regulated by the Commission, whose regulatory oversight will help to ensure an appropriate balance of cooperation and competition is maintained; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-49-07

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- P. The Commission has reviewed the Application, Submissions, and Reply Submission received and considers that the public utilities and the users of the services of the public utilities will not be detrimentally affected and that approval is warranted.

NOW THEREFORE the Commission orders that the Fortis Application is approved subject to the Conditions contained in the Commission's Reasons for Decision attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 30th day of April 2007.

BY ORDER

Original signed by:

L.A. Zaozirny
Panel Chair & Commissioner

Attachment



IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

Fortis Inc.
Application for Approval of the Acquisition of the
Issued and Outstanding Shares of Terasen Inc.

REASONS FOR DECISION

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1.0 INTRODUCTION

1.1 Application

On March 1, 2007 Fortis Inc. (“Fortis”) applied to the British Columbia Utilities Commission (the “Commission”, the “BCUC”) pursuant to Section 54 of the *Utilities Commission Act* (the “Act” or the “UCA”) for approval of the acquisition by Fortis of the issued and outstanding shares of Terasen Inc. (“Terasen”) (Exhibit B-1, Application, p. 1). Fortis, Kinder Morgan, Inc. (“KMI”) and 3211953 Nova Scotia Company have entered into an agreement (the “Acquisition Agreement”) under which Fortis has agreed to purchase all of the outstanding shares of Terasen (the “Transaction”). The Transaction will cause Fortis to have indirect control of Terasen Gas Inc. (“TGI”), Terasen Gas (Vancouver Island) Inc. (“TGVI”), Terasen Gas (Whistler) Inc. (“TGW”), and Terasen Energy Services Inc. (“TES”). TGI, TGVI, TGW and TES are wholly-owned subsidiaries of Terasen (collectively, the “Terasen Utilities”), and are public utilities regulated by the Commission (the “Application”).

Fortis acknowledged that the Commission’s Decision and Order No. G-116-05 dated November 10, 2005, which approved KMI’s acquisition of the common shares of Terasen (formerly, BC Gas Inc.), was subject to conditions on ring-fencing, governance and locations of functions and data, as revised by Commission Order No. G-75-06 and clarified by Letter No. L-30-06 (“Conditions”). Fortis states that it is prepared to accept the continued application of these Conditions as conditions to any approval of this Application, adjusted as necessary to reflect the amalgamation of Terasen Gas (Squamish) Inc. (“TGS”) into TGI effective January 1, 2007 (Exhibit B-1, Application, pp. 20-21).

The Conditions contained in Section 7.2 of the November 10, 2005 KMI Decision are as follows:

7.2.1 Ring-Fencing

- “(1) Each Terasen Utility shall maintain, on a basis consistent with BCUC orders and accounting practices, a percentage of common equity to total capital that is at least as much as that determined by the Commission from time to time for ratemaking purposes.
- (2) No Terasen Utility will pay a common dividend without prior Commission approval if the result would reasonably be expected to violate the restriction in (1) above.
- (3) (a) No Terasen Utility will lend to, guarantee or financially support any affiliates of the Terasen Utilities, other than between TGI and TGS, or as otherwise accepted by the Commission.

(b) TGI and TGS shall together maintain separate banking and cash management arrangements from other affiliates. TGVI shall establish separate banking and cash management arrangements from other affiliates once it has completed its proposed refinancing.

(c) No Terasen Utility will enter into a tax sharing agreement with any affiliate of the Terasen Utility, unless the agreement has been approved by the Commission.

4) No Terasen Utility will enter into transactions with affiliates that are not in compliance with Commission guidelines, policies or directives regarding affiliate transactions, and no Terasen Utility will enter into transactions with affiliates on terms less favourable to the Terasen Utility than those available from third parties on an arms-length basis, unless otherwise approved by the Commission.

5) No Terasen Utility will engage in, provide financial support to or guarantee non-regulated businesses, unless otherwise approved by the Commission.

These conditions may be revised and/or supplemented in future by the Commission as required to protect the public interest.

7.2.2 Governance

The Commission Panel finds that the Terasen Utilities should be required to maintain existing governance policies and that any changes in these policies should be approved by the Commission. In particular, the Commission Panel concludes that the continued independence of Directors, as required in existing governance policies, will provide a further assurance that the Terasen Utilities will comply with the ring-fencing conditions.

7.2.3 Location of Functions and Data

In order to address privacy concerns, and other concerns, the Commission Panel determines that it would be appropriate to attach a condition to approval of the Transaction that requires KMI not to change the geographic location of any existing functions or data currently in TGI's service area without prior approval of the Commission."

Commission Order No. G-75-06 required that "the location of data and servers providing service to the Terasen Utilities is to be restricted to Canada and that any proposal to locate data and servers providing services to the Terasen Utilities (including data and servers providing back-up services) outside Canada will require the Commission's approval".

1.2 Corporate Background

1.2.1 Fortis Inc.

Incorporated under the *Canada Business Corporations Act*, Fortis is a Canadian company with its head office in St. John's, Newfoundland and Labrador. Fortis is principally a diversified, international electric utility holding company, with investments in eight regulated utilities located in British Columbia, Alberta, Ontario, Prince Edward Island, Newfoundland and Labrador and the Caribbean region. Regulated utility assets comprise approximately 86 percent of the total assets of Fortis (Exhibit B-1, Application, p. 6).

For the fiscal year ended December 31, 2006, Fortis reported the following consolidated financial results:

Fortis Inc. Interim Consolidated Statement of Earnings For the Year Ended December 31, 2006 (Unaudited)	
	(\$000's)
Operating Revenues	\$1,461,998
Operating Income	\$355,153
Net Earnings	\$148,772

(Exhibit B-2, BCUC IR 11.2, Attachment 11.2, p. 42)

1.2.2 Terasen and Terasen Utilities

The natural gas distribution business of Terasen is carried on by TGI, TGVI, TGW and TES. TGI's service territory extends from Vancouver to the Fraser Valley and the interior of British Columbia. TGVI owns and operates the natural gas transmission pipeline from the Greater Vancouver area across the Georgia Strait to Vancouver Island and the distribution system on Vancouver Island and along the Sunshine Coast of British Columbia. TGW owns and operates the propane distribution system at Whistler. TES owns and/or operates geo-exchange, natural gas and propane distribution systems in communities across British Columbia (Exhibit B-1, Application, pp. 10-11). The Terasen Utilities provide service to approximately 900,000 customers in 125

communities, representing over 95 percent of the gas customers in British Columbia. The Terasen Utilities own and operate approximately 44,100 kilometers of natural gas distribution pipelines and approximately 4,300 kilometers of natural gas transmission pipelines. As of September 30, 2006, Terasen had an aggregate of \$3.6 billion of assets, an aggregate rate base of almost \$3.0 billion and approximately 1,200 employees (Exhibit B-2, BCUC IR 2.2, Attachment 2.2, p. 6).

2.0 SUMMARY OF THE TRANSACTION

Fortis, KMI and 3211953 Nova Scotia Company entered into an agreement on February 26, 2007 under which Fortis has agreed to purchase all of the issued and outstanding shares of Terasen. The completion of the Transaction will result in Terasen becoming a direct wholly owned subsidiary of Fortis and the Terasen Utilities becoming indirect, wholly owned subsidiaries of Fortis (Exhibit B-1, Application, pp. 1-2). The terms of the Transaction are set out in the Acquisition Agreement attached as Schedule “A” to the Application (Exhibit B-1, Application, Schedule “A” Acquisition Agreement). Terasen operates two principal lines of business: natural gas distribution and petroleum transportation. Prior to the closing of the Transaction, KMI will cause Terasen to divest itself of its petroleum transportation operations, leaving only the natural gas distribution and transmission business (Exhibit B-1, Application, pp. 1-2). The cash purchase price of all of the issued and outstanding shares of Terasen is \$1,351 million.

	(\$ million)
Gross Purchase Price	3,671
Less:	
Terasen Gas Inc. debt assumed	1,567 ¹
Terasen Gas (Vancouver Island) Inc. debt assumed	303 ¹
Unadjusted Price – For Shares of Terasen Inc.	1,801
Terasen Inc. Long-Term Debt	450 ^{1,2}
Cash Purchase Price	1,351

1. Page 38 of the Seller's Disclosure Schedule to Acquisition Agreement, Schedule A to the Application.

2. Long-term debt only, purchase price will be adjusted for any short-term debt of Terasen Inc. outstanding at close. As at December 31, 2006 Terasen Inc had \$114 million of short-term debt outstanding.

(Exhibit B-2, BCUC IR 2.3)

3.0 PUBLIC CONSULTATION, REGULATORY REVIEW PROCESS AND INTERVENOR SUBMISSIONS

3.1 Public Consultation

Fortis and Terasen provided information to stakeholders regarding details and anticipated impacts of the Transaction. Consultation efforts included: (a) direct contact with key stakeholders, which commenced immediately after the February 26, 2007 announcement of the Transaction, (b) advisories to all customers of the Terasen Utilities; and (c) posting information on the Terasen Gas and Fortis websites for access by customers and stakeholders (Exhibit B-1, Application, p. 12, paras. 41-44). Attached as Schedule “B” to the Application is a summary of the results of stakeholder consultations up to and including February 28, 2007. By letter dated March 28, 2007 Fortis, among other things, updated the Stakeholder Consultation Summary and provided details of other stakeholder consultation efforts (Exhibit B-4). Pursuant to Items 3-5 of Commission Order No. G-22-07, Fortis and the Terasen Utilities, published a Notice of Procedural Conference in display-ad format in 13 daily news publications (which included the Vancouver Sun and the Province with province-wide circulation) and 46 community news publications and made the Application together with any supporting materials available on the Fortis and TGI websites.

3.1.1 Regulatory Process

In its Application filed March 1, 2007, Fortis had proposed a written regulatory schedule (Exhibit B-1, Application, p. 13, para. 45) which included a procedural conference, followed by written Intervenor submissions and Fortis reply comments. By Order No. G-22-07, the Commission established a written public hearing process and a Regulatory Timetable which set deadlines for the registration of Intervenors and Interested Parties (March 26, 2007), for a response by Fortis to an initial round of Commission Information Requests (March 19, 2007), and proposed dates for Intervenor Information Requests and a Fortis response (April 2 and April 5, 2007, respectively). At a procedural conference held on March 29, 2007 in accordance with Order No. G-22-07, the Commission heard submissions and, by Order No. G-39-07, accepted a further schedule proposed by Fortis (Exhibit B-5) and agreed to by parties, as modified by the British Columbia Old Age Pensioners’ Organization et al. (“BCOAPO”). The Commission therefore adjusted the initial Regulatory Timetable to allow for a written public hearing process that would be completed by Monday, April 16, 2007 with a Fortis Reply Submission.

3.2.1 Intervenor Submissions

Intervenor submissions were received on April 13, 2007 from BCOAPO, the Ministry of Energy, Mines and Petroleum Resources (the “Ministry”), the Vancouver Island Gas Joint Venture, which took no position on the Application, and from Mr. Alan Wait.

The Ministry stated that it is familiar with the regulated activities of both Fortis and Terasen and that it is encouraged by the amalgamation of the two utilities, providing an opportunity to enhance Demand Side Management (“DSM”) activities and to facilitate and promote better cooperation and coordination among energy utilities regulated by the Commission. BCOAPO indicated that it had reviewed the Application and Fortis’ responses to Information Requests and that none of the responses has given BCOAPO cause for concern with respect to the Application and, in particular, BCOAPO is reassured by some of the responses and assurances provided by Fortis, which will be discussed later in these Reasons for Decision. Mr. Wait could see no compelling reason why the Application should be denied; however, he did express some concern that both FortisBC and Terasen will be owned by Fortis and are in competition to supply heating needs to the same customers.

In its Reply Submission, Fortis states that based on the results of the stakeholder consultation process and the written hearing process established by the Commission, Fortis is not aware of any person opposed to the completion of the Transaction. Indeed, Fortis believes that there is strong support for the Application (Reply Submission, p. 3, para. 9). In response to Mr. Wait’s concern, Fortis submitted that it intends to operate each of FortisBC and Terasen on a stand-alone basis, each continuing to supply alternative energy sources to customers, and Fortis acknowledged and confirmed that the operation of both companies will continue to be independently regulated by the Commission, whose regulatory oversight will help to ensure an appropriate balance of cooperation and competition is maintained (Reply Submission, p. 8, para. 18).

4.0 THE UTILITIES COMMISSION ACT

The Application was made pursuant to section 54 of the Act. Section 54 provides, in part, that:

54(7) A person must not acquire or acquire control of such numbers of any class of shares of a public utility as

- (a) in themselves, or
- (b) together with shares already owned or controlled by the person and the person's associates, cause the person to have a reviewable interest in a public utility unless the person has obtained the Commission's approval.

Section 54(4) states that a person has a reviewable interest in a public utility if the person owns or controls, or if the person's associates own or control, in the aggregate more than 20 percent of the voting shares outstanding of any class of shares of the utility.

As noted above, Fortis seeks Commission approval under section 54 of the Act of the proposed acquisition by Fortis of the issued and outstanding shares of Terasen, the acquisition of which will cause Fortis to have indirect control of the Terasen Utilities.

Section 54(9) of the Act provides that the Commission may give its approval under Section 54 subject to such conditions and requirements it considers necessary and desirable in the public interest, and that the Commission must not give its approval under Section 54 "... unless it [the Commission] considers that the public utility and the users of the services of the public utility will not be detrimentally affected".

In previous decisions the Commission has determined that the focus of its review of any acquisition of, or acquisition of control of, a public utility under section 54 of the Act should be on the effect of the acquisition upon the public utility, the customers of that utility and the regulation of the public utility by the Commission in the public interest. The criteria which the Commission has developed and utilized for this purpose are that:

- (a) the utility's current and future ability to raise equity and debt financing not be reduced or impaired;
- (b) there be no violation of existing covenants that will be detrimental to the customers;
- (c) the conduct of the utility's business, including the level of service, either now or in the future, will be maintained or enhanced;

- (d) the application is in compliance with appropriate enactments and/or regulations;
- (e) the structural integrity of the assets will be maintained in such a manner as to not impair utility service; and
- (f) the public interest will be preserved.

5.0 REVIEW OF CRITERIA AND RELEVANT ISSUES

5.1 Terasen Utilities' Financing Capabilities

In its Application, Fortis submits that the Transaction will not reduce or impair the ability of the Terasen Utilities to raise debt and equity capital. Fortis, in response to Commission Information Request ("IR") No. 1, question 1.6, stated that its "consistent ability to raise equity in Canadian capital markets is independent evidence of its ability to provide any necessary additional equity capital for the Terasen Utilities" (Exhibit B-2, BCUC IR 1.6). Fortis also included analyst reports from UBS Securities Canada Inc., BMO Nesbitt Burns Inc., TD Securities Inc. and RBC Dominion Securities Inc. which viewed the acquisition of Terasen by Fortis positively (Exhibit B-2, BCUC IR 1.7, Attachment 1.7). Fortis also confirms that "the acquisition premium will not be recovered from Terasen Utilities' customers" (Exhibit B-2, BCUC IR 1.12). Furthermore, Fortis stated that "Fortis is prepared to accept the continued application of the ring-fencing conditions imposed by the Commission at the time it approved KMI's acquisition of Terasen Inc." (Exhibit B-1, Application, p. 17). Fortis suggests that the "continued application of such conditions will further ensure that the financing capabilities of the Terasen Utilities will not be reduced or impaired" (Exhibit B-1, Application, p. 17).

5.1.1 Access to Public Debt Markets

In response to Commission IR No. 1, question 1.6, Fortis submits that the proposed acquisition of Terasen's gas distribution business will improve the credit outlook for Terasen. Fortis provided news releases from Standard & Poor's ("S&P"), Dominion Bond Rating Service Limited ("DBRS") and Moody's Investor Service ("Moody's") indicating that Fortis' proposed acquisition of Terasen's gas distribution business will improve the credit outlook for Terasen. Prior to the acquisition announcement, Terasen's credit outlook was under review for (i) possible downgrade (by Moody's), and (ii) with negative implications (by DBRS). The Moody's Release changed the review to possible upgrade. The First DBRS Release, dated February 26, 2007, eliminated the negative implications. The S&P Press Release, dated February 26, 2007, announced that following the announcement of

the Transaction, both Terasen's and TGI's credit ratings were placed on credit watch with positive implications. The Second DBRS Release, dated March 15, 2007, confirmed the credit ratings of TGI (Exhibit B-2, BCUC IR 1.6). Fortis submits that the credit rating agencies assessments and announcements provide independent evidence of the ability of Terasen and the Terasen Utilities to access public debt markets (Exhibit B-2, BCUC IR 1.6, Attachment 1.6).

5.1.2 Access to Equity

In the Application, Fortis submits that "the Transaction will not reduce or impair the ability of any of the Terasen Utilities to raise debt and equity capital" (Exhibit B-1, Application, p. 17). On March 15, 2007 Fortis closed a \$1,151 million offering of Subscription Receipts which provide for the issue of common shares of Fortis on closing of the Transaction (Exhibit B-1, Application, p. 2; Exhibit B-2, BCUC IR 1.6). The proceeds of the Subscription Receipt financing substantially provide the necessary equity capital to permit Fortis to close the Transaction and maintain its capital structure. This in turn, will enable Fortis to maintain its capacity to access equity markets as necessary to maintain the Terasen Utilities' equity ratios at levels consistent with those allowed for rate making purposes. Since June 2002 Fortis has raised almost \$2 billion in equity in Canadian capital markets to support its equity investments in operating subsidiaries. Fortis submits that its consistent ability to raise equity in Canadian capital markets is independent evidence of its ability to provide any necessary additional equity capital for the Terasen Utilities (Exhibit B-2, BCUC IR 1.6).

5.2 No Violation of Existing Covenants

In the Application, Fortis submits that the ownership of the Terasen Utilities by Terasen will not be changed by completion of the Transaction and the existing covenants given by the Terasen Utilities, whether financial, commercial or otherwise will not be affected by the Transaction (Exhibit B-1, Application, p. 17). Fortis is proposing to acquire the common shares of Terasen, the parent corporation of the Terasen Utilities and, in this light and given the structure of the proposed acquisition, existing covenant requirements of the Terasen Utilities will not be affected by the Transaction (Exhibit B-2, BCUC IR 4.2).

5.3 Maintenance or Enhancement of Terasen Utilities' Business

Regarding the maintenance and enhancement of the Terasen Utilities' business and operation, Fortis states that "the Transaction will have no adverse impact on the type or level of service provided by the Terasen Utilities to their customers" (Exhibit B-1, Application, p. 18). As a result of the continuation of Terasen Utilities' full complement of local engineering, repair and operations employees and asset integrity and maintenance program, the Terasen Utilities' business will be maintained or enhanced (Exhibit B-1, Application, p. 18). Fortis also stated that it will arrange for the assumption by Fortis or its affiliates (including Terasen or TGI) of administrative and management services provided to one or more of the Terasen Utilities pursuant to agreements with KMI or its affiliates (Exhibit B-1, Application, p. 12). In response to Commission IR No. 1, question 5.1, Fortis stated that "Following closing of the acquisition, Fortis, through the board of directors of the Terasen Utilities, will ensure that the senior management remains focused on the continuing provision of safe, reliable and cost-effective service to customers. One way this is achieved in other Fortis regulated operating utilities is through compensation schemes that are tied to specific operating targets for service, safety and reliability as is the current practice by the Terasen Utilities" (Exhibit B-2, BCUC IR 5.1).

5.4 Compliance with Statutory Requirements

The Acquisition Agreement requires that at the time of its completion, the Transaction will be in compliance with applicable provincial and federal legislation and regulations, including the requirements of the Act. On March 23, 2007, Fortis filed a "no-action" letter from Competition Bureau Canada dated March 20, 2007, which satisfies the conditions related to Competition Act approval found in Articles 10.1(d)(i) and 11.1(d)(i) of the Acquisition Agreement (Exhibit B-3). Regarding the Conditions in Commission Order No. G-116-05, Fortis stated that the "Terasen Utilities will not be required now, or at any time in the future, to guarantee the debt obligations of Fortis or any Fortis affiliates" (Exhibit B-2, BCUC IR 1.5). Fortis submits that with respect to the internal control documentation for OSC [Ontario Securities Commission] compliance, data will be transferred back to Terasen and stored on a Terasen server. Regarding contact information, including telephone number and email addresses stored for individuals relating the Emergency Response Line ("ERL") system, Terasen is currently identifying how or whether it will replicate this capability at Terasen. The contact information on the ERL system will be deleted from KMI's systems following closing of the Transaction (Exhibit B-2, BCUC IR 7.1).

5.5 Maintenance of the Structural Integrity of the Terasen Utilities Assets

Fortis submits that “the Transaction does not involve any change in the ownership, control or operation of the assets of the Terasen Utilities and, accordingly, the structural integrity of the assets of each of the Terasen Utilities will be preserved” (Exhibit B-1, Application, p. 19). Fortis also notes that “following the completion of the Transaction, the Commission will continue to have regulatory control over each of the Terasen Utilities and their assets and operation and disposition of the assets of any of the Terasen Utilities, other than a disposition in the ordinary course of business, can be made without the approval of the Commission required under section 52 of the Act” (Exhibit B-1, Application, p. 19).

5.6 Preservation of the Public Interest

In its Reply Submission, Fortis states that “the record shows that the public interest will be preserved by approval of the Application” and that the Transaction is in the public interest (Reply Submission, para. 15, p. 5). Fortis believes that the Transaction is in the public interest given Fortis’ considerable regulatory, operating and financial expertise in relation to the management of regulated utilities and understanding of the regulatory, business and social environment in which the Terasen Utilities operate in British Columbia (Reply Submission, para.15(b), p. 5). Furthermore, Fortis places great emphasis on establishing and maintaining strong relationships with its key stakeholders, including (among others) local governments and First Nations groups and the acquisition of the shares of Terasen represents a significant transaction for Fortis and demonstrates Fortis’ continuing commitment to British Columbia and confidence in the Province’s future (Reply Submission, para. 15(h) and (i), p. 5). Fortis also notes that the completion of the Transaction will bring Terasen and the Terasen Utilities under the direct and indirect control of a large and diversified Canadian utility holding company (Reply Submission, para.15(d), p. 5).

6.0 SUMMARY OF ASSURANCES MADE BY THE APPLICANT

The Commission Panel does not believe it needs to elevate assurances provided by Fortis (in its Application and in response to information requests) to conditions for approval in the Transaction since in virtually all cases, the Commission has the power to consider these assurances in the context of its regular oversight and review of the Terasen Utilities.

Senior Management and Employees of Terasen Utilities:

“The senior management teams of the Terasen Utilities, which Fortis expects to retain, will contribute valuable operational expertise in natural gas distribution” (Exhibit B-1, Application, p. 17).

“The Acquisition Agreement provides that Fortis will cause all employees to be employed at existing, or better, terms for a year following closing of the acquisition” (Exhibit B-2, BCUC IR 4.1, p. 17).

Location of Headquarters for Terasen Utilities:

“The location of the headquarters of the Terasen Gas regulated utilities in greater Vancouver will not change as a result of this Transaction” (Exhibit B-1, Application, p. 18).

Customer Service:

“...completion of the Transaction will have no adverse impact upon the Terasen Utilities and their ongoing utility operations. Consequently, the Transaction will have no adverse impact on the type or level of service provided by the Terasen Utilities to their customers” (Exhibit B-1, Application, p. 18).

Environmental and Safety Management Practices:

“...having successfully operated FortisBC since June 1, 2004, Fortis has a good understanding of the regulatory, business and social environment in which the Terasen Utilities operate in British Columbia” (Exhibit B-1, Application, p. 15).

“(a) each of TGI, TGVI, TGW and TES has an obligation to provide safe, reliable and secure service to its respective customers under the jurisdiction of the Commission;

(b) operations remain subject to the continuing oversight of the BC Safety Authority, BC Oil and Gas Commission, and BC Workers Compensation Board” (Exhibit B-1, Application, p. 19).

Organization Structure and Management Practices:

“...the functions pertaining to those roles was assumed by KMI employees for Terasen Inc. These three roles were the Treasurer; Director of Internal Audit; and General Counsel, Chief Risk Officer & Corporate Secretary. Although these functions are now led by KMI personnel, Terasen Inc. personnel continue to staff these functions. The assumption of these roles by KMI personnel for Terasen Inc. was approved by the Commission, pursuant to Orders No. G-117-06 and G-133-06” (Exhibit B-2, BCUC IR 3.7, p. 16).

“...Upon closing of the Transaction, the three roles mentioned above that are provided to Terasen Inc. by KMI personnel, will be replaced, likely by personnel of either Fortis Inc. or Terasen Inc. With respect to the last four functions set out in the list above, Fortis will cause those services provided by KMI to be provided” (Exhibit B-2, BCUC IR 3.7, p. 16).

Finances:

“The acquisition premium will not be recovered from Terasen Utilities’ customers” (Exhibit B-2, BCUC IR 1.12, p. 7).

Terasen confirmed that none of the fees incurred in connection with the Transaction and Acquisition Agreement will be recovered from Terasen Utilities’ customers (Exhibit B-2, BCUC IR 12.1, p. 27).

“Fortis will not access financing from the Acquisition Credit Facilities and the Subscription Receipts offering in excess of the amount required to close the transaction. Please refer to the Response to Question 1.4” (Exhibit B-2, BUC IR 2.1, p. 8).

“Existing contractual arrangements between Terasen Inc. and the Terasen Utilities will be maintained, as well as continue to comply with Commission Order G-80-03. The cost to the Terasen Utilities of these services are not expected to materially change from what they currently are.

The larger Terasen Utilities, TGI and TGVI, are currently subject to negotiated settlement agreements which are not expected to change as a result of a change in ownership as contemplated by the proposed acquisition. Following closing, Terasen Utilities’ customers will not be required to pay any additional amount on account of services provided by Fortis and Terasen Inc. to the Terasen Utilities” (Exhibit B-2, BUCU IR 3.4, p. 14).

“Assessments relating to Ontario Income Tax and Capital Tax and Quebec Income Tax are in respect of non-regulated activities and would therefore have no impact on customers” (Exhibit B-2, BCUC IR 15.2, p. 30).

“Fortis does not intend to enter into guarantees on behalf of the Terasen Utilities” (Exhibit B-2, BCUC IR 16.1, p. 31).

“The Terasen Utilities do not expect that there will be additional cost associated with replacing the long term RSU Plan [Restricted Stock Unit Agreement] with a cash replacement plan, and accordingly do not expect there will be a cost to customers due to the replacement” (Exhibit B-2, BCUC IR 17.2, p. 32).

“Confirmed. The unwinding of derivative instruments by Terasen Inc. prior to closing will not give rise to any exposure on the part of Terasen Utilities’ customers to any costs, including hedged commodity or financial costs. The cost of unwinding Terasen Inc.’s derivative instruments will not be recovered from Terasen Utilities’ customers” (Exhibit B-2, BCUC IR 18.2, p. 34).

Fortis confirmed that in accordance with Commission Order No. G-90-06, the termination of the existing TLUPs [Tax Loss Utilization Plans] with TGI and TGVI are non-utility transactions and will have no adverse impact on TGI and TGVI and their customers (Exhibit B-2, BCUC IR 20.1, p. 37).

Fortis submitted that the cost of the litigation and compensation for prospective stock option values in Section 4.17(e) will not be recovered from Terasen Utilities' customers (Exhibit B-2, BCUC IR 17.3, p. 33).

Governance:

“It is possible that Terasen or the Terasen Utilities might in the future provide services to Fortis NRBs [Non-regulated businesses]. In such event, Fortis will ensure that such arrangements are in compliance with all relevant Commission orders, directives and administrative policies. Following closing, Fortis will cause the Terasen Utilities to file a review and if necessary an update to the Code of Conduct and Transfer Pricing Policy in their next revenue requirements application” (Exhibit B-2, BCUC IR 3.3, p. 13).

Stand Alone Operation at Terasen Utilities

“ (h) as with all the utilities which Fortis owns, Fortis intends to operate the Terasen Utilities on a stand-alone basis. In keeping with its policy and normal practice, Fortis plans to maintain existing head offices and to implement, as soon as is reasonably practical, significant independent, local representation on the boards of the Terasen Utilities. (FortisBC, by way of example, has six independent directors, including the Chair, on its board of ten directors)” (Exhibit B-1, Application, p. 16).

“(a)...In British Columbia, Fortis has maintained its policy of operating stand-alone utilities with local, independent boards of directors and local management” (Exhibit B-1, Application, p. 6).

7.0 COMMISSION DECISION – APPROVAL AND CONDITIONS

The Commission Panel notes that Fortis has considerable regulatory, operating and financial expertise in relation to the management of regulated utilities. Further, as noted by BCOAPO, the Commission's ongoing regulation of the Terasen Utilities will not change as a result of this Transaction and the Commission has in place established guidelines and procedures and will continue to monitor and enforce them, to ensure that the current standards are maintained and that there is no detriment as a result of this Transaction.

Section 54(9) of the Act provides that the Commission may attach conditions to any approval that the Commission considers necessary and desirable for the public interest. The Commission Panel notes the assurances made by Fortis described above and that Fortis is prepared to accept the continued application of the Conditions. The Commission agrees with BCOAPO that the adoption of these Conditions will provide further assurance that the transaction will not have a detrimental impact on consumers.

The Commission Panel has considered the Application and evidence of Fortis filed in this proceeding and the submission of parties and has assessed the evidentiary record against the requirements of the Act and in view of the criteria set out earlier and has determined that the Application should be approved, and that the Conditions should be imposed relating to ring-fencing, governance and location of functions and data as set out in Commission Decision and Order No. G-116-05, revised by Commission Order No. G-75-06 and clarified by Commission Letter No. L-30-06 related to the previous application by KMI to acquire Terasen as conditions to the approval of the Application. These Conditions are adjusted as necessary to reflect the amalgamation of Terasen Gas (Squamish) Inc. into TGI effective January 1, 2007.