



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-3-10**

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3 CANADA
web site: <http://www.bcuc.com>

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

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

and

Terasen Gas Inc.
Customer Choice – 2009 Program Summary and Recommendations

BEFORE: L.F. Kelsey, Commissioner February 22, 2010
D.A. Cote, Commissioner

O R D E R

WHEREAS:

- A. In 2002 the Government of British Columbia issued its energy policy, "Energy Plan for our Future: A Plan for BC." Policy Action #19 stated, in part, that: "The Utilities Commission Act will be amended in spring 2003 to allow direct natural gas sales to low-volume customers, and to require the licensing of marketers who serve those customers"; and
- B. In 2006 Terasen Gas Inc. (Terasen Gas) applied for approval of a Certificate of Public Convenience and Necessity (CPCN) for the Commodity Unbundling Project for Residential Customers pursuant to section 45 of the *Utilities Commission Act*, to implement effective November 1, 2007, unbundling for residential customers in its service territory (excluding Fort Nelson and Revelstoke) (the 2006 Application); and
- C. Terasen Gas recommended in its 2006 Application for the Residential Commodity Unbundling Project (the Project) that a post implementation review be undertaken to assess the effectiveness of the Project; and
- D. The British Columbia Utilities Commission (Commission) Order C-6-06 granted a CPCN to Terasen Gas for the Project effective November 1, 2007; and
- E. In its Decision dated August 14, 2006 the Commission directed that a post implementation review take place approximately six months after the projected November 1, 2007 start of the Project; and
- F. Article 32 of the Code of Conduct for Gas Marketers (Code or Code of Conduct) states that, "The Code shall be reviewed and modified if required at an annual meeting to be held prior to May 1 of each year"; and
- G. On April 23, 2009, the second Customer Choice Annual General Meeting was held to discuss the concerns and suggestions of interested parties, and to review both the communication activities planned for 2009 and 2010, as well as system enhancements that have taken place since 2008. Terasen Gas was requested by Commission staff to file a Report, the Customer Choice – 2009 Program Summary and Recommendations (the Application); and
- H. On October 16, 2009 Terasen Gas filed its Application with the Commission; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER A-3-10**

2

- I. By Order G-126-09 the Commission established a regulatory process to consider the Report and Application and amended the Regulatory Timetable by Order G-143-09; and
- J. The Commission has reviewed the information and submissions made by Terasen Gas and registered intervenors.

NOW THEREFORE pursuant section 71.1 of the *Utilities Commission Act*:

- 1. The Commission makes the determinations and directions set out in the Reasons for Decision attached as Appendix A to this Order.
- 2. Where Code of Conduct changes are required, gas marketers are hereby notified that these changes will be included in a revised Code of Conduct to be released upon completion of the noted changes to the Third Party Verification script.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of February 2010.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment

Terasen Gas Inc.
Customer Choice – 2009 Program Summary and Recommendations

REASONS FOR DECISION

1.0 BACKGROUND

Serving as a pilot program to assist in the implementation of the larger residential program, Terasen Gas Inc. (Terasen Gas) implemented the commodity unbundling service for small and large commercial customers in 2004. Process changes and system development were completed allowing eligible customers to begin enrolling in the program starting May 2004. Natural gas flowed to commercial customers who elected a gas marketer to provide the commodity on November 1, 2004.

The Essential Services Model (ESM) that underpinned the successful commercial introduction remained largely unchanged when the Customer Choice Program (Program) was subsequently introduced to residential customers in May 2007. The ESM is designed to meet the unique circumstances of the BC marketplace. Adherence to the model was necessary to expedite the introduction of the unbundled product to residential customers in 2007. The model mitigates gas marketer risk since it absolves gas marketers of the commodity variance true-up responsibilities favoured in other jurisdictions. A number of small and large gas marketers participated in the 2007 launch of the Program.

Since the start of the Program, several information technology system enhancements have been implemented. Recent enhancements were recommended in a report and application submitted to the BC Utilities Commission (Commission) on July 18, 2008. Terasen Gas recommended the implementation of these changes in four staged releases (Releases 1-4). Release 1 and 2 changes included a variety of system improvements that were requested by the Commission. In addition, this phase included work necessary to accommodate the upgrade in its customer information system's operating system in the fall of 2008, and the implementation of a database platform to improve response times. Release 3 and 4 items included a variety of change requests made by gas marketers and/or Terasen Gas.

2.0 THE APPLICATION

On April 23, 2009, the second Customer Choice Annual General Meeting (AGM) was held to discuss Program concerns and suggestions of interested parties, to review both the communication activities planned for both 2009 and 2010, as well as the system enhancements that had taken place since the fall of 2008. Terasen Gas was requested by Commission staff to file an application to summarize these items and recommend any necessary changes to the program or supporting processes.

Terasen Gas filed its application entitled Customer Choice – 2009 Program Summary and Recommendations (Application) on October 16, 2009 which included the following:

- An update regarding outstanding system enhancements which were scheduled for implementation no later than December 2009;
- A summary of the discussions that took place at the AGM and Terasen Gas' recommendations, including;
 - A request for \$6,000 in funding to implement a new Marketer Performance Report;
 - A request for \$11,500 in funding to implement new Gateway to Energy Marketers system (GEM) functionality and the Nucleus Sub System (NSS) functionality to allow a single account to manage multiple marketers and to correct related reporting issues;

- Monthly community newspaper advertising that lists the current featured rates of each licensed gas marketer. This would entail a \$13,000 net increase in the previously approved 2009 customer education budget of \$750,000. In 2010, the advertising activity would be funded out of the approved \$500,000 customer education budget. In its reply submissions, Terasen Gas withdrew its request for \$13,000 for advertising in 2009.

Commission Order G-126-09, amended by Commission Order G-143-09, established a written public hearing process and regulatory timetable for the review of the Application. Following a period of information requests and responses, the Commission received intervenor submissions from the British Columbia Old Age Pensioners Organization et al (BCOAPO), Just Energy (B.C.) Limited Partnership (Just Energy), and Summitt Energy BC LP (Summitt Energy). Terasen Gas completed the written hearing process by filing its reply submissions on December 18, 2009.

3.0 THE ESSENTIAL SERVICES MODEL

The essential elements of the business model supporting the Program were approved by Commission Letter L-25-03 and reiterated in Order C-6-06. The ESM is the foundation for the Commodity Unbundling Program that was implemented for commercial customers on November 1, 2004 as well as for residential customers on November 1, 2007. Under the ESM, a gas marketer delivers a quantity of the natural gas commodity to Terasen Gas based on the utility's normalized forecast of the gas marketer's customers annual load requirements. Several gas marketers requested changes to the Program which would require significant changes or potential restructuring of the ESM and of the Program.

Commission Determination

It is the Commission's view that the ESM as currently designed ensures the reliability and low cost objectives of the Commission and will continue to be the operating model for the Customer Choice Program. It should be noted that the ESM also supports Terasen Gas' obligations as the "Supplier of Last Resort" and provides smaller gas marketers the ability to compete based on the supply of 100 percent load factor supply to Terasen Gas even though their customers may have very low load factor profiles.

Terasen Gas maintains that the ESM model is stable and fully meets the objectives of the original goal of the program. Terasen Gas believes that further review, by committee or otherwise, will only validate the significant work that has gone into Program design since 2003. Other models, including the monthly balancing model proposed by several gas marketers, were discounted through this Program development process. Terasen states that further investment or activity designed to replace the model is counterproductive and not in the best interests of customers. Terasen Gas has no interest in re-evaluating the existing ESM, or assisting in the development of a different model.

Currently, Terasen Gas operates under a firm set of standards that ensures that the supply is securely sourced and reliably available on a daily basis that enables it to meet the core design peak day in the winter while serving the normal load all year round. Terasen Gas must also be equipped to handle any extraordinary or emergency situations that occur on areas or systems that interconnect with the Terasen system in order to meet the daily demands of its customers. Terasen Gas is also the "Supplier of Last Resort" to all customers when there is an occurrence of supplier and/or marketer failure.

BCOAPO strongly supports Terasen Gas' conclusions with respect to the ESM, and is of the view that a fundamental change is inappropriate and undesirable at this time. BCOAPO submits that the Program is still in its early stages and a fundamental change to the way in which the Program operates will only add to the high level of confusion among customers; in other words, stability in the underlying business model is critical if this Program is to be successful. BCOAPO accepts Terasen Gas' conclusions with respect to the role of the ESM and is strongly opposed to changes to the model.

When initially reviewing the design of the Commercial and Residential Unbundling Programs, the Commission considered the unique circumstances of the BC gas supply and transportation systems to ensure that customer choice would not threaten the reliability of gas supply to end use customers even under the most severe circumstances and that total transportation costs (including midstream costs) would be minimized. Recognizing the limited supply resources available on peak days to meet the tight constraints of the intraday market in BC, the Commission believes that the peak supply resources developed by Terasen Gas and its ongoing operation of the midstream activities both ensures reliable supply to households and a lower total midstream cost to all residential customers.

4.0 ISSUES FROM THE ANNUAL REVIEW

Appendix A to Terasen Gas' Application provides a discussion of 18 issues raised at the Program's 2009 AGM. Several issues have reached consensus or are no longer in dispute as a result of discussions at the AGM, information requests, final submissions, and/or reply argument.

4.1 Cancellation Requests in GEM

Gas marketers are subject to a Cancellation Request fee (\$50.00 per occurrence) for cancellation of customer enrolments, for which the 10-day cancellation period has ended and the MSR is already determined. Gas marketers suggested that this fee should be bilateral.

Commission Determination

The Commission accepts deferral of this issue until the next AGM. The Commission is particularly interested in exploring actions which support the objective to have the gas marketer deal directly with their customers rather than deferring this responsibility to the Commission; these actions should not impact the ESM in a substantial way.

Gas marketers requested the elimination of the dispute resolution fee for Cancellation Requests outside the 10-day cancellation period. Terasen Gas opposed this request in its Application but seems amenable to the gas marketers' submissions to review the drop fee amount at the next AGM.

4.2 Operational Correction Drops

The Operational Correction Drop (OCD) code is available to gas marketers to terminate enrollments in unusual circumstances where the contract cancellation deadline has passed and before the contract volume is included in the final MSR calculation.

Commission Determination

The Commission considers this issue to be resolved as the OCD was implemented in August 2009.

Just Energy advised it is pleased to see the OCD code is now available for residential and commercial customers and has no further comments at this time. Summitt Energy advised it supports Terasen Gas' information request (IR) response related to the proposed OCD codes and methodology.

4.3 Alternate Framework to Process Cancellations

A key business rule of the ESM is that a customer must remain enrolled in the program at the same fixed price for at least 12 months. The duration of the OCD window varies based on whether the customer is in a commercial or residential rate. The key date is the 14th day of each month, when the customer's volume is included in the monthly MSR. After the MSR is finalized, gas marketers must raise a dispute, or request a non-contested cancellation. Gas marketers expressed their

limited ability to resolve a complaint or drop customers after the 10-day cancellation period and requested an option that would allow for cancellations outside of the cancellation period without entering an uncontested dispute.

Commission Determination

While the Commission agrees that there may be situations that require a customer to be dropped on a date other than the anniversary date or contract end date, the Commission determines that the addition of the OCD code, as mentioned in Section 3.2 of these Reasons, provides gas marketers with an additional tool to process cancellations. The impact of the OCD code operating within the guidelines of Order G-181-08 should be tested over the next year before considering further changes to customer drops outside the 10-day cancellation period.

Just Energy is of the belief that there are still situations that require a customer to be dropped on a date other than the anniversary date or contract end date. All customer contracts contain the term of the contract, that is the start and end date, as required in the Code of Conduct, and additionally customer rights and obligations of the agreement. However, there are some situations where, for compassionate or humanitarian reasons, the gas marketer may wish to accommodate a customer's request to cancel a valid contract as a customer service or goodwill gesture.

In these situations Just Energy believes there should be another option available that allows for cancellation outside of the cancellation period, without entering into an uncontested dispute. A change to the current process would allow for negotiated cancellations outside of the anniversary dates and would eliminate the requirement to file a dispute in these cases. Just Energy submits that a drop process should be initiated for customers that request to be dropped owing to compassionate or humanitarian reasons and that these drops should not be included in the dispute statistic numbers.

Terasen Gas replied that the addition of the OCD code provides gas marketers with sufficient flexibility to cancel contracts after the cancellation period ends. The OCD allows gas marketers to correct entry requests up to 15 days before the contract's gas first flows.

The Commission is not persuaded that the addition of another contract cancellation process is required at this time and is of the view that the current process can accommodate and properly record the range of cancellation circumstances within the framework of the ESM.

4.4 Dispute Resolution Fees

The premise of this issue is both the amount of the dispute fee as well as whether a dispute fee should be charged to customers raising unsubstantiated disputes. Currently, a fixed per dispute fee is charged to gas marketers to share the costs of maintaining the independent dispute resolution process. This mechanism is administered by Commission staff and supported by Terasen Gas systems, primarily GEM. Gas marketers are responsible for the fee if the Commission finds them accountable for the dispute.

Commission Determination

The Commission directs no change to the dispute resolution fee, or its application, at this time. The issue will be revisited at the next AGM to determine if action is required at that time.

Gas marketers suggest that the dispute resolution fee should be bilateral. In its final submission, Just Energy submits that a dispute resolution fee should be charged to the customer when a frivolous dispute is launched. This would deter customers from launching a dispute that is unsubstantiated, untruthful or inaccurate. Terasen Gas and the BCOAPO maintain that this suggestion is inappropriate.

Terasen Gas believes that making the dispute process more onerous would likely encourage consumers to search for other, less visible ways to break their gas marketer contract. Ultimately, whether it's through a dispute process or otherwise, any broken contract that contravenes the ESM has a negative impact on Terasen Gas midstream costs. Terasen Gas is amenable to the suggestion by the BCOAPO that leaves the dispute fee payment at the discretion of the Commission.

BCOAPO believes that an increased dispute fee for code violations is an appropriate way to reduce disputes and encourage Code adherence. If the Commission rules in the gas marketer's favour, then no fee is appropriate. If, however, the result is inconclusive due to conflicting accounts of the transaction, then BCOAPO suggests that one 'get out of jail' dispute per gas marketer is subject to a fee waiver, with subsequent inconclusive disputes subject to escalating fees up to the \$250 amount. The Commission would also consider the dispute history and record of the gas marketer subject to the dispute and rule on code violations on a balance of probabilities.

Although the Commission continues to be concerned with the number and nature of disputes being initiated, it is not yet convinced that increasing the dispute fee to \$250.00 or another amount is the best way to minimize the number of disputes. It is hoped that ongoing evolution of the Program, such as the OCD code and Third Party Verification (TPV) call, will allow gas marketers and their customers to resolve disputes before the complaint period expires, or ideally, avoid them all together. In considering the issue of dispute fees, the Commission does not believe it should charge a fee to customers except in the most obvious cases of multiple unsubstantiated disputes. The Commission agrees with the view of Terasen Gas that making the dispute process more onerous or costly may result in customers seeking other, less visible ways to break their contracts.

4.5 Program Statistics

Information on gas marketer disputed and cancelled contract information is published by way of the Customer Choice Customer Count Report on the Commission's website. Gas marketers voiced concern with respect to the current format of dispute reporting on the BCUC website.

Commission Determination

A working group made up of Commission staff, a Terasen Gas representative, and a gas marketing representative was formed to identify and finalize a revised methodology and presentation format for the public-facing program statistics. Therefore, the Commission considers that no action is required on this item at this time.

4.6 10-Day Cancellation Period

Currently, residential customers receive a confirmation letter from Terasen Gas that provides a summary of key elements of the agreement entered into with the gas marketer. The letter establishes a 10-day "Cancellation Period," providing a deadline date by which time consumers must call the gas marketer if they want to cancel the agreement. The 10-day cancellation period starts when Customer Choice data processing systems accept the enrolment. At the AGM the Commission staff proposed that the 10-day cancellation period should begin on the date that the customer executes the contract.

Commission Determination

Gas marketers suggested that the current process works well and recommended no changes. Therefore, the Commission considers that no action is required on this item at this time.

4.7 Third Party Verification Call

At the April 23, 2009 AGM, Commission staff suggested the following two changes to the existing TPV process:

- a) Use of a standardized script provided by the Commission to all gas marketers; and

- b) Calls must take place not less than 24 hours, and no more than 72 hours after the customer executes the contract.

4.7(a) Standardized Script

The Commission proposed the use of standardized scripting as a result of reviewing a number of TPVs for disputed contracts since the inception of the TPV in 2007; some of which, although compliant to the letter, are not compliant within the spirit of the Code of Conduct.

Commission Determination

No party expressed issue with the proposal to standardize the TPV script but Just Energy asserted that gas marketers must be involved in the creation and content of the script. **The Commission determines that it will develop a standardized TPV script which will be provided to Terasen Gas, gas marketers, and BCOAPO, as participants of this process, for comment and input. The Commission will issue final approval of a standardized script. The standardized script will address not only the topics canvassed in the script, but also the pace, tone, and clarity of the gas marketing representative conducting the TPV.**

See determination 4.7(b) concerning the timing of this change.

4.7(b) Timing of TPV calls

The Commission suggested a change to the timing when a TPV call can be conducted as a result of reviewing a number of TPVs for dispute contracts since the inception of the TPV in 2007. The Commission suggested that the contract signing process and the Third Party Verification should be separate so that the customer has a full opportunity to review the contract before confirming their understanding of the key elements.

Commission Determination

The Commission determines that the TPV call must not occur until 24 hours after the customer executes the contract, and in order to complete the sale, must occur within four business days of the customer executing the contract. For convenience, the TPV call may be initiated by either the gas marketer or the customer within that window. Article 32 of the Code of Conduct: "Third Party Verification" will be amended upon final release of the mandatory TPV script. The TPV script will include confirmation by the customer of the date and time the call is conducted as well as identification by the customer of when the contract was executed with the salesperson. Article 26 of the Code of Conduct: "Agreement Specifications" shall also be amended to include the requirement that contracts and agreements require a fill-in date (beside the customer's signature) for the customer to complete at the time the contract or agreement is signed.

Just Energy submitted that it supports the existing TPV call process and believes that the information provided and recorded during the call is not only comprehensive but is also very valuable. Conducting a TPV call immediately following the execution of the agreement allows the customer the convenience of having the information at top of mind and the agreement in hand. The customer also would clearly remember the experience that they had with the independent contractor and any issues could be immediately dealt with.

Just Energy strongly opposed the suggested changes including the timelines for the completion of the TPV. Just Energy believes the recommendation that, "the TPV call must take place not less than 24 hours, and no more than 72 hours after the customer executes the contract," is neither reasonable nor practical, given that a marketer can only contact a customer by telephone or door-to-door Monday to Friday between the hours of 9 am and 9:30 pm, or on Saturday and Sunday between the hours of 10:00 am and 6:00 pm local time. This recommendation only allows the gas marketer a 24 hour working window – less if the TPV call must be completed over a weekend.

Summitt Energy raised many of the objections that were identified by Just Energy. Summitt Energy recommends that rather than shortening the TPV period that consideration should be given to strengthening Article 28 of the Code of

Conduct by providing parameters for all gas marketers as to the requirements for processing a cancellation request received by a customer.

While Terasen Gas acknowledges the benefits of conducting the TPV call immediately following the sales transaction it believes that the recommended delay in the TPV call represents a fair and equitable attempt to mitigate excessively high dispute levels. Terasen Gas remains amenable to lengthening the TPV window from the proposed 48 hours to a duration acceptable to gas marketers. Terasen Gas believes the benefit associated with the suggested change is primarily linked to the initial 24 hour period that should elapse before the TPV call is completed, and not the subsequent window.

Terasen Gas maintains that the primary purpose of the Program is to provide alternative commodity products for gas customers, and not to unduly influence individuals into signing contracts that provide little or no value. A fixed contract is highly desirable to an organization that has a fixed budget, for example, like a school or hospital. Likewise, many residential customers prefer the safety provided by a fixed rate contract. Buyer's remorse typically materializes when customers do not fully understand the nature of the product they have purchased. Terasen believes the additional 24 hours suggested in the Application provides consumers the necessary time to review the consumer's agreement and associated documentation. Signing a consumer's agreement represents an investment of several thousand dollars, and therefore warrants continued involvement on the part of the consumer.

The Commission recognizes the submissions that a 24 hour delay in initiating the TPV call may be both inconvenient and costly for gas marketers. In deliberating this item, the Commission considers the submissions of the parties, as well as the intent and spirit of the Code of Conduct. The Commission notes that this proposed change adds to the operational complexity for gas marketers and also would tend to balance the interests of the gas marketer and the customer on whom an unsolicited sales call is made; as a result, the Commission placed reduced weight on the arguments of the gas marketers in this instance. The Commission agrees with Terasen Gas' submission that the execution of a contract is a potential investment of several thousands of dollars; the Commission is also of the view that in order to ensure a sale is made and confirmed, the salesperson is charged with presenting the customer with a compelling sales presentation and offer which will still be valuable to the customer at the time the TPV call is conducted.

The Commission believes that the addition of this requirement will appropriately change the current marketing model to afford the customer with the opportunity to pursue a product which the customer considers valuable, in accordance with the Code of Conduct. The Code of Conduct requires the salesperson, and any person promoting the offer by the gas marketer, to give the customer all of the essential information in order for the customer to make an informed decision. The intent of the TPV is to confirm the points that the salesperson has clearly and accurately addressed, and is currently not permitted to occur before the customer has had an opportunity to review the contract and supporting information, such as the Customer Choice Standard Information Booklet. Conducting the TPV call immediately at the conclusion of the sales presentation generally does not afford this opportunity. The Commission is of the view that providing this 24 hour delay ensures that the customer is not completing the TPV before having the opportunity to familiarize themselves with the offer. This will also eliminate the possibility of a person feeling undue pressure to complete the sale due to the presence of the salesperson and pace of the offer. The Commission expects that the gas marketer will leave with the customer the contact information of the gas marketer in the event that the marketer is unable to reach the customer to complete the TPV.

4.8 Voice Contracting/Signature

Voice contracting is a marketing channel that allows telephone sales on new contracts and renewals using "voice signatures." The Commission approved voice contracting for contract renewals in Order G-181-08 dated December 12, 2008. This item was discussed at the AGM as gas marketers maintain that the commodity unbundling market is sufficiently mature to allow for the introduction of voice contracting for sales contracts.

Commission Determination

The Commission is of the view that, contrary to marketers' views, the Program is not mature enough to voice contract its initial Consumer Agreements. The Commission determines that, if desired by the gas marketers, this issue can be addressed at the 2010 Annual General Meeting.

Just Energy suggests that enough time has passed since the opening of the residential market to allow voice signature as sufficient to authorize a consumer agreement. Just Energy believes that allowing voice contracting for new contracts would be beneficial and it provides a recorded call of the transaction and allows those in outlying areas to participate in the Customer Choice Program if they wish. However, Just Energy agrees with Terasen Gas that this issue should be revisited at the next Annual General Meeting.

Terasen Gas believes there is little evidence that there has been a sustained change in customers' base level of knowledge about the Program. As evidenced by high dispute levels and associated Code of Conduct infractions, Terasen Gas suggests gas marketers must dramatically improve their sales practices before consideration is given to introducing another sales channel. Further discussion regarding this issue should take place at the 2010 Annual General Meeting.

Based on the continuing level and nature of complaints and disputes, the Commission generally agrees with Terasen Gas' comments regarding gas marketers' sales practices before another sales channel is introduced. The Commission is of the view that the implementation of the delayed TPV, as noted in Section 3.7.b of these Reasons will be an indicator of how gas marketers will handle outbound calls to customers, while adhering to the Code of Conduct.

4.9 Communication Plan/Customer Education Plan

Terasen Gas has designed and placed all Customer Choice related customer education materials since the program launched in 2007. In 2009, communication materials were developed using a formal review process, including meetings with Commission staff. Terasen Gas submitted the requested Customer Education Plan in January 2009. The Commission subsequently approved the plan in Order G-9-09, in February 2009. The approved Customer Education Plan expenditures were \$750,000 in 2009, \$500,000 in 2010 and \$300,000 in 2011. Terasen Gas proposed a revised review process for 2010.

Commission Determination

The Commission generally supports the process proposed by Terasen Gas for the review process for the 2010 Customer Education Plan material and directs Terasen Gas to solicit comments on the material from gas marketers prior to final proposal to the Commission.

Terasen Gas stated that the formal communication review process used for the 2009 communication material was found to be time consuming and unproductive. Terasen Gas had requested gas marketers to comment on the 2009 customer education material as reproduced in Appendix B of the Application. It was Terasen Gas' expectation that Commission staff could take this input under advisement. However, gas marketers did not submit any feedback on the education material. Therefore, Terasen Gas suggests its representatives meet with Commission staff to discuss changes and improvements for the 2010 communication material. The Commission, at its discretion, may solicit comments from gas marketers prior to final production.

Just Energy agrees that Terasen Gas should work with gas marketers and Commission staff to modify the 2009 advertising materials for use in 2010.

The Commission is of the view that gas marketers must have a stake in the Communication Plan/Customer Education Plan and therefore must be invited to comment on any draft material.

4.10 Additional Line on the Terasen Gas Invoice

Terasen Gas is responsible for billing all customers for the consumption of natural gas per gigajoule according to their contracted fixed price. Gas marketers requested an additional line on the Terasen Gas invoice to allow them to bill for other product offerings, including non-energy items.

Commission Determination

In spite of strong support by Summitt Energy and Just Energy, the Commission does not support the use of the Terasen Gas invoice to market or collect monies for non-utility or non-gas items.

Terasen Gas opposes providing gas marketers with an additional line on the Terasen Gas invoice to bill for other product offerings. Undertaking the changes necessary to support the request would be costly and risky. Terasen Gas believes that allowing gas marketers to invoice for non-energy products on the Terasen invoice would send the wrong message to customers.

The Commission considers its regulatory purview to relate to utility regulation and Customer Choice gas commodity sales and is not persuaded that it would be appropriate to include non-utility or non-gas items on Terasen Gas' invoice. The Commission agrees with Terasen Gas that the message to consumers may be confusing if there were additional items and monies being collected for non-utility or non-gas items on behalf of gas marketers.

4.11 Open Access to Customers

Gas marketers requested greater access to the Terasen Gas invoice and bill envelope to assist in the delivery of sales messages to Terasen Gas customers. This additional access may include bill inserts, and invoice or envelope messaging.

Commission Determination

The Commission does not support the use of the Terasen Gas bill envelope to market other products for gas marketers. Equally, the Commission would not support the use of the Terasen Gas bill envelope to market Terasen non-regulated business products in competition with gas marketers.

Just Energy supports allowing gas marketers' access to the Terasen Gas bill envelope. If gas marketers are not allowed access to the bill envelope then access by Terasen Gas should also be denied except in the case of security/safety and rate communications or simple educational information that has been approved by all market participants.

Terasen Gas strongly opposes this request. Terasen Gas contends that considerable steps have been taken by the Commission and Terasen Gas to distance gas marketers from the utility.

The Commission acknowledges the opposing positions of the parties and is not persuaded that having the utility deliver messaging to gas marketers' customers would be appropriate or reasonable. The Commission agrees with Terasen Gas' submission that considerable steps have been taken to distance the utility from the gas marketers and deems it appropriate that gas marketers initiate and fund communications with their customers with vehicles other than the Terasen Gas bill envelope. With respect to Terasen Gas' use of its bill envelope to market Terasen non-regulated business products, the Commission is of the view that this issue is addressed within the Retail Markets Downstream of the Utility Meter Guidelines.

4.12 Duplicate GEM Disputes

Historically, Customer Choice Program data processing systems allowed disputes for the same customer and issue to be raised by both the gas marketer and Terasen Gas service representatives. This led to duplicate dispute fees levied against a

gas marketer, and an overstatement of dispute activity on public facing performance reports. Gas marketers made several suggestions pertaining to GEM and the occurrence of duplicate disputes.

Commission Determination

Changes to eliminate the occurrence of duplicate disputes were made to the “Log Disputes” section of GEM in May 2009 that has resolved this issue. Gas marketers had no further comments on this issue. Therefore, the Commission determines that no action is required on this item.

4.13 Rate 36 Backstopping Supply

Under the ESM, Terasen Gas is responsible for midstream resources including contracting and managing transportation and storage requirements and providing balancing and peaking services. Gas marketers, under the ESM, are not required to provide any balancing services, as their delivery requirements are determined on a 100 percent load factor basis, without any true up. The Natural Gas Marketers of British Columbia (NGMBC) expressed concern in writing to Terasen Gas regarding the “trigger events” leading to the determination of backstopping gas charges that are currently set out in Rate Schedule 36.

Commission Determination

The Commission believes that onerous backstopping charges are necessary to ensure that gas marketers continue to meet their supply obligations and no changes to the Rate Schedule 36 backstopping provisions are warranted.

Terasen Gas is the “Supplier of Last Resort” under the ESM and performs customer billing and customer care related activities; Terasen Gas is obligated to make up any difference between the authorized quantity and the delivery requirement at each receipt point on a mandatory basis through a sale of backstopping gas to the gas marketer at the receipt point. The backstopping gas sale will be triggered in the event there is a shortfall between the authorized quantity and the delivery requirement at a receipt point at the completion of the evening nomination cycle.

NGMBC and Just Energy suggested that changes should be made to the current Rate 36 Backstopping Supply Agreement to allow for balancing to occur on the 24-hour day. Summitt Energy does not have any concerns with backstopping at this time.

Terasen Gas opposed any changes to the Rate Schedule 36 Agreement pertaining to backstopping charges. Terasen Gas stated that the ESM is the cornerstone of the Customer Choice Commodity Unbundling Program, and Terasen Gas fulfills the critical role of Supplier of Last Resort. Terasen Gas believes that the backstopping methodology as set out in article 13.01 of Rate Schedule 36 is prudent and necessary in order to preserve the integrity the ESM. Terasen Gas does not agree that the backstopping charges are too onerous. Terasen Gas views the backstopping charges as a necessary element to ensure that gas marketers do not use backstopping gas as a viable alternative supply option.

The Commission notes that gas marketers have the benefit of a 100 percent load factor delivery which provides structure and stability so they will know what volume of gas to deliver each day. The obligations of Terasen Gas under the ESM and as Supplier of Last Resort make these backstopping charges necessary.

4.14 Marketer Supply Requirement Calculation/ Annual Contracting Plan

On December 12, 2008 the Commission issued Order G-181-08 with Reasons for Decision related to the Terasen Gas’ Application for Customer Choice Program Enhancements and Additional Customer Education Funding. The Commission directed Terasen Gas to provide a written description of the MSR calculation method prior to the AGM held on April 23, 2009. This report outlined details of how the MSR is calculated and provided further transparency to the MSR process and calculation. Gas marketers voiced concern with Terasen Gas’ forecasted drop in residential and commercial natural gas consumption. Questions on this topic primarily related to Terasen Gas’ forecasting methodology.

Commission Determination

The Commission determines that a review the MSR calculations at the next AGM is warranted, following the introduction of new reporting.

Just Energy suggested a working group session(s) to discuss and educate retailers on the MSR methodology, including the concise and specific factors employed to determine the new MSR. This working group could also explore possible improvements and enhancements to the overall MSR calculation. Short of a working group, Just Energy feels it would be appropriate for Terasen Gas to meet with individual gas marketers, on an as requested basis, to review the existing and new MSR calculations.

Terasen Gas does not believe a MSR workshop is necessary and is prepared to work with individual marketers like Just Energy to help them understand the process and model. Terasen Gas is introducing a new report in early 2010 that should provide gas marketers with an improved ability to reconcile their enrolments with supply requirements. This report is currently available to Terasen Gas program administrators. The report includes the forward looking three months of forecast gas requirements and consumption level by region and rate class. Based on the new report, gas marketers should be able to closely reconcile with the MSR. Based on the limited input received to date regarding the MSR calculation, Terasen Gas suggests that for the most part gas marketers understand the MSR calculation. Terasen Gas will continue to assist gas marketers that have questions about the MSR. However, manual reconciliation of the information is time consuming. Terasen Gas worked diligently with two representatives from Energy Savings B.C., now Just Energy, in 2008 to reconcile MSR data. Terasen Gas believes the findings at that time concluded that the MSR calculation was working as expected.

Terasen Gas suggests revisiting this issue at the next AGM following the introduction of the new reports. The Commission supports this suggestion.

4.15 Price Change Mechanism Outside of Anniversary Date

A key business rule of the ESM is that the customer must remain enrolled in the Program for at least 12 months, and in 12 month increments to a maximum of five years at any one time for the same fixed price. Gas marketers wish to have the ability to change prices more readily to provide more flexibility to meet customer demand and provide a better product for consumers. Terasen Gas dealt with this issue extensively in the Application to demonstrate that price changes outside of an anniversary date adversely affect all customers' midstream costs.

Commission Determination

The Commission determines that no change is warranted to the anniversary date price change rule.

BCOAPO states that the ESM has worked well to this point and there is no cost-benefit justification for adopting a new model. Specifically, with respect to the issue of price change mechanisms outside of the anniversary date, BCOAPO believes the response provided by Terasen Gas to Commission IR 1.5.2 (Scenario 2) convincingly demonstrates the problem associated with such changes, namely the mismatch between customer revenues and payments to marketers which could result in a serious deficiency in the Midstream Cost Reconciliation Account (MCRA) – a cost that would be borne by ratepayers. In BCOAPO's view, this is an unacceptable scenario.

Just Energy continues to support a price change mechanism outside of an anniversary date.

Terasen Gas contends that gas marketers already have the tools and options available within the ESM to mitigate customer concerns regarding price disparity. There are several options available such as the use of rebate programs, the use of anniversary drop dates and by actively selling one and two year contracts to reduce the gas price variance between the Terasen Gas price and the 5 year fixed price.

The Commission recognizes that the ESM limits the ability to offer price changes more frequently than on an anniversary date of a gas marketer customer contract. However, there are many benefits to the ESM and the Commission remains committed to the ESM to underpin the Program.

4.16 Terasen Gas Hedging Policy

A hedge is a position established in one market (e.g., a futures contract, or purchase of natural gas for storage) in an attempt to offset exposure to future price fluctuations with the goal of minimizing one's exposure to unwanted risk. The Terasen Gas hedging program is designed to moderate the volatility of market prices and the resulting effect on rates, improve the likelihood that natural gas remains competitive with electricity, and reduce the risk of regional price disparity. Gas marketers requested more information be made available regarding Terasen Gas' hedging strategy.

Commission Determination

The Commission does not believe the confidential Price Risk Management Plan (Plan) should be made public since it could potentially undermine Terasen Gas' ability to source gas reliably and at least cost to all customers.

Terasen Gas' submission of its confidential Plan is reviewed by Commission staff. Terasen Gas does not support disclosure of information pertaining to its hedging program now or in the future. Just Energy supports greater transparency but has no additional comment on this issue at this time.

The Commission notes that the Plan is filed on a confidential basis and in accepting the Plan the Commission considers the confidentiality request and agrees, for reasons of commercial sensitivity, to hold details of the Plan confidential. The Commission is not persuaded that this practice should change.

4.17 License Renewal Application

Commission staff reminded gas marketers that the deadline for submission of a license renewal application is 60 days prior to the expiration date of their current license. This issue was informational and no response was required from gas marketers and no action is required by the Commission. **The Commission again reminds gas marketers that the license renewal requirements are an important part of maintaining integrity in the Program and the Commission will not make exceptions to these requirements.**

4.18 Price and Marketer Information Available to Customer.

Gas marketers' natural gas prices and company contact information is currently published on Terasen Gas' website. A new ad program is proposed to be placed in BC community newspapers to inform the public of alternative gas marketers and their posted gas prices. Ads would run shortly after the receipt of gas marketer pricing information, currently received on the third Thursday of each month. On the print ad, each gas marketer would be limited to one rate per term. The rate option provided to Terasen Gas is at the discretion of the gas marketer; unless otherwise noted, the rate used in the newspaper ad would be the first listed in the gas marketer rate submissions submitted to Terasen Gas.

Commission Determination

The Commission approves the monthly publication of gas marketers and their posted gas prices advertisements as soon as reasonable.

Just Energy suggests that any information made available to the customer must provide a fair comparison of the products available in the BC market. These comparisons should receive input from all parties prior to release to the public. As gas marketer prices don't change on set dates, a way of communicating this fact must be determined.

No party supports the option of having sales representatives hand out or discuss the pricing available from other gas marketers at the potential customer's door during the sales call.

The Commission believes that educating potential customers that there are many different gas marketers with various fixed price offerings is critical to achieving its goal of informed choice and competition for all customers considering the Customer Choice Program. Since price information from alternative gas marketers will be published monthly, the Commission agrees that gas marketer sales agents should not be required to provide competing gas marketer price information when making home sales.

5.0 OTHER ISSUES

5.1 Poaching

Occasionally, gas marketers will attempt to enroll a customer that is already enrolled with another marketer. Under these circumstances the contract dates overlap. Based on accepted business rules, the Terasen Gas system should "block" these attempts; essentially rejecting the requests. Unfortunately, a recurring processing error has resulted in the occasional failure of this block process. In such circumstances, the enrolment request continues to process and the new enrolment request is incorrectly accepted. The customer is essentially "poached" from another gas marketer.

Commission Determination

The Commission understands that the poaching issues are being handled and no specific action is required of it at this time. Gas marketers are encouraged to ensure that sales representatives do not complete consumer agreements without verifying a valid contract term. The Commission also encourages gas marketers to ensure their contracts clearly state the beginning and end date of the contract for easy reference by the consumer.

Terasen Gas advised that a number of poaches occurred on two occasions since July 2008. Although the first occurrence in fall 2008 took an extended period to correct, Terasen Gas took remedial steps to ensure that its response time to system issues improved. The poaching occurrence in August 2009 was handled quickly and a fix was in place by the following month – September 2009. Terasen Gas believes that poaching highlights two logic issues in the information systems that support customer choice, and a possible problem with the tactics of gas marketer's sales representatives.

Terasen Gas has continued its review of poaching issues since the Application was submitted in October 2009, and it understands that further changes are required. Terasen Gas has requested a system change designed to inform gas marketers if the customer they are trying to enroll already has an existing or future dated contract signed with another gas marketer. In effect, the contract will be blocked from enrolment during the enrolment request process. This fix is currently in development and should be implemented in early 2010.

Although Customer Choice information systems have been updated to stop poaching associated with incorrect entry dates, Terasen Gas encourages gas marketers to verify prior contract information before trying to enroll customers through Terasen Gas' Customer Choice systems. Poaching could typically be averted if gas marketer sales representatives ensure consumer's agreements consistently identify a valid contract term.

5.2 Specific Commission Approvals

Terasen Gas seeks approval for the following:

- a) An adjustment of the proposed 2010 Customer Choice Communication Plan to accommodate gas marketer pricing information in community newspapers;
- b) Expenditure of \$6,000 to build and implement a new gas marketer performance report; and

- c) An expenditure of \$11,500 to implement new Customer Choice system functionality to allow a single account to manage multiple gas marketers and to correct associated reporting issues.

Commission Determination

The Commission approves the adjustment to the 2010 Customer Choice Communication Plan, and the proposed expenditures to implement the gas marketer performance report and the Customer Choice system functionality.

BCOAPO supports Terasen Gas' position in this proceeding. In BCOAPO's view, the modest expenditures requested are consistent with the ongoing goals of consumer protection, program transparency and increased understanding of the Program. BCOAPO is strongly in favour of maintaining the ESM which is a fundamental part of the Customer Choice Program. Changes to the ESM will undermine previous efforts to inform consumers and will create increased confusion, risk and cost that, in BCOAPO's view, is not justified by the benefits.

5.3 2010 Customer Choice Annual General Meeting

Recognizing that the Program's 2009 regulatory process is concluding at year-end, Terasen Gas recommended that the next Customer Choice Annual General Meeting take place in late summer or the early fall of 2010.

Commission Determination

The 2010 Customer Choice Annual General Meeting will be held on September 8, 2010. This timing will allow sufficient time to obtain useful information on how the changes to the Customer Choice Program directed in this Decision are working. Article 33 of the Code of Conduct will be amended to provide more flexibility in scheduling of the annual review.