MANITOBA	)	**Order No. 161/00**
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THE PUBLIC UTILITIES BOARD ACT	)	**December 15, 2000**

BEFORE: **G.D. Forrest, Chairman**
R. Mayer Q.C., Vice Chairman
M. Girouard, Member

APPROVAL OF RATES TO BE CHARGED BY SWAN VALLEY GAS CORPORATION, TERMS AND CONDITIONS OF SERVICE, AUTHORITY TO OPERATE, AND OUTSTANDING MATTERS FROM ORDER 93/00

1.0 Background

Board Order 93/00 approved an application by Swan Valley Gas Corporation ("Swan Valley") for a local distribution system, subject to fulfillment of a number of conditions, each of which is discussed below. Many of these conditions have been dealt with in the interim, and have been satisfied.

2.0 Large Industrial Contract

A separate process was established to review the customer contract between Swan Valley and Louisiana Pacific Canada Ltd. ("LP")since the contract had not been filed or reviewed by the Board and others at the hearing. After the contract was filed with the Board, the process allowed for information requests, comments and argument by interested parties and rebuttal by Swan Valley. This process has now been completed, and both The Consumers Association of Canada (Manitoba) Inc./Manitoba Society of Seniors ("CAC/MSOS") and Swan Valley filed arguments with the Board.

The contract between LP and Swan Valley provides for a five year term with renewal options for additional one year terms. Under this Agreement, Swan Valley will arrange for transportation service in Manitoba to LP, and contract directly with TransGas and Many Islands Pipelines (Canada) Limited ("Many Islands") for all necessary transportation service to meet LP's Contract Demand within Saskatchewan to the Manitoba metering station.

Since LP will source its own gas in the competitive market, the firm contract does not include any commodity charge. The interruptible transportation service toll is structured to reflect a cost per unit of commodity delivered. Daily flows above the stipulated Contract Demand will be interruptible, and be delivered on a best efforts basis. Such daily flows will attract interruptible tolls, but to the extent that sufficient firm contract capacity is available, gas under this service will flow under the Swan Valley –

TransGas Firm Services Contract. Required flows in excess of available contract capacity will attract only incremental TransGas transportation costs which will be allocated to LP by Swan Valley. The cost of Many Islands transportation will be allocated to LP by Swan Valley based on LP's pro rata share of firm capacity, and will not be affected by interruptible flows.

The requested Firm Delivery Service Rate is:

- Basic Monthly Charge of $250.00 per month
- Demand charge of $9.35 per Gj of billing demand per month.

The requested Interruptible Delivery Service Rate is:

- Commodity Charge of $0.41 per GJ.

The agreement also requires LP, or its agent, to nominate its required daily flows to Swan Valley in accordance with stipulated nomination procedures. Swan Valley agrees to ensure that such nominations are relayed to TransGas and Many Islands. Should LP contract for the commodity with SaskEnergy, a subsidiary or an affiliate, Swan Valley will also ensure that these nominations are relayed to the supplier(s). LP will endeavour to bring any imbalance to within the specified Daily Tolerance Range by adjusting its nominations or deliveries.

If Swan Valley has notified LP that interruptible flows are to be curtailed, and LP continues to consume energy in excess of the stipulated Contract Demand, an Energy Over-Delivery Charge will be applied. The charge will be three times the highest daily close at AECO hub in the month of the occurrence applied on a $/GJ basis for energy delivered in excess of the greater of (a) LP's Contract Demand; or (b) such higher amount as Swan Valley may advise in amount of a partial curtailment.

The letter of intent indicates LP's customer contribution fee will be $300,000. LP has already paid this amount to Swan Valley.

3.0 Terms and Conditions of Service

The terms and conditions of service were filed at the hearing but required substantial amendment to be in conformance with Manitoba law. A separate process was established to review those terms and conditions between the Board, Swan Valley and CAC/MSOS. This process has been completed.

The terms and conditions encompass rates, fees, chargeable services, servicing policy, disconnection and general terms and conditions. All are substantially similar to other terms and conditions approved by the Board within Manitoba. The terms and conditions are attached as Appendix I.

4.0 Franchise Agreements

The five franchise agreements filed with the Board at the hearing contained several discrepancies from the generic franchise agreement approved in Order 109/94. The Board approved the franchise agreements conditionally, subject to Swan Valley making the franchise agreements conform completely to the generic franchise agreement. Swan Valley was encouraged to speak to the Board to determine the exact wording deficiencies and to resubmit the amended franchise agreements to the Board for final approval. The Board has been advised that Swan Valley is unable to file these amended agreements by the required date for authority to operate to be issued. The franchise agreements filed are currently in effect and need only be altered for the indemnification provisions.

5.0 Funding Agreement

During the hearing the funding agreements were outstanding. As a condition of Order 93/00, all executed funding agreements were to be filed with the Board for review. All executed funding agreements have now been filed with the Board and are consistent with the feasibility test.

6.0 Rates

Board Order 93/00 did not approve rates, but rather, Swan Valley was required to file an updated rate schedule upon finalization of all components of each individual charge. Swan Valley has now applied for approval of rates.

The Rate Classifications and Toll Schedules provide for separate rates for residential, commercial, general service, institutional service, industrial delivery service and interruptible delivery service for industrial customers, and are attached as Appendix I. Each bill for full service will have the following three components:

1. Basic Monthly Charge – includes the fixed cost of providing the customer's service line, meter, meter reading and account administration;

2. Delivery Charge – includes the cost of transporting natural gas to the customer, reflecting system operating, maintenance, safety, reliability, administration and recovery of capital costs;

3. Gas Consumption Charge – includes the cost of purchasing, storage and transportation of natural gas on behalf of the customer.

The minimum monthly bill for all customers except industrial/interruptible delivery service, is the Basic Monthly Charge.

In correspondence to the Board dated December 7, 2000, Swan Valley has indicated it will be charging the same rates for the Basic Monthly and Delivery Charges. With construction half complete, and the possibility of being under budget by less than 10%, Swan Valley did not consider it prudent to re-estimate five year fixed costs based on the limited information based on partial construction. Both the Basic Monthly and Delivery Charges are to be in effect for five years.

The Commodity Charge for non-industrial customers is established through a contract supply with SaskEnergy Inc., and includes the TransGas and Many Islands Pipeline upstream transportation costs in the Commodity Charge. The TransGas tolls will be managed on an ongoing basis with prudent changes to contract demand levels. Since the MIPL system was constructed solely for the use of Swan Valley, its entire revenue requirement must be recovered by Swan Valley. The capacity costs for the first year customers would be unduly burdensome for such few customers, so Swan Valley has used a first year volume and weighted average allocation of the costs, resulting in the sharing of capacity costs between all customers over five years. As a result, Swan Valley will under recover the necessary revenues for MIPL for the first two years, but will over recover in the next three, resulting in a net recovery of revenues for MIPL.

The Commodity Charge will change periodically as changes occur in the cost of gas supplied by SaskEnergy Inc. Any such changes will be brought forward to the Board for approval.

7.0 Intervenors Positions

CAC/MSOS participated in the process to review the terms and conditions of service and agreement was reached on the many terms and conditions that required change. CAC/MSOS was satisfied that for the most part, its concerns were met and that the terms and conditions of service for Swan Valley were similar to those of other natural gas utilities within the Province.

CAC/MSOS argued that the $300,00 customer contribution fee payable by LP was insufficient, as were the basic monthly and demand charges, and the five year length of the contract provided uncertainty. According to CAC/MSOS, the customer contribution of $300,000 was too low in light of LP using 71% of volumes in Year 1, yet the remaining customers pay $1.3 million in customer contributions. In addition, LP stands to benefit more than any other customer from energy cost savings.

Swan Valley Rebuttal

Swan Valley replied that the traditional cost allocation test is whether or not the total revenue by customer class covers the total cost to serve each class. The feasibility test demonstrates that this is achieved. The $300,000 LP contribution is equivalent to the cost of all facilities downstream of the Town of Minitonas and does not include any upstream costs. According to Swan Valley, the major flaw in the CAC/MSOS argument is its failure to examine rate design principles of required revenue for the cost of service over time, as opposed to focussing on one item of revenue generation, in this case, the customer contribution.

8.0 Board Findings

The Board has reviewed the LP contract, the responses to the information requests and the comments and arguments of all parties and the revised feasibility test refiled by Swan Valley pursuant to Order 93/00. The Board considers it appropriate, in accordance with sound rate design principles, that the customer contribution and rates for service generate forecast revenues sufficient to meet forecast cost over the period of time considered in the feasibility test, for each customer class. The Board notes that the revised feasibility test filed with the Board on September 15, 2000 forecasts annual revenues on the applied for rates, and that LP's revenue to cost ratios are somewhat in excess of 1.00 for the first 5 years of the project, and beyond that will remain at 1.00. The Board will approve the customer contribution fee and the rates for service as contained in the contract between Swan Valley Gas and LP.

The Board also notes that aspects concerning rates, terms and conditions of service, and arbitration on disputes between Swan Valley and industrial customers relating to terms and conditions of service are included in the contract. The Board has exclusive jurisdiction over these matters and, accordingly, several of these clauses in the contract are *ultra vires* the parties contracting abilities and therefore, null and void.

Upon reviewing the terms and conditions of service, the Board is satisfied there is substantial similarity between the Swan Valley terms and conditions and those in other franchise areas in the province. Any changes from previously approved terms and conditions are reasonable in the Board's view and may be required for the particular nature of the service offered within the Swan Valley franchise.

With respect to the amended franchise agreements that are still outstanding, the Board notes that with the exception of the indemnity provisions, the franchise agreements are in compliance. Accordingly, the Board will extend the approval of the franchise agreements conditionally until February 28, 2001 by which time they must be executed and passed by the municipalities.

Swan Valley has indicated an Order of the Board is required by December 15, 2000 to service the industrial customer during its plant shutdown commencing December 18, 2000. On a prima facie basis, the Board is satisfied that the rates are just and reasonable, but requires more time to ensure all elements of the cost allocation are appropriate. However, because of the need for LP to have gas for certain processes commencing December 18, 2001, the Board will approve the attached rate schedule, Appendix II, until January 31, 2001, with these rates expiring thereafter. The Board expects Swan Valley Gas will co-operate with the Board during this period to ensure that all elements of the rate design and cost allocation are just and reasonable and new rates can be in place for January 15, 2001.

The Board considers all conditions in Order 93/00 to be satisfied, with the exception of item 15, franchise agreements. Accordingly, no regulatory impediments exist to issuing the Authority to Operate.

The Board's technical advisors have undertaken and ensured all technical requirements under the *Gas Pipeline Act* have been complied with. Accordingly, the Board will issue its Authority to Operate the system.

IT IS THEREFORE ORDERED THAT:

1. The rates, customer contribution, and terms of service as set out in the contract between Louisiana Pacific Canada Ltd. and Swan Valley Gas Corporation BE AND ARE HEREBY APPROVED.

2. The terms and conditions of service attached to this Order as Appendix I BE AND ARE HEREBY APPROVED except that the rates attached in Appendix I are only approved until January 31, 2001, and the Board will review rate design and cost allocation in detail.

3. All conditions in Order 93/00 are complied with to the Board's satisfaction, with the exception of item #15, the franchise agreements.

4. The authority to operate BE AND IS HEREBY APPROVED, subject to Swan Valley Gas Corporation filing revised franchise agreements with the Board, as required by Board Order 93/00, by February 28, 2001.

THE PUBLIC UTILITIES BOARD

"G. D. FORREST"
Chairman

"H. M. SINGH"
Acting Secretary

Certified a true copy of Order No. 161/00 issued by The Public Utilities Board

Acting Secretary