

2002-1

**AN ORDER IN THE MATTER OF the Public Utilities Act  
Revised Statutes, 1986, c. 143, as amended**

**and**

**A Utility Franchise to Construct and Operate  
a Piped Gas Distribution System in Whitehorse, Yukon**

<b>BEFORE:</b>	B. Morris, Chair	)	
	W. Shanks, Vice-Chair	)	
	G. Leslie, Member	)	
	R. Hancock, Member	)	
	M. Phillips, Member	)	May 22, 2002

**ORDER 2002-1**

**WHEREAS:**

- A. In response to expressions of interest from energy supply companies, the Government of Yukon wishes to solicit Applications for a Utility Franchise to Construct and Operate a Piped Gas Distribution System in Whitehorse, Yukon ("the Applications"); and
- B. Pursuant to Section 21(1) of the Public Utilities Act ("the Act"), the Commissioner in Executive Council may, with the approval of the Yukon Utilities Board ("the Board") and subject to such terms and conditions as the Board may recommend, grant a franchise to a public utility; and
- C. The Board may give its approval for the purposes of subsection (1) of the Act where, after hearing representations from, or with the consent of, such persons as the Board considers appropriate, the Board determines that:
  - (i) the franchise is necessary and proper for the public convenience and properly conserves the public interests;
  - (ii) the scheme proposed is reasonable and sufficient having regard to the general circumstances; and
  - (iii) having regard to the availability of any other source of supply in the area to be served and to any other circumstances, the granting of the franchise is to the general benefit of any area directly or indirectly affected by it; and
- D. The Board may, in approving the grant, renewal or alteration of a franchise, recommend the imposition of any terms or conditions as to construction, equipment, maintenance, service or operation that, in the opinion of the Board, the public convenience or interest reasonably requires; and
- E. On March 27, 2002 by Order-In-Council 2002/74 (attached as Appendix A), the Commissioner in Executive Council outlined the information that applicants for a piped propane distribution franchise in the City of Whitehorse must provide and directs the Board to address these matters in its consideration of the application; and

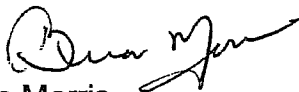
- F. Order-In-Council 2002/74 also directs the Board to make recommendations on the scheduling for construction and operation of the distribution system; and
- G. Order-In-Council 2002/74 directs the Board to make available a draft model franchise agreement (attached as Appendix B) to participants, to provide a synopsis of the parties' comments, and to make its own recommendations based on the review of the agreement.

**NOW THEREFORE THE BOARD** orders as follows:

1. Parties wishing to submit Applications for a Utility Franchise to Construct and Operate a Piped Gas Distribution System in Whitehorse, Yukon shall do so in accordance with the Notice of Request for Utility Gas Franchise Applications (attached as Appendix C), by Friday, July 12, 2002.
2. To facilitate the oral public hearing process, the Board staff will hold a Pre-Hearing Conference into the Applications, on Wednesday, July 31, 2002, in Whitehorse, Yukon at a location to be determined.
3. The Pre-Hearing Conference will address procedural matters which will include, but not be limited to, the following:
  - completeness of the Applications,
  - identification of the principal issues,
  - regulatory process, including the orderly exchange of information requests and responses,
  - scheduling and location(s) of the proceedings, and
  - other matters that will enable the proceedings to efficiently cover and review all aspects of the Applications.
4. Parties intending to participate in the Pre-Hearing Conference and subsequent review process, or who wish to receive documentation only, are to register in writing with the Board Secretary no later than Friday, July 19, 2002, indicating the nature of their interest, and whether they plan to attend the Pre-Hearing Conference.
5. Applicants are to distribute copies of their Application to other Applicants and Intervenor as they become registered with the Board.
6. Following results of the Pre-Hearing Conference, the Board will issue an Order and a Regulatory Timetable to Applicants and Intervenor outlining further steps to be followed in the review of the Applications.

Dated at the City of Whitehorse, in the Yukon Territory, this 22nd day of May 2002.

**BY ORDER**



Brian Morris  
Chair

**Yukon Utilities Board**  
**Notice of Request for Utility Gas Franchise Applications**  
**and Pre-Hearing Conference**

**APPLICATION REQUIREMENTS**

Parties wishing to submit Applications for a Utility Franchise to Construct and Operate a Piped Gas Distribution System in Whitehorse, Yukon shall do so in accordance with the Public Utilities Act, Order-In-Council 2002/74 and the following requirements, by Friday, June 28, 2002. Initially, ten copies of the completed signed Application must be submitted to the Executive Secretary, Yukon Utilities Board, 19 - 1114 First Avenue, Whitehorse, Yukon, Y1A 1A3. Applicants are directed to provide copies of their Applications and correspondence to Intervenor and other Applicants, as they become registered with the Yukon Utilities Board ("the Board").

(a) Applicant

- (i) the name, address and nature of business of the Applicant and all other persons having a direct interest in the ownership or management of the project;
- (ii) evidence of the financial and technical capacity of the Applicant and other persons involved, if any, to undertake the construction project;
- (iii) evidence of the financial and technical capacity of the Applicant and other persons involved, if any, to provide ongoing distribution services, including:
  - propane supply
  - propane storage and vapourization
  - planning and construction of system extensions
  - operations and maintenance
  - metering, meter reading, and billing
  - marketing and regulatory support
  - training
  - emergency response
- (iv) evidence that the Applicant is able to meet the requirements of Part 5 of the Public Utilities Act;
- (v) the name, title and address of the person with whom communication should be made respecting the Application; and
- (vi) the name and address of legal counsel for the Applicant, if any.

(b) Project Description

- (i) a description of the project and costs, including engineering design, applicable codes and standards, and capacity of the distribution system;
- (ii) propane storage requirements, siting options and preference, as well as all ancillary or related facilities that are proposed to be constructed, owned or operated by the Applicant;
- (iii) an outline of the anticipated timetable for construction and operation, including details about how the distribution system would be implemented in the various Whitehorse neighbourhoods;

- (iv) dates by which critical events, including approvals required from other agencies, must take place to ensure continued economic viability;
- (v) a description of any new or expanded public works, undertakings or infrastructure that will be entailed by the project, together with an estimate of the costs and necessary completion dates;
- (vi) identification and preliminary assessment of any impacts by the project on the physical, biological and social environments; proposals for reducing negative impacts; and the cost to the project of implementing the proposals;
- (vii) methods to ensure the system can accommodate natural gas when it becomes available; and
- (viii) identification of the market to be served by the project, including annual and design peak day load forecasts for each of the next ten years.

(c) Project Justification and Operation

- (i) studies or summary statements confirming the technical, economic and financial feasibility of the project, identifying assumptions, sources of data, and alternatives considered, including a consumer perspective on the propane distribution system and the proposed natural gas system;
- (ii) financial forecasts indicating the rates for propane which will be required to recover the ongoing costs of operation and supply, and how these would affect what ratepayers pay for energy;
- (iii) studies or summary statements on economic opportunities and benefits of the distribution system to Yukoners and the Yukon;
- (iv) a discussion of public safety issues;
- (v) a statement identifying any significant risks to successful completion of the project; and
- (vi) draft Terms and Conditions of Service, including planned extension policies.

(d) Other Applications and Approvals

- (i) a list of all approvals, permits, licences or authorizations required under federal, territorial and municipal law;
- (ii) a summary of the material conditions that are anticipated in the approvals and confirmation that the costs of complying with these conditions are included in the cost estimate in the Application; and
- (iii) a discussion to address how the ongoing operation of the distribution system should be regulated.

(e) Franchise Agreement

- (i) Order-In-Council 2002/74 (attached as Appendix A to Board Order 2002-1) directs the Board to make available a model franchise agreement to participants, to provide a synopsis of the parties' comments, and to make its own recommendations based on the review of the agreement by the parties;
- (ii) upon completion of negotiations among the City of Whitehorse, the recommended applicant for the utility franchise and Yukon Territorial Government, the Board will review any Gas Distribution Utility Development Agreement reached between these parties; and
- (iii) copies of the model Gas Distribution Utility Development Agreement are attached to Board Order 2002-1 as Appendix B.

(f) Fees

- (i) each applicant will be charged \$5,000 for each application filed; and
- (ii) the applicant awarded the franchise will be charged a cost recovery fee of one-half the costs incurred by the Board in its hearings of the franchise applications or \$350,000, whichever is less.

## **PUBLIC INSPECTION OF THE APPLICATIONS**

Applications are considered to be public documents and copies will initially be made available by the Board for inspection at the Yukon Community Library in Whitehorse, Yukon and at the office of the Yukon Utilities Board, 19 - 1114 First Avenue, Whitehorse, Yukon, Y1A 1A3.

## **REGULATORY PROCESS**

Pursuant to Section 21(1) of the Public Utilities Act, the Commissioner in Executive Council may, with the approval of the Yukon Utilities Board and subject to such terms and conditions as the Board may recommend, grant a franchise to a public utility. In order to recommend an Applicant to the Commissioner in Executive Council, the Board will establish an oral public hearing process on the Applications.

On March 27, 2002 by Order-in-Council 2002/74, the Commissioner in Executive Council directed the Board to review applications for a piped propane system in the City of Whitehorse and to make recommendations on the scheduling for construction and operation of the distribution system.

Order-in-Council 2002/74 directs the Board to make available a draft model franchise agreement to participants, to provide a synopsis of the parties' comments, and to make its own recommendations based on the review of the agreement.

To facilitate the public hearing process, the Board staff will hold a Pre-Hearing Conference into the Applications, on Tuesday, July 23, 2002, in Whitehorse, Yukon at a location to be determined. The Pre-Hearing Conference will address procedural matters which will include, but not be limited to, the following:

- completeness of the Applications,
- identification of the principal issues,
- regulatory process, including the orderly exchange of information requests and responses,
- scheduling and location(s) of the proceedings, and
- other matters that will enable the proceedings to efficiently cover and review all aspects of the Applications.

Those persons wishing to actively participate in the Pre-Hearing Conference or in the subsequent public hearing process should register as an Intervenor with the Board's Executive Secretary, no later than Friday, July 12, 2002, indicating the nature of their interest, and whether they plan to attend the Pre-Hearing Conference. The Board will forward the names of Intervenors and Applicants to each party so they can provide each other with copies of their material. Those who do not intend to actively participate should register as an Interested Party and will receive a copy

of the Board's recommendations to the Commissioner in Executive Council.

Following results of the Pre-Hearing Conference, the Board will issue an Order and a Regulatory Timetable to all Applicants and Intervenors outlining further steps to be followed in the review of the Applications. In general, it is expected that a filed Application will initially be reviewed by Board staff, other Applicants and Intervenors for possible deficiencies, and this will normally generate Information Requests for response copied to all parties by the Applicant.

Once the Information Request Responses are received, Intervenors are given an opportunity to file evidence, with a period of time to enable information requests and responses on this evidence and a reply by the Applicants prior to the commencement of the oral public hearing. This public hearing offers participants an opportunity to appear in person before the Board, present oral evidence and ask questions of the Applicants and any Intervenor witnesses. Witnesses present their evidence under oath or affirmation and transcripts are produced for the public record.

The proceedings will result in a recommendation of an Applicant by the Board to the Commissioner in Executive Council, subject to such terms and conditions as the Board may recommend. The recommendation may contain terms and conditions which the Board believes are necessary to protect the public interest.

#### **CLARIFICATION**

Persons intending to participate in the proceedings, and who are uncertain as to the manner in which to proceed, may contact Ms. Deana Lemke, Executive Secretary, by telephone at (867) 667-5058, or in writing at 19 - 1114 First Avenue, Whitehorse, Yukon, Y1A 1A3 or by fax to (867) 667-5059.

By Order

Brian Morris  
Chair