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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-133-12**

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

and

**Application by FortisBC Energy (Vancouver Island) Inc. for Approval
of an Industrial Sales Agreement between FEVI and Western Forest Products Inc. (Application)**

BEFORE: N.E. MacMurchy, Panel Chair/Commissioner
D.M. Morton, Commissioner
B.A. Magnan, Commissioner
September 25, 2012

ORDER

WHEREAS:

- A. The British Columbia Utilities Commission (Commission) approved by Commission Order G-68-94 dated September 23, 1994 an Industrial Sales Agreement between Centra Gas British Columbia (Centra) and Doman Forest Products Ltd. (Doman) for gas supply to specified equipment at Doman's forest products operations and dry kiln at Chemainus, B.C.;
- B. By Commission Order G-132-97 dated December 11, 1997, the Commission approved an amended Industrial Sales Agreement to the Industrial Sales Agreement approved in Order G-68-94 (together the Previous Agreement);
- C. On April 25, 2012, FortisBC Energy (Vancouver Island) Inc. (FEVI) filed with the Commission for approval of a new Industrial Sales Agreement dated January 1, 2012, and executed March 19, 2012 between FEVI, the successor to Centra, and Western Forest Products Inc. (WFPI), the successor to Doman, (New Agreement) to replace the Previous Agreement;
- D. The New Agreement combines gas usage for the initially contracted facility with five additional WFPI facilities for the purposes of determining the rate applicable to WFPI;
- E. On June 29, 2012, the Commission issued Information Request No. 1 to which FEVI filed responses on July 20, 2012;
- F. On August 31, 2012, the Commission issued Information Requests No. 2 to which FEVI filed responses on September 10, 2012;

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- G. On September 5, 2012, the Commission appointed a Panel in respect to the regulatory review of the Application;
- H. The Commission received a letter from WFPI dated September 21, 2012 in support of the Application; and
- I. The Commission has reviewed the Application, FEVI's responses to the Commission Information Requests and WFPI's submission and determined that the New Agreement provides for rates that are unduly discriminatory as set out in the Reasons that are attached as Appendix A to this Order.

NOW THEREFORE pursuant to sections 59 and 60 of the *Utilities Commission Act*, the Commission finds that the New Agreement provides for rates that are unduly discriminatory and accordingly does not approve the New Agreement.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of September 2012.

BY ORDER

Original signed by:

N.E. MacMurchy
Commissioner

Attachment

Application by FortisBC Energy (Vancouver Island) Inc. for Approval
of an Industrial Sales Agreement between FEVI and Western Forest Products Inc. (Application)

REASONS FOR DECISION

INTRODUCTION

Predecessor companies for both FEVI (Centra Gas) and Western Forest Products Inc. (WFPI) (Doman Forest Products Ltd.) entered into a gas Sales Agreement dated June 1994. This agreement was subsequently amended September 16, 1997 (Previous Agreement). The Previous Agreement provided for service to a single industrial facility and stated that the contract demand would be a minimum of 72,000 GJ/year and not exceed 782 GJ per day. The energy charge for the first 72,000 GJs consumed per contract year will be set in accordance with FEVI's Rate Schedule LCS-3 (LC-3). Any gas consumed above this level will be charged on a per GJ rate of \$1.75 plus the cost of natural gas. WFPI has the right to negotiate a reduction to the rate if its consumption of natural gas exceeds 150,000 GJs at this facility. (Exhibit B-2, BCUC 1.1.4; Exhibit A2-2, Article 4)

The parties have entered into a new agreement, subject to Commission approval, dated January 1, 2012, and terminating December 31, 2013, with automatic annual renewals following the initial expiry date (New Agreement). The New Agreement combines gas usage for the initially contracted facility with five additional WFPI facilities, which are not geographically contiguous. The energy charge is based on the aggregated consumption of all six facilities. As in the Previous Agreement, the energy charge for the first 72,000 GJs consumed per contract year will be set in accordance with FEVI's Rate Schedule LCS-3 (LC-3) and any gas consumed above this level will be charged on a per GJ rate of \$1.75 plus the cost of natural gas. In addition, each facility is responsible for its own Daily Basic Charge as set forth in LCS-3. (Exhibit B-2, BCUC 1.1.4) FEVI states that the new contract is intended to be a temporary bridging solution. If the application for common rates and amalgamation with FEU is approved it would no longer be necessary. (Exhibit B-2, BCUC 1.1.4)

RATE IMPACT OF NEW CONTRACT

The impact on WFPI's total costs under the New Agreement as compared to the Previous Agreement is shown in the table below:

Line No.	Account # (1)	Annual Volume GJ (2)	Rates Prior to New Sales Agreement					Rates with New Sales Agreement				
			Delivery Margin			Cost of Gas (6)	Total Annual Revenue (7)	Delivery Margin			Cost of Gas (11)	Total Annual Revenue (12)
			Basic Charge (3)	Variable Charge (4)	Total (5)			Basic Charge (8)	Variable Charge (9)	Total (10)		
					= (3) + (4)		= (5) + (6)			= (8) + (9)		= (10) + (11)
1	1443256	77,000	\$ 2,418	\$ 480,095	\$ 482,513	\$ 445,060	\$ 927,573	\$ 2,418	\$ 234,209	\$ 236,627	\$ 445,060	\$ 681,687
2	1435704	6,000	\$ 2,418	\$ 37,410	\$ 39,828	\$ 34,680	\$ 74,508	\$ 2,418	\$ 18,250	\$ 20,668	\$ 34,680	\$ 55,348
3	1473500	100,000	\$ 2,418	\$ 497,920	\$ 500,338	\$ 578,000	\$ 1,078,338	\$ 2,418	\$ 304,168	\$ 306,586	\$ 578,000	\$ 884,586
4	1433562	7,000	\$ 2,418	\$ 43,645	\$ 46,063	\$ 40,460	\$ 86,523	\$ 2,418	\$ 21,292	\$ 23,710	\$ 40,460	\$ 64,170
5	1455872	26,000	\$ 2,418	\$ 162,110	\$ 164,528	\$ 150,280	\$ 314,808	\$ 2,418	\$ 79,084	\$ 81,502	\$ 150,280	\$ 231,782
6	1497447	34,000	\$ 2,418	\$ 211,990	\$ 214,408	\$ 196,520	\$ 410,928	\$ 2,418	\$ 103,417	\$ 105,835	\$ 196,520	\$ 302,355
7												
8	Total	250,000	\$ 14,509	\$ 1,433,170	\$ 1,447,679	\$ 1,445,000	\$ 2,892,679	\$ 14,509	\$ 760,420	\$ 774,929	\$ 1,445,000	\$ 2,219,929

(Exhibit B-4, BCUC 2.6.2)

The New Agreement represents a net savings to WFPI of \$672,750 per annum assuming the cost of gas of \$5.78 per GJ that is embedded in the FortisBC Energy Utilities 2012/2013 Revenue Requirements Application.

TREATMENT OF OTHER RATEPAYERS

When setting rates, the Commission is guided by sections 59 and 60 of the *Utilities Commission Act*, which require, among other things, that rates not be unjust, unreasonable or unduly discriminatory. The New Agreement represents a significant savings to WFPI, and, as such, could constitute undue discrimination. FEVI was asked to provide justification for providing rates for this customer that it is not making available to other customers. FEVI replied that the service "...is not unduly discriminatory." It stated that each of the six sites already receives service under LC-3 and will continue to be charged the Basic Daily Charge. It also states that a difference in rates per se, does not constitute "undue" discrimination [FEVI emphasis]. Differences in rates such as large volume, high load factor or commercial classes paying more than the residential class are all examples of acceptable differences in rates. (Exhibit B-2, BCUC 1.5.2)

FEVI cited the case of CFB Comox which receives service under an interruptible sales agreement, in addition to agreements in place with its Transmission Transportation Service customers—Vancouver Island Gas Joint Venture Pulp mills and BC Hydro Island Cogen. (Exhibit B-2, BCUC 1.5.3) FEVI also provided examples of 86 "grandfathered legacy customers," inherited from Centra Gas, "that are allowed to combine meters for the purpose of billing." (Exhibit B-4, BCUC 2.4.1) However, it also stated that the New Agreement is unique in that it is a sales agreement with a combined basis approach. (Exhibit B-4, BCUC 2.4.2)

LOSS OF WFPI AS A CUSTOMER

FEVI also argued that WFPI has indicated that switching from natural gas to an alternative fuel may be an option and states that WFPI was considering changing to bio-fuel. If this occurs, FEVI may lose WFPI as a customer. To retain WFPI as a natural gas customer, the alternatives are:

- Move qualifying sales (if any) to the Large Commercial Rate High Load Factor (HLF)
- Move qualified sales to transportation service under Large Commercial Service Rate No. 13 (LCS-13)
- Replace the existing Previous Agreement with the New Agreement (Exhibit B-2, BCUC 1.1.4, 1.6.3)

FEVI and WFPI have agreed on the New Agreement as their desired approach. FEVI believes that the New Agreement "...benefits all parties, including other FEVI customers, who would benefit from maintaining the load as the agreement would help keep the customer on the system and not switch to alternative fuels." (Exhibit B-2, BCUC 1.1.1)

COMMISSION DETERMINATION

The Panel finds that the New Agreement provides for rates that are unduly discriminatory and accordingly does not approve the New Agreement.

FEVI is applying to provide this preferential rate that arises by virtue of the ability to combine loads at disparate geographical locations for billing purposes, for one customer only. As such, this represents an unduly discriminatory rate.

In the Panel's view, undue is interpreted to mean, among other things: excessive, unjustifiable or improper. FEVI provides a justification that if WFPI doesn't receive the new rate it may switch to a bio-mass fuel source or

some other energy option and cease to be a customer. However, FEVI provides no evidentiary basis for this claim. There is no economic analysis of the feasibility of WFPI switching to another energy source, nor is there an analysis of the availability of alternative energy supply. Further, FEVI raises the possibility that this New Agreement may be a temporary bridge in the event the amalgamation application with FEI is approved, thus putting into question the rationale for a fuel switch for a short period of time. Accordingly, the Panel finds that FEVI has failed to provide the necessary justification for changing the Previous Agreement to include the additional five geographic sites. As to the excessiveness or impropriety of the discriminatory rate, the Panel notes that the rate reduction amounts to 23 percent, which is a material amount. To offer this to one customer and not others is excessive and improper.