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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER E-13-13**

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

and

A Filing by FortisBC Energy Inc.
For Approval of the Biomethane Purchase Agreement Between
FortisBC Energy Inc. and Greater Vancouver Sewerage and Drainage District
and Acceptance of FEI Capital Expenditures for related Interconnection Facilities

BEFORE: L.A. O'Hara, Commissioner

September 30, 2013

O R D E R

WHEREAS:

- A. On December 14, 2010, the British Columbia Utilities Commission (Commission) issued the Terasen Gas Inc. [now FortisBC Energy Inc. (FEI)] Biomethane Application Decision (Biomethane Decision). The Biomethane Decision allowed FEI to move forward with a Biomethane Program on a test basis for a two year period (Pilot). Commission Order G-194-10 and the Biomethane Decision set the governing criteria for the Pilot and related biomethane supply contracts. The Biomethane Decision also capped the annual amount of biomethane that FEI could purchase under all projects;
- B. By Order G-45-13 dated March 28, 2013, the Commission increased the Pilot supply cap to a quantity that specifically includes the purchase of 40,000 GJ per year of biomethane from the Greater Vancouver Sewerage and Drainage District (GVS&DD);
- C. On August 1, 2013, the Lieutenant Governor in Council of the Province of British Columbia issued Order in Council 347, giving permission to the Commission to exempt Biomethane suppliers selling biogas and biomethane to a public utility from certain sections of the *Utilities Commission Act* (UCA) where the Commission can review the supply contract under section 71 of the UCA;
- D. On August 16, 2013, FEI filed with the Commission an application (Application), under section 71 of the UCA, for acceptance of an executed Biomethane Purchase Agreement between FEI and GVS&DD dated October 16, 2012 (Agreement);
- E. In the Application, FEI represented that the Agreement complies with the criteria for new biomethane purchase agreements set out in Order G-194-10 and the related Biomethane Decision as well as the conditions in Order G-45-13 where the Pilot supply cap was increased to specifically include the volume of biomethane contemplated in the Agreement;
- F. In the Application, FEI also requested the approval of capital costs associated with the interconnection facilities associated with the Agreement;

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- G. In the Application, FEI further requested the Agreement and the financial model, appended to the Application as Appendices A and B respectively, be held confidential due to their commercially sensitive nature;
- H. On August 20, 2013, the Commission issued Order G-126-13 exempting biomethane suppliers selling biogas and biomethane to a public utility from certain sections of the UCA where the Commission can review the supply contract under section 71 of the UCA;
- I. On August 23, 2013, Commission Order G-130-13 established a Regulatory Timetable for review of the Application by way of a Streamlined Review Process (SRP);
- J. The SRP for the review of the Application took place on September 25, 2013. FEI and the following Registered Interveners participated: GVS&DD, the Commercial Energy Consumers Association of British Columbia, B.C. Sustainable Energy Association, and Paradigm Environmental Technologies Inc.;
- K. At the SRP, FEI indicated that it no longer considers the financial model information contained in Appendix B of the Application to be confidential; however, FEI requests that the live working financial model filed confidentially on September 11, 2013 as Exhibit B-1-2 be held confidential as it is commercially sensitive; and
- L. The Commission has considered the Application, evidence and submission received.

NOW THEREFORE the Commission for the attached Reasons, orders as follows:

- 1. Pursuant to section 71 of the *Utilities Commission Act*, the Commission accepts the Biomethane Purchase Agreement between FortisBC Energy Inc. and Greater Vancouver Sewerage and Drainage District (GVS&DD), including both the purchase of 40,000 GJ per year of biomethane under the Pilot and the purchase of up to 60,000 GJ per year of natural gas to be used to supply FEI natural gas sales customers as being in the public interest.
- 2. The Commission will keep confidential the Agreement that is Appendix A to the Application and the live working financial model that is Exhibit B-1-2.
- 3. Pursuant to section 44.2(b) of the *Utilities Commission Act*, the Panel finds acceptance of FEI's estimate of capital expenditures of \$739,000 related to the interconnection facilities required for the GVS&DD supply project to not be in the public interest and does not accept them as filed. However, if FEI were to file an application for acceptance of capital expenditures of \$611,000 or less, the Commission would accept such capital cost expenditures as being in the public interest.

DATED at the City of Vancouver, In the Province of British Columbia, this 30th day of September 2013.

BY ORDER

Original signed by:

L.A. O'Hara
Commissioner

Attachment

Orders/E-13-13_FEI_GVS&DD Biomethane Purchase Agreement

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and Acceptance of FEI Capital Expenditures for related Interconnection Facilities

REASONS FOR DECISION

INTRODUCTION

The following applications filed with the British Columbia Utilities Commission (Commission) by FortisBC Energy Inc. (FEI) were addressed in this proceeding:

- Acceptance of the Biomethane Purchase Agreement between FEI and the Greater Vancouver Sewerage and Drainage District (GVS&DD) under section 71 of the *Utilities Commission Act* (UCA); and
- Acceptance of the capital expenditures related to the facilities required for this Biomethane supply project under section 44.2(b) of the UCA.

The applications were reviewed by way of a Streamlined Review Process (SRP) which took place on September 25, 2013. Registered Interveners that attended the proceeding were: B.C. Sustainable Energy Association (BCSEA), Commercial Energy Consumers Association of British Columbia (CEC), GVS&DD and Paradigm Environmental Technologies Inc.

SUMMARY OF FINDINGS

All parties supported acceptance of the two applications in principle. The only area of significant concern was the capital cost estimates for the planned interconnection facilities. **Pursuant to section 71 of the UCA the Commission accepts the Biomethane Purchase Agreement between FEI and GVS&DD including the purchase of 40,000 GJ per year of biomethane under the Pilot and the purchase of up to 60,000 GJ per year of natural gas to be used to supply FEI natural gas sales customers as being in the public interest. Pursuant to section 44.2(b) of the UCA, the Panel finds acceptance of FEI's estimate of capital expenditures of \$739,000 related to the interconnection facilities required for the GVS&DD supply project to not be in the public interest and does not accept them as filed. However, if FEI were to file an application for acceptance of capital expenditures of \$611,000 or less, the Commission would accept such capital cost expenditures as being in the public interest.**

Commission Panel Discussion

Because this particular Biomethane Purchase Agreement is somewhat different from those approved previously, the Commission Panel makes the following comments and observations.

Minimum Supply Requirement

The CEC expressed concern that this Biomethane Purchase Agreement does not include any minimum supply requirement, which exposes non-bypass ratepayers to risk of certain costs such as cost of removal of pipe or abandoning it in place. CEC stated that this is not an issue for this agreement given the supplier; however, CEC believes that a minimum supply requirement should be included in all biomethane supply agreements going forward. (Transcript, pp. 92-93)

The Panel agrees that the lack of a minimum supply requirement in the GVS&DD Biomethane Purchase Agreement does not present a concern due to the nature of the supply project and the supplier. **Regardless, the Panel concurs with the CEC and urges FEI to include a minimum supply requirement in all future biomethane purchase agreements.**

Combined Purchase of Biomethane and “Regular” Natural Gas in the Same Purchase Agreement

In the Panel’s view, this combined purchase is not a scenario that was contemplated when the Pilot was approved in the 2010 Biomethane Decision, which FEI also acknowledges. On its own, the purchase of up to 60,000 GJ/year of non-firm “regular” natural gas that is delivered to the FEI system at the supplier’s discretion is at odds with the current accepted practice whereby FEI prepares an Annual Contracting Plan (ACP) in accordance with stated objectives and then implements the ACP by negotiating and executing the necessary contracts in alignment with the Commission approved ACP. The key objectives include appropriate balance of cost minimization, security, diversity and reliability of gas supply. The Biomethane Purchase Agreement with GVS&DD does not readily align with the ACP objectives and normal supply practices.

In response to some concerns expressed during the SRP, FEI confirmed that this contract is understood to be a one-off situation and that FEI does not intend to seek out arrangements of this nature in the future. However, FEI could not rule out the possibility of a similar future contract but emphasized that the volume is immaterial in relation to overall gas supply portfolio.

The Panel notes that due to supply limitations of the GVS&DD upgrader capacity and FEI’s own seasonal capacity constraints, it is unlikely that the 60,000 GJ annual maximum purchase of “regular” natural gas will be reached. **Notwithstanding that, the Panel recommends that if the practice of purchasing renewable natural gas under these terms becomes a more common practice the Commission may need to review what would be considered to be “material” and how these purchases are to be included into the ACP process.**

Pricing for the “Regular” Natural Gas

The Panel acknowledges that a variety of pricing premiums and discounts may be applicable or could be justified in relation to various factors involved in this Biomethane Purchase Agreement. **The Panel finds that these can be reasonably considered to offset each other resulting in the Sumas monthly index as a reasonable proxy for pricing.**

Section 44.2(b) Acceptance of the Capital Expenditures for the Related Interconnection Facilities

FEI is seeking acceptance of capital expenditures in the amount of \$739,000 which consists of a \$100,000 provision for the pipe with the balance consisting of structures, measuring and regulating equipment and metering. The section 44.2 application is with respect to the expenditures being in the public interest rather than approval of rates. Even in this context, the concern for the Panel is whether the cost estimate is too high and, if so, how will the future customer rates be impacted should the actual cost come in lower than the expenditures accepted in this proceeding.

FEI acknowledge during the SRP that the capital cost estimate is very conservative with the actual costs expected to be in the range of -20% to +5% of the budgeted amount. Commission Staff provided the following alternative cost estimate based on the actual costs for the two completed projects, which were the Salmon Arm Landfill and Fraser Valley Biogas:

Pipe costs for GVS&DD	\$100,000
Interconnection costs	464,000
Contingency of 10%	47,000
Total	\$611,000

(Transcript, p. 61)

FEI agreed that the Staff's estimate could also be considered reasonable and "might be more of a mid-point target for an estimate" (Transcript, p. 64) but submits that its own estimate should be accepted as it is more robust even if it is conservative.

FEI clarified that while the FortisBC Energy Utilities Inc. 2012-2013 Revenue Requirements and Natural Gas Rates Application (2012-2013 RRA) included an annual estimate of costs for biogas projects, the GVS&DD interconnection costs were not specifically included in the 2012-2013 RRA forecast or specifically approved by the Commission in the 2012-2013 RRA Decision.

With regard to the potential customer rate impacts, the Panel agrees with FEI that this proceeding does not involve rate approvals. In spite of that, the outcome of this ruling will eventually affect rates. Contributing to the confusion is the lump sum provision for biomethane project related interconnection and upgrader facilities in the 2012-2013 RRA and the associated timing issues. Validity of a reasonable cost estimate introduces an additional dimension making any assessment of rate impact or double counting difficult. The Panel will refer this matter to the current FEI Multi-Year Performance Based Ratemaking Plan for 2014 to 2018 proceeding.

In the proceeding before this Panel, the Panel focuses on a matter of principle and the reasonableness of the capital cost estimates. The Panel finds that the best estimate should be used for the purpose of filing a capital expenditure under section 44.2(b) of the UCA. It should not be conservative to allow for eventualities. It should rather be an estimate which also encourages FEI to find efficiencies to manage unexpected circumstances. The Panel finds the \$611,000 a more realistic estimate of actual costs, which has a 50 percent chance of being higher and 50 percent chance of being lower as opposed to an estimate that is less likely to be exceeded. **Pursuant to section 44.2(b) of the UCA, the Panel finds acceptance of FEI's estimate of capital expenditures of \$739,000 related to the interconnection facilities required for the GVS&DD supply project to not be in the public interest and does not accept them as filed. However, if FEI were to file an application for acceptance of capital expenditures of \$611,000 or less, the Commission would accept such capital cost expenditures as being in the public interest.**