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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-213-15**

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

and

**An Application by FortisBC Alternative Energy Services Inc.
for Approval of the Fiscal 2015/16 Revenue Requirements and
Cost of Service Rates for Thermal Energy Service
to Delta School District Number 37**

BEFORE: D. M. Morton, Commissioner

December 24, 2015

O R D E R

WHEREAS:

- A. On November 28, 2011, FortisBC Energy Inc. (FEI) applied to the British Columbia Utilities Commission (Commission) for a Certificate of Public Convenience and Necessity (CPCN) to construct and operate an energy system to provide thermal energy to Delta School District Number 37 (DSD). The application sought, among other things, the approval of rates and the rate design contained within the Energy System Rate Development Agreement;
- B. On March 9, 2012, the Commission approved the provision of thermal energy service to the DSD, subject to proof of assignment to FortisBC Alternative Energy Services Inc. (FAES), in Order G-31-12 and the accompanying decision. Proof of assignment was filed and on March 16, 2012, and the Commission issued Order C-3-12 granting a CPCN to FAES. The Commission also approved the annual rate setting mechanism proposed whereby FAES will file a revenue requirements application, including the forecast balance of the SD37 deferral account and the forecast of thermal demand to establish the cost of service (COS) rate for the upcoming contract year, which runs from July 1 through June 30;
- C. By Order G-71-12, dated June 5, 2012, the Commission approved the rate design but denied approval of the rate;
- D. By Order G-88-12, dated June 25, 2012, the Commission approved the market rate mechanism as well as the COS rate for 2012/13;

NOW THEREFORE pursuant to sections 59-61 of the *Utilities Commission Act*, the British Columbia Utilities Commission approves the forecast cost of service rate for the upcoming contract year, from July 1, 2015 to June 30, 2016, for Delta School District Number 37 as outlined in the Reasons for Decision attached as Appendix A to this order.

DATED at the City of Vancouver, In the Province of British Columbia, this day of December, 2015.

BY ORDER

D. M. Morton
Commissioner

Attachment

An Application by FortisBC Alternative Energy Services Inc.
for Approval of the Fiscal 2015/16 Revenue Requirements and
Cost of Service Rates for Thermal Energy Service
to Delta School District Number 37

REASONS FOR DECISION

These Reasons for Decision address the November 17, 2015 Compliance Filing application by FortisBC Alternative Energy Services Inc. (FAES) in accordance with the directives set out in Order G-146-15A and its accompanying Reasons for Decision (Reasons).

The Commission has reviewed the Compliance Filing and makes the following determinations.

1.0 APPROVAL OF THE COST OF SERVICE RATE

1.1 Actual vs. forecast Cost of Service

FAES seeks approval for its forecast Cost of Service (COS) rate for the fiscal year July 1, 2015 to June 30, 2015.

In the Reasons, the Commission noted that FAES is adjusting the *forecast* COS in each of the past fiscal periods to *actual* COS and that this approach is inconsistent with the terms of the Rate Development Agreement (RDA) and the rate design approvals that were previously granted in the original CPCN decision.¹ The Commission's understanding of the original proposal was that only the natural gas and electricity components of the revenue requirement would be trued-up:

In the Panel's view, and as evidenced in the CPCN decision, the purpose of the annual revenue requirement application is for the Commission to review and then approve the *forecast* COS for the upcoming year, an approval mechanism that has long been the case in a regulatory environment with a forward looking test year. The action of retrospectively adjusting all of the forecasts to actual costs incurred renders the Commission's annual approval of forecast costs to be moot.²

The Commission requested that in its Compliance Filing, FAES provide "a submission on whether the definitions contained in the Rate Agreement for 'District Deferral Account' should mean the cumulative difference between the forecast annual cost of service and forecast revenues or actual revenues."³

In the Compliance Filing, FAES cited the following definitions from Section 1.1 of the RDA:

"District Deferral Account" means the record of the cumulative difference between the Annual Cost of Service and revenues, including a provision for interest at the AFUDC rate." (Emphasis added by FAES)

¹ Order G-146-15A, Reasons for Decision, p. 4.

² Ibid.

³ Ibid.

“Annual Cost of Service” means FEI’s total cost of Services for all of the Buildings in respect of which the Parties have entered into a Energy System Service Agreements at any time during the Term and that have been approved by the BCUC, including,...”
(Emphasis added by FAES)

“Services” means those services to be provided by FEI to supply Thermal Energy to a Building from an Energy System

FAES further submits that “as a result of those definitions, the Deferral Account captures the cumulative difference between the actual annual costs and actual annual revenues plus an amount for AFUDC.”⁴

FAES states that “[d]uring the transitional period when market rates are charged to the DSD [Delta School District], the annual calculation of the forecast COS rate is done to inform the decision of the DSD to switch to COS rate or not.”⁵ It further notes that the forecast COS rate has no bearing on the Deferral Account balance until after the switch occurs. Once the switch occurs, the COS rate will affect overall revenues.⁶

Commission determination

In the Panel’s view, the definition of Cost of Service in the Rate Development Agreement is open to interpretation. **The Panel is persuaded that FAES’ interpretation is reasonable and is prepared to accept the Rate Development Agreement as just and reasonable.**

1.2 Rate Rider discount

FAES proposes the following revision to the service agreement:

“Cost of Service Rate” means the following amount:

((FACS + PYRRD – EPC)/FTED) + Energy Rate

where:

“FACS” = the forecast Annual Cost of Service;

“PYRRD” = the prior year rate rider discount

“EPC” = Energy Purchase Cost; and

“FTED” = the Thermal Energy for the applicable Annual Period.

Delta School District Number 37 (DSD) has advised FAES that it would like the following wording incorporated into this FAES’ Compliance Filing regarding the proposed amendments to the RDA:

The DSD has been consulted and supports the proposed amendments on the basis of representations by FAES that the amendments:

- (a) will result in a lower District Deferral Account balance that would otherwise exist if the Agreement were strictly applied as presently worded;*
- (b) would not result in any changes to the Cost of Service Rate; and*
- (c) will not otherwise prejudice the interests of DSD.*

⁴ Exhibit B-10, FAES Compliance Filing, p. 4.

⁵ Ibid., p. 5.

⁶ Ibid.

In the event that these representations prove to be untrue or to result in prejudice to the DSD, the DSD reserves its right to apply to the Commission for appropriate relief.

Commission determination

The Panel accepts FAES' proposed wording change to the Rate Development Agreement.

1.3 Cost of Service Rate

In its Compliance Filing, FAES recalculates the forecast CoS rate for fiscal 2015-2016 as \$0.185 /kWh.⁷

Commission determination

The Panel approves the cost of service rate of \$0.185/kWh for the contract year, from July 1, 2015 to June 30, 2016, for Delta School District Number 37.

The Panel makes no determination on the appropriateness of the accumulated balance in the deferral account, which is a function of the actual costs incurred. These amounts may be subject to further review by the Commission.

1.4 Future regulatory reviews

FAES states that it "does not believe that this annual filing ought to necessarily give rise to an extensive review process every year, such as the one that is currently ongoing for the review of this Application."⁸

Commission determination

The Panel agrees with the findings of the FEI Inquiry regarding the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives (AES Inquiry) that the cost of regulation should not outweigh the benefits that it is meant to achieve.⁹ However, the rigorous review has been brought about due to the discovery of inconsistencies of information being presented and errors discovered through the evidentiary phase. For example, in the Compliance Filing, FAES "uncovered an error in the financial model (Schedule 12) and as a result, forecasts of the Deferral Account balance has been inadvertently understated by the amount of both the Amortization of the Deferral Account and the SD37 Rate Rider discount while revenues were net of the SD37 Rate Rider and the Annual Cost of Service was not including the Amortization of the Deferral Account."¹⁰

Given that these deficiencies have now been remedied, coupled with the fact that these annual rate applications seek approval of only the *forecast* (not actual) CoS rate, a thorough review of the forecast calculations may not be necessary going forward. As previously stated on page 4 of the Reasons, the action of retrospectively adjusting all of the forecasts to actual costs incurred renders the Commission's annual approval of the forecast costs to be moot. The calculation for the CoS rate is based on the Rate Development Agreement in which the underlying methodology has been agreed upon by both parties. Further, the DSD has had an opportunity to comment upon the calculation and on FAES' submission that an extensive review process ought not to be necessary. **Accordingly, the Panel urges FAES to apply for a variance and reconsideration amending the requirement to provide annual revenue requirement filings to the Commission, until such time that a**

⁷ Ibid., Appendix B, Schedule 1.

⁸ Ibid., p. 6.

⁹ AES Inquiry Report, p. 18.

¹⁰ Exhibit B-10, FAES Compliance Filing, p. 3.

fundamental change in rate structure or rate methodology exists or if a complaint has been received by the Commission.

1.5 Operation Issues

FAES states that it had contracted with the DSD's facilities department to provide the preventative maintenance on the facilities during the forecast period. FAES also required specialized contractors in order to resolve the operational issues related to heat pumps. Based on this, FAES forecasts that during the fiscal year 2015/16 the annual maintenance costs will amount to \$101,000.¹¹

FAES was directed to provide, in its Compliance Filing, a further breakdown of the \$41,000 specialized contractors costs to indicate the proportion allocated to resolving operational issues with the heat pumps.¹²

Commission determination

The Panel directs FAES to provide, at the time of filing the next annual rate filing, a report detailing the following:

- 1. The amount spent on specialized contractors during the 2014/2015 and 2015/2016 fiscal periods;**
- 2. The status of the heat pump issues identified in this fiscal period;**
- 3. The forecast cost, if any, to resolve the heat pump issue.**

¹¹ Exhibit B-1, p. 5.

¹² Exhibit B-10, FAES Compliance Filing, p. 11.