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ORDER NUMBER
G-127-17

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Inc.
Application for Reconsideration and Variance of Order G-199-16

BEFORE:
H. G. Harowitz, Panel Chair/Commissioner
K. A. Keilty, Commissioner
R. D. Revel, Commissioner

on August 18, 2017

ORDER

WHEREAS:

A. On March 17, 2017, FortisBC Inc. (FBC) filed an Application for Reconsideration and Variance of Order G-199-16 (Reconsideration Application) on the basis that the British Columbia Utilities Commission (Commission) erred in matters of fact and law that justify variation of Order G-199-16;

B. On December 29, 2016, the Commission issued Order G-199-16 and accompanying reasons for decision regarding FBC's Net Metering Program Tariff Update Application (Application);

C. By letter dated April 3, 2017, the Commission established the first phase of the reconsideration process wherein the Commission requested written submissions from registered interveners in the FBC Net Metering Program Tariff Update Application proceeding addressing specific questions on whether the threshold for reconsideration has been met. FBC was given the opportunity to respond to intervener submissions (Phase One process). The Commission also confirmed that the requirements of Order G-199-16 are postponed pending the resolution of the Reconsideration Application;

D. By Order G-76-17 dated May 17, 2017, the Commission established the second phase of the reconsideration process for FBC's Reconsideration Application and a regulatory timetable, which allowed for FBC to file additional evidence with further process to be determined. The scope of the second phase is limited to the issues raised in FBC's Reconsideration Application, which are:

- FBC not be directed to submit to the Commission changes to the Net Metering Tariff, Rate Schedule (RS) 95, which require that RS 95 customers not be removed from the Net Metering Program solely on the basis of producing Net Excess Generation (NEG) on an annual basis;
- The kilowatt hour (kWh) bank described in Section 5 of the Application to carry forward NEG accumulated in a Net Metering customer's billing period to offset consumption in a future billing period,

with an annual settlement for remaining unused NEG, be approved for implementation and the terms of RS 95 be amended accordingly; and

- The terms of RS 95 be further amended such that Net Metering customers are compensated for any positive kWh balance remaining in the kWh bank at the end of the annual period using the British Columbia Hydro and Power Authority RS 3808 Tranche 1 rate;

E. On May 31, 2017, the Commission received a letter from an intervener, requesting an oral process to review the Reconsideration Application. The Commission did not disclose the letter at the time as it contained inappropriate content for wider distribution;

F. On July 11, 2017, with consideration of letter dated May 31, 2017, the Commission proposed a workshop to continue the review of the Reconsideration Application and issued a letter requesting comments from parties on the Commission's proposed process;

G. On July 11, 2017, the BC Sustainable Energy Association and Sierra Club BC (BCESA-SCBC) requested disclosure of the letter submitted to the Commission dated May 31, 2017 referenced in Commission's letter dated July 11, 2017. FBC made a similar request on July 14, 2017;

H. On July 19, 2017, the Commission disclosed a redacted version of the requested letter dated May 31, 2017 that the Commission received from Mr. Andy Shadrack (Shadrack);

I. On July 19, 2017, the Commission extended the deadline to provide comments on further process;

J. By August 3, 2017, the Commission received submissions from FBC, BCESA-SCBC, the British Columbia Old Age Pensioners' Organization *et al.*, Commercial Energy Consumers Association of British Columbia, and Shadrack on the Commission's proposed process; and

K. The Commission has reviewed the evidentiary record to date and the submissions on further process submitted by parties, and finds that a written hearing process with one round of information request is warranted.

NOW THEREFORE for the reasons attached as Appendix B to this order, the Commission orders the review of the Reconsideration Application is to be heard through a written hearing process with one round of information requests in accordance with the Regulatory Timetable attached as Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of August 2017.

BY ORDER

Original Signed By:

H. G. Harowitz
Commissioner

Attachment

FortisBC Inc.
Application for Reconsideration and Variance of Order G-199-16

REGULATORY TIMETABLE

Action	Date (2017)
Commission and Intervener Information Requests No. 1	Thursday, September 7
FBC Response to Information Requests No. 1	Thursday, September 28
FBC Final Argument	Thursday, October 12
Intervener Final Argument	Thursday, October 26
FBC Reply Argument	Thursday, November 9

FortisBC Inc.
Application for Reconsideration and Variance of Order G-199-16

REASONS FOR DECISION

On May 31, 2017, the British Columbia Utilities Commission (Commission) received a letter from an individual requesting some oral process in order to hear Phase II of the FortisBC Inc. (FBC) Net Metering Reconsideration and Variance of Order G-199-16 (Reconsideration Application). While said letter was not initially part of the evidentiary record, the Commission, in order to be responsive, referenced the undisclosed letter and its request and sought comments on the possibility of a workshop to address matters related to the review of Phase II of the Reconsideration Application. Subsequently, FBC and the BC Sustainable Energy Association and Sierra Club BC (BCSEA-SCBC) sought disclosure of the letter and based upon their request, the letter from Mr. Andy Shadrack (Shadrack), somewhat redacted to reflect Commission standards of propriety, was posted. Submissions regarding further process and the possibility of a workshop were received from FBC, BCSEA-SCBC, the British Columbia Old Age Pensioners' Organization *et al.*, Commercial Energy Consumers Association of British Columbia and Shadrack.

After reflecting upon the submissions, the Panel considers that issues within the scope of the Reconsideration Application, as established by Order G-76-17 dated May 17, 2017, are technical and legal in nature, and therefore **determines that a written hearing process is better suited than an oral process to review the issues contained in the Reconsideration Application.** The Panel also finds that there is need for further examination of the issues, and establishes one round of information requests, to proceed in accordance with the Regulatory Timetable set out in Appendix A.

The Panel recognizes Shadrack's submission that "The NM customers I do know, beyond Mr *[redacted]*, are extremely busy, not desirous of participating in a lengthy written hearing, but might be persuaded to attend some oral session, where in my opinion FBC needs to be cross-examined at length on some of the information and statements it has provided to the Commission."[1] Notwithstanding Shadrack and BCSEA-SCBC submissions in favour of a workshop, the Panel is persuaded by FBC that "many of the arguments [it] has made in relation to the Reconsideration Application are legal arguments that are not well suited to a workshop environment."[2]

The Panel's principal concern in its determination relates to Shadrack's stated concern about his ability to fully participate in the Commission's regulatory processes. On August 4, 2017, Shadrack provided notice to the Commission that he has retained legal counsel on this Reconsideration Application.[3] The Panel considers that, with legal representation and access to the Commission's Participant Assistance and Cost Awards, Shadrack now has the resources available to be fairly represented in a written process.

Shadrack's submission dated July 11, 2017, requested "the Commission to confirm that members of the public will be entitled to participate, regardless of whether or not they have official intervenor status" The Panel notes

[1] Exhibit C4-2, p. 2.
[2] Exhibit B-6, p. 5.
[3] Exhibit C4-5.

that any member of the public who is not a registered intervener to a proceeding may file a letter of comment. Letters of comment are intended to provide the opportunity for any member of the public to contribute to the record their views, opinions, and impact or potential impact, with respect to a matter before the Commission. For more information on filing letters of comment, interested parties can refer to Section 8 of the British Columbia Utilities Commission Rules of Practice and Procedures established by Order G-1-16 dated December 24, 2015,[4] or contact the Commission should they require further assistance on participation.[5]

[4] http://www.ordersdecisions.bcuc.com/bcuc/orders/en/127520/1/document.do.
[5] http://www.bcuc.com/about/contact-us.html.