



ORDER NUMBER

G-38-19

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Creative Energy Vancouver Platforms Inc.

Application for a Certificate of Public Convenience and Necessity
For Beatty-Expo Plants and Reorganization

BEFORE:

D. A. Cote, Panel Chair/Commissioner

D. J. Enns, Commissioner

M. Kresivo, Commissioner

on February 19, 2019

ORDER

WHEREAS:

A. On June 29, 2018, Creative Energy Vancouver Platforms Inc. (Creative Energy) filed an application with the British Columbia Utilities Commission (BCUC) for a Certificate of Public Convenience and Necessity pursuant to sections 45 and 46 of the *Utilities Commission Act* (UCA) to construct and operate new and renovated steam plant works and related facilities at Creative Energy's existing site at 720 Beatty Street in Vancouver and at an adjacent site within BC Place Stadium (Proposed Project), and additional approvals required in connection to the Proposed Project (Application);

B. In the Application, Creative Energy seeks the following approvals:

- Pursuant to sections 45 and 46 of the UCA, a certificate of public convenience and necessity (CPCN) for the construction and operation of the following components of the Proposed Project at an estimated total capital cost estimated at \$53.1 million:
 - the Expo Plant, including facilities to interconnect steam, condensate and fuel oil services between the Expo and Beatty Plants;
 - the Beatty Plant renovation;

Creative Energy estimates the total capital cost for the Project at \$53.1 million, of which Creative Energy's contribution is limited to \$15 million, subject to adjustments approved by the BCUC to additional costs in connection with any change orders requested by Creative Energy or project delays caused by Creative Energy and to any secondary payment;

- Pursuant to section 44.2 of the UCA, acceptance of additional capital expenditures of up to \$5.25 million that will only be payable by Creative Energy if it expands generating capacity at the Beatty Plant within the first 20 years after completion of the Proposed Project;

- Pursuant to sections 56 and 60 of the UCA, approval to establish a regulatory deferral account to record the undepreciated net book value of the Creative Energy assets that are retired as part of the Proposed Project;
 - Pursuant to sections 60 and 61 of the UCA, approval of a new long-term customer service agreement between B.C. Pavilion Corporation (PavCo) and Creative Energy for heating service to the BC Place Stadium;
- C. Further, Creative Energy seeks approval of the following steps related to a corporate reorganization involving Creative Energy:
- Amalgamation involving a public utility requiring the BCUC endorsement and Lieutenant Governor in Council (LGIC) consent pursuant to section 53 of the UCA;
 - Corporate structure changes requiring BCUC approval, including:
 - Repurchase and issuance of shares in a public utility, pursuant to section 50 of the UCA;
 - Disposition of shares or other property of a public utility, other than in the normal course of business, pursuant to section 52 of the UCA;
 - Transfer of shares in a public utility that results in a person acquiring a reviewable interest in the public utility, pursuant to section 54 of the UCA; and
 - Disposition of Creative Energy's interest in "Trust Property" (as defined in the Application, the Trust Property is the interest in the lands, spaces and improvements on 720 Beatty Street and 701 Expo Boulevard, Vancouver, including all development rights that are surplus to the requirements of the utility), pursuant to section 52 of the UCA;
- D. On July 13, 2018, the BCUC issued Order G-128-18 establishing a regulatory timetable which included a workshop, the first round of BCUC and intervener information requests (IRs) with further process to be determined;
- E. On October 12, 2018, the BCUC issued Order G-194-18 establishing a further regulatory timetable, including filing of the Land Value Assessment Report by Grover, Elliott & Co. Ltd., BCUC and Intervener IR No. 2, a round of IRs from BCUC, Creative Energy and Intervener IR No. 1 on the Land Value Assessment Report as well as Final Arguments from the parties and Reply Argument from Creative Energy;
- F. By Order G-216-18 dated November 15, 2018, the BCUC issued an amended regulatory timetable, changing dates for Creative Energy Final and Reply Arguments, Intervener Final Argument; and
- G. The BCUC has reviewed the Application and evidence filed in the proceeding and makes following determinations.

NOW THEREFORE pursuant to sections 44.2, 45, and 46, of the *Utilities Commission Act* and for the reasons outlined in the decision issued concurrently with this order, the BCUC orders as follows:

1. Creative Energy's Application for a CPCN for the Beatty Expo Plants is not approved at this time.
2. Approval of the additional capital expenditure of \$70,000 per MW up to \$5.25 in the event of increasing capacity at the Beatty Plant beyond the Project's 139 MW is rejected.
3. Creative Energy may file a revised application addressing the Panel's concerns within one year from the date of this Decision failing which the application is dismissed. BCUC approval of the requested CPCN will require approval by this Panel of the following changes and explanations:

- I. Changes and Explanations related to the Trust Agreement:
 - i. Elimination of clauses regarding the potential secondary capital expenditure related to increases in capacity;
 - ii. Provision of additional financial security such as performance or construction bond for an appropriate amount and duration;
 - iii. An explanation in response to the Panel's concerns with respect to whether the 80.4 percent baseline efficiency as claimed by Creative Energy is accurate in light of the fact that 25 percent of the fuel savings from the Clear Sky economizer accrue to the Company. In the event this cannot be adequately explained, Creative Energy is required to outline what it is prepared to do to ensure the predicted fuel savings are achieved.
- II. Other Requirements:
 - i. Development of a comprehensive Contingency Plan, which addresses identified issues;
 - ii. Confirmation that Ellis Don and WSP have been or will be engaged to take on the Proposed Project. In the event an agreement with either of them cannot be reached, the Panel will make any CPCN subject to Creative Energy confirming the selection of a General Contractor and Design Engineering Company with the requisite experience that is acceptable to the BCUC;
 - iii. Completion and submission of a Preliminary Project Schedule and within 60 days of engaging the General Contractor, a detailed Project Schedule outlining the construction and operation schedule, including critical dates of key events, a chart of major activities showing the critical path (e.g. GANTT chart), and the timing of approvals required from other agencies;
 - iv. Removal of Land from the Deferral Account proposal; and
 - v. Filing of an executed PavCo SRW Agreement with a 5-year notice provision.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of February 2019.

BY ORDER

Original signed by:

D. A. Cote
Commissioner