



ORDER NUMBER
G-36-19

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

and

FortisBC Alternative Energy Services Inc.
Application for Approval of the Fiscal 2018/2019 Revenue Requirements and Cost of Service Rates
for the Thermal Energy Service to Delta School District No. 37

BEFORE:

W. M. Everett, QC, Panel Chair/Commissioner
A. K. Fung, QC, Commissioner
M. Kresivo, QC, Commissioner

on February 15, 2019

ORDER

WHEREAS:

- A. On February 8, 2018, pursuant to sections 59-61 of the *Utilities Commission Act* (UCA), FortisBC Alternative Energy Services Inc. (FAES) applied to the British Columbia Utilities Commission (BCUC) for approval of its revenue requirements and rates for the thermal energy service to Delta School District No. 37 (DSD) based on a proposed switch from the current market rate to the cost of service (COS) rate of \$0.223 per kilowatt-hour (kWh), effective July 1, 2018, for the fiscal and contract year from July 1, 2018 to June 30, 2019 (Application);
- B. By Orders G-56-18, G-77-18, G-83-18, G-118-18, G-228-18 and G-31-19, the BCUC established a regulatory timetable which included the following: a procedural conference; intervener registration; BCUC and intervener information requests (IRs) on the Application; the filing of DSD evidence; BCUC and FAES IRs on DSD's evidence; the filing of rebuttal evidence by FAES; BCUC and DSD IRs on FAES' rebuttal evidence; and written final and reply arguments. The BCUC also approved the existing market rate mechanism and resulting market rate on an interim and refundable basis, effective July 1, 2018;
- C. On February 1, 2019, DSD filed its written final argument. As part of its final argument, DSD requested that it be granted a further opportunity to provide submissions to the BCUC regarding a potential phase-in of the COS rate; and
- D. The Panel considers that an amendment to the regulatory timetable established by Order G-31-19 is warranted.

NOW THEREFORE for the reasons attached as Appendix B to this order, the BCUC amends the regulatory timetable established by Order G-31-19 to provide DSD and FAES the opportunity to submit a supplementary final argument and reply argument, respectively, on a potential phase-in of the COS rate, as provided in Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of February 2019.

BY ORDER

Original signed by:

W. M. Everett, QC
Commissioner

Attachments

FortisBC Alternative Energy Services Inc.
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REGULATORY TIMETABLE

Action	Date (2019)
FortisBC Alternative Energy Services Inc. (FAES) Reply Argument	Tuesday, February 26
Delta School District No. 37 Supplementary Final Argument on Phase-in of Cost of Service Rate	Tuesday, February 26
FAES Supplementary Reply Argument on Phase-in of Cost of Service Rate	Tuesday, March 5

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REASONS FOR DECISION

On November 30, 2018, the British Columbia Utilities Commission (BCUC) issued Order G-228-18 and accompanying reasons for decision directing that the evidentiary record be closed and that the proceeding regarding FortisBC Alternative Energy Services Inc.'s (FAES) Application for Approval of the Fiscal 2018/2019 Revenue Requirements and Cost of Service (COS) Rates for the Thermal Energy Service to Delta School District No. 37 (DSD) (Application) move to written final and reply arguments. In making its determination to proceed to written arguments, the Panel stated the following:

In this proceeding, the Panel is tasked with determining whether or not to approve FAES' request to switch from the current market rate being charged to DSD to the COS rate, and if approved, to determine whether the COS rate as applied for should be approved. In reaching these determinations, the Panel must consider sections 59 to 61 of the UCA [*Utilities Commission Act*], including whether the COS rate is just, reasonable and not unduly discriminatory.

The Panel considers the evidence gathered on the Application through the three rounds of [information requests] IRs, DSD evidence and FAES rebuttal evidence to be sufficient.

In accordance with the regulatory timetable established by Order G-228-18, FAES filed its written final argument on January 11, 2019. As part of its final argument, FAES stated the following:

Although FAES has noted the incongruity in adopting a new transitional rate to transition from the current transitional rate, it has also accepted that transitional provisions are an option...

...FAES modelled potential phase-in periods, showing how they impact the overall DDA [District Deferral Account] amortization and rate. The DSD will experience higher rates in subsequent years in the event that the BCUC approves a phase-in period. At most, a phase-in should extend three years.¹

On February 1, 2019, DSD submitted its final argument. Regarding a potential phase-in period for the proposed COS rate, DSD stated the following:

If the BCUC decides not to undertake a full prudence review of the Capital Costs that are meant to be recovered via the Proposed COS Rate, and decides that the DSD should be switched to the Proposed COS Rate, the DSD respectfully requests that it be granted an opportunity to provide submissions to the BCUC regarding a potential phase-in of the switch before the switch is actually ordered.²

Panel Determination

The Panel notes that DSD first requested to provide additional submissions regarding a potential phase-in of a switch to the proposed COS rate in its February 1, 2019 final argument, instead of including submissions on that

¹ FAES Final Argument, p. 111.

² DSD Final Argument, p. 59.

issue within the final argument. The issue regarding a potential phase-in was clearly a part of the record in this proceeding. In the Panel's view, the appropriate time to have addressed that issue would have been in DSD's final argument. In the Panel's view, DSD's approach of requesting an opportunity for a further submission after the filing of its final argument is contrary to the regulatory process established by the Panel in Orders G-228-18 and G-31-19.

The issue of phasing in the proposed COS rate was first raised in this proceeding on May 22, 2018 as part of BCUC IR No. 1. The BCUC posed the following questions to FAES:

1.7 Please discuss the pros and cons of phasing in a switch to the COS Rate in order to smooth the impact of DSD's annual rate change.

1.7.1 As part of this response, please describe how a phase-in of the COS Rate could be achieved if FAES was directed to phase in the COS Rate over two, three or five years. Please provide all calculations and assumptions.³

FAES responded to the above IRs on June 13, 2018. A portion of the response was filed confidentially with the BCUC; however, DSD submitted a Confidentiality Declaration and Undertaking Form on June 14, 2018, in accordance with the BCUC's Rules of Practice and Procedure, in order to obtain access to the confidential information.⁴

Given that the issue of potentially phasing in the proposed COS rate was pursued in IRs by the BCUC and was addressed by FAES in its final argument, the Panel finds that DSD should reasonably have been expected to provide a submission on this issue as part of its final argument.

However, the Panel must now weigh the absence of a submission from DSD on a relevant issue against unreasonably extending the regulatory process by granting DSD's request. The Panel considers that DSD's submission on a potential phase-in of the proposed COS rate may be informative to its deliberations and therefore finds it reasonable to provide DSD the opportunity to provide a supplementary final argument specifically limited to the issue of a potential phase-in of the proposed COS rate.

Accordingly, the Panel amends the regulatory timetable established by Order G-31-19 to provide the opportunity for DSD to file a supplementary final argument on the potential phase-in of the proposed COS rate, with FAES being provided the opportunity to file a supplementary reply argument on this issue.

As the evidentiary record has been closed pursuant to Order G-228-18 dated November 30, 2018, the Panel will not consider any new evidence as part of the supplementary arguments, nor will it entertain any further requests to re-open the evidentiary record. Parties are cautioned not to include arguments on topics unrelated to a proposed phase-in of the COS rate. If they choose to do so, the Panel will not consider those arguments. In addition, the Panel will not consider further requests for timetable extensions or amendments, and parties are strongly encouraged to submit their supplementary arguments within the timeline attached as Appendix A to the order accompanying these Reasons for Decision.

³ Exhibit A-5, BCUC IR 1.7, 1.7.1.

⁴ Exhibit B-4, BCUC IR 1.7, 1.7.1; Exhibit B-4-1, BCUC IR 1.7.1; Exhibit C1-4.