



**ORDER NUMBER
G-279-23**

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

and

Corix Multi-Utility Services Inc.
Application for Approvals relating to Restructuring and Business Combination Transactions

BEFORE:

A. K. Fung, KC, Panel Chair
M. Kresivo, KC, Commissioner

on October 18, 2023

ORDER

WHEREAS:

- A. On November 16, 2022, Corix Multi-Utility Services Inc. (CMUS) and SW Merger Acquisition Corp. (SWMAC) (collectively, the Applicants) applied to the British Columbia Utilities Commission (BCUC), pursuant to sections 45, 46, 50, 52 and 54 of the *Utilities Commission Act* (UCA) for approval of certain steps of a proposed restructuring involving CMUS (Pre-Closing Restructuring) and a proposed business combination involving the acquisition of a reviewable interest in CMUS (Application);
- B. CMUS is a public utility pursuant to the UCA which owns and operates a number of public utility systems in British Columbia that are subject to regulation by the BCUC pursuant to the UCA and the BCUC's Thermal Energy System (TES) Regulatory Framework Guidelines;
- C. CMUS is a wholly owned subsidiary of Corix Utilities Inc. (CUI), which is a wholly owned subsidiary of Corix Infrastructure Inc. (CII), and is indirectly controlled by British Columbia Investment Management Corporation (BCI);
- D. On August 26, 2022, CII and Corix Infrastructure (US) Inc. (Corix US) entered into an agreement with IIF Subway Investment L.P., SWMAC and SouthWest Water Company (SouthWest), which provides a framework for combining CII's water utility and wastewater and related businesses in Canada and the United States (US) with the water utility and wastewater businesses of SouthWest in the US (Business Combination). The Business Combination includes CII's electricity, natural gas and propane distribution utilities, geothermal energy utilities, and municipal service operations of CII related to its US and Canadian water utility and wastewater operations, and excludes the following three Stream B thermal energy utilities owned by CMUS:
 - i. Burnaby Mountain District Energy Utility (BMDEU), Certificate of Public Convenience and Necessity (CPCN) granted by Orders C-7-11 and C-5-17;

- ii. UBC (University of British Columbia) Neighborhood District Energy System (UBCNDES), CPCN granted by Order C-2-15; and
 - iii. Dockside Green District Energy Utility (DGDEU), CPCN granted by Orders C-1-08, C-3-08 and G-166-18;
- E. The Applicants request an order granting the following to CMUS:
- i. Pursuant to section 52 of the UCA, approval to transfer its interest in each of the three Stream B thermal energy utilities that it owns and operates (Transferred TES) to three limited partnerships to be formed under the laws of a Canadian jurisdiction (TES LPs), which will continue to be indirectly controlled by BCI;
 - ii. Subject to the BCUC's approval requested above and pursuant to sections 45 and 46 of the UCA, a CPCN for each of the TES LPs to enable them to lawfully operate the respective Transferred TES;
 - iii. Pursuant to section 50 of the UCA, approval to issue additional shares and to assume intercompany balances in connection with the restructuring of CII; and
 - iv. Pursuant to section 54 of the UCA, approval for a limited partnership to be formed under the laws of Delaware or another US state (SMWAC Holdco) to acquire 50 percent ownership of Corix US, which will result in SWMAC Holdco sharing indirect control of CMUS with CII and possibly an affiliate or affiliates of CII;
- F. By Orders G-369-22, G-21-23, G-88-23, G-146-23, and G-183-23, the BCUC established a regulatory timetable for the proceeding, which included Notice of Application, intervener registration, two rounds of BCUC and intervener information requests (IR) and final and reply arguments;
- G. CMUS requests that unredacted Attachments 2, 4, 5 and 8 of its responses to IR No. 1 filed as Exhibit B-3-1 and unredacted Attachment 12 of its responses to IR No. 2 filed as Exhibit B-7-1 be held confidential indefinitely on the basis that they contain commercially sensitive information. The Applicants submit that the commercial sensitivity of the redacted information filed in Attachments 5 and 12 may diminish over time and propose that if the BCUC determines that confidentiality is warranted for a limited period, it should be to the end of 2029; and
- H. The BCUC has completed its review of the Application and evidence filed in the proceeding and determines that the following approvals are warranted.

NOW THEREFORE for the reasons provided in the decision issued concurrently with this order, the BCUC orders as follows:

1. CMUS is approved to transfer its interest in each of the following Stream B TES at the time of the Pre-Closing Restructuring to three limited partnerships as follows, pursuant to section 52 of the UCA:
 - a. BMDEU is approved to be transferred to Corix Burnaby Mountain DE Limited Partnership;
 - b. UBCNDES is approved to be transferred to Corix UBCDE Limited Partnership; and
 - c. DGDEU is approved to be transferred to Corix Dockside Green DE Limited Partnership.

2. A CPCN is granted to the following limited partnerships at the time of the Pre-Closing Restructuring, pursuant to sections 45 and 46 of the UCA: (i) Corix Burnaby Mountain DE Limited Partnership for the BMDEU; (ii) Corix UBCDE Limited Partnership for the UBCNDES; and (iii) Corix Dockside Green DE Limited Partnership for the DGDEU.
3. Following completion of the Pre-Closing Restructuring, the CPCNs previously granted to CMUS for the following thermal energy systems are rescinded: (i) BMDEU; (ii) UBCNDES; and (iii) DGDEU.
4. CMUS is approved to issue additional shares and to assume intercompany balances in connection with the reorganization of CMUS and its affiliates, pursuant to section 50 of the UCA.
5. SMWAC Holdco is approved to acquire a reviewable interest in CMUS, pursuant to section 54 of the UCA.
6. Attachments 2, 4 and 8 filed as Exhibit B-3-1 will be kept confidential indefinitely due to the commercially sensitive nature of these attachments. Attachment 5 filed as a part of Exhibit B-3-1 and Attachment 12 filed as Exhibit B-7-1 will be kept confidential until December 31, 2029. At the time the BCUC determines any attachment ceases to be confidential, the attachment will be disclosed separately from all other attachments that are to remain confidential.
7. The Applicants, CMUS, the Transferred TES and the TES LPs are directed to comply with all other directives, determinations, and conditions contained in the decision issued concurrently with this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of October 2023.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner