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

and

An Application by the FortisBC Energy Inc.
for a Certificate of Public Convenience and Necessity for
Approval of Contracts and Rate for Public Utility Service to Provide Thermal Energy Service
to Delta School District Number 37

**BEFORE:**      L.A. O'Hara, Panel Chair/Commissioner
D.M. Morton, Commissioner                    March 9, 2012
R.D. Revel, Commissioner

**O R D E R**

**WHEREAS:**

A.  By Order G-141-09 dated November 26, 2009, the British Columbia Utilities Commission (Commission) approved a Negotiated Settlement Agreement (NSA) in the FortisBC Energy Inc. (FEI) 2010 and 2011 Revenue Requirements and Delivery Rates proceeding, which included approval for the provision of Alternative Energy Services (AES) defined to include geo-exchange, solar thermal and district energy systems;

B.  The NSA accepted General Terms and Conditions Section 12A: Alternative Energy Extensions (GT&C 12A) as the economic screening tool for AES projects and provided that FEI could make application for acceptance of project-specific contracts as a rate under the Alternative Energy class of service;

C.  The NSA prescribed that the Certificate of Public Convenience and Necessity (CPCN) threshold of $5 million would apply to AES projects brought forward in 2010 and 2011;

D.  On November 28, 2011, FEI filed an application for a CPCN for the construction and operation of thermal energy projects at 19 individual sites for the Delta School District Number 37 (Delta SD), under sections 45 and 46 of the *Utilities Commission Act* (Act), and for the approval of rates and rate design established by an Energy System Rate Development Agreement (RDA) and individual Energy System Service Agreements (Service Agreements) entered into between FEI and Delta SD (the Application), as just and reasonable rates under sections 59 through 61 of the Act;

E.  The Thermal Energy Upgrade Project (Project) described in the Application will provide thermal energy upgrades that involve the replacement of conventional boilers with high efficiency, condensing boilers at eight sites, the conversion of existing thermal plants to geo-exchange systems at 11 sites, and the retrofit or replacement of existing mechanical infrastructure at all 19 sites;

F.  The Project will take place over two years with a total estimated cost of $6.5 million of which Delta SD will be contributing $1.357 million as a Contribution in Aid of Construction;

G.  FEI will own, operate and maintain the new thermal facilities and will develop a single pooled cost of service based rate, developed pursuant to FEI's GT&C 12A, for thermal energy consumed with provision that the rate initially charged will be a market based rate to facilitate the transition from Delta SD's current costs of energy to the cost of service rate;

H.  The Project falls within the broader thermal energy services class of service that is considered in the ongoing AES Inquiry (AES Inquiry) that was established by Commission Order G-118-11 dated July 8, 2011, for which, in establishing the scope of the AES Inquiry, the Commission noted that, notwithstanding that ongoing processes may to some degree overlap with the issues being considered in the AES Inquiry, such processes are to be decided on the evidence put before them;

I.  By Order G-205-11 dated December 2, 2011, the Commission established a written hearing process and regulatory timetable to review this Application;

J.  In accordance with the provisions of the NSA, within the Alternative Energy class of service, for project-specific contracts with AES customers that will be filed with the Commission for acceptance as a rate, the Commission declared, via Order G-223-11 dated December 22, 2011, the economic test and GT&C 12A for AES projects as interim effective January 1, 2012;

K.  The Commission has reviewed the Application and has determined that it is in the public interest to grant a conditional approval of this CPCN.


**NOW THEREFORE** pursuant to the provisions of sections 45, 46, and 59 through 61 of the Act, the Commission determines as follows:

1.  A CPCN is granted for the Project on the condition that the Service Agreements and the RDA are assigned to an affiliate of FEI with proof of the assignments being submitted to the Commission by no later than 30 days from the date of this Order.

2.  Approval of the proposed rate and rate design, as applied for and as set out in the RDA and the Service Agreements, is denied.

3. The Commission will accept for filing by no later than 30 days from the date of the Order a rate and rate design based upon a 60/40 debt equity capital structure which contains the following modifications:

   a) The rate schedule is restricted to Delta School District's current and future sites;

   b) The rate must include allowances for capitalized overhead, cash working capital, inflation and escalation on capital replacements/sustaining capital items and replace "unpaid time" by FEI employees with "paid time";

   c) Includes a cost of debt rate based on an entity with a BBB rating with an additional premium to reflect the extra cost to arrange an incremental small debt issue; and

   d) Provides for a maximum 50 basis points premium above the benchmark Return on Equity or a lower negotiated equity premium.

4. If FEI accepts the condition attached to the grant of the CPCN and FEI and Delta School District agree to submit a revised rate schedule and rate design as referred to above, then FEI, or its affiliate, as the case may be, are directed to:

   a) Within 30 days from the date of this Order, file with the Commission a report stating what is the cost of debt rate as specified above and how it was determined;

   b) Within 30 days from the date of this Order, provide to Delta School District and the Commission a report setting forth the items that are included in the $4.1 million rate base at the end of the 20 year term with an explanation as to how that amount is to be recovered in the event the Service Agreements are not renewed;

   c) Within 30 days from the date of this Order, provide to Delta School District and the Commission a schedule showing the Net Present Value comparison between the "market rate" and the cost-of-service rate including in both instances the amortization of the SD37 Deferral Account;

   d) Within 30 days from the date of this Order, advise the Commission in writing whether its current Transfer Pricing Policy requires any amendments in the short term to deal with the regulated affiliate and services, which may be provided to it and follow its current Transfer Pricing Policy until the Commission otherwise orders;

   e) Maintain the entire Thermal Energy Services Deferral Account with FEI until such time as the Panels in the AES Inquiry, the FEU 2012/2013 RRA or other proceedings direct otherwise;

   f) Track and charge to its affiliate all overhead incurred for the provision of services to the Delta School District; and

   g) Examine, track and develop, if necessary, its cost allocation methodology to ensure all appropriate costs are allocated to the Delta School District thermal service, regardless of the particular entity providing them.

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5.  The Commission will hold confidential the design build agreement as set out in Appendix C of the Application and the financial model as contained in Appendix D  of the Application;

6.  The Commission will hold the Service Agreements and RDA between FEI and Delta SD confidential until such time as the agreements are approved by the Commission and become public tariffs.

7.  FEI is to comply with all directives set forth in the Commission's Decision which is issued concurrently with this Order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this     9th     day of March of 2012.

BY ORDER

*Original signed by:*

L.A. O'Hara
Panel Chair/Commissioner