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BRITISH COLUMBIA UTILITIES COMMISSION

ORDER NUMBER G-78-13

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

and

FortisBC Energy Inc.
Application for a Certificate of Public Convenience and Necessity
for Constructing and Operating a Compressed Natural Gas Refueling Station at BFI Canada Inc.;
Application for Variance and Reconsideration and Revised Application for Rates for Fueling Service for BFI; and
British Columbia Utilities Commission Order G-150-12 Compliance Filing and
Revised Application for Rates for Fuelling Service for BFI

BEFORE: A.A. Rhodes, Panel Chair/Commissioner May 14, 2013
D.M. Morton, Commissioner

O R D E R

WHEREAS:

A. On February 29, 2012, FortisBC Energy Inc. (FEI) applied to the British Columbia Utilities Commission (Commission) for approval for a Certificate of Public Convenience and Necessity (CPCN) to construct and operate a Compressed Natural Gas (CNG) refuelling station at the premises of BFI Canada Inc. (BFI) (CPCN Application);

B. In the CPCN Application, FEI also sought approval, pursuant to sections 59-60 of the *Utilities Commission Act*, of the rate design and rates established in the Fueling Station License and Use Agreement with BFI for CNG Service (BFI Agreement) as just and reasonable;

C. On April 30, 2012, the Commission issued Order C-6-12, which granted FEI a CPCN for the BFI project but denied the rate and rate design as applied for, and directed FEI to file an updated rate and rate design within 30 days of the date of Order C-6-12;

D. On May 17, 2012, FEI filed a request to extend the deadline for filing an updated rate and rate design to June 13, 2012, to allow time to consider the implications of the *Greenhouse Gas Reduction (Clean Energy) Regulation* that was passed by the Province of British Columbia on May 14, 2012, and to provide additional time to complete discussions with BFI;

E. On June 13, 2012, FEI filed a further request to extend the deadline for filing the updated rate and rate design for the BFI refuelling station to June 15, 2012;

F. By Order G-82-12 dated June 14, 2012, the Commission granted an extension to the filing deadline for the updated rate and rate design to June 15, 2012;

G. On June 16, 2012, FEI submitted an application for Variance and Reconsideration of Order C-6-12 (Reconsideration Application) and a revised application for rates and rate design for CNG Service for BFI (Revised Rates Application);

H. In the Revised Rates Application FEI requested interim rate approval pending determination of the Reconsideration Application;

I. On July 17, 2012, the Commission issued Letter L-42-12 finding that FEI had established a *prima facie* case to warrant proceeding to Phase 2 of the Reconsideration;

J. By Order G-112-12 dated August 21, 2012, the Commission determined that Phase 2 of the Reconsideration would proceed as a written regulatory process;

K. On September 14, 2012, the Commission issued Order G-126-12 approving the rates proposed by FEI in the Revised Rates Application on an interim basis pending review of the Revised Rates Application by the Commission and pending the outcome of Phase 2 of the Reconsideration;

L. In Directive 3 of Order G-126-12, the Commission directed FEI to submit either confirmation that the rate as applied for in the Revised Rates Application remained applicable or file an application for revised rates, as appropriate, within 30 days of the Commission's Order determining the outcome of the Reconsideration Application;

M. The Commission issued its decision on the Reconsideration Application by Order G-150-12 dated October 17, 2012. By Directive 3 of Order G-150-12, the Commission reiterated its previous requirement that FEI confirm rates as applied for in the Revised Rates Application or apply for revised rates;

N. FEI filed its compliance filing in regard to Directive 3 of Order G-150-12 on November 16, 2012 (Compliance Filing);

O. On December 19, 2012, FEI responded to Information Requests from Commission Staff in regard to the Compliance Filing;

P. By letter dated April 26, 2013, the Commission sought comments on the approvals requested by FEI in the Compliance Filing from parties who were Registered Interveners in the FEI BFI CPCN Application and/or in the Reconsideration Application;

Q. No comments were received from any parties; and

R. The Commission has reviewed the Compliance Filing and FEI's responses to Commission Staff Information Requests.

NOW THEREFORE pursuant to sections 59-61 and 89 of the *Utilities Commission Act*, and for the Reasons for Decision set out in Appendix A hereto, the Commission orders as follows:

1. The Commission finds $0.52 per GJ represents a reasonable allocation of the overhead and marketing costs to compressed natural gas (CNG) and liquefied natural gas (LNG) customers.

2. The Commission will approve permanent rates for BFI Canada Inc. in the amount of $4.70, based on the amount determined by the Commission as a reasonable charge for overhead of $0.52 per GJ, plus capital and operations and maintenance components of $3.33 and $0.85, respectively, as set out in the Compliance Filing.

3. FortisBC Energy Inc.'s request to transfer the balance of the new deferral account to the existing CNG and LNG Service Recoveries Deferral Account is denied.

…/3

4. The Commission approves the creation of a new deferral account to capture recovery of overhead and marketing costs relating to Natural Gas for Transportation from NGT customers, for refund to all non-bypass customers commencing in 2014.

5. FEI is directed to file an executed copy of the final BFI Agreement reflecting the rate determined in Directive 2 above, in standard Tariff Supplement format, in a timely fashion.

6. The differences between the interim rate and the permanent rate will be recovered from BFI with interest calculated at the average prime rate of FEI's principal bank.

DATED at the City of Vancouver, in the Province of British Columbia, this 14th day of May 2013.

BY ORDER

Original signed by:

A.A. Rhodes
Panel Chair/Commissioner

Attachment

FortisBC Energy Inc.
Application for a Certificate of Public Convenience and Necessity
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REASONS FOR DECISION

1.0 OVERHEAD AND MARKETING CHARGE

FortisBC Energy Inc. (FEI) and BFI Canada Inc. (BFI) made an agreement dated January 31, 2012, pursuant to which FEI would construct a Compressed Natural Gas (CNG) fuelling station on BFI's site, and then maintain and operate it.

FEI applied for a Certificate of Public Convenience and Necessity (CPCN) to proceed with this project on February 29, 2012. It also applied for approval of its proposed rates.

By Order C-6-12, the British Columbia Utilities Commission (Commission) granted the CPCN but declined to approve the rates, as proposed, on the basis that the rates did not seek to recover a number of relevant costs. The Commission noted that FEI had estimated costs of approximately $569,000 and $601,000 for development of its Natural Gas for Transportation (NGT) business in 2012 and 2013, as shown in its Revenue Requirements Application (RRA) for those years, but had proposed to include only $0.20 cents per gigajoule (GJ) as a charge for overhead and marketing, based on an allocation of a small portion of one manager's time. The Commission required "FEI to structure its cost recovery of overheads proportionally" to ensure there would be no cross-subsidization of the business from core distribution customers, particularly as FEI was entering a potentially competitive market. (Commission Order C-6-12, Appendix A, p. 18)

In Order C-6-12, the Commission directed:

- All overhead and marketing expenses, including, without limitation, business development, customer education and all costs relating to the CNG/LNG Service program to be determined using approved fully allocated cost of service methodology and included in the cost of service.
- Fortis to recalculate the Operations and Maintenance Charge in the BFI rate to reflect the cost of the CNG/LNG Service program using the figures of $569,396 for 2012 and $601,119 for 2013, to be allocated among CNG/LNG Service customers in a reasonable manner.

On June 15, 2012, FEI applied for a reconsideration of Order C-6-12, including the Commission's direction to recover all overhead and marketing costs relating to natural gas vehicles from CNG and Liquefied Natural Gas (LNG) Service customers. FEI also submitted a revised application for BFI's rate design, including an updated fuelling charge which reflected an overhead and marketing component of $0.38 per GJ, applicable to BFI and future CNG and LNG Service customers, on an interim basis, pending a Commission decision on the Reconsideration Application.

FEI takes the position that the $0.38 interim charge for overhead and marketing complied with the Commission direction to allocate 100 percent of the overhead and marketing costs identified above among CNG/LNG Service customers in a reasonable manner. (FEI Order G-150-12 Compliance Filing, pp. 1, 3)

By Order G-150-12 dated October 17, 2012, the Commission varied its direction to require "the figures of $569,396 for 2012 and $601,119 for 2013 ... to be allocated among CNG/LNG Service customers and non-bypass natural gas customers in a reasonable manner." In varying the direction, the Commission noted that there had been a marked change in relation to recovery of Natural Gas Vehicle (NGV) marketing costs since the negotiated settlement of FEI's 2010-2011 RRA where it had been agreed that NGV marketing costs could be recovered from non-bypass distribution customers in rates, but acknowledged FEI's argument that the costs in issue had already been approved and "embedded in the rates approved by the Commission in the 2012-2013 RRA Decision dated April 12, 2012 (FEI Application for Variance and Reconsideration,

p. 9). The Commission therefore agreed to consider an alternative allocation of forecast overhead and marketing amounts of $569,396 for 2012 and $601,119 for 2013, between non-bypass natural gas ratepayers and customers taking service under the tariff, which had been approved for CNG and LNG Service, if FEI could provide a sufficient evidentiary basis for its proposed allocation.

FEI now proposes an alternative allocation, resulting in a marketing and overhead charge of $0.28 per GJ, which is $0.08 more than the earlier proposed charge of $0.20 per GJ, which was rejected, and $0.105 less than the interim charge of $0.385 per GJ currently in effect.

Rather than using the figures of $569,396 for 2012 and $601,119 for 2013, FEI proposes to calculate the applicable overhead charge by forecasting what it argues are relevant overhead, marketing and customer education costs to be incurred from 2012 through 2017, and dividing that number by the forecast volume of sales under Rate Schedules (RS) 16, 23, and 25, which relate to sales of LNG (RS 16) and natural gas for CNG (RS 23, 25). (FEI Order G-150-12 Compliance Filing, p. 12, Table 5, sourced from FEI Application for Approval of Rate Treatment of Expenditures under the Greenhouse Gas Reductions [sic] (Clean Energy) Regulation and Prudency Review of Incentives under the 2010-2011 NGV Demonstration Program (FEI GGRR Application), Appendix G, p. 8)

FEI advises that the previous forecast for overhead and marketing in the amounts of $569,396 for 2012 and $601,119 for 2013 referred to above related to the overall development of natural gas for use as a transportation fuel, and not simply the development of the CNG/LNG fuelling station business. The inference being drawn would appear to be that those customers, which then agree to have a fuelling station, are paying more than the proportionate cost of overhead and marketing relating to the development of their station. FEI states: "[m]uch more effort is involved in convincing a potential NGT customer to switch their fleet to natural gas than is involved in developing a station for a customer once the decision to adopt natural gas vehicles has been made" (FEI Order G-150-12 Compliance Filing, pp. 3, 5).

FEI also advises that the forecast overhead and marketing amounts for 2012 and 2013 of $569,396 and $601,119, respectively, as presented in the F2012-F2013 RRA, were based on four (4) full-time equivalent (FTE) positions. (Compliance Filing, p. 5, FN 4) FEI takes the position that its fuelling station development activities are properly represented by 2.15 FTE employees.

FEI submits that a portion of the overhead amounts of $569,396 for 2012 and $601,119 for 2013 which support NGT activities is included in the rates which apply to CNG and LNG customers, being Rate Schedules 6, 3/23, 5/25 and 16. However, FEI's allocation, which is based on the proportionate contribution of each rate schedule to the overall delivery margin, results in a negligible amount of overhead being allocated to CNG and LNG customers, in fact. (FEI Order G-150-12 Compliance Filing, p. 10; Exhibit B-2, BCUC IR 1.1.3)

FEI further submits that two other positions are involved in fuelling station construction activities, but that their proportionate time is directly allocated to the capital cost of the fuelling station. (FEI Order G-150-12 Compliance Filing, p. 5, FN 5) The costs related to time spent by persons occupying those positions are therefore not included in overhead and not relevant.

In order to arrive at its proposed charge of $0.28 per GJ, FEI has summed the projected cost of 2.15 FTE employees over the period 2012 to 2017 ($1,77,823) and added a further approximately $75,000 per year for customer education ($445,000) to arrive at a total forecast expenditure, in nominal dollars, of $2,222,823. FEI has then divided this total forecast expenditure by its total projected sales volume under Rate Schedules 16 (LNG Sales and Dispensing Service), 23 (Commercial Transportation Service), and 25 (General Firm Transportation Service) from 2012 through 2017, which is 7,883,865 GJs. (Projected sales volumes from FEI GGRR Application, Appendix G, Schedule 2)

Table 1 below shows the forecast staff resource allocation for fuelling station activities from 2012-2017, setting out the relevant positions and the estimated time allocation.

Table 1

Title	Fueling Station Time Allocation	Other activites
Senior Manager, BD	15%	85%
BD Manager	50%	50%
BD Specialist	15%	85%
Manager, NGT Solutions	50%	50%
NGT Account Manager	25%	75%
Manager, NPD	60%	40%
Total FTE:	2.15	3.85

(Source: FEI Order G-150-12 Compliance Filing, p. 6)

As Table 1 shows, the six positions which FEI advises are associated with fuelling station activities are:

- Senior Manager, Business Development
- Business Development Manager
- Business Development Specialist
- Manager, Natural Gas for Transportation Solutions
- Natural Gas for Transportation Account Manager
- Manager, New Product Development

The total fully loaded salary for all these positions combined is $767,153. (Derived from Table 1 above)

As noted, FEI has estimated the time spent on fuelling station development activities by the person occupying each of these positions to arrive at 2.15 FTEs. It is this determination of FTEs which is used to calculate the proposed charge of $0.28 per GJ.

FEI takes the further position that other activities, which promote the use of natural gas as a fuel for transportation including items such as NGT incentives, NGT industry advocacy (which includes the consultation leading up to the passing of the *Greenhouse Gas Reduction Regulation*), and NGT training standards relate to overall development of the NGT industry in British Columbia and Canada should be "allocated to non-bypass natural gas customers as their purpose is to increase the adoption of NGT and throughput on the natural gas system." (FEI Order G-150-12 Compliance Filing, pp. 7-8)

Commission Discussion

The Commission Panel does not agree with FEI that it is reasonable to allocate only what it puts forward as fuelling station development overhead to NGT customers that have CNG or LNG fuelling stations. The expenditures referenced are directed to the NGT market, and therefore that market must absorb the vast majority of the costs related to developing that market, not less than half, which is now being proposed.

Further, FEI proposes to use the full volume of sales from the NGT market as the denominator for its calculation. This volume assumes full take up of incentives and resulting growth in demand, the preponderance of which is in Rate Schedule 16 volumes. (FEI Order G-150-12 Compliance Filing, Appendix D – Financial Schedules from FEI GGRR Application – Appendix G, Schedule 2)

The Commission Panel further does not agree that FEI's allocation of the time of six FTEs to arrive at the equivalent of 2.15 FTE equivalents to be charged to CNG/LNG Service customers is reasonable.

The Commission Panel also notes the uncertainty surrounding FEI's cost allocation. For example, FEI does not code time sheets for particular projects, and therefore has no hourly (or any accurate) breakdown of time spent on each CNG/LNG project. (Compliance Filing, p. 4)

Using the methodology put forward by FEI, but estimating what it finds to be a reasonable allocation of time spent on the general NGT market, the Commission Panel calculates a charge of $0.52 per GJ.

The Commission Panel notes that the Business Development positions look primarily at three markets, being Natural Gas for Transportation, Low Carbon Products and Renewable Natural Gas, and Liquefied Natural Gas. The Panel therefore finds that a more appropriate allocation of the time of the Senior Manager of Business Development and the Business Development Specialist would be two thirds, or 67 percent as opposed to the 15 percent claimed.

The Panel further finds that the time spent by the Manager for NGT Solutions and the NGT Account Manager should be allocated 100 percent to the overhead to be recovered from CNG/LNG customers.

Table 2 below shows what the Panel finds to be a reasonable allocation of time.

Table 2

Position	FEI Allocation	Panel Allocation	Salary	Allocated Salary
Senior Manager, BD	15%	67%	$165,653	$110,435
BD Manager	50%	50%	$118,000	$ 59,000
BD Specialist	15%	67%	$103,000	$ 68,666
Manager, NGT Sol.	50%	100%	$143,500	$143,500
NGT Account Manager	25%	100%	$102,000	$102,000
Manager, New Product Dev.	60%	60%	$135,000	$ 81,000
TOTAL				**$564,601**

(Source: Derived in Part from FEI Order G-150-12 Compliance Filing, p. 8, Table 2)

Table 3 below, shows the resulting annual per GJ charge, using the 3 percent labour escalation factor applied by FEI and its additional estimated customer education costs.

Table 3

	2012	2013	2014	2015	2016	2017	TOTAL
Staff Resources ($000's)	$565	$582	$599	$617	$635	$655	$3,653
Customer Education	70	75	80	90	70	60	445
Total Overhead ($000's)	**$635**	**$657**	**$679**	**$707**	**$705**	**$715**	**$4,098**
GGRR Projected Volumes (000's GJs)	178	458	917	1,416	2,032	2,882	7,883
Annual Charge ($/GJ)	$3.56	$1.43	$0.74	$0.50	$0.35	$0.25	**$0.52**

(Source: Derived in Part from FEI Order G-150-12 Compliance Filing, p. 10, Table 3; Appendix D – Financial Schedules from FEI GGRR Application – Appendix G, Schedule 2)

To provide some perspective, the Panel has considered other potential methodologies to calculate a reasonable allocation of overhead to be charged to CNG/LNG customers.

The Panel finds a reasonable alternate allocation of employee time would result in the use of closer to 5.85 full time equivalent employees. This figure is obtained by removing the time of the six employees which is apparently devoted to renewable fuels (i.e. 0.15 employees). (FEI Order G-150-12 Compliance Filing, p. 7, Figure 1) This calculation would result in a charge of $0.66 per GJ as shown in the table below:

Table 4
5.85 FTE Allocated to NGT Overhead and Marketing Budgets

Item	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**TOTAL**
Staff resource cost	$743,838	$756,377	$779,073	$802,442	$826,513	$851,307	$4,759,549
Customer Education	70,000	75,000	80,000	90,000	70,000	60,000	445,000
Total fueling station overhead costs	**$813,838**	**$831,377**	**$859,073**	**$892,442**	**$896,513**	**$911,307**	**$5,204,549**
GGRR Projected Volumes	178,000	457,938	917,155	1,416,098	2,032,387	2,882,287	7,883,865
Annual Charge ($/GJ)	$4.57	$1.82	$0.94	$0.63	$ 0.44	$0.32	**$ 0.66**

(Source: Derived from Table 2 above; FEI Order G-150-12 Compliance Filing Table 5: Projected NGT Overhead and Marketing Budgets and Volume Forecast, p. 12)

A further alternate allocation method might consider the predicted increase in natural gas sales as between the core market and the NGT market resulting from the overhead and marketing expenditures. FEI takes the position in its GGRR Application that total volumes on FEI's system have dropped since 2003 and that it is NGT that will increase load on the system. (FEI GGRR Application, Appendix J, p. 3) Such an analysis, in the Panel's view, would require an allocation of 100 percent of these expenditures to NGT customers.

A further check of reasonableness would be the proportion of benefits flowing from the expenditures as between core distribution customers and NGT customers. In the Panel's view, the allocation proposed by FEI does not adequately reflect the difference in the benefits which purportedly accrue to CNG/LNG Service customers as compared to non-bypass distribution customers.

FEI calculates a fuel cost savings for its existing CNG/LNG Service customers (of which there were four) in the order of $3.2 million per year. In general, FEI anticipates that CNG/LNG customers will save 25 to 50 percent in their annual fuel costs. (FEI Order G-150-12 Compliance Filing, p. 11; Appendix E)

This benefit is out of all proportion to any modelled benefit to core customers. In the Reasons for Decision accompanying Order C-6-12 (the original Order determining rates for BFI) the Commission noted that the claimed throughput benefit of an additional 60,000 GJs per year equated to a $0.07 reduction in the annual bill of a Lower Mainland residential customer.

The benefit modelled in the GGRR Application shows a $66 million NPV benefit to FEI's customers over a period of 19 years. (FEI GGRR Application, Appendix G, p. 6) Considering that FEI has approximately 850,000 customers and the modelled benefits occur over a period of almost two decades, the benefit to core customers is, at best, negligible.

Further, as noted in the original BFI decision, the Commission is concerned about cross-subsidization in what may become a competitive market. This market is industry-wide and not limited to individual station projects. The Panel finds it more appropriate to allocate the costs associated with the NGT market to NGT customers.

Commission Determination

The Commission Panel finds $0.52 per GJ to be a reasonable allocation of the overhead and marketing costs to CNG/LNG customers.

The Commission Panel approves permanent rates for BFI in the amount of $4.70, based on the amount determined as a reasonable charge for overhead of $0.52 per GJ, plus capital and operations and maintenance components of $3.33 and $0.85, respectively, as set out in the Compliance Filing. (Compliance Filing, p. 14)

2.0 NATURAL GAS VEHICLE RECOVERY DEFERRAL ACCOUNT

Because the forecast overhead and marketing costs relating to Natural Gas Vehicles were arguably approved for recovery from, for the most part, all non-bypass distribution customers in the 2012-2013 RRA, and embedded in rates to be charged to core customers for 2012 to 2013, FEI proposes to record recovery of any of these costs from NGT customers in a deferral account, for refund to non-bypass customers commencing in 2014. FEI proposes that, at the end of 2013, it will calculate the total overhead charge recoveries from customers and transfer this total to the existing CNG and LNG Service Recoveries Deferral Account. This mechanism will avoid any potential double recovery of these costs by FEI during 2012 and 2013. (FEI Order G-150-12 Compliance Filing, pp. 11-12)

Commission Determination

The Commission Panel approves the creation of a new deferral account to capture recovery of overhead and marketing costs relating to NGT from NGT customers, for refund to all non-bypass customers commencing in 2014. The Commission Panel sees no need, however, to transfer the balance in this new deferral account to the existing CNG and LNG Service Recoveries Deferral Account to enable the return to core customers and would prefer the accounts be maintained separately. **Accordingly, FEI's request to transfer the balance of the new deferral account to the existing CNG and LNG Service Recoveries Deferral Account is denied.**

3.0 APPLICABILITY OF OVERHEAD CHARGE

FEI states that "approval of the proposed overhead and marketing charge will provide a predictable charge applicable to future CNG and LNG customers." (FEI Order G-150-12 Compliance Filing, p. 1)

Commission Determination

The Commission Panel agrees with FEI that the approved overhead and marketing charge should be applicable to future CNG and LNG customers.

4.0 OTHER MATTERS

Commission Discussion

The Panel notes the *Greenhouse Gas Reduction Regulation* contemplates specific limits on expenditures for activities relating to the NGT market and, by section 18 of the *Clean Energy Act*, the Commission is required to set rates for a public utility carrying out a prescribed undertaking that allow it "to collect sufficient revenue in each fiscal year to enable it to recover its costs incurred with respect to the prescribed undertaking." The *Greenhouse Gas Reduction Regulation* specifically limits the amounts which can be spent on incentives, including incentives relating to safety practices, as well as costs related to administration, marketing, training and education. In the Panel's view, it is not reasonable to allocate the majority of general overhead costs relating to the NGT market to non-bypass customers without regard to specific activities. To the extent that any portion of such costs are sought to be borne by non-bypass customers, these costs should be specifically identified and accounted for as expenditures made pursuant to the *Greenhouse Gas Reduction Regulation* and not buried in broader overhead.

The Panel further notes that the Alternative Energy Solutions (AES) Inquiry Report was issued a few weeks after the FEI Order G-150-12 Compliance Filing. The AES Inquiry was relied upon by FEI in its original Application for Variance and Reconsideration of Order C-6-12, to sever issues it viewed as not properly before this Panel. The AES Inquiry Report findings confirmed this Panel's views on the nature of the potentially competitive market for CNG and LNG and this Panel's further views that cross subsidization by core ratepayers must be avoided. The AES Inquiry Report states: "...it is crucial that, except to the extent required by legislation, there be no cross-subsidization as between existing ratepayers and CNG Service customers." The Report further provides that "[f]or CNG activities outside the Prescribed Undertaking ... the best protection against cross subsidization and the least impediment to the existence of a competitive market is to have all parties participating in the market do so as unregulated, non-utility entities."

The Commission Panel adopts these recommendations from the AES Inquiry Report.