

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-93-12**

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

and

An Application by FortisBC Energy Inc.
to Recover Final Project Costs
in the Fraser River South Arm Crossing Upgrade Project

BEFORE: L.F. Kelsey, Commissioner

June 28, 2012

O R D E R

WHEREAS:

- A. On November 6, 2008, FortisBC Energy Inc. (FEI) (formerly Terasen Gas Inc.) applied (the Application) to the British Columbia Utilities Commission (the Commission), pursuant to section 45 of the *Utilities Commission Act* (the Act), for a Certificate of Public Convenience and Necessity (CPCN) for two horizontal directional drilled (HDD) natural gas transmission pipeline crossings of the South Arm of the Fraser River between Delta and Richmond near Tilbury Island (the Fraser River South Arm Crossing Upgrade Project or the Project);
- B. On March 12, 2009, the Commission granted a CPCN for the Project by Order C-2-09 subject to a number of conditions, which include requirements that FEI file a quarterly progress report within 30 days of the end of each reporting period and a final report within six months of the end or substantial completion of the Project;
- C. On April 30, 2012, FEI filed its eleventh and Final Report (Report) for the Fraser River South Arm Crossing Upgrade Project in compliance with Order C-2-09. The report states that despite a 22-month delay arising from two major failures of HDD subcontractor equipment and replacement of the first HDD subcontractor, the prime contractor for the Project – North American Pipelines Inc. (North American) – substantially completed field construction of both pipeline crossings which were placed into service on October 22, 2011 (NPS 20) and on December 3, 2011 (NPS 24). North American cleaned up the site and de-mobilized on December 12, 2011;

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-93-12**

2

- D. The Report also states that FEI and North American have reached a Settlement Agreement relating to disputes arising from the construction and installation of the HDD, which includes provisions releasing FEI from any further claims from North American and North American indemnifying FEI from any claims by third parties, a guarantee of North American's obligations secured from North American's parent company, and a condition precedent that the Settlement Agreement be approved by the Commission, in exchange for a specific settlement amount;
- E. The Final Report further states that the final Project cost is \$34 million inclusive of the settlement amount;
- F. FEI requests Commission approval of the Settlement Agreement between FEI and North American and specifically of an amount of \$34 million to be included in FEI's rate base;
- G. FEI requests that the Settlement Agreement, Final Report and any Commission proceeding be treated as confidential as they contain sensitive settlement information which could prejudice the competitive and negotiating position of FEI on behalf of its ratepayers. FEI does not object to non-competitive customer interveners being provided with the confidential documents upon executing a standard form undertaking of confidentiality;
- H. By letter dated May 17, 2012, the Commission sought comments from Registered Interveners of the 2012-2013 FortisBC Energy Utilities Revenue Requirements proceeding on the need and form of public review process that the Commission should undertake in order to review for approval the Settlement Agreement and inclusion of the final project costs of \$34 million into rate base;
- I. The only respondent, the British Columbia Old Age Pensioners' Organization (BCOAPO), through its counsel, requested a written public review process with Information Requests. BCOAPO indicated an interest in participating in a proceeding and willingness to enter into an undertaking of confidentiality in this process. BCOAPO objected to the use of a Streamlined Review Process (SRP);
- J. The Commission has reviewed the application and comments from BCOAPO and determines that a written hearing is warranted.

NOW THEREFORE pursuant to sections 59 to 61 of the *Utilities Commission Act*, the Commission orders as follows:

1. The establishment of a Written Hearing Process with Participant Workshop for the review of the Settlement Agreement and Final Project Report according to the Regulatory Timetable that is attached as Appendix A to this Order.

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-93-12**

3

2. By response to Commission Letter dated May 17, 2012, the BCOAPO will be granted Registered Intervener status for the proceeding.
3. The Commission agrees to keep the Settlement Agreement, Final Report and proceeding material confidential during the proceeding. The Commission instructs FEI to provide the BCOAPO with the Settlement Agreement and Project Reports once an appropriate undertaking of confidentiality is executed.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of June 2012.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment

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**REGULATORY
TIMETABLE**

ACTION	DATE (2012)
FEI and BCOAPO execute an undertaking of Confidentiality and FEI provides Compliance Reports and Settlement Agreement to BCOAPO as Intervener	Friday, July 6
FEI Workshop to present Project summary, Final Report and Settlement Agreement. Location: BCUC Hearing Room – 900 Howe St, 6 th Floor Time: 9:00 am to 12:00 pm (to be confirmed with Participants)	Friday, July 6
Commission and Intervener Information Request No. 1	Friday, July 20
Response to Commission and Intervener Information Request No. 1	Friday, August 3
FEI Final Submission	Monday, August 13
Intervener Final Submission	Monday, August 20
FEI Reply Submission	Monday, August 27