



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-156-12**

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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.
For Approval of a Temporary Service Agreement for Liquefied Natural Gas (LNG) Service,
for Approval of a Service Agreement for LNG Delivery, for Approval of a Daily Charge for the Use of an LNG Tanker and for
Approval of a Daily Charge for the Use of a Mobile LNG Refuelling Station

BEFORE: A.A. Rhodes, Panel Chair/Commissioner
D.A Cote, Commissioner
D.M. Morton, Commissioner
October 22, 2012

ORDER

WHEREAS:

- A. By Order G-95-11 dated May 24, 2011, the British Columbia Utilities Commission (Commission) established an Inquiry into FortisBC Energy Inc.'s (FEI) Offering of Products and Services in Alternative Energy Solutions and other New Initiatives (AES Inquiry) including the appropriateness of FEI's entry into the competitive domain of compressed natural gas (CNG) and liquefied natural gas (LNG) fuelling;
- B. On July 12, 2011, FEI filed an application with the Commission, pursuant to sections 59-61 and 89 of the *Utilities Commission Act (Act)*, for approval on an interim basis of a Temporary LNG Station Installation and Operation Agreement dated May 12, 2011 between FEI and Vedder Transport Ltd. (Vedder) (Temporary Refuelling Agreement) and for approval of a Transportation Services Agreement dated May 12, 2011 between FEI and Vedder (Delivery Agreement) (Original Application);
- C. On August 8, 2011, FEI filed an amendment to the Original Application revising the proposed charge for a mobile LNG refuelling unit (IMC 6000 Charge) and the proposed charge for the use of FEI's LNG tankers (LNG Tanker Charge) and requesting permanent approval of the Temporary Refuelling Agreement, the Delivery Agreement, the revised LNG Tanker Rental Charge and the revised Delivery Charge, and further requesting approval to incorporate the LNG Tanker Charge into Rate Schedule 16 and to incorporate the Delivery Charge into FEI's General Terms and Conditions (together, the Amended Application);
- D. On August 10, 2011, FEI filed a letter requesting interim approval of both the Temporary Refuelling Agreement and the Delivery Agreement in the event the Commission was unable to render a decision on permanent rates prior to August 15, 2011;
- E. On August 12, 2011, the Commission issued Order G-144-11 granting interim approval of the Temporary Refuelling Agreement and the Delivery Agreement, subject to FEI having priority use of the LNG tankers for scheduled as well as emergency disruptions to its system and pending a more complete review of the Amended Application;

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- F. On August 31, 2011, the Commission issued Letter L-68-11 suspending the regulatory review process for the Amended Application pending completion of the FortisBC Energy Utilities 2012-2013 Revenue Requirements and Natural Gas Rates Application (FEU RRA);
- G. On April 12, 2012, the Commission issued Order G-44-12 and the related Decision in the FEU RRA in which it approved the inclusion of the LNG tanker in FEI's rate base but found that the mobile IMC 6000 LNG refuelling unit was not to be included in rate base;
- H. On April 26, 2012, FEI requested that the Commission resume the regulatory review of the Amended Application and approve on a permanent basis the LNG Tanker Charge specific to the transportation service to Vedder. FEI also confirmed that a final determination on the IMC 6000 Charge was no longer required as this asset was not be included in rate base and so would not impact FEI ratepayers;
- I. The Commission issued Order G-70-12 dated May 29, 2012, establishing a written hearing process for the review of the Amended Application;
- J. The Commission has reviewed the Amended Application and concludes that the LNG Tanker Charge for Vedder should not be approved as proposed by FEI.

NOW THEREFORE the Commission Panel determines, for the Reasons attached as Appendix A to this Order:

- 1. The Panel will only consider matters directly related to the Delivery Agreement between FEI and Vedder. The Panel will not approve a tanker transportation charge for inclusion in Rate Schedule 16.
- 2. The Panel does not approve the proposed rate of \$84.34 per day for the tanker rental fee. However, the Panel would approve a rate of \$158.00 per day.
- 3. The Panel does not approve FEI's proposed "Transportation Fee" to cover the costs of hauling the LNG tanker to Vedder's site and directs FEI to invoice Vedder for such costs, as incurred.
- 4. The Panel approves a deferral account for the costs of the Amended Application; however, the use of a non rate base deferral account attracting AFUDC is denied. FEI may apply the weighted average cost of debt to the account. The Panel directs that FEI may not recover any of the costs of the Amended Application from its non-bypass customers. The Panel directs FEI to propose a method for recovery of this deferral account, calculate the effect of this treatment in the rate to Vedder, and file the amended rate within thirty days of the date of this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of October 2012.

BY ORDER

Original signed by:

A.A. Rhodes
Panel Chair/Commissioner

Attachment

An Application by FortisBC Energy Inc.
For Approval of a Temporary Service Agreement for Liquefied Natural Gas (LNG) Service,
for Approval of a Service Agreement for LNG Delivery, for Approval of a Daily Charge for the Use of an LNG Tanker and for
Approval of a Daily Charge for the Use of a Mobile LNG Refuelling Station

REASONS FOR DECISION

1.0 INTRODUCTION AND BACKGROUND

On July 12, 2011, FortisBC Energy Inc. (FEI) filed its “Application for Approval of a Temporary Service Agreement for Liquefied Natural Gas (LNG) Service, for Approval of a Service Agreement for LNG Delivery, for Approval of a Daily Charge for the Use of an LNG Tanker and for Approval of a Daily Charge for the Use of a Mobile LNG Refuelling Station” (Application). In particular, the Application sought approval of:

- (a) a Temporary LNG Station and Operation Agreement (Temporary Refuelling Agreement) between FEI and Vedder Transport Ltd. (Vedder) for the use of FEI’s mobile LNG refuelling unit referred to as IMC 6000. This approval was requested on an interim basis pending the British Columbia Utilities Commission’s (Commission) decision in FEI’s Application for Approval of a Service Agreement for Compressed Natural Gas (CNG) and for approval of General Terms and Conditions for CNG and LNG Service (CNG/LNG Decision), and
- (b) a Transportation Services Agreement between FEI and Vedder (Delivery Agreement) involving a charge for the use of FEI’s tanker trailer and the trucking of FEI’s tanker trailer to Vedder’s site by a third party, on a permanent basis.

On July 19, 2011, by Order G-128-11, the Commission denied approval of proposed General Terms and Conditions – Vehicle Fueling Stations Section 12B (GT&C 12B) for LNG and CNG Service. However, in the CNG/LNG Decision the Commission indicated it would approve a revised GT&C 12B “to better reflect full cost recovery from the CNG/LNG customer.” GT&C 12B was approved by Order G-14-12 on February 7, 2012.

On August 8, 2011, FEI filed an amendment to the Application (Amended Application) for approval of:

- (a) the Temporary Refuelling Agreement, with a revised IMC 6000 Charge reflecting the CNG/LNG Service Decision, on a permanent basis,
- (b) the Delivery Agreement, with a revised LNG Tanker Charge due to a correction,
- (c) incorporation of the LNG Tanker Charge into FEI’s Rate Schedule 16, and
- (d) incorporation of the IMC 6000 Charge into FEI’s General Terms and Conditions.

In response to a request from FEI for an interim decision, on August 12, 2011 by Order G-144-11, the Commission granted interim approval for the Temporary Refuelling Agreement and the Delivery Agreement. This approval was subject to FEI having priority use of the LNG tankers for scheduled as well as emergency disruptions to its system and pending further review of the Amended Application.

On August 31, 2011, by Letter L-68-11, the Commission suspended the regulatory review of the Amended Application pending completion of the FortisBC Energy Utilities’ (FEU) 2012-2013 Revenue Requirements Application (2012-2013 FEU RRA Decision), which was to address the treatment of FEI’s LNG tanker and IMC 6000 assets.

On April 12, 2012, the Commission issued the 2012-2013 FEU RRA Decision directing that the IMC 6000 be excluded from FEI’s rate base and confirming the inclusion of FEI’s two LNG tankers in its rate base.

On April 26, 2012, FEI requested resumption of the regulatory review of the Delivery Agreement in the Amended Application, stating that approval of the IMC 6000 Charge was no longer required due to the Commission’s decision to exclude that asset from rate base. FEI advised that it intends to apply to the Commission for approval of amendments to Rate Schedule 16, including charges for transportation “as an optional service under Rate Schedule 16.” FEI also stated it anticipates expanding its fleet of LNG tankers “to service Rate Schedule 16 demand” and asked that the establishment of rates for service to future customers be deferred pending the Rate Schedule 16 amendments application. On July 13, 2012, FEI applied for a Certificate of Public Convenience and Necessity (CPCN) for the permanent LNG refuelling station at the Vedder site in a separate proceeding.

Concurrent with this proceeding, the Commission Inquiry into FEI’s Offering of Products and Services in Alternative Energy Solutions and other New Initiatives (AES Inquiry) is examining issues relating to FEI’s participation in the LNG marketplace.

2.0 SCOPE OF THE RESUMED HEARING AND THIS DECISION

Given the lengthy suspension of this hearing, the change of scope since the Application was filed, and the related issues that are being determined in other hearings, the Commission Panel is of the view a clarification of the scope of this decision is required. Therefore, the Panel confirms that:

- only matters directly related to the Delivery Agreement between FEI and Vedder will be considered; and
- there will be no general approval of a tanker transportation charge for inclusion in Rate Schedule 16.

We would also like to clarify the terminology. The Commission Panel understands the LNG tanker to consist of a tanker/trailer that is designed and built to transport LNG. FEI owns such a tanker, along with a second, back-up tanker. These assets have previously been found by the Commission, in Order G-44-12, to be assets of the natural gas distribution utility. These tankers are not self-propelled, but require a unit that the Panel will refer to as a “tractor” to haul the tanker. The tractor requires a driver and fuel in order to provide the hauling service. FEI does not own a tractor, but has subcontracted the tractor portion to a third party, Trimac Transportation Services. FEI states that this is its usual practice, because “[w]hile safe and reliable handling of LNG is inside FEI’s areas of competency, operation of a tractor unit is a service that a third party operator can presently offer more economically than FEI can.” (Exhibit B-1, p. 5)

Accordingly, the Commission Panel will review the proposed rate in two components; the Tanker Rental Fee and the charge for the rental of the tractor and driver along with the fuel required to haul the tanker. The Panel will also consider submissions from the parties on competitive issues, but only as they relate to the proposed rate.

In addition, the Panel will address the issue of the allocation of the regulatory costs of this proceeding.

3.0 TANKER RENTAL FEE

The Delivery Agreement sets forth a proposed tanker rental fee of \$81.96 for each day or partial day that a tanker is in use by Vedder, either for storing the LNG en route to its site or for storing LNG at its site. FEI subsequently amended the tanker rental fee to \$84.34 in the Amended Application in an effort to satisfy certain requirements of the CNG/LNG Decision. FEI calculates this fee as shown in the table below:

Tanker Rental Fee	
Levelized Revenue Requirement Schedule 10, Line 22	\$ 615,700
Useful Life of Asset (Yrs)	20
Levelized Annual Cost of Service Line 3/ Line 4	\$30,785
Days per year	365
Daily Capital Charge Line 5/ Line 6	\$ 84.34

(Exhibit B-1-1, Appendix C)

However, the British Columbia Pensioners' and Seniors' Association *et al.* (BCPSO) (formerly known as BCOAPO *et al.*) disputes the calculation, claiming that the levelized revenue requirement, on which it is based, is incorrect. To support this claim it refers to Exhibit B-1-1, Appendix C, Schedule 9 which indicates the annual revenue requirement and lists the total present value of the revenue requirement as \$615,700. (BCPSO Final Submission, p. 3) The BCPSO calculates a daily fee of \$158. In reply, FEI states that it agrees that the Tanker Rental Fee for a fully allocated cost of service would be \$158 per day using the capital costs and operating and maintenance (O&M) forecasts it provided. However, FEI also submits that the \$84.34 Tanker Rental Fee remains reasonable for Vedder during the term of the transportation service agreement for the following reasons:

- a. "The forecast O&M costs are conservative (i.e. likely to come in lower than forecast). For example, the amount of \$9,500 per year is included for training transportation personnel, and this is unlikely to be a recurring expense;
- b. The \$84.34 charge will still recover all incremental O&M costs, if applied on a daily basis; and
- c. FEI has been applying the \$84.34 charge on a per delivery basis and deliveries have exceeded 60 per month. As such, the revenue exceeds incremental costs." (FEI Reply Submission, pp. 3-4)

FEI submits that Vedder's use of these existing tankers will be "interruptible", subject to interruption for emergency responses and scheduled maintenance. (FEI Reply Submission, p. 2) FEI also states that the provision of the transportation services is subject to interruption of supply of LNG under Rate Schedule 16. However, it intends to schedule LNG deliveries to Vedder in such a manner as to ensure that the emergency response capability of these tanker trailers is not compromised by their increased utilization. In the event that demand for use of the tankers grows beyond the point where such scheduling can be accommodated, FEI states that it will evaluate the possibility of purchasing additional tankers. (Exhibit B-1, p. 6)

The Commission has previously considered issues of allocation of costs for use of assets that are purchased for and paid for by non-bypass customers. In Order G-22-92, the Commission determined that "interruptible sales should be priced in such a way as to maximize the benefit" to those non-bypass customers. In addition, it also stated that, under these circumstances, the allocation of gas costs must reflect competitive market prices.

Commission Determination

The Panel does not approve the proposed rate of \$84.34 per day and has determined that a rate of \$158.00 per day for the Tanker Rental Fee is appropriate.

The Panel is of the view that the costs of a shared asset should be apportioned on a fully allocated basis to maximize the return to the non-bypass customer. While FEI had initially calculated \$84.34 as a fully allocated cost, the Panel is not persuaded that this is the correct calculation. The calculation that is provided by BCPSO of \$158 appears to the Panel to be a more accurate assessment of the fully allocated daily cost. In making this determination, the Panel is mindful of the previous Commission determination, Order G-22-92, regarding allocation of costs for core utility assets. In addition, a rate based on a fully allocated cost helps to allay concerns about FEI charging a rate that may be non-competitive, in a situation where competition may exist.

As noted, FEI has taken the position that its proposed rate of \$84.34 would, and does, recover all incremental costs. While the Commission Panel acknowledges that this may be correct, we are not persuaded that incremental cost allocation is necessarily an appropriate cost allocation methodology in these circumstances.

With regard to the interruptible nature of the tanker/transportation service, the Commission Panel is of the view that, in the case of an interruptible transportation service, it may be appropriate to reduce the fully allocated cost by an amount which reflects the possible supply risk assumed by the customer. However, the evidence suggests that the tanker is rarely used for emergency purposes and, in any event, there is a backup tanker available. (Exhibit B-4, BCUC IR 1.20) The Panel further notes that FEI has not included any cost amounts for the backup tanker in its calculations. Given the lack of

evidence about the costs of the backup tanker, the Panel is of the view that it is not unreasonable to assume that such costs would make up for any potential rate reduction flowing from the interruptible nature of the tanker service.

Considering all these factors: a fully allocated cost of \$158.00 per day for a single tanker; use of a backup tanker; the interruptible nature of the service; and the absence of evidence of a market rate for LNG transportation, the Panel considers \$158.00 per day a fair and just rate for the tanker.

4.0 TRACTOR RENTAL FEE

FEI proposes to charge a rate for the tractor based on the information in the table shown below (the Transportation Fee):

Tractor Costs	
Number of Trips	140
Duration of Trip (Hours)	6
Labour Rate (\$/HR)	\$ 103.50
Fuel Surcharge	45%
Total Variable O&M Rate per Trip (Line 12*Line 13*(1+Line 14))	\$ 822.74
Total Variable O&M Charge Line 16* Line 10	\$ 115,183

(Exhibit B-1, p. 6)

FEI asserts that the Transportation Fee will recover actual incremental operating and maintenance costs, and defines incremental as all costs associated with the transportation of LNG to a customer per the definition of "Transportation Services" under section 1.7 of the Transportation Services Agreement. (Exhibit B-7, BCUC IR 2.8.2; Exhibit B-1, Appendix B1)

In establishing the labour rate, FEI included an "overhead loading component" of 15 percent. Thus, the rate of \$103.50 per hour is derived by multiplying the third party service provider hourly rate of \$90 by 1.15. (Exhibit B-4, BCUC IR 1.5.3)

Commission Determination

The Panel does not approve FEI's proposed "Transportation Fee".

The Panel notes that FEI has used the term "Variable O&M" interchangeably with the term Transportation Fee. This is misleading in that the Transportation Fee is a rental fee for a service that FEI is not directly providing. Accordingly, it is not relevant whether this is fixed or variable or whether it is designed to recover the provider's O&M or not. To then use the term O&M in relation to a contracted service is not helpful.

While the Panel agrees with the principle of full cost recovery, the rate calculation proposed by FEI contains a number of assumptions (such as the fuel surcharge) that may prove difficult to track and reconcile with actual costs. Therefore, the Panel declines to approve this proposed rate calculation methodology. However, the Panel is prepared to approve a methodology that recovers actual costs.

FEI is proposing to contract this service out. As such it will be receiving regular invoices from the service provider. **The Panel directs that the actual costs of these invoices, plus 15 percent, is an appropriate rate to charge Vedder for the tractor trucking service.**

The Panel notes that, although FEI had originally proposed to structure the rate for the temporary fueling station on a per GJ basis, the application is silent on whether either the tanker delivery charge and/or the transportation fee is to also be structured this way. **It is the Panel's view that this would not be an appropriate approach and directs FEI to invoice Vedder for any tractor trucking costs, as incurred.** With regard to the recovery of the 15 percent overhead, the Panel notes that FEI has indicated that this surcharge is intended to cover billing and customer contract costs. However, it has not provided exactly what proportion of the 15 percent surcharge is allocated to these costs and what proportion is

allocated to other (if any) costs. Further, there is no evidence before the Panel with regard to how these billing and customer contract costs are paid. In any event, the Panel directs that the 15 percent overhead recovery is to be on the account of the party that originally paid the costs.

5.0 MONOPOLY SERVICES IN A COMPETITIVE MARKET

Ferus Inc. LNG Division (Ferus) submits that LNG tanker rental and transportation services represent a natural unregulated market where there are legitimate and credible private sector participants and the potential to develop a competitive market exists. In its view, to the extent FortisBC is participating in this market on a regulated basis, the playing field is tilted in its favour. Ferus argues that LNG tanker rental and transportation are natural unregulated services that do not need to be provided by a regulated natural gas distribution utility. (Ferus Final Submission, pp. 6, 10)

BCPSO submits that charging only incremental costs to LNG customers, as proposed by FEI, results in subsidization by natural gas rate payers and is anti-competitive. (BCPSO Final Submission, p. 4)

The British Columbia Sustainable Energy Association's (BCSEA) position on this topic is that the Commission's consideration of FEI's involvement in the LNG fueling business generally is within the scope of the AES Inquiry and not within the scope of this proceeding. (BCSEA Final Submission, p. 4)

FEI agrees, submitting that the issue of whether there is a competitive market for LNG tanker service and how the issue of marginal pricing falls in the context of a competitive market is an issue for the AES Inquiry. (FEI Final Submission, p. 3)

Commission Determination

With regard to Ferus' submissions concerning the appropriateness of a monopoly player participating in a market that is not a natural monopoly, the Panel takes no position, noting that this issue is before the AES Inquiry. This proceeding concerns only a rate for the use, by a single customer, of a natural gas utility asset and is not a determination on a general rate for tanker services. However, the Panel does acknowledge Ferus' concerns and to that end, finds that structuring the rate based on fully allocated costs may help to mitigate those concerns.

6.0 THE COSTS OF THIS APPLICATION

FEI submits that it regards the Application costs as a one-time cost necessary to achieve an ongoing benefit to non-bypass customers and therefore believes that it is appropriate to recover this cost from non-bypass customers. (Exhibit B-7, BCUC IR 2.1.1)

FEI further states that the transportation service increases the utilization of existing assets (i.e. tankers) already required for the core natural gas business and the costs of these existing assets are already fully recovered or being recovered through the core customer rates. FEI, through this Application, intends to establish a new revenue stream which will help to offset the costs to the core customers. FEI expects the benefits could accrue to core customers for many years to come once the rate is established. As such, FEI did not include the cost of preparing and participating in the review of the Application in its proposed rate. Given the nature of the Application, the low risk simple cost-plus-15 percent-overhead rate structure for the trucking service and the daily charge out rate for the tanker asset, FEI stated that it did not anticipate a significant regulatory process with its higher associated costs and therefore estimated these costs as zero. (Exhibit B-4, BCUC IR 1.2.2)

As a result of the registration of interveners in this process, FEI has revised its estimate of costs of the Application to \$25 - \$30 thousand dollars. Accordingly, FEI seeks Commission approval for a non-rate base deferral account attracting AFUDC to capture these Application costs for recovery from non by-pass customers. (Exhibit B-4, BCUC IR 1.2.2)

BCPSO submits that FEI has confirmed that it is possible to recover the application costs from LNG tanker customers should the Commission so direct. It also notes that FEI chose to offer LNG for transportation services through the regulated entity, thus making this application necessary. Distribution system ratepayers did not have input into this decision. It considers that it would be appropriate to charge LNG customers the cost of this application. (BCPSO Final Submission, p. 5)

Alternatively, FEI states it would be amenable to having the expenses of this proceeding added to the existing NGV Application Costs rate base deferral account. BCSEA supports this approach. (BCSEA Final Submission, p. 4)

In the CNG/LNG Decision, the Panel approved "... [a] non-rate base deferral account attracting AFUDC to capture the cost of the current application, including the cost of the CNG/LNG Service Proceeding and to recover these costs from all non-bypass customers by amortizing them through delivery rates commencing January 1, 2012 over a three year period. **[Future individual application costs must be recovered from those customers.]**" (emphasis added) (CNG/LNG Service Proceeding Reasons for Decision, p. 34)

Commission Determination

The Panel approves a deferral account for the costs of this Application. However, the use of a non rate base deferral account attracting AFUDC is denied. FEI may apply the weighted average cost of debt to the account. The Panel denies the recovery of any Application costs from its non-bypass customers.

The Panel is of the view that the deferral account should be amortized over a period of time no longer than three years and it should be allocated among LNG customers who take tanker service. As such, it may be appropriate to estimate the total amount to be recovered and calculate a daily surcharge necessary to recover the deferral account.

The Panel directs FEI to propose a treatment of this deferral account, calculate the effect of this treatment on the rate to Vedder, and to file the amended rate within thirty days of the date of this decision.