



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-158-11

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

and

Application by the FortisBC Energy Utilities
(comprising FortisBC Energy Inc., FortisBC Energy Inc. Fort Nelson Service Area,
FortisBC Energy (Whistler) Inc., and FortisBC Energy (Vancouver Island) Inc.)
for Approval of 2012 and 2013 Natural Gas Rates

BEFORE: D.A. Cote, Panel Chair/Commissioner
A.A. Rhodes, Commissioner September 14, 2011
N.E. MacMurphy, Commissioner

O R D E R

WHEREAS:

- A. On May 4, 2011, the FortisBC Energy Utilities (FEU or the Companies) filed an Application for their combined Revenue Requirements for FortisBC Energy Inc. (FEI), the Fort Nelson Service Area of FEI (Fort Nelson), FortisBC Energy (Whistler) Inc. (FEW), and FortisBC Energy (Vancouver Island) Inc. (FEVI), and for approval of interim and permanent natural gas delivery rates effective January 1, 2012 and permanent rates effective January 1, 2013, pursuant to sections 59 to 61 and 89 of the *Utilities Commission Act* (the Act);
- B. The Companies filed updates to the Application on July 19, 2011 and September 12, 2011;
- C. In addition to changes in rates the Companies request, amongst other things, approval of a combined utility cost of service for 2013 subject to FEU obtaining, at a later date, the necessary approvals to amalgamate;
- D. The Commission held a Procedural Conference on July 7, 2011 to hear submissions from all Parties on the regulatory process and timelines for the Application. At that Procedural Conference, FEU and all Registered Interveners, except British Columbia Hydro and Power Authority, provided comments on process, timing and other general matters;
- E. On July 20, 2011, the Commission issued Order G-129-11 and appended Reasons for Decision, establishing an Oral Public Hearing process and Timetable to review the Application;
- F. On August 30, 2011, pursuant to section 99 of the Act, FEU submitted a request for variance to the regulatory process (Variance Application). FEU propose to amend a number of requested approvals contained in the Application and, as a result, request that a Negotiated Settlement Process (NSP) be held for the Application. However, FEU also propose to review a small list of items, along with any unresolved issues from the NSP, in a

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hearing process to be determined following the conclusion of the NSP. FEU note that Intervener groups representing customers are in support of the Variance Application.

- G. On August 31, 2011, Energy Services Association of Canada (ESAC) filed a response letter to the Variance Application stating it likely supports streamlining the Application process but raises concerns related to the treatment of certain Alternative Energy Solutions (AES) Services matters not proposed to be excluded from an NSP.
- H. On September 1, 2011, Corix Multi Utilities Services Inc. (Corix) filed a response letter to the Variance Application stating that Corix is not opposed to an NSP, but indicating there were concerns with certain cost allocation issues related to AES and the ongoing AES Inquiry.
- I. On September 1, 2011, the Commission issued a letter providing FEU with the opportunity to reply to the submissions of ESAC and Corix.
- J. On September 9, 2011, FEU filed its Reply submitting that the concerns of ESAC and Corix can be most appropriately dealt with as proposed in the Variance Application. In addition, FEU state that they would not be opposed to the issue of overhead cost allocation between classes of services being excluded from the scope of an NSP.
- K. The Commission has considered the views expressed by FEU and intervener groups representing customers as well as other registered interveners as made at the Procedural Conference and in subsequent letters to the Commission.

NOW THEREFORE as set out in the Reasons for Decision attached as Appendix A to this Order, the Commission Panel orders as follows:

- 1. The Variance Application is denied.
- 2. The hearing of the Application will proceed in accordance with Order G-129-11 and the Amended Regulatory Timetable attached as Appendix A to that Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 14th day of September 2011.

BY ORDER

Original signed by:

D.A. Cote
Panel Chair/Commissioner

Attachment



IN THE MATTER OF

**FORTISBC ENERGY UTILITIES
(COMPRISING FORTISBC ENERGY INC., FORTISBC ENERGY INC.
FORT NELSON SERVICE AREA, FORTISBC ENERGY (WHISTLER) INC.,
AND FORTISBC ENERGY (VANCOUVER ISLAND) INC.)**

2012 AND 2013 REVENUE REQUIREMENTS AND NATURAL GAS RATES

**REQUEST FOR VARIANCE
OF ORDER G-129-11**

September 14, 2011

BEFORE:

D.A. Cote, Panel Chair/Commissioner
A.A. Rhodes, Commissioner
N.E. MacMurchy, Commissioner

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1.0 BACKGROUND

On May 4, 2011, the FortisBC Energy Utilities (FEU, Companies), comprising FortisBC Energy Inc. (FEI), FortisBC Energy Inc., Fort Nelson Service Area, FortisBC Energy (Whistler) Inc. (FEW), and FortisBC Energy (Vancouver Island) Inc. (FEVI) filed their F2012 and 2013 Revenue Requirements and Natural Gas Rates Application (2012/2013 RRA; Application) pursuant to sections 59 to 61 and 89 of the *Utilities Commission Act (Act)*.

On July 20, 2011, following a Procedural Conference, the British Columbia Utilities Commission (BCUC, Commission) issued Order G-129-11 and appended Reasons for Decision. Among other things, Order G-129-11 established an Oral Public Hearing to review the Application commencing on Monday, October 3, 2011 and an Amended Regulatory Timetable reflecting this and other changes related to process.

On August 30, 2011, pursuant to section 99 of the *Act*, FEU filed a request for variance of the regulatory process (Variance Application). FEU requested that:

- BCUC initiate a Negotiated Settlement Process (NSP) to commence on October 3, 2011, on a limited number of matters raised in the Application;
- The excluded matters and any unresolved issues be addressed in a hearing process to be determined following the conclusion of the NSP.

2.0 VARIANCE APPLICATION

FEU state that the variance requested is based upon changes in circumstance following the issuance of Order G-129-11 and subsequent discussions with customer groups and Commission staff. The Companies have proposed to amend certain requests sought in the Application including:

- Withdrawal of the request of an amalgamated cost of service as part of the 2012/2013 RRA;
- Amendment of certain requests related to natural gas vehicle (NGV) programs;
- Exclusion of three Energy Efficiency and Conservation (EEC) policy-related subject matter areas as well as certain accounting treatments from the proposed NSP.

The Companies submit that with the proposed amendments to requests being sought in the Application and the proposed exclusion of certain items from the NSP process, the issues which remain are more appropriate for an NSP and are commonly addressed through a negotiation process. Further, FEU state that the order sought in this variance will result in a more efficient hearing process for dealing with the remaining issues. Finally, the Companies point out that the Interveners representing the customer groups are now all in support of the NSP based on this narrower scope. (Variance Application, pp. 1-2)

It is FEU's position that the proposal to alter requests originally sought in the 2012/2013 RRA and the consensus reached between the customer interveners and the Companies regarding issues which are, and are not conducive to negotiation, provide a reasonable basis for a request to vary the procedural order.

FEU submit that an impact of excluding EEC-related policy matters from the NSP is to remove a matter of interest for the Energy Services Association of Canada (ESAC) and Corix Utilities Inc. (Corix) (both of which are Interveners in the 2012/2013 RRA but do not represent FEU customers) from the NSP. FEU believes this will improve the prospect for a successful negotiation. FEU note that ESAC and Corix had been advised of this and but acknowledge that neither had taken part in discussions with customers. FEU also argue that the other issue, the allocation of indirect costs to the thermal energy cost of service, which appears to be of interest to ESAC and Corix is "a very small component" of the 2012/2013 RRA. (Variance Application, pp. 3-5)

3.0 Responses to Variance Application

By letter of August 31, 2011, ESAC filed a response to the Variance Application. ESAC states that in general terms, it is likely to support a proposal to streamline the regulatory process "provided that its interests are not prejudiced as a consequence." However, ESAC raises the concern that the matters proposed to be removed from the 2012/2013 RRA do not ensure that the NSP would not deal with issues that relate to the Alternative Energy Solutions Services (AES) inquiry. As an example, ESAC states that "we are uncertain as to the extent to which the NSP would deal with allocations of overhead related to the AES business activities and the treatment of depreciation expense for AES facilities."

By letter dated September 1, 2011, Corix Multi Utilities Services Inc. (Corix) also filed a response to the Variance Application. In the letter, Corix states that it is not opposed to an NSP on the condition that any decisions related to the rates, costs, funding, and terms of service related to FEU's AES business are made interim until the rules for FEU participation in this new business area are determined by the Commission in the AES Inquiry. In addition, Corix notes its concern surrounding the cost allocation and associated principles for allocations between AES and FEU's "traditional" gas business.

On September 1, 2011, the Commission issued a letter providing FEU with the opportunity to reply to the submissions of ESAC and Corix.

On September 9, 2011, FEU filed its Reply. FEU submit that concerns raised by ESAC related to the treatment of AES asset depreciation expense is a matter of class of service and not one of revenue requirements and thus outside the scope of the Application. In response to ESAC and Corix concerns related to AES cost allocation methodology, FEU submit that overhead cost allocations are typically within the scope of a revenue requirements application and they

do not believe that the Application sets out new “principles” for AES cost allocation. Finally, FEU submit that Corix’s request that FEI’s rates remain interim pending the Commission Determination in the AES Inquiry appears to be applicable regardless of the chosen Application process. FEU reaffirms their desire for finality to the rates resulting from this proceeding. In closing, FEU note that they would not be opposed to excluding the issue of overhead cost allocation between classes of services from the scope of an NSP and address them subsequently in a separate process.

4.0 Commission Panel Determination

After consideration of the Variance Application and the issues relevant to the 2012/2013 RRA, the Commission Panel has determined that an Oral Hearing encompassing all of the issues remains the most appropriate regulatory process. The Panel accepts that significant effort was made by FEU in withdrawing some requests, amending others and excluding some of the policy issues from the proposed NSP process. However, the Commission Panel remains unconvinced that an NSP process is appropriate in this instance for the following reasons:

1. An NSP process is a tool which complements the traditional regulatory process, and is one of a number of regulatory process options for handling a revenue requirements application. One of the chief advantages of an NSP is that it offers a relatively cost effective means of handling such applications in an expeditious manner. However, while offering certain advantages it also comes with disadvantages, the most important being the lack of a transparent record. The result of an NSP is a settlement agreement often with little or no detail as to how and why the various elements were agreed upon. To deal with this lack of a public record, the practice of the Commission has been to periodically conduct oral hearings to allow for a more open public process. The Commission has not conducted a full oral hearing for FEU with the purpose of setting rates revenue since the 2003 Revenue Requirement Application (for what was then BC Gas Utilities Ltd.). Given this length of time and the importance of the issues at play the Commission Panel stands by its comments in the Reasons for Decision appended to Order G-129-11 where it stated its belief that this was an opportune time to conduct an oral review.
2. The proposal put forward by FEU to vary the process would involve some of the issues being handled by way of some form of hearing and the balance being undertaken by way of an NSP. FEU has stated that this will lead to a more efficient process. The Commission Panel does not agree. We believe that handling this Application by two separate processes could prove to be less efficient and potentially more costly. We are not convinced that the time and effort required to prepare and undertake an NSP process followed by the requirement to prepare and conduct a further hearing, potentially preceded by a procedural conference, will

necessarily result in any administrative efficiency as compared to moving forward with only an oral hearing process.

3. FEU have characterized the allocation of indirect costs to the thermal energy class of service as a very small component of this proceeding. The Commission Panel does not agree. On the contrary, it is our view that the allocation methodology is significant due to the current and long term impact the methodology will have on ratepayers and competitors alike. Further, the Panel notes that the allocation of these indirect costs appears pervasive throughout various operating and maintenance costs of FEU and isolating their impacts is a difficult task. The Commission Panel is not persuaded that this matter could be separated from the proposed negotiated settlement process as it is uncontained and not isolated to a single or limited number of cost accounts.
4. FEU's proposal to vary the process contemplates excluding only some of the elements related to Energy Efficiency and Conservation (EEC) from the NSP process. Given recent Commission decisions and issues which have arisen in relation to the handling of the EEC program, the Commission Panel believes that the public interest will be best served by a thorough airing of issues related to the entire EEC program in an oral hearing.

Accordingly, the Commission Panel rejects the FEU Variance Application and orders that the hearing of the Application proceed in accordance with Order G-129-11 and the Amended Regulatory Timetable attached as Appendix A to that Order.