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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER G-129-11**

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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 July 20, 2011  
N.E. MacMurchy, 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 seek the following changes in rates:
- For FEI, an increase in interim and permanent natural gas delivery rates of 5.0 percent effective January 1, 2012 and a further 6.4 percent effective January 1, 2013;
  - For Fort Nelson, an increase in interim and permanent natural gas delivery rates of 6.5 percent effective January 1, 2012 and a further 1.6 percent effective January 1, 2013;
  - For FEW, an increase in interim and permanent natural gas delivery rates of 2.2 percent effective January 1, 2012 and a further 11.9 percent effective January 1, 2013; and

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- For FEVI, to maintain current natural gas rates for all customers other than those with specified rates in their transportation service agreements;
- C. In addition to changes in rates, the Companies have requested approval of a combined utility cost of service for 2013 subject to FEU obtaining, at a later date, the necessary approvals to amalgamate. In addition, the Companies requested, among other things, approval of the FEI Rate Stabilization Adjustment Mechanism rider for applicable rate classes and approval of the cost allocation to Thermal Energy Services (previously referred to as Alternative Energy Services) as set out in the Application and pursuant to section 44.2 of the Act, for Energy Efficiency and Conservation (EEC) expenditures;
- D. In accordance with Commission Order G-81-11, as amended by Commission Letters L-42-11 and L-45-11, a Workshop was held on Wednesday, May 18, 2011 for a review of the Application;
- E. By letter dated June 27, 2011, the Commission requested that participants make submissions on the potential use of “a combination of process options to review the Application” at the upcoming Procedural Conference for the Application;
- F. 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;
- G. The Commission has considered the views of FEU and all Parties as expressed at the Procedural Conference.

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

1. An Oral Public Hearing to review the Application, in its entirety, will commence on Monday October 3, 2011, at 9:00 am in the Commission Hearing Room on the 12<sup>th</sup> Floor, 1125 Howe Street, Vancouver, BC. An Amended Regulatory Timetable reflecting this and other changes is attached as Appendix A.
2. The FEU’s request, pursuant to section 89 of the Act, for interim rates as proposed in the Application for January 1, 2012 is rejected. FEU is asked to resubmit in their request for interim rates by October 1, 2011.

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3. The Commission Panel approves FEU's request to defer the filing of evidence with respect to FEVI and FEW's equity component required by Directive No. 7 of Commission Order G-158-09, to the Amalgamation and Rate Design Phase 'A' Application in Fall 2011.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 20<sup>th</sup> day of July 2011.

BY ORDER

*Original signed by:*

D.A. Cote  
Panel Chair/Commissioner

Attachments

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 Revenue Requirements and Natural Gas Rates

**AMENDED REGULATORY TIMETABLE**

<b>ACTION</b>	<b>DATE (2011)</b>
Commission Information Request No. 2 to FEU	Thursday, July 21
Intervener Information Request No. 2 to FEU	Thursday, July 21
FEU Response to Information Requests No. 2	Friday, August 19
Interveners to File Evidence (If required)	Tuesday, August 23
Information Requests on Intervener Evidence (If required)	Tuesday, September 6
Intervener Responses to Information Requests on Evidence (If required)	Tuesday, September 20
Oral Hearing to Commence	Monday, October 3
FEU Final Argument Submissions	Friday, November 25
Intervener Final Argument Submissions	Friday, December 16
FEU Reply Argument Submissions	Wednesday, January 18

Procedural Conference Location:  
Commission Hearing Room  
Twelfth Floor, 1125 Howe Street  
Vancouver, BC



**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**

**PROCEDURAL CONFERENCE – AMENDED REGULATORY TIMETABLE  
REASONS FOR DECISION**

**July 20, 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), 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 pursuant to sections 59 to 61 and 89 of the *Utilities Commission Act* (Application).

On May 6, 2011, the British Columbia Utilities Commission (Commission) issued Order G-81-11 which established, among other things, a Procedural Conference to take place on Wednesday, June 15, 2011, and an initial Regulatory Timetable for the Application.

By Commission Letter L-45-11 dated May 26, 2011, the Commission rescheduled the initial Procedural Conference to July 7, 2011 and established an Amended Regulatory Timetable. The Procedural Conference was held in Vancouver on that date.

The Parties were asked to make submissions on the following, among other matters:

- Identification of principal issues arising from or related to the Application;
- Process options for review of the Application, including;
  - negotiated settlement process;
  - written hearing;
  - oral hearing; or
  - as appropriate, some combination of the above
- Timetable for information requests, responses, intervener evidence, etc.); and
- Interim Rates.

By letter dated June 27, 2011 (Exhibit A-6), the Commission Panel requested that further to making submissions on process, the participants specifically address the following:

- Whether it is best to review the Application through a combination of process options;
- If so, for which elements of the Application should the Commission Panel adopt a different process option;
- Which process option should the Commission Panel adopt for the element; and why.

In addition to the Applicant, the following Interveners entered appearances and made oral presentations at the Procedural Conference:

- Corix Utilities Inc. (Corix),
- Energy Services Association of Canada (ESAC),
- Commercial Energy Consumers Association of British Columbia (CEC),
- British Columbia Old Age Pensioners Organisation *et al* (BCOAPO),
- B.C. Sustainable Energy Association and Sierra Club of British Columbia (BCSEA).

## 2.0. PROCEDURAL CONFERENCE OF JULY 7, 2011

### 2.1 Introduction

The Applicant and the Interveners raised a number of issues with respect to the Hearing in addition to those identified by the Commission Panel. These will be addressed by the Commission Panel in these Reasons for Decision and where appropriate, the Panel will make determinations on them. However, before examining the additional issues, we will first examine the submissions related to process options and determine how best to proceed with a hearing of this Application.

### 2.2 Process Options

FEU submit that they are open to a Negotiated Settlement Process (NSP) citing that in the past this process has served the parties well and the issues raised within the Application avoid those of a policy nature and are in line with traditional revenue requirement issues. However, FEU did identify the issues of asset losses and negative salvage and the adoption of the societal test with respect to new EEC initiatives as two issues which could be examined separately through a written process. (T: 1, 8-10)

Both Corix and ESAC state they have no preference as to process as their interest is narrow and focused on Alternative Energy Services (AES) and related funding issues. However, in later submissions ESAC noted that it was unlikely a positive outcome would result from an NSP process “unless we get our way a hundred percent.” ESAC further points out that it has nothing to trade and that would make a NSP process problematic. (T:1, 22-27, 59)

The CEC is supports a NSP process but states that there is value from both a practical and process standpoint to considering all issues, including those raised by FEU, within the NSP. (T: 1, 31)

BCOAPO submits that two key issues raised by this Application are utility consolidation and AES and an NSP process is not the place to determine policy issues related to these issues. Further, BCOAPO submits that issues related to asset losses and negative salvage and adoption of the societal test are also best settled through a process other than an NSP. BCOAPO also submits a written process is not appropriate for revenue requirements and asserts that carving off issues from a negotiated settlement will result in an unworkable process. (T:1, 36-44)

BCSEA, while not being adverse to a NSP is concerned about the prospect for success for this process noting the prospects for success diminish substantially if one of the key participants does not want an NSP. BCSEA further states its agreement with the CEC and BCOAPO that a written hearing would not work and an Oral Hearing is most appropriate if there is not going to be an NSP. (T: 1, 49-50)

### Commission Panel Determination

**After consideration of the varying points of view of the participants and issues at play in this Application the Commission Panel has determined that an Oral Hearing process encompassing all of the issues is most appropriate.** The Panel agrees with the view that in addition to the more traditional elements of a RRA proceeding, this Application raises a number of important issues which would not readily or appropriately be addressed using a NSP. On the contrary, utilization of a NSP runs the risk of failure or, as suggested by BCOAPO, leaving the Commission in the position of having either to accept or reject an omnibus package of settlement choices. The Commission Panel also agrees with those participants who took the position that a written process



would not be workable given the subject matter. In the view of the Panel an Oral Hearing will provide the opportunity for the participants to comprehensively review all elements of the Application including those of the amalgamated cost of service, AES, negative salvage and the societal test and more adequately assess them. Moreover, as the CEC points out "...the Commission has not had company witnesses before it in an oral hearing in some time..." With what is at stake, the Commission Panel believes this may prove an opportune time it to hear oral testimony.

**With respect to the Regulatory Timetable, the Commission Panel has determined that the most appropriate start date for the Oral Hearing is Monday, October 3.** None of the participants indicated the October dates would be a problem and the October 3 start date was the preferred date for FEU and the CEC.

## 2.2 Confidentiality

In its submissions ESAC noted there were a couple of confidential filings with this Application and raised concerns as to whether this kind of secrecy allowed a public hearing to be conducted in a manner which was consistent with the rules of natural justice. (T: 1, 29) Commission council addressed these concerns noting there was a Commission Directive dealing with confidential filings which outlines a process for parties to object to claims for confidentiality. In addition he pointed out that in some previous hearing the issue of confidential filings was addressed through confidential undertakings. (T:1, 54-55)

In Reply, FEU further commented on the need for confidential filings and submitted there were FEU reasons why the information should not be provided to another thermal energy market participant as FEU would be prejudiced if such information were disclosed to a potential competitor. (T:1, 68-69)

### Commission Panel Determination

The Panel observes that the Commission's Practice Directive on Confidential Filing provides a process for dealing with objections to confidentiality requests. **The Panel finds that these processes are adequate and encourages ESAC to review them and, if desired, proceed according to the provisions laid out within them.**

## 2.3 Timing of the AES Inquiry and the FEU RRA

Both Corix and ESAC expressed concern with the timing of this Application and the AES Inquiry which is expected to define principles that would govern FEU's activities in the thermal energy business. Both are interested in ensuring that there are no final determinations related to applications, funding and cost allocations in this Hearing which may get ahead of the Commission's determination of principles governing AES initiatives. Corix submits that any decisions related to thermal energy services, or EEC funding be made on an interim basis subject to adjustment following the AES Inquiry Decision. (T:1, 24)

ESAC submits that the conflict can be avoided by proceeding first with the AES Inquiry ahead of this Application or at least proceeding with the hearing of the two applications in parallel. ESAC notes that in the AES Inquiry a suggestion was made to either move the AES process along expeditiously or that some form of interim relief be put in place to ensure that FEU was not taking advantage of EEC funding to consolidate its position in the market thereby eliminating future competition. (T:1, 26-28)

In Reply, FEU point out that that an RRA provides funding for initiatives and that there are numerous initiatives that make up a RRA process and submit that customers benefit from rates which recover the costs of initiatives which have been pursued in the customer's interest. Further, FEU submit that putting off this RRA process to deal with the thermal energy issue amounts to the "tail wagging the dog." (T:1, 66)

### Commission Panel Determination

The Commission Panel is not persuaded there is sufficient reason to delay these proceedings as has been suggested by ESAC. We agree with the FEU's characterization of this as an example of the "tail wagging the dog." While the Panel in no way wishes to minimize the importance of the issues raised by both Corix and ESAC, we believe the public interest will be best served by moving ahead with the Application in a timely fashion. In addition, the Panel notes that since the Procedural Hearing of July 7, 2011 with respect to this Application, the Commission Panel for the AES Inquiry has issued Order G-118-11 that sets out the scope of issues for the Inquiry. In its Reasons for Decision, that Commission Panel addressed the issue of the impact of the Inquiry on previous decisions or on past processes now before the Commission, in part, as follows:

"While it may be beneficial to have the outcome of this proceeding known before similar issues are dealt with in other ongoing proceedings, it would be inefficient and potentially unfair for such proceedings to be delayed. The Panel sees the outcome of this proceeding as being applied in a forward looking manner and not impinging on past or current ongoing proceedings."

The Panel notes that this clearly outlines the intent of the AES Inquiry as being applied on a forward looking manner and not having a direct impact on either past or current proceedings.

With respect to the Corix submission on the need for any Decision related to thermal energy to be made on an interim basis, the Panel would like to point out that we are at an early stage in these proceedings and any decisions made on expenditures in any area will be based upon the evidence presented within this proceeding. Thus, at this time, the Panel sees no value in commenting further on this proposal.

### 2.4 Capital Structure

FEU has requested that it defer the filing of evidence on capital structure for FEVI and FEW to its upcoming application to amalgamate the FortisBC Energy Utilities. The Decision from the Terasen Utilities 2009 ROE and Capital Structure proceeding (Order G-158-09) requires that the two companies file evidence with respect to their capital structure as part of the next RRA Application. Noting its decision to proceed with a request to amalgamate the utilities, FEU requests this issue be dealt with once the amalgamation request has been filed. (T:1, 17-18)

None of the Interveners expressed any concern with this request. The Commission Panel agrees with FEU that the amalgamation application, which is expected this fall, will be a more appropriate place to deal with this issue. **The request to defer the filing of evidence on capital structure to the amalgamation proceeding is granted.**

### 2.5 Interim Rates

FEU requests that interim rates be approved for January 1, 2012 and submits that it has provided sufficient evidence upon which to base a change in rates at that date. FEU further states that normally the lead time required to implement new rates was four weeks but with new billing systems being implemented at the same time, there is a desire to have interim rates approved as soon as possible and avoid any complications. (T:1, 15-16)

The position of ESAC with respect to interim rates is that they “not be a basis upon which Fortis can continue to pursue freely business opportunities in the AES sector without clear rules being established to govern its conduct with respect to the use of EEC funds.” (T:1, 27-28)

BCOAPO states that interim rates are not a matter of entitlement and in this instance should not include dollars related to AES and EEC funding. (T:1, 44-45)

BCSEA supports the concept of interim rates and the figures proposed at a high level unless there is evidence to suggest the figures are not appropriate. BCSEA further notes that in its view the approval of new EEC programs would not be reflected in the requested interim rates. No other Interveners made submissions on this issue. (T:1, 51-52)

In Reply, FEU submits that the amount that thermal energy services affect the revenue requirement is \$500,000 and this is related to a reduction of the gas revenue requirement allocated to alternative energy services. FEU also submits that this “is a very small piece of the overall revenue requirements puzzle.” FEU further notes that the granting of interim rates is not a predetermining factor as to whether particular initiatives should be supported by EEC funding. (T:1, 64-65)

#### **Commission Panel Determination**

The Commission Panel accepts the submissions of FEU that the amount of money related to thermal energy services is relatively small and therefore has a minimal effect on customer rates. Because of this, and the fact that these rates are approved on an interim basis only and are subject to adjustment following the Decision on the Application, the Panel would normally approve these interim rates. However, the Panel notes that subsequent to this Procedural Conference, an Evidentiary Update was filed on July 19, 2011 which provided updates to the rates requested. The Panel has no assurance that further updates to rates will not be filed in the coming months as the review of this Application proceeds. Accordingly, the Commission Panel rejects FEU’s request for interim rates at this time and asks that the Companies re-file interim rate requests by October 1, 2011. This date should provide adequate time for any required process and for FEU to make the rate changes in a timely fashion.