

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-181-11**

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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 Sale of Part of the Tilbury Property
and Sale of Easement Rights Over an Easement Area on Neighbouring Land

BEFORE: M.R. Harle, Panel Chair/Commissioner

November 1, 2011

O R D E R

WHEREAS:

- A. On April 27, 2010, the British Columbia Utilities Commission (the Commission) by Order C-2-10 granted a Certificate of Public Convenience and Necessity (2009 Tilbury CPCN) to FortisBC Energy Inc. (FEI, then Terasen Gas Inc.) for the purchase of a parcel of land located at 6939, 7150 Tilbury Road, and 7505 Hopcott Road in the Tilbury Industrial Area of Delta, BC, adjacent to the Tilbury LNG Facility (the Tilbury Property);
- B. The approval of the CPCN was subject to the conditions set out in paragraphs 2-7 of Order G-68-10. In particular, directive No. 4 determined that \$3.3 million, relating to estimated net amount of the portion of the Tilbury Property south of Tilbury Road (the South Area), is captured in a non-rate base deferral account and the subsequent sale of the South Area is subject to further Commission approval. Directive No. 4 also indicates that the proceeds of sale will be applied to the deferral account to offset the balance in the account with any positive balance returned to customers or negative balance recovered from customers;
- C. On October 12, 2011, pursuant to section 52(1)(a) of the *Utilities Commission Act* and consistent with directive 4(c) and (d) of Commission Order G-68-10, FEI filed a confidential application (the Application) for approval of the sale of the South Area and the sale of easement rights encumbering part of the neighbouring land;
- D. In order to accomplish the sale transactions, FEI has entered into a contract with the District of Delta dealing with the sale and purchase of the South Area, and a contract with 1575436 Alberta Ltd. (Varsteel) dealing with the sale of easement and option rights that encumber part of the Varsteel property, both subject to the Commission's approval on or before November 10, 2011;
- E. On October 21, 2011, the Commission issued Order G-178-11 which established a review process to hear the Application in the presence of Registered Interveners (British Columbia Public Interest Advocacy Center and Commercial Energy Consumers), Commission Panel, and Commission staff. The review process took place on October 28, 2011 in Vancouver, BC which encompassed FEI's oral presentation of the Application along with discussions to assist all parties with a thorough review and understanding of the Application and its proposed transactions;

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F. The Commission has reviewed the Application and the information filed in this proceeding and considers that a decision is necessary and in the public interest.

NOW THEREFORE pursuant to section 52(a)(1) of the *Utilities Commission Act*, the Commission orders as follows:

1. The application for sale of the South Area of the Tilbury Property and sale of easement rights encumbering part of the neighbouring Varsteel property is granted.
2. The net proceeds from the sale and subdivision (estimated at \$3.2 million) are to be credited to the deferral account established pursuant to Commission Order G-68-10, with the disposition of the deferral account to be addressed in FEI's next revenue requirements application. The actual proceeds of the transactions will be adjusted by the related income tax benefits, calculated at the tax rate applicable to the year that the losses are deducted for income tax purposes.
3. Expansion of the deferral account to include any incremental rental revenue on a net of tax basis received from the Tilbury Property for the years 2012 and 2013 over and above what has been forecast in its 2012-2013 Revenue Requirements and Natural Gas Rates Application is approved.
4. Any future gain on the sale of the South Area within the next 10 years, that is shared 50/50 with the District of Delta, will be credited to the benefit of ratepayers.
5. The Commission agrees to keep Appendix B of the Application confidential. The Commission also agrees that the Application itself and Appendix D and E of the Application will be kept confidential until all commercial transactions contemplated in the contracts are complete. FortisBC will file a written notice to the Commission within 10 business days upon closing of all transactions. At that time, the Application along with Appendix D and E will then become public.

DATED at the City of Vancouver, in the Province of British Columbia, this 1st day of November 2011.

BY ORDER

Original signed by:

M.R. Harle
Panel Chair/Commissioner