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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER G-179-11**

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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 a Rate Schedule to Provide Thermal Energy Services  
to Delta School District Number 37

**BEFORE:** L.A. O'Hara, Panel Chair October 25, 2011  
R.D. Revel, Commissioner

### **ORDER**

#### **WHEREAS:**

- A. On October 17, 2011, FortisBC Energy Inc. (FEI) filed an application (Application) with the British Columbia Utilities Commission (Commission) for approval, pursuant to sections 59-61 of the *Utilities Commission Act* (Act) and Commission Order G-141-09, of thermal energy service contracts between FEI and Delta School District Number 37 (Delta SD) and a new rate for thermal energy services provided to Delta SD under those contracts;
- B. In the Application, FEI proposes to own and operate the thermal energy systems located on the Delta SD sites as agreed with Delta SD, and sought acceptance of an expenditure schedule for the project costs pursuant to section 44.2 of the Act;
- C. FEI requests interim approval of the rates and rate design contained within the contracts by October 31, 2011 as the price established for the installation of thermal facilities is contingent on the Commission granting approval by November 1, 2011;
- D. FEI requests confidentiality of the contracts filed under Appendices A,B, C and the financial model filed electronically under Appendix D;
- E. The Commission has reviewed the Application and materials filed and considers that a determination is required.

**NOW THEREFORE** for the Reasons for Decision attached as Appendix A, the Commission orders as follows:

1. The request for interim rates and rate design effective October 31, 2011 is denied.

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2. FEI is to advise the Commission within two working days of this Order if it intends to proceed with the Application as filed, notwithstanding the denial of interim approval, or withdraw the Application.
3. If FEI proceeds with this Application, FEI is directed to provide a more fulsome justification of its request for confidentiality within ten business days of this Order, and to include a redacted copy of the Application, Appendices A, B and C as well as a non-confidential statement of the outputs of the sensitive financial model in Appendix D.

**DATED** at the City of Vancouver, In the Province of British Columbia, this 25<sup>th</sup> day of October 2011.

BY ORDER

*Original signed by:*

L.A. O'Hara  
Commissioner

Attachment

An Application by FortisBC Energy Inc.  
for Approval of a Rate Schedule to Provide Thermal Energy Services  
to Delta School District Number 37

**REASONS FOR DECISION**

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**1.0 THE APPLICATION**

On October 17, 2011, FortisBC Energy Inc. (FEI) filed an application (Application) with the British Columbia Utilities Commission (Commission) for approval, pursuant to sections 59-61 of the *Utilities Commission Act* (Act) and Commission Order G-141-09, of thermal energy service contracts between FEI and Delta School District Number 37 (Delta SD) and a new rate for thermal energy services provided to Delta SD under those contracts.

Commission Order G-141-09 approved the FEI (formerly Terasen Gas Inc.) 2010 and 2011 Revenue Requirements and Delivery Rates Application Negotiated Settlement Agreement (FEI 2010-2011 NSA) and a proposed General Terms and Conditions of Service Section 12A-Alternative Energy Extensions (GT&C 12A). The Application states that GT&C 12A is a currently approved rate schedule that allows FEI to offer this service and the Application relies upon the approved schedule.

FEI has entered into 19 Energy Service Agreements with Delta SD and an Energy Service Rate Development Agreement under which FEI will provide the thermal energy service to the school sites under a single pooled rate (Application, Section 1.1). The total project costs \$6.2 million which is offset by a Contribution in Aid of Construction from Delta SD of \$1.357 million (Application, Sections 4.0, 4.2.3).

FEI proposes to own and operate the thermal energy systems located on the Delta SD sites as agreed with Delta SD and seeks Commission acceptance of an expenditure schedule for the project costs pursuant to section 44.2 of the Act. FEI states that the price established for the installation of the thermal facilities is contingent on the Commission granting approval by November 1, 2011 and accordingly requests interim Commission approval of the rates and rate design contained in the contracts by October 31, 2011.

**2.0 INTERIM APPROVAL OF RATES AND RATE DESIGN**

The Commission usually receives requests for interim rates in regards to a revenue requirements application where a utility submits evidence that the current rates are unjust or unreasonable pursuant to section 59 of the Act. Commission Order G-141-09 includes the FEI 2010-2011 NSA as an Appendix A to the Order. GT&C 12A is described on page 9 of Order G-141-09, Appendix A and quoted in Section 1.2.5, page 4 of the Application as:

“In evaluating AES projects, TGI will apply the economic test outlined in the Application. The Parties agree that the proposed GT&C (Section 12A-Alternative Energy Extensions) are acceptable. Pursuant to the *Utilities Commission Act*, within the Alternative Energy class of service, project-specific contracts with AES customers will be filed with the Commission for acceptance as a rate, at which time the Commission may review and adjust the economic test and GT&C Section 12A-Alternative Energy Extensions.”

The Commission has reviewed the approved tariff page for GT&C 12A and notes that the listed alternative energy extensions are geo-exchange, solar thermal and district energy systems. The Application proposes to provide thermal service to Delta SD through geo-exchange and high efficiency natural gas boilers (Application, Table 2, p. 23). **The examination of whether high efficiency boilers should be added to the list of alternative energy extensions cannot be resolved on an interim basis and requires further review.**

The agreement between FEI and the contractor for the installation of the thermal facilities requires Commission approval. If the Commission approval is obtained after November 1, 2011, then the contractor is eligible for an equitable adjustment to the milestone dates and the contract price.

**The Commission considers that a request for interim approval does not provide sufficient time for a thorough review of the Application and for the Commission to be satisfied that the proposed rates are in the public interest. Accordingly, the request for interim approval is denied.**

In this Application the agreements reached between FEI and the Delta SD were signed on September 26, 2011 and allow either party to terminate the agreements if the Commission has not accepted the rates for filing within 90 days which indicates potential termination by December 25, 2011. (Application, Tab A, Agreements, Article 11 BCUC Acceptance)

**The Commission notes the approval dates that have been included in the contracts FEI has entered into with the contractor and Delta SD but the Commission is not bound by those commitments and will endeavor to review the Application as expeditiously as possible. The Commission requires that FEI confirm within two days of this Order that FEI intends to proceed with the Application as filed, notwithstanding the denial of interim approval, or withdraw the Application.**

### **3.0 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) THRESHOLD**

The Commission notes that the CPCN threshold for AES projects has been set at \$5 million for 2011 (Commission Order G-141-09, Appendix A, p. 9). If the review of this Application proceeds, the Commission will examine whether the CPCN threshold should be applied based on the full project costs or net of the Contributions in Aid of Construction.

### **4.0 REQUEST FOR CONFIDENTIALITY**

The Application states that the contracts filed under Appendices A, B, C and the financial model filed electronically under Appendix D contain commercially sensitive terms and negotiated rates. FEI requests that the Commission hold the information in these Appendices confidential in accordance with the Commission's Practice Directive related to Confidential Filings.

**The Commission considers that lack of transparency is not in the public interest for utility regulation. Accordingly, if FEI proceeds with this Application, the Commission directs FEI to provide a more fulsome justification of its request for confidentiality within ten business days of this Order, and to include a redacted copy of the Application, Appendices A, B and C as well as a non-confidential statement of the outputs of the sensitive financial model in Appendix D.**