



ORDER NUMBER
G-109-17

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc.
2016 Rate Design Application

BEFORE:

K. A. Keilty, Commissioner/Panel Chair
W. M. Everett QC, Commissioner
D. J. Enns, Commissioner

on July 18, 2017

ORDER

WHEREAS:

- A. On December 19, 2016, FortisBC Energy Inc. (FEI) filed its 2016 Rate Design Application with the British Columbia Utilities Commission (Commission) and on February 2, 2017, FEI provided a supplemental filing which included a review of the rate design for the Fort Nelson service area (together the Application);
- B. On March 2, 2017, by Order G-30-17, the Commission established further regulatory process, which included a procedural conference to be held on July 5, 2017 to seek input from FEI and registered interveners on further regulatory process;
- C. On June 28, 2017, the Commission issued a letter, Exhibit A-10, requesting that at the procedural conference FEI and registered interveners provide input regarding an early decision on key topics, FEI's Transportation Service Review and any other issues within the Application;
- D. On June 28, 2017, through Exhibit C3-4, the British Columbia Old Age Pensioners' Organization *et al.* provided notice of their intent to file intervenor evidence to "bring forward rate design -related propositions and issues relating to FEI's service to low and fixed income British Columbians";
- E. FEI and the following interveners provided input on further regulatory process:
 - Commercial Energy Consumers Association of British Columbia
 - British Columbia Old Age Pensioners' Organization *et al.*
 - Industrial Customer Group
 - B.C. Sustainable Energy Association and Sierra Club of B.C.
 - Cascadia Energy Ltd.; and
- F. The Panel has considered the input and has made determinations regarding further regulatory process.

NOW THEREFORE, for the reasons attached as Appendix A to this order, the British Columbia Utilities Commission orders as follows.

1. The review of the FortisBC Energy Inc. (FEI) 2016 Rate Design Application (Application) shall proceed in accordance with the regulatory timetable set out in section 3.0 of the attached reasons.
2. A decision will be issued, following a streamlined review process (SRP) and written arguments, with determinations on the following key topics:
 - i. The Cost of Service Allocation (COSA) studies included in the Application; and
 - ii. The revenue to cost (R:C) ratio, the margin to cost (M:C) ratio and the range of reasonableness.
3. The proceeding will include a second round of information requests which should be focused as described under “All other issues” in section 2.3 of the attached reasons.
4. FEI’s Transportation Service Review will be decided separately from the rest of the Application, upon completion of a SRP and oral arguments on FEI’s Transportation Service Review only.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of July 2017.

BY ORDER

Original signed by:

K. A. Keilty
Commissioner

Attachment

FortisBC Energy Inc.
2016 Rate Design Application

REASONS FOR DECISION

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1.0 BACKGROUND

1.1 Filing of application and key events leading up to the procedural conference

On December 19, 2016, FortisBC Energy Inc. (FEI) filed its 2016 Rate Design Application (RDA) with the British Columbia Utilities Commission (Commission) and on February 2, 2017, FEI provided a supplemental filing which included a review of the rate design for the Fort Nelson service area (together the Application).

On February 21, 2017, the Commission issued a letter advising that Commission staff had retained an independent consultant, Elenchus Research Associates Inc. (Elenchus), to produce two independent reports, namely; a Cost of Service Allocation (COSA) Report and a Rate Design Report, both of which would become part of the evidentiary record.¹

On March 2, 2017, the Commission issued Order G-30-17, which established further regulatory process for the proceeding and included, amongst other things, two procedural conferences, Elenchus' submissions of the COSA Report and the Rate Design Report, and one round of information requests to FEI and Elenchus. The last action item in the regulatory timetable was a procedural conference to be held on Wednesday, July 5, 2017.

Elenchus filed the COSA Report on April 26, 2017. On June 9, 2017, FEI submitted its responses to Information Request No. 1 and Elenchus submitted its responses to information requests on the COSA Report. On June 23, 2017 Elenchus filed the Rate Design Report.

On June 28, 2017, the Commission issued a letter, which stated that the purpose of the July 5, 2017 procedural conference was to seek input from FEI and registered interveners on the further regulatory process in the proceeding.² The Commission requested that FEI and interveners address specific items by responding to questions outlined in the letter. A summary of those questions are:

Item A: Early decision on key topics

- Should the Panel issue an early decision with determinations on the following key topics:
 - The COSA studies included in the Application; and
 - Whether the revenue to cost (R:C) ratio; the margin to cost (M:C) ratio; or a combination of both R:C and M:C ratios should be used to guide rate design and the corresponding range(s) of reasonableness of the selected ratio(s)?
- Is further process needed to gather more evidence on the above key topics and, given the options presented, what is the preference to gather further evidence on the above topics?
- Is there a preference for when the review of the above key topics should occur and when the early decision of the above key topics should be issued?

Item B: FEI's Transportation Service Review

- Should FEI's Transportation Service Review be reviewed separately from the rest of FEI's Application?
- Is further process needed to gather more evidence on FEI's Transportation Service Review and, given the options presented, what is the preference to gather further evidence on FEI's Transportation Service Review?

¹ Exhibit A-4.

² Exhibit A-10.

- Is there a preference for when the review of FEI's Transportation Service Review should occur?

Item C: All other issues

- Is further process needed to gather more evidence on other issues in the Application not included in items A and B above and, given the options presented, what is the preference on further process?

On June 28, 2017, the British Columbia Old Age Pensioners' Organization *et al.* provided notice of their intent to file evidence to "bring forward rate design-related propositions and issues relating to FEI's service to low and fixed income British Columbians."³

2.0 POSITIONS OF PARTIES ON REGULATORY REVIEW PROCESS

In addition to FEI and Commission staff, the following interveners provided input on further regulatory process:

- Commercial Energy Consumers Association of British Columbia (CEC);
- British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO);
- Industrial Customer Group (ICG);
- B.C. Sustainable Energy Association and Sierra Club of B.C. (BCSEA); and
- Cascadia Energy Ltd. (Cascadia).

Cascadia provided its input through written submission filed as Exhibit C13-3 on July 4, 2017, but was not present at the procedural conference.

At the procedural conference the Panel noted that BCOAPO's evidence, if filed, could impact the regulatory process and timetable and sought more information by requesting BCOAPO to:

1. Discuss the nature of the evidence;
2. Explain if it could potentially impact FEI's COSA;
3. Discuss when BCOAPO expects to be ready to file the evidence; and
4. Suggest a process for dealing with the evidence and estimate how long this process would take, including how long it would take BCOAPO to respond to information requests on the evidence.⁴

The Panel provided other parties the opportunity to respond to BCOAPO's information as an additional item to be addressed during the procedural conference.

2.1 Item A – Early decision on key topics

FEI and ICG supported an early decision on the two key topics while Cascadia expressed that it had no objection. BCOAPO stated that it was concerned about an early decision in the absence of any further discovery prior to the decision. CEC and BCSEA were not in favour of an early decision on the two key topics.

FEI stated that it would be reasonable to proceed to arguments at this time without any further process to gather further evidence. FEI also expressed its preference for written information requests, if necessary, and if

³ Exhibit C3-4.

⁴ Transcript Volume 4, Procedural Conference - July 5, 2017, pp. 328-329.

an oral process was desired, FEI preferred a streamlined review process (SRP). BCSEA and Cascadia proposed an additional round of information requests. BCOAPO also indicated that it needed process to gather further evidence and submitted that a negotiated settlement process (NSP) could be useful. ICG and CEC preferred not to have a second round of information requests and instead supported the use of an SRP.

FEI proposed that the next action item in the regulatory process begin in late August 2017 due to resource constraints. ICG and CEC proposed August dates for the next action item in the regulatory process with ICG expressing availability concerns in the final week of August. BCOAPO, BCSEA and Cascadia made no submissions regarding the timing of the review of the key topics and the accompanying early decision.

In its reply, FEI reiterated its position that an early decision be made on the two key topics. FEI stated that the COSA studies and the range of reasonableness for the revenue to cost ratios were both discrete issues which are separate from rate design issues and other parts of the Application. FEI further argued that having a decision on the key topics would not lead to a less rigorous review of the Application. FEI opposed an NSP, stating that it had been some time since the Commission reviewed a FEI rate design and it would be beneficial to have the Commission do a full review and issue a decision with the reasons being public and available for future generations.⁵

Commission determination

The Panel determines that there will be a decision with determinations on the two key topics below:

- **The COSA studies included in the Application; and**
- **Whether the revenue to cost (R:C) ratio; the margin to cost (M:C) ratio; or a combination of both R:C and M:C ratios should be used to guide rate design and the corresponding range(s) of reasonableness of the selected ratio(s) (together revenue to cost ratios)**

The review of these two key topics will proceed with an SRP followed by written arguments. There was general support that these topics could be covered most effectively through an SRP. The Panel agrees with FEI in that it would be beneficial to have the Commission do a full review and issue a decision with publicly available reasons, as opposed to an NSP. As some interveners requested an additional round of IRs, the Panel notes that this could result in complex questions at the SRP which may result in undertakings. In the interest of efficiency, the regulatory timetable allows for any technical questions, which require detailed calculations, to be filed in advance of the SRP.

The Panel agrees with FEI's statement that the COSA studies and the revenue to cost ratios were both discrete issues and are separate from rate design issues and other parts of the Application. The Panel notes that a decision on these key topics could impact FEI's rate design proposals and would allow FEI to make adjustments to its rate design proposals if necessary.

2.2 Item B – FEI's Transportation Service Review

FEI, ICG, BCOAPO and Cascadia supported FEI's Transportation Service Review being heard and decided separately from the rest of Application. In addition, BCSEA stated that it was unable to argue that FEI's Transportation Service Review should be treated within the same basket as the rest of the Application. CEC was the sole intervener not in favour of separating the review of FEI's Transportation Service Review.

On further process, FEI indicated that it is content to proceed with any process to gather further evidence. FEI stated it prefers another round of written information requests and is also open to an SRP. FEI also requested an

⁵ Ibid., p. 376.

opportunity to file a response to the letter of comment submitted by Teck Coal Limited.⁶ BCOAPO indicated that it would like to ask further information requests on FEI's Transportation Service Review and mentioned that FEI's Transportation Service Review could be dealt with through an NSP or SRP. ICG submitted that further evidence is necessary but opposed information requests and instead proposed that an SRP be used to complete the evidentiary record. Cascadia requested that the Transportation Service Review allow for additional rounds of information requests, a round of intervener evidence, and finally, if there are outstanding issues at that time, the option of a full hearing process. BCSEA did not indicate any preference for further process.

CEC opposed a second round of information requests and submitted that an SRP should take place. While CEC proposed that FEI's Transportation Service Review be reviewed with the rest of the Application, CEC suggested that the SRP for FEI's Transportation Service Review take place on a separate day from a SRP for the remainder of the Application.

With regard to the timing of the review of FEI's Transportation Service Review, FEI proposed that it begin in late August and end with the reply argument in late October. Consistent with its position that all aspects of the Application should be reviewed together, CEC argued that it is inefficient and could be problematic for participants to be writing arguments on the key topics while preparing for other processes on the transportation issues. Cascadia submitted that the regulatory process for FEI's Transportation Service Review begin after the COSA review as a phase B. BCOAPO, ICG and BCSEA submitted that they had no preference for the timing of the review of FEI's Transportation Service Review.

In its reply, FEI reiterated its position that the FEI's Transportation Service Review be heard and decided separately from the rest of Application. FEI also opposed Cascadia's proposal for an oral hearing by quoting a previous Commission decision which stated that "determining the need for an oral hearing should be based on the specific circumstances of the matters within a particular proceeding and not because there has been a lapse in time since the last one."⁷ FEI also opposed the sequencing of the Transportation Service Review as a phase B submitting that there is no need for such a long delay as FEI's Transportation Service Review is a discrete topic. FEI did not comment on Cascadia's request for a round of intervener evidence.

Commission determination

The Panel determines that FEI's Transportation Service Review will be reviewed separately from the rest of the Application. There was general support for this separate review and the Panel notes that FEI's Transportation Service Review includes proposals that have a significant impact to a specific group of customers with issues primarily unrelated to the remainder of the Application.

FEI's Transportation Service Review will proceed with an SRP on only FEI's Transportation Service Review followed shortly after by oral arguments on this topic. There was general support for an SRP to address remaining issues on FEI's Transportation Service Review. The Panel notes that since the SRP will occur after IR No. 2, IR No. 2 may include information requests pertinent to FEI's Transportation Service Review. The Panel expects that this should reduce the duration of the associated SRP.

In its written submission in advance of the July 5, 2017 procedural conference, Cascadia requested that the review of FEI's Transportation Service Review allow for a round of intervener evidence. This was not addressed by FEI or other interveners during the procedural conference. Order G-30-17 outlined that interveners should provide notice of their intent to file intervener evidence by June 28, 2017. BCOAPO was the only intervener that indicated its intent to file intervener evidence by June 28, 2017. The Panel is of the view that, in the absence of

⁶ Exhibit E-1.

⁷ BC Hydro F2017 to F2019 Revenue Requirements Application, G-7-17, Appendix B, p. 9.

Cascadia's explicit statement of intent to file intervenor evidence on specific topics, the regulatory timetable should not assume that intervenors other than BCOAPO intend to file evidence.

The Panel notes CEC's submission regarding the difficulty of writing arguments on the key topics while preparing for other processes on the transportation issues. Despite FEI's Transportation Service Review being a discrete section of the Application as stated by FEI, the Panel is of the view that the timing of the review should be scheduled to allow parties to participate effectively in FEI's Transportation Service Review as well as all other sections of the Application.

2.3 Item C – All other issues

There was no opposition from FEI or intervenors on further process to gather more evidence on the remainder of the topics in the Application. Several parties stated that they would like to be able to ask Elenchus questions on Elenchus' Rate Design Report. FEI preferred that the remaining rate design issues be resolved through a written process and to the extent that there are issues that could not be addressed in writing, FEI proposed that an SRP occur instead of a limited-scope oral hearing. Several intervenors supported the use of an SRP to address any outstanding issues and no intervenors expressed an interest in an oral hearing for item C.

In its reply, FEI pointed out that, should a SRP occur, FEI would request that the SRP be staggered over several days with each day addressing different components of the Application. FEI stated that there would be different witnesses speaking to different aspects of the rate design and it would not be practical for FEI to have all the witnesses prepared to speak sequentially on a single day.

Commission determination

As there was no opposition from FEI or intervenors on gathering more evidence on the remainder of the topics in the Application, **the Panel determines that further process to gather more evidence on remaining issues in the Application is warranted.** The regulatory timetable includes a second round of information requests (IR No. 2) and the Panel expects that questions in IR No. 2 should be pertinent only to material issues previously raised in the proceeding, as opposed to introduction of new topics. The Panel considers that intervenors have had ample opportunity to raise issues in workshops, the development of the scope for Elenchus' Rate Design Report and through the first round of information requests to FEI and Elenchus. In the Panel's view, and as highlighted by ICG,⁸ the questions should not be in the nature of asking for arguments on issues. The questions should be aimed at gathering facts, clarifying evidence, facilitating a better understanding of the relevant issues and assisting with the resolution of the proceeding.

2.3.1 BCOAPO's evidence

At the procedural conference, BCOAPO submitted that it was looking at providing expert evidence and potentially ratepayer attestations as well. BCOAPO stated that the nature of that evidence would be providing a rate relief model, and evidence on appropriate terms and conditions to service low- and fixed-income FEI customers.⁹ BCOAPO does not expect its evidence to have an impact that would be material enough to prevent an early resolution or decision regarding the COSA studies or revenue to cost ratios and the range of reasonableness.¹⁰

BCOAPO advocated for a second round of information requests which it said would help to inform its evidence and suggested that one month after FEI responds to the second round of information requests would be an

⁸ Transcript Volume 4, Procedural Conference - July 5, 2017, p. 357.

⁹ Ibid., pp. 332-333.

¹⁰ Ibid., p. 349.

appropriate time for BCOAPO to file its evidence. BCOAPO anticipates being able to file responses to information requests on its evidence within three weeks. BCSEA supported BCOAPO, arguing that the process should unfold in the manner it normally does with the intervener having an opportunity to ask IRs, in this case a second round, and then file their evidence. BCSEA stated that they would support a second round of IRs if BCOAPO intends to ask detailed IRs to the utility regarding aspects that were relevant to the arguments that BCOAPO was putting forward.¹¹

BCOAPO and FEI both referred to the topic of the Commission's jurisdiction on low-income rates. It was noted that BCOAPO was pursuing an appeal with the Court of Appeal regarding certain of the Commission's determinations in Order G-5-17 for the BC Hydro 2015 Rate Design Application.¹² BCOAPO then stated that it would be content if the Panel considered deferring aspects of BCOAPO's evidence that rely on the Panel's jurisdiction on low-income rates until there is either a legislative change or a decision from the Court of Appeal regarding BCOAPO's application for leave to appeal.¹³

In its reply, FEI stated that after an opportunity to review BCOAPO's evidence, FEI would be content to file a motion to defer aspects of BCOAPO's evidence if necessary.¹⁴ FEI also explained that if BCOAPO's evidence had an impact on the COSA results, that impact could be calculated and the early decision adjusted if necessary, or that impact could be dealt with in a revenue requirement process.¹⁵

Commission Determination

In the BC Hydro 2015 Rate Design Application, BCOAPO requested the Commission to order BC Hydro to implement a number of proposals to assist low-income ratepayers who are having increasing difficulty paying electricity bills in an environment where electricity rates continue to rise while many people's incomes have become stagnated.¹⁶ In Decision G-5-17, the Commission determined that "there is no evidence that the UCA provides the Commission with the jurisdiction to approve a low income rate in the absence of an economic or a cost of service basis reason."¹⁷

On February 17, 2017, BCOAPO filed with the Commission, an application for Reconsideration and Variance of specific sections of Order G-5-17 related to the Commission's jurisdiction on low-income customers and, amongst other things, the test of discrimination in rate setting.¹⁸ By Order G-87-17, the Commission denied BCOAPO's application for reconsideration and variance.¹⁹ BCOAPO subsequently filed Notices of Application for Leave to Appeal to the Court of Appeal from both decisions.²⁰ At the procedural conference, Commission counsel advised that if the leave applications were granted then it was unlikely that a decision from the Court of Appeal on the full appeal would be delivered before 2018.²¹ The Panel notes that, depending on the outcome of BCOAPO's Court of Appeal process, an application for low-income rates for FEI's customers could be brought to the Commission in the future.

¹¹ Ibid., p. 363.

¹² Ibid., p. 339.

¹³ Ibid., p. 350.

¹⁴ Ibid., p. 380.

¹⁵ Ibid., pp. 372-373.

¹⁶ BC Hydro 2015 Rate Design Application Order and Decision, G-5-17, dated January 20, 2017, pp. 80-81.

¹⁷ Ibid., p. 80.

¹⁸ BCOAPO Application for Reconsideration and Variance of Order G-5-17 proceeding, Exhibit B-1, dated February 17, 2017.

¹⁹ BCOAPO Application for Reconsideration and Variance of Order G-5-17 – Final Order with Reasons for Decision, G-87-17, dated June 2, 2017.

²⁰ Vancouver, February 15, 2017, BC Court of Appeal File No: CA 44248

²¹ Transcript Volume 4, Procedural Conference - July 5, 2017, pp. 366-367.

In the Panel's view, until BCOAPO is granted leave and the Court of Appeal makes a ruling regarding BCOAPO's appeal, the Panel is only able to consider low-income rate design issues if the proposals can be supported by an economic or a cost of service justification.

The Panel notes that BCOAPO is "changing its direction somewhat in this process"²² and requests an opportunity to ask FEI questions in order to inform its evidence. The regulatory schedule in section 3.0 that follows includes a second round of information requests which provides BCOAPO the opportunity to ask detailed questions to the utility regarding aspects that are relevant to BCOAPO's evidence.

Once BCOAPO has filed its evidence the Panel will seek submissions on further process.

²²Transcript Volume 4, Procedural Conference - July 5, 2017, pp. 332.

3.0 REGULATORY TIMETABLE

The table below contains the schedule for further regulatory process.

Action	Date (2017)
FEI Response to letter from Teck Coal Limited	Thursday, August 3
Technical Questions to FEI on COSA and revenue to cost ratios	Thursday, August 10
Information Request to Elenchus on Rate Design Report	Thursday, August 10
FEI Responses to Technical Questions on COSA and revenue to cost ratios	Thursday, August 31
Elenchus Response to Information Request on Rate Design Report	Thursday, August 31
Streamlined Review Process on COSA and revenue to cost ratios ⁽¹⁾	Tuesday, September 12
FEI Written Final Argument on COSA and revenue to cost ratios	Monday, September 18
Intervener Written Argument on COSA and revenue to cost ratios	Monday, September 25
FEI Written Reply Argument on COSA and revenue to cost ratios	Friday, September 29
Information Request No. 2 to FEI ⁽²⁾	Thursday, October 12
FEI Response to Information Request No. 2	Tuesday, November 7
Streamlined Review Process on Transportation Service Review ⁽¹⁾	Wednesday, November 22
Oral Arguments on Transportation Service Review ⁽¹⁾ <i>(If Oral Arguments not delivered at SRP on Wednesday, November 22)</i>	Monday, November 27
BCOAPO Evidence	Tuesday, December 5
Intervener Written Submissions on BCOAPO Evidence Further Process	Friday, December 8
FEI Written Submission on BCOAPO Evidence Further Process	Thursday, December 14
Further Process	To be determined

Note

(1) Location: Commission Hearing Room
12th Floor, 1125 Howe Street
Vancouver, BC

(2) IR No. 2 to FEI covers all topics, including questions on FEI's Transportation Service Review