



**ORDER NUMBER**

**G-163-17**

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc. and City of Surrey Applications for  
Approval of Terms for an Operating Agreement

**BEFORE:**

R. I. Mason, Panel Chair/Commissioner

W. M. Everett, QC, Commissioner

B. A. Magnan, Commissioner

on November 02, 2017

**ORDER**

**WHEREAS:**

- A. On May 17, 2017, the City of Surrey applied to the British Columbia Utilities Commission (Commission) for an order pursuant to subsection 32(2) of the *Utilities Commission Act* (UCA) specifying the terms under which FortisBC Energy Inc. (FEI) may install, operate and maintain its distribution equipment in public places within Surrey's boundary limits (City of Surrey Application);
- B. On May 18, 2017, FEI applied to the Commission pursuant to section 32 of the UCA, or alternatively section 33 of the UCA, for approval of new operating terms with the City of Surrey (FEI Application). The new operating terms would, among other things, establish new protocols for interaction between the parties, address the allocation of costs when the City of Surrey requires FEI to relocate its facilities, and provide for FEI to collect operating fees on behalf of the City of Surrey from FEI customers in the City of Surrey;
- C. On December 13, 1955, the Public Utilities Commission issued a Certificate of Public Convenience and Necessity which authorized the British Columbia Electric Company (BCEC) to operate a natural gas distribution system in the District of Surrey pursuant to section 12 of the *Public Utilities Act*;
- D. On June 13, 1957, the Corporation of the District of Surrey (District of Surrey) and BCEC became parties to an operating agreement under which BCEC may install, operate and maintain its distribution equipment in public places within District of Surrey's boundary limits (1957 Agreement). In addition, the 1957 Agreement does not have an expiration date;
- E. In 1964, BCEC was amalgamated into the British Columbia Hydro and Power Authority (BC Hydro), a Crown corporation. The Lower Mainland natural gas assets of BC Hydro were privatized in 1988 and the natural gas assets transferred to 74280 B.C. Ltd. Subsequently, 74280 B.C. Ltd. became Terasen Gas Inc. and on March 1, 2011, Terasen Gas Inc. was renamed FortisBC Energy Inc.;

- F. In 1993, the District of Surrey became the City of Surrey;
- G. The 1957 Agreement is the existing agreement between FEI and the City of Surrey. The two parties have been engaged in negotiations since 2013 for replacement operating terms to reach a new agreement (Operating Agreement) to replace the 1957 Agreement;
- H. On November 8, 2016, the parties entered into an interim agreement that provided for the termination of the 1957 Agreement and its replacement by terms to be negotiated, or failing agreement, the parties would seek Commission approval for terms that were still unresolved by May 31, 2017;
- I. FEI and the City of Surrey have settled most of the new operating terms, but the parties disagree over the issues listed in the FEI Application and the City of Surrey Application;
- J. FEI and the City of Surrey each filed their proposed Operating Agreements as Appendix A in the FEI Application and Appendix B in the City of Surrey Application, which include all settled operating terms and FEI's and the City of Surrey's respective proposals for the outstanding items;
- K. By Order G-98-17 dated June 21, 2017, the Commission established a regulatory timetable for the proceeding which included information requests on the FEI Application and the City of Surrey Application and an opportunity for participants to provide comments on further process;
- L. By August 11, 2017, Mr. Richard Landale (Landale), Commercial Energy Consumers Association of British Columbia (CEC), The British Columbia Old Age Pensioners Organization et al. (BCOAPO), and Mr. Randolph Robinson (Robinson) registered as interveners;
- M. By October 13, 2017, FEI, City of Surrey, Landale, CEC, and BCOAPO submitted comments on further process. FEI, City of Surrey, and Landale proposed filing of evidence. FEI submitted that the regulatory review process should proceed by a written public hearing process, with a round of information request (IRs) only on evidence filed. Landale proposed a regulatory timetable which also suggests support for a written hearing process and further requested for a procedural conference and second round of IRs. City of Surrey suggested a Streamlined Review Process per Commission's Order G-37-12. BCOAPO and CEC suggested moving forward with Final Arguments, however expressed openness to additional process;and
- N. The Commission has reviewed the submissions on further process and considers that establishment of an amended regulatory timetable is warranted.

**NOW THEREFORE** for the Reasons for Decision attached as Appendix B to this order, the Commission establishes an amended regulatory timetable, as outlined in Appendix A to this order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this                    2<sup>nd</sup>                    day of November 2017.

BY ORDER

*Original signed by:*

R.I. Mason  
Commissioner

Attachment

FortisBC Energy Inc. and City of Surrey Applications for  
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**REGULATORY TIMETABLE**

Action	Date (2017)
FEI, City of Surrey, and Interveners file evidence	Thursday, November 30
FEI, City of Surrey, and Interveners file rebuttal evidence	Thursday, December 21
Action	Date (2018)
Commission Information Request No. 2 to FEI, City of Surrey, and Interveners on evidence, rebuttal evidence and any other matter within the proceeding	Thursday, January 11
FEI and Intervener Information Request No. 2 to City of Surrey on evidence, rebuttal evidence and any other matter within the proceeding	Thursday, January 18
City of Surrey and Intervener Information Request No. 2 to FEI on evidence, rebuttal evidence and any other matter within the proceeding	Thursday, January 18
FEI, City of Surrey, and Intervener response to Information Request No. 2	Thursday, February 15
Further Process	To Be Determined

FortisBC Energy Inc. and City of Surrey Applications for  
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**REASONS FOR DECISION**

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**1.0 Background**

On May 17, 2017, the City of Surrey applied to the British Columbia Utilities Commission (Commission or BCUC) for an order pursuant to subsection 32(2) of the *Utilities Commission Act* (UCA) specifying the terms under which FortisBC Energy Inc. (FEI) may install, operate and maintain its distribution equipment in public places within Surrey's boundary limits (City of Surrey Application). On May 18, 2017, FEI applied to the Commission pursuant to section 32 of the UCA, or alternatively section 33 of the UCA, for approval of new operating terms with the City of Surrey (FEI Application).

By Order G-98-17 dated June 21, 2017, the Commission established a regulatory timetable for the proceeding which included information requests on the FEI Application and the City of Surrey Application and an opportunity for participants to provide comments on further process.

FEI, City of Surrey, Mr. Richard Landale (Landale), Commercial Energy Consumers Association of British Columbia (CEC), The British Columbia Old Age Pensioners Organization *et al.* (BCOAPO) submitted comments on further process.

**2.0 Submissions on procedural matters**

**2.1 Regulatory review process**

In its submission on further process, City of Surrey states it “believes that the Commission's Streamlined Review Process (SRP), as set out in the SRP Policy, Guidelines and Procedures document appended to Order No. G-37-12, would be an efficient and appropriate means to provide all participants the opportunity to collectively gather additional information and actively participate in building an understanding of the issues involved in the respective City of Surrey and FEI applications.”<sup>1</sup>

FEI submits that “in the interests of regulatory and cost efficiency... the remainder of the regulatory review process should proceed by a written public hearing process.”<sup>2</sup>

Landale proposes a regulatory timetable which also suggests support for a written hearing process and further requests for a procedural conference.<sup>3</sup>

BCOAPO and CEC suggest moving forward with Final Arguments, however express openness to additional process.<sup>4</sup>

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<sup>1</sup> Exhibit B2-9, p. 2.

<sup>2</sup> Exhibit B1-10, p. 1.

<sup>3</sup> Exhibit C1-4, p. 3.

<sup>4</sup> Exhibit C3-4, p.1; Exhibit 2-4, p.1.

## 2.2 Other procedural matters

Landale suggests the following:

...the Commission Panel should consult with the Provincial Government Attorney General, and the Minister Responsible for Municipal Affairs to address the legal issues brought to the Commission by reference to s. 35 of the Community Charter and 34 the Oil and Gas Activities Act and sections 33 or 36 of the UCA. And any other legal recourse available to the BCUC for the protection of the citizens of surrey for a right to public consultation in this matter... Further I recommend the Commission Panel request of the Provincial Government Attorney General, and the Minister Responsible for Municipal Affairs appoint a binding Arbitrator to settle the final Operating Fee, after public consultation with the account owners and homeowners and businesses of Surrey.<sup>5</sup>

### *Panel Discussion*

At this time, the Panel defers making any determination on future process, including the possibility of an SRP or additional process, beyond the second information request stage. A Panel decision on future process will be made at a later date.

Upon the completion of the second information request stage, the Panel will determine whether an SRP or other additional processes will take place, based on the evidentiary record and submissions of the participants. The Panel is of the view that the evidence filings and second information request stage will shed light on multiple issues raised in the submissions on further process and could therefore help in determining further process on the regulatory timetable.

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<sup>5</sup> Exhibit C1-4, p. 2.