



ORDER NUMBER
G-18-19

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 January 29, 2019

ORDER

WHEREAS:

- A. On May 17, 2017, the City of Surrey applied to the British Columbia Utilities Commission (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);
- B. On May 18, 2017, FEI applied to the BCUC 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 entered into an operating agreement under which BCEC was permitted to install, operate and maintain its distribution equipment in public places within District of Surrey's boundary limits (1957 Agreement);
- 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 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 BCUC 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 BCUC 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 Order G-163-17 dated November 2, 2017, the BCUC established a regulatory timetable after reviewing the submissions on further process. The revised timetable included an opportunity for parties to file evidence and a second round of information requests;
- M. By Order G-201-17 dated December 29, 2017, the BCUC further amended the timetable to extend the information request no. 2 deadlines;
- N. By Order G-66-18 dated March 22, 2018, the BCUC established an amended regulatory timetable which included a Panel information request to the City of Surrey and an opportunity for participants to provide comments on further process;
- O. By Order G-92-18 dated May 14, 2018, following submissions on further process by registered participants, the BCUC established an amended regulatory timetable which included written final arguments from all parties and reply arguments from FEI and the City of Surrey. By June 28, 2018, all registered parties provided final and reply arguments and the evidentiary record was closed;
- P. By Order G-191-18 dated October 5, 2018, the BCUC reopened the evidentiary record and issued a regulatory timetable which included Panel information requests to FEI and the City of Surrey on use and occupancy of public places by a public utility, FEI and the City of Surrey's responses with further process to be determined;
- Q. By Order G-202-18, dated October 22, 2018, the BCUC established a regulatory timetable which included final arguments on the new evidence from all parties and reply arguments from FEI and the City of Surrey; and
- R. The BCUC has considered the FEI Application, City of Surrey Application, and the evidence and submissions filed in the proceeding and makes the following determinations.

NOW THEREFORE pursuant to section 32 of the *Utilities Commission Act* and for the reasons outlined in the decision issued concurrently with this order, the BCUC orders as follows:

1. FEI and the City of Surrey are directed to submit to this Panel for approval within 90 days a revised version of the New Operating Agreement containing the Agreed Terms and the terms specified by the Panel according to the directives provided in this Decision.
2. FEI and the City of Surrey are directed to comply with all other directives in the decision accompanying this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of January 2019.

BY ORDER

Original signed by:

R. I. Mason
Commissioner