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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER A-5-14**

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IN THE MATTER OF  
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

FortisBC Energy Inc.  
Customer Choice Program Sixth Annual General Meeting

**BEFORE:** D.A. Cote, Commissioner

September 3, 2014

**O R D E R**

**WHEREAS:**

- A. FortisBC Energy Inc. (FEI) obtained a Certificate of Public Convenience and Necessity (CPCN) on August 14, 2006, for the Commodity Unbundling Project for Residential Customers (Customer Choice) in accordance with the government's 2002 energy policy which allows for the direct sale of natural gas to residential and small volume commercial customers through gas marketing companies licensed by the BC Utilities Commission (Commission);
- B. Article 34 of the Code of Conduct for Gas Marketers (Appendix A to Order A-10-12) requires the Commission hold an Annual General Meeting (AGM) to discuss program improvements or enhancements;
- C. On February 3, 2014, by Order A-2-14, the Commission established a Preliminary Hearing Timetable for the Sixth AGM proceeding;
- D. In accordance with the Preliminary Hearing Timetable: FEI filed the Customer Choice program statistics for the 2013 calendar year on February 28, 2014; Interveners submitted issues for discussion by March 14, 2014; and Interveners submitted reply submissions on which issues warranted discussion and whether a written process or in-person meeting was warranted by March 28, 2014;
- E. On May 26, 2014, by Order A-4-14, the Commission established an in-person meeting and subsequent written process to address the issues requiring discussion, as outlined in Appendix B to that Order;
- F. On June 26, 2014, the Commission hosted the Sixth AGM for the Customer Choice program. Participants included FEI, Direct Energy Marketing Ltd. (Direct Energy), Just Energy (BC) Limited Partnership (Just Energy), Access Gas Services Inc. (Access Gas), the BC Old Age Pensioners Organization (BCOAPO) and Commission staff;

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- G. Following the Sixth AGM, FEI filed the 2013 Customer Choice Annual Report, summarizing the issues raised and parties' positions at the AGM. Gas marketers and BCOAPO made final submissions on July 24, 2014, and FEI filed its reply submission on August 7, 2014; and
- H. The Commission has reviewed the information and representations made by FEI and Interveners.

**NOW THEREFORE** the Commission orders as follows, for the reasons outlined in the Reasons for Decision attached in Appendix A of the Order:

1. FEI must submit to the Commission, licensed gas marketers and BCOAPO, by December 31, 2014, a cost estimate for adding functionality to the IT system to calculate the impact to the midstream cost revenue account of cancelling contracts outside of the anniversary date, for the purpose outlined in the attached Reasons for Decision.
2. August 1, 2015, is the first date gas marketers are permitted to market to and enroll customers on Vancouver Island and in Whistler, if licensed to do so, under the Customer Choice program.
3. Licensed gas marketers must make a Special Application for One-Time License Amendment to the Commission by June 1, 2015, to amend their gas marketer license to allow them to market to and enroll customers on Vancouver Island and in Whistler under the Customer Choice program, for the period August 1 – October 31, 2015. The Special Application Requirements and Instructions are attached as Appendix B to this Order.
4. November 1, 2015, is the first date licensed gas marketers are permitted to supply natural gas to customers on Vancouver Island and in Whistler enrolled in the Customer Choice program.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 3<sup>rd</sup> of September 2014.

BY ORDER

*Original signed by:*

D.A. Cote  
Commissioner

Attachment

FortisBC Energy Inc.  
Customer Choice Program Sixth Annual General Meeting

**REASONS FOR DECISION**

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**1. MIDSTREAM COST REVENUE ACCOUNT IMPACT OF RELEASING CUSTOMERS OUTSIDE OF THE ANNIVERSARY DATE AND THE PROCESS FOR DOING SO**

Direct Energy submitted this topic for discussion to understand the midstream cost revenue account (midstream account) impacts, if any, on a per customer basis of releasing customers from their contracts outside of the anniversary date, and to understand if a means exists to alleviate impacts to the Essential Services Model and reduce customer complaints (Exhibit C1-2).

The Essential Services Model (ESM) is the foundation for the Commodity Unbundling Program that was implemented for commercial customers on November 1, 2004 and for residential customers on November 1, 2007. Under the ESM, a gas marketer delivers an equal quantity of the natural gas commodity to FortisBC Energy Inc. (FEI) each month, based on the utility's normalized forecast of the gas marketer's customers' annual load requirements.

Under this model, a customer must remain enrolled in the program at the same fixed price for intervals no less than 12 months. This is because the gas marketer delivers the same amount of gas each month, despite the customer's varying consumption over the 12 month period. If a contract is cancelled within the 12 month period, the midstream account is impacted by either too much or too little gas being delivered for that contract.

The issue of cross-subsidization between Customer Choice participants and all FEI ratepayers was reviewed extensively during the initial program design, and the anniversary drop rule was developed to eliminate it. Under the anniversary drop rule, customers may only cancel contracts once a year, on the anniversary of the contract start date (the "anniversary date"). As this rule was accepted when the program was designed, the functionality to track the impact to the midstream account of contracts being cancelled outside the anniversary date was not built into the IT system. As such, FEI states they are unable to track the impact to the midstream account on a per customer basis due to IT system limitations (Exhibit B-4, p. 5).

During the Annual General Meeting (AGM), FEI noted that when the ESM was developed, an option to build functionality into the IT system to calculate the cost of cancelling contracts outside of the anniversary date, deemed the "exit fee", was explored and ultimately not incorporated (Transcript, pp. 36-37). Direct Energy supported exploring the option to build functionality into the IT system to calculate an "exit fee" (Transcript, pp. 37-38).

During the AGM, Commission staff proposed that FEI provide a cost estimate of building functionality into the IT system to make the “exit fee” calculation possible as a first step in considering this option (Transcript, p. 42). FEI agreed to do so as a separate process, outside of the AGM proceeding (Transcript, p. 45). In its Final Submission, FEI proposes to submit the cost estimate by the end of 2014 (FEI Final Submission, p. 4).

There was some discussion during the AGM regarding FEI developing a full cost-benefit analysis of the “exit fee” option (Transcript, p. 42). FEI argues that only 6 customers would have benefited from the “exit fee” option in 2013, based on the standard dispute data (Exhibit B-4, p. 8). Gas marketers disagree with this interpretation of the dispute data and argue that more customers would be interested in cancelling contracts outside of the anniversary date (Access Gas Final Submission, p. 1 and Direct Energy Final Submission, p. 3).

#### Commission Determination

**Given the contested nature of the benefit of an “exit fee” option, the Commission determines it is inappropriate for FEI to develop a benefit analysis of the option at this time, as proposed at the AGM** (Transcript, p. 42). FEI is therefore only required to provide a cost estimate of this option. Once the cost estimate is available, if gas marketers wish to pursue the option further, gas marketers may present a proposal to implement the option during the next AGM or as a separate application to the Commission.

In the Commission’s view FEI’s proposed deadline of December 31, 2014, provides adequate time for stakeholders to review the cost estimate prior to the next AGM. **The Commission therefore directs FEI to submit to the Commission, licensed gas marketers and BCOAPO, by December 31, 2014, a cost estimate for adding functionality to the IT system to calculate the impact to the midstream account of cancelling contracts outside of the anniversary date.**

#### **2. MAKING THE CUSTOMER CHOICE PROGRAM AVAILABLE TO CUSTOMERS CURRENTLY SERVED BY FORTISBC ENERGY (VANCOUVER ISLAND) INC. AND FORTISBC ENERGY (WHISTLER) INC. FOLLOWING AMALGAMATION**

At the AGM, FEI stated January 1, 2015 is the target date for amalgamation (Transcript, p. 51). FEI proposed that based on this effective date, the first possible date for gas marketers to flow gas to customers in the new service territories of Vancouver Island and Whistler should be November 1, 2015 (Transcript, p. 51). Direct Energy supports this proposed timeline (Direct Energy Final Submission, p. 4). No party opposed FEI’s proposed timeline.

Commission staff proposed the following process to license gas marketers to market to and enroll customers in the new service territories (Transcript, pp. 56-61):

- i. restrict marketing and enrolling activity until August 1, 2015; and
- ii. require a special application to market and enroll as of August 1, 2015.

Under staff's first proposal, gas marketers would not be able to market to or enroll Vancouver Island and Whistler customers until August 1, 2015. This timing would allow sufficient time for customers to understand the changes in their billing due to unbundling and to ensure a timely period (3 months maximum) between securing a fixed rate and flow. As background, when the program was first introduced in the residential sector in 2007, gas marketers were able to market and enroll six months prior to the first possible flow date. Therefore, some customers were agreeing to fixed rate prices six months in advance of flow. FEI's variable commodity charge can change up to two times during a six month period. Further, in this scenario, some customers do not see any change to their bill as a result of entering into a fixed-rate contract until six months, or more, after signing.

Direct Energy supports staff's proposed timeline for gas marketers being able to market to and enroll customers in the new service territories (Direct Energy Final Submission, p. 4). None of the parties opposed the proposed timeline.

Under staff's second proposal, the Commission would require gas marketers to make a special application to market to and enroll Vancouver Island and Whistler customers between August 1, 2015 and October 31, 2015. This application would ensure appropriate oversight and awareness regarding gas marketers' plans and activities in the new service territories. The next regular licence period, from November 1, 2015 to October 31, 2016, would cover all service territories, so licensed gas marketers who did not make the special application would be covered for the new service territories as of November 1, 2015.

BC Old Age Pensioners Organization (BCOAPO) and FEI support the Commission requiring gas marketers to submit a special application in order to market to and enroll customers in the new service territories to support a smooth transition (BCOAPO Final Submission, p. 2 and FEI Final Submission, p. 5).

Just Energy supports the inclusion of the new service territories in the Customer Choice program following amalgamation and "looks forward to further information on the special license application process from the Commission" (Just Energy Final Submission, p. 2).

Direct Energy would appreciate the opportunity to comment on the special licence application requirements (Direct Energy Final Submission, p. 4).

Commission Determination

**Based on the discussion and submissions during the AGM proceeding, and following further consideration, the Commission determines the process for including all customers currently served by FortisBC Energy (Vancouver Island) Inc. and FortisBC Energy (Whistler) Inc. into the Customer Choice program following amalgamation is as follows:**

Date	Milestone
June 1, 2015	Deadline for licensed gas marketers to make Special Application for One-Time License Amendment to the Commission to amend their gas marketer license to market to and enroll customers on Vancouver Island and in Whistler for the period August 1, 2015 to October 31, 2015. Special Application Requirements and Instructions are attached as Appendix B to the Order.
August 1, 2015	First date gas marketers licensed to do so (by approval of the Special Application for One-Time License Amendment) may market to and enroll customers on Vancouver Island and in Whistler.
September 1, 2015	Deadline for gas marketers to apply to the Commission to obtain or renew their gas marketer license for all service territories, for the regular license period of November 1, 2015 to October 31, 2016.
November 1, 2015	First date gas marketers can flow to customers on Vancouver Island and in Whistler.

If amalgamation does not take effect on January 1, 2015 as planned, the Commission will consider whether amending the dates in the table above is appropriate depending on the extent of the delay.

**3. ISSUES NOT REQUIRING FURTHER DISCUSSION OR ACTION**

This section outlines the Commission’s reasons for determining that the following issues require no further discussion or action: bill-ready capability proposal; proposal to remove a question from the Third Party Verification script; monthly consumption file; and potential for a Commission-led fulsome review of the Customer Choice program.

### 3.1 Bill-ready capability proposal

During the Fourth AGM, FEI agreed to review up to three alternative pricing proposals put forth by gas marketers to assess the viability of adopting other pricing options, provided the alternative pricing options were consistent with the Essential Services Model (ESM) (2012 Annual General Meeting Transcript, pp. 139-141). FEI's offer to review alternative pricing options was reiterated during the Fifth AGM (Customer Choice Fifth Annual General Meeting Transcript, p. 79).

During the current AGM proceeding, Just Energy proposed an alternative pricing option, bill-ready capability, wherein the gas marketer charges a flat monthly gas supply rate as opposed to the fixed natural gas supply rate (Exhibit C3-2). According to Just Energy, two possible avenues for implementing this option include: allowing FEI to accept flat monthly supply prices as opposed to fixed rates; and, billing the commodity line as \$0/GJ and allowing charges to appear as an additional bill line item (Exhibit C3-2).

In response, FEI demonstrated how the proposal violates the ESM as it is essentially a variable rate because the price remains the same while consumption varies (Exhibit B-3, pp. 6-8). As the pricing option is not compatible with the ESM, the proposal was included on the AGM Issues List on the basis of questions only regarding FEI's analysis of the pricing option, as opposed to a broader discussion regarding the ESM.

During the AGM, only one party asked a question regarding FEI's analysis of the proposed pricing option; Just Energy asked: "is there another way that we could get [the proposed flat monthly rate] to work?" (Transcript, p. 67). No parties had suggestions on how to make the proposed flat monthly rate compatible with the ESM.

#### Commission Determination

**The issue was included on the basis of questions regarding FEI's analysis only, and there were no substantive questions regarding FEI's analysis of the proposed pricing option. Therefore, the Commission determines the issue requires no further discussion or action.**

### 3.2 Proposal to remove a required question from standardized Third Party Verification script

Just Energy proposed modifying the standardized Third Party Verification (TPV) script by removing the following required question: "would you like to get a copy of the agreement for reference during the call?" (Exhibit C3-2). According to Just Energy, the question: "calls into question the legitimacy of the agreement and further assumes that the consumer is at their residence at the time of the call; which is not the case in *[sic]* many instances" (Exhibit C3-2, pp. 2-3). Just Energy further submits: "the removal of this question does not compromise the purpose of the TPV call or the Code of Conduct" (Exhibit C3-2, p. 3).

During the AGM, Commission staff opposed the proposal to remove the question from the script (Transcript, p. 73). In staff's view, as outlined at the AGM, the slight confusion the question can cause during a TPV serves the customer and the purpose of the TPV. While for every other question during the TPV, the customer answering "no" would force the call to end without completing the verification, customers can answer "no" to this question and continue with the call. Based on staff's experience listening to TPV calls, customers generally answer "no" to this question, as most do not want to get a copy of the agreement for reference, but many pause before doing so, perhaps as they are aware that generally, a "no" answer would result in the termination of the verification call. In staff's view, this question therefore forces awareness and demonstrates critical thinking on the part of the customer (Transcript, pp. 73-75).

At the AGM, staff noted that according to the Code of Conduct, gas marketers may apply to modify their TPV scripts. Staff suggested if gas marketers are having issues with this question, they may wish to modify their script; proposed modifications to the script must be submitted to the Commission for staff's review and approval prior to use (Transcript, pp. 74-75).

BCOAPO and FEI support Commission staff's view that the question should not be removed from the script, as proposed by Just Energy (BCOAPO Final Submission, p. 3 and Exhibit B-4, p.14).

Just Energy is satisfied with Commission staff's proposed solution to their issue with the TPV question, as outlined above (Just Energy Final Submission, p. 2).

FEI raised a new proposal regarding this matter in their Final Submission, that gas marketers' applications to modify the standardized TPV script be distributed for stakeholders' review and comment (FEI Final Submission, p. 6).

#### Commission Determination

**As the parties agree the question should not be removed from the TPV script, this issue requires no further discussion or action. The Commission denies FEI's proposal that gas marketers' TPV script modifications be distributed for stakeholder review and comment on the basis that gas marketers' marketing materials, including TPV scripts, are proprietary.**

### **3.3 Monthly consumption file**

Currently, the monthly consumption file provided to gas marketers, reports customers' consumption quantity, but not the consumption dollar amount (i.e. Gigajoules (GJs) consumed multiplied by the gas marketer's fixed rate). At the AGM, Just Energy proposed modifying the monthly consumption file to include the consumption dollar amount in addition to the consumption quantity (Transcript, p. 80).

FEI stated that it would cost approximately \$18,000 to \$20,000 for the IT change to add a reporting parameter to the monthly consumption file (Transcript, p. 81). Given the cost, FEI asked the gas marketers if they were interested in paying that amount for the proposed change (Transcript, p. 81).

FEI, Direct Energy, Access Gas and Just Energy confirmed that the current monthly consumption file shows the marketer group (price) and the consumption quantity; therefore gas marketers can manually calculate the consumption dollar amount by multiplying the rate charged under the marketer group by the consumption (Transcript, pp. 81-82).

Access Gas stated they were not interested in pursuing the change to the consumption file (Transcript, pp. 82). Just Energy acknowledged there was “not a lot of interest around this” (Transcript, p. 83). In their final submission, Just Energy states they will: “work outside the FEI process to determine a better way to calculate the commodity charge dollar amount independently” (Just Energy Final Submission, p. 3).

#### Commission Determination

**Given the lack of interest in pursuing the IT change required to modify the consumption file, the Commission determines no further action on this item is warranted.**

#### **3.4 BCOAPO request discussion of a Commission-led fulsome review of the Customer Choice Program**

BCOAPO raised the issue of a potential Commission-led fulsome review of the program for discussion, “as 2012 was the five-year anniversary of the program, but ultimately [BCOAPO] did not push for the review during that proceeding” (Exhibit C4-2, p. 2). At the AGM, Commission staff provided the following context for a discussion on this issue:

“The Commission’s role is not to challenge government policy... what we are here to do, is to ensure that the parameters of the program as it has been rolled out by the government are put in place and are administered properly. So, a review that would take place would need to focus on the objectives of the government laid out when they first initiated the program, looking at how effective the program has been in meeting those objectives, as well as looking at any design mechanisms that could cause problems to the customers or to the gas marketers or to the utility administering the program” (Transcript, p. 89).

Direct Energy, Access Gas and Just Energy noted their support for the existence of the Customer Choice Program in BC (Transcript, pp. 93-95). A lengthy discussion followed on the objectives of the program, the program rules and consumer protection measures in place.

BCOAPO states: “Following the discussion at the AGM, BCOAPO is satisfied that a fulsome review of the Customer Choice Program is not warranted at this time” (BCOAPO Final Submission, p. 3).

While BCOAPO does not feel a program review is warranted at this time, BCOAPO submits: “that a customer satisfaction survey among participating customers would be useful to identify any remaining issues with the Program” (BCOAPO Final Submission, p. 3). During the AGM, and in final submissions, no parties supported BCOAPO’s proposal for a survey.

#### Commission Determination

**Given BCOAPO’s satisfaction that a program review is not warranted at this time, and the lack of interest in a fulsome review from the other parties, the Commission determines that the potential program review requires no further discussion or action.**

It is the Commission’s view that adequate customer feedback on any remaining or emerging issues with the program, or gas marketers’ behavior, is readily available via the complaints and dispute processes. **As adequate feedback is already available, and there is a lack of support from other parties for a customer satisfaction survey, the Commission denies BCOAPO’s proposal to conduct a customer satisfaction survey.**

**Special Application for One-Time License Amendment for the Purpose of Marketing Natural Gas to Vancouver Island and Whistler for the period August 1, 2015 to October 31, 2015**

**Special Application Requirements**

All of the following items must be submitted to the Commission by June 1, 2015:

1. A completed Certification regarding this Special Application for One-Time License Amendment (Form A below);
2. A \$500 Application Fee made payable to the Minister of Finance;
3. Target areas and timing, for example: *“Victoria, Saanich and Sidney: June 2015; Duncan, Ladysmith and Nanaimo: July 2015; Courtenay, Comox and Campbell River: August 2015”*;
4. Description of the applicant’s entry and marketing strategy to ensure a smooth transition to the new service territories;
5. The following information for each salesperson\* operating on Vancouver Island/in Whistler on behalf of the applicant:
  - First and Last Name
  - Date of Birth (and/or Social Insurance Number if salesperson’s consent given)
  - Years employed in gas marketing industry
  - Length of time employed by or conducting marketing on behalf of the applicant
  - Complaints ratio for past year (or as long as the salesperson has been employed, if less than one year) calculated as follows: Number of complaints by customers regarding the salesperson divided by number of enrollments submitted by salesperson
  - Criminal record check completed? [y/n]
  - References checked prior to hiring? [y/n]

\*For the purpose of this application, salesperson means a person who is employed by or otherwise conducts marketing on behalf of the applicant, or makes representations to consumers on behalf of the applicant for the purpose of effecting sales of Gas to Low-Volume Consumers.

6. Such other information that the Commission may require.

**Special Application Instructions:**

This is a one-time license amendment application **only** for licensed gas marketers and **only** if that gas marketer wishes to participate in Customer Choice in the new service territories of Vancouver Island and Whistler for the period August 1 – October 31, 2015.

For the subsequent period, November 1, 2015 – October 31, 2016, gas marketers are to submit to the Commission, by September 1, 2015, an application to Market Natural Gas in accordance with the Rules for Gas Marketers established by Order A-12-13. Upon approval of that application, a gas marketer will be licensed to participate in Customer Choice from November 1, 2015 – October 31, 2016, in all service territories, including Vancouver Island and Whistler, unless specifically restricted from operating in certain service territories.

Gas marketers not currently licensed in BC are required to submit to the Commission an application to obtain a Licence to Market Natural Gas in accordance with the Rules for Gas Marketers established by Order A-12-13, **and** the Special Application Requirements set out above, if they wish to operate in Vancouver Island and Whistler as of August 1, 2015.

**Incomplete applications will not be processed by the Commission and will be returned to the Applicant.** Type or print clearly all information in black ink. Please send one electronic and one hardcopy version of the application to:

British Columbia Utilities Commission  
Sixth Floor, 900 Howe Street  
Vancouver, BC V6Z 2N3

Attention: Manager, Gas Marketing Programs  
Email: [Customer.Choice@bcuc.com](mailto:Customer.Choice@bcuc.com)  
Facsimile: 604-660-1102

**Special Application for One-Time License Amendment Certification - FORM A**

By signing this Application, and to verify the information provided on this form, you authorize the Commission to collect additional information from some or all of the following sources: federal, provincial/state and municipal governments; licensing bodies; law enforcement agencies; sheriffs' offices; credit bureaus; professional and industry associations; and former and current employers. **Only information relevant to your application will be collected.**

**The Applicant certifies that the foregoing information and materials accompanying this Application are correct.**

Note: The proprietor or at least one partner, officer or director of the organization must sign this Application. In addition, each individual who has provided information in Section "C" must sign this Application.

<u>Print Name and Title</u>	<u>Signature of Applicant</u>	<u>Date Signed</u>