

January 25, 2013

British Columbia Utilities Commission
Sixth Floor
900 Howe Street
Vancouver, B.C.
V6Z 2N3

Attention: Ms. Erica M. Hamilton, Commission Secretary

Dear Ms. Hamilton:

Re: FortisBC Energy Inc. (“FEI”)

Biomethane Service Offering: Post Implementation Report and Application for Approval of the Continuation and Modification of the Biomethane Program on a Permanent Basis (the “Application”)

Update on Matters Related to Third-Party Suppliers

At the procedural conference on January 22, 2012, FEI indicated that an application would be filed for rates for the third-party biomethane suppliers and undertook to provide information on the status of the supply contracts and deadlines for their approval. Since the procedural conference, FEI has had the opportunity to have further discussions with the third-party suppliers. FEI has also had the opportunity to discuss these matters with Commission staff. FEI is filing this letter today to update the Commission on matters related to the third-party suppliers and address some issues raised by Commission staff.

Applications for Rate Approval

At the procedural conference, FEI indicated that an application would be filed for each of the suppliers for rate approval within a week of the procedural conference.¹ FEI has discussed this matter with the suppliers and each of the four third-party suppliers will be filing a letter with the Commission by Tuesday, January 30, 2012. Sea Breeze, Dicklands and Earth Renu will be requesting approval of their supply agreements as a rate pursuant to sections 58-61 of the *Utilities Commission Act* (the “UCA”), and will provide supporting information.

However, after discussions with Commission staff and upon further review of the definition of “public utility” in section 1 of the UCA, it is clear that Metro Vancouver is exempted from regulation. The definition of “public utility” in the UCA excludes “a municipality or regional district in respect of services provided by the municipality or regional district within its own boundaries”. Metro Vancouver is a regional district and will be supplying their biomethane to FEI within their own boundaries. Accordingly, Metro Vancouver is exempted from regulation as a public utility and will not be seeking rate approval from the Commission. We understand that Metro Vancouver will be filing a letter providing some additional information on their supply project to aid the Commission in its review of its supply agreement.

¹ Transcript Volume 1, page 69, lines 19 to 25.

Status of Supply Agreements

At the procedural conference, FEI undertook to provide more information on the status of the negotiation of each contract and our estimate of the drop dates were for each contract.² The negotiation of each of the contracts is complete and the executed contracts are each filed in Exhibit B-1, Appendix J-1. The date of execution of each of the supply contracts are as follows:

1. Biomethane Purchase Agreement between FEI and Dicklands Farms, dated November 30, 2012
2. Biomethane Purchase Agreement between FEI and Earth Renu Energy Corp., dated September 21, 2012
3. Biomethane Purchase Agreement between FEI and Metro Vancouver, dated October 16, 2012
4. Biomethane Purchase Agreement between FEI and SeaBreeze Farms Ltd., dated September 16, 2012

In the course of preparing this letter, it was noticed that the supply agreement with Metro Vancouver filed in Exhibit B-1, Appendix J-1 was not the fully executed version. FEI will be filing an amendment to the Application with the fully executed version, which shows the execution date of October 16, 2012.

FEI has heard from the suppliers regarding the financial pressures they are under with respect to the development of their projects and understands that some suppliers are under more time pressure than others. Each of the suppliers began the process of developing their respective projects in parallel with the biomethane purchase agreement negotiation. This includes initiating permit approvals, preliminary design and securing financing in the form of loans or investments. Depending upon the progress in those areas, some are closer to beginning construction than others. FEI believes that the timeline for approval provided by suppliers is dictated primarily by the financial arrangements and expected revenue which is based on the successful delivery of biomethane to FEI. Each of the suppliers has agreed to address in their letters to the Commission the particular circumstances that they face and their deadlines for approval of the agreements.

CPCN Approval Not Required

At the request of Commission staff, we reiterate that, based on the existing CPCN threshold of \$5 million maintained by the Commission in the AES Inquiry Report, a CPCN is not required for the three supply projects subject to the Commission's jurisdiction (i.e. Earth Renu, Sea Breeze and Dicklands Farms).³ The capital costs of each of the upgrading facilities for the supply projects is under \$5 million.⁴ As noted above, since Metro Vancouver is exempt from regulation pursuant to the definition of "public utility" in the UCA, a CPCN is not required for Metro Vancouver in any case.

² Transcript Volume 1, page 71, line 22 to page 72, line 10.

³ Exhibit B-5.

⁴ Exhibit B-5-1.

Treatment of Interconnection Facilities

Also at the request of Commission staff, we reiterate that our proposed treatment of the interconnection facilities for each of the supply projects is the same as the treatment of interconnection facilities under the two-year pilot and as set out in the Application. FEI would own and operate the interconnection station on the supplier's property, consisting, amongst other things, of the receipt meter and odorizing equipment. FEI would also own and operate the pipe downstream of the receipt meter, i.e. from the interconnection station to the existing system.⁵ Details on the interconnection facilities is included in section 7 of the Application. As under the pilot period and as described in section 9 of the Application, FEI is proposing that the costs of the interconnection facilities be recovered from all customers.

Review Process for Supply Agreements

Finally, given the new information that FEI now has and with the input of Commission staff, FEI wishes to address the form of review process it recommends for the supply agreements. As submitted at the procedural conference, FEI's preference is for a full review of all aspects of the Application together under a single process. However, FEI is concerned about its third-party suppliers who need approval in a timeframe that may only be possible if they are addressed separately. As set out in the Application, there is a limited amount of biomethane supply in this Province that could be developed and brought onto FEI's system. Any lost projects would be detrimental to the biomethane program and FEI's ability to meet future demand for biomethane. Based on current forecasts, FEI plans to use the supply from the four proposed supply projects to meet its forecast demand in 2015.

Therefore, consistent with its submissions at the procedural conference, FEI submits that those third-party suppliers that need approval on a more urgent basis than can be accommodated in the review of the pilot program and Application as a whole, should be reviewed separately in a more expedited process. Whether any separate process is required and, if so, how many supply projects should be separated off, would depend on when a decision from the Commission can be expected on the review of the pilot program and the Application as a whole and what the third-party suppliers indicate with respect to their needs for approval by a certain date.

For those supply agreements that are separated off, FEI submits that the Commission should review them separately as a form of limited expansion of the pilot project. The Commission could apply the terms and conditions of the pilot project to the review of these supply agreements with the exception of an increase to the current supply limit under the pilot if approved. This proposal would limit the implications of the review of the supply agreements, and allow the Commission to otherwise review the terms of the biomethane program going forward. In addition, if any supply agreements are reviewed under a separate process, FEI submits that the Commission should also consider FEI's request for acceptance under section 44.2 of the capital costs for the interconnection facilities for the supply projects under review. This would be an efficient process, as the interconnection facilities are necessary for the supply projects to inject biomethane onto the system.

⁵ Exhibit B-5.

If there are any questions regarding the attached, please contact Shawn Hill at (604) 592-7840.

Yours very truly,

FORTISBC ENERGY INC.

Original signed by: Ilva Bevacqua

For: Diane Roy

Attachment

cc (e-mail only): FEI 2012 Biomethane PIR and Application