

January 9, 2018



VIA E-FILING

Patrick Wruck
Commission Secretary
BC Utilities Commission
6th Floor 900 Howe Street
Vancouver, BC V6Z 2N3

Reply to: Leigha Worth
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Ph: 604-687-3034

Dear Mr. Wruck:

**Re: FortisBC Energy Inc. Application for Approval of Tariff Supplement No. K-1
Biomethane Long Term Large Volume Interruptible Sales Agreement between
the University of British Columbia and FEI ~ Project No.1598930**

We make the following submissions on behalf of our clients, British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, and the Tenant Resource and Advisory Centre ("BCOAPO et al."). The constituent groups of BCOAPO et al. represent the interest of low and fixed income energy consumers within BC and more specifically in this process, the interest of FortisBC Energy Inc.'s low and fixed income residential ratepayers.

Introduction

In August of 2015, FEI filed an application seeking approval of the Biomethane Energy Recovery Charge (BERC) Rate Methodology, a process that BCOAPO participated in. Almost a year later, the BCUC issued G-133-16 approving the Short Term BERC Rate at the CCRA plus a premium of \$7.00 per GJ, the British Columbia carbon tax and any other taxes applicable to natural gas sales, effective as of January 1st of each year and a Long Term Contract BERC Rate with a \$1.00 discount from the Short Term Contract BERC Rate subject to a number of terms such as a minimum contract volume, term, strike price, and the requirement that the contracts must include a "Contract Floor Price" to ensure that the price of renewable gas in years five and after is not charged at a lower rate than conventional natural gas.

This application is for the approval of Tariff Supplement No. K-1 between FEI and UBC for a long term, large volume interruptible biomethane supply. The terms and conditions of this tariff supplement are that the contract's term is 10 years, the service charge will be \$10.00 per GJ, with a minimum annual purchase of 71,000 GJ of biomethane and a contract floor price provision for years 5 to 10 of the agreement.

BCOAPO Position on the Application

There are those who might assume that a coalition groups representing the interests of low and fixed income residential ratepayers would focus solely on the price of their own energy but, as the BCUC and others who participate in these processes know, BCOAPO's constituent groups take a much more progressive and nuanced position on the issues that relate to their energy providers.

BCOAPO supports environmentally sustainable energy use and programs like FEI's biomethane one provided it is in the public interest, there is a real appetite for the proposed program, and if it structured in such a way that the costs of such a program are only borne by those actually participating in it. Of course, the program itself is not the subject-matter of this application, only whether the terms and conditions of this agreement are in accordance with the BERC Rate

Methodology approved by this Commission in August of 2016 and the remaining terms are in ratepayers' best interests.

BCOAPO has reviewed all the evidence regarding this charge including FEI's response to BCUC IR's 4.1 and 4.11 and overall it does not take issue with the LTBC found in this Tariff Supplement. In particular, BCOAPO agrees that it is reasonable to use CPI as the proposed annual escalation. If FEI gets the benefit of increased volume certainty through the minimum annual volume provision then it is fair that UBC get increased price certainty in return.

However, BCOAPO's overall support for this Tariff Supplement Application does not mean there are no terms that are of concern. In particular, even after reviewing FEI's evidence in regards to the use of the phrase "as applicable" in sections 1.6.1, 1.6.2 and 1.6.5 of the Agreement referring to adjustments to the LTBC which may take place after five years. BCOAPO is concerned that FEI's position in this Application is that it will determine the adjustment "as applicable": an assertion that sounds as though FEI intends this determination to be solely its responsibility and purview. However, in any contract provision where adjustments may take place, there is the possibility that the parties may disagree with respect to what adjustment is "applicable" and when, particularly if the adjustment is being made unilaterally by one party. This uncertainty raises the spectre of litigation taking place in the future regarding the proper interpretation of this phrase. BCOAPO asks this Commission Panel to consider the risk this ambiguity may pose in its decision-making process and that FEI avoid any such ambiguous language in its agreements in future.

Conclusion

After reviewing the Application and FEI's responses to the IR's posed in this process, and in particular, BCOAPO IR's 1.1, 1.2, and 2.2 it is satisfied that the proposed tariff supplement is compliant with Commission Order G-133-16, and, subject to the one exception noted above, with FEI's assurances with respect to the possibility of adverse impacts to its non-biomethane customers should their Application be approved.

Sincerely,

BC PUBLIC INTEREST ADVOCACY CENTRE

Leigha Worth
Barrister & Solicitor
Executive Director