



NEWS RELEASE – BCUC Releases Decision on Creative Energy Application in Vancouver

September 26, 2016

The BC Utilities Commission has released its decision on Creative Energy's amended Neighbourhood Energy Agreement (NEA) with the City of Vancouver, a reconsideration of decisions from December 2015 and March 2016.

DECISION

In this decision, the BCUC Panel has again not approved Creative Energy's NEA with the City of Vancouver because approval would grant a monopoly over the supply of heat and hot water in Northeast False Creek and Chinatown, which is not in the public interest.

KEY DETAILS

This decision relates to an NEA between the City of Vancouver and Creative Energy. Specifically, the NEA submitted for approval by Creative Energy concerns its Northeast False Creek Neighborhood Energy System (NEFC NES), an extension of its gas fired district energy system that currently provides heat and hot water in the downtown core and into the False Creek flats.

Neighborhood Energy Agreements are a type of franchise agreement between a utility and a municipality that, among other things, set out the terms and conditions under which the utility can access and service its infrastructure -- such as underground pipes or overhead wires -- providing the utility with some level of certainty. NEAs do not typically cover connection or end-use agreements between the municipality and the utility.

EXPLANATION

This decision supports both the original decision from December 2015 and the second decision on the amended application from March 2016 not to approve Creative Energy's application on the grounds that approval would grant a monopoly over the supply of heat and hot water in Northeast False Creek and Chinatown, which is not in the public interest.

During the BCUC Panel's open hearing processes, other potential suppliers demonstrated to the BCUC that they could provide competitive options in the same area. As such, the BCUC Panel has decided it would not be in the public interest to approve a Neighbourhood Energy Agreement that references, directly or indirectly, mandatory connection and/or end-use provisions.

Further, there was no evidence provided in any of these proceedings that the BCUC has ever approved an NEA or franchise agreement that contained terms that either explicitly conferred a legal monopoly or suggested or assumed that a legal monopoly was conferred.

This decision also reaffirms a fundamental principle for the BCUC -- to regulate only where required and not to impede competitive markets, unless there is an inability of competitive suppliers to operate with greater efficiency and effectiveness than a sole service provider.

CONTEXT

While the BCUC Panel considered the City of Vancouver's stated objective to establish a district energy system in Northeast False Creek and Chinatown area, in not approving this agreement, the Panel's intent is not to prevent the City from achieving its policy objectives.

In this decision, the Panel notes two paths the City could take to achieve its goal:

1. Own and operate the district energy system and exempt it from regulation by the BCUC under the *Utilities Commission Act*.
2. Enact a Bylaw entirely independent from the NEA, requiring developers to connect to the City's preferred energy system.

BACKGROUND TIMELINE

The BCUC released its first decision on Creative Energy's application for approval of its NEA with the City of Vancouver in December 2015. In that decision, the BCUC granted Creative Energy approval to build and operate the Northeast False Creek Neighborhood Energy System (NEFC NES), an extension of Creative Energy's gas fired district energy system that currently provides heat in the downtown core and into the False Creek flats. However, the BCUC did not approve the NEA between Creative Energy and the City of Vancouver at that time.

In March 2016, after the Commission required Creative Energy to re-apply with specific changes to its Neighborhood Energy Agreement, the BCUC released a second decision, again denying the revised application on the grounds that it did not substantively deal with the concerns of the Panel from the original decision, specifically, considerations in the NEA that referenced exclusive end-use provisions in a City of Vancouver bylaw on the Northeast False Creek Neighborhood Energy System.

In July 2016, Creative Energy asked for the BCUC to reconsider their decisions from December 2015 and March 2016, and today's decision is being released as a result of that request.

BCUC ROLE AND PROCESS

The first proceedings between April 2015 and December 2015 provided opportunity for public input and comment. In total, 13 groups participated in the three-day oral hearing that was open to the public and broadcast online, including a number of groups representing ratepayers and utility customers.

During the two subsequent decisions from March 2016 and today's, the BCUC requested written input from all parties involved in the first decision. All input received from customers, intervener groups, the City of Vancouver and the participating utilities was considered in making this decision.

The BCUC's mandate is to ensure:

- customers receive safe, reliable and non-discriminatory energy services at fair rates from utilities
- that utility shareholders are afforded a reasonable opportunity to earn a fair return on their investments

To read the decision, please visit the following link: [Click here](#)

CONTACT INFORMATION

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