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December 14, 2016

B.C. Utilities Commission

900 Howe Street
Sixth Floor
Vancouver, B.C. V6Z 2N3

Attention: Ms. Laurel Ross, Acting Commission Secretary

Re: Shannon Estates Thermal Energy System Rate Application – Interveners’ Reply
Submissions on Release of Redacted Information; Exhibit A-11

In accordance with the regulatory timetable established by British Columbia Utilities Commission (BCUC) in Exhibit A-11, this submission will reply to the SETES offer of partial disclosure of its Confidential Reply Submission (Confidential Filing), as described in Exhibit B-11. This application is made pursuant to s. 24 of the Rules of Practice and Procedure.

Background

The Confidential Filing was not part of the original application. It was filed in reply to the FAES Final Submission dated July 11, 2016. On July 15, 2016, SETES filed its Reply Submission, including a request to hold certain portions of the Reply Submission confidential. SETES’s reasons for requesting redactions were set out in Redacted Version Confidential Reply Submission dated July 26, 2016.

In Order G-118-16 (Exhibit A-5), the BCUC made the following findings and orders:

- “...the SETES’s reply submission, including the confidential portion, introduced a significant amount of new evidence”
- “The Commission finds benefit in the new evidence forming part of the evidentiary record ...” and it reopened the evidentiary phase of the proceeding;
- The BCUC approved SETES’s request to redact the confidential portions of the filing “... for the reasons set out by SETES in its request ...”.

SETES has offered to release “... the workbook as submitted to the Commission with forecasts 2024 and beyond remaining redacted ...” (Exhibit B-11). It also makes reference to specific pages.

Relief Sought

We seek an order permitting access to the entire Confidential Filing pursuant to s. 24 of the Rules of Practice and Procedure. We are prepared to sign and file with SETES and the Commission a Declaration and Undertaking form in respect of the use of the confidential information. Further, we will agree to permit SETES to redact, for public purposes, confidential information in our submissions based on the Confidential Filing.

Argument

SETES Reasons for Confidentiality

Section 2 of the BCUC Rules of Practice and Procedure states:

2 Interpretation of the rules

These rules must be liberally construed in the public interest to ensure the fairest, most expeditious and efficient determination of every matter before the Commission consistent in all cases with the requirements of procedural fairness.

The party requesting confidentiality bears the onus of proving that the BCUC should deny rate payers the right to see information relevant to the rates they will be ordered to pay (Rules of Practice and Procedure, s.18.02)

SETES's reasons for requesting the confidentiality order are found in the Redacted Version Confidential Reply Submission dated July 26, 2016 (copy of 2 pages letter attached). None of these reasons outweighs the public interest in disclosure with the safeguards proposed herein (Rules of Practice and Procedure, s. 20.01 (c)).

The confidential information was part of 'a significant amount of new information' submitted by SETES. In reopening the evidentiary phase of this hearing, the BCUC said it "finds benefit in the new information" including the confidential portion. In doing so, it confirmed that the new information, including the confidential portion, is relevant to the core issues before it.

Rate payers are directly affected by this application and their right to participate has been recognized by the BCUC. A liberal construction of the Rules in favour of openness and disclosure of key information is in the public interest as it ensures a fair determination of matters before the BCUC. Access to the Confidential Filing would enable us to address core issues before the BCUC and would ensure our participation in a manner that is consistent with the requirements of procedural fairness.

SETES Offer of Partial Disclosure

The SETES offer of access to the Confidential Filing excludes forecast 2024 and beyond. It describes the excluded information as "a far-looking future forecast". SETES has not explained why the future forecast meets any of the criteria enumerated in s. 20 of the Rules of Practice and Procedure that assist the BCUC in determining whether information or documents require a confidentiality. It has not justified the position that its interest in withholding future forecast information from rate payers outweighs our and the public interest in disclosure of the information in this hearing.

SETES does not offer a credible reason for refusing to disclose the future forecast. Its only stated reason is that it "...may mislead and harm readers unfamiliar with its purpose..." It is unable to offer evidence of harm as this request is made by rate payers for whom the only conceivable harm would be excessively high rates. Further, we have retained and discussed these issues with our expert and have been assured that she is familiar with future forecast information.

The public interest in disclosure generally, as well the interest of parties directly affected, weighs in favour of disclosure.

Relevance of the “Far-Looking Future Forecast”

Some of the reasons for requesting access to the Confidential Filing include the following.

If SETES plans to set rates so that over the long run it earns a fair amount, and the margin is lower in the early years, the margin in the later years will give us an understanding of the long-term impacts. The first three years are build out years and full steady state operations are only achieved in year five. The later years of the model will give a more reliable picture of what rate payers will be asked to pay.

The data through 25 to 30 years would allow us to see how SETES is treating the replacement of key pieces of equipment as they come to the end of their useful life. Also, we wish to see what the annual revenues and costs amount to in the later years and the resultant expansion of the earnings before interest, tax, depreciation and amortization.

We have been advised by our expert that she is not able to provide us with her professional opinion without first reviewing all of the information relied on by SETES, including the Confidential Filing. Access to all relevant information, together with expert assistance in making submissions to the BCUC on the proper level of rates, is the only way to ensure that we, the rate payers, are able to participate meaningfully in this hearing. The safeguards proposed in the Relief Sought section above are intended to respect the interests of SETES while permitting us to be heard in accordance with the requirements of procedural fairness.

All of which is respectfully submitted this 14th day of December, 2016,

Dean Thomas Fox



July 15, 2016 <Redacted Version July 26, 2016>

BRITISH COLUMBIA UTILITIES COMMISSION
6TH FLOOR, 900 HOWE STREET
VANCOUVER, BC V6Z 2N3

ATTENTION: Ms. Laurel Ross, Acting Commission Secretary

Dear Ms. Ross,

RE: CONFIDENTIAL FILING <REDACTED VERSION>
RESPONSE TO INTERVENOR'S FINAL SUBMISSIONS
SHANNON WALL CENTRE RENTAL APARTMENTS LIMITED PARTNERSHIP (SWCRA)
RATE APPLICATION FOR THE SHANNON ESTATES THERMAL ENERGY SYSTEM

In accordance with the British Columbia Utilities Commission (BCUC) Regulatory Timetable set in Commission Order G-77-16A, we provide our responses to the final Intervenor submissions for the Shannon Estates Thermal Energy System (SETES) Rate Application. This document forms the confidential portion of our response.

As per Commission Order G-1-16 Rules of Practice and Procedure Part IV, we request confidentiality for the entirety of this confidentiality request and information and the enclosed document.

The enclosed electronic document, an Excel spreadsheet, is a working 30-year financial model of SETES. It includes forecasts for thermal energy, rental rates, strata unit purchase rates, occupancy rates, commercially-sensitive quotes and contract data, expected losses and profits, and predicted taxation structure. Operational data is also included in this document.

Computer simulations predict a purchased energy COP on the order of [REDACTED]. Actual performance data for the period of [REDACTED] to [REDACTED], the first period from which full operational data is available, indicates an effective COP of [REDACTED] inclusive of electricity, natural gas, and solar. The variation in predicted COP to the actual COP is indicative of the economic risks SWCRA has in its plant technology, and additions which will provide greater COP with greater load factor.

The specific harm which is reasonably expected if the documents were made publicly available includes:

- 1 – Quotations given to us in confidence, exposure of which would breach contractual obligations
- 2 – Contractor prices which are required to remain in confidence for a competitive negotiating position

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3 – Research conducted and methods developed by Sterling Cooper which allow it to retain its competitive advantage in the marketplace

4 – Financial structure of the utility which disclosed would undermine any future business the parent corporation has with respect to the utility

5 – Sale and occupancy projections which if released, could compromise the salability of the remaining units

6 – Disclosure of this financial model could support the development of competitor utilities which would be used to undermine this utility's unique position and its negotiating position with suppliers and contractors

The model is provided to support the Commissions understanding of SETES' forecast return-on-equity, which is below the maximum rate allowed by the current Commission regulations, and why SWCRA believes the proposed rates and rate-structure are just, fair, and reasonable.

An introduction tab is provided which explains the layout and contents of the model.

A summary tab provides the key information.

A year-by-year tab provides the calculations and categorizations

The remainder of the tabs are the inputs which feed into the year-by-year tab.

Yours very truly,

George P. Steeves, BScE, MIS, P. Eng.
Principal
STERLING COOPER CONSULTANTS INC.
GPS/jc/ab

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