

IN THE MATTER OF THE

Utilities Commission Act, R.S.B.C. 1996, Chapter 473

AND

IN THE MATTER OF AN APPLICATION BY FORTISBC INC.

FOR ITS

2019-2022 DSM Expenditure Plan

Final Submissions of the ICG

November 19, 2018

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A. Introduction

1. FortisBC is requesting acceptance of its 2019-2022 Demand Side Management (DSM) expenditures, pursuant to section 44.2 of the *Utilities Commission Act (UCA)*. The DSM expenditures must support the applicable British Columbia energy objectives as defined in section 2 of the *Clean Energy Act (CEA)*. And the DSM measures must be cost-effective as required by the Amendment and DSM Regulation enacted under the *UCA*.
2. FortisBC characterized 2017 as a “bridge” year pending the Commission’s review of the Company’s 2016 LTERP and associated LT DSM Plan. And then FortisBC submitted that the 2018 DSM Plan should not be delayed in order to incorporate the results of the filed CPR and a market potential study because acceptance of DSM expenditures for 2018 would not be possible. In both proceedings, FortisBC argued that significant changes made sense only once the CPR and LTERP were fully reviewed.
3. FortisBC then advanced its position that significant departures from current DSM programs or spending levels are appropriately deferred until after the BC CPR process is completed and the LTERP and the LT DSM Plan are reviewed. This request to delay a review of DSM programs for industrial customers followed many similar requests for delays. Following these two “bridging years”, it was reasonable to assume that FortisBC would make significant changes in order to incorporate findings of the CPR. However, FortisBC has not introduced new measures or programs in the 2019-2022 DSM Plan based on the findings of the CPR.¹ The ICG has advocated and will continue to advocate for enhancements to program design in the industrial sector, including increases to program incentives and funding for efficiency studies.

B. Regulatory Regime Proposed by FortisBC

4. FortisBC proposes to prorate incentives for self-generation customers. Further, FortisBC proposes to calculate the incentives for self-generation customers and claims that such a calculation is a business practice within managerial discretion. Moreover, FortisBC believes that the Commission has approved this approach to the calculation of incentives for self-generation customers. In support FortisBC refers to L-14-18, which is a complaint decision, and said:

¹ Exhibit B-2, BCUC 1.2.6

Furthermore, in dismissing a complaint by Zellstoff Celgar Limited Partnership (Celgar) in Order L-14-18, the BCUC accepted the underlying premise of FBC's approach to DSM incentives for self-generation customers: that in order for conservation projects or initiatives to qualify for DSM incentives, the end-use efficiency has to contribute to reducing the demand for the utility's energy services.²

5. In L-14-18, the Commission may have established a test or principle relevant to determination of incentives to self-generation customers as follows: "the end use efficiency has to contribute to reducing the demand for the utility's energy services"^{3 4}. The Commission then found that from the subject energy efficiency measure "there appears to be no discernable impact on FBC's load." Regarding the FortisBC proposal to prorate incentives to self-generation customers, the Commission said:

As the proposed sliding scale mechanism has not received approval by the BCUC, the Panel will not address the issue.

6. In L-14-18, the Commission may have established a principle relevant to the determination of incentives to self-generation customers, but did not, as claimed by FortisBC, approve FortisBC's proposal to prorate incentives to self-generation customers. Given the significant record largely established through information requests, responses, and evidence of the ICG filed in the LTERP proceeding relevant to FortisBC's proposal to prorate incentives to self-generation customers, it would be unusual for the Commission in a complaint proceeding to have approved the FortisBC proposal to prorate incentives to self-generation customers.
7. L-14-18 is dated June 25, 2018, and the 2016 LTERP and LT DSM Plan decision was released just three days later on June 28, 2018, and it also did not approve the sliding scale mechanism.

² Exhibit B-5, ICG IR 1.3.2

³ L-14-18

⁴ COSA and RDA Proceeding, Exhibit B-9-1 FBC energy charges to Celgar are filed as a confidential response to a BCUC information request. Given the volume of purchases by Celgar, all energy efficiency measures implemented by Celgar can reasonably be expected to contribute to reducing the demand for the utility's energy services.

C. Is the “Sliding Scale Mechanism” a Business Practice

8. FortisBC states that it intends to apply the “sliding scale mechanism” for self-generating industrial customers. It follows that a key issue for determination in this proceeding is whether the application of the “sliding scale mechanism” is a business practice involving managerial decision making. FortisBC states its position as follows:

Quantification of the appropriate DSM incentives under particular DSM programs or measures is a **business practice involving managerial decision making** on the part of the utility. The UCA does not require pre-approval of the BCUC for such business practices to be implemented. (emphasis added)⁵

9. FortisBC then appears to argue that if the calculation of incentives for self-generation customers is not a “business practice involving managerial decision making”, then:

The BCUC accepted the LT DSM Plan, in full, as being in the public interest pursuant to Order G-117-18.⁶

So FortisBC’s position is that the “sliding scale mechanism” or any other means of prorating incentives for self-generation customers does not require Commission approval, but if it does, then such approval was granted in the LTERP decision. The ICG recommends that these two issues be addressed in sequence, in part, because if the Commission accepts FortisBC’s position that the “sliding scale mechanism” is a “business practice involving managerial decision making”, then such approval is not necessary and the second issue does not need to be considered.

D. Prorating Incentives Requires Commission Approval

10. The “sliding scale mechanism” was proposed by FortisBC to determine incentives available to self-generation customers. The ICG believes that such a “mechanism” or any other approach to prorating incentives is within the jurisdiction of the Commission. The Application has been submitted under Section 44.2(1) of the UCA that states: “a statement of the expenditures on demand-side measures the public utility has made or anticipates making during the period addressed by the schedule.”

The sliding scale mechanism will affect FortisBC “expenditures on demand-side measures” and is therefore part of the “expenditure schedule” filed by FortisBC. In

⁵ Exhibit B-5, ICG IR 1.3.2

⁶ Ibid.

fact, it is a very significant part of the expenditure schedule, especially to self-generation customers. Pursuant to section 44.2(3), the Commission has jurisdiction to either accept or reject an “expenditure schedule” filed under section 44.2(3). Given this jurisdiction, it cannot be as FortisBC has stated that the “sliding scale mechanism” is a business practice involving managerial decision making. The ICG submits that the Commission should assume jurisdiction over the “sliding scale mechanism”.

11. FortisBC’s position is that the “sliding scale mechanism” was approved by the Commission in the LTERP decision. However, FortisBC sought Commission acceptance of the 2016 LT DSM Plan under 44.1(6). Moreover, FortisBC acknowledged that it was not seeking approval of expenditures in the 2016 LT DSM Plan proceeding.⁷ It cannot then follow that the Commission approved the “sliding scale mechanism” when the 2016 LT DSM Plan was accepted by the Commission.

12. FortisBC states the following:

If the BCUC had objections to or concerns with FBC’s intended approach to this issue, then it would not have accepted the LT DSM Plan, without limitation, as being in the public interest.⁸

It was not necessary for the Commission to make determinations about the “sliding scale mechanism” in the LTERP Decision. It cannot then follow that when the Commission did not consider the “sliding scale mechanism” in the LTERP Decision, the LTERP Decision accepted or approved FBC’s intended approach. The appropriate time for the Commission to make determinations regarding the “sliding scale mechanism” or any other approach to determining incentives for self-generation customers is in this proceeding. However, FBC is not seeking approval of the sliding scale mechanism because in their view the sliding scale mechanism is a business practice involving managerial decision making. The ICG respectfully submits that the Commission Panel conclude that any adjustment to incentives is not at the utility’s discretion and such adjustments to incentives must be approved by the Commission.

⁷ Exhibit B-2, BCUC 1.1.3

⁸ Exhibit B-5, ICG 1.3.2

E. DSM Measures for the Kraft Pulp and Paper Sector

13. FortisBC does not forecast DSM savings in the kraft pulp and paper sector. Given that FortisBC has only one customer (Celgar) in that sector, then achieving DSM savings in the kraft pulp and paper sector is entirely about energy efficiency measures that could be implemented by Celgar. If FortisBC is expected to achieve energy savings in the kraft pulp and paper sector, then FortisBC should be working closely with Celgar to achieve energy savings. And yet these opportunities are dismissed by FortisBC as evidenced by a meeting held by FEI and FortisBC to discuss FEI and FortisBC's 2019-22 DSM Plans. The invitation list included many large customers in the pulp and paper sector, but did not include FortisBC's only customer in the kraft pulp and paper sector. It would appear that in FortisBC's view there was no reason to invite Celgar because they do not expect to make DSM Programs available to Celgar.⁹
14. FortisBC was asked in an information request to explain why the kraft pulp and paper customer sector historically has not contributed to FortisBC's DSM program savings.¹⁰ Given the importance of the question, the response needs to be carefully examined. FortisBC claims that it offers the kraft and pulp sector access to the Industrial Custom Program. Celgar has now filed two complaints with the Commission in an effort to gain access to industrial DSM programs.¹¹ In both complaint proceedings, FortisBC claimed that Celgar should not have access to industrial DSM programs because any electricity savings will accrue nearly 100 percent to the customer.
15. In this proceeding, FortisBC further explains its view when it claims that nearly all electricity Celgar uses is "during turn around, maintenance, and upset periods."¹² And then claims that because all Celgar purchases are "during turn around, maintenance, and upset periods", any electricity savings achieved as a result of investing in energy efficiency projects accrue nearly 100 percent to the customer and not to FortisBC's DSM program.¹³ The consequences of this approach to realized energy savings is evidenced

⁹ Exhibit B-5, ICG 1.2.1

¹⁰ Exhibit B-2, BCUC IR 1.2.3

¹¹ Complaint dated August 28, 2014 and complaint dated November 20, 2017

¹² Exhibit B-2, BCUC IR 1.2.3

¹³ Ibid.

by a comparison of market potential DSM energy savings in the kraft pulp and paper segment of 1,243 MWh (2016), 2,617 MWh (2017), 4,132 MWh (2018) and 5,796 MWh (2019) to actual and forecast segment DSM energy savings of zero for each year.¹⁴

16. Significant opportunities to achieve energy savings with customer, utility, and societal benefits are being missed because FortisBC has in effect excluded Celgar from DSM Programs. Although Celgar does not accept FortisBC's approach to calculating energy savings for self-generation customers, even if such an approach was accepted, there are still significant energy savings to be achieved. For example, "during turn around, maintenance, and upset periods", Celgar's demand is at its highest. So any energy efficiency measure, especially lighting measures, will contribute to a decrease in demand (DCE value of \$79.85 per kw per year), and will decrease energy consumption in a greater proportion than the actual period of being supplied by the utility. FortisBC does not make DSM Programs available to Celgar, even though there are significant opportunities to achieve energy savings. For example, although the hours of "turn around, maintenance, and upset periods" may be as few as 10% of annual hours, the reduction of energy from the utility for a lighting DSM measure during those periods will be longer than the hours of "turn around, maintenance, and upset periods".
17. Energy savings realized "during turn around, maintenance and upset periods" reduce purchases from FortisBC. As can be observed in the evidence referred to in footnote 4, the volume of energy purchases from FortisBC by Celgar are significant and provide significant opportunities for energy savings that will reduce FortisBC loads.

F. TRC and DSM Programs

18. FortisBC considers that the scheme of the Demand-Side Measures Regulation, B.C. Reg. 326/2008 (DSM Regulation) is consistent with the approach to DSM incentives for self-generation customers that the Company proposes. The ICG disagrees.¹⁵ There are two key inputs to the TRC, the value of the energy savings, and the volume of the energy

¹⁴ Exhibit B-5, ICG IR 1.5.1, Attachment 5.1

¹⁵ The ICG has argued that the TRC should be used to determine the cost-effectiveness of a utility's DSM portfolio. As noted by FBC in the Application: The TRC comprises the "benefits (the present value of the measures' energy savings, over their effective measure life, valued at the utility's avoided costs) divided by the costs." (see Exhibit B-1, p. 15, lines 32-35)

savings. FortisBC does not accept the inputs are independent variables. FortisBC correctly uses the LRMC as one of the inputs into the TRC. However, then FortisBC assumes the utility's avoided costs are relevant to the second input, namely, the energy savings, and does not acknowledge that the second input is solely dependent on the energy efficiency measure and its energy savings. That is, the TRC uses the energy savings of the energy efficiency measure, and applies the "utility's avoided cost" or LRMC to those energy savings. In fact, FortisBC describes the TRC as the calculated present value of the "measure's energy savings, valued at the LRMC".¹⁶

19. The TRC does not restrict the energy savings to the "utility's energy savings", but it does value those savings at the LRMC of the utility. The DSM Regulation read as a whole supports the conclusion that all energy savings are to be included in the TRC. The DSM Regulation refers several times "to reduce energy consumption"¹⁷ or "to conserve energy or use energy efficiently"¹⁸ What the DSM Regulation and the Amendment never do is refer to "utility's energy savings" or in any other way supports the view of FortisBC that energy savings as used in the TRC are restricted to "utility energy savings".
20. Such a narrow and restrictive interpretation is also contrary to the Clean Energy Act where "demand-side measure" is defined as:
- "demand-side measure" means a rate, measure, action or program undertaken
- a. to conserve energy or promote energy efficiency,
 - b. to reduce the energy demand a public utility must serve, *or*
 - c. to shift the use of energy to periods of lower demand, .. (emphasis added)

The use of "or" in the definition of demand-side measure must be read to include any measure that is undertaken "to conserve energy or promote energy efficiency", not just measures that are undertaken "to reduce the energy demand a public utility must serve". The definition of "demand-side measure" defines the "expenditure schedule" under section 44.2(1) - the FortisBC requests in this Application are pursuant to 44.2(1). So the expenditure schedule filed by FortisBC is to include

¹⁶ Exhibit B-1, p. 23

¹⁷ Demand-Side Measures Regulation, B.C. Reg 326/2008 and Regulation, Ministerial Order No. 233

¹⁸ DSM Regulation, Definitions, 1(a), 1(b)

expenditures “to conserve energy or promote energy efficiency”, not just expenditures “to reduce the energy demand a public utility must serve” as FortisBC argues. If the Commission agrees, then any mechanism to prorate “energy savings” as proposed by FortisBC should be denied. BC Hydro does not prorate DSM Program incentives for self-generation customers. Given that whether or not to prorate DSM Program incentives cannot be unique to each utility, the Commission decisions regarding whether to prorate incentives for self-generation customers should be consistent and set a standard practice for all self-generation customers in B.C. Not only does BC Hydro not prorate energy savings as proposed by FortisBC, BC Hydro funds the salary of energy managers at pulp and paper mills who are competitors of Celgar. As stated by FortisBC, FortisBC has no intention of funding Energy Specialists for industrial customers.¹⁹

G. Amortization Period

21. The ICG supports FortisBC proposal to increase the amortization period to 15 years.

H. Rollover of DSM expenditures

22. The ICG supports FortisBC’s proposal to rollover unspent expenditures from year to year on a cumulative basis, provided that all rollovers are to the same program area (as per Table 5-1).

I. Estimated Annual Expenditures

23. FortisBC provides the estimated annual expenditures in the Industrial Program Area and observes that the program spending increases by approximately \$0.3 million over 2018 planned expenditures.²⁰ However, forecast activity in additional cannabis production facilities makes up more than 100 percent of the difference between the 2019-2022 DSM Plan and the 2016 LT DSM Plan. Also of concern - no new industrial programs are proposed for existing industrial customers. Given the increase in expenditures directed to the cannabis production facilities, the increase in program spending in existing offers should at least increase with forecast inflation. The proposed increase of 1.7% per year

¹⁹ Exhibit B-5, ICG IR 1.10.1

²⁰ Exhibit B-2, BCUC 1.14.1

during the Application period is less than current estimates of inflation.

J. Summary of Recommendations

24. The ICG submits that the Commission should disagree with FortisBC's view:
- a. that quantification of the appropriate DSM incentives under particular DSM programs or measures is a business practice involving managerial decision making on the part of the utility; and
 - b. that DSM incentives should be calculated based on the "utility's energy savings".

In the circumstance that the Commission agrees with FortisBC's view, the ICG respectfully requests an explanation as to the inputs and purpose of the TRC measure.

25. The forecast of energy savings in the kraft and pulp sector should be consistent with the market potential based on the CPR.
26. The forecast of expenditures in existing offers should increase at a minimum with forecast inflation.
27. The FortisBC proposals regarding the amortization period of expenditures and the rollover of expenditures should be accepted.