

CREATIVENERGY

31 January 2020

Via E-filing

Mr. Patrick Wruck
Commission Secretary
BC Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Mr. Wruck:

Re: **British Columbia Utilities Commission (BCUC, Commission)**
Creative Energy Vancouver Platforms Inc. (Creative Energy)
Application for a Certificate of Public Convenience and Necessity (CPCN) to
Acquire and Operate a Thermal Energy System for Cooling at the Vancouver House
Development (Application)

Creative Energy submits its Reply Argument into the above noted proceeding, in accordance with Order G-339-19.

Sincerely,

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Rob Gorter
Director, Regulatory Affairs and Customer Relations

Enclosure.

CREATIVE ENERGY VANCOUVER
PLATFORMS INC.

British Columbia Utilities Commission

Creative Energy Vancouver Platforms Inc.

**Application for a Certificate of Public Convenience and Necessity (CPCN)
to Acquire and Operate a Thermal Energy System (TES) for Cooling at the
Vancouver House Development (Application)**

Creative Energy Vancouver Platforms Inc.

Reply Argument

January 31, 2020

Table of Contents

1	Introduction.....	1
2	Creative Energy's acquisition and operation of the DCS supports the public interest	1
2.1	Conditional Approval based on the Massachusetts Formula.....	2
2.2	Timing of Approval based on Occupancy	3
3	Other Matters.....	4
3.1	Technological Risk	4

1 Introduction

1. On August 16, 2019, Creative Energy Vancouver Platforms Inc (**Creative Energy**) filed with the British Columbia Utilities Commission (**BCUC, Commission**) its Application for a Certificate of Public Convenience and Necessity (**CPCN**), pursuant to sections 45 and 46 of the *Utilities Commission Act* (the **UCA**) to acquire and operate a district thermal energy system (**TES**) to provide cooling (**District Cooling System, or DCS**) to each of the four buildings of the Vancouver House Development in the South Downtown neighbourhood of Vancouver (the **Vancouver House Development**)(the **Application**).
2. Creative Energy filed is Final Argument in this proceeding on January 10, 2020, and the only intervener Final Argument was filed on January 24, 2020 by the Commercial Energy Consumers Association of British Columbia (**CEC**).
3. The CEC recommends that the Commission "approve the CPCN conditional upon the use of the 3-factor Massachusetts Formula, and further confirmation relating to the Occupancy status of the property in a form acceptable to the Commission".¹
4. Creative Energy's reply submissions will likewise confirm that granting the requested CPCN supports the public interest and should be approved. As part of its submissions Creative Energy will make clear that the conditions set out by the CEC are non-issues in respect of the Commission's determination as to whether the proposed acquisition and operation of the DCS by Creative Energy is in the public convenience and necessity, and therefore should not encumber the decision into the Application nor its timing.

2 Creative Energy's acquisition and operation of the DCS supports the public interest

5. The need and desirability of Creative Energy's acquisition and operation of the DCS is uncontested by the CEC. In particular, the CEC:
 - Has no objection to the acquisition based on purchase price;²
 - Accepts that the operational risk of the DCS is likely low;³
 - Submits that Creative Energy's indicative annual revenue requirement is acceptable;⁴
 - Is generally satisfied with the costs and the indicative rates and rate design proposed by Creative Energy, and does not object to final rates being approved at a later date;⁵ and

¹ CEC Final Argument, paragraph (**para.**) 4, p. 1 and para. 92, p. 14

² CEC Final Argument, para. 27, p. 4

³ CEC Final Argument, para. 62, p. 9

⁴ CEC Final Argument, para. 32, p. 6

⁵ CEC Final Argument, para. 37, p. 6

- Is satisfied that there is no significant risk of cross-subsidization or risk as a result of the DCS ownership.⁶
6. The overall conclusions of the CEC closely align with the summary provided in Creative Energy's Final Argument as to why the public interest is better served through approval of Creative Energy's Application as compared to the alternative where the Application is not approved such that the Developer retains ownership of the DCS and is regulated as a new Stream B TES utility.⁷
 7. Creative Energy does not argue that items such as "the appropriateness of the purchase price, the capability of the plant, the likely rates, the impact on ratepayers for the DCS and larger utility, the alignment with government principles, key risks, overall cost-effectiveness, etc." are not relevant to the Commission's consideration of this Application, as the CEC suggests in its Final Argument at paragraphs 13 to 17. Rather, Creative Energy's submission is that for the majority of such considerations the costs/benefits/risks are the same whether Creative Energy or the Developer owns and operates the DCS. For those items where the costs/benefits/risks differ if Creative Energy versus the Developer owns and operates the DCS, in each case the public interest is better served by Creative Energy owning and operating the DCS. Creative Energy respectfully submits that the choice is therefore an easy one.

2.1 Conditional Approval based on the Massachusetts Formula

8. The CEC recommends that the Commission make approval of the CPCN subject to the use of the 3-factor Massachusetts Formula.
9. The CEC submits that it would be preferable for the review of the appropriateness of the approach taken to allocate residual General and Administrative costs among Creative Energy projects to occur in Creative Energy's next revenue requirements application rather than establishing it under this smaller application. The CEC submits that this will provide increased opportunity for a full review of the implications and avoid establishing a 'precedent' based on the small application. The CEC notes that if the 2-factor approach is deemed to be preferable, the Vancouver House DCS can be easily altered.⁸
10. For greater clarity, Creative Energy agrees⁹ that it is preferable for the review of the merits of the 2-factor Massachusetts Formula to occur in Creative Energy's revenue requirements application and that is what Creative Energy proposes. Creative Energy confirms the following:
 - the Commission has approved Creative Energy using the 3-factor Massachusetts Formula;
 - Creative Energy has in its 2019-2020 Revenue Requirements Application for the Core Steam and Northeast False Creek (**NEFC**) service areas as filed with the Commission on

⁶ CEC Final Argument, paragraph 89, p. 13

⁷ Refer for example to the table provided in section 2 of Creative Energy's Final Argument and to the related discussion in sections 3.1, 3.2 and 3.4.

⁸ CEC Final Argument, para. 48 and 49, p. 8

⁹ Refer for example to Exhibit B-7, Response to CEC IR 4.1.2 and Exhibit B-8, Response to BCUC IRs 13.3, 13.4 and 13.7.

December 19, 2019 requested approval to change to a 2-factor Massachusetts Formula for allocation of residual General and Administration expenses among all applicable Creative Energy projects. The same formula must necessarily apply to all applicable Creative Energy projects to maintain consistency across the underlying cost allocation ratios and results;

- The request to change from the 3-factor to a 2-factor Massachusetts Formula is before the Commission Panel appointed to make decisions on the RRA pursuant to the proceeding established under Order G-7-20A, and not before this Commission Panel; and
- Whether Creative Energy uses the 3-factor or 2-factor Massachusetts Formula going forward, including for developing DCS rates, has no bearing on the need and desirability of Creative Energy's acquisition and operation of the DCS.

11. For these reasons, the CEC recommendation that CPCN approval be conditional upon use of the 3-factor Massachusetts Formula should be denied. At the time that Creative Energy files a final rates application for the DCS it will necessarily use the Massachusetts Formula approved for Creative Energy by the Commission Panel hearing the 2019-2020 RRA.

2.2 Timing of Approval based on Occupancy

12. The CEC recommends that the Commission "review the current occupancy of the residential building in the Vancouver House Development in its evaluation of load risk, and satisfy itself with the occupancy prior to approval".¹⁰ The CEC submits that while the load risk is likely low, it could be prudent to verify that the load is coming on board as anticipated before the Commission provides its final approval.¹¹
13. Creative Energy replies that this CEC recommendation is puzzling. In particular, it is not clear what criteria would be used to satisfy the CEC's concern in relation to occupancy or at what point in time such criteria ought to be met, or how the actual number of individuals residing in the residential building at any given time could bear on the merits of the requested CPCN. Each of the four buildings has or will have an occupancy permit, and all the units of the residential strata building (Building 2) have been sold.
14. The number of individuals actually residing in the buildings at any given time will continuously change, depending on the extent to which rental building space is rented and how the tenants use the space, and the extent to which strata unit owners reside in their units, whether residents are at home or away for extended periods, the number of individuals residing in a unit, etc. As noted above, it is not clear how such occupancy rates could bear on the merits of this Application.
 - Creative Energy notes also that even if there was a valid reason to monitor occupancy rates, doing so would raise privacy issues.

¹⁰ CEC Final Argument, para. 78, p. 8

¹¹ CEC Final Argument, para. 68, p. 10

15. The impact, if any, of load variance due to variable occupancy rates on the utility's net income will depend on the rate design. Creative Energy has stated in this proceeding that its intent is to recover variable costs (i.e. the fuel costs that vary by load) from the two customers on a flow-through basis with the result that load variance will have minimal or no impact on net income. Accordingly, the CEC's concern about load and occupancy is misplaced and its recommendation is unnecessary.

- The CEC acknowledges that each of the two customers will determine how to pass their cooling service costs through to tenants and unit owners in their buildings and that it is generally satisfied with the indicative rate design put forward by Creative Energy and the associated intent to put in place billing determinants that fairly and reasonably recover the costs of the DCS from the two customers.¹²

16. In summary, there is no load risk related to occupancy that ought to impede Commission approval of the CPCN or the timing of that approval, and the recommendation otherwise by the CEC is without merit and unnecessary and could not be reasonably acted upon in any case.

3 Other Matters

3.1 Technological Risk

17. The CEC acknowledges that Kerr Wood Leidal (**KWL**) concluded that the design of DCS will meet its intended function but it submits that it could be useful for the Commission to have confirmation that the issues identified in the KWL Technical Memorandum have been further addressed by Creative Energy.¹³

18. Creative Energy emphasizes that the observations identified in the KWL Report do not need to be addressed further. As explained in the response to BCUC IR 2 series 29, Creative Energy did not undertake any measures in response to the KWL Report as the comments are all minor in nature and do not constitute sufficient rationale to have insisted on changes to the plant.¹⁴

All of which is respectfully submitted this 31st day of January 2020.

By:



Rob Gorter
Director, Regulatory Affairs and Customer Relations
Creative Energy Vancouver Platforms Inc.

¹² CEC Final Argument, para. 35-37, p. 6

¹³ CEC Final Argument, para. 84, p. 13

¹⁴ Exhibit B-8, Response to BCUC IR 29.2