

4 June 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)  
2019-2020 Revenue Requirements Application (RRA) for the  
Core Steam System and Northeast False Creek Service Areas (Application)**

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Creative Energy writes to submit its Reply Argument in the above noted proceeding, in accordance with the Regulatory Schedule as amended under Order G-103-20 (Exhibit A-7).

For further information, please contact the undersigned.

Sincerely,



Rob Gorter  
Director, Regulatory Affairs and Customer Relations

Enclosure.

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British Columbia Utilities Commission

Creative Energy Vancouver Platforms Inc.

2019-2020 Revenue Requirements Application

Core Steam System and Northeast False Creek Service Areas

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Creative Energy Vancouver Platforms Inc.

Reply Argument

June 4, 2020

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## 1 Introduction

1. On December 19, 2019, Creative Energy Vancouver Platforms Inc. (**Creative Energy**) filed with the British Columbia Utilities Commission (**BCUC, Commission**) its Revenue Requirements Application (**RRA or Application**) in respect of each of the Core Steam system (**Core**) and Northeast False Creek Hot Water (**NEFC**) system, for the two years 2019 and 2020.
2. Creative Energy filed its Final Argument in this proceeding on May 21, 2020, and the only intervener Final Argument was filed on May 28, 2020 by the Commercial Energy Consumers Association of British Columbia (**CEC**).<sup>1</sup>
3. Apart from a few noted exceptions, the CEC endorses (or at least, does not oppose) the approvals requested in the 2019-2020 RRA for the Core and NEFC. The CEC accepts the manner in which Creative Energy has presented its 2019-2020 RRA for the Core and NEFC and our summary therein of the key cost elements and explanations of our requested approvals, and recognizes and accepts that Creative Energy's evidence is complete and reasonable.
4. Thus, in respect of the noted CEC's exceptions Creative Energy's reply submissions focus on providing additional clarity and confirmation into the merits of the following:
  - The means to establish 2019 Core steam rates is reasonable and appropriate given significant external cost pressures in 2019 and the objective overall to maintain smooth and predictable rates;
  - The means to allocate residual General and Administration expenses across Creative Energy projects is most fair to all customers under the industry standard application of the Massachusetts Formula, which normalizes for projects of different age and size, or alternatively under Creative Energy's initial proposal for a 2-factor formula intended to achieve the same improvement in fairness; and
  - The means to forecast test period costs must necessarily be flexible to the nature of the component cost and the specific pressures on it, as is well-illustrated in the CEC's submissions regarding Overtime and Outside Services costs.
5. Creative Energy's reply submissions also comment on the following requests for approval, where the CEC has accurately summarized Creative Energy's evidence and does not object to our proposals, but for which we believe it will assist the Commission's review to indicate our precise understanding therefore that:
  - The CEC does not oppose Creative Energy's request for approval to directly charge the FCAC Rate Rider to the NEFC customers, which will result in a reduction to the amounts that would otherwise be unfairly allocated to the RDDA for recovery from NEFC customers in a future period; and

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<sup>1</sup> FortisBC Alternative Energy Services Inc. is a registered intervener but has not been active in the proceeding and did not file a final argument.

- The CEC does not oppose Creative Energy’s request for approval to recover \$214,185 of costs recorded to the Fuel Switch Study and LTRP Deferral Account.
6. Creative Energy concludes with a reply that the CEC recommendation that the Commission direct Creative Energy to “conduct appropriate RFP processes for major expenditures for outside consulting services in the future” has no foundation and is entirely unnecessary.

## 2 2019 Core Steam Rates

7. At paragraphs 43 to 49 of its Final Argument, under the heading “Third Party Regulatory Costs Deferral Account”, the CEC submits that “either the whole \$85,241, or part, could reasonably be denied because the Utility did not make an effort to conduct an RRA in a timely manner, and the risk should be to the shareholder. ...The CEC submits that there is too much opportunity for the Utility to manipulate its costs in the event that it was exceeding its ROE at year end to permit backwards-looking revenue requirements without some risk to the Utility.”<sup>2</sup>
8. Creative Energy replies, firstly, that the \$85,241 figure referred to by the CEC, and also the figures referred to by the CEC in its paragraph 44 are outdated. These figures were updated in response to Information Request (IR) No. 1 and comprehensively in the response to BCUC IR 2.42.1.1. The requested addition to the Third-Party Regulatory Deferral Account (TPRCDA) deferral account for 2019 is \$103,241 as confirmed in the response to BCUC IR 2.42.1.1 and also in Creative Energy’s Final Argument at paragraphs 21 and 63 to 66.
9. Secondly, the basis for the CEC’s position that the whole or a portion of these costs could reasonably be denied is not fitting. The CEC does not argue that any of the increased costs in 2019 were imprudently or otherwise unnecessarily incurred; instead, the CEC’s position is based on its view that these increased costs or a portion of them are appropriately the shareholder’s risk. Creative Energy replies that the costs at issue are by their nature necessarily incurred for utility purposes and the large majority of the costs are not within management’s ability to control and therefore should not be the shareholder’s risk.
10. As noted in paragraph 64 of Creative Energy’s Final Argument, approximately 87 percent of the total projected increases in 2019 costs compared to 2018 Approved relate to externally driven cost pressures largely outside of Creative Energy’s control.<sup>3</sup> The large majority of externally-driven costs were due to much higher regulatory costs (i.e., BCUC fees and PACA awards) in 2019 compared to 2018 approved (~\$178,000 higher) and much higher water costs as set by the City of Vancouver (~\$194,000 higher).
11. Both regulatory costs and water costs are undoubtedly recoverable in utility rates. These categories of costs are also appropriate for deferral account treatment of variances between forecast and actual costs because it is very challenging to accurately forecast these costs, utility management has limited or no ability to control variances from forecast and the variances can be material. For those reasons, most utilities including Creative Energy have deferral accounts for variances in regulatory costs and that is also why Creative Energy is requesting in this

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<sup>2</sup> CEC Final Argument, paragraphs 48-49.

<sup>3</sup> Refer to the updated Table 4 at Exhibit B-4, response to BCUC IR 2.10.1. Refer also to Table 29 of the Application at Exhibit B-1 for a summary of the component 2019 projected Regulatory expenses of ~\$313,000.

Application approval of a Water Costs Deferral Account (**WCDA**). The CEC does not object to Creative Energy's request for approval to establish the WCDA.<sup>4</sup> Notably, the CEC accepts that there is no requirement to adjust the ROE as a result of the establishment of the WCDA,<sup>5</sup> accepting Creative Energy's position that variance in water costs is a risk comparable to variance in fuel costs that should not be borne by the shareholder. For the same reasons, Creative Energy submits that in particular the increased regulatory and water costs in 2019 should not be borne by Creative Energy's shareholder.

12. Creative Energy also reiterates that the \$103,241 amount requested for approval to add to the TPRCDA for 2019 is a net figure reflecting the beneficial sharing, with customers through rates, of the higher revenues in 2019 due to higher load. If the Commission was to agree with the CEC's position that a portion of the net costs of \$103,241 should not be approved for addition to the TPRCDA in 2019 on the basis of appropriate shareholder risk, it would be Creative Energy's position that the amount for addition to the TPRCDA should:
  - include the incremental regulatory and water costs as these variances should not be a shareholder risk, and
  - exclude the benefit of higher revenues due to higher load, which in the absence of Creative Energy's proposal would also be a shareholder risk.
13. Altogether, these considerations underscore the benefit of Creative Energy's proposal to maintain smooth and predictable rates for 2019. The CEC agrees that variances in regulatory costs and water costs are reasonably recorded for deferred recovery because the shareholder should not bear the risk of variances in those costs. The increased costs in 2019, which the CEC finds to be acceptable<sup>6</sup> and which were predominantly outside of Creative Energy's control, are offset by Creative Energy's proposal to share the benefit of the higher revenues due to higher load in 2019.

### **3 Massachusetts Formula**

14. As set out in our Final Argument and as highlighted in the Draft Order attached to the Final Argument, Creative Energy seeks approval of the means under the Massachusetts Formula to improve the fair allocation of residual general and administrative costs across the utilities in the Creative Energy 'family' and we are altogether indifferent between either:
  - The modified 2-factor Massachusetts Formula as set out in the Application; or
  - The continued use of the 3-factor formula but using undepreciated (or 'gross') values for the "property, plant and equipment" factor, as described through the responses to IRs.
15. The CEC has elaborated at length into the evidence regarding the allocation of residual general and administrative costs using the Massachusetts Formula and it ultimately recommends that

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<sup>4</sup> CEC Final Argument, paragraphs 101-104.

<sup>5</sup> CEC Final Argument, paragraphs 103-104.

<sup>6</sup> CEC Final Argument, paragraphs 41-42.

the Commission deny any change to the current approved Massachusetts Formula in light of what the CEC considers to be inconclusive evidence with regard to alternatives.

16. The CEC concludes that Creative Energy simply does not like the outcome of the current approved Massachusetts Formula and is intending to impose its own view of fair on the allocation.
17. Creative Energy acknowledges that the proposed approach and alternative were developed and presented further through the proceeding than fully in advance, but we submit that the CEC has mischaracterized our approach to seeking the fair allocation of costs. We believe rather that our objectives in this matter are completely aligned and the principle of fairness in residual cost allocation is non-controversial and, in the particular formulaic application at issue, unbiased also in regard to the interests of the respective utility customers served.
18. At paragraph 120 of its Final Argument, the CEC correctly highlights that the Massachusetts Formula is an industry-accepted formula and developed as a standard methodology to establish what constitutes 'fairness' in allocating expense. The CEC submits that to the extent the Massachusetts Formula has been accepted by the Commission as being a fair method of allocation, it should be used as the standard of fairness.
19. Creative Energy agrees the Massachusetts Formula has been accepted by the Commission as supporting a fair method of allocation, and it is not seeking to depart from the formulaic approach. However, we confirm below in reference to prior evidence that the industry standard is the three-factor approach that uses gross (i.e. undepreciated) Property Plant and Equipment as opposed to net book (i.e. depreciated) values.
20. Creative Energy's response to CEC IR 36.5 in the 2018-2022 RRA (Exhibit B-9 in that proceeding, as filed on May 30, 2018) provided two links supporting the use of the Massachusetts Formula and the calculation methodology. Both examples cite that gross (undepreciated) property, plant and equipment should be used:
  - The first linked was the following:  
[http://www.regllc.com/publications/2012.09.20\\_Session%205\\_Hot%20Topics\\_Allocation\\_and\\_Rate\\_Design\\_Sldies.pdf](http://www.regllc.com/publications/2012.09.20_Session%205_Hot%20Topics_Allocation_and_Rate_Design_Sldies.pdf)
  - At page 6 of this first link, it indicates that Gross Property, Plant and Equipment should be used.
  - A second link was provided that no longer exists but appears to be the same content and from the same source that was previously provided:  
<https://www.bakertilly.com/insights/utility-cost-allocations-part-2-best-practice-methods>
  - This second link defines the factor relating to Property, Plant and Equipment as Utility Plant in Service, which as shown in Schedule 4 of our Application is the Gross or undepreciated amount.
21. Creative Energy thus agrees with the CEC's summary that there was a prior discrepancy in the evidence supporting the approved Massachusetts Formula during the 2018-2022 RRA as between using net book value or gross value for the Property Plant and Equipment factor. In

fact, the noted discrepancy reflects precisely the key contributing factor to our review of the application of Massachusetts Formula using net book value. Creative Energy judged correctly upon a qualitative review of actual cost allocations, and as further demonstrated through its evidence in this proceeding, that the application of the formula using net book value is suboptimal and in fact not the industry standard.

22. All parties agree that the benefits of the formulaic approach should be maintained in respect of allocating costs in a simple, effective and non-controversial manner. The rather straightforward matter for the Commission to decide upon, and for which the evidence is now at hand, is the preferred application of the Massachusetts Formula to allocate costs in the most fair manner possible, if not also in a manner consistent with the industry standard.
23. In Creative's Energy submission this objective can best be met through the continued use of the 3-factor formula, but ensuring that undepreciated, or gross, values are used for the Property, Plant and Equipment factor, instead of net book, or depreciated, values.

#### **4 Forecast Methods and Selected Cost Items**

##### **4.1 Forecast Methods**

24. The CEC notes at paragraph 81 of its Final Argument that Creative Energy has for selected cost categories utilized what CEC considers to be incongruent inputs when averaging prior results across its various expense forecasts. The CEC submits at its paragraph 82 that "it would be prudent for Creative Energy to use consistent components when calculating averages in costs, and accommodating outliers by assessing and adding back or deducting expenses as necessary."
25. Creative Energy acknowledges the view that any forecast method should assess whether results should be normalized for any outlier-type effects, and this is evident in Creative Energy's development of the Core and NEFC RRA all-told. Creative Energy submits, however, that the approach to forecasting expenses must necessarily be flexible to the characteristics of the underlying drivers of each specific cost item. Thus, Creative Energy would urge caution into any view that would overly prescribe the forecast approach or otherwise define what 'consistent' could mean in that context. As but one example, an approach to forecasting property taxes in view of rising property values would not benefit from being consistent with the approach to forecasting Overtime for example. The former escalates year-after-year in the City of Vancouver in particular, while the later might fluctuate around a longer-term average.
26. Creative Energy's view is that consideration of forecast methods should seek continual improvement and utilize the best and most recently available information where applicable. Creative Energy submits however that any prescription on a single forecast approach would be expected to produce inaccurate forecasts in respect of some of the cost categories. The following reply to the CEC submission into Overtime expense and Outside Services further underscores this view.

## 4.2 Overtime

27. As Creative Energy notes at paragraph 40 of its Final Argument, estimated overtime expense is based on a qualitative judgement. Actual overtime in 2019 came in lower than 2018 and Creative Energy has considered it reasonable to update the evidence in its Application to take an average of the 2018 and 2019 actuals and thereby accepts a lower revised estimate to factor into the proposed 2020 rates.
28. The CEC provides its comments at paragraph 64 into the estimation of Overtime expense and calculates the average expense over the three years 2017-2019, which is a reduction of approximately \$4,500 per year compared to Creative Energy's updated forecast. The CEC submits that it is appropriate practice to use the average of the three years instead in order to avoid applying too much weight to the outlier 2018 year. It also submits in this context that it would be preferable for Creative Energy to standardize the figures used in its averages.
29. Creative Energy would accept a revised estimate of forecast Overtime expense based on the average of 2017-2019, as the CEC has presented, but this in no way suggests that a standardized approach would be required; quite the opposite in fact.
30. Much like the way that Creative Energy has approached the forecast of Overtime expense, the CEC has qualitatively judged the level of expense in 2018 and the means by which the 'outlier' 2018 amount should be factored into the overall forecast, including on the basis of actual results from 2017 and new information for 2019. Yet, such judgement might necessarily need to differ by expense based on different underlying cost drivers. A standardized forecast approach would remove the transparent accounting and judgement required and would be expected to produce inaccurate forecasts in respect of any cost category with cost pressure in one direction year-after-year and/or where specific outlier effects need to be considered in view of a longer-term average.

## 4.3 Outside Services

31. Creative Energy's forecast for Outside Services costs for the 2020 test year is \$105,466. This amount is less than actual costs for Outside Services in any of 2015, 2016 and 2019, and gives proper consideration also to the fact that internal staff may not have capacity or specific expertise to assist with certain priorities and for which the additional cost of hiring a full headcount cannot be justified.
32. The CEC acknowledges at paragraph 72 of its Final Argument that average actual Outside Services costs from 2015 through 2018 have been approximately \$100,000 per year and that actual average amounts are considered representative of ongoing company priorities as compared to 2018 Approved.
33. However, the CEC submits at its paragraph 75 that it does not believe Creative Energy has adequately justified the planned levels of expenditure and submits that the Commission should consider denying half of the forecast Outside Services costs. The CEC's support for its position appears to be based on the 2018 Approved forecast cost of Outside Services, though the 2018 Approved amount is quite clearly not representative of ongoing priorities and requirements as acknowledged by the CEC. Actual Outside Services expenses are typically in the range of \$100,000 per year since 2015 with one exception being 2017.

34. The CEC has rather arbitrarily considered in this case that the actual priorities and historical costs that reflect the pursuit of such priorities should be disregarded and the 2018 Approved amount preferred as the sole basis for the 2020 forecast instead. The CEC's approach is arbitrary and clearly without merit and unsubstantiated. As demonstrated by the CEC's paragraph 74, the CEC is more focused on a grievance related to the role of the consulting firm Reshape Infrastructure Strategies Inc. in Creative Energy's activities, which firm has provided outside services to Creative Energy in the past, rather than on Creative Energy's need for these services or the fair market value of the services. Creative Energy submits that the CEC's position is no basis on which to inform the forecast requirements.

## **5 FCAC Rate Rider – NEFC**

35. The CEC addresses, at paragraphs 195-202 of its Final Argument, our request for approval to directly charge NEFC customers the Commission-approved FCAC Rate Rider. The NEFC is a customer of the Core steam system and an equivalent direct charge of \$16.15/MWh to the NEFC hot water customers will avoid the amounts approved to be recovered through the FCAC Rate Rider being deferred further for recovery from NEFC customers (current and new) in the future, consistent with the Commission's Order G-226-19 Decision that these costs should be recovered from customers over a 24-month amortization period. The forecast impact in 2020 is to avoid \$309,560 being added to the RDDA.
36. The CEC has accurately summarized Creative Energy's evidence at paragraphs 195-201<sup>7</sup>. On the basis of the CEC's accurate summary of the evidence and with no objection articulated in its Final Argument in relation to the request for approval to directly charge NEFC customers the Commission-approved FCAC Rate Rider, Creative Energy reasonably concludes that the CEC does not object to Creative Energy's request for approval to directly charge NEFC customers the Commission-approved FCAC Rate Rider.

## **6 Fuel Switch Study and LTRP Deferral Account Proposal**

37. In regard to Creative Energy's requests to the Commission in relation to the Fuel Switch Study and LTRP Deferral Account balance, the CEC in its Final Argument:
- "acknowledges that there is value in a Utility pursuing means of meeting decarbonization goals which are reasonably expected to be mandated in the future",<sup>8</sup>
  - "has reviewed the invoices [supporting the amount of \$214,185 requested to be approved for recovery from customers] and finds them to be acceptable",<sup>9</sup> and
  - "does not object to Creative Energy's proposal regarding the Fuel Switch study and Enabling Low Carbon Development costs in the deferral account".<sup>10</sup>

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<sup>7</sup> With the minor and inconsequential exception that the reference to the addition to the RDDA balance in 2020 of \$379,282 from Table 5 in the Application has been updated during the course of the proceeding to \$440,371 as reported in the response to BCUC IR 42.1.1 at Exhibit B-9.

<sup>8</sup> CEC Final Argument, paragraph 176.

<sup>9</sup> CEC Final Argument, paragraph 171.

<sup>10</sup> CEC Final Argument, paragraph 177.

38. Notwithstanding those conclusions based on the facts in this proceeding, including those elicited by IRs the CEC submitted to Creative Energy, the CEC nevertheless continues to express concerns about Creative Energy's use of Reshape Infrastructure Strategies.<sup>11</sup> Creative Energy replies that the CEC's concerns are unfounded conjecture. In particular, the CEC criticizes Creative Energy for not conducting an RFP process for the Lead Consultant work. As noted in the CEC's paragraph 170, Creative Energy did explain the circumstances of its hiring of Reshape Infrastructure Strategies in response to CEC IRs. Given the CEC's offhand dismissal of Creative Energy's explanations in response, it is important to reproduce that evidence here in its entirety:

- Creative Energy's response to CEC IR 22.1 - *Please fully describe the relationship between Reshape Infrastructure Strategies and Creative Energy, including ownership of Reshape Infrastructure Strategies. Is Reshape Infrastructure Strategies an arms' length organization?*

There is no ownership interest of Creative Energy or any of its affiliates in Reshape Infrastructure Strategies or vice versa. Reshape Infrastructure Strategies has been engaged as a consultant to Creative Energy, and was engaged by Creative Energy to help in developing the original Fuel Switch Study project scope. This was prepared in collaboration with the City of Vancouver and an application was submitted to the Federation of Canadian Municipalities (FCM) for project funding. The study plan and FCM application were made prior to the financial close of the acquisition of Central Heat Distribution (now called Creative Energy Vancouver Platforms Inc.) by Creative Energy Canada Platforms Corp, and FCM approval was received shortly after close of the acquisition. A principal of Reshape Infrastructure Strategies, Mr. Berry, was appointed an independent board member of Creative Energy Vancouver several months after commencement of the FCM-funded Fuel Switch Study. There were no changes to the scope of Reshape's tasks or budget for the FCM-funded portions of the Fuel Switch Study. Reshape was also retained on a time and materials basis for follow-up to the study (Enabling Low Carbon Development Project). Mr. Berry was recused from any budget approvals required by the Board for follow-up tasks.

- Creative Energy's response to CEC IR 22.2 - *Please confirm that an RFP process was conducted for the Lead Consultant position.*

Not confirmed. Creative Energy selected Reshape Infrastructure Strategies based on the firm's expertise in developing business cases for low-carbon district energy projects, as well as the firm's specific experience with examining fuel switch opportunities for the Creative Energy steam system. The FCM-funded Fuel Switch Study was a progression of two earlier screening-level studies. The first of these earlier screening studies was funded by the City of Vancouver with the participation of the previous owners of Central Heat. The second screening study considered possible synergies with Port Metro Vancouver. This study was jointly commissioned by the City of Vancouver and Port Metro Vancouver, with partial funding support from BC Hydro. Reshape Infrastructure Strategies' predecessor company, Compass Resource Management (together with several technical subs), was engaged to lead the previous studies under a standing offer arrangement with the City of Vancouver, which was entered into following a public procurement process. An RFP was not conducted for the full Fuel Switch Study because it built on the previous screening studies and also the due diligence conducted under the standing offer procurement by the City of Vancouver. The

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<sup>11</sup> CEC Final Argument, paragraphs 168 and 172.

study plan and budget were subject to approval of both the City of Vancouver and Creative Energy prior to submission to the FCM for funding approval. The Enabling Low Carbon Development project involved follow-on tasks to the Fuel Switch Study provided on a time and materials basis.

39. It is clearly unreasonable for the CEC to argue there was a failing on the part of Creative Energy in relation to the decision to retain Reshape Infrastructure Strategies, as the CEC did in its paragraph 172. The process and due diligence relied on to select Reshape Infrastructure Strategies, as set out in the evidence reproduced above, was above and beyond a RFP process and more than adequate in the circumstances.
40. For the same reasons, Creative Energy submits that the CEC's recommendation, in paragraph 11 of its Final Argument, that the Commission direct Creative Energy to "conduct appropriate RFP processes for major expenditures for outside consulting services in the future" has no foundation and is entirely unnecessary.

**6.1 Balance in Fuel Switch Study and LTRP Deferral Account to be written off**

41. We also need to clarify the request for approval to write off \$64,222 of the balance in the Fuel Switch Study and LTRP Deferral Account.
42. As the CEC correctly observes in its paragraph 163, Creative Energy is not seeking to recover from customers either the \$64,222 (incurred in 2015) or the \$39,314 (incurred in 2016) in Internal Project Management, Executive and Legal Support at any time in the future. These costs totaling \$103,536 are proposed to be written off the balance in the Fuel Switch Study and LTRP Deferral Account, and paragraph 7 of the draft Order provided with our Final Argument should be revised accordingly.

**All of which is respectfully submitted this 4<sup>th</sup> day of June 2020.**

**By:**



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