

29 April 2021

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)
2021 Long-term Resource Plan (LTRP) – Appendix A Expenditure Schedule**

In accordance with Order G-93-21, Creative Energy writes to submit its Reply Argument into the matter of our request for acceptance by the Commission of the expenditure schedule contained in Appendix A of the LTRP.

For further information, please contact the undersigned.

Sincerely,



Rob Gorter
Director, Regulatory Affairs and Customer Relations

Enclosure.

CREATIVE ENERGY VANCOUVER
PLATFORMS INC.

Suite 1 – 720 Beatty Street
Vancouver, Canada
V6B 2M1

604 688 9584 TEL
604 688 2213 FAX
creativeenergycanada.com

Creative Energy Vancouver Platforms Inc.
2021 Long Term Resource Plan –
Appendix A Expenditure Schedule

Creative Energy Vancouver Platforms Inc.
Reply Argument

April 29, 2021

Table of Contents

1	Introduction.....	1
2	Reply Submissions	1
2.1	Overarching Reply	1
2.2	Reply to Other Submissions by Intervenors	4

1 Introduction

1. On January 13, 2021, Creative Energy Vancouver Platforms Inc. (**Creative Energy**) filed its 2021 Long Term Resource Plan (**LTRP**) pursuant to section 44.1 of the *Utilities Commission Act (UCA)*, for acceptance by the British Columbia Utilities Commission (**BCUC**).
2. In the LTRP, Creative Energy also seeks BCUC acceptance, pursuant to section 44.2 of the *UCA*, of the expenditure schedule (**Expenditure Schedule**) contained in Appendix A of the LTRP. Creative Energy filed a public redacted version of Appendix A, which is Exhibit B-1-2 in this proceeding. As explained in the cover letter to Exhibit B-1-2, Creative Energy seeks to maintain confidentiality of the actual and forecast costs to review the technical and economic feasibility of the decarbonization project described in Appendix A, and the high-level costs to construct the project.
3. On April 9, 2021, Creative Energy filed its written Final Argument with the BCUC in the matter of the request for BCUC acceptance of the Expenditure Schedule pursuant to section 44.2 of the *UCA*.
4. The following interveners submitted Final Arguments on April 22, 2021 into the matter of the request for acceptance of the Expenditure Schedule:
 - BC Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, and Tenant Resource and Advisory Centre (**BCOAPO**)
 - Commercial Energy Consumers Association of British Columbia (**CEC**)
 - Residential Consumer Intervenor Association (**RCIA**)
5. Creative Energy's submissions in reply to the intervener Final Arguments are below.

2 Reply Submissions

2.1 Overarching Reply

6. None of the intervenors indicates any opposition to Creative Energy continuing to investigate the decarbonization project in support of project development and definition that is expected to ultimately inform an application for a CPCN to construct and operate the project. In fact, intervenors have suggestions for information and analysis that Creative Energy should undertake and include in its CPCN application,¹ indicating that those intervenors expect Creative Energy to make the expenditures necessary to develop that information and analysis in support of a CPCN application.

¹ RCIA Final Argument, section 2.2; BCOAPO Final Argument, p. 2.

7. None of the intervenors indicates any concern with Creative Energy's position that advancing the decarbonization project supports B.C.'s energy objectives.²
8. None of the intervenors indicates any concern with the amounts of expenditures in the Expenditure Schedule.³
9. The only apprehension raised by the intervenors relates not to Creative Energy making the expenditures referred to in the Expenditure Schedule nor to the BCUC accepting the Expenditure Schedule pursuant to subsection 44.2(1)(b) of the *UCA*, but rather to how a future BCUC Panel might view this Panel's acceptance of the Expenditure Schedule.⁴ These submissions of the intervenors relate to the meaning generally of BCUC acceptance of an expenditure schedule filed under subsection 44.2(1)(b) of the *UCA*.
10. The pertinent provisions of section 44.2 of the *UCA* are as follows.⁵

Expenditure schedule

44.2 (1) A public utility may file with the commission an expenditure schedule containing one or more of the following:

- (b) a statement of capital expenditures the public utility has made or anticipates making during the period addressed by the schedule;
- (3) After reviewing an expenditure schedule submitted under subsection (1), the commission, subject to subsections (5), (5.1) and (6), must
 - (a) accept the schedule, if the commission considers that making the expenditures referred to in the schedule would be in the public interest, or
 - (b) reject the schedule.
- (4) The commission may accept or reject, under subsection (3), a part of a schedule.
- (5) In considering whether to accept an expenditure schedule filed by a public utility other than the authority, the commission must consider
 - (a) the applicable of British Columbia's energy objectives,
 - (b) the most recent long-term resource plan filed by the public utility under

² The BCOAPO Final Argument states that BCOAPO accepts CEV's assessment of the policy and planning environment in which it operates, but otherwise does not specifically address B.C.'s energy objectives; the CEC Final Argument does not address B.C.'s energy objectives; the RCIA Final Argument (section 2.1) states the RCIA has no comment related to B.C.'s energy objectives.

³ BCOAPO Final Argument, page 1; CEC Final Argument, paragraph 24; RCIA Final Argument, section 1.3 (RCIA only questions whether a specific cost item is reported in the correct time period).

⁴ BCOAPO Final Argument, page 2; CEC Final Argument, Summary Position and Part D; RCIA Final Argument, section 1.3.

⁵ The provisions of section 44.2 that are not applicable to the Expenditure Schedule submitted by Creative Energy have been omitted.

section 44.1, if any,

(e) the interests of persons in British Columbia who receive or may receive service from the public utility.

11. Per subsection 44.2(3)(a) of the *UCA* (reproduced above), BCUC acceptance of an expenditure schedule submitted under section 44.2 represents the BCUC's determination that making the expenditures referred to in the schedule would be in the public interest.
12. The CEC and BCOAPO acknowledge that the BCUC can reasonably accept the Expenditure Schedule submitted by Creative Energy (meaning that the evidence supports a determination by the BCUC that it is in the public interest for Creative Energy to make the subject expenditures), however, they request that if the BCUC does so it include direction⁶ that future Commission Panels should not be bound to accept the acceptance – that is, this Panel should include specific direction that its acceptance of the Expenditure Schedule does not mean what the statute says it means and is in fact meaningless.
13. In reply to those submissions and requests of the BCOAPO and CEC in relation to the meaning of BCUC acceptance of an expenditure schedule submitted pursuant to section 44.2 of the *UCA*, Creative Energy submits:
 - Section 44.2 is not new and it has been applied by the BCUC many times.⁷ The section was added to the *UCA* by statutory amendment in May 2008 – that is, 13 years ago.
 - Creative Energy's Expenditure Schedule submission is typical. Subsection 44.2(1)(b) provides a public utility with the right, in its discretion,⁸ to file with the BCUC an expenditure schedule containing "a statement of capital expenditures the public utility has made or anticipates making during the period addressed by the schedule". The public utility can choose the period addressed by the schedule, and the public utility can file the schedule after capital expenditures have been made and/or in advance of anticipated further capital expenditures. The decision to file an expenditure schedule and, if so, the timing of the filing, scope and period addressed by the schedule are all at the discretion of the public utility.
 - The BCUC's powers and obligations in relation to an expenditure schedule filed under section 44.2(1)(b) are to (a) accept the schedule, if the commission considers that making the expenditures referred to in the schedule would be in the public interest, or (b) reject the schedule. The BCUC may accept or reject a part of the filed schedule.

⁶ The BCOAPO asks the BCUC to expressly reference section 75 of the *UCA* – "the commission must make its decision on the merits and justice of the case, and is not bound to follow its own decisions" – in its decision accepting this Expenditure Schedule, apparently for the purpose of clearly signaling to future BCUC Panels that they should not follow this Panel's acceptance of the Expenditure Schedule. The CEC's recommendation as summarized in paragraph 8 of their Final Argument would serve the same purpose.

⁷ For example, Order G-110-12 re. FortisBC Inc. 2012-13 Capital Plan, Order G-1-10 re. BC Hydro GM Shrum Units 1-5 Turbine Replacement Project, Order G-70-13 re. FortisBC Energy Inc. Capital Expenditures for Interconnection Facilities, etc.

⁸ Section 44.2(1) provides that a public utility may file with the BCUC an expenditure schedule.

- The purpose of Creative Energy’s Expenditure Schedule filing fully aligns to the purpose of section 44.2 as it relates to capital expenditures – that is, to obtain the BCUC’s views on whether it is in the public interest for the utility to make the subject capital expenditures in support of advancing the development of a project or projects, for example, in aid of preparing and submitting an application for CPCN approval to construct and operate the project.
 - Acceptance of the Expenditure Schedule represents the BCUC’s determination that it is in the public interest for Creative Energy to make the expenditures set out in the schedule.
14. Ultimately, the concerns of the CEC and BCOAPO are with the legislative scheme. They identify no reason why Creative Energy should not advance the development and definition of the decarbonization project in support of an application for a CPCN and acknowledge that the evidence put forward by Creative Energy is sufficient for the Commission to accept the Expenditure Schedule (meaning that it is in the public interest for Creative Energy to make the subject expenditures).
 15. The CEC and BCOAPO might not like the implication of the BCUC accepting the Expenditure Schedule, however, this is the implication prescribed in the statute. The CEC and BCOAPO ask the Commission to frustrate that legislative scheme.

2.2 Reply to Other Submissions by Intervenors

16. RCIA submits in section 1.2 of its Final Argument that “Creative Energy has not presented compelling evidence demonstrating that it would be financially incapable of bearing these costs in the absence of pre-approval by the BCUC”.
 - Creative Energy replies that a utility does not need to be financial incapable to proceed otherwise as a requirement for submission of an expenditure schedule under section 44.2 of the *UCA*.
17. RCIA submits in section 1.3 of its Final Argument that “...any pre-development expenditures incurred above the approved amounts should be evaluated for prudence and adjudicated for appropriate disposition during the CPCN application, rather than being treated as pre-approved expenditures.”
 - Creative Energy agrees that BCUC acceptance of the Expenditure Schedule does not imply pre-approval of expenditures that are not included in the Expenditure Schedule.
18. BCOAPO submits on page 2 of its Final Argument that it would be beneficial if Creative Energy provides two additional pieces of evidence in our reply argument, “a narrative to further the Commission and Intervenors’ understanding of the potential emissions reductions from the decarbonization Project; and an explanation of how the Utility expects to mitigate the accuracy range of the transmission costs in the contemplated CPCN”.
 - Creative Energy replies that it would not be appropriate to introduce evidence in reply argument (even at the invitation of an intervenor). The CPCN application will include analysis of potential emission reductions. The matter of alignment to the expectations of

the BCUC's CPCN Guidelines in relation to accuracy of cost forecasts will be addressed in the CPCN application also. There will also be the option to submit additional more accurate forecasts in the CPCN proceeding by way of evidentiary update if and as required.

19. CEC submits at paragraph 8 of its Final Argument that a deferral account should be established for the costs included in the Expenditure Schedule with the expectation that they could be subject to future prudence review during any future CPCN application.
 - Creative Energy replies that the subject expenditures are being capitalised such that a deferral account is not required nor applicable. The overarching reply submissions above respond to the CEC's submissions in relation to prudence review.

20. CEC submits at paragraph 9 of its Final Argument that if the Commission accepts the Expenditure Schedule it should be with the "caveat that Creative Energy publicly releases the total value and purposes of the approved amounts at this time, and the details of the costs included in the Expenditure Schedule at the earliest possible time, or is able to satisfy the Commission that the publication of these specific amounts could continue to result in harm to the utility or its ratepayers".
 - Creative Energy replies that it is consulting with its customers regarding the decarbonization project and providing them with the information they need to understand the costs and benefits of the project.⁹ Moreover, the CPCN application will include the information and cost data required to assess the project in a public hearing process.¹⁰ Creative Energy's request for confidentiality is pending completion of a City of Vancouver Request for Proposals for low carbon energy in order to protect its commercial and competitive interest in that process. Any additional public disclosure prior to the CPCN application would not assist the customers but would be expected to assist Creative Energy's competitors to Creative Energy's disadvantage.

All of which is respectfully submitted this 29th day of April 2021.

By:  _____

Ian D. Webb

Counsel for Creative Energy Vancouver Platforms Inc.

⁹ Ex. B-2; Ex. B-3 (Item b.); and Ex. B-4, the response to BCUC Conf IR 2.5.1.

¹⁰ The commercial sensitivity and requirement for confidentiality will abate after the City RFP process completes, anticipated in Q2 2021.