



September 26, 2018

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| CREATIVE ENERGY BEATTY/EXPO PLANTS CPCN AND REORGANIZATION | EXHIBIT A-10 |
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Mr. Krishnan Iyer
President and CEO
Creative Energy Vancouver Platforms Inc.
Suite 1 - 720 Beatty Street
Vancouver, BC V6B 2M1
Krishnan@creative.energy; info@creative.energy

Re: Creative Energy Vancouver Platforms Inc. – Application for Certificate of Public Convenience and Necessity for the Expo–Beatty Plants and Reorganization – Project Number 1598962

Dear Mr. Iyer:

Further to Creative Energy Vancouver Platforms Inc.'s (Creative Energy) application dated June 29, 2018 for Certificate of Public Convenience and Necessity for the Expo–Beatty Plants and undertaking of a corporate reorganization there are two issues which have arisen:

1. Creative Energy's letter of September 13, 2018, to Grover, Elliot & Co. Ltd. requesting certain enclosed information be kept confidential; and
2. Additional questions concerning reorganization steps and amalgamation arising from responses to Information Request No. 1 (IR 1).

Confidentiality of Material concerning Independent Appraisal of Land

On September 13, 2018, Creative Energy submitted a letter to Grover, Elliott & Co. Ltd with four enclosed attachments that Creative Energy considers relevant to the independent land value assessment to be performed by Grover, Elliott & Co. Ltd. The BCUC was copied on the letter (Exhibit B-7), but did not receive any of the enclosed attachments that were sent to Grover, Elliott & Co. Ltd. Creative Energy states in the letter to Grover, Elliott & Co. Ltd that "the documents in Attachment 4 are confidential to the parties and are provided to you in confidence," and that "the documents in Attachment 4 must not be disclosed to anyone outside your organization, including the BCUC and interveners in this proceeding."

Section 20.01 of the BCUC Rules of Practice and Procedure¹ states that:

In determining whether the nature of the information or documents require a confidentiality direction, the Commission will have regard to matters that it considers relevant, including:

- (a) whether the disclosure of the information could reasonably be expected to result in:
 - (i) undue material financial loss or gain to a person, or

¹ https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/127520/index.do?r=AAAAAQAGZy0xLTE2AQ#_Toc439922527

- (ii) significant harm or prejudice to that person's competitive or negotiating position, or
- (iii) harm to individual or public safety or to the environment;
- (b) whether the information is personal, financial, commercial, scientific, labour relations or technical information that is confidential and consistently treated as confidential by the person;
- (c) whether the person's interest in confidentiality outweighs the public interest in the disclosure of the information or documents in the hearing;
- (d) whether the person submitting the document has any legal obligation to maintain confidentiality; and
- (e) whether it is practicable to hold the hearing in a manner that is open to the public.

It is difficult for the Panel to determine whether the requested information should be kept confidential if it has no knowledge of the nature of the information or what specifically requires confidential treatment and why. Therefore, the Panel hereby seeks clarification from Creative Energy on i) the nature of Attachment 4 and an explanation of why Creative Energy requests it be held confidential from the BCUC in consideration of the criteria laid out under section 20.01 of the BCUC Rules of Practice and Procedure. In addition, the Panel requests Creative Energy submissions on how keeping this information confidential will impact the ability of the Panel to consider the independent land value assessment. **Creative Energy is requested to provide its explanation on the confidential treatment of Attachment 4 by noon on Friday, September 28, 2018. Other parties in the proceeding are invited to provide written comments regarding the confidentiality treatment of Attachment 4 by no later than Thursday, October 4, 2018, with any reply comments from Creative Energy due on Tuesday, October 9, 2018. In the interest of running an open and transparent hearing, Creative Energy is also directed to submit the non-confidential attachments (Attachment 1, Attachment 2 and Attachment 3) to the evidentiary record.**

Reorganization Steps and Amalgamation

Creative Energy has proposed that the BCUC by September 30, 2018, issue a report to the LGIC on the utility amalgamation component of the proposed corporate reorganization of Creative Energy. It is their expectation that this would provide time for the LGIC to issue a timely order consenting to the amalgamation. The report would be conditional in that it would request LGIC consent to the amalgamation only if the BCUC approves this Application.

In order to prepare a report to the LGIC regarding the utility amalgamation component of the proposed corporate reorganization of Creative Energy, the Panel has a number of items for clarification which have arisen as a result of responses to IR 1. **Creative Energy is requested to respond to panel questions regarding the amalgamation as set out in Appendix A to this letter by Monday, October 1, 2018.**

Creative Energy is reminded that complete and comprehensive responses to information requests and panel questions are required for the BCUC's review of the Application.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

HC/dg
Attachment

Creative Energy Vancouver Platforms Inc.
Application for Certificate of Public Convenience and Necessity for the Expo–Beatty Plants and Reorganization
Panel Questions on Amalgamation

In response to BCUC IR 59.11, Creative Energy stated:

The transfer of the beneficial interest in the Trust Property, and the retention by Creative Energy of legal title to the Beatty Street lands, poses certain risks to Creative Energy which would not otherwise be present. The risks are financial in nature and they are generally as follows:

- exposure to liabilities and asset exposure associated with the construction financing for the Developer’s project; and
- exposure to liabilities associated with the Developer’s project generally as a result of Creative Energy being the registered owner of the Beatty Street lands.

These risks are mitigated through the financing restrictions set out in Section 6.2 of the Trust and Development Agreement, and in the various indemnities from the Developer and from Westbank Holdings Ltd. in favour of Creative Energy in the Trust and Development Agreement (see, for example, Section 9.1 of the Trust and Development Agreement).

- 1.0** To the extent the risks described above materialized, what is the mechanism in place to protect Creative Energy and the ratepayers against the liabilities and asset exposure associated with the construction financing for the Developer’s project?
- 2.0** With respect to the indemnities from the Developer and Westbank Holdings Ltd., what is the mechanism in place to ensure that the Developer and Westbank Holdings Ltd. have the ability to meet the financial requirements when exposed to the risks? For example, will the Developer and Westbank Holdings Ltd. provide additional financial security such as performance bond and other assets as security?
- 3.0** Does Creative Energy retain the ownership of the utility assets during and after the proposed reorganization? To the extent the Developer and Westbank Holdings Ltd., for whatever reasons, are not able to meet the financial requirement to cover the risks Creative Energy is being exposed to, will the utility assets be exposed to claims and potentially affect the ability to provide utility services to the ratepayers?
- 4.0** To the extent the Developer and Westbank Holdings Ltd. are not able to finish the Developer’s project, what is the mechanism in place to ensure the public interest and the utility services will not be negatively impacted? Who will be responsible for finishing the construction of the new utility assets?

Finally, step 4 of the proposed reorganization requires an indirect sale of a 50% interest in Creative Energy to Emanate Energy Solutions Inc.

- 5.0** Please apprise the Panel of the due diligence process completed in the selection of Emanate Energy Solutions Inc. and the findings.
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