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Utilities Commission

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June 4, 2019

Sent via email/eFile

Mr. Ian Webb
Partner
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925 West Georgia Street
Vancouver, BC V6C 3L2
iwebb@lawsonlundell.com

Re: Shannon Estates Utility Ltd. – Extension Request for Filing the Shannon Estates Thermal Energy System (SETES) Levelized Rate Application – Final Order with Reasons for Decision

Dear Mr. Webb:

Further to your February 20, 2019 application regarding the above-noted matter, please find enclosed British Columbia Utilities Commission Order G-120-19 with Reasons for Decision.

Sincerely,

Original signed by Ian Jarvis on behalf of:

Patrick Wruck
Commission Secretary

/dc
Enclosed



ORDER NUMBER
G-120-19

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Shannon Estates Utility Ltd.
Application to Extend the Filing Deadline for the
Shannon Estates Thermal Energy System Levelized Rate Application

BEFORE:

T. A. Loski, Panel Chair

on June 4, 2019

ORDER

WHEREAS:

- A. On February 20, 2019, Shannon Estates Utility Ltd. (SEUL) filed an application with the British Columbia Utilities Commission (BCUC) requesting to extend the deadline for filing a levelized rate application for the Shannon Estates Thermal Energy System (SETES) to either November 1, 2019 or June 30, 2020 (Application);
- B. In the Application, SEUL states that depending on the extension granted, it would apply for interim and refundable rates effective January 1, 2020 in either the fall of 2019 or in November 2019. SEUL further states that extending the filing deadline along with a future approval of interim and refundable rates effective January 1, 2020 should result in a more efficient regulatory process for the review of the levelized rate application;
- C. By Order C-4-16 dated April 21, 2016, the BCUC granted Shannon Wall Centre Rental Apartments Limited Partnership (SWCRA) a Certificate of Public Convenience and Necessity (CPCN) to own and operate the SETES. The estimated capital cost of the SETES project was \$7.5 million and was planned to be developed over two phases;
- D. On December 19, 2017, the BCUC issued its decision and Order G-190-17 which, among other things, established rates and a rate structure for the SETES on a permanent basis, effective from June 1, 2016 to December 31, 2019. Directive 4 of Order G-190-17 directed SWCRA to file an application to set rates under a levelized rate structure by no later than June 30, 2019;
- E. By Order G-160-18 dated August 28, 2018, the BCUC, among other things, granted approval of the disposition of 100 percent of SWCRA's interest in the SETES to SEUL, its wholly-owned sister subsidiary;
- F. By Order G-65-19 dated March 20, 2019, the Panel in this proceeding determined that a public hearing process was warranted and established a regulatory timetable for review of the Application, which included

intervener and interested party registration, one round of BCUC and intervener information requests (IR), and further process to be determined;

- G. Two individuals intervened in this proceeding: Grant Cameron and Gerard Duffy. No one registered as an interested party, and no letters of comment were filed by the deadline of May 9, 2019;
- H. The BCUC issued IR No. 1 to SEUL on April 9, 2019 and Cameron and Duffy issued IR No. 1 on April 24, 2018. Both Cameron and Duffy expressed support for SEUL's extension request as part of their IR No. 1 filing;
- I. SEUL responded to BCUC and intervener IRs on May 9, 2019. In its cover letter to the IR responses, SEUL reiterated its request that the date for filing of its levelized rate application be reset to June 30, 2020. SEUL also stated that, given the interveners' support for the extension request, it considers that no further process is necessary and the BCUC can proceed directly to issuing an order;
- J. On May 11, 2019, Duffy requested clarification on SEUL's IR No. 1 responses, namely (i) a complete set of financial statements for SETES/SEUL for the three years since operations commenced; and (ii) a comprehensive report on the operational conditions of the utility's equipment;
- K. On May 16, 2019, the Panel responded to Duffy, finding SEUL's IR responses to be satisfactory given the purpose of the current proceeding, which is to determine if SEUL's request for an extension to the filing date for the SETES levelized rate application is appropriate. The Panel found that no further process is warranted at this time and declined to take the actions requested by Duffy; and
- L. The Panel has reviewed the Application and IR No. 1 responses and considers that approval of the Application is warranted.

NOW THEREFORE pursuant to section 77 of the *Utilities Commission Act*, for the reasons attached as Appendix A to this order, the BCUC orders as follows:

- 1. SEUL's application to extend the deadline for filing a levelized rate application for the SETES to June 30, 2020 is approved.
- 2. SEUL is directed to file an application with the BCUC by September 30, 2019 for approval of SETES rates to be effective as of January 1, 2020 until such time as a levelized rate structure is approved by the BCUC and implemented by SEUL. SEUL is directed to provide the following in the September 30, 2019 application:
 - (i) a detailed description of its proposed rate-setting approach;
 - (ii) a discussion of the alternative approaches considered;
 - (iii) an explanation as to why the proposed approach was chosen and why the approach is considered reasonable;
 - (iv) an explanation as to whether or not SEUL would propose the continued use of the revenue deficiency/surplus deferral account in 2020 and the rationale for such a proposal; and
 - (v) the implications of the proposed approach for SEUL and for ratepayers.

DATED at the City of Vancouver, in the Province of British Columbia, this 4th day of June 2019.

BY ORDER

Original signed by:

T. A. Loski
Commissioner

Attachment

Shannon Estates Utility Ltd.
Application to Extend the Filing Deadline for the
Shannon Estates Thermal Energy System Levelized Rate Application

REASONS FOR DECISION

Table of Contents

	Page no.
1.0 Introduction	2
1.1 Background and Approvals Sought	2
1.2 Review of the Application and Regulatory Process.....	2
1.3 Relevant Law and Policy	3
2.0 Extension Request	3
3.0 SETES Rates for 2020.....	6

1.0 Introduction

1.1 Background and Approvals Sought

On February 20, 2019, Shannon Estates Utility Ltd. (SEUL) filed an application with the British Columbia Utilities Commission (BCUC) requesting to extend the deadline for filing a levelized rate application for the Shannon Estates Thermal Energy System (SETES) to either November 1, 2019 or June 30, 2020 (Application).

In the Application, SEUL states that depending on the extension granted, it would apply for interim and refundable rates effective January 1, 2020 in either the fall of 2019 or in November 2019. If an extension to the levelized rate application is granted to November 1, 2019, SEUL would include the request for interim rate approval at that time. If the extension were granted until June 30, 2020, SEUL would apply for approval of interim rates in the fall of 2019. SEUL further states that extending the filing deadline along with a future approval of interim and refundable rates effective January 1, 2020 should result in a more efficient regulatory process for the review of the levelized rate application.¹

By Order C-4-16 dated April 21, 2016, the BCUC granted Shannon Wall Centre Rental Apartments Limited Partnership (SWCRA) a Certificate of Public Convenience and Necessity (CPCN) to own and operate the SETES. The estimated capital cost of the SETES project was \$7.5 million and was planned to be developed over two phases.

The SETES is a small thermal district energy utility located at the Shannon Wall Centre Kerrisdale development in Vancouver, BC (Shannon Estates). The Shannon Estates development consists of 10 buildings including restored heritage buildings, new townhomes and suites, a rental apartment building, parks and grounds and related infrastructure. The SETES serves the thermal energy requirements for space heating, space cooling and domestic hot water of the dwellings and common areas of a fixed number of buildings within Shannon Estates.²

The Shannon Estates development is being constructed in two phases - Phase 1 and Phase 2. At the time of filing the SWCRA SETES Rate Application on May 24, 2016,³ the Shannon Estates development was only partially complete. At that time, both Phase 1 and Phase 2 were expected to be completed by 2018 or early 2019.⁴

On December 19, 2017, the BCUC issued its decision and Order G-190-17 regarding the SWCRA SETES Rate Application which, among other things, established rates and a rate structure for the SETES on a permanent basis, effective from June 1, 2016 to December 31, 2019. Directive 4 of Order G-190-17 directed SWCRA to file an application to set rates under a levelized rate structure by no later than June 30, 2019.

By Order G-160-18 dated August 28, 2018, the BCUC, among other things, granted approval of the disposition of 100 percent of SWCRA's interest in the SETES to SEUL, its wholly-owned sister subsidiary.

1.2 Review of the Application and Regulatory Process

By Order G-65-19 dated March 20, 2019, the Panel determined that a public hearing process was warranted and established a regulatory timetable for review of the Application. The regulatory timetable included the

¹ Exhibit B-1, p. 5.

² Ibid., p. 1.

³ SWCRA SETES Rate Application proceeding, Exhibit B-1.

⁴ Exhibit B-1, p. 2.

following: intervener and interested party registration; one round of BCUC and intervener information requests (IR); and further process to be determined.

Two individuals intervened in the proceeding: Grant Cameron and Gerard Duffy. No one registered as an interested party, and no letters of comment were filed by the deadline of May 9, 2019.

The BCUC, Cameron and Duffy submitted IRs to SEUL. Both Cameron and Duffy expressed support for SEUL's extension request as part of their IR No. 1 filing. SEUL responded to BCUC and intervener IRs on May 9, 2019. In its cover letter to the IR responses, SEUL reiterated its request that the date for the filing of its levelized rate application be reset to June 30, 2020. SEUL also stated that, given the interveners' support for the extension request, it considers that no further process is necessary and the BCUC can proceed directly to issuing an order.

On May 11, 2019, Duffy requested clarification on SEUL's IR No. 1 responses, namely (i) a complete set of financial statements for SETES/SEUL for the three years since operations commenced; and (ii) a comprehensive report on the operational conditions of the utility's equipment.⁵

By letter dated May 16, 2019, the Panel responded to Duffy, finding SEUL's responses to be satisfactory given the purpose of the current proceeding, which is to determine if SEUL's request for an extension to the filing date for the SETES levelized rate application is appropriate. The Panel found that no further process is warranted at this time and declined to take the actions requested by Duffy.

1.3 Relevant Law and Policy

The BCUC has previously determined that SETES is a Stream B public utility under the BCUC's Thermal Energy System (TES) Guidelines.⁶ The TES Guidelines outline the requirements for Stream B TES rate applications.

Sections 59 to 61 of the *Utilities Commission Act* (UCA) govern the approval of Stream B TES rates, including rates for the SETES. Section 60(1)(a) and (b) require the BCUC when setting rates to consider all matters that it considers proper and relevant affecting the rate, and to have due regard for setting a rate that is not unjust and unreasonable. Section 60(1)(b.1) states that the BCUC may use any mechanism, formula or other method of setting the rate that it considers advisable, and may order that the rate derived from such a mechanism, formula or other method is to remain in effect for a specified period.

Section 77 of the UCA states that if a work, act or thing is, by BCUC order or decision, required to be performed or completed within a specified time, the BCUC may, if the circumstances of the case in its opinion so require, extend the time so specified (a) on notice and hearing, or (b) in its discretion, on application, without notice to any person.

2.0 Extension Request

As stated previously, by Order G-190-17, the BCUC approved SETES rates on a permanent basis effective until December 31, 2019 and directed SEUL to file a levelized rate application for the SETES by June 30, 2019.

SEUL submits in this Application that due to construction delays, Phase 2 of Shannon Estates is not expected to be fully complete and all dwelling units occupied until May 2019 at the earliest. SEUL states that if it was to file its rate application in June 2019 as directed by the BCUC, the financial modelling and proposed rates would have

⁵ Exhibit C2-3.

⁶ Appendix A to Order G-27-15, BCUC Thermal Energy Systems Regulatory Framework Guidelines.

to be based on the energy consumption data of the Phase 1 buildings and perhaps a couple of months of data from the first two buildings of Phase 2. Thus, the levelized rate application would suffer from the same issues as those that were problematic for the 2016 rate application and the proceeding would likely be inefficient, as SEUL would likely need to file an evidentiary update or updates as it acquires energy consumption and revenue data from Phase 2 customers.⁷

As part of its extension request, SEUL presents two options for a revised filing deadline: November 1, 2019 or June 30, 2020. SEUL submits that extending the filing date to November 1, 2019 will allow for the application to be based on several months of load and revenue data for full occupancy of both Phase 1 and 2 of the Shannon Estates development, informing more reliable forecasts; however, the data from Phase 2 occupancy would be solely for summer months. In the alternative, if the deadline were extended to June 30, 2020, SEUL submits that this timing would allow for approximately one year of actual consumption data, including a full winter of data to be analyzed in the levelized rate application.⁸

In response to IRs, SEUL submitted that it believes that the June 30, 2019 filing date is “no longer realistic” and that it prefers the June 30, 2020 filing date because it will enable SEUL to submit an application that is based on “significantly more reliable data for accurate modeling and better rate design.” SEUL further submitted that accurate and complete winter load data will not be available for the November 2019 filing date.⁹

SEUL notes that in 2020 all Phase 1 and Phase 2 units are expected to be occupied and taking utility service.¹⁰ In addition, SEUL confirms that in preparing its levelized rate application, it will address other concerns identified by the BCUC in Order G-190-17 and will:

- update its utility financial model using actual costs and revenues as well as revised forecasts which will consider these actuals;
- develop a levelized rate structure taking into consideration BCUC decisions on other Stream B TES levelized rate applications, capital structure, previous treatment of fixed and variable costs and unplanned costs, capacity levy, and the BCUC’s discussion and directions in the SWCRA SETES Rate Decision and Order G-190-17;
- report on the balances in regulatory accounts;
- review tariff terms and conditions;
- review all standard fees and charges; and
- track, update, and prepare a report of actual hours spent for metering activities on a monthly and annual basis.¹¹

SEUL states that it will use a similar team, with regulatory experience, to support the preparation of the levelized rate application and the regulatory process as it did for the completion of the 2016 SWCRA SETES Rate Application proceeding and for the 2018 proceeding regarding the disposition of 100 percent of SWCRA’s interest in the SETES to SEUL.¹²

⁷ Exhibit B-1, p. 4.

⁸ *Ibid.*, p. 5.

⁹ Exhibit B-3, BCUC IR 3.4.

¹⁰ *Ibid.*, BCUC IR 2.6.

¹¹ *Ibid.*, BCUC IR 3.2.

¹² *Ibid.*, BCUC IR 3.3.

With respect to the revenue deficiency/surplus deferral account build-up and financial impacts to the utility, SEUL does not see material pros or cons between the two filing dates. There is a balance (debt) in the deferral account that will have to be recovered from customers. The later filing date of June 30, 2020 might defer the point at which such costs begin to be recovered in rates by up to 12 months; however, SEUL does not consider this to be a material con given the pros of the later filing date.¹³

SEUL also submits: “In light of the comments and preferences of the interveners, and the slow rate at which new customers are signing up to receive utility services from the SETES, SEUL is now firmly of the view that the June 30, 2020 filing date should be preferred.”¹⁴

In his IR No. 1 to SEUL, Cameron stated the following:

On review of the SEUL application for an extension and BCUC panel’s response letter of April 9, I believe there is legitimacy to the extension request because of the staged construction of the project and slow take up of occupancy.

The levelized and finalized rates should yield reasonable returns to the utility once occupancy of the project is achieved while ratepayer’s treatments are fair and equitable.¹⁵

As part of Duffy’s IR No. 1 to SEUL, he stated that he supports SEUL’s request for an extension, adding:

Given the delays in the closing of phase 2 of the development it is evident that there are few new occupants and limited data as to usage of the utility services at this time. Further, the phase 2 strata councils have not yet been formed and as such there is no forum to allow the residents meet and discuss any issues related to SEUL. Proceeding with the rate application at this time given these circumstances risks repeating the mistakes that occurred with the original SWCRA Application back in July-August 2016. The ratepayers need to have adequate notice and time to comprehend the process and the applicant needs sufficient usage data to develop a Levelized Rate Design.¹⁶

Panel Determination

The Panel agrees with SEUL that the existing June 30, 2019 filing date for the levelized rate application is no longer realistic. The Panel also notes that all parties agree that SEUL should be granted the extension request, and that extending the filing date to June 30, 2020 will allow SEUL to prepare a rate application based on approximately one year of actual consumption data, including a full winter of data. While there will be an additional 12 month delay in collecting any revenue deficiency or surplus from SETES ratepayers, the Panel considers that allowing the extension to June 30, 2020 will likely result in greater regulatory efficiency. SEUL has also committed to addressing in its levelized rate application various concerns identified by the BCUC in Order G-190-17.

Overall, based on SEUL’s responses to IRs, the Panel considers that extending the filing deadline until June 30, 2020 will likely increase the accuracy and completeness of the levelized rate application and thus lead to a more efficient regulatory process. **For these reasons, the Panel approves SEUL’s request to file its levelized rate application on or before June 30, 2020.**

¹³ Exhibit B-3, BCUC IR 3.4.

¹⁴ Ibid.

¹⁵ Exhibit C1-2, p. 1.

¹⁶ Exhibit C2-2, p. 1.

3.0 SETES Rates for 2020

The rates in effect for the SETES until December 31, 2019 are based on, among other things, the following:

- A monthly capacity levy which is pegged to the Southeast False Creek (SEFC) Neighbourhood Energy Utility (NEU) Class 1 Fixed Capacity Levy; and
- Consumption dependent heating, cooling and domestic hot water charges which are pegged to the SEFC NEU Class 1 Variable Energy Use Charge.¹⁷

Additionally, as part of Order G-190-17, SEUL was approved to record the annual revenue deficiencies or surpluses in a deferral account and to accrue carrying charges on this deferral account based on SWCRA's weighted average cost of capital. The disposition of the deferral account was directed to be addressed as part of the levelized rate application.¹⁸

SEUL submits that if the Panel approves an extension to the filing date for its levelized rate application until June 30, 2020, SEUL would apply to the BCUC in the fall of 2019 for interim and refundable rates to be effective January 1, 2020. SEUL further submits that it expects that the requested interim rates would be based on the same methodology as the rates approved by the BCUC for 2018 and 2019 in Order G-190-17.¹⁹ SEUL's rationale for this approach is that the BCUC in Order G-190-17 determined that the aforementioned rate structure and rate adjustment methodology, albeit for a limited time, was just and reasonable in accordance with the UCA. Thus, the same reasoning the BCUC gave in Order G-190-17 would apply for setting rates effective January 1, 2020 with only the intended implementation date pushed back in support of regulatory efficiency. SEUL submits that the BCUC has broad discretion when making an interim order.²⁰

With regard to the revenue deficiency/surplus deferral account, SEUL states that it expects that it would be most efficient to consider alternatives for recovering the balance in this account in the context of setting the long-term levelized rate structure. Thus, SEUL submits that it would likely not include a proposal for disposition of the deferral account as part of the interim rate approval request.²¹

SEUL was asked in BCUC IR 3.7.3 if, as an alternative to filing for interim rates, it considered applying for permanent 2020 rates based on the methodology approved by Order G-190-17 and utilizing the revenue deficiency/surplus deferral account to record the variances between the forecast and actual 2020 revenues. SEUL responded that it "would not have any objection" to this alternative approach and that "[f]rom the perspective of customer bill and utility revenues, the outcomes under either approach should not be materially different."²²

Neither Duffy nor Cameron explicitly comments on how or when the Panel should set SETES rates for 2020.²³

Panel Determination

The Panel in these reasons for decision has granted an extension to SEUL to file the SETES levelized rate application on or before June 30, 2020. Given this, and the fact that the current SETES rates and rate structure

¹⁷ Order G-190-17.

¹⁸ Ibid.

¹⁹ Exhibit B-3, BCUC IR 3.7.

²⁰ Ibid.

²¹ Ibid., BCUC IR 3.7.2.

²² Ibid., BCUC IR 3.7.3.

²³ Exhibit C1-2; Exhibit C2-2.

are only approved until December 31, 2019, SEUL will be required to file for approval of rates effective January 1, 2020 if it intends to charge for services provided by the SETES after December 31, 2019. **In order to allow adequate time for review of such an application, the Panel directs SEUL to file an application on or before September 30, 2019 for approval of SETES rates effective January 1, 2020.**

As explored in BCUC IRs, there are two main approaches which SEUL could take for setting rates effective January 1, 2020. The Panel will briefly discuss each approach below, including the implications of each approach. The Panel has assumed in both approaches that SEUL would propose to set January 1, 2020 rates based on the rate structure and methodology approved in Order G-190-17, as this was the rate-setting method referenced by SEUL in its responses to BCUC IRs.

Approach #1 – Interim Rates effective January 1, 2020

If SEUL were to apply for, and receive approval of, interim rates effective January 1, 2020, any differences between interim and permanent rates would be refundable or recoverable from ratepayers as of January 1, 2020. For further clarity, permanent rates established by the BCUC in its decision on the levelized rate application would be effective January 1, 2020. Thus, depending on the timing of the issuance of a BCUC decision on the levelized rate application, interim rates may be in effect for all of, or a significant portion of, 2020, and the differences between permanent and interim rates would likely be required to be refunded or recovered within the next few billing cycles following the issuance of the BCUC's decision.

Approach #2 – Permanent Rates effective January 1, 2020

If SEUL were to apply for, and receive approval of, permanent rates effective January 1, 2020, any variances between actual and approved revenues in 2020 would be recorded in the revenue deficiency/surplus deferral account and would be recovered from ratepayers, along with any other existing balances in the deferral account, by a mechanism to be determined as part of the levelized rate application proceeding. Any rate changes arising from the BCUC's decision on the levelized rate application would also be on a permanent basis and would likely take effect in 2021, not 2020, as permanent rates would have previously been approved for 2020.

The Panel expects SEUL to consider the two approaches when preparing its application for January 1, 2020 rates which must be filed with the BCUC on or before September 30, 2019. **As part of the September 30, 2019 application, the Panel directs SEUL to provide the following:**

- (i) A detailed description of its proposed rate-setting approach;**
- (ii) A discussion of the alternative approaches considered;**
- (iii) An explanation as to why the proposed approach was chosen and why the approach is considered reasonable;**
- (iv) An explanation as to whether or not SEUL would propose the continued use of the revenue deficiency/surplus deferral account in 2020 and the rationale for such a proposal; and**
- (v) The implications of the proposed approach for SEUL and for ratepayers.**