



May 11, 2020

Sent via eFile

CITY OF COQUITLAM - RECONSIDERATION AND VARIANCE OF G-80-19 EXHIBIT A-9

Stephanie James
City Solicitor
City of Coquitlam
3000 Guilford Way
Coquitlam, BC V3B 7N2
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Re: City of Coquitlam Application for Reconsideration and Variance of Order G-80-19 in the matter of the FortisBC Energy Inc. Application for Use of Lands under Sections 32 and 33 of the Utilities Commission Act in the City of Coquitlam for the Lower Mainland Intermediate Pressure System Upgrade Projects – Project Number 1599008 – Further Process

Dear Ms. James:

On April 2, 2020, the British Columbia Utilities Commission (BCUC) issued Order G-75-20 with Reasons for Decision for the above noted application (Reconsideration). In Order G-75-20, the BCUC established a further regulatory timetable and requested that parties make submissions on the following matters:

1. Whether the BCUC's determination on the cost allocation formula was made based on fair process; and
2. If the BCUC determines that the evidentiary record should be re-opened with respect to the cost allocation formula:
 - o What is the appropriate regulatory process, including proposed timelines; and
 - o The nature and scope of any additional evidence to be filed, and why this evidence could not have been filed as part of the Original Proceeding.

By letter dated April 23, 2020, the City of Coquitlam (City) submits that it is resuming pursuit of its appeal to the Court of Appeal of the pertinent determinations made by the BCUC in the Order G-80-19 and Order G-75-20 Decisions. The City says that the adjournment ordered by Order G-150-19 dated July 8, 2019¹ should continue until the appeal regarding the BCUC's jurisdiction has been decided. The City submits that it would not be an efficient use of the BCUC's resources to proceed with reconsideration of the cost allocation formula specified in paragraph 2 of Order G-80-19 when the BCUC's jurisdiction to make such an order is under appeal. In the circumstances, the City requests that the BCUC continue the adjournment.

¹ In Order G-150-19, the BCUC ordered: "The potential need for new evidence regarding the cost allocation methodology for the removal of the decommissioned NPS 20 Pipeline is adjourned, pending a determination on the BCUC's jurisdiction under section 32 of the UCA, as outlined in the Application."

In letters delivered by April 30, 2020, FortisBC Energy Inc., British Columbia Hydro and Power Authority, and the Commercial Energy Consumers of BC submit that they do not object to the City's proposal to continue adjournment of the Reconsideration. By letter dated May 7, 2020, the City advised that it has no further submissions.

The Panel notes that none of the parties provided a submission on further process to address the first matter set out in Order G-75-20 namely whether the cost allocation formula was determined through an unfair process. Neither does the City suggest in its letter of April 23, 2020 that this matter be addressed following proceedings before the Court of Appeal.

The Panel requests that the City advise whether it intends to continue to pursue this ground of reconsideration or whether it is abandoning this ground as a separate basis for reconsideration.

The Panel also has concerns about whether an adjournment of its reconsideration proceeding pending a determination on jurisdictional issues by the Court of Appeal is the most administratively efficient approach for the BCUC, the City, interveners and the Court of Appeal.

The Panel understands that the City's proposed process would be administratively efficient if the City is successful in the Court of Appeal proceedings, but its preliminary view is that it may well be inefficient if the City is unsuccessful. If the City were unsuccessful, the reconsideration proceeding would need to resume to address the remaining outstanding issues in the reconsideration leading to possible further Court of Appeal proceedings, entailing greater time and expense for all parties. The Panel requests submissions on why administrative efficiency is not better promoted by requiring the parties to complete the determination of all issues in the reconsideration process at this time so the Court of Appeal could deal with all appealable issues in one rather than possible multiple proceedings.

The BCUC requests additional submissions from the City by Wednesday May 20, 2020, and from interveners by Wednesday May 27, 2020. The City may provide a reply submission by Wednesday June 3, 2020.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

PS/aci