

18 November 2020

Via E-filing

Ms. Marija Tresoglavic
Acting Commission Secretary
BC Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Ms. Tresoglavic:

**Re: British Columbia Utilities Commission (BCUC, Commission)
Creative Energy Vancouver Platforms Inc. (Creative Energy)
Application for Reconsideration and Variance of Order G-277-20 Directive 4(h) in the matter of
the Creative Energy Vancouver Platforms Inc. 2019-2020 Revenue Requirements Application
for the Core Steam System and Northeast False Creek Service Areas**

Introduction

Creative Energy writes further to the Commission Secretary's letter dated November 12, 2020 into the above noted matter to provide its reply to the submissions of the Commercial Energy Consumers Association of BC (CEC) dated November 17, 2020.

As we set out in our Application for Reconsideration – which followed our initial Order G-227-20 Compliance Filing on September 30, 2020 into the 2019-2020 RRA established on the same basis – we seek approval of the adjustments that comply with the Commission Panel's determination to adopt the method to calculate the mid-year After-tax Regulatory Pension Asset Account balance in accordance with the 2015-2017 Core Steam System Decision, and determination that the 2019 audited Financial Statements should be used as the source of input data. The approximately \$21,000 impact of the adjustments is material to Creative Energy.

This input data was available at the time of the decision. Although the 2019 Annual Report was not on the record of the proceeding, it was in the Commission's possession and the Commission could have taken notice of it. Alternatively, the Commission could have directed Creative Energy to calculate the impact using the approved methodology and correct inputs, and submit the calculation as part of Creative Energy's Order G-227-20 Compliance Filing.

We therefore have respectfully requested the Commission to validate our calculations and to confirm the correct reduction to the allowed return for 2020 as appropriate.

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Reply to CEC Submissions

The CEC's overarching concern with our Application for Reconsideration is actually focused on the Commission determination at issue:

- At paragraph 23 the CEC describes that "Creative Energy's application was nearly a year late, and the CEC notes that 2019 Year End actuals would presumably not have been available to the Commission and on the evidentiary record had the filing been completed in early to mid 2019 or before."; and
- At paragraph 39 the CEC expresses its view that "Creative Energy should not be permitted to benefit from the lateness of its filing by including information that was not on the evidentiary record and would not have been if the filing was completed on time."¹

In short, the CEC argues that had Creative Energy filed its 2019-2020 RRA in a more typical timeframe, 2019 audited financial statements would not have been available and the Commission Panel should have therefore made a different determination than it in fact did make.² Moreover, the CEC's argument requires the Commission to change the determination that it did make rather than apply the determination. Creative Energy requests the Commission to apply the determination that the Commission made by using the inputs the Commission determined should be used.³

The issue here is that the interpretation and method that Creative Energy used in the 2019-2020 RRA to calculate the mid-year After-tax Regulatory Pension Asset Account balance, and that consequently formed the basis of our rate proposals, differed from the Commission staff and Panel's interpretation and decision as articulated in sections 2.2 and 3.1 of the Order-G-227-20 Decision, at pages 9-10 and 26, respectively.

The Panel found that Creative Energy had not calculated the mid-year After-tax Regulatory Pension Asset Account and related return correctly for 2019 and 2020. It noted that Creative Energy used the previous year's approved mid-year balance as the opening balance instead of the previous year's December 31 Pension Asset (after tax) reported on the audited financial statements, the approach as set out in the 2015-2017 Core Steam System Decision.

Creative Energy could have readily informed the Commission during the proceeding of the balance of the pension asset and what the solvency contributions were going to be, but there was no need to do so

¹ The filing of the 2019-2020 RRA in December 2020 did raise legitimate issues in the proceeding about whether the use of 2019 actual results for the proposed revenue requirement is appropriate within the context of the rate setting background for the Core Steam System. However, the filing of the application was not 'late' per se, but rather properly considered in view of resourcing and regulatory efficiency considerations in the full context the timing of other decisions and proceedings at that time.

² The CEC argument also appears to rely on the assumption that the timing of the filing of the RRA if made much earlier would have still been for the two-year test period 2019-2020; yet we note that the 2020 requested approvals as filed in December 2019 were made under a typical time frame for filing on a test-year basis, and the matter at issue here concerns a 2020 impact.

³ The CEC correctly describes Creative Energy's request in paragraph 13 of the CEC Submissions.

based on our proposals and we were not asked otherwise during the evidentiary process to present information to calculate the balance under a different approach.

Thus, to reiterate our submissions in the Application for Reconsideration:

- Creative Energy accepts for the purpose of its compliance with Order G-227-20 the Panel's determination as to the approved method to calculate the mid-year After-tax Regulatory Pension Asset Account balance;
- The Panel determined that the input to this calculation ought to be based on the audited figure from 2019.
- Our 2019 Annual Report, including audited financial statements, is available to provide the correct input to the calculation.
- When we apply the correct inputs to the approved calculation methodology we get a different result than that specified on page 26 of the Decision and as directed under Directive 4(h) of Order G-227-20 for Creative Energy "to reduce the allowed return for 2020 by \$21,503 based on a mid-year After-tax Regulatory Pension Asset Account balance of \$268,202."

Accordingly, we understand that the calculation of the \$21,503 figure does not conform to the Panel's determinations and is an erroneous result. Specifically, the error was to use an incorrect input into the approved calculation methodology when the correct input data was readily available.

Incidentally, at paragraph 36 the CEC "recognizes that the Commission has broad jurisdiction and submits that the Commission could treat the updated information as the equivalent of a compliance filing if it so chooses to ask for a compliance filing on this basis." The CEC's submission appears to reflect an impression that Creative Energy has not yet filed an Order G-227-20 Compliance Filing. As noted above, we have done so and expressly set out our view in that filing also that the adjustments at issue comply with the Commission's decision as to adopting a methodology consistent with that described in the 2015-17 RRA, with the differences noted above explained by the updated and correct inputs to the calculation.

Conclusion

The Commission Panel did make a determination as to how the calculation should be done but then used inputs the Panel determined to be sub-optimal solely because the best evidence was not on the record. The evidence the Panel wanted was readily available, indeed in the Commission's possession, but just not on the record of this specific proceeding for the reasons noted above.

In those respects, the CEC mischaracterizes both the Commission's determinations and Creative Energy's Application for Reconsideration. The Panel did not determine that the calculation should be done in a particular way to preserve a prospective rate making approach. That is, the Panel did not determine that audited 2019 results should not be used. The Panel determined that audited 2019 results should be used.

The CEC is essentially arguing that the Commission would have made a different determination if

Creative Energy had filed a 2019-2020 RRA 'on time', and the Commission should now change the determination it did make, so as to specifically exclude consideration of audited 2019 results, and then apply the revised determination.

Creative Energy is not asking the Commission to change its determination as to how the calculation should be done; we are only asking the Commission to complete the calculation using the correct input data as determined.

Sincerely,

A handwritten signature in black ink, appearing to be 'Rob Gorter', with a long horizontal stroke extending to the right.

Rob Gorter
Director, Regulatory Affairs and Customer Relations