British Columbia Utilities Commission

IN THE MATTER OF

Creative Energy Vancouver Platforms Inc.
Application for Approval of the
Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement

DECISION
and Order G-88-16

June 16, 2016

Before:
H. G. Harowitz, Commissioner/Panel Chair
R. D. Revel, Commissioner

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EXECUTIVE SUMMARY

On February 5, 2016, in response to Order C-12-15, Creative Energy Vancouver Platforms Inc. (Creative Energy) filed an application with the British Columbia Utilities Commission (Commission) seeking approval under section 45 of the *Utilities Commission Act* (UCA) of the Restated and Amended Northeast False Creek (NEFC) and Chinatown Neighbourhood Energy Agreement (Amended NEA), and filed for information only a Bylaw Enactment Agreement (BEA) (Application).

The following organizations participated as interveners in the proceeding: City of Vancouver, FortisBC Energy Inc., FortisBC Alternative Energy Services Inc., Commercial Energy Consumers Association of British Columbia, the British Columbia Old Age Pensioners' Organization *et al.* and the BC Sustainable Energy Association and the Sierra Club of BC. The regulatory process included a procedural conference, resulting in a Commission order that incorporated the evidentiary recorded of the Creative Energy Certificate of Public Convenience and Necessity (CPCN) for a Low Carbon Neighbourhood Energy System for NEFC and Chinatown Neighbourhoods proceeding (Prior Proceeding) and set the Regulatory Timetable to proceed to final submissions.

Creative Energy argues that all issues raised by interveners in the Prior Proceeding and all provisions of the Prior NEA must be assumed to have been considered by the Panel for that proceeding and that this Panel should not further consider these issues. Hence this Application need only address the deficiency issues identified in the Decision issued concurrently with Order C-12-15 (Prior Decision): the Carbon Reduction Rider, the Cost Premium Cap, the Connection Agreement, the Neighbourhood Energy (NE) Bylaw and the Chinatown area.

The Panel does not accept Creative Energy's position regarding the scope of the proceeding, and finds that this proceeding entails a comprehensive review of the Application, examining whether the applied-for franchise is necessary for the public convenience and in the public interest pursuant to section 45(8) of the UCA. However, the Panel considers the five issues enumerated by Creative Energy as a useful framework within which to set our findings.

With regard to the Carbon Reduction Rider, the Cost Premium Cap and the Connection Agreement, the Panel finds that the revisions contained in the Amended NEA provide sufficient remedies to the Prior Decision's findings in respect of these issues.

With regard to the NE Bylaw, the Panel finds that moving the mandatory connection provisions from the Prior NEA into the BEA is more a matter of change in form rather than substance. Hence, we consider the applied-for franchise to be constituted by the rights, privileges and concessions set out in the combined set of documents: the Amended NEA, the BEA and the NE Bylaw. Consistent with the Prior Decision, the Panel does not find the applied-for franchise to be acceptable in its current form in that it implies Commission approval of the provisions contained in the NE Bylaw as well as those provisions contained in the Amended NEA.

With regard to the Chinatown area, the Panel does not approve the inclusion of the Chinatown area in the franchise agreement. Our reasons include: there is insufficient certainty about the load in Chinatown; the Chinatown area is not contiguous to the NEFC area; and most importantly, the CPCN was granted for the NEFC only, excluding Chinatown.

The Panel does not approve the franchise. That said, had Creative Energy filed an updated set of materials that adequately satisfied the Commission that the Chinatown area was removed from the franchise and the linkages between the applied-for franchise and the NE Bylaw were completely severed in substance as well as form, the Panel would have approved the Application.

1.0 INTRODUCTION

On April 17, 2015, Creative Energy Vancouver Platforms Inc. (Creative Energy) applied to the British Columbia Utilities Commission (Commission) for an order approving a Neighbourhood Energy Agreement between Creative Energy and the City of Vancouver (Prior NEA) and granting a Certificate of Public Convenience and Necessity (CPCN) to construct and operate a new Neighbourhood Energy System to serve new developments in the Northeast False Creek (NEFC) and Chinatown neighbourhoods of Vancouver (Prior Proceeding, Prior Application).

By Order C-12-15, the Commission granted a CPCN for the NEFC area (excluding the Chinatown area), and did not approve the Prior NEA (Prior Decision).

On February 5, 2016, in response to Order C-12-15, Creative Energy filed an application with the Commission seeking approval under section 45 of the *Utilities Commission Act* (UCA) of the Restated and Amended NEFC and Chinatown Neighbourhood Energy Agreement (Amended NEA), and filed for information only a Bylaw Enactment Agreement (BEA) (Application).

By Order G-23-16, the Commission established a preliminary Regulatory Timetable including a procedural conference. Interveners included the City of Vancouver (CoV), FortisBC Energy Inc. (FEI), FortisBC Alternative Energy Services Inc. (FAES), Commercial Energy Consumers Association of British Columbia (CEC), the British Columbia Old Age Pensioners' Organization *et al*. (BCOAPO) and the BC Sustainable Energy Association and the Sierra Club of BC (BCSEA).

Following the Procedural Conference, by Order G-29-16, the Commission incorporated the evidentiary record of the Prior Proceeding, amended the Regulatory Timetable to proceed to final submissions, and set the scope to include matters relevant to whether or not the Amended NEA and the BEA are necessary for the public convenience and properly conserve the public interest.

By March 18, 2016, interveners provided their final submissions and on March 29, 2016, Creative Energy provided its reply. Following Creative Energy's reply, the Commission sought further submissions on whether or not the Commission has the jurisdiction to approve a shorter franchise term and, if it did, should it do so. On April 15, 2016, Creative Energy provided its further submissions and by April 22, 2016, interveners provided their further submissions. Creative Energy's reply was received on April 28, 2016.

2.0 SCOPE OF THE PROCEEDING

A foundational issue before this Panel is one of setting the scope of the proceeding. Creative Energy contends that the scope of this Application should be limited to only those issues expressly identified in the Prior Decision. Some interveners contend that the scope must be much broader, examining a range of issues that were not fully resolved in the Prior Decision.

2.1 Context

2.1.1 Prior decisions/determinations

In the Prior Decision, the Commission did not approve the Prior NEA,[1] stating:

> **For the reasons outlined below, the Panel denies approval of the NEA**. In particular, the Panel does not approve the Carbon Reduction Rider, the Benchmark Rate and the Cost Premium Cap. In addition, while there is no specific clause in the [Prior] NEA that provides for mandatory connection, the wording of the agreement suggests that the Commission is approving the NE Bylaw.[2]

The Prior Decision granted a CPCN as outlined in the Prior Proceeding, subject to the exclusion of the Chinatown area.[3] In that Decision, the Commission found that the system planned for Chinatown was a separate development.[4]

At the Procedural Conference for this proceeding, the Panel requested participants to comment on the scope of the proceeding. Subsequent to the Procedural Conference, by Order G-29-16A, the Commission determined that "[t]he scope of this proceeding includes matters relevant to whether or not the [Amended NEA], and [BEA] which Creative Energy filed for information only, are necessary for the public convenience and properly conserve the public interest."[5] In the reasons accompanying Order G-29-16A, the Panel concluded that this proceeding merits a full review under section 45 of the UCA, that there are a number of issues left unresolved by Order C-12-15, and that any narrowing of scope at this time would be unnecessarily restrictive.[6]

2.1.1 Key issues before this Panel

Order C-12-15 did not narrow the scope of the proceeding at that time, leaving the final determination of scope to rest upon the evidentiary record established in this proceeding.

2.1.2 Legal framework

Section 45(7) of the UCA states that a franchise granted to a public utility by a municipality after September 11, 1980 is not valid unless approved by the Commission and section 45(8) explains that the Commission must not give its approval unless it determines that the franchise is necessary for the public convenience and properly conserves the public interest.[7]

2.2 Evidence summary

In the Application, Creative Energy submits the Prior Decision "has already made numerous determinations relevant to the 'privilege, concession or franchise' granted by the CoV to Creative Energy and for that reason this

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[1] Order C-12-15, Directive 2.
[2] Creative Energy Vancouver Platforms Inc. Application for a Certificate of Public Convenience and Necessity for a Low Carbon Neighbourhood Energy System for Northeast False Creek and Chinatown Neighbourhoods of Vancouver, Decision dated December 8, 2015 (Prior Decision), p. 40.
[3] Prior Decision, p. 39.
[4] Ibid., pp. 58–59.
[5] Exhibit A-4, Order G-29-16A, Directive 3.
[6] Exhibit A-5-1, Reasons dated March 9, 2016, p. 2.
[7] *Utilities Commission Act*, RSBC 1996, Chapter 473, Section 45.

Application can be fairly characterized as a compliance filing. As a result, the central issue for consideration is whether the Amended NEA is in accordance with the NEFC Decision."[8]

2.3 Submissions and positions of the parties

In its final submission, FEI submits that the Commission expressly deferred consideration of significant public interest and jurisdictional issues on the basis that, since the Prior NEA was not being approved in any event, it was unnecessary to determine those remaining issues.[9] FEI argues that Creative Energy must: address the Commission's concerns; and satisfy the Commission that the franchise meets the test for approval set out in section 45 of the UCA, including addressing all of the public interest and jurisdictional issues that the Commission did not determine in the Prior Proceeding.[10]

FEI also submits that the Commission has already rejected Creative Energy's characterization of this proceeding as a compliance filing, affirming that the Prior Decision left issues from the Prior Proceeding unresolved and that the franchise should be subject to a full review under section 45 of the UCA.[11]

CEC's final submission is drafted under the context that the Commission has already found that this application merits a full review under section 45 of the UCA because there are a number of issues left unresolved by the Prior Decision and, as such, CEC does not further argue this issue.[12]

BCOAPO's submissions are also drafted under the context of Order G-29-16A. BCOAPO argues that it believes that the Commission need not review the NE Bylaw on matters relevant to whether the NE Bylaw was necessary for the public convenience and properly conserves the public interest.[13]

CoV submits that the Commission need not evaluate the BEA, as the BEA includes provisions that were previously included in the Prior NEA, but were removed from the Amended NEA to resolve the Commission's concerns identified in the Prior Decision.[14]

BCSEA argues under the context of Order G-29-16A and summarizes that "the basic issue in the present proceeding is whether the Amended NEA is in the public interest."[15]

In reply, Creative Energy argues that all issues raised by interveners in the Prior Proceeding and all provisions of the Prior NEA must be assumed to have been considered by the Panel in that proceeding and this Panel should not further consider these issues. Creative Energy believes that it is not appropriate for interveners to use this filing as an opportunity to re-argue issues addressed in the Prior Proceeding or to introduce new issues with the NEA. Creative Energy asserts that the task before the Commission in this proceeding is whether the Amended NEA adequately addresses the concerns raised by the Commission in the Prior Decision.[16]

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[8] Exhibit B-1, p. 4.
[9] FEI Final Submission, pp. 1–2.
[10] Ibid., p. 3.
[11] Ibid., p. 7.
[12] CEC Final Submission, p. 5.
[13] BCOAPO Final Submission, p. 1.
[14] CoV Final Submission, pp. 1–2.
[15] BCSEA Final Submission, pp. 3–4.
[16] Creative Energy Reply Submission, pp. 4–5.

Creative Energy also submits:

> …the paramount issue for this Panel to determine is whether the [Prior] Panel would have approved the Amended NEA. That is, would the [Prior] Panel have approved the [Prior] NEA at the same time it granted a CPCN for the project if the [Prior NEA] had not included the Carbon Reduction Rider (CRR), the Benchmark Rate, or the Cost Premium Cap, and if the [Prior] NEA also did not give the appearance the BCUC was being asked to approve a Neighbourhood Energy Bylaw (NE Bylaw). [17]

Creative Energy argues that if the Prior Decision is considered in its totality, it is clear that the Commission would have approved the Prior NEA if it had not included the CRR, the Benchmark Energy Rate, the Cost Premium Cap and not given the appearance that the Commission was being asked to approve a CoV Bylaw.[18]

Creative Energy summarizes: "While we can debate whether the filing is strictly speaking a compliance filing, that debate misses the point. Nothing turns on that characterization. The Instant Application is consistent with the express intentions of the first Panel."[19]

Commission determination

The Panel determines that this proceeding entails a comprehensive review of the Application, examining whether the applied-for franchise is necessary for the public convenience and in the public interest pursuant to section 45(8) of the UCA.

While accepting Creative Energy's argument that the Prior Decision must have significant bearing on the current proceeding, the Panel does not accept Creative Energy's position in its entirety. More specifically, while the Panel places significant weight on findings and determinations contained in the Prior Decision, we do not accept Creative Energy's assertions that this logically compels us to view the current proceeding in the narrowest of contexts.

The Panel does not accept the general notion that a decision provides an exhaustive enumeration of all reasons why an application is denied. The Panel is of the view that in those situations where the Commission does wish to signify that subsequent approval is contingent singularly upon the remedy of a specific deficiency, this is typically accomplished by explicit wording in the decision that grants approval subject to a satisfactory compliance filing. No such wording exists in the Prior Decision.

The Panel acknowledges Creative Energy's point that the Panel in the Prior Proceeding may well have considered a matter, but we find there to be an important distinction between considering a matter and making a determination on it. This Panel considers the absence of a determination in the Prior Decision on a particular issue that had been raised in the Prior Proceeding to signify neither approval nor rejection of any point of view expressed on that issue.

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[17] Ibid., pp. 6–7.
[18] Ibid., pp. 8–9.
[19] Ibid., p. 11.

With that said, Creative Energy's organization of the Application around the specific topic areas (the Carbon Reduction Rider, the Cost Premium Cap, the Connection Agreement, the NE Bylaw, and the Chinatown area) provides a useful set of topic areas under which the merits of the Application can be discussed. Each will be addressed in a subsequent section of this Decision.

3.0 CARBON REDUCTION RIDER

3.1 Prior decisions/determinations

On page 44 of the Prior Decision the Prior Panel denied the creation of the Carbon Reduction Rider and associated Carbon Reduction Fund.

3.2 Creative Energy's proposed remedy

In the Application Creative Energy explains that, commensurate with the Prior Decision, the provisions in the Prior NEA regarding the Carbon Reduction Rider and associated Carbon Reduction Fund have been removed from the Amended NEA.[20]

CEC, BCOAPO, CoV and BCSEA concur that references to the Carbon Reduction Rider and associated Carbon Reduction Fund are not found in the Amended NEA.[21] FEI and FAES did not opine.

Commission determination

The Panel determines that the revisions contained in the Amended NEA provide a sufficient remedy to the Prior Decision's findings in respect of the Carbon Reduction Rider and associated Carbon Reduction Fund.

4.0 COST PREMIUM CAP

4.1 Prior decisions/determinations

On pages 52 and 53 of the Prior Decision, the Prior Panel declined to approve the NEA as long as it contained a Cost Premium Cap and, because it had already denied the Cost Premium Cap, declined to make a determination on the appropriate Benchmark Energy Cost.

4.2 Creative Energy's proposed remedy

In the Application, Creative Energy explains that the provisions in the Prior NEA regarding the Cost Premium Cap and the Benchmark Energy Cost are not found in the Amended NEA.[22]

CEC, BCOAPO, CoV and BCSEA concur that references to the Cost Premium Cap and the Benchmark Energy Cost are not found in the Amended NEA.[23] FEI and FAES had no comment.

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[20] Exhibit B-1, p. 2.
[21] CEC Final Submission, pp. 7–8; BCOAPO Final Submission, pp. 2–3; CoV Final Submission, p. 5; BCSEA Final Submission, p. 4.
[22] Exhibit B-1, p. 2.
[23] CEC Final Submission, p. 9; BCOAPO Final Submission, pp. 2–3; CoV Final Submission, p. 5; BCSEA Final Submission, p. 5.

Commission determination

The Panel determines that the revisions contained in the Amended NEA provide a sufficient remedy to the Prior Decision's findings in respect of the Cost Premium Cap.

5.0 CONNECTION AGREEMENT

5.1 Prior decisions/determinations

In the Prior Decision, the Commission denied the Connection Agreement and noted that Creative Energy may resubmit it with its next rate application. The Commission determined that Creative Energy must provide further evidence to support approval of the Connection Agreement, including, but not limited to, a revised section 2.2 that indicates that the requirement to have exclusive end-use is a part of CoV policy and bylaws, and that the developer is required to comply with such policy/bylaws.[24]

5.2 Creative Energy's proposed remedy

In the Application, Creative Energy explains that it is currently consulting customers and expects to seek approval of a revised Connection Agreement by the end of March 2016. Creative Energy elaborates that it may submit the Connection Agreement with its next rate application or separately.[25]

CoV concurs that Creative Energy is not seeking approval of the Connection Agreement at this time.[26] BCOAPO, BCSEA, FEI and FAES do not comment.

CEC submits that the lack of a revised Connection Agreement may be viewed as a deficiency in the current application and it would have been prudent for Creative Energy to have revised the Connection Agreement at the same time. CEC submits that whether or not CoV can legally compel exclusive end-use from developers may be considered one of many flaws in the current application.[27]

Commission determination

The Panel determines that Creative Energy's stated intention with regard to a future filing of a Connection Agreement provides a sufficient remedy to the Prior Decision's findings in respect of the Connection Agreement.

6.0 NEIGHBOURHOOD ENERGY BYLAW

In the Application, Creative Energy seeks Commission approval of its franchise based solely on the provisions contained in the Amended NEA, stating that the BEA was included in the Application for information purposes only. Interveners argue that the BEA, and by reference, the NE Bylaw, form an integral part of the franchise agreement for which Creative Energy is seeking approval.

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[24] Prior Decision, pp. 55–56.
[25] Exhibit B-1, p. 4.
[26] CoV Final Submission, p. 8.
[27] CEC Final Submission, p. 12.

6.1 Context

6.1.1 Prior decisions/determinations

In the Prior Decision, the Commission found:

> **…that while the CoV may have jurisdiction to invoke mandatory connection, through its policies and zoning conditions or bylaws, the Commission has jurisdiction to consider mandatory connection in the context of franchise agreements and related and ancillary agreements, for the purposes of compliance with section 45(8) of the UCA.** In that context, the Commission has jurisdiction to determine whether a mandatory connection, if it is a provision in a franchise agreement specifically empowering a utility, is necessary for the public convenience and properly conserves the public interest.[28]

The Prior Panel also explained:

> On a related note, the Panel is concerned that enactment of the NE Bylaw is conditional upon Commission approval of the NEA. In our view, this could raise a perception that the Commission has reviewed and approved the NE Bylaw. The existing rezoning policy that requires mandatory connection contains no such link to BCUC approval. We note the submission of the CoV that the NE Bylaw "supplements the existing rezoning policy that requires mandatory connection to the NES. If enacted, the NE By-law would add regulatory support to the existing connection policy." The Panel is concerned with public perception that CoV bylaws are approved by the Commission. The Panel makes the following comments:
>
> - While there is no specific clause in the NEA that provides for mandatory connection, there is language in the NEA that may leave the impression that the Commission is, indirectly, approving the Neighbourhood Energy Bylaw, which will mandate connection. The Panel prefers to see an NEA that is clear and unequivocal, in terms of what is to be approved by the Commission, and does not imply that CoV enactments are supported by the Commission.
>
> - The Panel is concerned that enactment of the NE Bylaw is conditional upon Commission approval of the NEA. In our view, this could raise a public perception that the Commission has reviewed and approved the NE Bylaw. The existing rezoning policy that requires mandatory connection contains no such link to BCUC approval. We note the submission of the CoV that the NE Bylaw "supplements the existing rezoning policy that requires mandatory connection to the NES. If enacted, the NES Bylaw would add regulatory support to the existing connection policy." The Panel would prefer that the CoV enact bylaws and policies that are not linked to approvals by the BCUC; otherwise, confusion arises, and the public may perceive that the BCUC approves the CoV's mandatory connection.[29]

[28] Prior Decision, p. 48.
[29] Ibid., p. 49.

6.1.2 Key issues before this Panel

Two issues need to be resolved in sequence. First a decision is required as to which documents constitute the provisions/conditions/terms of the applied-for franchise. Once that has been determined, the Panel must then address whether the entirety of provisions set out in the franchise satisfy section 45(8) of the UCA.

6.1.3 Legal framework

Section 45 (7) and (8) of the UCA provide the legal framework for this section of the decision:

> (7) Except as otherwise provided, **a privilege, concession or franchise** granted to a public utility by a municipality or other public authority after September 11, 1980 is not valid unless approved by the commission.
>
> (8) The commission must not give its approval unless it determines that **the privilege, concession or franchise** proposed is necessary for the public convenience and properly conserves the public interest. [Emphasis added]

6.2 Evidence summary

Creative Energy filed the Amended NEA and the BEA as part of the Application. Notwithstanding that Creative Energy did not file the NE Bylaw with this Application, the NE Bylaw was filed in the Prior Proceeding, and pursuant to Order G-29-16A, forms part of the evidentiary record of this proceeding.[30]

In the Application, Creative Energy explains that in response to the Commission's concerns outlined in the Prior Decision, the provisions found in the Prior NEA regarding the NE Bylaw are no longer included in the Amended NEA, and are now reflected in similar provisions contained in the BEA. Creative Energy seeks approval of the Amended NEA and does not seek approval of the BEA.

Creative Energy believes that its approach addresses the Prior Panel's concern that approval of the NEA could raise a perception that the Commission has reviewed and approved the NE Bylaw. Creative Energy submits it is now clear that approval of the Amended NEA does not include approval of the NE Bylaw. Creative Energy further argues that CoV does not grant Creative Energy a privilege, concession or franchise in the BEA, but does so exclusively in the Amended NEA. Hence, the BEA need not be considered or approved under section 45(7) of the UCA.[31]

Section 3.3 of the BEA states:

> **Entire Agreement:** This [BEA] Agreement, the Franchise Agreement and the agreements and other documents required to be delivered pursuant to this Agreement and the Franchise Agreement constitute the entire agreement between the parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the parties pertaining to the subject matter of this Agreement and the Franchise Agreement and

[30] Exhibit A-4, Order G-29-16A, Directive 1.
[31] Exhibit B-1, pp. 2–3.

supersede all prior agreements, understandings, negotiations and discussions, whether oral or written.[32]

6.3 Submissions and positions of the parties

In its final submission, FEI submits the franchise that requires Commission approval under the UCA is defined by the scope of rights being conferred by CoV on Creative Energy, irrespective of how many agreements are used to confer them.[33] FEI submits a franchise is a collection of rights and "the nature of those rights do not change based on the number of documents that they are described in."[34]

FEI explains the only changes Creative Energy made were administrative. The key provision regarding the obligation of CoV to bring forward the NE Bylaw for enactment is substantively identical as compared to the Prior NEA. Creative Energy changed the trigger for CoV's obligations to advance the NE Bylaw from the Commission's approval of the Prior NEA, to the approval of the Amended NEA in the BEA.[35] FEI also submits that there is an "Entire Agreement" clause that defines the Amended NEA and the BEA as being parts of an entire agreement between the two parties.[36] FEI argues the changes are, therefore, changes in form over substance.[37]

FEI argues that just because Creative Energy and CoV have changed their approach to include rights in a side agreement does not alter their substance and does not alter the Commission's jurisdiction over them.[38]

FEI also argues that approval of the franchise would still "leave the impression that the Commission is, indirectly, approving the Neighbourhood Energy Bylaw, which will mandate connection… [and] imply that CoV enactments are supported by the Commission"[39]

FEI argues that Ontario's *Municipal Franchises Act* definition of franchise, "any right or privilege to which [the *Municipal Franchises Act*] applies," supports FEI's interpretation that any right conferred by a municipality on a public utility to exercise powers and carry out acts which, without the grant it would not be permitted to do, forms part of the "privilege, concession or franchise" granted to it.[40]

CEC argues that Creative Energy's Application makes no substantive effort to remedy the concerns because of the integration of the agreements and the "Entire Agreement" clause: "The CEC submits that the Bylaw Enactment Agreement provides a direct link between the Franchise Agreement and the City of Vancouver enactments which should be given consideration and significant weight by the BCUC."[41] CEC argues that removing information from the Prior NEA and including equivalent information in the BEA makes no substantive

[32] Ibid., Appendix C, p.3.
[33] FEI Final Submission, pp. 9–10 and 21–22.
[34] Ibid. p. 22.
[35] Ibid., p. 17.
[36] Ibid., pp. 12, 18.
[37] Ibid., p. 18.
[38] Ibid., p. 25.
[39] Ibid., p. 20.
[40] Ibid., p. 23.
[41] CEC Final Submission, pp. 14–15.

change to the effect of the franchise area agreement. CEC submits that the BEA should be considered by the Commission.[42]

In its final submission, CoV suggests that removing the sections of the Prior NEA regarding the NE Bylaw and moving them to the BEA removes any perception that the Commission has reviewed and approved the NE Bylaw, thus removing the mandatory connection issue from the scope of this proceeding. CoV contends that the Commission may state in its decision that it did not review and approve the NE Bylaw as the Commission has no jurisdiction over the NE Bylaw. The Commission has already noted in the Prior Decision that the mandatory connection requirement does not stem from the NEA. [43]

Creative Energy also submits that the "…Amended NEA, the CPCN and the NE Bylaw are all part of a comprehensive NES initiative that the CoV has spent years studying and developing through its legislative tools under the *Vancouver Charter*. All three components are necessary for the CoV to achieve its policy goals."[44]

As stated earlier, BCOAPO argues that the Commission need not review the NE Bylaw on matters relevant to whether the NE Bylaw is necessary for the public convenience and properly conserves the public interest.[45] BCOAPO submits that the language is now unequivocal that the Commission is in no way endorsing mandatory connection policies of the City of Vancouver by approving the Amended NEA.[46]

BCSEA submits that the measures Creative Energy and CoV have taken to amend the NEA satisfactorily address both of the Prior Panel's concerns regarding the NE Bylaw not being activated unless the Commission approves the NEA and the Prior NEA making reference to the NE Bylaw. BCSEA argues that removal of the reference to the mandatory connection bylaw in the Amended NEA means that Commission approval of the Amended NEA would not indicate approval of CoV's mandatory connection bylaw.[47]

Creative Energy contends it has always been of the view that mandatory connection is separate and distinct from the privilege, concession or franchise granted by CoV under the NEA. Creative Energy agrees that the Commission has jurisdiction over the full breadth of the transfer of rights to a public utility that are in the nature of a privilege, concession or franchise, which Creative Energy submits are rights regarding use of the municipality's streets and highways or to construct or operate a public utility in the municipality. These rights are in the Amended NEA or in Creative Energy's existing access agreement, not in the BEA.[48]

Creative Energy accepts that the agreement between Creative Energy and CoV has not changed. Creative Energy submits it is still unwilling to assume the investment risk with the NEFC hot water network or committing to low carbon without the NE Bylaw and the Commission already considered this position in the Prior Decision. Creative Energy explains that "The NE Bylaw provides the necessary security of loads to plan a larger network of a specific form and to secure the most cost-effective sources of low carbon energy for the neighbourhood as a whole,

[42] Ibid., pp. 21–22.
[43] CoV Final Submission, p. 6.
[44] Ibid., p. 9.
[45] BCOAPO Final Submission, p. 1.
[46] Ibid., p. 3.
[47] BCSEA Final Submission, p. 5.
[48] Creative Energy Reply Submission, pp. 15–16.

serving multiple developments that are anticipated at different points in time."[49] Creative Energy submits that in the Prior Decision the Commission did not express any concern regarding the NE Bylaw, only the perception that the Commission is being asked to approve CoV bylaws.[50]

Commission determination

The Panel determines that the applied-for franchise is constituted by the rights, privileges and concessions set out in the combined set of documents: namely the Amended NEA, the BEA and the NE Bylaw. Therefore, consistent with the Prior Decision, the Panel does not find the applied-for franchise to be acceptable in its current form, in that it implies Commission approval of the provisions contained in the NE Bylaw as well as those provisions contained in the Amended NEA.

Creative Energy's position appears to be that, even if the Panel finds that the matter of mandatory connection had not been approved in the Prior Decision, the issue is in any case rendered moot in the current Application by virtue of moving those provisions into the BEA, which Creative Energy contends is outside the scope of the franchise agreement. The Panel does not accept that argument.

The Entire Agreement clause of the BEA is an important factor in determining which document(s) form the franchise terms. In particular, we take note of the statement that the Amended NEA and BEA together set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the parties pertaining to the subject matter of this Agreement and the Franchise Agreement.

Particularly in light of this clause, the Panel considers that moving the mandatory connection provisions into the BEA is more a matter of form than substance. Thus, the provisions contained in the bylaw become part of the applied-for franchise.

This brings us back to the fundamental problem articulated in the Prior Decision. Creative Energy argues that the Commission has no jurisdiction or purview over the decisions made by CoV; and yet, by enveloping the bylaw into the scope of the applied-for franchise, Creative Energy is asking the Commission to give its approval to the provisions set out in the (to be enacted) CoV bylaw. They cannot have it both ways.

The Panel agrees with Creative Energy that it is not up to the Commission to weigh in on the legality or appropriateness of a CoV bylaw that stands on its own. If the NE Bylaw did stand entirely separate from the franchise, there would be no Commission issues arising from the mandatory connection and end-use provisions contained therein. However, Creative Energy has not adequately set the NE Bylaw completely outside the scope of the applied-for franchise. Approval of this franchise would involve providing an opinion on those matters that we are simultaneously being asked to not consider, and the Panel finds the Application deficient for that reason.

Having rejected the Application for that reason, the Panel finds it unnecessary to provide opinions or determinations on the range of issues that we consider to be predicated upon the existence of the mandatory connection and end-use provisions within the franchise agreement (including but not limited to impacts on existing franchise holders, customers and landowners/developers). On a related matter, notwithstanding that

[49] Ibid., p. 18.
[50] Ibid., pp. 17–18.

we canvassed parties on whether a restriction to the term of the franchise might present a possible solution to competing interests on these matters, the Panel provides no further commentary on this idea inasmuch as we view it as only having relevance to a problem that has been rendered moot.

7.0 CHINATOWN AREA

Creative Energy is applying for a franchise that extends over NEFC and Chinatown. Certain interveners argue that granting a franchise that covers Chinatown is premature. The Panel must determine whether or not any franchise that is granted in this Application should extend to Chinatown as well as NEFC.

7.1 Context

7.1.1 Prior decisions/determinations

In the Prior Decision the Commission made the following determinations:

> The Project and the NEA are, from an approval perspective, independent. For example, the NEA could be approved and the CPCN for the project not approved and vice versa. In the latter case, it is possible that the project could proceed without the NEA. In this regard, we note Creative Energy's submission that "under its existing Municipal Access Agreement, it has the ability to extend infrastructure (whether steam or hot water) to NEFC, assuming it can secure customers under whatever policies the CoV eventually implements."[51]
> …
>
> **In summary, the Commission grants a CPCN to Creative Energy for the Project as outlined in the Application, subject to the exclusion of the Chinatown area from the extension policy…**[52]
> …
>
> **The Panel does not approve the proposed Chinatown Extension Policy.**
>
> The Panel is not persuaded that there is sufficient certainty about the load in Chinatown area to justify allowing the development of the DES to proceed as an extension to NEFC. Further, the Chinatown area is not contiguous to the NEFC area, and it is not part of the same district energy system. Creative Energy is proposing to develop the DES in Chinatown from a local heat source and provides no plan regarding connecting Chinatown to NEFC.
>
> **Accordingly, the Panel finds any district energy system planned for Chinatown to be a separate development at this time.**
>
> While in the case of the Corix UBC NDES application, the Commission did approve a similar extension policy for Acadia and Block F, with respect to the original DES at Wesbrook; in that case there was sufficient evidence on the record of a plan to connect those areas to the Wesbrook DES.[53]

[51] Prior Decision, p. 13.
[52] Ibid., p. 39.
[53] Ibid., pp. 58–59.

7.1.2 Key issue before this Panel

Is inclusion of the Chinatown area in the franchise necessary for the public convenience and does it properly conserve the public interest?

7.2 Evidence summary

In the Application Creative Energy submits the following:

> Creative Energy views this decision of the Commission as being relevant to approvals necessary for future extensions to Chinatown, but not relevant to the "privilege concession or franchise" granted by the CoV to Creative Energy with respect to Chinatown. For that reason, the Amended NEA continues to include the same provisions relevant to the "privilege concession or franchise" in Chinatown as were granted by the CoV to Creative Energy in the [Prior] Agreement. Based on the [Prior] Decision, Creative Energy now expects to seek a CPCN to extend service to Chinatown under the terms of the Amended NEA, if and when feasible, rather than rely on an Extension Policy as contemplated by the Commission in its Thermal Energy System Regulatory Guidelines.[54]

7.3 Submissions and positions of the parties

In its final submission, FEI is of the position that the Commission's finding on the CPCN is tied to the requested franchise and Creative Energy is seeking exclusivity over heating in new Chinatown developments with no business case and no legal right to serve in Chinatown. FEI contends that Creative Energy did not file new evidence to address the Commission's concerns about Chinatown, or to explain how developers would access heat in Chinatown. Without that evidence, FEI argues, Creative Energy's position should be rejected.

FEI argues that, absent of a CPCN for Chinatown, granting a franchise in this area would not be in the public interest as buildings in Chinatown would be required to obtain service from Creative Energy, but Creative Energy would have no legal right to provide service as it would not have a CPCN for a NES in Chinatown. FEI argues that Creative Energy has not explained how developments in Chinatown are to obtain service without an approved NES or what purpose a franchise in Chinatown would serve if there is no means to provide that service. In FEI's view, the proposed franchise in Chinatown would preserve rights for Creative Energy, to the exclusion of its competitors and at the expense of energy consumers in Chinatown. [55]

Similar to FEI, CEC submits that a franchise over Chinatown without a CPCN does not make practical sense and is contrary to the public interest because it would prohibit other utilities from providing service and Creative Energy would not have a CPCN to enable it to provide service. CEC argues that inclusion of Chinatown in the Franchise Agreement should not be approved.[56]

In its final submission, CoV submits that Chinatown is expected to be a small development and is included to avoid the administrative, legal and regulatory costs of applying for a separate NEA. In addition, the Amended

[54] Exhibit B-1, p. 3.
[55] FEI Final Submission, pp. 26–30.
[56] CEC Final Submission, pp. 10–11.

NEA does not apply to Chinatown unless each portion of it is approved by the Commission or pursuant to an approved extension policy.[57]

CoV argues that the conditional inclusion of Chinatown without Creative Energy first obtaining a CPCN is consistent with the Prior Decision: "The Project and the NEA are, from an approval perspective, independent. For example, the NEA could be approved and the CPCN for the project not approved…"[58]

BCSEA agrees with Creative Energy that the denial of the Chinatown extension policy is not relevant to the NEA and that the Amended NEA should continue to include the Chinatown.[59]

BCOAPO is of the view that it is inappropriate to include Chinatown given the Commission did not approve the extension policy and found that any district energy system planned for Chinatown had to be a separate development. BCOAPO submits that the Amended NEA could be approved with the condition that Chinatown not be included.[60]

In Creative Energy's reply submission, it submits it sought formal approval of its NEFC Extension Policy as part of the Prior Application and did not seek specific approval for loads or capital expenditures within Chinatown because there was, and continues to be, insufficient certainty about the specific timing and nature of loads in Chinatown to begin to plan for or design service to Chinatown. Similar to CoV, Creative Energy also submits that there are legal, administrative and regulatory costs to establish a franchise area, and that it is in the public interest to minimize these costs by establishing franchise areas in logical sizes.[61]

Creative Energy argues the fact that an additional CPCN is required does not require the elimination of Chinatown from the franchise agreement. Creative Energy notes that a second CPCN will also be required for Energy Supply Phase 2 of NEFC, which is also part of the NEA.[62]

Creative Energy contends that when read in its entirety, the Prior Decision shows that concerns related to Chinatown were limited to concerns with the Chinatown Extension Policy and not the Chinatown Franchise Area. In denying the NEA, the Commission did not list concerns related to Chinatown. The Commission established two separate and independent sections in that Decision: one for the Neighbourhood Energy Agreement and another for the Chinatown Extension Policy. Creative Energy argues this must be assumed to have been deliberate.[63]

Creative Energy also submits that CEC and FEI appear to be concerned that customers in Chinatown will not be in a position to obtain service from an alternative supply if a CPCN is not granted. Creative Energy argues that these submissions do not recognize that Creative Energy is contractually bound in the NEA to provide service to customers in Chinatown and to seek Commission approval if required.[64]

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[57] CoV Final Submission, pp. 7–8.
[58] Ibid., p. 8.
[59] BCSEA Final Submission, pp. 7–8.
[60] BCOAPO Final Submission, p. 4.
[61] Creative Energy Final Submission, p. 29.
[62] Ibid., p. 31.
[63] Ibid., pp. 32–34.
[64] Ibid., pp. 35–36.

Creative Energy disagrees with BCOAPO regarding the Commission's "separate development" finding. Creative Energy argues that this finding is relevant to the Chinatown Extension Policy, and not to the franchise area, which was a determination in the Chinatown Extension Policy section.[65]

In summary, Creative Energy submits that the requirement for an additional CPCN provides a reasonable balance and provides the Commission an opportunity to review whether the detailed plan remains in the public interest when an actual connection is contemplated.[66]

Commission determination

The Panel does not approve the inclusion of the Chinatown area in the franchise agreement.

The Panel places considerable weight on the comments and findings in the Prior Decision. Notably, that there is insufficient certainty about the load in Chinatown, that the Chinatown area is not contiguous to the NEFC area, and most importantly, that the CPCN was granted for the NEFC only, excluding Chinatown.

Our reasoning is not founded on the legal arguments as to whether a CPCN can exist without a franchise and/or vice versa. It is based upon the simple but centrally important conclusion that there is no evidence before us that supports a finding that granting a franchise in the Chinatown area is necessary for the public convenience or properly conserves the public interest.

8.0 ISSUES ARISING

As noted in section 6.4, this Panel provides no determinations on issues raised by interveners that are predicated on the existence of the mandatory connection and end-use provisions because they have been rendered moot. However, some of the issues raised by interveners can be interpreted as standing at least partially independent of these provisions, and we address those issues in this section.

8.1 CoV costs transferred to the utility

CEC argues that aspects of the franchise agreement obliges Creative Energy to undertake certain activities that would normally fall to CoV, thus increasing Creative Energy's operating costs to the detriment of their ratepayers. In particular, CEC points to:

- Section 4.1 (v) of the Amended NEA, which states Creative Energy must at its own expense work with building owners and developers "by providing them with necessary design guidelines, working with them to ensure that the design of each Franchise Area Building is compatible with and optimal for the design of the Franchise Area NES and informing CoV when [Creative Energy] is satisfied that the mechanical design of an Franchise Area Building will allow it to be connected to the Franchise Area NES;"[67] and
- Section 4.3 (b) of the Amended NEA, which states "upon CoV's request, [Creative Energy] will, in a timely manner, give CoV such confirmation if it is so satisfied, or if [Creative Energy] has not reviewed a

[65] Ibid., p. 37.
[66] Ibid., p. 38.
[67] Exhibit B-1, Appendix A, p. 11.

> particular building's design, [Creative Energy] will do so in a timely manner and then give CoV the required confirmation if it is so satisfied. [Creative Energy] will act reasonably in determining whether a building's design is compatible with the Franchise Area NES, the Franchise Area Bylaw and applicable CoV Measures."[68]

CEC reiterates its argument from the Prior Proceeding in that it is concerned that traditional requirements of CoV are being put on developers and Creative Energy. For example, developers are being required to facilitate building code approvals for locations and Creative Energy must report to CoV that developers are compliant. Creative Energy is also being required to collect information for CoV. CEC contends that this results in ratepayers taking on additional costs that taxpayers would normally be required to take on.[69]

Creative Energy contends that the information being collected allows CoV to confirm that the Performance Requirement is being met, and it is an integral part of the overall structure of the NEA as they provide a public interest component allowing CoV to better understand performance of new buildings and low carbon district energy systems. Creative Energy submits that there is no incremental cost to collect this information but may be a minimal cost to package it and provide it to CoV. However, Creative Energy submits this is in keeping with the public interest and argues that "…all these activities are typical and would be included within the revenue requirements of any utility."[70]

Commission discussion

The Panel does not accept CEC's position that Creative Energy's ratepayers will be exposed to unfairly bearing taxpayer costs to an extent that would be grounds for considering the franchise to not properly conserve the public interest.

We are persuaded by Creative Energy's assertions that, perhaps with the exception of packaging the materials for provision to CoV, the activities and costs are logically within the scope of what Creative Energy would naturally undertake in order to operate the utility in any event. Furthermore, CEC has not presented evidence that contradicts this assertion or provides evidence as to the materiality of any such claims.

8.2 Potential for conflicts of interest

CEC reiterates its concern from the Prior Proceeding with respect to the potential for conflict of interest, noting that Creative Energy is owned by a developer with a competitive interest. CEC refers to section 4.3(b) of the NEA, which obligates Creative Energy to provide, on demand, CoV with confirmation that a building's design is compatible with the NE Bylaw and applicable CoV measures.[71] CEC also questions section 3 of the Connection Agreement, which outlines the processes and requirements proposed to achieve compatibility between the building system and the NES.[72, 73]

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[68] Ibid., p. 12.
[69] CEC Final Submission, pp. 33–34.
[70] Creative Energy Reply Submission, pp. 48–49.
[71] Prior Proceeding, Oral Hearing Transcript, pp. 217–220.
[72] Ibid., pp. 220–223.
[73] Prior Proceeding, Exhibit B-31, pp. 8–11.

In its final argument in the Prior Proceeding, CEC submitted:

> The CEC is also concerned with risk to developers in the absence of clear codes and guidelines between the developers and the utility in light of the ownership of the utility by a development company that competes with other developers. The CEC encourages a direction from the Commission to Creative Energy to set out its guidelines and practices in a manner that creates transparency and fairness to developers whether the Commission approves the Application or not. The CEC understands [Creative Energy's] positon that as a developer they can complain to the Commission if there is an issue. It would be preferential and less costly if there were clear guidelines established by [Creative Energy] which would reduce any regulatory costs or burden of needing to go to the Commission in the event of disagreement or evidence of unfair treatment. The Commission has traditionally implemented Codes of Conduct where the potential exists for cross-subsidy or conflicts.
>
> Having [Creative Energy] as the monitor, data collector and in part assessor of whether or not developers and builders are compliant with CoV requirements sets up the potential for conflicts of interest and potentially does not conserve the public interest.[74]

In the oral hearing of the Prior Proceeding, Creative Energy provided the following information. The utility is separate and independent from its owner and has a board of directors by whom it is governed. The utility will apply the processes consistently to all customers and will not treat a development by its owner differently than that of a competitor. Providing confirmation to CoV is only required upon request, and ultimately CoV has full authority for approving building and development permits. Creative Energy does not have a code of conduct.[75]

Creative Energy also provided the following comments in its Reply in the Prior Proceeding:

> CEC or any other stakeholder may at any time file a complaint with the Commission under section 26 of the *Utilities Commission Act*. The Commission could then make inquiries under section 24 of the *Utilities Commission Act* into the conduct of the public utility business. During the inquiry, the Commission could consider the potential conflict of interest that CEC is concerned about and examine the circumstances of any such complaint in order to determine if Creative Energy is conducting public utility business in an inappropriate manner.
>
> Based on the record of this proceeding there is no evidence to support the directions requested by CEC, and the Commission should not consider this issue further in this proceeding. In a future proceeding and in the context of specific circumstances, not mere concerns, the Commission may consider the need for codes and guidelines as requested by CEC. It must be remembered that if such codes and guidelines were necessary, which Creative Energy denies, then such codes and guidelines would need to apply to all public utility business of Creative Energy not just construction and operation of the NES in NEFC.[76]

[74] Prior Proceeding, CEC Final Submission, pp. 26–27.
[75] Prior Proceeding, Oral Hearing Transcript, pp. 218–229
[76] Prior Proceeding, Creative Energy Reply, p. 61.

Commission discussion

The Panel does not accept CEC's position that the provisions in the franchise agreement create conditions for a potential conflict of interest that would be grounds for considering the franchise to not properly conserve the public interest.

This finding speaks only to the issue of potential conflict of interest as it applies to provisions in the franchise agreement. Since the Application does not include a request to approve a connection agreement (to be filed at some later time) this Panel makes no determination on the suitability of that agreement.

We are persuaded by Creative Energy's arguments that this issue does not constitute a basis for denying the Application, and in particular that the utility intends to treat all applications with an even hand; the issue is only a matter of potential concern at this stage, with no evidence brought forward by CEC to substantiate their concerns. The Panel notes that a developer has recourse under section 26 of the UCA if they feel that they are being treated unfairly.

9.0 FINAL DETERMINATION ON THE APPLICATION

The Panel does not approve the franchise agreement as applied for. As explained more fully in sections 6 and 7 of this Decision, we do not approve a franchise that includes provisions for mandatory connection and end-use, or that includes the Chinatown area.

For greater clarity, had the current Application excluded the Chinatown area from the franchise and completely severed the linkages between the applied-for franchise and the NE Bylaw in substance as well as form, the Panel would have approved the Application.

DATED at the City of Vancouver, in the Province of British Columbia, this *16th* day of June 2016.

Original signed by:

H. G. HAROWITZ
PANEL CHAIR / COMMISSIONER

Original signed by:

R. D. REVEL
COMMISSIONER

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ORDER NUMBER
G-88-16

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

and

Creative Energy Platforms Inc.
Application for Approval of the Restated and Amended
Northeast False Creek and Chinatown Neighbourhood Energy Agreement

BEFORE:
H. G. Harowitz, Commissioner/Panel Chair Commissioner
R. D. Revel, Commissioner

on June 16, 2016

ORDER

WHEREAS:

A. On April 17, 2015, Creative Energy Platforms Vancouver Inc. (Creative Energy) applied to the British Columbia Utilities Commission (Commission) for an order approving a Neighbourhood Energy Agreement between Creative Energy and the City of Vancouver (Prior NEA) and granting a Certificate of Public Convenience and Necessity (CPCN) to construct and operate a new Neighbourhood Energy System to serve new developments in the Northeast False Creek (NEFC) and Chinatown neighbourhoods of Vancouver (Prior Proceeding);

B. By Order C-12-15, the Commission granted a Certificate of Public Convenience and Necessity (CPCN) for the NEFC area (excluding the Chinatown area), and did not approve the Prior NEA;

C. On February 5, 2016, in response to Order C-12-15, Creative Energy filed an application with the Commission seeking approval under section 45 of the *Utilities Commission Act* (UCA) of the Restated and Amended NEFC and Chinatown Neighbourhood Energy Agreement (Amended NEA), and filed for information only a Bylaw Enactment Agreement (BEA)(Application);

D. By Order G-23-16, the Commission established a preliminary Regulatory Timetable including a procedural conference for the review of the Application. Interveners included the City of Vancouver, FortisBC Energy Inc., FortisBC Alternative Energy Services Inc., Commercial Energy Consumers Association of British Columbia, the British Columbia Old Age Pensioners' Organization *et al.* and the BC Sustainable Energy Association and the Sierra Club of BC;

E. Following the Procedural Conference, by Order G-29-16A, the Commission incorporated the evidentiary recorded of the Prior Proceeding, amended the Regulatory Timetable to proceed to final submissions, and set the scope to include matters relevant to whether or not the Amended NEA and the BEA are necessary for the public convenience and properly conserve the public interest;

F. By March 18, 2016, interveners provided their final arguments and on March 29, 2016, Creative Energy provided its reply. Following Creative Energy's reply, the Commission sought further submissions on whether or not the Commission has the jurisdiction to approve a shorter franchise term and, if it did, should it do so. On April 15, 2016, Creative provided its further submissions and by April 22, 2016 interveners provided their further submissions. Creative Energy's reply was received on April 28, 2016; and

G. The Commission considered the evidence and submissions from all the parties and does not find the applied-for franchise to be in the public interest in its current form.

NOW THEREFORE, pursuant to section 45(8) of the *Utilities Commission Act*, for reasons set out in the Decision that is issued concurrently with this order, the British Columbia Utilities Commission does not approve the applied-for franchise.

DATED at the City of Vancouver, in the Province of British Columbia, this *16th* day of June 2016.

BY ORDER

Original signed by:

H. G. Harowitz
Commissioner

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

and

Creative Energy Vancouver Platforms Inc.
Restated and Amended Northeast False Creek and Chinatown Neighbourhood
Energy Agreement Application

EXHIBIT LIST

Exhibit No.	Description
COMMISSION DOCUMENTS	
A-1	Letter dated February 24, 2016 - Appointing the Commission Panel for the review of Creative Energy Vancouver Platforms Inc. Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement Application
A-2	Letter dated February 24, 2016 – Commission Order G-23-16 establishing a Regulatory Timetable
A-3	Letter dated February 25, 2016 – Procedural Conference Agenda
A-4	Letter dated March 7, 2016 – Commission Order G-29-16 amending the Regulatory Timetable - Reasons to follow
A-5	Letter dated March 8, 2016 – Commission Order G-29-16A Correction to the Amended Regulatory Timetable
A-5-1	Letter dated March 9, 2016 – Commission Order G-29-16A Reasons for Decision
A-6	Letter dated April 8, 2016 – Request for further submissions
APPLICANT DOCUMENTS	
B-1	**CREATIVE ENERGY VANCOUVER PLATFORMS INC.(CREATIVE)** Letter Dated February 24, 2016 - Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement Application
B-2	Letter dated April 15, 2016 – Creative Reply to Panel Questions (Exhibit A-6)
B-3	Letter dated April 28, 2016 – Creative Reply Submission on Commission Jurisdiction

INTERVENER DOCUMENTS

C1-1	**BRITISH COLUMBIA OLD AGE PENSIONERS' ORGANIZATION, DISABILITY ALLIANCE BC, COUNCIL OF SENIOR CITIZENS' ORGANIZATIONS OF BC, AND THE TENANT RESOURCE AND ADVISORY CENTRE (BCOAPO)** Letter dated February 26, 2016 - Request to Intervene by Tannis Braithwaite
C1-2	Letter dated April 21, 2016 – BCOAPO Reply to Panel Questions (Exhibit A-6)
C2-1	**COMMERCIAL ENERGY CONSUMERS ASSOCIATION OF BRITISH COLUMBIA (CEC)** Letter dated February 29, 2016 - Request to Intervene by David Craig
C2-2	Letter dated April 22, 2016 – CEC Submission on Commission Jurisdiction
C3-1	**CITY OF VANCOUVER (COV)** Letter dated February 26, 2016 - Request to Intervene by Chris Baber
C3-2	Letter dated April 22, 2016 – CoV Submission on Commission Jurisdiction
C4-1	**FORTISBC ALTERNATIVE ENERGY SERVICES INC. (FAES)** Letter dated March 1, 2016 - Request to Intervene by Julie Tran
C5-1	**FORTISBC ENERGY INC. (FEI)** Letter dated March 1, 2016 - Request to Intervene by Diane Roy
C5-2	Letter dated April 22, 2016 – FEI Submission on Commission Jurisdiction
C6-1	**BC SUSTAINABLE ENERGY ASSOCIATION AND SIERRA CLUB BC (BCSEA)** Letter dated March 2, 2016 – Late Request to Intervene by William Andrews
C6-2	Letter dated April 16, 2016 – BCSEA Reply to Panel Questions (Exhibit A-6)

INTERESTED PARTY DOCUMENTS

D-1	**LANGLOIS, JORDAN** – Interested party web registration on April 11, 2016

In addition, in accordance with Order G-29-16A, the evidentiary record of the Creative Energy Vancouver Platforms Inc. Application for a Certificate of Public Convenience and Necessity for a Low Carbon Neighbourhood Energy System for Northeast False Creek and Chinatown Neighbourhoods of Vancouver forms a part of the evidentiary record for this proceeding.