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FortisBC Energy Inc.

## Biomethane Energy Recovery Charge Rate Methodology Assessment Report

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### Decision and Order G-242-21

August 12, 2021

Before:

D. M. Morton, Panel Chair

D. A. Cote, Commissioner

R. I. Mason, Commissioner

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## Executive Summary

The FortisBC Energy Inc. (FEI) Renewable Natural Gas (RNG) Program was initially approved by the British Columbia Utilities Commission (BCUC) as a two-year pilot in 2010 (formerly under Terasen Gas Inc.) and then approved on a permanent basis in 2013. The Biomethane Energy Recovery Charge (BERC) is the rate FEI charges for biomethane, also referred to as RNG, purchased on a voluntary basis by customers on the FEI system. The BERC rate setting mechanism was intended to fully recover the biomethane supply and program costs for FEI.

In 2016, FEI was approved to replace its cost-based BERC rate with two rates (the Short-Term BERC Rate and the Long-Term BERC Rate) set at levels designed to encourage more participation in the RNG Program, stimulate increased RNG demand, increase overall revenues from the RNG Program, and reduce the impact to all other non-bypass ratepayers. In that BCUC decision, FEI was also directed to file an assessment report (Assessment Report) to assist the BCUC to determine whether the revised BERC rate methodology is achieving three overarching objectives:

- Maximize the recovery of program costs from RNG customers;
- Manage the biomethane inventory; and
- Establish a BERC rate setting mechanism that is robust, effective and provides regulatory efficiency.

FEI submitted its BERC Rate Assessment Report to the BCUC on August 12, 2020. Four interveners and two interested parties registered in the proceeding. The Panel established a 2-stage review process as:

Stage 1 – Review of FEI’s BERC Rate Assessment Report as a compliance filing.

Stage 2 – FEI’s Comprehensive RNG Program Review (Comprehensive Review).

In this Stage 1 Decision, the Panel accepts FEI’s Assessment Report, however, raises the concern that there are potential problems with FEI’s long-term contracts due to the expected timing of the BCUC’s decision on Stage 2, which will involve a review of the Comprehensive Review Report yet to be filed by FEI. The Panel is concerned with the significant risk of a sizable variance developing between the Short-Term BERC Rate and the rates set out in long-term contracts, thereby jeopardizing FEI’s opportunity to optimize revenues as envisioned in the BCUC’s three objectives previously identified in 2016. Accordingly, FEI is directed to include, in any long-term biomethane contract it enters into subsequent to the date of this Decision that uses the BERC rate or mechanism for calculating a long-term contract rate, a condition that the BERC rate or mechanism for calculating the long-term contract rate will change to whatever will be determined in the upcoming Stage 2 Comprehensive Review. The proposed wording for inclusion in the contracts is to be filed by FEI within 30 days of this Decision.

## 1.0 Background

### 1.1 History of FortisBC Energy Inc. Renewable Natural Gas Program and Biomethane Energy Recovery Charge Rate

The FortisBC Energy Inc. (FEI) Renewable Natural Gas (RNG) Program was initially approved by the British Columbia Utilities Commission (BCUC) as a two-year pilot in the FEI (formerly Terasen Gas Inc.) Biomethane decision dated December 14, 2010 accompanying Order G-194-10 (2010 Decision),<sup>1</sup> and then approved on a permanent basis on December 11, 2013 in Order G-210-13 and the accompanying Decision (2013 Biomethane Decision). The Biomethane Energy Recovery Charge (BERC) is the rate FEI charges for biomethane, also referred to as RNG, purchased on a voluntary basis by customers on the FEI system. The BERC rate setting mechanism was intended to fully recover the biomethane supply and program costs that are recorded in the Biomethane Variance Account (BVA) and the 2013 Decision directed FEI to record in the BVA all interconnection and biomethane program overhead costs along with the cost of biomethane supply.<sup>2</sup>

In 2015, FEI applied to the BCUC for approval to change the BERC rate methodology to address a declining trend in customer adoption due to high premiums in the rate relative to conventional natural gas and to limit negative impacts to non-RNG customers. Specifically, FEI proposed to replace the cost-based BERC rate with two rates (the Short-Term BERC Rate and the Long-Term BERC Rate) set at a level that is designed to encourage more participation in the RNG Program, stimulate increased RNG demand, increase overall revenues from the RNG Program, and reduce the impact to all other non-bypass ratepayers. The concept was designed to sell most or all of the available RNG supply at a lower price instead of selling less volume at a higher price. In developing this proposal, FEI sought to minimize changes to the biomethane program as approved in the 2013 Biomethane Decision<sup>3</sup> and did not propose changes to the costs that are recorded in the BVA.<sup>4</sup>

FEI also sought approval to apply to transfer unsold biomethane supply in the BVA that is greater than 18 months in age and/or 250,000 GJs to the Midstream Cost Reconciliation Account (MCRA) at the prevailing Commodity Cost Recovery Charge (CCRA) rate on January 1 each year. Any transfer would be subject to meeting the forecast RNG demand for the next six months. To the extent that the CCRA rate is less than the cost of transferred biomethane, this transfer of unsold biomethane to the MCRA will result in costs remaining in the BVA.<sup>5</sup> Since the new proposed BERC rates were expected to be below the cost-based BERC rate it was anticipated that not all RNG Program costs recorded in the BVA would be recovered from voluntary RNG customers via the Short-Term and Long-Term BERC Rates and these unrecovered costs would also accumulate in the BVA. To address the accumulated balances, FEI proposed to amortize the forecast December 31 BVA

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<sup>1</sup> Terasen Gas Inc. Application for Approval of a Biomethane Service Offering and Supporting Business Model, for the Approval of the Salmon Arm Biomethane Project and for the Approval of the Catalyst Biomethane Project.

<sup>2</sup> FEI Biomethane Service Offering: Post Implementation Report and Application for Approval of the Modification of the Biomethane Program on a Permanent Basis Decision, December 11, 2013, p. 65 and Executive Summary, p. iii.

<sup>3</sup> BCUC Decision and Order G-210-13, dated December 11, 2013.

<sup>4</sup> The BVA records balances of both quantities of unsold biomethane and all costs related to the RNG Program.

<sup>5</sup> Valuing the inventory at the CCRA rate leaves a remaining cost of the inventory embedded in the BVA equal to the difference between the average cost of the RNG supply and the CCRA rate multiplied by the volume of inventory transferred.

balance, net of the transfer of unsold inventory and remaining supply costs, through the delivery rates of all non-bypass customers effective January 1 of the following year (the BVA Transfer Mechanism).

On August 12, 2016, the BCUC issued Order G-133-16 and the accompanying Decision (2016 Biomethane Decision), which approved the Short-Term BERC Rate based on a \$7.00/GJ premium above the Conventional Gas Cost.<sup>6</sup> The Long-Term BERC Rate was set at a \$1.00/GJ discount to the Short-Term BERC Rate to reflect benefits to FEI (e.g., long-term revenue certainty, predictable load, reduced marketing efforts) with a Minimum Contract Strike Price of \$10.00/GJ. In approving the Short-Term BERC Rate, the BCUC approved a change in the calculation of the rate methodology from the previous cost-based methodology, that resulted in a Short-Term BERC Rate being lower than the cost of RNG on a per GJ basis. The Short-Term BERC Rate is set once a year effective each January 1 and is reflected in FEI's Rate Schedules 1B (Residential Biomethane Service), 2B (Small Commercial Biomethane Service), 3B (Large Commercial Biomethane Service), 5B (General Firm Biomethane Service) and 11B (Biomethane Large Volume Interruptible Sales) for transportation service customers who are in Rate Schedules 22, 22A, 22B, 23, 25, 26 and 27.

FEI also received approval to amortize/transfer the year-end BVA balance, after adjustment for the value of unsold biomethane quantities, to a BVA Balance transfer deferral account for recovery from, or refund to, all non-bypass customers via a delivery rate rider effective January 1 of the subsequent year. The BCUC's direction to use a rate rider was to provide transparency as directed in the 2013 Biomethane Decision.<sup>7</sup>

## **1.2 FEI's Assessment Report**

The BCUC 2016 Biomethane Decision also directed FEI to file an assessment report (Assessment Report) to assist the BCUC in determining whether the revised BERC rate methodology is achieving the three overarching objectives outlined in the 2016 Biomethane Decision. They were as follows:

- Maximize the recovery of program costs from RNG customers;
- Manage the biomethane inventory; and
- Establish a BERC rate setting mechanism that is robust, effective and provides regulatory efficiency.

The Assessment Report was to be filed for BCUC approval at the earlier of an application to transfer biomethane inventory from the BVA to the MCRA or four years after the 2016 Biomethane Decision, whichever comes first. Directive 16 of the 2016 Biomethane Decision directed FEI to include the following information in the Assessment Report:<sup>8</sup>

1. An assessment of the degree to which the new BERC rate methodology has achieved the objective of maximizing revenues.
2. An evaluation of the supply/demand balance for the RNG program, including an update on the biomethane supply contracted to date and projected to be contracted over the near future.
3. For January 1<sup>st</sup> of each year for the period from the date of implementation of the new BERC rate methodology to date:

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<sup>6</sup> The sum of the CCRA, the carbon tax and any other taxes applicable to conventional natural gas sales.

<sup>7</sup> Decision and Order G-133-16, FortisBC Energy Inc.'s 2015 Biomethane Energy Recovery Charge (BERC) Rate Methodology Application, August 12, 2016, p. 45.

<sup>8</sup> Decision and Order G-133-16, p. 51.

- a. The BVA balance;
  - b. The Short-Term BERC Rate;
  - c. The Long-Term BERC Rate;
  - d. The conventional natural gas commodity rate (CCRA or CCRC);
  - e. The carbon tax; and
  - f. The costs transferred to and from the BVA to the BVA balance transfer rate base deferral account.
4. Monthly data for the following for the period from the date of implementation of the new BERC rate methodology to date:
  - a. Number of customers by rate class and by offering (i.e. short-term versus long-term);
  - b. Churn rate by customer class; and
  - c. RNG sales quantities and revenues by rate class and by offering.
5. For long-term contracts, provide a summary of the terms and conditions that have been included in executed contracts to date.
6. In the case where the Assessment Report is triggered by an application to transfer biomethane quantities from the BVA to the MCRA, a discussion of the steps FEI has taken to realize the value of the environmental attributes by other means than through sales to voluntary customers.
7. An analysis of customer awareness and education spending for each year over the period from the date of implementation of the new BERC rate methodology to date including analysis against any metrics that are established by FEI as referred to in Section 4.5.
8. An evaluation of the effectiveness of the customer awareness and education spend over the period from the date of implementation of the new BERC rate methodology to date.
9. Recommendations regarding the need for any changes to the BERC rate methodology.

On August 12, 2020, FEI submitted the BERC Rate Assessment Report. In the Assessment Report, FEI states that the current BERC rate methodology is still appropriate as it contributes to ensuring that the demand for RNG remains strong and will support new RNG supply volumes as they become available. FEI states it will continue to monitor the market and the RNG Program as new supply becomes available and as drivers of market demand evolve, such as government policy. Given the current state of supply and demand, FEI considers that the BERC rate methodology in place remains appropriate and believes that a review or changes are not necessary at this time.

### **1.3 Regulatory Process and Participants**

On November 12, 2020, the BCUC issued Order G-292-20, which requested submissions on the potential scope of the review and provided a series of questions to help guide these submissions. On November 17, 2020, FEI requested that Order G-292-20 be rescinded and proposed a two-stage review process. Subsequently, Order G-35-21 dated January 29, 2021, established a regulatory review process with two stages:

1. Stage 1 – Review of FEI’s BERC Rate Assessment Report as a compliance filing.

2. Stage 2 – FEI’s Comprehensive RNG Program Review (Comprehensive Review) including, but not limited to the items identified in the BCUC’s preliminary scope list (Stage 2 Review).

FEI’s reply argument for Stage 1 was submitted on April 16, 2021, and an oral workshop was held on May 14, 2021, where parties were asked for submissions on how to avoid any risk associated with FEI entering into new long-term contracts prior to the completion of the Stage 2 Review and the subsequent issuance of the BCUC’s final decision related to that Stage 2 Review, which may include changes to the BERC rate. FEI also provided a status update on the Stage 2 Review on June 30, 2021.<sup>9</sup>

Four interveners and two interested parties registered in the proceeding. The four interveners were:

- BC Sustainable Energy Association (BCSEA)
- British Columbia Old Age Pensioners’ Organization et. al. (BCOAPO),
- Commercial Energy Consumers Association of British Columbia (CEC), and
- Movement of United Professionals (MoveUP).

One letter of comment was received in the proceeding.

## **2.0 Consideration of BERC Rate Assessment Report**

FEI submits in its Assessment Report that the BERC rate has been successful in addressing the problem it was designed to solve.<sup>10</sup> FEI states that the BERC rate has increased program participation, increased RNG sales volumes, and increased program revenues. FEI notes it has sold all of its RNG supply and no RNG has been transferred to the MCRA for recovery from non-RNG customers.<sup>11</sup> In terms of improvements, FEI Highlights the following:

- The methodology successfully reversed the negative trend in enrolment in the RNG program, and the customer response was clear and consistent up until the end of 2019, when additional supply did not materialize to serve demand. FEI expects additional supply to be available for the program in 2021.<sup>12</sup>
- Sales volume increased from approximately 163 terajoules in 2016, to 188 terajoules in 2019 (growth of 15 percent over the three-year period). This growth has been seen in all rate schedules.<sup>13</sup>
- Total revenues have also increased. Although the price per GJ of RNG declined under the revised BERC rate, the average revenue generated per residential customer remained steady. When coupled with the increased number of customers, the effect is increased revenues.<sup>14</sup>

FEI submits that the BERC rate should remain in place at this time and any changes to the RNG program should only be considered as part of the Comprehensive Review to be filed in Stage 2 of this proceeding.<sup>15</sup> Furthermore,

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<sup>9</sup> Exhibit B-9, FEI Letter dated June 30, 2021.

<sup>10</sup> FEI Final Argument, p. 7.

<sup>11</sup> FEI Final Argument, p. 1.

<sup>12</sup> FEI Final Argument, p. 3.

<sup>13</sup> FEI Final Argument, p. 4.

<sup>14</sup> FEI Final Argument, p. 6.

<sup>15</sup> FEI Final Argument, p. 8.

FEI states that the BCUC should accept FEI's Assessment Report and defer any consideration of potential changes to the RNG Program to the Stage 2 of this proceeding, noting that:<sup>16</sup>

- FEI has not faced any challenges which are attributable strictly to the current BERC rate methodology – rather the current challenges are primarily related to the lack of supply.
- There is no foundation in this proceeding for any change.
- The Stage 2 Review will provide the appropriate context and foundation for considering changes to the RNG program, including the BERC rate.

### *Position of the Parties*

MoveUP submits that the purposes of Stage 1 have been fulfilled and the more significant work of Stage 2 can now get underway. MoveUP agrees with FEI's comment that no changes should be made at this time, and any changes should be considered as part of the Stage 2 Review.<sup>17</sup>

The CEC states that the Assessment Report adequately addresses the reporting requirements directed in Order G-133-16. The CEC agrees with FEI that the BCUC should accept FEI's Assessment Report and defer any consideration of potential changes to the RNG Program to the second stage of this proceeding. However, the CEC recommends that the BCUC direct FEI to file its Stage 2 Review by the end of December 2021, and include information related to maximizing the revenues from its RNG program from both long-term and short-term customers.<sup>18</sup> In reply, FEI states that no such direction is needed since FEI has been already directed to provide an update on or before June 30, 2021. In the update, FEI will report on the expected timing for the filing of the Comprehensive Review. Any further direction on the timing, if any, should be made after FEI has provided this update. With regards to including information related to maximizing the revenues, FEI states it is analyzing pricing mechanisms and market factors that could affect the willingness of customers to pay different rates for RNG, including an assessment of different pricing options for the long-term rate. FEI also states that differing pricing options will affect revenues and notes that it will assess the merits of different pricing and revenue strategies and how they pertain to the success of the program.<sup>19</sup>

The BCOAPO accepts that the FEI Assessment Report demonstrates that the revised BERC rate methodology has, on balance, directionally achieved the objectives set out in Order G-133-16.<sup>20</sup> However, BCOAPO has concerns with respect to the scaling back of customer awareness activities in 2019 and 2020 and their potential impact on the transitional period between 2021 and mid-2022.<sup>21</sup> BCOAPO is concerned about the ramping up of RNG supply to many multiples of the historical program in 2021 and 2022, the potential for significant BVA transfer balances, and associated rate impacts on non-RNG customers in advance of the BCUC review and decision on the RNG Program. BCOAPO notes there is a risk associated with the costs of ramping up the supply and the realization of potential incremental demand, and questions the advisability of FEI scaling back its customer

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<sup>16</sup> FEI Final Argument, p. 8.

<sup>17</sup> MoveUP Final Argument.

<sup>18</sup> CEC Final Argument, p. 2.

<sup>19</sup> FEI Reply Argument, p. 2.

<sup>20</sup> BCOAPO Final Argument, p. 5.

<sup>21</sup> BCOAPO Final Argument, p. 6.



awareness expenditures in 2019 and 2020.<sup>22</sup> As a result, the BCOAPO recommends that the BCUC direct the following:<sup>23</sup>

- FEI file quarterly gas cost reports on the status, results, forecasts, and projected BVA transfer balances associated with the RNG Program until the BCUC issues a decision on the Stage 2 Review of the program.
- FEI file the RNG Program review project charter/terms of reference and associated consultation and engagement plan as part of its June 30, 2021 status update and that the BCUC and interveners provide comments and meaningful input into these plans in response.

In reply, FEI submits that additional reporting is unnecessary and an inefficient drain on resources. FEI states it will be filing an Annual Biomethane Variance Account Report each April, setting the BVA rate rider through the Annual Review filed each August, and filing its Fourth Quarter Gas Cost Report each November. FEI states that these reports provide details on actual biomethane purchase costs and sales revenues, as well as details for forecast periods. Further, it is FEI's position that additional reporting may only serve to confuse the issue as the timing of the reports may not coincide with the timing of the filing of the Stage 2 Review.<sup>24</sup>

FEI submits that BCOAPO's second recommendation is also unnecessary and inefficient, as FEI has already received direction from the BCUC on the scope of the Stage 2 Review in this proceeding through Appendix C of Order G-292-20. FEI's considers the appropriate place for FEI to receive further input on the scope of the Comprehensive Review to be through consultation and engagement efforts which is an efficient and effective way for them to receive feedback from stakeholders. FEI states it has already commenced early elements of its consultation and engagement plan, and will incorporate the information, feedback, and scope items identified into the Stage 2 Review.<sup>25</sup>

### *Panel Determination*

**The Panel accepts FEI's Assessment Report.** The Panel agrees with all parties that the purposes of Stage 1 have been fulfilled, and that the Assessment Report adequately addresses the reporting requirements directed in Order G-133-16. The Panel also notes that given the timing and content of the Stage 2 Review, it would not be appropriate to make changes to the RNG program at this time.

With regards to the Stage 2 Review, the Panel agrees with FEI that filing the project charter/terms of reference and associated consultation and engagement plan as part of its June 30, 2021 update as recommended by BCOAPO is unnecessary, given that FEI stated it has already started its consultation and engagement plan, and will incorporate all items identified into the Stage 2 Review. FEI has also stated it is analyzing pricing mechanisms and market factors that could affect the willingness of customers to pay different rates for RNG, including an assessment of different pricing options for the long-term rate, and that FEI will assess the merits of different pricing and revenue strategies. Therefore, the Panel also finds the CEC's recommendation for BCUC direction is not needed at this time.

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<sup>22</sup> BCOAPO Final Argument, p. 7.

<sup>23</sup> BCOAPO Final Argument, p. 3.

<sup>24</sup> FEI Reply Argument, pp. 2–3.

<sup>25</sup> FEI Reply Argument, p. 3.

With respect to BCOAPO's reporting recommendations, the Panel notes that FEI states it will be filing an Annual Biomethane Variance Account Report each April, setting the BVA rate rider through the Annual Review filed each August, and filing its Fourth Quarter Gas Cost Report each November. Since these reports provide details on actual biomethane purchase costs and sales revenues, as well as details for forecast periods, the Panel agrees with FEI that additional reporting is unnecessary, and inefficient, and finds that the BCOAPO's recommendation is not needed at this time.

### 3.0 Issues Arising

#### 3.1 Long-Term Contracts

As part of its review of FEI's Assessment Report, the Panel raised the issue of risks associated with FEI entering into additional long-term contracts prior to completion of the review and issuance of a decision on FEI's forthcoming Comprehensive Review in Stage 2 during which changes could be made to the BERC Rate methodology. To address this issue, the BCUC established a workshop to afford the parties the opportunity to make oral submissions on how to most effectively deal with this risk. The letter of April 28, 2021 sent to all parties outlined plans for the workshop and stated that submissions could include: "FEI temporarily pausing from entering into any new long-term contracts until issuance of BCUC's final decision related to the Comprehensive Review." The workshop was conducted online on May 14, 2021.

For background, the potential to enter into long-term contracts was first addressed in the 2016 Biomethane Decision. In that decision the BCUC determined that for a contract to be eligible for the Long-Term BERC Rate, the contract must be for a commitment to purchase no less than 60,000 GJ in aggregate over the term of the contract and must be for a term of no less than five years and no more than ten years.<sup>26</sup> Long-term contract customers would be eligible for a \$1/GJ discount from the Short-Term BERC Rate. This rate would be fixed for the balance of the contract term subject to any annual price escalation that was negotiated. The BCUC also determined that long-term contracts must be subject to a Minimum Contract Strike Price of \$10/GJ and directed FEI to set the long-term contract price at the higher of the Long-Term BERC Rate or \$10/GJ at the time the long-term contract is entered into.<sup>27</sup> In addition to the Minimum Contract Strike Price, it was determined that long-term contracts must include a Contract Floor Price provision that results in the price of RNG in any period beyond year five of the contract that is not less than the prevailing Conventional Gas Cost.<sup>28</sup> These price provisions for customers entering into long-term biomethane contracts with FEI are reflected in Section 28.4 of FEI's General Terms and Conditions.

In terms of the regulatory review and approval process of long-term contracts, approval of the specific terms is to be on a contract-by-contract basis as FEI executes each contract and files it with the BCUC as a tariff supplement to Rate Schedule 11B for approval as a rate under sections 59 to 61 of the *Utilities Commission Act*. The appropriateness of the terms and conditions negotiated by FEI for each long-term contract, including whether they are considered to be a rate that is an unjust, unreasonable, unduly discriminatory or unduly preferential under section 59 of the *Utilities Commission Act* is determined by the BCUC through the review of these applications and its final approval of such long-term contract as tariff supplements.<sup>29</sup>

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<sup>26</sup> BCUC Decision accompanying Order G-133-16, p. 29.

<sup>27</sup> BCUC Decision accompanying Order G-133-16, p. 30.

<sup>28</sup> BCUC Decision accompanying Order G-133-16, p. 32.

<sup>29</sup> BCUC Decision accompanying Order G-133-16, pp. 34–35.

To date FEI has signed three long-term BERC Rate Agreements and filed them with the BCUC as Tariff Supplements under RS 11B. The three agreements are with UBC, the City of Vancouver and TransLink. The contract price for each of these agreements was \$10 per GJ with a provision for an annual price escalation based on the contract price multiplied by 50 percent of the Consumer Price Index (Canada) over the previous year.<sup>30</sup> It is unknown whether the number of long-term contracts would have been larger were the RNG Program not oversubscribed resulting in the temporary closure of the Program to new participants in 2019.

### *Submissions by the Parties*

In response to the BCUC's concern that FEI may enter into new long-term contracts under the existing long-term BERC Rate prior to the Stage 2 Review being completed, FEI raises three points:<sup>31</sup>

- The current lack of RNG supply suggests that this is not an immediate issue;
- The BCUC's concern can and should be managed under the terms of those new long-term contracts and the BCUC's review and approval of such contracts (such as through an interim rate); and
- Pausing all new long-term contracts is not necessary and would be detrimental to the RNG program and all customers.

FEI further expanded on these three points. With regard to the current lack of RNG supply FEI states that no new long-term contracts are imminent, and none will be entered into until sufficient supply exists. As a consequence, FEI states it will not be entering into any long-term contracts prior to the filing of the Comprehensive Review. However, FEI asserts that once adequate supply is available, future contracts should be managed through the terms of those long-term contracts with a formal review and approval by the BCUC where it can be satisfied that issues are addressed. FEI explains that once the Comprehensive Review is filed:

It would be well known that the long-term BERC Rate is under review by the BCUC and would therefore be subject to change. FEI would propose to manage this issue through the terms of any new long-term contract and through a mechanism such as an interim rate.

FEI continues by raising its concern that if the BCUC were to prohibit future long-term contracts, it would be detrimental to the RNG program and all customers. Noting that a decision on the Comprehensive Review might not be until the end of 2022, FEI acknowledges that it expects to bring on a significant amount of RNG by that time. If it was required to wait for a decision prior to entering into new contracts, FEI asserts it could lose long-term customers and may not be able to sell all of its RNG supply. This would be detrimental to all customers.<sup>32</sup>

The submissions of Interveners generally supported those made by FEI and there was no support for temporarily pausing the signing of new contracts until such time as a decision was issued with respect to the Comprehensive Review. Some of the issues raised by individual Interveners follow:

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<sup>30</sup> Exhibit B-1, p. 16, Appendix B, pp. 1–3.

<sup>31</sup> Transcript Volume 1, May 14, 2021, pp. 4–5.

<sup>32</sup> Transcript Volume 1, May 14, 2021, pp. 5–8.

- Move-Up states that the RNG program needs to be a large part of the utility’s operation as it involves compliance with the Province’s climate policy. As such, for the long-term health of the utility it is vital it be able to pursue related goals and it is important to avoid any unnecessary roadblocks to its progression. Move-Up’s view is that long-term purchasers having some uncertainty with respect to what they will be paying “comes with the territory.” It will be their business decision as to whether to proceed with the contract having full awareness there may be a price adjustment following the Comprehensive Review.<sup>33</sup>
- BCSEA noting that it does not fully understand the mechanism, states that it fully supports the type of interim rate solutions discussed by FEI in its submissions.<sup>34</sup>
- The CEC states that the real issue is how to allocate the risk associated with the contracts. The CEC is of the view that “the opportunity Fortis has in crafting its agreement with customers is to recognize that risk exists and to properly allocate it.” The CEC’s view is that the rate risk should not be allocated to ratepayers.<sup>35</sup>
- The BCOAPO states that it considers that the hearing serves as a clear signal to FEI and believes that it would be unlikely and imprudent of the utility to come forward prior to a Comprehensive Review with a new long-term contract without some sort of interim rates provision. Like the CEC, the BCOAPO is clear that it wants to ensure that ratepayers will not be required to shoulder unnecessary or excessive risk. That said, the BCOAPO does not consider an order requiring interim rates necessary.<sup>36</sup>

After consideration of these submissions, the Panel noted that there was significant uncertainty surrounding many aspects related to long-term contracting including the supply of RNG, the price of supply, the timing of Phase 2 of this application as well as the timing of future long-term contracts. At the same time, the Panel recognized there was a need to provide as much certainty as possible for the parties that would be making investments in these future long-term contracts. The Panel identified that the issue before it “is how do we provide as much certainty as possible in an environment where there is much uncertainty.” To assist in determining how this may be best handled, the Panel requested further submissions from the parties on whether the Panel in this proceeding should set the current long-term rate as interim and recoverable.<sup>37</sup>

FEI states it is strongly opposed to the BCUC ordering all new long-term contracts to be made interim noting that such an order would not bring certainty and could result in lost customers. FEI submits that such contracts are negotiated on a case-by-case basis and the BCUC should only be making a decision on matters such as interim rates when it has the contract before it thereby creating an opportunity “for Fortis to bring forward a solution to this issue that is tailored to the customer and can work.” FEI states that if the BCUC were to make an order now requiring future long-term contracts be interim it would be fettering the BCUC’s discretion as “the Commission would have to then consider the issue when we brought forward the long-term contract in any case.” FEI points out that there would be little benefit to issuing such an order now as the BCUC has full jurisdiction to review

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<sup>33</sup> Transcript Volume 1, May 14, 2021, pp. 17–19.

<sup>34</sup> Transcript Volume 1, May 14, 2021, pp. 21–22.

<sup>35</sup> Transcript Volume 1, May 14, 2021, pp. 27–28.

<sup>36</sup> Transcript Volume 1, May 14, 2021, pp. 29–31.

<sup>37</sup> Transcript Volume 1, May 14, 2021, pp. 31–33.

these contracts as they are brought forward. After the Panel clarified that only the price would be interim, not the entire contract, FEI stated that it was still opposed adding that, although it had raised the idea of an interim rate, it was not meant to confine the mechanism to address the issue while acknowledging that interim rates were an obvious solution and would likely “be on the table.” FEI closed its submissions by stating that it is in the interest of all customers for FEI to bring something forward that works for the customer which can be considered by the BCUC at that time.<sup>38</sup>

The Interveners generally support the submissions of FEI with respect to their argument that any interim rate should only be determined as part of the required future contract review process and not at this time.

- Move-Up notes that these contracts involve sophisticated parties and emphasizes the importance of avoiding the creation of obstacles and urges the BCUC to allow FEI space to go out and grow the program unless there is a compelling reason not to do so.<sup>39</sup>
- BCSEA submits that ordering an interim rate would amount to devising “a solution in the absence of information that’s necessary to craft the best solution” pointing out there is a huge difference between interim rates, those that are refundable and those that are refundable and collectable. BCSEA also submits that the facts of each case would help determine whether a purchasing party should be entitled to have price certainty while a rate is being reviewed or should be required to remit funds to make up a shortfall.<sup>40</sup>
- The CEC considers the concerns regarding where an interim rate is set is “much ado about nothing” noting that the BCUC has the jurisdiction to make a decision on any contract put before them by FEI. The CEC considers that “Fortis clearly has a message from this process that the review is still to be complete and they need to be cautious around contracts which are potentially disrupted by the review.”<sup>41</sup>
- BCOAPO agrees with the CEC in the belief that the BCUC has achieved its purpose by having the discussion and communicating to the utility its concerns stating that it is extraordinarily unlikely that a future Panel would be called upon to review a contract “formulated without this particular concern in mind.”<sup>42</sup>

### *Panel Determination*

As part of the oral submission process, the Panel framed the issue before us as how to provide as much certainty as possible in an environment where there is so much uncertainty. Based on their submissions, it appears that all of the parties agree there is the potential for problems with long-term contracts due to the expected timing of a decision from Stage 2 which will involve a review of the Comprehensive Review Report. FEI offers that interim rates are an obvious solution but insists that the time for the BCUC to consider an interim rate is when the contract is before the BCUC, not to pre-empt the regulatory hearing on a contract by ordering it now. The interveners appear to be of like minds showing general support for the concept of an interim rate but allowing FEI to negotiate with potential customers as to the form and shape it might take.

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<sup>38</sup> Transcript Volume 1, May 14, 2021, pp. 33–38.

<sup>39</sup> Transcript Volume 1, May 14, 2021, pp. 46–48.

<sup>40</sup> Transcript Volume 1, May 14, 2021, pp. 48–50.

<sup>41</sup> Transcript Volume 1, May 14, 2021, pp. 51–52.

<sup>42</sup> Transcript Volume 1, May 14, 2021, pp. 52–54.

The Panel's concern is that unlike customers who are on a Short-Term BERC Rate which is updated annually, those on longer term contracts are charged the BERC Rate effective at the date of signing for the length of the contract — which is a minimum of five and up to ten years. The only price adjustment made to this contracted rate over the first five years is the potential for an annual rate escalation based on the Consumer Price Index (CPI) rate (current contracts have an escalator of 50 percent of the CPI rate). For contract terms longer than five years, contracts must include a Contract Floor Price provision resulting in an RNG price that is not less than the prevailing Conventional Gas Cost in any period beyond year five. Thus, regardless of whether there is a significant increase in the price of natural gas which would be reflected in an increase to the Short-Term BERC Rate, long-term contract customers would pay substantially the same for at least five years. Given the five to ten-year length of long-term contracts, the Panel is concerned there is significant risk of a sizable variance developing between the Short-Term BERC Rate and the rates set out in long-term contracts thereby jeopardizing the opportunity to optimize revenues as envisioned in the three objectives contained in the BCUC's 2016 Biomethane Decision.

Since 2016 when the Long-Term BERC Rate was first approved, there has been no review of the BERC rate methodology. As a result, some of the key factors that remain uncertain and thus unknown include:

- The timing of new RNG supply;
- The future cost of RNG supply and the impact on non-participating ratepayers;
- The impact of more recent climate policy changes by various levels of government on prospective long-term contract customers;
- An analysis of the level of demand and price elasticity for potential customers; and
- The impact on revenue of signing a long-term contract for RNG if natural gas prices were to continue to rise.

Further, the Panel has the duty to not only ensure that long-term RNG customers pay just and reasonable rates, but we also have the duty to ensure that other rates paid by other ratepayers are not unduly discriminatory.

Given these factors and the large number of related uncertainties, the Panel finds there is no certainty the current RNG Program and related BERC rate methodology as designed optimize the revenues as envisioned by the objectives set out by the BCUC in the 2016 BERC Decision. Therefore, the Panel further finds that failing to provide FEI with direction on the handling of future long-term contracts at this time would not be in the interests of ratepayers.

In our view it is also unacceptable to have FEI undertake negotiations of long-term contracts only to have these efforts frustrated by a future BCUC panel not being satisfied that the matter of future BERC rate methodology changes has been addressed satisfactorily. This would create unnecessary delays and could potentially lead to a cessation of negotiations.

With these concerns in mind, **FEI is directed to include, in any long-term biomethane contract it enters into subsequent to the date of this Decision that uses the BERC rate or mechanism for calculating a long-term contract rate, a condition that the BERC rate or mechanism for calculating the long-term contract rate will**

**change to whatever will be determined in the upcoming Stage 2 Comprehensive Review. The proposed wording for inclusion in the contracts is to be filed by FEI within 30 days of this Decision.**

On another matter the Panel notes there were a number of concerns raised during the Oral Submission process with respect to the BCUC placing a “chill” on the RNG Program, inadvertently creating the impression that the RNG program was at risk and may not be continued. It was argued that this might potentially discourage potential new long-term contract customers from participating until such time as there is certainty as to the continuity of the program. The Panel would like to address this by stating that the purpose of Stage 2 of this proceeding, which will follow early next year, is not to determine whether there should be an RNG Program or long-term contracting for biomethane. Rather the purpose of Stage 2 is to review the steps which have been taken to date with regard to the RNG Program and determine what changes or adjustments should be made, if any, to better meet the objectives stated in the 2016 Biomethane Decision which are listed in Section 1.2 above. The Panel notes that FEI has committed to a significant long-term supply of RNG over the next few years. It would be absurd for the BCUC to consider eliminating or to downplay a program designed to market and sell the product which has been procured under the Greenhouse Gas Reduction (Clean Energy) Regulation.

### **3.2 Escalation of Current Long-Term Contracts**

Each of the current long-term contracts have a rate escalation clause, which states that the annual adjustment of the contract price equals \$10 per GJ multiplied by 50 percent of the increase of the CPI over the previous year.<sup>43</sup>

In response to BCUC IR 19.3, FEI notes that the annual inflation adjustment for long-term contracts was not programmed into FEI’s billing system, and consequently the three current long-term customers have been billed at the rate of \$10/GJ since their enrollment in the program. FEI states it is now working to address the situation and will work directly with the customers to recover the unbilled amounts. FEI also provides the rates at which these customers should have been billed, had the annual adjustment factor been applied:

**Table 1 – Escalated Long-term Contract Rates<sup>44</sup>**

Customer	2017	2018	2019	2020	2021
UBC	\$ 10.00	\$ 10.08	\$ 10.19	\$ 10.29	\$ 10.33
CoV		\$ 10.00	\$ 10.12	\$ 10.21	\$ 10.25
Translink			\$ 10.00	\$ 10.10	\$ 10.13

#### ***Panel Determination***

**The Panel directs FEI to confirm, in a compliance filing due 30 days from the date of this Decision, that the correction in billing has occurred and whether any previous unbilled amounts are still yet to be recovered. If so, FEI is further directed to explain how it will recover the remaining unbilled amounts and the implications to the BVA Balance transfer deferral account, if any.**

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<sup>43</sup> Exhibit B-1, Appendix B, pp. 1–3.

<sup>44</sup> Exhibit B-4, BCUC IR 19.3.





**DATED** at the City of Vancouver, in the Province of British Columbia, this 12<sup>th</sup> day of August 2021.

*Original signed by:*

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D. M. Morton  
Panel Chair / Commissioner

*Original signed by:*

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D. A. Cote  
Commissioner

*Original signed by:*

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R. I. Mason  
Commissioner



**ORDER NUMBER  
G-242-21**

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

and

FortisBC Energy Inc.  
Biomethane Energy Recovery Charge Rate Methodology  
Assessment Report

**BEFORE:**

D. M. Morton, Panel Chair  
D. A. Cote, Commissioner  
R. I. Mason, Commissioner

on August 12, 2021

**ORDER**

**WHEREAS:**

- A. On August 12, 2016, the British Columbia Utilities Commission (BCUC) issued its Decision and accompanying Order G-133-16 approving FortisBC Energy Inc.'s (FEI) Biomethane Energy Recovery Charge (BERC) Rate Methodology Application. Directive 16 of the Decision directed FEI to file a comprehensive assessment report for BCUC approval at the earlier of the application by FEI for a transfer of biomethane inventory from the Biomethane Variance account (BVA) to the Mid-Stream Reconciliation account, or four years after the date of issue of the Decision, whichever came first;
- B. On August 12, 2020, in accordance with Directive 16 of the Decision, FEI filed the BERC Rate Assessment Report (Assessment Report) with the BCUC;
- C. By Order G-292-20, dated November 12, 2020, the BCUC established the regulatory timetable for the review of the Assessment Report, including a list of preliminary scope items attached as Appendix C to that order and requested submissions on scope from all parties;
- D. The following parties registered as interveners in the proceeding:
  - (i) British Columbia Old Age Pensioners' Organization et al (BCOAPO);
  - (ii) BC Sustainable Energy Association (BCSEA);
  - (iii) Commercial Energy Consumers Association of British Columbia (CEC); and
  - (iv) Movement of United Professionals (MoveUP);
- E. On November 17, 2020, FEI requested that the BCUC rescind Order G-292-20, for reasons of regulatory efficiency, and instead establish a regulatory review process with two stages or two separate processes

where the second stage or process would follow subsequent to FEI filing an application for changes to its Renewable Natural Gas Program (RNG Program) after completing its planned comprehensive review;

- F. By Order G-301-20 and G-35-21, dated November 30, 2020 and January 29, 2021, the BCUC established a further regulatory timetable for the review of the Assessment Report, and determined that the review of the proceeding shall progress with a two-stage process; and
- G. The Panel has reviewed the Assessment Report, evidence and submissions filed in this proceeding and determines that the following orders are warranted.

**NOW THEREFORE** for the reasons stated in the Decision issued concurrently with this order, the BCUC accepts FEI's BERC Rate Assessment Report and orders as follows:

- 1. FEI is directed to include, in any long-term biomethane contract it enters into subsequent to the date of this Decision that uses the BERC rate or mechanism for calculating a long-term contract rate, a condition that the BERC rate or mechanism for calculating the long-term contract rate will change to whatever will be determined in the upcoming Stage 2 Comprehensive Review. The proposed wording for inclusion in the contracts is to be filed by FEI within 30 days of this Decision.
- 2. FEI is directed to confirm, in a compliance filing due 30 days from the date of this Decision, that the correction in billing has occurred and whether any previous unbilled amounts are still yet to be recovered. If so, FEI is further directed to explain how it will recover the remaining unbilled amounts and the implications to the BVA Balance transfer deferral account, if any.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 12<sup>th</sup> day of August 2021.

BY ORDER

*Original signed by:*

D. M. Morton  
Commissioner

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

and

FortisBC Energy Inc.  
Biomethane Energy Recovery Charge Rate Methodology - British Columbia Utilities Commission  
Decision and Order G-133-16 Compliance Filing – BERC Rate Assessment Report

**EXHIBIT LIST**

Exhibit No.	Description
<i>COMMISSION DOCUMENTS</i>	
A-1	Letter dated October 9, 2020 – Appointing the Panel for the review of FortisBC Energy Inc. Biomethane Energy Recovery Charge (BERC) Rate Methodology - British Columbia Utilities Commission Decision and Order G-133-16 Compliance Filing – BERC Rate Assessment Report
A-2	Letter dated October 13, 2020 – BCUC Amending the Panel for the review of the Application
A-3	Letter dated November 12, 2020 – BCUC Order G-292-20 establishing a regulatory timetable
A-4	Letter dated November 20, 2020 – BCUC response to FEI Regulatory Timetable Amendment Request
A-5	Letter dated November 30, 2020 – BCUC Order G-301-20 establishing an amended regulatory timetable
A-6	Letter dated January 29, 2021 – BCUC Order G-35-21 establishing a further regulatory timetable
A-7	Letter dated February 23, 2021 – BCUC Information Request No. 1 to FEI
A-8	Letter dated April 28, 2021 – BCUC request for Oral Submissions

#### *APPLICANT DOCUMENTS*

- B-1 **FORTISBC ENERGY INC. (FEI)** - Application for Biomethane Energy Recovery Charge (BERC) Rate Methodology - British Columbia Utilities Commission Decision and Order G-133-16 Compliance Filing – BERC Rate Assessment Report
- B-2 Letter dated November 17, 2020 – FEI submitting request to rescind Order G-292-20
- B-3 Letter dated January 28, 2021 – FEI submitting reply to intervener submissions on process
- B-4 Letter dated March 15, 2021 – FEI submitting response to BCUC Information Request No. 1
- B-5 Letter dated March 15, 2021 – FEI submitting response to BCSEA Information Request No. 1
- B-6 Letter dated March 15, 2021 – FEI submitting response to MoveUp Information Request No. 1
- B-7 Letter dated March 15, 2021 – FEI submitting response to CEC Information Request No. 1
- B-8 Letter dated March 15, 2021 – FEI submitting response to BCOAPO Information Request No. 1
- B-9 Letter dated June 30, 2021 – FEI submitting Stage 2 Comprehensive Review and Assessment of the Renewable Gas Program – Status update in compliance with G-35-21

#### *INTERVENER DOCUMENTS*

- C1-1 **BC SUSTAINABLE ENERGY ASSOCIATION AND SIERRA CLUB (BCSEA)** - Letter dated October 29, 2020 Request to Intervene by T. Hackney and W. Andrews
- C1-2 Letter dated December 2, 2020 - BCSEA submitting comments on process
- C1-3 Letter dated February 23, 2021 – BCSEA Information Request No. 1 to FEI
- C2-1 **MOVEMENT OF UNITED PROFESSIONALS (MOVEUP)** – Letter dated December 8, 2020 – Request to Intervene by Jim Quail, Allevato Quail & Roy, Barristers & Solicitors
- C2-2 Letter dated December 8, 2020 – MoveUP submitting comments on process
- C2-3 Letter dated February 22, 2021 – MoveUP Information Request No. 1 to FEI
- C3-1 **COMMERCIAL ENERGY CONSUMERS ASSOCIATION OF BRITISH COLUMBIA (CEC)** - Letter dated January 14, 2021 Request to Intervene by Christopher Weafer

- C3-2 Letter dated January 14, 2020 – CEC submission on process alternatives
- C3-3 Letter dated February 23, 2021 – CEC Information Request No. 1 to FEI
- C4-1 **BC OLD AGE PENSIONERS' ORGANIZATION, ACTIVE SUPPORT AGAINST POVERTY, COUNCIL OF SENIOR CITIZENS' ORGANIZATIONS OF BC, DISABILITY ALLIANCE BC, TENANTS RESOURCE AND ADVISORY CENTRE, AND TOGETHER AGAINST POVERTY SOCIETY, KNOWN COLLECTIVELY IN REGULATORY PROCESSES AS "BCOAPO ET AL." (BCOAPO ET AL)** - Letter dated January 15, 2020 - Request for Intervener Status by Leigha Worth and Irina Mis
- C4-2 Letter dated January 14, 2020 – BCOAPO submission on process alternatives
- C4-3 Letter dated February 23, 2021 – BCOAPO Information Request No. 1 to FEI

#### *INTERESTED PARTY DOCUMENTS*

- D-1 **SHELL ENERGY NORTH AMERICA (SHELL ENERGY)** – Submission dated December 11, 2020  
Request for Interested Party Status by Marcie Milner
- D-2 **SENTINEL ENERGY MANAGEMENT INC. (SENTINEL ENERGY)** – Submission dated February 18, 2021  
Request for Interested Party Status by Jim Langley

#### *LETTERS OF COMMENT*

- E-1 Langley, J. – Letter of Comment dated April 27, 2021

## Glossary of Terms

Acronym	Description
2010 Decision	FEI (formerly Terasen Gas Inc.) Application for Approval of a Biomethane Service Offering and Supporting Business Model, for the Approval of the Salmon Arm Biomethane Project and for the Approval the Catalyst Biomethane Project - Decision accompanying Order G-194-10 dated December 14, 2010
2013 Biomethane Decision	FEI Biomethane Service Offering: Post Implementation Report and Application of the Continuation and Modification of the Biomethane Program on a Permanent Basis – Decision accompanying Order G-210-13 dated December 11, 2013
2016 Biomethane Decision	FEI Application for Biomethane Energy Recovery Charge Rate Methodology - Decision accompanying Order G-133-16 dated August 12, 2016
Assessment Report	FEI assessment report directed by the BCUC in the 2016 Biomethane Decision
BCSEA	BC Sustainable Energy Association
BCOAPO	British Columbia Old Age Pensioners’ Organization et. al.
BCUC	British Columbia Utilities Commission
BERC	Biomethane Energy Recovery Charge
BVA	Biomethane Variance Account
CEC	Commercial Energy Consumers Association of British Columbia
CCRA	Commodity Cost Recovery Charge
CPI	Consumer Price Index
FEI	FortisBC Energy Inc.
GGRR	Greenhouse Gas Reduction (Clean Energy) Regulation
MCRA	Midstream Cost Reconciliation Account
MoveUP	Movement of United Professionals
RNG	Renewable Natural Gas