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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-215-11

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IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

British Columbia Utilities Commission Order C-5-06

and

FortisBC Inc.

Kettle Valley Distribution Source Project

Notice of an Expenditure Review under Sections 59 and 60 of the Utilities Commission Act

BEFORE:

L.F. Kelsey, Commissioner
C.A. Brown, Commissioner
D. Morton, Commissioner

December 15, 2011

ORDER

WHEREAS:

- A. On August 9, 2006, the British Columbia Utilities Commission (Commission, BCUC) issued Order C-5-06 granting a Certificate of Public Convenience and Necessity to FortisBC Inc. (FortisBC) for the Kettle Valley Distribution Source Project (Project), as described in Option 2 of FortisBC's application for the Project with an estimated cost of \$21.48 million;
- B. On May 6, 2011, FortisBC, pursuant to Commission Order C-5-06, submitted its Final Quarterly Progress Report No. 13 (the Report) to December 31, 2010 for the Project and reported \$28.67 million as the actual cost;
- C. On May 24, 2011, the Commission advised FortisBC that it may be considering a prudency review of the Project depending on the outcome of a factual review of the Project;
- D. On May 31, 2011, the Commission initiated a factual review and issued an information request (IR1) to FortisBC on the Project, and on July 5, 2011 issued a revised IR1;
- E. On July 29, 2011, FortisBC responded to BCUC IR1;
- F. On August 10, 2011, the Commission issued Information Request No. 1 in its review of the FortisBC Inc. 2012-2013 Revenue Requirements and Review of 2012 Integrated System Plan Application. In BCUC Information Request No. 1, question 180.1, the Commission asked: "As the Commission is conducting a factual review of the costs incurred on the Kettle Valley Substation project, please confirm that any expenditures that may be found not to have been prudently incurred will be adjusted in the revenue requirements and hence the rates";
- G. On September 9, 2011, FortisBC responded to Information Request No. 1, question 180.1, stating: "The Company will comply with Commission Orders, subject to sections 99 and 101 of the Utilities Commission Act";
- H. In *Enbridge Gas Distribution Inc. v. Ontario Energy Board*, 2006 CanLII 10734 (ON CA), a two stage process to evaluate prudency was set forth:

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1. At the first stage (Stage 1) of the inquiry, the decisions of the utility are presumed to be made prudently unless those challenging the decision demonstrate reasonable grounds to question the prudence of those decisions;
 2. At the second stage (Stage 2) of the inquiry, reached only if the presumption of prudence is overcome, the utility must show that its business decision was reasonable under the circumstances that were known to, or ought to have been known to, the utility at the time it made the decision;
- I. After considering the 33 percent cost overrun on the Project and the explanation for the cost variance provided by FortisBC in the Report and IR1 responses, the Commission determines that the presumption that the expenditure on the Project was prudent, should be reviewed pursuant to sections 59 and 60 of the *Utilities Commission Act*.

NOW THEREFORE the Commission orders as follows:

1. A written comment process is established for the Stage 1 question of whether:
 - i. there are reasonable grounds to question the prudence of the decisions of FortisBC that led to the expenditure; and
 - ii. the Commission should establish a Stage 2 proceeding to review the prudence of the expenditures prior to allowing them into rates.
2. FortisBC will file written comment with the Commission on the question of the Stage 1 review process by Thursday, January 12, 2012.
3. Other Parties wishing to provide written comment to the Commission on the question of the Stage 1 review process will do so by Thursday, January 19, 2012 and will provide a copy of their comments to FortisBC.
4. FortisBC will provide any reply comments in writing to the Commission by Thursday, January 29, 2012.
5. The Commission invites Parties to include in their submissions any comments they may have on the following matters in the event the Commission determines that a Stage 2 proceeding is needed:
 - i. Should the proceeding be oral, written, negotiated settlement process or other?
 - ii. What regulatory methodologies should be applied to determine if expenditure should be recoverable in rates?
 - iii. Should all of the expenditures on the Project be reviewed in whole or should subsets of the expenditures be reviewed, and if subsets what expenditures should be reviewed?
6. The Commission will post relevant documents and links to the BCUC web site under Current Applications.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of December 2011.

BY ORDER
Original signed by:

D. Morton
Commissioner