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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-198-12**

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

and

An Application by FortisBC Inc.
for a Certificate of Public Convenience and Necessity
for the Advanced Metering Infrastructure Project
Intervener Request for Suspension of Proceeding

BEFORE: L.F. Kelsey, Commissioner
D.M. Morton, Commissioner December 20, 2012
N.E. MacMurchy, Commissioner

ORDER

WHEREAS:

- A. On July 26, 2012, FortisBC Inc. (FortisBC) applied to the BC Utilities Commission (Commission), pursuant to sections 45, 46, and 56 of the *Utilities Commission Act* (Act), for approval of the Advanced Metering Infrastructure (AMI) Project (Project);
- B. On August 2, 2012 by Commission Order G-105-12, the Commission established a Preliminary Regulatory Timetable for the public hearing of the FortisBC AMI Project (Proceeding);
- C. On October 30, 2012, Mr. Andy Shadrack submitted a letter on behalf of Area D in the Regional District Central Kootenay (RDCK) (Exhibit C13-4), a registered Intervener in this Proceeding (the RDCK letter). The RDCK letter requested that the Proceeding be suspended until such time that FortisBC has provided the Commission with the ability to consider a comprehensive wired smart meter option. On the same date, Mr. Michael Jessen submitted a letter on behalf of the Nelson-Creston Green Party Constituency Association (Nelson-Creston) (Exhibit C18-3), a registered Intervener in this Proceeding (the Nelson-Creston letter). The Nelson-Creston letter requested that the Proceeding should be suspended until FortisBC submits a business case to the Commission for installing hard-wired (or wired-in) smart meters for comparison with its current wireless proposal;
- D. On November 9, 2012 by Commission Order G-169-12, the Commission established a Written process to hear submissions from other Interveners and FortisBC on the request for suspension, concluding with reply submissions by the applicants (RDCK and Nelson-Creston) on December 7, 2012;

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-198-12

2

- E. On November 23, 2012 by Commission Order G-177-12, following a Procedural Conference in Kelowna, BC, the Commission established an Amended Regulatory Timetable including a combination of a Written and an Oral hearing;
- F. The Commission Panel has considered the request for suspension submissions and determines that a suspension of the Proceeding is not necessary.

NOW THEREFORE as set out in the Reasons for Decision with guidance to the participants attached as Appendix A to this Order, the Commission orders that the request for suspension of the Proceeding is denied and confirms the Amended Regulatory Timetable as established by Commission Order G-177-12.

DATED at the City of Vancouver, in the Province of British Columbia, this 20th day of December 2012.

BY ORDER

Original signed by:

D.M. Morton
Commissioner

Attachment

FortisBC Inc.
Application for a Certificate of Public Convenience and Necessity
for the Advanced Metering Infrastructure Project
Intervener Request for Suspension of Proceeding

REASONS FOR DECISION

EXECUTIVE SUMMARY

The FortisBC Inc. Advanced Metering Infrastructure Project (AMI Project Application) is the subject of a public hearing process (Proceeding) currently before the British Columbia Utilities Commission (Commission). This decision deals with a motion by Interveners in the Proceeding by Mr. Andy Shadrack, on behalf of Area D in the Regional District Central Kootenay, and Mr. Michael Jessen, on behalf of the Nelson-Creston Green Party Constituency Association, to suspend the Proceeding pending FortisBC Inc. (FortisBC) filing a comprehensive wired smart meter alternative to the proposed wireless technology.

This motion raises a controversial issue that is of significant concern to some Intervener groups. The question of public interest, in the context of broad and potentially controversial issues of public health, security, consumer choice and costs and benefits, is brought forward as a central issue by Interveners in this motion. Interveners question whether FortisBC provided sufficient quality of information in its AMI Project Application to evaluate alternatives and allow Interveners and ultimately the Commission to determine if the public interest is being best served by the proposed AMI Project Application. Interveners raise doubts and concerns about the source and quality of the cost estimates and other quantitative assessments used by FortisBC in large part to eliminate a wired option from further consideration. The Interveners also raise strong concerns about the proliferation of wireless technologies in their communities and homes without their consent. Some Interveners, however, express support for AMI in general and feel the benefits of AMI may be achievable with wired technologies.

FortisBC argues that the extraordinary relief sought by the Interveners is not justified. It points out that the evidentiary record and Information Request process are not closed and Interveners have the opportunity to raise questions for FortisBC to answer. Further, Interveners may bring forward evidence in the current regulatory process.

FortisBC is joined by two Intervener groups opposing the motion. The Commercial Energy Consumers Association (CEC) and the British Columbia Sustainable Energy Association (BCSEA) oppose the motion on the

grounds that FortisBC's Application, after hearing all the evidence and final arguments from the Proceeding, will have to stand on its own merits and that the current Proceeding should establish an adequate record on which the Commission can base its final decision.

Throughout this process, Interveners have filed evidence that raises specific questions and issues that FortisBC, in its own evidentiary filings and final arguments, should address in a thoughtful way. The Commission determines that Interveners have sufficient opportunity to request information from FortisBC and to test that information in the evidentiary and oral phase of the Proceeding. The Commission agrees with the CEC that the onus is on, and remains with FortisBC to justify its decisions and expenditures and that FortisBC remains at risk for any imprudently incurred costs related to this Application and any alternative it chooses to bring forward. The Panel therefore denies the Intervener's request to suspend the Proceeding. FortisBC may wish to file, in a timely way, additional information it considers might provide additional insight on this matter and address specific issues and evidence raised by the Interveners in this Proceeding.

INTRODUCTION

On July 26, 2012, FortisBC Inc. (FortisBC) applied to the Commission, pursuant to sections 45, 46 and 56 of the *Utilities Commission Act*, for approval of the AMI Project Application. By Order G-105-12 dated August 2, 2012, the Commission established a preliminary Regulatory Timetable for a public hearing on the AMI Project Application. On October 30, 2012, Mr. Andy Shadrack submitted a letter on behalf of Area D in the Regional District Central Kootenay (RDCK) (Exhibit C13-4), a registered Intervener in this Proceeding (the RDCK letter). The RDCK letter requested that the proceedings related to the AMI Project Application be suspended until such time that FortisBC provides the Commission with additional information, enabling the Commission to consider a comprehensive wired smart meter option. On the same date, Mr. Michael Jessen submitted a letter on behalf of the Nelson-Creston Green Party Constituency Association (Nelson-Creston) (Exhibit C18-3), a registered intervener in this Proceeding (the Nelson-Creston letter). The Nelson-Creston letter submitted that Nelson-Creston is of the opinion that the Proceedings in this matter should be suspended until FortisBC submits a business case to the Commission for installing hard-wired (or wired-in) smart meters for comparison with its current wireless proposal.

REGULATORY PROCESS

By Order G-169-12 dated November 9, 2012, the Commission established the following Written Process and a Timetable for hearing this request for suspension of the Proceeding.

1. RDCK and Nelson-Creston are to file any further submissions on their suspension requests on or before November 16, 2012;
2. All other Interveners are to file their submissions, if any, on the submissions filed by RDCK and Nelson-Creston on or before November 23, 2012;
3. FortisBC is to file its submissions, if any, to the submissions of the Applicants and the other Interveners on or before November 30, 2012;
4. The Applicants are to file their reply submissions, if any, to the submissions of the other Interveners and FortisBC on or before December 7, 2012;

In addition to the two applicant Interveners and FortisBC, the following Interveners also provided submissions:

- Riding of BC Southern Interior (BCSI, Alex Atamanenko, MP) (Exhibit C1-2);
- British Columbia Pensioners' and Seniors' Organization (BCPSO) (Exhibit C3-3);
- British Columbia Sustainable Energy Association (BCSEA) (Exhibit C4-6);
- Keith Miles (Exhibit C11-4);
- Commercial Energy Consumers Association (CEC) (Exhibit C17-7);
- West Kootenay Concerned Citizens (WKCC) (Exhibit C19-6).

Several Interveners posted late submissions according to the Regulatory Timetable: RDCK (Exhibit C13-10); BCSI (Exhibit C1-3); and Jerry Flynn (Exhibit C6-6). Several of the submissions introduced new issues beyond the scope of the suspension request. Although this information is posted and forms part of the public record in the Proceeding, the Panel, in the interests of procedural fairness has only considered submission filed in accordance with the Regulatory Timetable and limited to the scope of the request for suspension.

FortisBC filed a response to the Applicant's reply submissions (Exhibit B-13) which was not contemplated in the Procedural Timetable. The additional arguments and submissions were therefore not considered by the Panel.

SUMMARY OF SUBMISSIONS AND COMMISSION DETERMINATIONS

The request by the two Interveners for the purpose of this process is considered to be two-fold. First, is the request to suspend the Proceeding and second, is the request to require FortisBC to provide additional

information and/or a business case to the Commission for a wired smart meter option. The second part (order additional information) is essentially justification for the first part (suspension) in that either additional time is needed or that some motivation to file additional information is needed. Thus, the key question before the Panel is: Should the Commission order FortisBC to file additional information for a wired option? The question of suspension or extension of the Proceeding is secondary.

Under section 45 and 46 of the *Utilities Commission Act*, an applicant for a Certificate of Public Convenience and Necessity (CPCN) must file with the Commission information that the Commission prescribes. The Commission has issued Guidelines which outline required information for filing CPCN applications, attached as Appendix A to Commission Order G-50-10. The Commission has the authority to issue a CPCN, refuse to issue a CPCN or issue a CPCN for only a part of the proposed system or upgrade. The Commission must not issue a CPCN unless it determines that the privilege, concession or franchise proposed is necessary for the public convenience and properly conserves the public interest.

In its AMI Project Application, FortisBC did include an alternative for a wired option, referred to as a Power Line Carrier (PLC) AMI system. FortisBC states that no PLC proposals were received from any vendors during the request for proposal process; however, Itron, the selected vendor, was able to provide an estimate of PLC capital costs for a system with nearly equivalent functionality. (Exhibit B-1, p. 112) Given the cost comparison (with RF wireless), the PLC option was eliminated from further consideration. (Exhibit B-1 p. 115)

FortisBC in its submission states that “both the Commission and Interveners have had the opportunity to obtain information from FortisBC through two rounds of IRs and have made very substantial use of that opportunity” and that “By December 14, 2012 FortisBC with have addressed ‘wired’ alternatives in at least 100 IR responses.” (Exhibit B-12, p. 2) FortisBC goes on to say that Interveners will have the opportunity to put additional information on the record by:

- a) Filing Intervener evidence on or before the January 24, 2013 deadline ;
- b) Requesting a third round of IR’s if Interveners consider additional information to be required after receipt of FortisBC’s December 14, 2012 IR responses; and
- c) Cross-examining FortisBC witnesses at the oral hearing in respect of any alleged health, security or environmental aspects of wired vs. wireless alternatives.

FortisBC further states in its submission that even if the Commission were to order filing of additional information, this could be done within the existing timeline.

Mr. Shadrack, representing Intervener RDCK, purports that the single largest issue is not whether FortisBC should be installing smart meters, but whether they be wired or wireless. He further writes that “rightly or wrongly some citizens and customers view [wireless meters] as a danger to their persons – both health wise and as a potential invasion of privacy.” (Exhibit 13-4, p. 2) In his further submissions (Exhibit C13-6), Mr. Shadrack raises questions and concerns regarding FortisBC evidence and responses to Information Requests (IRs) related to, among other things:

- a) The source, quality and legality of the PLC alternative quote from the selected RF vendor;
- b) Per installed meter costs of quoted PLC and proposed wireless system relative to other jurisdictions that have installed PLC systems including Fortis Alberta;
- c) Customer meter density calculations and how this affects the economics of either PLC or wireless options;
- d) Similar quantifiable benefits of either PLC or wireless meters;
- e) Other alternatives for wired options such as fibre optic;
- f) Risks and future benefits of PLC vs. wireless options.

RDCK’s contribution to the public record demonstrates an engaged participation and concern for the public interest that this public process depends upon. The Commission encourages RDCK and all participants in the Proceeding to file evidence with supporting reference sources, including expert support if necessary, such that the evidence may be given the greatest weight possible.

Nelson-Creston submits it has no argument with the necessity of a smart grid and smart meters to assist in reducing demand. It further submits that wireless meters are neither necessary for the public convenience nor properly conserve the public interest and that FortisBC has not presented a fully detailed case for a wired smart meter system according to sections 2(i), 2(ii) and 2(iii) of the CPCN Guidelines, Appendix A to Order G-50-10. (Exhibit C18-5) Nelson-Creston raises similar concerns to those of RDCK with respect to the source of PLC cost estimate and validity. Nelson-Creston also provides some examples of decisions and Board/Commission directives from other jurisdictions.

Other Interveners in the Proceeding provided some additional noteworthy perspectives. Alex Atamanenko, MP for BCSl provided a letter of support for the suspension request citing “overwhelming concern and opposition being expressed by a very engaged public as regards to the wireless aspects of the FortisBC application” and absent scientific certainty, the Commission should exercise the “precautionary principle” in this Proceeding .

(Exhibit C1-2, p. 1) Health issues are raised by Mr. Atamanenko; however, these aspects will be included in the Oral hearing in March, 2013. Mr. Keith Miles also supports the suspension request, noting there is a “majority consensus” among Interveners for a more fully developed proposal that includes a valid wired option such as the one successfully used by Fortis Alberta. WKCC supports the suspension request as well.

Positions of the parties have not converged. FortisBC, supported by CEC and BCSEA, argue that the suspension request should be denied, thereby allowing the AMI Project Application to move ahead on its own merits. The CEC states that “[T]he onus for requesting a suspension of the proceeding should be to demonstrate that the Commission will not have adequate opportunity to hear the necessary evidence with respect to the Application. The CEC submits that the FortisBC Application plus all of the answers to information requests and the oral hearing proceeding yet to come, along with the opportunity for Interveners to present their evidence and have it tested meets the threshold test of establishing an adequate record.” (Exhibit C17-7)

The BCSEA submits that the “Commission should weigh the merits of the project and alternatives to it after hearing all of the evidence and final argument and not on a preliminary motion.” (Exhibit C4-6)

The Panel finds that the existing and evolving process of reviewing the AMI Project Application does provide Interveners an opportunity to bring forward issues and evidence on a wired alternative for FortisBC to respond to through information requests, evidence and cross-examination. The onus is on FortisBC to provide sufficient information for the Commission to make a determination that a CPCN for the AMI Project is in the public interest and should be granted. The Commission notes that the comments and concerns raised in this process related to health and security will be heard at the Oral Hearing scheduled for March 2013. **Because this finding has been made by the Commission Panel, suspension of the proceeding is not required, therefore the applications to suspend the proceeding are denied.**

The issue of wireless vs. wired technology remains a live issue in this Proceeding. FortisBC may wish to file additional information in a timely way that it considers might provide additional insight on this matter and address specific issues and evidence raised by the Interveners in this Proceeding.