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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER G-18-13**

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

and

FortisBC Energy Inc.  
Biomethane Service Offering: Post Implementation Report and  
Application for Approval of the  
Continuation and Modification of the Biomethane Program on a Permanent Basis  
(2012 Biomethane Application)

**BEFORE:** D.M. Morton, Panel Chair  
D.A. Cote, Commissioner February 5, 2013  
L.A. O'Hara, Commissioner  
C. van Wermeskerken, Commissioner

## **ORDER**

### **WHEREAS:**

A. On December 19, 2012, FortisBC Energy Inc. (FEI) filed an application with the Commission (the 2012 Biomethane Application) seeking approvals for the continuation of the Biomethane Program on a permanent basis with certain modifications. In particular, FEI seeks the following approvals pursuant to sections 59 to 61 of the Utilities Commission Act (UCA):

- Continuation of Rate Schedules 1B, 2B and 3B, and amendments to the same,
- Continuation of Section 28 and related Definitions of FEI's General Terms and Conditions (GT&Cs), and amendments to the same,
- Continuation of Rate Schedules 11B and 30 as part of FEI's Biomethane Program,
- Continuation of the cost allocations and accounting treatment for the costs associated with the Biomethane Program, including the continuation of the Biomethane Variance Account, the quarterly reporting process and the Biomethane Energy Recovery Charge (BERC) rate setting mechanism,
- The resetting of the BERC rate at \$12.001/GJ to be effective at the start of the first quarter after the Commission's Decision in the 2012 Biomethane Application,
- Continuation of FEI's ability to purchase carbon offsets and recover the costs through the Biomethane Variance Account in the event of under-supply of biomethane, at a per gigajoule unit price not exceeding the difference between the BERC and the Commodity Cost Recovery Charge in effect at that time, and

- Approval of the recovery of costs in the Biomethane Variance Account through the Midstream Cost Recovery Account as set out in Section 8 of the 2012 Biomethane Application;
- B. FEI states the 2012 Biomethane Application constitutes FEI's Post-Implementation Report on the Biomethane Program in compliance with Commission Order G-194-10. The 2012 Biomethane Application includes Table 1-1 in which FEI cross referenced Post-Implementation Reporting requirements with corresponding sections of the 2012 Biomethane Application;
- C. FEI also seeks acceptance, pursuant to section 71 of the *UCA*, of four Biomethane Purchase Agreements between FEI and the following suppliers:
- EarthRenu Energy Corp.,
  - Greater Vancouver Sewerage and Drainage District,
  - Seabreeze Farm Ltd., and
  - Dicklands Farms;
- D. FEI seeks acceptance, pursuant to section 44.2 of the *UCA*, of the capital costs related to the facilities required for the four biomethane supply projects as described in Section 7 of the 2012 Biomethane Application;
- E. In the 2012 Biomethane Application, FEI seeks approval that future supply contracts for the purchase of biogas or biomethane filed with the Commission that meet the criteria described in Section 6 of the 2012 Biomethane Application, meet the filing requirements in sections 71(1)(a) and 71(1)(b) of the *UCA*;
- F. When FEI filed the 2012 Biomethane Application, it anticipated that a decision in the FEI Alternative Energy Solutions Inquiry (AES Inquiry) would be released during the course of the 2012 Biomethane Application proceeding. FEI submitted that it will make any adjustments to its proposals, if necessary, by taking into account any relevant determinations in the AES Inquiry after the decision is issued. Subsequently, on December 27, 2012 the Commission issued its Report on the FortisBC Energy Inc. Inquiry into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives (AES Inquiry Report);
- G. On January 8, 2013, the Commission by Order G-1-13 issued a Preliminary Regulatory Timetable establishing a Workshop on the Post-Implementation Report and a Procedural Conference. The Workshop was held on January 17, 2013;
- H. On January 18, 2013 the Commission issued an Agenda for the Procedural Conference. Also, on January 1, 2013, FEI filed its Application Changes Resulting from the AES Inquiry Report;
- I. At the Procedural Conference, held on January 22, 2013, submissions on the issues in the Agenda were received from FEI and three Registered Interveners: Commercial Energy Consumers Association, B.C. Pensioners' and Seniors' Organization et al. (BCPSO), and B.C. Sustainable Energy Association. Also, an Interested Party, Paradigm Environmental Technologies Inc., made a submission;
- J. At the Procedural Conference FEI committed to filing an update on the nature and status of the third-party biomethane suppliers and their rate filings within a week of the Procedural Conference;

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- K. On January 25, 2013, FEI filed an update letter on matters related to third-party suppliers. Subsequently, on January 31, 2013 FEI filed a correction to its January 25, 2013 update letter;
- L. Also subsequent to the Procedural Conference, submissions from the four biomethane suppliers were filed from Dicklands Farm, Seabreeze Farm Ltd., Earth Renu Energy Corp., and Greater Vancouver Sewerage and Drainage District; and
- M. The Commission has reviewed the submissions from the Procedural Conference, update letters filed by FEI, and the submissions from the four biomethane suppliers and considers that a further Regulatory Timetable should be established.

**NOW THEREFORE** the Commission orders as follows:

- 1. The 2012 Biomethane Application will be examined by way of a written public hearing process. The Commission will review the submissions from the four biomethane suppliers in separate processes.
- 2. The Regulatory Timetable attached as Appendix B to this Order has been established that includes all parties' submissions regarding the biomethane suppliers' regulatory process, information requests on the 2012 Biomethane Application, responses to information requests, and arguments.
- 3. Interveners are required to inform the Commission of any intention to file Intervener Evidence with regard to the 2012 Biomethane Application by no later than April 23, 2013.
- 4. In addition to any other requirements expressly stated, FortisBC Energy Inc. is directed to provide its submission on the Pilot Program supply cap and the regulatory review process for energy contracts in accordance with page 6 and 7 of the Reasons for Decision attached as Appendix A to this Order and in accordance with the Regulatory Timetable attached as Appendix B to this Order.
- 5. Interveners intending to apply for Participant Assistance must submit a budget estimate by Monday, March 4, 2013. Participant Assistance applications should be consistent with the Commission's Participant Assistance/Cost Award Guidelines and Order G-72-07. Copies of the Guidelines are available upon request or can be downloaded from the Commission's website at [http://www.bcuc.com/Documents/Guidelines/2010/DOC\\_5014\\_G-72-07\\_PACA\\_2007\\_Guidelines.pdf](http://www.bcuc.com/Documents/Guidelines/2010/DOC_5014_G-72-07_PACA_2007_Guidelines.pdf).

**DATED** at the City of Vancouver, in the Province of British Columbia, this            5th            day of February 2013.

BY ORDER

*Original signed by:*

D.M. Morton  
Panel Chair

Attachments

Orders/G-18-13\_FEI Biomethane post PC

**FortisBC Energy Inc.**

Biomethane Service Offering: Post Implementation Report and  
Application for Approval of the  
Continuation and Modification of the Biomethane Program on a Permanent Basis  
(2012 Biomethane Application)

**REASONS FOR DECISION**

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**1.0 PROCEDURAL CONFERENCE**

On January 22, 2013 a Procedural Conference on the 2012 Biomethane Application was held, seeking submissions from parties on the following matters:

1. Whether there should be a phased approach with a review of the Post-Implementation Report (Pilot) followed by a review of the Application for Approval of the Continuation and Modification of the Biomethane Program on a Permanent Basis (Application).
2. The scope and nature of the review for each of a phased approach and a combined approach
  - a. What are the issues to be examined in the review of the Pilot?
  - b. What are the issues to be examined in the review of the Application?
  - c. The nature of the hearing process (written or oral), including timelines and number of rounds of Information Requests?
  - d. What action, if any, is to be taken with regard to the review of the four incremental biomethane supply contracts included for approval in the Application if a phased review occurs?
3. Any other issues

(Exhibit A-4)

At the Procedural Conference, submissions on the issues in the Agenda were received from FortisBC Energy Inc. (FEI) and three Registered Interveners: Commercial Energy Consumers Association (CEC), B.C. Pensioners' and Seniors' Organization et al. (BCPSO), and B.C. Sustainable Energy Association (BCSEA). Also, an Interested Party, Paradigm Environmental Technologies Inc. (Paradigm), made a submission.

**1.1 Position of FEI**

In FEI's view, it is difficult to draw a bright line between the post implementation review and the application for the continuation of the program. It submits that the two are intimately connected. Further, FEI expressed concerns about inefficiencies with a two phased review. It suggested that because the same evidence is going to be reviewed twice there will be artificial barriers put up between what questions can be asked, and what issues can be discussed, in which phase of the hearing. FEI further submits that the purpose of the Pilot is to learn

lessons to apply going forward, and therefore "...it's appropriate that the review of the test period be coupled with a review of concrete proposals of how the program should move forward". (T1: 11, 13, 15, 16)

As for what issues should be within the scope of the review of the Pilot and the Application, FEI submitted the following:

1. Was the market research accurate?
2. What were the enrollments and attrition?
3. What are the characteristics of the customers?
4. Should this program continue on a non-pilot basis?
5. Should FEI offer additional blends of biomethane?
6. Should the cost allocation accounting treatment continue? (T1: 19 - 20)

FEI proposes a written hearing with two rounds of information requests (IRs). It expressed a sense of urgency regarding the review of the contracts and suggested that the hearing proceed as quickly as possible, with reduced time allotted to FEI to respond to the IRs. FEI states a preference for a full review of all aspects of the Application together under a single process. However, FEI is concerned about its third-party suppliers who need approval in a timeframe that may only be possible if they are addressed separately. FEI also stated that the biomethane suppliers have options, which include converting their energy to electricity to supply to BC Hydro. With regard to this option, FEI stated that: "...the benefit on the electricity side, of course, is that there is a permanent program in place, so there isn't any regulatory uncertainty on that option, at least less uncertainty." (T1: 23)

FEI submits that if the review of the application cannot be completed in time, the contracts should be heard separately. However, when asked by what date the contracts required approval, it could provide no concrete dates, but undertook to provide further information within a week following the Procedural Conference. (T1: 22-25, 69)

In its January 18, 2013 letter to the Commission, filed prior to the Procedural Conference, FEI stated that supply agreements also need to be approved as a rate of the suppliers pursuant to sections 58 to 61 of the UCA. It submitted that the review of the supply agreement as a rate should be done in this proceeding at the same time the Commission is considering whether to approve the supply agreements under section 71. It considers that "...the public interest considerations are the same, whether it is approved as a supply agreement or a rate". (Exhibit B-5, p. 4)

## **1.2 Submissions of Intervenors and Interested Party**

CEC submits that it is "...quite comfortable with the combined approach from a practical standpoint, from a logical standpoint, from an efficiency standpoint". In particular, it cited the efficiencies gained from a combined process. (T1: 39, 45)

CEC identifies the following issues as within the scope of a review of the Pilot Program:

1. Assessing the cost benefit of the bio-methane test projects;

2. Identifying issues associated with the projects;
3. Testing the integrity of the conclusions drawn on the basis of the inputs for the proposed application;
4. A review of the market research and customer analysis especially within the commercial market from the CEC's perspective;
5. Analysis of the marketing and administrative costs incurred;
6. Review of forecast supply information and analysis;
7. Review and analysis of projects undertaken, including financial review and results; and
8. Overall success of the pilot and implications for future development. (T1:40, 46)

With respect to the application, CEC suggests the following in-scope issues:

1. The role of biomethane as a service offering in relation to B.C. government policy, and other policy objectives, and other energy products;
2. The role of Fortis as a competitor for biomethane supply;
3. Cost of service issues;
4. Price of service issues, value to commercial and residential customers;
5. A review of the existing supply projects;
6. A review of the renewable natural gas service offering;
7. A review and analysis of RNG customer demand forecast, including testing validity of information as derived from the pilot;
8. A review of marketing information and proposals, and ability to generate demand;
9. A review and analysis of the supply;
10. A review and analysis of the cost;
11. Forecasts. information and test validity of inputs;
12. Assess the proposed business model;
13. Analyze new supply projects;
14. Review and analyze supply versus demand risk mitigation, and new risk mitigation tools;
15. Review the accounting treatment; and
16. Determine the necessity and requirements for ongoing oversight. (T1:pp. 40, 47)

CEC suggests a written process, but is also open to a streamlined review process. Although CEC itself only requires one round of IRs it requests two because "...it is an important application". (T1: 48, 50)

BCPSO submits that a phased approach makes sense, but is mindful of the time constraints. In its view, a phased approach doesn't mean "...clearly segregating or making certain questions out of bounds". (T1: 51, 52)

Issues suggested by BCPSO, whether the process is phased or combined, are:

1. The findings of the post-implementation review;
2. Assumptions that have gone into the review and the conclusion reached in that review;
3. Operation and system costs, facilities costs;
4. The information and assumptions that have gone into the forecasts;
5. The risk to the gas supply portfolio, and the risk of not obtaining the demand as forecasted;
6. Issues concerned with stranded assets potentially arising from these projects;
7. Market research and the enrollment and attrition numbers;
8. Issues around the increase are important, you know of supply;
9. The blend options;
10. Questions about the evidence around future supply contracts: how those should be reviewed and the assumptions that have gone into the forecasts behind those. (T1: 52 - 54)

BCPSO submits that two rounds of IRs are necessary and would also be open to considering an SRP. (T1:p. 54)

BCSEA supports a combined review, but also sees merit in separating out the reviews, stating: "Having all the information before us at the same time, we believe, would be more efficient". (T1: 56 - 57)

BCSEA identifies the following issues:

1. Lessons learned from the Pilot program;
2. Technology issues that have arisen in this relatively new application;
3. The relationship with the producers;
4. The issue of cost control in these existing projects;
5. Greenhouse gas reductions and the maximum use of renewable fuels that would hopefully reduce the use of fossil fuels;
6. The extent to which this would further the government policy on greenhouse gas reductions;
7. Demand for this biomethane product;
8. The supply of the product;
9. Issues of the different blends and how Issues about that would affect the offering and potential competition for supply of biomethane with use in the electricity sector;
10. "[D]iligence issues....around cost control and regulatory accounts, the allocation of costs". (T1: 57)

BCSEA supports two rounds of information requests and agrees that it would be appropriate to “...try to handle the contracts in a timely manner”. It suggests this could be done in the “...January, February, March timeframe”, and that it would be most effective to review them at the same time, together with a pilot and the application as a whole. However, it does not oppose reviewing the contracts in a separate contemporaneous process. (T1: 56, 58)

Paradigm encourages a speedier review, without sacrificing that thoroughness, because the associated uncertainty creates a high risk in finding financing, and a high risk in resources and employment for the people that are developing these projects. It adds further that when comparing this situation to the alternative of using electricity as an end project for the biogas, “...that alternative provides certainly with respect to financing and attracting resources and planning”. It submits that having that certainty is very important to the producers. (T1: 58 - 59)

Paradigm further submits that adding another round of IRs adds another two months to the review. It states that “...every month or every two months or every quarter that’s delayed in this, it does start impacting the lost revenue to the economy”. (T1: 60 - 61)

### **1.3 Submissions Subsequent to the Procedural Conference**

#### **1.3.1 Submission from FEI**

On January 25, 2013 FEI filed its update on matters related to third-party suppliers as Exhibit B-8. In this update, it states that “...there is a limited amount of biomethane supply in this Province that could be developed and brought onto FEI’s system. Any lost projects would be detrimental to the biomethane program and FEI’s ability to meet future demand for biomethane. Based on current forecasts, FEI plans to use the supply from the four proposed supply projects to meet its forecast demand in 2015” . (Exhibit B-8, p. 3)

It also requests that, for those supply agreements that are separated off, the Commission should review them separately as a form of limited expansion of the pilot project. The Commission could apply the terms and conditions of the pilot project to the review of these supply agreements with the exception of an increase to the current supply limit under the pilot if approved. (Exhibit B-8, p. 3)

FEI further submits that if any supply agreements are reviewed under a separate process, the Commission should, at the same time, consider FEI’s request for acceptance under section 44.2 of the capital costs for the interconnection facilities for the supply projects under review. In FEI’s view, this would be an efficient process, “...as the interconnection facilities are necessary for the supply projects to inject biomethane onto the system”. (Exhibit B-8, p. 3)

FEI also states the definition of ‘public utility’ of the Utilities Commission Act (UCA) excludes “...a municipality or regional district in respect of services provided by the municipality or regional district within its own boundaries”. FEI submits that Metro Vancouver is a regional district and will be supplying their biomethane to FEI within their own boundaries. Accordingly, Metro Vancouver is exempted from regulation as a public utility and will not be seeking rate approval from the Commission. (Exhibit B-8, p. 2) However, FEI subsequently informed the Commission that the applicant is actually the Greater Vancouver Sewerage and Drainage District, and that as they are not a Regional District, thus they may not be exempt. (Exhibit B-8-1, p. 1)



In its letter, FEI reiterated that their proposed treatment of the interconnection facilities for each of the supply projects is the same as the treatment of interconnection facilities under the two-year pilot and as set out in the Application. (Exhibit B-8, p. 3)

### **1.3.2 Submissions from the four Biomethane Suppliers**

On January 28, 2013 the Commission received two separate applications for rate approvals under sections 58 to 61 of the Utilities Commission Act (*UCA*) from CH Four Biogas, Inc. on behalf of Dicklands Farms (Dicklands) and Seabreeze Farm Ltd. (Seabreeze). The applications request that their contracts with FEI be reviewed separately from the FEI 2012 Biomethane Application and their rate structure be decided upon as soon as possible. Dicklands prefers a decision by no later than April 19, 2013. Seabreeze prefers a decision by no later than March 29, 2013. Under the *UCA*, the biomethane upgrading activities proposed by Dicklands and Seabreeze are considered public utility activities.

On January 30, 2013 Earth Renu Energy Corp. (Earth Renu) filed an application to the Commission seeking approval for a rate pursuant to sections 58 to 61 of the *UCA*. Earth Renu requests that its Application be combined with FEI's application for approval of the Earth Renu Supply Agreement. Earth Renu requests a decision by March 31, 2013.

On January 30, 2013 Greater Vancouver Sewerage and Drainage District (GVS&DD, also known as Metro Vancouver) filed a letter with the Commission explaining the organizations that comprise Metro Vancouver and its two-part proposed project at the Lulu Island wastewater treatment plant. The second part of the project is installation of the biogas upgrading facilities, which will purify and upgrade the biogas produced at the plant to pipeline quality biomethane. GVS&DD states if the Commission does not approve the supply agreement it has with FEI, it is unlikely GVS&DD will carry out the full project. However no date has been provided.

### **Commission Determination**

**The Commission Panel will review the supply contracts, including all directly related requests under the *UCA*, in separate processes and make reasonable efforts to run those reviews concurrently with the review of the 2012 Biomethane Application.** The Commission Panel agrees with FEI that suppliers requiring approval on an urgent basis could be accommodated in an expedited process. However, in order to approve any additional supply contracts prior to determinations on the 2012 Biomethane Application, an increase to the Pilot Program supply cap would be required. The Commission Panel must be satisfied that a sufficient gap is expected to exist between supply and demand in 2015, taking into account the existing suppliers and the accumulated inventory in the Biomethane Variance Account. Accordingly, the Commission Panel seeks input from the parties on this issue. Specifically, submissions are requested, as further described in the procedural timetable, on the following:

1. Is there evidence on the record of sufficient demand required by 2015 to justify raising the Pilot Program supply cap? If so, by how much should it be raised?
2. If the supply cap is raised by an amount that is insufficient to accommodate all of the supply contracts, what criteria should be used to determine which contract(s) is accepted?

3. If the supply cap is raised to allow any additional contract(s) to potentially be accepted into the expanded Pilot Program:
  - a. What should the nature of the regulatory review process be? Is a Streamlined Review Process appropriate?
  - b. Should the guidelines established in Order G194-10, and the accompanying decision, with respect to the criteria for supply contracts to meet the filing requirements in sections 71(1)(a) and 71(1)(b) of the *UCA*, apply to those contracts?
  - c. What party should be responsible for the expenses related to the interconnection of biomethane suppliers' facilities to FEI's distribution utility?
4. Should FEI requests for approvals under sections 44.2 (capital expenditures for pipe interconnection costs), if applicable, and 71 (supply contracts) be reviewed in the same proceeding as the biomethane suppliers regulatory process?

**The Commission Panel determines the Pilot Post-Implementation Review and the 2012 Biomethane Application will be reviewed together in a written hearing with two rounds of Information Requests.** The Regulatory Timetable is attached as Appendix B to the order that accompanies these Reasons for Decision. The Commission Panel is satisfied that this approach provides for a maximum of regulatory efficiency, without sacrificing thoroughness and flexibility. This will provide all parties with sufficient opportunity to thoroughly review the results of the pilot program and provide analysis and recommendations for the program going forward.

The Commission Panel generally agrees with the scope of the combined review of the 2012 Biomethane Application and Pilot Project as identified by the Interveners and has defined the scope as follows to include:

1. Assumptions that have gone into the review and the conclusion reached in that review; assessing the cost benefit of the bio-methane test projects; the issue of cost control in existing projects; identifying issues associated with the projects; technology issues that have arisen; the overall success of the pilot and implications for future development; lessons learned from the Pilot program; and testing the integrity of the conclusions drawn;
2. Analysis of the marketing and administrative costs; operation and system costs, and facilities costs going forward;
3. The role of biomethane as a service offering in relation to B.C. government policy, and other policy objectives, and other energy products;
4. The role of FEI in biomethane supply;
5. Forecast supply information; and cost and price of biomethane;
6. A review and analysis of RNG customer demand forecast, including testing validity of information as derived from the pilot; and value to commercial and residential customers;

7. A review of marketing information and proposals, and ability to generate demand; market research and the enrollment and attrition numbers;
8. Assessing the proposed business model; and alternate business models;
9. A review of the existing supply projects;
10. Comparison of the economics of biomethane production with the economics of biomethane powered electricity production;
11. Potential new supply projects;
12. Supply versus demand risk mitigation, and new risk mitigation tools;
13. Review the accounting treatment;
14. Determine the necessity and requirements for ongoing oversight;
15. Issues concerned with stranded assets potentially arising from these projects;
16. Issues of different blends and how that would affect the offering (rate design, fixed term/take or pay contracts);
17. Potential competition from the electricity sector for supply of biomethane; and
18. Impact of the AES Decision, including separate class of service, cost allocation and the need to establish rules or parameters covering pipeline connections to upgraders.

The goal of the 2012 Biomethane Application review is to provide a framework under which the biomethane program can continue.

## 2.0 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) REQUIREMENTS

FEI submits that CPCN approval is not required for any of the four projects, as the capital costs of the upgrading facilities for each of the supply projects is under \$5 million. It bases its submission on the \$5 million CPCN threshold reaffirmed by the Commission in the FEI Alternative Energy Solutions Inquiry (AES Inquiry) Report (AES Report, Report). (Exhibit B-8, p. 2)

Order G-9-12 directed a \$5 million CPCN threshold be set for biomethane **activities**, with a final CPCN threshold to be determined at the completion of the Pilot Review (emphasis added). The AES Inquiry Report on page 48 states: "The Panel recognizes that the Biomethane Post Implementation Report is due in December 2012 and considers that the appropriate CPCN threshold and regulatory review (i.e. supply agreements reviewed under s. 71 of the UCA) will be dealt with in that Review. The Commission Panel reaffirms the \$5 million CPCN threshold until that time." Also, the AES Inquiry Report in Appendix H Page 1 of 5 states: "The \$5 million CPCN Threshold for Biomethane Projects is maintained."

In FEI's view, it would be appropriate in the future for third-party suppliers to be exempt from regulation under section 22 by order of the Minister or under section 88 of the UCA, with the advance approval of the Lieutenant Governor in Council. It argues that the purchaser of the biomethane will be FEI whose own supply contract for

the biomethane will be subject to review and acceptance by the Commission. Further, the review of the supply agreement will determine the need for the facilities, so there should be no requirement for the Commission to consider the need separately in a CPCN application. In addition, it submits that the rate impact to customers is in the price of the supply, which is reviewed as part of the supply agreement. In FEI's view, long-term supply agreements provide sufficient consumer protection. (Exhibit B-5, pp. 4-5)

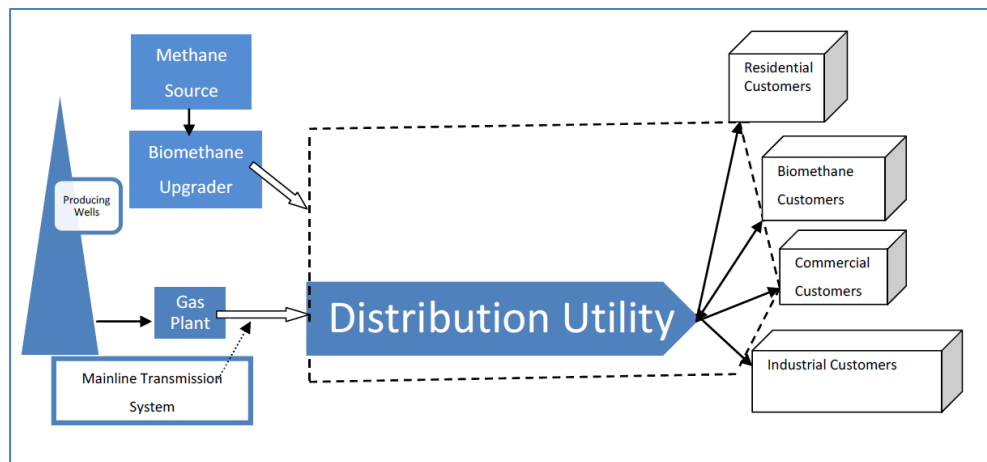
In the event the Commission wishes to have a CPCN filed for any of the facilities, FEI proposes that this should occur after the supply agreement is approved, as these projects will not otherwise proceed. (Exhibit B-5, pp. 4)

No Intervener raised any issues regarding the CPCN threshold.

### **Commission Determination**

The Commission Panel notes that the AES Inquiry Report indicates that the \$5 million CPCN threshold applies to the Biomethane Projects not just the upgrading facilities. In the Panel's view, if the \$5 million applies to only upgrading facilities then the non-upgrading facilities that form part of the rate charged for the public utility plant may have a \$0 threshold.

Considering the diagram below, the AES Inquiry found "Biogas Upgrader" facilities analogous to Gas Plants in function and directed that they are regulated under the *UCA*. However, the Report is silent on whether the "Methane Source" is, or should be, regulated. This Panel finds that a similar analogy to that drawn by the AES Inquiry between "Gas Plant" and "Bio-methane Upgrader" may be drawn between "Producing Wells" and "Methane Source".



Producing wells are not regulated in British Columbia. However, the commodity price is set in an open, competitive market and commodity transactions between the Producing Wells, the Gas Plant and the Distribution Utility are governed by this price. This contrasts with the contracts currently before the Panel, where:

1. The "Methane Source" and the "Biomethane Upgrader" have a substantial degree of integration, in that they are owned and operated by the same entity;
2. There is no commodity price set in an open, competitive market; and

3. The rate charged for biomethane produced by the upgrader is based on the combined capital cost of the "Methane Source" and the "Biomethane Upgrader".

In these circumstances, the Commission Panel considers the CPCN requirements for a biomethane facility apply to the total costs for the biomethane project upon which the rate is based, and not only the capital cost of the upgrader. This is consistent with the finding of the AES Inquiry that the CPCN should be based on the cost of the "activities". Accordingly, applying the CPCN threshold guideline of \$5 million, **the Commission Panel finds that at this time, a CPCN is required for the Earth Renu project. A CPCN is also required for the Greater Vancouver Sewerage and Drainage District unless it is exempt from regulation as a public utility as defined in the UCA. The Commission Panel further finds that approval of rates for a biomethane project and acceptance of the energy supply agreements between FEI and the biomethane supplier cannot precede the CPCN approval.**

With regard to Dicklands and Seabreeze, the Panel notes that the combined capital cost of the components, in each case, is under the \$5 million threshold without a contingency. However, the rates applied for are based on the capital cost without contingency. **Accordingly, the Commission Panel finds that these two projects do not require a CPCN at this time.**

In making this determination, the Commission Panel acknowledges that this imposes further process upon these two facility owners. In particular, Earth Renu has requested approval of its contracts and rates by March 31, 2013. The time required for a CPCN approval will make that date very difficult to achieve, even if the supply cap for the Pilot Program is raised to accommodate the amount of Earth Renu's supply. The Panel notes that the contract between FEI and EarthRenu was executed on September 21, 2012, but wasn't brought forward to the Commission until December 19, 2012. In addition, the Commission Panel has heard evidence that biomethane suppliers have other options—one of which is that they can use their resource to produce electricity. The Panel notes that this option is consistent with BC's energy objectives.

**The Commission Panel considers issues concerning the size and scope of CPCN requirements for biomethane facilities, and the appropriateness of any exemption to regulation, to be within the scope of the 2012 Biomethane Application review.**

**FortisBC Energy Inc.**

Biomethane Service Offering: Post Implementation Report and  
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**REGULATORY TIMETABLE**

<b>ACTION</b>	<b>DATE (2013)</b>
Intervener and other stakeholders Submissions regarding biomethane suppliers regulatory process	Tuesday, February 12
FEI Submission regarding biomethane suppliers regulatory process	Friday, February 15
Participant Assistance Budget Submission	Monday, March 4
Commission Information Request No. 1 on the 2012 Biomethane Application	Wednesday, March 6
Intervener Information Request No. 1	Monday, March 11
FEI Response to Information Request No. 1	Thursday, March 28
Commission and Intervener Information Requests No. 2	Monday, April 22
Intervener Notice of Intention regarding filing of Intervener Evidence	Tuesday, April 23
FEI Response to Information Request No. 2	Monday, May 6
FEI Final Argument	Thursday, May 16
Intervener Final Arguments	Friday, May 24
FEI Reply Argument	Friday, May 31