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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-77-13**

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

and

**Generic Cost of Capital Proceeding
Stage 2**

BEFORE: D.A. Cote, Commissioner/Panel Chair
M.R. Harle, Commissioner
L.A. O'Hara, Commissioner
C. van Wermeskerken
May 13, 2013

O R D E R

WHEREAS:

- A. By Order G-20-12 dated February 28, 2012, the British Columbia Utilities Commission (Commission) established a Generic Cost of Capital (GCOC) Proceeding to review: (a) the setting of the appropriate cost of capital for a benchmark low-risk utility; (b) the possible return to a Return on Equity Automatic Adjustment Mechanism (ROE AAM) for setting an ROE for the benchmark low-risk utility; and (c) the establishment of a deemed capital structure and deemed cost of capital methodology, particularly for those utilities without third-party debt. The Order also established that all participating public utilities regulated by the Commission are divided into Affected Utilities and Other Utilities for the purpose of the GCOC proceeding;
- B. By Order G-47-12 dated April 18, 2012, the Commission determined, among other things, a Final Scoping Document outlining the purpose and scope of the proceeding;
- C. By Order G-72-12 dated June 1, 2012, the Commission issued the Final Minimum Filing Requirements for Affected Utilities and a Preliminary Regulatory Timetable for the first stage of the GCOC Proceeding. In addition, the Commission established that Participant Assistance/Cost Award costs would be allocated among Affected and Other Utilities in accordance with the principles established in Order F-5-06;
- D. By Order G-148-12 dated October 11, 2012 the Commission determined, among other matters, that: (a) the GCOC Proceeding is to proceed by way of an oral public hearing commencing December 12, 2012; (b) FortisBC Energy Inc. (FEI) in its pre-amalgamation state, is the benchmark utility; and (c) a Stage 2 for the purpose of reviewing all other utilities against the benchmark is to be added to the proceeding;
- E. The oral public hearing took place over a period of seven days between December 12, 2012 and December 21, 2012;
- F. The Commission held a Procedural Conference for Stage 2 on April 25, 2013;

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-77-13**

2

- G. The following utilities appeared and made submissions at the Procedural Conference: FortisBC Utilities (FBCU) comprising FortisBC Energy Inc. (FEI), FortisBC Energy (Vancouver Island) Inc. (FEVI), FortisBC Energy (Whistler) Inc. (FEW), and FortisBC Inc. (FBC); Pacific Northern Gas Ltd. and Pacific Northern Gas (NE) (collectively, PNG); FortisBC Alternative Energy Services (FAES); Corix Multi-Utility Services Inc. (Corix); River District Energy (RDE); and Central Heat Distribution Ltd. (Central Heat);
- H. The Industrial Customers Group of FBC (ICG) and the British Columbia Pensioners' and Seniors' Organization *et al.* (BCPSO) also appeared and made submissions at the Procedural Conference;
- I. The Commission issued its Decision on Stage 1 on May 10, 2013; and
- J. The Commission Panel has reviewed and considered the submissions made at the Procedural Conference.

NOW THEREFORE in the Reasons for Decision attached as Appendix A to this Order, the Commission orders as follows:

- 1. The Stage 2 review will take place in accordance with the Grouping of Utilities and Regulatory Timetable set out in Attachment 1 and Attachment 2 respectively to the Reasons for Decision.
- 2. A decision on whether to proceed with an oral or written hearing on the cost of capital for FortisBC Inc. is deferred until the Commission Panel has reviewed the Stage 2 evidence filed on behalf of FortisBC Inc.
- 3. The Stage 1 record will form part of the Stage 2 record.
- 4. PACA costs for Stage 2 will be allocated amongst Affected and Other Utilities in accordance with Commission Order F-05-06.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of May 2013

BY ORDER

Original signed by:

D.A. Cote
Commissioner/Panel Chair

Attachments

GENERIC COST OF CAPITAL PROCEEDING
STAGE 2

REASONS FOR DECISION

1.0 BACKGROUND

On February 28, 2012, the British Columbia Utilities Commission (Commission) issued Order G-20-12 and established the Generic Cost of Capital (GCOC) Proceeding pursuant to section 82 of the *Utilities Commission Act* (the *Act*) and provided an Initial Regulatory Timetable. That Order also established that all participating public utilities regulated by the Commission were considered to be applicants in the GCOC proceeding and further divided the list of utilities regulated by the Commission into Affected Utilities and Other Utilities.

On April 18, 2012, the Commission issued Order G-47-12, which included a Final Scoping Document outlining the purpose and scope of the proceeding. On June 1, 2012, by Order G-72-12, the Commission issued the Minimum Filing Requirements for Affected Utilities and a Preliminary Timetable for the first stage of this proceeding. In addition the Commission established that Participant Assistance/Cost Award (PACA) costs will be allocated amongst Affected Utilities and Other Utilities in accordance with the principles established in Order F-5-06.

On October 11, 2012, following a Procedural Conference, the Commission issued Order G-148-12 with Reasons for Decision which established an oral public hearing to commence on December 12, 2012. In addition, the Order established the following:

- FortisBC Energy Inc. (FEI) in its pre-amalgamation state will serve as the benchmark for the GCOC proceeding; and
- A Stage 2 will be added to the proceeding with the regulatory schedule to be determined prior to a Decision on Stage 1.

Following submissions from the parties with respect to setting as interim the current returns on equity (ROE) and capital structures of the benchmark utility and other utilities that use the benchmark utility to set rates, Order G-187-12 issued on December 10, 2012, provided the following determinations:

- The current ROE and capital structure for FEI, the benchmark utility are to be maintained and made interim, effective January 1, 2013.
- The current ROE and capital structure for all regulated utilities in BC that rely on the benchmark utility to establish rates are to be maintained and made interim effective January 1, 2013. BC Hydro and Power Authority was exempted.
- Any determinations of premiums on the benchmark ROE and capital structure of regulated utilities that depend on the benchmark utility for rate setting will be made following decisions for Stage 2.

An oral public hearing on matters related to Stage 1 took place over a period of seven days between December 12, 2012 and December 21, 2012.

By letter dated March 22, 2013, the Commission advised parties that it had scheduled a Procedural Conference for Stage 2 on April 25, 2013. By letter dated April 3, 2013, the Commission provided parties with a "List of Issues" upon which the Commission Panel would seek submissions at the Procedural Conference. The List of Issues comprised the following:

- Practical company groupings for Stage 2 with a suggested plan of groupings prepared by the Commission;
- The content and logistics for filing evidence;
- The review process – oral or written;

- Regulatory Timetable;
- Further recommendations for administrative efficiency; and
- Any other issues.

The following utilities appeared and made submissions at the Procedural Conference: FortisBC Utilities (FBCU) comprising FortisBC Energy Inc. (FEI), FortisBC Energy (Vancouver Island) Inc. (FEVI), FortisBC Energy (Whistler) Inc. (FEW), and FortisBC Inc. (FBC); Pacific Northern Gas Ltd. and Pacific Northern Gas (NE) (collectively, PNG); FortisBC Alternative Energy Services (FAES); Corix Multi-Utility Services Inc. (Corix); River District Energy (RDE); and Central Heat Distribution Ltd. (Central Heat).

In addition, the Industrial Customers Group of FortisBC Inc. (ICG) and the British Columbia Pensioners' and Seniors' Organization *et al.* (BCPSO) appeared and made submissions on behalf of ratepayer groups.

A decision on Stage 1 was issued on May 10, 2013.

2.0 MATTERS ARISING AT THE PROCEDURAL CONFERENCE OF APRIL 25, 2013

2.1 Practical Company Groupings for Stage 2

All of the utilities were in general agreement with the suggested plan for grouping the utilities as proposed by the Commission. The plan contemplated including FBCU in Group 1, PNG Utilities in Group 2 and small utilities engaged in thermal energy services, including Corix and FAES, together with other small utilities, if any, in Group 3.

ICG submits that FBC should be separated from Group 1 because it is distinctly different from FEW in terms of size and FEVI in terms of issues. ICG further submits that there is a new agreement between FBC and its parent company "that changes risk, significantly changes risk for its customers, and changes or affects returns to its parent company." (T1:22)

BCPSO supports ICG's position noting that FBC provides a different type of service and in a different context than the gas companies. (T1:28)

2.2 The Content of and Logistics for filing of Evidence

FBCU intend to file joint evidence for their Group 1 utilities and separate evidence for FAES, which is in Group 3. Corix, RDE and Central Heat intend to co-ordinate efforts within their group and file evidence efficiently.

The PNG entities intend to file joint evidence.

None of the Interveners made submissions with respect to the filing of evidence.

2.3 Oral vs. a Written Hearing

All of the utilities support a written hearing.

ICG submits that there are efficiencies with combining the handling of the cost of capital decision for FBC with its anticipated filing of its revenue requirements application which is expected to include a Performance Based Regulation (PBR) proposal and handling them in a negotiated settlement process (NSP). ICG points out that the proceedings will be parallel with a reasonable expectation of complementary issues. ICG submits that its approach would provide the opportunity for a more efficient process. (T1:22-25)

BCPSO submits that an oral hearing is preferred as “The expert evidence can be extremely dense and difficult to test in a written process .” (T1:29)

Corix, RDE and Central Heat disagree with BCPSO and submit that a written process is most appropriate as the issues are not overly complex. With respect to ICG’s parallel proposal they submit that the filings spoken to by ICG have not yet been filed. They urge the Commission to keep this process simple. (T1:32-33)

FBCU submit that the Stage 2 assessment is typically driven by business risk assessment, is tangible and there is no need for an oral hearing following the two rounds of information requests which have been proposed. With respect to ICG’s proposal, FBCU submit that ICG is relying upon the assumptions that there will be parallel processes and that there will be an NSP in a revenue requirement proceeding. FBCU submit that the Commission has no evidence at this point to make a decision based on those assumptions. (T1:36-37)

2.4 Regulatory Timetable

By letter on April 24, 2013, FBCU submitted a proposed regulatory timetable encompassing separate timelines for Groups 1 and 3 and Group 2 utilities. This proposed timetable was supported by the Corix, RDE and Central Heat as well as PNG. (T1: 17, 20) The proposal staggers Group 2’s schedule one week behind Groups 1 and 3 to allow Commission staff to be involved in processes related to more than one group. In addition, with reference to the schedule for Groups 1 and 3, Fortis Utilities propose that IR 2 not be required for Group 3. Finally, for reasons of fairness, FBCU propose that the evidentiary filings for utilities not be required until 60 days following the Stage 1 Decision. (T1:11-13)

ICG states that it has no concerns with the timetable proposal of FEI “with the one exception is [it] would provide an opportunity for there to be an NSP—complimentary [sic] to the NSP, together with the NSP that [it] would anticipate for the PBR plan.” (T1:27)

BCPSO points out there is no time on the schedule for responses to IRs on Intervener evidence or to test rebuttal evidence.

Commission counsel made submissions on behalf of Commission staff regarding the timetable. First, staff submits that there is no need for the separation between Commission IR No. 1 and Intervener IR No. 1 and both should be 21 days for Groups 1 and 3 and 28 days for Group 2. Secondly, Commission staff, while content with one round of IRs for Group 3, would like to reserve the right to apply to ask a second round of IRs, if staff is of the view that the responses received are unsatisfactory. (T1:29-31)

With respect to staff’s suggestion to reserve the right for a second round of IRs for Group 3, FBCU, FAES, Corix, RDE, and Central Heat all support allowing staff to reserve the right to apply for a further round of IRs for Group 3 in the event staff forms the view a further round is necessary.

FBCU acknowledge the error in missing a step for answering IRs as noted by BCPSO and propose inserting that step in the regulatory schedule. With respect to rebuttal evidence, FBCU submit that it is not normal practice to have IRs on rebuttal evidence but do not appear to object to such IRs if the Commission feels they are appropriate.

2.5 Other Issues

In Stage 1 of this proceeding, the Commission established that PACA costs will be allocated amongst Affected Utilities and Other Utilities as defined in the GCOC Proceeding in accordance with the principles established in Order F-5-06. In his opening remarks, the Commission Chair noted that it was the Commission’s intention to be guided by these principles in Stage 2.

None of the parties raised concerns with respect to PACA costs allocation being in accordance with the principles established in Order F-5-06.

Corix, RDE, and Central Heat propose incorporating the Stage 1 hearing record by reference into the Stage 2 proceeding. Commission staff, FBCU and FAES support the proposal. None of the other parties expressed any objection to the proposal.

3.0 COMMISSION PANEL DETERMINATION

The most contentious issue arising from the submissions of the parties was the ICG proposal to separate FBC from Group 1 and to combine the handling of the cost of capital decision along with the anticipated PBR proposal within FBC's revenue requirements application as part of an anticipated NSP. On this issue, the Commission Panel agrees with FBCU's submissions that ICG's proposal relies upon assumptions regarding determinations which may be made but are not currently in evidence. **Therefore, the Commission Panel finds the assumptions relied upon by ICG to be speculative at best and rejects the proposal. FBC will remain within Group 1 and the review of its cost of capital will not be combined with any other FBC applications. The Commission Panel concludes that the grouping of utilities for the purposes of Stage 2 will be as set out in Attachment 1 to this Decision.**

The Commission Panel accepts the submissions of the utilities with respect to the filing of their evidence as reasonable and agrees to a filing date 60 days following the release of the Stage 1 Decision.

Concerning an oral versus a written hearing process, the Commission Panel is of the view that a written process for Stage 2 with one possible exception is appropriate. We agree with FBCU that Stage 2 is primarily concerned with business risk assessment which is tangible and does not require an oral examination. Additionally the cost of an oral proceeding is substantially higher and the Commission Panel has not been persuaded that there is any justification for the additional cost. However, the Commission Panel has considered ICG's submission with respect to a new agreement between FBC and its parent company and potential changes in risk. The Panel will therefore defer a decision on whether to proceed with an oral or written hearing on the cost of capital for FBC until it has reviewed FBC's Stage 2 evidence.

Subject to one qualification, the Commission Panel accepts the Regulatory Timetable as submitted by FBCU with the suggested revisions as the parties are in substantial agreement. The Regulatory Timetable for Stage 2 is set out in Attachment 2 to this Decision. It includes some additional time for Reply Submissions in light of the time of year.

With respect to other issues the Commission Panel orders that the Stage 1 hearing record form part of the Stage 2 record. PACA costs for Stage 2 are to be allocated among Affected Utilities and Other Utilities in accordance with the principles established in Order F-5-06.

GENERIC COST OF CAPITAL PROCEEDING
STAGE 2

GROUPING OF UTILITIES

Group 1	FortisBC Utilities (FEI, FEVI, FEW and FBC)
Group 2	PNG Utilities
Group 3	Small utilities engaged in thermal energy services, including Corix and FAES and other small utilities, if any

**GENERIC COST OF CAPITAL PROCEEDING
STAGE 2**

REGULATORY TIMETABLE

ACTION	GROUPS 1 & 3	GROUP 2	DATES (2013)
Commission Decision Stage 1	Day 0	Day 0	Friday, May 10
Utilities' Evidence	+60 days	+60 days	Tuesday, July 9
Participant Assistance Cost Award Budget Deadline			Friday, July 12
Information Requests (IR) No. 1 from Commission staff and Intervener	+21 days	+28 days	Tuesday, July 30 (Group 1&3) and Tuesday, August 6 (Group 2)
Responses to Commission staff and Intervener IR No. 1	+14 days	+14 days	Tuesday, August 13 (Group 1 & 3) and Tuesday, August 20 (Group 2)
Commission staff and Intervener IR No. 2	+14 days	+14 days	Tuesday, August 27 (Group 1 & 3) and Tuesday, September 3 (Group 2)
Responses to Commission staff and Intervener IR No. 2	+21 days	+21 days	Tuesday, September 17 (Group 1 & 3) and Tuesday, September 24 (Group 2)
Intervener Evidence, if any	+ 14 days	+14 days	Tuesday, October 1 (Group 1 & 3) and Tuesday, October 8 (Group 2)
Commission, Utilities, and Interveners IR No. 1 for Interveners	+21 days	+21 days	Tuesday, October 22 (Group 1 & 3) and Tuesday, October 29 (Group 2)
Responses to IR No. 1 from Interveners	+7 days	+7 days	Tuesday, November 5 (Group 1 & 3) and Tuesday, November 12 (Group 2)

ACTION	GROUPS 1 & 3	GROUP 2	DATES (2013)
Utilities' Rebuttal Evidence, if any	+14 days	+14 days	Tuesday, November 19 (Group 1 & 3) and Tuesday, November 26 (Group 2)
Utilities' Final Submissions	+14 days	+14 days	Tuesday, December 3 (Group 1 & 3) and Tuesday, December 10 (Group 2)
Intervener Final Submissions	+14 days	+14 days	Tuesday, December 17 (Group 1 & 3) and Tuesday December 24 (Group 2)
Utilities Reply Submissions	+10 days	+10 days	Monday, January 6, 2014 (Group 1 & 3) and Monday, January 13, 2014 (Group 2)