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BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-171-14

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

and

An Application by the FortisBC Energy Inc.
for Approval of an Expansion of the Waste Management of Canada Corporation
Compressed Natural Gas Fueling Station

BEFORE: L. A. O'Hara, Panel Chair/Commissioner November 10, 2014

O R D E R

WHEREAS:

A. On July 11, 2014, FortisBC Energy Inc. (FEI) applied to the British Columbia Utilities Commission (Commission), pursuant to sections 44.2 and 59-61 of the *Utilities Commission Act* (Act), for expenditures of up to $560,000 to upgrade the Compressed Natural Gas (CNG) fueling station located on Waste Management of Canada Corporations's (Waste Management) premises (2014 Upgrade). The 2014 Upgrade is required to accommodate measurement, tracking and invoicing of consumption for 8 additional CNG waste hauling trucks allocated to owner/operators, to install 12 time-fill hoses and posts for the future addition of CNG trucks to their fleet. FEI also seeks approval that rates charged to Waste Management remain unchanged and treated under same rate parameters as the original 2011 contract between FEI and WM (Application);

B. In the Application, FEI also requests approval of the Amending Agreement between FEI and Waste Management, which increases Waste Management's annual take-or-pay demand commitment from 19,000 GJ per year to 32,064 GJ per year; and

C. The Commission has reviewed FEI's Application for the Waste Management 2014 Upgrade, and the FEI responses to three rounds of information requests, and determines it should not be approved as requested.

NOW THEREFORE pursuant to sections 44.2, and 59-61 of the *Utilities Commission Act*, for the reasons attached as Appendix A to this order, the Commission denies FortisBC Energy Inc.'s application for the Waste Management 2014 Upgrade Project.

DATED at the City of Vancouver, in the Province of British Columbia, this 10th day of November 2014.

BY ORDER

Original signed by:

L. A. O'Hara
Panel Chair/Commissioner

Attachment

FortisBC Energy Inc.
Application for Approval of Expansion of the
Waste Management of Canada Corporation
Compressed Natural Gas Fueling Station

REASONS FOR DECISION

1.0 INTRODUCTION

On July 11, 2014, FortisBC Energy Inc. (FEI) filed for approval with the British Columbia Utilities Commission (Commission), pursuant to sections 44.2 and 59-61 of the *Utilities Commission Act* (Act), for expenditures of up to $560,000 to upgrade the Compressed Natural Gas (CNG) fueling station located on Waste Management of Canada Corporation's premises (2014 Upgrade). The 2014 Upgrade is to accommodate measurement, tracking and invoicing of consumption for 8 additional CNG waste hauling trucks allocated to owner/operators, to i nstall 12 time-fill hoses and posts for the future addition of CNG trucks to their fleet. FEI also seeks approval that rates charged to Waste Management remain unchanged and treated under same rate parameters as the original 2011 contract (Application).

The Application represents a substancial increase to the scope of the Waste Management CNG facilities, capacity to fuel another 20 vehicles and the addition of 13,064 GJ/year of annual take-or-pay demand commitment.

2.0 REGULATORY CONTEXT

On December 1, 2010, FEI filed for approval with the Commission a CNG Service Agreement (Fueling Station Agreement) between FEI and Waste Management of Canada Corporation (Waste Management), a waste management company, that provided for FEI to supply, install and maintain a CNG fueling station to fuel 20 CNG vehicles on Waste Management's premises (Original Application).

Subject to an amended version of the Fueling Station Agreement to be filed with the Commission, the Waste Management agreement was approved on an interim basis as a tariff supplement on January 14, 2011, by Commission Order G-6-11. On March 25, 2011, FEI filed Tariff Supplement J-1, which included the amended Fueling Station Agreement, for Commission endorsement to indicate the interim nature of the approval received in Order G-6-11.

On July 19, 2011, by Order G-128-11, the Commission approved the interim Waste Management agreement as a permanent, effective February 17, 2011. This executed agreement was endorsed by the Commission on April 18, 2012 (Waste Management Agreement).

Order G-128-11 also accepted, pursuant to section 44.2 of the Act, the expenditures of $775,031 for the CNG fueling station located on Waste Management's premises and required to provide the fueling service to 20 CNG powered vehicles under the Waste Management Agreement.

Order G-128-11 further directed that any revised FEI General Terms and Conditions (GT&C) contain a provision whereby FEI will estimate the overhead and marketing (OH&M) expenses which relate to the CNG and Liquified Natural Gas (LNG) program and the expected CNG/LNG sales volume and allocate those costs in a reasonable manner among CNG/LNG customers going forward.

The revised Section 12B of the FEI General Terms and Conditions (GT&C 12B), approved by Order G-14-12 on February 7, 2012, contains clause 12B.4 which requires, in determining the cost of service to be recovered from the Customer under the Service Agreement, an allowance for overhead and marketing costs related to developing Natural Gas for Vehicles (NGV) Fueling Station Agreements be recovered from the Customer.

On May 14, 2013, by Order G-78-13, the Commission determined $0.52 per GJ represents a reasonable allocation of the overhead and marketing costs to CNG and LNG customers (OH&M Charge).

On August 19, 2013, FEI applied to the Commission, pursuant to sections 44.2 and 59-61 of the Act, for approval of expenditures to upgrade the CNG fueling station to accommodate fueling service of 10 additional CNG powered vehicles, and for approval of the rate charged to Waste Management to remain unchanged (Initial Upgrade). On December 23, 2013, by Order G-229-13, the Commission approved the expenditures of up to $112,201 to upgrade the CNG fueling station located on Waste Management's premises and FEI's request that the rates charged to Waste Management remain unchanged.

3.0 OH&M CHARGE and FEI CNG/PROJECTS

All FEI CNG and LNG projects, other than the Waste Management 2011 CNG project, include the OH&M Charge in their rates.

FEI has acknowledged, in the response to BCUC Information Request (IR) 3.1.2 of the Denwill LNG from Arrow application, the OH&M Charge is applicable to all volumes and not just those related to the annual take-or-pay demand minimum volumes for a project.

4.0 The 2011 ORIGINAL PROJECT

The original Waste Management CNG application in 2010 was the first of the recent FEI CNG/LNG applications. It was approved on an exception basis only with stated reservations of the Commission Panel. The reservations were addressed in the resulting FEI GT&C 12B, but were not all retroactive to the WM Agreement.

The fueling rate applicable to Waste Management was approved by Order G-128-11, the same Order that directed FEI to create an Overhead and Marketing (OH&M) charge going forward.

The OH&M Charge is not part of the rate approved in 2011 for the original Waste Management project. All other FEI CNG/LNG projects have included the OH&M Charge in the rate.

5.0 The 2013 INITIAL UPGRADE

The 2013 Initial Upgrade by FEI to the Waste Management CNG facilities, filed under FEI GT&C 12B, was approved as a minor addition for which the recovery of costs were covered by the previously approved rate and annual take-or-pay demand minimum volumes of the original 2011 Agreement.

The upgrade had a capital cost of $112,000, no incremental O&M costs, and did not require an increase the minimum take-or-pay quantity. Since March 2011, Waste Management has averaged consumption in excess of 30,000 GJ per year (or about 57 percent higher than the minimum take-or-pay quantity of 19,000 GJ per year).

In retrospect, it appears that the 2013 Upgrade should have been required to follow the letter of the FEI GT&C 12B including the calculation of the rate using the appropriate, current FEI allowed Return on Equity (ROE) as well as inclusion of the OOH&M Charge on all new volumes.

6.0 The 2014 UPGRADE

The details of the 2014 Upgrade, the subject of this application, are outlined in Section 1.0.

Although not explicitly stated in the Application, the 2014 Upgrade is regulated under FEI GT&C 12B, which has specific requirements for the contractural arrangements backing the CNG facilities provided by FEI.

The proposed rate does not contain the OH&M Charge, nor does it use the appropriate, current FEI allowed ROE and other financial parameters to calculate the rate. **Accordingly, the Panel determines that the proposed rate cannot be approved under FEI GT&C 12B**.

7.0 FEI-WASTE MANAGEMENT REVISED APPLICATION

The Commission expects FEI and Waste Management to file a revised application for the 2014 Upgrade. This revised application would present the project on either a stand-alone basis (as per BCUC IR 3.1.1), or the three 2011-2013-2014 projects re-calculated as a single, blended new rate using current parameters (as per BCUC IR 3.4.1-3).

Stand-alone Project

A stand-alone project will incude the 2014 capital and O&M, use the 13,064 GJ annual take-or-pay demand minimum volumes, and reflect current FEI ROE and other financial parameters.

Should FEI and WM decide to have the 2014 Upgrade as a stand alone project and rate, a methodology will be required to allocate the actual monthy dispensed volume to the two contract rates. **The Panel directs that the monthly actual billings be allocated to the Original 2011 rate and to the 2014 rate on a prorata basis using the 19,000 GJ and 13,064 GJ respective minimum volumes**.

Inclusive Project – Blended Rate

An inclusive project will have a 2011-2020 effective timeframe to match the contract term of the existing Waste Management Agreement, and include the 2011 capital and operating costs, the 2013 capital costs, and the 2014 capital an operating costs, as well as the OH&M Charge from 2014/15 onwards.

An inclusive project would also include, as a credit, the excess revenues collected during 2011-13 on the actual 30,000 GJ per year, to account for lower revenues collected in years 2011 to 2013 due to lower contract volumes of 19,000 GJ per year, as discussed in BCUC IR 3.4.1.

In the response to BCUC IR 3.4.3, FEI did not provide any information as to the actual O&M expenses for 2011-2013 and the relationship of the actual O&M expenses to the actual O&M recovered on the base 19,000 GJ/year in addition to the excess recovery on the volumes above 19,000 GJ/year. However, in Order G-128-11 the Commission gave a specific direction to FEI: "[t]he Panel directs FEI to consider modifications to the General Terms and Conditions that will ensure that the operating and maintenance costs recovered from the customer are as close as possible to the actual operating and maintenance costs incurred."

8.0 FUTURE APPLICATIONS

The Commission Panel expects all future CNG/LNG additions that represent a significant change in scope to be dealt with in a similar manner with acknowledgement of the historial approvals and recognizing the current tariff and regulatory environment.