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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-45-14

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

and

**FortisBC Energy Inc.
Application for Approval of New Activities and Incentive Payment
in the Gas Supply Mitigation Incentive Program Year End Report
November 2012-October 2013**

BEFORE:

L.F. Kelsey, Commissioner
C.A. Brown, Commissioner
B.A. Magnan, Commissioner
D.M. Morton, Commissioner
N.E. MacMurchy, Commissioner
C. van Wermeskerken, Commissioner

March 20, 2014

ORDER

WHEREAS:

- A. By Order G-163-11 dated September 22, 2011, the British Columbia Utilities Commission (Commission) approved the FortisBC Energy Inc. (FEI) Gas Supply Mitigation Incentive Program (GSMIP) for the November 1, 2011 to October 31, 2013 period (2011-2013 GSMIP). The 2011-2013 GSMIP was described in the Term Sheet attached as Appendix A to Order G-163-11;
- B. On December 20, 2013, FEI filed its GSMIP Year End Report November 2012-October 2013 (2012/13 GSMIP Report). In the 2012/13 GSMIP Report, FEI seeks the following Commission approvals:
 - i. The treatment of Asset Management Agreements and NOVA Gas Transmission Limited (NGTL) Pooling Arrangements as new activities for the calculation of the incentive payment for 2012/2013; and further to add these activities to non-benchmarked category beginning November 1, 2013;
 - ii. The calculation of the overall GSMIP incentive payment of \$1,438,604 for 2012/13.
- C. FEI included in Appendix A of the 2012/13 GSMIP Report an electronic working copy of the spreadsheet model, which provides a detailed account of individual transactions, and requests the information contained in Appendix A of the 2012/13 GSMIP Report be treated as confidential;
- D. On February 18, 2014, the British Columbia Public Interest Advocacy Centre on behalf of the British Columbia Pensioners' and Seniors' Organization *et al.* (BCPSO) submitted a letter to the Commission relating to FEI's request in the 2012/13 GSMIP Report, and requests that the Commission not approve the Asset Management Agreements and NGTL Pooling Arrangements be treated as new activities for the calculation of the incentive payment for 2012/2013;

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- E. On March 5, 2014, FEI submitted a response to BCPSO's letter;
- F. On March 14, 2014, FEI filed an amendment to provide clarification on a number of items relating to the 2012/13 GSMIP Report;
- G. Section E of the 2011-2013 GSMIP Term Sheet states that a New Activity must be approved as such by the Commission to be included in the GSMIP;
- H. By Order G-174-13 dated October 24, 2013, the Commission approved an extension to the GSMIP for a three year term for the period from November 1, 2013 to October 31, 2016 (2013-2016 GSMIP);
- I. By Letter L-76-13 dated December 19, 2013, the Commission accepted the 2013-2016 GSMIP Term Sheet in compliance with Order G-174-13; and
- J. The Commission reviewed FEI's requests along with the submissions received and the 2011-2013 GSMIP Term Sheet, and considers that the FEI's proposed GSMIP incentive payment for 2012/13 is warranted.

NOW THEREFORE pursuant to section 63 of the *Utilities Commission Act*, and as set out in the Reasons for Decision attached as Appendix A to this Order, the British Columbia Utilities Commission orders as follows:

1. The treatment of Asset Management Agreements and NOVA Gas Transmission Limited (NGTL) Pooling Arrangements as new activities for the calculation of the incentive payment for the period November 1, 2012 to October 31, 2013, is approved.
2. FortisBC Energy Inc.'s (FEI) request to add Asset Management Agreements and NGTL Pooling Arrangements activities to the non-benchmarked category beginning November 1, 2013, is approved. FEI must file an amended 2013-2016 Gas Supply Mitigation Incentive Program (GSMIP) Term Sheet for Commission acceptance within 30 days of the date of this Order.
3. The calculation of the overall GSMIP incentive payment of \$1,438,604 for the period November 1, 2012 to October 31, 2013, is accepted.
4. Appendix A of the GSMIP Year End Report November 2012-October 2013 will be kept confidential as requested by FEI to protect commercially sensitive information.

DATED at the City of Vancouver, in the Province of British Columbia, this 21st day of March 2014.

BY ORDER

Original signed by:

D.M. Morton
Commissioner

Attachment

FortisBC Energy Inc.
Application for Approval of New Activities and Incentive Payment
in the Gas Supply Mitigation Incentive Program Year End Report
November 2012-October 2013

REASONS FOR DECISION

1.0 INTRODUCTION

On December 20, 2013, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (Commission) its Gas Supply Mitigation Incentive Program (GSMIP) Year End Report November 2012-October 2013 (2012/13 GSMIP Report). In the 2012/13 GSMIP Report, FEI seeks the following Commission approvals:

- i. The treatment of Asset Management Agreements (AMA) and NOVA Gas Transmission Limited (NGTL) Pooling Arrangements as new activities for the calculation of the incentive payment for 2012/2013; and further to add these activities to non-benchmarked category beginning November 1, 2013;
- ii. The calculation of the overall GSMIP incentive payment of \$1,438,604 for 2012/13.

The 2012/13 GSMIP Report is filed in accordance with the 2011-2013 GSMIP Term Sheet, which was approved by Order G-163-11. The 2012/13 GSMIP Year End Report is the second and final reporting year under the 2011-2013 GSMIP Term Sheet.

The main issue before the Commission is whether or not the AMAs and NGTL Pooling Arrangements should be considered as new activities in the 2012/13 GSMIP incentive payment.

For reasons which follow, the Commission approves the incentive payment relating to AMAs and NGTL Pooling Arrangements as new activities for the calculation of the incentive payment for the period November 1, 2012 to October 31, 2013. The Commission accepts the calculation of the overall GSMIP incentive payment of \$1,438,604 for the period November 1, 2012 to October 31, 2013.

2.0 BACKGROUND

In 2011, under Order G-26-11, the Commission denied FEI's application for a three year extension of the GSMIP under a model that was substantively the same as had been in place until that time. The Commission approved the extension of the previous GSMIP to the 2010/11 gas year, set out Guiding Principles to be applied and directed FEI to establish a Working Group to arrive at a mutually acceptable GSMIP program going forward. The Working Group established by FEI was comprised of representatives from FEI, Commission staff, Commercial Energy Consumers Association of British Columbia (CEC), and British Columbia Public Interest Advocacy Centre on behalf of the BC Pensioners' and Seniors' Organization *et al.* (BCPSO).

The Working Group arrived at a GSMIP model and FEI applied for approval of that GSMIP model for the two year period from November 1, 2011 to October 31, 2013. This GSMIP, as described by the Term Sheet appended to the Order, was approved by the Commission under Order G-163-11.

The GSMIP model, described in the Term Sheet appended to Order G-163-11, incorporates a blended approach of eligible mitigation revenue and a comparison to a base benchmark. FEI's Total Incentive Payment amount is a function of the mitigation revenue achieved and the performance of FEI compared to a base benchmark for those mitigation activities where a benchmark applies. For the benchmarked activities, the more FEI can outperform the Base Benchmark, the greater the potential incentive payment.

The GSMIP model breaks down transactions into the following categories: Benchmarked Mitigation Activities, Non-Benchmarked Mitigation Activities, and New Mitigation Activities. Combined, these activities are referred to as Total Mitigation. The incentive payment structure for each category is as follows:

TABLE 1: INCENTIVE PERCENTAGE STRUCTURE

	Activity	Incentive Percentage
1	Benchmarked Activity	
	Market Performance Factor (MPF) between 100 and 131%	$2.45\% + 0.05\% * (\text{MPF} - 100)$
	MPF between 131 and 136%	4.00%
	MPF of 136 and greater	$4.00\% + 0.04\% * (\text{MPF} - 136)$
2	Non-Benchmarked Activity	4.00%
3	New Activity	12.00%

3.0 2012/13 GSMIP REPORT

FEI requests approval of an overall GSMIP incentive payment of \$1,438,604 for the period November 1, 2012 to October 31, 2013. This payment includes proposed 12 percent incentive payment for New Activities of its Asset Management Agreements and NGTL Pooling Arrangements. The table below shows the Mitigation Activity Summary in 2012/13 and 2011/12. (2012/13 GSMIP Report, p. 2)

Mitigation Activity Summary						
	2012/2013		2011/2012		2011 - 2013 - Average	
	Net Mitigation Revenue	Incentive Earned	Net Mitigation Revenue	Incentive Earned	Net Mitigation Revenue	Incentive Earned
Mitigation Activity	(in Millions)		(in Millions)		(in Millions)	
Benchmarked Activity		3.10%		3.70%		3.40%
Total	\$43.79	\$1.36	\$23.02	\$0.85	\$33.41	\$1.14
Non-Benchmarked Activity		4.00%		4.00%		4.00%
Total	\$4.63	\$0.19	\$4.68	\$0.19	\$4.65	\$0.19
New Activities		12.00%		12.00%		12.00%
Total	\$0.40	\$0.05	\$0.00	\$0.00	\$0.23	\$0.03
Total Mitigation Revenue	\$48.82		\$27.70		\$38.26	
Gross Incentive based on allowed % of mitigation revenues⁽¹⁾	\$1.59		\$1.04		\$1.32	
Less Fixed Deduction⁽²⁾	\$0.15		\$0.15		\$0.15	
GSMIP Incentive Payment	\$1.44		\$0.89		\$1.17	

1. The percentage of allowable earnings is different between mitigation activity categories. This is described in more detail in the following sections.
2. The fixed deduction of \$150,000 was approved in the 2011-2013 GSMIP Application under, Commission Order G-163-11. As shown above, this amount is deducted from the gross incentive amount to determine the final incentive payment.

On March 14, 2014, subsequent to a discussion between FEI and Commission staff on the 2012/13 GSMIP Report, FEI filed an amendment to provide clarification on a number of items relating to the Capacity Factors and Market Concentration; confirmation of not seeking 12 percent incentive payment for the month of November 2013; and an adjustment in the GSMIP spreadsheet. FEI confirms that the incentive payment request of \$1,438,604 remains unchanged.

3.1 New Activities in the 2012/13 GSMIP Report

As per section E of the 2011-2013 GSMIP Term Sheet, New Activity includes mitigation transactions of surplus gas supply resources that are related to the sale, or use by others, which FEI does not currently undertake in its management of the portfolio of gas supply contracts, pipeline contracts, storage capacity and liquids extraction transactions. As a result, New Activity refers to mitigation activities that have not been developed yet. New Activity does not include opportunities created by changes to gas supply purchases or pipeline or storage capacities or changes to pipeline or storage tariffs that do not create new services offerings. The Mitigation Revenue from a New Activity will be calculated in a way that is consistent with the calculation of Mitigation Revenue for other GSMIP activities.

A New Activity must be approved as such by the Commission to be included in GSMIP. The Mitigation Revenue from a New Activity will be calculated from the date that the New Activity transaction first occurred and after a 12 consecutive month period each New Activity will be reclassified to either the Benchmarked or Non-Benchmarked categories as appropriate.

3.1.1 Asset Management Agreements

On pages 12-13 of the 2012/13 GSMIP Report, FEI describes the Asset Management Agreements (AMA). FEI entered into the AMA in November 2012 for the period beginning December 1, 2012 and ending on October 31, 2013. The revenue generated for FEI from this new activity for the one year contract term is \$0.22 million.

FEI holds Gorge capacity as part of its overall gas supply and midstream portfolio pursuant to its Annual Contracting Plan. FEI uses this transportation capacity to withdraw or inject gas into its contracted capacity at the Mist/Jackson Prairie Storage. FEI is unable to directly perform mitigation transactions in the US that it can directly do in Canada. By entering into an AMA arrangement with a counterparty that can transact in both Canada and the US and can mitigate the capacity as part of a large portfolio of US assets, FEI is able to generate additional mitigation revenue on behalf of FEI customers.

Under the AMA, FEI releases the Gorge capacity to the Asset Manager and subsequently delivers or receives its storage gas to/from the counterparty at Huntingdon. The Asset Manager pays FEI monthly revenue for FEI's Gorge capacity and then can extract value on that capacity, as part of its overall portfolio, through market transactions when it is not required to meet FEI's requirements.

As is described in the Term Sheet for New Activities, FEI is permitted to receive a 12 percent incentive payout for 12 consecutive months from the time new activity begins. In its letter dated March 14, 2014, FEI confirms that it is not seeking 12 percent for the month of November 2013, although the AMA commenced on December 1, 2012.

FEI requests that on a go-forward basis the AMA transaction be treated as a Non-benchmarked Activity effective November 1, 2013, as no reasonable benchmark can be established for these kinds of transactions. FEI submits that there are very few counterparties that offer this service and that there is no liquid market for this type of transaction that would lead to good price discovery.

3.1.2 NGTL Pooling Arrangements

On pages 13-14 of the 2012/13 GSMIP Report, FEI describes the NGTL Pooling Arrangements. FEI reports that the revenue generated from this activity for the 2012/13 gas year is \$0.2 million.

FEI holds an extraction agreement at the Cochrane plant and receives incremental revenue when FEI transports gas through the Alberta-BC border. This is a mitigation activity currently recognized as a Non-benchmarked Activity under the 2011-2013 GSMIP Term Sheet. NGTL allows delivery shippers at any export point to assign their extraction rights to another shipper. This assignment instruction is called "Pooling" whereby the assignor's extraction rights are then pooled with the assignee's extraction rights. FEI can pool other shippers' volumes through FEI's Cochrane Extraction agreement and receive a revenue split for the pooled volumes. FEI can also pool its volume through other counterparties' extraction arrangements. Through these NGTL Pooling Arrangements, the parties have the opportunity to receive incremental liquids extraction revenue over the standard Cochrane Extraction revenue.

FEI also requests that Pooling on NGTL system be treated as a Non-benchmarked Activity. FEI submits that there are very few counterparties that do these kinds of transactions and that it is difficult to come up with a price spread for this activity from any recognized publication that could be used as a benchmark.

3.1.3 Parties' Submissions

As per section K of the Reporting Requirements of the 2011-2013 GSMIP Term Sheet, FEI is required to provide the GSMIP Report to Working Group members on a confidential basis. As part of the review process, staff invited members of the Working Group (BCPSO and CEC) to provide any comments to the Commission by February 14, 2014. On February 18, 2014, BCPSO filed a submission with the Commission. CEC did not submit any comments.

3.1.3.1 BCPSO

BCPSO submits the following comments:

- "We want to make sure that system gas customers are incontrovertibly better off with respect to all aspects of the GSMIP. We also want to ensure that FEI is not receiving additional compensation for doing what they should otherwise be doing as part of the management of the gas supply system.
- The description of the Asset Management Agreements in the Year End Report suggests that the Company's activity is somewhat beyond basic prudent stewardship, and we are satisfied that the Company is taking steps to manage the supply effectively.
- However, we are concerned that FEI is seeking mitigation status for taking steps that should be expected to be performed by any prudent manager, without the need for additional incentive payments. Incentive plans paid for by ratepayers have a tendency to grow to the point that they include many items which ratepayers assume they are already paying managers to do as part of those managers' base salaries."

BCPSO requests that the Commission not approve FEI's request that the Asset Management Agreements and NGTL Pooling Arrangements be treated as new activities for the calculation of the incentive payment for 2012/2013 unless the Commission is fully assured that these activities are truly new.

3.1.3.2 FEI Reply

On March 5, 2014, FEI filed a response to BCPSO's submission. FEI notes that BCPSO's concerns were addressed during the design of the new GSMIP (referring to the 2011-2013 GSMIP) of which BCPSO was an active participant. FEI states that the GSMIP was structured to encourage FEI to seek out new mitigation activities on an on-going basis and the Term Sheet agreed to by the Working Group contemplated that FEI would provide a detailed description of any New Activities undertaken in any contract year as part of the Year End Report at which time the Commission would determine if those activities qualify for the 12 percent incentive.

4.0 **COMMISSION DETERMINATION**

The Commission considered FEI's requests along with the submissions received and the 2011-2013 GSMIP Term Sheet, and considers that the overall GSMIP incentive payment for 2012/13 is warranted. The Commission notes BCPSO's concern as described above relating to the GSMIP. However, the Commission finds that the merits of the GSMIP were reviewed thoroughly in past processes, which led to the 2011-2013 GSMIP Term Sheet.

The Commission considered FEI's request of including the AMA as a new activity in the 2012-2013 GSMIP calculation and finds that the AMA qualifies as a new activity for the 2012/13 GSMIP period. The Commission notes that mitigation of FEI's US assets was not developed when the 2011-2013 GSMIP Term Sheet was created. FEI enabled new mitigation revenues through the use of an AMA, which adds new benefits to FEI ratepayers. The Commission also notes that FEI will not be seeking 12 percent for the month of November 2013, when the AMA commenced on December 1, 2012, and FEI is permitted to receive 12 percent incentive payout for 12 consecutive months.

Regarding the NGTL Pooling Arrangement, the Commission finds that the NGTL Pooling Arrangements qualify as a new activity for the 2012/13 GSMIP period. The Commission notes that FEI applied 12 percent to the gross pooling revenue without making an allowance for NGTL extraction revenue that would have been received, albeit a lesser amount, without the pooling arrangement and this extraction activity attracts the Non-benchmarked GSMIP incentive at 4 percent. This would have the effect of overstating the New Activity mitigation revenue. However, the NGTL Pooling Arrangements were not developed when the 2011-2013 GSMIP Term Sheet was created. While FEI currently has Liquids Extraction in Cochrane as a Non-benchmarked Activity, the Commission views that FEI has generated additional revenue for FEI ratepayers by introducing NGTL Pooling Arrangements through the Cochrane plant.

Regarding the overall 2012/13 incentive payment calculation, the Commission notes that FEI generated \$49 million of eligible margin and entered into approximately 12,800 transactions in 2012/13. There are discrepancies as noted in FEI's letter dated March 14, 2014. However, the Commission considers that the spreadsheet used to calculate the GSMIP incentive appears to be robust and captures transactions as they occur. The Commission views that it would not be cost effective to recalculate or audit the entire spreadsheet in light of the minor adjustment.

The Commission approves the incentive payment relating to AMAs and NGTL Pooling Arrangements as new activities for the calculation of the incentive payment for 2012/13. The Commission approves FEI's request to add AMAs and NGTL Pooling Arrangements activities to the non-benchmarked category beginning November 1, 2013. FEI must file an amended 2013-2016 GSMIP Term Sheet for Commission acceptance within 30 days of the date of this Order.

The Commission accepts the calculation of the overall GSMIP incentive payment of \$1,438,604 for 2012/13.