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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER G-2-15**

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IN THE MATTER OF  
the *Utilities Commission Act*, RSBC 1996, Chapter 473  
and

an Application by FortisBC Alternative Energy Services Inc.  
for Approval of the Rate Design and Rates Established in Agreements  
for Thermal Energy Services for the TELUS Garden Development

**BEFORE:** D. M. Morton, Panel Chair / Commissioner  
B. A. Magnan, Commissioner January 9, 2015  
K. A. Keilty, Commissioner

**O R D E R**

**WHEREAS:**

- A. On February 4, 2013, by Order C-1-13, the British Columbia Utilities Commission (Commission) granted approval for FortisBC Alternative Energy Services Inc. (FAES) to purchase and operate the TELUS Garden Thermal Energy System (TGTES);
- B. Among other findings and directives included in the Reasons for Decision to Order C-1-13, the Commission:
- denied the rate design and rates established by the service agreements and directed FAES to file a new rate application which complies with all directives and determinations included in the Reasons;
  - required FAES to file an annual report for actual energy load of the TGTES, compared to the forecast load as well as showing the amount and percentage of heat load from the TGTES and Central Heat Distribution Ltd (CHDL) separately; and
  - determined that it was not appropriate for FAES to charge any of the regulatory costs associated with that proceeding to the Thermal Energy Services Deferral Account (TESDA);
- C. On October 29, 2014, FAES applied to the Commission for approval, pursuant to sections 59–61 of the *Utilities Commission Act* (Act), of the rate design and rates established under the following service agreements (Application):
- 1) Thermal Energy System Service Agreement with the Partnership (Residential Strata Parcel);
  - 2) Thermal Energy System Service Agreement with the Partnership (Retail Property); and
  - 3) Thermal Energy System Service Agreement with the Partnership (Office Tower)
- (collectively the Amended Service Agreements);

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- D. FAES also seeks approval from the Commission to exempt the TGTES from long-term planning requirements under section 44.1 of the Act and to have the TGTES subject to ongoing regulatory oversight on a complaint basis. FAES further requests that the Commission rescinds the determination in Order C-1-13 which requires the filing of an annual report showing actual energy load for the TGTES compared to the forecast load as well as showing the amount and percentage of heat load from the TELUS Data Centre and CHDL separately;
- E. FAES further requests that the Commission's finding that it is not appropriate to charge any of the regulatory costs to the TESDA be vacated pending the future TESDA proceeding; and
- F. The Commission has reviewed the Application and concluded that FAES has complied with the directives of C-1-13 and that the Amended Service Agreements should be approved.

**NOW THEREFORE**, the British Columbia Utilities Commission orders as follows:

- 1. Pursuant to sections 59–61 of the *Utilities Commission Act*, the rates, rate design and fuel deferral account established by the Amended Service Agreements, including the terms and conditions attached in the Application, are approved.
- 2. Pursuant to section 44.1(3) of the *Utilities Commission Act*, FAES is exempt from the requirement to file any information referred to in paragraphs 44.1(2)(a) through 44.1(2)(f) as it relates to the TELUS Garden Thermal Energy System.
- 3. The Commission rescinds the directive in Order C-1-13 directing FAES to file an annual report for actual energy load for the TELUS Garden Thermal Energy System compared to the forecast load and the requirement to show the amount and percentage of heat load from the TELUS Data Centre and CHDL (now, Creative Energy Vancouver Platforms Inc.) separately.
- 4. FAES' request to vacate the Commission's previous finding that it is not appropriate to charge any of the regulatory costs to the Thermal Energy Services Deferral Account is denied for the reasons set out in Appendix A to this order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 9<sup>th</sup> day of January, 2015.

BY ORDER

*Original signed by:*

D. M. Morton  
Panel Chair / Commissioner

Attachment

An Application by FortisBC Alternative Energy Services Inc.  
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for Thermal Energy Services for the TELUS Garden Development

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**REASONS FOR DECISION**

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On October 29, 2014, FAES applied to the Commission for approval, pursuant to sections 59–61 of the *Utilities Commission Act*, of the rate design and rates established under the following service agreements (Application):

- 1) Thermal Energy System Service Agreement with the Partnership (Residential Strata Parcel);
  - 2) Thermal Energy System Service Agreement with the Partnership (Retail Property); and
  - 3) Thermal Energy System Service Agreement with the Partnership (Office Tower)
- (collectively the Amended Service Agreements).

**1.0 REGULATORY OVERSIGHT ON COMPLAINTS BASIS**

FortisBC Alternative Energy Services Inc. (FAES) proposes that the ongoing regulation for the TELUS Garden Thermal Energy System (TGTES) should be under a complaint based regulation, as is the case for SOLO, Sovereign, and Artemesia. It submits that this proposal is justified on the basis of regulatory efficiency.<sup>1</sup>

BCSEA agree with FAES that regulatory oversight of the TGTES should be on a complaints basis.

**Commission determination**

Practically speaking, the Commission Panel agrees with FAES that ongoing regulatory oversight of the TGTES will be administered on a complaints basis. However, the Panel notes the following:

1. This determination does not exempt, or otherwise relieve, FAES of any of its obligations under the *Utilities Commission Act*, other than paragraphs (a) through (f) of section 44.1(2) with respect to the TGTES long-term planning filings to the Commission.
2. Unlike the complaint process in the TES framework there are no limitations on the nature of complaints that the Commission will review nor on the Commission's approach to resolving the complaints, in accordance with the *Utilities Commission Act*.

**2.0 REGULATORY COSTS**

In its Reasons for Decision accompanying Order C-1-13, the Commission determined that it was not appropriate to charge any of the regulatory costs to the Thermal Energy Services Deferral Account (TESDA). In this Application, FAES requests that the Commission's finding that it is not appropriate to charge any of the regulatory costs to the TESDA be vacated pending the future TESDA proceeding. FAES proposes to limit the regulatory costs for the TGTES to \$30,000 with any costs over and above this amount to be allocated to the TESDA.

FAES had previously made this request in the TELUS Gardens CPCN application.<sup>2</sup> In the Decision accompanying Order C-1-13, the Commission states:

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<sup>1</sup> FAES Final Submission, p. 6.

<sup>2</sup> TGTES CPCN Decision dated February 4, 2013, p. 19.

...sufficient principles have been established in those previous proceedings to justify all regulatory costs associated with this application being recovered from the rates charged to this project.<sup>3</sup>

At that time, the Commission also directed FAES to provide the actual regulatory costs of past thermal proceedings, including Tsawwassen Springs, PCI Marine and the Delta School District. FAES filed this information in Table 4, on page 20 of the Application, which is reproduced below.

**Table 4: Regulatory Costs of Past Thermal Energy Services Proceedings**

Filing Date	Final Decision Date	Order No.	Project Name	Total (\$)
28-Nov-11	25-Jun-12	G-31-12, G-71-12, G-88-12	<b>Delta School District</b>	208,446.15
2-Mar-12	24-Sep-12	G-100-12, G-131-12	<b>Tsawwassen Springs</b>	27,948.66
25-May-12	27-Sep-12	C-10-12	<b>PCI Marine Gateway</b>	74,642.00
16-Oct-12	4-Feb-13	C-1-13	<b>TELUS Garden</b>	67,454.25
2-Nov-12	26-Jul-13	C-8-13	<b>Kelowna DES</b>	156,722.43
7-Oct-13	25-Feb-14	C-3-14	<b>SOLO CPCN &amp; Rates</b>	33,509.26
27 Mar-14	15-Apr-14	G-54-14	<b>SOLO Rates Phase 2</b>	10,902.82
23-Dec-13	15-Jan-14	C-1-14	<b>Seylynn</b>	1,097.08
18-Jun-14	26-Aug-14	C-10-14	<b>Sovereign<sup>a</sup></b>	2,459.00
24-Jun-14	26-Aug-14	C-09-14	<b>Artemisia<sup>a</sup></b>	687.23
			<b>Total:</b>	583,868.88

<sup>a</sup> Totals are as of October 2, 2014. Not all invoices have been received.

In this Application, FAES argues that many of the regulatory principles that are necessary to regulate projects such as the TGTES project were still in development at the time of that decision. FAES further states that TGTES customers should not have to bear all the regulatory costs associated with the development of the regulatory principles that was very much a part of the original TGTES proceeding.<sup>4</sup>

In support of its position, FAES states that the only TES proceedings that preceded the TGTES application were the Delta School District, Tsawwassen Springs and PCI Marine Gateway. The Commission denied the rates applied for in PCI Marine Gateway. Further, the Commission denied rates in two subsequent applications, the Kelowna District Energy System and the SOLO proceeding. FAES further submits that “[i]n the backdrop to all these FAES’ thermal proceedings, the Commission was in the midst of developing its TES Scaled Regulatory Framework, which included at a time a rate setting guide for TES projects, among other things.”<sup>5</sup>

<sup>3</sup> Ibid, p. 20.

<sup>4</sup> FAES Final Submission, p. 6.

<sup>5</sup> Exhibit B-1, p. 19.

However, FAES also stated in the Application that:

[r]ecent examples where FAES has successfully applied this rate design are SOLO, Sovereign and Artemisia TES projects. By Order G-54-14, the Commission approved as just and reasonable the rates for thermal energy services established in FAES' Service Agreements for the SOLO project. By Orders C-10-14 and C-9-14, the Commission also approved the rates, rate design and fuel deferral account established in FAES' Service Agreements for the Sovereign and Artemisia projects respectively.<sup>6</sup>

#### Commission determination

**The Panel reiterates the findings in the CPCN decision that all regulatory costs associated with the TGTES project should be borne by the customers of the TGTES.** The Panel is of the view that the majority of the costs incurred by the TELUS Garden project are related to this specific project which has unique elements that need to be examined in arriving at Commission determinations and decisions. In making this determination, the Panel has considered, in addition to the issues outlined below, that a portion of the costs are attributable to the TGTES CPCN application, which was not related to the TES Framework.

The Panel acknowledges that rate setting principles have been established in the TES Framework proceeding and that FAES has participated in that process. That proceeding was the appropriate venue for establishing such principles. However, the Panel is unable to find any evidence that any regulatory costs for TES Framework proceeding are included in the costs of this Application.

The Panel also notes that the rate design approved in this order is the same rate design as was approved in the previous SOLO, Sovereign and Artemesia TES proceedings. The Panel has considered the rate design in previous proceedings, which resulted in a reduction in regulatory process in this proceeding.

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<sup>6</sup> Ibid, p. 5.