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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-192-15**

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

and

FortisBC Inc.
Application for Stepped and Stand-by Rates for Transmission Voltage Customers

BEFORE: L. A. O'Hara, Panel Chair/Commissioner
R. D. Revel, Commissioner

December 4, 2015

O R D E R

WHEREAS:

- A. On March 28, 2013, FortisBC Inc. (FortisBC) filed with the British Columbia Utilities Commission (Commission) an Application for Stepped and Stand-By Rates for Transmission Voltage Customers addressing, among other things, approval for a Stand-by Rate (RS 37) and billing charges during the interim period for Zellstoff Celgar Limited Partnership, (Application);
- B. Zellstoff Celgar Limited Partnership (Celgar), British Columbia Old Age Pensioners' and Seniors' Organization *et al.* (BCOAPO), British Columbia Hydro and Power Authority, BC Municipal Electric Utilities, International Forest Products Limited, and the Minister of Energy and Mines registered as interveners. Tolko Industries Ltd. registered as an interested party;
- C. Effective May, 29, 2015, the Commission approved RS 37 in stages by way of: Order G-67-14 (Stage I Decision), Order G-46-15 (Stage II Decision) and Order G-93-15 (Stage III Decision);
- D. In the Stage III Decision the Commission also sought further submissions exclusively from FortisBC and Celgar on an appropriate Stand-by Billing Demand (SBBD), a component of RS 37, for Celgar;
- E. By Order G-149-15, dated September 22, 2015, (Stage IV Decision), the Commission set the SBBD, for Celgar at 40 percent of the Stand-by Demand Limit of 42 MVA, which resulted in a SBBD of 16.8 MVA. The Commission also directed FortisBC and Celgar to attempt to negotiate an agreement as to the appropriate billing charges during the interim period;

- F. On October 22 and 23, 2015, marked as Exhibits B-46 and B-46-1, FortisBC and Celgar filed with the Commission for approval, a joint submission attaching an executed agreement enclosed as Appendix A (Agreement) between the two parties, as to the appropriate billing for the interim period and requested a certain rate treatment (Requested Rate Treatment);
- S. On November 2, 2015, marked as Exhibit B-47, FortisBC provided supplementary information and background specific to the Requested Rate Treatment;
- G. On November 9, 2015, the Commission issued a letter which provided an opportunity for any intervenor to raise concerns with the Agreement and to provide comments on a preferred process if deemed necessary;
- H. Of the six registered intervenors the Commission received one submission on November 18, 2015, from BCOAPO. In its submission BCOAPO requested that before the Commission considers approving the Agreement it should require FortisBC to file further calculations and details of the negotiation, which should be followed by a written process including information requests and final submissions;
- I. On November 25, 2015, both Celgar and Fortis submitted a reply to BCOAPO's submission; and
- J. The Commission Panel has reviewed the intervenor submission, and FortisBC and Celgar's reply and determines that an expedited written process should be established to review Exhibits B-46, B-46-1 and B-47.

NOW THEREFORE the British Columbia Utilities Commission, for the Reasons attached as Appendix B, orders the process to review Exhibits B-46, B-46-1, and B-47 as set out in the Regulatory Timetable attached as Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 4th day of December 2015.

BY ORDER

Original signed by:

L. A. O'Hara
Panel Chair/Commissioner

Attachment

FortisBC Inc.
Application for Stepped and Stand-by Rates for Transmission Voltage Customers

REGULATORY TIMETABLE

ACTION	DATE (2015)
Commission Information Requests to FortisBC and Celgar	Tuesday, December 8
Intervener Information Requests to FortisBC and Celgar	Wednesday, December 9
Celgar and FortisBC Responses to Information Requests	Monday, December 14
Intervener Final Written Submissions	Wednesday, December 16
FortisBC and Celgar Reply Submissions	Friday, December 18

FortisBC Inc.
Application for Stepped and Stand-by Rates for Transmission Voltage Customers

REASONS FOR DECISION

BACKGROUND

On October 30, 2009 FortisBC Inc. (FortisBC) filed the “FortisBC 2009 Rate Design and Cost of Service Analysis Application” (2009 RDA). The 2009 RDA culminated with Order G-156-10 and accompanying Decision (RDA Decision) issued on October 19, 2010. In the RDA Decision the British Columbia Utilities Commission (Commission) determined that under current circumstances Zellstoff Celgar Limited Partnership (Celgar) was no longer eligible to take service under Rate Schedule 33 (Time-of-Use), which it had been on since 2006 and directed FortisBC to provide Celgar service under Rate Schedule 31 (RS 31 - Large Commercial Service Transmission). The RDA Decision also recommended that FortisBC and Celgar reconsider the options available for designing a practical and workable rate schedule for Celgar, such as a stand-by rate.

Effective January 2, 2011, FortisBC began billing Celgar under RS 31 without any modifications as FortisBC and Celgar did not have an executed General Service Agreement, which would have among other things, established a Contract Demand for Celgar. On March 25, 2011, Celgar filed “A Complaint Regarding the Failure of FortisBC and Celgar to Complete a General Service Agreement and FortisBC’s Application of RS 31 Demand Charges” (Celgar Complaint). On November 14, 2011, the Commission issued its decision on the Celgar Complaint by Order G-188-11 and accompanying decision (Order G-188-11 Decision).

Among other things, Order G-188-11 directs FortisBC to submit an application for a two-tier stepped rate for transmission service customers (Directive 9), to develop a version of this rate for Celgar and self-generators that excludes BC Hydro RS 3808 power from its resource stack (Directive 4), and to develop a stand-by rate to address Celgar’s circumstances (Directive 10).

Further, Directive 5 of Order G-188-11 directed FortisBC to:

“...bill Celgar in accordance with RS 31 on an interim and refundable basis, beginning March 31, 2011 and ending when the Commission approved the new rate for Celgar that excludes PPA Power [BC Hydro RS 3808 Power] from its resource stack, and/or an agreement forwarded by the parties. Any differences between the interim rate and the rate ultimately approved by the Commission are subject to refund/recovery, with interest at the average prime rate of FortisBC’s principal bank for its most recent year.” [Interim Period]

On July 30, 2012, the Commission provided further clarification regarding the Interim Period in Appendix A to Order G-104-12 which stated:

“The Commission Panel recognizes that confusion may have been caused by the direction to FortisBC to create three rates [Order G-188-11] while referring to ‘the rate ultimately approved’ for the refund provision. The Commission Panel confirms that Directive 5 was intended to apply to the final approved rates for Celgar, including the stepped rate and the standby rate ...”

On March 28, 2013, FortisBC filed an Application for Stepped and Stand-by Rates for Transmission Voltage Customers and addressed billing charges for Celgar during the Interim Period (Application or Proceeding).

Celgar, British Columbia Old Age Pensioners' and Seniors' Organization *et al.* (BCOAPO), British Columbia Hydro and Power Authority, BC Municipal Electric Utilities, International Forest Products Limited, and the Minister of Energy and Mines registered as interveners (Registered Interveners). Tolko Industries Ltd. registered as an interested party.

By way of Order G-67-14 and accompanying Stage I Decision the Commission, among other things, rejected FortisBC's application for a stepped rate.

On July 30, 2014, by Order G-107-14, after considering submissions from the Registered Interveners, the Commission determined that any rate that excludes BC Hydro RS 3808 Power, specifically the Non-Embedded Cost Power (NECP) Rate Rider, would not be considered in determining the appropriate billing charges for Celgar during the Interim Period. The Panel also determined that the Interim Period would end once a final determination was made on both RS 37 and an appropriate SBBB (referred to as Stand-by Contract Demand at that time) for Celgar.

Effective May, 29, 2015, the Commission approved the Stand-by Rate (RS 37) in stages by way of: Order G-67-14 (Stage I Decision), Order G-46-15 (Stage II Decision) and Order G-93-15 (Stage III Decision).

The final approved RS 37 included Special Provision 1 as follows:

Stand-by Billing Demand (SBBB) – Billing under this rate schedule requires the establishment of a SBBB...The SBBB is to be agreed to between the Customer and the Company and is specified in the GSA [General Service Agreement] between the Company and the Customer. If the Customer and the Company cannot come to an agreement, the SBBB will be set by the BCUC.

In previous stages of the Proceeding the Panel encouraged FortisBC and Celgar to agree on a SBBB; however, the parties were not able to reach an agreement. As such, the Commission was required to set the SBBB for Celgar as provided for in Special Provision 1 of RS 37. By Order G-149-15 and Decision, dated September 22, 2015, the Commission set the SBBB for Celgar at 40 percent of the Stand-by Demand Limit of 42 MVA, which resulted in a SBBB of 16.8 MVA (Stage IV Decision).

The Stage IV Decision also directed FortisBC and Celgar to attempt to negotiate an agreement on the appropriate billing charges during the Interim Period now that all the relevant rates applicable to Celgar were final (RS 31 and RS 37).

On October 22 and 23, 2015, marked as Exhibits B-46 and B-46-1, FortisBC and Celgar filed with the Commission for approval, a joint submission attaching an executed agreement enclosed as Appendix A between FortisBC and Celgar as to the appropriate billing charges for the Interim Period (Agreement). The parties requested that the Commission resolve the matter on an expedited basis. The Agreement provided for a refund to be issued to Celgar, the calculation of continued interest and certain rate treatment (Requested Rate Treatment).

In regards to the refund, FortisBC explained that if the refund during the interim period was calculated under the final approved rates for Celgar (RS 31 and RS 37), and using a RS 31 Contract Demand of 3 MVA as set by the Commission in the Stage III Decision, and a SBBB of 16.8 MVA as set by the Commission in the Stage IV Decision, the refund (excluding interest) to Celgar would be \$8.72 million (on the basis of certain other assumptions); however, the parties agreed to a refund of \$7.65 million excluding interest.

On November 2, 2015, marked as Exhibit B-47, FortisBC provided supplementary information regarding the Agreement and background specific to the Requested Rate Treatment. This information included details of how any difference between the revenues forecast to be recovered from Celgar in FortisBC's cost of service as part of its revenue requirements applications and the revenues actually collected from Celgar were treated during the Interim Period. FortisBC explained that the additional revenue collected from Celgar (in excess of the amount forecast to be recovered in rates) during the interim period of \$8.77 million and was captured in a deferral account. Rather than waiting for the Interim Period to end before considering the appropriate disposition of the balance, FortisBC with Commission approval, refunded the balance to the benefit of ratepayers each year following its collection.

On November 9, 2015, the Commission issued a letter which provided an opportunity for any intervener to raise concerns with the Agreement, including the Requested Rate Treatment included in Exhibits B-46, B-46-1 and B-47, and to provide comments on a preferred process if deemed necessary.

SUBMISSIONS BY PARTIES

Of the six Registered Interveners, BCOAPO was the sole intervener to raise a concern. In its submission BCOAPO requested that before the Commission considers approving the Agreement it ought to require FortisBC to file further calculations and details of the negotiation which should be followed by a written process including information requests and final submissions (BCOAPO's Submission).

In reply to BCOAPO Celgar submits that the calculation of a refund should be between a utility and a customer, which are not normally reviewed by the Commission, except following a complaint initiated by the customer, not by another customer or other stakeholder. Celgar points out that the negotiated refund is less than the amount that would be payable if Celgar was invoiced during the Interim Period on a combination of RS 31 and RS 37 in the form approved in the FortisBC tariffs (Tariff Calculation).

Celgar offered to provide the details of the Tariff Calculation to the Commission for its review on a confidential basis but opposed making it public, including providing such information to BCOAPO on an undertaking or otherwise. However, Celgar did provide some additional information regarding the Agreement in its reply submission. In conclusion Celgar submits that the Commission should deny all of the BCOAPO requests and should ensure that the Agreement is approved expeditiously.

In reply to BCOAPO FortisBC submits that FortisBC and Celgar followed the instructions to negotiate the appropriate billing charges for Celgar during the Interim Period as set out by the Panel in various Orders and Letters.

FortisBC submits that the refund was not based on the Tariff Calculation but was negotiated on a modified basis. From FortisBC's perspective, an analysis of historical determinates and other factors and trade-offs allowed the parties to achieve a principled settlement.

FortisBC submits that there is nothing to be gleaned from an examination of the detail behind the billing in each month over the Interim Period and certainly no need for information requests and further submissions as suggested by BCOAPO.

COMMISSION DETERMINATION

In order to ensure procedural fairness is upheld the Panel determines that an expedited process around Exhibits B-46, B-46-1 and B-47 as set out in the Regulatory Timetable established in Attachment A to this Order, which includes one round of information requests to FortisBC and Celgar, and written submissions is warranted.

The Panel is satisfied that any additional information regarding the Agreement and Requested Rate Treatment can be obtained through the information request process and therefore does not find it necessary to require FortisBC or Celgar to file the additional information as requested in BCOAPO's Submission.