



**ORDER NUMBER  
G-29-16A**

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

and

Creative Energy Vancouver Platforms Inc.  
Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement

**BEFORE:**

H. G. Harowitz, Panel Chair/Commissioner  
R. D. Revel, Commissioner

on March 7, 2016

**ORDER**

**WHEREAS:**

- A. On April 17, 2015, Creative Energy Vancouver Platforms Inc. (Creative Energy) applied to the British Columbia Utilities Commission (Commission) for an order approving a Neighbourhood Energy Agreement between Creative Energy and the City of Vancouver (CoV) (Original NEA) and granting a Certificate of Public Convenience and Necessity (CPCN) to construct and operate a new Neighbourhood Energy System to serve new developments in the Northeast False Creek (NEFC) and Chinatown neighbourhoods of the CoV (Original Proceeding);
- B. On December 8, 2015, by Order C-12-15, the Commission granted a CPCN for the NEFC area and did not approve the Original NEA for reasons relating to a Carbon Reduction Rider, a Benchmark Rate, a Cost Premium Cap and potential linkage to mandatory connection policies, including a franchise area bylaw (Original Decision);
- C. On February 5, 2016, in response to the Original Decision, Creative Energy filed an application with the Commission seeking approval under section 45 of the *Utilities Commission Act* of the Restated and Amended NEFC and Chinatown Neighbourhood Energy Agreement, and a Bylaw Enactment Agreement which Creative Energy filed for information only (together the Filing); and
- D. On February 24, 2016, by Order G-23-16, the Commission established a preliminary Regulatory Timetable including a Procedural Conference to be held on Friday, March 4, 2016; and
- E. On March 4, 2016, the Procedural Conference was held. Interveners included the City of Vancouver, FortisBC Energy Inc., FortisBC Alternative Energy Services Inc., Commercial Energy Consumers Association of British Columbia, the British Columbia Old Age Pensioners' Organization *et al.* and the BC Sustainable Energy Association and the Sierra Club of BC.

**NOW THEREFORE**, with Reasons to follow, the British Columbia Utilities Commission orders as follows:

1. The evidentiary record of the 2015 Creative Energy Vancouver Platforms Inc. Application for a Certificate of Public Convenience and Necessity for a Low Carbon Neighbourhood Energy System for Northeast False Creek and Chinatown Neighbourhoods of Vancouver proceeding will form part of the evidentiary record of this proceeding.
2. The Regulatory Timetable is amended as attached as Appendix A to this order.
3. The scope of this proceeding includes matters relevant to whether or not the Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement, and the Bylaw Enactment Agreement which Creative Energy filed for information only, are necessary for the public convenience and properly conserve the public interest.

**DATED** at the City of Vancouver, in the Province of British Columbia, this        8th        day of March 2016.

BY ORDER

*Original signed by:*

H. G. Harowitz  
Panel Chair/Commissioner

Attachment

Creative Energy Vancouver Platforms Inc.  
Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement

**REGULATORY TIMETABLE**

ACTION	DATE (2016)
Participant Assistance/Cost Award Budget Deadline	Friday, March 11
Intervener Final Submissions	Friday, March 18
Creative Energy Reply Submission	Tuesday, March 29

Creative Energy Vancouver Platforms Inc.  
Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement

**REASONS FOR DECISION**

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**1.0 BACKGROUND**

In respect of the application submitted by Creative Energy Vancouver Platforms Inc. (Creative Energy) seeking approval of the Restated and Amended Northeast False Creek and Chinatown Neighbourhood Energy Agreement (NEA), a procedural conference was held on March 4, 2016 to determine further process for the proceeding. Interveners included the City of Vancouver, FortisBC Energy Inc. (FEI), FortisBC Alternative Energy Services Inc., Commercial Energy Consumers Association of British Columbia, British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO), and British Columbia Sustainable Energy Association and Sierra Club of British Columbia.

**2.0 KEY ISSUES AND SCOPE**

In reaching our decisions, the Panel first considered submissions on key issues and scope.

Creative Energy submitted that the central issue in this proceeding is whether or not the current filing is compliant with the decision issued with Order C-12-15. It argued that since the decision stated that "[t]he Panel is not approving the NEA for the reasons outlined above,"<sup>1</sup> the Commission need only concern itself with whether or not the filing satisfactorily addresses those specific issues. Creative Energy asked the Panel to limit the scope of the proceeding to those issues.

The City of Vancouver agreed with Creative Energy that this proceeding can be limited to determining whether the amended filing is in compliance with the issues enumerated in Order C-12-15.

BCOAPO indicated that the key issue from its perspective relates to the extent and manner in which any future extension of service to the Chinatown area will be regulated.

The other four interveners expressed similar views to each other, and in many cases explicitly stated that they were in general agreement with points put forward by one or another of their counterparts. Key aspects of their positions include:

- Order C-12-15 should not be considered as express or implied conditional approval of the NEA. Interveners argued that the Order is clear that a number of issues remain unresolved. One reference provided is the sentence immediately following the excerpt quoted by Creative Energy (above), which reads "Therefore we make no determination on the issue raised by FEI regarding the NEA limiting FEI's existing CPCN."<sup>2</sup> Reference was also made to page 49 of the Order, which states "With regard to the submissions of the parties that section 153A of the [City of Vancouver] Charter does not support the imposition of end-use restrictions, the Panel is not approving the NEA, and therefore makes no determination on this issue."<sup>3</sup>

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<sup>1</sup> Creative Energy Vancouver Platforms Inc. Certificate of Public Convenience and Necessity Application for a Low Carbon Neighbourhood Energy System for Northeast False Creek and Chinatown Neighbourhoods of Vancouver, Decision dated December 8, 2015, p. 53.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

- Pursuant to section 45 of the *Utilities Commission Act* (UCA) this application must meet the standard being in the public interest. Restricting the scope of the proceeding at this stage is premature inasmuch as there are a range of issues that can have bearing on matters of public interest.

The Panel considers this proceeding merits a full review under section 45 of the UCA, and declines to issue a directive at this time that further limits the scope of the proceeding. We hold the view that there are a number of issues left unresolved by Order C-12-15, and that any narrowing of scope at this time would be unnecessarily restrictive in determining whether the filing is necessary for the public convenience and properly conserves the public interest.

### **3.0 PROCESS**

Having made the above decision, the Panel turns its attention to deciding on the best process for completing the evidentiary record.

The Panel put forward a suggestion at the outset of the Procedural Conference that regulatory efficiency might be well-served by including the evidentiary record of the initial proceeding into the evidentiary record of this proceeding. All parties agreed, with the exception of BCOAPO who did not think this was necessary but also voiced no opposition to the idea.

Under a scenario where the prior evidentiary record is included in this proceeding, Creative Energy and all but one intervener felt that the record was complete. The Commercial Energy Consumers Association of British Columbia suggested that one round of information requests would be needed if the Panel thought there were instances where Order C-12-15 did not make a determination due to an incomplete evidentiary record.

**The Panel is satisfied that the inclusion of the prior evidentiary record is warranted, and that this inclusion provides a complete record for the purposes of this proceeding.**

All parties supported written submissions, first from interveners, followed by reply from Creative Energy. Creative Energy argued for as short a time line as practicable in light of its interest in moving forward with the project: one and a half weeks for intervener submissions and one week for reply. Intervenors expressed concern that the matters at hand were complex, and requested anywhere from two to three weeks to prepare their materials.

**The Panel regards a two week window for interveners to prepare their submissions to be reasonable, and accepts Creative Energy's undertaking that they can provide their reply within one week.**

**DATED** at the City of Vancouver, in the Province of British Columbia, this        9<sup>th</sup>        day of March 2016.

*Original signed by:*

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H. G. HAROWITZ  
PANEL CHAIR / COMMISSIONER

*Original signed by:*

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R. D. REVEL  
COMMISSIONER