



**ORDER NUMBER
E-11-19**

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

and

FortisBC Energy Inc.
Filing of an Amending Agreement to the Biomethane Purchase
Agreement between FortisBC Energy Inc. and Seabreeze Farm Ltd.

BEFORE:

R. I. Mason, Commissioner
B. A. Magnan, Commissioner
T. A. Loski, Commissioner

on May 9, 2019

ORDER

WHEREAS:

- A. On April 10, 2019, pursuant to section 71 of the *Utilities Commission Act* (UCA), FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of an amending agreement dated April 1, 2019 (Amending Agreement No. 2) to the existing Biomethane Purchase Agreement (BPA) between FEI and Seabreeze Farm Ltd. (Seabreeze) (Application). The Application satisfies the criteria for biomethane acquisition as a prescribed undertaking under the Greenhouse Gas Reduction Regulation (GGRR);
- B. By Order G-130-06 dated October 26, 2006, the BCUC approved the Rules for Natural Gas Energy Supply Contracts (Rules). The Rules are intended to facilitate the BCUC's review of natural gas energy supply contracts pursuant to section 71 of the UCA;
- C. Under Directive 2(ii) of Order G-79-13 dated May 14, 2013, the BCUC approved rates for biomethane service established in the BPA between FEI and Seabreeze dated September 16, 2012, pursuant to sections 59 to 61 of the UCA;
- D. Under Directive 3 of Order G-79-13, if, subsequent to the order, a biomethane supplier was exempted from section 61 of the UCA, then pursuant to subsection 90(1) of the UCA, effective the date the exemption came into effect, the rate established between FEI and that biomethane supplier pursuant to sections 59 to 61 of the UCA is cancelled, and the BCUC accepts for filing the BPA and any amendments between FEI and that biomethane supplier pursuant to section 71 of the UCA and the Rules;
- E. On August 1, 2013, the Lieutenant Governor in Council of the Province of British Columbia (LGIC) issued Order In Council (OIC) 347/2013, giving direction to the BCUC to exempt biomethane suppliers selling biogas

and biomethane to a public utility from certain sections of the UCA where the BCUC can review the supply contract under section 71 of the UCA;

- F. On August 20, 2013, the BCUC issued Order G-126-13, setting out the parameters for the entities that qualified for the exemption, giving effect to Directive 3 of Order G-79-13, which, among other things, cancelled the rate approval under sections 59 to 61 of the UCA for the BPA between FEI and Seabreeze, and instead accepted it for filing pursuant to section 71 of the UCA;
- G. On March 21, 2017, by OIC 161/2017, the LGIC approved an amendment to the GGRR, which among other things, indicated that the acquisition of renewable natural gas (RNG) is a prescribed undertaking subject to:
 - the public utility paying no more than \$30/GJ; and
 - the total volume of RNG purchased in a calendar year not exceeding 5% of the total volume of natural gas provided by a public utility to its non-bypass customers in 2015.
- H. Section 18(1) of the *Clean Energy Act (CEA)* describes a prescribed undertaking as “...a project, program, contract or expenditure that is in a class of projects, programs, contracts or expenditures prescribed for the purpose of reducing greenhouse gas emissions in British Columbia.”;
- I. Section 18(3) of the CEA states that “the commission must not exercise a power under the UCA in a way that would directly or indirectly prevent a public utility...from carrying out a prescribed undertaking.”;
- J. On February 20, 2018, by Order E-8-18, the BCUC accepted, pursuant to section 71 of the UCA, the Rules and OIC 161/2017, Amending Agreement No. 1 to the BPA between FEI and Seabreeze dated September 30, 2017;
- K. On April 1, 2019, FEI and Seabreeze entered into an amending agreement to the BPA, amending the term, the minimum and maximum annual purchase volumes, and the supply purchase price;
- L. FEI requests that the filing and appendices be kept confidential due to their commercially sensitive nature; and
- M. The BCUC has not reviewed the Application from a public interest perspective as it is a prescribed undertaking.

NOW THEREFORE pursuant to section 71 of the UCA, the Rules and OIC 161/2017, the BCUC accepts for filing the amendments to the BPA between FEI and Seabreeze dated April 1, 2019. The BCUC will keep the filing and appendices confidential as they contain commercially sensitive information.

DATED at the City of Vancouver, in the Province of British Columbia, this 9th day of May 2019.

BY ORDER

Original signed by:

R. I. Mason
Commissioner