



ORDER NUMBER
G-318-19

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

and

Sustainable Services Ltd.
Stream A Registration for the Westhills Thermal Energy System

BEFORE:

D. M. Morton, Panel Chair
B. A. Magnan, Commissioner
R. D. Revel, Commissioner

on December 9, 2019

ORDER

WHEREAS:

- A. On September 4, 2018, Sustainable Services Ltd. (SSL) filed with the British Columbia Utilities Commission (BCUC) an application to register the Westhills Thermal Energy System (Westhills TES) as a Stream A TES (Application) in accordance with the BCUC Thermal Energy Systems Regulatory Framework Guidelines (TES Guidelines);
- B. The Westhills TES is a geo-exchange system comprising of 212 vertically drilled wells, with water-to-water heat pumps and heat exchangers, located at the Primary Energy Centre (PEC). The Westhills TES also uses centralized natural gas boilers and a waste heat recovery system connected to the Westhills Arena, a nearby ice rink, owned by the City of Langford. The PEC is centrally located at 3011 Langford Lake Road, Langford, British Columbia, and a network of pipes distributes the energy throughout the Westhills Community from the PEC. End-users connect to the distribution network via on-site water-source heat pumps, which provide heating or cooling.
- C. The Westhills TES serves 409 single-family homes, 4 town home strata customers with a combined total of 32 units, and condo strata with 68 units.
- D. On August 28, 2014, the BCUC issued Order G-127-14 approving the TES Guidelines and on March 2, 2015, revisions to the TES Guidelines were approved by Order G-27-15;
- E. Under Section 2.1 of the revised TES Guidelines, a Stream A TES is defined as: “An On-Site TES with an Initial Capital Cost above \$500,000 but less than \$15,000,000 is exempt from sections 44.1, 45 to 46 and 59 to 61 of the UCA [*Utilities Commission Act*]. TES Providers are required to register Stream A TES prior to building or otherwise acquiring the Stream A TES”;

- F. Three rounds of BCUC Staff Questions were issued to SSL on October 4, 2018, April 9 and June 11, 2019. SSL provided responses to Staff Questions between February 4 and July 5, 2019;
- G. On November 14, 2019, SSL filed a request to keep the following information confidential:
 - i. Exhibit B-1, Stream A Application: (a) Personal Information of third parties;
 - ii. Exhibit B-2, Responses to Staff Questions 18 and 20, February 4, 2019: (a) Capital Costs; and (b) Operating Costs;
 - iii. Exhibit B-3-1, Response to Staff Question 4, February 7, 2019: (a) Drawing M-8; and (b) Drawing M3.01;
 - iv. Exhibit B-5-1, Response to Staff Question 30, July 5, 2019: (a) Building number in Figure #1; (b) Figure #2; and (c) Figure #4a.
- H. Part IV of the BCUC's Rules of Practice and Procedure (Rules) established by Order G-1-16 and amended on December 17, 2018, by Order G-15-19, set out the rules for confidential documents filed with the BCUC;
- I. In accordance with the Rules, the BCUC considered SSL's request for confidentiality on the documents noted above; and
- J. The BCUC has reviewed the Application and SSL's responses to BCUC Staff Questions and considers establishing a public hearing process is warranted.

NOW THEREFORE the BCUC orders as follows:

- 1. For the reasons attached as Appendix A to this order, SSL's request to keep the following information confidential is denied:
 - i. Exhibit B-1, Stream A Application: (a) Personal Information of third parties;
 - ii. Exhibit B-2, Responses to Staff Questions 18 and 20, February 4, 2019: (a) Capital Costs; and (b) Operating Costs.
- 2. The request by SSL to keep the following information confidential is granted:
 - i. Exhibit B-3-1, Response to Staff Question 4, February 7, 2019: (a) Drawing M-8; and (b) Drawing M3.01;
 - ii. Exhibit B-5-1, Response to Staff Question 30, July 5, 2019: (a) Building number in Figure #1; (b) Figure #2; and (c) Figure #4a.
- 3. The public hearing process is established as set out in the regulatory timetable attached as Appendix B to this order.
- 4. By December 20, 2019, SSL is directed to post: the Application, this order including the Regulatory Timetable, the public notice, and the BCUC's TES Info Sheet attached as Appendices B, C and D to this order respectively, on SSL's website and social media platforms.
- 5. By December 20, 2019, SSL is directed to provide to all customers, electronically where possible, otherwise by mail, the Application, this order including the Regulatory Timetable, the public notice and the BCUC's TES Info Sheet attached as Appendices B, C and D to this order respectively.

6. By December 20, 2019, SSL is directed to provide the public notice attached as Appendix C to this order, to the Strata Corporations and building manager(s) and direct them to post these on notice boards and at all major entryways of the Glen Heights condo building and all town home strata.

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

BY ORDER

Original Signed By:

D. M. Morton
Commissioner

Attachment

Sustainable Services Ltd.
Stream A Registration for the Westhills Thermal Energy System

REASONS FOR DECISION

1.0 Background

Sustainable Services Ltd. (SSL) submitted an application (Application) to the British Columbia Utilities Commission (BCUC) to register the Westhills Community Thermal Energy System (Westhills TES) as a Stream A Thermal Energy System (Stream A TES).

Three rounds of BCUC Staff Questions were issued to SSL on October 4, 2018, April 9 and June 11, 2019, and SSL provided responses to Staff Questions between February 4 and July 5, 2019.

On October 17, 2019, the BCUC notified SSL that the Application and SSL's responses to Staff Questions are to be posted publicly to the BCUC's website. For any information that SSL sought to keep confidential, SSL was asked to submit a request for confidentiality in accordance with Part IV of the BCUC's Rules of Practice and Procedure (Rules).¹

On November 14, 2019, SSL filed a request for confidentiality concerning certain documents and provided redacted versions of those documents along with the request.²

Specifically, SSL requested that the following information be kept confidential:

1. Exhibit B-1, Steam A Application:
 - a. Personal Information of third parties.³
2. Exhibit B-2 Responses to Staff Questions 18 and 20, February 4, 2019:
 - a. Capital Costs;⁴
 - b. Operating Costs.⁵
3. Exhibit B-3-1, Response to Staff Question 4, February 7, 2019:
 - a. Drawing M-8 – District Energy Sharing System – Mech Service Building Schematic – Mechanical Plant;⁶
 - b. Drawing M3.01 – Piping Schematic.⁷
4. Exhibit B-5-1, Response to Staff Question 30, July 5, 2019:
 - a. Building number in Figure #1 – civil plan view of TES servicing configuration for a typical single-family residential property;⁸

¹ Order G-1-16, dated December 24, 2015; Order G-15-19 dated December 17, 2018.

² Exhibit B-6.

³ Exhibit B-1, p. 2.

⁴ Exhibit B-2, Staff Question 18, p. 7.

⁵ Exhibit B-2, Staff Question 20, p. 8.

⁶ Exhibit B-3-1, p. 7.

⁷ Exhibit B-3-1, p. 8.

- b. Figure #2 – excerpt from schematic piping and instrumentation diagram (P&ID) of a typical single-family residential property with a forced-air system;⁹
- c. Figure #4a – excerpt from P&ID schematic of Glen Heights condo mechanical room, noting location of energy meter.¹⁰

2.0 BCUC Rules of Practice and Procedure

Part IV of the Rules applies to confidential documents filed with the BCUC. The Rules provide that if a party wishes to keep information confidential the party must make a request. The BCUC may, with or without a hearing or further process, grant a request for confidentiality on any terms it considers appropriate.¹¹

With respect to decisions made by the BCUC regarding confidentiality, section 20.01 of the Rules states:

20.01: In determining whether the nature of the information or documents require a confidentiality direction, the BCUC will have regard to matters that it considers relevant, including:

- (a) Whether the disclosure of the information could reasonably be expected to result in:
 - i. Undue material financial loss or gain to a person;
 - ii. Significant harm or prejudice to that person's competitive or negotiating position; or
 - iii. Harm to individual or public safety or to the environment;
- (b) Whether the information is personal, financial, commercial, scientific, labour relations or technical information that is confidential and consistently treated as confidential by the person;
- (c) whether the person's interest in confidentiality outweighs the public interest in the disclosure of the information or documents in the hearing;
- (d) whether the person submitting the document has any legal obligation to maintain confidentiality; and
- (e) whether it is practicable to hold the hearing in a manner that is open to the public.

3.0 SSL Request for Confidentiality

SSL filed the Application on September 4, 2018, and its responses to BCUC Staff Questions on: February 4 and 7, June 5 and July 5, 2019. SSL requests that certain information contained within the Application and responses to Staff Questions be kept confidential. Table 1 summarizes SSL's requests for confidentiality.

⁸ Exhibit B-5-1, p. 3.

⁹ Exhibit B-5-1, p. 4.

¹⁰ Exhibit B-5-1, p. 6.

¹¹ Attachment to Order G-15-19 dated December 17, 2018, Part IV, Sections 18–19.

Table 1: Summary of SSL’s Request for Confidentiality

	Reference	Reasons for confidentiality provided by SSL ¹²
i	Exhibit B-1, Stream A Application: (a) Personal Information of third parties.	Personal Information of third parties that relates to their employment, occupational or educational history.
ii	Exhibit B-2, Responses to Staff Questions 18 and 20, February 4, 2019: (a) Capital Costs; (b) Operating Costs.	Disclosure of the information would reveal trade secrets and/or commercial, financial, labour relations, scientific or technical information of SSL that was supplied, implicitly or explicitly, to BCUC in confidence, and the disclosure of which could reasonably be expected to harm significantly the competitive position of SSL and could result in undue financial loss to SSL. Specifically, that competing utility companies could use the information about the capital and ongoing costs of SSL to undercut SSL or to otherwise gain a competitive advantage over SSL.
iii	Exhibit B-3-1, Response to Staff Question 4, February 7, 2019: (a) Drawing M-8 – District Energy Sharing System – Mech Service Building Schematic – Mechanical Plant; (b) Drawing M3.01 – Piping Schematic.	Disclosure of the information could interfere with public safety by giving detailed information about the system that could be used to disable, harm, interrupt, or otherwise impact operational security and service reliability.
iv	Exhibit B-5-1, Response to Staff Question 30, July 5, 2019: (a) Building number in Figure #1 – civil plan view of TES servicing configuration for a typical single-family residential property; (b) Figure #2 – excerpt from schematic piping and instrumentation diagram (P&ID) of a typical single-family residential property with a forced-air system; (c) Figure #4a - excerpt from P&ID schematic of Glen Heights condo mechanical room, noting location of energy meter.	Disclosure of the information could interfere with public safety by giving detailed information about the system that could be used to disable, harm, interrupt, or otherwise impact operational security and service reliability.

4.0 Panel Determination

The Panel reviewed SSL’s Application and responses to Staff Questions and considered SSL’s requests for confidentiality. The Panel has also considered the criteria provided in section 20.01 of the Rules to make its determinations.

¹² Exhibit B-6, p. 1.

Regarding item (i) as referenced in Table 1, SSL seeks to keep the names of three individuals who attended a meeting with BCUC Staff on June 3, 2008, confidential. SSL requests confidentiality on the basis that the information relates to personal information of third parties relating to their employment, occupational or educational history.

Generally speaking, proceedings before the BCUC are open to the public. Information filed by parties in a matter before the BCUC will be placed on the evidentiary record and may be made publicly available. Further, the *Administrative Tribunals Act* requires all hearings before the BCUC be open to the public and documents submitted as part of a hearing must be made publicly accessible unless the BCUC is of the opinion it is not practicable to do so. In determining this, the BCUC may have regard to the matters identified in Rule 20 of the Rules.

The Panel finds that SSL has failed to demonstrate that the desirability of avoiding disclosure of the information outweighs the principle of open and transparent hearings, neither has SSL established the nature of the information requires it to be held confidential to ensure the proper administration of justice with respect to some of the documents in its request for confidentiality. **Therefore, the Panel finds that SSL's request to keep the following information confidential is denied:**

i. Exhibit B-1, Stream A Application: (a) Personal Information of third parties.

Regarding item (ii) as referenced in Table 1, SSL seeks to keep the Capital Costs of the TES and SSL's Operating Costs confidential on the basis that the disclosure of the information would reveal trade secrets and/or commercial, financial, labour relations, scientific or technical information. SSL submits that the disclosure of the costs could reasonably be expected to significantly harm its competitive position and could result in undue financial loss. Specifically, SSL states that the disclosure of the information could result in competing utility companies undercutting SSL or otherwise gain a competitive advantage over SSL.

In response to Staff Question 29, SSL submits that the Westhills TES has "effectively been 'in-service' since April 2010"¹³ and the final phase of the Westhills development, Paradise Falls was completed in 2018.¹⁴ Given that the construction of the TES is complete, SSL has not established how the disclosure of the construction costs could reasonably harm SSL's competitive position or result in undue financial loss. Furthermore, SSL has not demonstrated how divulging SSL's capital or annual operating costs could result in significant harm to the utility.

As previously discussed, the *Administrative Tribunals Act* requires all hearings before the BCUC be open to the public and all documents are to be made publicly available, unless there is a compelling reason not to do so or it is required to ensure the proper administration of justice.

The Panel finds SSL has failed to demonstrate the need to keep the Capital Costs and the Operational Costs confidential and SSL has not established that the nature of the information requires it to be held confidential to ensure the proper administration of justice. Furthermore, in accordance with the BCUC's Thermal Energy Systems Regulatory Framework Guidelines,¹⁵ the registration of a TES as a Stream A TES requires costs be considered as part of the review of the Application. **Therefore, the Panel finds that SSL's concerns are not compelling and SSL's request to keep the following information confidential is denied:**

ii. Exhibit B-2, Responses to Staff Questions 18 and 20, February 4, 2019: (a) Capital Costs; and (b) Operating Costs.

¹³ Exhibit B-4, BCUC Staff Question 29, p. 3.

¹⁴ Exhibit B-2, BCUC Staff Question 8, p. 4.

¹⁵ Order G-27-15, dated March 2, 2015, Appendix A.

Regarding items (iii) and (iv) as referenced in Table 1, the Panel agrees with SSL that the disclosure of the information could be expected to harm SSL and its customers, as the information relates to technical information related to the utility's assets, their respective arrangements and locations. The Panel finds that the disclosure of the information could reasonably be used to disable, harm, interrupt, or otherwise impact the operational security and service reliability of the TES and all are relevant considerations in the justification for keeping the information confidential. **Therefore, SSL's request to keep the following information confidential is granted:**

- iii. **Exhibit B-3-1: Response to Staff Question 4, February 7, 2019: (a) Drawing M-8; and (b) Drawing M3.01;**
- iv. **Exhibit B-5-1: Response to Staff Question 30, July 5, 2019: (a) Building number in Figure #1; (b) Figure #2; and Figure #4a.**

Sustainable Services Ltd.
Stream A Registration for the Westhills Thermal Energy System

REGULATORY TIMETABLE

Action		Date (2019)
SSL to publish Public Notice		Friday, December 20
Action		Date (2020)
Intervener Registration Deadline		Wednesday, January 15
BCUC and Intervener Information Request (IR) No. 1		Wednesday, January 29
SSL responses to BCUC and Intervener IR No. 1		Wednesday, February 12
Further process		To be determined



We want to hear from you

SUSTAINABLE SERVICE LTD STREAM A REGISTRATION FOR THE WESTHILLS THERMAL ENERGY SYSTEM

On September 4, 2018, Sustainable Services Ltd. filed with the BCUC an application to register the Westhills Thermal Energy System (Westhills TES) as a Stream A Thermal Energy System (TES), in accordance with the BCUC Thermal Energy Systems Regulatory Framework Guidelines (TES Guidelines).

The Westhill TES is a geo-exchange system, which uses water-to-water heat pumps and heat exchangers at the Primary Energy Centre (PEC). The Westhills TES also uses centralized natural gas boilers and a waste heat recovery system connected to the Westhills Arena. The PEC is centrally located in Langford, British Columbia and a network of pipes distributes the energy to the Westhills Community. End-users connect to the distribution network via on-site water-source heat pumps, which provide heating or cooling.

A Stream A TES is an on-site TES with initial capital cost above \$500,000 but less than \$15,000,000 and includes several other specific characteristics outlined in the TES Guidelines. If approved by the BCUC, a Stream A TES is exempt from capital planning and rate regulation by the BCUC.

HOW TO PARTICIPATE

Submit a letter of comment

- 💡 Register as an interested party
- 💡 Request intervener status

IMPORTANT DATES

- 💡 **Wednesday, January 15, 2020** – Deadline to register as an intervener with the BCUC

For more information on getting involved, please visit our website (www.bcuc.com/get-involved) or contact us at the information below.

GET MORE INFORMATION

Sustainable Services Ltd.

✉ 957 Langford Parkway
Victoria, BC V9B 0A5

🌐 E: info@SSL-BC.com

📞 P: 250.391.7260

British Columbia Utilities Commission

✉ Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

🌐 E: Commission.Secretary@bcuc.com

📞 P: 604.660.4700

What are Thermal Energy Systems (TES)?

A TES consists of equipment or facilities for the production, generation, storage, transmission or distribution of heat, hot water and/or cooling from one or more thermal energy sources.

Energy sources may include waste heat, renewable (solar, geexchange, biomass etc.) as well as non-renewable energy sources.

The BCUC has approved *a scaled framework to the regulation of TES*, in which oversight increases with the size and scope of the TES:

Exempt TES

- Has a capital cost \leq \$500,000; or
- Is owned and operated by a Strata Corporation that supplies the Strata Corporation's owners

Exempt from active regulation by the BCUC.

Stream A TES

- On-site TES with initial capital cost above \$500,000 but less than \$15,000,000; and
 - Includes a number of other specific characteristics outlined in the TES Guidelines
-

Exempt from capital planning and rate regulation by the BCUC.

Stream B TES

- A TES that does not meet the requirements of Exempt or Stream A TES

No exemptions, actively regulated by BCUC as a public utility.

Under the *Utilities Commission Act (UCA)*, a person who owns and/or operates a TES for compensation (TES provider) is considered a public utility.

The UCA excludes a municipality or regional district providing services within its own boundaries from the definition of public utility and, therefore, from regulation by the BCUC.

What are the TES guidelines?

The *TES Guidelines* provide an outline for how TES providers are regulated in British Columbia. The guidelines cover:

- Definition of a TES and providers
- Role of the BCUC
- Categories of TES
- TES regulation and exemptions

The *TES Guidelines* are available on the BCUC's website at bcuc.com/resources/guidelines.

Registration requirements

There are no registration requirements for persons owning or operating an exempt TES.

All other TES providers must file a registration form (Stream A) or a Certificate of Public Convenience and Necessity (CPCN) application (Stream B) with the BCUC. BCUC approval is required prior to the construction, purchase or operation of the TES.

Stream A registration forms are available on the BCUC's website at bcuc.com/resources/forms. Any questions regarding registration or application can be sent to the BCUC.

Email: TES@bcuc.com

Phone: 604.660.4700