



ORDER NUMBER
G-132-20

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

and

FortisBC Energy Inc.
Application for Approval of COVID-19 Customer Recovery Fund Deferral Account

BEFORE:

D. M. Morton, Panel Chair
A. K. Fung, QC, Commissioner
T. A. Loski, Commissioner
R. I. Mason, Commissioner

on June 2, 2020

ORDER

WHEREAS:

- A. On April 3, 2020, FortisBC Inc. (FBC) and FortisBC Energy Inc. (FEI) (collectively FortisBC), filed an application with the British Columbia Utilities Commission (BCUC) for approval, pursuant to sections 59 to 61 and 91 of the *Utilities Commission Act*, of the following for each of FBC and FEI (Application):
- (i) The discretion to offer a three-month bill payment deferral to residential customers, and to small commercial customers served under FEI Rate Schedules 2, 2B, 2U and 2X and FBC Rate Schedules 20 and certain Rate Schedule 22 customers that meet the Rate Schedule 20 size restrictions who have been directly impacted financially as a result of the COVID-19 pandemic;
 - (ii) The discretion to offer bill relief in the form of bill credits for three months, starting April 1, 2020 through to July 1, 2020, to small commercial customers served under FEI Rate Schedules 2, 2B, 2U and 2X and FBC Rate Schedule 20 that have been ordered to temporarily close their businesses to comply with public health orders due to the COVID-19 pandemic; and
 - (iii) Establishment of a rate base deferral account for the COVID-19 Customer Recovery Fund to record (a) any unrecovered revenue resulting from customers being unable to pay their bills due to the COVID-19 pandemic, which will be tracked separately by rate schedule, (b) any bill payment deferrals provided to customers due the COVID-19 pandemic and subsequent payments of those deferred amounts; and (c) any bill credits provided to customers due to the COVID-19 pandemic;
- B. FortisBC states that the Application was filed in response to the growing impact of the global COVID-19 pandemic in British Columbia and the State of Emergency declared in the province;
- C. On April 6, 2020, the BCUC issued its questions to FortisBC, received responses by FortisBC, and held a web-based Streamlined Review Process to review the Application;

- D. By Order G-81-20 dated April 7, 2020, the BCUC granted interim approval for FortisBC and established a public hearing process for the review of the Application. By Order G-97-20 dated April 24, 2020, the BCUC established the remainder of the regulatory timetable; and
- E. The BCUC has completed its public review of the Application, the BCUC questions' responses and evidence filed and the submissions of FortisBC and interveners, and makes the following determinations on the Application.

NOW THEREFORE pursuant to sections 59 to 61 of the UCA, and for the reasons attached as Appendix A to this order, the BCUC orders as follows:

1. FEI is granted final approval to:
 - a. Offer a three-month bill payment deferral commencing April 1, 2020, to residential customers and to small commercial customers served under Rate Schedules 2, 2B, 2U and 2X who have been directly impacted financially as a result of the COVID-19 pandemic;
 - b. Offer bill relief in the form of bill credits for three months, commencing April 1, 2020 through to July 1, 2020, to small commercial customers served under Rate Schedules 2, 2B, 2U and 2X that have closed their businesses due to the COVID-19 pandemic; and
 - c. Establish a rate base deferral account for the FEI COVID-19 Customer Recovery Fund to record and track separately by rate schedule (1) any unrecovered revenue resulting from customers being unable to pay their bills due to the COVID-19 pandemic; (2) any bill payment deferrals provided to customers due to the COVID-19 pandemic and subsequent payments of those deferred amounts; and (3) any bill credits provided to customers due to the COVID-19 pandemic.
2. FEI is directed to file monthly reports with the BCUC detailing the status of the relief program. The first report must be filed by June 15, 2020 and will consist of the following data to the end of May 31, 2020:
 - a. An assessment on the need for an extension or any other formal change to the customer relief measures beyond the July 1, 2020 date.
 - b. A report on the COVID-19 Customer Recovery Fund deferral account and customer relief measures. This report must include the number of customers that have been approved for each program, as well as the number of customers that have applied but have been rejected from participating in the program, in addition to reporting on the current balance in the deferral account.

DATED at the City of Vancouver, in the Province of British Columbia, this 2nd day of June 2020.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachments

FortisBC Energy Inc and FortisBC Inc.
Application for Approval of COVID-19 Customer Recovery Fund Deferral Account

REASONS FOR DECISION

1.0 Background and Introduction

On April 3, 2020, FortisBC Inc. (FBC) and FortisBC Energy Inc. (FEI) (collectively FortisBC or Company), filed an application with the British Columbia Utilities Commission (BCUC) to seek approval of customer relief measures and a COVID-19 Customer Recovery fund deferral account for each of FBC and FEI (Application).

FortisBC states that the Application was filed in response to the growing impact of the global COVID-19 pandemic in British Columbia (BC) and the State of Emergency declared in the province¹. On April 6, 2020, the BCUC issued its questions to FortisBC, received responses by FortisBC, and held a web-based Streamlined Review Process to review the Application. On April 7, 2020, the BCUC issued Orders G-80-20 and G-81-20 which granted interim approval for FortisBC and established a public hearing process for the review of the Application. On April 24, 2020, the BCUC issued Order G-92-20, which established the remainder of the regulatory timetable.

This review process included intervener registration, intervener information requests (IR) and written final and reply arguments.

Five registered interveners actively participated in this proceeding:

- British Columbia Old Age Pensioners' Organization (BCOAPO) et al.;
- British Columbia Sustainable Energy Association (BCSEA);
- Commercial Energy Consumers Association of British Columbia (the CEC);
- Movement of United Professionals (MoveUP); and
- Mr. Andy Shadrack (Shadrack).

Mr. Norman Gabana registered as an intervener in the proceeding but did not submit IRs, a final argument, or otherwise participate.

FortisBC submitted its Reply Argument on May 25, 2020.

2.0 Approvals Sought

In the Application, FortisBC requests the following for each of FEI and FBC:²

- (i) The discretion to offer a three-month bill payment deferral to residential customers, and to small commercial customers served under FEI Rate Schedules 2, 2B, 2U and 2X and FBC Rate Schedules 20 and certain Rate Schedule 22 customers that meet the Rate Schedule 20 size restrictions who have been directly impacted financially as a result of the COVID-19 pandemic;

¹ Exhibit B-1, Application, p. 1.

² Ibid., Application, p. 1.

- (ii) The discretion to offer bill relief in the form of bill credits for three months, starting April 1, 2020 through to July 1, 2020, to small commercial customers served under FEI Rate Schedules 2, 2B, 2U and 2X and FBC Rate Schedule 20 that have been ordered to temporarily close their businesses to comply with public health orders due to the COVID-19 pandemic; and
- (iii) Establishment of a rate base deferral account for the COVID-19 Customer Recovery Fund to record (a) any unrecovered revenue resulting from customers being unable to pay their bills due to the COVID-19 pandemic, which will be tracked separately by rate schedule, (b) any bill payment deferrals provided to customers due the COVID-19 pandemic and subsequent payments of those deferred amounts; and (c) any bill credits provided to customers due to the COVID-19 pandemic.

In its Argument, FortisBC submits that the following factors support its proposed relief:³

- **Degree of Certainty, timing and Impact of the Pandemic** – The program is adaptable to changing circumstances.
- **Customer Need** – The program has the flexibility to support those that need it most.
- **Overall Customer Impact** – The small commercial bill credit is likely to have a minimal impact on rates. Further, the twelve-month repayment component of the bill deferral program will help to mitigate unrecovered revenue by having repayment expectations in place at the outset of the program.
- **Financing and Liquidity Impacts** – Financing and liquidity requirements of FortisBC’s proposal can be reasonably supported.
- **Simple to administer**
- **Consistent with the relief offered by most other utilities across Canada** - Any differences are likely due to the unique circumstances of each utility.
- **Proposed approach provides relief to all rate classes with suitable differences in approach**
- **COVID-19 Deferral Account will provide Transparency**
- **Recovery of bad debt related to COVID is consistent with the Proposed Multi-Year Rate Plan** – Consistent with the treatments of costs due to uncontrollable and unforeseeable events, or exogenous factors.
- **Deferral Account will help normalize bad debt expense typically included in base O&M**

FortisBC states that if the BCUC does not grant final approval of the proposed customer relief mechanisms or modifies the relief mechanisms, then the BCUC should allow FortisBC to honour the relief it has already provided to customers. FortisBC submits it would not be practical or acceptable during this time to claw back the relief offered to customers under interim approval. Approximately one percent of residential and commercial customers have applied for relief at the time of responding to intervener IRs, demonstrating that honouring the relief offered to date would not have a material impact to other customers.⁴

³ FortisBC Final Argument, pp. 5 to 12.

⁴ Ibid., p. 4.

Positions of Interveners

The CEC, MoveUP and BCSEA

The CEC, MoveUP and BCSEA generally support FortisBC's proposal and approach. The CEC recommends that the BCUC ensure the reimbursement criteria cover other reasonable sources of relief, so that there is less incentive for double-dipping, and that the BCUC ensure a report is provided at the end date of the program to verify that the COVID-19 response can appropriately evolve as necessary.⁵

MoveUP remains concerned about the impact on members' workload that may result on July 1, and asks for two added conditions:⁶

- An application to extend the relief measures to be dealt with through a summary process, on an expedited basis; and
- No later than June 1, 2020, the applicants to report to the BCUC regarding whether an extension will be sought and, if no extension is sought, the applicant's plans for transitioning customers from bill deferrals to repayment plans.

Shadrack

Shadrack recommends the measures be amended to last until 30 days after all social distancing and other orders are lifted by BC's Medical Health Officer, since current social distancing and orders mean that customers will continue to experience the socio-economic impacts of the COVID-19 pandemic beyond July 1, 2020.⁷ Shadrack also submits that FortisBC should be ordered to make no attempt to collect non-payment of deferral accounts as bad debts until after an order is issued as to how those bad debts are to be handled by FortisBC.⁸

Shadrack further states that the Interim Orders (Order G-80-20 and Order G-81-20) currently specify which rate classes are eligible for bill deferral and bill credit, while FortisBC is in fact engaging in bill deferral/credit discussions with customers from all rate classes on an individualized case-by-case basis. He states this is outside the legal parameters of both interim orders, and therefore there is no legal basis to add these "case-by-case" monies into the deferral account as such arrangements are private ones. He concludes that the Orders should be amended to apply to all customers.⁹

Shadrack concludes his Argument by submitting that COVID-19 is an "Act of God", so the apportionment of costs should be shared equally between the shareholders and the customers.¹⁰

BCOAPO

In its Argument, BCOAPO states that a three-month date for bill relief measures is unrealistic, since British Columbians are not likely to resume business as usual for some time. BCOAPO recommends that the BCUC direct FortisBC to re-assess the need to extend the payment deferral period and the bill credit period prior to the end

⁵ CEC Final Argument, p. 2.

⁶ MoveUP Final Argument, p.1.

⁷ Mr. Shadrack Final Argument, p. 1.

⁸ Ibid., p. 2.

⁹ Ibid., p.1.

¹⁰ Mr. Shadrack Final Argument, p. 2.

of the current three-month period. The need of an extension should not be left to the discretion of FortisBC but instead the BCUC should seek submissions from all parties prior to making a determination on this issue.¹¹

BCOAPO argues that FortisBC's choice to offer preferential relief to small businesses based on energy usage is not defensible because there is no equivalency between the volume of energy use and the effects of the COVID-19 pandemic on the individual ratepayers within each class.¹² Therefore, the BCUC should direct FortisBC to apply for a residential bill credit program or justify its decision not to.¹³

BCOAPO is also concerned that the use of the word "discretion" in the wording of the order would allow FortisBC the discretion to deny payment deferral to residential or small commercial customer although they meet the prescribed eligibility criteria. In BCOAPO's view, this is inconsistent with the overall rationale for seeking approval of the program. If there are legitimate reasons why certain customers would be denied, these should be explained in the Application.

Similarly, for the bill credit option, BCOAPO submits concerns regarding different potential interpretations of "closed" for commercial customers. This could lead to commercial customers being deemed ineligible after the fact and having to repay even though they applied in good faith. If the bill credit program is also available to small commercial customers that are able to maintain some level of minimum business operations, then this results in an unfair and unduly preferential benefit to one rate class over another. As a result, the Application form should make specific reference to the business being closed in order to comply with a public health order. Information disseminated via bill inserts, the media and the application process should also more clearly set out how "closed" is defined.¹⁴

BCOAPO also submits that the BCUC should direct FortisBC to communicate its willingness to be flexible in terms of the repayment schedule beyond the 12-month repayment period via bill inserts in multiple languages.¹⁵

BCOAPO expresses concern with the bill credit program in that FortisBC has not defined what it considers as "limited or minimal consumption" and that this may lead to small commercial customers being deemed ineligible after they have received bill credits. BCOAPO states that the BCUC should require FortisBC to confirm whether and for what period the government public health orders for closure were applicable to the commercial customer's business.¹⁶

BCOAPO does not object to the creation of the COVID-19 Customer Recovery Fund Deferral Account, but states that the basis for carrying charges approved for the flow through accounts in the Multi-year Rate Plan (MRP) should be applied to any proposals regarding the carrying costs for this account. BCOAPO concludes by stating that "the BCUC should direct FortisBC to, as part of its annual reporting and annual rate review processes, clearly demonstrate that the flow-through accounts do not include the impact of any revenue variances attributable to the Bill Credit Program."¹⁷

FortisBC Reply Argument

¹¹ BCOAPO Final Argument, p. 21.

¹² Ibid., p. 5.

¹³ Ibid., p. 22.

¹⁴ Ibid., pp 11 to 12.

¹⁵ Ibid., p. 9.

¹⁶ Ibid., pp 13 to 14.

¹⁷ BCOAPO Final Argument, p. 19.

In its Reply Argument, FortisBC addresses its discretion to extend the 12-month repayment plan by confirming that it is not seeking a final order that mentions July 1, 2020 as a start date for the 12-month repayment plan. FortisBC submits that although customers that have been granted the three-month deferral will have agreed to enter a 12-month repayment plan beginning July 1, if customers are unable to pay, FortisBC will work with them in the ordinary course to find a workable repayment plan. FortisBC also states that the application form for customer relief already specifies that adjustments to the repayment period may be made.¹⁸ FortisBC also states it is regularly communicating with customers regarding bill payment issues that may arise, and that no further direction is needed.¹⁹

With regards to the three-month end date, FortisBC submits that it will be assessing the end-date, and balancing the need for extension against the possibility that it may become a burden for customers in the future.²⁰ FortisBC states that only it is in the best position to determine whether further structured relief is required for its customers. It can commit to applying to the BCUC by June 15, 2020 if necessary to implement any changes, and agrees that any application to extend the relief should be dealt with on an expedited basis. FortisBC also proposes to report on the deferral account and customer relief measures in the Annual review, which are expected to be filed in August or September 2020, and therefore states that no earlier reporting is required.²¹

With regards to BCOAPO's concerns about the bill credit program, FortisBC does not agree the meaning of "closed" is ambiguous because if a business is operating, at all, then by definition it is not closed. FortisBC also states that bill credits have not been offered to residential customers because residential customers continue to use the services provided, while small businesses that are closed do not. Further, FortisBC reiterated that the provision of bill credits to residential customers now implies a predetermination that residential customers will not be able to pay their bills either now or in the future. FortisBC claims it is currently too early to make this determination. Additionally, FortisBC argues that its proposed approach provides a reasonable balance of immediate relief with the potential opportunity for future targeted recovery programs, thus minimizing the overall financial impacts to all customers.²²

FortisBC also responds to BCOAPO's concern about FortisBC having the discretion to deny relief, stating it has requested discretion to offer the deferral and bill credits, not discretion to arbitrarily deny relief to qualifying customers. It states it would not benefit in any way from denying relief to qualifying customers.²³

In response to the CEC, FortisBC states that reimbursement from customers who are covered by other sources of government relief or insurance is not necessary or practical. Attempting to do so would significantly add to the complexity, costs, and burden of FortisBC's relief measures.²⁴

FortisBC submits that the disposition of balances in the Deferral Account should not be determined in this proceeding, as there is currently not enough information to make an informed decision.²⁵

With respect to concerns raised by Mr. Shadrack, FortisBC states that it has discretion under the General Terms and Conditions of its tariff to offer deferrals and repayment plans on a case-by-case basis, and therefore this relief is within the legal parameters of the Interim Orders (Order G-80-20 and Order G-81-20). Additionally,

¹⁸ FortisBC Reply Argument, p. 2.

¹⁹ Ibid., p. 11.

²⁰ Ibid., p. 3.

²¹ Ibid., p. 4.

²² Ibid., pp. 5 to 6.

²³ FortisBC Reply Argument, p. 11.

²⁴ Ibid., p. 12.

²⁵ FortisBC Reply Argument, p 10

there is no need for a province-wide framework, as the BCUC is already hearing and determining applications from multiple utilities.

Panel Determination

The Panel notes that in general, the proposed customer relief measures and COVID-19 Customer Recovery Fund deferral accounts were necessary and supported by interveners. Intervener recommendations primarily are focused on the length of the customer relief and the potential process for its extension. However, the Panel notes that many of the arguments made are currently based on speculation, given the unknown impact and timing of the COVID-19 pandemic. Accordingly, the Panel is unable to place any significant weight on these arguments.

With regards to BCOAPO's proposal that FortisBC should come back with either an application for a residential bill credit program or an economic case justifying its decision not to do so, the Panel is satisfied with FortisBC's explanation that the current approach provides a reasonable balance of immediate relief with the potential opportunity for future targeted recovery programs, thus minimizing the overall financial impacts to all customers. Thus, the Panel rejects BCOAPO's proposal that FortisBC should apply for a residential bill credit program, or submit an economic case justifying its decision not to do so. The Panel also agrees with FortisBC that the program is currently well communicated to customers, and the current communication methods are sufficient.

With respect to the specific concerns raised by Shadrack, the Panel notes that FortisBC has the discretion under its General Terms and Conditions of its tariff to offer deferrals and repayment plans on a case-by-case basis. The Panel also agrees with FortisBC that most of the FBC meter reading is conducted through automatic meter readings, and that if customers are concerned about their meter reading, they can contact FortisBC's customer service to request an adjustment based on the actual meter reading.

Finally, the Panel agrees with FortisBC that there is not enough information in this proceeding to make a determination on the disposition of deferral balances given the unprecedented nature of the Covid-19 pandemic. This issue should be the subject of a future proceeding.

For the foregoing reasons, **the Panel approves FortisBC's customer relief measures and the establishment of a COVID-19 Customer Recovery fund deferral account for FEI on a final and permanent basis, and as applied for by FortisBC.** Further, **the Panel directs FortisBC to provide monthly reports to the BCUC on the status of the customer relief measures and COVID-19 Customer Recovery fund deferral account.** These reports shall include (but are not limited to):

- An assessment on the need for an extension or any other formal change to the customer relief measures beyond the July 1, 2020 date; and
- A report on the COVID-19 Customer Recovery Fund deferral account and customer relief measures. This report must include the number of customers that have been approved for each program, as well as the number of customers that have applied but have been rejected from participating in the program, in addition to reporting on the current balance in the deferral account.

The first monthly report will be due on June 15, 2020 (for results up to and including the end of May), with subsequent reports due on the 15th day of each month.