



ORDER NUMBER
G-131-20

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

and

Andy Shadrack

Application for Reconsideration in the matter of FortisBC Energy Inc. and FortisBC Inc.
Application for Approval of COVID-19 Customer Recovery Fund Deferral Account
Request to Reconsider Panel Decision of May 15, 2020

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* (UCA), for a number of rate relief measures for each of FBC and FEI (Application);
- B. On April 6, 2020, the BCUC issued information requests (IRs) to FortisBC, received responses by FortisBC, and held a web-based Streamlined Review Process to review the Application. By Order G-80-20 and 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 and by Order G-97-20 dated April 24, 2020, the BCUC established the remainder of the regulatory timetable;
- C. On April 27, 2020, Mr. Andy Shadrack (Shadrack) filed a letter requesting an additional on-line/teleconference or negotiated settlement process to review the Application;
- D. By letter dated May 15, 2020, the BCUC declined Shadrack's proposal for additional process, and stated it considered the regulatory process already established in Order G-97-20 to be sufficient to address the scope of this Application;
- E. On May 21, 2020, Shadrack filed a Request to Reconsider (Shadrack Reconsideration Application) the Panel Decision of May 15, 2020, requesting that the need to extend the program beyond July 1, 2020 be opened up for further discussion, as well as opening up a second discussion on which classes and customers are eligible to access an extended bill deferral and bill credit program; and

F. The BCUC has reviewed the Shadrack Reconsideration Application and considers that a summary dismissal is warranted.

NOW THEREFORE, pursuant to section 99 of the UCA, for the reasons attached as Appendix A to this order, the BCUC dismisses the Shadrack Reconsideration Application.

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

Attachment

Mr. Andy Shadrack
Application for Reconsideration in the matter of the Fortis 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), 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 and the State of Emergency declared in the province.¹ On April 6, 2020, the BCUC issued information requests (IRs) 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 granting interim approval for FortisBC and establishing a public hearing process for the review of the Application.

On April 24, 2020, the BCUC issued Order G-97-20, establishing the remainder of the regulatory timetable. On April 27, 2020, Mr. Andy Shadrack (Shadrack) filed a proposal for an additional on-line/teleconference or negotiated settlement process to review the Application.²

On May 15, 2020, the BCUC declined Shadrack's proposal for additional process, and stated it considered the regulatory process already established in Order G-97-20 to be sufficient to address the scope of this Application (May 15 Decision).³

On May 21, 2020, Shadrack filed an application seeking reconsideration of (Shadrack Reconsideration Application) the BCUC's May 15 Decision, requesting that the need to extend the program beyond July 1, 2020 be opened up for further discussion, as well as opening up a second discussion on which classes and customers are eligible to access an extended bill deferral and bill credit program.⁴

2.0 Applicable Law and the BCUC Rules of Practice and Procedure Regarding Reconsideration Applications

Section 99 of the UCA provides:

The commission, on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation.⁵

¹ Exhibit B-1, p. 1.

² Exhibit C6-2.

³ Exhibit A-6.

⁴ Exhibit C6-3.

⁵ *Utilities Commission Act*, RSBC 1996, c. 473, s.99.

The BCUC Rules of Practice and Procedure provide the following:

An application for reconsideration of a decision must contain a concise statement of the grounds for reconsideration, which must include one or more of the following:

- a) the BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision;
- b) facts material to the decision that existed prior to the issuance of the decision were not placed into evidence in the original proceeding and could not have been discovered by reasonable diligence at the time of the original proceeding;
- c) new fact(s) have arisen since the issuance of the decision which have a material bearing on the decision;
- d) a change in circumstances material to the decision has occurred since the issuance of the decision; or
- e) where there is otherwise just cause.⁶

The BCUC Rules of Practice and Procedure also provide the following:

Upon the filing of an application for reconsideration of a decision, the BCUC may, without further process, summarily dismiss the application, in whole or in part, on the basis that it fails to establish on its face, any reasonable grounds for reconsideration of the decision.⁷

3.0 Shadrack Reconsideration Application

Shadrack submits that the following issues warrant reconsideration of the May 15 Decision:

1. FortisBC Inc. and FortisBC Energy Inc. bill deferral program be extended beyond July 1, 2020; and
2. The determination of classes and customers eligible to access an extended bill deferral and bill credit program should be reviewed.

Shadrack submits the basis upon which to reconsider the May 15 Decision are comments from Dr. Bonnie Henry made in a CBC Radio interview with Matt Galloway, host of the radio program, *The Current*, on May 21, 2020.

4.0 Panel Determination

The Panel has reviewed the materials on the record and finds that the Shadrack Reconsideration Application does not satisfy Rule 26.05 of BCUC's Rules of Practice and Procedure. Specifically, the Shadrack submission has not persuaded the Panel that an error of fact, law, or jurisdiction has been made. Nor has Shadrack's submission provided new facts that have a material bearing on the May 15 Decision. Although, in his submissions, Shadrack references comments attributed to Dr. Bonnie Henry published in an article dated May 21, 2020, by the CBC and an interview by CBC's Matt Galloway, host of CBC Radio's *The Current*, with Dr. Bonnie Henry, regarding a potential extension of the pandemic, this information was readily available prior to the May 15 Decision.

⁶ BCUC Order G-15-19, Rules of Practice and Procedure, Part V, s. 26.05.

⁷ *Ibid.*, s. 28.01.

Further, Shadrack⁸ and other interveners⁹ made submissions in Final rgument regarding their concerns with the length of the pandemic and its effect on the proposed relief being sought by FortisBC in the Application.

Shadrack also seeks a reconsideration of the May 15 Decision on the basis that further discussion is required on which classes and customers are eligible to access an extended bill deferral and bill credit program based upon a potential extension of the COVID-19 pandemic. Shadrack's final argument, which was filed a day prior to the Shadrack Reconsideration Application addresses this point.¹⁰

Although Shadrack disagrees with the May 15 Decision, he has failed to establish any ground for reconsideration of that Decision in accordance with the UCA and the BCUC Rules of Practice and Procedure. A reconsideration is not an opportunity to re-argue or supplement previous arguments that have already been submitted.

For these reasons, the Panel finds the Shadrack Reconsideration Application fails to establish, on its face, any reasonable ground for the BCUC May 15, 2020, Decision to be reconsidered, and therefore dismisses the Shadrack Reconsideration Application.

⁸ Shadrack Final Argument, pp. 2-3.

⁹ British Columbia Old Age Pensioners' Organization et al. Final Argument, pp. 7-9.

¹⁰ Shadrack Final Argument, pp. 3-4.