



**ORDER NUMBER
G-213-20**

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 August 12, 2020

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 a condo strata with 68 units. The Westhills TES is split across three phases of development: Lakeview Ridge, Glenvale and Paradise Falls;
- 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. By Order G-318-19, dated December 9, 2019, later amended by letter dated February 7, 2020, the BCUC established a written hearing and a regulatory timetable to review the Application. The Regulatory Timetable included intervener registration, one round of information requests (IRs) and further process to be determined;
- H. British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Tenant Resource and Advisory Centre, and Together Against Poverty Society (BCOAPO) registered as an intervener in the proceeding;
- I. By Order G-34-20, dated February 27, 2020, later amended by letter dated April 3, 2020, the BCUC established a further regulatory timetable, including a second round of IRs, final arguments from the parties and reply argument from SSL. By letter dated April 15, 2020, the BCUC issued an amended regulatory timetable, changing the dates for SSL final and reply arguments and intervener final argument.
- J. On April 23, 2020, SSL filed its final argument and on May 7, 2020, BCOAPO filed its final argument. SSL filed its reply argument on May 21, 2020; and
- K. The BCUC has reviewed the Application, the evidence and the arguments in this proceeding and finds that the following determinations are warranted.

NOW THEREFORE for the reasons attached as Appendix A to this order, the BCUC orders as follows:

- 1. The Westhills TES serving Lakeview Ridge and Glenvale are a Stream A TES and are exempt from sections 44.1, 45 and 59 to 61 of the UCA.
- 2. The Westhills TES extension serving Paradise Falls is a Stream B TES.
- 3. Pursuant to sections 45 and 46 of the UCA, the BCUC grants a certificate of public convenience and necessity (CPCN) to SSL for the Paradise Falls TES.
- 4. The Paradise Falls TES rates and tariffs are pegged to the Lakeview Ridge and Glenvale TES rates and tariffs, provided that:
 - i. The Lakeview Ridge and Glenvale TES rates and tariffs continue to be set by the City of Langford; and
 - ii. The rates and tariffs charged to the Paradise Falls TES customers are the same as the rates and tariffs charged to the Lakeview Ridge and Glenvale customers receiving the same service.
- 5. SSL is directed to file rates and tariff pages for approval by the BCUC for all rates and tariffs charged to Paradise Falls customers, within 30 days from the date of issuance of this order.
- 6. If SSL:
 - i. Amends the rates and tariffs charged for Paradise Falls to mirror any amendments made to the rates and tariffs charged to Lakeview Ridge and Glenvale; or

- ii. Amends the rates and tariffs charged for Paradise Falls so that they no longer mirror the rates and tariffs charged to Lakeview Ridge and Paradise Falls,

SSL must then file its respective Paradise Falls rates and tariff pages with the BCUC at least 10 days prior to making any adjustments. Supporting documentation for the rate and tariff adjustments for Lakeview Ridge and Glenvale must be included in order to be compliant with this directive.

7. If SSL changes the method by which the rates and tariffs for the Westhills TES are set, such that the City of Langford no longer sets the rates and tariffs, SSL must:
 - i. Notify the BCUC in writing within 30 days of the change; and
 - ii. File a rate application, pursuant to sections 59 to 61 of the UCA, within 90 days of the change.
8. SSL is directed to update its website, billing documents and any informational materials provided to its customers to clearly state that SSL is a public utility under the UCA and is regulated by the BCUC within 30 days of this order.
9. BCUC will hear complaints from both Lakeview Ridge and Glenvale (Stream A) TES and Paradise Falls (Stream B) TES customers in accordance with the Stream B complaints process described in the TES Guidelines.
10. SSL must file an Annual Report within four months of its fiscal year end for the entire Westhills TES (Lakeview Ridge, Glenvale and Paradise Falls). The Annual Report is to be prepared in accordance with the BCUC's Annual Reporting Requirements as set out in BCUC Letters L-36-94 and L-45-15, and the BCUC's Annual Report Template for Small Utilities, attached as Appendix B to this order. In addition, in its Annual Report, SSL is directed to include the following information for Lakeview Ridge, Glenvale and Paradise Falls, separated by TES:
 - i. Number of customers;
 - ii. Energy delivered (GJ) according to service provided (heating, cooling, domestic hot water or other, as applicable);
 - iii. Total energy delivered (GJ); and
 - iv. Total energy sales (\$).
11. SSL is directed to file a CPCN and rate application for any future extensions to the Westhills TES.

DATED at the City of Vancouver, in the Province of British Columbia, this 12th day of August 2020.

BY ORDER

Original Signed By:

D. M. Morton
Commissioner

Attachments

Sustainable Services Ltd.

Stream A Registration for the Westhills Thermal Energy System

Reasons for Decision

August 12, 2020

Before:

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

Table of Contents

	Page no.
Executive Summary.....	i
1.0 Introduction	1
1.1 Background.....	1
1.2 Application & Approval Sought	1
1.3 Legislative Framework.....	1
1.3.1 Thermal Energy Systems	1
1.3.2 Stream A TES	2
1.3.3 Stream B TES.....	3
1.3.4 Certificate of Public Convenience and Necessity	3
1.3.5 Setting of Rates	3
2.0 Regulatory Process.....	3
3.0 Westhills Thermal Energy System	4
3.1 Lakeview Ridge and Glenvale TES	5
3.2 Paradise Falls TES	6
4.0 Rate Setting	8
5.0 Complaints	10
5.1 Complaint Process for Stream A TES Customers.....	10
5.2 Complaint Process for Stream B TES Customers	11
6.0 Reporting Requirements	11
7.0 Extensions	12
7.1 Extensions to Stream A and Stream B TES	13
8.0 Panel's Concerns.....	14
8.1 Compliance with the UCA.....	14
8.2 Stream A Application Regulatory Process	14

Executive Summary

Sustainable Services Ltd. (SSL) is a public utility which owns and operates the Westhills Thermal Energy System (Westhills TES) located in Langford, British Columbia. The Westhills TES is a geo-exchange district energy system that provides SSL's customers with heating, cooling and domestic hot water services.

On September 4, 2018, SSL filed an application with the British Columbia Utilities Commission (BCUC) to register the Westhills TES as a Stream A Thermal Energy System (Application) in accordance with the BCUC Thermal Energy Systems Regulatory Framework Guidelines (TES Guidelines). The Westhills TES has not previously been issued a Certificate of Public Convenience and Necessity (CPCN) by the BCUC.

The TES Guidelines provide two categories of Stream A TES:

- Any On-Site TES with the characteristics described in Table 1 of the TES Guidelines; and
- Any TES that does not meet the requirements of an Exempt TES¹ or any TES without a CPCN or a CPCN exemption that has an in-service date prior to August 28, 2014.

A person who owns or operates a Stream A TES is exempt from sections 44.1, 45 and 59 to 61 of the *Utilities Commission Act* (UCA) with respect to long-term resource and conservation planning, CPCN, and the regulation of rates, respectively. A TES that does not meet the requirements for an exemption as either a Micro TES or a Strata Corporation TES and does not meet the requirements of a Stream A TES, is by default considered a Stream B TES. All Stream B TES applicants must file a CPCN and rates application with the BCUC. Section 2.3.5 of the TES Guidelines states that a CPCN application may also be required if an extension to a Stream A TES results in service to customers on a site different to the site on which the TES is located.

The Westhills TES commenced providing service to Lakeview Ridge in early 2010, and Glenvale in March 2011. The final phase, Paradise Falls, was completed in 2018. SSL submits that the Westhills TES is a Stream A TES, as it has an in-service date prior to August 28, 2014 and has not previously been issued a CPCN.

The Panel finds that the Westhills TES serving Lakeview Ridge and Glenvale was in service prior to August 28, 2014 and is therefore deemed a Stream A TES. The Panel finds that Paradise Falls is an extension to the Stream A TES, requires a CPCN, and is a Stream B TES. The Panel grants a CPCN to SSL for the Paradise Falls TES.

The rates for the Lakeview Ridge and Glenvale TES are exempt from BCUC rate regulation, however the rates for the Paradise Falls TES are subject to BCUC regulation. The Paradise Falls TES rates and tariffs are to be pegged to the Lakeview Ridge and Glenvale TES rates, provided that they continue to be set by the City of Langford and the rates and tariffs charged to the Paradise Falls TES customers are the same as the rates and tariffs being charged to the Lakeview Ridge and Glenvale customers receiving the same service. Any changes to the method by which rates and tariffs are set, or to the rates and tariffs charged to Paradise Falls customers, are subject to approval by the BCUC.

Given the unique circumstances of the Westhills TES, the BCUC will hear complaints from both Lakeview Ridge and Glenvale (Stream A) TES customers and Paradise Falls (Stream B) TES customers in accordance with the Stream B complaints process described in the TES Guidelines.

¹ Micro TES or a Strata Corporation TES.

In the Decision, the Panel notes that the time required to review the Application has been unduly lengthy, with over 20 months having elapsed from the date of Application to the filing of SSL's reply. SSL's responses to the first round of staff questions took over six months, with responses to the second and third rounds of staff questions taking eight and three weeks respectively. Further, SSL filed extension requests for each step of the regulatory process, including the filing of its confidentiality request, providing public notice, responses to information requests and the filing of final and reply arguments. SSL's failure to respect the regulatory process increases the regulatory burden and is a poor use of the BCUC's resources. This results in increased costs to SSL and ultimately these costs are borne by SSL's customers.

1.0 Introduction

1.1 Background

On June 5, 2018, by Order G-104-18, Sustainable Services Ltd. (SSL) was deemed a public utility by the British Columbia Utilities Commission (BCUC) as defined in section 1 of the *Utilities Commission Act* (UCA). SSL was directed to file with the BCUC, within 90 days of Order G-104-18 being issued, an application seeking the required regulatory approvals for its rates and operating system.

1.2 Application & Approval Sought

On September 4, 2018, SSL filed with the BCUC an application to register the Westhills Thermal Energy System (Westhills TES) as a Stream A Thermal Energy System (Application) in accordance with the BCUC Thermal Energy Systems Regulatory Framework Guidelines² (TES Guidelines).

Westhills TES

The Westhills TES is a geo-exchange district energy system comprising of 212 vertically drilled wells, with water-to-water heat pumps and heat exchangers, located at the Primary Energy Centre (PEC)³. 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.⁴ The PEC is located at 3011 Langford Lake Road, Langford, British Columbia, and a network of pipes distributes the thermal energy throughout the Westhills community from the PEC.⁵ End-users connect to the distribution network using in-building water-source heat pumps and/or in-building hot water tanks. These systems provide customers with heating, cooling and domestic hot water, depending on the in-building system design.⁶

The Westhills TES serves 409 single-family homes, 4 town home strata customers with a combined total of 32 units, and a condominium strata building with 68 units.⁷

The Westhills TES has not previously been issued a Certificate of Public Convenience and Necessity (CPCN).⁸

1.3 Legislative Framework

1.3.1 Thermal Energy Systems

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.

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

² Order G-27-15, dated March 2, 2015, Appendix A (TES Guidelines).

³ Exhibit B-1, p. 4.

⁴ Exhibit B-1, p. 4.

⁵ Exhibit B-1, p. 4; Exhibit B-2, staff question 1.

⁶ Exhibit B-1, p. 4; Exhibit B-2, staff question 9.

⁷ Exhibit B-2, staff question 8.

⁸ SSL Final Argument, p. 3.

system. A TES may include plant, equipment, distribution piping, apparatus, property and facilities employed by or in connection with the provision of thermal energy services.⁹

Under the UCA, a TES Provider¹⁰ is considered a public utility. However, by Orders in Council 399/14, 400/14 and 401/14 and BCUC Orders G-119-14, G-120-14 and G-121-14, certain TES Providers are exempt from certain provisions of the UCA. Together, these exemptions provide a scaled approach to the regulation of TES.

There are four categories of TES: Micro¹¹, Strata Corporation¹², Stream A and Stream B. Of relevance to this Application are Stream A and Stream B TES.

1.3.2 Stream A TES

The TES Guidelines state that the following types of TES are considered by the BCUC to be a Stream A TES:

- Any On-Site TES with the following characteristics:¹³
 1. The thermal generation and distribution equipment and facilities are located on the same Site as the thermal load;
 2. The TES is designed to meet the energy demands of a specific Site (one or more customers or buildings).
 3. The TES serves one or more customers or buildings on a single Site but there are no shared or common thermal generation or distribution facilities beyond the boundaries of a single Site.
 4. There is no, or very limited, use of public rights of way or public streets.
 5. The TES provides thermal energy to an existing building(s) or to a new building(s) planned or approved under a municipal building permit process.
 6. The TES has an AACE Class 3 capital cost estimate of equal to or greater than \$500,000 and less than \$15 million; and
- Any TES that does not meet the requirements of an Exempt TES¹⁴ or any TES without a CPCN or a CPCN exemption that has an in-service date prior to August 28, 2014.¹⁵

An “On-Site” TES consists of thermal energy generation and distribution equipment and fixtures that are physically located on the same site as the thermal load. It is designed to meet the energy demands of one or more customers on that site and does not share any generation or distribution facilities beyond the bounds of the site.¹⁶

All TES that were in service before August 28, 2014, without a CPCN and/or where no previous exemption was granted, are deemed to be Stream A TES and require registration upon issuance of the TES Guidelines.¹⁷

Pursuant to Order G 121-14, a person who owns or operates a Stream A TES is exempt from the following sections of the UCA, for that specific system:

⁹ TES Guidelines Section 1.2.

¹⁰ As defined in Section 1.3 of the TES Guidelines.

¹¹ Micro TES is a TES with an Initial Capital Cost that is less than \$500,000; TES Guidelines, Section 2.2.1, p. 11.

¹² A Strata Corporation TES is a TES owned by a Strata Corporation that exclusively serves that Strata Corporation’s Strata unit owner; TES Guidelines, Section 2.2.2, p. 11.

¹³ TES Guidelines, Section 2.3.1, p. 12.

¹⁴ Micro TES or Strata Corporation TES.

¹⁵ TES Guidelines, Section 2.3.1, p. 12.

¹⁶ TES Guidelines, Section 2.1, p. 8.

¹⁷ TES Guidelines, Section 2.1, p. 8.

- 44.1 Long-term resource and conservation planning;
- 45 Certificate of public convenience and necessity (CPCN); and
- 59–61 Regulation of rates.

1.3.3 Stream B TES

A TES that does not meet the requirements for an exemption as either a Micro TES or a Strata Corporation TES, and does not meet the Stream A characteristics, is by default considered a Stream B TES.¹⁸

All Stream B TES applicants must file a CPCN and rates application with the BCUC. The CPCN and rates application may be filed simultaneously, or the rates application may be filed at a later date, but not later than a customer is charged a fee for service. In accordance with section 45 of the UCA, construction of the TES cannot start until a CPCN is issued by the BCUC. Approval of Stream B TES rates is governed by sections 59-61 of the UCA.¹⁹

Upon determining that the TES is to be considered under Stream B regulation, it is the BCUC's sole discretion to determine the process by which an application will be reviewed.²⁰

1.3.4 Certificate of Public Convenience and Necessity

Section 45(1) of the UCA stipulates that, except as otherwise provided, after September 11, 1980, a person must not begin the construction or operation of a public utility plant or system, or an extension of either, without first obtaining from the BCUC a certificate that public convenience and necessity require, or will require, the construction or operation of the plant or system.

Section 46(3.1) of the UCA stipulates the items that the BCUC must consider when deciding whether to issue a CPCN.

1.3.5 Setting of Rates

Sections 59 to 61 of the UCA pertain to discrimination in rates, setting of rates and rates schedules to be filed with the BCUC, respectively. These sections require the BCUC to set rates that are not unjust, unreasonable, or unduly discriminatory in respect of services provided by regulated utilities.

2.0 Regulatory Process

The regulatory process involved three rounds of staff questions, two rounds of information requests (IRs), final arguments and reply argument.

The BCUC issued staff questions to SSL on October 4, 2018, April 9, 2019 and June 11, 2019. SSL provided responses to the first round of staff questions on February 4, 2019, and responses to the second and third rounds were filed on June 5 and July 5, 2019, respectively.

The BCUC notified SSL on October 17, 2019, that the Application was to be posted to the BCUC's website. SSL was requested to file a request for confidentiality for any information it sought to keep confidential by

¹⁸ TES Guidelines, Section 2.4, p. 18.

¹⁹ TES Guidelines, Section 2.4, p. 22.

²⁰ TES Guidelines, Section 2.4, p. 18.

October 22, 2019. SSL requested an additional seven days to file its submission, filing its request on October 29, 2019. Following feedback from BCUC staff, SSL refiled its confidentiality request on November 14, 2019.

By Order G-318-19, dated December 9, 2019, later amended by letter dated February 7, 2020, in response to an extension request filed by SSL, the BCUC established a written hearing and a regulatory timetable to review the Application. The Regulatory Timetable included intervener registration, one round of IRs and further process to be determined.

By Order G-34-20, dated February 27, 2020, later amended by letter dated April 3, 2020, in response to an extension request filed by SSL, the BCUC established a further regulatory timetable, including a second round of IRs, final arguments from the parties and reply argument from SSL. In response to an extension request filed by SSL, the BCUC issued an amended regulatory timetable by letter dated April 15, 2020, extending the dates for SSL and intervener final arguments and SSL reply argument to April 23, May 7 and May 21, 2020, respectively.

The British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Tenant Resource and Advisory Centre, and Together Against Poverty Society (BCOAPO) registered as an intervener in the proceeding. In addition, there was one interested party and two letters of comment were submitted to the BCUC.

3.0 Westhills Thermal Energy System

Construction of the Westhills TES began in 2008 and the build-out of the TES was phased with the construction of the Westhills community.²¹ The total capital cost of the Westhills TES is \$11.5 million²² and the TES currently serves three phases of the Westhills community, each approved under a separate municipal permit:

- **Phase 1 – Lakeview Ridge**
 - 124 single-family homes
- **Phase 2 – Glenvale**
 - 151 single-family homes;
 - 1 town home strata with 7 units;
 - 1 town home strata with 12 units; and
 - 1 multi-family strata with 68 units.
- **Phase 3 – Paradise Falls**
 - 134 single-family homes;
 - 1 town home strata with 8 units; and
 - 1 town home strata with 5 units.²³

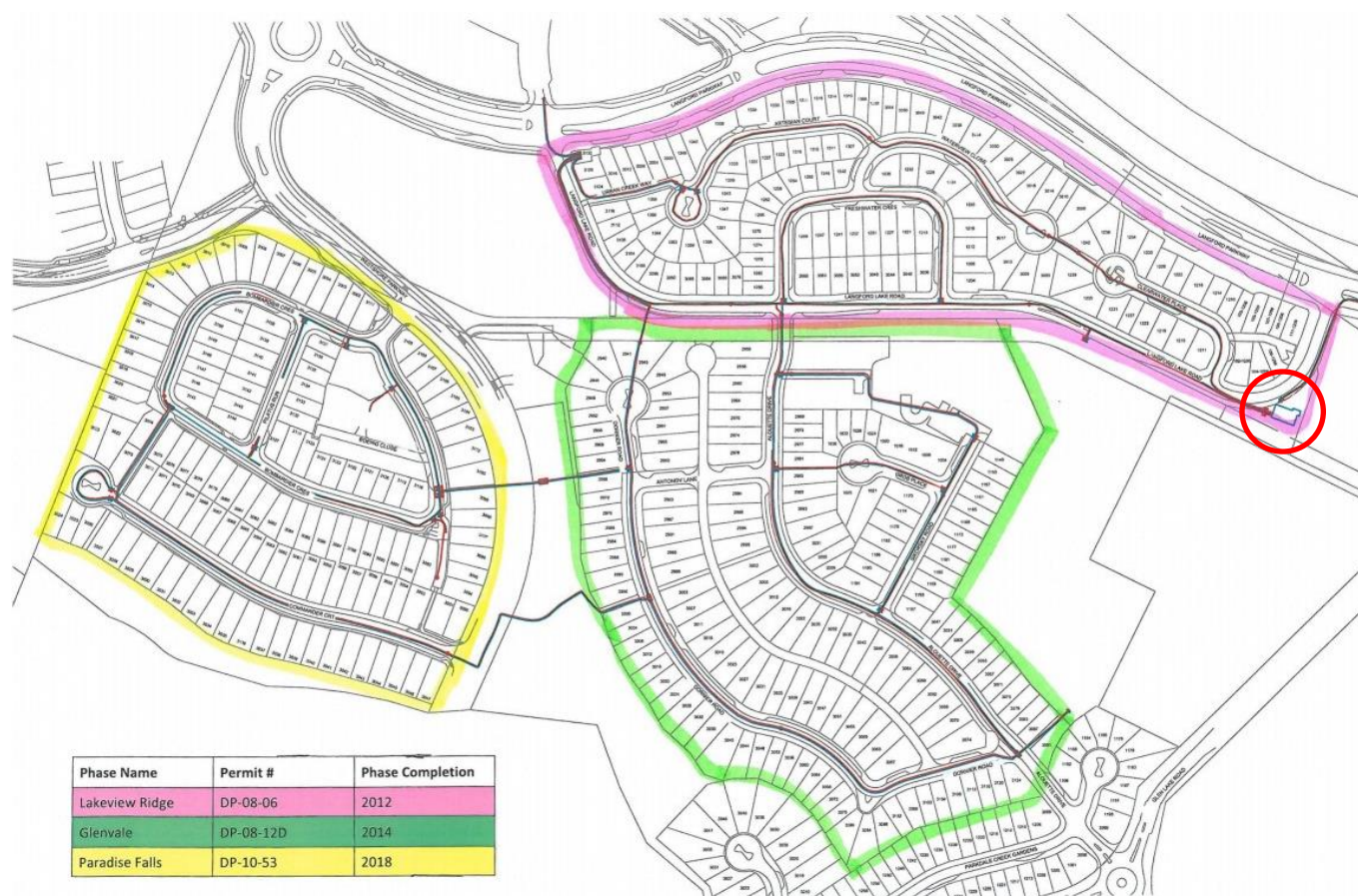
The site plan provided in Figure 1 illustrates the locations of Lakeview Ridge (pink), Glenvale (green) and Paradise Falls (yellow). The PEC is located at the south east corner of Lakeview Ridge (red).

²¹ Exhibit B-1, p. 3.

²² Exhibit B-2, BCUC staff question 18.

²³ Exhibit B-2, BCUC staff question 8.

Figure 1: Westhills Site Plan - Lakeview Ridge, Glenvale and Paradise Falls²⁴



The PEC and the geo-exchange bore fields were commissioned and first put into service in April 2010.²⁵ In 2011, SSL constructed the main building for the transfer station at 3132 Langford Lake Road and connection to the Westhills Arena commenced.²⁶

In 2012, SSL completed the connection to the Westhills Arena and installed and commissioned a new boiler at the PEC.²⁷ In 2014, SSL installed a ground source heat pump at the PEC and undertook minor upgrades to the transfer station, including the installation of two pumps and associated electrical/controls systems. In 2016, SSL installed an ammonia heat pump at the PEC.²⁸

3.1 Lakeview Ridge and Glenvale TES

SSL states that the Westhills TES commenced providing service to Phase 1 (Lakeview Ridge), in early 2010.²⁹

²⁴ Exhibit B-2, BCUC staff question 8, Appendix A.

²⁵ Exhibit B-4, BCUC staff question 29.

²⁶ Exhibit B-9, BCUC IR 2.7; Exhibit B-13, BCUC IR 4.2.2.

²⁷ Exhibit B-9, BCUC IR 2.7; Exhibit B-13, BCUC IR 4.1.

²⁸ Exhibit B-13, BCUC IR 4.1, 4.2.2.

²⁹ Exhibit B-1, p. 3.

SSL states that the distribution infrastructure servicing Phase 2 (Glenvale), was first put into service on March 10, 2011.³⁰

Section 2.3.1 of the TES Guidelines states that any TES that does not meet the requirements of an exempt TES³¹ or any TES without a CPCN or a CPCN exemption that has an in-service date prior to August 28, 2014 are considered by the BCUC to be a Stream A TES.³²

Position of the Parties

BCOAPO

BCOAPO submits that “the evidence filed is clear a portion of the subject TES, specifically phases one and two of the TES (Lakeville [sic] Ridge and Glenvale), were in service prior to August 28, 2014, but that the third phase (Paradise Falls) was clearly not in service until 2018.”³³

BCOAPO also states that “Given the clear direction in the TES Guidelines, BCOAPO submits that yes, the part of the TES that was in-service before August 28, 2014 should be deemed as a Stream A TES.”³⁴

SSL

SSL states that “SSL's district energy system is a Stream A TES because it has an in-service date prior to August 28, 2014 and has not previously been issued a CPCN, full stop.”³⁵

Panel Determination

The Westhills TES is currently in-service, and a CPCN has not been issued for either the construction or operation of the system. Connection of the Westhills TES to Lakeview Ridge was commenced in early 2010 and SSL commenced providing service to Glenvale in 2011. The total capital cost of the Westhills TES is \$11.5 million.

The Panel finds that the Westhills TES serving Lakeview Ridge and Glenvale was in service prior to August 28, 2014 and is therefore deemed a Stream A TES.³⁶ Accordingly, the Panel exempts SSL from sections 44.1, 45 and 59 to 61 of the UCA with respect to the Westhills TES serving Lakeview Ridge and Glenvale.

3.2 Paradise Falls TES

The Westhills TES connection to Paradise Falls was completed in 2018.³⁷ As shown in Figure 1, Paradise Falls is located on a different site to the PEC, Lakeview Ridge and Glenvale and has a separate municipal permit number.³⁸

Section 2.3.5 of the TES Guidelines states that a CPCN application may also be required if an extension results in service to customers on a site different to the site on which the TES is located.

³⁰ Exhibit B-4, BCUC staff question 29.

³¹ Micro TES or Strata Corporation TES.

³² TES Guidelines, Section 2.3.1, p. 12.

³³ BCOAPO Final Argument p.3.

³⁴ BCOAPO Final Argument p.3.

³⁵ SSL Final Argument, p. 3.

³⁶ Section 2.3.1 TES Guidelines.

³⁷ Exhibit B-2, staff question 8.

³⁸ Exhibit B-2, staff question 8; Appendix A.

Position of the Parties

BCOAPO

In its final argument, BCOAPO made the following statement:

...the third phase of the TES (Paradise Falls) was not in service until 2018. Per Exhibit B-13 BCUC IR 2.4.1, SSL performed some “noteworthy upgrades” to the Primary Energy Centre subsequent to August 28, 2014.

In BCOAPO’s view, it is clear that all extensions subsequent to August 28, 2014 should be considered as extensions under section 2.3.5 of the TES Guidelines.³⁹

On page 5 of its final argument BCOAPO further states:

In the end, based solely on the evidence and the TES Guidelines, BCOAPO’s position ... is that since phase three (Paradise Falls) of the Westhills TES resulted in service to customers on a site different than the one where the main TES is located, a CPCN is required.”⁴⁰

BCOAPO summarizes, stating: “In other words, although the initial Westhills TES is, in our opinion, a Stream A TES, with its subsequent phase three extensions in the circumstances outlined in the evidence it must now all be considered a Stream B TES.”⁴¹

SSL

SSL submits that BCOAPO has misapplied section 2.3.5 of the TES Guidelines for two reasons.

First, SSL submits that section 2.3.5 of the TES Guidelines, which states:

If the sum of the proposed extension and the initial system, plus the cost of any previous extensions exceeds \$15 million, the TES is considered a Stream B TES and a CPCN Application will be required. A CPCN application may also be required if an extension results in service to customers on a site different to the site on which the TES is located. Please see section 2.4.2 for more information on Stream B CPCN requirements.⁴²

applies only to TES systems that have been approved as a Stream A on the basis that the TES meets the Characteristics of a Stream A TES, summarized in Table 1 of the TES Guidelines.⁴³ SSL states that since section 2.3.5 does not mention the in-service date of a TES, it is “clear that this section is meant to apply to a TES that was granted Stream A status on the basis of application of the Table 1 criteria.”⁴⁴

Secondly, SSL submits that since the Westhills TES is not currently a Stream A TES, section 2.3.5 of the TES Guidelines cannot be applied.⁴⁵

³⁹ BCOAPO Final Argument, p. 4.

⁴⁰ BCOAPO Final Argument, p. 5.

⁴¹ BCOAPO Final Argument, p. 5.

⁴² TES Guidelines, Section 2.3.5, p. 18.

⁴³ TES Guidelines, Section 2.3.1, Table 1, p. 12.

⁴⁴ SSL Reply Argument, p. 2.

⁴⁵ SSL Reply Argument, p. 2.

In its reply argument, SSL notes the use of the word “may” in section 2.3.5. SSL submits that if the BCUC finds that section 2.3.5 does apply to the Westhills TES, the BCUC “should exercise its discretion to not require a CPCN”⁴⁶ on the basis that added layers of regulation and costs resulting from being deemed a Stream B TES are “not needed in SSL’s case because regulation by the City of Langford is clearly working to serve SSL’s customers’ – also the City’s residents’ – interests.”⁴⁷

Panel Determination

The Westhills TES serving Lakeview Ridge and Glenvale is a TES serving multiple sites that has been found to be a Stream A TES as a result of the in-service dates. It is clear to the Panel that Paradise Falls is located on a different site to the PEC, Lakeview Ridge and Glenvale. Paradise Falls was approved under a separate municipal building permit from both Lakeview Ridge and Glenvale. Further, the Westhills TES serving Paradise Falls was in-service after August 28, 2014. Section 2.3.5 of the TES Guidelines states that any capital investment that is intended to increase the capacity of a TES, is deemed an extension. **Therefore, the Panel finds that Paradise Falls is an extension to a Stream A TES.**

Furthermore, in accordance with section 2.3.5, if an extension results in service to customers on a site different to the site on which the energy centre is located, a CPCN application may be required and the TES is considered a Stream B TES. The Panel considers that section 2.3.5 applies to all Stream A TES including TES that are grandfathered as Stream A TES. **Therefore, the Panel finds that the TES extension serving Paradise Falls requires a CPCN and is a Stream B TES.**

Given that construction of Paradise Falls TES is complete, the system has been in service since 2018 and customers need thermal energy service from the Paradise Fall TES, the Panel views that there is limited merit for SSL and its customers to bear the added regulatory costs for SSL to file a separate CPCN and rates application. **The Panel finds that the public convenience and necessity requires the operation of the Westhills TES to provide service to Paradise Falls. Accordingly, pursuant to sections 45 and 46 of the UCA, the Panel grants a CPCN to SSL for the Paradise Falls TES.**

4.0 Rate Setting

A person owning or operating a Stream A TES is generally exempt from the regulation of rates (sections 59-61 of the UCA) for that specific TES. In accordance with the TES Guidelines a Stream A TES Provider must have long-term contracts with its customers. The contracts must set out the utility’s fees/charges and terms of service. Given the TES Provider’s ongoing obligation under the UCA to provide safe and reliable service, the BCUC expects that the term of contract will be for as long as the customers continue to occupy the premises that are served by the Stream A TES.⁴⁸

A person owning or operating a Stream B TES is not exempt from the regulation of rates and is required to file a rates application with the BCUC, pursuant to section 59 to 61 of the UCA for that specific TES.⁴⁹

⁴⁶ SSL Reply Argument, p. 3.

⁴⁷ SSL Reply Argument, p. 3.

⁴⁸ TES Guidelines, Section 2.3.2, p. 13.

⁴⁹ TES Guidelines, Section 2.4.1, p. 18.

Position of the Parties

BCOAPO

The BCOAPO did not comment on rate setting.

SSL

In its reply argument, SSL submits that “Stream B regulation and all that it brings with it in terms of added layers of regulation and cost is not needed in SSL’s case because regulation by the City of Langford is clearly working to serve SSL’s customers’ – also the City’s residents’ – interests.”⁵⁰

Panel Determination

The timing of the Westhills TES phases has resulted in a TES that serves both Stream A and Stream B customers. This means that the rates for the Lakeview Ridge and Glenvale TES are exempt from BCUC rate regulation, but the rates for the Paradise Falls TES are subject to BCUC regulation. BCUC regulation of Paradise Falls rates would result in increased administrative and regulatory costs for SSL, as it would be necessary for the utility to apportion costs to each TES and file a rate application for Paradise Falls TES. These costs would be borne by the Paradise Falls TES customers alone, resulting in higher rates compared to Lakeview Ridge and Glenvale TES customers, despite both Stream A and Stream B customers receiving the same service. The Panel, therefore, considers it preferable for the costs of regulation for the Paradise Falls TES to be minimised.

While SSL is a public utility under the UCA, and is subject to regulation by the BCUC, the Panel recognises that the City of Langford has set the rates for SSL for the Westhills TES since the commencement of service in 2010. When setting the rate for a public utility, the BCUC cannot approve a rate that is unjust, unreasonable, unduly discriminatory or unduly preferential.⁵¹

Pursuant to section 59 of the UCA, an unjust or unreasonable rate is one that is more than a fair and reasonable charge for service of the nature and quality provided by the utility or insufficient to yield a fair and reasonable compensation for the service provided by the utility. Given that SSL has operated as a public utility since 2010, and in the absence of any evidence to the contrary, the Panel views that, SSL is receiving a fair and reasonable compensation.

In consideration of the fact that the rates have historically been set by the City of Langford and for the reasons provided above, **the Panel finds it appropriate for the Paradise Falls TES rates and tariffs to be pegged to the Lakeview Ridge and Glenvale TES rates and tariffs, provided that:**

- i. **The Lakeview Ridge and Glenvale TES rates and tariffs continue to be set by the City of Langford; and**
- ii. **The rates and tariffs charged to the Paradise Falls TES customers are the same as the rates and tariffs being charged to the Lakeview Ridge and Glenvale customers receiving the same service.**

Accordingly, **SSL is directed to file rates and tariff pages for approval by the BCUC for all rates and tariffs charged to Paradise Falls customers, within 30 days from the date of issuance of this order.**

⁵⁰ SSL Reply Argument, p. 3.

⁵¹ *Utilities Commission Act*, R.S.B.C. 1996, c. 473.

If SSL:

- i. Amends the rates and tariffs charged for Paradise Falls to mirror any amendments made to the rates and tariffs charged to Lakeview Ridge and Glenvale; or
- ii. Amends the rates and tariffs charged for Paradise Falls so that they no longer mirror the rates and tariffs charged to Lakeview Ridge and Paradise Falls,

SSL must then file its respective Paradise Falls rates and tariff pages with the BCUC at least 10 days prior to making any adjustments. Supporting documentation for the rate and tariff adjustments for Lakeview Ridge and Glenvale must be included in order to be compliant with this directive.

If SSL changes the method by which the rates and tariffs for the Westhills TES are set, such that the City of Langford no longer sets the rates and tariffs, SSL must:

- i. Notify the BCUC in writing within 30 days of the change; and
- ii. File a rate application, pursuant to sections 59 to 61 of the UCA, within 90 days of the change.

The Panel notes that SSL's website currently states that "[a]ll energy rates and charges are regulated by the City of Langford in accordance with the terms of their multi-utility bylaw."⁵² To ensure that SSL's customers are informed and are aware of the regulatory regime in which SSL operates, **SSL is directed to update its website, billing documents and any informational materials provided to its customers to clearly state that SSL is a public utility under the UCA and is regulated by the BCUC within 30 days of this order.**

5.0 Complaints

5.1 Complaint Process for Stream A TES Customers

In accordance with section 2.3.3 of the TES Guidelines, complaints can be brought forward by any customer of a Stream A TES Provider. The BCUC will receive complaints concerning the following rates or service issues related to Stream A TES:

- **Service:**
 - **Safety:** The operation of the TES has caused, or has the potential to cause, harm or injury to persons, or material damage that impairs the value, condition or function of property.
 - **Reliability:** The TES is performing, or has a high probability of performing, in an unreliable manner such that service is not dependable or consistent.
- **Rates:**
 - **Accordance with Regulatory Requirements:** The rates were not disclosed up-front for the full life of the contract or plainly stated, and/or the fees and charges are not available for public inspection on the TES Provider's company website or the location of business (as per section 4.2.1).
 - **Accordance with Contract:** The rates charged are not consistent with the long-term contract(s) for service or disclosure statement(s).⁵³

⁵² http://ssl-bc.com/ssl_e_energy-rates/.

⁵³ TES Guidelines, Section 2.3.3, pp. 14-15.

With regard to complaints concerning rates, section 2.3.3 of the TES Guidelines states that the BCUC will not consider the propriety of rates that the TES Provider is charging as long as the rate is in accordance with a long-term contract.⁵⁴

As per the BCUC's Complaint Guidelines,⁵⁵ customers are encouraged to bring their complaint directly to their TES Provider first, to give them an opportunity to resolve the customer's issues or concerns before involving the BCUC. A complaint to the BCUC will only be considered if other forms of resolution are unsuccessful.⁵⁶

If warranted, the BCUC will initiate a more fulsome regulatory review, and may escalate the complaint to an adjudication process. Escalated review or adjudication may result in the BCUC exercising its authority under the UCA, including, but not limited to, lifting the exemptions provided at registration, setting rates or ordering the Stream A TES Provider to improve service.⁵⁷

5.2 Complaint Process for Stream B TES Customers

Section 2.4.7 of the TES Guidelines states that customers wishing to file a complaint are directed to view the BCUC's Complaint Guidelines. Customers are encouraged to bring their complaint directly to their TES Provider first, such that the TES Provider may have an opportunity to resolve the customer's issues or concerns before involving the BCUC. A complaint to the BCUC will only be considered if other forms of resolution are unsuccessful. As per the Complaint Guidelines, a complainant must submit evidence that supports their allegations.⁵⁸

It is at the BCUC's discretion (under section 83 of the UCA) to determine what action, if any, to take on a complaint.⁵⁹

Panel Determination

Given the unique circumstances of the Westhills TES, **the Panel determines that the BCUC will hear complaints from both Lakeview Ridge and Glenvale (Stream A) TES and Paradise Falls (Stream B) TES customers in accordance with the Stream B complaints process described in the TES Guidelines.** All complaints will be reviewed in accordance with the BCUC's customer complaint process.

In the event a complaint relating to the propriety of rates is received for Stream A or Stream B customers of the Westhills TES, the BCUC may request the Westhills TES to file a rates application, in accordance with sections 59-61 of the UCA, pertaining to all 3 phases of the Westhills TES.

6.0 Reporting Requirements

Section 2.3.6 of the TES Guidelines states that all Stream A TES Providers must file an Annual Report with the BCUC, in accordance with Appendix B of the TES Guidelines.⁶⁰ The Annual Report is to be filed on or before February 15 of the most recent calendar year.⁶¹

⁵⁴ TES Guidelines, Section 2.3.3, p. 15.

⁵⁵ The British Columbia Utilities Commission: Customer Complaints Guide 2017.

⁵⁶ TES Guidelines, Section 2.3.3, p. 15.

⁵⁷ TES Guidelines, Section 2.3.3, p. 15.

⁵⁸ TES Guidelines, Section 2.4.7, p. 24.

⁵⁹ The British Columbia Utilities Commission: Customer Complaint Guide p. 4.

⁶⁰ TES Guidelines, Appendix B.

⁶¹ TES Guidelines, Section 2.3.6, p. 18.

Section 2.4.6 of the TES Guidelines states that Stream B TES Providers must file an Annual Report with the BCUC within four months of the TES Provider's fiscal year end. The BCUC's current Annual Reporting Requirements are set out in BCUC Letters L-36-94, L-14-95 and L-45-15.

Panel Determination

For the period that the Paradise Falls TES (Stream B) rates will be pegged to the Westhills rates, the BCUC will not be reviewing SSL's rate of return for Paradise Falls and would, as a result, have limited visibility of SSL financial viability. Therefore, **the Panel considers it appropriate to establish exception reporting requirements for SSL's Westhills TES.**

In accordance with section 2.4.6 of the TES Guidelines, the Panel directs SSL to file an Annual Report within four months of its fiscal year end for the entire Westhills TES (Lakeview Ridge, Glenvale and Paradise Falls). The Annual Report is to be prepared in accordance with the BCUC's Annual Reporting Requirements as set out in BCUC Letters L-36-94 and L-45-15, and the BCUC's Annual Report Template for Small Utilities, attached as Appendix B to this order. In addition, in its Annual Report, SSL is directed to include the following information for Lakeview Ridge, Glenvale and Paradise Falls, separated by TES:

- i. **Number of customers;**
- ii. **Energy delivered (GJ) according to service provided (heating, cooling, domestic hot water or other, as applicable);**
- iii. **Total energy delivered (GJ); and**
- iv. **Total energy sales (\$).**

In the event that SSL requires any guidance with respect to the BCUC's Annual Reporting Requirements, SSL is to contact BCUC staff prior to the Annual Report filing deadline.

Given that information on the Lakeview Ridge and Glenvale phases will be contained in SSL's Annual Report for the entire Westhills TES, and in the interest of regulatory efficiency, **SSL is not required to provide separate Stream A Annual Reports for the Westhills TES that serves Lakeview Ridge and Glenvale.**

7.0 Extensions

The distribution pipework for the Westhills TES includes a transfer station, located at 3132 Langford Lake Road. SSL states that the original design intent for the transfer station was twofold:

1. To house a junction point where several legs of the distribution system converge into a cluster of valves and bypasses; and
2. To serve as a distribution hub for potential TES extensions to future phases on the north side of the Langford Parkway (none of which have come to pass).⁶²

The main building and most of its internal equipment were installed and put into service by the end of 2011 and this set of distribution piping has been meeting the first design objective noted above.⁶³

In mid-2014, minor upgrades were undertaken at the transfer station, including the installation of two pumps and associated electrical/controls systems. SSL explains that this equipment was technically commissioned in

⁶² Exhibit B-13, BCUC IR 4.2.2.

⁶³ Exhibit B-13, BCUC IR 4.2.2.

November and December of 2014, however this equipment has not been put into active service, nor is it currently planned to be put into service. SSL states that the work was completed for futureproofing purposes.⁶⁴

Connected to the transfer station are two 400mm capped pipes which extend across Langford Parkway, a major arterial road, which runs along the northern edge of Lakeview Ridge. The capped pipes were installed at the same time as the construction of Langford Parkway. SSL states that this extension to the Westhills TES distribution system was made so as not to eliminate the possibility of future connections on the north side of Langford Parkway, as construction of any such extensions would be significantly more expensive after the Langford Parkway went into use. SSL states that there are currently no plans for the capped pipes to be used.⁶⁵

7.1 Extensions to Stream A and Stream B TES

The TES Guidelines defines an extension as “any capital investment that is intended to increase the capacity of the TES”⁶⁶ and “a capital addition to the system of a material dollar amount to provide additional capacity to meet increased demand.”⁶⁷

Stream A Extensions:

Section 2.3.5 of the TES Guidelines states that a TES Provider must notify the BCUC of any extension to a Stream A TES. Provided the sum of the proposed extension and the initial system (plus any previous extensions) does not exceed \$15 million, notification by way of a Stream A application is sufficient. If the sum of the proposed extension and the initial system, plus the cost of any previous extensions exceeds \$15 million, the TES is considered a Stream B TES and a CPCN application will be required. A CPCN application may also be required if an extension results in service to customers on a site different to the site on which the TES is located.⁶⁸

The TES Guidelines state that a site is usually contained within the boundaries of a city block and is not a large multi-phase master development parcel which may be part of municipal re-zoning applications or multiple building permit processes into the future.⁶⁹

Stream B Extensions:

If a TES Provider intends to undertake an extension to a Stream B TES, section 2.4.5 of the TES Guidelines outlines the requirements that must be met. Specifically, section 2.4.5 states that if the ratio of the capital costs of the planned extension to the initial capital cost of the TES, plus any previous extensions, exceeds one, a CPCN is required. A CPCN is also required if, as a result of the extension, rates for existing customers will increase by an amount greater than 10 percent.⁷⁰

Panel Determination

The description of a “site” provided in section 2.1 of the TES Guidelines and the use of the term in the Stream A characteristics,⁷¹ clearly indicates that a district energy system serving a large multi-phase master development was not intended to qualify as a Stream A TES. A district energy system serving multiple sites constructed today

⁶⁴ Exhibit B-13, BCUC IR 4.2.2.

⁶⁵ Exhibit B-13, BCUC IR 4.3.

⁶⁶ TES Guidelines, Section 2.3.5, p. 18.

⁶⁷ TES Guidelines, Section 2.4.5, p. 24.

⁶⁸ TES Guidelines, Section 2.3.5, p. 18.

⁶⁹ TES guidelines, Section 2.1, p. 8.

⁷⁰ TES Guidelines, Section 2.4.5, p. 24.

⁷¹ TES Guidelines, Section 2.3.1, p. 12.

would likely fail to meet the criteria of a Stream A and would be considered a Stream B, requiring a CPCN, rate regulation and subject to long-term resource planning requirements.

As discussed previously, given the unique circumstances of this Application, in this instance a CPCN is granted for the TES serving Paradise Falls, and the TES serving Lakeview Ridge and Glenvale remains a Stream A TES. However, further extensions to the Westhills TES will not be given the same consideration. A CPCN is required for any extensions to the Westhills TES, and approval from the BCUC must be obtained prior to the commencement of construction. **Accordingly, SSL is directed to file a CPCN and rate application for any future extensions to the Westhills TES.**

8.0 Panel's Concerns

8.1 Compliance with the UCA

From 2008 until 2019, SSL did not file any of the applications required by the UCA and TES Guidelines, including:

- **CPCN Application** – Pursuant to sections 45 and 46 of the UCA, SSL was required to file a CPCN application for the construction and operation of the Westhills TES.
- **Rate Applications** – Pursuant to sections 59 to 61 of the UCA, SSL was required to file a rate application for approval prior to charging rates for services provided. Further, SSL was required to file a rate application for any adjustments it made to the rates being charged to its customers from 2010 to 2019.
- **Stream A Application** – Upon issuance of the TES Guidelines, and in absence of a CPCN or a CPCN exemption, SSL was required to file a Stream A application for Lakeview Ridge and Glenvale.
- **Stream A Extension Application** – SSL was required to file a Stream A extension application for the extension of the Westhills TES to Paradise Falls, and this may have resulted in the requirement for a CPCN, pursuant to section 2.3.5 of the TES Guidelines.

It is SSL's responsibility to understand and comply with the regulatory regime in which it operates. Part 8.1 of the UCA, provides, in part, that a contravention of a provision of the UCA may result in an administrative penalty. The absence of any regulatory enforcement does not obviate a public utility's responsibility to comply with the UCA. SSL is required to ensure full compliance with the UCA at all times.

8.2 Stream A Application Regulatory Process

The Panel notes that the time required to review the Application has been unduly lengthy, with over 20 months having elapsed from the date of Application to the filing of SSL's reply argument. The key contributor to the extended length of the proceeding was SSL's lack of respect towards the BCUC regulatory process.

The Panel notes that responses to the first round of staff questions took over six months, with responses to the second and third rounds of staff questions taking eight and three weeks respectively. Further, SSL filed extension requests for each step of the regulatory process, including the filing of its confidentiality request, providing public notice, responses to IRs and the filing of final and reply arguments.

With reference to IR No. 1, SSL failed to provide fulsome answers, referring instead to responses filed previously or stating that further clarification as to the nature of the question was required. SSL did not seek clarification prior to the filing of its IR responses. This results in the regulatory process being extended, and further IRs being required.

Two separate extension requests were made for filing of SSL's responses to IR No. 2 and final arguments due to the impacts of the COVID-19 pandemic. While the Panel acknowledges the reasons for the requests, SSL did not file its extension for IR No. 2 until the day that the IR responses were due to be filed with BCUC. Not only does filing an extension request at the last-minute limit the BCUC's time to review the request, but it also limits the opportunity for other parties in the proceeding to review and respond to the request.

SSL's failure to respect the regulatory process increases the regulatory burden and is a poor use of the BCUC's resources. This results in increased costs to SSL and ultimately these costs are borne by SSL's customers.

Regulation in and of itself imposes costs on the utility ratepayer and it is important that these costs do not exceed the benefits derived. In the future, SSL is requested to respect the regulatory process and to use the BCUC's resources efficiently and prudently.

Appendix B: Annual Report Template for Small Utilities

(Excel document attached – please refer to the PDF Attachment Panel)
