



ORDER NUMBER
G-267-20

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

and

Creative Energy Vancouver Platforms Inc.
Registration of Extension to South Downtown Heating Thermal Energy System

BEFORE:

R. I. Mason, Panel Chair
E. B. Lockhart, Commissioner
B. A. Magnan, Commissioner

on October 23, 2020

ORDER

WHEREAS:

- A. On June 25, 2020, Creative Energy Vancouver Platforms Inc. (Creative Energy) filed with the British Columbia Utilities Commission (BCUC) a Stream B Thermal Energy System (TES) System Extension Registration Form to extend its South Downtown Heating TES to provide heating and domestic hot water services to 889 Pacific Street, Vancouver (Application);
- B. On August 28, 2014, the BCUC issued Order G-127-14 approving the TES Regulatory Framework Guidelines (TES Guidelines). Revisions to the TES Guidelines were approved by Order G-27-15. Section 2.4.5 provides guidance on Extensions to Stream B TES;
- C. By Order C-1-19, dated May 3, 2019, the BCUC granted a Certificate of Public Convenience and Necessity (CPCN) to Creative Energy to operate and expand a TES that provides heat to Buildings 1 to 4, and domestic hot water to Buildings 1 and 2, of the Vancouver House Development located in the South Downtown area of Vancouver (South Downtown Heating TES);
- D. In the Application, Creative Energy submits that the extension of its South Downtown Heating TES to provide heating and domestic hot water services to 889 Pacific Street, Vancouver (Extension) meets the criteria set out in the TES Guidelines such that a CPCN for the Extension is not required and that no further action or approval of the BCUC is required at this time;
- E. By Letter to Creative Energy dated August 31, 2020, the BCUC established a timetable for the issuance of BCUC staff questions with Creative Energy responses to follow;
- F. On September 11, 2020, the BCUC issued BCUC staff questions no. 1 to Creative Energy;

- G. On September 28, 2020, Creative Energy submitted responses to BCUC staff questions no. 1. In addition to their responses to BCUC staff questions, Creative Energy states in their submission that a CPCN is not required and that the BCUC can confirm and accept that the Extension has been properly attested to in accordance with section 2.4.5 of the TES Guidelines. Creative Energy submits that no further inquiry or process is necessary to support this confirmation; and
- H. The BCUC has reviewed the submissions and responses to staff questions and determines that the establishment of a public hearing process is warranted.

NOW THEREFORE the BCUC orders as follows:

- 1. For the reasons attached as Appendix A to this Order, a public hearing process is established, as set out in the regulatory timetable as Appendix B to this Order.
- 2. Creative Energy is directed, as soon as reasonably possible, but no later than November 5, 2020, to:
 - a. Provide by email or mail, notice of the Application and this Order to all registered interveners in the Creative Energy Application for Heating Rates for the Heating Thermal Energy System and Cooling Rates for the District Cooling System at the Vancouver House Development;
 - b. Provide by email or mail, notice of the Application and this Order to all customers in the Vancouver House Development and to the developer and any known prospective customers at 889 Pacific Street, Vancouver; and
 - c. Post a copy of this Order, the Application and the Public Notice attached as Appendix C, on Creative Energy's Website.
- 3. Parties who wish to participate in the regulatory proceeding are to register with the BCUC by completing a [Request to Intervene Form](#) by the date established in the regulatory timetable attached as Appendix B to this Order and in accordance with the BCUC's Rules of Practice and Procedure attached to Order G-15-19. Alternatively, parties may submit a Letter of Comment through the letter of comment form available on the BCUC website.

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of October 2020.

BY ORDER

Original signed by:

R. I. Mason
Commissioner

Attachment

Creative Energy Vancouver Platforms Inc.
Registration of Extension to South Downtown Heating Thermal Energy System

REASONS FOR DECISION

1.0 Introduction

On June 25, 2020, Creative Energy Vancouver Platforms Inc. (Creative Energy) filed with the British Columbia Utilities Commission (BCUC) a Stream B Thermal Energy System (TES) System Extension Registration Form to extend its South Downtown Heating TES to provide heating and domestic hot water services to 889 Pacific Street, Vancouver (Application).¹

1.1 Previous Relevant Decision

By Order C-1-19, dated May 3, 2019, the BCUC granted a Certificate of Public Convenience and Necessity (CPCN) to Creative Energy to operate and expand a TES that provides heat to Buildings 1 to 4, and domestic hot water to Buildings 1 and 2, of the Vancouver House Development located in the South Downtown area of Vancouver (South Downtown Heating TES).²

2.0 Legislative Framework

2.1 Utilities Commission Act

Section 45(1) of the *Utilities Commission Act* (UCA) provides 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.³ (emphasis added)

Section 46(2) of the UCA provides that the BCUC has discretion whether or not to hold any hearing on a CPCN application.⁴

2.2 TES Guidelines

On August 28, 2014, the BCUC issued Order G-127-14 approving the TES Regulatory Framework Guidelines (TES Guidelines). Revisions to the TES Guidelines were approved by Order G-27-15. Section 2.4.5 of the TES Guidelines, which provides guidance on Extensions to Stream B TES, states:

Once a CPCN is granted for a Stream B TES, a new CPCN Application may be required if the TES Provider plans to construct or operate an extension to the TES. An extension is a capital addition to the system of a material dollar amount to provide additional capacity to meet increased demand. 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

¹ Exhibit B-1

² Creative Energy Vancouver Platforms Inc. Application for a Certificate and Public Convenience and Necessity for a Neighbourhood Energy System in the Southdown area of Vancouver, Final Order C-1-19, dated May 3, 2019

³ *Utilities Commission Act*, RSBC 1996, c.473

⁴ *Utilities Commission Act*, RSBC 1996, c.473

a result of the extension, rates for existing customers will increase by an amount greater than 10 percent. These criteria are summarized in the table below:

EXTENSION COST	CPCN REQUIREMENTS
$\frac{\text{Planned Extension Cost} + \text{Cost of Any Previous Extensions}}{\text{Initial TES Construction Cost}} > 1$ <p style="text-align: center;">OR</p> $\text{Rate Impact as a result of Planned Extension} > 10\%$	CPCN REQUIRED
$\frac{\text{Planned Extension Cost} + \text{Cost of Any Previous Extensions}}{\text{Initial TES Construction Cost}} \leq 1$ <p style="text-align: center;">AND</p> $\text{Rate Impact as a result of Planned Extension} \leq 10\%$	CPCN NOT REQUIRED

In the event that a CPCN is not required, the TES Provider is required to file an application in the form set out in Appendix C. A CPCN or the Stream A Application, as the case may be, must be granted prior to construction or operation of the extension. Please contact the Commission for further information if an extension is considered.⁵

3.0 Review of the Application

Creative Energy states that a new customer located at 889 Pacific Street, Vancouver, in close proximity to the existing South Downtown Heating TES, has requested heating service from the TES. Creative Energy is of the view that it has the obligation to serve this customer subject only to the applicable TES Guidelines provisions in respect of Stream B TES extensions.⁶

Creative Energy cites Section 2.4.5 of the TES Guidelines, which states that while a CPCN may be required for a Stream B extension, a CPCN is not required if the proposed extension meets two specified financial tests. Creative Energy submits that the circumstances of the proposed extension meet both tests, hence a CPCN is not required for the proposed extension.⁷

Creative Energy further submits that “no further inquiry or process is necessary” in support of its Application.⁸

Panel Determination

The Panel finds that Creative Energy requires a CPCN for the proposed extension to the South Downtown Heating TES.

The Panel acknowledges that the TES Guidelines say “CPCN not required” for Stream B TES extensions in certain circumstances.⁹ However, in the Panel’s view this is an error in the TES Guidelines. The BCUC has granted no class exemption for Stream B TES’. The TES Guidelines are correct when they state that Stream B TES’ “will be regulated similar to other Public Utility systems. An application for a CPCN and a rate approval application are required.”¹⁰

⁵ TES Guidelines, pp. 23-24

⁶ Exhibit B-2, p. 1

⁷ Exhibit B-2, pp. 1-2

⁸ Exhibit B-2, p. 3

⁹ TES Guidelines, p. 24

¹⁰ TES Guidelines, p. 7

Section 45(1) of the UCA provides that, after September 11, 1980, a CPCN is required for an extension, and a person “must not begin the construction or operation” of the extension without the CPCN. There are no exemptions for Stream B TES extensions in general, or in this specific instance. Since the UCA and the TES Guidelines are in conflict in this regard, in the event of such a discrepancy, the UCA takes precedence over the TES Guidelines. Therefore, Creative Energy requires a CPCN before constructing or operating the proposed extension.

The Panel recommends that the BCUC addresses this discrepancy in the BCUC Review of Thermal Energy System Regulatory Framework Guidelines proceeding, which is currently underway.

The Panel considers that more information is required before we can determine whether or not the proposed extension is in the public interest. Notwithstanding Creative Energy’s position that it did not need a CPCN for the proposed extension, it has had the opportunity to provide answers to BCUC staff questions. The onus is on Creative Energy to provide sufficient information for the Panel to make its determination, and in the Panel’s view, the responses in Exhibit B-2 are not of sufficient depth and clarity to support approval of the CPCN at this time.

Even if there was a class exemption in place for Stream B TES extensions as described in the TES Guidelines, which there is not, Creative Energy has not provided sufficient information for the Panel to assess whether the proposed extension meets the test set out on page 24 of the TES Guidelines. For instance, the schedule of fixed costs provided in response to BCUC staff questions¹¹, which is used to determine rate impact of the proposed extension, contains amounts that are not consistent with the most recent figures filed by Creative Energy in the Application for Heating and Cooling Rates at the Vancouver House Development¹², and do not contain financing fees and income tax amounts.

For these reasons, the Panel determines that a hearing is warranted to examine the Application and allow Creative Energy the opportunity to provide sufficient evidence to justify approval of its Application.

¹¹ Exhibit B-2, Response to BCUC staff question 3.2, p. 9

¹² Application for Heating Rates for the Heating Thermal Energy System and Cooling Rates for the District Cooling System at the Vancouver House Development, Exhibit B-5, Table 4 on p. 11

Creative Energy Vancouver Platforms Inc.
Registration of Extension to South Downtown Heating Thermal Energy System

REGULATORY TIMETABLE

Action	Date (2020)
Creative Energy Publishes Notice of Application	Thursday, November 5
BCUC Information Request (IR) No. 1	Thursday, November 12
Intervener Registration	Thursday, November 19
Creative Energy Responses to BCUC IR No. 1	Thursday, November 26
Intervener IR No. 1	Thursday, December 3
Creative Energy Responses to Intervener IR No. 1	Thursday, December 17
Further Process	To be determined



We want to hear from you

CREATIVE ENERGY'S APPLICATION TO EXTEND ITS SOUTH DOWNTOWN HEATING THERMAL ENERGY SYSTEM TO 889 PACIFIC STREET, VANCOUVER

On June 25, 2020, Creative Energy Vancouver Platforms Inc. (Creative Energy) filed with the British Columbia Utilities Commission (BCUC) a Stream B Thermal Energy System (TES) System Extension Registration Form to extend its South Downtown Heating TES to provide heating and domestic hot water services to 889 Pacific Street, Vancouver.

Any parties who wish to participate in the BCUC's regulatory review process are invited to register as interveners or submit a letter of comment. All submissions will be considered by the Panel in its review of the Application. For more information about the Application, please visit the BCUC's website (www.bcuc.com). All documents filed on the public record are available on our [Current Proceedings](#) webpage.

HOW TO PARTICIPATE

- **Submit a letter of comment**
- **Register as an interested party**
- **Request intervener status**

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

IMPORTANT DATES

1. **Thursday, November 19, 2020** – Deadline to register as an intervener with the BCUC

GET MORE INFORMATION

Creative Energy Vancouver Platforms Inc.



Suite 1 – 720 Beatty Street Vancouver, BC Canada
V6B 2M1



E: info@creative.energy



P: 604.688.9584

British Columbia Utilities Commission



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



E: Commission.Secretary@bcuc.com



P: 604.660.4700