



ORDER NUMBER

E-12-22

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc.

Section 71 Filing of a Biomethane Purchase Agreement between
FortisBC Energy Inc. and Lacombe Biorefinery LP

BEFORE:

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

on September 13, 2022

ORDER

WHEREAS:

- A. On August 8, 2022, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of a Biomethane Purchase Agreement (BPA) between FEI and Lacombe Biorefinery LP (Lacombe) pursuant to section 71 of the *Utilities Commission Act* (UCA) and BCUC Rules for Natural Gas Energy Supply Contracts (Rules) (Application);
- B. Section 18(1) of the *Clean Energy Act* (CEA) defines a prescribed undertaking as "...a project, program, contract or expenditure that is in a class of projects, programs, contracts or expenditures prescribed for the purpose of reducing greenhouse gas emissions in British Columbia;"
- C. Section 18(3) of the CEA states that "the commission must not exercise a power under the UCA in a way that would directly or indirectly prevent a public utility...from carrying out a prescribed undertaking;"
- D. On May 25, 2021, the Lieutenant Governor in Council, by Order in Council (OIC) 306/2021, approved an amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR), which among other things, repealed and replaced section 2 (3.8) to state:

(3.8) The public utility acquires renewable natural gas

- a) at costs that meet the following criteria, as applicable:
 - i. if the public utility acquires renewable natural gas by purchasing it, the price of the renewable natural gas does not exceed the maximum amount, determined in accordance with section 9, in effect in the fiscal year in which the contract for purchase is signed;

- ii. if the public utility acquires renewable natural gas by producing it, the levelized cost of production reasonably expected by the public utility does not exceed the maximum amount, determined in accordance with section 9, in effect in the fiscal year in which the public utility decides to construct or purchase the production facility, and
 - b) that, in a calendar year, does not exceed 15% of the total amount, in GJ, of natural gas provided by the public utility to its non-bypass customers in 2019, subject to subsection (3.9) and section 10;
- E. Under the BPA, Lacombe will supply biomethane, which is a type of renewable natural gas (RNG), from an anaerobic digestion facility located in Alberta, which will be acquired by FEI and notionally delivered from the injection point to FEI;
- F. The BCUC has not reviewed the Application from a public interest perspective as BPAs are prescribed undertakings under section 18(1) of the CEA;
- G. FEI requests that the redacted portions of the Application and certain appendices be kept confidential due to their commercially sensitive nature; and
- H. The BCUC has reviewed the Application and makes the following determinations.

NOW THEREFORE pursuant to section 71 of the UCA, the Rules, section 18 of the CEA and the GGRR, the BCUC orders as follows:

1. The BCUC accepts for filing the BPA between FEI and Lacombe.
2. The BCUC will keep the redacted portions of the Application confidential as requested by FEI as they contain commercially sensitive information.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of September 2022.

BY ORDER

Original signed by:

T. A. Loski
Commissioner