



ORDER NUMBER
E-18-22

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

FortisBC Energy Inc.
Section 71 Filing of Amending Agreement No. 1 to the Biomethane Purchase Agreement
between FortisBC Energy Inc. and Capital Regional District

BEFORE:

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

on December 5, 2022

ORDER

WHEREAS:

- A. On November 10, 2022, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of an amending agreement dated August 10, 2022 (Amending Agreement No. 1) to the existing Biomethane Purchase Agreement (BPA) between FEI and the Capital Regional District (CRD), 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 LGIC, 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approved an amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR), which among other things, repealed and replaced section 2 (3.8) to state: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. On June 21, 2021, by Order E-15-21, the BCUC accepted the BPA between FEI and CRD, pursuant to section 71 of the UCA, the Rules, section 18 of the CEA and the GGRR;
- F. Amending Agreement No. 1 amends the amount of gigajoules (GJ) per contract year under the BPA;
- G. The BCUC has not reviewed the Application from a public interest perspective as the BPA between FEI and CRD, as amended, is a prescribed undertaking under section 18(1) of the CEA;
- H. FEI requests that the Application be kept confidential due to its commercially sensitive nature; and
- I. The BCUC has reviewed the Application and considers the following determinations are warranted.

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

1. The BCUC accepts for filing Amending Agreement No. 1 to the BPA between FEI and CRD.
2. The BCUC will keep the Application confidential as requested by FEI as it contains commercially sensitive information.

DATED at the City of Vancouver, in the Province of British Columbia, this 5th day of December 2022.

BY ORDER

Original signed by:

T. A. Loski
Commissioner