



ORDER NUMBER
A-1-23

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

and

Just Energy (B.C.) Limited Partnership
Application for Reconsideration and Variance of Order A-6-22

BEFORE:
B.A. Magnan, Chair
E.B. Lockhart, Commissioner

April 25, 2023

ORDER

WHEREAS:

- A. On January 26, 2023, Just Energy (B.C.) Limited Partnership (Just Energy), filed an application for reconsideration and variance of Order A-6-22 pursuant to section 99 of the *Utilities Commission Act* (UCA) with the British Columbia Utilities Commission (BCUC) in accordance with Part V of the BCUC's Rules of Practice and Procedure (Reconsideration Application);
- B. By Order A-6-22 dated October 28, 2022, the BCUC approved Just Energy's Gas Marketer license renewal application. The BCUC ordered, among other matters, the following:
 - 1. Approval of a Gas Marketer License issued to Just Energy for the period of October 31, 2022 to April 30, 2023.
 - 2. Pursuant to Rule 10.0 of the Rules for Gas Marketers, the following information:
 - i. Quarterly financial reports submitted by Just Energy Corp that include at minimum the balance sheet, income statement and cash flow statement for Just Energy Corp;
 - ii. Monthly notifications on any adjustments to or cancellation of Supply Contracts; and
 - iii. Monthly progress reports on the CCAA proceeding;
- C. In the Reconsideration Application, Just Energy requests that its license period be varied and extended to October 31, 2023, and the conditions outlined in 3(e)(iii), 3(e)(iv) and 3(e)(v) of Order A-6-22 be removed on the grounds that new facts have arisen and a change of circumstances has occurred;
- D. By Order G-63-23, dated March 24, 2023, the BCUC established a regulatory timetable for the review of the Application and directed Just Energy to file supplemental information regarding its privatisation transaction,

quarterly financials and attestations regarding debt covenants and whether it remained a going concern;
and

- E. The BCUC has reviewed the Reconsideration Application and the supplemental information filed by Just Energy on April 5, 2023 and considers that the following determinations are warranted.

NOW THEREFORE pursuant to section 99 of the UCA the BCUC orders as follows:

1. Just Energy's license period is varied to extend until October 31, 2023.
2. The license conditions outlined in 3(e)(iv) and 3(e)(v) of Order A-6-22 are rescinded.
3. The license condition outlined in 3(e)(iii) of Order A-6-22, which requires Just Energy file quarterly financial reports including, at a minimum, its balance sheet, income statement and cash flow statement remains in effect.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of April 2023.

BY ORDER

Original signed by:

B.A. Magnan
Commissioner

Attachment

Just Energy (B.C.) Limited Partnership
Application for Reconsideration and Variance of Order A-6-22

REASONS FOR DECISION

1.0 Introduction

On October 28, 2022, Just Energy (B.C.) Limited Partnership (Just Energy), was granted a gas marketer licence by the British Columbia Utilities Commission (BCUC) for the period October 31, 2022, to April 30, 2023. Just Energy has been operating in the province of British Columbia since 2004 and is a subsidiary of Just Energy Group Inc. (JEGI).

Background

On March 9, 2021, the BCUC was notified that JEGI had received protection under the Companies' Creditors Arrangement Act (CCAA) in Canada. The CCAA is a Federal Act that allows financially troubled corporations the opportunity to restructure their affairs. By allowing the company to restructure its financial affairs, through a formal Plan of Arrangement, the CCAA presents an opportunity for the company to avoid bankruptcy and allows the creditors to receive some form of payment for amounts owing to them by the company.

Further, in communication with the BCUC, JEGI stated that as a result of a storm that impacted Texas in 2021, charges from the Electric Reliability Council of Texas (ERCOT) created a liquidity challenge for Just Energy. JEGI noted that it was for that reason, they announced that JEGI sought and received protection under the CCAA. The CCAA proceedings lasted until December 16, 2022, at which time JEGI closed its sale transaction to conclude the proceeding. A stay order remains in effect until July 31, 2023.

2.0 Summary of Reconsideration Application and Relief Sought

On January 26, 2023, Just Energy filed an application for reconsideration and variance of Order A-6-22 pursuant to section 99 of the *Utilities Commission Act* with the BCUC in accordance with Part V of the BCUC's Rules of Practice and Procedure (Reconsideration Application). In the Reconsideration Application, Just Energy is requesting its license term be extended until October 31, 2023, and the following conditions be removed:

- 3(e)(iii) Quarterly financial reports submitted by Just Energy Corp that include at minimum the balance sheet, income statement and cash flow statement for Just Energy;
- 3(e)(iv) Monthly notifications on any adjustments to or cancellation of Supply Contracts; and
- 3(e)(v) Monthly progress reports on the CCAA proceeding.

Just Energy is seeking reconsideration on the basis that new facts have arisen, and a change of circumstances has occurred since the BCUC granted its license, specifically that the CCAA proceedings have concluded. Just Energy states that as the CCAA proceedings resulted in the imposition of the above licensing conditions, including the shortened license period, the conclusion of the CCAA proceedings is reasonable grounds for reconsideration.

3.0 Panel Determination

In the attached Order the Panel has varied Just Energy's license term and removed conditions 3(e)(iv) and 3(e)(v) of Order A-6-22 due to the completion of the CCAA proceeding making the conditions unnecessary. The Panel discusses condition 3(e)(iii) below.

In issuing a gas marketer license, the BCUC refers to the Rules for Gas Marketers¹ (Rules) and gas marketers are required to meet the criteria outlined in the Rules including Attachment 1, which outlines financial requirements. In the instance where the BCUC has concerns about the operations or financial performance of the gas marketer, it imposes conditions on the license to ensure that the gas marketer continues to be a going concern and is able to serve its customers.

Just Energy has indicated that the requirement to file quarterly financials was a result of the CCAA proceedings and as the CCAA proceedings have concluded, this requirement should be rescinded. However, condition 3(e)(iii) was not necessarily based on the CCAA proceedings. The Panel notes that the BCUC directs gas marketers to file quarterly financial reports in circumstances in which it considers ongoing monitoring of the gas marketer's financial health is required. As such, in the 2022 licensing period, a number of gas marketers, including Just Energy were directed to file ongoing financial reports to the BCUC. Further, the Panel notes that Just Energy has been required to file quarterly financial reports in other years prior to the CCAA proceedings, including 2016, 2017 and 2020.

The Panel also notes that in the supplemental information submitted by Just Energy on March 30, 2023, and April 5, 2023, Just Energy's quarterly financial reports did not disclose the impact of the sale transaction on Just Energy nor provide further assurance on Just Energy's financial health that would mitigate the need for ongoing financial reports.

As such, the Panel determines that the license condition 3(e)(iii) of Order A-6-22 remains in effect.

¹ BCUC Rules for Gas Marketers - https://docs.bcuc.com/documents/Orders/2013/doc_36978_a-12-13_custchoice2012agm.pdf