



ORDER NUMBER
E-10-23A

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

FortisBC Energy Inc.
Section 71 Filing of an Amending Agreement to the Biomethane Purchase Agreement
Between FortisBC Energy Inc. and Tidal Energy Marketing Inc.

BEFORE:

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

on June 9, 2023

ORDER

WHEREAS:

- A. On April 20, 2023, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of an amending agreement dated February 13, 2023 (Amending Agreement No.1) to the original Biomethane Purchase Agreement (BPA) between FEI and Tidal Energy Marketing Inc. (Tidal-London) pursuant to section 71 of the *Utilities Commission Act* (UCA) and BCUC Rules for Natural Gas Energy Supply Contracts (Application);
- B. On February 27, 2020, by Order G-40-20, the BCUC accepted the BPA between FEI and Tidal-London, with a Transaction Confirmation effective date of April 29, 2019;
- C. 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”;
- D. 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”;
- E. 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approved an amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR), which among other things, repealed and replaced section 2 (3.8) to state: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;
- F. Amending Agreement No. 1 amends the Delivery Point, daily volume obligations and the price for which FEI will acquire the biomethane;
- G. On May 31, 2023, the BCUC issued Staff Questions No. 1 to FEI;
- H. On June 6, 2023, FEI submitted its response to Staff Questions No. 1 and filed a revised application which amended its request for the confidential treatment of the filing. In the revised application, FEI requests that the Application, including Appendices, be kept confidential in perpetuity due to their commercially sensitive nature;
- I. The BCUC has not reviewed the Application from a public interest perspective as the BPA is a prescribed undertaking under section 18(1) of the CEA; and
- J. The BCUC has reviewed the Application and makes the following determinations.

NOW THEREFORE pursuant to section 71 of the UCA, 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 Tidal-London.
- 2. The BCUC will hold the Application, including Appendices, confidential, as it contains commercially sensitive information, until otherwise determined by the BCUC.

DATED at the City of Vancouver, in the Province of British Columbia, this 14th day of June 2023.

BY ORDER

Original signed by:

T. A. Loski
Commissioner