



**ORDER NUMBER
E-20-23**

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 Grow the Energy Circle Ltd.

BEFORE:

B. A. Magnan, Panel Chair
C. M. Brewer, Commissioner
E. A. Brown, Commissioner
E. B. Lockhart, Commissioner
W. E. Royle, Commissioner

on November 3, 2023

ORDER

WHEREAS:

- A. On October 13, 2023, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of an amending agreement dated August 4, 2023 (Amending Agreement No.1) to the original Biomethane Purchase Agreement (BPA) between FEI and Grow the Energy Circle Ltd. (GrowTEC) pursuant to section 71 of the *Utilities Commission Act* (UCA) and BCUC Rules for Natural Gas Energy Supply Contracts (Application);
- B. By Order E-22-21, the BCUC accepted the BPA between FEI and GrowTEC, with a Transaction Confirmation effective date of December 19, 2020;
- 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 19, 2023, the Lieutenant Governor in Council, by B.C. Reg. 125/2023, approved an amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR) that repealed section 2 and substituted, among other things, section 2.2 Prescribed Undertaking- acquiring renewable natural gas which provides at section 2.2(3):

2.2 (3) 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 (4) and section 10.

- F. Amending Agreement No. 1 amends the contract quantity of biomethane, the start date of the FEI-GrowTEC agreement and the price inflation factor mechanism;
- G. FEI requests that the redacted portions of the Application including appendices be kept confidential due to their commercially sensitive nature;
- H. The BCUC has reviewed the Application and determines that the BPA, as amended by Amending Agreement No. 1, meets the requirements for a prescribed undertaking as defined by the GGRR and that acceptance of the BPA is warranted; and
- 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.

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 GrowTEC.
- 2. The BCUC will hold the redacted portions of 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 3rd day of November 2023.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner