



ORDER NUMBER

E-5-24

IN THE MATTER OF

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

and

FortisBC Energy Inc.

Section 71 Filing of Amending Agreement No.2 to the Biomethane Purchase Agreement
between FortisBC Energy Inc. and Tidal Energy Marketing Inc.

BEFORE:

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

on February 22, 2024

ORDER

WHEREAS:

- A. On February 5, 2024, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of an amending agreement dated December 21, 2023 (Amending Agreement No. 2) to the original Gas EDI Base Contract for Short-Term Sale and Purchase of Natural Gas between FEI and Tidal Energy Marketing Inc. (Tidal Energy) for the purchase of biomethane originating from a landfill project owned and operated by Niagara RNG LP, pursuant to section 71 of the *Utilities Commission Act* (UCA) and the BCUC Rules for Natural Gas Energy Supply Contracts (Application);
- B. By Order G-40-20 dated February 27, 2020, the BCUC accepted the Biomethane Purchase Agreement (BPA) between FEI and Tidal Energy, 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 19, 2023, the Lieutenant Governor in Council, by B.C. Reg. 125/2023, approved an amendment to the Greenhouse Gas Reduction Regulation (GGRR) that repealed section 2 and substituted, among other things, section 2.2 Prescribed Undertaking acquiring renewable natural gas which provides at section 2.2(3):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. 2 amends the delivery point and reduces the price for which FEI will acquire the biomethane;
- G. FEI requests that the redacted portions of the Application, including appendices, be kept confidential in perpetuity due to their commercially sensitive nature;
- H. The BCUC has reviewed the Application and determines that the BPA, as amended by Amending Agreement No. 2, 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. 2 to the BPA between FEI and Tidal Energy.
- 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 22nd day of February 2024.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner