



ORDER NUMBER

E-9-24

IN THE MATTER OF

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

and

FortisBC Energy Inc.

Section 71 Filing of an Amending Agreement No. 3 to the Biomethane Purchase Agreement
between FortisBC Energy Inc. and Fraser Valley Biogas Ltd.

BEFORE:

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

on March 14, 2024

ORDER

WHEREAS:

- A. On February 14, 2024, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of an amending agreement dated October 31, 2023 (Amending Agreement No. 3) to the original Biomethane Purchase Agreement (Original BPA) as amended by Amending Agreement No. 1 and Amending Agreement No. 2 (together the FEI-FVB Agreement) between FEI and Fraser Valley Biogas Ltd. (FVB), pursuant to section 71 of the Utilities Commission Act (UCA) and BCUC Rules for Natural Gas Energy Supply Contracts (Rules) (Application);
- B. By Order E-7-12 dated March 22, 2012, the BCUC accepted the Original BPA between FEI and FVB dated January 18, 2012. Further, by Orders E-19-22 and E-12-23, the BCUC accepted Amending Agreement No. 1 and Amending Agreement No. 2, respectively, to the Original BPA;
- 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in Council, by B.C. Reg. 125/2023, approved an amendment to the Greenhouse Gas Reduction Regulation (GGRR) that repealed section 2 and substituted, among other things, section 2.2 “Prescribed undertaking – acquiring renewable natural gas” which provides at section 2.2(3):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. 3 amends the price and term of the FEI-FVB Agreement;
- 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 FEI-FVB Agreement, as amended by Amending Agreement No. 3, meets the requirements for a prescribed undertaking as defined by the GGRR and that acceptance is warranted; and
- I. The BCUC has not reviewed the Application from a public interest perspective as the FEI-FVB Agreement 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. 3 to the FEI-FVB Agreement.
2. The BCUC will hold the redacted portions of the Application, including appendices, confidential until otherwise determined by the BCUC, as they contain commercially sensitive information.

DATED at the City of Vancouver, in the Province of British Columbia, this 14th day of March 2024.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner