



October 3, 2024

Sent via email

Letter L-29-24

Re: Vancouver Kingsway Holding Inc. – Complaint filed by Rize Ayalaland Limited Partnership – BCUC Decision

Dear [REDACTED]:

The British Columbia Utilities Commission (BCUC) writes in respect of your complaint filed on December 6, 2021, on behalf of Rize Ayalaland (Kingsway) Limited Partnership (Rize Kingsway or Owner) regarding the thermal energy services Rize Kingsway is receiving from Vancouver Kingsway Holding Inc. (Connect TES or Supplier). The commercial component of the Rize Kingsway development receives heating, cooling and domestic hot water from Connect TES. Rize Kingsway states the energy charge that it is being billed is two to three times greater than what was agreed to in the Energy Services Agreement (ESA) entered into between Rize Kingsway and Connect TES.

On February 17, 2022, the BCUC received Connect TES' response to the complaint filed by Rize Kingsway. Rize Kingsway filed additional information regarding the complaint on February 24, 2022. Connect TES subsequently filed a response to this additional information on March 30, 2022. On April 22, 2022, the BCUC Staff issued questions to Connect TES regarding the complaint, and Connect TES responded on June 14, 2022.

Review Process

As an administrative tribunal, the BCUC follows its own process for a number of procedures, including complaints. The BCUC is not a mediator of disputes; rather, it is an independent regulatory agency of the Provincial Government that operates under and administers the *Utilities Commission Act (UCA)*. As with any complaint, and pursuant to the BCUC Customer Complaints Guidelines, the BCUC must first determine if a complaint falls within the BCUC's jurisdiction before reviewing it.

The BCUC has reviewed the information filed regarding this complaint, including the ESA, which provides for a variable energy charge of [REDACTED]. It is the BCUC's understanding that Rize Kingsway and Connect TES disagree on how the amounts of thermal energy consumed by the commercial units of the development are determined, which leads to their disagreement on the amount of the monthly energy charge. Rize Kingsway submits that the amount of thermal energy delivered is determined directly by metered data from each condensing unit, based on its interpretation of the ESA. Connect TES submits that the thermal energy delivered is necessarily a calculated value, and is based on an equipment-specific Coefficient of Performance (COP) applied to the metered data.

On February 1, 2024 and April 24, 2024, the BCUC requested an update regarding the status of this disagreement from Connect and Rize Kingsway respectively. The parties responded to indicate that to date, there has not been a resolution to the matter. On June 14, 2024, the BCUC sent a letter to Rize Kingsway and Connect TES requesting additional clarifying information.

Connect TES responded on July 5, 2024, stating that the term COP, as well as other technical terms commonly used in the Heating, Ventilation and Air Conditioning (HVAC) industry, are not explicitly defined in the ESA. Further, Connect TES noted that it “has continued to provide services to Rize Kingsway as per the ESA throughout the dispute period. We will continue to provide services pursuant to the ESA and would like to clarify that the ESA includes provisions for adjustments to the variable usage charges, which provides a mechanism to recover revenue shortfalls if we are unable to reach a satisfactory resolution to this issue.”

Rize Kingsway also responded on July 5, 2024, and reiterated that its “complaint stems from the interpretation of the ESA and lack of clarity around billing.”

Determination

Based on the BCUC’s review of the complaint and the related information and correspondence provided, the BCUC determines that it does not have the jurisdiction to make orders to resolve this complaint because it does not relate to whether the energy charge is billed in accordance with the ESA. Rather, the complaint arises from a disagreement between Connect TES and Rize Kingsway with respect to the interpretation and implementation of the terms of the ESA, specifically, how the volume of delivered thermal energy is determined. Accordingly, the complaint is dismissed, and your file is now closed.

Office of the Ombudsperson

If you have concerns about how the BCUC handled your complaint, you may wish to contact the Office of the Ombudsperson. The Office of the Ombudsperson receives enquiries and complaints about the practices and services of public agencies within its jurisdiction. Their role is to impartially investigate complaints to determine whether public agencies have acted fairly and reasonably, and whether their actions and decisions were consistent with relevant legislation, policies and procedures.

If you decide to file a complaint with the Ombudsperson, they will review the BCUC’s process to ensure it was fair. Though this may not result in a different outcome for you, the office could request that the BCUC reopen its investigation.

Provided is a link to the Office of the Ombudsperson’s website: <https://www.bcombudsperson.ca>.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

IL/db

cc: Dana Westermarck, Dana@orisconsulting.ca
Andrew Illingworth, Andrew@connect-tes.com