



**ORDER NUMBER
G-133-25**

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

and

FortisBC Energy Inc.
Permanent Rates and Agreements under the GGRR
for the Port Kells LNG Fuelling Station in Langley

BEFORE:

B. A. Magnan, Commissioner
W. E. Royle, Commissioner

on June 2, 2025

ORDER

WHEREAS:

- A. On November 14, 2024, FortisBC Energy Inc. (FEI) applied to the British Columbia Utilities Commission (BCUC), pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA), for approval of rates on a permanent basis for fuelling services at the liquified natural gas (LNG) fuelling station located at Port Kells in Langley, British Columbia (Port Kells Fuelling Station), as established in three separate fuelling service agreements as amended between FEI and the following customers (Application):
1. Vedder Transportation Ltd. (Vedder), effective June 8, 2021;
 2. Ken Johnson Trucking Ltd. (Ken Johnson), effective June 8, 2021; and
 3. D. Jones Trucking Ltd. (D. Jones), effective January 1, 2024;
- B. FEI requests that the live financial model filed as Appendix C to the Application be held confidential on the basis that it is the result of significant development effort by FEI on behalf of its customers and therefore the formulas and configuration of the model are commercially sensitive;
- C. By Order G-56-13, the BCUC accepted that the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR) established the need for Compressed Natural Gas and LNG fuelling stations that are undertaken by FEI as prescribed undertakings as defined by the GGRR, and that these prescribed undertakings are exempt from the Certificate of Public Convenience and Necessity requirements for the term of the GGRR;
- D. By Order G-230-21, the BCUC determined that the Port Kells Fuelling Station met the requirements of a prescribed undertaking as defined by the GGRR. The order also approved the rate design and rates established in the fuelling services agreements between FEI and Vedder (Vedder Agreement) and between FEI and Ken Johnson (Ken Johnson Agreement) for LNG fuelling service at the Port Kells Fuelling Station on

an interim and recoverable/refundable basis, effective June 8, 2021. The BCUC also directed FEI to file an application seeking permanent rates upon the determination of the actual capital expenditures for the Port Kells Fuelling Station;

- E. By Order G-355-23, the BCUC approved the rates established in the fuelling service agreement between FEI and D. Jones for LNG fuelling service at the Port Kells Fuelling Station (D. Jones Agreement) on an interim and refundable/recoverable basis, effective January 1, 2024. The order also directed FEI to file an application seeking permanent rates for D. Jones once the BCUC issues a decision on permanent rates for the Port Kells Fuelling Station;
- F. On May 21, 2024, FEI and D. Jones entered into an amending agreement to the D. Jones Agreement to extend the initial term from 2 years to 3 years, add a minimum annual quantity in years 1 and 2 of the initial term, and amend the rates (D. Jones Amending Agreement);
- G. FEI also prepared amending agreements to the Vedder Agreement (Vedder Amending Agreement) and Ken Johnson Agreement (Ken Johnson Amending Agreement), respectively, to adjust, among other things, the capital rate based on the final actual capital costs and updated total volumes at the Port Kells Fuelling Station;
- H. By Order G-338-24, the BCUC established a regulatory timetable which included FEI providing notice of the Application to customers at the Port Kells Fuelling Station and a letter of comment process. This order also directed that the live financial model provided in Appendix C of the Application will be kept confidential unless the BCUC determines otherwise;
- I. On January 7, 2025, Vedder and Ken Johnson jointly filed a letter of comment and on January 14, 2025, FEI filed its response;
- J. By Order G-29-25, the BCUC established a further regulatory timetable which included FEI providing notice of the further regulatory timetable to customers at the Port Kells Fuelling Station, one round of Panel information requests (Panel IR No. 1), a deadline for further letters of comment, and FEI's final argument and reply to letters of comment;
- K. On February 10, 2025, the BCUC issued Panel IR No. 1 to FEI and on February 18, 2025, FEI filed its responses;
- L. By Order G-50-25, the BCUC established an amended regulatory timetable allowing Vedder and Ken Johnson a 30-day extension to file a further letter of comment, as requested by Vedder and Ken Johnson on February 25, 2025;
- M. On March 27, 2025, Vedder and Ken Johnson filed a further letter of comment and on April 3, 2025, FEI filed its final argument and response to the letter;
- N. FEI requests that the customer-specific information filed as Appendices 1 and 2 to its final argument be held confidential by the BCUC in perpetuity due to their commercially sensitive nature; and
- O. The BCUC has completed its review of the Application, evidence, and submissions filed in the proceeding, and makes the following determinations.

NOW THEREFORE for the reasons outlined in the decision accompanying this order and pursuant to sections 58 to 61 of the UCA, the BCUC orders as follows:

1. The rate design and rates established in the following are approved on a permanent basis:
 - a. The Vedder Agreement as amended by the Vedder Amending Agreement, effective June 8, 2021;
 - b. The Ken Johnson Agreement as amended by the Ken Johnson Amending Agreement, effective June 8, 2021; and
 - c. The D. Jones Agreement as amended by the D. Jones Amending Agreement, with the inclusion of a Spot Charge for year 3 of the agreement, effective January 1, 2024.
2. FEI is directed to recover from Vedder and Ken Johnson the variance between the interim and permanent rates with interest calculated at the average prime rate of FEI's principal bank for its most recent year.
3. FEI is directed to refund to D. Jones the variance between the interim and permanent rates with interest calculated at the average prime rate of FEI's principal bank for its most recent year.
4. FEI is directed to file the following in tariff supplement form for endorsement by the BCUC within 30 days from the date of this order:
 - a. The Vedder Agreement and the Vedder Amending Agreement;
 - b. The Ken Johnson Agreement and the Ken Johnson Amending Agreement; and
 - c. The D. Jones Agreement and the D. Jones Amending Agreement, as further amended to include the Spot Charge directed in directive 1c of this order.
5. Appendices 1 and 2 to FEI's final argument will be kept confidential unless the BCUC orders otherwise.

DATED at the City of Vancouver, in the Province of British Columbia, this 2nd day of June 2025.

BY ORDER

Electronically signed by Bernard Magnan

B. A. Magnan
Commissioner

FortisBC Energy Inc.
Permanent Rates and Agreements under the GGRR
for the Port Kells LNG Fuelling Station in Langley

DECISION

1.0 Introduction

On November 14, 2024, FortisBC Energy Inc. (FEI) filed an application to the British Columbia Utilities Commission (BCUC), pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA). The application seeks approval of the rate design and rates, on a permanent basis, as established in amending agreements to the fuelling service agreements between FEI and the following three customers for fuelling service at the liquefied natural gas (LNG) fuelling station in Port Kells, Langley, British Columbia (Port Kells Fuelling Station)(Application):

- Vedder Transportation Ltd. (Vedder), effective June 8, 2021;
- Ken Johnson Trucking Ltd. (Ken Johnson), effective June 8, 2021; and
- D. Jones Trucking Ltd. (D. Jones), effective January 1, 2024.

Vedder and Ken Johnson oppose the rates proposed by FEI. This decision addresses the BCUC's review of and determination on the proposed rates.

1.1 Background

On April 11, 2013, the BCUC accepted that the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR) established the need for compressed natural gas and LNG fuelling stations that are undertaken by FEI as prescribed undertakings as defined by section 18 of the *Clean Energy Act* (CEA) and the GGRR, and that these prescribed undertakings are exempt from the Certificate of Public Convenience and Necessity requirements under the UCA for the term of the GGRR.¹

On June 7, 2021, FEI entered into fuelling service agreements with Vedder (Vedder Agreement) and Ken Johnson (Ken Johnson Agreement) to provide LNG fuelling service at the Port Kells Fuelling Station commencing June 8, 2021. On June 8, 2021, FEI filed an application to the BCUC for approval of the rates established in the agreements, on an interim basis. The proposed interim rates for Vedder and Ken Johnson were based on the recovery of 80 percent of the forecast cost of the fuelling station at the time over the five-year initial term of the agreements in accordance with the GGRR.²

On July 28, 2021 the BCUC determined that the Port Kells Fuelling Station met the requirements for a prescribed undertaking as defined by the GGRR and approved the rate design and rates established in the Vedder Agreement and Ken Johnson Agreement, on an interim and refundable basis, effective June 8, 2021. The BCUC also, among other things, directed FEI to file an application seeking permanent rates, upon the determination of the actual capital expenditures for the Port Kells Fuelling Station, and to refund to/recover from Vedder and Ken Johnson the variance between the interim and permanent rates, as determined by the BCUC following the final determination of permanent rates.³

¹ Order G-56-13.

² Application, pp. 1-2.

³ Order G-230-21.

On December 13, 2023, FEI entered into a fuelling service agreement with another party, D. Jones, for fuelling service at the Port Kells Fuelling Station (D. Jones Agreement).⁴ On December 19, 2023 the BCUC approved the rates established in the D. Jones Agreement on an interim and refundable/recoverable basis, effective January 1, 2024.⁵

FEI explains that the final capital cost of the Port Kells Fuelling Station has since been determined. Accordingly, included in the Application are amending agreements to the Vedder Agreement dated May 29, 2024 (Vedder Amending Agreement), the Ken Johnson Agreement dated May 21, 2024 (Ken Johnson Amending Agreement), and the D. Jones Agreement dated May 21, 2024 (D. Jones Amending Agreement) to reflect the proposed rates that are based on the recovery of the actual cost of the station. The D. Jones Amending Agreement also extended the initial term of the agreement from two years to three years and added minimum volume commitments in years 1 and 2 of the amended initial term.⁶

1.2 Regulatory Process

Subsequent to FEI's response to staff questions,⁷ on December 13, 2024, the BCUC established a regulatory timetable that included notice to Vedder, Ken Johnson and D. Jones as well as a letter of comment period and an opportunity for FEI to reply to the letters.⁸ In accordance with the timetable, Vedder and Ken Johnson jointly filed a letter of comment, which FEI replied to.⁹

On February 10, 2025, the BCUC established a further regulatory timetable, which included Panel information requests (IRs), an opportunity for further letters of comment and FEI's final argument and reply to letters of comment.¹⁰ Subsequent to FEI filing its response to the Panel IRs,¹¹ the BCUC amended the regulatory timetable to extend the letter of comment deadline in response to Vedder's and Ken Johnson's joint request for an extension.¹² In accordance with the amended timetable, on March 27, 2025, Vedder and Ken Johnson jointly filed a further letter of comment and on April 3, 2025, FEI filed its final argument and reply to the letter.¹³

1.3 Legislative Framework

Sections 58 to 61 of the UCA provide the BCUC with its rate setting jurisdiction over public utilities. These sections require the BCUC to set rates that are not unjust, unreasonable, unduly preferential, or unduly discriminatory in respect of services provided by regulated utilities.

On April 18, 2010, the Government of British Columbia introduced the CEA, which provides that the Lieutenant Governor in Council can enact regulations for "prescribed undertakings" that are intended to encourage "the use of electricity, or energy directly from a clean or renewable resource instead of the use of other energy sources that produce higher greenhouse gas emissions."¹⁴ Section 18 of the CEA modifies the BCUC's powers under the UCA where a public utility is carrying out a prescribed undertaking as defined in that section.

⁴ Application, p. 2.

⁵ Order G-355-23.

⁶ Application, p. 5 and Appendix A, p. 2.

⁷ Exhibits A2-1 and Exhibit B-2.

⁸ Order G-338-24.

⁹ Exhibit D-1 and Exhibit B-4.

¹⁰ Order G-29-25.

¹¹ Exhibit B-6.

¹² Exhibit D-1-1; Order G-50-25.

¹³ Exhibit D-1-2; FEI Final Argument.

¹⁴ *Clean Energy Act*, SBC 2010, c. 22, s. 35

On May 14, 2012, the Lieutenant Governor in Council issued Order in Council No. 295 approving the GGRR, which describes classes of prescribed undertakings pursuant to section 18 of the CEA. Section 2(3) of the GGRR, which was in effect until May 22, 2023, established LNG fuelling station service as a prescribed undertaking if certain conditions are met.¹⁵

2.0 Proposed Permanent Rates and Rate Design

In the Application, FEI requests approval of rates for the Port Kells Fuelling Station on a permanent basis that are higher than the interim rates currently in place. Table 1 below compares FEI's proposed permanent rates to the currently approved interim rates at the Port Kells Fuelling Station.

Table 1: Comparison of Current Interim and Proposed Permanent Rates¹⁶

Outputs	Notes	Approved Interim Rates (2021)	Proposed Permanent Rates (2021)
Capital Rate	• Escalates at 2% per year beginning on July 1, 2022	\$4.278 per GJ	\$5.247 per GJ ¹³
O&M Rate	• Escalates annually by British Columbia Consumer Price Index (BC CPI) beginning on July 1, 2022	\$3.716 per GJ	\$3.716 per GJ
OH&M Rate	• Not inflated by BC CPI	\$0.520 per GJ	\$0.520 per GJ
Total Rate	Sum of Capital, O&M and OH&M Rates	\$8.514 per GJ	\$9.483 per GJ

In addition to the above rates, the rate design established in the fuelling service agreements includes a Spot Charge of \$1 per gigajoule (GJ) applicable to customers in a given year that do not have a minimum volume commitment and a Short Term Charge of \$1 per GJ applicable to customers with fuelling service agreements that have an initial term of less than three years.¹⁷

The requested permanent rates are based on the actual capital cost of the station and the minimum volume commitment from the Vedder Agreement, the Ken Johnson Agreement, and the D. Jones Amending Agreement.¹⁸ According to FEI, the actual capital cost of the station is \$405,890, including allowance for funds used during construction, which is \$208,497 greater than the forecast cost of \$197,393, on which the interim rates were based.¹⁹ FEI explains that its proposed rate for the recovery of the capital expenditures (Capital Rate) of \$5.247 per GJ is higher than the Capital Rate approved on an interim basis due to the higher actual capital costs, partially offset by D. Jones' increased volume commitment over the initial term.²⁰

Variance Between Actual and Forecast Capital Costs

The interim Capital Rate at the Port Kells Fuelling Station was based on FEI's forecast capital cost of \$197,393, representing the net book value of a mobile refuelling unit model ORCA T46 (ORCA T46) that FEI intended to use

¹⁵ Greenhouse Gas Reduction (Clean Energy) Regulation, version in effect before amended by BC Reg 125/2023 on May 22, 2023.

¹⁶ Application, Table 5, p. 9; 2021 rates are used as the basis for comparison, as the rates for this station were first made effective on an interim basis beginning June 8, 2021.

¹⁷ Application, p. 6; Exhibit A2-3, p. 2.

¹⁸ Application, p. 5.

¹⁹ Application, p. 3.

²⁰ Application, pp. 5-6.

for the station, plus the estimated cost of anticipated upgrades. FEI states that in June 2021 after on-site testing, it identified two major unanticipated technical and operational issues with the ORCA T46. In July 2021, while FEI worked to resolve these issues, it placed into service a different mobile refuelling unit, a Cryogenic Vessel Alternative (CVA) unit from its inventory, to provide fueling services in the interim.²¹

FEI explains that following months of work, assessment and testing, it determined that further investment in the ORCA T46 would not be reasonable, citing significantly higher upgrade costs than originally forecast, as well as concerns about parts availability and ongoing maintenance and support for the ORCA T46. These factors led FEI to seek alternative solutions for meeting the fuelling needs of its customers at the Port Kells Fuelling Station.²²

FEI states that it determined that the CVA unit was performing well and was the best alternative for the station. It adds that although the CVA has a higher net book value than the ORCA T46, FEI determined that it was more reasonable to use this higher capital cost asset, which was in FEI's inventory and available for use, than making significant investments in the ORCA T46 given the concerns over parts availability and ongoing maintenance. In addition, FEI explains that the CVA unit offers greater capacity and less frequent reloading, as compared to the ORCA T46, providing more reliable service to customers.²³ FEI did not consider alternative fuelling equipment to the CVA unit because none of its other mobile refuelling units could support LNG fuelling at this station.²⁴ The actual capital cost of the station of \$405,890 represents the net book value of the CVA unit plus upgrade costs.²⁵

FEI has filed the executed D. Jones Amending Agreement as part of the Application, which updates the Capital Rate as proposed for the Port Kells Fuelling Station and reduces the Spot Charge and Short Term Charge to \$nil.²⁶ However, FEI confirmed in response to a staff question that a Spot Charge should have been included in year 3 of the D. Jones Amending Agreement since there is no committed minimum volume in that year. FEI proposes entering into another amending agreement with D. Jones to correct the Spot Charge after the BCUC renders its final determination on the Application.²⁷

Vedder and Ken Johnson, on the other hand, have not executed the proposed amendments to their respective agreements to reflect the Capital Rate proposed in the Application. According to FEI, Vedder declined to execute the amendment due to operational and commercial challenges, including increasing maintenance cost on its aging LNG fleet, and delays in the availability of a 15-liter LNG engine. FEI explains that Ken Johnson declined to execute the amendment due to complexities related to a change in ownership.²⁸

FEI states that in early 2022, it began communicating with Vedder and Ken Johnson about the estimated additional capital costs of the station using the CVA unit and the impact to the station's rates. However, after months of discussion, Vedder and Ken Johnson continue to be unwilling to execute their amending agreements. FEI indicates that it had been collaborating with both customers to explore possible solutions to reduce the permanent rates at the station.²⁹

²¹ Application, p. 3.

²² Application, p. 4.

²³ Application, p. 4.

²⁴ Exhibit B-6, Panel IR 2.3.

²⁵ Application, Table 1, p. 5.

²⁶ Application, p. 6.

²⁷ Exhibit B-2, p. 1.

²⁸ Application, p. 7.

²⁹ Application, p. 6.

Positions of Parties

Vedder and Ken Johnson jointly submit that it would be unjust and unreasonable to permit FEI to retroactively increase the rates set out in the Vedder Agreement and the Ken Johnson Agreement. They urge the Panel to reject FEI's proposed permanent rates which they consider would impose the burden of FEI's operational mistakes on them.³⁰ While not disputing FEI's actual capital costs of the station, they state that the increased costs were within FEI's control and were caused by FEI's poor choice of equipment and mismanagement of the Port Kells Fuelling Station, and therefore they contend it would be unjust and unreasonable for them to bear the proposed rate increases. Vedder and Ken Johnson submit that FEI ought to have reasonably known about the compatibility issues with the ORCA T46 at the time the Vedder Agreement and Ken Johnson Agreement were executed.³¹

Further, Vedder and Ken Johnson submit that the issues with the equipment at the station resulted in ongoing service interruptions causing them to use an LNG fuelling station located in Abbotsford (Abbotsford Fuelling Station) when the Port Kells Fuelling Station was not operational, resulting in significant additional expenses.³²

Vedder and Ken Johnson submit that they entered into the fuelling agreements based on their understanding of the relevant circumstances, which informed their agreement to the rates set out therein. In their view, the fuelling agreements do not include a provision to adjust the rates to reflect the actual cost of the station. In addition, they argue that although Order G-230-21, which approved the interim rates in the Vedder Agreement and the Ken Johnson Agreement, requires FEI to apply for approval of permanent rates once its actual costs are known, it does not require that those permanent rates recover FEI's actual costs. Similarly, they point out that the relevant provisions of the UCA provide that a rate approved by the BCUC must not be unfair or unreasonable, but do not require full cost recovery.³³

In response, FEI states that it has provided safe, reliable and cost-effective service to Vedder and Ken Johnson at the Port Kells Fuelling Station. FEI reiterates that it is seeking permanent rate approval from the BCUC based on the actual capital costs of the station as directed by the BCUC and maintains that its proposed rates are fair and reasonable and Vedder and Ken Johnson have not demonstrated any imprudence on FEI's part. FEI also argues that, contrary to Vedder's and Ken Johnson's assertion, the fuelling service agreements indicate that the rates are subject to BCUC approval based on FEI's actual capital costs.³⁴

FEI adds that it could not have reasonably foreseen that the ORCA T46 was not appropriate for use at the station.³⁵ As discussed in the Application, FEI submits that it had undergone several months of testing and feasibility assessments of the ORCA T46 and by early 2022 ultimately determined that continuing with the unit was not viable due to the additional investment and long term sustainability risks.³⁶ While FEI is unable to provide the exact date of when the ORCA T46 was determined unsuitable and when customers were notified, it submits that Vedder and Ken Johnson were aware of issues with the ORCA T46 in June 2021 through their participation in training and testing sessions that took place during that time.³⁷

³⁰ Exhibit D-1, p. 5; Exhibit D-1-1, p. 4.

³¹ Exhibit D-1, pp. 5-7.

³² Exhibit D-1, p. 5; Exhibit D-1-2, pp. 2-3.

³³ Exhibit D-1, p. 6.

³⁴ Exhibit B-4, p. 3; FEI Final Argument, p. 8.

³⁵ Exhibit B-4, p. 2.

³⁶ Exhibit B-6, Panel IR 2.6.

³⁷ Exhibit B-6, Panel IR 2.6.

With respect to the service interruptions alleged by Vedder and Ken Johnson, FEI explains that the CVA unit had been providing service at the station since the commencement date of the fuelling service agreements, including the period when the ORCA T46 was undergoing testing.³⁸ Additionally, FEI submits that its records of daily fuelling events and volumes dispensed to Vedder and Ken Johnson from the Port Kells Fuelling Station and the Abbotsford Fuelling Station demonstrate that there has been no material disruption in service at the Port Kells Fuelling Station since the commencement of service in June 2021.³⁹

Panel Determination

The Panel approves the rate design and rates established in the following on a permanent basis:

- **The Vedder Agreement and the Ken Johnson Agreement, as amended by the Vedder Amending Agreement and the Ken Johnson Amending Agreement, respectively, effective June 8, 2021.**
- **The D. Jones Agreement as amended by the D. Jones Amending Agreement, with the inclusion of a Spot Charge for year 3 of the agreement, effective January 1, 2024.**

The Panel has considered the evidence and the submissions made by FEI, Vedder, and Ken Johnson and finds that the rates proposed in the Application are just and reasonable. While we recognize that the actual capital costs are more than double the forecast costs that the interim rates were based on, the evidence before us does not indicate that a viable lower cost alternative to the CVA unit could have been used to provide fuelling service to Vedder and Ken Johnson at the station. Therefore, the Panel considers recovery of the cost of the CVA unit to be reasonable. The Panel is satisfied that the proposed rates are calculated to only recover FEI's costs of providing service at the Port Kells Station and are based on the actual capital cost of station. We note that neither Vedder nor Ken Johnson dispute the actual station costs, but rather they raise concerns with the fairness and reasonableness of setting rates that recover these costs.

The Panel views that setting rates based on the recovery of the actual costs is consistent with the spirit of the BCUC's previous directives for FEI to file an application seeking permanent rates once the actual costs of the station are known. Further, setting rates based on the actual rather than the forecast capital costs better enables FEI to recover the actual cost of providing service from the direct users of the service, which the Panel considers fair and reasonable.

While we acknowledge Vedder's and Ken Johnson's statements regarding the service interruptions experienced at the station and the additional expenditures incurred as a result, we are satisfied with the records provided by FEI demonstrating that there was no material disruption in service at the station. We are also satisfied that FEI could not have reasonably known about the issues with the ORCA T46 at the time it entered into the Vedder Agreement and Ken Johnson Agreement. There is no evidence to suggest that the issues with the ORCA T46 could have been discovered prior to the on-site testing that was done in June 2021 after the fuelling agreements with Vedder and Ken Johnson were executed.

The Panel notes that FEI had determined that the ORCA T46 was not suitable for use at the Port Kells Fuelling Station by early 2022 but did not file the Application for approval of permanent rates until November 14, 2024. While the Panel appreciates that there were factors that contributed to the delay in the filing of the Application, such as collaborating with customers to explore possible solutions to reduce the rates, the Panel considers that there would have been benefits to the filing of an application seeking permanent rates shortly after the station's actual costs were known. Such an application would have allowed the BCUC to render a decision on the permanent rates sooner rather than later, offering rate certainty to the customers of the station instead of maintaining interim rates for some 30 months.

³⁸ Exhibit B-6, Panel IR 1.1; FEI Final Argument, pp. 2, 6 – 7.

³⁹ FEI Final Argument, pp. 3-4.

DATED at the City of Vancouver, in the Province of British Columbia, this 2nd day of June 2025.

Electronically signed by Bernard Magnan

B. A. Magnan
Commissioner

Electronically signed by Blair Lockhart

W. E. Royle
Commissioner