



ORDER NUMBER
G-167-25

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

and

Creative Energy Vancouver Platforms Inc.
Variance to Order G-349-21

BEFORE:

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

on July 3, 2025

ORDER

WHEREAS:

- A. On June 27, 2024, Creative Energy Vancouver Platforms Inc. (Creative Energy) filed a report with the British Columbia Utilities Commission (BCUC) in compliance with Creative Energy's Inter-Affiliate Code of Conduct and Transfer Pricing Policy (IAC/TPP) and BCUC Decision and Order G-358-23 (Filing);
- B. Directive 4 of Order G-349-21, dated November 30, 2021, requires Creative Energy to request advance BCUC approval, unless otherwise ordered, for any material cost or resource sharing by Creative Energy with any non-regulated affiliate. When seeking such approval, Creative Energy must provide the basis and any justification for the proposed amounts of the cost or resource sharing;
- C. In the Filing, Creative Energy reports that \$1,706,632 of assets, services and products were provided from Creative Energy to non-regulated affiliates (Affiliate Services Transactions). Creative Energy states that the Affiliate Services Transactions were valued at higher of cost recovery or fair market value, as per Creative Energy's IAC/TPP;
- D. Creative Energy did not seek advance approval of the Affiliate Services Transactions; and
- E. The BCUC has reviewed the Filing and considers that varying Directive 4 of Order G-349-21 is warranted.

NOW THEREFORE pursuant to section 99 of the *Utilities Commission Act*, and for the reasons outlined in the decision accompanying this order, the BCUC varies Directive 4 of Order G-349-21 to read as follows:

Creative Energy is directed to request advance BCUC approval for any material **cost or resource sharing** by Creative Energy with any non-regulated affiliate if Creative Energy charges a price to the non-regulated affiliate that is other than the higher of cost recovery or fair market value.

DATED at the City of Vancouver, in the Province of British Columbia, this 3rd day of July 2025.

BY ORDER

Electronically signed by Blair Lockhart

E. B. Lockhart
Commissioner

DECISION

1.0 Background

In Decision and Order G-349-21, regarding the Creative Energy Vancouver Platforms Inc. (Creative Energy) 2021 Revenue Requirements Application (RRA) for the Core Steam System, the British Columbia Utilities Commission (BCUC) did not approve Creative Energy's Inter-Affiliate Code of Conduct and Transfer Pricing Policy (IAC/TPP) as filed. The primary purpose of an IAC/TPP is to minimize or constrain the potential for cross-subsidization of activities between affiliates, particularly where such cross-subsidization occurs at the expense of ratepayers of BCUC-regulated entities.¹ The BCUC noted that it was unclear whether the labour rates used by Creative Energy reflected the higher of market pricing or full cost recovery for services to non-regulated affiliates.² The BCUC also found that Creative Energy failed to understand the BCUC's characterisation of a 'non-regulated' affiliate³, encouraged Creative Energy to make changes to its organization structure in order to ensure a proper separation of its various business activities and resources, and provided guidance to Creative Energy on developing a revised IAC/TPP.⁴

In Directive 4 of Order G-349-21, the BCUC required Creative Energy to request advance BCUC approval for certain matters, as follows:

Creative Energy is directed to request advance BCUC approval, unless otherwise ordered, for any material cost or resource sharing by Creative Energy with any non-regulated affiliate. When seeking such approval, Creative Energy must provide the basis and any justification for the proposed amounts of the cost or resource sharing.⁵

On May 9, 2023, by Decision Relating to the Proposed AIC/TPP and Order G-110-23, the BCUC directed Creative Energy to file within 30 days a revised IAC/TPP addressing the determinations, directives, key findings and BCUC guidance in the Decision and Order G-349-21.⁶ On June 8, 2023, Creative Energy filed a revised proposed IAC/TPP. The BCUC approved the revised IAC/TPP by Order G-358-23 regarding Creative Energy's 2023 RRA⁷. In its determination, the BCUC found that the revised IAC/TPP appropriately protected ratepayers by promoting an environment where a regulated utility did not pay an unreasonably high amount to a non-regulated affiliate for a service or product, and where a regulated utility was not subsidizing the activities of a non-regulated business. Additionally, the BCUC found that Creative Energy's definition of a non-regulated business was now consistent with the BCUC's characterization.⁸ With respect to transactions involving the provision of services from regulated affiliates to non-regulated affiliates, the BCUC was satisfied with Creative Energy's approach to use a pricing methodology that is based on the higher of cost recovery or fair market value, as the BCUC considered

¹ Decision and Order G-110-23, dated May 9, 2023, p. i.

² Decision and Order G-349-21, dated November 30, 2021, p. 13.

³ Decision and Order G-110-23, dated May 9, 2023, p. i.

⁴ Decision and Order G-349-21, dated November 30, 2021, p. 18-19.

⁵ Order G-349-21, p. 2.

⁶ Decision and Order G-110-23, dated May 9, 2023, p. 2 of 3.

⁷ Decision and Order G-358-23, dated December 21, 2023, p. 2 of 3.

⁸ Ibid, p. 10.

that this struck a balance between ensuring the regulated utility was compensated appropriately for its services and preventing cross-subsidization.⁹

During Creative Energy's 2023 RRA proceeding, Creative Energy clarified that only certain services, specifically those transactions related to information systems, property tax and general maintenance (pertaining to the building, parking lot and grounds of 720 Beatty) were being provided by a regulated affiliate to a non-regulated affiliate without a formal service agreement in place¹⁰. The BCUC acknowledged that these transactions were infrequent in nature, based primarily on contracted or legislated costs, and the nature and allocation of the costs associated with the transactions were consistent with past RRAs. The BCUC therefore considered it reasonable for these transactions to continue without a formal service agreement in place. The BCUC underscored that, in accordance with Directive 4 of Order G-349-21, any other type of transaction from a regulated to a non-regulated affiliate required Creative Energy to seek advance approval from the BCUC.¹¹

On June 27, 2024, Creative Energy filed a report with the BCUC in compliance with Creative Energy's approved IAC/TPP and BCUC Decision and Order G-358-23 (Filing). In the Filing, Creative Energy reports that it provided \$1,706,632 of assets, services and products to non-regulated affiliates (Affiliate Services Transactions)¹².

2.0 IAC/TPP Requirements Related to Affiliate Services Transactions

The BCUC issued Staff Questions to Creative Energy regarding the Filing on September 16, 2024, and follow-up questions on October 22, 2024. In its response dated October 23, 2024, Creative Energy stated that none of the Affiliate Services Transactions pertain to information systems, property tax or general maintenance. Rather, Creative Energy stated that the full amount represents compensation paid by Creative Energy to its employees for services provided to the applicable non-regulated affiliate, with those costs subsequently charged to the affiliate during the period covered by the Filing.¹³ Creative Energy did not seek advance approval of the Affiliate Services Transactions. Creative Energy stated that the Affiliate Services Transactions were correctly valued as per the approved pricing methodology outlined in Creative Energy's approved IAC/TPP, at the higher of cost recovery or fair market value¹⁴.

The table below provides an overview of the types of transactions, nature of the services, applicable pricing methodology and service agreements that are contemplated by Creative Energy's approved IAC/TPP.

⁹ Ibid, p. 11.

¹⁰ Decision and Order G-358-23, dated December 21, 2023, p. 11.

¹¹ Ibid.

¹² Creative Energy Shared Services Agreements CEVP and Ventures Compliance Report No. 1, p. 3.

¹³ Creative Energy Vancouver Platforms. "IAC/TPP Compliance Report-2nd BCUC SQ Response"

¹⁴ Creative Energy Shared Services Agreements CEVP and Ventures Compliance Report No. 1, p. 3.

Table 2: Creative Energy IAC/TPP - Types of Transactions¹⁵

Affiliate Transaction Type	Nature of Services	Pricing Methodology	Service Agreement
Provision of Services to Regulated Entities from Non-Regulated Entities	1. Shared Corporate Services 2. Shared Technical Services	Cost Recovery	1. Shared Corporate Services Agreement 2. Shared Technical Services Agreement
Provision of Services to Non-Regulated Entities from Regulated Entities	Affiliate Services	Higher of Cost Recovery or Fair Market Value	N/A
Provision of Services to Regulated Entities from Regulated Entities.	Support Services	Cost Recovery	N/A
Emergency Services	Any service required to support emergency response by any Creative Energy affiliate	Cost Recovery	N/A

Section 4.3 (Pricing Affiliate Services) of the approved IAC/TPP provides as follows:

When Creative Energy provides Affiliate Services, the price will be established based on the greater of a Cost Recovery Basis and Fair Market Value. The Cost Recovery Basis will be such that the Fully allocated Cost to provide a product or service has been captured in the price. The onus is on Creative Energy to demonstrate that the Affiliate Services have been charged at a price that is not less than the Fair Market Value of such services.¹⁶

Section 2.5 (Exemptions) of the approved IAC/TPP provides as follows:

Creative Energy is to make all applications to the BCUC for an exemption with respect to compliance with any provision of this IAC/TPP on behalf of its Affiliates. Any such application will specify if the requested exemption is in respect of a particular transaction, a series of transactions, for a specified period of time, or for a general exemption from a particular provision.¹⁷

However, Section 2.5 of the approved IAC/TPP does not apply to the Affiliate Services Transactions disclosed in this Filing, as they followed the approved pricing methodology in Section 4.3.

3.0 Panel Determination

For the following reasons, Directive 4 of Order G-349-21 is varied to read as follows:

Creative Energy is directed to request advance BCUC approval for any material cost or resource sharing by Creative Energy with any non-regulated affiliate if Creative Energy charges a price to the non-regulated affiliate that is other than the higher of cost recovery or fair market value.

¹⁵ Creative Energy Vancouver Platforms Inc. Inter-Affiliate Code of Conduct and Transfer Pricing Policy June 2023, PDF p. 34.

¹⁶ Ibid, PDF p. 35.

¹⁷ Ibid, PDF p. 30.

The Panel has reviewed the approval requirement set out in Directive 4 of Order G-349-21, on its own motion, with the aim of balancing the need for regulatory oversight with regulatory efficiency by relieving unnecessary regulatory burden. The Panel is satisfied that, as long as Creative Energy is following the pricing for affiliate services set out in its approved IAC/TPP (i.e. the higher of cost recovery and fair market value), then no additional advance approval is necessary, as the IAC/TPP protects against the risk of cross-subsidization. However, Creative Energy must continue to seek advance BCUC approval before charging any compensation that is different from this amount. By varying Directive 4 of Order G-349-21, as set out above, the BCUC's regulatory efforts can focus on transactions that risk cross-subsidization. The Panel notes there is an opportunity for the BCUC to review the Affiliate Services Transactions each year, when Creative Energy files its IAC/TPP compliance report.

DATED at the City of Vancouver, in the Province of British Columbia, this 3rd day of July 2025.

Electronically signed by Blair Lockhart

E. B. Lockhart
Commissioner

Electronically signed by Bernard Magnan

B. A. Magnan
Commissioner

Electronically signed by Wendy Royle

W. E. Royle
Commissioner