



December 7, 2018

Sent via eFile

FEI BIOGAS PURCHASE AGREEMENT BETWEEN FEI AND THE COV EXHIBIT A-3

To: FortisBC Energy Inc.
Registered Interveners

Re: FortisBC Energy Inc. – Application for Acceptance of the Biogas Purchase Agreement Between FortisBC Energy Inc. and the City of Vancouver – Project No. 1598977 – Request for Submissions on Renewable Natural Gas Acquisition

Dear Ms. Roy:

On September 21, 2018, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC), on a confidential basis, an application for acceptance of a Biogas Purchase Agreement (BPA) between FEI and the City of Vancouver (CoV) pursuant to section 71 of the *Utilities Commission Act* (Application).

On November 2, 2018, FEI filed a non-confidential redacted version of the Application and the BPA in response to a letter issued by the BCUC pursuant to Section 18.01(b) of the BCUC's Rules of Practice and Procedure.

Under the CoV BPA, FEI will purchase raw biogas from the CoV landfill (landfill gas or LFG) and will construct and operate facilities on CoV land to upgrade the LFG to pipeline quality biomethane (also referred to as renewable natural gas [RNG]), for injection into FEI's natural gas system.¹ Referred by FEI as the Project², the acquisition of the LFG and construction of the facilities will consist of connecting to the existing landfill gas collection system, installing an upgrading plant and connecting to existing FEI natural gas distribution infrastructure through an interconnect station.³

On April 18, 2010, the Government of BC enacted the *Clean Energy Act* (CEA). The CEA provides that the Lieutenant Governor in Council (LGIC) can enact "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."⁴ Section 18(1) of the 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."

On May 14, 2012, the LGIC issued Order in Council 295/2012 approving the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR), which describes classes of prescribed undertakings pursuant to section 18 of the CEA.

¹ Exhibit B-1, p. 1.

² *Ibid.*

³ *Ibid.*, p. 2.

⁴ *Clean Energy Act*, SBC 2010, c. 22, s. 35.

By Order in Council 161/2017 the LGIC approved an amendment to the GRR which, among other things, classifies RNG as a prescribed undertaking. Sections 2(3.7) and 2(3.8) state that:

(3.7) A public utility's undertaking that is in the class defined in subsection (3.8) is a prescribed undertaking for the purposes of section 18 of the Act.

(3.8) The public utility acquires renewable natural gas

- a) for which the public utility pays no more than \$30 per GJ, and
- b) that, subject to subsection (3.9), in a calendar year, does not exceed 5% of the total volume of natural gas provided by the public utility to its non-bypass customers in 2015.⁵

Section 29 of the *Interpretation Act* defines "acquire" in these terms:

In an enactment:

'acquire' means to obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate.⁶

The BCUC requests FEI and registered interveners to provide written submissions on whether the term "the public utility acquires renewable natural gas" in section 3.8 of the GRR includes:

- 1. The purchase of LFG (as opposed to RNG); and/or**
- 2. The construction of capital facilities to upgrade LFG to RNG for injection into FEI's natural gas system.**

All submissions should be filed via the BCUC's website in accordance with the timetable as established in Appendix A of Order G-234-18.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

AK/dc
Enclosure

⁵ Province of British Columbia, Lieutenant Governor in Council, Order in Council No. 161, approved and ordered March 21, 2017, section 2(3.7), 2(3.8).

⁶ *Interpretation Act*, RSBC 1996, c. 238, s. 29.



ORDER NUMBER
G-234-18

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

and

FortisBC Energy Inc.
Application for Acceptance of the Biogas Purchase Agreement
Between FortisBC Energy Inc. and the City of Vancouver

BEFORE:

D. M. Morton, Panel Chair/Commissioner
A. K. Fung, QC, Commissioner
R. I. Mason, Commissioner

on December 7, 2018

ORDER

WHEREAS:

- A. On September 21, 2018, pursuant to section 71 of the *Utilities Commission Act (UCA)*, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC), on a confidential basis, an application for acceptance of a Biogas Purchase Agreement (BPA) between FEI and the City of Vancouver (Application);
- B. On October 31, 2018, the BCUC issued a letter requesting FEI to file a non-confidential redacted version of the Application, pursuant to section 18.01(b) of the BCUC'S Rules of Practice and Procedure , to allow for a public hearing process;
- C. On November 2, 2018, FEI filed a non-confidential redacted version of the Application;
- D. By Order G-219-18, dated November 16, 2018, the BCUC established the regulatory timetable for review of the Application. The regulatory timetable included one round of BCUC information requests and a procedural conference;
- E. By December 4, 2018, British Columbia Ministry of Energy, Mines and Petroleum Resources, City of Vancouver and Commercial Energy Consumers Association of British Columbia registered as interveners; and
- F. The Panel seeks submissions from FEI and registered interveners and considers that amending the regulatory timetable is warranted.

NOW THEREFORE the BCUC orders that the regulatory timetable established by order G-219-18 is amended and attached as Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of December 2018.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachment

FortisBC Energy Inc.
Application for Acceptance of the Biogas Purchase Agreement
Between FortisBC Energy Inc. and the City of Vancouver

REGULATORY TIMETABLE

Action	Date (2018)
FEI written submission	Tuesday, December 11
Intervener written submission	Friday, December 14
FEI written reply to Intervener written submissions	Wednesday, December 19
BCUC Information Request (IR) No.1 to FEI	Friday, December 21
Action	Date (2019)
FEI response to BCUC IR No.1	Thursday, January 10
Procedural Conference*	Wednesday, January 16 commencing at 9:00 a.m.
Further process	To be determined

*Location: BCUC Hearing Room
12th Floor, 1125 Howe Street
Vancouver, BC