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Utilities Commission

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March 16, 2018

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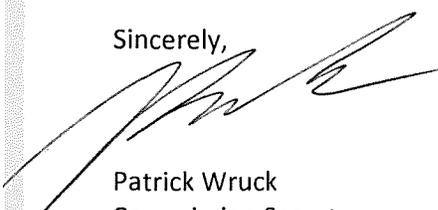
Ms. Diane Roy
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FortisBC Inc.
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Re: FortisBC Inc. – Application for Reconsideration and Variance of Order G-199-16 – Project No. 1598913

Dear Ms. Roy:

Further to your March 17, 2017 filing of the above-noted application, enclosed please find British Columbia Utilities Commission Order G-63-18 with reasons for decision.

Sincerely,



Patrick Wruck
Commission Secretary

/nd
Enclosure



ORDER NUMBER
G-63-18

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

and

FortisBC Inc.
Application for Reconsideration and Variance of Order G-199-16

BEFORE:

H. G. Harowitz, Panel Chair/Commissioner
K. A. Keilty, Commissioner
R. D. Revel, Commissioner

on March 16, 2018

ORDER

WHEREAS:

- A. On March 17, 2017, FortisBC Inc. (FBC) filed an Application for Reconsideration and Variance of Order G-199-16 (Reconsideration Application) on the basis that the British Columbia Utilities Commission (Commission) erred in matters of fact and law that justify variation of Order G-199-16;
- B. On April 15, 2016, FBC filed its Net Metering Program Tariff Update Application (2016 NM Application) with the Commission;
- C. On December 29, 2016, the Commission issued Order G-199-16 and accompanying reasons for decision regarding FBC's 2016 NM Application (2016 NM Decision);
- D. By letter dated April 3, 2017, the Commission established the first phase of the reconsideration process wherein the Commission requested written submissions from registered interveners in the FBC Net Metering Program Tariff Update Application proceeding addressing specific questions on whether the threshold for reconsideration has been met. FBC was given the opportunity to respond to intervener submissions (Phase One process). The Commission also confirmed that the requirements of Order G-199-16 are postponed pending the resolution of the Reconsideration Application;
- E. By Order G-76-17 dated May 17, 2017, the Commission established the second phase of the reconsideration process for FBC's Reconsideration Application and a regulatory timetable, which allowed for FBC to file additional evidence with further process to be determined. The scope of the second phase is limited to the issues raised in FBC's Reconsideration Application, which are:
 - FBC not be directed to submit to the Commission changes to the Net Metering Tariff, Rate Schedule (RS) 95, which require that RS 95 customers not be removed from the Net Metering Program solely on the basis of producing Net Excess Generation (NEG) on an annual basis;

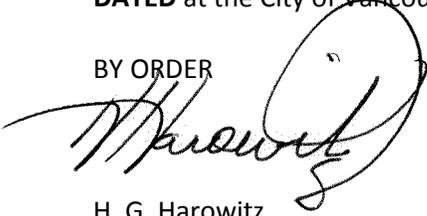
- The kilowatt hour (kWh) bank described in Section 5 of the Application to carry forward NEG accumulated in a Net Metering customer’s billing period to offset consumption in a future billing period, with an annual settlement for remaining unused NEG, be approved for implementation and the terms of RS 95 be amended accordingly; and
 - The terms of RS 95 be further amended such that Net Metering customers are compensated for any positive kWh balance remaining in the kWh bank at the end of the annual period using the British Columbia Hydro and Power Authority RS 3808 Tranche 1 rate;
- F. By Order G-127-17 dated August 18, 2017, the Commission established further process in the Regulatory Timetable for review of the Reconsideration Application through a written hearing process with one round of information requests;
- G. FBC filed its final argument on October 12, 2017, interveners filed their final arguments by October 26, 2017, and FBC filed its reply argument on November 9, 2017; and
- H. The Commission reviewed the evidence filed in the Application and Reconsideration Application proceedings and the arguments filed in the Reconsideration Application proceeding, and finds that a variance of Order G-199-16 is warranted.

NOW THEREFORE, pursuant to section 99 of the *Utilities Commission Act* and for the reasons attached as Appendix A, the British Columbia Utilities Commission orders as follows:

1. Directive 4 in Order G-199-16 is varied, and the implementation of a kWh bank and the amendments to RS 95 pertaining to the kWh bank as outlined in the 2016 NM Application is approved. FBC is directed to implement the kWh bank as soon as practicable.
2. Directive 3 in Order G-199-16 is varied, and FBC’s reconsideration request to compensate customers for the remaining unused NEG at the end of the annual period (Annual NEG) at the RS 3808 Tranche 1 rate, as outlined in the 2016 NM Application, is approved.
3. The portion of Directive 2 in Order G-199-16 which stated “FBC is directed to submit to this Panel, proposed changes to RS 95... to clarify that: RS 95 customers cannot be removed from the Net Metering Program solely on the basis of producing annual Net Excess Generation” is varied, and FBC is instead directed to clarify in its Net Metering tariff that the existence of Annual NEG does not result in the customer becoming ineligible for the Net Metering Program, as discussed in section 4.2.2 of the reasons attached as Appendix A to this order.
4. FBC is directed to file amended tariff pages with the Commission reflecting the directives contained in this order and the accompanying reasons attached as Appendix A, within 15 days from the implementation date of the kWh bank.
5. FBC is directed to provide notice of the approved tariff amendments to RS 95 contained in this order to all current RS 95 customers and to those with net metering service applications in progress, within 30 days from the date of this order, and provide the Commission with a copy of the notice.
6. FBC is directed to monitor the magnitude of cross-subsidization caused by the NM Program, and to bring forward for consideration its findings in the context of its next rate design application.
7. All other directives and determinations in Order G-199-16 dated December 29, 2016 remain effective.

DATED at the City of Vancouver, in the Province of British Columbia, this 16th day of March 2018.

BY ORDER

A handwritten signature in black ink, appearing to read 'H. G. Harowitz', written over a circular stamp or seal.

H. G. Harowitz
Commissioner

Attachment

FortisBC Inc.

Application for Reconsideration and Variance of Order G-199-16

Reasons for Decision

March 16, 2018

Before:

H. G. Harowitz, Panel Chair

K. A. Keilty, Commissioner

R. D. Revel, Commissioner

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1.0 Introduction

1.1 Background

On April 15, 2016, FortisBC Inc. (FBC) filed its Net Metering Program Tariff Update Application (2016 NM Application) with the British Columbia Utilities Commission (Commission). In the Application, FBC requested approval for changes to the Rate Schedule (RS) 95 tariff to:

- Clarify the intent of the NM Program as described in Section 4 of the Application and reflected in the revised RS 95 tariff contained in Appendix C to the Application;
- Use a kilowatt hour (kWh) bank as described in Section 5 of the Application to carry forward Net Excess Generation (NEG) accumulated in a billing period forward to offset consumption in a future billing period, with an annual settlement for any annual remaining unused NEG; and
- Compensate customers for any positive kWh balance remaining in the kWh bank at the end of the annual period using the British Columbia Hydro and Power Authority (BC Hydro) RS 3808 Tranche 1 rate.

FBC also requested Commission acceptance of FBC's approach to the billing calculation method to remove the potential for misunderstanding about the application of the RS 95 tariff.¹

By Order G-199-16 and accompanying reasons dated December 29, 2016 (2016 NM Decision), the Commission ruled on FBC's 2016 NM Application dated April 15, 2016. The 2016 NM Decision accepted FBC's proposed interpretation of the billing method; rejected FBC's proposed change in the purchase price of NEG; and rejected FBC's application to create a kWh bank to carry forward NEG. The 2016 NM Decision also approved FBC's proposed changes to the RS 95 tariff that clarifies that new customers will not be accepted into the Net Metering Program if their proposed generating capacity exceeds their anticipated annual consumption, but at the same time determined that FBC's proposed revisions alone do not provide the appropriate clarification to the tariff. The Commission therefore further directed FBC to submit to the panel who reviewed the Application, proposed changes to RS 95 with 90 days of the date of the order to clarify that:

- customers who are already participants in the Net Metering Program and wish to remain in the Net Metering Program, must not increase their generating capacity without prior approval of FBC, which shall be granted on the same basis as a new customer will be evaluated for entry into the Net Metering Program; and
- RS 95 customers cannot be removed from the Net Metering Program solely on the basis of producing Annual NEG.

1.2 Application and approvals sought

On March 17, 2017, FBC filed its Application for Reconsideration and Variance of Order G-199-16 (Reconsideration Application) pursuant to section 99 of the *Utilities Commission Act* (UCA). In its Reconsideration Application, FBC requests that:

¹ FortisBC Inc. Net Metering Program Tariff Update Application (FBC 2016 NM Application), Exhibit B-1, pp. 1, 8, 10, 11, Appendix C.

- FBC not be directed to submit to the Commission changes to the Net Metering Tariff, RS 95, which require that RS 95 customers not be removed from the Net Metering Program solely on the basis of producing NEG on an annual basis;
- The kWh bank described in Section 5 of the [2016 NM] Application to carry forward NEG accumulated in a Net Metering customer's billing period to offset consumption in a future billing period, with an annual settlement for remaining unused NEG, be approved for implementation and the terms of RS 95 be amended accordingly; and
- The terms of RS 95 be further amended such that Net Metering customers are compensated for any positive kWh balance remaining in the kWh bank at the end of the annual period using the BC Hydro RS 3808 Tranche 1 rate.²

1.3 Application review process

The Commission process for reviewing a reconsideration application, as revised in July 2002 and published on the Commission's website, is a two-phase process as described in the document titled "Reconsideration and Appeals."³ Phase 1 of the process establishes whether there is a *prima facie* case for reconsideration and in Phase 2, the merits of the application are examined.

By letter dated April 3, 2017, the Commission established the first phase of the reconsideration process and requested written submissions from registered interveners in the FBC 2016 NM Application proceeding addressing specific questions on whether the threshold for reconsideration has been met. The Commission received submissions from the BC Sustainable Energy Association and Sierra Club BC (BCSEA-SCBC), the British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO), Commercial Energy Consumers Association of British Columbia (CEC), Mr. Donald Scarlett (Scarlett), Mr. Andy Shadrack (Shadrack) and a reply submission from FBC.

On May 17, 2017, the Commission issued Order G-76-17 and accompanying reasons accepting that FBC had established a *prima facie* case to warrant proceeding to Phase 2 of the reconsideration process and established a regulatory timetable for the second phase of the reconsideration process. By Order G-127-17 dated August 18, 2017, the Commission established further process in the Regulatory Timetable for review of the Reconsideration Application and established a written hearing process with one round of information requests.

2.0 Implementation of a kWh bank

In its 2016 NM Application, FBC proposed to adopt the use of a kWh bank that alternately carries monthly NEG forward to offset consumption in a future billing period, or applies previously accumulated monthly NEG in a billing period when net consumption exceeds net generation.⁴ FBC stated that the monthly NEG carry-forward method is consistent with that used by BC Hydro and other utilities surveyed across Canada. In situations where a customer under RS 95 has a balance in its kWh bank at March 31, those kWh hours will be purchased by FBC.

² Exhibit B-1, p. 1.

³ http://www.bcuc.com/Documents/Guidelines/2009/DOC_22551_Reconsideration-Criteria.pdf.

⁴ FBC 2016 NM Application, Exhibit B-1, p. 10.

FBC explained that March 31 has been chosen as it allows customers to take full advantage of any banked kWh through the high consumption winter season.⁵

In the 2016 NM Decision, the Commission stated it “rejects FBC’s application to create a kWh bank to carry forward Net Excess Generation. The Panel has previously determined the existing practice of valuing NEG generated in each billing period at the customer’s retail rate should be continued. As a result, there is no need for the development of an energy bank mechanism to implement FBC’s proposed pricing method.”⁶

In FBC’s Reconsideration Application, FBC states that:

the kWh bank proposal was not reviewed on its own merits, but was treated erroneously as being only a ‘mechanism to implement FBC’s proposed’ NEG price change, despite the kWh bank proposal receiving broad support from most Interveners as well as the dissenting panel member, despite there being evidence that over 90% of residential [Net Metering] NM customers would benefit monetarily from the proposal, and despite every other NM program in Canada using some form of kWh bank mechanism.⁷

FBC clarified that “The kWh Bank and the annual NEG compensation rate can be implemented independently. If the kWh Bank was not implemented, a different annual NEG rate could be applied to an annual dollar credit by calculating the number of kWh that produced the NEG (by some agreed upon methodology) and then applying an annual NEG rate to those kWh. Similarly, the existing retail rates could be applied to an annual kWh banked surplus.”⁸ However, FBC states that it is administratively simpler to implement both the kWh Bank and Annual NEG compensation changes at the same time. While the proposals are not strictly a “package,” they do have an inter-relationship. In FBC’s view, the Commission should, if it determines that approval of the kWh Bank proposal is appropriate and reasonable, have regard for its independent benefits in considering the appropriate compensation rate for Annual NEG because maintaining the use of the Residential Conservation Rate (RCR) in particular would be problematic and impractical under a kWh Bank system.⁹

Position of parties

Shadrack acknowledges that most NM customers are ready and willing to accept that FBC should be allowed to adopt a kWh bank. However, Shadrack has a preference for the current mechanism.¹⁰ CEC submits that the Commission erred in the 2016 NM Decision, and both CEC and BCSEA-SCBC support implementation of the kWh bank.

FBC submits that its kWh Bank proposal should be approved.¹¹ FBC further submits that a kWh bank allows customers the benefit of using their net excess generation during seasons in which generation is higher than

⁵ Ibid.

⁶ FortisBC Inc. Net Metering Program Tariff Update Application, Order G-199-16 with reasons for decision dated December 29, 2016, Appendix A, p. 20.

⁷ Exhibit B-1, p. 2.

⁸ Exhibit B-8, BCUC IR 5.2.

⁹ Exhibit B-8, BCUC IR 5.2.

¹⁰ Shadrack Final Argument, p. 11.

¹¹ FBC Final Argument, p. 22.

consumption to offset consumption in periods where the opposite occurs, reduces bill volatility, benefits customers under RCR because unused kWhs that are carried forward to a future billing period may be valued at the higher Tier 2 rate rather than the Tier 1 rate, and is also more consistent with the general concept of net metering.¹²

FBC also points out that billing under the dollar credit system is itself a manual process that has proven more administratively burdensome than initially anticipated. The rationale of administrative simplicity and cost savings that argued against a kWh Bank in 2009 are clearly now irrelevant in the current circumstances of the NM Program.¹³

Commission determination

The Panel finds the amendments to RS 95 pertaining to the kWh bank as outlined in the 2016 NM Application are just and reasonable and therefore approves the implementation of a kWh bank and the amendments to RS 95 pertaining to the kWh bank as outlined in the 2016 NM Application. Accordingly, the Panel finds that a variance to Directive 4 in Order G-199-16 is necessary and directs FBC to implement the kWh bank as soon as practicable. FBC is directed to file the revised tariff for endorsement within 15 days from the implementation date of the kWh bank.

The Panel is persuaded that the kWh bank should be considered on its own merits and the Commission erred in not doing so in the 2016 NM Decision. The Panel finds that FBC's proposed kWh bank provides benefits that support its adoption: most NM customers would benefit from the kWh bank; it allows customers to offset NEG generated in one billing period for consumption in a subsequent period; it is consistent with other jurisdictions' NM programs; and is administratively efficient for FBC to implement.

3.0 Rate for compensation of Annual NEG

As part of FBC's 2016 NM Application, FBC requested a change in the tariff that would compensate customers for remaining unused NEG at the BC Hydro RS 3808 Tranche 1 rate instead of the excess being valued at rates specified in the applicable Rate Schedule and credited to the customer's account as a dollar value that contributes to the overall financial standing of the account. By Order G-199-16, the Commission rejected the proposed change in the purchase price of NEG. The Commission explained that:

...given the changes to the tariff, the anticipated Annual NEG for any given Program participant is expected to be in the range of the amounts that FBC anticipated at the outset of the Program when it put forward arguments in favour of using the retail rates for NEG, and the Panel considers those arguments to still be compelling today... FBC recognizes that if the intent of the program is adhered to, and customers enrolled in the Program have generation sized only to meet the approximate annual load of the premises, the compensation rate will have only a minor financial impact to other customers since any amount of Annual NEG should be small. As

¹² FBC Final Argument, pp. 16–17, 19.

¹³ FBC Final Argument p. 21.

a result, the Panel questions the need to revisit the previously approved analytic paradigm at this time.¹⁴

In the Reconsideration Application, FBC requests that the terms of RS 95 be further amended such that NM customers are compensated for any positive kWh balance remaining in the kWh bank at the end of the annual period using the RS 3808 Tranche 1 rate. FBC states that “The primary change in circumstances that prompted FBC to seek a change in the compensation rate for NEG is the introduction of the [Residential Conservation Rate] RCR. Compensation at the higher [RCR] Tier 2 rate versus the Tier 1 rate has no particular basis. The absence of a justification also highlights an additional change in circumstances: the prevailing value of power from alternate resources, which has fallen significantly since the introduction of the NM Program.”¹⁵

Proxy for value of NEG

FBC stated that “as the primary objective of the Program is for customers to be able to offset personal consumption and not to sell power to FBC, the most appropriate rate would be zero.”¹⁶ In Appendix D of the FBC 2016 NM Application, FBC presented a jurisdictional review of 11 Canadian electric utility’s NM programs. Among the 11 utilities reviewed by FBC, six of them (SaskPower, HydroQuebec, NB Power, Maritime Electric, NWT Power and Ontario – North Bay Hydro) pays zero dollars for NEG.¹⁷ However, FBC stated that “since the Company does provide compensation to other parties for unscheduled deliveries into the FBC system FBC is proposing to compensate Net Metering customers for unused annual net excess generation.”¹⁸

FBC stated that “when attempting to arrive at a reasonable proxy for the value of energy to be purchased by FBC in the form of NEG, the primary consideration should be the price of other readily available and comparable energy that the Company can acquire.”¹⁹

FBC stated that it considers that the RS 3808 Tranche 1 rate is a reasonable proxy to use to purchase excess energy as it is below the expected rate required to build new long-term generation but above the rate from several existing long-term sources of supply. FBC also considered the energy acquired from excess energy purchases to be short-term in nature, and therefore the RS 3808 Tranche 1 rate is the appropriate rate to apply to excess energy.²⁰ FBC explained that it pays the lower of the RS 3808 Tranche 1 rate or a market-based price to existing Independent Power Producers (IPPs).²¹ This results in a monthly energy rate ranging from \$17 to \$43 per MWh for 2015, based on individual contracts with the IPP.²² While FBC can often acquire power below the RS 3808 Tranche 1 rate, FBC stated that the RS 3808 Tranche 1 rate is a publicly available value that is updated periodically and is therefore reasonable to use.²³ FBC submitted that in determining a consistent, principled basis from which to set an appropriate rate to compensate customers for unscheduled deliveries to the FBC

¹⁴ FortisBC Inc. Net Metering Program Tariff Update Application, Order G-199-16 with reasons for decision dated December 29, 2016, Appendix A, p. 19.

¹⁵ Exhibit B-8, BCUC IR 7.1.

¹⁶ FBC 2016 NM Application, Exhibit B-7, CEC IR 7.1.

¹⁷ FBC 2016 NM Application, Exhibit B-1, Appendix D.

¹⁸ FBC 2016 NM Application, Exhibit B-7, CEC IR 7.1.

¹⁹ Exhibit B-11, Shadrack IR 3i.

²⁰ FBC 2016 NM Application, Exhibit B-7, CEC IR 7.1.

²¹ FBC 2016 NM Application, Exhibit B-4, BCUC IR 9.4.2.

²² FBC 2016 NM Application, Exhibit B-12, BCUC IR 13.5.

²³ Exhibit B-11, Shadrack IR 3i.

system, the avoided-cost of power makes the most sense. FBC stated that the 2016 average NEG price was \$124 per MWh, and submitted that given that \$124 per MWh is over double the current PPA cost of energy of about \$48 per MWh, FBC maintains the difference of \$76 per MWh is excessive.²⁴

Bonbright principles

FBC provided the following table comparing the current NM compensation model of valuing NEG at the retail rate and FBC’s proposed compensation model of valuing NEG at the RS 3808 Tranche 1 rate against the Bonbright principles:

Table 1: NEG Compensation at RS 3808 Tranche 1 Rate Against Bonbright Principles²⁵

Bonbright Principle	Comment
Principle 1: Recovering the Cost of Service; the aggregate of all customer rates and revenues must be sufficient to recover the utility’s total cost of service	FBC will recover the Cost to Serve the residential class under either NEG compensation scenario.
Principle 2: Fair apportionment of costs among customers (appropriate cost recovery should be reflected in rates)	In the current NEG compensation scenario, NM customers with annual NEG will shift additional costs to other customers. This may occur in either scenario but the impact is mitigated by a lower annual NEG compensation rate.
Principle 3: Price signals that encourage efficient use and discourage inefficient use	The current NEG compensation scenario overvalues annual NEG produced by NM customers while the FBC proposal values the energy appropriately at the avoided cost.
Principle 4: Customer understanding and acceptance	Customers will likely understand either scenario. Acceptance or non-acceptance may be driven by whether a particular customer is a participant in the NM Program and the extent to which they may benefit through the annual NEG compensation method that is in place.
Principle 5: Practical and cost-effective to implement (sustainable and meet long-term objectives).	Both current and proposed models meet this criterion.
Principle 6: Rate stability (customer rate impact should be managed)	Customer rate impact is best managed by utilizing FBC’s proposed annual NEG compensation scenario since customer bills will be more consistent from billing period to billing period.
Principle 7: Revenue stability	FBC’s proposed annual NEG compensation scenario will slow the shift in revenue responsibility that may result from an increased number of NM customers. This will not impact overall revenues but may impact the overall level of rates.
Principle 8: Avoidance of undue discrimination (interclass equity must be enhanced and maintained)	The proposed annual NEG compensation scenario better mitigates the prospect of interclass cost shifting.

²⁴ Exhibit B-11, Shadrack IR 3i.

²⁵ Exhibit B-10, CEC IR 2.2.

Impact on NM customers

FBC stated that as most NM customers with an appropriately sized generation system do not produce NEG on an annual basis, there is no impact for the majority of NM participants. Customers with modest amounts of Annual NEG will have a minor impact that correlates with the kWh Bank balance that is paid out. Those customers with large kWh Bank balances at year end will see more significant impacts, which would vary by the amount of Annual NEG multiplied by the difference between the residential flat rate and the RS 3808 Tranche 1 rate.²⁶

Position of parties

CEC recommends that the Commission establish compensation rates at a discount of at least 10 percent to the RS 3808 Tranche 1 energy rate.²⁷ CEC submits that “In addition to the evidence provided by FBC regarding significant changes in circumstances since the original decision, the CEC submits that the most compelling reason for adjusting rates at this time relates to the value of the energy provided to FBC and the intent of the program.”²⁸ CEC also agrees with FBC that the incentives created by the high compensation rate are inconsistent with the intent of the program and result in an inherent subsidy by allowing NM customers to make a negative contribution to fixed assets. CEC points out that the program was never intended to provide a profit to NM customers, which is effectively the result when customers have high persistent NEG that is purchased by the utility.²⁹ CEC further submits that “Compensation at Tier 2 rates results in preferential treatment to some customers at the expense of others. There are no Bonbright principles which support subsidization of any customer group. Rather, subsidization is to be avoided.”³⁰

In BCSEA-SCBC’s view, the retail energy price is not an appropriate referent for valuing Annual NEG. This is because the retail energy price covers not only the utility’s cost of delivered energy but also the utility’s cost of being able to meet system peak demand (which includes transmission) and a large portion of the utility’s cost of providing billing and customer contact services (the rest being covered by the basic charge).³¹ BCSEA-SCBC further states that:

In the original proceeding, BCSEA-SCBC supported the Long Run Marginal Cost (LRMC) as the reference point for the price for annual NEG. FBC disagreed on the ground that the LRMC is for firm energy whereas annual NEG under the NM Program is not firm. This is now correct, in light of the Commission’s decision limiting the NM Program to self-generation not anticipated to exceed annual consumption (unanticipated annual NEG cannot be considered firm supply).³²

Shadrack submits that compensating Annual NEG at the RS 3808 Tranche 1 rate, when the average cost of purchasing a MWh of electricity is \$62.9, is not an equitable and fair contract price to offer NM Customer-Generators.³³ Shadrack also raised that he “does not understand how FBC can argue for a NM NEG value of \$48 per MWh in this hearing’s Final Argument, while stating to the same Commission in its Final Argument in the

²⁶ Exhibit B-8, BCUC IR 8.2.

²⁷ CEC Final Argument, p. 7.

²⁸ CEC Final Argument, pp. 4–5.

²⁹ CEC Final Argument, p. 5.

³⁰ CEC Final Argument, p. 7.

³¹ BCSEA Final Argument, p. 5.

³² BCSEA Final Argument, p. 5.

³³ Shadrack Final Argument, p. 9.

2016 Long Term Energy Resource Plan & Long Term Demand Side Management Plan that the LRMC 'for acquiring electricity generated from clean or renewable resources in BC' is \$100.45 per MWh."³⁴

FBC submits that the use of retail rates to compensate NEG significantly overvalues the energy from a resource perspective. It also further exacerbates a subsidy NM customers receive at the expense of other FBC customers that is built into the current program design. The implementation of the two-tiered RCR, in particular, is an additional rate design change that affects how the majority of NM customers are charged for their energy consumption. The impacts of the RCR on the functioning of the NM Program further support FBC's proposals.³⁵ FBC submits that if the 2016 NM Decision (Order G-199-16) is not varied, then "Annual NEG will continue to be overcompensated as compared to FBC's avoided cost of energy and some NEG will continue to be compensated at the much higher [RCR] Tier 2 rate with no regulatory justification. This also sends price signals that are contrary to the intent of the NM program and incents production of NEG that is largely unnecessary from a system perspective."³⁶ FBC further submits that "the NEG compensation price is part of a rate schedule, which both FBC's Electric Tariff and the UCA make clear is subject to amendment from time to time with the Commission's approval. NM customers are not entitled to greater certainty regarding their electricity rates than any other FBC customer."³⁷

FBC further submits that:

...the LRMC of clean or renewable resources from FBC's 2016 LTERP that Mr. Shadrack references in his Final Argument is not relevant to the value of annual NEG because NEG is not a long term or a firm resource. The reality is that FBC has sufficient planned and committed resources to meet its customers' needs in the short to medium term and little need for the NEG produced by its NM customers (which is also typically transferred in the summer months when it is of less value to FBC from a system management perspective). The most comparable alternative resources – short-term market purchases or deliveries from IPPs – are also much lower cost.³⁸

Commission determination

The Panel finds that the Commission erred in not directing that any positive kWh balance remaining in the kWh bank at the end of the annual period be compensated using the RS 3808 Tranche 1 rate as outlined in the 2016 NM Application. The Panel approves FBC's reconsideration request to compensate customers for any positive kWh balance remaining in the kWh bank at the end of the annual period using the RS 3808 Tranche 1 rate as just and reasonable. Accordingly, the Panel finds that variance of Directive 3 in Order G-199-16 is warranted and directs FBC to file the revised tariff for endorsement within 15 days from the implementation date of the kWh bank.

³⁴ Shadrack Final Argument, p. 11.

³⁵ FBC Final Argument, p. 26.

³⁶ FBC Final Argument, p. 4.

³⁷ FBC Reply Argument, p. 13.

³⁸ FBC Reply Argument, p. 18.

The Panel agrees with FBC that the use of current retail rates to compensate Annual NEG overvalues the energy from a resource perspective and any payment at the RCR Tier 2 rate results in an undue subsidy by other ratepayers. The Panel finds that the RS 3808 Tranche 1 rate is a reasonable proxy for the cost of FBC's energy supply alternatives; it reflects the non-firm nature of the energy generated; and it sends a pricing signal that is more closely aligned with the design of the NM program to offset own consumption.

The Panel recognizes that, while the RS 3808 Tranche 1 rate is currently a useful proxy, this may not be the case indefinitely: BC Hydro's RS 3808 Tranche 1 rate is subject to change in future regulatory processes; and FBC's energy supply portfolio may change such that the RS 3808 Tranche 1 rate may deviate from the value for NEG over time. If circumstances change, it may be appropriate for FBC to file an application to further amend RS 95 at some time in the future.

4.0 Eligibility criteria for the NM Program

By Order G-199-16, the Commission "determine[d] that existing NM Program participants who are in a NEG position shall be afforded the same protection under the tariff as any new entrants to the NM Program, regardless of how that NEG came about. More specifically, even in those situations where a participant's generation capacity is clearly greater than their anticipated annual consumption, they cannot be removed from the NM Program by reason of the NEG."³⁹ The Commission further "direct[ed] FBC to submit to this Panel, proposed changes to RS 95 within 90 days of the date of this order to clarify that... RS 95 customers cannot be removed from the Net Metering Program solely on the basis of producing annual Net Excess Generation." The Commission also stated that "FBC argue[d] that it currently has the right (whether or not they would choose to exercise it) to remove a customer from the Program if the customer becomes a consistent producer of Annual NEG. The Panel finds to the contrary, that FBC does not have this right under the current RS 95 tariff, nor should they going forward."⁴⁰

In FBC's Reconsideration Application, FBC requests it not be directed to submit to the Commission changes to the Net Metering Tariff, RS 95, which require that RS 95 customers not be removed from the Net Metering Program solely on the basis of producing NEG on an annual basis.

In examining the merits of FBC's reconsideration request, it is useful to distinguish between the Special Conditions that govern initial and ongoing approval of a customer's Net Metered System, and the criteria that govern ongoing eligibility for a customer to participate in the NM Program.

³⁹ FortisBC Inc. Net Metering Program Tariff Update Application, Order G-199-16 with reasons for decision dated December 29, 2016, Appendix A, p. 22.

⁴⁰ FortisBC Inc. Net Metering Program Tariff Update Application, Order G-199-16 with reasons for decision dated December 29, 2016, Appendix A, pp. 13–14.

4.1 Conditions for approval of a Net Metered System

A Net Metered System is defined as follows under the currently approved RS 95 (with new wording, as directed in the 2016 NM Decision although not yet endorsed by the Commission, shown in underline):

Net Metered System - A facility for the production of electric energy that:

- (a) uses as its fuel, a source defined as a clean and renewable resource in the BC Energy Plan;
- (b) has a design capacity of not more than 50 kW;
- (c) is located on the Customer-Generator's Premises;
- (d) operates in parallel with the Company's transmission or distribution facilities; and
- (e) is intended to only offset part or all of the Customer-Generator's requirements for Electricity on an annual basis. The program is not intended for customers who generate electricity in excess of their annual requirements.

RS 95 states under Special Conditions, item 1 that "Prior to the interconnection of a Net Metering System the Customer-Generator must submit a Net Metering Application for review and execute a written Net Metering Interconnection Agreement with the Company."⁴¹

The Net Metering System Interconnection Agreement states that "the signing of this document, on the part of FortisBC, signifies that the customer's facility has been approved for interconnection, and that interconnection will begin shortly after this document is approved by FortisBC."⁴²

FBC explained it is FBC's current practice to ensure that applications for the NM Program meet the intent of the program and are sized to offset some or all of a customer's annual consumption, and not to export excess generation to FBC. Installations that are sized to have persistent unused annual net excess generation will need to be amended or the installation will not be eligible for the NM Program.⁴³ FBC customers that wish to take part in the NM Program are required to complete the Application for Net Metering form that is found on FBC's website. Once the completed form is submitted, an FBC Regional Engineer will contact the customer to discuss the NM application and work with the customer on the details of the installation and will ensure compliance with the provisions of the Program and Tariff.⁴⁴ FBC further stated that it has not rejected a submitted NM application. Through discussion with prospective applicants, FBC has required that the size of a planned installation be reduced prior to an NM application being submitted.⁴⁵ FBC clarified that the 2016 NM Application

⁴¹ FBC 2016 NM Application, Exhibit B-1, Appendix C

⁴² FBC Net Metering System Interconnection Agreement, <https://fortisbc.com/Electricity/CustomerService/NetMeteringProgram/Documents/Net%20Metering%20Interconnection%20Agreement%20final.pdf>.

⁴³ FBC 2016 NM Application, Exhibit B-5, BCOAPO IR 4.1.

⁴⁴ FBC 2016 NM Application, Exhibit B-4, BCUC IR 5.5.

⁴⁵ FBC 2016 NM Application, Exhibit B-5, BCOAPO IR 4.1.2.

does not seek any changes to the eligibility criteria as it currently exists, and FBC will maintain its current practice going forward.⁴⁶

In determining the energy requirement on an annual basis, FBC explained that “In cases where the Net Metered System is to be interconnected with an existing electrical service, a review of past billing history is used as a baseline for probable future consumption. If the customer anticipates a change in annual consumption due to changes in connected equipment or usage, it is also considered in the review. When a Net Metered System is to be interconnected with a new service, the electrician working on the project is asked to provide an estimate of future consumption.”⁴⁷

Panel discussion

The tariff sets out Special Conditions for how a Net Metered System is approved by FBC for inclusion in the NM Program. FBC has provided useful additional comments that explain how the provisions are applied for the purposes of approving installations, and where necessary, adjusting the capacity of the approved installation to conform with expected future consumption. The Panel is satisfied that this framework provides FBC with the appropriate opportunity at the time of initial enrolment in the NM Program to determine whether the generation facility proposed by the potential NM Program participant has been sized with the intention to offset all or part of the customer’s anticipated annual electricity requirement, and meets the definition of a Net Metered System under the tariff.

And as noted above, the 2016 NM Decision included a directive to FBC (which is not contested by FBC in this Reconsideration Application) to include a provision in RS 95 that stipulates that any modification to the capacity of an existing Net Metered System is subject to the same tariff provisions (and FBC approval) for inclusion in the NM Program that apply to the initial approval of a new Net Metered System.

Thus, the Panel is satisfied that the tariff and processes in place are sufficiently clear and robust to ensure that any Net Metered System approved for inclusion in the NM Program will be appropriately sized to only offset some or all of a customer’s anticipated energy requirements.

4.2 Eligibility criteria participation in the NM Program

Having addressed the conditions to ensure that Net Metered Systems are appropriately sized, attention can be turned to the issue of criteria for ongoing eligibility in the NM Program.

The 2016 NM Decision directed FBC to file changes to RS 95 that clarify that: “RS 95 customers cannot be removed from the Net Metering Program solely on the basis of producing annual Net Excess Generation.”⁴⁸ FBC has applied for reconsideration of this directive. FBC argues that it has the right to remove customers who are not in compliance with the terms of a tariff, and any restriction or limitation on that right would be problematic.

⁴⁶ FBC 2016 NM Application, Exhibit B-5, BCOAPO IR 4.2.

⁴⁷ FBC 2016 NM Application, Exhibit B-4, BCUC IR 5.1.

⁴⁸ FortisBC Inc. Net Metering Program Tariff Update Application, Order G-199-16 with reasons for decision dated December 29, 2016, Directive 2.

It states:

More generally, the right of removal promotes the integrity of FBC's Electric Tariff and Rate Schedules. If the eligibility criteria in RS 95 are not given meaning and legal effect, then they are not serving their purpose. Customers can and will continue to receive service for which they are otherwise ineligible under RS 95. This could have a corrosive effect on the eligibility criteria in other FBC rate schedules and on customer adherence with the intent of the rate on which they receive service.⁴⁹

The Panel is in full agreement with FBC's position that it has the right to enforce its tariffs, including RS 95. The issue in this Reconsideration Application, however, is not "do they have the right to enforce the provisions of RS 95," but rather "what should those provisions be"?

FBC aptly frames the point in its final argument as follows: "The real interpretation issue under RS 95 is not the consequence of becoming ineligible – FBC clearly has the asserted right of removal – but instead whether a NM customer that produces persistent annual NEG has become ineligible."⁵⁰

In that context, the Panel turns its attention to determine the eligibility criteria for continuing participation in the program and ensuring that the tariff clearly sets out the appropriate criteria for ongoing eligibility in the NM Program. In making its determination, the Panel considers the following:

1. Lack of clarity in the current tariff related to what constitutes "excessive" NEG and would result in a customer becoming ineligible for the program; and
2. Magnitude of historical NEG payments and future expectations resulting from the Panel's approval of RS 3808 Tranche 1 rate and given the conditions for an approved Net Metered System.

4.2.1 Current tariff

In the 2016 NM Application proceeding, FBC stated that "Customers that install generation that is reasonably intended to offset only a portion or all of annual consumption, but that have periodic and/or minimal annual unused excess generation would continue to meet the eligibility criteria of the Program. Customers that have persistent annual NEG may no longer meet the eligibility criteria for the Program and be removed."⁵¹ FBC further elaborated in the 2016 NM Application proceeding that "Under the current program structure, in the event that a system that was properly sized when installed subsequently started to produce NEG on an annual basis, the Company would reserve its right to remove the customer from the NM Program as it would no longer be in compliance with either the Eligibility criteria contained in the Tariff or the objectives of the Program."⁵²

When asked in BCUC IR 3.1 what are the specific quantum and frequency of Annual NEG that would constitute non-compliance with the eligibility criteria of the NM Program, FBC stated that "the Company is primarily interested in maintaining adherence to the intent of the NM Program," and that:

⁴⁹ FBC Final Argument, p. 14.

⁵⁰ FBC Final Argument, p. 7.

⁵¹ FBC 2016 NM Application, Exhibit B-6, BCSEA IR 5.2.

⁵² FBC 2016 NM Application, Exhibit B-4, BCUC IR 5.6.

FBC has no interest in unreasonably restricting the installation of generation that complies with Program parameters, or will comply within a reasonable timeframe... In light of this sentiment, the Company is reluctant to set a hard number that would delineate when annual NEG becomes unacceptable. A variety of factors need to be considered and the issue is not simply subject to an absolute trigger. FBC does not believe that such a trigger is in the best interests of customers and such a trigger would remove the flexibility to consider factors such as past and future variations in generation, load and customer intent.⁵³

FBC further stated that “The degree to which doing so would be necessary would be influenced by the particular compensation rate approved by the Commission...”⁵⁴ However, in order to be responsive, FBC submitted that it:

...anticipates that as a guiding principle, it would be unlikely to review any NM account until a customer was producing annual NEG in an amount that exceeded the expected annual generation of the particular installation by somewhere in the range of 5 to 10 percent. At 10 percent, for a 5 kW solar PV installation producing an annual average of 1,100 kWh/kW over the course of a year (5,500 kWh), this would mean allowable NEG of 550 kWh. The other factors discussed above would still be considered even at this threshold.⁵⁵

4.2.2 Expected magnitude of NEG

FBC presented the following table showing the amount of NEG sold to FBC from NM customers as of April 2016:

Table 2: Summary of NM Enrolment as of April 2016⁵⁶

Year	Total NM Customers	Total Installed Capacity (kW)		NEG Sold to FBC (\$)
		Incremental	Cumulative	
2010	4	34	34	0
2011	12	98.5	132.5	0
2012	16	43	175.5	0
2013	20	16	191.5	4,345
2014	43	99	290.5	8,830
2015	83	227	517.5	16,926
2016 (Apr)	86	17	534.5	34,402

With reference to the table above, FBC stated that “In addition to the payments noted for 2016 (up to April), an additional payment of \$810 was made during the balance of the year. The 2016 payouts were to two Residential customers (now totaling \$18,802) and one Commercial customer (\$16,410). These customers would have

⁵³ Exhibit B-8, BCUC IR 3.1.

⁵⁴ Exhibit B-9, BCSEA IR 8.2.

⁵⁵ Exhibit B-8, BCUC IR 3.1.

⁵⁶ FBC 2016 NM Application, Exhibit B-4, BCUC IR 2.1.

represented 3/86 or 3.5 percent of NM customers at the time. For the first half of 2017, FBC has made two payments totaling \$18,375 including over \$18,000 to a single individual”⁵⁷

FBC stated that “FBC has relied on setting the size of NM systems in accordance with the Eligibility Criteria in RS 95 which, in the majority of cases, should result in persistent annual NEG being a *rare* occurrence. As evidenced by the relative rarity of systems that produce annual NEG at all, this has proven to be the case.”⁵⁸ FBC elaborated that:

The Company only has a small number of NM customers that produce annual unused NEG that would be eligible to receive monetary payouts. FBC does not expect this number to increase except where a NM customer’s electricity consumption is less than forecast or their generation is greater than forecast (or both). Given this fact, and the fact that participation in the NM Program is increasing, the percentage of NM customers for which FBC is writing cheques annually as a percentage of total NM customers will likely decrease over time.⁵⁹

FBC further stated that “in the hypothetical situation where a customer had a large system that provided consistent, and relatively large amounts of unused annual net excess generation, other customers would be disadvantaged [from purchasing NEG at the retail rate]... However, under the proposed rate, as any excess energy purchased would be at the short-term value, the impact to other customers would be mitigated. There is no change to FBC’s planning and capacity requirements in the long run.”⁶⁰ FBC also stated in its 2016 NM Application that compensating Annual NEG at the BC Hydro RS 3808 Tranche 1 rate “will ensure that into the future, the impact to Program non-participants will be mitigated and participants will not be encouraged to install larger systems than they need to offset their own consumption.”⁶¹

FBC submits that:

Without FBC having the ability to review and determine if these customers have potentially become ineligible for the NM program, and to take steps to remove them if they have, this small group of customers will be able to continue to produce annual NEG (in very high amounts in some cases), and to receive the associated monetary benefits... No other NM customers have the same potential or opportunity to receive this level and type of compensation. The changes to RS 95 directed by the Commission give a small group of existing customers a privilege that is not available to the vast majority of other present and future participants in the NM program, which is a form of rate preference and contrary to sections 59(1) and 59(2)(b) of the UCA.⁶²

⁵⁷ Exhibit B-11, Shadrack IR 6ii.

⁵⁸ Exhibit B-8, BCUC IR 3.2.2, [emphasis added].

⁵⁹ Exhibit B-11, Shadrack IR 6iii.

⁶⁰ FBC 2016 NM Application, Exhibit B-7, CEC IR 5.1.

⁶¹ FBC 2016 NM Application, Exhibit B-1, p. 11.

⁶² FBC Final Argument, pp. 13–14.

Overall position of parties

CEC submits that the intent of the program has been clear since the outset; the production of persistent Annual NEG should be a rare occurrence and could also have adverse impacts on the FBC system or its customers. CEC submits it is appropriate for FBC to be able to remove customers who are persistent producers of NEG. CEC recommends that the Commission rescind its order in this regard as requested by FBC and essentially supports the submissions made by FBC in its final argument.⁶³ CEC states that it does not believe that the NM tariff should enable NM customers who have persistent high Annual NEG to bypass the Independent Power Producer (IPP) program and become the equivalent of IPP suppliers with higher prices and lower standards than would otherwise be required. CEC considers that where there is high persistent NEG, the supplier should be treated as any other supply option and be subject to similar analyses and restrictions.⁶⁴

BCSEA-SCBC submits that they “continue to take the position that a NM participant should not be removed from the program solely due to persistent annual NEG and that the focus should be on maintaining the customer’s participation in the NM Program in a manner consistent with the purpose of the program.”⁶⁵ BCSEA-SCBC further submits “if such removals are to occur BCSEA-SCBC support in principle the development of options that would provide reasonable compensation for the delivery of energy by such customers to the FBC system.”⁶⁶

Shadrack submits that “without a clearly defined NEG production and saleable limit within the RS 95 tariff wording, and a program and/or tariff to send NM customers to, this Commission panel, by granting FBC the power to remove a Customer-Generator from the program, will be condemning any customer who produces NEG to the vagaries of a subjective and arbitrary management as to how that customer’s NEG production and sale will be priced and paid for.”⁶⁷ With reference to a residential customer who had expanded their nameplate capacity from 5 kW to 20.5 kW between 2011 and 2012, Shadrack states he “find[s] it unfathomable that the Company, having been aware of a situation for five years beyond that, and having done nothing about the situation at all, can then turn around and accuse the Commission of violating its legal right to remove a customer – a right that it has singularly chosen not to exercise.”⁶⁸

Scarlett submits that “the supposed ‘right’ of the Company to eject Net Metering customers from the program for producing NEG is nonsense, in that RS95 clearly states that the Net Metering contract can be renewed annually at the pleasure of the customer.”⁶⁹

FBC does not view the removal of customers from the NM Program to be a desirable outcome; however, clear-cut instances of persistent Annual NEG must result in some potential legal consequences or the eligibility criteria in RS 95, and the intent of the NM Program generally, will lose all purpose and effect.⁷⁰ FBC further submits that “If FBC, on further review, determined that this customer was a persistent annual NEG producer and that the

⁶³ CEC Final Argument, p. 3.

⁶⁴ CEC Final Argument, pp. 5–6.

⁶⁵ BCSEA Final Argument, p. 7.

⁶⁶ BCSEA Final Argument, p. 8.

⁶⁷ Shadrack Final Argument, p. 16.

⁶⁸ Shadrack Final Argument, p. 17.

⁶⁹ Scarlett Final Argument, p. 2.

⁷⁰ FBC Final Argument, p. 9.

circumstances justified removal from the NM program, then a complaint process would be the appropriate venue in which the Commission could decide whether the specific facts or applicable legal principles would, for some reason, preclude FBC from carrying-out the removal from RS 95.”⁷¹ In response to Shadrack’s position that FBC’s lack of action regarding a customer’s nameplate capacity expansion from 5 kW to 20.5 kW, FBC responds that “the fact of the increase would have been restricted to FBC’s billing staff, who are not involved in the approval of NM systems and would not have been aware of their physical characteristics. It is not reasonable to have expected FBC to take enforcement action against this customer in the circumstances, much less to base a legal interpretation of the tariff provisions on them.”⁷²

FBC submits that “clarifying changes to RS 95 emphasizing that an initial installation of an NM system cannot be sized beyond a customer’s expected consumption,” as well as “changes to RS 95 that prohibit NM customers from increasing their generating capacity without prior approval from FBC” resolve the issue of persistent NEG “on a go-forward basis” only to new NM customers and existing customers with appropriately sized generating facilities. Such customers are unlikely to become persistent producers of Annual NEG.⁷³ FBC submits that the right of removal performs a deterrence function against customers seeking to maximize their production of NEG contrary to the intention of the program, guard against the risk of unauthorized changes that increase generation capacity, and more generally promotes the integrity of FBC’s Electric Tariff and Rate Schedules.⁷⁴ FBC raised the issue that it has no visibility of customer generation facilities behind the meter and would not necessarily be able to identify unauthorized changes that increase generation capacity. FBC also raised concerns that a customer with a properly sized NM system could sell the property to a customer with a much lower level of expected consumption who could then profit from the ability to consistently generate NEG.

Commission determination

The Panel varies the portion of Directive 2 in Order G-199-16 which stated “FBC is directed to submit to this Panel, proposed changes to RS 95... to clarify that: RS 95 customers cannot be removed from the Net Metering Program solely on the basis of producing annual Net Excess Generation.”

The Panel instead directs FBC to clarify in its Net Metering tariff that the existence of Annual NEG does not result in the customer becoming ineligible for the Net Metering Program provided the customer continues to meet the conditions for its approved Net Metered System as established in its Net Metering application and its executed Net Metering Interconnection Agreement. FBC is directed to file the revised tariff for endorsement within 15 days from the implementation date of the kWh bank. Also, FBC is directed to provide notice of the approved tariff amendments to RS 95 contained in this order to all current RS 95 customers and to those with net metering service applications in progress, and provide the Commission with a copy of the notice, within 30 days from the date of Order G-63-18.

As outlined above, the currently approved tariff gives FBC considerable discretion in how to interpret and therefore enforce ongoing eligibility in the NM Program, particularly as it relates to the onset of Annual NEG. The Panel agrees with the position put forward by some interveners that ratepayers should have greater

⁷¹ FBC Reply argument, pp. 21–22.

⁷² FBC Reply Argument, p. 21.

⁷³ FBC Final Argument, pp. 12–13.

⁷⁴ FBC Final Argument, p. 14.

certainty regarding the eligibility conditions for the NM Program, both at the time of application to join the program and any time thereafter.

The Panel finds that eligibility based on the amount of Annual NEG is not necessary and not warranted since:

- A Net Metered System cannot be sized beyond a customer's expected consumption upon enrolment;
- The tariff currently prohibits NM customers from increasing their generating capacity without prior approval from FBC;
- Annual NEG will be compensated at the BC Hydro RS 3808 Tranche 1 rate; and
- All other requirements for participation in the NM Program are contained in the current RS 95 tariff and referenced contractual NM documentations.

As noted in Section 4.1 that deals with conditions for a Net Metered System, the Panel finds that the provisions of RS 95, augmented with the modifications set out in the 2016 NM Decision regarding additions to an existing Net Metered System, provide a robust framework for determining whether the generation facility proposed by a NM Program participant is sized with the intention to only offset all or part of the customer's anticipated annual electricity requirement and meets the definition of a Net Metered System under the tariff. Further, the Panel notes that FBC also confirms that the production of significant Annual NEG should be a rare occurrence for customers with appropriately sized and approved Net Metered Systems.

The Panel notes that the definition of a Net Metered System applies to all NM Program participants, including those who already have a self-generating facility installed prior to applying to join the NM Program. Any new customer wishing to enrol into the NM Program must comply with the eligibility criteria upon enrolment that "the generation equipment... must be intended to offset only a portion or all of the Customer's requirements for Electricity on annual basis..."⁷⁵

The Panel further notes that Special Conditions item 6 in RS 95 states that "The Company maintains the right to inspect the facilities with reasonable prior notice and at the reasonable time of day."⁷⁶ The Panel is of the view that if FBC suspects a customer may have increased the generation capacity of its Net Metered System without prior approval, perhaps indicated by an unusual amount of energy flow from the customer's site into the grid as captured by the bi-directional meter, FBC can and should inspect the generation facility and carry out its duty to enforce the terms contained in the tariff. FBC has provided evidence that it has reason to believe that the persistent Annual NEG produced by one or more of the exiting NM Program participants has come about due to the installation of generation capacity on the customer's site that is not part of an approved Net Metered System. Nothing contained in Order G-63-18 or its accompanying reasons for decision compromises or limits FBC's ability to enforce the provisions of RS 95 in such instances.

The Panel agrees that the NM Program is intended for customers who wish to only offset part or all of their electricity requirements. The Panel considers that the provisions of RS 95 relating to approval of a Net Metered System provide the appropriate framework for ensuring that participants in the program are aligned with that

⁷⁵ FBC 2016 NM Application, Exhibit B-1, Appendix C.

⁷⁶ FBC 2016 NM Application, Exhibit B-1, Appendix C.

intent, and therefore, Annual NEG is not a cause for removal if the Annual NEG is generated from an approved Net Metered System.

On a principled basis, the Panel fails to see undue discrimination and harm caused to other ratepayers by purchasing Annual NEG at the RS 3808 Tranche 1 rate from NM customers, particularly given the current size of the program enrolment and the quantum of the historical NEG balances. The Panel considers that compensating for Annual NEG at the RS 3808 Tranche 1 rate is unlikely to generate undue cross subsidization above what has already been approved by the design of the NM Program and the kWh bank. The Panel also notes that the approved compensation price for Annual NEG under RS 95 is consistent with the price that FBC proposes to pay a removed NM customer under a *pro-forma* Energy Purchase Agreement.

5.0 Other issues – cross-subsidization arising from the NM Program

FBC states that “The fairness and equity challenge raised by the existence of NM customers is that the potential exists for these customers to remain connected to the FBC system, which is paid for through the rates of all customers, and to utilize the system both as a source of back-up supply and as a load-balancing resource for intermittent generation, but to make a reduced, zero, or even negative contribution.”⁷⁷ FBC elaborated that for a NM customer who matches generation and consumption in each billing period such that net energy use is zero, this customer would pay no energy charges and would be billed only for the Customer Charge each month, despite being connected to the FBC system in all hours and constantly using the grid to balance supply and demand throughout the day. Since the Customer Charge only collects about 45 percent of the actual fixed costs for the residential class, the lack of energy charges means that no further contribution is being made by this customer.⁷⁸ Therefore, “NM customers have the potential to make less than the minimum contribution made by other customers and may even make a negative contribution. In these cases, other customers cover the costs.”⁷⁹ FBC further confirmed “that FBC will recover a fair return on its investment overall, meaning that other ratepayers are required to pay a larger share of that return than NM customers.”⁸⁰

Commission determination

FBC has raised the issue of cross-subsidization between NM customers and non-participating customers. The Panel acknowledges the issue and **directs FBC to monitor the magnitude of cross-subsidization caused by the NM Program, and bring forward for consideration its findings in the context of its next rate design application.**

⁷⁷ Exhibit B-9, BCSEA IR 4.1.

⁷⁸ Exhibit B-8, BCUC IR 6.1.1.

⁷⁹ Exhibit B-9, BCSEA IR 4.1.

⁸⁰ Exhibit B-10, CEC IR 9.1.