



**ORDER NUMBER
E-12-23**

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

and

FortisBC Energy Inc.
Section 71 Filing of Amending Agreement No. 2 to the Biomethane Purchase Agreement
between FortisBC Energy Inc. and Fraser Valley Biogas Ltd.

BEFORE:

T. A. Loski, Panel Chair
E. B. Lockhart, Commissioner
R. I. Mason, Commissioner

on August 14, 2023

ORDER

WHEREAS:

- A. On July 6, 2023, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of an amending agreement dated April 30, 2023 (Amending Agreement No. 2) to the original Biomethane Purchase Agreement (Original BPA) as amended by Amending Agreement No. 1 (together the FEI-FVB Agreement) between FEI and Fraser Valley Biogas Ltd. (FVB), pursuant to section 71 of the *Utilities Commission Act* (UCA) and BCUC Rules for Natural Gas Energy Supply Contracts (Rules) (Application);
- B. By Order E-7-12 dated March 22, 2012, the BCUC accepted the Original BPA between FEI and FVB dated January 18, 2012, and by Order E-19-22 dated December 14, 2022, the BCUC accepted the Amending Agreement No. 1 to the Original BPA dated October 31, 2022;
- C. Section 18(1) of the *Clean Energy Act* (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";
- D. Section 18(3) of the CEA states that "the commission must not exercise a power under the UCA in a way that would directly or indirectly prevent a public utility... from carrying out a prescribed undertaking";
- E. On May 25, 2021, the Lieutenant Governor in Council, by Order in Council (OIC) 306/2021, approved an amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR), which among other things, repealed and replaced section 2 (3.8) to state:

(3.8) The public utility acquires renewable natural gas

- a) at costs that meet the following criteria, as applicable:
 - i. if the public utility acquires renewable natural gas by purchasing it, the price of the renewable natural gas does not exceed the maximum amount, determined in accordance with section 9, in effect in the fiscal year in which the contract for purchase is signed;
 - ii. if the public utility acquires renewable natural gas by producing it, the levelized cost of production reasonably expected by the public utility does not exceed the maximum amount, determined in accordance with section 9, in effect in the fiscal year in which the public utility decides to construct or purchase the production facility, and
 - b) that, in a calendar year, does not exceed 15% of the total amount, in GJ, of natural gas provided by the public utility to its non-bypass customers in 2019, subject to subsection (3.9) and section 10;
- F. Amending Agreement No. 2 amends the term of the FEI-FVB Agreement;
- G. The BCUC has not reviewed the Application from a public interest perspective as the BPAs are prescribed undertakings under section 18(1) of the CEA;
- H. FEI requests that the redacted portions of the Application including appendices be kept confidential in perpetuity due to their commercial sensitive nature; and
- I. The BCUC has reviewed the Application and makes the following determinations.

NOW THEREFORE pursuant to section 71 of the UCA and section 18 of the CEA, and the GGRR, the BCUC orders as follows:

1. The BCUC accepts for filing Amending Agreement No. 2 between FEI and FVB.
2. The BCUC will keep the redacted portions of the Application confidential until it determines otherwise.

DATED at the City of Vancouver, in the Province of British Columbia, this 14th day of August 2023.

BY ORDER

Original signed by:

T. A. Loski
Commissioner