



**ORDER NUMBER**  
**E-2-23**

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

and

FortisBC Energy Inc.  
Section 71 Filing of Biomethane Purchase Agreement between  
FortisBC Energy Inc. and American Organics Energy LLC

**BEFORE:**

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

on February 14, 2023

**ORDER**

**WHEREAS:**

- A. On January 26, 2023, FortisBC Energy Inc. (FEI) filed with the British Columbia Utilities Commission (BCUC) an application for acceptance of a Biomethane Purchase Agreement (BPA) and Amending Agreement No. 1 (together the BPA) between FEI and American Organics Energy LLC (AOE) pursuant to section 71 of the *Utilities Commission Act* (UCA) and BCUC Rules for Natural Gas Energy Supply Contracts (Rules) (Application);
- B. 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”;
- C. 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”;
- D. On May 25, 2021, the LGIC, 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approved an amendment to the Greenhouse Gas Reduction (Clean Energy) Regulation (GGRR), which among other things, repealed and replaced section 2 (3.8) to state: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;
- E. Under the BPA, AOE will supply biomethane, which is a type of renewable natural gas (RNG), processed from an anaerobic digester facility located in the USA, and notionally deliver from the injection point to FEI at the Delivery Point;
- F. The BCUC has not reviewed the Application from a public interest perspective as the BPA between FEI and AOE is a prescribed undertakings under section 18(1) of the CEA;
- G. FEI requests that the redacted portions of the Application and certain appendices be kept confidential due to their commercial sensitive nature; and
- H. 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 the BPA and Amending Agreement No. 1 between FEI and AOE.
2. The BCUC will keep the redacted portions of the Application confidential as requested by FEI as they contain commercially sensitive information.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 14<sup>th</sup> day of February 2023.

BY ORDER

*Original signed by:*

T. A. Loski  
Commissioner