



**ORDER NUMBER
G-73-20**

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

and

Creative Energy Mount Pleasant Limited Partnership
Application for a Certificate of Public Convenience and Necessity to Acquire, Operate
and Expand a Thermal Energy System for Cooling in the Main Alley Development

BEFORE:

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

on March 31, 2020

ORDER

WHEREAS:

- A. On March 10, 2020, Creative Energy Mount Pleasant Limited Partnership (CEMP) filed an application with the British Columbia Utilities Commission (BCUC), pursuant to sections 45 and 46 of the *Utilities Commission Act* (UCA), for a Certificate of Public Convenience and Necessity (CPCN) to acquire and operate the existing Mount Pleasant district cooling system (Mount Pleasant DCS), and to expand and operate the Mount Pleasant DCS to provide cooling to the Main Alley Development in the Mount Pleasant neighbourhood of Vancouver (Application).
- B. CEMP's Application includes the following components:
- acquisition and operation of the existing Mount Pleasant DCS to serve the following buildings:
 - Building M1 located at 2015 Main Street, Vancouver; and
 - Building M3 located at 111 East 5th Avenue, Vancouver.
 - extension and operation of the Mount Pleasant DCS to serve the following buildings:
 - Building M2 located at 114 East 4th Avenue, Vancouver by 2021;
 - Building M4 located at 110 East 5th Avenue, Vancouver by 2023; and
 - Building M5 located at 2015 Main Street, Vancouver by 2029.
 - renovation, expansion and upgrade of the cooling plant located in Building M3 in 2027.
- C. Specifically, CEMP's Application requests approval of the following:
- i. a CPCN, pursuant to sections 45 and 46 of the UCA to acquire and operate the existing Mount Pleasant DCS assets at a cost of \$419,222, and to expand and operate the Mount Pleasant DCS to provide cooling

to the Main Alley Development at an estimated capital cost of \$9,134,241, resulting in a total estimated cost of \$9,553,463;

- ii. the Customer Service Agreement (Non-M3 Lands), pursuant to sections 58 to 60 of the UCA; and
 - iii. the Customer Service Agreement (M3 Lands), pursuant to sections 58 to 60 of the UCA.
- D. Creative Energy Vancouver Platforms Inc., a regulated public utility, is to provide expert services to CEMP for ownership, operation and regulation of the Mount Pleasant DCS; and
- E. The BCUC has commenced review of the Application and determines that the establishment of a public hearing process is warranted.

NOW THEREFORE the BCUC orders as follows:

1. For the reasons attached as Appendix A to this order, a public hearing process is established, as set out in the regulatory timetable attached as Appendix B to this order.
2. CEMP is directed, as soon as reasonably possible, but no later than April 15, 2020, to:
 - a. provide by email or mail, notice of the Application and this order to the following: all affected customers, including any existing and/or known prospective tenants or lessees of buildings M1 to M4; all attendees of the public open house held on November 28, 2019; and all registered interveners in the Creative Energy Vancouver Platforms Inc. 2019-2020 Revenue Requirements Application for the Core Steam System and Northeast False Creek Service Areas; and
 - b. post a copy of this order, the Application and the Public Notice attached as Appendix C, on Creative Energy Vancouver Platforms Inc.'s website and all social media channels.
3. Parties who wish to participate in the regulatory proceeding are to register with the BCUC by completing a Request to Intervene Form by the date established in the regulatory timetable attached as Appendix B to this order and in accordance with the BCUC's Rules of Practice and Procedure attached to Order G-15-19. Alternatively, parties may submit a Letter of Comment through the letter of comment form available on the BCUC website.

DATED at the City of Vancouver, in the Province of British Columbia, this 31st day of March 2020.

BY ORDER

Original signed by

R. I. Mason
Commissioner

Attachment

Creative Energy Mount Pleasant Limited Partnership
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and Expand a Thermal Energy System for Cooling in the Main Alley Development

REASONS FOR DECISION

1.0 Introduction

On March 10, 2020, Creative Energy Mount Pleasant Limited Partnership (CEMP) filed an application with the British Columbia Utilities Commission (BCUC), pursuant to sections 45 and 46 of the *Utilities Commission Act* (UCA), for a Certificate of Public Convenience and Necessity (CPCN) to acquire and operate the existing Mount Pleasant district cooling system (Mount Pleasant DCS), and to expand and operate the Mount Pleasant DCS to provide cooling to the Main Alley Development in the Mount Pleasant neighbourhood of Vancouver.¹

CEMP's Application includes the following components:

- acquisition and operation of the existing Mount Pleasant DCS to serve the following buildings:
 - Building M1 located at 2015 Main Street, Vancouver; and
 - Building M3 located at 111 East 5th Avenue, Vancouver.
- extension and operation of the Mount Pleasant DCS to serve the following buildings:
 - Building M2 located at 114 East 4th Avenue, Vancouver by 2021;
 - Building M4 located at 110 East 5th Avenue, Vancouver by 2023; and
 - Building M5 located at 2015 Main Street, Vancouver by 2029.
- renovation, expansion and upgrade of the cooling plant located in Building M3 in 2027.²

The Main Alley Development will comprise mainly commercial/light industrial use buildings (buildings M1 to M4), with one residential building (building M5).³

The Main Alley Development is being constructed by 5th & Main Partnership, a partnership comprising Westbank Projects Corp. and Mount Pixel Projects Limited Partnership.⁴

The registered owners of the various lands that comprise the Main Alley Development are 111 East 5th Property Inc., 110 East 5th Property Inc., 130 East 4th Property Inc., and 2015 Main Property Inc. These entities also hold the registered title in trust for the beneficial owner, 5th & Main Partnership. Each of the registered owners is owned through the 5th & Main Partnership, and as such the same ownership group owns the entirety of the development site and is collectively the sole owner (Owner) of the Main Alley Development.⁵

¹ Exhibit B-1, Section 1.1, p. 1.

² Exhibit B-1, Section 3.2, p. 15.

³ Exhibit B-1, Section 2.1, p. 6.

⁴ Exhibit B-1, Section 1.1, p. 1.

⁵ Exhibit B-1, Section 1.1, p. 1.

2.0 Review of the Application

CEMP submits that a public hearing is not required to approve the Application and where required, an efficient regulatory process is available for BCUC staff to engage directly with CEMP to support a better understanding of the Application.⁶

In determining the appropriate process for the review of the Application, CEMP makes the following observations on the unique circumstances of the Application, for the BCUC's consideration:

- The Owner is in control of the entire Main Alley Development and it has evaluated and seeks to put into place a centralized cooling thermal energy system as one component of a broader commercial venture;
- The Owner through its registered entities in trust of each building in the Main Alley Development is effectively the sole customer of the Mount Pleasant DCS;
- The Owner is not considering other alternatives to the Mount Pleasant DCS for the provision of cooling services;
- The Owner does not want to own and operate the Mount Pleasant DCS, and prefers that CEMP does so in accordance with the terms agreed to in the Construction and Purchase Agreement and Customer Service Agreements; and
- A residential building (Building M5) is planned and expected to begin taking service in 2029, but residential end-users will not materialize until that building is designed and developed further, sometime in the future interim period. It is unknown at this time if the residential building will be developed as strata units for purchase or rental units for lease. Either way, future residential end-users of the cooling supplied by the Mount Pleasant DCS will rent or purchase units on a fully informed basis.⁷

CEMP submits that in light of the circumstances noted above, and with due regard to the foundational principles and guidelines for regulatory efficiency as set out in the Alternative Energy Services Inquiry Report,⁸ the BCUC “can reasonably apply an efficient review process to review the Application without a public hearing process.”⁹ Specifically, CEMP submits, subsection 46(2) of the UCA provides the BCUC with the discretion not to hold any hearing on an application for a CPCN, where such an application is required.¹⁰

Panel Determination

The Panel acknowledges that the Owner, via its registered entities holding each building in trust for it, may effectively be the only customer. However, the Panel also notes that buildings M1 to M4 are for commercial and/or light industrial use, and therefore there are likely to be both existing and prospective tenants that are, or will become, the end users of the Mount Pleasant DCS. The Panel therefore finds that an opportunity for affected parties to participate in the hearing is required. Further, additional evidence is needed in order for the Panel to make its determination on the Application; therefore, additional process is warranted.

For these reasons, a public hearing process is established, as set out in the regulatory timetable attached as Appendix B to this order.

⁶ Exhibit B-1, Section 4.2, p. 27.

⁷ Exhibit B-1, Section 4.2, pp. 25–26.

⁸ BCUC FortisBC Energy Inc. Inquiry into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives Report, dated December 27, 2012.

⁹ Exhibit B-1, Section 4.2, p. 26.

¹⁰ Exhibit B-1, Section 4.2, p. 25.

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REGULATORY TIMETABLE

Action	Date (2020)
CEMP Publishes Notice of Application	Wednesday, April 15
Intervener Registration	Wednesday, April 29
BCUC Information Request (IR) No. 1	Wednesday, May 6
Intervener IR No. 1	Wednesday, May 13
CEMP Responses to BCUC and Intervener IR No. 1	Wednesday, May 27
Further Process	To be determined