



SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-109-11A**

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

An Application by FortisBC Energy (Vancouver Island) Inc.
(formerly Terasen (Vancouver Island) Inc.)
and Mt. Hayes (GP) Ltd. as General Partner on behalf of Mt. Hayes Storage Limited Partnership
for Approvals to Allow the Chemainus Indian Band and Cowichan Tribes
to Acquire an Ownership Interest in the Liquefied Natural Gas Storage Facility
located at Mt. Hayes, near Ladysmith, British Columbia

BEFORE: N.E. MacMurchy, Commissioner June 28, 2011

O R D E R

WHEREAS:

- A. On January 11, 2011 FortisBC Energy (Vancouver Island) Inc. (FEVI) (formerly Terasen (Vancouver Island) Inc.) and Mt. Hayes (GP) Ltd., as general partner on behalf of Mt. Hayes Storage Limited Partnership (Mt. Hayes LP) submitted an application (the Application) to the British Columbia Utilities Commission (BCUC or Commission) for approvals under the *Utilities Commission Act* (the Act) to allow the Chemainus Indian Band (Chemainus) and Cowichan Tribes (Cowichan) to acquire an ownership interest in the Liquefied Natural Gas Storage Facility (LNG Storage Facility) located at Mt. Hayes, near Ladysmith, British Columbia;
- B. The LNG Storage Facility is owned by FEVI and is expected to be in service in April 2011;
- C. Under the Application:
 - Beneficial ownership of the LNG Storage Facility will be transferred effective January 1, 2012 to Mt. Hayes LP at the net book value of the assets comprising the LNG Storage Facility;
 - FEVI will own a minimum of 85 percent of the limited partnership units of Mt. Hayes LP and the Chemainus and Cowichan owning, collectively, a maximum of 15 percent of the limited partnership units of Mt. Hayes LP; and
 - The LNG Storage Facility will be leased back to FEVI and operated by FEVI;
- D. The applied for capital structure of Mt. Hayes LP is the same as the capital structure of FEVI allowed for rate-setting purposes;

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- E. FEVI would make an initial loan to Mt. Hayes LP equal to 60 percent of the capital structure of Mt. Hayes LP and would make loans, as required to Mt. Hayes LP arising from future capital expenditures on the LNG Storage Facility or from changes in the capital structure of Mt. Hayes LP due to changes in the capital structure of FEVI;
- F. Section 7.2.1 (3)(a) of Commission Order G-116-05 orders that no Fortis Utility (formerly Terasen Utility) will lend to, guarantee or financially support any affiliates of the Fortis Utilities (formerly Terasen Utilities) unless accepted by the Commission;
- G. The Application includes:
- a loan agreement under which FEVI will lend Mt. Hayes LP the initial debt portion of the capital structure of Mt. Hayes LP (the Loan Agreement);
 - a demand promissory note (the Grid Promissory Note) under which FEVI will lend Mt Hayes LP funds for future capital expenditures on the LNG Storage Facility and if there is a change in the capital structure of Mt. Hayes LP arising from a change in the capital structure of FEVI; and
 - a general security agreement (the Security Agreement) by which Mt. Hayes LP will provide FEVI with security for the amount loaned to Mt. Hayes LP under the Loan Agreement;
- H. The Application includes a 40 year facility lease (the Facility Lease) under which FEVI leases the LNG Storage Facility from Mt. Hayes LP;
- I. The Mt. Hayes LP limited partnership agreement (the Partnership Agreement) was filed on a confidential basis with the BCUC as part of the Application. The number of limited partnership units in Mt. Hayes LP owned by FEVI may increase if other of the limited partners fails to fund its obligation to Mt. Hayes LP, and at the end of the Facility Lease FEVI may acquire all the limited partnership units of Mt. Hayes LP;
- J. At the termination of the Facility Lease FEVI will acquire beneficial ownership of the LNG Storage Facility, either through a purchase of the LNG Storage Facility assets from Mt. Hayes LP or an acquisition of the limited partnership units in Mt. Hayes LP of the other limited partners;
- K. Under the Application the future rates of FEVI are determined on the basis that the revenue requirements of FEVI be established with the LNG Storage Facility in rate base at its depreciated value, with the LNG Storage Facility assets being subject to normal depreciation and earning a normal return on rate base. The loans from FEVI to Mt. Hayes LP, the interest payments on those loans, the repayments of principal on those loans, the rent payments from FEVI to Mt. Hayes LP under the Facility Lease, the distributions from Mt. Hayes LP to its partners and any tax paid on those distributions are to be accounted for as non-utility transactions;

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- L. In the Application the initial depreciation rates to be used by Mt. Hayes LP for the assets comprising the LNG Storage Facility are set at rates equal to FEVI's depreciation rates for similar assets as set out in the settlement agreement of FEVI's 2010 and 2011 revenue requirements, as approved pursuant to Commission Order G-140-09;
- M. Commission Order G-7-11 established a regulatory timetable for review of the Application;
- N. The Commission has reviewed the Application and concludes that the Application is in the public interest and should be approved.

NOW THEREFORE pursuant sections 50, 52, 54, 61 and 71 of the *Utilities Commission Act* the Commission orders as follows:

1. The disposition by FEVI of the LNG Storage Facility as applied for to Mt. Hayes and encumbrances of the lands on which the LNG Storage Facility is located, with a statutory right-of-way in favour of Mt. Hayes LP is approved.
2. The loan by FEVI to Mt. Hayes LP under a loan agreement substantially in the form of the Loan Agreement filed with the Application, by which Mt. Hayes LP borrows from FEVI the initial debt portion of the capital structure of Mt. Hayes LP and any future loans by FEVI to Mt. Hayes LP pursuant to a demand promissory note substantially in the form of the Grid Promissory Note filed with the Application are accepted by the Commission as required by Section 7.2.1 (3)(a) of Commission Order G-116-05.
3. Copies of all loan agreements (including demand promissory notes) are to be filed with the Commission no later than 30 days following their execution.
4. FEVI entering into a facility lease with Mt. Hayes LP substantially in the form of the Facility Lease filed with the Application by which FEVI will lease the LNG Storage Facility is approved. Copies of the Facility Lease are to be filed with the Commission with 30 days of its execution.
5. The future rates of FEVI are to be determined on the basis that the revenue requirements of FEVI be established with the LNG Storage Facility in rate base at its depreciated value, with the LNG Storage Facility assets being subject to normal depreciation and earning a normal return on rate base.
6. The loans from FEVI to Mt. Hayes LP, the interest payments on those loans, the repayments of principal on those loans, the rent payments from TGVI to Mt. Hayes LP under the Facility Lease, distributions from Mt. Hayes LP to its partners and any taxes paid on those distributions are to be accounted for as non-utility transactions.
7. A facility lease between Mt. Hayes LP and FEVI substantially in the form of the Facility Lease filed with the Application is approved as the rate that Mt. Hayes LP will charge TGVI.

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8. The issuance of security by Mt. Hayes LP, consisting of documents substantially in the form of (i) the Loan Agreement, (ii) the Grid Promissory Note, and (iii) the Security Agreement filed with the Application, and any loans to Mt. Hayes LP from FEVI under those arrangements, are approved.
9. The issuance of partnership units by Mt. Hayes LP to its partners, to reflect contributions to the partnership when the LNG Storage Facility is transferred to Mt. Hayes LP and to reflect future capital contributions to Mt. Hayes LP for capital expenditures or for an increase in the equity component of Mt. Hayes LP in consequence of an increase in the equity component of FEVI is approved.
10. The variation by Mt. Hayes LP of the ownership interests of its partners in accordance with the Partnership Agreement, and at termination of the lease of the LNG Storage Facility, is approved. All changes in the ownership interests in Mt. Hayes LP are to be reported within 30 days of their coming into effect.
11. The initial depreciation rates to be used by Mt. Hayes LP for the assets comprising the LNG Storage Facility are set at rates equal to FEVI's depreciation rates for similar assets as approved pursuant to Commission Order G-140-09.
12. The future disposition of the LNG Storage Facility by Mt. Hayes LP to FEVI under the terms set out in the Facility Lease at the termination of the lease is approved.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of July 2011.

BY ORDER

Original signed by:

N.E. MacMurchy
Commissioner

Attachment



IN THE MATTER OF

**FORTISBC ENERGY (VANCOUVER ISLAND) INC.
MT. HAYES (GP) LTD. AS GENERAL PARTNER ON BEHALF OF
MT. HAYES STORAGE LIMITED PARTNERSHIP**

**CHEMAINUS INDIAN BAND AND COWICHAN TRIBES
ACQUISITION OF OWNERSHIP INTEREST IN THE
MT. HAYES LIQUEFIED NATURAL GAS STORAGE FACILITY**

REASONS FOR DECISION

June 28, 2011

BEFORE:

N.E. MacMurphy, Commissioner

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APPENDIX 1

1.0 EXECUTIVE SUMMARY

On January 11, 2011, Terasen Gas (Vancouver Island) Inc., now FortisBC Energy (Vancouver Island) Inc. (FEVI)¹ and Mt. Hayes (GP) Ltd. on behalf of Mt. Hayes Limited Partnership (collectively, the Applicants) applied for approvals under the *Utilities Commission Act* to restructure the holdings of the Mt. Hayes Liquefied Natural Gas (LNG) storage facility (the LNG Storage Facility) currently under construction in Ladysmith, British Columbia in order to provide the Chemainus First Nation and the Cowichan Tribes (collectively, the First Nations) with the opportunity to acquire a 15% ownership interest in the LNG Storage Facility effective January 1, 2012 (Exhibit B-1, p. 1).

The Application seeks various approvals and other relief to allow for the asset transfer, refinancing and amortization under a newly formed partnership structure that would become a regulated utility and fall under the operation and control of FEVI. This new partnership will then lease the Mt. Hayes facility back to FEVI. The Application indicates that impact to the ratepayers will be minimal; operations would remain unchanged and the only financial impact would be a minor tax timing difference resulting from asset amortization. FEVI indicates that tax timing difference will net out over time (Exhibit B-1, pp. 1-6).

The sole Intervener in the proceeding, British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO), supports the approval of the Application (BCOAPO Final Submissions).

In this Decision, the British Columbia Utilities Commission (Commission) approves the Application, subject to the terms and conditions. Order G-109-11 and this Decision set out the terms and conditions of the approval which the Commission Panel has determined are necessary to preserve the public interest.

2.0 INTRODUCTION

2.1 Background

FEVI is a wholly-owned subsidiary of FortisBC Holdings Inc. (formerly Terasen Inc.). FEVI owns and operates the natural gas transmission pipeline from the Greater Vancouver area across the Georgia Strait to Vancouver Island along the Sunshine Coast. FEVI provides gas transportation service to six pulp mills and a gas-fired generation facility connected to its system. FEVI serves about 99,000 residential, commercial and industrial customers in more than 40 communities on Vancouver Island and the Sunshine Coast area (Terasen Gas (Vancouver Island) Inc. Victoria Regional Operations Center CPCN Application, p. 5).

In November 2007 FEVI obtained a Certificate of Public Convenience and Necessity (CPCN) from the Commission to construct and operate a LNG storage facility at Mt. Hayes, near Ladysmith, British Columbia. The LNG Storage Facility consists of a 1.5 Bcf storage tank, liquefaction and vapourization equipment and a control centre. Construction was scheduled to be completed in April 2011 at which time the Applicants expected the LNG Storage Facility to be placed in service (Exhibit B-1, p. 2).

¹ While the Application refers to Terasen Gas (Vancouver Island) Inc. or TGVI, the Decision hereafter uses either FortisBC Energy (Vancouver Island) Inc. or FEVI.

FEVI created a newly formed limited partnership, Mt. Hayes LP, for the sole purpose of providing the Chemainus Indian Band (Chemainus) and the Cowichan Tribes (Cowichan) with the opportunity to acquire an interest in the LNG Storage Facility. Mt. Hayes (GP) Ltd. is the general partner of Mt. Hayes LP and is owned and controlled by FEVI (Exhibit B-1, pp. 2-3).

2.2 The Application and Relief Sought

On January 11, 2011, FEVI and Mt. Hayes (GP) Ltd. on behalf of Mt Hayes Limited Partnership (collectively, the Applicants) applied for the approvals and other relief necessary under the *Utilities Commission Act* to allow Chemainus and Cowichan the opportunity to acquire an ownership interest in the LNG Storage Facility then under construction near Ladysmith, British Columbia.

If approved, the Application would allow:

- Chemainus to acquire up to a 7.5 percent interest in the LNG Storage Facility;
- Cowichan to acquire up to a 7.5 percent interest in the LNG Storage Facility; and
- FEVI to maintain a minimum 85 percent interest in the LNG Storage Facility (Exhibit B-1, p. 2).

FEVI states that if Chemainus or Cowichan, or both, participate in Mt. Hayes LP then effective January 1, 2012, Mt. Hayes LP will acquire beneficial ownership of the LNG Storage Facility from FEVI. FEVI notes that legal title of the land on which the LNG Storage Facility is located will remain in the name of FEVI, and FEVI will grant a statutory right-of-way to Mt. Hayes LP over the lands necessary for the LNG Storage Facility. FEVI states that the price of the LNG Storage Facility to be paid by Mt. Hayes LP will be the direct and indirect project costs of the assets comprising the LNG Storage Facility, less depreciation incurred by FEVI up to the date of transfer, all determined as of January 1, 2012. FEVI will provide financing to Mt. Hayes LP to facilitate the transaction (Exhibit B-1, p. 3).

Coincident with Mt. Hayes LP acquiring the LNG storage facility, FEVI states that Mt. Hayes LP will enter into a 40-year lease with FEVI, by which FEVI will lease and acquire the right to operate, the LNG Storage Facility (Exhibit B-1, pp. 2-3).

At the end of the lease FEVI will re-acquire the LNG Storage Facility either by FEVI purchasing the assets from Mt. Hayes LP, or by FEVI acquiring the partnership interests of Chemainus and Cowichan in Mt. Hayes LP. FEVI notes that Chemainus and Cowichan have an option to sell all of their partnership units to FEVI, thereby removing them from participation in Mt. Hayes LP (Exhibit B-1, pp. 5-6). FEVI states that the price it would pay is:

- During the first 20 years of the LNG Storage Facility Lease (January 1, 2012 to December 31, 2031), the net book value of the LNG Storage Facility assets (cost, less depreciation, less debt of Mt. Hayes LP); or
- After December 31, 2031, the lesser of the value of the LNG Storage Facility assets allowed by the Commission for rate-making purposes and the value upon which a fair return on equity can be earned. (Exhibit B-1, pp. 16-17)

FEVI has also observed that the LNG Storage Facility site has the potential to accommodate a second LNG storage tank with associated liquefaction and vapourization equipment (Exhibit B-1, p. 4).

FEVI states that the Application only applies to the LNG Storage Facility under construction at the time of the filing of the Application and the land on which that storage facility is located. If FEVI subsequently determines that proceeding with a second LNG storage tank is in the public interest, it will at that time consider whether or not to develop the tank in conjunction with Mt. Hayes LP. FEVI highlights that the arrangements between FEVI and Mt. Hayes LP include an obligation on Mt. Hayes LP to fully cooperate in the development of a second LNG tank and associated equipment by FEVI, and the integration of equipment and systems, if a second LNG tank is built (Exhibit B-1, p. 4).

The Applicants seek various approvals and other relief from the Commission to facilitate this asset transfer and leaseback. The approvals and other relief are included in Appendix 1 to this Decision.

2.3 The Written Hearing Process

On January 18, 2011, the Commission issued Order G-7-11 establishing a Written Public Hearing Process and a Regulatory Timetable for review of the Application. The Regulatory Timetable allowed for Information Requests and Responses, Written Submissions from Interveners and Final Argument by FEVI and Mt. Hayes (GP) Ltd. The Commission issued both public and confidential Information Requests on January 28, 2011. The BCOAPO registered as an Intervener and subsequently issued Intervener Information Requests on February 7, 2011. FEVI and Mt. Hayes (GP) Ltd. responded to the Commission and BCOAPO Information Requests on February 21, 2011. On March 9, 2011, FEVI and Mt. Hayes (GP) Ltd. filed their Final Written Submissions. On March 24, 2011, BCOAPO filed its Final Written Submission and on April 5, 2011, the Applicants filed their Reply. On April 29, 2011, the Commission issued a further Information Request-Clarification from both the Company and Interveners. FEVI responded to that request on May 13, 2011. No response was received from BCOAPO.

3.0 PROJECT IMPACT ON FEVI RATEPAYERS

3.1 Effects of Restructuring

FEVI states that this Application has been structured to minimize the impact on its ratepayers. Under the Application, FEVI notes that the Mt. Hayes LNG facility will be transferred to a newly created regulated utility partnership, Mt. Hayes LP if either First Nation group exercises its option to participate in ownership of the LNG Storage Facility. FEVI states that it will lend Mt. Hayes LP funds to purchase the asset and will repay this loan as it leases back the LNG Storage Facility while retaining full control of the assets and operations (Exhibit B-1, pp. 2-4). FEVI indicates that Facility assets are to be transferred at their net book values within FEVI's records and FEVI requests approval to amortize the assets at rates approved within FEVI (Exhibit B-1, pp. 4, 6).

As such, FEVI indicates ratepayers will not notice any difference in the operations of the LNG Storage Facility resulting from the transaction. Further, FEVI requests that all new intercompany transactions including loans, interest and rent and related tax payments between the newly created Mt. Hayes LP and FEVI be treated as non-utility transactions thus not impacting customer rates (Exhibit B-1, p. 4).

The only impact FEVI foresees (compared to the case where ownership remains entirely in FEVI's hands) is a timing difference for tax purposes. The Application states that this difference results in a minor rate increase in FEVI's revenue requirements in 2012 and a small decrease thereafter (Exhibit B-1, p. 5).

FEVI indicates that this timing difference impact results from the tax effect of FEVI leasing the LNG Storage Facility from Mt. Hayes LP. Special tax rules limit the amount of Capital Cost Allowance (CCA) that Mt. Hayes LP may deduct in a year to the amount of its income for that year. FEVI notes that if TGVI owned the LNG Storage Facility, these special tax rules would not apply and, in 2012, some of the CCA in respect of the LNG storage facility would be available to offset FEVI's income associated with the ownership and operation of other utility assets. FEVI expects that this will result in higher income taxes being payable by FEVI in 2012. However, the Application indicates that the unused CCA in 2012 will still be available in future years as the total amount of CCA available over the life of the LNG storage facility will be the same whether or not Mt. Hayes LP leases the facility to FEVI or FEVI owns the LNG storage facility directly. As a result, FEVI believes this will result in lower taxes being payable in future years as the unused CCA from 2012 is applied against taxable income. Therefore, FEVI submits that incremental costs, other than delays in CCA, will not impact customers. (Exhibit B-1, pp. 5-6)

3.2 Views of the Intervener

BCOAPO supports the approval of the Application. It found the impact on FEVI ratepayers was minimal in the short term and neutral in the longer term. In its support it also took comfort in the Commission continuing to monitor the implementation of the agreements as applied-for (BCOAPO Final Submissions).

3.3 Partnership Tax Expenditures

Due to the structuring of the divestiture proposed within the Application, Mt. Hayes LP, the newly-formed regulated utility, would not be directly taxed on any income it earns. Instead, income tax on the Partnership's income would be paid by the partners, some of whom are not regulated utilities. In the Application, FEVI is seeking recovery-through rates-of the assumed tax expenditures which are determined to be equal to the tax rate of FEVI. However, if some partners are able to realize lower tax rates due to unique circumstances at the ownership level when taxes are paid, FEVI notes that this benefit may not be passed along to ratepayers. FEVI asserts this outcome is reasonable as there is limited ability for the Utilities to assess actual tax expenses incurred by partners who are not regulated utilities. Also, ratepayers are in no better or worse situation than if FEVI retained full ownership of the Mt. Hayes Facility (BCUC IR 1.6.4).

BCOAPO made no submissions on the Partnership tax expenditure issue.

3.4 Commission Determinations

Subject to the comments on tax expenditures below as well as certain filing requirements set out in Order G-109-11, the Commission finds that the Application is in the public interest and should be approved. The Application provides benefit to the First Nations with only a minor CCA timing impact on FEVI ratepayers. Otherwise, ratepayers will be unaffected by the Application's proposal. As such, the operations of the Mt. Hayes Facility will continue unchanged and the services provided to FEVI's ratepayers will not be impacted. Further, the various transfer and transaction structuring shall only occur if either of the First Nations chooses to participate; the proposals in this Application avoid unnecessary actions. The Commission Panel is satisfied that FEVI has taken adequate steps to insulate the ratepayers from transaction risk during the operation and ultimate reacquisition of full ownership of the Mt. Hayes Facility. To ensure ongoing Commission oversight of all impacts and results, various reporting conditions have been made by the Commission Panel.

Section 71 of the *Utilities Commission Act* requires the Commission to consider certain criteria in determining if the Application is in the public interest. As this Application has no impact on the quantity or type of energy to be made available to FEVI, the Commission Panel finds that the relief sought by the Utilities has no impact on

FEVI's long-term resource plan or FEVI customers. Also, there is no resulting change that is inconsistent with either British Columbia's energy objectives or *Clean Energy Act*.

With regards to the tax expenditures, the Commission notes that at least 85 percent of income of the Mt. Hayes LP will flow through to a regulated entity. Therefore, at least 85 percent of taxes paid on the partnership allocations will occur within a regulated utility, making most tax forecasts and payment records readily available to both FEVI and the Commission. However, as actual taxes will be assessed at an ownership level, it is possible that not all realized tax savings will be passed along to ratepayers, possibly resulting in a higher return on equity for owners due to unique tax planning.

As the forecast for most tax expenditures is sufficiently supported, the Commission will approve this Application, but does not make any determination on the reasonableness of the total forecast of tax expenditures of Mt. Hayes LP as determined within FEVI using the methodologies outlined in this Application. Also, this approval is unique in nature as such divestiture transactions involving First Nations groups are rare and should not be considered as a precedent for the treatment of any partnership expenses in future proceedings before the Commission.

In the future, if the Commission receives a complaint about the calculation of or the resulting tax expenditures as they relate to Mt. Hayes LP or determine on its own that the tax methodology or expenditures require a review, Mt. Hayes LP will be required to address the matter at that time. Further, any future adjustments to FEVI's Facility Lease payments resulting from a change in tax rates of the Mt. Hayes LP will require evidence be filed with the Commission to support the reasonableness of that request.

Parts of the Application were filed on a confidential basis because of their commercially sensitive nature. The request for confidentiality was unopposed. The Commission also asked a set of Confidential Information Requests. No objection was taken to the use of Confidential Information Requests in this proceeding. The Commission agrees that the information is commercially sensitive and will maintain the information on a confidential basis.

RELIEF SOUGHT

FEVI applies for the following from the Commission:

- 1) Approval of the disposition of the LNG Storage Facility to Mt. Hayes LP; and approval to encumber the lands on which the LNG Storage Facility is located with a statutory right-of-way in favour of Mt. Hayes LP, pursuant to section 52 of the Act.
- 2) Acceptance of the loan to Mt. Hayes LP under the Loan Agreement by which Mt. Hayes LP borrows from FEVI the initial debt portion of the capital structure of Mt. Hayes LP, and acceptance of any future loans to Mt. Hayes LP pursuant to the Grid Promissory Note, as required by Section 7.2.1 (3)(a) of Commission Order G-116-05.
- 3) Approval of the Facility Lease with Mt. Hayes LP by which FEVI will lease the LNG Storage Facility, pursuant to section 71 of the Act.
- 4) Approval, pursuant to section 54 of the Act, of any increase in FEVI's ownership interest of Mt. Hayes LP in accordance with the Partnership Agreement.
- 5) An order providing that the future rates of FEVI are to be determined on the basis that the revenue requirements of FEVI be established with the LNG Storage Facility in rate base at its depreciated value, with the LNG Storage Facility assets being subject to normal depreciation and earning a normal return on rate base.
- 6) An order that the loans from FEVI to Mt. Hayes LP, the interest payments on those loans, the repayments of principal on those loans, the rent payments from FEVI to Mt. Hayes LP under the Facility Lease, the distributions from Mt. Hayes LP to its partners and any taxes paid on those distributions be accounted for as non-utility transactions.

Mt. Hayes LP applies for the following from the Commission:

- 1) Approval of the Facility Lease with FEVI as the rate that Mt. Hayes LP will charge, pursuant to section 61 of the Act.
- 2) Approval of (i) the Loan Agreement, (ii) the Grid Promissory Note, and (iii) the Security Agreement, and (iv) any loans from FEVI pursuant to those arrangements, pursuant to section 50 of the Act.
- 3) Approval, pursuant to section 50 of the Act, of the issuance of partnership units to its partners, to reflect contributions to the partnership when the LNG Storage Facility is transferred to Mt. Hayes LP and to reflect future capital contributions to Mt. Hayes LP for capital expenditures or for an increase in the equity component of Mt. Hayes LP in consequence of an increase in the equity component of FEVI.
- 4) Approval of the ability to vary the ownership interests of its partners in accordance with the Partnership Agreement, and potentially at termination of the Facility Lease, pursuant to section 54 of the Act.

- 5) Approval of initial depreciation rates for the assets comprising the LNG Storage Facility equal to FEVI's depreciation rates for similar assets approved in FEVI's 2010 and 2011 Revenue Requirements.
- 6) Approval of future disposition of the LNG Storage Facility to FEVI as provided for in the Facility Lease, pursuant to section 52 of the Act