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British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Sirs/Mesdames:

Re: FortisBC Inc. - Annual Review for 2022 Rates - Reply Submission

In accordance with the regulatory timetable in the above proceeding, we enclose for filing the Reply Argument of FortisBC Inc., dated November 16, 2021.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by]

Christopher Bystrom*
*Law Corporation

CRB/NR
Encl.

BRITISH COLUMBIA UTILITIES COMMISSION

IN THE MATTER OF THE UTILITIES COMMISSION ACT, R.S.B.C. 1996, CHAPTER 473

AND

FORTISBC INC.

ANNUAL REVIEW FOR 2022 RATES

PROJECT NO. 1599231

REPLY ARGUMENT

OF

FORTISBC INC.

November 16, 2021

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PART ONE: INTRODUCTION AND OVERVIEW

1. This is the annual review for the third year of the 2020 to 2024 Multi-Year Rate Plan (MRP) approved by British Columbia Utilities Commission (BCUC) Order G-166-20, issued on June 20, 2020. In its Annual Review for 2022 Rates Application (Application) filed on August 6, 2021,[1] as updated on October 5, 2021,[2] FortisBC Inc. (FBC or the Company) is seeking approval of 2022 rates. FBC submits that it has presented its 2022 revenue requirements in a clear and transparent manner and, through its responses to information requests (IRs) and discussion at the Workshop, has responded to the concerns raised by the BCUC and interveners in this proceeding. In this Reply Submission, FBC responds to the concerns and comments raised by interveners in their final submissions. FBC submits that it has justified its approvals sought and that the Application, as updated, should be approved.

2. FBC's updated approvals sought are set out in Appendix C of the Evidentiary Update,[3] and include a permanent rate increase of 3.46 percent, effective January 1, 2022.

3. On October 5, 2021, FBC responded to IRs from the BCUC and interveners, including the British Columbia Municipal Electrical Utilities (BCMEU), British Columbia Public Interest Advocacy Centre representing the British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC, and the Tenant Resource and Advisory Centre (BCOAPO), BC Sustainable Energy Association (BCSEA), Commercial Energy Consumers Association of BC (CEC), Industrial Customers Group (ICG), Canadian Office and Professional Employees Union, Local 378 (known as Movement of United Professionals or MoveUP), and the Residential Consumer Intervener Association (RCIA). A workshop was held on October 20, 2021, and FBC's presentation materials and the transcript of

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[1] Exhibit B-2, Application.

[2] On October 5, 2021, FBC filed an Evidentiary Update for a wildfire-related exogenous factor treatment request and a change to the calculation of the 2021 cost of removal error (Exhibit B-11).

[3] Exhibit B-11.

the workshop were placed on the record in the proceeding.[4] FBC filed responses to undertakings from the Workshop on October 26, 2021.[5]

4. Between November 1 and 4, 2021, BCMEU, BCOAPO, BCSEA, CEC, ICG, MoveUP and RCIA filed final arguments. The submissions of interveners show broad support for FBC's Application. BCMEU does not oppose the approvals sought by FBC.[6] BCOAPO states that the BCUC should approve FBC's rate increase and other requested relief, subject to certain issues which FBC addresses below.[7] BCSEA supports FBC's proposed permanent rate increase of 3.46 percent for 2022.[8] CEC finds the Application to be "reasonably well-justified" and "well-supported and calculated correctly".[9] ICG states that FBC's rate increase should only be approved on an interim basis, pending the decision in the Generic Cost of Capital (GCOC) proceeding.[10] MoveUP submits that FBC has "substantiated the various forms of relief it seeks", which should be granted.[11] RCIA has no objections with the approvals sought by FBC, but identified two areas of concern, which FBC addresses below.[12]

5. In the remainder of this Reply Argument, FBC responds to various comments and recommendations of interveners. Silence in this submission on a particular statement in an intervener submission does not indicate FBC's agreement. The sections below are organized around the following points:

(a) FBC's rates will be made interim for the purpose of the cost of capital at a date to be determined in the Generic Cost of Capital proceeding.

(b) FBC's 2020-2024 MRP was designed to allow FBC to respond to policy.

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4 Exhibit B-13. The Workshop Transcript is available on the Commission's website at: https://docs.bcuc.com/Documents/Transcripts/2021/DOC_64593_2021-10-20-Workshop-Transcript-Volume-1.pdf.

5 Exhibit B-14.

6 BCMEU Final Argument, p. 1.

7 BCOAPO Final Argument, p. 33.

8 BCSEA Final Argument, p. 11.

9 CEC Final Argument, paras. 9 and 159.

10 ICG Final Argument, p. 1.

11 MoveUP Final Argument, p. 5.

12 RCIA Final Argument, p. 6.

(c) FBC has calculated the inflation factor in accordance with the MRP Decision using reputable third-party sources as measures of inflation.

(d) FBC is open to working with Wholesale customers regarding their forecasting.

(e) FBC has been working with large commercial customers impacted by the pandemic.

(f) FBC continues to work on productivity initiatives and will report back in the next Annual Review proceeding.

(g) FBC's load forecast is reasonable and should be approved for the purpose of rate setting.

(h) FBC's deferral account requests are reasonable and should be approved.

(i) FBC will report on the costs and revenues of its EV DCFC charging stations per the BCUC's decision in the EV charging rate design proceeding.

(j) FBC's proposed exogenous factor treatment of mandatory reliability standards (MRS) meets the exogenous factor criteria.

(k) FBC's request to recover the cost of removal error in 2021 is just and reasonable.

(l) FBC's Average Speed of Answer service quality indicator is within a reasonable range and is improving.

PART TWO: REPLY TO INTERVENER COMMENTS

A. Rates Will Be Made Interim at a Later Date in the GCOC Proceeding

6. The ICG submits that FBC's rates should only be approved on an interim basis pending the decision in the Generic Cost of Capital (GCOC) proceeding, including potentially, with respect to financing costs of deferral accounts.[13] FBC submits that the ICG's suggestion is outside the scope of this proceeding, as this proceeding is not considering the cost of capital, which is currently before another BCUC panel. The decision to make rates interim for the purposes of setting the cost of capital, or any other matter before the BCUC in the GCOC proceeding, is a matter for the BCUC panel in the GCOC proceeding. As noted by the ICG,[14] the BCUC panel in the GCOC proceeding has stated that the effective date of the cost of capital decision will be "determined

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[13] ICG Final Argument, p. 1.

[14] ICG Final Argument, p. 2.

at a later point in the GCOC proceeding" [emphasis added].[15] Therefore, the date that FBC's rates are to be made interim for the purpose of the cost of capital proceeding is a matter currently being considered by the BCUC GCOC panel and is a matter that will be determined by the BCUC GCOC panel in the GCOC proceeding.

7. In reply to the ICG's comments on financing costs of deferral accounts, FBC is applying the approach to financing costs of deferral accounts recently approved by the BCUC in FBC's Annual Review for 2020-2021 Rates.[16] As the issue of financing costs has not been raised in this proceeding,[17] FBC submits that there is no basis to deviate from the approved approach in this proceeding. In the event that the BCUC panel in the GCOC were to make any determination regarding financing costs of deferral accounts, that determination would be implemented in accordance with any direction of the GCOC panel. However, any such determination and how it may be implemented is a matter for the GCOC panel, and is therefore not within the scope of this Annual Review.

B. 2020-2024 MRP Designed to Respond to Changes in FBC's Operating Environment

8. MoveUP argues that the central focus of the next annual review should be whether any modifications to the MRP are warranted in light of the CleanBC Roadmap to 2030.[18] FBC submits that the central focus of any Annual Review should be the review of FBC's performance under the MRP and setting of rates for the following year. FBC further submits that focusing the Annual Review on the implications of the CleanBC Roadmap to 2030 is not warranted for the following reasons:

- **MRP is Designed to Provide Flexibility for FBC to Respond to Policy:** The MRP is a hybrid form of performance-based ratemaking[19] that has cost of service features designed to provide FBC with the flexibility to respond to changing policies in its

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15 Appendix A to Order G-156-21, p. 6.

16 Decision and Order G-42-21, dated February 12, 2021, p. 22.

17 Financing costs of deferral accounts was not raised in IRs, in the Workshop, or in intervener Final Submissions. Even ICG does not take a particular position on the issue in its Final Argument.

18 MoveUP Final Argument, p. 5.

19 Decision and Order G-165-20, Application for Approval of a Multi-Year Rate Plan for the Years 2020 through 2024, p. 170 (MRP Decision).

operating environment. In particular, the MRP allows FBC to forecast costs related to clean growth initiatives on a flow-through basis. This aspect of the MRP is working as shown by FBC's ability to incorporate the costs of EV DCFC charging stations.[20] Other key features of the MRP that provide flexibility are that approval of major projects is provided outside the MRP framework, and FBC may seek exogenous factor treatment of unforeseen items beyond its control. There are no indications at this time that the MRP is not sufficiently flexible to allow FBC to respond to policy. MoveUP has not described anything in particular that is not working as expected.

- **Annual Review is Not an Opportunity for Reconsideration of the MRP Decision:** The Annual Review is designed to review FBC's performance under the MRP.[21] As the BCUC has recently confirmed, the Annual Review is not an opportunity to reconsider the MRP.[22]

- **Annual Review is Not Designed to Accommodate a Broad Review of Policy Impacts to FBC:** The Annual Review is a relatively abbreviated process that is able to start and end by the end of the calendar year so that delivery rates can be set January 1. Expanding the Annual Review to consider the impact of policy would require more process steps and would undermine the efficiency of the Annual Review process, which is a key element of the MRP. In short, the Annual Review is not a suitable forum to consider the policy issues raised by MoveUP.

- **Other Proceedings Will Provide an Appropriate Forum:** There are other proceedings before the BCUC that will provide the BCUC and interveners the appropriate forum in which to discuss policy impacts to FBC. In particular, FBC's long-term resource plan currently before the BCUC will provide a more appropriate forum for exploration of policy impacts to FBC.

9. FBC submits that MoveUP has not identified any specific issue with the MRP or justified changing the scope and focus of next year's Annual Review. As such, FBC submits that MoveUP's request should not be accepted.

C. Calculation of the Inflation Factor is Consistent with the MRP Decision

10. As part of FBC's formula O&M, FBC has used an inflation factor (I-Factor) using the actual CPI-BC and BC-AWE indices from the previous year and the actual labour weighting based on the

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[20] Exhibit B-2, Application, p. 44.

[21] MRP Decision, p. 165.

[22] Decision and Order G-42-21, dated February 12, 2021, p. 14.

most recent completed year of actuals in accordance with the MRP Decision.[23] No intervener disputes that FBC has correctly calculated the I-Factor.

11. FBC agrees with RCIA's comment that "the I-Factor condition changes due to COVID-19 and/or temporary government support programs should reverse when conditions revert to historic norms (e.g., COVID-19 and/or temporary government support programs end)."[24] In reply to RCIA's comments that the I-Factor should be considered in the next MRP term,[25] FBC submits that the I-Factor in any subsequent MRP term will, as a matter of course, be subject to BCUC review and approval.

12. The CEC recommends a reduction to the I-Factor to 2.67 percent which it claims is "the calculation of the I-Factor if longer term averages are used".[26] FBC submits that the CEC has not provided a reasonable evidentiary foundation for its proposal of a 2.67 percent I-Factor, which was not the subject of any evidence in this proceeding. Moreover, FBC submits that the CEC's suggestion is out of scope of this proceeding. The BCUC considered and rejected a similar proposal in FBC's Annual Review for 2020-2021 Rates, as follows:[27]

> The Panel is satisfied that the I-Factor should remain as approved in the MRP Decision. In our view, adjusting the I-Factor, or the BC-AWE which is a component of the I-Factor calculation, in response to the COVID-19 pandemic would be a premature reaction to a global event which has not yet ended. There is little doubt that the pandemic will have a financial impact on FBC. The extent of the impact, however, remains to be seen and there is no evidentiary basis on which to attempt to adjust the 2021 BC-AWE at this time.
>
> Fundamentally, however, and from a bigger picture, adjusting elements of the formula O&M is outside the scope of any Annual Review. The purpose of the Annual Review is not to unravel or revisit the MRP Decision, rather, as the BCUC stated in that decision, the "Annual Review process is designed to provide the BCUC, interveners and interested parties the opportunity to review the performance of [FBC] over the prior year."

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23 Exhibit B-2, Application, pp. 7-8.

24 RCIA Final Argument, p. 7.

25 RCIA Final Argument, pp. 6-7.

26 CEC Final Argument, para. 27.

27 Decision and Order G-42-21, dated February 12, 2021, p. 14.

13. FBC submits that that Panel's comments in the decision above are equally applicable to this proceeding.

14. The CEC also submits that the BCUC could track whether any savings are related to lower labour costs and adjust in any future ratemaking.[28] In reply, FBC submits that it would not be possible to track any such savings, as there is no baseline from which to calculate such savings. This reflects the fundamental problem caused by the COVID-19 pandemic and its resulting impacts on the AWE-BC and other measures of inflation. It is extremely difficult, if not impossible, to determine what the impact of various factors on inflation has been, what inflation would have been in the absence of the COVID-19 pandemic, or what the appropriate measure of inflation should be, if not reputable third party sources such as the CPI-BC and BC-AWE indices. In short, any adjustment to the AWE or I-Factor would be arbitrary.

15. The ICG acknowledges that adjusting elements of the formula O&M is outside the scope of any Annual Review, but nonetheless argues at length that the O&M formula is not fair[29] and requests that the BCUC establish a proceeding to review the O&M formula.[30] FBC submits that the BCUC has already determined that the O&M formula is fair as a component of the overall MRP. FBC sees no value in commencing a proceeding to reconsider the O&M formula as any adjustment to the I-Factor would be arbitrary for the reasons noted above. Further, it is inappropriate to "cherry pick" individual components of the MRP which may be going in one direction, when there are other components that may be going in the other. The MRP is designed to work as a whole, and changes to one individual component should not be made without consideration of the others. For example, while the AWE may seem high, the CPI used for the 2022 formula O&M may be low, and therefore, may not necessarily reflect the inflationary pressures FBC faces in 2022 for its non-labour expenditures.[31] FBC reiterates that it expects that

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[28] CEC Final Argument, para. 127.

[29] ICG Final Argument, pp. 2-4.

[30] ICG Final Argument, p. 3.

[31] Exhibit B-10, RCIA IR1 4.3.

over time the higher AWE trend will reverse as the labour impacts from the COVID-19 pandemic lessen and that the near-term increases observed in the AWE will be offset in subsequent years.

16. FBC submits that the calculation of the I-Factor is in accordance with the approved MRP, is based on reputable third-party sources of measures of inflation, and remains appropriate for rate-setting purposes.

D. FBC is Open to Working with Wholesale Customers Regarding their Load Forecasts

17. BCMEU asks the BCUC to encourage FBC to work with wholesale customers with respect to their load forecasts.[32] FBC confirmed at the Workshop that it would be open to providing assistance to wholesale customers.[33] FBC also noted at the Workshop that the 4 percent variance between forecast and actual 2021 wholesale load[34] was anomalous, as the wholesale customer load forecasts have historically performed very well, with a six-year average variance of just 1.7 percent.[35]

E. FBC has been Working with Large Commercial Customers During the Pandemic

18. CEC submits that the BCUC should encourage FBC to take actions to provide relief to large commercial customers economically impacted by the pandemic.[36] FBC has in fact been working with commercial customers individually to help address bill concerns, facilitate applicable energy efficiency incentives and provide customized energy advice. This approach continues to be effective and FBC has received positive feedback.[37] Other support for large commercial customers is available through government programs. Attachment 29.2 to CEC IR1 29.2 (Exhibit B-7) provides a listing of the available economic support programs to BC businesses during the COVID-19 pandemic.

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32 BCMEU Final Argument, p. 2.

33 Workshop Transcript, p. 27, ll. 3-7.

34 Workshop Transcript, p. 19, ll. 16-18.

35 Workshop Transcript, p. 21, ll. 1-6.

36 CEC Final Argument, paras. 66-67.

37 Exhibit B-5, BCOAPO IR1 29.1, Attachment 29.1, p. 7.

F. FBC Continues to Work on Initiatives to Generate O&M Savings

19. BCOAPO requests the BCUC hold FBC to its commitment to provide an update in the 2023 Annual Review as to the productivity initiatives it has identified and their expected savings.[38] FBC achieved fairly significant savings in 2020 and, as a result, will distribute $1.195 million pre-tax ($0.872 million after-tax) in earnings sharing to customers in 2022. FBC will continue to pursue productivity improvements to achieve savings beyond the embedded productivity improvement factor as it seeks to manage its business needs and cost pressures resulting from its evolving and challenging operating environment. FBC has committed to providing an update on its productivity initiatives in the next Annual Review.[39]

G. FBC's Load Forecast is Reasonable

(a) FBC's Customer Count Forecast Has Been Reasonably Accurate

20. The CEC submits that "it could be worthwhile [for FBC] to re-examine its customer count forecasting".[40] FBC regularly examines it customer count forecasting. For example, at the Workshop, Mr. Bailey explained the adjustment that was made to the length of the regression used to ensure a reasonable forecast of residential customers.[41] As shown in Section 6.1 of Appendix B2 of the Application, FBC's forecast customer count has been reasonably accurate and had a total variance of only 0.6 percent in 2020.[42]

(b) FBC Forecast of UPC is Reasonable and Appropriate

21. The CEC recommends that the BCUC monitor FBC's use per customer (UPC) variance at the conclusion of this year, and direct FBC to pursue further research into understanding residential UPC if the variance is again overly optimistic.[43] FBC submits that a direction to

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38 BCOAPO Final Argument, p. 5.

39 Exhibit B-2, Application, p. 1.

40 CEC Final Argument, paras. 61-64.

41 Workshop Transcript, pp. 29-30.

42 Exhibit B-2, Application, Appendix B2, Section 6.1.

43 CEC Final Argument, para. 52.

undertake further research is not warranted. FBC explained how it monitors the UPC forecast and is satisfied that the forecast method will continue to provide good results, as follows:[44]

> While FBC does not conduct formal studies to assess the validity of the UPC forecast, performance is monitored each year. The table below shows the variance in the FBC Residential UPC to forecast from 2011 to 2020. On average the UPC has been 0.35 MWh or 3.2 percent below forecast.

Residentail UPC (MWh)	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Residential UPC Normalized Actuals	12.70	12.41	12.48	11.51	11.41	11.27	11.31	11.03	10.43	10.89
Forecast	12.74	12.59	12.48	12.39	12.24	11.89	11.71	10.92	11.27	10.75
Variance	-0.04	-0.18	0.00	-0.88	-0.83	-0.62	-0.40	0.11	-0.84	0.13
Variance (%)	-0.3%	-1.5%	0.0%	-7.7%	-7.3%	-5.5%	-3.5%	1.0%	-8.0%	1.2%

> FBC notes the following:
>
> - Forecast performance from 2011 through 2013 was very good.
> - Variances in 2014 through 2016 were higher because of the integration of the City of Kelowna (CoK) customers. In hindsight FBC believes the higher proportion of smaller dwellings caused the UPC to decline more quickly than forecast.
> - Forecast performance was very good in 2017 and 2018, aided by actual data from the CoK customers.
> - In 2019 there was a larger variance. FBC believes the significant year-over-year decline could be due in part to widespread residential adoption of LED lighting.
> - Forecast performance in 2020 was very good
>
> In summary, in four of ten years, including 2020, the forecast variance was 1.5 percent or less. A one-time event (CoK integration) adversely impacted the use rate forecast in the 2014-2016 timeframe.
>
> Therefore, FBC believes the current residential UPC forecast method will continue to produce reasonable results.

22. FBC will continue to monitor its forecasting methods and, as such, submits that no direction to do so is necessary.

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[44] Exhibit B-7, CEC IR1 5.3.

23. BCOAPO accepts FBC's residential forecast, but reiterates its argument from the 2020-2021 Annual Review that FBC is double-counting the impacts of DSM in its UPC forecast.[45] FBC reiterates that it is not double-counting the impacts of DSM[46] and notes the BCUC's determination in the 2020-2021 Annual Review which did not accept the BCOAPO's argument.[47] As BCOAPO accepts FBC's forecast, FBC does not address this issue further.

(c) Industrial Load Forecast is Reasonable

24. BCOAPO accepts FBC's load forecast, but submits that, since some cannabis customers did not materialize as forecast, the BCUC should direct FBC to provide an explanation of when it includes new industrial loads in its forecast.[48] FBC submits that BCOAPO's reaction to cannabis customers not materializing is misguided. The fact that cannabis customers did not materialize is not a failure of FBC's forecast methodology, but is instead due to the fact that this is a new industry, where the industry players are starting up new projects, consolidating, and subject to considerable uncertainty in a new market, and also significantly impacted by the COVID-19 pandemic. Given the high uncertainty in the industry itself, and further uncertainty caused by the COVID-19 pandemic, no forecast method would be able to accurately forecast these loads.

25. Some of the cannabis customers that FBC forecast in 2021 did in fact commence limited operations and are in the commercial class, while others did not.[49] Most of the customers in this sector were new businesses and were impacted by the COVID-19 pandemic in numerous ways, which could not have been foreseen. Some of the customers had delays in construction that did not allow them to complete construction of their facilities, while others could not start or ramp up production. The cannabis sector has also seen significant consolidation. The intense competition and overproduction of cannabis has meant that many projects were delayed, others were descaled or converted into outdoor operations, and several were cancelled.[50]

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45 BCOAPO Final Argument, pp. 8-9.

46 Exhibit B-5, BCOAPO IR1 8.3.

47 Decision and Order G-42-21, dated February 12, 2021, p. 28.

48 BCOAPO Final Argument, p. 6.

49 Exhibit B-3, BCUC IR1 7.2.

50 Exhibit B-3, BCUC IR1 7.3.

26. This issue of unpredictability in cannabis loads was also experienced by BC Hydro in its 2020 forecast. BC Hydro states in its Fiscal 2023 to Fiscal 2025 Revenue Requirement Application that "[t]he December 2020 Load Forecast for incremental cannabis loads is lower than previous forecasts due to revised expectations and timing for specific projects."[51] Thus, it is not FBC's forecast methodology in particular that is causing the variance, but the volatility in the industry itself that is making it difficult to forecast cannabis load.

(d) Impacts of Climate Change Can Be Explored in Long-Term Resource Plan Proceeding

27. The CEC recommends that FBC provide a report on the impacts of climate change that FBC believes it has experienced each year in its Annual Reviews.[52] FBC submits that the best place to consider impacts of climate change is in FBC's long-term resource plans, where FBC's long-term forecasts are considered.[53] In Annual Review proceedings, FBC is forecasting only one year out, which makes the impacts of climate change much less relevant. Further, FBC already comments on major events affecting reliability in its service quality indicator section of the Application,[54] and any major climate events affecting FBC's rates will naturally be the subject of commentary in FBC's Annual Review materials (e.g., wildfires) and be the subject of inquiry during the proceeding. Finally, FBC submits that the CEC's requested report is ambiguous in terms of how FBC is to determine which impacts in a given year are due to climate change, and FBC is concerned that filing such a report would generate further process and questions of little relevance to the determination of rates in the following year. For these reasons, FBC submits that the extra report that the CEC has requested is not warranted.

H. FBC's Deferral Account Approvals Should be Approved as Proposed

28. FBC's proposals with respect to deferral accounts were generally supported or not opposed by interveners. FBC responds below to BCOAPO's comments on FBC's proposal to

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[51] Exhibit B-3, BCUC IR1 7.2.

[52] CEC Final Argument, p. 10.

[53] Workshop Transcript, p. 93, ll. 6-19.

[54] E.g., Exhibit B-2, Application, p. 126.

amortize the 2021 LTERP deferral account and Rate Design and Rates for EV DCFC Service Application deferral account.

(a) Amortization of 2021 LTERP Deferral Account is Appropriate

29. FBC has proposed to amortize the 2021 LTERP deferral account over three years, as this is consistent with past treatment of LTERP costs, and will ensure that the account is amortized before the next LTERP is filed, which could be sooner than five years.[55] CEC recommends the account be approved as proposed.[56] BCOAPO submits that the 2021 LTERP deferral account should be amortized over five years, or four years if the BCUC wishes to be conservative.[57] As FBC has stated, FBC is not opposed to amortizing the LTERP deferral account over four or five years, as the difference in the 2022 rate impact between amortizing the deferral account over three, four or five years is minimal. However, increasing the amortization period will also increase the carrying costs accrued on the deferral account balance, which results in an additional (albeit minor) cost to customers.[58]

(b) Appropriate to Begin Amortization of Rate Design and Rates for EV DCFC Service Application Deferral Account

30. BCOAPO opposes FBC's request to begin amortization of the amount in the Rate Design and Rates for EV DCFC Service Application deferral account on the basis that a final decision has not yet been issued in the EV rate design proceeding.[59] FBC submits that it is not necessary for the proceeding to be complete for amortization to begin. The account has been in place for many years, and is accruing carrying costs. The BCUC has determined that FBC's DCFC stations are prescribed undertakings. Given that the costs incurred to date must be recovered in rates, and customers will ultimately only pay for the actual costs recorded in the deferral account over time, delaying amortization of the account will only serve to add further carrying costs to the deferral

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55 Exhibit B-2, Application, p. 61; Exhibit B-7, CEC IR1 24.2.

56 CEC Final Argument, p. 25.

57 BCOAPO Argument, p. 42.

58 Exhibit B-7, CEC IR1 24.2.

59 BCOAPO Final Argument, p. 26.

account for future recovery from customers.[60] While FBC recognizes the potential for further proceeding costs, it is reasonable to expect that, at this stage of the proceeding, the vast majority of the costs of the proceeding have been incurred. FBC is proposing a three-year amortization period and, if further costs are added to the account, they can be recovered in the latter two years.[61]

I. Costs and Revenues of EV DCFC Program Performance in Future Annual Reviews

31. BCOAPO's criticism[62] of FBC for not reporting on its EV DCFC stations in this Annual Review is misguided. The BCUC has not yet accepted FBC's proposed charging rate or FBC's proposal to report on its EV DCFC stations in its Annual Review, so it would have been premature for FBC to report in this proceeding. As the primary purpose of FBC's proposed reporting would be to determine if there have been any material changes that warrant a change in the rate, there would be no purpose in reporting in the absence of an approved rate. In any case, FBC had no material changes to report since the close of the evidentiary record in the EV DCFC station rate design proceeding earlier this year.[63]

32. In response to BCOAPO's comments on reporting in Annual Reviews,[64] in FBC's view, this is a topic that is most appropriately considered by the BCUC panel in FBC's EV DCFC station rate design proceeding.

J. Exogenous Treatment for MRS Costs Meet Criteria

33. FBC submits that its request for exogenous factor treatment for the incremental MRS costs for 2021 and 2022 related to MRS Assessment Report No. 13, as described in Sections 6 and 7 of the Application and at the Workshop,[65] should be approved. In the MRP Decision, the BCUC specifically stated that continuing with exogenous factor treatment for costs associated with

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60 Exhibit B-3, BCUC IR1 26.1.

61 Exhibit B-7, CEC IR1 31.1.

62 BCOAPO Final Argument, p. 31.

63 Exhibit B-5, BCOAPO 1 40.1, 1.40.2 and 1.40.3; Workshop Transcript, p. 122, ll. 7-12.

64 BCOAPO Final Argument, p. 31.

65 Workshop Transcript, pp. 41-58.

future policy changes such as new MRS standards, consistent with the approach taken during the 2014-2019 PBR Plan term, was appropriate.[66]

34. As set out below, the MRS costs identified in this Application meet the exogenous factor criteria, consistent with past MRS assessment report costs which were approved for exogenous factor treatment[67] during the 2014-2019 PBR Plan term:

(a) The costs are entirely attributed to complying with the changes in BC's MRS program approved by Order R-19-20, which are events outside the control of FBC. These changes were developed by regulatory bodies in the US, assessed for adoption by BC Hydro and then adopted by the BCUC. FBC is legally obligated to comply with the new reliability standards.

(b) The costs are directly and solely attributable to complying with the changes to the BC MRS program approved by the BCUC. These costs have not been previously incurred and were not known at the time of setting the 2019 Base O&M used to determine formula O&M during the MRP term.

(c) The costs to comply with the reliability standards that were approved by Order R-19-20 could not have been foreseen at the time the 2019 Base O&M was set as the new standards were either non-existent or under preliminary development at the time.

(d) FBC will manage its costs to comply with the reliability standards in a prudent manner and the BCUC will have the opportunity to review the costs in subsequent annual reviews.

(e) For 2021, the incremental MRS costs that qualify for exogenous factor treatment are projected to be $0.100 million and are all O&M expenditures. For 2022, the incremental MRS costs that qualify for exogenous factor treatment are forecast to be $1.700 million, comprised of $0.765 million in incremental O&M expenses and $0.935 million in incremental capital expenditures.[68]

35. As detailed above, FBC's incremental costs from 2021 and 2022 related to MRS Assessment Report No. 13 satisfy the exogenous factor criteria, and therefore, should be approved.

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[66] MRP Decision, p. 75.

[67] Orders G-202-15, G-8-17, G-38-18 and G-246-18.

[68] Exhibit B-2, Application, pp. 103-104.

36. BCOAPO opposes the recovery of the $0.100 million in O&M for 2021 related to Assessment Report No. 13 on the basis that the costs should not be summed across years[69] – which would contradict the BCUC's previous determination in Order G-38-18. FBC submits that there is no basis in the MRP Decision to suggest that the materiality threshold should be applied only to costs in a calendar year and no basis for the BCUC to not follow its previous determination on this matter. In the MRP Decision, the BCUC established the exogenous factor criteria as applying to the impact of an event, stating that "[h]aving an exogenous factor in place protects both the ratepayer and the Utilities from significant unpredictable <u>events</u> that have the potential to impact the Utility's ability to earn a fair return"[70] [emphasis added] and that "[h]aving a materiality threshold allows the Utilities to recover costs for significant <u>events</u> of this nature…"[71] [emphasis added]. Accordingly, the Panel determined that maintaining the materiality threshold criteria for exogenous factors in the 2020-2024 MRP is appropriate and, specifically, that "[t]he costs/savings <u>related to each exogenous event</u> must exceed the BCUC-defined materiality threshold."[72] Thus, it is the costs related to the event that must be measured against the materiality threshold, not costs in a particular calendar year. This is reasonable as exogenous factor events, such as wildfires and compliance with MRS, do not conform to calendar years. It would therefore be arbitrary and unfair to limit the exogenous factor treatment to costs in a single calendar year.

37. In the Reasons for Decision attached to Order G-38-18, the BCUC accepted FBC's request for exogenous factor treatment of MRS costs, and dismissed concerns that FBC had forecast an amount for that calendar year that was below the materiality threshold, as follows:[73]

> **The Panel approves Z-factor treatment for the 2018 incremental O&M and capital expenses related to the MRS Assessment Reports No. 8 and No. 10.**
>
> The Panel considers that the forecast incremental costs in relation to AR 8 and AR 10 are triggered by an external regulatory body and FBC is legally obligated to

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[69] BCOAPO Final Argument, p. 25.

[70] MRP Decision, p. 64.

[71] MRP Decision, p. 64.

[72] MRP Decision, pp. 62, 65.

[73] Order G-38-18, Reasons for Decision, p. 8.

> comply with the reliability standards. Further, the Panel agrees with FBC that the incremental costs for AR 8 and AR 10 are entirely attributed to complying with the MRS program and could not have been foreseen at the time the 2013 base rate was set because the new MRS standards were either non-existent or under development that the time. The Panel has reviewed the 2018 forecast O&M and capital costs associated with AR 8 and AR 10 and accepts them as reasonable.
>
> The Panel also finds the forecast 2018 costs in respect of AR 8 exceed the materiality threshold for Z-factor treatment.
>
> With respect as to whether the forecast costs for AR 10 meets the materiality threshold, the Panel notes that AR 10 was only approved in July of 2017 and FBC has only included in its Application an estimate of its forecast O&M costs of $0.180 million for 2018. This amount on its own does not meet the materiality threshold for Z- factor treatment. However, FBC's preliminary high-level estimate of costs to become and remain compliant in respect of AR 10 is approximately $3.3 million of one-time costs and approximately $2.8 million of on-going costs. What is relevant to the materiality threshold is that the estimated costs exceed the threshold and are due to unforeseen events outside the utility's control. The Panel finds there is sufficient evidence to establish that FBC's estimated expenses in relation to AR 10 significantly exceed the Commission's materiality threshold for Z- factor treatment. The Panel rejects CEC's recommended proviso that a true up of AR 10 costs take place in the event that FBC does not demonstrate that the cost for AR 10 exceed the materiality threshold by the end of the PBR period.
>
> Further, applicable variances between forecast and actual MRS costs are captured in FBC's Flow-through deferral account to be returned to, or recovered from ratepayers. [Emphasis added.]

38. FBC submits that the same reasoning applies to its request in this proceeding for acceptance of exogenous factor treatment of Assessment Report No. 13.

39. ICG opposes the recovery of the $0.100 million in O&M for 2021 on the basis that balances in deferral accounts should be limited to costs incurred after the deferral account has been approved.[74] As a deferral account is not granted for exogenous factors, FBC understands ICG's position to be that costs of exogenous factors should be limited to costs incurred after exogenous factor treatment has been approved. This would be an unfair and unprecedented restriction. The nature of exogenous factors is that they are not foreseen and are outside the control of the

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[74] ICG Final Argument, p. 5.

utility. The public utility cannot delay spending to address events such as wildfires while it seeks approval from the BCUC for exogenous factor treatment. Moreover, as there is a materiality threshold, it may not be possible to know in advance if the costs of a particular event will qualify for exogenous factor treatment. Therefore, there will almost always be some regulatory lag between when costs begin to be incurred in response to an exogenous event and when exogenous factor treatment is granted. In FBC's submission, there is no merit to the ICG's suggestion and it should be rejected.

40. ICG notes that the $3.910 million embedded in formula O&M for MRS for 2021 exceeds the projected actual expenditures for 2021 by approximately $0.148 million.[75] The amounts embedded in FBC's formula O&M for MRS are for the costs for ongoing compliance with existing MRS, whereas the costs FBC has identified for exogenous factor treatment are incremental costs to implement Assessment Report No. 13. As set out above, these incremental costs meet the exogenous factor criteria set by the BCUC in the MRP Decision. There is no criteria that FBC must have exhausted all formula O&M expenditures before it may seek exogenous factor treatment of costs to comply with exogenous events, and FBC submits that any such treatment would significantly alter the balance set in the approved MRP. FBC notes that in its exogenous factor costs for wildfires, FBC has deducted its formula costs for wildfires because those formula cost were for wildfires generally, which FBC considered should be applied to all wildfires including the Nk'mip Creek wildfire.

41. ICG also argues that the $0.100 million cannot be considered incremental, unless FBC hired additional employees.[76] FBC confirms that its cost estimate to implement Assessment Report No. 13 is only for the incremental effort required to meet the new or revised standards.[77] Therefore, additional labour costs would reflect contractor expense or costs of internal labour that have been reassigned and which would need to be backfilled.[78]

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[75] ICG Final Argument, p. 5.

[76] ICG Final Argument, p. 5.

[77] Exhibit B-14, Undertaking No. 4.

[78] Workshop Transcript, p. 48, ll. 10-16.

K. Clerical Cost of Removal Error in 2021 Rates is Recoverable

42. FBC is seeking deferral treatment of 2021 costs, totalling $627 thousand, to correct a clerical error that will result in an under-collection of rate revenues in 2021.[79] The error was due to FBC inadvertently excluding the parentheses from the Cost of Removal amounts for 2020 and 2021 shown on Schedules 7 and 7.1 in the October 28, 2020 Evidentiary Update to the FBC Annual Review for 2020 and 2021 Rates Application. FBC incurred a revenue shortfall of $228 thousand in 2020 due to the error. FBC is not proposing any mechanism to recover this 2020 amount.[80]

43. FBC has proposed to recover the under-collection amount with other variances captured through the Flow-through deferral account, rather than requesting that the BCUC replace or substitute the 2021 permanent rate approved by Order G-42-21. By Order G-166-20, the BCUC approved the continuation of the general Flow-through deferral account for the current MRP term of 2020 to 2024 to "capture revenue and cost items where FortisBC did not already have an approved deferral mechanism or separate deferral account."[81] Variances between forecast and actual are flowed-through to ratepayers in the utilities' revenue requirements in the following year (i.e., 2022 rates). Given this "trueing up" process, FBC's 2021 costs are not yet truly finalized and there is an existing approved mechanism to correct for the error.

44. CEC and BCOAPO support FBC's proposal to recover the Costs of Removal error in 2021,[82] while RCIA and ICG argue that FBC's proposal constitutes retroactive ratemaking.[83] Contrary to the submissions of RCIA and ICG, FBC is not requesting "re-adjudication" of a prior BCUC decision,[84] but rather, FBC is requesting – within 2021 – deferral treatment of 2021 costs, totalling $627 thousand, to be recovered in 2022 rates. FBC's proposal does not require any change to a

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79 Exhibit B-11, Evidentiary Update, p. 2.

80 Exhibit B-2, Application, pp. 111-113.

81 MRP Decision, p. 75.

82 BCOAPO Final Argument, p. 30; CEC Final Argument, para. 144.

83 RCIA Final Argument, p. 7; ICG Final Argument, p. 6.

84 See Decision and Order G-42-21, FortisBC Inc. Annual Review for 2020 and 2021 Rates, Online: https://www.bcuc.com/OurWork/ViewProceeding?applicationid=791.

past BCUC decision, and does not constitute retroactive ratemaking for the reasons set out below.

45. It is well established that regulators such as the BCUC may not engage in retroactive ratemaking. For example, in *ATCO Gas & Pipelines Ltd v Alberta (Energy & Utilities Board)*, the Supreme Court of Canada states: "It is well established throughout the various provinces that utilities boards do not have the authority to retroactively change rates…".[85] Further, a utility's past financial results can be used to forecast future expenses, but a regulator cannot design future rates to recover past revenue deficiencies.[86]

46. Two well understood and frequently used exceptions to the principle against retroactive ratemaking are the use of interim rates and deferral accounts, which are mechanisms by which the regulator can change past rates (that are interim) and recover past costs (that have been deferred).

47. FBC's recovery of the 2021 Cost of Removal error is not retroactive ratemaking because the cost is a 2021 cost and FBC has identified the error and brought it forward to the BCUC for consideration and approval within 2021. Therefore, FBC is not seeking recovery of a past cost, but a current period cost.

48. FBC submits that its request for approval of recovery of the 2021 cost of the error exhibits a form of regulatory lag, not retroactive ratemaking. To illustrate this, FBC notes that it could have requested approval of a new deferral account through a separate standalone application, specifically requesting recovery of the 2021 Cost of Removal error. As deferral accounts are usually approved to recover costs that are not reasonably foreseeable or controllable, it is not uncommon for a public utility to seek, and the BCUC to approve, deferral accounts for costs that have already been incurred or begun to be incurred. This frequently occurs in FBC's Annual Review proceedings, as it is efficient for the utility to bring forward any deferral account requests

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85 *ATCO Gas & Pipelines Ltd v Alberta (Energy & Utilities Board)*, 2006 SCC 4 at para. 71. Online: https://www.canlii.org/en/ca/scc/doc/2006/2006scc4/2006scc4.pdf.

86 *Northwestern Utilities Ltd. and al. v. Edmonton*, [1979] 1 S.C.R. 684 at 691 and 699. Online: https://www.canlii.org/en/ca/scc/doc/1978/1978canlii17/1978canlii17.pdf.

each year as part of the annual review, rather than filing individual deferral account applications throughout the year.

49. FBC could have also requested that rates be made interim within 2021 so that the utility could seek recovery of the cost of the error in rates through the remainder of 2021. This simply illustrates that 2021 is not yet complete and FBC could have sought approval to recover the costs in 2021. However, making rates interim and then collecting the costs associated with the error through a rate rider or other recovery mechanism would be inefficient and administratively burdensome, as compared to seeking approval of deferral treatment though the Flow-through deferral account, as FBC has proposed.

50. FBC submits that use of the Flow-through deferral account is the preferred approach to recover the cost of the 2021 error, and properly balances the interests of the utility and ratepayers. Using the Flow-through deferral account takes advantage of an existing mechanism that enables recovery of the cost associated with the error. Therefore, FBC avoided needing to either apply for a separate deferral account or requesting that rates be made interim. Recovery of the cost of the error through the Flow-through deferral account is reasonable and efficient.

51. RCIA argues that FBC should be made accountable for errors, except where the error results in a refund to customers.[87] FBC submits that this asymmetric treatment is not just or reasonable given the complexities of modern regulatory proceedings. It is inevitable that there will be errors of this kind from time to time. As observed by BCOAPO in its Final Argument:[88]

> While there are legitimate arguments for asserting that FBC should be responsible for such “errors”, it is also reasonable to assume that such errors can occur. No organization, no matter how well run and funded, can be held to that standard and we recognize that that FBC is much better positioned to uncover such errors (be they in the favour of the shareholder or customers) than either the BCUC or interveners.

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[87] RCIA Final Argument, p. 8.

[88] BCOAPO Final Argument, p. 30.

52. FBC also submits that it is important that this is not a case of a utility repeatedly seeking regulatory approval to recover the costs associated with its errors, which could suggest a systemic deficiency in the utility's practices. The facts here are very different. FBC has never had to bring forward a request to recover costs of an error before, demonstrating that FBC has done a good job of identifying errors and correcting them prior to rates being set.

53. The two Ontario Energy Board (OEB) decisions cited by the RCIA are distinguishable from the facts before the BCUC in this case. In the EB-2013-0022 Decision, in 2013, the utility sought a variance to a Decision in order to recover amortization expense from 2009, several years after the rates for the year in question had been finalized by the OEB.[89] The utility's application was denied on the basis it amounted to retroactive ratemaking.[90] Unlike this OEB cases, FBC is not seeking variance of a past BCUC Decision or recovery of costs from a past year, but has applied to recover 2021 amounts within 2021, not several years prior. FBC has specifically forgone applying for the cost of removal error from 2020.

54. In the EB-2014-0043 Decision, Enbridge filed in 2014 to correct an error to rates finalized in 2012 and 2013. The utility sought to refund the amount which it submitted should have been refunded in previous processes, but was not due to errors in the calculation of account balances.[91] The refund was allowed, despite relating to final orders, so as to avoid the utility profiting from its error. This case is not applicable here, as FBC is applying to recover current period costs, which is not a form of retroactive ratemaking.

55. FBC submits that the recovery of the cost of the error for 2021 within 2021 is not retroactive ratemaking, and the approval of the deferral of the costs for recovery in 2022 rates is just and reasonable.

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[89] EB-2013-0022 Decision, p. 5.

[90] EB-2013-0022 Decision, p. 10.

[91] EB-2014-0043 Decision, pp. 1-2.

L. Service Quality Indicators: FBC's Average Speed of Answer Was Within a Reasonable Range in 2020 and Has Improved in 2021

56. FBC submits that its SQIs are indicative of a high level of service quality. Interveners generally did not take issue with FBC's SQI performance; however, FBC responds to intervener comments on the Average Speed of Answer (ASA) informational indicator below.

57. BCOAPO recommends that the BCUC direct FBC to "closely monitor" its ASA and, if the results continue to materially exceed historical analysis, undertake further analysis regarding the reasons for the increase in ASA as part of the next Annual Review proceeding.[92] FBC submits that such a direction is not required as FBC already closely monitors its ASA performance, along with its performance under all of its SQIs. In addition to considering performance in other metrics such as Telephone Service Factor, FBC relies on customer feedback and after-call survey results to determine whether wait times may be challenging for customers and whether further action or analysis is required. In addition, FBC has a call back feature, chat functionality and self-service options which are all available to customers to mitigate some of the challenges of longer than expected wait times that may occur from time to time.[93]

58. While FBC's ASA in 2020 was higher than previous years, the ASA was within a reasonable range in that, on average, calls to the contact centre were answered in and around the one minute mark.[94] Further, FBC's August 2021 year-to-date result of 66 seconds demonstrates improvement from 2020 (71 seconds), and FBC expects this improvement to continue.[95]

59. The CEC recommends that the BCUC "direct FBC to maintain its ASA at or below 50 seconds, which is consistent with the 2019-year data used in setting the MRP."[96] FBC submits that such a direction would be outside the scope of this proceeding as the ASA is an informational only service quality indicator. In both FBC's 2014-2019 Performance Based Rate Plan and 2020-

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[92] BCOAPO Final Argument, p. 32.

[93] Exhibit B-5, BCOAPO IR1 39.1.

[94] Exhibit B-2, Application, p. 125.

[95] Exhibit B-13, Workshop Presentation, slide 42.

[96] CEC Final Argument, para. 149.

2024 Multi-Year Rate Plan, the BCUC did not establish a benchmark or threshold for ASA (or Telephone Abandonment Rate, which ASA replaced). The CEC's recommendation would have the effect of imposing an ASA threshold without due consideration of the balancing exercise the BCUC recognized is inherent to selecting and setting the threshold and benchmark for service quality.[97]

60. As explained above, FBC has already seen improvements to the ASA in 2021 and expects these improvements to continue. FBC will report on 2021 final results and 2022 year-to-date results in the next annual review, so FBC's performance can continue to be monitored.

PART THREE: CONCLUSION

61. The final submissions of interveners broadly support FBC's Application, reflecting a constructive information-sharing process undertaken through IRs and the Workshop. FBC submits that its approvals sought are just and reasonable and should be approved as filed.

62. ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated:	November 16, 2021	***[original signed by Chris Bystrom]***
		Chris Bystrom Counsel for FortisBC Inc.
Dated:	November 16, 2021	***[original signed by Niall Rand]***
		Niall Rand Counsel for FortisBC Inc.

[97] MRP Decision, p. 96.