FASKEN
Own tomorrow

Fasken Martineau DuMoulin LLP
Barristers and Solicitors
Patent and Trade-mark Agents

550 Burrard Street, Suite 2900
Vancouver, British Columbia V6C 0A3
Canada

T +1 604 631 3131
+1 866 635 3131
F +1 604 631 3232
fasken.com

Christopher Bystrom
Direct +1 604 631 4715
Facsimile +1 604 632 4715
cbystrom@fasken.com

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

Attention: Ms. Sara Hardgrave, Acting Commission Secretary

Dear Sir/Mesdames:

Re: FortisBC Inc. - Reconsideration and Variance of BCUC Order G-382-22 – Reply Submission

On January 18, 2023, pursuant to section 99 of the *Utilities Commission Act* (UCA), FBC applied for reconsideration and variance of the following determinations in Decision and Order G-382-22 with regard to FBC's Annual Review for 2023 Rates (Reconsideration Application):[1]

- The removal of $27.959 million relating to the Corra Linn Spillway Gate Replacement Project (Corra Linn Project) from FBC's 2023 rate base, as reflected in Directive 1 of Order G-382-22; and
- The establishment of permanent 2023 rates and a rate base deferral account to capture the difference between FBC's 2023 permanent rates, and any future rate impact resulting from the BCUC's final determinations on Stage 1 of the BCUC's Generic Cost of Capital (GCOC) proceeding, as reflected in Directives 1 and 2 of Order G-382-22.

On January 30, 2023, FBC provided supplemental information to the Reconsideration Application, in response to BCUC Order G-12-23.[2]

On February 9, 2023, three interveners submitted comments on the Reconsideration Application: the British Columbia Municipal Electrical Utilities (BCMEU);[3] the Commercial Energy

1 Exhibit B-1.
2 Exhibit B-2.
3 Exhibit C2-2.

Consumers Association of BC (CEC);[4] and the Residential Consumer Intervener Association (RCIA).[5]

FBC responds to the comments of interveners below.

Inclusion of the Corra Linn Spillway Gate Replacement Project Capital is Generally Supported by Interveners

As explained in the Reconsideration Application, the removal of the $27.959 million from 2023 rate base relating to the Corra Linn Project includes two components: (1) rate base additions related to the final capital expenditures and AFUDC totalling $16.151 million;[6] and (2) removal costs for the entire Corra Linn Project totalling $11.808 million.[7]

CEC recognizes that this is a "material issue" which FBC has provided "compelling" evidence to support, and therefore, recommends that the BCUC rescind those aspects of Directive 1 requiring FBC to remove $27.959 million from 2023 rate base.[8] BCMEU takes no position regarding this component of the Reconsideration Application.[9] While RCIA similarly takes no position regarding the removal cost component, it argues that in-service capital assets (i.e., spillway gates 1, 2 and 3) should not be included in FBC's 2023 rate base, or "at a minimum, the remaining Corra Linn gate project close-out costs should not be included in 2023 rate base".[10] FBC addresses RCIA's comments below.

First, RCIA has fundamentally mischaracterized FBC's submissions in the Reconsideration Application. RCIA claims that FBC is "reformulat[ing] its request to circumvent a Commission finding"[11] when in fact FBC has simply clarified and explained the accepted treatment of CPCN and Major Project capital costs which FBC has consistently applied in past annual review (and revenue requirement) applications and in this most recent Annual Review for 2023 Rates application.

As RCIA itself observes, FBC inadvertently missed responding to BCOAPO's submission on the Corra Linn Project capital.[12] While this may be regrettable, it does not justify setting rates based on an error. FBC has clarified the facts surrounding completion of the Corra Linn Project through the Reconsideration Application and the supplemental information provided in response to the

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4 Exhibit C3-2.

5 Exhibit C1-2.

6 Exhibit, B-1, p. 3: $13.611 million of which was related to the completion of the final spillway gates, while the remaining $2.540 million was related to close-out costs such as lighting, outstanding claims, and cleanup.

7 Exhibit, B-1, p. 4: $11.749 million of which was already added to FBC's rate base from 2018 to 2021.

8 Exhibit C3-2, paras. 41-47.

9 Exhibit C2-2, p.1.

10 Exhibit C1-2, pp. 2-3.

11 Exhibit C1-2, p. 2.

12 Exhibit B-1, p. 3; Exhibit C1-2, p. 2.

BCUC as part of this proceeding.[13] FBC submits that the BCUC should vary its determinations regarding the completion of the Corra Linn Project in light of this information.

Second, contrary to RCIA's assertion, FBC has never stated that the "Corra Linn gate project 2022 completion work" was a "single year project phase". Indeed, RCIA cites no evidence to support this statement. As FBC explained in the Reconsideration Application, the Corra Linn Project has been completed in phases with capital additions entering rate base from 2020 to 2022 as components of the Project, such as the individual spillway gates, were placed in-service.[14] The capital costs related to the completion of the final spillway gates (i.e., spillway gates 1, 2, and 3) in Q3 2022 should, therefore, enter rate base in 2023 based on the accepted treatment of CPCN and Major Project capital costs.

Finally, despite the very minor revenue requirement impact associated with reducing FBC's 2023 rate base by the remaining close-out cost amount ($2.540 million), RCIA submits that "at a minimum, the remaining Corra Linn gate project close-out costs should not be included in 2023 rate base"[15] and "[i]f this is the only adjustment ordered by the BCUC, it should be recorded in the project cost deferral account".[16] RCIA's statements regarding the treatment of the close-out costs are unsubstantiated and unclear. RCIA does not provide a rationale or response to FBC's submissions about why removal of the close-out costs from 2023 rate base is not warranted. FBC has shown that a revision to its forecast additions to 2023 rate base would not have a material impact to the interim rates or customer bills and, therefore, that changing the interim rates would not be warranted. Further, FBC explained that there is an existing mechanism (i.e., the Flow-through deferral account), to ensure that any difference between the forecast and actual additions to rate base will be trued up in the following year.[17]

With regard to RCIA's statement about recording the close-out costs in the "project cost deferral account,"[18] RCIA does not explain what deferral account it is referring to or why such an approach would be more reasonable than FBC's proposed approach to include the forecast close-out costs in 2023 rate base and capture the revenue requirement variance between the forecast and actual capital costs in the Flow-through deferral account. FBC notes that there is no specific project cost deferral account for the Corra Linn Project and the deferral account that FBC does have is specific to preliminary investigative costs and CPCN application costs, not project construction costs.

The Balance of Relevant Factors Continues to Strongly Support Maintaining Rates as Interim

FBC is also seeking reconsideration of the BCUC's determinations on pages 26 to 28 of the Decision, including amending Directive 1 of Order G-382-22, which set rates for 2023 on a

13 Exhibit B-1, pp. 2-5; Exhibit B-2.

14 Exhibit B-1, p. 4 and Table 1.

15 Exhibit C1-2, p. 3.

16 Exhibit C1-2, p. 3.

17 See e.g., Exhibit B-1, p. 5; Exhibit B-2, responses 5 and 6.

18 Exhibit C1-2, p. 3.

permanent basis, and rescinding Directive 2 establishing a rate base deferral account to capture the difference between FBC's 2023 permanent rates and any future rate impact resulting from the BCUC's final determinations on the GCOC proceeding.

CEC, RCIA and BCMEU recommend maintaining rates as permanent and oppose rescinding Directive 2 of Order G-382-22. FBC addresses the respective arguments of each intervener below.

Reply to CEC

First, in reply to CEC regarding the likeliness and size of a potential change in the utility's cost of capital,[19] FBC responded to questions from the CEC at the Workshop on October 20, 2022 regarding the size of the changes based on FBC's position in the GCOC proceeding.[20] Beyond this, it is not reasonable to suggest that any party should have made predictions about the BCUC's decision in the GCOC proceeding. Indeed, FBC sought to set rates on an interim basis to preserve the most optionality in implementing permanent rates once the impact of the GCOC proceeding is known. Importantly, in addition to the option of a billing adjustment (either retroactive or forward looking), maintaining interim rates would not preclude FBC from recommending a deferral account that flows any balance to 2024. Therefore, FBC submits that the size and timing of a potential change in the utility's cost of capital, as well as the timing of the GCOC decision itself, should be known before setting rates on a permanent basis.

Second, in reply to CEC's submission that FBC has not established the materiality of this issue, FBC submits that it has properly described the impact of the Decision and how it is material.[21] FBC submits that it is material that the choice to make rates permanent now based on incomplete information reduces the options for the BCUC panel in the GCOC proceeding when rendering their decision. FBC also described how setting rates on a permanent basis before the result of the GCOC proceeding is known has the potential to adversely impact its customers in the event of an increase to FBC's fair return for both 2023 and 2024 that impacts rates in a single year, in addition to any potential general rate increase for 2024.[22] FBC submits these considerations are material.

Third, in reply to CEC's comments generally, FBC disagrees with CEC's assessment of the balance of factors impacting the BCUC's decision on interim rates. FBC continues to rely on its position set out in the Reconsideration Application.

Reply to RCIA

RCIA considers FBC's submission that it will be "forced to forego" the opportunity to earn a fair return to be "entirely speculative and baseless."[23] However, this mischaracterizes FBC's position

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19 Exhibit C3-2, paras. 80-86.

20 See Transcript Volume 1 from the FBC Annual Review for 2023 Rates Workshop, pp. 8, ll. 14-26 to p. 12, l. 1-5.

21 BCUC Rules of Practice and Procedure, s. 27.04 (d).

22 Exhibit B-1, p. 6.

23 Exhibit C1-2, p. 3.

and is itself speculative. As explained in the Reconsideration Application, FBC's position is that by setting rates on a permanent basis, in conjunction with the associated deferral account, it will lose the opportunity to earn its fair return in 2023 – effectively shifting recovery of any balance in the associated deferral account to 2024.[24] As submitted above in reply to CEC, this approach will potentially have a material and avoidable impact on FBC and its customers. This includes residential customers, who could be forced to bear any rate impact associated with a potential increase to FBC's fair return for both 2023 and 2024. As such, FBC proposed to maintain rates on an interim basis until the GCOC decision is issued and the effect of using a deferral account can be assessed against other options (i.e., a billing adjustment).

RCIA also makes various arguments to the effect that FBC's existing return on equity is part of FBC's 2020-2024 Multi-year Rate Plan and, therefore, cannot be changed.[25] These arguments are without merit as the MRP Decision and the framework for rate setting that was approved in that decision has no bearing on, and does not address, the amount of FBC's return. Rather, the MRP simply assumes that FBC will include its allowed return as set by the BCUC in its revenue requirement calculations.

Finally, while RCIA considers that FBC's 2023 rates should not be subject to anticipated (but not yet known) future adjustment, which it characterizes as retroactive ratemaking,[26] it fails to address why setting rates on an interim basis would fall afoul of this well-established principle. Despite the adjustment itself (if any) not being known, a decision in the GCOC proceeding will likely be issued in 2023. Further, as explained above, the approach taken by FBC as part of the Annual Review for 2023 Rates (which was accepted by the BCUC in FEI's Annual Review for 2023 Delivery Rates)[27] leaves the BCUC with the most options in setting permanent rates when the impact of the GCOC decision is ultimately known, including the option of using a deferral account and flowing any balance to 2024.

Reply to BCMEU

First, BCMEU submits that the BCUC's determination will merely defer FBC's ability to earn its fair return to 2024.[28] However, in addition to the timing difference, BCMEU fails to recognize the associated potential impact to customers from such a deferral, as addressed in reply to CEC above. BCMEU also argues that "there is no evidence in the Decision that would indicate that the Panel did not consider this factor in making its decision".[29] However, the BCUC listed the factors that it considered in its Decision and did not mention this factor, despite having the benefit of the parallel decision on FEI's Annual Review for 2023 Delivery Rates.

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[24] Exhibit B-1, pp. 6-7.

[25] Exhibit C1-2, p. 3.

[26] Exhibit C1-2, p. 3.

[27] Decision and Order G-352-22, pp. 29-30.

[28] Exhibit C2-2, p. 2.

[29] Exhibit C2-2, p. 2.

Second, contrary to BCMEU's submission that cost predictability is not an issue stemming from the Decision, if the change in FBC's 2023 cost of capital is collected in 2024, rates will increase to reflect its return in both 2023 and 2024 (doubling the impact of the GCOC proceeding in a single year), followed by a reduction in rates in 2025 (all else equal). This means that any increase in rate predictability for 2023 comes at the expense of future rate volatility for customers. Furthermore, setting rates on an interim basis signals to customers that their electricity rates are subject to change, and importantly, will allow for the ability to mitigate rate volatility through consideration of various rate smoothing options once the impact of the GCOC proceeding is known.

Finally, BCMEU admits that mid-year rate adjustments are theoretically possible for the municipalities served by FBC.[30] This shows that, contrary to its submission as part of the 2023 Annual Review proceeding,[31] there is no risk of a shortfall if there is a retroactive rate increase. While BCMEU outlines how such an adjustment would inconvenience wholesale customers, utilities that are regulated by the BCUC, such as Nelson Hydro, can request a deferral account if making a mid-year rate change is inconvenient. FBC submits that municipalities could also likely defer costs for recovery rather than have a mid-year rate change. In any case, FBC submits that this consideration should not be a determining factor in whether to make rates interim or permanent. Moreover, placing undue weight on the inconvenience that interim rates may pose for municipal utilities prioritizes this customer class at the expense of others that could be detrimentally impacted by making rates permanent and foreclosing other options for implementing the impact of a change to FBC's cost of capital.

Conclusion

Based on the foregoing, FBC respectfully submits that the BCUC should grant the following remedies:

- **Varying of Directive 1 of Order G-382-22**, as follows: FBC is approved to increase its rates for 2023 by 3.98 percent on an interim basis, effective January 1, 2023. Rates will remain interim pending the outcome of Stage 1 of the BCUC's Generic Cost of Capital proceeding.

- **Rescinding of Directive 2 of Order G-382-22.**

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30 Exhibit C2-2, p. 3.

31 BCMEU Final Argument, p. 1.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by]

Christopher Bystrom
Personal Law Corporation

CB/NR