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FortisBC Inc.

Application for Reconsideration and Variance of Order G-382-22

Decision
and Order G-87-23

April 19, 2023

Before:

A.K. Fung, KC, Panel Chair
E.B. Lockhart, Commissioner
A. Pape-Salmon, Commissioner

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COMMISSION ORDER G-87-23

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Executive Summary

On January 12, 2023, FortisBC Inc. (FBC) applied to the British Columbia Utilities Commission (BCUC) for reconsideration and variance of Decision and Order G-382-22 in the matter of the FBC Annual Review for 2023 Rates (Reconsideration Application) pursuant to section 99 of the *Utilities Commission Act* (UCA) and Rule 26.02 of the BCUC's Rules of Practice and Procedure (BCUC Rules).¹

On August 5, 2022, FBC filed its Annual Review for 2023 Rates and on December 22, 2022, the BCUC issued its final decision. The BCUC approved, among other things, rates for 2023 on a permanent basis subject to an adjustment to FBC's 2023 forecast rate base and resulting adjustments to the 2023 forecast revenue requirement.

FBC seeks a reconsideration and variance of the determinations in Directives 1 and 2 of Order G-382-22 on the basis that the BCUC has made an error of fact or, in the alternative, that there is otherwise just cause, in determining:

1. A permanent rate increase of 3.98 percent, effective January 1, 2023, subject to the adjustments resulting from the removal of \$27.959 million from FBC's 2023 rate base relating to the Corra Linn Spillway Gate Replacement Project; and
2. The establishment of 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 proceeding.

In addition, FBC seeks a reconsideration of Directive 7 requiring it to file finalized financial schedules and updated tariff pages within 30 days of the issuance of Order G-382-22, reflecting the directives and determinations in the BCUC decision on FBC's Annual Review for 2023 Rates.

For the reasons set out in this decision, the Panel finds that although the BCUC did not err in fact, there is otherwise just cause to approve FBC's Reconsideration Application. Accordingly, the Panel approves the Reconsideration Application and makes certain determinations, including the following:

- Directives 1 and 2 of Order G-382-22 are rescinded and FBC is approved to increase its rates for 2023 by 3.98 percent on an interim and refundable/recoverable basis, effective January 1, 2023, and rates will remain interim, pending any adjustments that may arise from the outcome of Stage 1 of the BCUC's Generic Cost of Capital proceeding; and
- Directive 7 of Order G-382-22 is rescinded.

¹ By Order G-72-23 dated April 3, 2023, the BCUC adopted new Rules of Practice and Procedure. As FBC filed its Reconsideration Application on January 12, 2023, BCUC's previous Rules of Practice and Procedure approved in Order G-178-22 on June 30, 2022, apply to this proceeding.

1.0 Introduction

On January 12, 2023, FortisBC Inc. (FBC) applied to the British Columbia Utilities Commission (BCUC) for reconsideration and variance of Decision and Order G-382-22 in the matter of the FBC Annual Review for 2023 Rates (Reconsideration Application) pursuant to section 99 of the *Utilities Commission Act* (UCA) and Rule 26.02 of the BCUC's Rules of Practice and Procedure (BCUC Rules). The BCUC Rules were recently amended by Order G-72-23 issued on April 3, 2023.² However, because this Reconsideration Application was filed prior to that date, the previous BCUC Rules approved as part of Order G-178-22 apply to this proceeding. Accordingly, all references to the provisions in the BCUC Rules in this decision are to the previous BCUC Rules which were in effect prior to April 3, 2023.

In the Reconsideration Application, FBC seeks an order in which the BCUC rescinds Directive 2 and varies Directive 1 of Order G-382-22. The particulars of those directives are set out in Section 1.1 below.

1.1 Background

On June 22, 2020, the BCUC approved a multi-year rate plan (MRP) for FBC covering a five-year period (2020 to 2024) (MRP Decision).³ The MRP Decision directed an annual review process (Annual Review) to set FBC's rates.

On August 5, 2022, FBC filed its Annual Review for 2023 Rates (2023 Annual Review) seeking, among other things, approval of a general rates increase of 3.99 percent over 2022 rates, effective January 1, 2023, on an interim basis, pending the outcomes of Stage 1 of the BCUC's Generic Cost of Capital (GCOC) proceeding and FBC's Application for Acceptance of Demand Side Management (DSM) Expenditures Plan for the Period Covering 2023 to 2027 (DSM Plan) proceeding. The BCUC issued its decision on FBC's DSM Plan on December 16, 2022, which was after the evidentiary record had closed in the 2023 Annual Review.

By letter dated November 29, 2022, FBC applied to the BCUC for approval of interim rates, as amended from 3.99 percent to 3.98 percent, pending the BCUC's final decision on the 2023 Annual Review (Interim Rates Application). FBC's amended rate request was based on a re-calculation of the forecast 2023 revenue deficiency and resulting rates due to adjustments identified by FBC during the regulatory review process. On December 5, 2022, the BCUC approved the Interim Rates Application as requested.⁴

On December 22, 2022, the BCUC issued its final decision on FBC's 2023 Annual Review (2023 Annual Review Decision). The BCUC approved, among other things, rates for 2023 on a permanent basis subject to an adjustment to FBC's 2023 forecast rate base and resulting adjustments to the 2023 forecast revenue requirement.

In Section 2.1.3 of the 2023 Annual Review Decision, the BCUC found that, due to the delay in the completion of the Corra Linn Spillway Gate Replacement Project (Corra Linn Project) until Quarter 1 of 2023 (Q1 2023) and FBC's own practice to include Certificates of Public Convenience and Necessity (CPCNs) in rate base in the year following when individual assets are put into service, the amount of \$27.959 million⁵ relating to the Corra Linn

²Order G-72-23.

³ FortisBC Energy Inc. (FEI) and FBC Application for Approval of a Multi-Year Rate Plan for the Years 2020 through 2024, Decision and Orders G-165-20 and G-166-20 dated June 22, 2020 (MRP Decision).

⁴ Order G-349-22 dated December 5, 2022.

⁵ \$16.151 million of capital expenditures and \$11.808 million of cost of removal.

Project should be removed from FBC's 2023 rate base and this amount should be placed into rate base in the year following completion of the project. The BCUC also directed FBC to adjust depreciation, financing, and return on equity (ROE) for 2023 to reflect the removal of the \$27.959 million from its 2023 rate base.⁶ The BCUC referred to the following evidence and submissions:

- FBC explained that the Corra Linn Project was approved by Order C-1-17 and involves the replacement of 14 spillway gates and upgrades to the associated infrastructure which was expected to be complete in 2022.⁷
- FBC explained that since 2020, a total of \$51.768 million has been added to FBC's rate base with the remaining \$16.151 million forecast to be added to rate base in 2023, plus \$11.808 million of cost of removal.⁸
- FBC stated that it includes the costs associated with CPCNs and major capital projects in rate base in the year following completion of either the entire project or individual assets being put into service.⁹

During the proceeding, FBC updated the substantial completion date for the Corra Linn Project to Q1 2023.¹⁰ In final argument, British Columbia Old Age Pensioners' Organization et al. (BCOAPO)¹¹, an intervener in the 2023 Annual Review, submitted that if the substantial completion date for the project is now delayed until Q1 2023, then some or all of the project's capital costs should be removed from the 2023 rate base.¹² FBC did not address BCOAPO's submission in its Reply Argument.

In Section 2.4 of the 2023 Annual Review Decision, the BCUC found that FBC's 2023 rates should be set on a permanent basis, effective January 1, 2023. The BCUC considered the importance of cost predictability for customers, the challenge that interim rates pose for municipal utilities, and the fact that the GCOC proceeding is still underway. The BCUC found that a deferral account approach sufficiently balances the interests of the parties.¹³ In particular, the BCUC referred to the following evidence and submissions:

- FBC stated, in calculating its 2023 revenue deficiency, it had used its current approved capital structure and ROE of 40 percent and 9.15 percent, respectively. FBC explained that if its proposed capital structure of 40 percent common equity and an ROE of 10.0 percent are approved as applied for in Stage 1 of the BCUC's GCOC proceeding, and are made effective January 1, 2023, FBC's 2023 rate increase would be amended from 3.98 percent to 5.90 percent.¹⁴
- Three interveners (BCOAPO, British Columbian Municipal Electrical Utilities (BCMEU), and Commercial Energy Consumers Association of British Columbia (the CEC)) were opposed to FBC's request for interim rates, with BCOAPO submitting that interim rates create an unnecessary level of rate uncertainty.¹⁵

⁶ FBC 2023 Annual Review Decision, pp. 18–19.

⁷ 2023 Annual Review, Exhibit B-2, p. 66; 2023 Annual Review Decision, p. 15.

⁸ 2023 Annual Review Decision, p.15; 2023 Annual Review, Exhibit B-2, p. 66.

⁹ FBC 2023 Annual Review Decision, p. 14; FBC 2023 Annual Review Application, Exhibit B-6, BCOAPO Information Request (IR) 28.1.

¹⁰ 2023 Annual Review proceeding, Exhibit B-6, BCOAPO IR 33.1; 2023 Annual Review Decision, p. 15.

¹¹ British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC, and Tenants Resource and Advisory Centre.

¹² 2023 Annual Review Proceeding, BCOAPO Final Argument, p.36; 2023 Annual Review Decision, p. 18.

¹³ 2023 Annual Review Decision, p. 28.

¹⁴ 2023 Annual Review Decision, p. 26.

¹⁵ 2023 Annual Review Decision, p. 27; 2023 Annual Review, BCOAPO Final Argument, p. 5.

- BCMEU explained that municipal utilities do not have the ability to implement interim rates and accordingly, will risk a shortfall if there is a retroactive rate increase, effective January 1, 2023, due to the results of the GCOC proceeding.¹⁶
- In reply, FBC explained, barring the deferral account approach which would have additional costs to ratepayers, rates would need to be set on an interim basis so that permanent rates can reflect the 2023 impact of any GCOC decision in the future.¹⁷

In Section 2.5 of the 2023 Annual Review Decision, the BCUC found FBC’s forecast revenue requirement to be reasonable for setting 2023 rates subject to certain adjustments, and issued the following directives:

- Directive 1 – “Subject to the adjustments from the removal of \$27.959 million relating to the Corra Linn Spillway Gate Replacement Project from its 2023 rate base as outlined in the Decision, FBC is approved to increase its rates for 2023 by 3.98 percent on a permanent basis effective January 1, 2023.”¹⁸
- Directive 2 – “FBC is directed to establish 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 proceeding.”¹⁹
- Directive 7 – “FBC is directed to file finalized financial schedules and updated tariff pages within 30 days of the issuance of this order, reflecting the directives and determinations in this Decision.”²⁰

2.0 Reconsideration Application

FBC seeks a reconsideration and variance of the determinations in Directives 1 and 2 of Order G-382-22 on the basis that the BCUC has made an error of fact or, in the alternative, that there is otherwise just cause, in determining that \$27.959 million of the Corra Linn Project costs should be removed from FBC’s 2023 rate base and that rates should be set on a permanent basis.²¹

The remedy that FBC seeks is the rescindment of Directive 2 of Order G-382-22 and the variance of Directive 1 such that FBC is approved to increase its rates for 2023 by 3.98 percent on an interim basis, effective January 1, 2023, pending the outcome of Stage 1 of the BCUC’s GCOC proceeding.²²

As part of the Reconsideration Application, FBC also requests that it not be required to file finalized financial schedules and updated tariff pages within 30 days of the issuance of Order G-382-22, reflecting the directives and determinations in the decision attached to that order, and specifically, as per Directive 7, pending review of this Reconsideration Application.²³

FBC is not seeking any reconsideration or variance of the other directives in Order G-382-22.

¹⁶ 2023 Annual Review Decision, p. 27; 2023 Annual Review, BCMEU Final Argument, p. 1.

¹⁷ 2023 Annual Review Decision, p. 27.

¹⁸ Order G-382-22, Directive 1.

¹⁹ Order G-382-22, Directive 2.

²⁰ Order G-382-22, Directive 7.

²¹ Exhibit B-1, pp. 1–3, 6.

²² Exhibit B-1, p. 2.

²³ Exhibit B-1, p. 9.

2.1 Reconsideration Application Review Process

The BCUC established a regulatory timetable for the review of the Reconsideration Application, providing for public notice, intervener registration, supplemental information and written intervener and reply submissions.²⁴ The following interveners participated in the Reconsideration Application:

- Residential Consumer Intervener Association (RCIA);
- BCMEU; and
- the CEC.

Movement of United Professionals registered as the only interested party in this proceeding.

On January 18, 2023, the BCUC issued a letter confirming that pending the resolution of the Reconsideration Application, FBC was not required to file the compliance filing by January 23, 2023, in accordance with Directive 7 of Order G-382-22.²⁵

2.2 Legislative and Regulatory Framework

Sections 59 to 61 of the UCA require the BCUC to set rates that are not unjust, unreasonable, or unduly discriminatory in respect of services provided by regulated utilities.

Pursuant to section 99 of the UCA, the BCUC, “on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation.”

Rule 27.04 (d) of the BCUC Rules provides that an application for reconsideration must be filed in accordance with the rules pertaining to document filing and must describe the impact of the decision and how it is material.

Rule 27.05 of the BCUC Rules provides that an application for reconsideration must contain a concise statement of the grounds for reconsideration and include one or more of the following grounds:

- a) The BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision;
- b) Facts material to the decision that existed prior to the issuance of the decision were not placed in evidence in the original proceeding and could not have been discovered by reasonable diligence at the time of the original proceeding;
- c) New fact(s) have arisen since the issuance of the decision which have material bearing on the decision;
- d) A change in circumstances material to the decision has occurred since the issuance of the decision; or
- e) Where there is otherwise just cause.

²⁴ Order G-12-23 dated January 24, 2023.

²⁵ Exhibit A-2, p. 1.

3.0 Reconsideration Decision

In this section, the Panel addresses the following issues raised by FBC:

- Whether \$27.959 million of the Corra Linn Project costs should be removed from FBC’s 2023 rate base; and
- Whether 2023 rates should be set on a permanent basis.

3.1 Removal of \$27.959 million of the Corra Linn Project Capital from 2023 Rate Base

FBC states that the BCUC erred in fact, or otherwise there is just cause for a reconsideration of this decision, by directing the removal of \$27.959 million relating to the Corra Linn Project from its 2023 rate base.²⁶ FBC explains, this determination would have the material impact of not allowing FBC to include capital additions and cost of removal in its rate base for 2023 and not allowing the recovery of the associated depreciation, financing and ROE, totalling approximately \$1.73 million of revenue in 2023.²⁷

In the Reconsideration Application, FBC provides the following breakdown of the annual capital additions and cost of removals included in rate base for the Corra Linn Project from Actual 2018 to Forecast 2024:²⁸

Table 1: Annual Capital Additions and Cost of Removal included in Rate Base (\$ millions)

Year	2018 Actual	2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Forecast	2024 Forecast	TOTAL
Actual/Forecast Capital Additions (incl. AFUDC) Included to Rate Base	-	-	11.840	21.248	18.680	13.611	2.540	67.919
Actual/Forecast Removal Costs Included to Rate Base	0.915	2.358	4.216	4.260	0.059	-	-	11.808
Total Project Costs	0.915	2.358	16.056	25.508	18.739	13.611	2.540	79.727
Description of Assets that were Completed and Included to Rate Base			New and refurbished gantry; Remediation of concrete; Replaced sill beams and lateral embeds	Completed Gates # 6-11 in 2020	Completed Gates # 4, 5, 12, 13, 14 in 2021	Completed Gates 1, 2, 3 in 2022	Close-out costs complete in 2023	

FBC submits that by directing it to remove \$16.151 million (the amount forecasted to be added to rate base in 2023), plus \$11.808 million (the amount of the cost of removal), from its 2023 rate base, the BCUC erred in undertaking its own calculation of the remaining capital additions associated with the Corra Linn Project without a sufficient evidentiary basis, resulting in an incorrect adjustment.²⁹ FBC states that by directing the removal of \$27.959 million of forecast capital additions, the BCUC has erroneously included the full cost of removal in the calculation. FBC explains that \$11.808 million relates to the cost of removal for the entire Corra Linn Project since 2018 and to the end of 2022, of which \$11.749 million was already added to FBC’s rate base from 2018 to 2021, with a further \$0.059 million projected to the end of 2022. FBC notes that there is no cost of removal in 2023.³⁰ FBC further explains that it included \$16.151 million of 2023 rate base additions for the Corra Linn

²⁶ Exhibit B-1, p. 2.

²⁷ Exhibit B-1, p. 3.

²⁸ Exhibit B-1, p. 4.

²⁹ Exhibit B-1, p. 3.

³⁰ Exhibit B-1, pp. 4–5.

Project, which were related to the final capital expenditures and allowance for funds used during construction (AFUDC) in the 2023 Annual Review. Of the total \$16.151 million rate base additions, \$13.611 million was related to the completion of the final spillway gates, while the remaining \$2.54 million was related to close-out costs, such as lighting, outstanding claims, and cleanup. FBC confirmed the spillway gates were placed in service in Q3 2022; therefore, only \$2.54 million of close-out activities were delayed, resulting in the substantial completion date for the Corra Linn Project being delayed from 2022 to Q1 2023.³¹

FBC submits that regardless of the delay in substantial completion of the Corra Linn Project to Q1 2023, it is entirely appropriate to forecast an amount of related capital to enter rate base in 2023, as the final spillway gates were expected to be in-service by the end of 2022. Given that removal costs are already in FBC's rate base, it is not appropriate to exclude any of the removal costs from its rate base in 2023.³²

FBC acknowledges that the only forecast rate base additions which could potentially be excluded from entering rate base in 2023 are the \$2.54 million of capital costs related to the Corra Linn Project's close-out activities.³³ However, FBC does not believe it is necessary to adjust its 2023 forecast rate base additions to exclude the delayed close-out costs.³⁴ FBC notes that if it were to remove the forecast amount for the close-out costs from its 2023 rate base, the impact on 2023 rates would be a small reduction of 0.04 percent. FBC explains that to implement the change in rates due to a reduction to its 2023 rate base of \$2.54 million, FBC would need to adjust rates and refund customers the difference. For example, if the change were to be implemented, effective February 1, 2023, FBC estimates that the average residential customer would receive a refund of approximately 4 cents per month.³⁵ FBC clarifies that there are no material additional administration costs to implement a rate change part way through the year. However, FBC submits that refunding the difference has the potential to create customer confusion, resulting in a negative impact to customers' understanding and acceptance which does not warrant implementing a relatively small rate change.³⁶

FBC submits, given the immaterial amount, a revision to its forecast additions to 2023 rate base and consequent change to the interim rates currently in place is not warranted. FBC notes that capital costs related to CPCNs and major projects receive flow-through treatment, therefore any difference between the forecast and actual additions to rate base will be trued up in the following year through the flow-through mechanism.³⁷

Positions of the Parties

The CEC submits that the required removal of \$27.959 million from rate base in 2023 relating to the Corra Linn Project is not appropriate and represents a material issue. The CEC agrees with FBC that only \$2.54 million could be reasonably deferred from entering rate base until 2024. The CEC accepts FBC's calculations that the potential impact of a 4 cents per month refund for both residential and commercial customers would be small and agrees that it is not worthwhile to implement a minor rate change at the risk of potential ratepayer confusion.

³¹ Exhibit B-1, p.3; Exhibit B-2, Supplemental Information No. 1.

³² Exhibit B-1, pp. 3, 5.

³³ Exhibit B-1, p. 4.

³⁴ Exhibit B-1, p. 4.

³⁵ Exhibit B-1, p. 5, Exhibit B-2, Supplemental Information No. 5 and 6.

³⁶ Exhibit B-2, Supplemental Information No. 5.

³⁷ Exhibit B-1, p. 5.

Therefore, the CEC recommends that the BCUC rescind those aspects of Directive 1 requiring FBC to remove \$27.959 million from its 2023 rate base.³⁸

RCIA submits that “FBC should not be permitted to realign the project description after-the-fact to better suit its bottom line. The Corra Linn gate project 2022 completion work was originally brought forward as a single year project phase and this completion expenditure should not be assessed for rate base treatment on the basis of individual sub-phases completed in two different years due to project delays.”³⁹ At a minimum, RCIA continues, the remaining \$2.54 million Corra Linn Project close-out costs should not be included in FBC’s 2023 rate base because the associated work has yet to be completed and is not forecast to be completed until Q1 2023. RCIA submits, if other adjustments are to be made to 2023 final rates, this correction can be easily incorporated with those other changes into rates and if \$2.54 million is the only adjustment ordered by the BCUC, it should be recorded in the project cost deferral account.⁴⁰

In RCIA’s view, FBC has asymmetric knowledge of its business activities and prepares an annual filing to inform the BCUC and ratepayers about its capital and operating performance as part of the 2020 to 2024 MRP process. FBC, as the applicant, has control over the content and relief it is seeking, in addition to having the final say in reply argument which gives opportunity to rebut intervenor submissions made in a proceeding. FBC failed to reply to BCOAPO’s submission during the 2023 Annual Review, an oversight that FBC acknowledges. Therefore, RCIA argues that FBC should not now be permitted to reformulate its request to circumvent the BCUC’s decision.⁴¹

RCIA indicates that it does not take a position regarding whether the \$11.749M removal costs incurred from 2018 to 2022 should be included in FBC’s 2023 rate base and defers to the BCUC’s judgment on this matter.⁴²

BCMEU states that it takes no position on the Reconsideration Application in regard to the removal of the Corra Linn Project capital costs from 2023 rate base and focuses its submissions on the permanent 2023 rates, which are discussed in Section 3.2 of this decision.⁴³

In response to RCIA, FBC acknowledges that it did omit responding to BCOAPO’s submission on the Corra Linn Project but submits that this does not justify setting rates based on an error. FBC states, in its Reconsideration Application, it explains the accepted treatment of CPCN and major project capital costs, which FBC has consistently applied in past annual review applications. FBC clarified that the Corra Linn Project has been completed in phases, with capital additions entering rate base from 2020 to 2022 when components of the project were placed in service. FBC has shown that a revision to its forecast additions to 2023 rate base to reflect the delayed close-out costs of \$2.54 million would not have a material impact to the interim rates or customer bills and, therefore, changing the interim rates would not be warranted. FBC submits that RCIA’s statements regarding the treatment of the \$2.54 million of close-out costs are unsubstantiated and unclear. FBC does not

³⁸ Exhibit C3-2, p. 7.

³⁹ Exhibit C1-2, p. 2

⁴⁰ Exhibit C1-2, pp. 2–3.

⁴¹ Exhibit C1-2, p. 2.

⁴² Exhibit C1-2, p. 3.

⁴³ Exhibit C2-2, p. 1.

know what deferral account RCIA is referring to, as there is no specific project cost deferral account for the Corra Linn Project, or why this approach would be more reasonable than FBC's proposal.⁴⁴

Panel Determination

In reviewing the merits of FBC's Reconsideration Application as it relates to the Corra Linn Project costs, we must assess the grounds for reconsideration submitted by FBC (Rule 27.05), namely, whether the BCUC made an error of fact that has a material bearing on the decision, or whether there is otherwise just cause for reconsideration of the original decision.

Is this a material issue?

Assuming that the BCUC made an error of fact in its decision on the Corra Linn Project costs, we are persuaded that the impact of that decision is material because it prevents FBC from including \$27.959 million of capital additions and cost of removal related to the Corra Linn Project in its rate base for 2023 and from recovering the associated depreciation, financing, and ROE, totalling approximately \$1.73 million of revenue requirements in 2023.

Did the BCUC err?

FBC submits that the BCUC erred by undertaking its own calculation of the amount that the BCUC considered should be removed from 2023 rate base due to the delay in the Corra Linn Project's completion. The calculation to which FBC refers is the combined amount of \$16.151 million of 2023 rate base additions for the Corra Linn Project, which were related to the final capital expenditures and AFUDC (not including cost of removal), plus \$11.808 million, which relates to the cost of removal for the entire Corra Linn Project since 2018 and to the end of 2022, for a total of \$27.959 million.

The question that the Panel must address is whether the BCUC did in fact err by undertaking its own calculation in arriving at the amount of \$27.959 million. The Panel notes that the only evidence regarding the costs associated with the Corra Linn Project that FBC provided in the 2023 Annual Review is the following:

Overall, \$67.919 million is forecast to be added to rate base by January 1, 2023 (\$51.768 million of actual from 2020 to 2022 plus \$16.151 million of 2023 Forecast), plus \$11.808 million of cost of removal, for a total estimated project cost of \$79.727 million, including AFUDC and cost of removal.⁴⁵

Although it had the opportunity to do so, FBC did not reply to BCOAPO's submission in final argument that some or all of the capital costs for the Corra Linn Project should be removed from the 2023 rate base, which left BCOAPO's submission unchallenged in the 2023 Annual Review. In this Reconsideration Application, FBC acknowledges that it inadvertently omitted responding to BCOAPO's submission on the Corra Linn Project capital costs, but submits once again as it did during its Reply Argument in the 2023 Annual Review, that silence in a reply submission on a particular statement in an intervener submission does not necessarily indicate FBC's agreement with the intervener's submission.⁴⁶

⁴⁴ FBC Reply, p. 3.

⁴⁵ 2023 Annual Review, Exhibit B-2, p. 66.

⁴⁶ Exhibit B-1, p. 3; 2023 Annual Review, FBC Reply Argument, p. 2.

The Panel accepts that an applicant cannot possibly reply to each and every submission from an intervener in its reply submission, nor does it have an obligation to do so. However, for procedural fairness reasons, an applicant is provided the right of reply for the express purpose of responding to other parties' submissions. This applicant is one with a lot of regulatory experience and, deliberately or inadvertently, failed to avail itself of the opportunity to address a material issue in its reply and notwithstanding its general disclaimer, must accordingly bear the risk of any adverse inference that an adjudicator may draw from such omission.

In this case, the Panel does not consider that the BCUC necessarily erred in concluding that FBC did not reply to BCOAPO's submission either because it agreed with the substance of that submission or had no basis for rebutting it. We share RCIA's concerns about information asymmetry between an applicant and interveners in a proceeding, where the former has complete knowledge and control over the content and relief it seeks whereas the latter must rely on the information that the applicant chooses to provide. FBC prepared the 2023 Annual Review, responded to information requests (IR) about the Corra Linn Project and replied to intervener submissions in its Reply Argument. FBC is a sophisticated participant in BCUC proceedings, and the Panel considers that FBC should bear the responsibility of ensuring it does not inadvertently fail to respond to important points which may have a material bearing on the relief it is seeking. As a result, the Panel finds that the BCUC did not err in arriving at the determination to exclude the Corra Linn Project costs on the basis of the incomplete evidence and submissions that were presented before it in the original proceeding.

Is there 'otherwise just cause'?

The Panel now turns to FBC's second ground for reconsideration of the BCUC's decision on the Corra Linn Project costs, which is based on 'otherwise just cause'.

The Panel accepts the additional clarifying evidence that FBC provides in the Reconsideration Application in Table 1 above, along with its accompanying explanations, which the Panel considers appropriate to admit as material new evidence. That evidence establishes that the spillway gates were placed in service in Q3 2022, and that, of the total \$16.151 million rate base additions, \$13.611 million was related to the completion of the final spillway gates, while the remaining \$2.54 million was related to close-out costs such as lighting, outstanding claims, and cleanup. We accept that only the latter amount, \$2.54 million is delayed to Q1 2023. Further, we accept that \$11.808 million relates to the cost of removal for the entire Corra Linn Project since its inception in 2018 until the end of 2022. Having accepted this evidence as being a relevant part of the Reconsideration Application, we must determine that this new evidence provides just cause to reconsider the issue and to grant FBC the relief sought. RCIA submits that FBC should not be permitted to realign the project description after-the-fact to better suit its bottom line. However, such a rigid position is inconsistent with section 60 of the UCA, which requires that the BCUC "consider all matters that it considers proper and relevant affecting the rate" and "have due regard to the setting of a rate that... is not unjust or unreasonable".⁴⁷

As noted earlier, we agree with RCIA's observation regarding an 'information asymmetry' between applicant and other parties. FBC should have been more thorough and diligent in responding to this issue during the 2023 Annual Review when it had the opportunity to do so. Nevertheless, FBC has now explained that the final spillway gates were placed in service in Q3 2022 and only \$2.54 million in remaining close-out activities were delayed. Had the BCUC been provided with the benefit of the full history and amounts of the various capital additions, cost of removal, and treatment of costs related to the Corra Linn Project between 2018 and 2022 during the

⁴⁷ UCA, section 60.

2023 Annual Review, its determination may have been different. As the BCUC decision was based on incomplete or inaccurate information provided in the original application, it would not be appropriate to allow it to stand uncorrected because the 2023 rates derived as a result are unjust and unreasonable. Accordingly, based on the evidence in this proceeding and the broad wording in Rule 27.05 (e), we are satisfied that there is just cause for us to overturn the BCUC's initial decision on the Corra Linn Project costs, along with the associated directives.

Furthermore, based on the new evidence that FBC provides in the Reconsideration Application, the Panel is satisfied that FBC is entitled to recover \$27.959 million (minus \$2.54 million relating to the remaining close-out costs which are deferred to Q1 2023) in FBC's rate base in 2023.

We also accept FBC's submission that it is not necessary to remove the \$2.54 million in close-out costs from its 2023 rate base because this is a minor amount which has minimal impact on ratepayers. As both FBC and the CEC point out, this would require adjustments to rates and refunds to customers for a minimal amount (4 cents per monthly bill) and potentially cause confusion. Moreover, we do not agree with RCIA that this adjustment should be recorded in the project cost deferral account, as FBC does not have such a deferral account and it is not clear to which account RCIA is referring. Furthermore, we agree with FBC that capital costs related to CPCNs and major projects receive flow-through treatment under its MRP such that any difference between the forecast and actual additions to rate base will ultimately be trued up in the following year through the flow-through mechanism.⁴⁸

Lastly, we note that among the three interveners in this proceeding, the CEC supports the reconsideration request on this issue, BCMEU defers to the Panel's judgment, and only RCIA opposes the reconsideration. For the reasons set out above, we find that the BCUC's decision on the Corra Linn Project costs should be overturned and the related directive rescinded.

3.2 Permanent 2023 Rates

With respect to FBC's request for reconsideration of Directive 2 of the 2023 Annual Review, FBC states that the BCUC erred in setting permanent 2023 rates and establishing a deferral account based on its considerations of: (1) the importance of cost predictability for customers; (2) the challenge that interim rates pose for municipal utilities; and (3) the fact that the GCOC proceeding is still underway. FBC submits that the BCUC's considerations when making these determinations did not properly reflect a fair or appropriate balancing when setting just and reasonable rates, and therefore, amount to an error of fact or otherwise amount to a need for reconsideration based on just cause.⁴⁹

FBC submits that the impact of these determinations is material, as they are unfair to both FBC and its customers by requiring the utility to defer implementation of the BCUC's final determinations in Stage 1 of the GCOC proceeding to 2024 through a deferral account. FBC states, by making rates permanent for 2023, the BCUC has forced FBC to forego any opportunity to recover its fair return in 2023, which is still being reviewed in Stage 1 of the GCOC proceeding, and FBC's customers would be forced to bear in 2024 the resulting rate impact for both 2023 and 2024, in addition to any potential rate increase for 2024.⁵⁰ FBC notes that the BCUC acknowledged in the 2023 Annual Review Decision that "a deferral account adds additional costs in the form of

⁴⁸ Exhibit B-1, p. 5.

⁴⁹ Exhibit B-1, p. 6.

⁵⁰ Exhibit B-1, pp. 6–7.

carrying charges for ratepayers and could result in additional rate implications to 2024 if there is a change to FBC's ROE and capital structure in 2023."⁵¹ FBC submits that requiring that the implementation of the decision on Stage 1 of the GCOC proceeding be deferred to 2024 has the effect of decreasing, rather than increasing, rate predictability for customers. In short, rate volatility may result from recovering a potentially material amount in 2024, followed by a lower amount, all else equal, in the following year.⁵²

FBC submits that in the 2023 Annual Review Decision, the BCUC placed undue weight on the challenges that interim rates pose for municipal utilities as raised by BCMEU.⁵³ While FBC acknowledges that it may be the practice of municipal utilities to set rates for the entirety of a given year, effective as of January 1, it submits that there is nothing preventing municipalities from adjusting rates partway through the year to reflect the BCUC's determination in the GCOC proceeding or recovering costs in future years. FBC also notes municipal utilities have had considerable notice of the potential impact of the decision on Stage 1 of the GCOC proceeding on the setting of FBC's 2023 rates.⁵⁴

FBC submits that it is more appropriate to maintain rates as interim so that the approach to implementation can be considered after a decision is issued on Stage 1 of the GCOC proceeding. FBC states, since the GCOC proceeding is still underway, its timing and impact are not yet known, making it impossible to weigh the competing factors at this stage. FBC argues that keeping rates on an interim basis preserves the most optionality for the BCUC for implementing permanent rates following the GCOC decision when the impact will be known. FBC submits that making rates permanent effectively ties the hands of future BCUC panels based on incomplete information.⁵⁵

Finally, FBC submits that the balance of relevant factors strongly supports maintaining rates as interim and that interim rates are a well-accepted and widely used feature of regulatory rate setting and provide the appropriate signal to customers that rates may change in the future.⁵⁶

Positions of the Parties

The CEC, RCIA, and BCMEU do not support FBC's request for the BCUC to reconsider its decision in setting permanent 2023 rates and establishing a deferral account.

The CEC

The CEC states that FBC has not provided evidence with respect to the materiality of the issue. The CEC submits that the BCUC appropriately considered the evidence related to customer concerns regarding cost predictability and disagrees that the BCUC placed undue weight on challenges of interim rates raised by the BCMEU.⁵⁷ The CEC argues that it is not unfair to FBC to defer impact of any changes to 2023 rates arising from Stage 1 of the GCOC proceeding and that there is a benefit for customers to have predictability of rates for the 2023 year, which

⁵¹ Exhibit B-1, p. 6; 2023 Annual Review Decision, p. 28.

⁵² Exhibit B-1, p. 7.

⁵³ Exhibit B-1, pp. 7–8; 2023 Annual Review Decision, p. 27.

⁵⁴ Exhibit B-1, pp. 7–8.

⁵⁵ Exhibit B-1, p. 8.

⁵⁶ Exhibit B-1, p. 9.

⁵⁷ Exhibit C3-2, p. 14.

should not be left for an indeterminate period. Instead, the CEC submits, the GCOC proceeding is best dealt with using a deferral account as determined by the BCUC.⁵⁸

In response to the CEC's submission that FBC has not established materiality of the issue, FBC submits that to make rates permanent based on incomplete information is material because it reduces the options for the BCUC panel in the GCOC proceeding when rendering its decision, such as a billing adjustment (either retroactive or forward looking) or a deferral account that flows any balance to 2024. Further, FBC submits that setting rates on a permanent basis before the result of the GCOC proceeding is known has the potential to adversely impact its customers if there is 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 2024.⁵⁹

RCIA

RCIA submits that FBC's 2023 ROE aligns with prevailing GCOC parameters and requires no adjustment. In RCIA's view, FBC's suggestion that it will be forced to forego the opportunity to earn a fair return is speculative and it would be premature to allow for any rate adjustments driven exclusively by anticipation of a change.⁶⁰

RCIA notes that during the 2023 Annual Review, FBC argued that the "2020-2024 Multi-Year Rate Plan mechanism established in 2020 is not subject to any change until the end of the present test period." For consistency, RCIA argues that FBC "should be satisfied with the 2023 results produced by its 2020-2024 Multi-Year Rate Plan mechanism formulas based on the input parameters prevailing at the time the annual rate review application was submitted, and by no means should 2023 rates incorporate any MRP input parameter changes that occur after Decision & Order G-382-22 was issued."⁶¹

In response to RCIA, FBC points out that it is not claiming it will be forced to forego the opportunity to earn a fair return, rather that 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 2023.⁶²

FBC submits that RCIA's argument that FBC's existing ROE is part of FBC's 2020 to 2024 MRP and, therefore, cannot be changed has no merit. FBC explains that the MRP Decision and the framework for rate setting that was approved in that decision have no bearing on, and does not address, the amount of FBC's return.⁶³

BCMEU

As previously noted, the BCMEU focuses its submissions only on the issue of 2023 permanent rates.⁶⁴ The BCMEU submits that FBC has not set out reasonable grounds for approving reconsideration of this issue and therefore the Reconsideration Application should be denied.⁶⁵ BCMEU submits that FBC will recover its fair return for 2023, whether the decision on Stage 1 of the GCOC proceeding increases or reduces the fair return in that proceeding, in 2024. While the fair return may be deferred, it does not preclude FBC from the opportunity

⁵⁸ Exhibit C3-2, pp. 13–14.

⁵⁹ Exhibit B-3, p. 4.

⁶⁰ Exhibit C1-2, p. 3.

⁶¹ Exhibit C1-2, p. 3.

⁶² Exhibit B-3, pp. 4–5.

⁶³ Exhibit B-3, p. 5.

⁶⁴ Exhibit C2-2, p. 1.

⁶⁵ Exhibit C2-2, p. 4.

to recover its fair return, and fairness lies in implementing any GCOC determination on a go-forward, not a retroactive, basis.⁶⁶

Regarding cost predictability for customers, BCMEU argues that the unpredictability of the impact of the GCOC decision will be made certain upon issuance of the GCOC decision and that the only “question will be whether that amount is recovered, or returned, in 2023 or 2024. There is no difference in the predictability.”⁶⁷

Finally, BCMEU acknowledges that it is possible for municipalities to amend electricity rates mid-year, but that the process to amend the relevant bylaw takes several months, and municipalities would expect considerable backlash for a mid-year rate increase from customers who are already dealing with a January 1, 2023 increase on top of other inflationary pressures in their daily lives.⁶⁸

In response to the BCMEU’s submission that the BCUC’s determination will merely defer FBC’s ability to earn its fair return to 2024, FBC states that “in addition to the timing difference, BCMEU fails to recognize the associated potential impact to customers from such a deferral.”⁶⁹ FBC submits that any increase in rate predictability for 2023 comes at the expense of future rate volatility for customers. Finally, FBC notes that BCMEU admits that mid-year rate adjustments are theoretically possible for the municipalities served by FBC and there is no risk of a shortfall if there is a retroactive rate increase. Therefore, FBC submits that the BCUC’s consideration of this issue should not be a determining factor in whether to make rates interim or permanent, and placing undue weight on the inconvenience that interim rates may pose for municipal utilities prioritizes this customer class at the expense of others.⁷⁰

Panel Determination

In reviewing FBC’s request to reconsider the BCUC’s decision to set permanent rather than interim rates, we must assess the grounds for reconsideration submitted by FBC (Rule 27.05), namely, whether the BCUC erred in fact by setting permanent rates and directing the establishment of a deferral account, and that this error has a material bearing on the decision, or whether there is otherwise just cause for reconsideration of the decision.

Is this a material issue?

We are persuaded that the impact of the 2023 Annual Review Decision regarding permanent rates is material because it prevents FBC from the opportunity to earn its fair return in 2023, pending the outcome of Stage 1 of the GCOC proceeding. The Panel recognizes that none of the interveners consider this issue to be material; in their view this is simply a matter of timing – whether FBC earns its 2023 fair return in 2023 or 2024. That is not the point, however, as no party disputes that FBC has to have an opportunity to earn a fair return. FBC’s position is more nuanced: by setting FBC’s rates on a permanent basis on incomplete information, in conjunction with directing the establishment of a deferral account to reflect the outcome of Stage 1 of the GCOC proceeding, the BCUC is effectively depriving FBC of the opportunity to earn its fair return in 2023 and requiring FBC to defer a large portion of that fair return to 2024 instead.

⁶⁶ Exhibit C2-2, p. 2.

⁶⁷ Exhibit C2-2, p. 2.

⁶⁸ Exhibit C2-2, p. 3.

⁶⁹ Exhibit B-3, p. 5.

⁷⁰ Exhibit C2-2, p. 6.

We acknowledge that while a deferral account serves to keep the utility whole in the long run, there is nonetheless a negative impact from a cash flow perspective from the deferral of its fair return from one year to the next. Furthermore, we note that notwithstanding its determination to establish 2023 permanent rates with a deferral account to capture the impacts of Stage 1 of the GCOC proceeding, the BCUC acknowledged that "a deferral account adds additional costs in the form of carrying charges for ratepayers and could result in additional rate implications to 2024 if there is a change to FBC's ROE and capital structure in 2023."⁷¹

Finally, FBC noted in the 2023 Annual Review that if its proposed capital structure of 40 percent common equity and an ROE of 10 percent were approved as applied for, and were made effective January 1, 2023, its 2023 rate increase would be amended from 3.98 percent to 5.90 percent. The Panel acknowledges that there is no certainty as to the outcome of Stage 1 of the GCOC proceeding and there is a possibility for a reduction instead of an increase in FBC's ROE. However, the right of a utility to have the opportunity to earn a fair return on its investment is part and parcel of the well-established regulatory compact. By the same token, it is unreasonable to require a utility to defer earning that fair return just because there may be a convenient mechanism for that deferral through a regulatory account.

Did the BCUC err?

Although FBC submits as one of its grounds for reconsideration that the BCUC has made an error of fact which has a material bearing on the decision, it has not presented any evidence or submissions in support of any factual error which led the BCUC to make the decision it did. Therefore, the Panel rejects this ground of reconsideration.

In assessing whether to approve permanent rates with the establishment of a deferral account to capture the effects of the decision on Stage 1 of the GCOC proceeding or to maintain interim rates for an extended period of time, the BCUC attempted to strike a balance between the interests of the parties. The Panel finds that in weighing the various interests and submissions of the parties, the BCUC was entitled to exercise its discretion in the manner it did, having regard to the evidence and submissions presented before it during that proceeding. Furthermore, we find that the BCUC did not act unreasonably even if we do not necessarily agree with the outcome of that exercise of discretion.

Is there 'otherwise just cause'?

FBC submits, however, another ground for reconsideration: there is "otherwise just cause" to reconsider the BCUC's decision to approve permanent rates with a deferral account to capture any impacts from Stage 1 of the GCOC proceeding. As we explain below, we find that there is just cause to approve FBC's request.

FBC identifies three factors that the BCUC considered in reaching its decision, which FBC submits, does not properly reflect a fair or appropriate balancing of the relevant considerations in setting just and reasonable rates. FBC states that the BCUC erred in setting permanent 2023 rates and establishing a deferral account based on its considerations of: (1) the importance of cost predictability for customers; (2) the challenge that interim rates pose for municipal utilities; and (3) the fact that the GCOC proceeding is still underway. We focus on the second of these factors, namely, the challenge that interim rates pose for municipal utilities, as the most

⁷¹ Exhibit B-1, p. 6; 2023 Annual Review Decision, p. 28.

important because this is the only issue on which new evidence emerges during the Reconsideration Application which calls into question the factual basis for the BCUC's decision to approve permanent rates.

Contrary to its evidence in the 2023 Annual Review, BCMEU acknowledges during this Reconsideration Application that municipalities can indeed amend rates mid-year.⁷² In other words, the BCUC's conclusion in the 2023 Annual Review Decision that "municipal utilities do not have the ability to implement interim rates and accordingly, will risk a shortfall if there is a retroactive rate increase, effective January 1, 2023, due to the results of the GCOC proceeding" is incorrect, as it was based on inaccurate and incomplete information.⁷³ While we accept, as BCMEU submits, that amending rates mid-year is no one's first choice, that is quite different from municipal utilities not having the ability to make rate changes during the year if they were inclined to do so.

Once the municipal factor is removed from the balance of interests in determining permanent versus interim rates, the Panel considers that the case for setting permanent rates becomes tenuous. Moreover, preserving FBC's opportunity to earn a fair return in 2023 (rather than deferring same to 2024) becomes more compelling.

This leaves the first and third factors that the BCUC considered in preferring permanent rates over interim rates. With respect to the first factor that the BCUC considered, namely, cost predictability, the Panel accepts that while that is an important factor, it should not be at the expense of the opportunity for FBC to earn a fair return in 2023, which as we have already noted, is part and parcel of the regulatory compact.

The third factor that the BCUC considered is the fact that the GCOC proceeding is still underway. The Panel acknowledges that in most cases, interim rates are set in anticipation that permanent rates will generally not differ substantially from approved interim rates because the time interval between the two is insignificant. In this case, however, Stage 1 of the GCOC proceeding may have a material impact on FBC's 2023 permanent rates depending on its outcome. In light of that, the Panel finds that it would be unfair to FBC to establish permanent rates as of January 1, 2023 at this time, and thereby, effectively requiring FBC to forgo the implementation of permanent rates to reflect the outcome of that proceeding in 2023 and to defer the benefit of any increase in return to 2024 through a deferral account. Furthermore, if Stage 1 of the GCOC proceeding were to result in a reduction in FBC's ROE, maintaining interim rates has the added advantage of enabling the utility to reflect that outcome in its permanent 2023 rates to the benefit of ratepayers.

For these reasons and based on the new evidence that BCMEU has provided in the Reconsideration Application, we find that there is just cause for reconsideration of the BCUC's decision to approve 2023 rates on a permanent basis and to rescind that decision, along with the related directives. **Accordingly, the Panel approves the Reconsideration Application and directs that Directives 1 and 2 of Order G-382-22 are rescinded. FBC is approved to increase its rates for 2023 by 3.98 percent on an interim and refundable/recoverable basis, effective January 1, 2023, and rates will remain interim, pending any adjustments that may arise from the outcome of Stage 1 of the BCUC's GCOC proceeding.** Given this new directive and the determinations in this decision, **the Panel directs that Directive 7 of Order G-382-22 is rescinded.**

Finally, with respect to RCIA's submissions for limits to be placed on any changes in FBC's capital structure and ROE as a result of its MRP, the Panel notes that no one, including FBC, anticipated at the outset of the MRP

⁷² Exhibit C2-2, p. 3.

⁷³ 2023 Annual Review Decision, p. 27.

proceeding that the BCUC would initiate a GCOC proceeding during the MRP term which could materially impact FBC's ROE in 2023 and beyond. For this reason, the Panel gives no weight to RCIA's argument in this regard.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of April 2023.

Original signed by:

A.K. Fung, KC
Panel Chair / Commissioner

Original signed by:

E.B. Lockhart
Commissioner

Original signed by:

A. Pape-Salmon
Commissioner



ORDER NUMBER
G-87-23

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

and

FortisBC Inc.
Application for Reconsideration and Variance of Decision and Order G-382-22

BEFORE:

A. K. Fung, KC, Panel Chair
E. B. Lockhart, Commissioner
A. Pape-Salmon, Commissioner

on April 19, 2023

ORDER

WHEREAS:

- A. On January 12, 2023, FortisBC Inc. (FBC) filed an application with the British Columbia Utilities Commission (BCUC) for reconsideration and variance of Decision and Order G-382-22, pursuant to section 99 of the *Utilities Commission Act* and in accordance with Rule 26.02 of the BCUC's Rules of Practice and Procedure (Reconsideration Application);¹
- B. By Decision and Order G-382-22 dated December 22, 2022, the BCUC issued its decision on the FBC Annual Review for 2023 Rates. The BCUC ordered, among other matters, the following:
 - i. A permanent rate increase of 3.98 percent, effective January 1, 2023, subject to the adjustments resulting from the removal of \$27.959 million from FBC's 2023 rate base relating to the Corra Linn Spillway Gate Replacement Project (Directive 1);
 - ii. The establishment of 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 proceeding (Directive 2); and
 - iii. The filing of finalized financial schedules and updated tariff pages within 30 days of the issuance of Order G-382-22, reflecting the directives and determinations in the decision issued concurrently with that order (Directive 7);

¹ FBC's Reconsideration Application was filed under the BCUC Rules of Practice and Procedure approved by Order G-178-22 and not the new Rules as amended on April 3, 2023, in Order G-72-23. All section references to the Rules in this order are to the Rules as attached to Order G-178-22.

- C. FBC requests that Directive 2 of Order G-382-22 be rescinded and Directive 1 of Order G-382-22 be varied, such that FBC is approved to increase its rates for 2023 by 3.98 percent on an interim basis, pending the outcome of Stage 1 of the BCUC's Generic Cost of Capital proceeding, effective January 1, 2023, on the grounds that the BCUC has made an error of fact or, in the alternative, that there is otherwise just cause;
- D. In the Reconsideration Application, FBC also requests that the BCUC stay or suspend the operation of Directives 1, 2 and 7 of Order G-382-22, pending the resolution of the Reconsideration Application;
- E. By letter dated January 18, 2023, the BCUC relieved FBC from the requirement to file, by January 23, 2023, the compliance filing directed by Directive 7 of Order G-382-22, pending the review of the Reconsideration Application;
- F. Part V of the BCUC's Rules of Practice and Procedure attached to Order G-178-22 provides the rules for the reconsideration process (Reconsideration Rules);
- G. By Order G-12-23 dated January 24, 2023, the BCUC granted a stay of Directives 1, 2 and 7 of Order G-382-22 in accordance with the Reconsideration Rules and established a written public hearing process to review the Reconsideration Application, which included supplemental information, intervener registration, intervener submissions, and FBC's reply to interveners' submissions; and
- H. The Panel has reviewed the supplemental information and parties' submissions and considers that the following determinations are warranted.

NOW THEREFORE pursuant to section 99 of the *Utilities Commission Act*, the BCUC orders as follows:

1. Directives 1 and 2 of Order G-382-22 are rescinded and FBC is approved to increase its rates for 2023 by 3.98 percent on an interim and refundable/recoverable basis, effective January 1, 2023, and rates will remain interim, pending any adjustments that may arise from the outcome of Stage 1 of the BCUC's Generic Cost of Capital proceeding.
2. Directive 7 of Order G-382-22 is rescinded.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of April 2023.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473
and
FortisBC Inc.
Reconsideration and Variance of BCUC Order G-382-22

EXHIBIT LIST

Exhibit No.	Description
<i>COMMISSION DOCUMENTS</i>	
A-1	Letter dated January 18, 2023 – Appointing the Panel for the review of FortisBC Inc. Application for Reconsideration and Variance of BCUC Order G-382-22
A-2	Letter dated January 18, 2023 – BCUC response to FortisBC Inc. regarding the Directive 7 of Order G-382-22
A-3	Letter dated January 24, 2023 – BCUC Order G-23-12 establishing a regulatory timetable and requesting supplemental information from FBC
<i>APPLICANT DOCUMENTS</i>	
B-1	FORTISBC INC. (FBC) – Application for Reconsideration and Variance of BCUC Order G-382-22 dated January 12, 2023
B-2	Letter dated January 30, 2023 – FBC submitting Supplemental Information
B-3	Letter dated February 16, 2023 – FBC submitting reply to Intervener submissions on the Application

INTERVENER DOCUMENTS

- C1-1 **RESIDENTIAL CONSUMER INTERVENER ASSOCIATION (RCIA)** – Letter dated February 1, 2023
Request to Intervene by Matthew Matusiak
- C1-2 Letter dated February 9, 2023 – RCIA submitting comment on Reconsideration Application
- C2-1 **BRITISH COLUMBIA MUNICIPAL ELECTRICAL UTILITIES (BCMEU)** – Letter dated February 2, 2023
Request to Intervene by Scott Spencer
- C2-2 Letter dated February 9, 2023 – BCMEU submitting comment on Reconsideration
Application
- C3-1 **COMMERCIAL ENERGY CONSUMERS ASSOCIATION OF BRITISH COLUMBIA (CEC)** – Letter dated
February 7, 2023 Request to Intervene by Christopher Weafer
- C3-2 Letter dated February 9, 2023 – CEC submitting comment on Reconsideration Application

INTERESTED PARTY DOCUMENTS

- D-1 **MOVEMENT OF UNITED PROFESSIONALS (MOVEUP)** – Letter dated January 24, 2023 request for
Interested Party Status by Jim Quail