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British Columbia Utilities Commission
Suite 410, 900 Howe Street
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**Attention: Mr. Patrick Wruck,
Commission Secretary and Manager, Regulatory Support**

Dear Sirs/ Mesdames:

**Re: FortisBC Energy Inc. (“FEI”)
Filing of Biomethane Purchase Agreements between FEI and Tidal Energy
Marketing Inc. (the “Application”)
FEI Reply Submission**

FEI filed the referenced Application on September 20, 2019 and is filing this Reply Submission in advance of the deadline established in the regulatory timetable approved by British Columbia Utilities Commission (“BCUC”) Letter L-55-19.

As set out in FEI’s Final Submission filed on November 21, 2019, FEI is seeking acceptance, pursuant to section 71 of the *Utilities Commission Act* (“UCA”), of two Biomethane Purchase Agreements (“BPAs”) between FEI and Tidal Energy Marketing Inc. (“Tidal”). On December 5, three interveners filed submissions in this proceeding: the Commercial Energy Consumers Association of B.C. (“CEC”), the British Columbia Old Age Pensioners et al. (“BCOAPO”) and the B.C. Sustainable Energy (“BCSEA”). The CEC, BCOAPO and BCSEA all agree with FEI that the BPAs with Tidal are prescribed undertakings under the Greenhouse Gas Reduction (Clean Energy) Regulation (“GGRR”). The CEC and BCSEA also agree with FEI that the BPAs are in the public interest and should be accepted even in the absence of the GGRR, while BCOAPO supports FEI’s arguments on this point but does not explicitly state a position on the public interest.

While all three interveners support approval of the BPAs with Tidal, FEI responds below to two topics raised.

BCSEA's view that acquisition of biomethane produced outside the province should be considered an exception does not impact this Application as BCSEA supports approval of the BPAs and the location of supply is not a requirement under the GGRR. Moreover, whether there should be a preference between in-province or out-of-province supply should be considered only when FEI faces constraints to procuring additional RNG volume and there are competing, mutually exclusive alternatives. Because existing in-province supply is not sufficient to meet policy targets, FEI is not in a position where it must choose between in-province or out-of-province supply. The BCUC should reserve judgment on a preference between the two options until such a determination is required and it has facts before it, including price, volume and term of supply alternatives, that would inform such a determination.

BCOAPO's view that future applications should not have the same scope of confidentiality is not substantiated and is potentially harmful to FEI's ability to negotiate competitive agreements with suppliers and other counterparties. While there is a public interest in full disclosure of information, the BCUC's Rules recognize that this must be balanced against competing interests such as the harm to commercial interests due to disclosure of confidential information. The scope of confidentiality sought by FEI and granted by the BCUC in this proceeding was to protect FEI's negotiating position with other suppliers and the commercially sensitive information of FEI's counterparty, Tidal. In order to engage in commercial discussions with Tidal, FEI was required to enter into a non-disclosure agreement with Tidal not to disclose their confidential information.¹ This is ordinary business practice as counterparties understandably do not wish to risk compromising their commercial interests when negotiating a deal. It is ultimately in the interest of customers that FEI be able to provide assurances to its counterparties that it will be able keep their commercially sensitive information confidential. In this particular case, the vast majority of information in the Application was public and all information was disclosed to interveners upon the signing of confidentiality undertakings. BCOAPO has adduced no reason or evidence to conclude that there has been any harm to the public or decrease in confidence in the regulator. Notably, there were no letters of comment filed by any entity regarding the scope of confidential information. In FEI's submission, the BCUC's continued reasonable application of its confidentiality rules provides confidence to FEI and its counterparties that the approval process can be completed in a transparent manner while at the same time protecting the commercial interests of the parties involved.

¹ Exhibit B-4, BCOAPO 1.1.3.

FEI appreciates the support of interveners in this proceeding and recommends that the BCUC accept the two BPAs with Tidal for filing under section 71 of the UCA.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by Christopher Bystrom]

Christopher R. Bystrom

CRB

Encl.