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October 22, 2020

City of Coquitlam
c/o Lawson Lundell LLP
Suite 1600 Cathedral Place
925 West Georgia Street
Vancouver, B.C.
V6C 3L2

Attention: Mr. Ian Webb

Dear Mr. Webb:

Re: City of Coquitlam (City) Application for Reconsideration and Variance of Order G-80-19 in the matter of the FortisBC Energy Inc. Application for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* in the City of Coquitlam for the Lower Mainland Intermediate Pressure System Upgrade Projects (Reconsideration Application) ~ Project No. 1599008

FEI Response to the City of Coquitlam (City) Information Request (IR) No. 1

In accordance with British Columbia Utilities Commission Order G-202-20A setting out the Regulatory Timetable for the review of the above noted Application, FEI respectfully submits the attached response to City IR No. 1.

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachments

cc (email only): Commission Secretary
Registered Parties

FortisBC Energy Inc. (FEI or the Company) City of Coquitlam (City) Application for Reconsideration and Variance of Order G-80-19 for the Lower Mainland Intermediate Pressure System Upgrade Projects (Application) – Cost Allocation	Submission Date: October 22, 2020
Response to City Information Request (IR) No. 1 on Evidence	Page 1

1 **1. Reference: FEI Evidence – Section 2.0: FEI’s Understanding of Order G-80-19**

2 On page 2, FEI describes that:

3 No, FEI believes that the cost sharing ordered by the BCUC represents a
4 compromise that provides appropriate incentives on the City to act reasonably in
5 making a request to remove the NPS 20 IP gas line.

6 On page 3, FEI describes that:

7 Although the BCUC always retains jurisdiction in the event of disputes, FEI does
8 not interpret the order as requiring further approval from the BCUC if the parties
9 are in agreement on the removal of the portion of the NPS 20 IP gas line.

10 1.1 Please discuss whether, in FEI’s view, there is any other rationale for having the
11 City pay half of the costs of removal of any portion of the decommissioned NPS
12 20 pipes aside from incentivizing the City to act reasonably in making removal
13 requests.

14
15 **Response:**

16 In addition to incenting the City to act reasonably in making removal requests, having the City
17 pay half of the cost of removal also reduces the cost to all natural gas customers for work
18 undertaken for the City and at the City’s request. It also makes sense because presumably the
19 City would be the proximate cause of the removal requirement. In addition, cost sharing
20 between FEI and the City will incent both parties to work collaboratively to take advantage of
21 opportunities to capture efficiencies in areas such as scheduling and execution of work,
22 resulting in cost savings and benefits to both the City and FEI ratepayers.

23
24

25
26 1.2 Please reconcile the necessity to incentivize the City, through adverse financial
27 consequence, to act reasonably in making removal requests with FEI’s position
28 that the BCUC always retains jurisdiction to decide whether the decommissioned
29 NPS 20 pipes shall be removed in the event of a dispute between the City and
30 FEI.

31

32 **Response:**

33 FEI does not accept the premise of the question that there is a conflict between: 1) creating a
34 financial incentive for the City to act reasonably in making a removal request, and 2) the
35 BCUC’s retention of jurisdiction. Though the cost allocation ordered by the BCUC creates an
36 incentive for the City to act reasonably, matters could still arise for which BCUC intervention
37 could be required, including an unreasonable request from the City.

FortisBC Energy Inc. (FEI or the Company) City of Coquitlam (City) Application for Reconsideration and Variance of Order G-80-19 for the Lower Mainland Intermediate Pressure System Upgrade Projects (Application) – Cost Allocation	Submission Date: October 22, 2020
Response to City Information Request (IR) No. 1 on Evidence	Page 2

1 While FEI's preference is to work collaboratively with other parties, to resolve matters through
2 fair and reasonable negotiation (in this case with the City), it is not always possible to reach
3 agreement. FEI recognizes the additional burden of regulatory process that results when a
4 dispute with a municipality is brought before the BCUC for resolution and does not view such
5 applications as an alternative to appropriate incentives to reach agreement. Rather, FEI views
6 the need to have the BCUC adjudicate a dispute between FEI and a municipality as a last resort
7 when no further reasonable and appropriate alternatives are available to reach an agreement.
8 In those cases, the BCUC has jurisdiction to resolve those disputed matters. Please also refer
9 to the response to BCUC-FEI IR1 1.2.

10
11

12

13 1.3 Are the comments in the second paragraph of A3 of the evidence (page 2, lines
14 18 to 32) conjectural or does FEI have specific evidence that the identified
15 concerns have actually happened? If the latter, please provide the evidence.

16

17 **Response:**

18 Please refer to the response to CEC-FEI IR1 4.3.

19

20

21

22 On page 2 and in Section 4.0, FEI relates treatment of costs for relocation of operating
23 FEI facilities to costs for removal of permanently decommissioned FEI facilities:

24 As described below in this Evidence, FEI's modern municipal operating
25 agreements generally provide that the municipality pay for all of the costs for
26 relocations of FEI facilities done at the municipality's request. An equal sharing of
27 costs for removal of the NPS 20 IP gas line at the City's request provides a more
28 generous treatment for the City than the cost allocation for relocation that is
29 generally found in FEI's modern municipal operating agreements. [underlining
30 added]

31 1.4 Does FEI accept the BCUC determinations referred to in the City's responses to
32 BCUC IRs 1.1 and 1.1.1 (Ex. B-13 in this proceeding)? If not, please discuss.

33

34 **Response:**

35 FEI agrees that the quotes from the BCUC's Original Decision in BCUC-City IRs 1.1 and 1.1.1
36 are accurate and that the BCUC found that section 4 of the Operating Agreement was not
37 applicable to the City's request that FEI permanently remove all of the decommissioned NPS 20
38 IP gas line within the City.



FortisBC Energy Inc. (FEI or the Company) City of Coquitlam (City) Application for Reconsideration and Variance of Order G-80-19 for the Lower Mainland Intermediate Pressure System Upgrade Projects (Application) – Cost Allocation	Submission Date: October 22, 2020
Response to City Information Request (IR) No. 1 on Evidence	Page 3

1 However, in this Reconsideration, the City has referenced cost allocation arrangements for the
2 relocation of infrastructure in other jurisdictions as evidence of how allocation should occur in
3 the context of removing a decommissioned line. To the extent that the analogy to in-service
4 infrastructure remains relevant despite the BCUC's determination (as the City appears to
5 suggest), the best evidence would be the parties' own agreement about how to allocate costs
6 for the removal of *the very same piece of gas line*. The BCUC's determinations in the Original
7 Decision with respect to the applicability of the Operating Agreement do not prevent it from
8 considering the terms of the Operating Agreement in making its decision on cost allocation in
9 the Reconsideration.

10 Cost allocation provisions in FEI's agreements with other municipalities may also be of
11 assistance to the BCUC in this proceeding.

12
13

14

15 1.5 Please confirm that FEI has not sought reconsideration of the BCUC
16 determinations referred to in the City's responses to BCUC IRs 1.1 and 1.1.1 (Ex.
17 B-13 in this proceeding).

18

19 **Response:**

20 Confirmed. However, the BCUC's determinations in the Original Decision with respect to the
21 applicability of the Operating Agreement to the City's request for the removal of NPS 20 IP gas
22 line do not prevent the BCUC from considering the terms of the Operating Agreement in making
23 its decision on cost allocation in this Reconsideration.

24

FortisBC Energy Inc. (FEI or the Company) City of Coquitlam (City) Application for Reconsideration and Variance of Order G-80-19 for the Lower Mainland Intermediate Pressure System Upgrade Projects (Application) – Cost Allocation	Submission Date: October 22, 2020
Response to City Information Request (IR) No. 1 on Evidence	Page 4

1 **2. Reference: FEI Evidence – Section 3.0: The City of Burnaby Agreed to Share**
2 **NPS 20 IP Gas Line Removal Costs**

3 On page 4, FEI describes that:

4 Section 2(e) of the Burnaby Terms of Reference address this situation. The
5 Terms of Reference provide:

6 If the City reasonably determines that the 20 inch gas line must be removed
7 to accommodate a municipal project, third party project or utilities, the City
8 may by written notice to FortisBC require FortisBC to remove such portion
9 of the 20 inch gas line, provided that:

- 10 i. FortisBC will coordinate the removal of such portion of the 20 inch
11 gas line with the City;
- 12 ii. FortisBC will obtain all applicable approvals and permits required
13 to remove such portion of the 20 inch gas line outlined in (i)
14 above; and
- 15 iii. FortisBC will be responsible for costs of removing and disposing
16 of that portion of the 20 inch gas line outlined in (i) above and the
17 City will be responsible for the costs of excavation, backfilling and
18 surface restoration except to the extent that such costs are greater
19 as a result of the removal of the 20 inch gas line than they have
20 would been for the excavation, backfilling and surface restoration
21 for the municipal project, third party project or utilities.

22 Reference: FEI Evidence – Section 4.0: Municipalities are Responsible for Alteration and
23 Relocation Costs under FEI’s Model Operating Agreement and Modern Operating
24 Agreements

25 On page 7, FEI describes that:

26 The City of Surrey Operating Agreement also includes a provision dealing with
27 cost allocation for underground infrastructure that is abandoned in place.
28 Abandonment is the subject matter of Section 14. Section 14.2(b) provides as
29 follows:

30 If the Municipality reasonably determines that Company Facilities left in
31 place must be removed to accommodate Municipal Projects, Third Party
32 Projects or Utilities, the Municipality may by written notice to FortisBC
33 require FortisBC to remove such Company Facilities, provided that:

- 34 i. FortisBC shall coordinate the removal of such Company Facilities with
35 the Municipality;
- 36 ii. FortisBC shall obtain the applicable approvals and permits under this
37 Agreement; and
- 38 iii. FortisBC shall be responsible for the costs of removing and disposing
39 the Company Facilities, but excluding the costs of excavation,
40 backfilling and surface restoration.

FortisBC Energy Inc. (FEI or the Company) City of Coquitlam (City) Application for Reconsideration and Variance of Order G-80-19 for the Lower Mainland Intermediate Pressure System Upgrade Projects (Application) – Cost Allocation	Submission Date: October 22, 2020
Response to City Information Request (IR) No. 1 on Evidence	Page 5

1 2.1 Please confirm or explain otherwise that FEI is party to only two operating
2 agreements that (i) specifically address abandonment of FEI’s permanently
3 decommissioned pipes in municipal lands, and (ii) provide terms for the allocation
4 of costs if such pipes need to be removed at the request of the municipality.
5

6 **Response:**

7 FEI is a party to many operating agreements that address cost allocation for alterations,
8 changes or relocations to FEI’s facilities at the municipality’s request, which apply to the
9 removal of decommissioned assets. However, the operating agreement between FEI and the
10 City of Surrey, dated May 31, 2019 (City of Surrey Operating Agreement) is the only operating
11 agreement that contains the specific language reproduced in the City’s Information Request.
12 FEI also notes that the Burnaby Terms of Reference are a LMIPSU Project-specific agreement
13 and not an operating agreement.

14
15

16
17 2.2 Please confirm that in both the agreement with City of Burnaby and the one with
18 City of Surrey, FEI is responsible for 100% of the costs of removal (with the
19 exception of costs of excavation, backfilling and surface restoration).
20

21 **Response:**

22 The Burnaby Terms of Reference are a LMIPSU Project-specific agreement that address, in
23 part, the NPS 20 IP gas line. The City of Surrey Operating Agreement contains a provision that
24 applies to “Company Facilities” that have been “left in place”. Under both agreements, FEI
25 bears the cost of removing its asset, excluding the costs for excavation, backfilling and surface
26 restoration (which the municipality bears). Under the Burnaby Terms of Reference, FEI’s
27 obligation for removal costs includes the incremental costs of excavation, backfilling and surface
28 restoration that result from the removal of the NPS 20 IP gas line.

29
30

31
32 2.3 Please confirm or explain otherwise that FEI did not file the City of Burnaby
33 Terms of Reference or the City of Surrey Operating Agreement in the original
34 BCUC proceeding regarding FEI Use of Lands in Coquitlam for the LMIPSU
35 Project that resulted in Order G-80-19 (the “**Original Proceeding**”).
36

37 **Response:**

38 Confirmed.

39
40

FortisBC Energy Inc. (FEI or the Company) City of Coquitlam (City) Application for Reconsideration and Variance of Order G-80-19 for the Lower Mainland Intermediate Pressure System Upgrade Projects (Application) – Cost Allocation	Submission Date: October 22, 2020
Response to City Information Request (IR) No. 1 on Evidence	Page 6

1
2 2.4 Why did FEI not file the City of Burnaby Terms of Reference and the City of
3 Surrey Operating Agreement in the Original Proceeding? Was this information
4 not filed by FEI because:

5 (a) FEI would have filed the two agreements in the Original Proceeding, but
6 FEI was not aware that cost allocation methodology for removal of
7 decommissioned pipes was at issue in the proceeding;

8 (b) FEI was aware that cost allocation methodology for removal of
9 decommissioned pipes was at issue in the Original Proceeding, but chose
10 not to file the information; or

11 (c) another reason?

12 If the answer is (b) or (c), please elaborate.
13

14 **Response:**

15 FEI was aware that the cost allocation methodology for removal of the NPS 20 IP gas line was
16 at issue in the Original Proceeding.

17 FEI could not have filed the City of Surrey Operating Agreement because it is dated May 31,
18 2019, and post-dates the Original Decision, which is dated April 15, 2019. The related BCUC
19 Order G-18-19 with respect to the FEI and City of Surrey Applications for Approval of Terms for
20 an Operating Agreement was released on January 29, 2019, which was after submissions were
21 filed in the Original Proceeding. However, FEI notes that materials related to the FEI and City of
22 Surrey Applications for Approval of Terms for an Operating Agreement proceeding were publicly
23 available on the BCUC's website through the course of the Original Proceeding.

24 FEI did not file the Burnaby Terms of Reference because FEI's position in the Original
25 Proceeding was that the Operating Agreement between FEI and the City applied to the removal
26 of the NPS 20 IP gas line (while the City took the position that the Operating Agreement was not
27 applicable). However, FEI notes that the City was aware of the terms with respect to the
28 removal of the NPS 20 IP gas line contained in the Burnaby Terms of Reference as the same
29 terms were offered to the City by FEI on a number of occasions prior to FEI filing the application
30 in the Original Proceeding.

31 Attachment 2.4 to this response includes a November 19, 2017 email to the City's General
32 Manager Engineering & Public Works enclosing proposed Terms of Reference, including the
33 same removal terms found in the Burnaby Terms of Reference. Attachment 2.4 also includes a
34 November 28, 2017 email to the City's Manager, Design and Construction enclosing proposed
35 Terms of Reference, including the same removal terms found in the Burnaby Terms of
36 Reference. The City did not accept these terms for the removal of the NPS 20 IP gas line.

37

Attachment 2.4

From: [Schoberg, Gord](#)
To: [Jozsef Dioszeghy](#)
Cc: [Chad Braley](#); [Mark Zaborniak](#); [Gillanders, Danielle](#); [Joe DiPlacito](#); [Julyan, Darren](#)
Subject: FortisBC Terms of Reference for a settlement of the outstanding issues
Date: Sunday, November 19, 2017 9:51:31 PM
Attachments: [LMIPSU Terms of Reference City of Coquitlam R0 to Coquitlam FINAL 1.docx](#)

Jozsef, we are attaching a draft Terms of Reference intended to achieve a mutually agreeable settlement of the issues that have been the subject of discussion for several months concerning the FortisBC Lower Mainland Intermediate Pressure System Upgrade Project. We trust this will assist with your discussion with the City Manager over the next day or two. We look forward to your response.

Gord

From: [Schoberg, Gord](#)
To: [Mark Zaborniak](#)
Cc: [Chad Braley](#); [Gillanders, Danielle](#); [Julyan, Darren](#); [Joe DiPlacito](#)
Subject: FortisBC Draft Terms of Reference
Date: Tuesday, November 28, 2017 4:31:33 PM
Attachments: [Terms of Reference City of Coquitlam FINAL 1.docx](#)

Mark, I'm sending you a draft Terms of Reference document for an engineering review by the City of Coquitlam to ensure all the elements of our respective obligations are included. Fortis is still finalizing the wording in some sections so there may be further minor adjustments. As you are aware, Fortis needs to cost out the City's requirements in order to be included in a report to the BC Utilities Commission by Nov 30, seeking their agreement with the additional costs. We won't be including this Terms of Reference document to the BCUC on Nov 30, but in early Dec we expect it will be more formally reviewed and accepted by both the City's officials and Fortis' management so it can be submitted to the BCUC at a later date if required.

I have revised the wording of Fortis' financial contribution to provide certainty of the amount, which I trust you will find satisfactory. With respect to the removal and disposal of the abandoned 20 inch gas line in the future, you will see that the wording remains unchanged with respect to costs associated with excavation, backfilling and surface restoration because this is exactly the commitment we have made all other municipalities. Lets chat further about this and see if there's room for common ground.

Gord Schoberg
FortisBC
604.220.9785