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August 4, 2021

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

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Mr. Wruck:

Re: FortisBC Energy Inc. (FEI)

Application for Approval of a Modification Agreement to the Operating Agreement between the Westbank First Nation and FEI

FEI hereby applies for approval from the British Columbia Utilities Commission (BCUC), pursuant to section 23(1)(g) of the *Utilities Commission Act* (UCA) of a Modification Agreement to the Operating Agreement between FEI and the Westbank First Nation (WFN).

Background:

On August 8, 2006, FEI and the WFN entered into an Operating Agreement executed on August 8, 2006, which was approved by BCUC Order C-3-07, dated February 15, 2007 (WFN Operating Agreement). The term of the WFN Operating Agreement is set out in Section 30, which states that agreement will come into effect upon signing by both parties and when the two conditions precedent in Section 29 have been fulfilled or waived, and will continue for fifteen (15) years from the date of execution. One of the conditions precedent is the BCUC approval of the WFN Operating Agreement. Given that the date of execution was August 8, 2006, the WFN Operating Agreement expires on August 8, 2021.

Order C-3-07 approved, among other things, the WFN Operating Agreement for a period of 15 years, effective February 15, 2007. In order to align the expiry date of the WFN Operating Agreement term with BCUC Order C-3-07, FEI and WFN have entered into a Modification Agreement to the WFN Operating Agreement, dated July 26, 2021. A copy of the Modification Agreement is provided in Appendix A.

The Modification Agreement amends Section 30 of the WFN Operating Agreement addressing the term, which stated the agreement will continue for 15 years from the date of execution (August 8, 2006). The Modification Agreement amends the term to now continue for 15 years from the effective date of February 15, 2007, consistent with Order C-3-07, so now expires on February 15, 2022. All remaining unamended terms and conditions in the WFN Operating Agreement remain in full force and effect.

The Modification Agreement aligns the expiry of the WFN Operating Agreement with Order C-3-07 facilitating the ongoing discussions between FEI and WFN regarding terms to a new operating agreement.

Order Sought

Due to the expiry of the WFN Operating Agreement on August 8, 2021, FEI requests approval from the BCUC, pursuant to section 23(1)(g) of the UCA, of the executed Modification Agreement to the WFN Operating Agreement, on a permanent basis effective August 8, 2021. Should the BCUC be unable to make a determination on permanent approval before the expiry of the existing agreement, then FEI requests approval of the WFN Operating Agreement on an interim basis, effective August 8, 2021. A draft form of final Order is provided in Appendix B.

If further information is required, please contact Ilva Bevacqua, Manager of Regulatory Compliance and Administration at (604) 592-7664.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachments

cc (email only): Counsel for WFN, Arbutus Law Group LLP, Emily Boyle emily@arbutuslaw.ca; Kathryn Deo kathryn@arbutuslaw.ca.

Appendix A

**FEI – WESTBANK FIRST NATION MODIFICATION
AGREEMENT DATED JULY 26, 2021**

MODIFICATION AGREEMENT

THIS AGREEMENT ("Modification Agreement") made as of the 26th day of July, 2021.

BETWEEN:

WESTBANK FIRST NATION, a Self-Governing First Nation as represented
by its duly elected Chief and Council, having its administrative offices at 301-515 Highway
97, Kelowna, British Columbia

(hereinafter "WFN")

OF THE FIRST PART

AND:

FORTISBC ENERGY INC. (formerly Terasen Gas Inc.), a body corporate duly
incorporated under the laws of the Province of British Columbia, and having
an office in the Province of British Columbia located at 16705 Fraser Highway,
Surrey, British Columbia

(hereinafter "FortisBC")

OF THE SECOND PART

WHEREAS:

- A. The parties entered into an operating agreement dated August 8, 2006 ("WFN Operating Agreement");
- B. By Order C-3-07, the British Columbia Utilities Commission ("BCUC") approved for FortisBC (then Terasen Gas) the WFN Operating Agreement for a period of fifteen (15) years, effective February 15, 2007;
- C. By Order C-3-07, the BCUC approved for FortisBC, the amendments to the FortisBC (then Terasen Gas) Tariff General Terms and Conditions of Service and Rate Schedule, effective February 15, 2007; and
- D. The WFN Operating Agreement has a 15-year term and the parties wish to enter into this Agreement to modify the WFN Operating Agreement so that it will continue for fifteen (15) years from the effective date specified in BCUC Order C-3-07.

NOW THEREFORE, in consideration of the mutual promises herein and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

1. The introductory paragraph to Section 30 is deleted in its entirety and replaced with the following:

"This Agreement will come into effect upon signing by both parties and when the conditions precedent specified in Section 29 have been fulfilled or waived by the parties. This Agreement will continue for fifteen (15) years from the effective date, unless terminated as per the following:"

2. This Modification Agreement shall be read together with the WFN Operating Agreement and any capitalized terms used herein which are not otherwise defined shall the meanings given to them in the WFN Operating Agreement.
3. This Modification Agreement is subject to the applicable laws of WFN, Canada or the Province of British Columbia and those orders or provisions of the BCUC applicable to FortisBC.
4. Words importing the singular include the plural and vice versa; words importing the masculine gender include the feminine and neuter genders; and words importing persons include individuals, sole proprietors, corporations, partnerships and unincorporated associations.
5. This Modification Agreement may be executed in counterparts with the same effect as if all parties had signed the same document. All counterparts will be construed together and will constitute one agreement. Delivery of an executed counterpart of this Modification Agreement by facsimile or other means of electronic transmission shall be as effective as delivery of an originally executed counterpart.
6. All unamended terms and conditions in the WFN Operating Agreement shall remain in full force and effect.
7. This Modification Agreement shall have effect as of July 26, 2021.

[Remainder of Page Intentionally Left Blank. Signature Page Follows.]

IN WITNESS of this Modification Agreement, the parties have caused this Modification Agreement to be executed by their duly authorized representatives:

Signed by a quorum of the Westbank First Nation Council this 26th day of July, 2021.

WITNESS

Witness Signature

Address

KEVIN KINGSTON
LEGAL COUNSEL

301 - 515 Highway 97 South
Kelowna, BC V1Z 3J2

Occupation

(As to all signatures)

CHIEF

COUNCILLOR

COUNCILLOR

COUNCILLOR

COUNCILLOR

Signed on behalf of FortisBC Energy Inc. this 31 day of AUGUST, 2021.

WITNESS:

Witness Signature Alison Taylor

Address

3700-2ND AVENUE
BURNABY, BC V5C 6S4

LEGAL COUNSEL, FORTISBC

Occupation HOLDINGS INC.

(As to all signatures)

Authorized Signatory

DOUG SLATER

VP, External and Indigenous Relations

Authorized Signatory



ORDER NUMBER

G-xx-xx

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

and

FortisBC Energy Inc.

Application for Approval of a Modification Agreement to the Operating Agreement between
the Westbank First Nation and FortisBC Energy Inc.

BEFORE:

[Panel Chair]
Commissioner
Commissioner

on Date

ORDER

WHEREAS:

- A. On August 4, 2021, FortisBC Energy Inc. (FEI) applied to the British Columbia Utilities Commission (BCUC) pursuant to section 23(1)(g) of the *Utilities Commission Act* for approval of a Modification Agreement, dated July 26, 2021 entered into between the Westbank First Nation (WFN) and FEI, modifying the Operating Agreement between WFN and FEI dated August 8, 2006 (WFN Operating Agreement) (Application);
- B. The WFN Operating Agreement expires August 8, 2021. By BCUC Order C-3-07, dated February 15, 2007, the BCUC, among other things, approved the WFN Operating Agreement for a period of 15 years, effective February 15, 2007. The Modification Agreement amends the expiry of the WFN Operating Agreement to February 15, 2022, consistent with BCUC Order C-3-07 approving the WFN Operating Agreement for a period of 15 years effective February 15, 2007; and
- C. The BCUC has reviewed the Application and determines that approval is warranted.

NOW THEREFORE pursuant to section 23(1)(g) of the *Utilities Commission Act*, the BCUC orders that the Modification Agreement to the WFN Operating Agreement between FEI and WFN is approved on a permanent basis, effective August 8, 2021, which alters the expiry date of the WFN Operating Agreement to now expire on February 15, 2022.

DATED at the City of Vancouver, in the Province of British Columbia, this (XX) day of (Month Year).

BY ORDER

(X. X. last name)
Commissioner