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May 26, 2022

Commercial Energy Consumers Association of British Columbia  
c/o Owen Bird Law Corporation  
P.O. Box 49130  
Three Bentall Centre  
2900 – 595 Burrard Street  
Vancouver, BC  
V7X 1J5

Attention: Mr. Christopher P. Weafer

Dear Mr. Weafer:

**Re: FortisBC Energy Inc. (FEI)**

**Application for an Updated Code of Conduct and Transfer Pricing Policy –  
(Application) - Project No. 1599314**

**Response to the Commercial Energy Consumers Association of British  
Columbia (CEC) Information Request (IR) No. 1**

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On March 3, 2022, FEI filed the Application referenced above. In accordance with the regulatory timetable established in British Columbia Utilities Commission Order G-108-22 for the review of the Application, FEI respectfully submits the attached response to CEC 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) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 1

1    1.    **Reference:    Exhibit B-1, Cover Letter page 3 and page 2**

**Summary of Review:**

The existing COC and TPP policies were approved by BCUC Decision and Order G-25-17 and were developed through that regulatory process during which FEI consulted with and worked collaboratively with interveners to develop the necessary language to guide interactions between FEI and its affiliates for sharing of resources. Since the effective date (March 2017) to today, the COC and TPP have worked well to govern the use of FEI resources and services provided to affiliates including shared services, employment or contracting of FEI personnel, and the treatment of Customer Information and Commercial Information. Over the past five-year period, there have been no complaints raised by third parties about the application of the COC and no issues identified with the administration of the COC and TPP as part Annual Compliance review submitted to the BCUC. FEI will continue to review the provisions of the COC and TPP to determine whether they are operating as intended and will report to the BCUC either every five years as outlined in Section 10 of the COC, or earlier if amendments are required.

2

Starting January 1, 2017, for the purpose of determining the appropriate general overhead rate to use for calculating the fully allocated cost for the three types of services, FEI has been applying a higher general overhead rate of 15 percent instead of 10 percent for Specific Committed – On-Site Full time; As Required – On-Site Short Term; and As Required – Off-Site Short Term. FEI believes that at this time the 15 percent appropriately reflects FEI's general overhead costs applicable to each situation and, therefore, should be updated.

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4            1.1    Please provide a brief discussion of how the overhead rates are used and to what  
5            party or parties they are charged.

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7    **Response:**

8    The overhead rates as set out in the TPP are used for the purpose of determining fully allocated  
9    cost for FEI's services provided to its Affiliates (the party or parties). Fully allocated cost as  
10   defined in the TPP is "the sum of the direct costs and overhead costs required to provide the  
11   product or service."

12   Please also refer to the response to BCUC IR1 2.1 and 2.1.1 for further discussion.

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16            1.2    Please describe and quantify any ratepayer implications of the higher general  
17            overhead rate being applied.

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19    **Response:**

20   As described in the response to BCUC IR1 2.1, the provisions of the TPP governing the  
21   determination of the transfer price are unchanged. The TPP establishes a principle, rather than  
22   dictating a specific overhead rate percentage; that is, the overhead rate used must, at the time  
23   resource sharing occurs, be sufficient to meet this requirement: "1.iii. Where there is no market  
24   price or a market price is not readily discernable, the Transfer Price will be set on the basis of fully  
25   allocated cost." The only time the specific overhead percentage is used in the TPP is in an  
26   illustrative example, the point of which is to make clear that overhead is a component of fully

FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 2

1 allocated cost, not to establish a particular percentage. As such, updating the illustrative example  
2 in the TPP to the current overhead rate flowing from the principle 1.iii has no practical impact.

3 Under the TPP, applying a higher general overhead rate to FEI labour services provided to  
4 Affiliates, all else equal, results in a higher recovery of overhead dollars for the benefit of FEI's  
5 ratepayers. The specific quantifiable impact would depend on the total amount of labour charged  
6 from FEI to an Affiliate for services provided on which the higher general overhead rate would be  
7 applied.

8 For an example of quantification of a higher general overhead rate being applied, please refer to  
9 the response to CEC IR1 1.6.

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12

13 1.3 The CEC notes that the overhead rate of 10% was included in the 2017 COC and  
14 TPP, and that FEI appears to have been charging 15% at that time. Why was the  
15 issue not flagged when the COC and TPP were first approved?  
16

17

**Response:**

18 Please refer to the response to BCUC IR1 2.1.  
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24 1.4 Did FEI review the % General Overhead rate and provide justification for the 10%  
25 in the proceeding approving the TPP?

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1.4.1 If yes, please provide the evidence supporting the 10%.

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**Response:**

29 As discussed in the response to BCUC IR1 2.1, the TPP establishes a principle, rather than  
30 dictating a specific overhead rate percentage; that is, the overhead rate used must, at the time  
31 resource sharing occurs, be sufficient to meet this requirement: "1.iii. Where there is no market  
32 price or a market price is not readily discernable, the Transfer Price will be set on the basis of fully  
33 allocated cost." The only time the specific overhead percentage is used in the TPP is in an  
34 illustrative example, the point of which is to make clear that overhead is a component of fully  
35 allocated cost, not to establish a particular percentage. As such the focus of the prior proceeding  
36 was on the substantive principles in the TPP, rather than the specific percentage that achieved  
37 those principles at the time. That said, the 10 percent was referenced.

38 FEI provides the following summary of the events and applications resulting in the approval of the  
39 current COC and TPP, which included the general overhead rate.

FEI provided the table found in the TPP (Appendix A, page 9) in the 2016 All-Inclusive Code of  
Conduct and Transfer Pricing Policy proceeding (2016 Proceeding) which was directed in Order

FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 3

- 1 G-65-15, FEI's Compliance Filing dated June 30, 2016. This included the general overhead rate  
 2 of 10 percent. As part of the 2016 Proceeding, a workshop was held on May 26, 2016, which  
 3 provided stakeholders an opportunity to discuss the proposed FEI COC and TPP. In the 2016  
 4 Proceeding Compliance Filing, Appendix B contained the workshop presentation materials and  
 5 minutes.
- 6 The development of the All Inclusive COC and TPP in the 2016 Proceeding was a continuation  
 7 of the 2014 Proceeding regarding the FEI COC and TPP for Affiliated Regulated Businesses  
 8 Operating in a Non-Natural Monopoly (ARBNNM). The BCUC Decision and Order G-31-15 in the  
 9 2014 Proceeding directed FEI to develop an All-Inclusive COC and TPP to address all interactions  
 10 between FEI and its various Affiliates which should be modeled on the approved COC and TPP  
 11 for ARBNNMs.<sup>1</sup> As discussed in the 2016 Proceeding, an abridged collaboration process in  
 12 consultation with stakeholders was conducted in preparation of the All-Inclusive COC and TPP.
- 13 In the 2014 Proceeding for the FEI COC and TPP for ARBNNM, at the Workshop with  
 14 stakeholders which took place on April 24, 2014, FEI included a presentation with the following  
 15 two slides to review the application of the TPP. Slide 54 outlined applying overhead charges with  
 16 reference to KPMG's review, which confirmed the appropriateness of the approach.

### Summary of FEI Approach to Determining Fully Allocated Costs

- Employee hourly labour rate including benefits and time off
- Apply appropriate overhead loading factors
  - General overhead – 10% on labour
  - Facilities charge - \$100 per day
- Equals full costs allocated
  
- This is an approach that has been in practice for a numbers of years and was reviewed by KPMG in support of the 2010 FEU RRA filing and found to be "complete and reflective of the guidelines set out in the Code of Conduct".

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<sup>1</sup> BCUC Decision and Order G-31-15, p. 51.

FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 4

## Transfer Pricing Policy

### Illustrative Example Only – Full Costing

- Refer to Appendix A of DRAFT Transfer Pricing Policy
- \$85,000 per year in base salary + 39% benefits
- Worked hours in a year = 1636 hours
  - Accounts vacation, statutory holidays and sick time
- Chargeable hourly rate = ~ \$72 per hour worked
- Chargeable daily rate = 7.5 hours per day X \$72 / hour = \$550 per day (rounded)
- ADD General overhead = 10% X \$550 per day = \$55
- ADD Facilities charge = \$100 per day
- TOTAL Full costs = \$705 per day
  - Consisting of \$550 (labour) + \$55 (general overhead) + \$100 (facilities charge)

Proprietary and Confidential 55

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1.5 FEI states that as part of its annual review there were no issues identified with the administration of the COC and TPP, but at the same time was applying a different General Overhead rate than was shown in the TPP. Why did FEI not report the difference as part of the annual review?

10 **Response:**

11 Please refer to the response to CEC IR1 1.2 where FEI clarifies that the overhead rate percentage  
12 being applied has been in accordance with FEI's existing TPP to ensure fully allocated costs are  
13 recovered. The figure of 10 percent only appears in an illustrative calculation. FEI provides further  
14 discussion below about the annual review process and its purpose.

15 In its annual review of the COC and TPP performed by FortisBC's Internal Audit (IA) group, the  
16 objective is to determine whether the existing processes and controls that support compliance are  
17 adequately designed and operating effectively during the period under review. This includes:

- 18 • Review the Code of Conduct and Transfer Pricing Policy;
- 19 • Make inquiries to understand the provision of Utility resources to Affiliates;
- 20 • Make inquiries to understand the processes and controls maintained by FortisBC to  
21 comply with the policies; and
- 22 • Review evidence of such processes and controls and compliance with the policies.

FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 5

1 The audit of the TPP by IA verifies that Management follows the pricing rules and determination  
2 of fully allocated costs. Of importance to IA's review is ensuring that clause iii under the Pricing  
3 Rules is followed (transfer price will be set on the basis of fully allocated cost), and that the fully  
4 allocated costs are calculated following the method set out in Appendix A. IA also ensures that  
5 Management has complied with the clause re: "Review of Transfer Pricing Policy", which  
6 separates Management's own annual review (internal) from the minimum once every five year  
7 formal update with the BCUC.

8 In the application of the TPP, Management's calculations of fully allocated cost fulfilled the  
9 objective of keeping FEI's customers whole in instances where FEI resources performed work for  
10 Affiliates, which is a central purpose of the TPP/COC policy. IA concluded that Management  
11 complied with the TPP.

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15 1.6 Please give an order of magnitude estimate of the annual \$ difference applied over  
16 the last 5 years as a result of the 5% difference in the overhead rate.

17

18 **Response:**

19 Based on total labour services provided from FEI of approximately \$3 million for the period 2017  
20 to 2021 (5 years) that were subject to the FEI TPP, the estimated annual \$ difference as a result  
21 of a 5 percent difference in the general overhead (15 percent compared to 10 percent) is  
22 approximately \$30 thousand per year higher recoveries from Affiliates to FEI.

23

24

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26 1.7 Please explain whether or not FEI would have been reasonably expected to make  
27 an application to change the General Overhead rate as noted in the Review of  
28 Transfer Pricing Policy, and please explain why.

29

30 **Response:**

31 No, for the reasons set out in the response to BCUC IR1 2.1, FEI did not need to apply to update  
32 the percentage in the illustrative calculation. The applicable pricing provisions remain unchanged  
33 and FEI continues to apply them as written.

34

1    **2.    Reference:    Exhibit B-1, Appendix B, page 1**

Section	Purpose/Description	FEI's Review Summary
Section 2 – Determining Costs	Outlines the three types of services that can be provided to an affiliate including Specific Committed, As Required, and Designated Subsidiary/Affiliate and the correct loadings based on the fully allocated cost to be applied to any Transfer Price.	Starting January 1, 2017, for the purpose of determining the appropriate general overhead rate to use for calculating the fully allocated cost for the three types of services, FEI has been applying a higher general overhead rate of 15% instead of 10% for Specific Committed – On-Site Full time; As Required – On-Site Short Term; As Required – Off-Site Short Term. The 15% appropriately reflects FEI's general overhead costs applicable to each situation.  FEI requests to update the reference to the COC effective date and to increase the general overhead rate referenced in the Appendix A of the TPP to 15% for the indicated types of services. For the illustrative example, the associated fully allocated costs per day and cost ratios per day have been updated respectively for the indicated types of services.

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2.1    Please elaborate on why 15% better represents the General Overhead rate for the indicated types of services.

2.1.1    Please provide quantifiable evidence to support FEI's position.

**Response:**

Please refer to the response to BCUC IR1 2.1.1.

2.2    Does FEI expect to update the General Overhead rate on a regular basis? Please explain why or why not.

**Response:**

Please refer to the response to BCUC IR1 2.1.1.

2.3    What circumstances would indicate that the overhead rate should be adjusted either upwards or downwards?

**Response:**

Please refer to the response to BCUC IR1 2.1.1.

FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 7

1           2.4     Does FEI report on all of the factors that might be variable in the determination of  
2                   the overhead rate in its Annual Review?

3

4     **Response:**

5     Please refer to the response to CEC IR1 1.5, for a discussion of the objective of the annual review  
6     of the COC and TPP performed by FEI's Internal Audit group.

7





1 **Appendix A** **Illustrative Example of Determining Fully Allocated Cost \* for the Three Types of Service**  
 2 (For an employee at an annual salary of \$90,000 and 49% benefits loading)  
 3 (Different charge-out rates are used for different positions)

Column	1		2			3
	Specific Committed Service		As Required Service			Designated Subsidiary / Affiliate
	Off-Site Full-time	On-Site Full-time	On-Site Short Term	Off-Site Short Term	Off Site Extended	
BASE PAY PER DAY	\$346.00	\$346.00	\$346.00	\$346.00	\$346.00	\$346.00
PLUS CONCESSIONS and BENEFITS (78%)	\$270.00	\$270.00	\$270.00	\$270.00	\$270.00	\$270.00
LOADED LABOUR PER DAY	\$616.00	\$616.00	\$616.00	\$616.00	\$616.00	\$616.00
GENERAL OVERHEAD	5%	15%	15%	15%	5%	5%
SUPERVISION	N/A	Direct Charge	20%	N/A	N/A	Direct Charge
AVAILABILITY CHARGE	N/A	N/A	20%	20%	20%	N/A
FACILITIES CHARGE (If Applicable)	N/A	\$100.00	\$100.00	\$100.00	N/A	N/A
EQUIPMENT CHARGE (If Applicable)	Direct Charge	Direct Charge	Direct Charge	Direct Charge	Direct Charge	N/A
TOTAL FULLY ALLOCATED COSTS PER DAY	\$647.00	\$808.00	\$1,055.00	\$932.00	\$770.00	\$647.00
Cost Ratio to Base Pay per day	1.87	2.34	3.05	2.69	2.23	1.87
Cost Ratio to Loaded Labour per day	1.05	1.31	1.71	1.51	1.25	1.05

4 \* Direct costs would exclude costs such as general overhead, supervision, availability charge and facilities charge.

FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 10

1 **4. Reference: Exhibit B-1, Appendix B, page 1 and page 2 (PDF page 25 and 26)**

2 4.1 Please elaborate as to when the sharing of customer information is necessary or  
3 beneficial and please provide examples of when and why this might occur. Please  
4 include examples of when it may have been deemed necessary but was not  
5 permitted, and the outcome of those instances.  
6

7 **Response:**

8 Please refer to the response to BCUC IR1 1.4.

9 FEI does not have instances of when it may have been deemed necessary to share Customer  
10 Information but was not permitted.  
11  
12

13  
14 4.2 Please confirm or otherwise explain that FEI has not already shared information in  
15 a manner that would be contrary to the existing TPP.  
16

17 **Response:**

18 Confirmed.  
19  
20

21  
22 4.3 Please confirm that compliance with relevant privacy legislation would not be  
23 compromised in any way by the addition of this subsection.  
24

25 **Response:**

26 Confirmed.

27 Any exchange of Customer Information as proposed is subject to section 3 (Provision of  
28 Information by FortisBC Energy Inc.), which includes requirements that:

29 a) Individual Customer Information must be protected as required by the *Personal*  
30 *Information Protection Act* (PIPA). Subject to subsection (b) below, the Customer  
31 Information should only be disclosed with the written consent of the Customer or  
32 representative of the Customer, or as permitted by PIPA.

33 b) FortisBC Energy Inc. may disclose to a third party that requests Customer  
34 Information that is de-identified, aggregated or summarized in such a way that  
35 confidential or individual Customer Information would not be ascertained by third  
36 parties. A written consent will be not required for the release of de-identified,  
37 aggregated or summarized Customer Information.



FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 11

1 FEI clarifies that the intent of the proposed language in the Application is for FEI to disclose  
2 aggregate or summarized Customer Information with an Affiliate that is considered an Affiliated  
3 Natural Monopoly Utility (AU) and not Affiliates that are an ARB or an ANRB, without being  
4 required to disclose the Customer Information to other parties, if requested. Under the current  
5 approved COC, no customer consent is required to share aggregated or summarized data.

6

FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 12

1 **5. Reference: Exhibit B-1, Transfer Pricing Policy page 2 (PDF 2) and Appendix B**  
 2 **page 3 (PDF 27)**

3 **5. Review of Transfer Pricing Policy**

The Transfer Pricing Policy will be reviewed on an annual basis by FortisBC Energy as part of the Code of Conduct compliance review. However, FortisBC Energy may make an application to the Commission for approval of changes to the policy including the pricing rules and the formula for determining fully allocated costs as and when required.

Section	Purpose/Description	FEI's Review Summary
Section 5 - Review of Transfer Pricing Policy	Provides guidance that the TPP will be reviewed on an annual basis as part of the COC compliance review.	No changes are proposed.

4  
 5 5.1 Please describe the information that is reviewed on an annual basis and the types  
 6 of information that would be taken to the Commission for approval.

7  
 8 **Response:**

9 Please refer to the response to CEC IR1 2.4 for the information that is reviewed by FEI's Internal  
 10 Audit group on an annual basis.

11 FEI seeks approval for any desired changes to the TPP and CoC, as it has done in this  
 12 Application. FEI did not seek approval for the change to the overhead rate in the illustrative  
 13 example because the percentage number in the illustrative example did not affect how overhead  
 14 is determined in practice. It was more efficient to wait and bundle that housekeeping change with  
 15 substantive changes.



FortisBC Energy Inc. (FEI or the Company) Application for an Updated Code of Conduct and Transfer Pricing Policy (Application)	Submission Date: May 26, 2022
Response to Commercial Energy Consumers Association of British Columbia (CEC) Information Request (IR) No. 1	Page 14

1    **7.    Reference:    Exhibit B-1, Appendix D, Appendix A, page 2 (PDF page 61)**

**List of FortisBC Energy personnel directly responsible for natural gas portfolio planning and mitigation activities and related contract negotiations not to be shared with Aitken Creek Gas Storage ULC and FortisBC Midstream Inc.**

- Director, Energy Supply and Gas Control
- Midstream Services Manager
- Midstream Operations Manager
- Energy Supply Planning Coordinator
- Senior Manager, Price Risk and Resource Planning

2  
3            7.1    Please confirm that there has been no change in the responsible personnel  
4                    positions.

5  
6    **Response:**

7    Confirmed, there have been no changes to the responsible personnel positions.

8    There have, however, been changes to the titles of the positions as the result of organizational  
9    changes. Below is a comparison of the positions as listed in the COC to the current positions.

**Personnel Listing in Appendix A**

Director, Energy Supply and Gas Control  
Midstream Services Manager  
Midstream Operations Manager  
Energy Supply Planning Coordinator  
Senior Manager, Price Risk and Resource Planning

**Current**

Director, Energy Supply  
Transportation Services Manager  
Commercial and Ops Manager  
Commercial & Planning Lead Energy Supply  
Price Risk and Market Specialist

10  
11    FEI has no objection to updating the position titles if the BCUC felt it is appropriate to direct it.  
12