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June 14, 2022
File No.: 240148.01078/14797

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

Attention: Patrick Wruck, Commission Secretary

Dear Sirs/Mesdames:

**Re: FortisBC Energy Inc.
Application for an Updated Code of Conduct and Transfer Pricing Policy**

We enclose for filing FortisBC Energy Inc.'s Reply Submissions in the above-noted proceeding.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by]

Matthew Ghikas
Personal Law Corporation

MTG/lh
Enclosure

**BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT
RSBC 1996, CHAPTER 473**

AND

**FORTISBC ENERGY INC.
APPLICATION FOR AN UPDATED CODE OF CONDUCT AND
TRANSFER PRICING POLICY**

Reply Submissions of FortisBC Energy Inc.

June 14, 2022

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A. INTRODUCTION

1. FortisBC Energy Inc.'s (FEI) Reply Submissions focus on the limited points raised by interveners, which primarily address matters that are peripheral to FEI's proposals. FEI's proposals are just and reasonable and should be approved as sought.

B. SHARING OF AGGREGATED INFORMATION WITH AN AFFILIATED UTILITY

2. The BC Sustainable Energy Association (BCSEA) and the Commercial Energy Consumers Association of British Columbia (CEC) support FortisBC Energy Inc.'s (FEI) proposed amendment to subsection (ii) of the Principles related to Customer Information in the Code of Conduct (COC).¹

3. BC Old Age Pensioners' Organization *et al* (BCOAPO) does not explicitly oppose the proposed amendment regarding the sharing of aggregate or summarized customer information with an AU. Rather, BCOAPO suggests that the current approach to seeking customer consent under the COC is not aligned with what BCOAPO "would consider a 2022 best practice", given the "proliferation of practices and programs used to deanonymize customer information from anonymized datasets."²

4. The manner of obtaining consent is governed by section 3(b) of the BCUC-approved COC and is consistent with the *Personal Information Protection Act* and FortisBC's Privacy Policy. The customer consent requirements relating to sharing of Customer Information are not modified by FEI's proposed amendment.³ Though not its purpose, FEI's proposed amendment actually *reduces* the risk of deanonymizing customer information by precluding third-party access to aggregate or summarized Customer Information shared with FBC.

5. There is no reasonable basis, rooted in the evidence, upon which the BCUC could conclude that the COC departs from best practice.

¹ CEC Final Argument, dated June 7, 2022, p. 4; BCSEA Final Argument, dated June 7, 2022, p. 2.

² BCOAPO Final Argument, dated June 7, 2022, p. 3.

³ Exhibit B-6, BCOAPO IR1 1.2, 1.3.

C. NON-SUBSTANTIVE CHANGE TO THE ILLUSTRATIVE OVERHEAD RATE

6. The BCSEA supports the proposed change to the illustrative examples of overhead in Appendix A to the Transfer Pricing Policy (TPP).⁴ Similarly, CEC does not oppose the proposed change to the illustrative examples of overhead in Appendix A. BCOAPO also favours updating the calculation of the overhead rate, albeit using 2021 data.⁵ FEI addresses the other arguments of CEC and BCOAPO below.

(a) Updating a Non-Substantive Illustrative Example is Unnecessary and Inefficient

7. CEC recommends that FEI advise the BCUC and revise the illustrative example when and if FEI makes a change to its overhead rate.⁶ In a similar vein, BCOAPO argues FEI should not be permitted to charge overhead rates “at levels set at its own sole discretion”, and asserts that the overhead rate set in Appendix A should not be an illustrative example.⁷ FEI submits that it is unnecessary and inefficient for FEI to notify the BCUC and / or bring an application to update the example set in Appendix A each time it changes the estimated general overhead rate.

8. First, the method to be applied by FEI is outlined in Section 2 of the TPP, ensuring that FEI recovers its fully allocated costs.⁸ The illustrative example serves its intended purpose regardless of the figures used as inputs in the example, which is to illustrate the categories of costs that must be considered when determining full recovery of costs. The specific percentage shown in Appendix A has no - and need not have any - substantive impact on how FEI determines fully allocated cost.⁹

9. Second, the general overhead rate is one of various inputs that FEI reviews during its annual audit and it is illogical to single out reporting of one of the inputs to report to the BCUC.

10. Third, FEI’s approach of updating the inputs as a housekeeping amendment in conjunction with some other substantive proposal is consistent with the recommendations of the 2014

⁴ BCSEA Final Argument, dated June 1, 2022, p. 2.

⁵ BCOAPO Final Argument, dated June 7, 2022, p. 9.

⁶ CEC Final Argument, dated June 7, 2022, p. 6.

⁷ BCOAPO Final Argument, dated June 7, 2022, p. 8.

⁸ Exhibit B-4, BCUC IR1 2.1.1.

⁹ Exhibit B-4, BCUC IR1 2.2.1.

Independent Review of the BCUC Report. The Report recommended that the BCUC make efforts to eliminate reporting requirements that are not necessary or useful and instead focus upon deviations that could affect costs and rates:¹⁰

Recommendations

The BCUC should make additional efforts to ensure all compliance reports are necessary and useful, and eliminate the reporting requirement for those that are not.

The BCUC should place more responsibility on regulated entities to report, on an exception basis, deviations from forecasts that could affect costs and rates, instead of routine reporting.

...

11. Fourth, BCOAPO is mischaracterizing how the TPP works. The BCUC has set a clear principle – full cost recovery – and has determined that a component of full cost recovery is overhead. FEI is expected to, and does, comply with that principle. BCOAPO is effectively asking the BCUC to perform an audit function to confirm FEI’s math and accounting, which is neither practical nor consistent with how the BCUC regulates public utilities.

12. Fifth, BCOAPO is incorrect in suggesting that the updated illustrative example is based upon 2017 data.¹¹ FEI has stated that the higher estimated general overhead rate, which led it to apply to increase the general overhead rate, “has persisted every year since 2017”.¹² The updated illustrative example is based upon this recent observed trend and reflects the currently estimated rate.

13. FEI submits that its rigorous annual review by Internal Audit, combined with the fact that FEI has been recovering more overhead for the benefit of customers than specified in the illustration, should provide ample and proportionate comfort to the BCUC and FEI customers that FEI is taking transfer pricing seriously.

¹⁰ Independent Review of the British Columbia Utilities Commission: Final Report, November 14, 2014, s. 2. i., p. 31.

¹¹ BCOAPO Final Argument, dated June 7, 2022, p. 9.

¹² Exhibit B-4, BCUC IR1 2.1.1.

(b) The Illustrative General Overhead Rate for Off-site Employees May Be Updated

14. In response to BCOAPO's suggestion that the BCUC specifically address the illustrative rate charged for off-site situations,¹³ FEI has explained that this lower general overhead rate is a high-level estimation that is illustrative of the reduced overhead costs associated with an employee working off-site.¹⁴ FEI is not averse to changing the percentage included in the illustration to 7.5 percent, maintaining it at one half of the 15 percent general overhead rate in the illustration.¹⁵ However, FEI emphasizes that:

- a. FEI has no basis to conclude that a change to the 5 percent is required, given that there has been no change to the level of support being provided in the situations to which this rate applies; and
- b. This is only an illustrative calculation. Changing this percentage in the illustrative calculation will not change the actual general overhead percentage that is applied by FEI to fully recover its costs in situations where there is less FEI general overhead support required, due to the employee working off-site.

D. CONCLUSION

15. FEI submits that the proposed changes to the COC and TPP are just and reasonable and should be approved by the BCUC.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: June 14, 2022 *[original signed by Matthew Ghikas]*
Matthew Ghikas Counsel for FEI

Dated: June 14, 2022 *[original signed by Nathan Surkan]*
Nathan Surkan Counsel for FEI

¹³ BCOPAO Final Argument, dated June 7, 2022, p. 8.

¹⁴ Exhibit B-6, BCOAPO IR1 2.2.

¹⁵ Exhibit B-6, BCOAPO IR1 2.2.