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July 4, 2022

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, B.C.
V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Mr. Wruck:

Re: FortisBC Energy Inc. (FEI)

Application for Approval of the Regional Gas Supply Diversity Development Account (Application)

Response to the British Columbia Utilities Commission (BCUC) Staff Information Request (IR) No. 1

On June 1, 2022, FEI filed the Application referenced above. On June 17, 2022, BCUC staff responded by email with BCUC Staff information request (IR) No. 1. FEI respectfully submits the attached response to BCUC Staff IR No. 1.

The attached responses should leave no uncertainty that FEI is seeking only to have a regulatory account created at this time. That is, the nature of the approval sought is more limited than what FEI had sought in the 2022 Annual Review.

As described in these responses, FEI's change in approach from the 2022 Annual Review was deliberate so as to facilitate approval of the present Application in an expedited fashion, given Enbridge's recent announcement of a competing T-South Expansion that would necessarily result in significant costs for FEI customers if it proceeds with negligible benefit. FEI believes that delaying development work while a prolonged BCUC process on this Application unfolds could significantly prejudice customers and FEI; thus, FEI has been willing in this unique circumstance to limit its request to the creation of the account itself and postpone the BCUC's consideration of the reasonableness of incurring the planned development costs until the 2024 Annual Review.

FEI submits that the clarification provided in these responses underscores why it is reasonable for FEI to direct notice of the Application only to participants in the Annual

Review process;¹ the order sought is a rate setting mechanism and not a project-related approval. Given the additional passage of time, FEI would welcome a letter of comment process in lieu of additional information requests and believes it would not only be most efficient but also provide a meaningful opportunity for intervening ratepayer groups to participate. FEI provides a potential timetable for a comment process as follows:

Action	Date (2022)
FEI Notice to Annual Review for 2022 Rates Interveners	by Friday, July 22
Deadline to submit Letters of Comment	Wednesday, August 18
FEI Reply to Letters of Comment	Thursday, September 8

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachments

¹ Registered Interveners in the Annual Review for 2022 Rates proceeding already received a copy of the Application upon filing on June 1, 2022.



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1 **1.0 Reference: INTRODUCTION AND EXECUTIVE SUMMARY**

2 **Exhibit B-1 (Application), Section 1, pp. 1–4; FortisBC Energy Inc.**
3 **(FEI) Annual Review for 2022 Delivery Rates (2022 Annual Review)**
4 **proceeding, Exhibit B-11, p. 1; FEI Reply Argument, p. 14; Utilities**
5 **Commission Act (UCA), Section 60 (1), 44.2**

6 **Approvals Sought**

7 On page 1 of the Application, FEI states:

8 FEI is requesting BCUC [British Columbia Utilities Commission] approval
9 pursuant to sections 59-61 of the *Utilities Commission Act* (UCA) for the creation
10 of the Regional Gas Supply Diversity Project Development Costs deferral
11 account (RGSD Development Account) [...]

12 On page 2 of the Application, FEI states that the proposed RGSD Development Account
13 is a regulatory accounting mechanism that facilitates FEI incurring development costs
14 pending the BCUC’s future determination on the method and timing of recovery of
15 incurred costs. Further, on page 4 of the Application, FEI states:

16 [...] the BCUC need only determine that it is just and reasonable based on the
17 information currently available to establish the proposed account to facilitate
18 commencing reasonable development work to confirm if the RGSD Project is a
19 viable and superior alternative worthy of pursuing further.

20 In setting a rate, Section 60 (1) of the UCA provides that the BCUC must “have due
21 regard to the setting of a rate that (i) is not unjust or unreasonable within the meaning of
22 section 59[...]”.

23 1.1 Considering that FEI’s approval sought in the Application is pursuant to sections
24 59-61 of the UCA, please provide FEI’s views as to what legal test or threshold
25 must be met in order for the BCUC to grant a deferral account for project
26 development costs.

27
28 **Response:**

29 The legal standard for the creation of a regulatory account is the just and reasonable test.
30 Regulatory accounts are a ratemaking construct, and FEI confirms that the just and reasonable
31 test flows from section 60(1)(b) of the UCA (referenced in the preamble).

32 FEI confirms that it is only seeking to establish the account at this time. No public interest
33 determination is being sought in this Application (e.g., under section 45 or section 44.2 of the
34 UCA), including with respect to the anticipated development expenditures and the need for the
35 RGSD Project itself. The reasonableness of the actual development costs incurred and
36 recorded in the account will be assessed next year in the 2024 Annual Review proceeding,



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1 when FEI applies to recover the balance of the account in rates pursuant to sections 59 to 61 of
2 the UCA. The question of whether the RGSD Project itself is in the public interest can only be
3 answered once FEI does some development work, and would thus be considered only in a
4 future CPCN application brought pursuant to section 45 of the UCA.

5

6

7

8 FEI has included information in this Application on matters such as: regional market
9 conditions, benefits for the RGSD project, estimated project timeline, risk mitigation
10 safeguards, and BCUC oversight of the development phase costs.

11 1.2 Please explain what level of review is required for the purposes of establishing a
12 deferral account to capture project development costs.

13

14 **Response:**

15 In FEI's view, the level of review required to approve the creation of the RGSD Development
16 Account should be very limited. As described in FEI's responses to BCUC Staff IR1 1.1 and
17 1.4, FEI confirms that it is only seeking to establish the account at this time in light of the unique
18 nature and circumstances of the project. As such, from FEI's perspective, the BCUC's approval
19 of establishing this account will not represent either: (a) tacit or express approval for FEI to
20 initiate development work related to the RGSD Project, or (b) approval to recover any of the
21 costs to be recorded in the account.

22 FEI's intention, as contemplated in the order sought in this Application, is to make a proposal for
23 recovering costs recorded in the account in the 2024 Annual Review scheduled to be filed in
24 July or August of 2023. At that time, the BCUC will assess the merits of FEI's proposal for
25 recovering the costs recorded in the account based on typical cost recovery considerations
26 under sections 59 to 61, including:

27 (a) the reasonableness of FEI's decision to initiate development work on the RGSD Project
28 based on the information available to FEI at the time the company initiates the work; and

29 (b) the reasonableness of the costs incurred in furtherance of that development work.

30 FEI acknowledges that this Application is much more comprehensive than should be necessary
31 to demonstrate that establishing a regulatory account on the terms proposed is just and
32 reasonable. FEI's decision to include detailed background information in the Application and a
33 description of the anticipated development work was in the interest of transparency for the
34 BCUC and interveners. Further, FEI recognizes that its rationale for initiating development
35 work, and the information available to FEI at this time, will be relevant when it comes time to
36 seek recovery of the costs in the account.



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1 Ultimately, rejecting the Application on the terms sought and in light of the assurances provided
2 by FEI as to the effect of the approval, would amount to a determination that the idea of
3 undertaking development work is so unreasonable that it would be inappropriate to even afford
4 FEI the opportunity to record the costs in an account for the purposes of enabling FEI to later
5 make a case that spending the money was appropriate.

6
7

8

9 1.3 Please confirm, or explain otherwise, that FEI is not seeking approval of any part
10 of this Application under section 44.2 of the UCA.

11

12 **Response:**

13 Confirmed. Please refer to the response to BCUC Staff IR1 1.1.

14

15

16

17 As part of the FEI 2022 Annual Review, FEI requested approval of a non-rate base
18 deferral account, called the RGSD Project Development Costs Deferral Account. FEI
19 stated:

20 [...] by seeking this approval, FEI is seeking tacit approval from the BCUC to
21 initiate development of the Project up to the limited amount of \$11.1 which
22 encompasses the Pre-Phase 1 and Phase 1A spending.¹

23 In the FEI reply argument in the 2022 Annual Review proceeding, FEI submitted that
24 tacit approval is “what would usually flow from approval of a deferral account.”²

25 On page 4 of the Application, FEI states that it seeks no findings in this Application
26 regarding any of the following, which would all be addressed in future proceedings as
27 applicable:

- 28 • Whether the RGSD Project itself is in the public interest;
- 29 • What and how much development work FEI reasonably needs to undertake to
30 determine whether to proceed with the RGSD Project; and
- 31 • Whether, in carrying out the development work, FEI spent in a prudent manner.

¹ FEI 2022 Annual Review proceeding, Exhibit B-11, p. 1.

² FEI 2022 Annual Review proceeding, FEI Reply Argument, p. 14.



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1 1.4 Please discuss how the nature of FEI’s request in this Application differs, if at all,
2 from the request in the 2022 Annual Review with respect to the RGSD Project
3 Development Costs Deferral Account

4
5 **Response:**

6 The requested account would still be a non-rate base deferral account attracting a weighted
7 average cost of capital (WACC) return, sought under the same provision of the UCA. However,
8 FEI has made changes to the wording of the order sought and the surrounding commentary so
9 as to clarify that the effect of the approval differs materially from what FEI had initially articulated
10 in the 2022 Annual Review proceeding. The change was deliberate so as to facilitate approval
11 of the present Application in an expedited fashion, given Enbridge’s recent announcement of a
12 T-South Expansion that would result in significant costs for FEI customers with little, if any,
13 benefit for FEI’s customers. FEI believes that delaying development work while a prolonged
14 BCUC process on this Application unfolds could significantly prejudice customers and the
15 company. While FEI believes it has provided sufficient information on the record to demonstrate
16 why it must initiate the Indigenous Nations engagement work, FEI is willing in this unique
17 circumstance to postpone the BCUC’s consideration of the reasonableness of incurring the
18 planned development costs until the 2024 Annual Review.

19 In terms of the comparison of the orders sought:

- 20 • In the Annual Review, FEI had sought the following order:
- 21 b. Creation of a non-rate base deferral account titled the Regional Gas Supply
22 Diversity (RGSD) Project Development Costs deferral account, attracting a
23 WACC return, with the amortization period to be proposed in a future
24 application

- 25 • In the current Application FEI sought the following:
- 26 FEI requests BCUC approval pursuant to sections 59-61 of the UCA for the
27 creation of the RGSD Development Account, a non-rate base account attracting
28 a WACC return, on the following terms:

- 29 1. The account will capture actual development costs incurred, with disposition
30 of the balance to be determined in a future proceeding; ...

31 The substantive difference in the order sought relates to the underlined wording. The Annual
32 Review request had only referenced future determination of “the amortization period” because
33 FEI was contemplating that the BCUC would have already determined the reasonableness of
34 incurring the planned expenditures: “[...] by seeking this approval, FEI is seeking tacit approval
35 from the BCUC to initiate development of the Project up to the limited amount of \$11.1 million
36 which encompasses the Pre-Phase 1 and Phase 1A spending.”



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1 In the current Application, the change to “with disposition of the balance” is intended to signify
2 that consideration of the reasonableness of the expenditures to be recorded in the account is
3 being left for a future proceeding. Consistent with that change, FEI has emphasized in the
4 Application and in these responses that this Application is not seeking any express or “tacit”
5 approval of the planned development work or costs.

6 FEI’s position is that the approval granted in the present Application would only represent
7 approval of the account itself. FEI will include a proposal to recover incurred costs in the 2024
8 Annual Review process.

9
10

11

12 1.5 Please confirm that FEI’s Application for the proposed RGSD Development
13 Account does not equate to a request for the BCUC’s tacit or express approval,
14 acceptance, or endorsement for FEI to initiate development of the RGSD Project.

15

16 **Response:**

17 Confirmed. Please refer to the responses to BCUC Staff IR1 1.2 and 1.4.

18

19

20

21 1.6 Please confirm that the establishment of the RGSD Development Account would
22 not represent guaranteed recovery of any of the incurred costs proposed to be
23 captured in that deferral account.

24

25 **Response:**

26 Confirmed. The BCUC will consider cost recovery when FEI makes a proposal for recovering
27 those costs. Please refer to the responses to BCUC Staff IR1 1.2 and 1.4.

28