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**FARRIS**

File No: 00019-1144

September 13, 2022

BY ELECTRONIC FILING

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

**Attention: Sara Hardgrave,  
Acting Commission Secretary and Manager**

Dear Ms. Hardgrave:

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

**Application for a Certificate of Public Convenience and  
Necessity for the Advanced Metering Infrastructure Project  
(Application) – Project Number 159921 (AMI Proceeding)**

**FEI Response to Institute for Catastrophic Loss Reduction (ICLR)  
Letter**

## **Introduction**

Further to the British Columbia Utilities Commission (**BCUC**)'s letter of September 8, 2022 (Ex. A-37), we write on behalf of FEI in respect of the letter dated September 1, 2022 that ICLR submitted to the BCUC in the AMI Proceeding (Ex. C12-3). FEI received a copy of ICLR's letter on September 8, 2022 via an automatic notification from the BCUC.

Exhibit A-37 asks for FEI to indicate whether FEI emailed its responses to ICLR's information requests (**IRs**) (Ex. B-21) directly to ICLR, noting that the cover letter to Exhibit B-21 suggests it was copied to registered interveners. We can advise that FEI did send an email to the registered interveners on its email distribution list on February 17, 2022 notifying them that FEI had uploaded its Round 2 IR responses to the BCUC's website and providing a link to where they would be available on [www.fortisbc.com](http://www.fortisbc.com). FEI sent this email as a courtesy and, as explained below, not pursuant to any requirement under the BCUC's Rules of Practice and Procedure (**Rules**). Unfortunately, due to an oversight, ICLR had not been added to FEI's email distribution list and as such the email was not sent to any ICLR recipient. FEI notes that ICLR submitted a late request to intervene on December 17, 2021 (Ex. C12-1). All other interveners submitted requests to intervene prior to the registration deadline of September 9, 2021, set out in BCUC Order G-204-21, and were included on the distribution list shortly thereafter (including in some cases on the issuance of specific BCUC orders approving the requests to intervene). The BCUC did not issue a formal order or other approval in respect of ICLR's late intervention request,

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although we recognize that ICLR has standing as reflected in its “C12” status on the BCUC website and the fact FEI responded to ICLR’s IRs.

### **Procedural Matters**

FEI submits that its treatment of IR responses in this proceeding, including the responses to ICLR’s IRs, was fully compliant with the BCUC’s Rules.

Under section 11.05 of the Rules, “Parties must file all documents electronically via the eFiling system”. Under section 11.09, “The BCUC’s website will send an automated email to all parties who have registered online when a document has been posted to the evidentiary record posted on the BCUC’s website”. Further, under section 11.10, “The BCUC considers a document to be served on a party once it is added to the BCUC’s evidentiary record and posted on the BCUC’s website.”<sup>1</sup>

On February 17, 2022, FEI filed its Round 2 IR responses, including its responses to ICLR’s IRs, with the BCUC via the eFiling system as required under section 11.05 of the Rules. FEI understands the BCUC assigned exhibit numbers to its IR responses and posted them on the BCUC’s website promptly thereafter. In the case of FEI’s responses to ICLR’s IRs, FEI understands the BCUC assigned these IR responses Exhibit B-21 and posted them on the BCUC’s website on or about February 17, 2022. Under the BCUC’s Rules quoted above, service of the IR responses on ICLR occurred when the BCUC posted the IR responses on its website on or about February 17, 2022. (This assumes, as FEI accepts, that the BCUC had granted ICLR’s late request to intervene as of that date; if not, then ICLR would not have met the definition of “party” in section 3(m) of the Rules and service on ICLR would not have been required in any event.) FEI is not aware of whether the BCUC’s website in fact sent an automated email to ICLR regarding the filing of FEI’s IR responses as section 11.09 of the Rules indicates would occur.

As noted above, FEI’s Regulatory email account sent an email on February 17, 2022 to all registered interveners who were on FEI’s email distribution list in the AMI Proceeding advising them that FEI’s Round 2 IR responses, including responses to ICLR’s IRs, had been uploaded to the BCUC’s website on that date. FEI sends emails of this nature as a courtesy to alert participants of its regulatory filings in BCUC proceedings, given that FEI understands there can sometimes be delays between the time it uploads filings to the BCUC’s website and when participants receive automated notification from the BCUC. FEI makes best efforts to ensure all registered interveners are included, but such emails from FEI are not required under the Rules and FEI does not consider them a substitute for notification from the BCUC’s website itself as specified under the Rules noted above.

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<sup>1</sup> The BCUC recently amended its Rules of Practice and Procedure on June 30, 2022 pursuant to BCUC Order G-178-22. All relevant sections of the Rules, including Part II – Participation in a Proceeding – and Part III – Document Filing (sections 7-15, inclusive) are the same under the newly amended Rules as under the version of the Rules previously in effect throughout the AMI Proceeding, which FEI understands were enacted pursuant to BCUC Order G-15-19, dated January 22, 2019.

While it may not be of significance given the position FEI takes on ICLR's Exhibit C12-3, set out further below, we note that under section 10.01 of the Rules, "Interveners are expected to participate actively, responsibly and respectfully for the duration of the proceeding" (underlining added). At the time ICLR submitted IRs to FEI on December 17, 2021, the Regulatory Timetable then in effect pursuant to BCUC Order G-365-21, dated December 9, 2021, required FEI to provide its responses to IRs No. 2 by February 9, 2022. The BCUC subsequently amended this deadline to February 17, 2022 by Order G-389-21, dated December 22, 2021. It is unclear why ICLR apparently took no steps to check the BCUC website, on which the IR responses were at all times publicly available, or otherwise inquire about the status of FEI's responses to its IRs more than six months after the responses were due for filing and more than eight months after submitting the IRs.

In addition, we can advise that on June 22, 2022, FEI's President and Chief Executive Officer, Roger Dall'Antonia, together with Dawn Mehrer, FEI's Vice President, Customer and Corporate Services, met with ICLR's Executive Director, Paul Kovacs (who signed the ICLR letter filed as Ex. C12-3 and dated September 1, 2022), as well Chuck Byrne, Executive Director of the Insurance Brokers Association of BC. ICLR initiated this meeting. During the meeting, the FEI representatives indicated that ICLR should have received the IR responses, but also that the IR responses were available on the BCUC's website.

It is unclear to FEI why ICLR apparently took no steps to inquire about the status of FEI's IR responses by, among other things, checking the BCUC's website following this meeting, or checking back with FEI in case of any confusion.

### **FEI Position on Exhibit C12-3**

Notwithstanding ICLR's apparent lack of active monitoring of the AMI Proceeding and the status of FEI's responses to its IRs, FEI recognizes that it would be unfortunate if ICLR did not receive formal notification of those IR responses in a timely way.

Given these circumstances, FEI does not object to ICLR's September 1, 2022 letter, as filed under Exhibit C12-3, being included in the record for this proceeding and the BCUC considering it for the purposes of deciding FEI's Application. To be clear, FEI does not agree with the assertions in ICLR's letter or ICLR's position that the BCUC should "require Fortis to install smart meters that are equipped with a seismically actuated shut-off device as part of FortisBC's AMI project". Without limiting the generality of the foregoing, FEI disagrees with ICLR's assertions that FEI made "several contradictory and non-responsive statements" in its responses to ICLR's IRs or that FEI "failed to respond to the fundamental question 'should the FortisBC AMI meters be equipped with a seismically actuated shut-off device?'. FEI provided fulsome responses to ICLR's IRs and conducted a detailed investigation regarding automated seismic shut-off valves prior to filing the Application, including commissioning an expert report from Douglas G. Honegger, a leading expert in the field (see Ex. B-21, Attachment 1.16). FEI notes, among other things, that the type of automated shut-off valve ICLR is advocating FEI to implement into the advanced gas meters at issue in the AMI Proceeding is not actually commercially available and that no other gas utilities in North America use such devices on gas meters.

September 13, 2022

- 4 -

FEI is prepared to make fuller submissions on the matters raised in ICLR's letter, as filed under Exhibit C12-3, in Final Argument in this proceeding and submits that no further or other process steps are required prior to the BCUC setting a schedule for exchange of written Final Argument and Reply.

Yours truly,

FARRIS LLP

Per:



Nicholas T. Hooge

NTH/kl

Cc: All Registered Interveners;  
Client;  
Ludmila B. Herbst, Q.C.