



Sarah Walsh
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June 5, 2023

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

Attention: Patrick Wruck, Commission Secretary

Dear Patrick Wruck:

**Re: FortisBC Energy Inc. (FEI)
Revised Renewable Gas Program Application – Stage 2 (Application)
FEI Update on Carbon Tax Matter**

In accordance with the amended regulatory timetable established in British Columbia Utilities Commission (BCUC) Order G-112-23 in the above referenced proceeding, FEI writes to provide an update regarding the carbon tax matter identified in FEI's letter dated May 8, 2023 (Exhibit B-87).

The Province is Committed to Consideration of Legislative Change to Recognize Inventorying of Biomethane in the *Carbon Tax Act*

Since filing its letter with the BCUC on May 8, 2023, FEI has met with members of the Province's Tax Policy and Legislative division, and other provincial ministries supporting the CleanBC Roadmap objectives, to discuss the potential for a solution that would recognize the inventorying of biomethane for the purpose of recovering carbon tax refunds on behalf of customers. As FEI explained to the Ministry, where biomethane supply exceeds customer demand in a given reporting period, FEI carries the surplus forward to a period when demand is higher than supply. This inventorying process ensures the supply and demand for biomethane is balanced over time, and is consistent with how gas is procured and delivered. FEI has emphasized that the delivery of gaseous energy relies on storage (i.e., inventory) to meet seasonal demand from customers, such as in cold winter periods where energy storage plays a vital role in the supply mix. FEI's inventorying approach also recognizes the fungible nature of biomethane (i.e., when injected into the system, biomethane is co-mingled and indistinguishable from conventional natural gas).

Further to these meetings, FEI sent a letter to the Ministry of Finance on May 24, 2023, respectfully requesting that the Province acknowledge this matter and commit to a process to consider solutions in a timely manner. FEI's letter to the Ministry is enclosed as Appendix A.

On May 26, 2023, FEI received a letter from the Assistant Deputy Minister of the Policy and Legislation Division of the Ministry of Finance acknowledging FEI's practice of inventorying biomethane. In its letter, the Ministry notes that it understands the effects that not recognizing biomethane inventorying may have on the implementation of FEI's Renewable Gas Program and its customers. The Ministry commits to undertaking a detailed analysis of the issues identified by FEI as part of the February 2024 budget cycle and states that it will forward options to the Minister of Finance for consideration. The Ministry's letter is enclosed as Appendix B.

The Ministry's letter is encouraging to FEI and suggests a path forward to addressing this matter through means such as legislation. FEI recognizes, however, that any change to recognize biomethane inventorying cannot be guaranteed and, in the case of legislation, this solution would not be implemented until 2024.

FEI is Evaluating Solutions Within the Existing Legislative Framework and Proposes a Regulatory Timetable to Allow Further Time to Bring Forth a Solution

Given that legislative change will not be forthcoming in the short term, FEI has been evaluating potential interim solutions within the existing legislative framework that would enable it to continue recovering the carbon tax refund from the Province on behalf of its customers in proportion to the biomethane credits reflected on its customer bills. At this point, FEI has identified potential strategies to avoid these differences in carbon tax, including through alternative reporting periods available under the *Carbon Tax Act*. FEI will engage with the Ministry to assist with this evaluation process, to validate and operationalize these strategies.

In order to undertake the necessary level of due diligence, including with the Ministry, to sufficiently develop the details for presentation to the BCUC, FEI respectfully requests an amendment to the regulatory timetable to allow for a further update regarding this carbon tax matter on or before August 1, 2023. If FEI is able to provide an update to the BCUC sooner than August 1, 2023, it will do so. FEI will also include a proposed regulatory timetable in its August 1, 2023 submission.

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Sarah Walsh

Attachments

cc (email only): Registered Interveners

Appendix A

**FEI LETTER TO MINISTRY OF FINANCE
DATED MAY 24, 2023**



Doug Slater
Vice President
Indigenous Relations and Regulatory Affairs

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Surrey, BC V4N 0E8
Tel: 778-578-3874
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May 24, 2023

Renée Mounteney
Assistant Deputy Minister
Ministry of Finance

sent via email: Renee.Mounteney@gov.bc.ca

RE: Letter request for process to resolve carbon tax on biomethane

Dear Renée,

FortisBC has been engaging with staff at the Ministry of Finance regarding the treatment of biomethane inventory under the Carbon Tax Act. We are concerned that a recent Ruling by the Ministry may cause biomethane to attract significant carbon tax charges. Under the Ruling, biomethane that we acquire, but do not use, within the monthly carbon tax reporting periods (i.e. inventory) is not recognized for use in future periods. The Ruling serves to increase costs to our customers, erodes affordability and contrasts with the physical delivery of gaseous energy which relies on storage (i.e. inventory) to meet our customers' seasonal demand, such as in cold winter periods where energy storage plays a vital role in the supply mix. We have appreciated the engagement from your staff on this issue and are seeking to rectify this situation.

FortisBC has been one of North America's leading utilities in acquiring biomethane supply to help achieve the greenhouse gas reduction and economic development goals of the CleanBC Roadmap to 2030. FortisBC is regulated by the British Columbia Utilities Commission (BCUC), and we are currently nearing the end of a regulatory proceeding – the Biomethane Energy Recovery Charge Rate Methodology and Comprehensive Review of a Revised Renewable Gas Program. Amongst other items, the proceeding covers the recovery of biomethane costs from customers and has been delayed due to the uncertainty and implications associated with the Ruling. Importantly, this proceeding seeks to evolve our tariffs beyond our current voluntary program which is critical to meeting provincial decarbonization objectives.

On May 8, 2023, we wrote to the BCUC seeking an extension of the regulatory timetable¹ to provide time to assess potential solutions and further engage the Ministry. The regulatory timetable was amended and includes an update from FortisBC to the BCUC on June 5, 2023. Further to our discussions with your staff, we are respectfully requesting a letter from you in advance of June 5 that acknowledges this issue and commits to a process to consider solutions in a timely manner. We believe this correspondence will greatly assist in moving the proceeding forward.

¹ https://docs.bcuc.com/Documents/Proceedings/2023/DOC_71363_A-49-G-112-23-Amended-Timetable.pdf

I want to thank you and your staff for your engagement on this issue to date and look forward to continued work together on this and other issues.

Sincerely,

A handwritten signature in black ink, appearing to read "D Slater". The letters are connected and written in a cursive style.

Doug Slater
Vice President
Indigenous Relations and Regulatory Affairs

Appendix B

**MINISTRY OF FINANCE LETTER TO FEI
DATED MAY 26, 2023**



501525

Doug Slater
Vice President, Indigenous Relations and Regulatory Affairs
FortisBC Energy Inc.
16705 Fraser Highway
Surrey, BC V4N 0E8

Attn: Doug Slater

Tax Policy Branch and BC Ministry of Finance has met with officials from FortisBC Energy Inc. (FortisBC) regarding the tax treatment of renewable gas. We understand FortisBC has submitted a proposal to the British Columbia Utilities Commission to implement a mandatory renewable gas blend program for all its customers, in addition to the current voluntary renewable gas program. FortisBC has proposed this program in order to support BC's emission reduction targets and commitments under the *CleanBC Roadmap to 2030*.

The carbon tax puts a price on carbon pollution, providing a signal across the economy to reduce emissions while encouraging sustainable economic activity and investment in low-carbon innovation. Biomethane is a carbon-neutral renewable fuel produced from biomass (e.g., agricultural, and other organic wastes) that is indistinguishable from natural gas when blended (e.g., in a gas pipeline). To promote the use of biomethane, the *Carbon Tax Act* provides for a biomethane credit whereby a retail dealer such as FortisBC must provide a carbon tax credit for selling biomethane under contract to a purchaser. The credit is proportional to the percentage of notional biomethane they have contracted to receive in a period (e.g., monthly), which reduces carbon tax payable and partially offsets the higher cost of a biomethane blend. The retail dealer can deduct the carbon tax owing to government by an amount equivalent to the credits issued in a period or apply for a refund if they had remitted tax without deducting the value of the credits issued.

Our understanding is that FortisBC purchases an amount of biomethane and injects it into their system such that it is co-mingled and indistinguishable from natural gas. As a result, the actual physical quantity of biomethane any customer receives at any given time is unknown and therefore "notional," but FortisBC maintains records of the total amount of biomethane acquired, blended, and sold to customers. Currently under the *Carbon Tax Act*, credits must be

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issued based on the lesser of the amount blended in a period or the contractual commitments in a period and cannot be based on any unsold biomethane acquired in a previous period. FortisBC has raised the possibility that the inability to issue credits based on any excess biomethane they acquired in a previous period would impact its ability to deliver its renewable gas program, use inventory to meet seasonal demand, and mitigate affordability pressures arising from the higher cost of acquiring biomethane. The Tax Policy Branch understands the potential effects this may have on the delivery of the renewable gas program and FortisBC ratepayers.

Each year, government reviews provincial taxes and considers changes in preparation of the provincial budget. The government then implements tax changes that it considers to be appropriate within the context of the province's fiscal situation and other priorities. The issues identified by FortisBC will be the subject of detailed analysis for the February 2024 budget cycle. The Tax Policy Branch will assess the issues raised on the biomethane credit and forward options to the Minister of Finance for consideration.

Sincerely,

Renée Mounteney
Assistant Deputy Minister
Policy and Legislation Division
Ministry of Finance

cc: Heather Wood, Deputy Minister, Ministry of Finance