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

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Sirs/Mesdames:

Re: FortisBC Energy Inc. - Annual Review for 2024 Delivery Rates - Reply Argument

In accordance with the regulatory timetable in the above proceeding, we enclose for filing the Reply Argument of FortisBC Energy Inc., dated November 20, 2023.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by]

Christopher Bystrom*
*Law Corporation

Encl.

cc (email only): Registered Interveners.

BRITISH COLUMBIA UTILITIES COMMISSION

FORTISBC ENERGY INC.
ANNUAL REVIEW FOR 2024 DELIVERY RATES

REPLY ARGUMENT
OF
FORTISBC ENERGY INC.

November 20, 2023

Prepared by: Fasken Martineau DuMoulin LLP - Christopher Bystrom and Niall Rand

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PART ONE: INTRODUCTION AND OVERVIEW

1. In its Annual Review for 2024 Delivery Rates filed on July 28, 2023 (Application),[1] FortisBC Energy Inc. (FEI) is seeking approval of 2024 delivery rates on a permanent basis. FEI's approvals sought are set out in Section 1.2 of the Application, and are amended in the Evidentiary Update, with an updated Draft Order included as Appendix B of the Evidentiary Update.[2] FEI submits that it has presented its 2024 revenue requirements in a clear and transparent manner and, through its responses to information requests (IRs) and discussion at the Workshop, has responded to the questions and addressed the topics raised by the BCUC and interveners. In this Reply Submission, FEI responds further to the comments of interveners in their final arguments. Overall, FEI submits that it has justified its approvals sought, and the Application should be approved as filed.

2. On September 20, 2023, FEI responded to IRs from the BCUC and interveners, including the British Columbia Public Interest Advocacy Centre representing the British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC, and the Tenant Resource and Advisory Centre (BCOAPO), the BC Sustainable Energy Association (BCSEA), the Commercial Energy Consumers Association of BC (CEC), the Canadian Office and Professional Employees Union, Local 378 (known as Movement of United Professionals or MoveUP) and the Residential Consumer Intervener Association (RCIA). On October 10, 2023, FEI filed an evidentiary update to the Application with respect to items affecting FEI's revenue requirement, including incorporating the changes to FEI's 2024 revenue requirement and rates resulting from the Decision and Order G-236-23 on Stage 1 of the Generic Cost of Capital (GCOC) proceeding (GCOC Decision) and the associated compliance filing (Evidentiary Update).[3] A workshop was held on October 23, 2023 (Workshop), and FEI's

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[1] Exhibit B-2, Application.

[2] Exhibit B-13, Appendix B.

[3] Exhibit B-13, Evidentiary Update.

presentation materials and the transcript of the Workshop were placed on the record in the proceeding.[4] FEI filed responses to eight undertakings from the Workshop on October 27, 2023.[5]

3. BCOAPO, BCSEA, CEC, MoveUP and RCIA, as well as Air Products, filed final arguments. The submissions of interveners show broad support for FEI's Application. MoveUP "does not take issue with any of the orders or approvals sought".[6] RCIA considers the proposed 8 percent delivery rate increase to be just and reasonable, including deferring the residual 2024 revenue deficiency for recovery in future years.[7] BCSEA supports approval of the ancillary remedies sought by FEI, but proposes a 2024 delivery rate increase of 9.87 percent corresponding to full recovery of the 2024 GCOC impact in 2024 and rate smoothing of the 2023 GCOC impact.[8] BCOAPO recommends an alternative rate mitigation proposal resulting in a 6.00 percent overall delivery rate increase for 2024.[9] CEC finds the Application well supported but recommends that the BCUC approve a lower 2024 delivery rate increase of 5 percent to "accomplish a more levelized rate smoothing option", as well as other adjustments.[10] Finally, Air Products "largely does not oppose the approvals sought by FEI" but makes a number of recommendations with respect to FEI's hydrogen production activities.[11]

4. In the remainder of this Reply Submission, FEI responds to the submissions of interveners. While FEI has sought to respond to all material items, FEI's silence on any particular intervener submission is not indicative of agreement.

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4 Exhibit B-14, Workshop Presentation; Workshop Transcript. Online: https://docs.bcuc.com/documents/transcripts/2023/doc_74520_2023-10-23-workshop-volume1-revised.pdf.

5 Exhibit B-16, Workshop Undertakings.

6 MoveUP Final Argument, p. 7.

7 RCIA Final Argument, p. 12.

8 BCSEA Final Argument, p. 1.

9 BCOAPO Final Argument, p. 28.

10 CEC Final Argument, paras. 1-30.

11 Air Products Final Argument, pp. 3-4.

PART TWO: REPLY TO INTERVENER COMMENTS

A. FEI's Proposed 2024 Delivery Rate Increase and Amortization of the 2023 Revenue Deficiency Deferral Account Strikes a Reasonable Balance

5. As set out in its Evidentiary Update, FEI proposes to increase delivery rates by 8 percent and defer the residual 2024 revenue deficiency to the 2023 Revenue Deficiency deferral account to be amortized over 5 years beginning January 1, 2025.[12] The range of options for 2024 delivery rates, and amortization of the 2023 and 2024 revenue deficiencies, are set out below.[13] FEI also modelled the bill impacts of various scenarios in its Evidentiary Update and in its Workshop materials.[14]

- Include full 2023 and 2024 impact in 2024 rates
  - 2024 delivery rate increase = 16.12%
- Include full 2024 impact in 2024 rates
  - 2024 delivery rate increase = 9.87%
- Partial incorporation of 2024 impact
  - Proposed 2024 delivery rate increase = 8.00% (also considered 6.00%)
- Defer entire 2023 and 2024 impact
  - 2024 delivery rate increase = 4.85%

	Amortization Period				
Incremental 2025 Delivery Rate Impact (%)	1 Year	2 Years	3 Years	4 Years	5 Years
2024 Delivery Rate Increase @ 6%	10.6%	5.3%	3.5%	2.7%	2.1%
2024 Delivery Rate Increase @ 8%	8.6%	4.3%	2.9%	2.1%	1.7%
2024 Delivery Rate Increase @ 9.87%	6.6%	3.3%	2.2%	1.7%	1.3%

Source: Table 9 from Evidentiary Update, Exhibit B-13 (For 2024 Delivery Rate increase @ 8%)

6. As explained by Ms. Walsh at the Workshop, FEI's goal in selecting its proposed option is to moderate the rate increase in the near term while giving consideration to the incremental rate impacts in future years of deferring too much of the revenue deficiency.[15] FEI submits that its proposed 8 percent delivery rate increase achieves this goal, by striking a reasonable balance between providing some rate smoothing, without deferring a significant portion of the 2024 revenue deficiency to future years. Based on current gas costs, the bill impact in 2024 would be

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12 Exhibit B-13, Evidentiary Update, p. 2.

13 Exhibit B-14, Workshop Presentation, Slides 6 and 7.

14 Exhibit B-13, Evidentiary Update, p. 9; Exhibit B-14, slides 6-7.

15 Workshop Transcript, p. 16.

6.49 percent for Rate Schedule (RS) 1 Residential customers, 6.09 percent for RS 2 Small Commercial customers, 5.93 percent for RS 3 Large Commercial customers, and 3.18 percent for RS 5 General Firm customers.[16]

7. Further, FEI's proposed 5-year amortization period for the 2023 Revenue Deficiency deferral account achieves a reasonable level of rate smoothing, as it results in an incremental delivery rate increase in 2025 of less than two percent.[17] At the same time, the 5-year amortization period recovers costs in a timely manner, mitigating the potential inter-generational inequity issues and impacts of increased carrying costs from longer amortization periods.[18]

8. FEI's proposal is supported by MoveUP, while BCSEA recommends a higher delivery rate increase, and BCOAPO and CEC recommend lower 2024 delivery rate increases, as summarized in the table below.[19]

Party	**Proposed 2024 Delivery Rate Increase**
BCSEA	9.87% with 2-year amortization of deferral
FEI, MoveUP	8% with 5-year amortization of deferral
RCIA	8% with deferral amortization to be determined in future application
BCOAPO	6% with 6-year amortization of deferral
CEC	5% with 5-year amortization of deferral

9. FEI is amenable to BCSEA's recommended delivery rate increase of 9.87 percent in 2024, but does not agree that a 2-year amortization period for the 2023 Revenue Deficiency deferral account is reasonable. The primary advantage of BCSEA's proposed rate increase is that the entire 2024 revenue deficiency would be recovered in 2024, which best aligns with the principle of cost causation. However, amortizing the 2023 Revenue Deficiency deferral account over two

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16 Exhibit B-13, Evidentiary Update, p. 9.

17 Ms. Walsh, Workshop Transcript, p. 18.

18 Ms. Walsh, Workshop Transcript, p. 17.

19 BCSEA Final Argument, p. 3; MoveUP Final Argument, p. 7; RCIA Final Argument, p. 12; BCOAPO Final Argument, p. 28; CEC Final Argument, para. 1.

years results in a 3.3 percent delivery rate impact in 2025 and 2026.[20] Since FEI does not yet know what the overall 2025 delivery rate increase might be, and is not anticipating any offsetting revenues in 2025 to mitigate the rate increase,[21] FEI considers that a 3.3 percent delivery rate impact in 2025 and 2026 does not achieve a reasonable degree of rate smoothing.

10. While RCIA supports FEI's proposed 8 percent delivery rate increase, it states that the 2024 delivery rate increase should be mitigated because not deferring any of the 2024 revenue deficiency would result in a "rate-shock increase of 9.87%".[22] FEI disagrees with RCIA's characterization. The threshold for rate shock is typically considered to be an increase of 10 percent or greater.[23] However, as shown in Table 7 of the Evidentiary Update,[24] when considering the overall bill impact, a delivery rate increase of 9.87 percent would result in bill impacts to customers ranging from 4.77 percent to 7.71 percent (based on the currently approved gas costs).

11. FEI does not oppose RCIA's position that the amortization period of the 2023 Revenue Deficiency deferral account should be determined in a future proceeding,[25] but considers it unnecessary to defer this determination. FEI has provided the incremental delivery rate impacts based on a variety of amortization periods and considers that, regardless of future rate increases, a five-year amortization period for the 2023 Revenue Deficiency deferral account results in a reasonable level of rate smoothing.

12. On the other hand, FEI submits that BCOAPO's proposed 6 percent delivery rate increase proposal, with a 6-year amortization period for the 2023 Revenue Deficiency deferral account,

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20 Exhibit B-14, Workshop Presentation, Slide 7.

21 Ms. Walsh, Workshop Transcript, p. 18.

22 RCIA Final Argument, p. 10.

23 See e.g., in Decision and Order G-366-21 (FEI Annual Review for 2022 Delivery Rates), the BCUC states: "The combined effects of these two increases as approved would increase the total annual bill for a typical Mainland and Vancouver Island residential customer with an average annual consumption of 90 gigajoules by approximately $100 or 9.3 percent, an amount that is substantially higher than inflation and approaching a 10 percent increase that is typically considered to represent rate shock."

24 Exhibit B-13.

25 RCIA Final Argument, p. 12.

defers too much revenue deficiency to future years. While BCOAPO submits that its proposal "is consistent with the 6.07% even annual rate increases approved by the BCUC for 2020 – 2023",[26] the average annual rate increase from 2020 to 2023 should not be the measure for delivery rate impacts in 2024. In FEI's view, it is more important to consider rate impacts going forward. Ultimately, BCOAPO's proposed 6-year amortization period results in a deferral of the impact of the GCOC Decision for an extra year compared to FEI's proposal, increasing inter-generational inequity issues and the impacts of increased carrying costs. FEI submits that this extra year of deferral is not warranted, and that BCOAPO's proposal does not strike as reasonable a balance as FEI's proposal, as it does not give sufficient consideration to the incremental rate impacts in future years of deferring too much of the revenue deficiency.

13. CEC's proposed 5 percent delivery rate increase is inappropriately based on FEI's directional, 20-year view of rates from the 2022 Long Term Gas Resource Plan (LTGRP).[27] FEI stated the following when providing this directional view:[28]

> FEI notes the rate impacts shown in the LTGRP are not an indication of a detailed rate forecast; rather, they simply provide a directional, 20-year view of how FEI's rates are influenced by the different scenarios over time, and they are based on assumptions specifically listed in Section 9.4 of the LTGRP. They do not represent or reflect the individual components of FEI's revenue requirement in each year over the 20-year period.

Based on the 20-year annual rate changes for various scenarios ranging from 2.8 percent to 6.2 percent, CEC incorrectly infers that a 5 percent delivery rate increase that defers a 2-3 percent rate impact to future years "will enable subsequent upper bound future delivery rate increases to be in the 5% to 6% range in the future".[29] However, the 2022 LTGRP is a 20-year planning document, and cannot be reasonably used to determine what the maximum rate impact might be in any particular year of the 20-year planning horizon. FEI was clear that it does not have a

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26 BCOAPO Final Argument, p. 28.

27 CEC Final Argument, para. 65.

28 Exhibit B-16, Undertaking No. 4.

29 CEC Final Argument, para. 64.

detailed forecast of rates for the coming years.[30] Since FEI does not yet know what the overall 2025 delivery rate increase might be, and is not anticipating any offsetting revenues in 2025 to mitigate the rate increase,[31] FEI submits that CEC's proposal does not give sufficient consideration to the incremental rate impacts in future years of deferring too much of the revenue deficiency.

B. FEI's Forecast Cost of Capital Is Reasonable and Appropriate

14. FEI's forecast cost of capital included in its 2023 revenues requirements complies with the deemed 55:45 debt:equity ratio determined by the BCUC in its GCOC Decision. Namely, FEI will only recover its cost of capital from customers at the approved deemed equity of 45 percent and deemed debt of 55 percent.[32]

15. In response to Undertaking No. 6, FEI described three scenarios for how its return on capital could comply with the deemed 55:45 debt:equity ratio:[33]

(a) Scenario 1 involves fixing long-term debt (LTD) at 55 percent and short-term debt (STD) at 0 percent. While FEI could theoretically revise its revenue requirement forecast in accordance with this scenario, the actual 2024 results will be different. For instance, FEI would not be able to avoid the fixed financing fees associated with maintaining access to short term financing, nor would FEI be able to partially redeem its long-term debt issuances to achieve 55 percent LTD.[34]

(b) In Scenario 2, FEI would redeem some LTD such that the LTD component would be reduced on average below 55 percent, and FEI would forecast an amount of issued STD to fill the gap, so that the total debt component equaled 55 percent. It would not be appropriate for the BCUC Panel to direct FEI to unwind/redeem long-term debt, nor would it be beneficial for customers.[35]

(c) Scenario 3 is essentially the same as FEI's approach in the Evidentiary Update, with the only difference being that in Scenario 3 FEI would include a forecast of interest

30 Ms. Walsh, Workshop Transcript, p. 23, ll. 18 to 25.

31 Ms. Walsh, Workshop Transcript, p. 18.

32 Exhibit B-16, Undertaking No. 6.

33 Exhibit B-16, Undertaking No. 6.

34 Exhibit B-16, Undertaking No. 6, pp. 1-2, 5.

35 Exhibit B-16, Undertaking No. 6, pp. 2-3, 5.

> income.[36] FEI is amenable to including a forecast of interest income in the 2024 revenue requirement if so directed. Regardless of whether a forecast amount of interest income is included in the 2024 revenue requirement, the proposed delivery rate increase will remain at 8.00 percent, and any variances between forecast and actual interest income will be captured in the Flow-through deferral account and returned to/recovered from customers in 2025.

16. CEC recommends that the BCUC approve FEI's costs related to Financing and Return on Equity.[37]

17. BCOAPO submits that Scenario 3 is the most pragmatic and fair solution, and proposes that the interest on FEI's negative short-term debt be recognized as a reduction to FEI's 2024 revenue requirement rather than being captured in the Flow-through deferral account.[38] As noted above, FEI is amenable to including a forecast of interest income in the 2024 revenue requirement per the approach described in Scenario 3, if so directed. However, as FEI will only recover its cost of capital from customers at the approved deemed equity of 45 percent and deemed debt of 55 percent, it is not necessary for the BCUC to direct FEI to take a specific approach in this Annual Review.[39]

C. Cost of Gas Is Reviewed in Quarterly Gas Report

18. CEC recommends that the BCUC direct FEI to discuss alternative methodologies for forecasting the cost of gas that better account for the seasonal variability of gas commodity costs as part of its upcoming Multi-year Rate Plan (MRP) Application.[40] CEC's recommendation is based on a misapprehension of the relevant facts and is not reasonable. First, FEI does not request approval of its forecast cost of gas in its Annual Reviews, but forecasts it cost of gas based on the latest approved commodity cost recovery charge.[41] Second, it is misleading to suggest that there is "seasonal variability" in the commodity cost recovery charge, as it does not reflect the seasons

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36 Exhibit B-16, Undertaking No. 6.

37 CEC Final Argument, p. 52.

38 BCOAPO Final Argument, p. 15.

39 Exhibit B-16, Undertaking No. 6.

40 CEC Final Argument, para. 77.

41 Exhibit B-2, Application, p. 31.

or exhibit an annual seasonal pattern. Rather, the quarterly commodity cost recovery charges approved by the BCUC can move up or down each quarter depending on a variety of factors, including the price for natural gas at market hubs. FEI notes that the Commodity Cost Reconciliation Account (CCRA) and Midstream Cost Reconciliation Account (MCRA) have worked as intended to smooth out the impact of these fluctuations in gas and midstream costs. Third, variations in gas costs are captured in deferral accounts and set quarterly because it has long been accepted that commodity costs are driven by factors outside of FEI's control and cannot be reasonably and reliably forecast. It would therefore be unreasonable for FEI to attempt to forecast gas costs in its Annual Reviews. Finally, as any variations between forecast and actual gas costs are returned to, or recovered from, customers through existing deferral account mechanisms, there is no benefit to customers from FEI attempting to forecast gas costs in its Annual Reviews.

D. FEI Has Correctly Calculated Formula Drivers

(a) CEC's Recommendation for Explanation of Immaterial Changes in Labour Weightings has No Utility

19. CEC recommends that the BCUC direct FEI to discuss the factors influencing the trend of declining labour weighting used in the I-Factor calculation as part of its upcoming MRP Application.[42] CEC's recommendation has no utility and should be rejected. FEI's labour weighting has not changed materially over the 2020-2024 MRP term, having shifted within only 3 percent over a five-year period. Moreover, undertaking the effort and cost of an historical analysis of the variety of factors impacting the labour weighting each year would add no value to the calculation of the I-Factor. FEI submits that it should not be subject to directions to produce information and analysis of immaterial factors that serves no purpose.

(b) FEI's Forecast Gross Customer Additions is Reasonable

20. CEC recommends that, starting in the upcoming MRP Application, FEI begin forecasting gross customer additions to reflect anticipated demand destruction due to rising delivery rate

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42 CEC Final Argument, para. 86.

costs and government policy.[43] The CEC has not established any reasonable grounds for revising FEI's gross customer additions forecast going forward, and its recommendation should be rejected.

21. First, FEI reasonably forecasts its gross customer additions based on the best available information. For instance, for 2024, due to a variety of factors, including changes in policy, FEI's forecast reflects a reduced amount of 15,400 gross customer additions compared to the 2022 Approved amount of 20,000 and the 2022 Actual amount of 16,477. FEI explained:[44]

> In developing the 2024 GCA forecast, FEI has reviewed information contained in FEI's customer relationship management system (leads, connection requests, timing of connection requests, etc.) along with interactions with builders, developers, and contractors. FEI also uses market information such as building permits, forecast housing starts and completions as well as any knowledge of policy or building code changes that may affect specific municipalities. For the 2024 forecast, FEI assumed that the market capture rate for new construction is likely to retreat from previous years due to the continued impacts of building policies and codes, and strong financial incentives provided for home electrification. Further, FEI has assumed that conversion activities will be reduced from previous years due to factors such as high financing costs, which potentially are still rising, and the strong financial incentives being offered for home electrification. All of these factors are reflective of FEI's current expectation of the 2023 projected and 2024 forecast customer growth.

22. Second, FEI is forecasting gross customers additions for only one year in the future, and demand is inelastic in the short term.[45] Given this short-time horizon, demand destruction due to elasticity of demand is not a material factor and, in addition, could not be isolated from the factors that FEI already considers as described above. Furthermore, any impacts of elasticity of demand will be reflected in actual gross customer additions and taken into account in FEI's forecast each year.

23. Third, the variance between forecast and actual gross customer additions is trued up in future years, so customers will only pay for costs that reflect actual gross customer additions.

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43 CEC Final Argument, para. 112.

44 Exhibit B-2, Application, p. 15.

45 Exhibit B-16, Undertaking No. 7.

24. FEI therefore submits that CEC's recommendation has no reasonable basis and should be rejected.

E. FEI's Demand Forecast Is Reasonable

(a) Residential Demand Forecast

25. CEC recommends that the BCUC approve FEI's residential demand forecast, but suggests that the Conference Board of Canada (CBOC) projections are overly optimistic given the dynamics of interest rate increases impacting housing formations.[46] FEI submits that CEC's opinions regarding interest rates and housing starts should be given little to no weight compared to the projections from the CBOC, which FEI has used to reliably forecast its residential demand for many years.

(b) Commercial Demand Forecast

26. CEC recommends that the BCUC accept FEI's commercial demand forecast, but has reservations about the 2024 Forecast net customer additions for RS 2 Small Commercial customers which it considers "overly optimistic".[47] Consistent with past practice, FEI used a three-year historical average to forecast RS 2 net commercial customer additions.[48] FEI's forecast methodology has produced reasonable results for many years[49] and should continue to be relied on for the 2024 forecast year. Adjusting the forecast based on subjective opinion or untested methods is unlikely to produce superior results.

(c) Non-NGT Export Demand Forecast

27. CEC recommends that the BCUC only approve 50 percent of FEI's non-NGT LNG forecast (735,500 GJ).[50] FEI submits that an arbitrary 50 percent reduction to its non-NGT LNG forecast has no reasonable foundation and is unlikely to produce a better forecast than FEI's forecast

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46 CEC Final Argument, paras. 124, 129 and 130.

47 CEC Final Argument, paras. 138, 151-152.

48 Exhibit B-2, Application, Appendix A3.

49 Exhibit B-2, Application, Appendix A2.

50 CEC Final Argument, para. 173.

based on its direct conversations with customers. FEI has been including the forecast of demand provided to customers under spot purchase agreements since it was directed to do so by Order G-86-15.[51] As this demand is not backed by firm take-or-pay commitments, the forecast of this demand is naturally more uncertain. However, FEI's forecast represents a reasonable expectation of the demand for sale of LNG via ISO containers from the combination of existing and potential customers.[52] Notably, FEI has recently made significant progress developing the market, including successful trial spot sales to four customers under RS 46. FEI's forecast of the non-NGT LNG demand is based on expected demand from these four customers and additional customers who have expressed interest in FEI's LNG service.[53] The 2024 Forecast is supported by the increased optimism of export customers, the expected increase in LNG prices in Asia over the winter of 2023/24, the recent decrease in FEI's commodity rates, and the successful completion of trial shipments over the winter of 2022/23 noted above.[54] FEI also notes that arbitrarily decreasing FEI's non-NGT LNG forecast will have no impact on the proposed 8 percent delivery rate increase in 2024. CEC's proposed reduction in demand would simply increase the revenue deficiency to be deferred in 2024 and increase the amount of deficiency to be recovered through the 2023 Revenue Deficiency deferral account in future years.

28. CEC also recommends that, in a future proceeding, the BCUC reassess the merits of including FEI's projections for LNG export volumes related to spot purchase agreements in its LNG forecasts.[55] FEI submits that it is premature to reconsider the BCUC's determination that FEI forecast the demand provided to customers under spot purchase agreements. As FEI gains more traction in the LNG market, and the challenges posed by the COVID-19 pandemic subside, FEI's LNG sales are likely to increase and its forecasting accuracy improve.

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51 Exhibit B-6, BCUC IR1 3.4.

52 Exhibit B-6, BCUC IR1 3.1.

53 Exhibit B-2, Application, p. 29; Exhibit B-6, BCUC IR1 3.1.

54 Exhibit B-10, MoveUP IR1 2.1.

55 CEC Final Argument, para. 174.

F. FEI's Method for Forecasting Late Payment Charges Is Reasonable

29. CEC recommends that the BCUC direct FEI to provide a forecast for Late Payment Charges based on "anticipated customer bill changes", as opposed to averages of prior years, thus increasing its forecast by 10 percent.[56] CEC made the same recommendation as part of FEI's Annual Review for 2023 Delivery Rates proceeding, which was rejected by the Panel for the following reason:[57]

> The Panel, therefore, rejects the CEC's proposed forecast methodology due to a lack of information as to how such a forecast would work, or why it would result in more accurate information than FEI's historical or updated forecast methodology. Should the CEC or another party wish to pursue this matter further in a subsequent Annual Review, the Panel would recommend that they do so through the IR process in such proceeding.

30. It remains unclear how FEI would forecast Late Payment Charges based on "anticipated customer bill changes". FEI notes that the CEC did not explore this forecasting method on the record in this proceeding, as suggested by the BCUC, or explain why it would result in a more reasonable forecast than FEI's. In particular, it is unclear how this method would address the potential impacts of higher costs of gas and carbon tax, as suggested by CEC.[58]

31. FEI submits that using the average of 2022 Actual and 2023 Projected Late Payment Charges provides an accurate representation of the expected Late Payment Charges in 2024 and is reasonable and, therefore, should be accepted for the purpose of setting 2024 delivery rates.[59]

G. Forecast Cost of Integrity Digs Is Reasonable and Driven by Factors Outside FEI's Control

32. CEC generally supports FEI's integrity activities as necessary for contributing to the safety of its system, but finds FEI's 2024 forecast average cost per dig of $63,000 "excessive"[60] and

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56 CEC Final Argument, paras. 193-194.

57 Decision and Order G-352-22, p. 11. Online: https://docs.bcuc.com/documents/other/2022/doc_69047_g-352-22-fei-2023-annualreview-deliveryrates-decision.pdf.

58 CEC Final Argument, para. 193.

59 Exhibit B-6, BCUC IR1 4.1.

60 CEC Final Argument, para. 246.

recommends that the BCUC encourage FEI to seek productivity improvements in its cost per dig process and approve a level of $58,000 as the cost per dig and incremental Integrity O&M of $9.4 million.[61] FEI submits that the 2024 Forecast for incremental Integrity O&M is in fact reasonable and should be approved for the reasons below.

33. First, as recognized by the BCUC in approving flow-through treatment for Integrity O&M as part of the 2020-2024 MRP, the costs associated with integrity digs are primarily outside of FEI's control, including "considerable uncertainty related to scope, <u>cost</u>, timing and volume of expected digs" (emphasis added).[62] Further, integrity digs are necessary to maintain compliance to standards, prevent failures (leaks and ruptures) of FEI's transmission pipelines, and ensure alignment with industry standard practice, thus ensuring the continued safety and reliability of FEI's system.[63] Therefore, as recognized by the BCUC in the 2020-2024 MRP Decision, and also endorsed by CEC in the MRP proceeding, there should not be cost pressure to reduce integrity digs.[64]

34. Second, FEI has reasonably explained the increased forecast for 2024. Specifically, the increase of $3.2 million in FEI's 2024 Forecast Integrity O&M compared to 2023 Approved is primarily driven by first-time in-line inspections. As shown in Table 6-7 of the Application, New Tools digs are forecast to increase from a 2023 Approved of 50 digs to a 2024 Forecast of 85 digs.[65] The increase in this dig category is driven by the potentially large number of digs following FEI's first-time EMAT inspection of the HUN ROE 1067 as part of FEI's post-Coastal Transmission System (CTS) Transmission Integrity Management Capabilities (TIMC) project activities.[66] FEI explained that the first time a new ILI tool is run through a pipeline, it results in the forecast need

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[61] CEC Final Argument, para. 248.

[62] Decision and Order G-165-20, dated June 22, 2020, p. 74. Online: https://www.ordersdecisions.bcuc.com/bcuc/decisions/en/481438/1/document.do (MRP Decision).

[63] Exhibit B-7, BCOAPO IR1 7.1.

[64] MRP Decision, p. 74.

[65] Exhibit B-2, Application, p. 47.

[66] FEI is also forecasting an approximately $1 million increase due to the forecast need for incremental specialized contracted resources due to large diameter digs on the HUN ROE 1067 part of FEI's post-CTS TIMC project activities and due to dent repairs system-wide: Exhibit B-7, BCOAPO IR1 7.2.

for more integrity digs, as the first run can detect many features that need to be investigated through a dig.[67] FEI's forecast of this category of digs is based on the engineering judgement of qualified staff.[68]

35. Third, FEI has also reasonably explained why the average cost per dig is forecast to increase. Namely, the increase includes the impact of inflationary-related cost pressures on fuel and contractors, which FEI estimates to be in the range of four percent.[69] The increase is also driven by the fact that the digs on the HUN ROE 1067 pipeline would take place in higher-developed areas, which are forecast to have a higher-cost than digs on smaller-diameter pipelines that traverse lesser-developed areas.[70] These increases are generally outside of FEI's control and cannot be addressed through "productivity improvements" as suggested by CEC.[71]

36. As such, FEI submits that its forecast costs for Integrity O&M should be approved as filed.

H. FEI's Renewable Gas Development Is Reasonable and in the Public Interest

37. Air Products focuses its submissions on "FEI's recovery of hydrogen production development costs and forward-looking regulation of FEI relative to hydrogen production".[72] FEI submits that Air Products' characterization of FEI's hydrogen development activities is inaccurate, and that Air Products' position regarding FEI's ability to pursue hydrogen production opportunities within a regulated utility is without merit and outside the scope of this proceeding. Furthermore, contrary to Air Products' submission, all of FEI's hydrogen development activities are aligned with and supported by provincial policy to reduce GHG emissions in British Columbia, are reasonable and in the public interest, and should be approved as filed.

38. In the subsections below, FEI replies to Air Products' particular comments and recommendations.

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[67] Exhibit B-9, CEC IR1 6.12.

[68] Exhibit B-2, Application, p. 48.

[69] Exhibit B-7, BCOAPO IR1 7.2.

[70] Exhibit B-2, Application, p. 48; Exhibit B-7, BCOAPO IR1 7.2.

[71] Exhibit B-7, BCOAPO IR1 7.2.

[72] Air Products Final Argument, para. 6.

(a) FEI is Transitioning its Core Business to the Distribution of Low-Carbon and Renewable Gas

39. Contrary to Air Products' characterization, FEI is not seeking to fill a "gap" in hydrogen production in BC,[73] but is instead working in alignment with provincial and federal government policy to transition toward the distribution of low carbon and renewable gases and fuels. FEI is proceeding with these activities in a comprehensive and careful manner, which includes undertaking pilot projects to demonstrate the feasibility of hydrogen blending in the BC gas distribution system and delivery to BC's industrial customers.[74] For instance, the hydrogen blending pilot projects are intended to demonstrate the first instance of physical injection and blending of hydrogen into a subsection of FEI's gas distribution system, and the distribution of the hydrogen-natural gas blend to customers.[75] These types of activities are therefore not to fill a "gap" in hydrogen production, but rather, are part of FEI's broader strategy to transition its gas distribution business to renewable and low carbon fuels.

(b) FEI's Hydrogen Procurement Strategy Will Consider All Options Available to Optimize the Hydrogen Supply and the Value for FEI's Customers

40. Air Products' characterization of FEI's approach to hydrogen opportunities as being "constrained"[76] is incorrect. Contrary to Air Products' argument, FEI's hydrogen procurement strategy will consider all options available to optimize the hydrogen supply and the value for FEI's customers.[77]

41. In support of its view, Air Products states that FEI's focus on hydrogen production opportunities relative to hydrogen offtake opportunities "appears disproportionate".[78] Air Products did not pursue any explanation of the difference in FEI's expected costs related to production of hydrogen versus offtake opportunities; however, pursuing offtake agreements

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[73] Air Products Final Argument, para. 7.

[74] See e.g., Exhibit B-14, Workshop Presentation, Slide 19.

[75] Exhibit B-8, BCSEA IR1 7.19.

[76] Exhibit B-8, BCSEA IR1 7.8.

[77] Exhibit B-8, BCSEA IR1 7.8.

[78] Air Products Final Argument, p. 2.

with third parties naturally requires a lower level of resources from FEI, compared to the development of the production of hydrogen. The important point is that FEI is pursuing *both* production and offtake opportunities, including consideration of a number of offtake supply opportunities with the goal to advance a definitive agreement by 2024.[79]

42. Air Products also states that "FEI has not undertaken a call to market for hydrogen supply and suggested that it may not do so or otherwise "test the market" for third party hydrogen suppliers." This is misleading. Mr. Quinn's testimony was that FEI would undertake a call to the market if that makes sense, but that they are at an early stage and had not made any decision at this time.[80] As FEI stated in response to BCSEA IR1 7.8:[81]

> Given the nascent stage of the hydrogen market and supply chain in BC, FEI has not yet examined in detail a competitive call for tenders or call for hydrogen supply proposals. As the market develops, FEI's hydrogen procurement strategy will consider all options available to optimize the hydrogen supply and the value for FEI's customers.

Indeed, Air Products recognizes in its Final Argument that FEI's plans are in early stages of development and FEI has not yet committed to any particular path forward.[82] What is clear is that FEI will consider all options available to optimize the hydrogen supply and the value for FEI's customers.

43. In this regard, Air Products' assertions that there is a competitive hydrogen market in British Columbia[83] is not demonstrated by any evidence before the BCUC. Moreover, in the Hydrogen Inquiry, the BCUC's Draft Report concluded that there was insufficient information to assess the competitiveness of the hydrogen market, stating: "However, as with the sale of

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79 See e.g., Exhibit B-9, CEC IR1 6.22.

80 Mr. Quinn, Workshop Transcript, p. 74, line 22 to p. 75, line 1.

81 Exhibit B-8, BCSEA IR1 7.8.

82 Air Products Final Argument, para. 9.

83 Air Products Final Argument, para. 15.

hydrogen as a transportation fuel, at this time there is insufficient information to assess the competitiveness of the hydrogen production market."[84]

44. Finally, Air Products' suggestion that FEI is opposed to working with third parties[85] is incorrect. In fact, FEI is committed to acquiring hydrogen supplies at the lowest reasonable costs for its customers, whether through producing this supply or purchasing it from third parties. FEI has already demonstrated that it is working with other market participants, as exemplified by the Hy4Home Project with seven other Canadian utilities, and FEI's pilot projects undertaken with Hazer Group, Harmac Pacific, and others.[86] As noted above, FEI is also considering multiple offtake opportunities and has a goal to advance a definitive agreement by 2024.[87] Consistent with FEI's objectives and its work with other industry participants, FEI will consider all opportunities, including from Air Products, to secure the most cost-effective supply of hydrogen for the benefit of its customers. To be clear, FEI is open to hearing any proposals that Air Products may have.

(c) FEI's Hydrogen Activities Must Remain within the Regulated Utility

45. Air Products' submission that FEI's in-house hydrogen activities should take place outside the regulated utility[88] is outside the scope of this proceeding, incorrect in law and contrary to the public interest.

46. First, FEI's involvement in the hydrogen production and distribution market is already settled by the inclusion of the production or purchase of hydrogen as a prescribed undertaking in the *Greenhouse Gas Reduction (Clean Energy) Regulation* (GGRR). Pursuant to section 18 of the *Clean Energy Act*, the BCUC may not exercise its powers either directly or indirectly to prevent a public utility from carrying out a prescribed undertaking and must allow public utilities to

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84 BCUC Inquiry into the Regulation of Hydrogen Energy Services, Hydrogen Workshop Draft Report, dated April 26, 2023, p. 13. Online: https://docs.bcuc.com/documents/other/2023/doc_71147_2023-04-26-bcuc-hydrogeninquiry-draftreport.pdf (Hydrogen Workshop Draft Report).

85 Air Products Final Argument, paras. 8 and 15.

86 Mr. Quinn, Workshop Transcript, pp. 69-70.

87 See e.g., Exhibit B-9, CEC IR1 6.22.

88 Air Products Final Argument, p. 3.

recover their costs of doing so. This means that the BCUC does not have jurisdiction to require FEI to use a non-regulated entity to purchase or produce hydrogen when it is a prescribed undertaking. FEI therefore submits that Air Products' position is incorrect in law and must be rejected.

47. Second, FEI's hydrogen activities are necessitated by government policy and are in the public interest. Government policies and regulations on climate action, including the Province's proposed GHG emission reduction standard by 2030 in the CleanBC Roadmap to 2030, the Province's emission reduction target by 2040, and the Province's ambition to achieve net-zero GHG emissions by 2050, make it necessary for FEI to prepare its system for the introduction of hydrogen, lignin and synthesis gas as energy options.[89] To achieve the Province's GHG reduction ambitions, FEI has aligned its hydrogen strategy with the BC Hydrogen Strategy.[90] The BC Hydrogen Strategy states: "Blending hydrogen with natural gas is an innovative solution for natural gas utilities to meet environmental standards, including the CleanBC requirement that 15% of natural gas consumption must come from renewable gas by 2030."[91] Further, the Hydrogen Strategy indicates that government will support blending hydrogen with natural gas through the following actions:[92]

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89 Exhibit B-7, BCOAPO IR1 6.1; Exhibit B-2, Application, p. 52.

90 Mr. Quinn, Workshop Transcript, p. 65, lines 19 - 21.

91 BC Hydrogen Strategy (2021), p. 19. Online: https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/electricity/bc-hydro-review/bc_hydrogen_strategy_final.pdf

92 BC Hydrogen Strategy, p. 18.

How we'll support blending hydrogen with natural gas
2020-2025
• Establish a regulatory framework for injecting hydrogen into the natural gas and propane distribution systems • Include hydrogen as a prescribed undertaking under the *Greenhouse Gas Reduction Regulation* • Partner with a utility to review the infrastructure requirements to accommodate up to 100% hydrogen in the distribution system • Support hydrogen injection trials into natural gas and/or propane distribution systems
2025-2030
• Mandate that new or modified natural gas or propane pipelines be hydrogen compatible • Support the introduction of hydrogen-tolerant equipment • Explore the role of hydrogen in meeting the CleanBC 15% renewable gas target
2030-beyond
• Support large-scale hydrogen injection into the natural gas and propane distribution systems

Therefore, it is clear that FEI's renewable gas development activities are aligned and supported by government policy, are a necessary part of its business, as well as reasonable and appropriate. As such, Air Products' attempt to curtail FEI's activities as part of its regulated business is contrary to policy and the public interest and should be rejected.

48. Third, hydrogen blending in FEI's assets for distribution to FEI's customers must be done by FEI itself. This is not a service that can be reasonably and safely extricated or separated from FEI's current operations and service to its customers. This is illustrated by FEI's comprehensive efforts to ready its system for the safe and reliable distribution of hydrogen.[93]

49. Fourth, the provision of a hydrogen-methane blend is not a new regulated service that can be divested to a separate entity, but is the transformation of FEI's core utility activities and existing service to customers. As noted above, this evolution of FEI's core public utility activities is clearly and explicitly driven by public policy, such as the CleanBC Roadmap to 2030 and the BC Hydrogen Strategy, to reduce GHG emissions. Forcing FEI to divest hydrogen services to a non-regulated entity would prevent FEI from transitioning its business, would be counter to public policy and the public interest, and detrimental to the interest of FEI's customers in particular.

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[93] Mr. Quinn, Workshop Transcript, pp. 67-68.

50. Fifth, Air Products' position that hydrogen production activities "would typically be carried out by an unregulated affiliate"[94] is baseless. FEI already acquires conventional natural gas and is involved in both the production and purchase of renewable natural gas as part of its regulated activities, and there is no law or policy that prohibits FEI from acquiring other types of fuels for distribution to its customers. To the contrary, as demonstrated above, FEI's hydrogen development activities are firmly aligned with and supported by government policy and regulation.

51. Sixth, in response to Air Products' references to "the findings and recommendations in the Draft Report in the HES Inquiry", the BCUC made no findings in its Draft Report that would compel FEI to undertake hydrogen production in a non-regulated entity. To the contrary, with respect to hydrogen production, the Draft Report indicates the planned exemption from regulation for the production of hydrogen "should only be extended to entities which are not otherwise public utilities."[95]

52. Finally, FEI submits that this topic is not within the scope of this proceeding. FEI's Annual Reviews are designed to review FEI's performance over the previous year, and review and approve delivery rates for the coming year. Annual Reviews are an abbreviated process under FEI's 2020-2024 MRP, and not the appropriate forum in which to pursue substantive issues related to the regulation of FEI's services. Moreover, the BCUC has a separate proceeding regarding the regulation of hydrogen in which Air Products is participating.

(d) Both GGRR and Non-GGRR Hydrogen Activities Are in the Public Interest

53. Air Products' submissions on non-GGRR related hydrogen activities are misguided and should be rejected. Air Products states that it "does not oppose the approvals sought by FEI in its Application at this time",[96] but then states that it "opposes recovering O&M costs related to hydrogen production that are neither authorized by the GGRR nor tested against third party

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94 Air Products Final Argument, p. 2.

95 Hydrogen Workshop Draft Report, p. 13.

96 Air Products Final Argument, para. 16.

supply costs (if any)".[97] However, it is reasonable and in the public interest for FEI to pursue hydrogen opportunities whether or not they are enabled by the GGRR, as they are all driven by the same public policy drivers to reduce emissions and it is prudent and cost-effective for FEI to pursue opportunities to acquire lower cost hydrogen for customers.

54. First, the policies driving FEI to pursue hydrogen, as discussed above, apply to hydrogen opportunities not currently enumerated in the GGRR. In this respect, it is important that both the BC Hydrogen Strategy and the *Carbon Intensity of Hydrogen Production Methods Supporting the BC Hydrogen Strategy* contemplate forms of hydrogen not currently enabled by the GGRR, including turquois hydrogen (i.e., hydrogen produced by methane pyrolysis).[98] These policy documents indicate that it is the carbon intensity of the hydrogen, rather than the source, that is important. For example, the BC Hydrogen Strategy says:[99]

> The federal Hydrogen Strategy for Canada and the European Commission recommend a carbon intensity threshold of 36.4 g CO2e/MJ. B.C. will consider this target a starting point and will ensure that its regulatory frameworks relating to hydrogen production and use are aligned to achieve continued reductions in carbon intensity over time.

Consistent with the above, FEI is only considering clean hydrogen that meets provincial and federal carbon intensity thresholds.[100]

55. Second, the cost of hydrogen not currently prescribed in the GGRR, such as turquois hydrogen, can be lower than hydrogen currently prescribed in the GGRR.[101] Given the potential for lower cost forms of hydrogen that are not enumerated in the GGRR, FEI is prudently investigating these opportunities.

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97 Air Products Final Argument, para. 10b.

98 Exhibit B-16, Undertaking No. 8, *Carbon Intensity of Hydrogen Production Methods Supporting the BC Hydrogen Strategy*, p. 36.

99 BC Hydrogen Strategy, p. 12.

100 Exhibit B-8, BCSEA IR1 7.7.

101 Mr. Quinn, Workshop Transcript, pp. 88-89.

56. Third, the BCUC can review and approve FEI's purchase or production of hydrogen, whether prescribed by the GGRR or not, through existing provisions of the *Utilities Commission Act*, including granting CPCNs under sections 45-46 for extensions to FEI's system to accommodate hydrogen, the acceptance of expenditure schedules under section 44.2 for capital costs or energy acquisition costs for hydrogen production or purchases, and the approval of rates under sections 59 to 61 for the recovery of hydrogen related costs in rates.[102] FEI will file applications with the BCUC for such hydrogen opportunities for the BCUC's review and approval as needed.

57. Overall, FEI submits that all of its hydrogen development costs are reasonable and in the public interest and should be approved as filed.

I. Proposed Amortization of 2024 to 2027 Demand-Side Management Expenditure Plan Application Deferral Account Is Reasonable and Consistent with Past Practice

58. CEC supports approval of FEI's requested 2024 to 2027 Demand-Side Management Expenditure Plan Application deferral account, but requests that the BCUC address the amortization of the deferred costs at the time of the upcoming MRP Application, arguing that the costs should be tied to the benefits of the DSM expenditures.[103] FEI submits that CEC's request should be rejected.

59. FEI's requested deferral account is to capture the external costs of the regulatory proceeding for FEI's 2024 to 2027 Demand-Side Management Expenditure Plan Application. These are not expenditures to implement demand-side measures, but regulatory proceeding costs. Consistent with past practice previously approved by the BCUC, FEI has reasonably proposed to amortize these costs over four years, matching the term of the DSM expenditure plan for which FEI has sought acceptance.[104] Based on CEC's approach, these costs would be amortized over at least a 10-year period, to match the amortization period of the DSM deferral

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[102] FEI notes that section 71 regarding "energy supply contracts" is not applicable to hydrogen purchases due to the definition of "energy" in section 68 of the *Utilities Commission Act*.

[103] CEC Final Argument, para. 333.

[104] Exhibit B-2, Application, Table 7-8 and p. 74.

account for FEI's DSM expenditures. FEI submits that the CEC's approach confuses regulatory proceeding costs with the costs of actual DSM activities, would be inconsistent with past practice, and would result in an overly lengthy amortization period. As such, CEC's proposal should be rejected.

J. FEI's Mitigation Activities Have Reduced the Balance in the MCRA

60. Contrary to BCOAPO's submission,[105] FEI did not clarify in response to CEC IR1 3.12 that the credit balance in the MCRA was due only to "fortuitous forward commodity gas prices" rather than strong mitigation performance. It was in fact driven by strong mitigation performance by FEI at the end of 2022 as well as favourable forward commodity gas prices.[106] While FEI explained the market dynamics in response to CEC IR1 3.12, it takes both market conditions and mitigation activities by FEI to produce mitigation revenue.

K. PST Rebates Should be Flowed Through to Customers in 2024

61. CEC argues that provincial PST rebates should be flowed to customers in 2023 rather than creating a deferral account and amortizing the rebates over one year, starting on January 1, 2024, as proposed by FEI.[107] FEI's proposal to flow through the rebates to customers in 2024 provides the benefits to customers as soon as possible.[108] As FEI explained at the Workshop, the 2023 delivery rates have already been approved as permanent pursuant to Order G-275-23.[109] It is therefore not possible to flow the PST rebates to customers in 2023, as 2023 final rates have been approved by the BCUC. Further, if FEI were directed to record the PST rebates in 2023 Projected Other Revenue, the rebates would be captured in the Flow-through deferral account and amortized in 2024, which is no different in effect than FEI's proposal.

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[105] BCOAPO Final Submission, p. 9.

[106] Exhibit B-2, Application, p. 9.

[107] CEC Final Argument, para. 337.

[108] Exhibit B-6, BCUC IR1 11.3, 11.4 and 11.7.

[109] Exhibit B-14, Workshop Presentation, Slide 4; Ms. Walsh, Workshop Transcript, p. 13.

L. FEI Has Reasonably Forecast the Monetization of Emissions Credits

62. BCOAPO submits that FEI should forecast the monetization of all of its 3,423 emissions credits.[110] FEI plans to monetize all of its carbon credits as soon as practical; however, FEI did not forecast the monetization of the 1,008 carbon credits from the 2022 compliance period due to the uncertainty in when these credits will be validated by the Ministry.[111] FEI's forecast is reasonable given the significant time it has taken to monetize credits in the past.[112] Notably, there was a lapse in credit validation since 2019 which resulted in the credits from the 2019 and 2020 Compliance periods not being validated until 2022. In its next revenue requirements application, FEI will have more certainty and will be able to forecast the monetization of these credits more accurately, which could be amortized into rates as soon as in 2025. FEI submits that its forecast remains reasonable and should be approved. However, if the BCUC were to direct that FEI's forecast include the monetization of all carbon credits, FEI's proposed delivery rates would remain at 8 percent and the impact would be to reduce the revenue deficiency to be deferred to the 2023 Revenue Deficiency deferral account. In essence, the impact would likely be to amortize the impact of the monetization of the credits over five years, rather than in 2025.

M. The Consensus Recommendation Provides an Effective and Efficient Means of Assessing SQI Performance

63. RCIA considers that it may be worthwhile to revisit the Consensus Recommendation as part of the next MRP proceeding as FEI can "effectively always avoid a penalty if it takes some action, however minimal, to ameliorate service degradation".[113] FEI submits that the Consensus Recommendation has provided an effective and efficient means of assessing the utility's SQI performance and remains appropriate.

64. First, contrary to RCIA's suggestion, FEI has not avoided penalties by taking "minimal" action. FEI has responded to variations in its SQI performance in a timely and material way,

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[110] BCOAPO Final Argument, pp. 16-17.

[111] Exhibit B-6, BCUC IR1 12.2.

[112] Exhibit B-6, BCUC IR1 12.1.1.

[113] RCIA Final Argument, p. 8.

mitigating impacts to customers and consistently maintaining a high level of overall service quality. Further, the BCUC has not found that a "serious degradation of service" has occurred as part of the 2020-2024 MRP, which the imposition of financial consequences is dependent on.[114]

65. Second, RCIA's characterization of the Consensus Recommendation – that *any* mitigating actions taken by the utility ameliorating service degradation avoid a financial penalty – is incorrect. The Consensus Recommendation states:[115]

> Determinations of any financial consequences will be made based on whether there has been a serious degradation of service <u>and having regard to the other factors identified by the Commission in the following passage from the Decision</u>:
>
> "When assessing the magnitude of any reduction in each Company's share of the incentive earnings, <u>the Commission will take into account the following factors</u>:
>
> - Any economic gain made by each Company in allowing service levels to deteriorate;
> - The impact on the delivery of safe, reliable and adequate service;
> - Whether the impact is seen to be transitory or of a sustained nature; and
> - Whether each Company has taken measures to ameliorate the deterioration in service." [emphasis added]

Nowhere does the Consensus Recommendation state that meeting a single factor and, in particular, the actions taken by the utility to ameliorate the deterioration in service necessarily avoids a penalty. Instead, in past years of the 2020-2024 MRP term where the BCUC has declined to impose a financial penalty (e.g., the Annual Review for 2023 Delivery Rates proceeding), FEI has established that the performance below the established range was not attributable to the actions or inactions of the utility, and that FEI had taken reasonable actions to mitigate the impacts to customers and maintained an overall high level of customer service.[116]

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[114] Decision and Order G-107-15, dated June 23, 2015. Online: https://www.ordersdecisions.bcuc.com/bcuc/orders/en/120251/1/document.do.

[115] Order G-14-15, Appendix A, p. 6.

[116] Decision and Order G-352-22, pp. 32-33.

66. Ultimately, the Consensus Recommendation was jointly created and proposed by FEI and interveners, and reviewed and approved by the BCUC, and has been reasonably used by the BCUC to monitor FEI's service quality over the course of FEI's 2014-2019 Performance Based Ratemaking (PBR) Plan term and the 2020-2024 MRP term.[117] FEI submits that RCIA has not provided any reasonable basis to determine that it be varied at this time.

PART THREE: CONCLUSION

67. The final submissions of interveners broadly support FEI's Application, reflecting a constructive information-sharing process undertaken through IRs and the Workshop. FEI submits that its approvals sought are just and reasonable and should be approved as filed.

68. ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated:	November 20, 2023	***[original signed by Chris Bystrom]***
		Chris Bystrom Counsel for FortisBC Energy Inc.
Dated:	November 20, 2023	***[original signed by Niall Rand]***
		Niall Rand Counsel for FortisBC Energy Inc.

[117] Decision and Order G-107-15.