



**Sarah Walsh**  
Director, Regulatory Affairs

**Gas Regulatory Affairs Correspondence**  
Email: [gas.regulatory.affairs@fortisbc.com](mailto:gas.regulatory.affairs@fortisbc.com)

**Electric Regulatory Affairs Correspondence**  
Email: [electricity.regulatory.affairs@fortisbc.com](mailto:electricity.regulatory.affairs@fortisbc.com)

**FortisBC**  
16705 Fraser Highway  
Surrey, B.C. V4N 0E8  
Tel: (778) 578-3861  
Cell: (604) 230-7874  
Fax: (604) 576-7074  
[www.fortisbc.com](http://www.fortisbc.com)

February 12, 2024

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)**

**Application for Approval of a Modification Agreement to the Operating Agreement between the Westbank First Nation and FEI**

---

FEI hereby applies for approval from the British Columbia Utilities Commission (BCUC), pursuant to section 23(1)(g)(ii) of the *Utilities Commission Act* (UCA) of a Modification Agreement dated February 5, 2024 (Modification Agreement No. 5)<sup>1</sup> to the Operating Agreement between FEI and the Westbank First Nation (WFN) dated August 8, 2006 (WFN Operating Agreement).

**Background:**

By Order C-3-07, dated February 15, 2007, the BCUC approved, among other things, the WFN Operating Agreement for a period of 15 years, effective February 15, 2007. By Order G-234-21, dated August 5, 2021, the BCUC approved a Modification Agreement, dated July 26, 2021 (Modification Agreement No. 1), entered into between the WFN and FEI amending the expiry of the WFN Operating Agreement to February 15, 2022. By Order G-32-22, dated February 15, 2022, the BCUC approved a Modification Agreement, dated February 7, 2022 (Modification Agreement No. 2), entered into between the WFN and FEI amending the expiry of the WFN Operating Agreement to October 15, 2022. By Order G-289-22, dated October 18, 2022, the BCUC approved a Modification Agreement, dated October 3, 2022 (Modification Agreement No. 3), entered into between the WFN and FEI amending the expiry of the WFN Operating Agreement to June 15, 2023. By Order G-141-23, dated June 13, 2023, the BCUC approved a Modification Agreement, dated May 29, 2023 (Modification Agreement No. 4), entered into between the WFN and FEI amending the expiry of the WFN Operating Agreement to February 15, 2024.

Modification Agreement No. 5 extends the term of the WFN Operating Agreement to August 15, 2025, to facilitate ongoing discussions between FEI and WFN regarding terms to a new operating agreement.

---

<sup>1</sup> Modification Agreement No. 5 was executed by the WFN on February 5, 2024 and by FEI on February 12, 2024.

The extensions to the expiry of the WFN Operating Agreement, including those previously approved by the BCUC, have been necessary due to the complexity of the interrelationship between multiple agreements under negotiation between the parties as well as interrelated WFN policies that are also under development. As such, it is not possible to finalize the terms to a new operating agreement in isolation and additional time is required to advance negotiations and development on these interrelated policies and agreements. It is also not possible at this time to speculate whether additional extension of the WFN Operating Agreement will be required in future.

### **Order Sought**

Due to the expiry of the WFN Operating Agreement on February 15, 2024, FEI requests approval from the BCUC, pursuant to section 23(1)(g)(ii) of the UCA, of the executed Modification Agreement No. 5 to the WFN Operating Agreement, on a permanent basis effective February 16, 2024. Should the BCUC be unable to make a determination on permanent approval before the expiry of the existing agreement, then FEI requests approval of Modification Agreement No. 5 to the WFN Operating Agreement on an interim basis, pursuant to section 89, of the UCA effective February 16, 2024. A draft form of final Order is provided in Appendix B.

If further information is required, please contact Ilva Bevacqua, Manager of Regulatory Compliance and Administration at (604) 592-7664.

Sincerely,

**FORTISBC ENERGY INC.**

***Original signed:***

Sarah Walsh

Attachments

cc (email only): Counsel for WFN, Arbutus Law Group LLP, Emily Boyle [emily@arbutuslaw.ca](mailto:emily@arbutuslaw.ca); Kathryn Deo [kathryn@arbutuslaw.ca](mailto:kathryn@arbutuslaw.ca).

**Appendix A**

---

**FEI – WESTBANK FIRST NATION  
MODIFICATION AGREEMENT NO. 5**

## MODIFICATION AGREEMENT

THIS AGREEMENT ("Modification Agreement") made as of the 5 day of February, 2024.

### BETWEEN:

WESTBANK FIRST NATION, a Self-Governing First Nation as represented by its duly elected Chief and Council of #301-515 Highway 97, Kelowna, British Columbia

(hereinafter "Westbank")

OF THE FIRST PART

### AND:

FORTISBC ENERGY INC. (formerly Terasen Gas Inc.), a body corporate duly incorporated under the laws of the Province of British Columbia, and having an office in the Province of British Columbia located at 16705 Fraser Highway, Surrey, British Columbia

(hereinafter "FortisBC")

OF THE SECOND PART

### WHEREAS:

- A. The parties entered into an operating agreement dated August 8, 2006 and modified by agreements dated July 26, 2021, February 7, 2022, October 3, 2022, and May 29, 2023 (collectively the "Westbank Operating Agreement"), which is due to expire on February 15, 2024;
- B. The parties have agreed to extend the term of the Westbank Operating Agreement for an additional period of eighteen (18) months to expire on August 15, 2025 on the same terms and conditions as the Westbank Operating Agreement.

NOW THEREFORE, in consideration of the mutual promises herein and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

- 1. The parties agree to extend the term of the Westbank Operating Agreement to August 15, 2025.
- 2. This Modification Agreement shall be read together with the Westbank Operating Agreement and any capitalized terms used herein which are not otherwise defined shall the meanings given to them in the Westbank Operating Agreement.
- 3. This Modification Agreement is subject to the applicable laws of Westbank, Canada or the Province of British Columbia and those orders or provisions of the BCUC applicable to FortisBC.
- 4. Words importing the singular include the plural and vice versa; words importing the masculine gender include the feminine and neuter genders; and words importing persons include individuals, sole proprietors, corporations, partnerships and unincorporated associations.

5. This Modification Agreement may be executed in counterparts with the same effect as if all parties had signed the same document. All counterparts will be construed together and will constitute one agreement. Delivery of an executed counterpart of this Modification Agreement by facsimile or other means of electronic transmission shall be as effective as delivery of an originally executed counterpart.
6. All unamended terms and conditions in the Westbank Operating Agreement shall remain in full force and effect.
7. This Modification Agreement shall have effect as of February 5, 2024.

**[Remainder of Page Intentionally Left Blank. Signature Page Follows.]**

IN WITNESS of this Modification Agreement, the parties have caused this Modification Agreement to be duly executed as of the day and year first above written.

Signed by a quorum of the Westbank First Nation Council this 5 day of February, 2024.

WITNESS:

Andrea Kenzie

Witness Signature

515 Hwy 97 South

Address

Kelowna, BC V1Z 3J2

Recording Clerk

Occupation

(As to all signatures)

  
Chief

  
Councillor

  
Councillor

  
Councillor

Signed on behalf of FortisBC Energy Inc. this 12 day of February, 2024.

WITNESS:

Kim Rougeau  
Kim Rougeau

Witness Signature

1111 West Georgia St., #1000

Address

Vancouver, BC, V6E 4M3

Executive Assistant

Occupation



Authorized Signatory: Doug Slater

VP, Indigenous Relations and Regulatory Affairs



**ORDER NUMBER**

**G-xx-xx**

IN THE MATTER OF  
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc.  
Application for Approval of a Modification Agreement to the Operating Agreement between  
the Westbank First Nation and FortisBC Energy Inc.

**BEFORE:**

[Panel Chair]  
Commissioner  
Commissioner

on **Date**

**ORDER**

**WHEREAS:**

- A. On February 12, 2024, FortisBC Energy Inc. (FEI) applied to the British Columbia Utilities Commission (BCUC) pursuant to section 23(1)(g)(ii) of the *Utilities Commission Act* for approval of a Modification Agreement, dated February 5, 2024 (Modification Agreement No. 5) entered into between the Westbank First Nation (WFN) and FEI, modifying the Operating Agreement between WFN and FEI dated August 8, 2006 (WFN Operating Agreement) (Application);
- B. By Order C-3-07 dated February 15, 2007, the BCUC, among other things, approved the WFN Operating Agreement for a period of 15 years with an expiration date of October 16, 2022. By Order G-234-21 dated August 5, 2021, the BCUC approved a Modification Agreement dated July 26, 2021 (Modification Agreement No. 1) amending the expiry of the WFN Operating Agreement to February 15, 2022. By Order G-32-22, dated February 15, 2022, the BCUC approved a Modification Agreement dated February 7, 2022 (Modification Agreement No. 2) amending the expiry of the WFN Operating Agreement to October 15, 2022. By Order G-289-22, dated October 18, 2022, the BCUC approved a Modification Agreement, dated October 3, 2022 (Modification Agreement No. 3) amending the expiry of the WFN Operating Agreement to June 15, 2023. By Order G-141-23, dated June 13, 2023, the BCUC approved a Modification Agreement dated May 29, 2023 (Modification Agreement No. 4) amending the expiry of the WFN Operating Agreement to February 15, 2024;
- C. The Modification Agreement No. 5 amends the expiry of the WFN Operating Agreement to August 15, 2025;  
and
- D. The BCUC has reviewed the Application and determines that approval is warranted.



**NOW THEREFORE** pursuant to section 23(1)(g)(ii) of the *Utilities Commission Act*, the BCUC orders that the Modification Agreement No. 5 to the WFN Operating Agreement is approved on a permanent basis, effective February 16, 2024.

**DATED** at the City of Vancouver, in the Province of British Columbia, this (XX) day of (Month Year).

BY ORDER

(X. X. last name)  
Commissioner