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

**Attention: Commission Secretary**

Dear Sirs/Mesdames:

**Re: FortisBC Energy Inc. – Regional Gas Supply Diversity Development Account Cost Recovery Application**

We enclose for filing in the above proceeding the Reply Submission of FortisBC Energy Inc., dated April 17, 2025.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**

Matthew Ghikas
Personal Law Corporation

Enclosure

**British Columbia Utilities Commission**

**FortisBC Energy Inc.**

**Regional Gas Supply Diversity Development Account Cost Recovery Application**

**Reply Submission of FortisBC Energy Inc.**

**April 17, 2025**

**Fasken Martineau DuMoulin LLP**
Matthew Ghikas and Niall Rand

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## A. Introduction

1. Both British Columbia Old Age Pensioners' Organization *et al.* (**BCOAPO**) and the Commercial Energy Consumers Association of British Columbia (**CEC**) support[1] FEI recovering $4.281 million[2] in development costs incurred for the RGSD Project.[3] FEI's Reply Submission thus focuses on two narrow issues raised by BCOAPO:[4] (1) its stated difficulty assessing the reasonableness of the development costs incurred after November 2022; and (2) its recommendation that the balance of the RGSD Development Account remain in a non-rate base account, attracting a Weighted Average Cost of Debt (**WACD**) return.

2. FEI respectfully submits that BCOAPO's arguments on these issues are unpersuasive for the reasons outlined, respectively, in Sections B and C below. It is, therefore, reasonable and appropriate for FEI to recover the costs incurred on the terms sought in the draft final order in Appendix C-2 to the Application.[5]

3. This Reply Submission is organized around the following points in response to BCOAPO:

- There was ample basis for FEI to have continued development work between November 2022 and Q1 2024. BCOAPO's suggestion to the contrary is not supported by the evidence.
- BCOAPO's recommendation that the balance of the RGSD Development Account remain in a non-rate base account, attracting a WACD return,[6] should be rejected for three reasons:
  - ➢ The BCUC has already approved a Weighted Average Cost of Capital (**WACC**) return on the balance of the non-rate base RGSD Development Account, and BCOAPO has not established a basis to vary the BCUC's prior determination on the appropriate return for the account.

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1 BCOAPO Final Argument, p. 7; CEC Final Argument, para. 53.

2 $3.749 million net of tax and including allowance for funds used during construction (AFUDC). FEI also forecasts regulatory proceeding costs of approximately $45 thousand.

3 Abbreviations used in FEI's Final Submission dated March 19, 2025 are also used in this Reply Submission.

4 Given the focused nature of these submissions, FEI's silence on a particular intervener statement should not be interpreted as agreement.

5 Exhibit B-1, Application.

6 BCOAPO Final Argument, p. 8.

- Retaining the existing non-rate base deferral account, as proposed by BCOAPO, overlooks the underlying accounting reason for transferring the balance to a rate base account and should be rejected.

- A lack of underlying asset has no bearing on whether a non-rate base or rate base deferral account is appropriate, or what type of return the account attracts.

**B. Reply to BCOAPO on Development Costs Incurred After November 2022**

4. Despite agreeing that FEI ought to recover the full balance of the RGSD Development Account totalling $4.281 million before-tax, BCOAPO suggests that it was “more difficult” to assess the reasonableness of the $2.6 million spent between November 2022 and Q1 2024. BCOAPO contends that there is a lack of “definitive evidence” on the record regarding the Sunrise Project’s stage of development.[7] In fact, the evidentiary record is definitive: during this time period, the Sunrise Project was by no means a certainty. It was reasonable, based on the information at the time, for FEI to have proceeded with the development work.

5. First, it would have been premature for FEI to have ceased development work when Enbridge announced that its open season for 300 MMscfd of incremental capacity was fully-subscribed in November 2022. At that time, Enbridge still needed to undertake considerable work (environmental, geotechnical and Indigenous engagement) before it could begin applying for regulatory and permitting approvals.[8] That is not to say it was impossible for Enbridge to perform the necessary assessment and development work within standard timelines (and indeed it ultimately did), but it was work that it had not yet done. The results of that work could have altered the commercial viability of the Sunrise Project in comparison to an alternative build such as the RGSD Project.[9] Discontinuing FEI’s development prematurely would only *guarantee* higher costs and a lack of benefits for FEI customers.

6. Second, the binding nature of Enbridge’s open season process did not eliminate the potential for an alternative commercial solution that could be in place on the same timeline as

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7 BCOAPO Final Argument, pp. 6-7.

8 Exhibit B-4, BCOAPO IR1 2.4; Exhibit B-5, CEC IR1 8.1.

9 Exhibit B-4, BCOAPO IR1 2.4.

the Sunrise Project (i.e., by 2028), including the RGSD Project. Under this scenario, FEI would have released a portion of its existing T-South capacity to the shippers that participated in the open season in order to ensure their commitments as part of the open season were fulfilled.[10]

7. Third, even after Enbridge had filed a Project Description for the Sunrise Project with the Canadian Energy Regulator (CER) in January 2024,[11] it remained possible that the Sunrise Project would not proceed if, for example, the CER ultimately recommended that issuing a certificate was not in the present and future public convenience and necessity.[12] FEI and other shippers retained the option to intervene in the CER process and present viable alternatives such as the RGSD Project.[13] Ultimately, based on the information available at the time, FEI reasonably concluded that the Sunrise Project was more likely to be the clear market "front runner" and ceased development work. FEI's evidence is that this decision was informed, in part, by the work completed between November 2022 and Q1 of 2024, including the detailed route screening analysis which yielded important information (e.g., RGSD Project timelines would extend beyond short-term market needs).[14]

8. FEI submits that its decision to continue the RGSD development work between November 2022 and Q1 2024 was reasonable and the associated costs are recoverable.

## C. Reply to BCOAPO on the Appropriate Disposition of RGSD Development Account Balance

9. BCOAPO's recommendation that the balance of the RGSD Development Account remain in a non-rate base account, attracting a WACD return,[15] should be rejected for the three reasons set out below.

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[10] Exhibit B-5, CEC IR1 8.1.

[11] Exhibit B-1, Application, p. 13.

[12] See section 183 of the *Canadian Energy Regulator Act*, S.C 2019, c. 28, s. 10.

[13] Exhibit B-4, BCOAPO IR1 2.3.

[14] Exhibit B-3, BCUC IR1 1.1.

[15] BCOAPO Final Argument, p. 8.

### (a) BCUC Has Already Approved a WACC Return and It Remains Appropriate

10. BCOAPO's recommendation is inconsistent with the BCUC's prior decision establishing the account, which had approved a WACC return.[16] FEI submits that the approved return has already been decided by a prior BCUC Panel and BCOAPO has not established a basis for departing from that order. FEI is only seeking approval to transfer the balance from a non-rate base account to a rate base account.[17]

11. Further, the rate base account should logically attract the same return as the previously approved non-rate base account.[18] Whether the account is rate base or non-rate base does not change the underlying return attributed to the balance being deferred (in this case an approved WACC return). What matters is how the balance is financed. The costs recorded in the RGSD Development Account have been financed by FEI using a mix of debt and equity equivalent to its WACC, such that a return equivalent to the associated interest and return on equity costs is reasonable and appropriate.

12. The BCUC has previously emphasized the importance of how FEI and FortisBC Inc. (FBC) fund deferral account balances in determining the appropriate financing. The BCUC stated as follows in respect of the FBC EV Fleet and Workplace Charging Funding Account:[19]

> The Panel notes a deferral account creates a timing difference between when funds are spent and when those costs are recovered from ratepayers, and that timing difference leads to financing costs for the utility. Given that FBC is financing Program costs using a mix of debt and equity, we accept that the account's carrying costs, whether the account is a rate base account or not, should be the equivalent of FBC's WACC. The Panel also notes that this reasoning is consistent with recent BCUC decisions for FBC's 2020–2021 Annual Review and 2022 Annual Review.

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16 FEI Application for Approval of Regional Gas Supply Diversity Development Account, Order G-253-22, dated September 14, 2022.

17 Exhibit B-3, BCUC IR1 5.2.

18 Exhibit B-3, BCUC IR1 5.2.

19 Decision and Order G-11-23, dated January 20, 2023, p. 13.

FEI submits that this same logic that justified a WACC return in the case of the FBC EV Fleet and Workplace Charging Funding Account and the RGSD Development Account applies in the case of the proposed rate base account.

13. Finally, while BCOAPO suggests that its recommendation of a WACD return is appropriate given the relatively short amortization period proposed, FEI submits that the length of the amortization period has no bearing on the associated return. Indeed, FEI has a number of deferral accounts with a shorter amortization period that attract a WACC return.[20]

### (b) A Rate Base Deferral Account Avoids Potential Variances and is Consistent with Past Practice

14. Retaining the existing non-rate base deferral account, as proposed by BCOAPO, would not address the underlying accounting reason for transferring the balance to a rate base account; namely, to avoid a residual balance that needs to be recovered from, or returned to, customers in a future year (beyond the proposed three-year amortization period). FEI explained[21] that the WACC return of a non-rate base account is calculated and recorded monthly using the actual deferral balance and the approved after-tax WACC rate. The resulting current year return is recorded directly in the deferral account itself. It is, therefore, possible for non-rate base accounts, like the RGSD Development Account, to have variances between the actual and forecast balances. This contrasts with a rate base account in which the return is embedded in the earned return portion of the current year revenue requirements, thus avoiding the risk of variances related to the return being embedded in the deferral account and the need for adjustments to balance the account.[22]

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20 For example, the Flow-through deferral account, approved by Order G-69-25, has an amortization period of 1 year; the Earnings Sharing deferral account, approved by Order G-69-25, has an amortization period of 1 year; the BCUC Levies Variance deferral account, approved by Order G-112-04, has an amortization period of 1 year.

21 Exhibit B-3, BCUC IR1 5.1.

22 Exhibit B-3, BCUC IR1 5.1.

15. Transferring the balance from the existing non-rate base RGSD Development Account to rate base to eliminate the potential for future variances is also consistent with past BCUC treatment.[23]

**(c) Lack of Underlying Asset Has No Bearing on Account and/or Return Type**

16. BCOAPO points to a lack of underlying asset associated with the RGSD Development Account to support retaining the balance in a non-rate base account attracting a WACD return.[24] FEI submits that the lack of an underlying asset has no bearing on FEI's request to transfer the balance to a rate base account that continues to attract a WACC return. Capital projects (the physical asset) and the development costs incurred before the physical asset is created and capitalized are both financed using the same funds (from a mix of debt and equity). The lack of a physical asset in the case of the RGSD development costs does not change the underlying financing.

**D. Conclusion**

17. FEI respectfully submits that the unanimity among the parties as to the appropriateness of full cost recovery is reflective of the compelling evidence that undertaking the development work was a worthwhile initiative for the benefit of customers. The BCUC should approve the Application on the terms sought.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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| Dated: | April 17, 2025 | ***[original signed by Matthew Ghikas]*** |
| | | Matthew Ghikas<br>Counsel for FortisBC Energy Inc. |
| Dated: | April 17, 2025 | ***[original signed by Niall Rand]*** |
| | | Niall Rand<br>Counsel for FortisBC Energy Inc. |

23 See e.g., Decision and Order G-366-21, dated December 10, 2021 (p. 17), in which FEI was approved to transfer the non-rate base 2017 & 2018 Revenue Surplus deferral account to rate base.

24 BCOAPO Final Argument, p. 8.