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## Electronic Filing

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

**Attention: Registrar**

Dear Sirs/Mesdames:

**Re: British Columbia Utilities Commission Review of Renewable Natural Gas Definition and Accounting**

We enclose for filing in the above proceeding the Reply Submissions of FortisBC Energy Inc., dated January 12, 2026.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**

*[Original signed by]*

Christopher Bystrom\*  
\*Law Corporation

Encl.



**BRITISH COLUMBIA UTILITIES COMMISSION**

**Review of Renewable Natural Gas  
Definition and Accounting**

**REPLY SUBMISSIONS  
OF  
FORTISBC ENERGY INC.**

**January 12, 2026**

**Fasken Martineau DuMoulin LLP  
Chris Bystrom and Niall Rand**

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## PART ONE: INTRODUCTION AND OVERVIEW

1. There is broad support from the participants in this Inquiry for the BCUC's conclusions that the *Greenhouse Gas Reduction (Clean Energy) Regulation* ("GGRR")<sup>1</sup> permits the acquisition of out-of-province renewable natural gas ("RNG"). In addition to FEI, this support includes Creative Energy,<sup>2</sup> Pacific Northern Gas ("PNG"),<sup>3</sup> Intervener Group ("IG") 1,<sup>4</sup> British Columbia Sustainable Energy Association ("BCSEA"),<sup>5</sup> IG3,<sup>6</sup> and Metro Vancouver.<sup>7</sup> Moreover, no evidence has emerged of any double counting of environmental attributes ("EAs") of RNG. FEI's compliance and verification practices, as overseen by the BCUC, are robust, including contractual obligations, regular audits, attestations, market scans, and a chain of custody framework. FEI's book and claim process is standard practice used for RNG and other forms of lower-carbon energy, including renewable electricity generation, and is a practice recognized by GHG Protocol Scope 2 Guidance.<sup>8</sup> Moreover, if for any reason FEI is not able to acquire the EAs of the RNG it purchases, or the RNG does not meet the carbon intensity requirements set out in the biomethane purchase agreement ("BPA"), FEI has contractual rights to terminate the BPA.<sup>9</sup> Further, with support from the federal and British Columbia governments,<sup>10</sup> the Canadian Low-Emission Energy Registry ("CLEER") is being initiated, which would enhance transparency, accountability, and market confidence in low-emission energy, particularly RNG, across Canada. Overall, this Inquiry has reaffirmed the benefits and wisdom of the GGRR's intent to encourage

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<sup>1</sup> [B.C. Reg. 102/2012](#).

<sup>2</sup> Exhibit C7-2, Creative Energy Submission, p. 2.

<sup>3</sup> Exhibit C8-2, PNG Submission, pp. 5-6.

<sup>4</sup> Exhibit C19-1, Intervener Group ("IG") 1 Submission, p. 4. IG1 consists of the British Columbia Old Age Pensioners et al ("BCOAPO"), Commercial Energy Consumers of BC ("CEC") and the Residential Consumers Intervener Association ("RCIA").

<sup>5</sup> Exhibit C18-1, IG2 Submission, Contributions of BCSEA, PDF pp. 48-49.

<sup>6</sup> Exhibit C17-1, IG3 Submission, p. 3. IG3 consists of the Canadian Biogas Association and the Renewable Gas Coalition.

<sup>7</sup> Exhibit C3-2, Metro Vancouver Submission, p. 3. Metro Vancouver states that "the Commission's allowance for acquiring RNG, which may be via either a physical or notional path as cited above, is consistent with the GGRR."

<sup>8</sup> Exhibit C1-2, FEI Submission, p. 28.

<sup>9</sup> Exhibit C1-7, FEI Response to IG2-FEI IR1 4.1.

<sup>10</sup> Exhibit C1-7, FEI Response to IG2-FEI IR1 2.1; Exhibit D-2, Letter of Comment from the Canadian Gas Association.

the acquisition of RNG, including from outside of BC. FEI's RNG Program has resulted in significant economic benefits in BC, has an important role in reducing greenhouse gas ("GHG") emissions and meeting climate targets in BC, and has wide support.

2. The sole parties opposing out-of-province RNG are the portion of Intervener Group 2 consisting of First Things First Okanagan ("FTFO"), Force of Nature Alliance ("FONA"), My Sea to Sky Society ("MS2S") and Stand Environmental Society ("Stand") (collectively, "FTFO/FONA/MS2S/Stand"). FTFO/FONA/MS2S/Stand have not offered any reasonable interpretation of the GGRR, but instead seek to severely restrict natural gas utilities' ability to acquire RNG. Amongst other uninformed positions, these interveners would insist that RNG be produced on site only, suggest that there is no accounting framework good enough to ensure compliance with the GGRR or emissions tracking generally,<sup>11</sup> and deny that RNG reduces GHG emissions at all.<sup>12</sup> These types of views are plainly contrary to well-established facts and the intent of the GGRR and government policy. For instance, both the CleanBC Plan and CleanBC Roadmap recognize RNG as a form of low-carbon energy.<sup>13</sup> FTFO/FONA/MS2S/Stand seek to turn this Inquiry into a policy debate on the future of RNG<sup>14</sup> and urge the BCUC to take a new policy or legislative direction with respect to acquisitions of RNG. However, the BCUC is not a policy-making or legislative body. The BCUC should reject FTFO/FONA/MS2S/Stand's views as unreasonable and inconsistent with the GGRR and government policy.

3. The BCUC commenced this Inquiry to examine the BCUC's definition of RNG, the sufficiency of mechanisms for ensuring that GHG emissions associated with RNG purchased from projects located outside of BC are properly accounted for, and whether further acquisitions of out-of-province RNG are consistent with the requirements of the GGRR. Based on the evidentiary record generated over the course of the Inquiry, the only reasonable conclusions that the BCUC can make are as follows:

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<sup>11</sup> Exhibit C18-9, FTFO/FONA/MS2S/Stand Response to CEC IR1 13.1.

<sup>12</sup> E.g., Exhibit C18-9, FTFO/FONA/MS2S/Stand Response to CEC IR1 14.1, pp. 3-4.

<sup>13</sup> Government of BC, "[CleanBC Plan](#)" (2018), p. 37; Government of BC, "[CleanBC Roadmap to 2030](#)" (2021), p. 26.

<sup>14</sup> E.g., MS2S argues that "Blending scarce, expensive, RNG into pipeline supply, as FortisBC has done to date, is arguably poor energy policy.": Exhibit C18-1, IG2 Submission, p. 23.

- Out-of-province RNG plays an important role in reducing GHG emissions in BC and meeting climate targets, produces economic benefits in BC, and is essential for the success of FEI's RNG Program;
- The GGRR permits the acquisition of out-of-province RNG and the BCUC cannot exercise any power that would even indirectly prevent public utilities from undertaking such acquisitions;
- The existing compliance mechanisms are robust and there is no evidence of any double counting of EAs of RNG; and
- The CLEER will enhance transparency, accountability, and market confidence in low-emission energy, particularly RNG, across Canada.

4. In the remainder of this Reply Submission, FEI responds to the issues raised by FTFO/FONA/MS2S/Stand and, to a lesser extent, Metro Vancouver. FEI has organized this submission around the following points:

- Part Two: The BCUC's jurisdiction in this Inquiry is limited.
- Part Three: Out-of-province RNG provides significant benefits.
- Part Four: Acquisitions of out-of-province RNG are a prescribed undertaking under the GGRR.
- Part Five: FEI's compliance and verification practices are robust, and the CLEER will enhance transparency, accountability, and market confidence in RNG across Canada.
- Part Six: Metro Vancouver overstates concerns regarding proving compliance with the GGRR.
- Part Seven: Other submissions of FTFO/FONA/MS2S/Stand are without merit.

5. In this Reply Submission, FEI has sought to reply to the main themes and statements of other parties to this Inquiry that appeared to FEI most important and within the scope of this Inquiry. FEI has not sought to reply to every statement of every intervener. Silence in this submission is not indicative of agreement. FEI continues to rely on the evidence it has filed earlier in this proceeding.

## PART TWO: THE BCUC'S JURISDICTION IN THIS INQUIRY IS LIMITED

6. In this Part, FEI discusses some of the limits on the BCUC's jurisdiction in this Inquiry that appear to be unrecognized by some interveners, most notably, FTFO/FONA/MS2S/Stand.

### **A. The Definition of RNG is a Matter of Statutory Interpretation, Not a Policy Decision**

7. FTFO/FONA/MS2S/Stand make submissions that suggest that the BCUC has jurisdiction to define RNG in any way it wishes and, in their view, in a way that would prohibit acquisitions of RNG or make it impractical to do so. As a matter of law, however, the definition of RNG is a question of statutory interpretation of the words "renewable natural gas" as those words occur in section 4 of the GGRR. The BCUC's task is to interpret the words of the GGRR using the approach to statutory interpretation dictated by the Courts. To be clear, the BCUC has no jurisdiction to substitute its own definition of RNG for the meaning of RNG as it occurs in the GGRR following the rules of statutory interpretation. FEI addresses this matter further in Part Four of this Reply Submission.

### **B. The BCUC Is Not a Legislative or Policy-Making Body**

8. FTFO/FONA/MS2S/Stand's submissions request actions from the BCUC that are beyond the jurisdiction of the BCUC and into the realm of policy and legislation which are the domain of government. For example, FTFO submits that gas utilities should "receive carbon credits when they spend equivalent dollars in BC on tangible solutions."<sup>15</sup> However, as discussed below, the BCUC is not a policy-making or legislative body; its authority is circumscribed by statute.

9. First, while the *Utilities Commission Act*<sup>16</sup> ("UCA") grants the BCUC broad supervisory powers over public utilities, as held by the Supreme Court of Canada in *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, the statutory jurisdiction of administrative tribunals like the BCUC is limited to: (1) express grants of jurisdiction in the terms of the enabling legislation (i.e., explicit powers); or (2) the common law doctrine of "jurisdiction by necessary implication" (i.e.,

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<sup>15</sup> Exhibit C18-1, IG2 Submission, p. 7.

<sup>16</sup> [R.S.B.C., c. 473](#).

implicit powers).<sup>17</sup> In Decision and Order G-5-17, which involved a comprehensive textual, contextual and purposive analysis of the UCA, as well as a review of both Hansard evidence and decisions of courts and tribunals from other Canadian jurisdictions, the BCUC found that it did not have the jurisdiction to approve low-income rates because to do so would have strayed beyond its statutory jurisdiction.<sup>18</sup> In reaching its decision, the Panel affirmed that the BCUC is only empowered to do those things that it is expressly authorized to do by the UCA, or which are necessarily implied by the UCA.<sup>19</sup> It is clear that the express wording of the UCA does not afford the BCUC the power to implement any of the actions proposed by FTFO/FONA/MS2S/Stand as this would require the BCUC to take on the role of a policy making body – which it is not. Further, the BCUC’s jurisdiction by necessary implication is narrow – limited to only what is “a practical necessity” for the BCUC to accomplish the objects prescribed by the legislature<sup>20</sup> and “rationally related” to the purpose of the UCA.<sup>21</sup> Determining what is rationally related requires applying Driedger’s modern approach to statutory interpretation and considering the tribunal’s core mandate or “main function.”<sup>22</sup> While there can be little doubt that the UCA empowers the BCUC to regulate utilities in accordance with the legislative framework, thus ensuring just and reasonable rates and reliable service, the ability to implement the actions proposed by FTFO/FONA/MS2S/Stand cannot be said to be of practical necessity or rationally related to the main function of the BCUC. As noted above, it is not the function of the BCUC to stand in the shoes of the Legislature.

10. Second, a relevant principle of statutory interpretation is the presumption that a legislature does not intend a statute to change the prevailing law “without expressing its intentions to do so with irresistible clearness”.<sup>23</sup> Absent that clear statutory mandate, the BCUC

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<sup>17</sup> *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, [2006 SCC 4](#) at para. 38 (“ATCO”).

<sup>18</sup> Decision and Order [G-5-17](#); affirmed on reconsideration in Decision and Order [G-87-17](#); leave to appeal denied in *British Columbia Old Age Pensioners’ Organization v. British Columbia Utilities Commission*, 2017 BCCA 400 at para. 37.

<sup>19</sup> Decision and Order [G-5-17](#), p. 53.

<sup>20</sup> *ATCO* at para. 77.

<sup>21</sup> *City of Richmond v. British Columbia Utilities Commission*, [2024 BCCA 16](#) at para. 44 (“*Richmond*”).

<sup>22</sup> *Richmond* at para. 44.

<sup>23</sup> *Rawluk v. Rawluk*, [\[1990\] 1 S.C.R. 70](#) at p. 90.

cannot act on its own initiative to create a new framework to regulate RNG supply, or how GHG emission reductions are achieved in BC. Such frameworks already exist, for example, the *Clean Energy Act*<sup>24</sup> and GRR. To do so would tread squarely into the jurisdiction of the Legislature.

11. Ultimately, the jurisdictional limits imposed on administrative tribunals like the BCUC ensure that they implement the policy choices of the Legislature and Cabinet rather than substituting those choices for their own. There is no evidence on the record to support the BCUC, acting within its statutory jurisdiction, to make public policy as contemplated by FTFO/FONA/MS2S/Stand. It would therefore be *ultra vires* the BCUC's jurisdiction for it to act as a policy making body in order to implement actions sought by FTFO/FONA/MS2S/Stand.

**C. The BCUC May Not Directly or Indirectly Prevent a Public Utility from Carrying out a Prescribed Undertaking**

12. FTFO/FONA/MS2S/Stand make submissions that may be aimed at encouraging the BCUC to take actions or make recommendations to government designed to prevent acquisitions of out-of-province RNG as a prescribed undertaking.<sup>25</sup> Some of the proposals of FTFO/FONA/MS2S/Stand fall squarely within the jurisdiction of the Legislature, such as amending the GRR. Other recommendations seek to accomplish the same thing, but *indirectly*, in the guise of compliance, verification or recommendations to government. However, the Legislature has explicitly restricted the BCUC's exercise of any power under the UCA with respect to prescribed undertakings authorized under section 18 of the *Clean Energy Act*. Section 18(2) states:

The commission must not exercise a power under the *Utilities Commission Act* in a way that would directly or indirectly prevent a public utility referred to in subsection (2) from carrying out a prescribed undertaking. [Emphasis added.]

In light of this express limitation, all exercises of the BCUC's powers under the UCA – including inquiries, compliance orders, reports, etc. – must not directly or indirectly prevent a public utility from carrying out a prescribed undertaking. Therefore, many if not all of the recommendations of FTFO/FONA/MS2S/Stand cannot be implemented by the BCUC.

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<sup>24</sup> [S.B.C. 2010, c. 22](#).

<sup>25</sup> See e.g., Exhibit C18-1, IG2 Submission, Contributions of FONA, p. 10 and Contributions of MS2S, pp. 16-17.

13. FTFO/FONA/MS2S/Stand have sought to turn this Inquiry into a policy debate regarding the use and merits of RNG; however, the government has already set a clear policy and legislative framework. The BCUC's role is to implement that framework, not undermine it, as FTFO/FONA/MS2S/Stand seek to do. This would be contrary to section 18 of the *Clean Energy Act*.

14. The actions of the BCUC arising from this Inquiry have the potential to harm the RNG market. This Inquiry has the attention of the RNG market and other industry participants, as exhibited by the participation of parties such as:

- The Renewable Gas Coalition (representing the RNG industry across North America, with over 400 members covering the RNG value chain);
- Canadian Biogas Association (representing the biogas and RNG industry in Canada, with over 185 member companies involved in biogas and RNG);
- The Canadian Gas Association ("CGA");
- CleanCounts; and
- The Electrical Natural Gas Coalition.

15. FEI's RNG Program is an important component of the RNG industry and the BCUC should be aware that any report issued from this Inquiry could impact FEI's ability to continue to contract with RNG suppliers. Specifically, a BCUC report that expresses negative views of out-of-province RNG, or recommendations to government to amend the GGRR to prevent it, would likely have a chilling factor on the market. This could in turn dissuade counterparties from entering into negotiations with FEI and prevent FEI from acquiring RNG, thereby indirectly preventing FEI from carrying out a prescribed undertaking. FEI submits that such actions are, therefore, prohibited by section 18 of the *Clean Energy Act*.

**PART THREE: OUT-OF PROVINCE RNG IS BENEFICIAL, NECESSARY TO MEET CLIMATE TARGETS AND SHOULD CONTINUE**

16. In this Part, FEI responds to submissions of FTFO/FONA/MS2S/Stand suggesting that out-of-province RNG is not beneficial to the economy of BC or for reducing GHG emissions in BC. Contrary to FTFO/FONA/MS2S/Stand, RNG is a drop-in fuel – a substitute for natural gas – and a readily available way for FEI to reduce the carbon intensity of the gas it delivers to customers. RNG is a practical, efficient, and flexible approach to GHG abatement as it utilizes the existing investments in the natural gas system across North America as a means to enable GHG abatement at a reasonable cost. Utilizing the lower cost and abundant supply of out-of-province RNG is therefore an important tool for British Columbia to meet its climate targets and provides significant benefits to BC.

17. As set out below, out-of-province RNG:

- Provides significant economic benefits in BC;
- Reduces GHG emissions in BC and contributes to meeting climate targets; and
- Provides significant benefits for FEI’s RNG Program.

**A. Out-of-Province RNG Provides Significant Economic Benefits in BC**

18. FTFO/FONA/MS2S/Stand’s assertions that acquiring out-of-province RNG does not provide economic benefits in British Columbia in a manner consistent with the “Powering our Future: BC’s Clean Energy Strategy”<sup>26</sup> are contradicted by evidence from a number of participants.<sup>27</sup> Indeed, restricting the acquisition of RNG to only RNG produced in BC would have detrimental economic and other impacts.

19. While the GGRR does not impose any requirements for acquisitions of RNG to generate economic benefits,<sup>28</sup> the acquisition of out-of-province RNG drives economic benefits and job creation in BC. These benefits include:

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<sup>26</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Responses to BCUC-All IR1 4.1 and 4.1.1.

<sup>27</sup> See Exhibit C1-4, FEI Response to BCUC-All IR1 4.1; Exhibit C18-2, BCSEA Responses to BCUC-All IR1 4.1 and 4.1.1; Exhibit C8-3, PNG Response to BCUC-All IR1 4.1.1.

<sup>28</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 4.1.

- **Stimulating Investment and Job Creation in BC:** The increased diversity of supply from other jurisdictions enabled by out-of-province RNG supports the development of the RNG industry generally, and will ultimately continue to increase development of, and access to, RNG within BC. This is because purchasing out-of-province RNG sends a strong market signal of demand, attracting developers and encouraging investment in RNG projects within BC. For example, the Delta RNG project benefitted from US investment flows, creating direct and indirect economic benefits through construction, waste management, and supply chain activities.<sup>29</sup>

The acquisition of out-of-province RNG has also not stunted the BC-based RNG sector. Instead, the sector has significantly increased capacity under the current regulatory framework and is now the second largest of any province.<sup>30</sup> As highlighted by PNG, enabling public utilities to acquire RNG and reduce overall GHG emissions is ultimately “critical to the economy overall”.<sup>31</sup>

- **Enabling Growth of BC-Based RNG Technologies and Expertise:** The expansion of the RNG market through out-of-province acquisitions has enabled BC companies such as Greenlane Renewables and Quadrogen Power Systems to grow their businesses globally.<sup>32</sup> Similarly, the BC-based company Hydron Energy developed a first-of-its-kind smaller-scale biogas upgrader designed for smaller capacity of feedstocks which can help expand the supply of RNG in BC and beyond.<sup>33</sup>
- **Generating Economic “Ripple Effects” Across Multiple BC-Based Sectors:** Out-of-province RNG procurement drives demand for specialized BC-based consulting, engineering, legal, and GHG verification services. For example, firms such as Brightspot Climate provide carbon market advisory and lifecycle assessment services, creating additional employment and expertise in BC.<sup>34</sup>
- **Supporting Maritime Decarbonization and Port Investments:** FEI’s RNG Program plays a significant role in the Port of Vancouver’s LNG bunkering initiative, which is driving significant economic investments and job creation in BC. The first accredited LNG bunkering supplier, Seaspan Energy, is enabling ships to refuel with LNG in the port, and there is significant interest in renewable LNG (“RLNG”) as a means to further reduce marine emissions, thus supporting the port’s sustainability goals.<sup>35</sup>

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<sup>29</sup> Exhibit C1-8, FEI Response to MoveUP-FEI IR1 1; Exhibit C8-3, PNG Responses to BCUC-All IR1 4.1 and 4.1.1.

<sup>30</sup> Exhibit C17-2, IG3 Response to BCUC-All IR1 4.1.

<sup>31</sup> Exhibit C8-3, PNG Response to BCUC-All IR1 4.1.1.

<sup>32</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 4.1; Exhibit C1-2, FEI Submission, p. 35.

<sup>33</sup> Exhibit C1-2, FEI Submission, pp. 35-36; Exhibit C1-8 FEI Response to MoveUP-FEI IR1 1; Exhibit C7-3, Creative Energy Response to BCUC-All IR1 4.1.

<sup>34</sup> Exhibit C1-8, FEI Response to MoveUP-FEI IR1 1; Exhibit C7-3, Creative Energy Response to BCUC-All IR1 4.1.

<sup>35</sup> Exhibit C1-8, FEI Response to MoveUP-FEI IR1 1.

- **Maintaining Reliable and Competitive Supply Expands the BC-Based RNG Market:** Out-of-province RNG ensures a reliable and continuous supply during the period when BC projects continue to be developed. Without this diversity, FEI would face supply shortfalls, leading to program enrolment curtailments and higher costs for customers, as occurred in 2019. A reliable supply of RNG is also critical for local businesses to confidently displace conventional gas with renewable alternatives. Curtailments would have a material impact on attracting large BC-based customers that rely on stable RNG supply and, as described above, continue to drive significant economic investments and job creation in BC.<sup>36</sup>
- **Enabling Cost Efficiencies and Leveraging Economies of Scale for the Benefit of British Columbians:** Out-of-province RNG projects often operate at a larger scale and have access to greater availability of feedstock, which significantly lowers production costs compared to smaller, emerging BC projects. These lower acquisition costs translate directly into reduced rate impacts for BC customers, helping maintain affordability while still achieving emissions reduction targets, which benefits the overall BC economy.<sup>37</sup> As Creative Energy observed, “restricting public utilities’ access to out-of-province RNG will significantly increase costs and stifle the role of RNG in reducing BC’s greenhouse gas emissions”.<sup>38</sup>

20. In contrast to the significant benefits identified above, constraining BC gas utilities’ ability to acquire out-of-province RNG would have a number of negative impacts, including those that would negatively impact the BC economy and employment. In particular, restricting access to out-of-province RNG supply would ensure the benefits discussed above are not realized by, for example, hampering the development of technology and projects that create emission reductions. It would also create significant inefficiencies, leading to harm of low-carbon energy markets and, more specifically, to BC utilities’ RNG programs and their ability to reduce GHG emissions in BC.<sup>39</sup>

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<sup>36</sup> Exhibit C1-8, FEI Response to MoveUP-FEI IR1 1; Exhibit C8-3, PNG Responses to BCUC-All IR1 4.1 and 4.1.1; Exhibit C17-2, IG3 Response to BCUC-All IR1 4.1.

<sup>37</sup> Exhibit C1-2, FEI Submission, pp. 36-37; Exhibit C1-8, FEI Response to MoveUP-FEI IR1 1; Exhibit C7-3, Creative Energy Response to BCUC-All IR1 4.1.

<sup>38</sup> Exhibit C7-3, Creative Energy Response to BCUC-All IR1 4.1.

<sup>39</sup> Exhibit C1-2, FEI Submission, pp. 36-37.

**B. Out-of-Province RNG Provides Significant GHG Reduction Benefits**

21. FTFO/FONA/MS2S/Stand argue that out-of-province RNG results in no “actual” reduction in GHG emissions in BC.<sup>40</sup> To the contrary, the RNG that FEI acquires from outside of BC and delivers to BC by displacement reduces GHG emissions in British Columbia because the GHG emissions from RNG are biogenic and, therefore, do not result in incremental emissions of carbon dioxide to the atmosphere.<sup>41</sup> The transfer of the environmental attributes of RNG to FEI and the sale of those attributes to FEI’s customers gives British Columbia the sole right to claim that it is using the RNG that FEI acquires and the sole right to recognize the biogenic nature of the RNG emissions within British Columbia.<sup>42</sup>

22. The reduction in GHG emissions resulting from RNG is consistent with the Intergovernmental Panel on Climate Change (“IPCC”) guidelines for jurisdictional inventory reporting, which recognize that the GHG emissions resulting from the consumption of RNG should be recorded in the jurisdiction where that RNG is used. The carbon dioxide (“CO<sub>2</sub>”) component of the RNG used within BC does not contribute to BC’s overall GHG emissions because RNG is methane produced from biogenic feedstocks, which means the CO<sub>2</sub> that is released when the RNG combusted is balanced by the carbon drawn out of the atmosphere to create its raw materials.<sup>43</sup>

23. The reduction in GHG emissions within British Columbia due to RNG acquired from outside the province is recognized by the BC Government. For example, the BC’s Climate Action Secretariat’s Carbon Neutral Government program recognizes GHG emissions reductions through the blend of RNG into FEI’s gas supply by adjusting its natural gas emissions factors for anthropogenic CO<sub>2</sub> and biogenic CO<sub>2</sub> proportional to the RNG blend. Commencing in July 2024, the emissions factors for use of natural gas from FEI were adjusted to reflect the fact that a

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<sup>40</sup> E.g., Exhibit C18-1, IG2 Submission, Contributions of MS2S, pp. 15-16.

<sup>41</sup> Exhibit C1-7, FEI Response to FTFO/FONA/MS2S/Stand IR1 1.1.

<sup>42</sup> Exhibit C1-7, FEI Response to FTFO/FONA/MS2S/Stand IR1 1.1.

<sup>43</sup> Exhibit C1-7, FEI Response to FTFO/FONA/MS2S/Stand IR1 1.1; Exhibit C1-4, FEI Response to BCUC-All IR1 3.1.1.

percentage of the gaseous energy received from FEI was RNG, thereby lowering the anthropogenic CO<sub>2</sub> emissions of the gaseous energy stream.<sup>44</sup>

24. While FTFO/FONA/MS2S/Stand are skeptical of delivery by displacement, their views are misguided. In fact, delivery by displacement is the predominant way in which gas and electrical energy is delivered in North America. The interconnected gas and electric systems are “displacement networks” by design.<sup>45</sup> With both natural gas supply and electricity supply, once the purchased energy is injected into the gas or electricity grid, it is not possible to track the physical gas molecule or electron. The physical renewable gas molecule or electron is consumed by the various users connected to these networks. Thus, utilities that purchase wind or other forms of renewable electricity are not guaranteed that their customers will consume the actual electricity generated from those sources; rather, their customers will consume the electricity that happens to flow to them based on the laws of physics.<sup>46</sup> This type of “notional” delivery is, therefore, not unique to RNG, but essential for the efficient delivery of electrical and gaseous energy across North America. Further, delivery by displacement is not a cross-border issue, as energy is delivered by displacement even within any local gas systems or electricity grid. Notably, even RNG produced in British Columbia is delivered to FEI’s customers via displacement. Imposing artificial restrictions on delivery of energy, such as based on the direction of flow, is not practical or efficient, and would artificially restrict markets and, ultimately, impose needless additional costs on customers.

25. FEI and its customers have benefitted from the speed and scale of RNG project development outside of BC. Both faster timelines in certain jurisdictions and the size of projects due to greater availability of organic waste inputs have allowed FEI to increase its supply more rapidly and advance emissions reduction objectives.<sup>47</sup> FEI has observed that on average, projects within BC have taken 3 to 5 years longer to develop than those outside of BC. There are a number of reasons for this difference and FEI continues to learn how to work with BC-based suppliers to

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<sup>44</sup> Exhibit C1-4, FEI Responses to BCUC-All IR1 3.1 and 3.1.1.

<sup>45</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 1.1.

<sup>46</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 1.2 and 1.3.

<sup>47</sup> Exhibit C1-2, FEI Submission, p. 36.

improve timelines. However, if FEI or other BC utilities were limited to acquiring RNG supply from facilities based in BC, it should be expected that those projects will take a longer time to develop on a per project basis and the volumes of RNG supply on average per project will be much lower.<sup>48</sup>

26. RNG is a substitute for natural gas and a readily available way for FEI to reduce the carbon intensity of the gas it delivers to customers. RNG is a practical, efficient, and flexible approach to GHG abatement as it utilizes the existing investments in the natural gas system across North America as a means to enable GHG abatement at a reasonable cost. Utilizing the lower cost and more abundant supply of out-of-province RNG is therefore an important tool for British Columbia to meet its climate targets.

### **C. Out-of-Province RNG Provides Significant Benefits for FEI's RNG Program**

27. FTFO/FONA/MS2S/Stand ignore the benefits of out-of-province RNG for FEI's RNG Program. The inclusion of out-of-province RNG supply in FEI's RNG supply portfolio has provided a diverse and more stable supply of RNG volumes, helping FEI to match RNG supply and demand and provide a consistent, long-term means of reducing emissions in BC.

28. By acquiring out-of-province RNG supply, FEI has not only been able to acquire more RNG more quickly and more cost-effectively than if limited to BC but has also benefited from a diverse supply base that has multiple sources of biomass and many geographic locations, increasing the stability of the overall supply of RNG. Different sources of biomass are subject to different variations. For example, some sources of biomass vary seasonally, such as lawn and yard waste which is produced more in the summer. Likewise, the location of an RNG supply facility can impact production potential. For example, FEI typically sees less production from sites located in BC during the winter due to the impact of colder temperatures on the biological process of raw biogas production. On the other hand, when RNG demand is lower in the summer, RNG production in BC is typically higher.<sup>49</sup>

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<sup>48</sup> Exhibit C1-2, FEI Submission, p. 36.

<sup>49</sup> Exhibit C1-2, FEI Submission, pp. 33-35.

29. The inclusion of out-of-province RNG has positively impacted FEI's ability to reliably forecast volumes on a monthly and yearly basis, and its inclusion helps to smooth out seasonal variations in supply, improving FEI's ability to match supply and demand. Supply and demand matching or balancing is an important consideration when looking at the overall health and viability of the RNG Program. Balancing allows FEI to ensure it has adequate RNG to meet customers' needs while also providing an opportunity to lower rates through the sale of RNG to other markets when supply exceeds demand. Further, long-term, diversified RNG supply is critical to support higher volume customers who have decided to use RNG to reduce their emissions profiles, including those who have made investments in natural gas for transportation vehicles and need certainty of supply to support their decisions.<sup>50</sup>

30. In the absence of predictable supply, FEI would be forced to take actions such as curtailing RNG supply to enrolled customers or limiting program enrollment. In 2019, FEI had ceased or curtailed new enrollments in the RNG Program when demand exceeded the available supply, causing an RNG supply shortfall. Enrollment in the RNG Program was re-opened in October of 2021 because of an increase in acquisitions of RNG supply, largely due to out-of-province sources. A direct result of ceasing enrollment in the RNG Program was that customers who voluntarily wanted to reduce their emissions by purchasing RNG were unable to do so. If FEI is unable to maintain diversity of RNG supply, FEI expects that it would undermine confidence in the RNG Program for customers and suppliers and would likely result in higher overall costs. Overall, restricting FEI's supply options would reduce the potential for immediate emissions reductions from RNG being delivered to customers and consumed.<sup>51</sup>

**D. FTFO/FONA/MS2S/Stand's Submissions on the Consequences of Allowing Out-of-Province RNG are Factually Mistaken**

31. FTFO/FONA/MS2S/Stand say there would be three adverse socio-economic consequences of allowing out-of-province RNG. Each is factually mistaken.

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<sup>50</sup> Exhibit C1-2, FEI Submission, pp. 33-35.

<sup>51</sup> Exhibit C1-2, FEI Submission, pp. 33-35.

32. First, FTFO/FONA/MS2S/Stand state that it would be difficult for customers to accept BCUC approved rate increases of out-of-province RNG.<sup>52</sup> FTFO/FONA/MS2S/Stand appear unaware that FEI's rates (as approved by the BCUC) include the costs of its RNG Program, including costs of acquiring out-of-province RNG.

33. Second, FTFO/FONA/MS2S/Stand say the BC Government would be deprived of carbon tax revenue.<sup>53</sup> FTFO/FONA/MS2S/Stand appear unaware that the carbon tax has been rescinded. Moreover, this would not be an adverse consequence, but the exact result the biomethane exemption from carbon tax was meant to achieve – i.e., to encourage the use of RNG. The BC Government recognized the importance of RNG in achieving provincial policy objectives by exempting biomethane (RNG) from the carbon tax in the *Carbon Tax Act*<sup>54</sup> and the associated *Carbon Tax Regulation*.<sup>55</sup> This exemption was first implemented in 2011 to provide a refund of the carbon tax paid on volumes of biomethane purchased in BC. By exempting RNG from the carbon tax, the BC Government recognized the role RNG plays in decarbonizing the gas system. This is further evidence of the BC Government's support for the acquisition of RNG, including from outside of BC.

34. Third, FTFO/FONA/MS2S/Stand say that allowing out-of-province RNG would disadvantage locally produced biomethane.<sup>56</sup> This is not accurate, as FEI has always prioritized locally produced biomethane and continues to acquire it. Locally produced biomethane projects have proven more expensive and require longer timelines, but FEI continues to explore all available in-province supply options. While the BC RNG supply market matures, FEI has been able to take advantage of out-of-province supply to supplement local supply, which has been key to the success of its RNG Program.

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<sup>52</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.4.

<sup>53</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.4.

<sup>54</sup> [S.B.C. 2008, c. 40](#).

<sup>55</sup> [B.C. Reg. 125/2008](#).

<sup>56</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.4.

#### **PART FOUR: THE ACQUISITION OF OUT-OF-PROVINCE RNG IS PERMITTED UNDER THE GGRR**

35. In this Part, FEI responds to the submissions of FTFO/FONA/MS2S/Stand regarding the definition of RNG and other submissions to the effect that out-of-province RNG is not, or should not be, permitted under the GGRR. FTFO/FONA/MS2S/Stand's submissions include the following:

- FTFO suggests that the BCUC's current definition of RNG be "amended" to only permit "low carbon RNG" that is used on-site and prohibit "high carbon RNG" that is used off-site.<sup>57</sup>
- FONA asks the BCUC "to amend the RNG definition and regulatory framework" and consider a "definition of RNG" that incorporates various tracking requirements:<sup>58</sup>

Renewable Natural Gas (RNG) means biomethane produced from renewable feedstocks whose environmental attributes are uniquely serialized, tracked, and retired in a recognized registry for exclusive end-use claims. Where conventional gas is supplied with biomethane environmental attributes, such attributes must be uniquely serialized, tracked, and retired, with attestations preventing any other use or claim in BC or elsewhere.

- MS2S recommends that the BCUC amend the GGRR to exclude out-of-province RNG. For example, MS2S recommends that the words "domestically-sourced" be inserted into section 2.2(2) of the GGRR.<sup>59</sup>
- Stand submits that the BCUC's definition of RNG allows notional deliveries "without confirmation of the origin of the molecules" or "guarantee that what was injected and purchased was RNG". Stand argues: "Amendments need to include what a defined robust and verifiable method of tracking associated EAs would be and there needs to be an accountability mechanism that ensures double-counting is not occurring. This would provide better assurances to ratepayers. Unless this is addressed, out-of-province should not be accepted."<sup>60</sup>
- FTFO/FONA/MS2S/Stand argue that the word "displacement" in the definition of "environmental attribute" implies an "in BC" requirement, which is contradicted by their own definition of displacement.<sup>61</sup>

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<sup>57</sup> Exhibit C18-1, IG2 Submission, Contributions of FTFO, p. 6.

<sup>58</sup> Exhibit C18-1, IG2 Submission, Contributions of FONA, p. 11.

<sup>59</sup> Exhibit C18-1, IG2 Submission, Contributions of MS2S, p. 16.

<sup>60</sup> Exhibit C18-1, IG2 Submission, Contributions of Stand, pp. 42-43.

<sup>61</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.1.

36. Generally, the submissions of FTFO/FONA/MS2S/Stand exhibit a fundamental misunderstanding of the BCUC's jurisdiction and the nature of the "BCUC's current definition of RNG."<sup>62</sup> As FEI has submitted above, the definition of RNG must be based on a statutory interpretation of the GGRR and the BCUC has no jurisdiction to substitute its own definition of RNG for the definition of RNG as it occurs in the GGRR.

37. In the leading case on statutory interpretation, *Re Rizzo & Rizzo Shoes Ltd*,<sup>63</sup> the Supreme Court of Canada adopted the modern principle of interpretation formulated by Elmer Driedger in *The Construction of Statutes* as follows:

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

38. The Supreme Court of Canada has recently emphasized: "...just as the text must be considered in light of the context and object, the object of a statute and that of a provision must be considered with close attention always being paid to the text of the statute, which remains the anchor of the interpretive exercise. The text specifies, among other things, the means chosen by the legislature to achieve its purposes."<sup>64</sup> While the BCUC is obliged to look at the entire context of the statutory scheme as part of the interpretive exercise, when the words of a provision are precise and unequivocal, the ordinary meaning of the words play a dominant role.<sup>65</sup>

39. FEI also notes that statutory interpretation by the BCUC is not an exercise to assess a regulation's policy merits. In describing the separation of powers, the Supreme Court of Canada in *Vriend v. Alberta* noted: "In carrying out their duties, courts are not to second-guess legislatures and the executives; they are not to make value judgments on what they regard as

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<sup>62</sup> Exhibit A-2.

<sup>63</sup> *Rizzo & Rizzo Shoes Ltd. (Re)*, [\[1998\] 1 SCR 27](#) ("Rizzo"). See also: *Bell ExpressVu Limited Partnership v. Rex*, [2002 SCC 42](#) ("Bell ExpressVu").

<sup>64</sup> *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Directrice de la protection de la jeunesse du CISSS A*, [2024 SCC 43](#) at para. 24.

<sup>65</sup> *Canada Trustco Mortgage Co. v. Canada*, [2005 SCC 54](#) at para. 10.

the proper policy choice; this is for the other branches.”<sup>66</sup> As such, the BCUC must be careful not undertake the statutory interpretation exercise in a way contrary to the will of the Legislature. To do so could undermine the relationship of dialogue and mutual respect between the legislative, executive, and judicial branches of government, and could result in legal error.<sup>67</sup>

40. As FEI details in the subsections below, based on a statutory interpretation of the GGRR, there is no doubt that out-of-province RNG may be acquired by public utilities.

**A. There Are No Words in the GGRR that Limit the Location of RNG Production**

41. FTFO/FONA/MS2S/Stand fail to apply a proper interpretative approach because they disregard the anchor, which is the text of the GGRR. Contrary to FTFO/FONA/MS2S/Stand, there are no words in the GGRR that limit RNG acquisitions to in-province supply.

42. The GGRR includes the words “in British Columbia” or “within British Columbia” 18 times. For example:

- Section 2(2) requires grants or loans for natural gas marine vehicles to be to persons “in British Columbia” and for vehicles operated “in British Columbia”.
- Section 2.1(2) requires LNG fuelling stations to be “in British Columbia”.
- Section 4 requires “undertaking electricity” to be provided to customers “in British Columbia” and the electricity transmission or distribution facility to be “in northeast British Columbia”.
- Section 5.1 requires grants or loans for eligible zero-emission vehicles or machines to be to persons “in British Columbia” and for vehicles operated “in British Columbia”.
- Section 5.2 requires grants for a new zero-emission vehicle to be an individual “who is resident in British Columbia” and for vehicles operated “in British Columbia”.
- Section 6 requires hydrogen that is produced by the public utility to be distributed through the natural gas distribution system “in British Columbia”.

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<sup>66</sup> *Vriend v. Alberta*, [1998] 1 SCR 493 at para. 136 (“Vriend”).

<sup>67</sup> *Vriend* at paras. 137-138; see also *Bell ExpressVu* at para. 65.

43. The legislature knows how to limit a prescribed undertaking to activities in BC and has specified that many times. Where the legislature has chosen not to so limit a prescribed undertaking, its intention is manifest and must be followed.

44. There is no occurrence of “in British Columbia” in section 2.2 of the GGRR with respect to the acquisition of RNG. For example, there is no requirement that the RNG be produced “in British Columbia” or directly injected into the gas distribution system “in British Columbia” or directly or physically delivered to “British Columbia”. There is no locational restriction on acquisitions of RNG at all.

45. Neither are there words in the legislation to support other suggestions made by FTFO/FONA/MS2S/Stand:

- There are no words that restrict RNG to being produced on-site.<sup>68</sup>
- There are no words that RNG must be uniquely serialized and tracked.<sup>69</sup>
- There are no words that limit RNG acquisitions from countries that are not a party to the *Paris Agreement to the United Nations Framework Convention on Climate Change*.<sup>70</sup>

46. The words of the GGRR must be the anchor of the interpretative process. There are no words to anchor an interpretation that RNG is restricted to in-province supply or otherwise restricted as FTFO/FONA/MS2S/Stand suggest.

## **B. The Ordinary and Grammatical Meaning of RNG Is Not Subject to Uncertainty**

47. FTFO/FONA/MS2S/Stand ignore the ordinary meaning of RNG in favour of articulating policy positions on what should be permitted (e.g., it should only be “on-site”, domestic, tracked to a degree no registry can track, or not allowed at all). Contrary to the submissions of FTFO/FONA/MS2S/Stand, the definition of RNG is limited by its grammatical and ordinary sense.

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<sup>68</sup> Exhibit C18-1, IG2 Submission, Contributions of FTFO, p. 6.

<sup>69</sup> Exhibit C18-1, IG2 Submission, Contributions of FONA, p. 11.

<sup>70</sup> Exhibit C18-10, FTFO/FONA/MS2S/Stand Reply Submissions, para. 4.

48. The lack of a definition of RNG does not mean that the definition of RNG is free to be defined in whichever way the BCUC desires. Words in legislation are most often *not* defined in a legislative text. It is unnecessary to do so. The rule of statutory interpretation is that words must be read in their “grammatical and ordinary sense.”

49. There is no doubt as to the grammatical and ordinary sense of the meaning of RNG. The available definitions of RNG are universally in agreement, as illustrated by the following definitions:

- **British Columbia Ministry of Energy and Mines:** “RNG is derived from biogas created when organic waste decomposes at landfills, agricultural and forestry waste sites and wastewater treatment facilities.”<sup>71</sup>
- **British Columbia Ministry of Energy, Mines and Low Carbon Innovation:** RNG is “derived from biogas, which is produced from decomposing organic waste from landfills, forestry, agricultural waste and wastewater from treatment facilities, can be injected into the existing natural gas system and used interchangeably with natural gas.”<sup>72</sup>
- **Canadian Gas Association:** “RNG is natural gas produced from organic waste from farms, forests, landfills, and water treatment plants.”<sup>73</sup>
- **Canadian Biogas Association:** “Biogas can be upgraded to Renewable Natural Gas (RNG), which is carbon neutral and interchangeable with conventional natural gas.”<sup>74</sup>
- **U.S. Department of Energy:** “RNG is essentially biogas (the gaseous product of the decomposition of organic matter) that has been processed to purity standards... Biomethane...is another term for this purified pipeline-quality fuel”.<sup>75</sup>
- **U.S. Environmental Protection Agency:** “Renewable natural gas (RNG) is a term used to describe biogas that has been upgraded for use in place of fossil natural gas.”<sup>76</sup>

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<sup>71</sup> British Columbia Ministry of Energy and Mines, “[Increasing the market for LNG and renewable natural gas](#)” (March 22, 2017).

<sup>72</sup> British Columbia Ministry of Energy, Mines and Low Carbon Innovation, “[Province enables increased investments in renewable gas, hydrogen](#)” (July 2, 2021).

<sup>73</sup> Canadian Gas Association, “[The Renewable Natural Gas Opportunity](#)”.

<sup>74</sup> Canadian Biogas Association, “[Biogas 101](#)”.

<sup>75</sup> U.S. Department of Energy, “[Alternative Fuels Data Center: Renewable Natural Gas Production](#)”.

<sup>76</sup> U.S. Environmental Protection Agency, “[Renewable Natural Gas](#)” (November 2, 2022).

- **Chevron:** “Renewable natural gas, or RNG, is biogas that has been upgraded and placed in the conventional natural gas system.”<sup>77</sup>
- **Enbridge:** “RNG is created by capturing methane emissions from organic waste, landfills and wastewater treatment plants. A renewable source of energy, it can be injected into our natural gas network and used for residential and commercial energy needs as well as transportation fuel.”<sup>78</sup>
- **ATCO Energy:** “Renewable natural gas is produced by capturing and utilizing methane produced from the decomposition of organic materials that would otherwise be released to the atmosphere.”<sup>79</sup>
- **FortisBC Energy Inc.:** “Biomethane means biogas purified or upgraded to pipeline quality gas, also referred to as renewable natural gas.”<sup>80</sup>
- **Pacific Northern Gas:** “RNG is a low carbon, pipeline-quality gas that is fully interchangeable with conventional natural gas. RNG is produced by capturing and upgrading biogas generated by decomposing organic waste by-products from farming and forestry, landfills and wastewater treatment plants.”<sup>81</sup>

50. The *Resource Supply Potential for Renewable Natural Gas in B.C. Study*, which was researched and written by Hallbar Consulting Inc. and the Research Institute of Sweden (“RISE”) to inform RNG-related amendments under the GGRR, did not consider it necessary to define “RNG”, but did describe it at page 5 of the study as follows:<sup>82</sup>

Production of Renewable Natural Gas (RNG) can currently be achieved by two general methods. Biogas can be produced within anaerobic digestion (AD) plants, or it can occur within landfills and be collected using wells and pipes; biogas produced in landfills is known as landfill gas (LFG). Once captured, biogas or LFG can be upgraded to RNG. This process involves cleaning and refining the biogas or LFG to remove carbon dioxide and other contaminants so that it meets natural gas pipeline specifications.

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<sup>77</sup> Chevron, “[Things to know about renewable natural gas](#)” (April 25, 2022).

<sup>78</sup> Enbridge, “[The Future of Clean Energy: a guide to producing and using RNG](#)” (July 2021).

<sup>79</sup> ATCO Ltd., “[Renewable Natural Gas](#)” (2023).

<sup>80</sup> FortisBC Energy Inc., [General Terms and Conditions](#), p. 1.

<sup>81</sup> Pacific Northern Gas, “[PNG and ATCO Future Fuel Sign 15-Year Renewable Natural Gas Supply Agreement](#)” (November 10, 2021).

<sup>82</sup> Hallbar Consulting Inc. and the Research Institute of Sweden, “[Resource Supply Potential for Renewable Natural Gas in B.C.](#)” (2017).

51. As illustrated by the definitions above, the meaning of RNG is not subject to uncertainty. RNG is a known commodity that is produced, purchased and sold across North America. There are RNG producers, an RNG industry, RNG associations, RNG conferences, and so on. There is no uncertainty about what RNG is. As such, there is no reasonable basis for importing into the definition of RNG restrictions such as a geographical limit on where it was produced. RNG is RNG no matter where it is produced. Any definition of RNG that implies that RNG produced in Ontario (for example) is not RNG would not reflect the “grammatical and ordinary sense” of the word and would be a legal error.

**C. The GGRR Requires that RNG be “Acquired”, Which FEI Does by Purchasing It**

52. FTFO/FONA/MS2S/Stand seek to incorporate restrictions on how RNG is delivered, such as that it be only be produced on-site or must be delivered directly by pipeline.<sup>83</sup> However, the GGRR is silent on the mode of delivery of RNG. Rather, the GGRR requires that RNG be “acquired”.

53. The meaning of “acquire” is dictated by section 29 of the *Interpretation Act*.<sup>84</sup> The *Interpretation Act* states that, in an enactment, “acquire” means “to obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate.” The fact that the *Interpretation Act* says “means” rather than “includes” signals that this is an exhaustive definition. In other words, the definition of “acquire” in the *Interpretation Act* must be used; no other definition of acquire is permitted.

54. The definition of “acquire” in the *Interpretation Act* is broad – and includes purchasing. In FEI’s BPAs with suppliers from outside the province, FEI is acquiring RNG within the meaning of the definition of “acquire” because FEI is purchasing it. To be clear, FEI is not purchasing only EAs or offsets. FEI is purchasing the well-known physical commodity referred to as RNG.

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<sup>83</sup> E.g., Exhibit C18-1, IG2 Submission, Contributions of MS2S; Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.2.

<sup>84</sup> [R.S.B.C. 1996, c. 238](#).

55. FEI purchases out-of-province RNG and has it delivered by displacement through the interconnected pipeline network in the same way that conventional natural gas is and has been purchased and delivered for decades. As discussed in Part Three, Section B above, delivery by displacement is not novel or subject to controversy in the industry – it is the ordinary way any gaseous energy is delivered and traded. As various participants have pointed out, the interconnected gas pipeline system is a “displacement network”. The same can be said for the interconnected electrical grid.

56. If the legislature intended that some specific form of acquisition or delivery were required for RNG, such as that a particular pipeline system needed to be used or that the gas had to flow in a particular direction, then it would have spelled that out in the legislation. However, it has not done so.<sup>85</sup> Instead, the legislature used the word “acquire”, which includes purchasing, and the GGRR is silent on the method of delivery of RNG. The legislature has sought fit to leave it to public utilities to determine how RNG is delivered. In FEI’s view, this is a wise policy choice as public utilities should be left to use the most cost-effective form of delivery, which is the delivery by displacement through the existing pipeline network.

**D. FTFO/FONA/MS2S/Stand Ignore the Legislature’s Support for Out-of-Province RNG**

57. FTFO/FONA/MS2S/Stand ignore clear statements of legislative intent supporting the acquisition of out-of-province RNG. It is significant that the government has followed the BCUC’s processes related to out-of-province RNG, receives annual reports from FEI on its prescribed undertakings, is well aware of opposition from parties such as MS2S, but yet has taken no action to clarify its policy or amend the GGRR to restrict out-of-province supply. Instead, the BC Government has continued to support RNG acquisitions, made amendments to the GGRR to govern EAs, and recognized the lower carbon content of FEI’s RNG Blend, confirming the intent of the legislature to permit out-of-province RNG.

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<sup>85</sup> There is no basis to infer such requirements from the word displacement in the definition of environmental attribute: Exhibit C1-4, FEI Responses to BCUC-All IR1 1.1 to 1.4; Exhibit C18-2, BCSEA Responses to BCUC-All IR1 1.1 to 1.4; Exhibit C7-2, IG2 Responses to BCUC-All IR1 1.1 to 1.4; Exhibit C8-3, PNG Responses to BCUC-All IR1 1.1 to 1.4; Exhibit C19-2, IG1 Responses to BCUC-All IR1 1.1 to 1.4.

58. In Phase 2 of the 2021 RNG Inquiry, the Ministry of Energy, Mines and Low Carbon Innovation filed a letter stating that it had considerable interest in issues such as the notional delivery of RNG and the integrity of EAs purchased by British Columbia utilities.<sup>86</sup> The Ministry's comments on notional deliveries and the regulation of EAs show that the BC Government was following the proceeding, was well aware of the issues which have been canvassed again in the present Inquiry, and was impressed by the support for the notion of decoupling EAs:

The Province has noted with interest the near-consensus views of Phase 2 intervenors that support decoupling of EAs and suggest that notional delivery of the Low Carbon Resources should not be restricted by the BCUC. The comments raised by the British Columbia Old Age Pensioners' Organization (BCOAPO) that "energy markets would not be able to operate in the absence of notional transactions and that notional transactions should not be restricted by arbitrary jurisdictional borders" have also been noted.

The GGRR is part of a broader strategy to meet BC's legislated GHG reduction targets (i.e., the CleanBC Roadmap to 2030). The Province has heard from a number of stakeholders who have raised concerns that enabling notional deliveries of Low Carbon Resources without a standard and robust approach for verifying and tracking the EAs of these resources and accounting for them in BC's progress to climate targets poses a risk for double counting of GHG emission reductions across jurisdictions and could put the credibility of BC's climate actions and strategies at risk.

The BCOAPO has further observed that "the majority of Intervenors, BCOAPO included, took the general position that the public utility bears the primary responsibility to ensure the integrity of EAs based on contractual or third-party verification with the BCUC providing oversight in accordance with its jurisdiction." The Province would concur with this view. [footnotes omitted.]

59. This letter makes plain that the BC Government put its mind to the suggestion of decoupling of EAs and notional delivery of RNG, was well aware of potential concerns with notional deliveries, and believed that it was the primary responsibility of public utilities "to ensure the integrity of EAs based on contractual or third-party verification with the BCUC providing oversight in accordance with its jurisdiction".

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<sup>86</sup> See [Exhibit E-2](#) in the BCUC Phase 2 Inquiry into the Acquisition of Renewable Natural Gas by Public Utilities in British Columbia ("Phase 2 RNG Inquiry").

60. Since the conclusion of the 2021 RNG Inquiry, the BC Government amended the GGRR effective July 1, 2024. These amendments did not restrict out-of-province RNG supply, but instead introduced, amongst other things, a carbon intensity requirement for RNG and criteria related to acquiring the EAs of RNG, which apply to new RNG prescribed undertakings from July 1, 2024, forward.<sup>87</sup> These GGRR amendments reflect the severable nature of EAs from the underlying molecule of energy and confirm the acceptability of the notional delivery of RNG under the GGRR. This is entirely consistent with the acquisition of RNG outside of the province and the conclusions of the BCUC in its 2021 RNG Inquiry.

61. The BCUC has approved out-of-province RNG acquisitions 25 times.<sup>88</sup> FEI reports on all of its prescribed undertakings to the Province annually pursuant to section 18 of the *Clean Energy Act*, thus the BC Government is well aware of these acquisitions. Even so, the BC Government has not taken any action to amend the GGRR to stop out-of-province acquisitions.

62. To the contrary, the BC Government has recognized the lower-carbon content of FEI's RNG acquired from outside the province as provided to customers through its BCUC-approved RNG Blend service. As noted above, BC's Climate Action Secretariat's Carbon Neutral Government program recognizes GHG emissions reductions through the blend of RNG into FEI's gas supply by adjusting its natural gas emissions factors for anthropogenic CO<sub>2</sub> and biogenic CO<sub>2</sub>.<sup>89</sup>

63. FEI submits that there is no reasonable doubt that the BC Government's intention in the GGRR is to encourage RNG acquisitions, whether inside or outside of the province.

**E. FTFO/FONA/MS2S/Stand Arguments Regarding the Concept of Displacement and Intent of GGRR Are Misguided**

64. FTFO/FONA/MS2S/Stand argue that out-of-province RNG is not a prescribed undertaking under the GGRR because the "renewable natural gas molecules have to take the physical place

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<sup>87</sup> [B.C. Reg. 125/2024](#).

<sup>88</sup> Exhibit C1-2, FEI Submission, pp. 8-9.

<sup>89</sup> Exhibit C1-4, FEI Responses to BCUC-All IR1 3.1 and 3.1.1.

of fossil gas molecules in the BC pipeline system”,<sup>90</sup> even though no such requirement is set out in the words of the GGRR.

65. Displacement is not defined in the GGRR and is only used in a single, limited context – within the definition of “environmental attribute” under the GGRR. In this context, the grammatical and ordinary sense of “displacement” is replacement or substitution. This is because it is the substitution of the production and use of RNG, for the production and use of natural gas derived from fossil fuels, that results in a GHG emission reduction or potential credits, benefits, offsets or allowance. In short, it is the substitution of natural gas derived from fossil fuels for RNG that results in the EA.<sup>91</sup>

66. Consistent with this ordinary concept of displacement, all of the RNG that FEI acquires under the GGRR that is sold to FEI’s customers displaces the production and use of natural gas derived from fossil fuels, with the production and use of RNG and, therefore, gives rise to EAs as defined in the GGRR. FEI notes that all of the RNG it acquires is used in BC and therefore displaces the use of conventional natural gas in BC. Please refer to Part Six, Section B, of this Reply Submission for further discussion of displacement.

67. FTFO/FONA/MS2S/Stand’s position that “renewable natural gas molecules have to take the physical place of fossil gas molecules in the BC pipeline system” is inconsistent with their own submissions on the meaning of displacement. FTFO/FONA/MS2S/Stand explain that gas pipeline systems are displacement networks and displacement refers to the substitution of biomethane for conventional natural gas.<sup>92</sup>

Gas pipeline systems are displacement networks. They transfer fungible molecules of methane, whether produced from fossil fuels (“conventional natural gas” or “fossil gas”) or from renewable sources (“renewable natural gas” or “RNG” or “biomethane”). In a displacement network, physical delivery of the actual input to

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<sup>90</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.1.

<sup>91</sup> This is supported by dictionary definitions of “displacement”. For example, the Canadian Oxford Dictionary defines the noun “displacement” as “the act of displacing or the process of being displaced”, and the verb “displace” as “replac[ing] (a thing) with another”. As another example, the New Shorter Oxford English Dictionary defines “displace” as to: “Replace with something else; take the place of, supplant.”

<sup>92</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.

a specific location in the network is not necessary and in some cases may not be possible. Rather, since the commodity is fungible, the only physical requirement of a displacement network is that the quantity removed from the network at a delivery point is equal to the quantity supplied at the injection point. The injection of biomethane molecules into the pressurized pipeline system physically displaces other molecules of fossil gas elsewhere in that system.

We understand the term “displacement” to have the effect of substitution. In the present case, the term implies that the injection of a unit of biomethane into the pressurized pipeline system will take the space of (and effectively be substituted for) an equivalent unit of fossil gas. ... [Footnotes omitted; emphasis in original.]

68. FTFO/FONA/MS2S/Stand further admit that displacement does not require a certain flow of molecules or the tracking of molecules:<sup>93</sup>

Displacement does not require that individual molecules of biomethane flow – or are likely to flow – from the delivery point (injection) to a particular receipt point (consumption). To implement the new definition of “environmental attribute” and comply with the GGRR, neither BCUC nor a proponent would need to track molecules of biomethane through the pipeline system.

69. The above description of displacement demonstrates that displacement is not confined to the pipeline system in BC. The interconnected North American pipeline system is one large displacement network. Displacement does not need to occur within BC to be displacement.

70. Similarly, the North American interconnected electrical grid is also a displacement network. No one seeks to track the path of electricity from generation to end-user to validate the source of the electricity they purchased; this is not because of the speed of the electrons, but because electricity is a fungible product just like natural gas.

71. Unable to rely on actual words in the GGRR or facts regarding displacement, FTFO/FONA/MS2S/Stand argue for a “proper purposive interpretation” of the GGRR, for which their only support is an appeal to BC energy objectives.<sup>94</sup> The BC energy objectives defined in section 2 of the *Clean Energy Act*, however, support the acquisition of out-of-province RNG. As detailed in Part Two of this Reply Submission, the acquisition of out-of-province RNG fosters the

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<sup>93</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.3.

<sup>94</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.1.

development of innovative technologies in BC that support the use of clean or renewable resources, reduces GHG emissions in BC, and encourages the switching of conventional natural gas to RNG, which decreases GHG emissions.

72. Contrary to the submissions of FTFO/FONA/MS2S/Stand, the legislative purpose of the GGRR's provisions relating to the acquisition of RNG as a prescribed undertaking are to support investments by natural gas utilities that will: (1) increase the use of RNG; and (2) reduce GHG emissions. This purpose is evident from official public communications from the enacting government in its March 2017 news release:<sup>95</sup>

The Government of British Columbia is taking action under the Climate Leadership Plan to support investments by natural gas utilities that will increase the use of LNG and renewable natural gas in the transportation, marine and other sectors and reduce greenhouse gas (GHG) emissions.

...

RNG is derived from biogas created when organic waste decomposes at landfills, agricultural and forestry waste sites and wastewater treatment facilities. Although conventional natural gas has 25% less carbon than diesel fuel and 25-39% less than typical marine fuels, RNG is considered carbon neutral unless forestry biomass is used. In this case, if waste or dead biomass is used, RNG has lower lifecycle emissions than conventional natural gas. Increased use of RNG could result in up to 450,000 tonnes of GHG reductions per year in B.C., and will also help build the market for biogas, providing economic opportunities for local governments and farming and forestry operations.

Amendments to the GGRR will allow utilities to double the incentives available to convert vehicles and marine vessels to natural gas when the new incentives go towards vehicles using 100% RNG, and enable utilities to recover the costs of acquiring and distributing RNG in rates.

RNG can be used interchangeably with conventional natural gas and easily injected into the natural gas system, so the demand potential for renewable gas and the related GHG emissions reductions are significant.

"The provincial government's leadership allows FortisBC to build upon existing programs supporting the natural gas for transportation and renewable natural gas sectors," said Michael Mulcahy, president and CEO of FortisBC. "LNG for marine

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<sup>95</sup> British Columbia Ministry of Energy and Mines, "[Increasing the market for LNG and renewable natural gas](#)" (March 22, 2017).

vessels ensures the international marine shipping industry has a cost-effective, clean-burning fuel with which to meet international emissions standards. Encouraging the development of renewable natural gas provides additional business opportunities for local waste producers, such as farms, landfills and wastewater treatment plants. These initiatives not only benefit our customers by optimizing our natural gas system year-round, they benefit all British Columbians by lowering operating costs for businesses and by reducing carbon emissions in our air.”

The GGRR was introduced in 2012 and already allows utilities to provide incentives for compressed natural gas and LNG in the transportation and marine sectors to reduce GHG emissions. The amendments increase the allowed expenditure limits and expand coverage of the regulation to include investments related to RNG.

73. The above news release indicates no restriction on the source of RNG.
74. Similarly, in 2021, the BC Government issued a news release with respect to amendments to the GGRR increasing the production and use of RNG:<sup>96</sup>

The Province has amended the Greenhouse Gas Reduction (Clean Energy) Regulation to increase the production and use of renewable gas as well as green and waste hydrogen in British Columbia, generating jobs and economic opportunities while reducing greenhouse gas (GHG) emissions.

“A key part of our CleanBC strategy is increasing the use of hydrogen and other renewable gases in place of fossil fuels in vehicles, buildings and industry,” said Bruce Ralston, Minister of Energy, Mines and Low Carbon Innovation. “The changes we’ve made to the Greenhouse Gas Reduction Regulation will provide natural gas utilities with more flexibility, stimulate investments in renewable energy and accelerate growth of hydrogen and renewable gas supply in their systems, while keeping rates affordable for their customers.”

B.C. is the first province in Canada to make these kinds of changes allowing for the increased production of renewable gas, including hydrogen. The amendments support the Province’s upcoming hydrogen strategy, which will include ambitious goals to increase the production and use of renewable and low-carbon hydrogen to help achieve climate targets under CleanBC and create jobs and opportunities in the clean energy and technology sectors.

“This change is an important step to help reduce greenhouse gas emissions from our natural gas system by enabling the expansion of Renewable Natural Gas and

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<sup>96</sup> British Columbia Ministry of Energy and Mines, “[Province enables increased investments in renewable gas, hydrogen](#)” (July 2, 2021).

clean hydrogen,” said George Heyman, Minister of Environment and Climate Change Strategy. “We’re committed to finding new solutions that significantly cut climate-harming pollution in all sectors and power a clean economy for people and businesses.”

The Greenhouse Gas Reduction Regulation (GRR) allows utilities like FortisBC Energy Inc. (FortisBC) and Pacific Northern Gas Ltd. to make time-limited investments, within spending and volumetric caps, to stimulate the domestic market for renewable gases and reduce GHG emissions.

“Changes to the Greenhouse Gas Reduction Regulation are important to accelerate the growth of B.C.’s renewable gas supply,” said Roger Dall’Antonia, president and CEO, FortisBC. “By increasing the renewable gas cap and expanding the regulation to include other renewable gases, such as hydrogen, we’re entering an exciting new phase of renewable energy development that will accelerate the transformation of our natural gas infrastructure into a delivery system for carbon-neutral energy.”

Changes to the GRR will enable natural gas utilities to increase the amount of Renewable Natural Gas (RNG), green and waste hydrogen, and other renewable energy they can acquire and make available to their customers by:

- increasing the amount of renewable gas utilities can acquire and supply from 5% to 15% of their total annual supply of natural gas;
- broadening the methods by which utilities can obtain hydrogen, RNG and other renewable gases to include producing it or upgrading it themselves for injection into the pipeline, paying a third party to produce it or upgrade it for pipeline injection, or purchasing hydrogen, synthesis gas or lignin to displace the use of natural gas at customers’ facilities;
- allowing the current price cap of \$30 per gigajoule that utilities can pay to acquire any of these fuels to increase with inflation; and
- enabling utilities to acquire and supply green and waste hydrogen, synthesis gas and lignin.

The changes to the GRR will help to achieve CleanBC objectives, which commit to a 15% renewable gas content in the natural gas system by 2030.

“Globally, there is a growing demand for biofuels as the world transitions away from fossil fuels, and today’s announcement is a critical step to decarbonizing B.C.’s economy. Investing in biofuel production in B.C. will create local jobs while reducing carbon emissions and waste,” said Karen Tam Wu, B.C. regional director of the Pembina Institute. “To kick start the hydrogen economy, B.C. needs a

strategy that leverages our wealth of renewable electricity and advances the production and use of green hydrogen.”

75. These news releases are clear indications that the BC Government intended to encourage public utilities to acquire RNG and do not convey any restriction on the source of that RNG. To the extent that there is any doubt, FEI refers to its submissions in Part Four, Sections A and B of this Reply Submission. The words of the GGRR must be the anchor of the interpretative exercise; and there are no words in the GGRR that limit where RNG may be sourced from.

76. Finally, FEI notes that FTFO/FONA/MS2S/Stand’s argument on this point includes the submission that EAs must be the attributes of RNG.<sup>97</sup> This is not controversial. To be clear, FEI purchases RNG energy along with the EAs of that RNG. FEI is not purchasing carbon credits or only the EAs of RNG.

77. FEI does, however, take issue with FTFO/FONA/MS2S/Stand’s position that the EAs “do not exist separately from renewable natural gas”.<sup>98</sup> This is plainly not the case. As defined in the GGRR, EAs are something that can be acquired, sold, and transferred to customers, and retired. They have a legal existence separate from the physical molecules of RNG themselves.

78. In summary, FEI submits that the concept of displacement in the GGRR does not limit the geographical source of RNG and that the intent of the GGRR is to increase the use of RNG and reduce GHG emissions, which is met by the acquisition of out-of-province RNG.

#### **F. FTFO/FONA/MS2S/Stand Ignore the Carbon Intensity Threshold in the GGRR**

79. FTFO/FONA/MS2S/Stand’s various positions on the GHG emission-reduction potential of RNG, such as whether it is on-site or off-site, produced from wood waste or other biomass feedstocks, or considers the whole lifecycle,<sup>99</sup> and concerns regarding verification of GHG reductions generally, ignore that the Legislature has already put in place a threshold for the carbon intensity of RNG in the GGRR.

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<sup>97</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.1.

<sup>98</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.1.

<sup>99</sup> E.g., Exhibit C18-1, IG2 Submission, Contributions of MS2S; Exhibit C18-9, FTFO/FONA/MS2S/Stand Response to CEC IR1 14.1.

80. More than just a threshold, section 8.2 of the GGRR imposes a comprehensive regime governing the forecasting, determination and verification of the carbon intensity of RNG. Amongst other requirements:

- RNG must have a carbon intensity<sup>100</sup> that does not exceed 30.8 gCO<sub>2</sub>e/MJ, where:
  - The greenhouse gas emissions attributable to fuel are the total greenhouse gas emissions from all stages in the life cycle of the fuel, as calculated using the most recent version of GHGenius available on the reference date, and
  - the expected use of the fuel is for transportation, unless the public utility reasonably expects that the fuel will be used for another purpose.
- The carbon intensity of the RNG must be forecast for the duration of the undertaking and based on higher heating value.
- The carbon intensity of the RNG must be determined every 3 years during the undertaking (or other interval specified by the BCUC).
- The carbon intensity forecast and determinations must be verified by an accredited verification body that (a) attests to the fair and accurate representation of the data used to forecast or determine the carbon intensity, and (b) is prepared in accordance with ISO 14044:2006.

81. Section 8.2 of the GGRR fully rebuts the various submissions of FTFO/FONA/MS2S/Stand related to the carbon intensity or emission-reduction potential of RNG. The legislature has turned its mind to this issue and set out comprehensive requirements for RNG acquired under the GGRR.

#### **PART FIVE: EXISTING COMPLIANCE AND VERIFICATION PRACTICES ARE ROBUST**

82. FTFO/FONA/MS2S/Stand propose a myriad of compliance requirements that they allege will protect against double counting. However, it is readily apparent that the requirements they propose are an attempt to restrict the RNG market and go beyond compliance and verification. Indeed, FTFO admits that no amendments to existing compliance requirements will be enough to address its concerns.<sup>101</sup> For example:

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<sup>100</sup> As defined in the [Low Carbon Fuels Act](#), S.B.C., c. 21 carbon intensity “means the greenhouse gas emissions attributable to the fuel proportionate to the energy provided by the fuel in its expected use, expressed as grams of carbon dioxide equivalent per megajoule of energy”.

<sup>101</sup> Exhibit C18-1, IG2 Submission, p. 7.

- FONA states that the explicit use of registries, unique IDs/serial numbers, retirement rules, and import/export controls are necessary to avoid duplicate claims across boundaries.<sup>102</sup>
- FTFO/FONA/MS2S/Stand describe the functions of a regulator-operated registry (e.g., requiring registration of the CI of each unit of RNG and its associated EAs), while simultaneously claiming that a registry alone is insufficient to fully address the issues raised in this proceeding.<sup>103</sup>
- MS2S likens BC's existing compliance and verification requirements to the "Wild West" and an "invitation to fraud", without providing any evidence to suggest double counting has occurred.<sup>104</sup> Indeed, even registry operators like CleanCounts are not aware of any instance of double-counting.<sup>105</sup>
- FTFO/FONA/MS2S/Stand argue that only a clear chain of custody involving "actual physical delivery" of RNG would be acceptable.<sup>106</sup>

83. In reply, FEI submits that its accounting and verification practices are robust, the industry and government supported CLEER is intended to further enhance accounting and verification practices across Canada, and therefore additional compliance requirements are not needed and, in any event, the BCUC's jurisdiction to create its own registry is limited by statute.

#### **A. FEI's Accounting and Verification Practices Are Robust**

84. FEI's accounting and verification practices are robust and there is no evidence of any double-counting of the EAs associated with the RNG that it has acquired. In summary:

- **Allocation of EAs to FEI:** FEI's BPAs include provisions allocating all EAs to FEI for any RNG volumes it purchases. FEI's contractual provisions are comprehensive in their approach, such that the EAs related to the production of RNG are exclusively transferred to FEI. FEI's BPAs also require the RNG to be below a certain a carbon intensity level, which is determined annually.<sup>107</sup> If the supplier did not meet these requirements, then FEI would have the contractual right to terminate the contract and no longer purchase the RNG.<sup>108</sup>

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<sup>102</sup> Exhibit C18-1, IG2 Submission, p. 11.

<sup>103</sup> Exhibit C18-8, FTFO/FONA/MS2S/Stand Response to MoveUP-IG2 IR1 1.1.

<sup>104</sup> Exhibit C18-1, IG2 Submission, p. 19.

<sup>105</sup> Exhibit C12-3, CleanCounts Response to IG2-CleanCounts IR1 2.1.

<sup>106</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Responses to BCUC-All IR1 2.1 and 2.1.1.

<sup>107</sup> Exhibit C1-2, FEI Submission, pp. 17-18.

<sup>108</sup> Exhibit C1-7, FEI Response to IG2-FEI IR1 4.1.

- **Ongoing Warrants and Assurances:** FEI's RNG suppliers must warrant and assure to FEI that they are meeting their contractual obligations under the BPAs to allocate EAs to FEI. Pursuant to these contractual provisions, FEI procures the attestation letters that are filed with the BCUC in FEI's annual RNG reporting. In the attestation letters, RNG suppliers provide a written attestation of the exclusive transfer of the EAs associated with the volume of RNG that is sold to FEI.<sup>109</sup>
- **Regular Audits:** In all of its BPAs, FEI has the contractual right to perform production audits at the supplier's RNG plant on a regular basis. This includes the right to review records related to feedstock and emissions specific to the supplier facilities used to determine the overall lifecycle carbon intensity of the RNG produced by the facility. These audits are performed by a third party, with the first performed after the first year of regular operation and then every three years thereafter.<sup>110</sup> The audits performed to date for out-of-province RNG suppliers have not identified any issues or double counting.<sup>111</sup>
- **Chain of Custody Framework:** FEI has developed and uses a robust chain of custody framework for out-of-province RNG purchases that provides a thorough and rigorous compliance process to ensure proper gas accounting for delivery of RNG. RNG suppliers provide the documentation for the chain of custody on a monthly basis to FEI. FEI only settles invoices for RNG purchases when the appropriate documentation is provided and passes a review. FEI has the most rigorous, transparent and executable processes for the chain of custody tracking amongst its peers.<sup>112</sup>
- **Scan of Carbon Credit Markets:** To provide further assurance of the absence of double counting of EAs, FEI retained consultants to conduct scans of carbon credit markets in North America to identify registration of FEI's RNG suppliers in these markets and any potential issues. The scans have not detected any double counting. FEI has been involved in the North American RNG market for over 10 years and has no indication of any registry in any out-of-province jurisdiction that is counting EAs associated with the RNG FEI acquires.<sup>113</sup> CleanCounts is similarly not aware of any instance of double-counting.<sup>114</sup>
- **Consequences of Breach of Contract:** FEI's processes are enforceable through contractual obligations. If an RNG supplier were to sell the EAs associated with a volume of RNG sold to FEI to a third party, use such EAs to generate carbon credits or other tradable environmental certificates, or report the benefits associated

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<sup>109</sup> Exhibit C1-2, FEI Submission, p. 18.

<sup>110</sup> Exhibit C1-2, FEI Submission, pp. 18-19.

<sup>111</sup> Exhibit C1-2, FEI Submission, p. 19.

<sup>112</sup> Exhibit C1-2, FEI Submission, pp. 19-20.

<sup>113</sup> Exhibit C1-2, FEI Submission, pp. 20-21.

<sup>114</sup> Exhibit C12-3, CleanCounts Response to IG2-CleanCounts IR1 2.1.

with the EAs for its own voluntary or compliance purposes (e.g., reporting against its own GHG emissions reduction targets), this would contravene the contractual provisions in its BPA with FEI. Contravening the contractual terms of the BPA would create a contractual breach, which could result in FEI suing that party for damages or terminating the BPA, or both. The consequences of a breach of contract and enforcement by FEI would be significant for suppliers.<sup>115</sup>

- **FEI Tracks and Retires EAs:** To track the sale and retirement of EAs of the RNG that it acquires pursuant to the GGRR, FEI has been using a cost and volume continuity report for more than 10 years. The continuity of the cost and volume of RNG is included in FEI's RNG Account (formerly Biomethane Variance Account). FEI's RNG Account Status Report reconciles the opening inventory, acquisition, sales and closing inventory both in quantity and costs/revenues. FEI reconciles its books monthly, supporting the accurate management of RNG inventory over time. Through these activities, FEI maintains the integrity of RNG inventory data and effectively manages customer sales, avoiding double counting of RNG supply volume and associated EAs.<sup>116</sup>
- **BCUC Oversight:** In addition to the practice above, the BCUC also retains considerable oversight over FEI's acquisition and sale of RNG to customers. For example, the BCUC reviews and approves all the terms of FEI's tariff. FEI also files all BPAs with the BCUC for acceptance, including the 25 BPAs between FEI and out-of-province suppliers accepted since 2020. Moreover, on April 30 each year, FEI files its Annual BPA Compliance Report with the BCUC which, in particular, includes written attestation letters from RNG suppliers providing a written attestation of the exclusive transfer of the EAs associated with the volume of RNG that is sold to FEI.<sup>117</sup> In addition to these BCUC oversight mechanisms, FEI also reports annually to the BC Government on its prescribed undertakings.<sup>118</sup>

85. FEI's practice with respect to ensuring the chain of custody and exclusivity of EAs provides protection against legislative or regulatory changes that may inhibit FEI's ability to exclusively acquire the EAs of the RNG or the carbon intensity of that RNG. If for any reason new legislative or regulatory requirements are imposed that resulted in the carbon intensity of the RNG being above the contractual maximum in the BPA or made it impossible for FEI to acquire the EAs of

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<sup>115</sup> Exhibit C1-2, FEI Submission, p. 21.

<sup>116</sup> Exhibit C1-2, FEI Submission, pp. 25-27.

<sup>117</sup> Exhibit C1-2, FEI Submission, p. 18; see also Exhibit A2-1 for an example of this compliance filing.

<sup>118</sup> Exhibit C1-2, FEI Submission, p. 4.

the RNG, then FEI would have the contractual right to terminate the contract and no longer purchase the RNG.<sup>119</sup>

86. FEI's practices also align with leading standards in other jurisdictions, such as Énergir's reporting to the Bureau de normalisation du Québec, confirming the robustness of FEI's approach. Like Énergir, FEI ensures that RNG inventories are sufficient to prevent overselling, tracks the age of inventory to maintain integrity, and verifies that feedstock is 100% organic through independent audits.<sup>120</sup> These measures mirror the compliance framework applied in Quebec, which is recognized for its rigour, and demonstrates that FEI's system meets or exceeds comparable best practices in other jurisdictions. This alignment underscores that FEI's accounting and verification processes are not only comprehensive and enforceable but also consistent with other regulatory frameworks designed to safeguard against double counting and maintain market confidence.

#### **B. The CLEER Would Track and Certify EAs Nationally**

87. The CGA is leading the development of the CLEER, a transparent, standardized system for tracking and certifying environmental attributes associated with low-emission energy, including RNG.<sup>121</sup> The CLEER already has industry and government support across Canada, including funding from the Federal and BC Governments, as well as participating utilities such as FEI, PNG, Enbridge Gaz Quebec and other utilities that will contribute to implementation costs.<sup>122</sup> The CLEER is also supported by a number of participants in this proceeding.<sup>123</sup>

88. The CLEER is intended to serve as the central repository for production data and environmental attributes linked to RNG (and, in the future, hydrogen and other low-carbon fuels) through a book-and-claim transactional model, similar to renewable electricity markets that use

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<sup>119</sup> Exhibit C1-7, FEI Response to IG2-FEI IR1 4.1.

<sup>120</sup> Exhibit C1-7, FEI Response to IG2-FEI IR1 2.1.

<sup>121</sup> For additional information regarding the creation of the CLEER, please refer to Exhibit D-2.

<sup>122</sup> Exhibit C1-6, FEI Response to IG1-FEI IR1 3.2.

<sup>123</sup> See e.g., Exhibit C3-3, Metro Vancouver Response to BCUC-All IR1 2.2; Exhibit C8-6, PNG Response to MoveUP-PNG IR1 2; Exhibit C17-5, IG3 Response to MoveUP-IG3 IR1 1.

Renewable Energy Certificates (“RECs”).<sup>124</sup> If initiated, the CLEER would manage the entire lifecycle of an EA certificate (“EAC”) – from creation, through trading, to retirement – enhancing FEI’s already robust compliance and verification practices, as well as continuing to ensure that emissions reductions are real, verifiable, and transparent.<sup>125</sup>

89. In addition to FEI’s already robust accounting and verification practices, the CLEER contemplates: (1) the creation of an independent registry governance comprising government and industry representatives, combined with third-party oversight; and (2) the implementation of standards on data measurement, reporting and verification that are subject to independent verification on a periodic basis to ensure the absolute validity of the EACs.<sup>126</sup> This approach will maintain transparency and authenticity for the use of EAs, just as registries established in Europe have, and will, contribute towards Canada’s emissions reductions targets.<sup>127</sup>

90. By introducing these enhancements, the CLEER is expected to increase market confidence, support interjurisdictional recognition, and align Canada with global best practices. As explained by the CGA, the establishment of the CLEER, and registration of all biomethane supply produced or delivered into Canada, would represent a logical evolution of the current practices of establishing the provenance and custody of biomethane through contractual mechanisms pioneered by FEI over 15 years ago.<sup>128</sup> Ultimately, the CLEER is intended to improve on FEI’s existing book-and-claim system by adding transparency and scalability for the future.

### **C. The Alberta Emissions Offset System Has Little Relevance to this Inquiry**

91. When asked about “more evolved” emissions-tracking markets in Canada, Metro Vancouver pointed to the Alberta Emissions Offset System as a potential model for improving the current approach in British Columbia.<sup>129</sup> FEI questions the relevance and applicability of that system to this Inquiry. In particular, the Quantification Protocol for Landfill Gas Offset Protocol

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<sup>124</sup> Exhibit C1-2, FEI Submission, p. 31.

<sup>125</sup> Exhibit C1-2, FEI Submission, p. 31.

<sup>126</sup> Exhibit C1-2, FEI Submission, p. 32.

<sup>127</sup> Exhibit C1-2, FEI Submission, p. 32.

<sup>128</sup> Exhibit D-2, Letter of Comment from the Canadian Gas Association, p. 9.

<sup>129</sup> Exhibit C3-5, Metro Vancouver Response to IG2-Metro Vancouver IR1 2.1.

cited by Metro Vancouver was developed under Alberta's *Climate Change and Emissions Management Act* and the *Carbon Competitiveness Incentive Regulation*,<sup>130</sup> and specifically targets the generation of carbon offset credits within Alberta's compliance and voluntary carbon markets. Its scope and methodology are exclusively focused on landfill gas capture and combustion projects, and the statutory scheme as a whole has little in common with the regulation of public utilities by the BCUC. Indeed, the Alberta Emissions Offset System does not involve the Alberta Utilities Commission. As such, the reference to this system only illustrates how far this Inquiry has strayed from the jurisdictional scope of the BCUC.

**D. The BCUC's Jurisdiction Regarding Compliance and Verification Is Limited by Statute**

92. While the BCUC concluded that it has jurisdiction over the compliance and verification of the purchase and sale of any EA associated with RNG as part of the Phase 2 RNG Inquiry Report,<sup>131</sup> the BCUC's jurisdiction in this regard ultimately remains subject to statute and is limited.

93. First, as recognized by the Panel in the Phase 2 Inquiry, the BCUC cannot do anything that would prevent a public utility from acquiring RNG pursuant to the GGRR.<sup>132</sup> This includes establishing its own compliance and verification scheme to the extent it has the direct or indirect effect of restricting where RNG supply is sourced. To do so would be contrary to section 18 of the *Clean Energy Act* and beyond the BCUC's jurisdiction.

94. Second, while the UCA grants the BCUC broad powers to regulate public utilities in furtherance of its core mandate – to set just and reasonable rates and protect the integrity and dependability of the province's energy supply systems<sup>133</sup> – the BCUC remains a creature of statute with a defined set of powers. Like other administrative tribunals, it possesses implicit powers arising by necessary implication from the wording, structure, and purpose of the UCA. However, these powers are confined to what is practically necessary to fulfil its statutory

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<sup>130</sup> [Alta. Reg. 255/2017](#).

<sup>131</sup> Phase 2 RNG Inquiry Report, p. 31.

<sup>132</sup> Phase 2 RNG Inquiry Report, p. 31.

<sup>133</sup> *ATCO* at para. 7.

mandate.<sup>134</sup> Extending the BCUC's jurisdiction to authorize the creation of a registry that limits RNG supply would go well-beyond necessary implication and would be directly contrary to express legislative intent set out in the *Clean Energy Act* and GGRR.

95. Finally, the BCUC's jurisdiction is territorially limited to British Columbia. This would severely constrain the effectiveness of any compliance and verification mechanism intended to operate across Canada. A BCUC-based solution would, therefore, be inherently hamstrung – standing in stark contrast to a registry solution such as the forthcoming CLEER, which can be implemented on a national scale.

#### **PART SIX: METRO VANCOUVER IS LARGELY SUPPORTIVE OF OUT-OF-PROVINCE RNG, BUT OVERSTATES CONCERNS REGARDING COMPLIANCE**

96. In this part, FEI responds to submissions of Metro Vancouver that overstate concerns with respect to compliance with the GGRR. FEI notes that Metro Vancouver does not dispute the BCUC's previous determinations with respect to interpretation of the GGRR. Metro Vancouver states that “the Commission's allowance for acquiring RNG, which may be via either a physical or notional path as cited above, is consistent with the GGRR.”<sup>135</sup> Metro Vancouver advocates for improvements to compliance mechanisms, but Metro Vancouver is not suggesting that the BCUC disallow future acquisitions of out-of-province RNG:<sup>136</sup>

Metro Vancouver is aware that such mechanisms require time, resources, and inter-jurisdictional coordination to establish. As such, Metro Vancouver is not proposing that the Commission disallow notional deliveries in absence of a fully mature system.

Similarly, while Metro Vancouver questions the economic impact of acquisitions of out-of-province RNG per BC's Clean Energy Strategy, Metro Vancouver states that this is not in conflict with the BCUC's interpretation of the GGRR:<sup>137</sup>

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<sup>134</sup> ATCO at para. 51.

<sup>135</sup> Exhibit C3-2, Metro Vancouver Submission, p. 3.

<sup>136</sup> Exhibit C3-2, Metro Vancouver Submission, p. 6.

<sup>137</sup> Exhibit C3-3, Metro Vancouver Response to BCUC-All IR1 4.1.1.

Metro Vancouver does not believe that there is any inherent conflict between the objectives in BC's Clean Energy Strategy and the Commission's interpretations of the requirements of the GRR. To Metro Vancouver's understanding, BC's Clean Energy Strategy does not purport to modify the meaning or language of the GRR.

97. Overall, Metro Vancouver recommends that the BCUC "undertake modest administrative changes to reduce ambiguity" and "work toward continuous improvement of the RNG program".<sup>138</sup>

98. FEI's reply to Metro Vancouver is organized around the following points:

- Out-of-province RNG provides significant economic benefits in BC.
- FEI's acquisitions of RNG displace conventional natural gas that would otherwise be purchased to serve its customers, while Metro Vancouver mistakenly considers that displacement requires a reduction in energy demand.
- Ensuring consistent definitions across legislation and policy documents is outside the purview of the BCUC.
- FEI's contractual requirements meet and exceed the attestations suggested by Metro Vancouver.
- FEI's accounting and verification practices are robust, and the CLEER is intended to add transparency and scalability at the national level.

**A. Out-of-Province RNG has Economic Benefits in British Columbia**

99. Metro Vancouver poses a counterfactual concern that it is "unclear if using imported RNG has had a positive, negative or neutral impact on BC's economy, compared to what would have happened under a different Commission interpretation of the GRR".<sup>139</sup> FEI submits that the evidence is clear that out-of-province RNG provides significant economic benefits in BC.

100. As discussed above in Part Three, Section A, of this Reply Submission, the economic benefits of out-of-province RNG include:

- Stimulating investment and job creation in BC;

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<sup>138</sup> Exhibit C3-2, Metro Vancouver Submission, p. 8.

<sup>139</sup> Exhibit C3-3, Metro Vancouver Response to BCUC-All IR1 4.1.1.

- Enabling growth of BC-based RNG technologies and expertise;
- Generating economic “ripple effects” across multiple BC-based sectors;
- Supporting maritime decarbonization and port investments;
- Expanding the BC-based RNG market by maintaining reliable and competitive supply; and
- Enabling cost efficiencies and leveraging economies of scale for the benefit of British Columbians.

101. Metro Vancouver clarifies that it is not suggesting that this issue poses any “conflict” with the GRR.<sup>140</sup> FEI agrees. The GRR does not include any requirements with respect to economic benefits and the BCUC has no jurisdiction to add requirements for prescribed undertakings under the GRR.

**B. FEI’s Acquisitions of RNG Displace Conventional Natural Gas that Would Otherwise Be Purchased to Serve its Customers**

102. Metro Vancouver expresses concern about proving the displacement of conventional natural gas by RNG, saying: “Metro Vancouver understands FEI to have contractual rights to ensure that the RNG it purchases is validly produced and injected into a pipeline, while this seems sufficient evidence of the claimed RNG supply it does not demonstrate displacement, such that an equal quantity of fossil gas is removed from the system”.<sup>141</sup>

103. To be clear, Metro Vancouver does not suggest that it is necessary for the displacement to take place on the same pipeline system, or to track the course of gas molecules from injection to consumption, but states that the “evidentiary hurdle is to show that there is a direct (and causal) link between the new gas injection and reduced fossil gas consumption”.<sup>142</sup> Metro Vancouver considers that “the question of how the Commission should confirm displacement is

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<sup>140</sup> Exhibit C3-3, Metro Vancouver Response to BCUC-All IR1 4.1.1.

<sup>141</sup> Exhibit C3-3, Metro Vancouver Response to BCUC-All IR1 1.1.

<sup>142</sup> Exhibit C3-3, Metro Vancouver Responses to BCUC-All IR1 1.2, 1.3.

a difficult one, if not intractable.”<sup>143</sup> Metro Vancouver’s understanding of displacement, however, is misguided.

104. The fact that Metro Vancouver considers proving displacement to be an intractable problem means that Metro Vancouver is proposing an untenable interpretation of the word “displacement” in the GRR. Legislation cannot be interpreted in ways that would produce absurd consequences.<sup>144</sup> It would be absurd to conclude that the word “displacement” as it occurs in the definition of “environmental attribute” incorporates a requirement that is impossible, or even very difficult, to prove. This would make the GRR impossible to implement, which is not a legally acceptable outcome.

105. Metro Vancouver’s view is that displacement requires proof that a quantity of fossil gas is removed from the system:<sup>145</sup>

...it is not necessarily the case that the demand for total energy would remain constant in the face of new RNG supply, causing total energy supply to also remain constant. Instead in some cases, one could expect the two supplies (new RNG plus old fossil gas) to be additive, resulting in greater supply, lower prices, and higher overall energy use.

This view is misguided for several reasons.

106. First, Metro Vancouver’s concerns would apply equally, or even more so, to the benefits from adding renewable electricity resources to the electricity grid. Adding renewable electricity can be assumed to displace electricity that would have otherwise been required from higher carbon sources. There is no additional requirement, as Metro Vancouver appears to claim, to show that the renewable electricity resulted in a net reduction in other higher-emitting sources of electricity, or to ensure that the two supplies (electricity from renewables and electricity from other sources) are not additive, resulting in greater supply of electricity from higher-emitting resources. If renewable electricity is cheaper than the base supply from, for instance, coal-fired generation, no reasonable person worries that the renewables will increase demand for power

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<sup>143</sup> Exhibit C3-4, Metro Vancouver Response to CEC IR1 10.1.

<sup>144</sup> *Rizzo* at para. 27; see also *Wang v. British Columbia (Securities Commission)*, [2023 BCCA 101](#) at paras. 42-43.

<sup>145</sup> Exhibit C3-2, Metro Vancouver Submission, p. 4.

overall, including from coal-fired generation. Similarly, no reasonable person should be worried that adding RNG to the system will somehow increase demand for natural gas generally.

107. Second, a quantity of fossil gas does not need to be “removed from the system”<sup>146</sup> for displacement to occur, because the overall demand for and consumption of natural gas can be increasing at the same time that RNG is being supplied into the system. The overall demand for natural gas will be shaped by many factors. For example, economic and population growth typically lead to increased residential, commercial, and industrial customers with associated energy consumption. In the situation where total demand is increasing, RNG supply can displace natural gas supply, but the total natural gas supply can also increase. What is important for displacement is that RNG consumption replaces what otherwise would have been natural gas consumption. Displacement requires substitution for conventional natural gas, not an absolute reduction in conventional natural gas consumption.

108. Third, if Metro Vancouver means to say that displacement requires proof of the counterfactual that, in the absence of the RNG supply, natural gas consumption *would have been* higher, this is not difficult to prove. This is because RNG displaces conventional natural gas supply if it is injected into the gas system and used in a way to meet energy service demand that would otherwise have needed to be satisfied by end-use conventional natural gas consumption without the provision of that RNG.<sup>147</sup> In this way, all of the RNG that FEI acquires under the GGRR that is sold to FEI’s customers displaces the production and use of natural gas derived from fossil fuels, with the production and use of RNG.

109. To explain further, FEI’s gas supply practices ensure that FEI has the gas to serve demand from its customers at any time. Displacement of conventional natural gas with RNG is illustrated by the fact that FEI adjusts its forecast of conventional natural gas supply downward to reflect the RNG supply acquired for its RNG Blend and Voluntary RNG services for its customers. This is also illustrated in the table below that shows how FEI has used RNG to meet total demand. In the absence of the RNG supply, FEI would have used *more* conventional natural gas supply to serve

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<sup>146</sup> Exhibit C3-3, Metro Vancouver Response to BCUC-All IR1 1.1.

<sup>147</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 1.3.

its customers. The RNG that FEI acquired, therefore, displaced the use of conventional natural gas.<sup>148</sup>

**Table 1: Conventional Natural Gas and RNG Supply**

	Unit	Actual 2022	Actual 2023	Actual 2024	Forecast 2025	Forecast 2026	Forecast 2027	Forecast 2028	Forecast 2029
<b>Demand for Gaseous Energy</b>	TJ	<b>220,591</b>	<b>219,647</b>	<b>223,910</b>	<b>220,746</b>	<b>222,904</b>	<b>224,940</b>	<b>226,190</b>	<b>227,983</b>
RNG Supply (ii)	TJ	2,295	2,875	2,615	4,674	8,587	12,447	15,216	16,270
Conventional NG Supply (i)	TJ	218,296	216,772	221,295	216,072	214,317	212,493	210,974	211,713
<b>Total Supply</b>	TJ	<b>220,591</b>	<b>219,647</b>	<b>223,910</b>	<b>220,746</b>	<b>222,904</b>	<b>224,940</b>	<b>226,190</b>	<b>227,983</b>

110. FEI’s contractual and other practices provide assurance that the RNG supply is being injected and used, and FEI is accounting for it. FEI’s RNG inventory is being increased when RNG volumes are injected, and FEI’s RNG inventory is being reduced (EAs are retired) when the RNG is delivered and consumed by FEI’s customers.<sup>149</sup>

111. Fourth, there is no risk that adding RNG to the overall supply of natural gas in the common carrier pipeline system would increase overall energy demand for natural gas such that RNG would not substitute and replace conventional natural gas. Given that RNG is a higher-cost commodity than conventional natural gas, its incorporation into the supply mix increases the average cost of gas. The increase in the price of gas as a result of the addition of higher-cost RNG sends a price signal to end-use customers that acts as an incentive to conserve where possible to manage their overall energy costs.<sup>150</sup> Further, the overall demand for natural gas is shaped by a more complex set of factors than price elasticity. New use cases and demand for gas, such as in the power sector, to meet rising electricity demand, demand in international markets for liquefied natural gas, and policies have a much larger role in determining the overall level of demand for natural gas than the availability of RNG supply.<sup>151</sup>

112. Metro Vancouver’s conception of displacement is, therefore, misguided and must be rejected.

<sup>148</sup> Exhibit C1-7, FEI Response to IG2-FEI IR1 3.1.

<sup>149</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 1.3.

<sup>150</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 2.5.

<sup>151</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 2.5.

**C. FEI's Contractual Requirements and Attestations from Suppliers Meet and Exceed the Attestations Suggested by Metro Vancouver**

113. Metro Vancouver recommends that BPAs and attestations filed by public utilities include provisions that:<sup>152</sup>

- a) Explicitly state that the buyer of any RNG against which a BC public utility has claimed an environmental attribute forfeits the right to claim the environmental attributes of that RNG in any corporate, regulatory, or voluntary reporting; and
- b) Prevent the buyer of the RNG against which a BC public utility has claimed an environmental attribute from transferring the attribute to its own customers or any other third party.

114. FEI's practices and the BCUC's verification practices exceed Metro Vancouver's recommendations:

- FEI's RNG supply contracts include provisions allocating all EAs to FEI for any RNG volumes it purchases, such that the EAs related to the production of RNG are exclusively transferred to FEI.<sup>153</sup>
- FEI's RNG suppliers must warrant and assure to FEI that they are meeting their contractual obligations under the BPAs to allocate EAs to FEI. Pursuant to these contractual provisions, FEI procures the attestation letters that are filed with the BCUC in FEI's annual RNG reporting. In the attestation letters, RNG suppliers provide a written attestation of the exclusive transfer of the EAs associated with the volume of RNG that is sold to FEI. These attestation letters are filed with the BCUC as part of FEI's annual RNG compliance filing, as required by the BCUC.<sup>154</sup>

115. In reply to Metro Vancouver's second point regarding preventing the buyer of the RNG from transferring the attribute to its own customers or any other third party, FEI's customers consume the RNG they purchase. The RNG sold to FEI's customers is not available for sale to third parties and there is no mechanism by which they could transfer the associated attributes to others.

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<sup>152</sup> Exhibit C3-2, Metro Vancouver Submission, p. 6.

<sup>153</sup> Exhibit C1-2, FEI Submission, p. 17.

<sup>154</sup> Exhibit C1-2, FEI Submission, p. 19.

**D. FEI's Accounting and Verification Practices Are Robust and the CLEER Would Track and Certify EAs Nationally**

116. Metro Vancouver expresses concern that BC's compliance mechanisms are insufficiently robust and verifiable compared to practices in other jurisdictions,<sup>155</sup> recommends reviewing other jurisdictions' programs and "implementing or recommending the necessary legislative framework",<sup>156</sup> and states that it "supports development of the proposed CLEER as a step toward a more rigorous book-and-claim model."<sup>157</sup> In reply, FEI submits that its accounting and verification practices are robust, that legislative frameworks are outside the scope of the BCUC's jurisdiction, and that FEI is working with government and industry to create the CLEER to enhance transparency, accountability, and market confidence across Canada.

117. First, FEI's accounting and verification practices are robust and there is no evidence of any double-counting of the EAs associated with the RNG that it has acquired. Please refer to Part Five, Section A, of this Reply Submission for a summary of FEI's accounting and verification practices.

118. Second, as discussed in Part Five, Section B of this Reply Submission, FEI is working with government and industry to create the CLEER to increase the transparency of RNG acquisitions. The CLEER enjoys support across Canada from industry and government. FEI appreciates Metro Vancouver's support for this initiative. FEI submits that a useful outcome of this Inquiry would be for the BCUC to support the development of the CLEER.

119. Third, FEI submits that the BCUC is not empowered under the UCA to develop or initiate any registry or broader legislative scheme to track emissions. These activities are the jurisdiction of government or other administrative bodies. In addition to the lack of any wording in the UCA to empower the BCUC to implement an emission-tracking registry or market, section 18 of the *Clean Energy Act* prohibits the BCUC from taking any action that would prevent a public utility from carrying out a prescribed undertaking. The BCUC may, therefore, not impose additional

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<sup>155</sup> Exhibit C3-2, Metro Vancouver Submission, p. 6.

<sup>156</sup> Exhibit C3-2, Metro Vancouver Submission, p. 8.

<sup>157</sup> Exhibit C3-3, Metro Vancouver Response to BCUC-All IR1 2.2.

requirements on prescribed undertakings that would prevent a public utility from carrying them out.

120. Finally, in Phase 2 of the 2021 RNG Inquiry, the BC Government noted its view that public utilities bear the primary responsibility for ensuring the integrity of EAs:<sup>158</sup>

The BCOAPO has further observed that “the majority of Intervenors, BCOAPO included, took the general position that the public utility bears the primary responsibility to ensure the integrity of EAs based on contractual or third-party verification with the BCUC providing oversight in accordance with its jurisdiction.” The Province would concur with this view.

**E. Ensuring Consistent Definitions Across Legislation and Policy Documents is Outside the Purview of the BCUC**

121. Without providing evidence in support, Metro Vancouver submits that the definition of the terms RNG, biogas, and biomethane are lacking or inconsistent across the *Clean Energy Act*, the GGRR, and the BCUC’s decisions.<sup>159</sup> Without consideration of the limits of the BCUC’s jurisdiction, Metro Vancouver recommends that the BCUC ensure “there are clear and consistent definitions across the relevant legislation and policy documents, aligned with the GGRR’s intent for GHG reduction.”<sup>160</sup>

122. First, there are no inconsistent definitions of RNG, biogas, and biomethane in the *Clean Energy Act*, the GGRR, and the BCUC’s decisions. The GGRR is a regulation under the *Clean Energy Act*, and they are necessarily consistent. The BCUC’s 2021 RNG Inquiry defined these terms in a manner that is consistent with the *Clean Energy Act* and the GGRR.<sup>161</sup> Metro Vancouver has not provided any evidence of inconsistencies.

123. Second, aligning definitions across all legislation and policy documents is the prerogative of government, not the BCUC. Moreover, while consistency is generally a laudable goal,

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<sup>158</sup> Exhibit E-2 in the BCUC Phase 2 RNG Inquiry [Footnotes omitted].

<sup>159</sup> Exhibit C3-2, Metro Vancouver Submission, p. 4.

<sup>160</sup> Exhibit C3-2, Metro Vancouver Submission, p. 8.

<sup>161</sup> The defined terms are summarized succinctly on pages 1-2 of the BCUC Phase 2 RNG Inquiry Report.

government may have good reasons for maintaining differences between various legislative schemes, programs and policies. The BCUC has no power to ensure government maintains consistency in defined terms.

**PART SEVEN: OTHER SUBMISSIONS OF FTFO/FONA/MS2S/STAND ARE WITHOUT MERIT**

124. In this Part, FEI responds to some of the other submissions of FTFO/FONA/MS2S/Stand which are without merit. FEI notes that it has not responded to all the submissions of FTFO/FONA/MS2S/Stand, but has sought to identify the more material items.

**A. Emissions Reductions from Landfill Gas Collection Are Not Included in Carbon Intensity of RNG from Landfills**

125. FTFO/FONA/MS2S/Stand suggest there is double-counting, noting that “Pennsylvania recognizes approximately 10 million tonnes of reduced emissions from methane capture and does not indicate that purchases from British Columbia have reduced that total.”<sup>162</sup> However, while the state of Pennsylvania would report emission reductions resulting from landfill gas collection and destruction due to flaring or processing to RNG, the carbon intensity of the RNG produced would not include the upstream emission reductions from the capture of landfill gas at landfills in Pennsylvania or any other location. As such, there is no issue with double-counting.

**B. Displacement Does Not Require RNG to Be Injected into a Pipeline System that also Carries Natural Gas**

126. FTFO/FONA/MS2S/Stand states that the definition of EAs “requires biomethane to be injected into a pipeline system that also carries fossil gas, so that fossil gas is physically displaced”.<sup>163</sup> This is not true. RNG is ordinarily delivered through a pipeline system with conventional natural gas, but this is not necessary for displacement. RNG can displace conventional natural gas by being delivered by a dedicated pipeline system or by truck, for example, as long as it is being used instead of conventional natural gas. RNG is a drop-in fuel that is a substitute for natural gas, such as in CNG or LNG engines for marine or land-based

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<sup>162</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 3.2.1.1.

<sup>163</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.2.

transportation. When RNG is used instead of conventional natural gas, it has *displaced* the production and use of conventional natural gas.

### C. International Court of Justice Opinions Are Not Binding on the BCUC

127. MS2S incorrectly suggests that the BCUC's actions, including any orders, decisions, or recommendations, must consider and comply with the conclusions of the International Court of Justice ("ICJ"), including those set out in its July 23, 2025 advisory opinion on climate change obligations ("Climate Opinion").<sup>164</sup> This position misconceives both the jurisdiction of the BCUC and the nature of ICJ advisory opinions within the hierarchy of Canadian law.

128. First, the BCUC's jurisdiction is defined by provincial legislation. Section 18 of the *Clean Energy Act* and the GRRR establish prescribed undertakings, including the acquisition of RNG, as measures to reduce GHG emissions in British Columbia. Section 18(3) expressly prohibits the BCUC from exercising its powers "in a way that would directly or indirectly prevent a public utility from carrying out a prescribed undertaking." The BCUC is a statutory regulator, not a court of general jurisdiction and it must, therefore, adhere to the bounds of its jurisdiction as prescribed by provincial law. This means not adjudicating or implementing international norms that conflict with express statutory language. Importing ICJ opinion into this proceeding would exceed the BCUC's statutory authority and undermine the legislative framework governing prescribed undertakings set out in the *Clean Energy Act* and GRRR.

129. Second, as the name suggests, ICJ advisory opinions like the Climate Opinion are *advisory* and do not directly impose enforceable legal obligations on countries such as Canada, absent direct incorporation into domestic law by statute.<sup>165</sup> While they can serve as interpretive aids where legislation is ambiguous and where such interpretation aligns with the underlying legislative purpose, they are nonetheless non binding.<sup>166</sup> Here, section 18 of the *Clean Energy Act* is clear and prescriptive, and has the legal effect of restricting the BCUC from impeding prescribed

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<sup>164</sup> Exhibit C18-1, IG2 Submission, p. 22; see also Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 3.4.

<sup>165</sup> *Lho'Imggin v. Canada*, [2025 FC 1586](#) at paras. 42, 46 ("*Lho'Imggin*").

<sup>166</sup> *Lho'Imggin* at para. 44.

undertakings. Put simply, the Climate Opinion cannot override the statutory framework set out in the *Clean Energy Act* and the GGRR.

130. Third, as the ICJ itself acknowledges in the Climate Opinion, international law has an “important but ultimately limited role” in resolving climate change, which requires political and social action beyond law alone.<sup>167</sup> Despite MS2S’ suggestion otherwise, the limited scope of this proceeding is not the appropriate forum for such action and, therefore, should not form the basis for any recommendations to government.

131. Finally, even if the BCUC were bound by the Climate Opinion, FEI submits that there is no breach of the duties identified by ICJ where the BCUC accepts a BPA for out-of-province RNG supply.

#### **D. The GGRR is Not a Carbon Credit System**

132. FTFO submits that: “Instead of allowing gas utilities to buy credits from out of province, we suggest they receive carbon credits when they spend equivalent dollars in BC on tangible solutions.”<sup>168</sup> In reply, the GGRR does not allow the acquisition of “credits”. The GGRR allows the acquisition of RNG, including the EAs of that RNG. RNG is a substitute for conventional natural gas and is not a credit. Furthermore, FTFO’s proposal is far beyond the scope of this Inquiry and the jurisdiction of the BCUC.

#### **E. Current Definition of RNG Does not Allow for Displacement of Clean Electricity**

133. FTFO/FONA/MS2S/Stand state that they agree with Metro Vancouver’s submission that the BCUC’s current definition of RNG allows for the displacement of “clean” electricity rather than fossil gas.<sup>169</sup> FTFO/FONA/MS2S/Stand are mistaken.

134. Metro Vancouver’s submission, which is related to an unrealistic situation in which a public utility acquires the EAs from a biogas supplier that sells its output for direct electricity

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<sup>167</sup> Climate Opinion at para. 456.

<sup>168</sup> Exhibit C18-1, IG2 Submission, Contributions of FTFO, p. 7.

<sup>169</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.5.

production, was inaccurate as demonstrated by multiple submissions in this Inquiry. For example, FEI explained:<sup>170</sup>

The scenario contemplated by Metro Vancouver in which a public utility acquires the EAs from a biogas supplier that sells its output for direct electricity production would not be allowed by the BCUC's current definition of RNG, as EAs from biogas would not qualify as RNG.

The BCUC's current definition of RNG includes "Biomethane...acquired with its associated environmental attributes" and "Conventional natural gas (i.e., fossil gas)...acquired along with an appropriate quantum of transferable environmental attributes arising from the production of biomethane elsewhere."<sup>171</sup> The BCUC is clear that biomethane is not biogas. Rather, biomethane is pipeline quality gas derived from upgrading and processing biogas or biomass.<sup>172</sup> Moreover, the BCUC found that bundling conventional natural gas with EAs that arise from anything other than the production of biomethane does not satisfy the definition of RNG for the purpose of the GGRR.<sup>173</sup> Therefore, the use of EAs from the production of biogas does not satisfy the BCUC's definition of RNG for the purpose of the GGRR.

FEI notes that biogas is suitable for electricity generation and biogas producers would not incur the material costs to upgrade the biogas to pipeline quality biomethane if it were to be used for electricity generation. However, in a hypothetical scenario where pipeline quality biomethane were to be used for electricity generation, and a public utility were to acquire the EAs associated with that biomethane, this does not pose a challenge to the BCUC's definition of RNG. In this hypothetical scenario, the electricity generated by the biomethane could not claim the EAs of the biomethane used to produce it, and the carbon intensity of the electricity would be commensurately higher (i.e., it would be as if the electricity were generated using conventional natural gas). At the same time, natural gas paired with the EAs of the biomethane could be used to displace the use of natural gas derived from fossil fuels elsewhere. This scenario is not realistic, economic or feasible, but it does not pose a challenge to the BCUC's definition of RNG.

135. Notably, Metro Vancouver essentially retracted its example, stating:<sup>174</sup>

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<sup>170</sup> Exhibit C1-4, FEI Response to BCUC-All IR1 1.5.

<sup>171</sup> [https://docs.bcuc.com/documents/proceedings/2025/doc\\_82215\\_a-2-g-137-25-timetable.pdf](https://docs.bcuc.com/documents/proceedings/2025/doc_82215_a-2-g-137-25-timetable.pdf).

<sup>172</sup> Phase 1, p. 31. Accessed at [https://docs.bcuc.com/documents/other/2022/doc\\_67310\\_final-rng-report.pdf](https://docs.bcuc.com/documents/other/2022/doc_67310_final-rng-report.pdf).

<sup>173</sup> Phase 2, p. 24. Accessed at:

[https://docs.bcuc.com/documents/other/2023/doc\\_71871\\_bcucrnginquiryphase2finalreport.pdf](https://docs.bcuc.com/documents/other/2023/doc_71871_bcucrnginquiryphase2finalreport.pdf).

<sup>174</sup> Exhibit C3-5, Metro Vancouver Response to IG2-Metro Vancouver IR1 1.1.

For clarification, as noted in the question reference quoting Metro Vancouver's submission, Metro Vancouver referred to the production of electricity from biogas, not RNG. Raw biogas is a mixture of gases with a methane content of 45-65% and cannot be injected into natural gas pipelines. RNG, by contrast, is biogas that has been upgraded to meet stringent pipeline quality specifications, typically requiring a methane content of 96% or greater to be a direct substitute for fossil gas. Metro Vancouver is not aware of any projects that use RNG to produce electricity and sell detached environmental credits. Electricity production from biogas is widespread across Canada, with hundreds of facilities in operation. Indeed electricity, not RNG, is the dominant end-use of biogas, motivated by grid-supported policies like Ontario's FIT program. Metro Vancouver is not aware of any biogas-to-electricity projects that sell detached credits to out-of-province utilities. However, Metro Vancouver understands that, for example, Lethbridge Biogas LP and GrowTec Biogas do generate credits under the Alberta Offset System.

136. Nonetheless, FTFO/FONA/MS2S/Stand embraced Metro Vancouver's example and offered three more mistaken scenarios.

137. FTFO/FONA/MS2S/Stand refer to FEI's Okanagan Capacity Mitigation Project Certificate of Public Convenience and Necessity Application and how BC Hydro could not provide sufficient electricity to the region.<sup>175</sup> This proceeding was about addressing the imminent capacity shortfall for serving the Okanagan and had nothing to do with RNG, let alone the specifics of the BCUC's current definition of RNG.

138. FTFO/FONA/MS2S/Stand refer to FEI advertising benefits of RNG and offering rebates for dual-fuel heating systems.<sup>176</sup> This, again, has nothing to do with the BCUC's current definition of RNG. The GGRR was meant to encourage the acquisition and use of RNG, including as part of FEI's supply of gas to its customers. Contrary to FTFO/FONA/MS2S/Stand, the BC Government has not adopted an electrification-only approach, but has chosen to encourage multiple paths towards decarbonization.

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<sup>175</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.5.

<sup>176</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.5.

139. FTFO/FONA/MS2S/Stand state that FEI plans to “sell-on to other utilities much of its contracted biomethane supply.”<sup>177</sup> This again is irrelevant. Pursuant to its BPAs, which have all been reviewed and accepted by the BCUC, FEI redirects some of the RNG that it could otherwise choose to purchase, to other markets, generating revenue that is for the benefit of FEI’s customers. As FEI has explained in its reporting to the BCUC and in various proceedings, the redirecting of RNG to other markets is part of FEI’s efforts to balance supply and demand and manage the incremental rate impacts to customers as the RNG Blend increases over time.

#### **PART EIGHT: CONCLUSION**

140. In conclusion, FEI submits that there are no grounds on which the BCUC should revisit or reopen its determination that out-of-province acquisitions of RNG are prescribed undertakings under the *Clean Energy Act* and GRR.

141. Given its numerous decisions and reports over the past years, the legal fact is well-established that out-of-province RNG is a prescribed undertaking under the GRR. This is supported by the statutory interpretation of the GRR which does not include any restriction on the location of RNG production. FEI has relied on the BCUC decisions in building its RNG Program and there would be severe consequences for FEI and its customers if further out-of-province acquisitions of RNG were not accepted as prescribed undertakings. This Inquiry has given rise to no reasonable grounds on which the BCUC could defy its previous decisions and the expectations of parties such as FEI with respect to out-of-province RNG.

142. The acquisition of out-of-province RNG has proven to be beneficial to FEI’s RNG Program, has generated economic benefits in BC, and has contributed to GHG reductions in BC, as

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<sup>177</sup> Exhibit C18-2, FTFO/FONA/MS2S/Stand Response to BCUC-All IR1 1.5.

recognized by the BC Government. The continued acquisition of out-of-province RNG is essential to maintain these benefits and meet the Province's GHG reduction targets.

*ALL OF WHICH IS RESPECTFULLY SUBMITTED*

Dated: January 12, 2026 ***[original signed by Chris Bystrom]***

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Chris Bystrom  
Counsel for FortisBC Energy Inc.

Dated: January 12, 2026 ***[original signed by Niall Rand]***

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Niall Rand  
Counsel for FortisBC Energy Inc.