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August 27, 2025

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

Dear Commission Secretary:

Re: British Columbia Utilities Commission (BCUC) Review of Renewable Natural Gas (RNG) Definition and Accounting (Inquiry)

FortisBC Energy Inc. (FEI) Submission

FEI writes in response to Order G-137-25, dated June 5, 2025, which established an inquiry (Inquiry) to examine the BCUC's definition of RNG and the sufficiency of mechanisms for ensuring that greenhouse gas (GHG) emissions associated with biomethane purchased from projects located outside of British Columbia are properly accounted for. This includes consideration of whether further acquisitions of out-of-province biomethane are consistent with the requirements of the *Greenhouse Gas Reductions (Clean Energy) Regulation* (GGRR). The BCUC, in Order G-137-25, sought submissions from parties on a number of questions.

Attached are the submissions of FEI. FEI appreciates the opportunity to provide these submissions to the BCUC for consideration.

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Sarah Walsh

Attachments

cc (email only): Registered Interveners

BCUC Review of Renewable Natural Gas Definition and Accounting Inquiry

FortisBC Energy Inc. Submission

August 27, 2025

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1. INTRODUCTION AND SUMMARY SUBMISSIONS

1.1 *INTRODUCTION*

The following is FEI's submission in response to British Columbia Utilities Commission (BCUC) Order G-137-25, establishing an inquiry (Inquiry) to examine the BCUC's definition of renewable natural gas (RNG) and the sufficiency of mechanisms for ensuring that the greenhouse gas (GHG) emissions associated with biomethane purchased from projects located outside of British Columbia (BC) are properly accounted for, including whether further acquisitions of out-of-province biomethane are consistent with the requirements of the *Greenhouse Gas Reduction (Clean Energy) Regulation* (GGRR).

In Order G-137-25,[1] the BCUC requested submissions from parties to address the following questions:

1. Is the BCUC's current definition of RNG, which captures biomethane produced inside BC as well as outside of BC, consistent with the intent of the GGRR?
    a. If amendments to the definition of RNG are required, what amendments would be appropriate and what purpose would the amendments serve?
    b. Are the existing compliance requirements sufficient to protect against the double-counting of environmental attributes in BC and in other jurisdictions? For example, is there sufficient evidence that when fossil gas, with an attached environmental attribute from biomethane produced elsewhere, is burned in BC the emissions associated with that fossil gas are added to the total GHG emissions in the other jurisdiction?
    c. If not, what amendments to the existing compliance requirements or changes to approach would be appropriate?
2. Do you believe that there are any other matters that should be considered in relation to out-of-province environmental attributes? If so, please describe.

FEI provides a summary of its response below, followed by an outline of its more detailed comments.

1.2 *SUMMARY OF FEI'S SUBMISSIONS*

Given the extensive number of past BCUC decisions accepting out-of-province RNG as a prescribed undertaking and the reliance FEI and its customers have placed on those decisions,

[1] Appendix B.

FEI is concerned about the opening of this Inquiry after many years have passed to reexamine whether further purchases of out-of-province biomethane are consistent with the RNG prescribed undertaking in the GGRR. FEI submits that the BCUC's letter filed as Exhibit A-2 and staff filing in Exhibit A2-1 reveal no evidence or basis on which to question the BCUC's past decisions on this matter.

The BCUC has concluded on 25 different occasions that acquisitions of RNG outside of BC are consistent with the intent of the GGRR in reviewing and concluding that FEI's biomethane purchase agreements (BPAs) with suppliers outside of BC are prescribed undertakings. These decisions are supported by the statutory interpretation of the GGRR performed by the BCUC in its initial decisions accepting RNG acquisitions from outside of the province. The BCUC has confirmed these determinations in its two-phase, multi-year RNG Inquiry (2021 RNG Inquiry) that resulted in the BCUC's Decision and Order G-212-22 dated July 28, 2022, its Phase 1 Report dated July 28, 2022 (Phase 1 Report), and Phase 2 Report dated June 13, 2023 (Phase 2 Report). Thus, the legal fact that out-of-province RNG acquisitions are a prescribed undertaking under the GGRR has been firmly established by repeated decisions and reports of the BCUC.

In the Phase 1 Report, the Panel determined that a unit of natural gas plus the environmental attributes (or EAs) associated with the production of an equivalent unit of biomethane is RNG.[2] The Panel also found that when EAs associated with the production of biomethane elsewhere are acquired by a BC public utility and combined with an equivalent amount of natural gas acquired separately, this results in RNG for the purpose of the GGRR.[3]

In the Phase 2 Report, the Panel determined that notional delivery (i.e., delivery by displacement) continues to be an appropriate mechanism for the delivery of RNG, provided there is a robust and verifiable method of tracking the associated EAs[4] and that, for the purposes of the GGRR, RNG is acquired regardless of the location of the underlying biomethane production,[5] and that the acquisition of EAs associated with a biomethanation process, when acquired in combination with conventional natural gas, constitutes the acquisition of RNG.[6] FEI also notes that the Ministry of Energy, Mines and Low Carbon Initiatives (EMLI) participated in Phase 2 of the 2021 RNG Inquiry by filing a letter of comment which the Panel considered in its determinations resulting in the Phase 2 Report.

Since the BCUC first found that an acquisition of RNG outside of BC is a prescribed undertaking, the GGRR has been amended numerous times by the Province and these amendments have not precluded acquisitions of RNG outside of BC. Moreover, the 2024 amendments to the GGRR that incorporate a definition of "environmental attribute", and require the retirement of such EAs at the time of sale or transfer to the customers of the public utility, are consistent with the BCUC's

[2] Phase 1 Report, p. 18.
[3] Phase 1 Report, pp. 24-25.
[4] Phase 2 Report, p. 38.
[5] Phase 2 Report, p. 39.
[6] Phase 2 Report, p. 54.

conclusions in the 2021 RNG Inquiry, its Decision and Order G-212-22 and its Phase 1 and Phase 2 Reports regarding EAs.

FEI has robust contractual mechanisms to prevent double counting of EAs by its suppliers, including audit rights and documentation of a chain of custody. FEI has also conducted market scans and found no evidence that its suppliers are double counting the EAs that have been sold to FEI. Nor has FEI found any evidence of territorial inventories double counting the EAs of its RNG.

FEI is working with industry and governments to initiate a registry that would formalize a book-and-claim process for the purchase and sale of RNG in Canada. Similar registries are available in the United States and Europe. While these developments are important, they do not have a bearing on whether acquisitions of RNG outside of BC are prescribed undertakings under the GGRR. The Province developed the GGRR with knowledge of the status of registries and accounting mechanisms in other jurisdictions as well as FEI's procurement of RNG from outside of BC. While the Province has strengthened measures to avoid double counting, it has not limited the procurement of RNG from outside of the province. This confirms the intention of government to allow the acquisition of out-of-province RNG. The BCUC is prohibited from taking any action, whether direct or indirect, to prevent such prescribed undertakings.

FEI submits that the BCUC's numerous decisions accepting that out-of-province RNG acquisitions as prescribed undertakings, and its conclusions in the 2021 RNG Inquiry that the acquisition of RNG outside of BC are permitted under the GGRR, are correct and that there is no basis to revisit them.

1.3 *ORGANIZATION OF THIS SUBMISSION*

FEI has organized its submissions on the issues and questions requested by the BCUC as follows:

- Section 2 – The BCUC has repeatedly and correctly determined that acquisitions of RNG outside of BC are consistent with the intent of the GGRR and the BCUC should remain consistent with these precedents;
- Section 3 – FEI has robust contractual mechanisms to prevent double counting, there is no evidence of any double counting, and FEI is working with industry and government to create a registry to increase the formality around the purchase and sale of RNG;
- Section 4 – There would be significant adverse consequences if acquisitions of out-of-province RNG were no longer permitted under the GGRR; and
- Section 5 – FEI concludes that no changes are required to the BCUC's past decisions on out-of-province RNG.

2. THE BCUC HAS REPEATEDLY AND CORRECTLY DETERMINED THAT ACQUISITIONS OF RNG OUTSIDE OF BC ARE CONSISTENT WITH THE INTENT OF THE GGRR

The BCUC has repeatedly determined that acquisitions of RNG outside of BC are prescribed undertakings under the GGRR and section 18 of the *Clean Energy Act* (CEA). Since 2020, the BCUC has made this determination in accepting 25 BPAs[7] between FEI and out-of-province suppliers and also came to the same conclusions in its multi-year, multi-phase 2021 RNG Inquiry which only recently concluded in 2023. FEI reports annually to the Province on its prescribed undertakings and the Province participated in the 2021 RNG Inquiry. Amendments to the GGRR have not been made by the Province to exclude out-of-province RNG. Rather, recent amendments to the GGRR have added reference to the purchasing of the EAs of RNG, consistent with the notional delivery of RNG supported by the BCUC's findings in the 2021 RNG Inquiry. This demonstrates the intention of government to allow the acquisition of out-of-province RNG as a prescribed undertaking in the GGRR.

The existing compliance requirements to protect against the double-counting of EAs are important and robust and there is no evidence of any double counting. However, these questions are not relevant to the interpretation of the GGRR and the legal question of whether out-of-province RNG is a prescribed undertaking. Furthermore, the BCUC is prohibited from taking any action, whether direct or indirect, that would prohibit a public utility from engaging in a prescribed undertaking. The BCUC, therefore, has no jurisdiction to impose requirements in the name of compliance that would effectively bar a public utility's ability to acquire out-of-province RNG. There are no grounds on which the BCUC's firmly established determinations, both in the 2021 RNG Inquiry and its acceptance of many out-of-province BPAs between FEI and counterparties as prescribed undertakings under the GGRR, could or should reasonably be revisited at this time.

2.1 *BCUC DECISIONS HAVE FIRMLY ESTABLISHED THAT ACQUISITIONS OF RNG OUTSIDE OF BC ARE PRESCRIBED UNDERTAKINGS UNDER THE GGRR*

The question of whether an acquisition of RNG out-of-province is a prescribed undertaking under the GGRR and CEA is a legal question that can only be determined through statutory interpretation. The BCUC has engaged in this exercise of statutory interpretation numerous times and repeatedly found that acquisitions of RNG from out of the province are prescribed undertakings. The BCUC's findings in its 2021 RNG Inquiry have confirmed this determination. In the sections below we review the BCUC's past findings, which demonstrate that the question has been thoroughly and reasonably considered and that the findings remain correct in law.

[7] Including amendments to BPAs.

2.1.1 BCUC has Repeatedly Accepted Acquisitions of RNG Outside of BC

On June 3, 2019, FEI filed an application for acceptance of two BPAs between FEI and Tidal Energy Marketing Inc. (Tidal Energy BPAs), which established terms and conditions for the purchase of RNG from a landfill project in Niagara Falls, Ontario, and an organic waste digestion project located in London, Ontario, with delivery to the FEI system at the Huntingdon interconnection point.[8] The Tidal Energy BPAs were FEI's first out-of-province RNG acquisition.

Three interveners participated in the proceeding to consider the Tidal Energy BPAs – (Commercial Energy Consumers Association of British Columbia (CEC); B.C. Sustainable Energy Association (BCSEA), and the British Columbia Old Age Pensioners et al. (BCOAPO) – all of whom supported FEI's submission that the proposed Tidal Energy BPAs were acquisitions of RNG under the GGRR.[9] Moreover, EMLI filed a letter of comment in the proceeding, supporting a broad range of activities by natural gas utilities to reduce GHG emissions:[10]

> The Province understands that in order to achieve the GHG reduction targets of the Province and other entities (e.g., municipalities and transit agencies), natural gas utilities require innovative approaches and significant flexibility. As such, we are supportive of the ability of the utilities to undertake a broad range of activities, actions and investments to reduce the GHG emissions resulting from the natural gas sector in British Columbia.

The BCUC accepted the Tidal Energy BPAs as prescribed undertakings under the GGRR in its Decision and Order G-40-20, dated February 27, 2020. In its Decision, the BCUC engaged in an interpretation of the provisions of the GGRR and concluded that the Tidal Energy BPAs met the three-part criteria in the GGRR (at that time) for RNG acquisitions, including determining that FEI was acquiring RNG:[11]

> The Panel first considers whether FEI's proposed purchase of RNG from the Projects satisfies the section 2(3.8) of the GGRR and that FEI has demonstrated it is acquiring RNG as opposed to some other form of commodity.
>
> The Panel turns to Decision and Order G-122-19, and section 29 of the *Interpretation Act*, which defines the word "acquire" as:

---

[8] The Tidal Energy BPAs use the Gas Electronic Data Interchange (GasEDI) standard forms of contract, consistent with the form of contract used for FEI's out-of-province purchases of conventional natural gas. The standard terms and conditions of the GasEDI contract cover the elements of the BPAs that are common to all natural gas transactions, including but not limited to: performance; transportation; quality obligations; billing and payment conditions; financial responsibilities and remedies; and liability limitations. The Transaction Confirmation addresses items including contract term, delivery point, quantities, nominations, environmental attributes, audit rights, carbon intensity and default termination payment.

[9] Decision and Order G-40-20, Appendix A, pp. 5-6.

[10] EMLI letter of comment: https://docs.bcuc.com/Documents/Proceedings/2020/DOC_57023_E-1-MEMPR-Letter-of-Comment.pdf.

[11] Decision and Order G-40-20, Appendix A, p. 6.

> …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 Panel notes that under the Tidal Energy BPAs, FEI has entered into an agreement whereby there is a contractual obligation for Tidal Energy to sell and for FEI to purchase RNG and agrees with FEI's submission that under the Tidal Energy BPAs, FEI contractually receives ownership of RNG in a manner consistent with the definition of acquire in section 29 of the *Interpretation Act*.

The Panel then considers whether the commodity acquired from Tidal Energy is "renewable natural gas" in the context of the GGRR. Under the Tidal Energy BPAs, the Panel notes that raw landfill gas and biogas is produced from the Projects. However, after an upgrading process at a third-party facility, RNG as a finished commodity is produced and it is RNG as a commodity that is purchased by FEI.

Considering the above, **the Panel finds that under the Tidal Energy BPAs, FEI will acquire renewable natural gas in a manner consistent with section 2(3.7) to 2(3.9) of the GGRR.** [Footnotes omitted; emphasis in original.]

The BCUC's analysis above remains reasonable and correct today. For instance, the interpretation of the word "acquire" as it occurs in the GGRR continues to be dictated by the *Interpretation Act*, RSBC 1996, Chapter 238.[12] Section 29 of the *Interpretation Act* states that, in an enactment (which includes the GGRR[13]):

> **"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;

This definition is broad. It includes "purchase" and it does not have any geographical or jurisdictional restriction. FEI is clearly "acquiring" RNG when it purchases RNG either inside or outside of the BC through its BPAs with its suppliers. There is no legal basis to conclude otherwise.

On April 29, 2021, FEI filed an application for acceptance of its BPA with Shell North America (Canada) Inc. (Shell BPA), which was FEI's first acquisition of RNG from the United States (US). The four interveners in the proceeding supported or did not object[14] to the Shell BPA being a prescribed undertaking under section 18 of the CEA. The BCUC again engaged in an interpretation of the GGRR and concluded that the Shell BPA met the criteria for a prescribed

[12] Online: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96238_01#section1.
[13] An "enactment" is defined in section 1 of the *Interpretation Act* to mean "an Act or a regulation or a portion of an Act or regulation."
[14] BCSEA, CEC and BCOAPO supported FEI's application, while the Residential Consumers Intervener Association (RCIA) did not object: Decision and Order E-14-21, Appendix A, pp. 18-19.

undertaking under the GGRR.[15] Regarding whether the Shell BPA was an acquisition of RNG, the BCUC concluded:[16]

> The Panel finds that FEI is acquiring RNG under the terms of the Shell BPA. There are two aspects to this finding: that FEI is acquiring something, and that what is being acquired is RNG.
>
> With regards to the first aspect of this test, the Panel agrees with FEI that it is acquiring something because it is purchasing something under the terms of the Shell BPA. This is consistent with how "acquire" is defined in section 29 of the *Interpretation Act* – "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" [emphasis added]. The Panel notes that no interveners contested this point.
>
> We agree with FEI that there is nothing in the GGRR to suggest that, in order to qualify as a prescribed undertaking, the RNG being acquired must be produced in any specific jurisdiction or geographic location. As FEI points out, it reports to the Ministry of Energy, Mines and Low Carbon Innovation on all its prescribed undertakings, including those involving the purchase of RNG produced outside BC, and the government has not taken the opportunity in the recent revisions to the GGRR to restrict purchases of RNG in this regard. The BCUC, therefore, has no power to deny an application for a BPA on the basis that the RNG being acquired is being produced outside BC.
>
> In addition, the BCUC has no power to deny an application for a BPA on the basis that the RNG being acquired is not physically delivered to the acquirer's distribution network in BC. In this instance, the RNG being acquired by FEI from Shell is notionally delivered to FEI's gas distribution network at Huntingdon; that is, the RNG that FEI acquires is being injected by the RNG producer into a natural gas distribution system in Iowa, and Shell is delivering an equivalent amount of natural gas to FEI at Huntingdon. None of the RNG produced by the facility in Iowa, despite being acquired by FEI, is physically delivered to FEI's distribution system. As FEI notes, "The physical delivery of the RNG molecules is not required for FEI's acquisition of RNG to be a prescribed undertaking under the GGRR or for FEI's customers to claim the GHG reductions resulting from the RNG."
>
> For these reasons, it is clear that the meaning of "acquire" in the GGRR is broad, as FEI has argued. For a BPA to be considered a prescribed undertaking, all the GGRR requires for RNG to be considered "acquired" is that RNG is being purchased.

[15] Decision and Order E-14-21, Appendix A, p. 19.
[16] Decision and Order E-14-21, Appendix A, p. 11-12.

> The second aspect of this test is to determine that what is being purchased under the Shell BPA is renewable natural gas. However, there is no definition of RNG in the GGRR or in the CEA. The Panel considers that a definition of RNG would be beneficial to provide clarity for future applications to the BCUC for acceptance of BPAs as prescribed undertakings.
>
> The Panel is satisfied that what FEI is acquiring in the Shell BPA is RNG, because the gas is methane sourced from an anerobic digestion facility and comes with the associated environmental attributes. [Footnotes omitted; emphasis in original.]

The Panel also agreed with FEI's submission that section 18(1) of the CEA is a definition that explains that a prescribed undertaking is an undertaking for the purposes of reducing GHG emissions in BC and that it would be an error of law to interpret section 18(1) as imposing any legal requirements for a prescribed undertaking. The BCUC concluded:[17]

> The Panel agrees with FEI that the three-part test set out above is the entire test to determine whether the Shell BPA is a prescribed undertaking and requires no further review or consideration.
>
> In particular, the Panel agrees that the phrase "for the purpose of reducing greenhouse gas emissions in British Columbia" in section 18 (1) of the CEA is not a matter for review in this proceeding. It is a direction from the legislature to the LGIC when the latter is creating regulations pursuant to section 35 (n) of the CEA. Therefore, any regulation issued by the LGIC in this manner, including the GGRR, is deemed to be for the purpose of reducing greenhouse gas emissions in BC.

Again, the BCUC's reasoning above remains reasonable and correct today. There is nothing in the GGRR that restricts the acquisition of RNG to only RNG produced in BC.

Following the acceptance of the Tidal Energy BPAs and the Shell BPA, FEI continued to file for acceptance with the BCUC all of its BPAs, for RNG supply both inside and outside the province. As is its practice, FEI's applications were always comprehensive, detailing the nature of the agreements and how they satisfied the criteria in the GGRR to be prescribed undertakings under the CEA. Below is a complete list of the BPAs between FEI and counterparties for the supply of RNG from out-of-province including any amendments to the BPAs which provide FEI with RNG supply from various provinces in Canada and US states that the BCUC has accepted:

No.	BCUC Order	Supplier	Supplier Location
1	E-14-20	Faromor	Canada, Ontario
2	E-16-20	Brandam (Napanee)	Canada, Ontario
3	E-16-20	Brandam (Hamilton)	Canada, Ontario
4	E-17-20	Tidal (Greenshields)*	Canada, Ontario

[17] Decision and Order G-14-21, Appendix A, p. 18.

No.	BCUC Order	Supplier	Supplier Location
5	E-18-20	Lethbridge	Canada, Alberta
6	E-24-20	EPCOR*	Canada, Alberta
7	E-28-20	Waker	Canada, Ontario
8	G-40-20	Tidal (London)	Canada, Ontario
9	G-40-20	Tidal (Niagra)	Canada, Ontario
10	E-14-21	Shell	US, Iowa
11	E-20-21	Assai	US, Pennsylvania
12	E-22-21	GrowTEC	Canada, Alberta
13	E-23-21	Tidal Rockford	US, Illinois
14	E-24-21	Evergreen	Canada, Ontario
15	E-4-22	Archaea	US, multiple locations
16	E-11-22	Linden	US, New Jersey
17	E-12-22	Lacombe	Canada, Alberta
18	E-20-22	Walker (Amend #1)	Canada, Ontario
19	E-21-22	Faromor (Amend #1)	Canada, Ontario
20	E-22-22	Rimrock	Canada, Alberta
21	E-2-23	American Organics	US, New York
22	E-10-23A	Tidal (Amend #1 London)	Canada, Ontario
23	E-20-23	GrowTEC (Amend #1)	Canada, Alberta
24	G-253-23	Archaea (Amend #1)	US, multiple locations
25	E-5-24	Tidal (Amend #2 Niagra)	Canada, Ontario

*Note: * BPA has since been terminated.*

Acceptance of these BPAs and amendments to these BPAs have consistently reaffirmed that out-of-province acquisitions of RNG are indeed enabled by, and aligned with, the intent of the GGRR and the CEA.

FEI emphasizes for the BCUC's consideration that both FEI and its suppliers, and the RNG industry more generally, have placed significant reliance on these decisions. Based on these decisions, FEI has entered into successive BPAs for out-of-province RNG and grown its RNG Program to support provincial targets for GHG reductions.

2.1.2 BCUC's 2021 RNG Inquiry was a Thorough Process and Resulted in Valid Conclusions

Following its decision accepting the Shell BPA, the BCUC initiated its 2021 RNG Inquiry to consider various matters related to RNG acquisitions, including whether purchasing EAs and pairing these with physical natural gas in BC is RNG under the GGRR.

The Phase 1 of the 2021 RNG Inquiry took place over an approximately 18-month period from December 22, 2021, to its final Phase 1 Report on July 28, 2022. Multiple submissions were received from seven parties, including Movement of United Professionals (MoveUP); CEC; Pacific Northern Gas Ltd. (PNG); BCSEA; Canadian Biogas Association (CBA); FEI; and Residential Consumer Intervenor Association (RCIA).

The BCUC Phase 1 Report is over 30 pages and thoroughly addresses a number of issues related to the acquisition of RNG, such as the definition of natural gas and biomethane, the nature of EAs and the acquisition of RNG. In particular, the BCUC engaged in a detailed analysis of the definition of RNG under the GGRR:[18]

> As discussed above, once injected into the pipeline system, Conventional Natural Gas molecules, derived from fossil fuels, are indistinguishable from biomethane molecules derived from the upgrading of biogas. This ability to be mutually interchangeable allows for the delivery of Conventional Natural Gas and/or biomethane, at least in the notional sense, and is the basis upon which almost all Natural Gas is injected, transported and delivered to the consumer.
>
> Put simply, the gas pipeline system can be viewed as injection of Natural Gas from suppliers, from fossil fuel or biomethane sources, who have agreed to sell to a purchaser an agreed upon amount of Natural Gas. A purchaser is delivered, or in other words, consumes, that same amount of Natural Gas from the system. The gas system is, in aggregate, balanced by the injected volumes of Natural Gas being equal to the delivered volumes of Natural Gas. The system and consumer are agnostic with respect to the source of the Natural Gas injected, transported, and withdrawn.
>
> In the alternative, should one wish to guarantee that a customer who purchased biomethane is *only* delivered biomethane, for example, one would in essence require a system where the only source of Natural Gas is biomethane, injected into a dedicated biomethane pipeline and delivered to the biomethane customer. This is neither realistic nor reasonable.
>
> Given that once blended in the system, each molecule of Natural Gas is indistinguishable from the next, there is no realistic way to trace a Natural Gas molecule to its source, or attribute the individual Natural Gas molecule to a specific source. This is clearly problematic for the delivery of biomethane.
>
> Instead, and as discussed above, the only practical way to deliver biomethane is to contractually purchase, or acquire, the Environmental Attributes that are in essence the proof that an amount of biomethane purchased, injected, delivered and sold is from an organic source. It is this Environmental Attribute that

[18] Phase 1 Report, p. 18.

> differentiates Conventional Natural Gas from biomethane, and it is this Environmental Attribute, when paired with a unit of Natural Gas that enables a gas utility to deliver a product considered to be Renewable Natural Gas. **Therefore, the Panel determines that a unit of Natural Gas plus the Environmental Attributes associated with the production of an equivalent unit of biomethane is an example of Renewable Natural Gas.** [Emphasis in original.]

The BCUC further determined:[19]

> Finally, the legislative purpose of the GGRR is for reducing greenhouse gas emissions in British Columbia, and we note that the unbundling of Environmental Attributes for voluntary carbon reduction markets has been commonplace since the 1990s, including under the BC government led Greenhouse Gas Emission Reduction Trading Pilot.
>
> As has been the case with the acquisition of biomethane which has been "notionally delivered" as RNG (for example the FEI-Shell BPA), the onus is on the applicant to demonstrate to the satisfaction of the BCUC that there is no double-counting of the acquired Environmental Attributes and that sufficient safeguards are in place to prevent double-counting.
>
> **Therefore, given the nature of the delivery of RNG, for the purposes of interpreting the GGRR the Panel finds that Renewable Natural Gas is acquired in each of these scenarios:**
>
> - **biomethane is acquired with its associated Environmental Attributes – as, for example, in the case of FEI's biomethane purchase agreements; and**
> - **Conventional Natural Gas is acquired and an appropriate quantum of Environmental Attributes that are associated with the production of biomethane are acquired separately.**
>
> In either case, the acquired product is Renewable Natural Gas for the purpose of the GGRR. [Emphasis in original; footnotes omitted.]

Subject to the findings of the Phase 2 Report that the EAs must be from biomethane production, these determinations remain valid. At the time of the 2021 RNG Inquiry, the CEA and the GGRR were silent on the mechanism of RNG delivery and did not prohibit the unbundling of EAs from the physical gas.[20] The creation of RNG gives rise to specific EAs, and these can be contractually transferred between parties.[21] Once biomethane is injected into the pipeline, it becomes

[19] Phase 1 Report, p. 25.
[20] Phase 1 Report, p. 24. Note that the GGRR now includes reference to EAs, confirming the acceptability of notional delivery of RNG.
[21] Phase 1 Report, pp. 13 and 15.

indistinguishable from conventional natural gas;[22] therefore, EAs must be tracked and transferred separately to retain their value and integrity.[23]

Phase 2 of the 2021 RNG Inquiry took place over approximately one year, from July 28, 2022, to the final Phase 2 Report issued on June 13, 2023. There were 11 active interveners, 14 registered interested parties and six letters of comment filed, including a letter of comment from the EMLI. Final and Reply submissions were received from eight parties, including MoveUP, BCOAPO, BCSEA, CEC, Clean Energy, FEI, PNG, and RCIA.

The BCUC's Phase 2 Report is over 60 pages and thoroughly addresses additional issues, including EAs and RNG, verification, compliance and enforcement, and notional delivery and unbundling.

Building on Phase 1 of the 2021 RNG Inquiry, in the Phase 2 Report, the Panel engaged in further analysis and concluded that, according to the commonly used definition of RNG, combining EAs generated by processes not related to biomethane production does not satisfy the definition of RNG for the purposes of the GGRR.[24] The Panel noted that broadening the definition of RNG to include EAs not associated with biomethane production could introduce confusion and affect the credibility of the product being sold.[25] Again, this conclusion remains valid.

FEI notes that the BCUC also drew conclusions regarding the verification, compliance and enforcement of EAs. In the Phase 2 Report, the Panel confirmed that the BCUC's jurisdiction includes oversight for the tracking and accounting for EAs. The Panel also agreed that "a utility bears the primary responsibility to assure itself of the integrity of any EAs acquired by the utility under the GGRR".[26] In addition, the Panel stated that it was of the view that "the acquiring utility must be prepared to demonstrate to the BCUC that there are reasonable measures in place to prevent double counting or inaccurate claims of emission reductions."[27]

However, it is important to recognize that these recommendations regarding verification, compliance and enforcement do not relate to whether acquisitions of RNG outside of BC are prescribed undertakings under the GGRR and CEA. Rather, these recommendations flow from the BCUC's powers under the UCA, including its ratemaking powers. As the BCUC determined:[28]

> ...we find that in order for the rate a public utility charges its customers for RNG to not be unjust, unreasonable, unduly preferential, or unduly discriminatory, the public utility must be prepared to demonstrate, to the satisfaction of the BCUC, an acceptable chain of custody for any EAs included in the bundle of conventional natural gas and EAs that constitutes RNG.

[22] Phase 1 Report, p. 11.
[23] Phase 1 Report, p. 13.
[24] Phase 2 Report, p. 24.
[25] Phase 2 Report pp. 24-25.
[26] Phase 2 Report. p. 32.
[27] Phase 2 Report, p. 32.
[28] Phase 2 Report, p. 31.

FEI discusses the tracking and accounting of EAs in detail in Section 3 of this submission. However, these topics have no bearing on whether out-of-province acquisition of RNG is a prescribed undertaking under the GGRR.

In summary, the 2021 RNG Inquiry was a significant undertaking, involved participation from a spectrum of interveners, and resulted in well-reasoned reports, the conclusions of which remain valid. As discussed below, the conclusions of the 2021 RNG Inquiry have been supported by subsequent amendments to the GGRR and there has been no developments that merit reopening or revisiting these conclusions.

2.2 *RECENT AMENDMENTS TO GGRR CONFIRM BCUC'S DETERMINATIONS AND CONCLUSIONS OF THE 2021 RNG INQUIRY PHASE 1 AND PHASE 2 REPORTS*

As noted above, the EMLI filed a letter in Phase 2 of the 2021 RNG Inquiry, 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.[29] The Province's comments on notional deliveries and the regulation of EAs show that EMLI was following the proceeding and 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

[29] Exhibit E-2.

> verification with the BCUC providing oversight in accordance with its jurisdiction."
> The Province would concur with this view. [footnotes omitted.]

Since the conclusion of the 2021 RNG Inquiry, the Province amended the GGRR effective July 1, 2024. These amendments introduced, amongst other things, a carbon intensity requirement for RNG and added the following criteria related to EAs, which apply to new RNG prescribed undertakings from July 1, 2024, forward:[30]

> The public utility…
>
> (c) acquires and sells or transfers to its customers the environmental attributes of the renewable natural gas it purchases or produces, and
>
> (d) the environmental attributes described in paragraph(c) are retired at the time of sale or transfer to the customers of the public utility.

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.

Moreover, despite numerous amendments over the past five years since the BCUC first accepted a BPA for the acquisition of RNG from out-of-province, the GGRR has not been amended to preclude out-of-province acquisitions. Given the Province has considered this issue and not made any change, it is not within the BCUC's jurisdiction to take an alternative interpretation.

2.3 *NO GROUNDS TO RE-VISIT WELL-ESTABLISHED DETERMINATIONS OF THE BCUC*

FEI submits that there are no grounds on which the BCUC should revisit or reopen its well-established determination that out-of-province acquisitions of RNG are prescribed undertakings under the GGRR and CEA.

In issuing its report from this Inquiry, the BCUC continues to be bound by the rules of procedural fairness and reasonableness as set out in the common law that constrain what an administrative body such as the BCUC can lawfully decide. Specifically, while administrative decision makers are not bound by their previous decisions in the same sense that courts are bound by *stare decisis*, the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (*Vavilov*) has emphasized the importance of consistency in an administrative body's decisions:[31]

[30] B.C. Reg. 125/2024.
[31] *Vavilov*, para. 129.

> [129] …administrative decision makers and reviewing courts alike must be concerned with the general consistency of administrative decisions. Those affected by administrative decisions are entitled to expect that like cases will generally be treated alike and that outcomes will not depend merely on the identity of the individual decision maker — expectations that do not evaporate simply because the parties are not before a judge.

Furthermore, whether a particular decision is consistent with the administrative body's past decisions is a constraint which a reviewing court can and should consider when determining if an administrative decision is reasonable. As stated in *Vavilov*:[32]

> [131] Whether a particular decision is consistent with the administrative body's past decisions is also a constraint that the reviewing court should consider when determining whether an administrative decision is reasonable. Where a decision maker does depart from longstanding practices or established internal authority, it bears the justificatory burden of explaining that departure in its reasons. If the decision maker does not satisfy this burden, the decision will be unreasonable. In this sense, the legitimate expectations of the parties help to determine both whether reasons are required and what those reasons must explain: *Baker*, at para. 26.

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 GGRR. FEI has relied on these 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 prescribed undertakings. FEI describes the importance of out-of-province RNG acquisitions and the adverse consequences of no longer permitting such acquisitions in Section 5 of this submission. FEI sees 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.

In its letter initiating this Inquiry,[33] the BCUC offers two reasons why it considered it an "appropriate time to examine the BCUC's definition of RNG and whether purchases of further out-of-province biomethane are consistent with the RNG prescribed undertaking in the GGRR."[34] Neither of these reasons have a bearing on whether purchases of RNG from out of the province are prescribed undertakings.

First, the BCUC raises questions related to FEI's compliance filings, specifically regarding the retirement of EAs and the attestation letters from suppliers.[35] FEI has fully responded to these questions in the next section of this submission, including discussion of how it retires EAs, FEI's ownership of the EAs, and the generating of credits under the *Clean Fuels Regulations* (CFR).

[32] *Vavilov*, at para. 131.
[33] Exhibit A-2.
[34] Exhibit A-2, p. 2.
[35] Exhibit A-2, p. 2.

However, none of these questions have any bearing on the interpretation of the GGRR and, in particular, whether out-of-province RNG can be a prescribed undertaking. The GGRR has no criteria related to FEI's attestation letters or generation of credits under the CFR.

Second, the BCUC refers to an undated letter from Stand.earth that it received that indicates concerns about a "lack of a functioning interjurisdictional mechanism to verify the environmental attributes associated with RNG purchases and the potential for GHG reductions from out-of-province RNG to be counted both in BC and in the jurisdiction in which they are produced."[36] FEI has again responded to the BCUC's question[37] in the next section of this submission. FEI has robust contractual mechanisms to prevent double counting, has conducted audits and jurisdictional scans, and there is no evidence of any double counting of the EAs that FEI purchased from its suppliers. Stand.earth's unsubstantiated allegations are without merit. Furthermore, and again, this question raises no issues related to the interpretation of the GGRR and whether out-of-province RNG is a prescribed undertaking. The GGRR contains no criteria for acquisitions of RNG related to interjurisdictional mechanisms to verify EAs or carbon accounting mechanisms. Interjurisdictional mechanisms to verify EAs and carbon accounting mechanisms are also not within the jurisdiction of the BCUC.

FEI submits that the BCUC should remain consistent with past precedent and the reasonable and correct interpretation that out-of-province acquisitions of RNG are prescribed undertakings under the GGRR. This is a well-established legal fact based on a statutory interpretation of the GGRR and there is no indication in the materials filed by the BCUC why this legal fact should be revisited.

[36] Exhibit A-2, p. 2.

[37] FEI disagrees with various statements in the Stand.earth letter, but is limiting this submission to addressing the questions raised specifically by the BCUC in the scope set for this Inquiry.

3. COMPLIANCE REQUIREMENTS AND AVOIDANCE OF DOUBLE COUNTING

In this section, FEI responds to the BCUC's request for comment on whether existing compliance requirements are sufficient to protect against the double counting of EAs in BC and in other jurisdictions. FEI submits that existing compliance requirements are sufficient to prevent double counting at this time and that industry is working with government to develop a registry to account for RNG.

3.1 *FEI HAS ROBUST CONTRACTUAL MECHANISMS TO PROTECT AGAINST DOUBLE COUNTING*

This section describes the contractual mechanisms that FEI has in place to ensure that it is acquiring all of the EAs associated with the purchased RNG and that there is no double counting of such EAs. FEI has been acquiring RNG for 15 years and has significant experience with the execution and operation of contractual compliance requirements for RNG contracts. It is in the interests of both FEI and its suppliers that there be no double counting of EAs and, as such, FEI has been aligned with suppliers in incorporating mechanisms to prevent double counting. As discussed below, these mechanisms are robust and the consequences of a contractual breach are significant enough to deter double counting of EAs by the parties.

3.1.1 Allocation of EAs to FEI

FEI's RNG supply contracts include provisions allocating all EAs to FEI for any RNG volumes it purchases. While these provisions have evolved over the years as FEI's biomethane program has developed and the market has matured, the contractual provisions have all been comprehensive in their approach, such that the EAs related to the production of RNG are exclusively transferred to FEI.

For example, FEI's BPA with American Organic Energy (AOE) states:

> 12. Environmental Attributes and Representations.
>
> Seller represents and warrants that:
>
> (a) the Biomethane sold hereunder is generated through the anaerobic digestion of organic matter and is not supplemented or replaced, in whole or in part, with fuels purchased or extracted other than Biomethane from the Facility.
>
> (b) the calculated carbon intensity of the Biomethane shall be no greater than the CI Threshold and as soon as commercially reasonable after the Start Date, Seller shall provide Buyer with a report as described in Section 14 of this Transaction Confirmation calculating the carbon intensity, and

the calculated carbon intensity of the Biomethane shall not exceed the CI Threshold during the Delivery Period.

(c) all Environmental Attributes that could be associated with the produced Biomethane at the time of delivery to Buyer are attached thereto and that neither the Biomethane nor the Environmental Attributes associated therewith have been sold more than once by Seller, at any point between production and sale to Buyer whether by sales into carbon markets or otherwise.

(d) Seller does not have and no third party has, any claim to the Environmental Attributes associated with the Biomethane purchased by Buyer under this Transaction Confirmation.

(e) up to the point of delivery to Buyer at the Delivery Point, neither the Environment Attributes nor the Biomethane have been used by Seller to meet any federal, state, provincial or local renewable energy requirement, renewable energy procurement, renewable energy portfolio standard, or other renewable energy mandate.

(f) Seller shall transfer to Buyer at the Delivery Point all Environmental Attributes, whether current or future, known or unknown at the time of delivery, associated with the Biomethane along with the transfer of title in the Biomethane;

Such representations and warranties will be deemed to be repeated on each day of the Delivery Period.

3.1.2 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. This is an established process, and FEI has filed all required attestation letters as part of the annual RNG compliance filing.

Refer to Section 3.2 below for a discussion of the exception for CFR credits noted by two suppliers in their attestation letters.

3.1.3 Ongoing 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. The first audit is performed after the first year of regular operation and then every three years thereafter.

FEI retains a third party to complete these audits. The audit process includes a site visit to the RNG plant as well an inquiry process through which the independent auditor can obtain additional data and documents to complete the audit.

The three main objects of the audits are to:

1. Witness and verify that the RNG facility produces RNG during the site visit. This includes the confirmation that the feedstock (i.e. the input into the RNG production process) is organic waste or landfill gas. Sample feedstock receipts are collected on site during the audit.
2. Confirming that the RNG production equipment is consistent with FEI's expectation and understanding with regards to production capacity and technology.
3. Confirming that the reported RNG production volumes, as reported monthly through the chain of custody framework (see below), are appropriate and the RNG quantities which have been historically sold to FEI are achievable.

The audits performed to date for out-of-province RNG suppliers[38] have not identified any issues or double counting.

3.1.4 Chain of Custody Framework

FEI has developed a robust chain of custody framework for out-of-province RNG purchases which enables bundling of conventional natural gas with EAs from RNG production in a transparent, repeatable and executable manner. This framework, as set out below, is a fundamental aspect of FEI's compliance requirements with its RNG suppliers. RNG suppliers must be compliant with and strictly follow FEI's chain of custody compliance framework to ensure timely settlement of their monthly sales invoices to FEI for RNG supply received under the terms of their BPA. FEI has had these contractual compliance requirements in place since it first began purchasing out-of-province RNG in 2020 and has established on-boarding procedures for new RNG suppliers to ensure that new supply contracts are compliant with the chain of custody requirements starting with the first delivery of RNG supply to FEI.

The documentation of the chain of custody is mandatory for all of FEI's RNG suppliers located outside of BC. RNG suppliers provide the documentation for the chain of custody on a monthly basis to FEI, which includes the following:

- The RNG suppliers monthly RNG production records, which is the metering report (sometimes referred to as pipeline receipts) of the local utility where the RNG plant is

[38] Exhibit A2-1 includes FEI's 2022 BPA Compliance Filing which includes ICF's audit findings commencing on PDF p. 77.

located and into whose gas system the produced RNG is injected. The metering report identifies the local utility, provides the quantity of monthly RNG production and serves as proof of delivery into the local gas system;

- The RNG supplier or designated party (some suppliers work with gas marketers) must demonstrate that the sale of RNG to FEI is supported by RNG production. That is, in any given month, the RNG production must be equal to or greater than the sale of RNG to FEI. The monthly metering report of the local gas utility is required as proof; and
- The supplier must deliver gaseous energy to FEI at a designated location (hub) in the same quantity as the sale of RNG to FEI. The delivery by displacement is completed when FEI takes custody of the gaseous energy (at the designated hub) which is paired with the EAs in the same quantity as the RNG produced and injected as conventional natural gas into the local gas utility.

FEI reviews the documentation of the chain of custody monthly. Invoices for RNG purchases are only settled when the appropriate documentation is provided and passes a review with the criteria as described above. In this way, FEI has a thorough and rigorous compliance process in place to ensure proper gas accounting for delivery of RNG.

FEI has had discussions with other gas utilities in Canada that purchase RNG to compare compliance requirements for chain of custody for RNG deliveries and purchases. Based on these conversations, FEI considers that it has the most rigorous, transparent and executable processes for the chain of custody tracking amongst its peers.

3.1.5 Scan of the Carbon Credit Markets

To provide further assurance of the absence of double counting of EAs, FEI has conducted scans of carbon credit markets in North America to identify registration of FEI's RNG suppliers in these markets and any potential issues.

FEI retained ICF Resources (ICF) to conduct its first scan in 2023, which was included in FEI's 2022 BPA Compliance Report to the BCUC.[39] The purpose of ICF's review was to confirm that the EAs from FEI's RNG suppliers are transferred to FEI in accordance with the terms and conditions of the BPAs. ICF performed their scan for FEI's 2022 RNG supply portfolio and identified no issues. ICF's two key findings were as follows:[40]

- ICF's review of publicly available information indicates that it is highly likely that the environmental attributes of RNG projects were transferred per the terms of the BPAs executed by FEI and its counterparties.
- Furthermore, ICF's review indicates that there is a very low risk that the environmental attributes associated with RNG being delivered to FEI are

[39] Included in Exhibit A2-1.
[40] ICF Report, p. 16 (PDF p. 92 of Exhibit A2-1).

being double counted by counterparties or other market actors as part of other regulatory programs.

FEI retained Brightspot Climate[41] to perform a second scan in 2025 for FEI's 2024 BPA Compliance Report to the BCUC. Brightspot Climate completed the scan for FEI's 2024 RNG supplier portfolio as an update to ICF's review. Brightspot Climate concluded that no issues were detected for the portfolio regarding double counting in any of the carbon credit markets included in the carbon credit market scan.

FEI intends to perform a scan of the entire RNG portfolio for either the 2025 or 2026 Compliance Report to the BCUC.

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. Further, if a prospective registry came to exist, FEI's RNG suppliers would be required to report this to FEI.

3.1.6 Consequences of Breach of Contract

The processes set out above are enforceable 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 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 RNG supply agreement (BPA), or both.

The consequences of a breach of contract and enforcement by FEI would be significant for suppliers. In particular, the possible threat of losing FEI's purchase contract due to a breach are detrimental to the supplier. Typically, facilities require financing and a loss of a contract could result in breach of other contracts as well. Beyond direct financial harm, the reputational damage to the supplier is a significant deterrent. The supplier's contractual obligations are, therefore, sufficient to ensure that EAs associated with volumes of RNG sold to FEI are not sold, used or reported by the supplier.

Because double counting would be a breach of contract and potentially an act of fraud, FEI considers it highly unlikely that any such double counting is occurring or will occur among its suppliers.

[41] For FEI's 2024 BPA Compliance Report to the BCUC.

3.2 *CREATING CREDITS UNDER THE CFR IS NOT DOUBLE COUNTING*

As noted by the BCUC in its Letter accompanying Order G-137-25, two of the attestation letters filed in FEI's 2024 BPA Annual Compliance Report include exclusions for credits generated under the CFR. As explained in detail below, seeking to generate compliance credits under the CFR is not double counting, but reflects the fact that compliance credits generated in the CFR are designed, in many instances, to be "stackable" with other policies, which is a policy choice made by the federal government. The exclusions of CFR credits in the attestation letters of two suppliers reflects concerns in respect of the detailed registration requirements under the CFR, and does not reflect a transfer of EAs to these suppliers. FEI has entered into, and in some cases is continuing to negotiate, additional commercial arrangements with its suppliers in order for FEI to realize the benefits of CFR credits on behalf of its customers.

The CFR was enacted pursuant to the *Canadian Environmental Protection Act, 1999*, in June 2022. Registration and reporting for the creation of compliance credits began in 2022; reduction requirements for producers and importers of gasoline or diesel took effect as of July 1, 2023; and additional reporting requirements began in 2023 and 2024. The purpose of the CFR is to reduce GHG emissions by reducing the lifecycle carbon intensity of liquid fossil fuels used in Canada. The threshold is set to decline over time such that, in 2030, primary suppliers must meet a target lifecycle carbon intensity for gasoline and diesel produced or imported for use in Canada that is approximately 15 percent below 2016 levels. The CFR does this, primarily, by requiring producers and importers of gasoline or diesel, called "primary suppliers" in the CFR, to report on the lifecycle carbon intensity of the total amount of gasoline or diesel they produce in Canada or import for use in Canada in each compliance period. That carbon intensity, determined on a corporate-wide basis, must meet a lifecycle carbon intensity threshold that is applicable to that compliance period.

The CFR provides primary suppliers with a number of options to meet their compliance obligations. Primary suppliers can meet their carbon intensity targets directly, by reducing the lifecycle carbon emissions associated with the gasoline or diesel that they produce or import for use in Canada. Primary suppliers could also blend in low-carbon-intensity additives such as ethanol to the liquid fuels they produce and sell. Alternatively, primary suppliers can acquire or generate credits to demonstrate compliance with emissions reduction requirements. The CFR includes a number of different pathways for creating such credits. For example, if a primary supplier achieves a corporate-wide lifecycle carbon intensity in respect of the liquid fossil fuels they produce or import for use in Canada that is lower than the mandatory carbon intensity threshold for that compliance period, then that primary supplier can generate credits based on that performance and sell those credits to other primary suppliers. Credits can also be created by making investments in projects to lower the carbon emissions associated with the production of liquid fossil fuels, or by contributing funds to prescribed entities that in turn use these funds to invest in early-stage technologies that hold the promise of lowering GHG emissions in the future. The CFR also provides opportunities for a variety of entities to create credits for undertaking desired activities, including e.g., by installing electrical vehicle charging stations or compressed natural gas fuelling stations to facilitate fuel switching. Producers or importers of lower-carbon-

intensity gaseous fuel, such biomethane and RNG, that is sold as fuel in Canada, are also able to generate credits under the CFR program.

The CFR program is designed to be complementary to other existing carbon pricing systems. This is sometimes referred to as a "stackable" greenhouse gas emissions reduction program. Typically, where a regulatory system is designed to be "stackable", any tradable credits contemplated as a component of the scheme are also designed to be "stackable". This means that regulated parties, or others, may be able to generate and monetize credits concurrently under multiple regulatory systems for the same underlying activity. This is a policy choice, not double counting. It reflects the fact that these different regulatory schemes address different aspects of the GHG emissions or energy-transition challenge, relate to different geographic scopes, and use different accounting methodologies and measurement units. The intention behind this policy choice is to enhance the economic viability of low-carbon and energy-transition investments by intentionally allowing participants to leverage multiple revenue streams from a single emissions-reducing action, thereby accelerating decarbonization across sectors.

Separate, complex rules govern how credits are created in each of the categories provided for in the CFR. Although the rules vary for each class of credit, in each case several different actors must collaborate with each other to create the applicable credits. There are detailed rules about data that must be collected, reports that must be submitted, third party verifications that must be arranged, and declarations that must be made attesting to different aspects of the production process. All of these are relevant in determining the quantity of credits that can be created under the CFR.

In the case of credits created on account of RNG produced or imported for use in Canada, it would be impossible for customers of FEI to register as credit creators under the CFR on the basis of the RNG that FEI acquires on their behalf. Furthermore, for RNG produced or imported for use in Canada, both FEI and the RNG supplier must play an active role in order to create the applicable credits under the CFR. This is a reasonable policy choice given the type and level of detailed information that must be provided to create CFR credits in connection with RNG. This includes, for example, detailed attestations to confirm the eligibility of the feedstocks used to produce the RNG, as well as detailed process information required to estimate the lifecycle carbon intensity of the resulting RNG.

The vast majority of FEI's BPAs were entered into prior to the introduction of the CFR and, therefore, do not contemplate the active coordination and collaboration required to create credits under the CFR. Because FEI acquired ownership of all of the EAs associated with RNG from its suppliers, it would be impossible for the RNG suppliers to act independently of FEI to create any resulting CFR credits on account of RNG produced or imported for use in Canada. At the same time, even though FEI owns the associated EAs, FEI cannot independently create CFR credits on behalf of its customers without active cooperation from the RNG suppliers.

FEI considers that its customers are entitled to all of the EAs associated with the supply of RNG by FEI, including any CFR credits that can be generated as the result of such activities. However,

its customers are not able to create such credits under the rules of the CFR. FEI, therefore, sought incremental commercial arrangements with certain RNG suppliers to facilitate the creation of CFR credits attributable to FEI's supply of RNG, and to monetize the resulting CFR credits. FEI will include its share of any proceeds from the sale of the CFR credits in the RNG Account to reduce the rates paid by its customers and thereby benefiting customers.

These incremental commercial arrangements take the form of a "side letter" to an existing BPA. FEI has negotiated side letters with certain of its RNG suppliers, but not with all of them. The forms of these side letters vary but share common features. In each, the CFR credits are acknowledged to be EAs that have been allocated to FEI under the BPA. Notwithstanding that allocation of ownership, the RNG supplier agrees to take the extensive actions required thereunder to create the applicable credits, and, where applicable, to register as the credit creator under the CFR. In consideration of these efforts, and as an incentive for the RNG supplier to agree to go above and beyond its existing obligations under the applicable BPA, a portion of any CFR credits generated or revenue from the sale of such CFR credits is allocated to the RNG supplier and a portion is allocated to FEI on behalf of its customers.

This explains the exception contained in two of the attestation letters from 2024. These suppliers were concerned that providing the attestation letters, without an exception for the CFR, would interfere with their ability to take the actions that are required under the CFR to enable the creation of CFR credits. FEI did not object to the exception in the attestation letters as it was confident that there was no double counting, since its ownership of the EAs was firmly established under the BPA. FEI also assessed that these RNG suppliers would be unable to independently create CFR credits without FEI's active assistance, so there was no risk that the RNG suppliers could circumvent their BPA obligations. FEI is still negotiating the details of side letters with US-based RNG suppliers but expects these side letters to include all of the features described above.

FEI reiterates that the CFR is a distinct, stackable program and generating credits under this program is not connected to, nor does it affect, any territorial GHG emission inventories.

3.3 *CARDON DIOXIDE EMISSIONS FROM COMBUSTION OF RNG*

The BCUC has asked: "is there sufficient evidence that when fossil gas, with an attached environmental attribute from biomethane produced elsewhere, is burned in BC the emissions associated with that fossil gas are added to the total GHG emissions in the other jurisdiction?"

When biomethane produced in another jurisdiction is consumed in BC, the emissions associated with that combustion are not, and should not be, added to the total GHG emissions in the other jurisdiction. Such an outcome would be inconsistent with the territorially-based approach that Canadian and US jurisdictions use to build up their national GHG emissions inventories in accordance with IPCC guidelines for national GHG inventory reporting and would be inconsistent with the fact that RNG is produced from biogenic feedstocks.

GHG inventories are typically built up using a bottom-up approach. Key categories of economic activity are identified and then the associated sources for GHG emissions and removals of GHG emissions are identified and quantified. Under the IPCC guidelines for jurisdictional inventory reporting, the GHG emissions associated with the production of RNG are to be recorded in the source jurisdiction, i.e., in the jurisdiction where the RNG is produced. However, the GHG emissions resulting from the consumption of the RNG should be recorded in the jurisdiction where that RNG is used. Moreover, the carbon dioxide component of those GHG emissions should not show up in that jurisdiction's overall GHG emissions because RNG is methane produced from biogenic feedstocks, which means the carbon dioxide that is released when the RNG is combusted is balanced by the carbon drawn out of the atmosphere to create its raw materials. The carbon dioxide associated with the combustion of RNG is already part of the carbon cycle and, therefore, does not result in incremental emissions of carbon dioxide to the atmosphere.

While Canadian and US territorial inventories may not currently count the reductions from low-carbon fuels, such as bioethanol, biodiesel and RNG, the Canadian National Inventory Report (NIR) 1990–2023 indicates that work is underway in Canada to enhance the tracking and attribution of emissions from low-carbon fuels, such as RNG, across their production and combustion lifecycle.

Consider the example of a volume of RNG that is produced in Ontario and exported to BC. The emissions associated with production of that volume of RNG will be reported in Ontario. However, when that volume of RNG is exported to British Columba, the EAs associated with that volume of RNG are contractually stripped away and attached to an equal volume of natural gas that is consumed in British Columbia. As a result, the methane molecules delivered to the natural gas supply in Ontario will be treated as if it were conventional natural gas for GHG emissions reporting purposes. As such, when those methane molecules are burned in Ontario, the associated carbon dioxide emissions are accounted for in Ontario's overall reported GHG emissions, just like any other volume of conventional natural gas combusted there. In BC, the carbon dioxide component of the GHG emissions would not be added to its overall GHG emissions, as RNG is produced from biogenic feedstocks.

In the above example, or any other example of RNG from out-of-Province, it would be inconsistent with the internationally recognized GHG inventory methodologies to add the GHG emissions from the combustion of the RNG in British Columbia back to the overall GHG emissions in Ontario or the jurisdiction in which the RNG was produced. That would result in the double-counting GHG emissions, rather than the double counting of EAs.

3.4 *FEI TRACKS AND RETIRES ENVIRONMENTAL ATTRIBUTES*

In its Letter accompanying Order G-137-25, the BCUC notes that "FEI indicates that it does not receive environmental certificates that can be retired in association with its RNG purchases, rather FEI tracks the amounts of RNG purchased, sold, and held in inventory. FEI considers that the use of RNG by end-customers constitutes retirement of the environmental attribute." In response to

this comment, FEI submits that it is reasonably and appropriately tracking and retiring the EAs of the RNG that it acquires as prescribed undertakings under the GGRR.

FEI begins by noting that, pursuant to the July 1, 2024, amendments to the GGRR, prescribed undertaking for the acquisition of RNG from July 1, 2024, includes the criteria that the public utility:

> (c) acquires and sells or transfers to its customers the environmental attributes of the renewable natural gas it purchases or produces, and
>
> (d) the environmental attributes described in paragraph (c) are retired at the time of sale or transfer to the customers of the public utility.

The GGRR makes no mention of an "environmental certificate". Therefore, any lack of a certificate is not relevant to whether an acquisition of RNG is a prescribed undertaking under the GGRR. As discussed in Section 3.6 below, industry – with the aid of government – is working on developing a registry that would enable the issuing of certificates for RNG.

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 cost and volume of RNG is included in FEI's RNG Account (formerly Biomethane Variance Account)[42] Status Report filed annually with the BCUC on April 30 of each year. FEI's RNG Account Status Report reconciles the opening inventory, acquisition, sales and closing inventory both in quantity and costs/revenues.

To ensure appropriate matching of RNG supply volumes with consumption volumes, FEI separately tracks and maintains RNG costs and recoveries which are not combined with other natural gas commodity. FEI tracks and reports volumetric differences between the RNG supply available for sale and the RNG sold to customers in its BCUC approved RNG Account. The volumetric differences between the RNG supply available for sale and the RNG sold are used to ensure these volumetric variances are accounted for when reviewing and resetting RNG rates.

FEI uses a comprehensive RNG tracking system and its accounting system to accurately monitor RNG purchased from suppliers, RNG sold to voluntary customers, and RNG sold through its RNG Blend program.

To prevent double counting of RNG availability, 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.

Through the BCUC's overview of FEI's reporting, the BCUC has oversight over the retirement of the EAs associated with FEI's RNG sales. Additionally, the BCUC approves all of FEI's RNG supply agreements, the volume of RNG FEI forecasts to sell through its voluntary RNG program,

[42] The Biomethane Variance Account was renamed the RNG Account pursuant to Order G-77-24.

the volume of RNG FEI forecasts to sell to its sales service customers through its RNG blend program, the RNG Charges and RNG rider for the aforementioned voluntary and blend programs.

FEI continues to build and strengthen its internal governance framework for the handling of RNG supply volumes and associated EAs to ensure that RNG is attributed to end users and that credit generation opportunities from RNG (and other lower-carbon solutions) are coordinated.

3.5 *ACCOUNTING FOR GHG ABATEMENT MUST FOLLOW MARKET DEVELOPMENT*

As a market leader, FEI has been acquiring RNG for approximately 15 years. Most other natural gas distribution utilities have not been actively procuring RNG for nearly as long. Consequently, the standards to account for the efficient tracking and trading of GHG abatement continues to evolve and develop.

It is a well-established principle that markets almost always emerge and evolve ahead of comprehensive standards to regulate and shape them. This pattern is evident across numerous sectors, from telecommunications to renewable energy. Initially, innovation and entrepreneurial activity drive the creation and expansion of new markets, often in response to unmet needs or technological breakthroughs. As these markets mature and complexity grows, the necessity for clear, consistent standards becomes apparent - whether for accounting, emissions tracking, or technology interoperability.

In the context of RNG and lower-carbon energy trading, market development naturally outpaces the creation of standards. Early-stage market activity highlights where harmonized rules are needed, and real-world participation provides the data and experience required to design effective regulatory frameworks.

There are numerous historical examples illustrating how markets have emerged organically before being shaped and refined by formal standards. One prominent example is the Renewable Energy Certificates (REC) program used to facilitate the trading of renewable electricity. In the early days of renewable power, organizations and utilities sought ways to support renewable generation beyond their immediate geographic regions. Voluntary markets for renewable energy credits sprang up as companies and individuals purchased certificates representing the EAs of renewable electricity, helping to drive investment and signal demand.

Initially, these voluntary REC markets operated with little centralized regulation. Various third-party organizations established their own methodologies for generation tracking, verification, and certification, resulting in a patchwork of practices. As participation increased, the need for harmonization became clear. Over time, industry stakeholders and regulators collaborated to develop nationally recognized standards, such as those administered by the Center for Resource Solutions' Green-e program in the US, and the International REC Standard (I-REC) globally. These standards now ensure consistency in certificate issuance, tracking, and retirement, giving buyers confidence that each REC represents a verified environmental benefit.

A similar trajectory can be found in other sectors. The early carbon offset markets, for example, were characterized by a proliferation of project types and accounting methods. Only after significant market experience and the identification of best practices did standardized protocols, such as the Verified Carbon Standard (VCS) and Gold Standard, emerge to ensure the credibility and comparability of offsets. The telecommunications industry likewise saw rapid technological and commercial innovation precede the establishment of global interoperability standards that underpin today's seamless mobile communications.

These examples share a common thread: innovation and entrepreneurial initiative create new market opportunities, highlighting the practical challenges and technical considerations that standards must address. Setting standards too early, before practical realities are understood, risks stifling innovation and excluding emerging technologies or business models that could deliver significant value. Thus, it is both logical and advantageous for market development to lead, with standards evolving in response to tangible needs identified through active participation, collaboration, and learning across jurisdictions. Similarly, the need to continue the development and evolution of frameworks to address the practical and technical considerations concerning RNG should not stifle or limit its development.

As discussed in Section 3.7, the CGA is advancing the development and implementation of the Canadian Low-Emission Energy Registry (CLEER), a national initiative designed to enhance transparency, accountability, and market confidence in low-emission energy, particularly RNG, across Canada.

3.6 *BOOK AND CLAIM TYPE SYSTEM IS STANDARD PRACTICE*

The contractual mechanisms used by FEI to purchase and deliver RNG, as set out in Section 3.3 above, is akin to a book and claim type practice. Book and claim is a standard practice used for RNG and other forms of lower-carbon energy including renewable electricity generation. At the end-user level, book and claim is typically referred to as Market Based Accounting which is a practice recognized by GHG Protocol Scope 2 Guidance.

The characterization and tracking of the EAs associated with the production and use of RNG through a book-and-claim process is an important enabler of widespread deployment of RNG when the physical delivery of the RNG is either unlikely or not possible.

Under the book-and-claim chain of custody model, the EAs of the RNG are decoupled from the physical quantity, or underlying energy, and are fully characterized through the creation of an EA certificate (EAC), where such a system is in place. In this way, RNG is comprised of two products: (i) the methane molecule and the energy it provides that is chemically identical to conventional natural gas, and (ii) the environmental impact manifested in the avoided methane and CO2 emissions as quantified in the EAC. Each product is tracked and traded separately where such book-and-claim systems exist.

Once RNG is injected into the interconnected system, the EA is detached from the underlying energy. As a result, the energy it is treated like any other molecule of conventional natural gas that is sold, transported, and bought through normal gas supply contracts and markets. The buyer of the energy has no claims of any environmental benefits whatsoever and, therefore, the price paid reflects the commodity price of conventional natural gas.

The EA, on the other hand, can move freely between sellers and buyers, without any regard for the physical constraints of moving RNG using the underlying pipeline infrastructure. For a buyer of the RNG to make claims about the environmental benefits of the energy they are delivering, they need to "attach" an EA to a GJ of conventional natural gas, and then "retire" or cancel that EA once the gas has been delivered and consumed. This allows RNG producers to "book" the emissions reductions of RNG they have produced in one location, and buyers to "claim" the emissions benefit from that RNG in a different location (where the gas is consumed).

The power industry is the best example of where book-and-claim has been used successfully to transfer claims of renewable power from supplier to end-user. The Texas Public Utilities Commission adopted rules leading to the creation of the first Renewable Energy Certificates (RECs) in the US in 1999.[43] The EU REC system launched shortly thereafter, in 2001.[44] By 2004, in the range of 11 million MWh (11 TWh) of RECs were traded in the voluntary and compliance markets in the US.[45] By 2020 that quantity had grown 50-fold to 550 TWh.[46]

RECs have been an important enabler of the growth of renewable energy.[47] The existence of a market for RECs and labelling schemes promoting the environmental benefits of renewable power have spurred business and consumer demand for RECs as a way of reducing buyers' carbon footprints and demonstrating their commitment to sustainability. The demand for RECs provides a second revenue stream for renewable power projects that can contribute a significant portion of revenue to a renewable energy project, with the increased returns spurring more investment in these types of projects.

The emerging Sustainable Aviation Fuel (SAF) industry is another example of where the deployment of a book-and-claim system for the EAs associated with SAF allows transparent and defensible claims of emissions reductions. Such a system has been supported by the World Economic Forum as a way to scale production technologies fastest in locations where they fit best, and achieve more rapid emissions reductions through SAF regardless of the location where

[43] Proposal for Publication of New S25.173 as published in the Texas Register on October 22, 1999 (https://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.173/).

[44] The European Union's Renewable Energy Certificate system was effectively launched in 2001 through Directive 2001/77/EC, which introduced the concept of Guarantees of Origin (GoOs) for electricity produced from renewable sources (https://eur-lex.europa.eu/eli/dir/2001/77/oj/eng).

[45] National Renewable Energy Laboratory, Emerging Markets for Renewable Energy Certificates: Opportunities and Challenges (NREL/TP-620-37388), p. 2.

[46] US Environmental Protection Agency, US Renewable Electricity Market (https://www.epa.gov/green-power-markets/us-renewable-electricity-market).

[47] Renewable resources are those resources that can continue to exist despite being consumed or can replenish themselves over a period of time even as they are used. They include sun, wind, water, geothermal, and biomass.

the fuel is used.[48] The Roundtable on Sustainable Biomaterials has launched a registry for SAF certificates and is developing a framework for a book-and-claim approach for SAF certificates.[49,50]

The application of book-and-claim to RNG EAs is not novel. In Europe, certification schemes and registries for tracking RNG and hydrogen have led to recognition of these energy forms as a means of meeting both voluntary and compliance renewable energy targets. RNG registries operating in six countries in Europe for at least 10 years are the foundations of ongoing efforts to create an integrated and efficient trading system for EA certificates.[51,52]

The Australian state governments of New South Wales, Victoria, and South Australia are conducting a renewable gas certification pilot whose objectives are to accelerate the development of renewable gas projects, enable a voluntary market for renewable gases, and provide independently certified renewable gas options for commercial and industrial gas users.[53] In North America, the Midwest Renewable Energy Tracking System (M-RETS) registers EACs of renewable thermal energy including biomethane, and in 2021, the Centre for Resource Solutions (CRS) launched the Renewable Fuels Standard under their Green-e® label.[54]

Within Canada, book and claim for BC-based RNG supply is accepted under the BC's Low Carbon Fuel Standard (LCFS) and by ECCC under the CFR for the delivery of RNG to CNG fuelling stations, even though a registry for RNG has not yet been developed in Canada. FEI currently delivers RNG to CNG fuelling stations for its CNG customers. Using a book and claim mechanism, BC-based RNG is delivered to the CNG customers who have opted for RNG as lower carbon-intensity fuel input. These CNG fuelling stations are eligible to generate carbon credits under the BC's LCFS and the CFR.

Furthermore, a book-and-claim system is consistent with the GGRR, which contemplates that FEI will acquire the EAs of the RNG that it acquires and retire the EAs once sold to customers. This is the essence of a book-and-claim system.

Absent a book-and-claim system, multiple, independent systems of wires and/or pipes would have to be built to connect individual customers to specific producers which would be highly inefficient and impractical. Without this direct infrastructure, virtually all sales of RNG, even RNG produced locally, could not be recognized. Requiring direct delivery of RNG through a dedicated system would, therefore, be contrary to the intent of the GGRR which enables the acquisition of RNG and

[48] World Economic Forum, Clean Skies for Tomorrow – Sustainable Aviation Fuels as a Pathway to Net-Zero Aviation, Nov. 2020, p. 35.
[49] https://registry.rsb.org/.
[50] https://rsb.org/programmes/book-and-claim/.
[51] Registries established in Austria (Biomethan Register Austria), Denmark (Energinet), France (Gaz Reséau Distribution France), Germany (Biogasregister), Switzerland (Federation of Swiss Gas Industry), and the UK (Green Gas).
[52] The Renewable Gas Trade Centre in Europe (REGATRACE) aims to create an efficient trade system based on issuing and trading biomethane/renewable gases Guarantees of Origin (GoO). (https://www.regatrace.eu/about/).
[53] https://www.greenpower.gov.au/about-greenpower/renewable-gas-certification-pilot/about-pilot.
[54] https://www.green-e.org/.

would be inconsistent with approaches used to promote the production of other renewable energy like renewable electricity.

3.7 *A CANADIAN REGISTRY IS BEING DEVELOPED*

The Canadian Gas Association (CGA), of which FEI is a member, is leading the process of establishing the CLEER to accurately and transparently track, and report on, the disposition of RNG supply and the impact that RNG supply is having on reducing emissions in the natural gas utility sector. The CLEER is proposed to be the central repository of production data from all low-emission energy produced in, or imported into, Canada. Initially limited to RNG, the CLEER would eventually include hydrogen and other forms of lower-carbon energy used for thermal purposes.

The CLEER would establish a registry to support a book-and-claim transactional model for the EAs associated with RNG analogous to the power industry's approach, establishing RECs to capture the attributes of renewable power over 20 years ago. The foundational element of the registry is ensuring the integrity and credibility of the EACs generated by RNG producers. To do this, the CLEER would put in place a governance and certification process for RNG that encompasses the entire lifecycle of the EAC, from creation, through trades between various parties in the value chain, and finally to retirement as the environmental benefits are claimed by the end user.

The governance structure of the CLEER is intended to ensure the integrity of the EACs by including independent, third-party oversight of the issuance process, as well as of the internal governance of the registry itself. A steering committee consisting of representatives from government and industry would be tasked with ensuring that established procedures are aligned with evolving regulations and best practices, and that they are adhered to. A fee-based revenue model will ensure the financial independence of the registry.

The integrity of CLEER would be further strengthened by standards on data measurement, reporting and verification to ensure the absolute validity of the EACs. Measured quantities of input feedstocks, the input energy (natural gas and electricity) required to operate the RNG production and processing facility, and the energy content and quantity of the finished RNG will all be required in order to calculate the carbon intensity as accurately as possible. All of the production data will be subject to independent verification on a periodic basis.

Finally, the registry platform itself would allow interoperability with other platforms, such as carbon markets, GHG reporting platforms and compliance credit tracking programs such as the Canadian Credit and Tracking System (CATS).

In August 2024, CGA initiated a Request for Proposals (RFP) process that culminated in the selection of UK-based Renewable Energy Assurance Limited (REAL) as its partner during both

the implementation and continued operation of the CLEER.[55] REAL developed its proposal in partnership with Grexel System Oy, Europe's leading provider of registry services. Grexel is the leading energy certificate registry provider in Europe, headquartered in Helsinki. It has worked in the energy certificate registry market from its inception and has accumulated extensive experience and in-depth knowledge of both the relevant business logic and the technology (registry) solutions for energy certificates.[56]

Adrian Dix, Minister of Energy and Climate Solutions with the Government of BC has pledged financial support for development of the CLEER. As set out in its letter,[57], the Government of BC writes:

> The CLEER would track the production and use of biomethane and other forms of low-carbon energy, including hydrogen. This has the potential to assist with reducing emissions from the use of natural gas in BC. As such, the Government of BC supports CGA's efforts in this regard.
>
> …
>
> If both the federal government, through Natural Resources Canada, and the Government of Quebec can also confirm their funding, I am supportive of providing the requested funding from BC.

Once in place, the CLEER will be the custodian of EAs related to the production and use of lower-carbon gases. It will ensure transparency and authenticity for the use of these EAs, just as registries established in Europe have, and will contribute towards Canada's emissions reductions targets.

3.8 *NO AMENDMENTS TO THE EXISTING COMPLIANCE REQUIREMENTS ARE NEEDED*

FEI submits that no amendments to the existing compliance requirements or changes to approach are necessary. However, a beneficial outcome of the current Inquiry would be for the BCUC to support the development of the CLEER.

[55] REAL carries out a range of certification and consumer protection activities, all of which promote renewable energy and the circular economy. Incorporated in 2006, REAL is a limited liability company having a place of business in London, England. It is a wholly owned subsidiary of The Association for Renewable Energy and Clean Technology, the largest renewable energy and associated clean technology body in the United Kingdom (UK).

[56] Grexel provides registry services for 24 domains, including 12 who are members of the Association of Issuing Bodies (AIB), and conforms to the European Energy Certificate System (EECS) Rules. Grexel is part of the European Energy Exchange Group (EEX Group), a leading provider of market platforms for energy and commodity products.

[57] Attached as Appendix A to this submission.

4. HARM IF OUT-OF-PROVINCE RNG CANNOT BE ACQUIRED

In its Inquiry questions, the BCUC has invited parties to make submissions on other matters in relation to out-of-province environmental attributes. Accordingly, in this section FEI describes the harm that would result to natural gas utility RNG Programs, natural gas utility customers, and the RNG industry in North America if utilities in BC were not to be permitted to acquire RNG from outside of the province.

FEI submits that:

- Restricting the acquisition of RNG to only RNG produced within BC would be detrimental to BC utilities' RNG programs and their ability to reduce emissions in BC; and
- Restricting lower-carbon energy trading to commodities only produced within BC would be highly inefficient, would harm the development of lower-carbon energy markets, and would constrain opportunities to reduce emissions.

4.1 *RESTRICTING THE ACQUISITION OF RNG TO ONLY RNG PRODUCED WITHIN BC WOULD BE DETRIMENTAL TO BC UTILITIES' RNG PROGRAMS AND THEIR ABILITY TO REDUCE EMISSIONS IN BC*

FEI's RNG Program benefits from diversity of supply and innovation across the industry. Diversity of supply and innovation are foundational to FEI's RNG Program which results in emissions reductions for FEI customers as the amount of RNG subscribed to by FEI's customers offsets an equivalent amount of conventional natural gas that would otherwise be extracted from a fossil-fuel source and consumed by customers.[58] This section will discuss the benefits of maintaining diversity of supply and innovation in FEI's RNG Program.

4.1.1 Diversity of Supply Provides More Reliable Supply Enabling FEI's RNG Program

The inclusion of out-of-province RNG supply in FEI's RNG supply portfolio has helped provide a more stable supply of RNG volumes to FEI because it has increased FEI's RNG supply portfolio diversity and has been beneficial when matching RNG supply and demand.

The RNG program requires a reliable RNG supply base to provide a consistent, long-term means of reducing emissions in BC. FEI has experienced an improvement in reliability of supply since incorporating a more diverse supply of RNG in its portfolio. In the absence of predictable supply,

[58] Phase 1 Report, p. 16. The Phase 1 Report, the BCUC notes that the Canadian Energy Regulator describes RNG as "Carbon neutral methane that is produced from the decay of organic matter in farms and landfills." The BCUC also notes that the US Environmental Protection Agency defines RNG as "a term used to describe biogas that has been upgraded for use in place of fossil natural gas. The biogas used to produce RNG comes from a variety of sources, including municipal solid waste landfills, digesters at water resource recovery facilities (wastewater treatment plants), livestock farms, food production facilities and organic waste management operations."

FEI would be forced to take actions such as potentially curtailing RNG supply to enrolled customers, curtailing program enrollment, holding unnecessarily high volumes of RNG in inventory, or some combination of those actions. In 2019, FEI had ceased or curtailed new enrolments in the RNG program when demand exceeded the available supply, causing an RNG supply shortfall. Enrolment in the RNG Program was re-opened in October of 2021 because of an increase in acquisitions of RNG supply. A direct result of ceasing enrolment in the RNG Program was that customers who voluntarily wanted to reduce their emissions by purchasing RNG were unable to do so. Any of the actions noted above, individually or in some combination, that might need to be taken if diversity of RNG supply cannot be maintained would result in undermining confidence in the RNG Program for customers and suppliers and would likely result in higher overall costs for customers. In addition, having to take such actions would unnecessarily reduce total sales of RNG to customers, both FEI's voluntary RNG Program and its RNG Blend (which is received by all of FEI's sales customers), and thereby would reduce the potential for immediate emissions reductions which are recognized as RNG is delivered to customers and consumed.

The inclusion of out-of-province RNG has made a positive impact on FEI's ability to reliably forecast volumes on a monthly and yearly basis and its inclusion helps to smooth out seasonal variations in supply. In addition, out-of-province RNG has improved FEI's ability to match supply and demand imbalances which are much more challenging when considering only supply from inside of BC due to month-to-month variations between supply and demand. From a practical perspective, RNG supply from BC is lower in the winter while demand is higher. 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.

FEI currently acquires RNG from a diverse supply base that has multiple sources of biomass which are ultimately processed and upgraded to RNG supply, as will be discussed further below. In addition, FEI acquires RNG from many geographic locations. Both the source and the location of projects providing RNG supply impact ongoing supply on a daily, monthly and yearly basis and require consideration for balancing the RNG portfolio and matching demand for RNG with supply.

FEI's RNG portfolio includes supply from sources of biomass such as farms, biogenic materials in municipal waste, commercial organic waste, wastewater and agricultural waste. The source of biomass is an input into the process to create RNG supply. Each of these sources of biomass is subject to variation and, therefore, each of these facilities or points of supply has variability in their ability to produce certain volumes of RNG. For example, in the case of the City of Surrey biofuel facility, which relies on multiple types of organic waste, the RNG production varies seasonally. In summer, this facility receives a greater percentage of lawn and yard waste which results in lower

production of RNG. Conversely, at the Lulu Island wastewater RNG facility, the production of RNG is lower during the winter, when more heat is required to maintain the temperature of the digesters.

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.

One of the benefits of out-of-province RNG supply is the gas nomination process. Suppliers are required to nominate RNG supply out into the future and deliver their nominated amounts of RNG. This effectively puts the onus of consistent, predictable volume on the RNG supplier. This contrasts to RNG supply in BC which does not require advance nomination. In other words, supply from inside of BC is subject to increased daily variation. The nomination process for out-of-province RNG markedly reduces variation in daily volumes.

By increasing diversity of RNG supply and increasing the variety of RNG supply points, FEI has improved its reliability of supply and improved matching of supply and demand which results in a superior optimized RNG program.

4.1.2 Out-of-Province Supply has Enabled Innovation and Technology Development

The RNG industry has benefitted from a greater number of RNG supply purchase agreements in multiple jurisdictions. Having a greater pool of available suppliers creates competitive market forces which allows FEI to have more selection in the counterparties it may work with which also helps ensure that FEI can acquiring RNG that will have the best value for the emissions reductions. RNG supply projects, regardless of location, allow the RNG industry to develop, evolve and improve technologies through experience and innovation and thus will support a greater number of future RNG projects both within BC and elsewhere. Continuing to ensure RNG supply can be sourced from out-of-province facilities helps to maintain and increase diversity of supply from other jurisdictions, supports future development of the RNG industry, and ultimately will increase development of facilities in BC and access to RNG within BC.

Supporting development of RNG facilities and projects by acquiring RNG from out-of-province allows for innovation and evolution of RNG production equipment (technological advancement akin to solar and wind industries). This innovation can be applied within BC to unlock potential for additional projects that might otherwise be too small to be economically viable. FEI was a relatively early adopter of RNG in North America with the Salmon Arm project which was commissioned in 2012. The technology selected at that facility was used in other projects across North America. That technology has evolved and become more reliable and has shown improved performance. FEI is now using a second generation of that technology at the City of Vancouver landfill.

Likewise, the original inventor of the Salmon Arm technology has founded a company dedicated to a third generation of technology which has the promise to reduce capital and operating costs for future projects in BC and elsewhere, with an initial demonstration of the technology taking place in Ontario.

FEI has also had the benefit of technical discussions with other natural gas utilities, such as Enbridge Gas Distribution in Ontario and Atco in Alberta because of the RNG supply agreements where RNG producers are injecting into these companies' pipelines. As such, FEI has benefitted from learnings in these jurisdictions which has helped to advance the quality (measurement, odorization and injection) of interconnection stations in BC.

4.1.3 Out-of-Province Supply has allowed FEI to Reduce Emissions more Quickly

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 waste inputs have allowed FEI to increase its supply more rapidly and advance emissions reduction objectives.

Based on its experience, 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 improve timelines. However, it is a fact that 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.

4.2 *RESTRICTING LOWER-CARBON ENERGY TRADING TO COMMODITIES ONLY PRODUCED WITHIN BC WOULD BE HIGHLY INEFFICIENT, WOULD HARM THE DEVELOPMENT OF LOWER-CARBON ENERGY MARKETS AND WOULD CONSTRAIN OPPORTUNITIES TO REDUCE EMISSIONS*

Creating jurisdictional boundaries in lower-carbon energy trading markets is counter intuitive to fostering the development of technology and projects that create emission reductions. Placing restrictions on lower-carbon energy trading to commodities produced only within BC would be highly inefficient, would harm the development of lower-carbon energy markets, and would constrain opportunities to reduce emissions. Emissions are borderless and, as such, restricting lower-carbon energy trading based on provincial or federal borders severely limits the ability for RNG projects with greater emission reduction potential to be developed and also discourages the decarbonization of gaseous energy systems regardless of their location.

Typically, FEI is able to acquire RNG from out-of-province projects and suppliers at a lower acquisition cost as compared to projects within the province. Projects in other parts of Canada as well as the US are drawing from a greater availability of feedstock due to being located in regions

with higher population or agriculture production. This means they are able to produce more RNG for generally the same amount of capital cost, thereby reducing the need to have higher pricing for the same return on investment.

Different regions also have a wider range of opportunities to create renewable energy. For example, an area with a higher population base would have larger landfills or organics collection facilities to produce RNG compared to the smaller population here in BC. Or there may be larger agricultural areas withing reach of the gas grid such as those in Alberta and Ontario.

Consistent with renewable production potential, other regions also have different opportunities to reduce emissions which creates opportunities for FEI to purchase RNG, which helps diversify supply, improve reliability and lower acquisition prices.

Further, when lower-carbon energy markets have boundaries, it forces each jurisdiction to form its own accounting standards, markets, and technology. This duplication of effort results in higher costs for the end users. Lower-carbon energy technologies benefit from regional integration as new technologies need the ability to access larger markets and collaborate in research and develop projects in areas where they can gain economies of scale. As these technologies are developed over time, it allows for more marginal or less economic projects to be developed, such as those that remain available in BC.

As discussed above, continuing to allow the acquisition of RNG supply from outside of BC contributes to RNG supply diversity in support of balancing and matching RNG supply with demand, advances the RNG industry through technology development and innovation, and will help reach emissions targets faster and more efficiently in BC, while also enabling more RNG projects to be developed more efficiently and more quickly within BC.

5. CONCLUSION

Based on FEI's submissions, FEI concludes by responding to the BCUC's questions with the following points:

- The BCUC's current definition of RNG is consistent with the intent of the GGRR;
- No amendments to the definition of RNG are required;
- The existing compliance and BCUC reporting requirements are sufficient to protect against double-counting of environmental attributes in BC and in other jurisdictions; and
- No amendments to existing compliance requirements or changes to approach from the BCUC perspective are required.

Appendix A

MINISTRY OF ENERGY AND CLIMATE SOLUTIONS LETTER

May 13, 2025 144382

Via email: Akleinschmidt@cga.ca

Al Kleinschmidt
Project Manager, CLEER
Canadian Gas Association

Dear Al Kleinschmidt:

From discussions between our officials, I understand that the Canadian Gas Association (CGA) is seeking funding from the Government of British Columbia (BC) for a national initiative aimed at developing and implementing the Canadian Low-Emission Energy Registry (CLEER).

The CLEER would track the production and use of biomethane and other forms of low-carbon energy, including hydrogen. This has the potential to assist with reducing emissions from the use of natural gas in BC. As such, the Government of BC supports CGA's efforts in this regard.

To advance this initiative, the CGA has sought financial support from the Government of BC in the amount of $111,000.

If both the federal government, through Natural Resources Canada, and the Government of Quebec can also confirm their funding, I am supportive of providing the requested funding from BC.

...2

Ministry of Energy and Climate Solutions

Office of the Minister

Mailing Address:
PO Box 9060, Stn Prov Govt
Victoria, BC V8W 9E2

Telephone: 250 953-0900
Facsimile: 250 356-2965

This would be a one-time financial contribution from BC to establish the registry and, once established, the ongoing operation of the registry would be fully supported and funded by its users.

I trust this letter will assist you in your discussions with Canada and Quebec until such a time as their funding decisions are made.

Sincerely,

Adrian Dix
Minister