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July 22, 2022

Sent via eFile

**FEI CPCN FOR THE AMI PROJECT
EXHIBIT A-35**

To: FortisBC Energy Inc.
Registered Interveners

**Re: FortisBC Energy Inc. – Application for a Certificate of Public Convenience and Necessity for the
Advanced Metering Infrastructure Project – Project Number 159921 – Regulatory Timetable**

Further to the above-noted matter, enclosed please find British Columbia Utilities Commission Order G-206-22 with a regulatory timetable and reasons for decision.

Sincerely,

Original signed by:

Sara Hardgrave
Acting Commission Secretary

/dg
Enclosure



**ORDER NUMBER
G-206-22**

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

and

FortisBC Energy Inc.
Application for a Certificate of Public Convenience and Necessity for the
Advanced Metering Infrastructure Project

BEFORE:

R. I. Mason, Panel Chair
C. M. Brewer, Commissioner
E. B. Lockhart, Commissioner

on July 22, 2022

ORDER

WHEREAS:

- A. On May 5, 2021, FortisBC Energy Inc. (FEI) filed an application with the British Columbia Utilities Commission (BCUC) for a Certificate of Public Convenience and Necessity (CPCN) pursuant to sections 45 and 46 of the *Utilities Commission Act* (UCA) for FEI's Advanced Metering Infrastructure (AMI) Project (Application);
- B. The AMI Project includes the following:
 - 1. Installation of approximately 1,100,000 residential, commercial, and industrial advanced meters and meter retrofits of communication modules capable of remote gas consumption measurement;
 - 2. Installation of approximately 1,100 communication modules on the gas network to increase operational awareness of the gas system state; and
 - 3. Installation of the AMI network and infrastructure to communicate with customer meters and other communication modules on the FEI gas network;
- C. In the Application, FEI also requests approval, pursuant to sections 59 to 61 of the UCA, to create four new asset accounts with associated depreciation and net salvage rates for the proposed meters to be installed as part of the AMI Project, as follows:
 - 1. 478-10 / AMI Meter Hardware, with a depreciation rate set to 5 percent, with no net salvage;
 - 2. 474-00 / AMI Meter Installation, with a depreciation rate set to 5 percent, with 1.58 percent net salvage;
 - 3. 402-06 / AMI Software, with a depreciation rate set to 10 percent; and
 - 4. 488-30 / AMI Communications and Equipment, with a depreciation rate set to 6.67 percent, with no net salvage;

- D. FEI also seeks approval, pursuant to sections 59 to 61 of the UCA, to create four new deferral accounts as follows:
1. A non rate base AMI Application and Feasibility cost deferral account attracting a weighted average cost of capital return until it is placed into rate base, to capture development and application costs for the AMI Project, to be amortized over 3 years;
 2. A non rate base AMI Foreign Exchange (FX) Mark to Market Valuation deferral account to isolate the impact of any foreign exchange hedging used to reduce foreign exchange risk of the AMI Project;
 3. A rate base Existing Meter Cost Recovery deferral account to capture the remaining costs of the meters to be exchanged as part of the AMI Project with a rolling 5 year amortization period; and
 4. A rate base Previously Retired Meter Cost Recovery deferral account to capture the remaining rate base value of previously retired meters with an amortization period of 10 years;
- E. On July 6, 2021, by Order G-204-21, the BCUC established a public hearing and regulatory timetable;
- F. By Orders G-269-21, G-302-21, G-323-21, G-365-21, G-389-21, G-81-22, G-92-22, G-95-22, and G-180-22, the BCUC amended the regulatory timetable to include, among other things, submissions on the need for an oral hearing;
- G. On June 30, 2022, FEI and interveners made submissions on the need for an oral hearing. On July 4, 2022, FEI made a further submission on the need for an oral hearing; and
- H. The BCUC has reviewed the submissions and determines that establishing a further regulatory timetable is warranted.

NOW THEREFORE for the reasons outlined in Appendix B of this order, the BCUC establishes a further regulatory timetable, as set out in Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of July 2022.

BY ORDER

Original signed by:

R. I. Mason
Commissioner

Attachments

FortisBC Energy Inc.
Application for a Certificate of Public Convenience and Necessity for the
Advanced Metering Infrastructure Project

REGULATORY TIMETABLE

Action	Date (2022)
BCUC and Intervener Information Requests (IRs) on FEI's evidentiary update	Tuesday, July 26
FEI responses to BCUC and Intervener IRs on rebuttal evidence	Thursday, August 4
FEI responses to BCUC and Intervener IRs on evidentiary update	Tuesday, August 16
Submissions on Further Process	Tuesday, August 23
FEI Reply to Submissions on Further Process	Tuesday, August 30
Further process	To be determined

FortisBC Energy Inc.
Application for a Certificate of Public Convenience and Necessity for the
Advanced Metering Infrastructure Project

REASONS FOR DECISION

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1.0 INTRODUCTION

On June 30, 2022, FortisBC Energy Inc. (FEI) and interveners made submissions on the need for an oral hearing in this proceeding. On July 4, 2022, FEI made a further submission on the need for an oral hearing.

2.0 BACKGROUND

On May 5, 2021, FEI filed an application with the British Columbia Utilities Commission (BCUC) for a Certificate of Public Convenience and Necessity (CPCN) pursuant to sections 45 and 46 of the *Utilities Commission Act* (UCA) for FEI's Advanced Metering Infrastructure (AMI) Project (Application).

The AMI Project includes the following:

- Installation of approximately 1,100,000 residential, commercial, and industrial advanced meters and meter retrofits of communication modules capable of remote gas consumption measurement;
- Installation of approximately 1,100 communication modules on the gas network to increase operational awareness of the gas system state; and
- Installation of the AMI network and infrastructure to communicate with customer meters and other communication modules on the FEI gas network.

The BCUC established regulatory timetables for the review of the Application, which included:¹

- Public notice and intervener registration;
- Two rounds of BCUC and information requests (IRs);
- A procedural conference;
- Submission of intervener evidence followed by BCUC, FEI and intervener IRs;
- Submission of FEI rebuttal evidence followed by BCUC and intervener IRs;
- Submission of an evidentiary update from FEI followed by BCUC and intervener IRs; and
- Submissions on the need for an oral hearing.

On June 30, 2022, FEI and interveners filed their submissions on the need for an oral hearing in this proceeding. On July 4, 2022, FEI filed a further submission on the need for an oral hearing.

The following parties registered as interveners in this proceeding:

- British Columbia Old Age Pensioners' Organization et al. (BCOAPO);
- BC Sustainable Energy Association (BCSEA);
- Commercial Energy Consumers Association of British Columbia (the CEC);
- Residential Consumer Intervener Association (RCIA); and
- The Coalition for the Reduction of Electropollution (CORE), joined with the individual interveners: Mr. and Ms. de Raadt, Mr. Schluschen, and Ms. Noble.

¹ Orders: G-204-21, dated July 6, 2021; G-269-21, dated September 13, 2021; G-302-21, dated October 21, 2021; G-323-21, dated November 8, 2021; G-365-21, dated December 9, 2021; G-389-21, dated December 22, 2021; G-81-22, dated March 17, 2022; G-92-22, dated March 31, 2022; G-95-22, dated April 6, 2022 and G-180-22 dated July 4, 2022.

3.0 LEGISLATIVE FRAMEWORK

Section 86.2(1) of the UCA provides that, “Despite any other provision of this Act, in any circumstance in which, under this Act, a hearing may or must be held, the commission may conduct a written hearing.”

4.0 THE NEED FOR AN ORAL HEARING

This section includes the parties’ submissions on the need for an oral hearing and the Panel’s determination.

Positions of the Parties

FEI submits that an oral hearing is not required in this proceeding.² FEI submits the written record is extensive, including responses to two rounds of IRs by FEI and FEI’s expert consultant, Exponent, with further IRs forthcoming on FEI’s rebuttal evidence and evidentiary update. FEI submits that the only subjects for a potential oral hearing are the health and safety issues alleged by CORE regarding radio frequency (RF) emissions from the proposed AMI meters. FEI concludes further cross-examination would not be beneficial and the evidentiary record on the subject is robust.³

FEI submits that the BCUC has already made applicable determinations of RF health matters, citing the BCUC’s approval of the FortisBC Inc. (FBC) 2013 AMI Project (2013 AMI Decision),⁴ which determined that Safety Code 6 applies to AMI and AMI meters must comply with its requirements; and Safety Code 6 adequately protects utility customers from thermal and non-thermal effects of RF emissions and incorporates an adequate degree of precaution. FEI adds that the 2013 AMI Decision also addressed several of the same topics detailed in CORE’s intervener evidence in this proceeding, such as the alleged flaw in Safety Code 6 not accounting for non-thermal effects, the situation of customers living near a bank of meters, the cumulative effect of RF emissions from all sources, electromagnetic hypersensitivity and the frequency of RF transmissions from AMI meters.⁵

FEI submits that the nature of CORE’s evidence does not demonstrate the need or benefit of an oral hearing. FEI submits the main RF health issue to be determined in this proceeding is whether the proposed AMI meters comply with Safety Code 6, which FEI submits it has proven in its evidence. FEI further submits that CORE’s experts appear to accept that the meters meet Safety Code 6 in their responses to BCUC IRs on CORE’s intervener evidence. FEI submits CORE’s challenges to the adequacy of Safety Code 6 and ancillary health issues arising from the meters are repetitious from the 2013 FBC AMI Project proceeding and have been previously addressed in that Decision or can be adequately addressed through the written record.⁶

FEI requests the BCUC set a regulatory timetable including the filing of final written arguments following completion of the process currently set in the regulatory timetable. FEI submits that if an oral hearing is ordered, it adopts BCSEA’s position that it should be on a limited scope of topics and that final argument should be submitted in writing.⁷

² Exhibit B-28, p. 1.

³ *Ibid.*, p. 3.

⁴ [FBC CPCN for the Advanced Metering Infrastructure Project Decision and Order C-7-13 dated July 23, 2013](#)

⁵ *Ibid.*, p. 4.

⁶ *Ibid.*

⁷ *Ibid.*, p. 5.

BCSEA does not request an oral hearing and would support moving to written final arguments following FEI's responses to IRs on rebuttal evidence and the evidentiary update. BCSEA submits that it would oppose an open-ended oral hearing as the evidentiary record has been fully tested through information requests, but would not oppose an oral hearing limited to topics identified by the Panel. In the event an oral hearing is held, BCSEA would oppose oral arguments at the end of the oral hearing, and submits written final arguments are appropriate, given the breadth and complexity of issues.⁸

BCOAPO and the CEC submit that their positions agree with BCSEA.⁹

RCIA submits it is comfortable with a written process that does not include an oral hearing, but that it would not oppose an oral hearing if the BCUC determines one is warranted.¹⁰

CORE submits that an oral hearing is necessary to enhance the evidentiary record; to allow cross-examination to test the veracity of parties' expert witnesses; and to promote an efficient and effective regulatory process. CORE adds that the evidentiary record would be enhanced by an oral hearing where there are "outstanding areas requiring further evidence or where there is new evidence adduced by FEI in its rebuttal evidence or anticipated evidentiary update to be filed."¹¹

CORE submits that the scope of the proposed oral hearing should be broad to allow for disputed issues to be tested. CORE submits the complexity and controversy raised regarding the topic of RF in the proceeding support for the need for an oral hearing.¹²

CORE submits that the following topics be in-scope if the BCUC limits the scope of an oral hearing:¹³

- (a) Safety and Operation of the Sensus Sonix IQ System (the System);
- (b) Security, Privacy, and Operation of the System;
- (c) Customer Service;
- (d) Project Alternatives;
- (e) Legal Matters;
- (f) Characteristics of RF Signals;
- (g) RF Safety Limits;
- (h) Comparisons of RF to Other Frequencies of Electromagnetic Fields;
- (i) Cumulative Effects of RF;
- (j) Comparisons to Blackbody Radiation; and
- (k) Electromagnetic Illness/Electrohypersensitivity.

CORE submits that the topics may need to be expanded, depending on FEI's evidentiary update and responses to IRs on FEI's rebuttal evidence or evidentiary update.¹⁴

⁸ Exhibit C2-11.

⁹ Exhibit C3-12; Exhibit C4-10.

¹⁰ Exhibit C1-12.

¹¹ Exhibit C7-18, pp. 3–4.

¹² *Ibid.*, p. 4.

¹³ *Ibid.*

¹⁴ *Ibid.*, p. 5.

CORE states the Canadian courts have established the “indispensable role cross-examination plays in the adjudication of a matter.” CORE refers to several court cases¹⁵ on the subject of cross-examination in its submission and the BCUC’s statement in its reasons for decision accompanying Order G-7-17 on the potential value of an oral hearing. CORE submits these references “support its argument that cross-examination of witnesses and experts in the AMI proceeding is fundamental to ensuring a fair adjudication of the matter and will provide evidence that cannot be obtained from written evidence alone.”¹⁶ CORE submits that oral testimony allows for the assessment of credibility through the testimonial factors of responsiveness, fairness, and objectivity, along with their converses – evasiveness, exaggeration, and partisanship. CORE submits that this additional information is imperative to the BCUC’s consideration of the public interest.¹⁷

Finally, CORE submits that the specific circumstances of this proceeding warrant an oral hearing and that the costs are mitigated by the benefits. CORE submits that an oral hearing will not add to the regulatory costs, burden or time. CORE refers to the BCUC’s reasons on the need for an oral hearing in Order G-136-22 related to British Columbia Hydro and Power Authority F2023 to F2025 Revenue Requirements Application, which stated that “an oral hearing can be an efficient and effective regulatory process to address outstanding issues in areas where further evidence is required or in new areas.”¹⁸ CORE submits an oral hearing could be an efficient way to resolve any outstanding or new issues raised by FEI’s response to IRs on its rebuttal evidence or evidentiary update.¹⁹

In reply to CORE’s submission, FEI submits that CORE has not explained why written IRs, including still pending IRs on its rebuttal evidence, are not sufficient. Nor has CORE identified any specific issues that would benefit from or require cross-examination. FEI submits that CORE’s proposed broad or unlimited scope for an oral hearing is beyond the scope of CORE’s intervener evidence and intervention request.²⁰

FEI submits that CORE relies on various court decisions regarding the importance of cross-examination, including decisions in criminal cases involving an accused’s constitutional right to make full answer and defence. Rights of cross-examination in court proceedings, which generally involve in-person trials as a default process, have no application to BCUC proceedings. FEI submits that CORE fails to recognize that section 86.2(1) of the UCA allows the BCUC to conduct a written hearing in any circumstance.²¹

FEI further submits that an oral hearing will add significant cost, burden and time for participants, and that CORE’s position that an oral hearing will not add these burdens is incorrect. FEI further notes that none of the other interveners have requested an oral hearing.²²

¹⁵ CORE refers to the following court cases: Supreme Court of Canada (SCC) in *R v Lyttle*, 2004 SCC 5 paras 1 and 2; BC Supreme Court (BCSC) in *Funaro v. Miller Thompson and Easton*, 2005 BCSC 333 para 39; Alberta Court of Queen’s Bench (ABQB) in *557466 Alberta Ltd v McPherson*, 2022 ABQB 23 paras 111 and 112; BC Court of Appeal (BCCA) in *R v M.D.*, 2021 BCCA 339, para 55. Exhibit C7-18, pp. 5-7

¹⁶ Exhibit C7-18, p. 7.

¹⁷ Ibid.

¹⁸ Ibid., p. 8.

¹⁹ Exhibit C7-18, p. 9.

²⁰ Exhibit B-29, pp. 1-2.

²¹ Ibid., p. 2.

²² Ibid.

Panel Determination

The Panel denies CORE's request for an oral hearing.

Pursuant to section 86.2(1) of the UCA, the BCUC may conduct any of its hearings with a written process. Notwithstanding this provision of the UCA, neither an oral hearing nor a written hearing is the default for any proceeding. Rather, it is a matter for the Panel to determine whether an oral hearing is appropriate in the circumstances.

The Panel addresses each of the following justifications that CORE provides for an oral hearing in this proceeding:²³

- The need to enhance the evidentiary record;
- The need to allow cross-examination to test evidence; and
- The need to promote regulatory efficiency.

The Panel finds that the parties have had sufficient opportunity to adduce evidence in this proceeding. In particular, the Panel found²⁴ that CORE has been provided sufficient time to identify its experts (more than six months from the date CORE noted that it intended to adduce evidence, including an extension granted to CORE at its request), and CORE did, in fact, adduce expert evidence.²⁵ CORE does not explain why any of the "outstanding areas requiring further evidence"²⁶ could not have been "enhanced" with written evidence when it had the opportunity.

The Panel finds that there have been sufficient opportunities to test the evidence in this proceeding with written IRs. This proceeding has included two rounds of IRs on FEI's evidence; IRs on the intervener evidence submitted by CORE; IRs on FEI's rebuttal evidence; and IRs on FEI's evidentiary update. CORE does not identify any reason why the IRs, including the IRs still pending on the FEI's rebuttal evidence and evidentiary update, are insufficient to test the evidence.

The Panel finds that there is no compelling reason for cross-examination to test the evidence in this proceeding. The Panel is satisfied that CORE's concerns about the possible "evasiveness, exaggeration, and partisanship" of experts providing testimony in this proceeding can be adequately assessed by written IRs, which may include examination of the credentials of the experts that have provided testimony.

Given that there is no compelling need to enhance the evidence in this proceeding or test the evidence through cross examination, the Panel finds that an oral hearing would not improve the efficiency of this proceeding.

For the foregoing reasons, the Panel finds that there is no compelling reason for an oral hearing in this proceeding.

²³ Exhibit C7-18, pp. 3–4.

²⁴ Exhibit A-29 (reasons for decision for Order G-81-22, dated March 17, 2022).

²⁵ Exhibits C7-11, C7-12 and C7-12-1.

²⁶ Exhibit C7-18, p. 3.

5.0 REGULATORY TIMETABLE

The Panel determines that a further regulatory timetable shall be established as follows:

Action	Date (2022)
BCUC and Intervener Information Requests (IRs) on FEI's evidentiary update	Tuesday, July 26
FEI responses to BCUC and Intervener IRs on rebuttal evidence	Thursday, August 4
FEI responses to BCUC and Intervener IRs on evidentiary update	Tuesday, August 16
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FEI Reply to Submissions on Further Process	Tuesday, August 30
Further process	To be determined