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British Columbia Utilities Commission
Sixth Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Laurel Ross
Acting Commission Secretary and Director

Dear Sirs/Mesdames:

Re: FortisBC Inc.
Application for Approval of Treatment for Major Project Capital Expenditures under the Multi-Year Performance Based Ratemaking Plan for 2014-2019

In accordance with the timetable for submissions set out in British Columbia Utilities Commission Letter L-7-16, dated April 11, 2016, we enclose for filing the electronic version of the Reply Submission of FortisBC Inc.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[original signed by Christopher R. Bystrom]

Christopher R. Bystrom

CB/ta
Enclosure

BRITISH COLUMBIA UTILITIES COMMISSION

IN THE MATTER OF THE UTILITIES COMMISSION ACT,
R.S.B.C. 1996, CHAPTER 473

and

APPLICATION FOR TREATMENT OF CAPITAL EXPENDITURES FOR MAJOR PROJECTS UNDER ITS MULTI-YEAR PERFORMANCE BASED RATEMAKING PLAN FOR 2014 THROUGH 2019

REPLY SUBMISSION OF
FORTISBC INC.

April 28, 2016

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A. Introduction

1. FortisBC Inc. (FBC) files this reply submission in accordance with the timetable for submissions set out in British Columbia Utilities Commission (Commission) Letter L-7-16 regarding FBC's Application for Treatment of Capital Expenditures for Major Projects under its Multi-Year Performance Based Ratemaking Plan for 2014 through 2019 (the Application). In the Application, FBC sought Commission approval to flow through the actual capital expenditures for four capital projects (the Projects) outside of the Performance Based Ratemaking (PBR) formula-driven capital and add them to rate base on January 1st of the year following their in-service date, subject to Commission approval of the Projects in the respective Annual Reviews. On April 11, 2016, the Commission issued Letter L-7-16 requesting submissions from FBC and interveners on the following questions:

   1. Were any/all of the four Projects excluded (to be treated as flow-through capital) in establishing and approving the formula-driven base capital for the PBR Plan?

   2. Subject to approval of any/all of the Projects to proceed, and with specific reference to Orders G-139-14[1] and G-120-15, should any/all of the four Projects be included in formula-driven capital under PBR, or afforded flow-through treatment?

   3. Should the Commission require CPCN applications for any/all of the Projects or would reviewing for approval as part of a future PBR Annual Review as proposed be agreeable?

2. On April 20 and 21, 2016, submissions were filed by the BC Sustainable Energy Association and Sierra Club of BC (BCSEA-SCBC), the Commercial Energy Consumers Association of BC (CEC), the British Columbia Public Interest Advocacy Centre of British Columbia representing the British Columbia Old Age Pensioners' Organization, Disability Alliance BC,

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[1] FBC assumes the Commission intended to refer to Order G-139-14 related to FBC's PBR Application, rather than Order G-138-14 which relates to FortisBC Energy Inc.

Council of Senior Citizens' Organizations of BC, and the Tenant Resource and Advisory Centre (BCOAPO) and Mr. Gabana. BCSEA-SCBC and BCOAPO each support FBC's Application, and BCOAPO provides several recommendations on how review of the Projects in future Annual Reviews could proceed. The CEC opposes FBC's Application. Mr. Gabana's submission is not directly responsive to the questions posed by the Commission, but appears to stress that the Projects should undergo further review. FBC notes in reply that its proposal is for review of the Projects in future Annual Reviews.

3. FBC provides its reply to the CEC and the recommendations of BCOAPO below. FBC notes that it has sought to respond to the substance of the CEC's submissions, rather than every individual comment. Silence on FBC's part with respect to a particular comment, should not be interpreted as agreement.

B. Were any/all of the four Projects excluded (to be treated as flow-through capital) in establishing and approving the formula-driven base capital for the PBR Plan?

4. FBC submits that based on the evidence and history of the Commission Decisions as outlined in the Application it is incontrovertible that the Projects were excluded when the formula-driven base capital for the PBR Plan was established. In short, the formula-driven base capital was set based on FBC's proposal that the formula-driven base capital would exclude projects that met the CPCN criteria that existed at the time of FBC's PBR Application, which excluded the Projects. The evidence and relevant decisions on this topic have been fully canvassed in the Application and the supporting submissions of BCSEA-SCBC and BCOAPO.

5. The CEC submits that none of the Projects "were established by the Commission to be treated as flow through".[2] The CEC's submission confuses two issues: (1) whether the Projects were excluded from the formula-driven base capital and (2) whether they were granted flow-through treatment by the Commission. It is clear that the Projects were not included in the formula-driven base capital. FBC has not claimed that the Commission has

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[2] CEC Submission, p. 1.

granted flow-through treatment for the Projects. Instead, FBC is applying for approval of flow-through treatment of the Projects in this Application. As described in the Application, the Projects have always been expected to require capital expenditures during the PBR term, but were excluded from the formula-driven base capital and do not meet the current $20 million capital exclusion threshold. Due to the way in which the formula-driven base capital and capital exclusion threshold were set, the formula-driven base capital simply cannot accommodate the Projects. As set out in the Application:

> It is clear from the magnitude of the major project expenditures associated with the Projects that they cannot be accommodated within the formula capital spending envelope without significant adverse impact to FBC's capital program. In fact, the annual expenditures forecast for the Projects in the years 2017 through 2019 range from 22 percent to 36 percent of the 2013 Base Capital amount, and from over one-half to almost 90 percent of the total sustainment capital expenditures included in the Base Capital amount[3]. Expenditures on the Projects over the remaining term of the PBR Plan are $44.8 million[4], which compares to the $54.9 million for the six CPCN and major capital projects excluded from the 2013 approved capital expenditures in the calculation of the Base Capital amount.

In short, the formula-driven base capital is plainly insufficient if its purpose is to accommodate all projects up to $20 million. FBC's Application proposes a reasonable and appropriate regulatory treatment of the Projects which will address this issue, which is consistent with the Commission's treatment of the Kootenay Operation Centre ("KOC").[5]

6. The CEC says that the Commission stated the following in the Capital Exclusion Decision[6]:

> In the case of FBC, an adjustment to the base capital for 2016 would be necessary only if there are material capital projects accounted for in the base capital that would now also be eligible for exclusion under FortisBC's proposal to lower the CPCN threshold for FBC from $20 million to $5 million.

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[3] 2013 Base Capital was $48.6 million which included $20.0 million of sustainment capital expenditures.

[4] $48.1 million total less $3.3 million which falls outside of the PBR term.

[5] Application, p. 10.

[6] Order G-120-15 and Reasons for Decision dated July 22, 2015.

Based on this quote, the CEC asserts that the Commission "considered that the capital projects [i.e. the Projects] were included in the base and formulaic spending" because: "They would need to lower the base capital in the event that the projects were eligible for exclusion under FBC's proposed lower threshold. Since they did not lower the threshold, there was no need to adjust the base."[7] The CEC's submission is mistaken for a number of reasons as explained below.

7. The statement quoted by the CEC does not in fact occur in the Capital Exclusion Decision, but is taken from FBC's Reply Submission dated April 24, 2015 in the Capital Exclusion process, page 18.[8] The adjustment referenced in the above quote was in the context of the potential for a **downward** adjustment to the formula-driven base capital that may have been required if FBC's proposal to adjust the capital exclusion threshold downward to $5 million was adopted. The CEC cannot reasonably conclude from FBC's statement regarding its own proposal (which was not adopted by the Commission) that the Commission considered that the Projects were included in the formula-driven base capital.

8. FBC was clear that no adjustment would be required if its proposal was adopted. FBC listed its anticipated CPCN projects in a table on page 19 of its Reply Submission, which included the four Projects under consideration in this proceeding. FBC stated on page 19 of its Reply Submission:

> Under FortisBC's proposal, no adjustment to the base is necessary for FBC since the proposed reduction of the CPCN threshold to $5 million from $20 million does not result in fewer (or more) projects subject to CPCN applications over the course of the PBR term as compared to the original proposal. All of FBC's capital projects cited by CEC (highlighted in the table above) would have qualified for exclusion as a CPCN project under one of FBC's existing non-financial criteria and were not included in the base capital.

FBC's submissions were therefore clearly related to the impact on the formula-driven base capital if its $5 million threshold proposal were adopted. FBC was not saying that no

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7 CEC Submission, p. 4.

8 Online: http://www.bcuc.com/Documents/Proceedings/2015/DOC_43546_B-2_FortisBC-ReplySubmission.pdf

adjustment would be required under the threshold that was actually adopted by the Commission, which is a $20 million financial threshold, with no non-financial criteria and with a new requirement that FBC demonstrate that a project does not meet the threshold by virtue of combining smaller projects.

9. Finally, the CEC's conclusion that "They would need to lower the base capital in the event that the projects were eligible for exclusion under FBC's proposed lower threshold" is not correct. Since the Projects were not included in the formula-driven base capital in the first place, the base capital could not possibly be lowered under FBC's proposed lower threshold.

10. The CEC's characterization of FBC's Application as "attempting to revisit a Decision it does not like" is unfair and incorrect.[9] FBC's Application is driven by the need to determine the most appropriate regulatory treatment of the Projects given the unique and somewhat confusing regulatory history that has led to this point. FBC's Application openly and transparently set out the regulatory history, presented options for the Commission's consideration and FBC's rationale for the recommended option. FBC's has appropriately put forward for the Commission's consideration what it believes to be the most reasonable regulatory treatment of the Projects in the circumstances. As discussed below, FBC's approach also appropriately follows past Commission precedent for dealing with capital projects that were not included in the formula-driven base capital.

C. Subject to approval of any/all of the Projects to proceed, and with specific reference to Orders G-139-14 and G-120-15, should any/all of the four Projects be included in formula-driven capital under PBR, or afforded flow-through treatment?

11. FBC set out its rationale for why the Projects should be afforded flow-through treatment in the Application. FBC states:

> In FBC's view, the uncertainties around costs and timing of the Projects and the potential revenue requirements implications of those uncertainties makes the alternative of adjusting the base capital expenditure level an inferior solution,

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[9] CEC Submission, p. 4.

> compared to the flow-through treatment proposed. Under FBC's proposed flow-through treatment, the Commission would have the opportunity to review all of the Projects through the Annual Review process and only actual expenditures would be reflected in revenue requirements.[10]

12. BCSEA-SCBC and BCOAPO agree with FBC's rationale.

13. CEC, however, argues that none of the Projects should be granted flow-through treatment. The CEC's position is that FBC should have sought reconsideration of the PBR Decision if it required adjustment to the formula-driven base capital or a reconsideration of the Capital Exclusion Decision if it required a change to the capital exclusion threshold.[11] In reply, FBC is neither seeking an adjustment to the formula-driven base capital or a change to the capital exclusion threshold. FBC is seeking flow-through treatment for the Projects and establishment of regulatory review and approval of the Projects in the Annual Review process. In seeking this relief, FBC is following the precedents for granting similar treatment in Order C-2-16 for the KOC project CPCN as discussed in section 2.3 of the Application, and in Order G-193-15 for FortisBC Energy Inc.'s Fraser Gate Intermediate Pressure Project.

14. As discussed in the Application, the Commission approved the CPCN for the KOC project, and the flow through of the capital expenditures outside of the PBR capital formula. In making its determinations, the Commission confirmed that the Capital Exclusion Criteria decision:

> …did not comment on the impact that the elimination of the non-financial criteria may have on capital projects that were identified by FBC in the PBR proceeding as being less than $20 million but still anticipated to be CPCNs based on the previously existing non-financial criteria.[12]

15. Furthermore, the Commission stated:

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[10] Application, p. 21.

[11] CEC Submission, p. 4 and p. 5.

[12] Order C-2-16 and Decision, page 23.

> Notwithstanding the fact that the KOC project exceeds the $20 million threshold, the Panel concludes that it would not be reasonable to consider the KOC project as included in the PBR cost base, because the KOC was specifically anticipated in the original PBR hearing (with an estimate of approximately $16 million) to be excluded from the PBR formula.[13]

16. The KOC Decision makes clear that those projects identified as CPCN projects in the PBR Decision should not be included in Base Capital expenditures regardless of whether they meet the $20 million threshold.

17. FBC submits that the regulatory history leading to the need for the requested relief is complex and that, in the circumstances, its proposal for regulatory treatment of the Projects is reasonable and appropriate, as well as consistent with the past Commission decisions noted above.

18. The CEC's view is that "FBC should include any adjustment to base capital in its next Annual Review filing if the dead band for annual capital expenditures is exceeded."[14] The CEC's approach is inferior to FBC's proposal and would not resolve the issue. It is clear that the dead band for annual capital expenditures will be exceeded if flow-through treatment is not granted for the Projects.[15] If FBC exceeds the dead band, the Commission directed in the Capital Exclusion Decision that: "Where the dead band is exceeded for any year, FEI and FBC are directed in the next Annual Review filing to include recommendations as to any adjustment to base capital other than those driven by the I-X mechanism."[16] Under FBC's approved PBR Plan, the capital spending above the dead band is added to rate base for the following year[17]. The adjustment referred to by CEC and directed by the Commission is in relation to the annual

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[13] Ibid., page 26.

[14] CEC Submission, p. 6.

[15] Application, p. 19.

[16] Capital Exclusion Decision, p 17.

[17] PBR proceeding, Exhibit B-1 Appendix D4 and Exhibit B-11, Response to BCUC IR 1.45.1. FBC's dead-band was approved by the Commission in Order G-139-14, with the addition of a two year cumulative 15 percent dead-band. Both the one year and two year dead-bands were further approved in the Capital Threshold Decision at p. 17 "The Panel has reviewed the comments of the parties and is satisfied there is no need to change or adjust the one-year 10 percent dead-band and the two-year 15 percent dead-band as established in the FEI and FBC PBR Decisions."

formula-driven base capital, requiring a consideration of whether or not actual capital spending that exceeds the dead band should affect the formula-driven base capital for the remainder of the PBR term.

19. Since the Projects were excluded from the formula-driven base capital, it is not reasonable that expenditures on the Projects should result in the dead band being exceeded. The exceedance of the dead band due to expenditures on the Projects would not be indicative of the capital expenditures that FBC was expected to manage within the formula-driven base capital amount. Further, if the deadband were exceeded due to expenditures on the Projects, the Commission will have to make the same decision that is before it now - i.e. whether it should adjust the formula-driven base capital or grant flow-through treatment for the Projects. FBC has set out in the Application why an adjustment to the formula driven base capital is an inferior option to granting flow-through treatment. As stated in the Application:

> This treatment has the disadvantage of including the amount of the formula increase for the Projects in rate base during the PBR Term, because under the PBR Plan, all Base Capital expenditures are assumed to enter rate base during the year of expenditure. All else equal, this would increase the variability between formula and actual expenditures, due to the already-known annual variances as shown in Table 4, and for cost variances from estimate as well as scheduling variances. As can be seen from Table 4 above, when compared to the average expenditure of $14.9 million in 2017 through 2019, the forecast expenditure profile would result in underspending of the (revised) formula in 2017 and in overspending in 2018 and 2019.
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> Further, the Commission would not have an opportunity for review of the Projects before they are undertaken, as they would be accommodated under FBC's existing capital formula.[18]

For the reasons noted above, adjusting the formula-driven base capital to accommodate the Projects is inherently problematic. These problems will not be resolved by simply pushing them off to when the dead band is exceeded. The CEC has not responded to FBC's assessment of this

[18] Application, pp. 20-21.

approach or explained how adjusting the formula-driven base capital can be done in a reasonable way for the remainder of the PBR term.

20. The CEC submits that "one of the purposes of PBR is to provide pre-established rules for formulaic spending which will reduce regulatory expense; and that it is inconsistent with the intention of PBR to simply revisit issues when the formula and/or decisions do not suit FBC."[19] This is yet another unfair and inaccurate characterization of FBC's actions. This is a case of a gap in the pre-established rules for formulaic spending, not a case where FBC is seeking to revisit issues.

21. The CEC also incorrectly claims that FBC's proposal is a "fundamental change" to the PBR Plan, stating:

> The CEC submits that a determination of whether or not capital projects that are under the established materiality should be flowed through should recognize that such a request represents a fundamental change to FBC's PBR formula. Such a consideration should properly address FBC's overall performance under PBR including both its O&M and capital spending results, the impact of on rates, the efficacy of the deadband and several other considerations which are not in evidence in this proceeding.[20]

Contrary to the CEC's assertions, FBC's proposal does not require any change to the PBR Plan. A benefit of FBC's proposal is that is only addresses the regulatory treatment of the Projects, and leaves the PBR Plan and its incentive properties fully intact. This is appropriate because the fact that the formula-driven base capital was set assuming the Projects would be excluded does not implicate any other aspect of the PBR Plan. It has nothing to do with FBC's performance under PBR, FBC's O&M or capital spending results, rate impacts, the deadband or any other term of the PBR Plan. FBC submits that the circumstances related to the Projects warrant a fine-tuned approach such as what FBC has proposed.

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[19] CEC Submission, p. 6.

[20] CEC Submission, p. 6.

D. Should the Commission require CPCN applications for any/all of the Projects or would reviewing for approval as part of a future PBR Annual Review as proposed be agreeable?

22. FBC explains in the Application why reviewing the Projects in future Annual Reviews is an appropriate regulatory approach. BCSEA-SCBC and BCOAPO support FBC's proposal for including the review of the Projects within future Annual Reviews, without requiring CPCN approval, although BCOAPO expresses caveats. FBC responds to BCOAPO's caveats as follows:

(a) First, BCOAPO requests that FBC address public consultation in the Annual Review materials it files for the Projects. FBC can commit to filing this material.

(b) Second, regarding the Grand Forks Terminal Transformer Addition and Grand Forks to Warfield Fibre projects, BCOAPO submits that the Commission should indicate that it could sever the Annual Review process into two phases if required to address these Projects. FBC believes that the existing process in place for Annual Reviews will likely be sufficient for review of the Projects. However, it is of course open to the Commission to initiate further process, such as a second phase of an Annual Review, if it concludes that the existing Annual Review process was insufficient.

(c) Third, regarding the Upper Bonnington Old Units Refurbishment Project, BCOAPO submits that "FortisBC should be encouraged to seek approval for the project using an approach that both provides for adequate regulatory review but minimizes regulatory duplication."[21] FBC agrees that there would be regulatory efficiency to be gained by requesting approval for all of the Old Unit refurbishments at one time, since the business case for each of the 4 units is essentially the same. In this case, FBC would expect to present the justification for all the refurbishments at the same time, but would then update the forecast annual expenditures in subsequent Annual Reviews.

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[21] BCOAPO Submission, p. 6.

23. The CEC alone asserts that FBC has not provided adequate justification for why CPCNs should not be required for the Grand Forks to Warfield Fibre and Grand Forks Terminal Transformer Addition projects.[22] FBC has explained in its Application why concerns previously raised by the Commission with the Grand Forks to Warfield Fibre project[23] and the Grand Forks Terminal Addition project[24] have been or will be addressed. Further, FBC intends to file updated evidence during the Annual Review process on the two projects.

24. More generally, FBC submits that having the two projects considered by the Commission in the Annual Review proceeding is a more efficient regulatory process that is aligned with the goal of increasing regulatory efficiency under PBR. In FBC's submission, CPCN applications should not be required for the projects.

E. Conclusion

25. FBC's Application is supported by both BCSEA-SCBC and BCOAPO. While CEC opposes the Application, CEC does not address the fundamental issue facing the Commission in this proceeding, which is what is the most appropriate and reasonable regulatory treatment of the Projects. The CEC argues that the Commission should not attempt to address this issue by granting flow-through treatment, but instead force FBC to exceed the dead band even though exceedance of the dead band due to expenditures on the Projects would not be indicative of the expenditures FBC could be expected to manage under the formula-driven base capital. The CEC alleges that FBC's request constitutes a "fundamental change" to the PBR Plan, despite the fact that the issue at hand is narrow and does not indicate any concerns regarding FBC's performance or deficiencies in the PBR Plan more generally. FBC has proposed a reasonable and appropriate approach for regulatory treatment of the Projects, which avoids the problems of including these "lumpy" projects within the formula-driven base capital, provides an

22 CEC Submission,

23 Application, pp. 16-17.

24 Application, pp. 17-18.

opportunity for full review of the Projects by the Commission and interveners, and is in line with previous Commission decisions. FBC submits that its Application should be approved.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: April 28, 2016

[original signed by Christopher Bystrom]
Christopher Bystrom
Counsel for FortisBC Inc.