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November 3, 2011

BC Sustainable Energy Association
5-4217 Glanford Avenue
Victoria, BC
V8Z 4B9

Attention: Thomas Hackney, Director

Dear Mr. Hackney:

Re: An Inquiry into FortisBC Energy Inc. Regarding the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives (the "Inquiry")

Response to the BC Sustainable Energy Association ("BCSEA") Information Request ("IR") No. 1

In accordance with Commission Order No. G-164-11 setting out the Regulatory Timetable for the Inquiry, the FEU respectfully submits the attached response to BCSEA IR No. 1.

There were a number of IRs that called for legal analysis. The FEU have provided responses to these IRs but reserve the right to make further submissions on these points in Final Argument.

If there are any questions regarding the attached, please contact the undersigned.

Yours very truly,

on behalf of the FORTISBC ENERGY UTILITIES

Original signed:

Diane Roy

Attachment

cc (e-mail only): Alanna Gillis, Acting Commission Secretary
Registered Parties

1.0 Topic: Declining throughput

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, p.14; Figure 2-1: Mainland Normalized Demand vs. Accounts

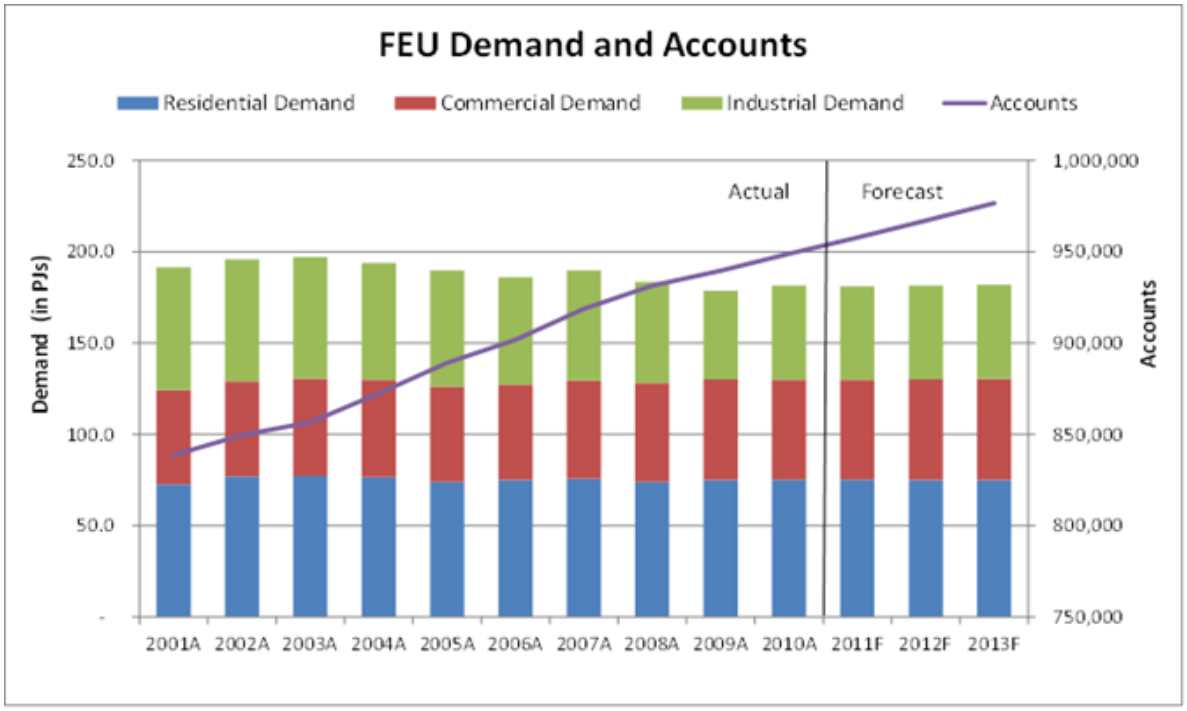
"Based on the historical evidence presented in the 2010 RNHS study results, the FEU expect a continuing trend of declining natural gas load." [p.14]

1.1 Please provide a graph like Figure 2-1 except extended into the future, and showing Consolidated estimated normalized gas demand by customer type and showing estimated accounts.

Response:

Figure 2-1 has been extended using data from the recently filed 2012-2013 RRA.

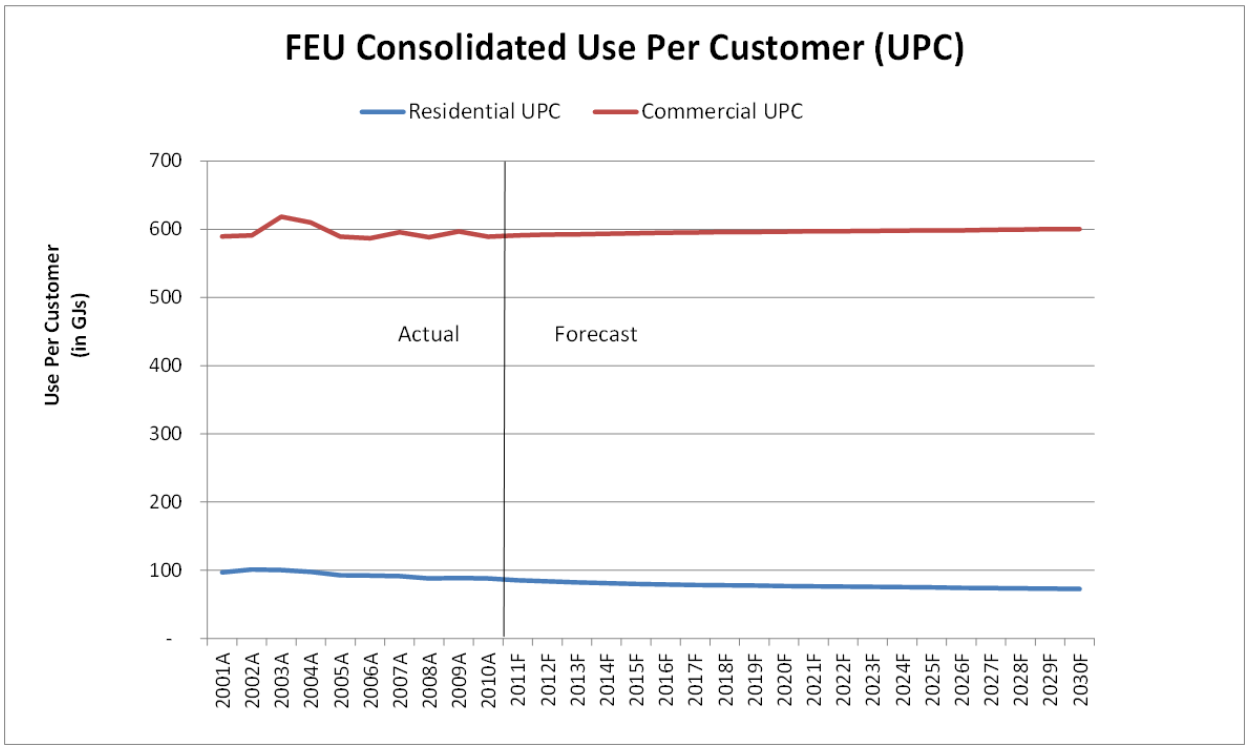
Results from the 2010 Residential New Home Survey ("RNHS") will be used to develop forecasts in the upcoming 2013 Long Term Resource Plan ("LTRP"). The trends discussed in the 2010 RNHS will be used to develop scenarios to provide a range of future outcomes. It is anticipated that the declining use rates and, more significantly, declining capture rates will cause the total residential demand to start to decline. Currently residential net additions are nearly sufficient to offset the declining use rates, but as capture rates decline this will no longer be the case. The 2013 LTRP forecasts will extend this figure out through 2030.



1.2 Please provide a graph showing Consolidated use per customer for the past ten years and as forecasted for 20 years.

Response:

The following chart shows the company-wide use rates for the commercial and residential sectors from 2001 through 2030.



The forecast data beyond 2010 was derived from the 2010 LTRP. The next LTRP is expected to be filed in 2013 and will make use of the newer data presented in the 2010 RNHS.

While the commercial UPC is forecast to remain relatively flat the residential UPC is expected to continue its slow decline. As shown in the 2010 RNHS, the UPC from new housing stock is considerably lower than that of the mature housing stock. In addition, the continuing and accelerating trend towards multi-family dwellings will also put downward pressure on the residential UPC. Over time, as the mature housing stock is replaced the decline in UPC is expected to slow. There is no indication at this time where the "floor" to this decline might be. The 2013 LTRP will present scenarios that will investigate this further.

2.0 Topic: Declining use per customer, commercial

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, p.20

"Given this scenario, it is possible that the commercial sector as a whole could see declining total throughput as new buildings make use of these technologies and energy forms overtime; even though the commercial sector as a whole has not contributed to the 16 PJ in [declining] total throughput over the last decade or so."

2.1 Should the sentence quoted above read as corrected?

Response:

Confirmed.

The commercial sector has not been contributing to the 16 PJ decline.

3.0 Topic: Biomethane

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, s.2.2.6.1 BC's Energy Objectives as they Relate to Biomethane Service; s.2.4.4 Biogas Market Study; s.4 Flexible Ownership Model for Biomethane Upgrading Assets; s.4.6 Guidelines for Biomethane Upgrading Ownership

"However, one of the outstanding issues from the Biomethane proceeding can and should be addressed at this time: the issue of ownership of the upgrading assets for converting raw biogas into Biomethane." [p.70]

"The FEU believe that by retaining this flexibility [to own upgrading assets], the FEU will be able to encourage new supply resources in tandem with established demand where those supply resources might otherwise not be available." [p.70]

The Commission approved expenditure schedules for a two-year trial period for a Salmon Arm (sewage) facility in which FEI owns the upgrading assets and an Abbotsford (agricultural waste) facility in which the raw gas supplier (Catalyst) owns and operates the upgrading assets.

"In the Biomethane Decision, the Commission made no findings regarding FEI's future role in owning upgrading assets, preferring to defer that decision until a future date:

> *"With respect to [FEI's] proposed role in the upgrading process, the Panel has made no finding on the acceptability of this and directs that the upgrading business be sufficiently distinct so as to be severable if the Commission were to determine that this function should be conducted through a separate entity in the future." [pp.73-74]*

The Commission's order approving the biomethane rate and the expenditure schedules for the two biomethane projects requires the Company to:

> "File a Post-Implementation Report that provides the information described in Section 8.4.4 of the Application within 2 years of the date of this Order." [Order No. G-194-10, dated December 14, 2010, Appendix H]

3.1 Is it correct that there are three potential approaches to rules governing ownership of biogas upgrading facilities: the upgrading facilities must *never* be owned by the Company; the upgrading facilities must *always* be owned by the Company; and the upgrading facilities can be owned by *either* the Company or a third party depending on the circumstances.

Response:

Confirmed.

3.2 Please confirm that the Company's proposed approach, reflected in the proposed guidelines on pp.83-84, is that the upgrading facilities can be owned by *either* the Company or a third party, with provision for the Commission to settle a dispute over whether the Company or a third party should own the assets in a particular case.

Response:

The FEU are satisfied with either ownership model. The parties are motivated to negotiate reasonably, as the FEU wish to acquire the supply and the partner wishes to provide it. The way in which the Commission would become involved is that it would consider the ownership model before accepting the supply agreement. If the Commission considered the supply model to be inappropriate, it would not accept the supply agreement.

3.3 Has the Company ever had a dispute with a potential biogas provider over whether the upgrading assets would be owned by the Company or by the biogas provider? If so, please describe the situation and how it was resolved, in non-confidential terms.

Response:

No, no such dispute has yet arisen. Though the FEU prefer to own upgrading equipment for safety and reliability, the FEU remain committed to partnering in a fashion that can work for the project developer and in turn help to establish an industry in BC.

3.4 Does the Company envision future disputes between the Company and potential biogas provider over whether the upgrading assets would be owned by the Company or by the biogas provider? Is this issue likely to arise frequently?

Response:

No, the FEU believe that disputes of this nature are unlikely to arise. The FEU believe that the fact that no such dispute has as yet arisen is the best indicator we have at this point in time as to the likelihood of such disputes arising in the future. As stated previously, the FEU prefers to own the upgrading equipment, but is open and willing to enter upgraded Biomethane supply contracts if a developer prefers this arrangement and meets our requirements.

3.5 Is the Company aware of any potential supplier of biogas to the Company that were dissuaded from pursuing the project by the Company's insistence on owning the upgrading assets?

Response:

No. Please see the response to BCSEA IR 1.3.4.

3.6 How active is the market for selling biogas for pipeline use in B.C.? The Company refers to project development discussions with the City of Kelowna and the owner of the Annacis Island sewage treatment facility [p.78]. Do potential biogas vendors approach the Company, or does the Company seek them out? Please provide a rough number of the potential biogas vendors with which the Company has had discussions.

Response:

As discussed in the response to BCSEA IR 1.3.7, in the past two years, the FEU have had discussions with more than 25 potential project developers. Potential suppliers have come to the FEU a number of ways.

1. Request for Expressions of Interest ("RFEOI") – FEI issued an RFEOI in 2008 to invite potential project partners to come forward and discuss their projects in greater detail. The two projects we have developed to construction phase are both a direct result of this RFEOI process.

2. FEI website – potential suppliers have discovered projects on the website and have made contact with FEI.

3. Referral - Consultants working with project developers or organizations such as the BC Bioenergy Network, have introduced developers to FEI.

4. Workshop/Conference – FEI has recently held a biogas workshop (October 4th 2011), which potential project developers attended. The workshop covered a variety of topics related to biogas supply, and was attended by approximately 90 stakeholders interested in biomethane development in BC from several perspectives, such as; project financing, technology providers, government and bioenergy sector support, engineers , consultants and potential project developers. In addition, various FEI employees have been approached at other conferences especially by officials/representatives of local and regional governments.

3.7 Of the potential biogas vendors with which the Company has had discussions, please provide estimates of how many: would want to own the upgrading assets themselves, would want the Company to own the upgrading assets, or whose preference is uncertain. Of these categories, please provide estimates of the numbers or percentages in which the Company would be inclined to disagree with the potential vendor's initial preference regarding ownership of the upgrading assets.

Response:

Based on initial discussions with potential biogas project developers (over 25 in the past 2 years), there is approximately a 50-50 split in preference for the ownership model. In general, most developers begin in the uncertain category, but quickly decide on one of the two ownership models.

The FEU have taken a neutral position in regard to which model the potential suppliers choose and has not to date disagreed with any potential project developers. The FEU expected that in most instances, the parties involved will ultimately agree on the appropriate approach.

3.8 Please describe the regulatory process that the Company sees occurring following the filing of the Post-Implementation Report.

Response:

The regulatory process will ultimately be determined by the Commission, and FEI is not, at this point in time, prepared to propose what that process should look like. We maintain our commitment to invite and encourage intervener participation in the Commission review of the Post-Implementation Report.

3.9 Please comment on the suggestion that it would premature for this Inquiry to address the issue of ownership of biogas upgrading assets prior to the filing of the Post-Implementation Report due December 14, 2012.

Response:

The Commission's determination of a two year review period initially appeared to be a reasonable timeframe. However, based on the current FEI experience, it appears that the data will be too limited to make any substantial determination on the future of the program and its underlying business model.

FEI is committed to filing the Post-Implementation Report in December 2012 as set out in Commission Order No. G-194-10. However, FEI believes that the best review process would be the one originally proposed in the Biomethane Application, which was to take place five years after the launch of the Renewable Natural Gas program. The 5 year window was proposed as a reasonable time at which to more thoroughly review the data. Due to the rate at which the program has developed, FEI believes that items such as the business model, project partnership agreements, technology effectiveness, enrollment, attrition rates and costs incurred will be better understood after a period of five years.

Regardless, FEI believes that the concept of owning the upgrading equipment can be settled in this Inquiry. There is enough data to suggest that project partners are interested in having the option of either selling Biomethane or having FEI own upgrading equipment. There is also evidence to suggest that FEI is approaching the ownership of upgrading facilities on a fair and reasonable basis. As mentioned in the response to BCSEA IR 1.3.7, FEI has discovered that project developers are approximately split equally between the preference of owning upgrading equipment and having FEI own the equipment. The purpose of proposing FEI ownership is to provide another option to the industry, particularly as it establishes itself. If the two ownership models do not continue as an option, the number of cost effective supply projects that might be developed over time could be less than if these two supply models are continued.

4.0 Topic: Natural gas vehicles (NGVs)

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, s. 5 Natural Gas Vehicle Service

4.1 What is the current status and the Company's plan for the future regarding the NGV incentive program?

Response:

As a result of the uncertainty cast on the FEU's ability to recover the costs of incentives by Commission Order No. G-6-11 and the subsequent determination by the Commission in Order No. G-145-11 that these incentives are not a demand-side measure under the *Act*, the FEU have put the NGV EEC incentive program on hold until these issues can be resolved. Since rapid market transformation requires the presence of a strong incentive program, and since large scale adoption of NGVs is in the best interests of all of our customers, the FEU are actively working to find an agreeable way to reinstate the NGV incentive program.

4.2 Please comment on whether the Commission's decision on CNG/LNG GT&Cs puts the Company at an advantage, or at a disadvantage, in competing with other potential providers of CNG/LNG fueling service in B.C.

Response:

FEI is less concerned about its competitive position vis a vis competitors, than whether the decision impedes the growth of the NGV market.

As the fuel would ultimately be sourced from FEI's system (assuming the station is located near FEI's distribution or transmission system), if a competitor built the fueling station, the benefit to FEI customers would still accrue. The issue, in FEI's opinion, is not who builds the fueling station but whether the technology is adopted at all. The FEU believe that we must be present in this market in order for it to grow, and highlight that the market had been stagnant until our recent re-involvement in it. In that the NGV Decision requested further parameters on fueling contracts from those FEI proposed in the NGV Application, the NGV Decision will likely make it more difficult for the FEU to grow that market. For example, the request to use actual costs rather than estimated costs for negotiated fueling contract rates has the effect of adding another uncertainty to the use of CNG/LNG in the customer's eyes which may have an impact on their decision to adopt the technology.

The focus on competition is coming from other stakeholders, not the FEU, and appears to arise from a view on the part of some stakeholders that the prospect of adding rate base is motivating

the utility to offer NGV fueling service. While the FEU expect a return on their investment, as with any utility investment, the FEU have a far greater interest in promoting the increased throughput that will improve the position of customers and the utility in the long term. To underscore the fact that our interest is in the development of the market, the amount of the return that NGV fueling investments yield is very modest. For example, the capital cost of the Waste Management CNG refueling station was $775,031. Based on an equity thickness of 40% and a return on equity of 9.5%, this results in first-year earnings of $29,451.18, which declines every year as the asset depreciates. The material benefit is that accruing to the NGV customers and the existing natural gas customers associated with increased throughput. The shareholder's interest is advanced by the long term prosperity of the utility, which is in complete alignment with the interests of customers.

4.3 Given the Commission's decisions regarding NGV incentives and CNG/LNG fueling service GT&Cs, what is the current state of the market for new NGV fueling service in B.C.? What are the prospects for the future?

Response:

The FEU believe that the proposals we made in the applications resulting in the referenced decisions were the best way to promote large scale adoption of NGVs in BC. As such, to the extent that the referenced Commission decisions altered our proposals, the FEU believe that the prospects for the development of this market have been delayed and somewhat diminished. The FEU continue to work to encourage adoption of NGVs in BC through other means such as a "prescribed undertaking" program through Section 18 of the *Clean Energy Act* to the benefit of all of our customers. The FEU are optimistic that some beneficial NGV adoption can occur despite the limitations of the referenced decisions.

4.4 Does the Company have any objection to CNG/LNG fueling service for NGVs being provided by non-regulated entities in B.C.? If so, please explain the reasons.

Response:

No, the FEU have no such objections. Customers will obtain the benefit of increased throughput in both cases, assuming that the volume that is consumed for CNG or the natural gas that is used to produce the LNG pass through the FEU distribution and transmission facilities.

4.5 Is the Company aware of any prospect of CNG/LNG fueling service for NGVs being provided in B.C. without using supply from the Company's natural distribution system?

Response:

The FEU expect that it would normally be the provider of natural gas commodity anywhere within its service areas. LNG can, however, be shipped by truck from outside our service area.

4.6 Please confirm that the Company currently provides natural gas for the NGV fueling services provided by entities such as Clean Energy and BC Transit. For what other entities does the Company provide natural gas for NGV fueling services?

Response:

Confirmed. In addition to the referenced customers, the FEU also provide natural gas, under Rate Schedule 6, to the following customers: City of Surrey, Euro Asia Transload, Kelowna School District, Lordco Autoparts, Powertech Labs, and Viking Logistics.

In February 2011, the FEU began providing natural gas service to Waste Management through a CNG fueling station, which the FEU owns and maintains.

4.7 Apart from requirements applicable to any new customer such as the mains extension test, what barriers if any would impede a non-regulated entity from obtaining natural gas supply from the Company in order to provide a CNG/LNG fueling service?

Response:

Apart from requirements applicable to any new customer, such as the Main Extensions ("MX") test, the FEU cannot identify any barriers to obtaining natural gas supply that would be unique to a non-regulated entity.

4.8 Is, or was, the Company's heavy duty NGV incentive program open to fleet owners that arranged fueling service either by themselves or by a third-party provider?

Response:

Yes, in fact the first incentive granted under the program was to the City of Surrey for a garbage truck that will refuel at facilities owned and operated by the City.

4.9 What discussions, if any, has the Company had with Encana regarding Encana's reported development of a natural gas transportation corridor linking Vancouver, Calgary and Edmonton [s.5.4.5]?

Response:

The FEU have and will continue to discuss with Encana how we might be able to collaboratively advance this goal to the benefit of all of our customers. These discussions would be best described as being high-level in nature.

4.10 Are the FEU aware of any *public* utilities in B.C., other than the FEU, that might move into the market of providing *regulated* NGV fueling services?

Response:

The FEU are unaware of any utilities that are actively considering offering NGV refueling services.

4.11 With reference to proposed Guideline 4, p.99, please confirm that the Commission's NGV Decision recognizing the listed benefits of CNG fueling service was based, on its facts, on CNG service, not LNG.

Response:

No. The FEU believe that the Commission recognized that these benefits will result from the NGV refueling program, including both CNG and LNG service.

5.0 Topic: Thermal energy services (TES)

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, s.6 Thermal Energy Services

"In all Thermal Energy Services, the FEU's intention is to maintain natural gas as a component of the overall energy solution as an alternative to electricity." [p.106]

5.1 Are the FEU's TES offerings limited to locations where natural gas is available? Would the FEU consider electric energy to meet back-up and peak needs if natural gas was not available?

Response:

The FEU's TES offerings are available throughout BC. When natural gas is available it can provide an efficient, reliable and cost effective component of the overall Thermal Energy Service. Where natural gas is not available, an analysis is conducted to determine the best form(s) of energy to fulfill a similar role that natural gas would have played. Electricity is one form of energy that would be considered in those situations.

5.2 The Company refers to the SFU UniverCity district energy system [p.110] regarding which Corix, the FEU and other proponents made proposals. Does the Company have any objection to the result in the UniverCity DES case? Are the Commission's reasons for decision (May 6, 2011, BCUC No. C-7-11) in partially approving a Corix Multi-Utility Services Inc. CPCN application for a DES at UniverCity consistent with the Company's proposed Guidelines for TES?

Response:

In the Corix CPCN case, the Commission did not raise any issue with respect to whether or not the UniverCity system was regulated as it has in this Inquiry, but rather all involved implicitly accepted that the DES was regulated. The FEU also believe that the UniverCity district energy system, like the systems the FEU intends to develop, is a public utility service and the FEU support the approach in that case of regulating thermal energy service as it is consistent with the law and the public interest.

Also of note, the Commission decision did not address the issue of whether there was cross-subsidization in either direction between the customers of the UniverCity system and other Corix utility customers or other lines of business. Again, this seems to have been implicitly accepted as not being a material issue in those circumstances although it has taken on a significant profile in this Inquiry.

It is not unusual for the Commission to vary the terms upon which it will grant a CPCN from those sought in an application. Corix and other DES proponents can take guidance from the Commission's decision in preparing future applications for DES.

5.3 Please describe "the Massachusetts model" of cost allocation referred to on p.124.

Response:

The Massachussets model is a cost allocation model which is used by the FEU today to allocate costs from FortisBC Holdings Inc. to each of the utilities. It is a composite allocation model and employs an average of three cost drivers. The cost drivers are gross payroll, average tangible assets and operating revenues.

5.4 Are the Company's proposed Guidelines for Thermal Energy Services [p.132, et seq.] intended apply to TES projects by any TES provider (that isn't excluded under the definition of public utility or exempt by Cabinet order), or only to TES projects provided by the FEU? If the latter, would there be merit in the Commission adopting guidelines applicable to all TES providers?

Response:

The Commission commented on this issue in the Scoping Order.

The Commission will determine which, if any, of the proposed Guidelines are appropriate more generally for all companies providing TES public utility service. Some proposed guidelines are specific to the FEU (e.g., cost allocations between the FEU classes of services) and are therefore unlikely to have general applicability. Other guidelines may be appropriate to extend to other TES utility service providers more generally, as it is difficult to see a reasonable and fair basis to treat those entities differently.

5.5 Do FEI's GT&Cs for TES service, referred to in proposed guideline 5 on p.133, contemplate that TES customers will pay rates based on the pooled costs of all of FEI's TES services, or rates based on the costs of the customers' specific TES project, as referred to in proposed guideline 3(b), on p.133?

Response:

FEI's GT&C 12A does not provide for rates based on the pooled costs of all of FEI's TES services. Furthermore, it provides that rates are subject to BCUC approval. The rates for TES customers under those GT&Cs for the time being are based on the cost of service model; for further details please see GT&C 12A (B-1, Tab 18). At some point in the future, FEI may apply to the BCUC for a general TES tariff based on the pooled costs of FEI's TES services. The GT&Cs would likely have to be amended at that time.

5.6 More generally, please discuss the observation that the district energy system applications that have come before the Commission most recently – i.e., Dockside Green, UniverCity and River District Energy – are characterized by having a very small cost base over which to share risks and cash flows among customers, compared to conventional utilities such as BC Hydro, the FEU natural gas class or service or even the Vancouver Central Heat utility. Is this something that can or should be addressed in Commission guidelines regarding TES services?

Response:

In response to the request to discuss the observations above, the FEU note the following:

1. The FEU have committed in the FEI 2010-2011 RRA NSA to keep the costs of the TES class of service separate from the natural gas class of service and not to recover any TES costs from the natural gas ratepayer. The 2010-2011 RRA NSA treatment is fully consistent with section 60 (1) (c) of the *UCA,* which requires rates for different classes of service to be set independently of each other. This means that risks of FEI's TES class of service remain with that class of service and ultimately with the shareholder so there is not a large cost base over which to share risks and cash flows.

2. Other entities providing TES utility service may not appear to be large organizations as far as their regulated operations under the Commission's oversight are concerned but they are frequently large sophisticated organizations with multi-jurisdictional or even multi-national reach with capabilities to manage risks and cash flows in ways that are not open (or readily open) to the Commission's purview. The FEU do not believe that small "mom and pop" type organizations will be competing to be TES utility service providers.

3. The FEU note that in each of the three examples cited in the question the utility is using or is planning to use rate management techniques such as levelized rates, altered depreciation schedules or deferral accounts to manage risks and cash flows. These techniques would be available to other TES providers as well. Also developing the TES project in stages to match as much as possible the capital spending to the demand growth profile is a risk mitigation technique available to all TES developers. Less expensive natural gas fired boilers are frequently employed as temporary thermal energy source and the more expensive renewable or low carbon thermal energy source is only deployed when the customer demand reaches a threshold level.

4. The FEU also note that with the rapidly changing TES market, pooling of all TES assets for future rate design will also be effective for risk mitigation and in line with the rate design methodology currently in place for other energy utilities.

The FEU believe that all players intending to participate in the provision of TES utility service will bring their own special strengths and organizational capabilities to the table and that the guidelines do not need to address differences based on the number or size of TES utility operations in BC.

6.0 Topic: Energy Efficient and Conservation (EEC)

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, 7. Dispensing Energy Efficient and Conservation Incentives to Customers

"The current procedures applied by the FEU in the dispensing of EEC funds, which are premised on the principle of universality, generally ensure that all customers have equal access to EEC funds where the criteria are met. This applies regardless of whether the FEI or some other third-party like ESAC or Corix is selected by the customer to provide the thermal energy services." [p.148]

6.1 Please provide non-confidential details on any complaints the Company has received (other than the Corix and ESAC complaints filed in this proceeding) alleging unequal access to EEC incentive programs.

Response:

The Companies have not received any complaints alleging unequal access to EEC incentive programs other than those filed by Corix and ESAC in this proceeding.

6.2 Would it be appropriate for Commission guidelines regarding the Company's EEC programs and TES projects to note that persons alleging unequal access to EEC incentive programs have the right to make a complaint to the Commission?

Response:

The Companies put forward guiding principles for EEC activity generally in Section 5 on pages 47 and 48 of the 2008 EEC Application, and they reflect the principle of uniform access. Customers do have a right to complain under the *UCA*, and if the Commission considered it appropriate to re-emphasize that right in guidelines, the FEU would support that clarity.

7.0 Topic: Public utility

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, 3.3 The Definition of "Public Utility" in the *UCA*

"...The *UCA* confers no discretion upon the Commission to decide, as a matter of regulatory policy, that certain entities, who otherwise meet the definition, are not subject to the *UCA*[42]. In the case of Biomethane, NGV, TES, and EEC, the Commission has previously recognized, either expressly or implicitly, in various decisions that persons who provide these services meet the definition of 'public utility.' The FEU submit that all stakeholders would benefit from an explicit Commission determination on these matters as part of this Inquiry."

7.1 Please confirm that the Commission recently determined that NGV fueling service by a non-regulated entity is not a regulated service under the *Act*.

Response:

The Commission confirmed the following at p. 18 of the NGV Decision:

> *FEI has chosen to apply to the Commission to provide the new CNG and LNG fuelling services in its capacity as a regulated public utility. Given the definition of "petroleum industry" as including "the retail distribution of liquefied or compressed natural gas" and "public utility" as not including "a person not otherwise a public utility who is engaged in the petroleum industry ..." in section 1 of the Utilities Commission Act, it is only because FEI is already "otherwise a public utility" that this new business is required to be regulated. FEI would be free to pursue this business through a non-regulated subsidiary and thereby avoid Commission oversight. Other companies, not otherwise public utilities, may enter the industry and will not be subject to regulation.*

7.2 Please elaborate on what matters the FEU are saying would benefit from an explicit Commission determination as part of this inquiry.

Response:

The "matters" referred to in the quote from the Evidence refer to the issue of whether or not certain activities when carried out by FEI or others are subject to regulation under the *Act*. As indicated in the response to BCSEA IR 1.7.1, the Commission has now provided what, in the FEU's view, is a clear determination regarding the application of the *Act* to NGV Service. The FEU believe that clear determinations regarding Biomethane and TES service would now be helpful to all stakeholders. The FEU do not suggest that such determinations are immutable or

that they pre-determine every foreseeable situation that may arise in the future. The FEU are mindful that such determinations will have to recognize the express exclusions that are found in the *Act* (i.e. in the definition of "public utility"), and that unforeseen circumstances may arise in the future that raise new issues regarding the applicability of the *Act* to these services. Notwithstanding these considerations, the FEU believe that such determinations will assist all parties in understanding their regulatory obligations going forward, which can only facilitate the orderly and efficient development of these services. Ongoing regulatory uncertainty is in no one's interest, and should be of particular concern for customers who bear the cost of additional regulatory process that ongoing uncertainty can spawn.

7.3 Are the FEU suggesting that there are existing situations in which a (legal) person is providing energy services meeting the criteria of a "public utility" without complying with the *Act*? Or is the concern that such situations will arise *in the future*, in the absence of explicit direction from Commission?

Response:

The FEU's concern is with regulatory efficiency and certainty. In the FEU's view this issue involves a fairly straight-forward application to specific initiatives of a legislated definition that is neither ambiguous nor unclear as it relates to those initiatives. The FEU believe that this Inquiry is an appropriate forum in which the Commission can turn its mind to these questions and provide general findings regarding the applicability of the *Act* to these services. This will help clarify the position for existing providers of services that do not operate with approved rate schedules, or have not sought an exemption, as well as entities that may wish to provide services in the future.

8.0 Topic: Classes of service

Reference: Exhibit B-2, FortisBC Energy Inc. Evidence, s.3.4 Classes of service, p.69

"The import of this provision [s.60(1) of the *UCA*] is that the Act expressly contemplates a public utility such as FEI providing, for example, both natural gas service and thermal energy services within the same regulated utility. Not only does the Act contemplate this scenario, but it dictates the manner in which rates are to be set so that the customers of one class of service do not cross-subsidize customers of another class.

In terms of the New Initiatives, Biomethane Service, NGV Service, and EEC programs are all part of the natural gas class of service, while TES Service is a different class of service within FEI."

8.1 Why is NGV Service part of the natural gas class of service? Why TES is a different class of service, i.e., not part of the natural gas class of service? Is the distinguishing factor that NGV service delivers natural gas as such, whereas TES delivers heat energy?

Response:

FEI explained why NGV service is a natural extension of FEI's natural gas business at p. 19 of the NGV Application, section 2.4.2, which is excerpted below for ease of reference. NGV rates have been treated as natural gas service rates, and this treatment should continue.

While TES may involve the use of natural gas as a fuel, it is defined as the provision of Thermal Energy Service through the technologies described in section 6.1.3 of the AES Inquiry Evidence. The FEU believe that the different delivered energy form is the primary distinguishing feature. The *UCA* makes reference to a number of different "agents" for the production of light, heat cold or power in the definition of public utility.

NGV Application, section 2.4.2., states:

> ***"2.4.2 Extension of TGI's Natural Gas Business***
>
> *The two proposed service offerings, compression and dispensing service for CNG fueling and fuel storage and dispensing service for LNG fueling, are natural extensions of the Company's existing service offering to customers.*
>
> *Terasen Gas is in the business of delivering energy to customers in a useable form; that is, natural gas is delivered at the pressure required by end customers to use in whatever application they see fit. Many of TGI's large industrial customers, for instance, take natural gas at a high pressure, while TGI's residential customers generally require delivery at a lower pressure consistent*

with TGI's distribution system. Typically, TGI delivers natural gas at pressures at 7", 14kpa, 35kpa, 70,kpa, 420kpa, and 560kpa; but some customers may require delivery at a specific pressure. As an example, the University of British Columbia requires a delivery pressure of 25 lbs. All pressures require an investment from the Company. The ongoing O&M varies depending on the equipment installed to alter the pressure; however, in all cases the costs of delivering natural gas to these customers at an appropriate pressure are recovered in rates. Extension tests and connection policies are used to ensure that new customers pay the costs of service so that the additional load is beneficial to customers as a whole.

Natural gas at the low pressure associated with the Company's distribution system is unsuitable for use in NGVs. Gas must first be compressed or liquefied before it can be used. The proposed services and associated infrastructure will allow Terasen Gas to deliver natural gas to these NGV customers at the point of use in a form that is appropriate for their use without additional conditioning or processing. The proposed GT&Cs put in place a cost of service recovery mechanism that serves a similar function as the customer connection policies and extension tests – i.e. keeping existing customers whole.

Operationally, the compression that must take place to deliver CNG is very similar to the compression that TGI uses throughout its system. TGI has about 150 compressor stations and thousands of regulator assemblies dedicated to delivering natural gas at a variety of pressures. Terasen Gas also has considerable experience with LNG production, dispensing and transportation of LNG to end use customers. TGI currently owns and operates an LNG peak shaving facility at the Tilbury LNG site and has another under construction located at Mt. Hayes. In 1997, Terasen Gas received approval from the Commission for Tariff Supplement I-5 Interruptible Liquefied Natural Gas Agreement Between International Forest Products Limited and Terasen Gas Inc. By Commission Order No. G-6-03, Terasen Gas received approval for Tariff Supplement I-5, Amended and Restated Interruptible Liquefied Natural Gas Agreement Between International Forest Products Limited and Terasen Gas Inc., effective November 1, 2002. Commission Order No. G-65-09, issued on June 4, 2009, approved Rate Schedule 16 Interruptible Liquefied Natural Gas Sales and Dispensing Service ("Rate Schedule 16") as a five-year pilot.

TGI's proposed service offering will provide customers with a complete service offering by the provision of the LNG fueling services and the safe and reliable delivery of LNG to the fueling station if required."