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

Attention: Ms. Alanna Gillis
Acting Commission Secretary

Dear Sirs/Mesdames:

Re: An Application by FortisBC Energy Utilities [Comprising FortisBC Energy Inc., FortisBC Energy Inc., Fort Nelson Service Area, FortisBC Energy (Whistler) Inc., and FortisBC Energy (Vancouver Island) Inc.] 2012 and 2013 Revenue Requirements and Natural Gas Rates

We enclose for filing in the above proceeding, the electronic version of FortisBC Energy Utilities' Reply Submission.

Twelve hard copies of the Submission will follow by courier.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by Christopher Bystrom]

Christopher Bystrom

CBB/ccm
Encl.

BRITISH COLUMBIA UTILITIES COMMISSION

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

AND

An Application by FortisBC Energy Utilities

[COMPRISING FORTISBC ENERGY INC., FORTISBC ENERGY INC., FORT NELSON SERVICE AREA, FORTISBC ENERGY (WHISTLER) INC., AND FORTISBC ENERGY (VANCOUVER ISLAND) INC.]

2012 AND 2013 REVENUE REQUIREMENTS AND NATURAL GAS RATES

REPLY SUBMISSION OF FORTISBC ENERGY UTILITIES

January 25, 2011

TABLE OF CONTENTS

PART ONE: INTRODUCTION

1. This Reply Submission responds to the submissions of the Commercial Energy Consumers Association of British Columbia ("CEC"), British Columbia Old Age Pensioners' Organization et al. ("BCOAPO"), the Large Industrial Users Group ("LIUG"), Corix Multi-Utility Services Inc. ("Corix") and the Energy Services Association of Canada ("ESAC"). The FEU have no submissions in reply to the final submission of the B.C. Sustainable Energy Association and Sierra Club of British Columbia. FEU's silence on particular issues raised by interveners should not be taken as assent. This Reply Submission is organized in accordance with the main headings of the FEU's Final Submission with some modifications to reflect the focus of the issues raised.

PART TWO: MANAGEMENT OF COSTS AND RATE DETERMINATION

2. This part will address intervenor submissions related the FEU's management of costs and rate determination.

A. Direction and Oversight of Budget Process

(a) Productivity and Accuracy of Forecasts

3. A theme of the CEC's Final Submission is that the FEU have not focussed enough on productivity.[1] The CEC requests that the "Commission should set rates for the FEU based on lower O&M and Capital Rate Base values than the FEU have applied for, in part to compensate for this inadequacy."[2] Another related theme of the CEC's written submission is their suspicion that the FEU have forecast costs high.[3] The CEC's arguments in this regard are, however, generally made without reference to any evidence.[4] The FEU submit that the evidence shows

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1 CEC Final Submission, p. 4, para. 5, p. 5, para. 7, p. 11, para. 34, p. 16, para 58, and p. 20, para. 75, for example.

2 CEC Final Submission, p. 18, para. 64.

3 For example, CEC submits that the "CEC remains concerned that FEU have forecast expenditure levels high." CEC Final Submission, p. 8, para. 22. Also see, e.g., CEC's p. 7, para. 20.

4 For example, no evidence is cited to back up the CEC statement that "the Commission has sound evidence on the record to set rates on the basis of the FEU finding increased levels of productivity." (CEC Final Submission, p. 20, para. 75.)

that the FEU have forecasted the fair and reasonable costs of providing safe and reliable service to customers.

4. The CEC refers to the FEU's technical Budget Guidelines and states that "the budget process as described in the budget process documents does not adequately establish productivity expectations."[5] The Budget Guidelines referred to by the CEC, however, only provide technical direction from the Finance department on how to specifically input data into the SAP computer system.[6] These Budget Guidelines do not set O&M targets and are not the type of document where one would expect to see productivity expectations set. The FEU's Final Submission summarizes how the FEU's budgeting process accounts for productivity improvements.[7]

5. There are a number of examples of productivity improvements identified in the evidence, which are representative of the FEU's overall approach to seeking out ways to reduce costs for customers:

(a) The Customer Care Enhancement ("CCE") Project is forecast to result in productivity improvements in related O&M costs. The CCE related O&M costs are $34.565 million in 2012 and are forecast to decline by $437 thousand nominal dollars to $34.128 million in 2013.[8] On a per customer basis, this equates to $35.94/customer ($34.565 million /961,706) in 2012 and $35.14/customer ($34.128 million /971,124) in 2013. The reduction in costs from 2012 to 2013 is a productivity improvement of $0.82/customer or 2.2% in nominal dollars/customer. On a real basis this is more than a 4.2% productivity improvement.

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[5] CEC Final Submission, p. 13, para. 47.
[6] Exhibit B-65.
[7] FEU Final Submission, pp. 16 to 22.
[8] Exhibit B-1, page 203, Table 5.3-32.

(b) The creation of an integrated executive leadership team for the FortisBC electric and gas utilities.[9] The FEU will be looking to implement further productivity improvements related to integration that will yield efficiencies post 2013.[10]

(c) The Human Resources department has implemented a number of productivity improvements including the following:

(i) The creation of a common benefits program for all employees, "including simplified administration which reduces costs and eases internal transfers".[11]

(ii) The development of innovative and more efficient means for design and delivery of training, such as E-learning,[12] to cope with the significant demographic challenges.[13] In addition to reducing costs through E-learning, headcount has been reduced by moving to more peer training. As stated in the Application: "The reduction of 2 employees approved vs. projected for 2011 results from the reallocation of full-time instructor resources to peer trainers..."[14]

(iii) The management and optimization of existing recruiting resources to support the increased pressure on recruiting resources over the past few years due to demographic challenges.[15] (The FEU have not asked for any incremental funding to support recruiting activity.)

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9 Walker: T2, p. 170, l. 14 to p. 171, l. 16.

10 Walker: T2, p. 170, l. 14 to p. 171, l. 16.

11 Exhibit B-1, p. 38.

12 Exhibit B-1, p. 155.

13 Exhibit B-1, pp. 152-154.

14 Exhibit B-1, pp. 248 to 249.

15 Exhibit B-1, p. 152 and 154.

(iv) The implementation of automated time entry in SAP, which will result in efficiencies in 2013.[16]

(d) Improvements to the industrial customer survey for the industrial demand forecast have been implemented, resulting in reduced staff processing time and increased customer response.[17]

(e) The FEU have sought to increase revenue from existing assets through its biomethane and NGV projects.[18]

(f) The reorganization of the Transmission and Distribution departments into a single Operations department will result in the better use of capital.[19]

(g) The Operations Department has realized distribution O&M savings through, for instance:

(i) Reductions in First Response Standby: In 2011, FEI maintained and improved on the $700 thousand reduction in 2010. In 2012, an additional reduction of $440 thousand is forecast.[20] FEVI achieved a $465 thousand reduction in 2010 and a $350 thousand permanent reduction in 2011;[21] and

(ii) Elimination of the Whistler Manager position in July 2010.[22]

(h) The Operations department has realized transmission-related O&M savings through:

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[16] Exhibit B-1, p. 200-201 and 251.

[17] Exhibit B-1, 89.

[18] Exhibit B-1, Appendices I and J.

[19] Bell: T7, p. 1068, ll. 7 to 16.

[20] Exhibit B-1, pp. 169 and 175.

[21] Exhibit B-8, CEC IR 1.9.4; Exhibit B-1, p. 170.

[22] Exhibit B-1, p. 170.

(i) more competitive contractor bids;[23]

(ii) reducing the need to complete planned seismic activities;[24] and

(iii) reducing the need to complete planned compressor station maintenance and carbon studies.[25]

(i) Productivity improvement in Growth Capital - Mains costs is reflected in the FEI main unit cost dropping from the 2009 level of $72/metre to $56/metre in 2010 and the FEVI 2010 unit costs down from 2009 actuals.[26]

(j) Productivity improvement in Growth Capital - Services costs is reflected in FEI service unit costs dropping from $1,709/service to $1,479/service in 2010 and FEVI 2010 unit costs and 2011- to 2013 forecasts lower than 2010 approved.[27]

6. As a general indication of productivity, the FEU's Balanced Scorecard includes O&M per customer and wellness measures.[28] The FEU have met the O&M per customer targets. The wellness measure results have been good, with an average of 4-5 days lost per employee per year for the past several years.[29] The FEU have also successfully retained employees; the voluntary turnover of 1 to 2 percent is very low compared to industry standards.[30]

7. The FEU therefore submit that there is evidence on the record that the FEU are continuing to pursue productivity, and that these productivity improvements have been included in the 2012 and 2013 revenue requirements.

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[23] Exhibit B-1, p. 181.
[24] Exhibit B-1, p. 182.
[25] Exhibit B-1, p. 182.
[26] Exhibit B-1, pp. 361-362. Forecast 2012/2013 capital levels are based on 2010 actuals.
[27] Exhibit B-1, pp. 363-364. Forecast 2012/2013 unit costs are based on the 2010 actuals.
[28] Exhibit B-1, p. 34. Thomson: T3, p. 488, ll. 1 to 6. Drope: T7, p. 1222, ll. 13 to 16.
[29] Exhibit B-6, BCOAPO IR 1.7.2.
[30] Drope: T7, p. 1222, ll. 13 to 16.

(b) Focus on Core Gas Utility Business

8. In the introduction to its submission, the CEC states that it is 'less concerned with "gold plating" on the part of the FEU but rather on the apparent distraction from core gas utility functions with resulting inefficiency and cost to rate payers.'[31] The FEU submit that this mistaken perception is a product of the significant focus on biomethane, natural gas vehicles ("NGV") and Thermal Energy Services ("TES") in recent regulatory proceedings. Despite this regulatory focus, the FEU exert the overwhelming majority of their efforts in the traditional natural gas utility business. Only a fraction of the overall costs of the FEU are devoted to TES, for instance. The FEU continue to be natural gas distribution utilities focussed on serving their over 950,000 natural gas customers and operating and maintaining the natural gas system, with in excess of $3 billion in rate base. The examples of productivity enhancements cited above underscore that the FEU remains focussed on the core business. The FEU's customer satisfaction levels and service quality indicators related to the delivery of natural gas service continue to be high.[32] Further, the FEU note that the new services are designed to benefit natural gas customers, such as by increasing utilization of the natural gas infrastructure and reducing overhead costs.

9. The CEC urges the Commission "to mitigate costs to ratepayers of any failed or delayed implemented [sic] of AES type initiatives in the test period."[33] The FEU have made significant efforts to proceed with EEC, biomethane, NGV and Thermal Energy Service projects in a rational and efficient manner. The FEU believed that it had determined an appropriate way to move forward in its initial applications and in the approvals received. Processes such as the AES Inquiry are now in place to resolve any uncertainty in these areas. Mechanisms to protect ratepayer interest have been proposed by the FEU[34] and have or will be considered by the

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[31] CEC Final Submission, p. 5, para. 6. The CEC cite no evidence to support their submission.

[32] Exhibit B-1, p. 35.

[33] CEC Final Submission, p. 9, para. 26.

[34] E.g., in this proceeding the FEU have proposed a new financial treatment for EEC expenditures.

Commission in proceedings related to EEC, biomethane, NGV and TES. Natural gas customers are not at risk for the balance in the TES deferral account.[35]

(c) Economic Climate and Customer Realities

10. BCOAPO states that "the current economic climate requires the Commission to carefully examine any cost increases that exceed inflation and are not essential to providing service."[36] BCOAPO says that the low price of the commodity and delivery charges "should be taken together to maintain affordability in order to ameliorate the economic turmoil."[37] On a similar vein, the LIUG states that "Fortis rates as proposed are not just and reasonable because they do not take into account the economic realities of the customers they are mandated to serve."[38] The FEU submit that the Commission must determine rates based on the factors stipulated in the *Utilities Commission Act* and the evidence related to the prudent costs to provide service.

11. The FEU have proposed rates that reflect the costs of the FEU to provide service and have provided evidence demonstrating the need for the proposed rate increases. As outlined in the FEU's Final Submission, a majority of cost increases are due to costs associated with meeting Commission-approved commitments, increased depreciation rates and recovery of negative salvage, in addition to inflation.[39] The FEU always consider the rate impacts to their customers and would like to avoid increasing rates; however, there is new work that needs to be done, new capital that needs to be invested and new requirements that need to be met.[40] These investments maintain the health of system assets and permit reliable and safe service to customers.

12. The LIUG states that: "It is this balance between fair returns and fair rates that the LIUG believes FEU fails to achieve in this application and that we ask that the Commission to

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[35] Exhibit B-16, ESAC IR 2.2.6.

[36] BCOAPO, Final Written Submission, p. 6, para. 18.

[37] BCOAPO, Final Written Submission, p. 7, para. 18.

[38] LIUG Final Submission, page 1. Also see page 5.

[39] FEU Final Submission, paras. 12 to 14.

[40] Walker: T2, p. 146, ll. 9 to 23.

enforce."[41] The rate of return on equity (ROE) was set in 2009.[42] This revenue requirements proceeding is to determine the other costs of service, and to fix rates that (a) permit recovery of all fair and reasonable costs necessary to deliver the level of service that the Commission deems appropriate, and (b) also provide an opportunity to earn the ROE previously set by the Commission. Customer impacts are relevant in determining what discretionary costs should or should not be incurred. If, however, the increased costs are fair and reasonable for the service provided, the Commission must set rates sufficient to allow the FEU to recover those costs. Otherwise, the rates will not be just and reasonable as defined in section 59(5) of the Act.

B. Balanced Scorecard Independent of Budgeting Activity

13. The CEC alleges that the Balanced Scorecard is "skewed in weighting to the shareholder interest and the Commission may choose to disallow a portion of those incentives from being recovered from customers".[43] The FEU submit that the incentives paid out based on consideration of the Balanced Scorecard are fully recoverable in rates for the following reasons:

(a) The Balanced Scorecard needs to be viewed as a whole.[44] Focusing on only one measure in isolation from others distorts the purpose of the Scorecard, which is meant to provide a balanced set of incentives aligning customer, employee and shareholder interests. For instance, the CEC focuses on capital and O&M measures, but ignores others such as the customer satisfaction, wellness and public safety measures.[45] These factors provide incentives for the FEU to keep customer satisfaction levels high, to keep employee productivity up, and to maintain public safety. The FEU also have Service Quality Indicators comparable to the energy industry best practices which provide a further check on the FEU's

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[41] LIUG Final Submission, section 1.2.

[42] Order G-158-09 and Decision dated December 19, 2009 in the Terasen Utilities Return on Equity and Capital Structure Application.

[43] CEC Final Submission, p. 18, para. 63.

[44] Drope: T7, p. 1131, ll. 3 to 5.

[45] Exhibit B-1, pp. 33-34.

performance.[46] All of these targets require the FEU to spend O&M and capital efficiently and effectively.

(b) The Balanced Scorecard incents employees to be productive. Productivity is measured in particular by the O&M per customer target and the wellness factor.[47] In addition, the entire suite of targets making up the Scorecard should be seen as a productivity incentive. The Scorecard provides an incentive for FEU's employees to excel in all key aspects of the business, including public safety and customer satisfaction. The FEU submit that achieving success on all of these measures requires a productive workforce.

(c) The CEC's concern about providing an incentive to spend under the capital target is misplaced, and is difficult to reconcile with the CEC's emphasis on productivity.[48] As the capital target in the Scorecard is based on the Commission-approved rates, there are only three possibilities: to come under the target, to meet target, or to exceed target. Exceeding capital spending targets will lead to a larger rate base after the test period, while coming under the target will lead to a smaller rate base after the test period. During the test period, the shareholder may have a short-term benefit from coming under the target, or the customer may have a short-term benefit from exceeding target. As the FEU discuss below, the FEU have limited discretion to defer capital spending.[49] Overall, the FEU therefore submit that it is appropriate to target the Commission approved amounts or lower. This appropriately provides incentives for efficiencies and productivity.[50]

(d) Compensating employees is a fundamental cost of providing service and appropriately recovered from customers. The incentives paid under the

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[46] Exhibit B-1, pp. 34-35.

[47] Thomson: T3, p. 488, ll. 1 to 6. Drope: T7, p. 1221, l. 23 to p. 1222, l. 4.

[48] CEC Final Submission, p. 17, para. 61.

[49] See Part Seven, Section A below.

[50] Thomson: T3, p. 488, ll. 1 to 6.

Balanced Scorecard are a performance tool that is part of an overall compensation package. The elements of the Scorecard should not be considered individually, but together.[51]

14. More fundamentally, the CEC's submission underscores the importance of the distinction that the Balanced Scorecard is a compensation tool, not a budgeting tool. The net earnings, O&M per customer and capital measures, to which CEC objects, are based on the Commission-approved rates, including approved ROE, that are the outcome of public processes.[52] Therefore, CEC's repeated references to over-forecasting[53] are really suggesting concern about the Commission's ability to assess the FEU's costs and determine the Scorecard inputs. The FEU submit that the robust public processes are wholly adequate for this purpose. Once these measures are set based on the Commission's determination of just and reasonable rates, it is appropriate for the FEU to develop targets that are based on those approved costs, as done in the FEU's Balanced Scorecard. If the FEU underspend in capital, the shareholder may benefit in the short-term over the test period, but it will be to the benefit of ratepayers in the long-term in the form of a reduced rate base. If the FEU overspends, customers may receive a short-term benefit over the test period, but then have a higher rate base over the long-term. Ultimately, the FEU submit that given reasonable decisions from the Commission, forecasts will sometimes be high, and sometimes be low, and over time neither the shareholder nor customers will see any material benefit from variances from forecast.

C. PBR Benefits Continue to Flow to Customers

15. The CEC and BCOAPO make a number of incorrect submissions regarding the performance based ratemaking ("PBR") period, which the FEU address below.

(a) BCOAPO concludes that "the efficiencies achieved under the MYPBR ["multi-year performance based ratemaking"] appear to have been unsustainable by and large, and any efficiencies that were achieved occurred in the first three or four

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[51] See FEU's Final Submissions, paras. 97 to 98.

[52] Exhibit B-1, p. 33.

[53] CEC Final Submission, para. 60 and 61 e.g.

years of MYPBR, only to be lost by 2009."[54] In reaching this conclusion, the BCOAPO appears to assume incorrectly that an increase in costs means a loss of productivity. The FEU's costs are presently increasing due to capital costs from approved projects, a wave of aging infrastructure, depreciation expense and costs for the FEU to comply with more stringent codes and standards. The efficiencies from the PBR are still present, but the savings are being overtaken by new costs incurred to provide safe and reliable service to customers.

(b) The CEC similarly states that the "FEU are quite clear that they have been able to sustain only some of the savings."[55] As the FEU have explained, a number of the efficiencies can only be achieved once or can only be sustained for a limited period of time before activities need to be resumed and costs need to be incurred. For instance, the Utilities Strategy Project, which combined the leadership of the FEU, could only be achieved once, but it achieved permanent efficiencies. Other items can be deferred safely for a period of time, but then need to be resumed. The cost impacts of deferred expenses from PBR were relatively minor and were dealt with completely in the 2010-2011 period.[56]

(c) The CEC states that the problem with the PBR process was that "the savings were not permanent but the reward was."[57] The shareholder received only a one-time benefit during the PBR period. The savings of $67.5 million went directly to reducing customer rates during the PBR period[58] and many of the efficiencies continue to generate savings to the benefit of ratepayers.[59]

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[54] BCOAPO Final Submission, p. 12, para. 40.
[55] CEC Final Submission, p. 19, para. 66.
[56] Exhibit B-58.
[57] CEC Final Submission, p. 18, para. 66.
[58] Exhibit B-17, BCUC IR 2.2.2.
[59] Exhibit B-17, BCUC IR 2.2.2.

(d) Both the CEC and BCOAPO complain that they had to pay for 150% of costs during PBR.[60] Three points in response are:

(i) First, this is only true for cost savings generated through deferrals. During the PBR period, the savings were achieved through a number of means, including (i) the Utilities Strategy Project, (ii) deferring activities and related costs where safe and prudent to do so, (iii) management of the meter to cash process resulting in the lowering of bad debts, (iv) centralized asset management in distribution services, and (v) department reorganization and streamlining.[61]

(ii) Second, the ways in which the FEU were achieving savings during the PBR period were transparent; progress was reviewed annually by the Commission and intervenors in Annual Reviews that occurred before rates were reset. Customers were directly benefitting from deferrals through lower rates during PBR.

(iii) Third, in any event, cost impacts of deferred expenses from PBR were minor and were dealt with in the 2010-2011 period.[62]

16. The CEC states that "the Commission should give considerable weight to this past performance" under the PBR in setting rates for 2012 and 2013.[63] First, as discussed above the PBR mechanism was negotiated with customer groups, approved by the Commission, and did exactly what it was designed to do.[64] The earnings obtained by the shareholder were in

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60 CEC Final Submission, pp. 18-19, para. 66; BCOAPO Final Submission, p. 8, para. 23.

61 Exhibit B-17, BCUC IR 2.2.2.

62 Exhibit B-58.

63 CEC Final Submission, p. 18, para. 66 and p. 19, para. 68.

64 BCUC Order No. G-51-03, dated July 29, 2003, approving the 2004-2007 Multi-Year Performance-Based Rate Plan, available online at:
http://www.bcuc.com/Documents/Orders/2003_Orders/Orders2003_2/G4/G51_TGI.pdf;
BCUC Order No. G-33-07, dated March 22, 2007, approving a Two-Year Extension of the 2004-2007 Multi-Year Performance-Based Rate Plan for 2008-2009, available online at:
http://www.bcuc.com/Documents/Orders/2007/DOC_14683_G-33-07_TGI%2004-07PBR%20Ext-08-09.pdf.

accordance with rules and processes in the PBR agreement. Customers received and continue to receive benefits from the PBR period. Second, the *Utilities Commission Act* requires the Commission to set rates for 2012 and 2013 to recover the costs of service in the current test period, and to provide the shareholder with an opportunity to earn the ROE determined by the Commission. The CEC appear to be suggesting that the Commission engage in retroactive ratemaking.

D. Delivery Rate, O&M and FTE Trends

(a) Reply to CEC

17. Following paragraph 70 of its Final Submission, the CEC includes a table showing amounts and calculated rates of growth in O&M expense.[65] This table is misleading for two reasons. First, it shows the originally filed numbers and not the updated comparable numbers (which for 2012 would be $230,561 and for 2013 would be $240,077). Second, the CEC uses the O&M numbers after overheads are capitalized and not adjusted for the accounting changes. The FEU submit that the figures from Exhibit B-26 (the FEU's revised graphs) should be used to consider trends of O&M on a per customer basis. On this restated basis, O&M per customer increases about 2.5% in each of 2012 and 2013.

18. In paragraph 74, the CEC appears to indicate that the O&M trend lines have been adjusted for inflation and then compared to inflation.[66] This is incorrect as the O&M has not been adjusted for inflation.

19. The CEC states that the rate of growth of the delivery charge "seems significant, particularly for utilities with declining use per customer and/or flat to declining loads."[67] The FEU submit that the rate of growth of the delivery charge cannot be evaluated in the absence of the evidence explaining the changes over the years. For instance, the majority of rate increases in the current test period are due to approved capital projects and depreciation rates. The fact

[65] CEC Final Submission, p. 19.
[66] CEC Final Submission, page 20, para. 74.
[67] CEC Final Submission, p. 15, para. 56.

that the utilities have declining use per customer or declining loads would actually tend to increase delivery charges, as revenue per customer decreases.

20. The CEC speculates that the "burst in the upside in expenditures coincides with the end of the…PBR period, reflecting deferred expenditures and or looser practices."[68] As discussed above, however, the amount of deferred expenditures from the PBR period was minor and was dealt with entirely in 2010 and 2011.[69] There are valid reasons for the cost increases; the majority is due to approved capital projects and depreciation rates.[70] Other cost pressures stem from the approaching wave of aging assets and many other factors. As discussed above, the FEU are continuing to make productivity improvements which are included in the forecast costs for 2012 and 2013.

(b) Reply to BCOAPO

21. Based on the Commission Staff's graph, the BCOAPO states that "it is somewhat of a disappointment that in the middle of a PBR plan, cumulative increase in delivery charges exceed the general rate of inflation for any multi-year sub-interval."[71] The FEU's corrected graph in Undertaking No. 1 shows that this does not occur.[72] The FEU note, however, that there was no rule in the PBR that cumulative increases in delivery charges could not exceed the general rate of inflation for any "multi-year sub-interval".

22. BCOAPO notes that "the Utilities earned over $130M in 2010 with FEI's approved rate of return at 9.50%."[73] BCOAPO is referring here to FortisBC Holdings Inc. net earnings,

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[68] CEC Final Submission, p. 16, para. 57.

[69] Exhibit B-58.

[70] The FEU summarize the key drivers of the rate increases in Part I, B of its Final Submission.

[71] BCOAPO Final Submission, p. 10, para. 29.

[72] Exhibit B-26.

[73] BCOAPO Final Submission, p. 6, para. 16. BCOAPO references the FEU Corporate Report, 2010, which is not on the record in this proceeding, but is available online at: www.fortisbc.com/.../NatGasAnnualReport/.../FortisBC_Corporate_Report_2010.pdf.

which is not relevant. All of the FEU were below approved rates of return in 2010. E.g., FEI in 2010 was 9.42% as compared to approved of 9.5%.[74]

23. BCOAPO also states that "under a robust PBR plan, the Utility is expected to manage reductions in throughput while, at the same time having tariffs increase by less than the rate of inflation."[75] Again, referring to the FEU's corrected graph in Undertaking 1, the effective delivery rate line (which is not adjusted for differences in throughput) *is* below the rate of inflation during the PBR period. The FEU have therefore met the BCOAPO's expectation. The FEU submit, however, that there is no rule that this must always be the case or even the expectation during a PBR period. This would depend on the terms of the PBR and the total set of circumstances faced by the utility during the period.

24. The BCOAPO invites the FEU to explain the differences between the Effective Delivery Rate shown for the period 2006 to 2010 per Exhibit B-26 and the "FEI Delivery Charge" shown for the same period per Exhibit A2-2. The "Effective Delivery Rate" line in Exhibit B-26 reflects the fixed and variable components of the delivery rates (including delivery rate riders), thus reflecting the total delivery charges applicable throughout the period. The "FEI Delivery Charge" line in Exhibit A2-2A reflects only the volumetric delivery charge and as such is not an accurate representation of the total delivery charges applicable to customers. That is, Exhibit A2-2A excludes the fixed and rate rider components of the delivery rates, ignoring approximately one third of a residential customer's bill. The effect of excluding the fixed component from the "FEI Delivery Charge" in Exhibit A2-2A was to overstate the cumulative delivery rate increase by approximately 15% since all revenue requirements increases beginning in 2010 were streamed to the volumetric delivery charge.[76]

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[74] Exhibit B-9, BCUC IR 1.132.1.

[75] BCOAPO Final Submission, p. 10, para. 30.

[76] The differences between the Staff's witness aid and the FEU's graphs were also explained by Ms. Roy and Mr. Thomson. (T3, p. 291, l. 18 to p. 298, l. 24.) Also see paragraph 58 of the FEU's Final Submission.

25. BCOAPO notes that it is unclear of the relevance of the “Delivery Margin per Avg Customer”.[77] The relevance of “Delivery Margin per Avg Customer” in Exhibit B-26 is to isolate the impact of the change in delivery costs from the upward rate impact of declining throughput. All else equal, a reduction in throughput will increase delivery rates. The FEU understand that Exhibit A2-2A was developed by Commission Staff to compare FEI’s delivery rate changes to a generic cost inflation metric with the purpose of evaluating growth in costs. The delivery margin per average customer metric excludes the impact of changes in throughput while still accounting for the cost implications of customer growth, thus FEI believes it provides a relevant comparison to a cost inflation metric like CPI. Using the Delivery Margin per Avg Customer, Exhibit B-26 shows that the FEU’s costs have increased at below the rate of inflation until 2012. The reasons for the cost increases in 2012 have been explained in the FEU’s Application and other evidence in this proceeding.

PART THREE: DEMAND FORECAST AND REVENUES AT EXISTING RATES

26. In this part, the FEU address submissions by the CEC and BCOAPO with respect to the demand forecast. The FEU submit that the CEC and BCOAPO have not substantiated their suggested revisions to the demand forecast and that the FEU’s methodology continues to be reasonable and appropriate.

A. Residential Capture Rate

27. The CEC suggests that FEU’s forecast may be too low because it is forecasting a low capture rate.[78] The FEU do not forecast a capture rate, but rather use the CMHC and CBOC housing forecasts to forecast a growth rate in customer additions.[79] E.g., if the CMHC and CBOC housing forecasts call for a 5% growth in housing starts, the FEU forecast a 5% growth in net customer additions. The FEU submit that it is appropriate to continue to rely on this forecast methodology. Mr. Bennett explained that the fluctuations in the mix of single-family and multi-

[77] BCOAPO Final Submission, p. 11, para. 36.

[78] CEC Final Submission, page 21 para. 77 to page 22, para. 78.

[79] Bennett: T5, p. 727, l. 23 to p. 728, l. 4. Exhibit B-1, p. 84. Exhibit B-6, BCOAPO 1.16.2.

family dwellings are a cause of fluctuations in the capture rate referred by the CEC.[80] Mr. Stout also discussed a number of factors affecting the capture rate over time.[81] However, even if one were to adopt a different forecast methodology using a forecast capture rate, adjusting the capture rate would only affect the customer additions forecast, which itself is a very small component of the demand forecast. While the CEC says that even small differences are relevant, an increase to the capture rate of even 5% as suggested by the CEC[82] would result in a negligible difference to the residential demand forecast.[83]

B. Commercial Customer Additions

28. The CEC suggests that the commercial customer additions forecast is too low.[84] Consistent with past practices, the customer additions forecast is developed through the consideration of recent regional and rate class trends in our actual historical data.[85] For the forecast period the FEU increased the forecast customer additions by 9 to 149 per year. The historical data related to the last recessionary period show a rebound, but that data also shows that the 2008/2009 recession had a very different effect on commercial customer additions, and the past few years have yet to show any rebound.[86] The FEU submit that the historical data does not support the CEC's theory that there will be a rebound in the test period and it is preferable to rely on the FEU's methodology consistent with past practice.

29. BCOAPO submits that "the Utilities are incented to provide an inappropriately low forecast of net additions."[87] The FEU have been applying the same forecast methodology for years, which relies on the CMHC and CBOC housing forecasts. As BCOAPO points out, some

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80 Bennett: T5, p. 728, l. 4 to p. 729, l. 6.

81 Stout: T5, p. 729, l. 22 to p. 733, l. 17.

82 CEC Final Submission, p. 22, para. 82.

83 For instance, increasing the net residential additions by 20 percent per year for 2011, 2012 and 2013 would result in a total of 5,374 additional customers by the end of 2013. The increase in revenue would be less than ½ a percent in 2013 and total revenue over the period would increase by 0.28 percent, as shown in Table 1. Exhibit B-8, CEC IR 1.6.2.

84 CEC Final Submission, page 22, para. 79 to 80.

85 Exhibit B-1, pp. 85 to 86. Exhibit B-8, CEC IR 1.7.2.

86 Exhibit B-8, CEC IR 1.7.2.

87 BCOAPO Final Submission, p. 13, para. 45.

adjustments are made to the CMHC and CBOC forecasts by FEU staff based on knowledge of local markets. These adjustments to the high-level CMHC and CBOC forecasts are small and appropriately based on staff's knowledge of current and planned activity in smaller regional markets.[88] The impact to the forecast from these adjustments would be minor.[89] The FEU have provided the historical variances from forecast, which demonstrate that there is no trend of under-forecasting.[90] For FEI for the years 2006 through 2011, actual customers were below the forecast for 5 out of those 6 years.[91]

30. BCOAPO suggests the expansion of the Revenue Stabilization Adjustment Mechanism (the "RSAM") to capture variances in customer additions as well.[92] The FEU see no reason for an expansion of the RSAM. The variances in customer additions are small relative to the variances the RSAM is designed to capture, and are offset by O&M and capital costs related to customer additions.[93] The Rate Stabilization Deferral Account (the "RSDA"), which BCOAPO cites in support of its proposal, is a temporary mechanism designed for the unique circumstances on Vancouver Island.

C. Use Per Customer

31. The CEC submits that the appropriate decline in UPC would be closer to 0.5 GJ/year or less. The CEC states that the "additions of MFD may use closer to 30 GJ/year."[94] The CEC appears to be referring to the average annual consumption of apartments, but do not account for the higher consumption levels of mobile homes, row/townhouses, and duplexes.[95] The CEC also argues that when housing starts are lower in total, the effect of multi-family dwellings in the mix will be less, and that it is therefore inappropriate to use data influenced by

[88] Exhibit B-6, BCOAPO 1.16.2.

[89] Exhibit B-6, BCOAPO IR 1.6.1, 1.19.2 and 1.19.3; Bennett: T5, p. 736, l. 2 to p. 737, l. 8.

[90] Exhibit B-1, Appendix C-3; Exhibit B-6, BCOAPO 1.16.1, 1.21.1, and 1.23.1; Exhibit B-9, BCUC IR 1.25.3 and 1.25.4.

[91] Exhibit B-1, Appendix C3-2.0 Forecast Mainland Live Spreadsheet

[92] BCOAPO Final Submission, p. 13, para. 46.

[93] FEU's Final Submission, para. 70.

[94] CEC Final Submission, para. 87.

[95] Exhibit B-9, BCUC IR 1.30.1.

the high construction periods between 2004 and 2008.[96] The CEC's argument assumes that the housing mix is constant year over year despite the number of houses built, which is incorrect.[97] Moreover, although the change of housing mix is believed to be one of the many factors that are causing UPC to decline, housing starts is not an input into the FEU's forecast of UPC. The FEU use the last four years of normalized UPC values for its forecast,[98] including 2007 to 2010.[99] These values include the effect of multi-family dwellings in the mix of additions. In summary, the FEU's forecast based on weather normalized consumption data has produced reliable results in the past and is preferable to the CEC's proposed use per customer rate.[100]

D. Growth Rates

32. The CEC submits that growth rates higher than forecast by the FEU will occur.[101] The CEC suggests that the FEU use "overly conservative assumptions" and have an "underforecasting bias".[102] The two key factors in the FEU's forecast are the UPC rate and customer additions. A review of the historical variances for the FEU's UPC and customer additions forecasts shows both positive and negative variances, with no clear indication of a bias in favour of either negative or positive variances.[103] Mainland UPC variances have ranged from -12 percent to +5 percent over the past four years and there have also been positive and negative variances in Mainland customer additions variances.[104] The CEC's prediction for higher growth rates appears to be based on its confidence in the economy rebounding. Economic performance is notoriously difficult to predict. The FEU submit that it is preferable to rely on its proven demand forecast methodology.

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96 CEC Final Submission, p. 22, para. 83 to p. 23.

97 Exhibit B-9, BCUC IR 1.30.1; Bennett: T5, p. 728, l. 11 to p. 729, l. 6.

98 Exhibit B-6, BCOAPO IR 1.20.1

99 Exhibit B-8, CEC IR 1.5.1. The forecast is validated with the long term trend, which is shown in Figure 4.3-2 of Exhibit B-1.

100 See the FEU's Final Submission, p. 32, para. 73 to p. 34, para. 80.

101 CEC Final Submission, p. 24 to 25, paras. 92 to 95.

102 CEC Final Submission, p. 24, para 92 and p. 25, para. 95.

103 Exhibit B-9, BCUC IR 1.25.3 and 1.25.4.

104 Exhibit B-9, BCUC IR 1.25.3.

33. The CEC states that "during periods of low to moderate growth in construction the FEU methodology will systemically produce under forecasting."[105] The FEU's methodology relies on a number of years of past values to avoid relying on years of particularly high or low growth in construction and the CMHC forecast of housing starts. The CEC's submission appears to assume that periods of low to moderate growth in construction will always be followed by periods of high growth, thus leading to underforecasting. The FEU submit that this is an oversimplification and not a reliable basis on which to forecast demand. The FEU submit again that it is preferable to rely on its proven methodology.

PART FOUR: COST OF SERVICE: CORE MARKET ADMINISTRATION EXPENSE ("CMAE") AND FEVI'S COST OF GAS

34. The CEC states that the FEU have not made a compelling argument for increased staffing for the CMAE functions and complain of a lack of a quantitative assessment.[106] The FEU submit that it has provided sufficient evidence for the proposed staffing increase of one, which is driven by the need to balance overall workloads in response to increased level of activities, employee development, and succession planning.[107] In addition, as petitioned by the CEC,[108] the FEU are currently investigating alternatives to manage future commodity price risk for customers, which has also contributed to increased level of activities of the gas supply team.[109] Further, as discussed by Ms. Des Brisay in her direct testimony,[110] the FEU gas supply team is providing support functions to the FortisBC Inc. power supply group. The CMAE budget is being credited for the costs of providing these services to FortisBC Inc. further reducing the cost impact on the additional staff member while also increasing the productivity of the combined gas and power supply teams. The additional staff that the FEU have identified is justified to ensure Gas Supply continues to be able to successfully meet its responsibilities.

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[105] CEC Final Submission, p. 24, para. 94.

[106] CEC Final Submission, p. 25, para. 96.

[107] Exhibit B-1, pp. 142-143; Exhibit B-9, BCUC IR 1.41.1; Des Brisay: T3, p. 408, l. 24 to p. 419, l. 23.

[108] CEC Final Submission, p. 25, para. 97.

[109] Des Brisay: T3, p. 361, l. 18 to p. 364, l. 4.

[110] Des Brisay: T2, p. 267, l. 16 to p. 268, l. 8.

PART FIVE: COST OF SERVICE: O&M EXPENSE, OTHER REVENUE AND RETURN ON EQUITY

35. This section will reply to submissions of intervenors with respect to O&M expense, other revenue and return on equity.

A. Labour and Inflation Cost Driver

36. The CEC suggests that there may be no evidence supporting the increase in O&M benefits expense shown in the updated Table 5.3-2 in Exhibit B-1-3.[111] The updated Table 5.3-2 reflects the FEU's July 19th Evidentiary Update.[112] The increase in benefits was a direct result of the approved adoption of US GAAP which resulted in increased pension O&M expense, more than offset by a decrease in pension amortization expense. This was discussed in the July 19th Evidentiary Update, which states: "As a result of the adoption of US GAAP for regulatory accounting and reporting purposes for the calculation of cost of service, revenue requirements, rate base, and the preparation of regulatory schedules, the FEU have revised the estimates of pension and OPEB expense, and pension and OPEB deferral accounts and related amortization as shown in Table 3.2-1 of the Application."[113] As the FEU's application to adopt US GAAP was before the Commission at the time of filing the Application, the potential changes to the Pension and OPEB expense upon the adoption of US GAAP were discussed in the Application (p. 43) and shown in Table 3.2-1 on page 44 of the Application.

B. Operations Department (Distribution & Transmission)

(a) Right of Way Signage

37. BCOAPO questions the timing of the FEU's plans to replace right-of-way signage to comply with ANSI standard Z535.1.[114] The FEU must comply with the standard in a timely manner.[115] Replacing the markers over a 5-year period at a cost of $120 thousand per year[116]

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[111] CEC Final Submission, page 26, paras. 101 to 103.
[112] Exhibit B-11.
[113] Exhibit B-11, p. 2.
[114] BCOAPO Final Submission, paras. 48 to 51.
[115] Exhibit B-9, BCUC IR 1.50.3; Exhibit B-17, BCUC IR 2.17.3.
[116] Exhibit B-9, BCUC IR 1.50.1.

is reasonable. Extending the time to beyond five years results in minimal cost savings and an unnecessary risk of non-compliance.

(b) Reconnection/Reactivation Fee

38. BCOAPO takes issue with the FEU's proposal to increase the reconnection/reactivation fee to $100 (regular hours) and $140 (after hours), which is set out in Appendix F-1 of the Application. The FEU's responses to the BCOAPO's submissions on the reconnection/reactivation fee are as follows:

(a) BCOAPO states: "the Utilities have forecast increases in both activities and costs as compared to 2010 to justify the reconnection charge increases" and says that the historical activity and actual costs indicate no trend of escalation.[117] However, the FEU are requesting an increase in the fees because the current fees do not adequately recover the disconnection and reconnection/reactivation costs,[118] not because of an escalation in activity levels or costs.[119] The FEU have relied on 2010 activity levels as they are the most indicative for the test year, given the higher gas costs, economic conditions and recession in preceding years.[120]

(b) BCOAPO appears to be basing its argument on incorrect cost assumptions. It states: "B-59 (Undertaking 31) suggests that the average unit cost of a reconnect, including the stranded lock-off is $88.60 for regular hours and $103.00 for after hours as opposed to the $100 and $140 as proposed."[121] The FEU are unable to determine how BCOAPO derived these figures. Using the figures in Exhibit B-59, the FEU derive a typical, residential regular hours cost for

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[117] BCOAPO Final Submission, p. 16, para. 57.

[118] Exhibit B-1, Appendix F-1, p. 2.

[119] Exhibit B-1, Appendix F-1. Also see Exhibit B-63, Undertaking No. 34 for further explanation.

[120] Exhibit B-59, Undertaking No. 31, p. 2; FEU Final Submission, p. 57, para. 132.

[121] BCOAPO Final Submission, p. 17, para. 58.

FEI of $94 and an after-hours cost of $116.[122] The FEU weighted average forecast cost for performing a lock-off service and an unlock and relight service during regular hours is $100 and during after-hours is $125.[123]

(c) BCOAPO suggests that the (after hours) fee should not recover the costs of all locks offs.[124] The FEU's $140 fee for after-hours service is designed to recover the average forecast cost and the cost of instances where only a lock-off is performed with no corresponding reconnect.[125] The FEU submit that it is equitable that customers engaging this service should pay for the costs of the service, rather than all customers. In addition, maintaining the $40 spread between the regular and after-hours fee encourages customers to request a relight during regular hours when more field resources are available and the cost of performing the service is less.[126] Closing this spread would lessen the existing incentive to call for service during regular hours and therefore potentially increase the number of after-hours calls and the overall cost of service.

39. Because the reconnection/reactivation fees are proposed to recover all of the costs of the lock off and reconnect services,[127] the revenues from the fees offset the costs of those services in the revenue requirements. If the Commission were to order that the fees be set lower than proposed in the Application, there would be a corresponding increased cost to the overall revenue requirements to be borne by all customers, which would result in slightly increased rates.

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[122] Exhibit B-59, Attachment 1, 2010 unit costs for cost centres 2735 and 2740.

[123] Exhibit B-1, Appendix F-1.

[124] BCOAPO Final Submission, p. 16, para. 56 and p. 17, para. 59.

[125] Exhibit B-62, Undertaking No. 34.

[126] Exhibit B-62, Undertaking No. 34.

[127] The forecast cost of performing a lock-off and relight service during regular hours and after hours was provided in Exhibit B-1, Appendix F-1. As presented there, the forecast cost of performing a lock-off, unlock and relight service during regular hours ranges from $86 to $128 with an FEU weighted average of $100. The forecast cost of performing a lock-off, unlock and relight service during after-hours ranges from $121 to $210 with an FEU weighted average of $125. (Exhibit B-62, Undertaking No. 34.)

C. Customer Service

(a) Customer Care Enhancement ("CCE") Project

40. The CEC comments on the CCE Project in a number of locations in its Final Submission.[128] The general thrust of the CEC submissions is that the Commission should set rates expecting significant productivity gains to be achieved in the test period. In particular, the CEC "submits that FEU have not, for the 2012 and 2013 period, done a sufficiently adequate job of planning to pursue the benefits and savings from the new CCE."[129] The FEU submit that all the evidence demonstrates that the CCE Project implementation has been a success:

(a) The CCE Project costs are expected to be within the approved +/- 10 percent band of 115.5 million.[130]

(b) The FEU will deliver on all of the functionality that was planned in the CCE CPCN Application.[131]

(c) The CCE-related O&M for 2012 and 2013 is forecast to be substantially lower than estimated in the CPCN (2012 is $717 thousand lower and 2013 is $1,532 thousand lower).[132]

(d) As discussed above, the FEU are forecasting a reduction in CCE-related O&M costs in 2013.

41. The FEU will be looking for further opportunities for benefits to customers as the FEU gain experience with this new initiative.[133] The deferral account mechanism proposed will

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[128] CEC Final Submission, p. 7, para. 19-20, p. 9, para. 27 to p. 10, para. 29 and p. 30.

[129] CEC Final Submission, p. 10, para. 29.

[130] Exhibit B-21. We note that the CEC state in para. 19 of its Final Submission that: "As of half way through the year the project was on track with about 90% of the funds expended." This is not accurate. CEC IR 1.3.1 shows the actual vs. budget "TO DATE" as at May 31, 2011. At that point the FEU's actual ($46,287) represented about 89% of the year-to-date budget ($52,128), as opposed to 90% of the total project cost of $115.5 million. The CEC also state in paragraph 19 of its Final Submission that there are "no risks of under spending the budget." In Exhibit B-8, CEC IR 1.3.3, the FEU actually stated that "[t]here are currently no identified risks for any material under spending".

[131] Exhibit B-8, CEC IR 1.3.4. Loski: T6, p. 1040, l. 25 to p. 1041, l. 24.

[132] Exhibit B-1, page 203, Table 5.3-32.

allow any savings resulting from such opportunities to flow to customers.[134] However, the project was just implemented in January 2012 and there is no basis on which to impose a further increase in productivity than what is already reflected in the revenue requirements.

42. BCOAPO makes two incorrect statements about the CCE Project that merit correction:

(a) BCOAPO states that 'while the Customer Care Enhancement Project ("CCEP") is expected to come in "at budget" of $115.5M, this figure represents 110% of the estimated cost from the CPCN…".[135] The $115.5 million amount is in fact the budget amount (i.e. 100% of the estimated cost from the CPCN).[136]

(b) BCOAPO states that "the embedded 10.0M contingency has been spent…"[137] This is not quite an accurate reflection of the evidence. Instead, Mr. Loski stated: "At this point we anticipate that we will be spending all of the $10 million contingency."[138]

43. As indicated in its Final Submission and Draft Order, upon receipt of the Commission's decision in the RRA, the FEU propose to file updated financial schedules with the 2012 opening balances of FEU's net plant-in-service and rate base deferral accounts. This will include updating the 2012 opening balance of the CCE Project; the FEU propose that this be extended to include an update to the projected 2012 final spending for the CCE Project. This treatment will ensure that customers will see the benefit of any lower CCE Project costs for the test period.

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[133] Exhibit B-8, CEC IR 1.3.4.

[134] See the FEU's Final Submission, pp. 63 to 64.

[135] BCOAPO Final Submission, p. 26, para. 98.

[136] See Exhibit B-8, CEC IR 1.3.2, which discusses the BCUC Order and CPCN condition regarding the budget amount and the cost sharing mechanism.

[137] BCOAPO Final Submission, p. 26, para. 98.

[138] Loski: T6, p. 1030, lines 13-14.

D. Energy Solutions and External Relations (ES&ER)

(a) Long-Term Resource Plan

44. The CEC states that some of the ES&ER costs related to the Long-term Resource Plan may be retained in a deferral account and deferred to match the future throughput benefits.[139] The FEU submit that a deferral account for Long-term Resource Plan-related ES&ER costs is unnecessary. The Long-term Resource Plan is expected to be an ongoing and iterative process, with related O&M expenses incurred every year similar to other O&M activities.

(b) Community Investment

45. The only intervenor to take issue with FEU's community investment O&M costs was BCOAPO. BCOAPO submits that the shareholder should bear a portion of community involvement costs or at "the very least, the Utilities should not profit off of these community donations, leaving little incentive to control these costs."[140] The shareholder does not earn a return on equity on community investment O&M. The FEU also disagree with the BCOAPO's assessment regarding who benefits from community investment. The FEU have addressed this issue in its Final Submission, paragraphs 165 to 173.

E. Capitalized Overhead

46. The CEC suggests that "the capitalization of costs in overhead will likely be insufficient and should be an issue the Commission considers for amendment"[141] and that "a 15% capitalization of overhead costs would not be inappropriate."[142] The FEU are not opposed to a 15% capitalization rate, but the proposed 14% rate is likely higher than what a current study would support.[143]

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[139] CEC Final Submission, p. 32, para. 127.

[140] BCOAPO Final Submission, p. 32, para. 122.

[141] CEC Final Submission, p. 28, para. 110.

[142] CEC Final Submission, p. 34, para. 143.

[143] FEU Final Submission, p. 81, para. 194. Roy: T5, p. 693, l. 5 to p. 696, l. 6.

F. Other Revenue

47. The CEC submits that the Commission should establish a deferral account to pick up variances from forecast on revenues from LNG and CNG services.[144] The FEU have proposed to expand the CNG and LNG recoveries deferral account for this purpose.[145]

G. Return on Equity

48. The CEC suggests that "the Commission in this hearing leave open the possibility of integrating the decision from the ROE review."[146] The FEU accept that (as per normal practice) changes in cost of capital will be reflected in rates, but the rates in this proceeding should be made permanent at this time. The generic ROE proceeding contemplated by the Commission has not yet begun.[147]

49. The BCOAPO, in the context of discussing capital expenditures, draw a parallel to the underspending on EEC over 2010-2011 and the FEU's proposed financial treatment for EEC expenditures for 2012-2013.[148] BCOAPO argues that the Commission should "consider the establishment of a deferral or variance account to capture any excess of equity return included in rates over the equity return on actual investments made."[149] The underspending on EEC expenditures is due to a number of factors unique to EEC (in particular, the newness of the expanded EEC portfolio) and is not representative of the FEU's overall capital program. EEC expenditures are also less within the control of the FEU as they depend on the extent that customers take up FEU's EEC incentives. FEU's financial treatment of EEC expenditures has been designed to address these circumstances.[150] The FEU submit that the established regulatory treatment for capital expenditures remains appropriate.

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[144] CEC Final Submission, p. 38, para. 167.

[145] See the FEU's Final Submission, p. 156, "CNG and LNG Recoveries."

[146] CEC Final Submission, p. 39, para. 170.

[147] Commission's Preliminary Notification of Initiation of Generic Cost of Capital Proceeding dated November 28, 2011.

[148] BCOAPO Final Submission, p. 26, para. 100 to p. 28, para. 104.

[149] BCOAPO Submission, p. 28 para. 106.

[150] FEU Final Submission, pp. 196 to 200.

50. In footnote 75, BCOAPO states: "In the event that the Commission declines this deferral/variance account proposal, BCOAPO suggest that a reduction to the proposed capital expenditures included in rate base for the two-year term of approval be made such that the approved rates for the two-year period are adjusted so as to fully compensate ratepayers for the prior period equity returns on phantom investments paid by ratepayers."[151] The FEU submit that what the BCOAPO have suggested would be unlawful retroactive ratemaking. The jurisdiction of the Commission is to set prospective rates, which involves matching future costs to future rates.[152] The transfer of funds from past periods to a future period to offset cost increases in that future period is retroactive ratemaking.

PART SIX: COST OF SERVICE: DEPRECIATION AND AMORTIZATION

51. In this section, the FEU respond to intervenor submissions on depreciation and amortization expense.

A. Developing Depreciation and Negative Salvage Rates

(a) Variances from Forecast Depreciation Rates During the Test Period

52. The CEC states that they are "concerned with the record of forecast depreciation and the subsequent actual recorded" and "a potential for over forecasting to occur to the detriment of customers."[153] The CEC suggests the establishment of a deferral account to capture variances in forecast depreciation with, it appears, a 40 year amortization rate.[154] Somewhat similarly, the BCOAPO suggests that a deferral account should be considered

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[151] BCOAPO Final Submission, p. 28.

[152] As said by Estey, J. (for the Court) when referring to Alberta legislation in *Northwestern Utilities Ltd. v. The City of Edmonton [*1979] 1 S.C.R. 684 at 691:

> "The statutory pattern is founded upon the concept of the establishment of rates in futuro for the recovery of the total forecast revenue requirement as determined by the Board. The establishment of the rates is thus a matching process whereby forecast revenues under the proposed rates will match the total revenue requirement of the utility. It is clear from many provisions of the Gas Utilities Act that the Board must act prospectively and may not award rates which will recover expenses incurred in the past and not recovered under rates established for past periods. There are many provisions in the Act which make this clear …".

Available online at: http://scc.lexum.org/en/1978/1979scr1-684/1979scr1-684.html.

[153] CEC Final Submission, p. 35, para. 148.

[154] CEC Final Submission, p. 35, para. 149 and 151.

whenever there is a significant period of time between successive cost-of-service reviews.[155] The CEC and BCOAPO's concerns are misplaced and the FEU see no need for a deferral account to capture these variances. Variances from forecast on depreciation may be positive or negative in any year, and since rate base is trued up at the beginning of each test period, the impact is short term. Since the FEU have been out of PBR (during which forecast depreciation was set by formula capital), the depreciation expense variance including contributions in aid of construction ("CIAC") has been minor.[156] Further, accounting depreciation is just one component of the impact of changes in capital expenditure amounts and timing. Thus, if accounting depreciation is to be deferred, then variances in capital cost allowance or tax depreciation would also need to be deferred to ensure that these costs are treated appropriately.

53. Forecast depreciation is a product of depreciation rates, the opening account balance of plant-in-service and the timing of capital. Variances from forecast largely result from the timing and amount of inter-year capital. If the Commission considers that a mechanism to defray the forecast risk on depreciation costs is appropriate, the FEU would prefer to calculate depreciation expense on the opening plant-in-service balance (i.e. start depreciating the following year) rather than using a deferral mechanism. This approach would more appropriately focus on minimizing the variances from forecast that result from the timing and amount of inter-year capital additions and retirements.[157] The FEU have explained this approach in Exhibit B-17, BCUC IR 2.44.6.

54. The CEC states that they are "very concerned with the PBR record of over forecasting in rates."[158] The CEC goes on to state that it understands this was part of an agreed formula, "but finds the situation contrary to the fairness concept of performance based regulation" and urge the Commission "to take a dim view of this past record and take it into

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[155] BCOAPO Final Submission, p. 19, para. 68.

[156] Exhibit B-21, Mainland Financial Schedules, Schedule 4 (for 2011) and Exhibit B-1, Application Appendix D-5 (for 2010).

[157] Exhibit B-17, BCUC IR 2.44.6.

[158] CEC Final Submission, p. 35, para. 150.

account in establishing expectations for future productivity improvements."[159] BCOAPO also submits that there is a concern with the depreciation variances for the years 2007, 2008 and 2009 attributable to the mechanism for setting capital expenditures under the PBR scheme.[160] The FEU does not agree with this view of the PBR period:

(a) The lower depreciation expense compared to forecast was primarily the result of approved capital expenditures being calculated on a formula basis, resulting in lower capital spending than approved, and consequently a growing trend of lower depreciation expense than approved.[161] These variances were caused by the use of the formulas as part of the PBR and are not reflective of any flawed forecasting practices.

(b) Any variances from the formula-based deprecation were shared equally with customers in accordance with the PBR mechanism. By its nature the PBR was intended to produce cost savings arising from the actual costs being lower than the forecast. Anything other than that would be contrary to the PBR's intended purpose.

(c) The rates derived from the PBR mechanisms were the only lawful rates that the FEU were permitted to charge during the period. Those rates were approved based on a Commission determination that they were just and reasonable.[162] There is no "fairness concept of performance based regulation" that would trump the just and reasonable standard and permit the Commission to now take a "dim view" of the practices it had previously approved.

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159 CEC Final Submission, p. 36, para. 150.

160 BCOAPO Final Submission, p. 18, para. 65.

161 Exhibit B-17, BCUC IR 2.44.7.1.

162 BCUC Order No. G-51-03, dated July 29, 2003, approving the 2004-2007 Multi-Year Performance-Based Rate Plan, available online at:
http://www.bcuc.com/Documents/Orders/2003_Orders/Orders2003_2/G4/G51_TGI.pdf;
BCUC Order No. G-33-07, dated March 22, 2007, approving a Two-Year Extension of the 2004-2007 Multi-Year Performance-Based Rate Plan for 2008-2009, available online at:
http://www.bcuc.com/Documents/Orders/2007/DOC_14683_G-33-07_TGI%2004-07PBR%20Ext-08-09.pdf.

(d) The operation of the PBR mechanism cannot be the basis of imposing a "productivity improvement" factor in setting rates today.[163] Rates for this test period must be determined based on the costs to provide safe and reliable service to customers over the test period.

(b) Annual Reporting

55. BCOAPO states that it "supports annual reporting with the degree of specificity as enumerated per parts a) to f) in the BCUC Staff IR 1.138.1."[164] However, as noted in the response to BCUC IR 1.138.1, this level of reporting is not possible: "this group accounting practice does not allow the utilities to keep records and report at the individual asset level for accumulated depreciation or negative salvage (removal cost) estimates. As a result, reporting retirements at the asset level and any associated gain or loss cannot be done as it is contrary to the group system of accounting in place."[165]

B. Merits of Proposed Methodology for Recovering Net Negative Salvage

56. The CEC submits that it would be appropriate to take a "phase in approach" to ameliorate rate impacts of the recovery of net negative salvage.[166] The FEU submit that the issues in this proceeding related to depreciation and net negative salvage have largely arisen due to a history of deferring these legitimate costs of service items in order to realize a short-term reduction in rates. The FEU submit that it is appropriate in the circumstances of the FEU to implement the proposed negative salvage rates.

C. "Asset Losses"/Unrecovered Depreciation from Prior to 2010

57. The CEC submits that it would be appropriate to take a period longer than 20 years to recover the unrecovered depreciation from prior to 2010 in order to ameliorate rate impacts.[167] The FEU are not requesting that unrecovered depreciation from prior to 2010 be

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[163] CEC Final Submission, p. 36, para. 150.
[164] BCOAPO Final Submission, p. 18, para. 66.
[165] Exhibit B-9, BCUC IR 1.138.1.
[166] CEC Final Submission, p. 37, para. 155.
[167] CEC Final Submission, p. 37, para. 162 and p. 38, para. 163.

recovered over 20 years. The FEU have proposed to keep the unrecovered depreciation from prior to 2010 in accumulated depreciation, to be recovered over the remaining service lives of the relevant asset classes. This is consistent with the group depreciation methodology.

58. BCOAPO discusses the illustrative graph produced by Gannett Fleming[168] and states that "the Utilities will forever be realizing asset retirement losses and never get to the point – for the group as a whole – of experiencing retirement gains…"[169] BCOAPO submits "that the proposed treatment will, for most asset groups, be a timing issue that always acts to the detriment of ratepayers by effectively precluding the realization of retirement gains for any ongoing asset group as a whole."[170] The FEU submit that the group accounting methodology that results in the recovery of unrecovered depreciation over the remaining service lives of the related assets is not to "the detriment of ratepayers" as BCOAPO suggests. Aside from minor variances from forecast over a test period, ratepayers pay no more and no less than the cost of the assets used to provide utility service. Any build-up of unrecovered depreciation is added to the pool of costs to be recovered, taken into account when depreciation rates are reset, and recovered in the ordinary course over time. Thus, the recovery of unrecovered losses is simply deferred to future years. It is a timing issue, not a recovery issue.

59. BCOAPO is correct that for any ongoing asset class, there will regularly be new additions. Whether there are gains or losses for that class will depend on a number of factors, including the age of the assets in that class and the rate at which new assets are added. If assets are added at an amount greater than historical amounts, then as a whole the asset group will have losses. In this case, however, there would still be gains occurring on individual assets within the group that result in the overall losses for that group being smaller than they otherwise would have been. If assets are added at an amount lower than historical amounts, e.g., if the bulk of assets in a class were installed within a certain period of time when there was

[168] BCOAPO Final Submission, p. 22, para. 79 to p. 23, para. 85.
[169] BCOAPO Final Submission, p. 23, para. 86.
[170] BCOAPO Final Submission, p. 24, para. 90.

a build out of the system, then the gains from the older assets would result in an overall gain in that class.

60. It is important to note that such "gains" do not represent a bonus or particular benefit to ratepayers, just as a "loss" does not represent a detriment to ratepayers. Similar to "losses", any "gains" would be used to reduce the amount of depreciation expense to be recovered and would be taken into account the next time depreciation rates are set. The goal of the depreciation rates is to recover the costs of depreciation of the group as a whole over time, making regular adjustments to account for gains and losses as they occur. Whether or not a group as a whole ever shows gains does not change the facts that (a) accumulated depreciation represents the originally installed cost of the assets that has not yet been recovered from ratepayers, and (b) that the utility is allowed to recover its return of capital from customers.

PART SEVEN: COST ALLOCATION TO THERMAL ENERGY SERVICES

61. This part will address intervenor submissions related to the TES cost allocation and the TES class of service generally.

A. Transparency of Thermal Energy Services and other New Initiatives

62. Corix states that FEU's "attempts to minimize the implications of the TES offering should be seen for what they are – an attempt to divert attention away from the transformation of the FEI business model."[171] Similarly, Corix states that "FEI has been quietly transforming itself in bits and pieces through various applications and Negotiated Settlement Packages ("NSPs")". The FEU are regulated utilities focused predominately on natural gas distribution services. The FEU's pursuit of new service offerings has proceeded in a very transparent manner, i.e. through in-depth public regulatory processes including the 2010 Long-

[171] Corix Final Submission, p. 1, para. 3.

term Resource Plan[172] and 2010-2011 RRA Application.[173] It is self-evident that Corix has long been aware of the FEU's new initiatives.[174] The FEU have addressed head on, rather than "minimized", the TES-related issues that are relevant to the determination of the natural gas revenue requirement. The TES allocation is one of those issues, and it is factually accurate to state for instance that the allocation has limited impact on natural gas rates. The FEU submit that it is entirely appropriate to seek to limit this proceeding to what is relevant to the orders sought in this Application, and avoid excessive overlap with the established scope of the AES Inquiry and project-specific applications.

B. Procedural Issues

63. This subsection will address a number of procedural issues, including the relationship of this proceeding to the AES Inquiry, the adequacy of information requests and unsupported statements.

(a) Relationship of this Proceeding to the AES Inquiry

64. ESAC states that: "It appears the Commission's decisions with respect to both the RRA and FEU's latest CPCN application related to the DSD project may be issued in advance of the completion of the AES Inquiry which creates a serious concern that the Commission's ability to then deal objectively with the principles at issue in the AES Inquiry may be fettered."[175] The Commission has considered the relationship between the AES Inquiry and other proceedings in its scoping order for the AES Inquiry. The Order states:

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[172] BCUC, In the Matter of Terasen Utilities (Terasen Gas Inc., Terasen Gas (Whistler) Inc. and Terasen Gas (Vancouver Island) Inc.), 2010 Long Term Resource Plan, Decision (February 2, 2011), online at: http://www.bcuc.com/Documents/Decisions/2011/DOC_26891_TUS-2010-LTRP-WEB.pdf.

[173] As stated in recital B of BCUC Order No. G-141-09, dated November 26, 2009: "Terasen Gas sought other approvals in the Application, including Orders pursuant to sections 59 to 61 of the Act, approving Tariff changes effective January 1, 2010 for Compression and Refueling and Transportation Services for Natural Gas Vehicles and economic models for evaluating biogas projects and alternative energy extensions for geo-exchange, solar thermal and district energy systems to complement its core natural gas business." Online at: http://www.bcuc.com/Documents/Orders/2009/DOC_23734_G-141-09_TGI%202010-2011RR-NSP-Settlement-Agrmnt.pdf.

[174] For example, Corix is able to cite what it calls FEI's "cohesive vision" from the FEU's 2010 Long-term Resource Plan, which is not on the record but is publicly available on the Commission's and the FEU's websites.

[175] ESAC Final Argument, p. 3.

> With respect to ongoing processes that may have some degree of overlap with the issues being considered by this proceeding, the Panel believes that such processes will be decided on the basis of the evidence put before them. While it may be beneficial to have the outcome of this proceeding known before similar issues are dealt with in other ongoing proceedings, it would be inefficient and potentially unfair for such proceedings to be delayed. The Panel sees the outcome of this proceeding as being applied in a forward looking manner and not impinging on past or current ongoing proceedings.[176]

The FEU submit that the Commission is dealing with each proceeding on the record before it in a rational and fair manner. The FEU submit that if ESAC believes that the Commission in the AES Inquiry will fetter its discretion based on the determination in the Revenue Requirements proceeding or the DSD Application, then that is an issue that ESAC must raise in the AES Inquiry, not here.

(b) Scope of Relevant Issues

65. ESAC suggests that the FEU are using multiple proceedings, including the AES Inquiry and the CPCN proceeding related to FEI's Delta School District Project (the "DSD Project"), to confound their attempts to have their issues addressed.[177] The FEU submit that they have been consistent in terms of what issues should be pursued in which proceeding and that their position has been consistent with the Commission's Orders in those proceedings. The FEU submit that it is appropriate to seek to limit each proceeding to what is relevant in each case.

66. ESAC complains that the "FEU repeatedly avoided responding to ESAC's information requests in this RRA proceeding on the basis of its claim that it was not the appropriate forum."[178] ESAC filed one set of information requests in this proceeding[179] and the FEU declined to respond only to those information requests that had no bearing on the determination of natural gas rates. For instance, ESAC asked information requests about cost estimate information for TES projects and requested samples of sales and marketing

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[176] BCUC Order G-118-11 dated July 8, 2011, Appendix A, p. 5 of 8.

[177] ESAC Final Argument, p. 3.

[178] ESAC Final Argument, p. 3.

[179] Exhibit C5-2.

information for TES projects.[180] In other cases, ESAC asked information requests that were not only irrelevant to the present proceeding, but were related to issues squarely before the Commission in the AES Inquiry. For example, ESAC asked about whether installation of certain boiler replacements was a regulated or unregulated activity.[181]

(c) Unsupported Statements

67. Corix purports to provide background information on the TES class of service, but provide no evidentiary support or in some cases cites evidence from the AES Inquiry.[182] The fact that Corix has had to go beyond the evidentiary record in this proceeding to tell its story underscores the fact that Corix (like ESAC) is raising issues that go well beyond what is required to determine natural gas rates. The FEU respectfully submit that the Commission should disregard these and other unsupported statements.

C. Out of Scope Thermal Energy Services Issues

68. Intervenors made submissions on a number of issues related to TES that are not relevant to this proceeding, and have been squarely raised in the AES Inquiry or DSD CPCN proceeding. Those issues include:

(i) The nature of the TES offering as a class of service;[183]

(ii) The proper rate structures for TES;[184]

(iii) The recovery of the TES Deferral Account;[185]

(iv) The rate for the DSD Project; [186]

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[180] Exhibit B-16, ESAC IR 2.1.2 and 2.1.4.

[181] Exhibit B-16, ESAC IR 2.5.4.

[182] Corix Final Submission, p. 4. For example, Corix states that: "Undertaking the TES business separately from the natural gas distribution utility company was a consequence of the Commission's earlier decision on the *Retail Markets Downstream of the Meter Guidelines* decision in 1997."

[183] Corix Final Written Submission, p. 6.

[184] ESAC Final Submission, p. 3.

[185] Corix, Final Written Submission, pp. 12-13.

[186] Corix, Final Submission, p. 12, paragraph 38.

(v) Application of the RMDM Guidelines;[187] and

(vi) The implications of the 2010-2011 NSA as it relates to TES.[188]

The FEU disagree with the positions being taken by these interveners. The FEU respectfully submit that the Commission should not make determinations that are irrelevant to the orders sought in this proceeding based on evidence not on the record in this proceeding. As ESAC has submitted in the AES Inquiry: "To some extent, the principal participants in this Inquiry took advantage of the opportunity to participate in the RRA oral hearing to pursue questions directly relevant in this Inquiry."[189] The Commission has accorded intervenors the opportunity to file evidence and/or make similar arguments in the AES Inquiry and the DSD Project CPCN proceeding. The FEU are prepared to address those issues in those proceedings based on evidence.

D. Thermal Energy Services Cost Allocation

(a) $500,000 Annual Allocation of Overhead

69. Corix states that the Commission should "disallow from the natural gas distribution rates any portion of TES-related costs that do not benefit the natural gas distribution ratepayers in similar proportion to the cost (the onus of proof being on the FEU)."[190] The FEU submit that the purpose of the cost-allocation exercise between the natural gas and TES classes of service is to attribute to each class of service its cost of service. The FEU have put forward evidence supporting the amount of the cost-allocation to the TES class of service.[191]

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[187] ESAC Final Submission, p. 9.

[188] BCOAPO Final Submission, p. 33, para. 124.

[189] ESAC's Submission on Format of Proceeding, dated January 23, 2012, p.4.

[190] Corix Final Argument, p. 4.

[191] Exhibit B-1, Appendix G, pp. 4-5; Exhibit B-9, BCUC IR 1.78.1 and Attachment 78.1. Exhibit B-15, Corix IR 2.3.1. Thomson: T3, p. 399, ll. 11 to 21; Dall'Antonia: T3, p. 387, l. 13 to p. 388, l. 12; T5, p. 678, l. 12 to p. 687, l. 22; and T6: 868: ll.4-11.

70. Intervenors suggest that the FEU's proposed $500 thousand cost-allocation is unreasonable based on a number of considerations. These are addressed below:

(a) BCOAPO states that $500 thousand allocation to Thermal Energy Solutions "seems modest compared to the $250 million in potential projects to be developed by TES".[192] Similarly, Corix states that the FEU's allocations "would be incapable of supporting a TES business worth over $250,000 million [SIC[193]]. Even before the TES business reaches that size, the cost and effort of developing it could not be supported by these allocations".[194] The FEU submit that there is no evidence and no logical basis on which to derive the cost-allocation from the $250 million figure. The $500 thousand is an annual cost allocation proposed over the two-year test period. The $250 million is an estimate of the potential investment in TES which could take years to realize.[195] The FEU submit that there is no relationship between the size of the cost-allocation in the test period and the long-term development potential of the Thermal Energy Service class of service. Further, Corix cites no evidence to support its estimation of what it would take to support the TES business. Corix also does not account for the 12 full-time employees ("FTEs") that are directly assigned to TES or the additional cross charges for other time spent.[196] The FEU submit that it has set out the appropriate cost-allocation representing the overhead costs required to support the TES business and the evidence supports the proposed allocation.

(b) ESAC states that $500,000 is a "modest fee in order that FEU's TES business unit has access to FEU's natural gas utility infrastructure that was created and exists to support 900,000 plus natural gas ratepayers."[197] The FEU submit that neither

[192] BCOAPO Final Submission, p. 24, para. 92.
[193] The correct amount is $250 million. Exhibit B-1, Appendix G, p. 2.
[194] Corix Final Argument, p. 8.
[195] Stout: T5, p. 779, l. 26 to p. 781, p. 2. Exhibit B-1, Appendix G, p. 2.
[196] See FEU Final Submission, pp. 124 to 126.
[197] ESAC Final Argument, p. 7.

the size of the natural gas utility infrastructure nor the number of natural gas ratepayers is relevant to a cost allocation to the TES group that currently has no infrastructure and no customers. [198]

(c) ESAC also states that "Relative to the annual natural gas utility gross margin of $723.7 million, the TES business unit's contribution of $500,000 is only a 0.07% reduction in the natural gas ratepayers annual cost of service."[199] The evidence supports the fact that the TES business is only a very small component of FEI's business and uses overhead commensurate with the amount allocated. ESAC does not articulate any correlation or substantiate why a more significant reduction in cost of service should be expected given the state of development of the FEU's Thermal Energy Service projects.

71. Corix states that "the FEU have rejected the use of a quantitative methodology to estimate the TES business use of the natural gas utility's overhead".[200] Cost allocations based on quantitative methodologies are used for allocations amongst the FEU.[201] However, the typical quantitative methodologies are not readily applicable in this case because the TES class of service currently has no customers, revenues or assets.[202] These quantitative methodologies would also produce a lower cost allocation than the $500,000 proposed by the FEU.[203] The FEU therefore submit that its allocation methodology is appropriate given the nascent stage of the TES class of service. As the TES class of service grows, the FEU will consider other methodologies for determining the appropriate cost allocation.[204]

72. Corix and ESAC discuss a number of costs that they claim are not captured by the FEU's $500 thousand cost allocation. These arguments, addressed below, are without merit.

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[198] FEI filed a CPCN Application on November 28, 2011 for Approval of Contracts and Rate for Public Utility Service to Provide Thermal Energy Service to Delta School District Number 37.

[199] ESAC Final Argument, p. 7.

[200] Corix Final Submission, p. 8.

[201] Exhibit B-1, pp. 267 to 278. Exhibit B-15, Corix IR 2.3.1.

[202] Exhibit B-15, Corix IR 2.3.1. Dall'Antonia: T5, p. 679, ll. 17 to 26.

[203] Exhibit B-15, Corix IR 2.3.1. Thomson: T3, p. 399, ll. 11 to 21. Dall'Antonia: T5, p. 703, l. 10 to p. 705, l. 1.

[204] Thomson: T3, Dall'Antonia: T5, p. 691, ll. 18 to 25.

(a) The long-term resource plan:[205] As Mr. Stout explained, the long-term resource plan would likely lean on the in-house expertise of TES employees, rather than the other way around.[206] As required under section 44.1 of the *Utilities Commission Act*, the long-term resource plan looks at the estimate of the demand for energy the utility expects to serve, the utility's plan for demand-side measures and facilities to meet that demand, and the utility's plans to purchase energy from other persons to serve demand. The long-term resource plan is filed publicly and other service providers can freely access and benefit from it. For a new line of business with no customers to date, charging costs to the Thermal Energy Service class of service for such long-term resource planning is premature.

(b) Sales and marketing information:[207] The FEU cross-charge to TES for time spent obtaining and sharing sales and marketing information relevant to TES.[208] The FEU maintain, however, that they should not have to charge the TES class of services an extra amount for the information. Such information is obtained in the ordinary course of business and at no extra cost to the FEU.

(c) Financing capability:[209] The FEU have stated that providing financing for TES projects is expected to have no impact on the natural gas revenue requirements.[210]

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[205] Corix Final Written Submission, pp. 10-11.

[206] Stout: T5, p. 821, l. 25 to p. 822, l. 4.

[207] Corix Final Written Submission, pp. 10-11.

[208] Stout: T5, p. 828, l. 26 to p. 829, l. 7.

[209] Corix Final Written Submission, pp. 10-11. ESAC cites as evidence the FEU's CPCN Application for the Delta Schools District Project that there will be costs to the natural gas ratepayers due to the use of FEI's debt facility. The FEU's CPCN Application for the Delta School District Project is not on the record in this proceeding. In any event, the evidence in the Delta CPCN proceeding is consistent with the evidence filed in the RRA, i.e. that there is no reason to anticipate any impact on the natural gas revenue requirements associated with providing financing for Thermal Energy Services projects.

[210] Exhibit B-15, Corix IR 2.2.6 to 2.2.10.2.

(d) Historical Consumption Information: Corix states that the "FEU admit in an Energy Services Association of Canada ("ESAC") information request response that energy specialists evaluating potential TES projects with a feasibility assessment may well take into account historical consumption."[211] As stated in that IR response, historical natural gas has limited value when developing thermal energy systems and is not used by FEI to market thermal energy systems.[212] While the data may be used in feasibility analysis, the FEU will provide such historical consumption data upon request of the customer or the customers can provide it to the service provider.[213] The FEU note that the specialists referred to in the response ESAC IR 2.3.1 are third-party consultant experts and not FEU-funded Energy Specialists.[214]

(e) Advertisements: Corix refers to the advertisements sponsored by the FEU at the annual meeting of the Union of B.C. Municipalities and questions the 15% cost allocation the FEU made to the TES.[215] The FEU's 15% cost allocation is appropriate.[216] B.C. municipalities are important natural gas customers for the FEU[217] and the FEU have been attending such meetings for many years,[218] and would therefore continue to attend even if it were not pursuing TES. The reference to "integrated" energy solutions is reference to all of the energy solutions offered by the FEU.[219]

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211 Corix Final Argument, p. 11, para. 31.

212 Exhibit B-16, ESAC IR 2.3.1.

213 Exhibit B-16, ESAC IR 2.3.1.

214 The FEU consistently refer to Energy Specialists as "Energy Specialists". E.g., Exhibit B-67, BCUC IR 3.19.2 to 3.19.7.1 and 3.20.1. As stated in the response to Exhibit B-15, Corix IR 3.3.3, evaluating potential TES projects is not part of the Energy Specialists' scope of work.

215 Corix Final Written Submission, p. 11.

216 Stout: T6, p. 927, ll. 3 to 16.

217 Exhibit B-1, Appendix B-4 provides a list of the municipalities served by the FEU.

218 Stout: T6, p. 926, ll. 5 to 16. Exhibit B-17, BCUC IR 2.26.1.

219 Stout: T6, p. 930, ll. 2 to 10.

(f) Brand: Corix states that FEU's natural gas "brand" provides value to the TES business that is not captured.[220] In a cost-of-service regime, customers do not pay for the use of the utility's brand. The FEU are not, for instance, forecasting any costs in the test period for use of the brand. As there are no costs of service attributable to the use of the brand, there are therefore no costs to be allocated to the TES class of service.

(g) ES&ER Department: ESAC refers to the structure of the FEU's ES&ER department and states: "It is difficult to imagine that the TES group is not advantaged by this structure whether by enjoying preferential access to information or to other valuable resources not equally available to third party TES industry participants."[221] ESAC does not cite any evidence, indicate what information or resources are at issue, define in any detail what particular advantage the TES class of service might gain, or justify an entitlement of "third party TES industry participants" to the information. In short, ESAC has not identified a compelling basis to alter the allocation.

(h) Other Departments: ESAC states that: "In addition, there are many other departments that support the development of this business unit such as executive leadership, regulatory affairs, legal, customer billing, human resources, information technology and so on."[222] The $500 thousand allocation reflects the limited support from these departments to TES and is appropriate over the two-year test period.[223]

73. ESAC requests that "[t]he Commission should take steps to require FEU to ensure that all its revenues, expenses and assets are clearly identified immediately so that they

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[220] Corix Final Written Submission, p. 10, para. 28 and 29.

[221] ESAC Final Argument, p. 7.

[222] ESAC Final Argument, p. 7.

[223] Exhibit B-1, Appendix G, pp. 4-5; Exhibit B-9, BCUC IR 1.78.1 and Attachment 78.1. Exhibit B-15, Corix IR 2.3.1. Thomson: T3, p. 399, ll. 11 to 21; Dall'Antonia: T3, p. 387, l. 13 to p. 388, l. 12; T5, p. 678, l. 12 to p. 687, l. 22; and T6: 868: ll. 4-11.

can be able to separate all activities should the results of the AES Inquiry require this to happen."[224] The FEU submit that there is no need for any such steps as all the necessary accounting is already accomplished under existing mechanisms.

74. ESAC requests that the Commission "ensure that adequate measures are undertaken to ensure that there is no cross-subsidization between the natural gas ratepayer and the AES business."[225] The FEU believe that they undertook the appropriate allocation methodology and that no party has put forward evidence to support a cost-allocation that is significantly different than what the FEU has proposed. The real issue appears to be transparency. The evidence supports both the reasonableness of the methodology and the amount of the allocation. Nevertheless, if the Commission is concerned with FEU's cost-allocation, then the FEU are willing to track actual costs with all variances from the $500 thousand cost allocation to be returned or collected from customers at the beginning of the next test period through a deferral account.

(b) Other Cross-Charges for Marketing and Time Spent

75. Corix submits that the FEU's approach to cross-charging "means that the natural gas utility business will absorb any unrecorded TES work and all the non-productive or otherwise inefficient time related to the natural gas business employee."[226] The FEU has systems in place to ensure that time will be recorded so that there will be no "unrecorded TES work".[227] Further, the FEU employees are likely to be adding this TES-related work to an already full work day, working longer hours than required.[228]

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[224] ESAC Final Submission, p. 9.

[225] ESAC Final Submission, p. 9. Corix similarly submits that "Any unidentified and under-collected costs represent a cross-subsidy in favour of the TES business and at the expense of the captive natural gas distribution customer." (Corix, Final Written Submission, p. 9, para. 23.).

[226] Corix, Final Submission, p. 9.

[227] See FEU Final Submission, paras. 310-311.

[228] Stout: T6, p. 877, ll. 10 to 16.

76. Corix submits that there is "no certainty that the costs attributed to the TES business are either consistent or accurate."[229] Timesheet completion is a regular part of employees' duties and employees are trained and advised on how to complete timesheets and code expenses appropriately to ensure that costs are captured and allocated appropriately among the classes of services.[230] Managers are required to sign off on employee timesheets each week.[231] The internal audit group completes a review of time sheets and the coding of timesheets and the compliance with the corporate code of conduct which all employees must adhere to.[232] The FEU submit that they have adequate measures in place and that employee time entry is the most accurate method to track cross charges.[233]

E. Requests for Interim Order

77. Corix and BCOAPO both advocate that the Commission make any decision related to the rates, cost allocation, funding, and terms of service related to FEU's TES business interim until the completion of the AES inquiry.[234] For the following reasons, the FEU respectfully submit that the Commission should determine the orders sought in this proceeding on a permanent basis.

(a) The FEU are seeking natural gas delivery rates for each of FEI, FEVI, FEW and Fort Nelson, but only FEI has a TES class of service.

(b) FEI is not seeking any order for rates, funding, activities or terms of service related to FEU's Thermal Energy Service class of service. Rather, only the allocation of costs affects FEI's natural gas revenue requirements.

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[229] Corix Final Written Submission, p. 9.
[230] Exhibit B-17, BCUC IR 2.79.1.
[231] Thomson: T3, p. 402, ll. 2 to 3.
[232] Exhibit B-17, BCUC IR 2.79.5.
[233] FEU have addressed the issue of reliability of direct charges at paragraphs 310 to 311 of its Final Submissions.
[234] BCOAPO Final Submission, p. 33, para. 125.

(c) There is a complete evidentiary record in this proceeding on which the Commission can determine the appropriate cost allocation between FEI's two classes of service.

(d) The cost allocation to the TES class of service is a very small amount in the context of the overall revenue requirements and the decision in this proceeding will only cover a two year test period. The allocation will be revisited in future revenue requirements proceedings with the benefit of the Commission's determinations in the AES Inquiry.

(e) If the outcome of the AES Inquiry required the cost allocation to be revisited before the end of the test period, the FEU submit there are mechanisms that could be ordered in the AES Inquiry, such as a deferral account, that could appropriately address that scenario. Thus, there is no need for an interim order in this proceeding.

(f) Issuing an interim order in this proceeding based on a possible outcome in the AES Inquiry is contrary to the approach taken in the scoping order of the AES Inquiry that other proceedings would proceed based on the evidentiary record before them.

PART EIGHT: CAPITAL EXPENDITURES

78. This part will address intervenor submissions related to capital expenditures.

A. Management of Capital Expenditures within Approved Budget

79. BCOAPO states that it is "concerned that there could be proposals for negotiated extensions to this initial [two-year test] period without any attendant rebasing or true-up."[235] The FEU are required to apply to the Commission to change any rates in future years and the

[235] BCOAPO Submission, p. 28, para. 105.

Commission will have to approve any change in rates, following a hearing or negotiated settlement process. Rate base would be trued-up in the ordinary course.[236]

80. BCOAPO suggests that the FEU have an incentive to defer capital spending to later periods within a test period.[237] Although BCOAPO indicates that it is not an issue for this proceeding, the FEU wish to be clear that they manage capital prudently within the test period and have limited discretion to defer capital spending. The FEU have a large capital portfolio, for which work is required throughout the year if it is to be completed. Projects have various drivers, including compliance with codes and regulations, and have in-service dates that must be met. The FEU also note that they are over budget in some capital categories.[238] The FEU will address this point more comprehensively if it is raised in a future proceeding.

B. Capital Expenditures and the Long-Term Sustainment Plan

81. The CEC references the Mainland Capital Expenditures and argues that "[g]iven the normalized distribution curve expected for replacements these rates of growth should be unnecessary. This anticipates significant replacements over 40 years. At these rates of growth the entire replacement will be done early."[239] The FEU submit that there is no evidence to support the CEC's comment. The growth in capital expenditures can be primarily attributed to the wave of aging assets and the Long-Term Sustainment Plan initiative to manage that wave.[240] The CEC are supportive of the Long-Term Sustainment Plan.[241]

82. The CEC also claims that the "capital budgeting process is open to material improvement as, in the CEC's view, it shows little sign of the claimed prioritization process."[242] Similarly, the CEC states that it "is concerned that there is insufficient evidence of life extension planning and productivity improvement in the utilization of assets. With the massive

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[236] Exhibit B-6, BCOAPO IR 1.6.1.

[237] BCOAPO Final Submission, p. 29, para. 110.

[238] Exhibit B-1, p. 332, Table 6.2-1, as revised by Exhibit B-1-3.

[239] CEC Final Submission, p. 14, paras. 50 to 52.

[240] Exhibit B-1, pp. 336-342; Exhibit B-9, BCUC IR 1.57.1.

[241] CEC Final Submission, p. 40, para. 181.

[242] CEC Final Submission, p. 13, para. 48. Similarly, also see p. 14, para. 53.

expenditures on the aging system the CEC submits that FEU should be showing a greater degree of diligence in its capital budgeting."[243] At the same time, however, the CEC recognizes the benefits of the Long-Term Sustainment Plan and agree that the FEU's capital requests are appropriate.[244] As explained in the Application, the Long-Term Sustainment Plan is a significant initiative that is being undertaken by the FEU to better manage gas system assets in the face of aging assets.[245] The FEU submit that it has been proactive in its capital planning processes and is undertaking significant initiatives to improve the planning process. The rate requests for the test period reflect the costs necessary to improve those processes.[246]

C. CPCN Projects

83. The CEC indicates it has reviewed the FEU's CPCN projects and has no concerns.[247] The CEC, however, does express concern with what it says is an "absence of apparent efforts to pursue additional productivity gains from all of the major projects implemented."[248] The regulatory CPCN process for each of the major projects vetted the cost estimates and business cases for each of the projects. The resulting costs should be presumed to be prudent, and the CEC has proffered no evidence to suggest mismanagement.

84. BCOAPO remarks that "it would be appropriate for any future major projects that there be regulatory mechanisms or conditions attached to the approval so as to (i) incent the utility to provide reasonable estimates of the project parameters (capital costs, operating costs, load, etc.) and manage the costs to avoid cost overruns, and (ii) to increase shareholder responsibility for any cost overruns or optimistic load or customer take-up estimates."[249] The Commission's CPCN guidelines have specific requirements on the level of cost estimates to be

[243] CEC Final Submission, p. 15, para.54.
[244] CEC Final Submission, p. 40, para. 181 to p. 41, para. 187.
[245] Exhibit B-1, pp. 17-19, 161-162, and 335-343 and Exhibit B-9, BCUC IR 1.57.1.
[246] See the FEU's December 2 Submission, pp. 135 to 138.
[247] CEC Final Submission, p. 42.
[248] CEC Final Submission, p. 11, para. 34.
[249] BCOAPO Final Submission, p. 26, para. 99.

provided by utilities for major projects.[250] The FEU submit that the matter of appropriate conditions on CPCN Orders should be considered in the context of particular projects brought forward, not in a revenue requirements proceeding.

PART NINE: RATE BASE – OLYMPIC CAULDRON

85. BCOAPO is the only intervenor to oppose the inclusion of the Olympic Cauldron in rate base. In doing so, the BCOAPO relies on a definition of "used and useful" that requires the asset to be "economically desirable". There is no precedent of the use of that test in this province or any precedent of the use of that test in Canada cited by any party. Even within the textbook authority in the Staff witness aid, [251] the test is referred to as a "broader concept" and described as an alternative approach taken by some Commissions, to be contrasted with the traditional concept that has been used "for decades." The text itself does not endorse the broader concept. The FEU submit that the Commission should reject the use of the "economically desirable" concept and assess the use and usefulness of the assets in the provision of utility service; only the latter concept can be employed harmoniously with the accepted prudence test. In any case, the FEU submit that the economic desirability of the Cauldron is related to its lasting legacy as an important community investment, moreso than the revenues it generates under Rate Schedule 2.

86. While the asset is "used and useful", the relevant inquiry is primarily one of prudence. The prudence and benefits of this unique investment have been discussed in the FEU's Final Submission.[252] BCOAPO says that the FEU could not provide any evidence that the Olympic Cauldron has improved community acceptance of projects.[253] As is the case generally with community investments, it is difficult, if not impossible, to show one-to-one relationships

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[250] *2010 Certificate of Public and Convenience and Necessity Application Guidelines,* BCUC Order Number G-50-10, dated March 18, 2010.

[251] Exhibit A2-2, p. 76. Phillips, Jr., Charles F., *The Regulation of Public Utilities: Theory and Practice*, (Arlington, Virginia: Public Utilities Reports, 1988).

[252] FEU Final Submission, paras. 390 to 396.

[253] BCOAPO Final Submission, p. 31, para. 117.

between an investment and an acceptance of a project. This does not mean that such investments do not have that effect.

87. BCOAPO suggests that only the shareholder benefits from community investment.[254] The shareholder's benefit is through the return on its investment in utility plant. The shareholder does not experience financial gains from good relationships from communities or from the perception of the utility. The customers do benefit through lower costs for the utility to complete the work it needs to do to provide service and through the addition of new customers that spread costs of the system. The FEU have addressed the benefits of community investment more generally in paragraphs 165 to 173 of its Final Submission.

PART TEN: ENERGY EFFICIENCY AND CONSERVATION

88. This part will address intervenor submissions regarding EEC expenditures.

A. Legal Framework Governing EEC Expenditures

89. The CEC agrees with the FEU that the High Carbon Fuel Switch program is a demand-side measure as defined in the *Clean Energy Act*. The CEC states that "the Commission's findings in the EEC Natural Gas for Vehicles (NGV) Incentives review case (BCUC Order G-145-11) must be reconciled with the previous Commission approvals of the High Carbon Fuel Switching."[255] While the EEC NGV Incentives Decision made comments with respect to load building, it did not determine that load building programs cannot be demand-side measures. The FEU submit that the Commission's determination with respect to NGV incentives can be distinguished from and reconciled with the acceptance of incentives for High Carbon Fuel Switching. In the EEC NGV Incentives Decision, the Commission found that NGVs were not more efficient than using gasoline.[256] In contrast, switching from heating oil and propane with old equipment to natural gas with a high-efficiency furnace is more efficient.

[254] BCOAPO Final Submission, p. 31, para. 119 to p. 32, para. 121.

[255] CEC Final Submission, p. 46, para. 215.

[256] Reasons for Decision, p. 10 (Appendix A to Order G-145-11). Available online at: http://www.bcuc.com/Documents/Decisions/2011/DOC_28360_G-145-11_EEC%20NGV%20Incentive%20Review-Reasons.pdf.

Accordingly, a program to promote such a switch is a program “to conserve energy or promote energy efficiency,” within the meaning of paragraph (a) of the definition of “demand-side measure” in section 1 of the *Clean Energy Act.* Paragraph (a) of the definition of “demand-side measure” refers to “energy” generically. Further, paragraph (d) of the definition of “demand-side measure” contemplates fuel switching programs and a necessary consequence of fuel-switching is load building when the switch is to a fuel offered by the utility. Paragraph (d) restricts fuel-switching programs to those that result in decreased GHG emissions. The high-carbon fuel switching program meets this test. The FEU therefore submit that the high-carbon fuel switch program is a “demand-side measure” within the definition in the section 1 of the *Clean Energy Act.*

90. If the Commission were to determine that the high-carbon fuel switch program is not a demand-side measure, the FEU submit that it would be appropriate to approve a deferral account to capture the costs of the high-carbon fuel switching program, with the method of recovery to be determined in the next revenue requirements proceeding.

91. BCOAPO states that they are “unclear about how the 33% cap on measures that fail the TRC but pass the MTRC will work with FEU’s actual spending.”[257] The cost-effectiveness test set out in the DSM Regulation is applied by the Commission when the FEU apply under section 44.2 for acceptance of demand-side measure expenditures. While the FEU are committed to managing its portfolio to the cost-effectiveness standard, the DSM Regulation is not formally applied to actual spending.

92. BCOAPO states that programming that can be accessed by renters is a requirement for adequacy of a DSM portfolio under the *Utilities Commission Act* and invites FEU to clarify how it meets this requirement.[258] The adequacy provision referred to by BCOAPO applies to the Commission’s assessment of a utility’s long-term resource plan, not an expenditure schedule. However, there are a number of FEU EEC programs available to renters. All residential programs are available to renters, as well as the low-income programs. In

[257] BCOAPO Final Submission, p. 34, para. 129.

[258] BCOAPO Final Submission, p. 35, para. 134.

addition, a number of the commercial programs are utilized by owners of rental buildings including the Efficient Boiler program, the Light Commercial Boiler program, and the Efficient Commercial Water Heaters program.[259] The Fireplace Timer Pilot program and Multi Unit Residential Building program are also available to rental buildings.[260]

93. ESAC states that "FEU has a primary fiduciary responsibility to its ratepayers to ensure that those EEC funds are appropriately allocated and utilized."[261] While the FEU takes seriously its responsibility to allocate and utilize EEC funds appropriately, there is no legal authority that would suggest a fiduciary duty exists in this context.

B. Assessing the Cost Effectiveness of EEC

94. The CEC states that the FEU need to withdraw their proposal for use of avoided cost of gas as the price of biomethane and a non-energy benefit adder of 30%.[262] These proposals were part of the FEU's proposed Societal Cost Test, which has been withdrawn.[263]

95. BCOAPO states that the Commission should "be aware" that the Utilities have a "perverse incentive, whereby the best configuration for the Utilities is to spend large amounts on ineffective DSM, as they will earn a return on DSM without significantly reducing their volumetric sales."[264] The FEU have reported extensively on past EEC programs in the EEC Annual Reports and their overall portfolio has been shown to be cost-effective.[265] The cost-effectiveness of the FEU's programs demonstrates that the FEU are undertaking effective DSM.

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[259] Exhibit B-1, Appendix K-4, 2010 EEC Annual Report: Section 2.7 Compliance with Adequacy Requirements in the Demand Side Management Regulation, p. 14.

[260] Exhibit B-25, Appendix 1, 2012-2013 EEC Plan.

[261] ESAC Final Argument, p. 4.

[262] CEC Final Submission, p. 48, paras. 227 to 228.

[263] Exhibit B-92, p. 5, para. 7.

[264] BCOAPO Final Submission, p. 36, para. 135 to 137.

[265] Exhibit B-1, Appendices K-3 and K-4.

C. Proposed Financial Treatment of EEC

96. The CEC states that "the amortization periods for the EEC programs should be based on the useful life of the demand side measure in which the EEC funds are invested."[266] Similarly, BCOAPO argues that the useful life of a demand-side measure should be used rather than a blanket 10-year period.[267] As measures have various useful lives, this proposal would result in various amortization periods and, for measures with one or two year lives, no amortization at all. It is unclear how portfolio-wide costs would be treated under such a proposal. The FEU submit that a single amortization period for all programs is preferable as it is easy to administer and more efficient. However, the FEU had originally proposed a 20-year amortization period which they continue to believe would be appropriate.[268]

97. ESAC states that placing the EEC funds in a deferral account is "akin to a shopper paying with a credit card instead of cash – it does not justify making a purchase purely on the fact that it will be financed and recovered over time."[269] The FEU submit that ESAC's comments are misguided. EEC expenditures are justified by the Commission's acceptance of the expenditures, based on the factors set out in the *Utilities Commission Act* and *Demand-Side Measures Regulation*, such as cost-effectiveness. The deferral account treatment is simply a mechanism used to track actual costs over time so that customers are not charged for expenditures that differ from forecast. This is appropriate given that customer take up of EEC incentives is significantly affected by factors not within the FEU's control.

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[266] CEC Final Submission, p. 49, para. 238.

[267] BCOAPO Final Submission, para. 130.

[268] Decision regarding TGI and TGVI EEC Application, April 2009, p. 45. Online at: http://www.bcuc.com/Documents/Proceedings/2009/DOC_21719_TGI-TGVI%20Energy%20Efficiency%20Conservation-WEB.pdf.

[269] ESAC Final Argument, p. 4.

D. New Program Areas

(a) Furnace Scrap-It Program

98. The CEC supports the Furnace Scrap-it Program, but states that it does not agree that the useful life of a furnace is 18 years.[270] As the CEC suggests, an 18-year measure life likely under-estimates the useful life of a furnace.[271] However, the FEU and other gas utilities in North America use 18 years as the expected measure life for residential heating systems in order to provide a conservative estimate of energy savings over the lifetime of the measure.[272]

(b) Thermal Energy For Schools

99. ESAC refers to the Thermal Energy for Schools programs as "marginally economic."[273] Corix similarly states that "The purpose of the Schools program is to subsidize uneconomic TES projects until they become viable…".[274] The purpose of the Thermal Energy for Schools program is to provide funding directly to school districts for qualifying projects irrespective of whether or not the district has retained the services of FEU's TES. The Thermal Energy for Schools program has a modified total resource cost ("MTRC") test result of 1.52 and a UCT result of 5.75.[275] These cost-effectiveness test results show that the proposed program can be cost effective.

100. ESAC questions whether geo-exchange systems are innovative technologies given what they say is "the common use of geo-exchange and high efficiency boiler technology throughout the province (particularly in new construction)".[276] The FEU do not believe that

[270] CEC Final Argument, Page 50, Paragraph 247.

[271] As stated in Exhibit B-9, BCUC IR 1.202.1, in the 2008-2009, ENERGY STAR® Heating System Upgrade Program, 27 years was the average replaced furnace age while in the Switch 'N' Shrink oil to natural gas conversion program, 36 years was the average replaced furnace age. In the 2008 REUS study, almost 25 percent of the FEU's customers suggested that their furnaces were more than 20 years old, with 17 percent reporting that their 25 year old furnace was still in use.

[272] Exhibit B-9, BCUC IR 1.202.1.

[273] ESAC Final Argument, pp. 4-5.

[274] Corix Final Written Submission, p. 14.

[275] Exhibit B-92.

[276] ESAC Final Argument, Page 5.

geo-exchange technology can be said to be in "common use" in British Columbia by any reasonable standard.

101. ESAC states: "High efficiency boilers are used commonly throughout the province in all building types."[277] The FEU does not believe that boilers installed as a standalone system are innovative technologies. Incentives for installing efficient standalone boilers are currently distributed through the FEU's Commercial Efficient Boiler Program. As a system, however, geo-exchange with a back-up boiler can be considered innovative as it is required as part of the installation.

E. Administration of EEC Programs with Application to Thermal Energy Services Projects

102. Corix asserts that three programs have an application to TES projects: the industrial technology retrofit program, the solar thermal program, and the thermal energy for schools program.[278] The industrial technology retrofit program has no application to Thermal Energy Service projects. The target market for the industrial technology retrofit program is medium and large industrial facilities. The eligible measures contemplated at this time under the industrial technology retrofit program are: retrofit shell and tube heat exchangers to plate and frame heat exchangers; replacement of existing burner management systems with electronic modulation control units; upgrade existing lime kiln chain systems; and, boiler replacement and boiler component upgrades.[279] A detailed description of the industrial sector and the FEU's industrial sector program area strategy can be found in the 2010 EEC Annual Report.[280]

103. Corix states that "FEI's control over the EEC programs and funding allows FEI to favour and support its own TES offerings."[281] The purpose of EEC funds is to promote energy efficiency or conservation and the FEU will administer its EEC programs to be cost effective and

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[277] ESAC Final Argument, Page 5.
[278] Corix Final Written Submission, p. 13, para. 40.
[279] Exhibit B-25, Appendix 1, p. 70.
[280] Exhibit B-1, Appendix K-4, pp. 163 to 167.
[281] Corix, Final Submission, p. 3.

not favour any project proponent over another. EEC funds are available to all customers that qualify for an EEC program under that program's terms and conditions, regardless of that customer's choice of ownership model for a project.[282] The FEU's EEC activity is governed by the EEC Program Principles; the principle of universality put forward by the FEU in 2008 means that all eligible customers that comply with the terms and conditions of any given program can participate in that program.[283]

104. Corix submits that "[t]he example of the shifting TES project configurations and incentive funding envelopes for the Delta School District demonstrates the potential manipulation of the EEC funding and customer information that may occur."[284] The FEU submit that the changes in the DSD Project reflect the ordinary change in scope that all projects experience in their early stages.[285] While there were communications between EEC and Thermal Energy Service staff at the FEU related to the Delta School District's PSECA application,[286] the estimate of EEC funding for the Delta School District was *reduced* from an initial estimate of $800,000 to approximately $100,000.[287]

105. ESAC states that "FEU witnesses raised the example of the DSD project receiving third party review for the Public Sector Energy Conservation Agreement ("PSECA") funding. However, that is a distinct and separate funding program from the EEC funds that are at issue in this proceeding and in the AES Inquiry."[288] The FEU's incentive funding provided to participants in the PSECA Initiative is not derived from a distinct and separate funding program as claimed by ESAC. This funding was sourced from the same pool of approved amounts as all other EEC provided incentives.[289]

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282 Exhibit B-9, BCUC IR 1.204.3; Exhibit B-16, ESAC IR 2.4.5; Exhibit B-15, Corix IR 2.5.7, 2.5.8, 2.6.1, and 2.6.3.
283 Exhibit B-15, Corix IR 2.6.2.
284 Corix, Final Submission, p. 3.
285 Stout: T8, p. 1335, ll. 7 to 17 and p. 1340, ll. 6 to 15.
286 Exhibit B-94.
287 Exhibit B-16, ESAC IR 2.6.7.
288 ESAC Final Argument, p. 6.
289 Exhibit B-16, ESAC IR 2.6.7.

106. Corix submits that "it is reasonable to expect many potential customers to assume that EEC funds are only eligible for FEU projects, if only due to name confusion."[290] Corix has not indicated why this is a reasonable expectation. The FEU have had EEC programs in the market for many years, targeting all of the same customers. FEU's EEC programs provide incentives for a wide range of energy efficiency measures, from low-flow faucets to commercial boilers. The FEU's EEC programs have therefore established that incentives are available for measures not owned or associated with the FEU in any way. An EEC incentive for a customer that has contracted with FEU for a project would be the rare exception to the general rule that the energy efficiency measures are unrelated to FEU. Furthermore, the FEU make program details available through various communications channels[291] and customers installing a thermal energy project are sophisticated enough to read and understand the eligibility requirements of EEC programs.

107. Corix requests that the Commission implement "third party administration of TES-related EEC programs."[292] The FEU submit there is no need for a third party administration of any EEC program as the FEU will provide EEC incentives on a non-discriminatory basis and regardless of project ownership. The FEU issue incentives in accordance with the eligibility requirements for each program, which do not distinguish between project ownership.[293] The third-party administration of EEC programs would add a layer of administrative costs that would decrease the cost-effectiveness of the EEC programs to the detriment of all customers. Third-party administration is most appropriate where there are a large number of small utilities each serving small geographic areas, which is not the case in B.C.[294]

108. If the Commission believes that some measure needs to be taken for the administration of EEC programs that could grant incentives to projects owned by FEU's Thermal Energy Service, the FEU suggest that they could contract with a third party engineering firm to

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[290] Corix Final Written Submission, p. 14, para. 44.
[291] Exhibit B-16, ESAC IR 2.4.5
[292] Corix Final Written Submission, p. 15.
[293] Exhibit B-9, BCUC IR 1.204.3; Exhibit B-16, ESAC IR 2.4.5; Exhibit B-15, Corix IR 2.5.7, 2.5.8, 2.6.1, and 2.6.3.
[294] Smith: T9, p. 1500, ll. 4 to 19 and p. 1504, l. 11 to p. 1505, l. 3.

assess EEC incentives for all thermal energy service-type projects, regardless of ownership. The FEU would report on any incentive granted to such projects in its EEC annual reports.

F. Correction to Transcript regarding Communications about Delta School District's PSECA Application

109. On January 6, 2012, the FEU filed a letter with the Commission with a correction to the transcript, explaining that there were in fact certain communications between the EEC and TES groups related to the PSECA Application for the DSD Project.[295] No parties objected to the admission of the new evidence and the Commission provided intervenors with time to file submissions in response to the new evidence.

110. In their submissions on the correction, Corix and ESAC have accused the FEU of having deliberately falsified evidence and testimony in this proceeding: Corix asks the Commission to conclude that the FEU's witnesses have not been forthright and that the FEU will not be forthright in the future,[296] while ESAC "calls into question the veracity of the evidence of the entire EEC panel".[297] The FEU take exception to Corix and ESAC's unwarranted conclusions about FEU's witnesses and the FEU's conduct in this proceeding. The facts are that Ms. Smith mistakenly believed that there were no communications between the TES and EEC groups related to the PSECA Application for the DSD Project and thus responded as she did to Mr. Gustafson's questions at the oral hearing. While Mr. Stout knows the TES employees he oversees, he cannot be expected to be privy to all of their communications and was unaware of the communications in question. In the course of responding to an information request in the DSD Project proceeding, the FEU discovered through discussions with other employees that there were in fact communications between FEU's EEC and TES staff relating to the Delta School District's PSECA application. The FEU corrected the error in the response to the information request in the DSD Project proceeding. The FEU then filed the information in this proceeding to bring it to the attention of the Commission and intervenors.[298]

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[295] Exhibit B-94.

[296] Corix Letter of January 20, 2012, p. 3.

[297] ESAC Letter of January 20, 2012, p. 3.

[298] Exhibit B-94.

111. This is a case of human error. The FEU sincerely regret the error and the time it took to discover it, but absolutely stand behind the dedication of their witnesses to provide forthright and frank evidence to the Commission in this proceeding. As a regulated public utility that is regularly before the Commission in public hearings, where it is subject to scrutiny regarding every dollar spent, the FEU fully recognize the need to be candid and forthright in their dealings with the Commission and intervenors.

112. Corix and ESAC exaggerate the significance of the discussions noted in the transcript correction. The communications described in the transcript correction are administrative discussions related to the PSECA Application for the DSD Project that were of the type that would normally occur in the EEC group's administration of the PSECA initiative. Specifically, as stated in Exhibit B-94, the communications related to this project were to:

(a) Review the requirements of a PSECA energy study;

(b) Seek clarification on the project cost details;

(c) Confirm, as a matter of courtesy, the final incentive amounts once they had been established;

(d) Review the final incentive amount in order to clarify how the findings of the Delta School District's PSECA energy study impacted the value of the EEC incentive as the EEC group's review of the Delta School District's PSECA application and energy study resulted in a reduced incentive, not an increased incentive, from initial estimates.

113. These communications do not suggest that the EEC incentive was unfairly administered or that the TES group was shown any favour or special treatment. These communications do not change the fact that the Delta School District's application to PSECA

passed the Climate Action Secretariat's screening and that the EEC group had the energy study reviewed by a third party and made incentive calculations based on the review of the study.[299]

114. Corix and ESAC have also exaggerated the level of interaction between the EEC and TES groups: Corix incorrectly suggests that communications between the EEC and TES groups are frequent, and incorrectly attribute to the FEU the statements that "the EEC group will typically discuss these matters with the TES group when an FEU TES project seeks EEC funds" and "that the two groups communicate in the normal course of business when an FEU TES project seek EEC funds."[300] Similarly, ESAC incorrectly states that the FEU have said that such communications are "normal course of business" and that "EEC staff typically engage in broader communications".[301] The correction to the record was that there were communications between the TES and EEC groups related to the PSECA Application for the DSD Project that occurred in the ordinary course of business. The reference to ordinary course of business means that the communications were made by the EEC group in carrying out its functions[302] and were similar to communications with other applicant's engineers or consultants in the PSECA initiative. Furthermore, Ms. Smith's original testimony and the correction only related to the PSECA Application for the DSD Project (which is what Mr. Gustafson was asking about),[303] not any general level of interactions between the TES and EEC groups. The FEU correctly identified in responses to information requests (including the responses cited by Corix)[304] that the TES and EEC groups are distinct, geographically separated, that there is little communication between the EEC and TES groups and that TES employees also do not evaluate EEC applications. Exhibit B-94 does not change this evidence.

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[299] Smith: T8, p. 1343, l. 8 to p. 1344, l. 12. Exhibit B-16, ESAC IR 2.6.5.

[300] Corix Letter of January 20, 2012, p.2.

[301] ESAC Letter of January 20, 2012, p. 2.

[302] I.e., the EEC group was not communicating with the TES group for purposes outside its area of responsibility. E.g., it was not communicating for the purpose of finding specific TES projects, advancing specific TES projects, dictating the type of equipment in specific TES projects, or other general business development-type activities. (Exhibit B-16, ESAC IR 2.6.7.)

[303] Smith: T8, p. 1345 l. 14 to p. 1346, l. 11.

[304] Corix letter of January 20, 2012, p. 2.

115. ESAC states that the information in Exhibit B-94 is inconsistent with two responses to information requests. In fact, the responses cited by ESAC are accurate and consistent with the correction. The first response cited by ESAC is FEU's response to ESAC IR 1.15.3 in the AES Inquiry which, although not on the record in this proceeding, is as follows:

> 15.3 Would the fact that the TES Group is working with the Delta School District on a non-prescriptive project be "flagged" on the Delta School District application for EEC funds?
>
> **Response:**
>
> No. The FEU's EEC staff are primarily concerned with ensuring that applicants are in fact eligible for an incentive based on whether an applicant's project conforms with the terms and conditions of an EEC program.
>
> As stated in the FEU's 2012-2013 RRA proceeding, and in the response to ESAC IR 2.6.5, funding became available to the Delta School District via the FEU's defined PSECA Initiative as follows:
>
>> "The EEC funding becomes available for PSECA applicants such as DSD in the following manner: DSD first submitted an application and detailed energy study to the Climate Action Secretariat ("CAS") for internal CAS review and prioritization. The CAS then forwarded the energy study to the utility PSECA partners (FEI and BC Hydro). FEI reviewed the study to ensure reasonableness of the conclusions, and subsequently submitted each of the proposed energy conserving measures (i.e. the proposed thermal upgrade at each school) to the PSECA Initiative's screening and funding models. Each proposed upgrade was first subjected to a Total Resource Cost (TRC) screening. A portfolio of projects which maintain a TRC score of approximately 1.0 was then selected and incentives for each project developed. Incentives were determined based on the expected stream of natural gas savings. More specifically the incentives were calculated as 5 $/GJ, on the discounted stream of the expected natural gas savings, over 50% of the measure life, up to a maximum of 10 years."
>
> This process focuses on the participant and the proposed energy solutions, and does not consider the energy services provider. Additional details may also be found in the response to BCUC IR 1.119.1 in this proceeding.

The second response cited by ESAC is the FEU's response to ESAC IR 2.4.2, which is as follows:

4.2 Please indicate if any of FEI's TES staff is permitted to discuss potential EEC funding that may be available for customers on FEI TES projects or if only designated EEC staff, as part of the regulated natural gas utility, are permitted to have these conversations with customers.

Response:

There are no rules that would preclude thermal energy services staff from discussing EEC funding that may be available for customers on FEI thermal energy services projects. However, as described in the responses to Corix IRs 2.4.6 and 2.5.13, there are different groups of employees that are typically involved in EEC and thermal energy services projects. In any case, EEC funds are provided to customers, not FEI. Competitors of FEI for thermal energy service are also free to discuss any EEC funding that may be available to their customers as well.

116. Both of these responses are correct and consistent with the correction to the transcript.

117. The FEU take full responsibility for the error they have made, and acknowledge that it took some time to recognize the error. Nevertheless, the FEU submit that interveners have not been prejudiced in this or any other proceeding. In this proceeding, the Commission has set out an appropriate process for dealing with the error and intervenors have had the opportunity to make full submissions on the matter. The information in the DSD Project CPCN Application proceeding reflects the correction. As for the AES Inquiry, the FEU intend to apply to file the correction in that proceeding as well so that the record on this point is consistent in all three proceedings. The record in that proceeding is not closed and ESAC is at liberty to make its submissions in that proceeding.

G. Interim and Related Orders

118. BCOAPO "submits that any approval of … EEC activities that may be impacted by the AES inquiry should be on an interim basis, and subject to the outcome of the inquiry."[305] The FEU submit that there is no purpose in providing an interim approval of any EEC activities until the outcome of the AES inquiry, for which a decision is not expected until the fall of 2012

[305] BCOAPO Final Submission, p. 33, para. 125.

or later. EEC activities involve making commitments to customers regarding financial incentives for taking certain energy efficient or conservation activities. Without some assurance of cost recovery, the FEU cannot carry on EEC activities for this amount of time under an interim approval. Further, it would appear that the BCOAPO's request would require the Commission to determine now which EEC activities could be impacted by the AES Inquiry. It is unclear how the Commission would make such a determination. The FEU respectfully submit that the Commission should make its determination based on the evidence on this proceeding, rather than attempting to foresee what the AES Inquiry will order.

119. Somewhat similarly, ESAC requests that there be "no final determination with respect to the application of EEC funds with respect to projects that have direct or indirect involvement of FEU as a project owner, partner or participant."[306] ESAC also request that the Commission "should require the FEU to refund any EEC funds approved as part of the 2012-2013 RRA that were received for projects that it has an involvement should the result of the AES Inquiry determine that the disbursement of funds was found to be in excess of what a comparable project with a completely arm's length party would have received under the same circumstances."[307] The FEU find these submissions from ESAC unclear. The FEU are not seeking any determination for the application of EEC funds to projects and the EEC expenditures that the FEU are seeking acceptance of in this proceeding are not "received for projects that it has an involvement." The nature of the ESAC request may be for an interim order similar to BCOAPO, in which case the FEU refers to its submission above. To the extent that ESAC's request is contingent on a potential order from the Commission in the AES Inquiry, the FEU submit that it would premature to grant such a request and that ESAC can pursue its request in the AES Inquiry if it chooses.

PART ELEVEN: CONCLUSION

120. The FEU respectfully submit that the Commission should approve the Orders sought as specified in the updated Draft Order submitted with the FEU's Final Submission

[306] ESAC Final Submission, p. 9.
[307] ESAC Final Submission, p. 9.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: January 25, 2012

[original signed by Matthew Ghikas]

Matthew Ghikas

Counsel for the FortisBC Energy Utilities

Dated: January 25, 2012

[original signed by Chris Bystrom]

Chris Bystrom

Counsel for the FortisBC Energy Utilities