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April 2, 2012

British Columbia Utilities Commission
Sixth Floor
900 Howe Street
Vancouver, B.C.
V6Z 2N3

Attention: Ms. Alanna Gillis, Acting Commission Secretary

Dear Ms. Gillis:

Re: FortisBC Energy Inc. ("FEI")
Application for a Certificate of Public Convenience and Necessity ("CPCN") for Constructing and Operating a Compressed Natural Gas Refueling Station at BFI Canada Inc.

Final Argument Submission of FEI

On February 29, 2012, FEI filed the Application as referenced above. In accordance with Commission Order No. G-23-12 setting out the Regulatory Timetable for the review of the Application, FEI respectfully submits its Final Argument Submissions attached hereto.

If there are any questions regarding the attached, please contact Shawn Hill at 604-592-7840 or Mark Grist at 604-592-7874.

Yours very truly,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachment

cc (e-mail only): Registered Parties

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 Inc.

For a Certificate of Public Convenience and Necessity for

Constructing and Operating a Compressed Natural Gas

Refueling Station at BFI Canada Inc.

FINAL SUBMISSION OF

FORTISBC ENERGY INC.

APRIL 2, 2012

Table of Contents

A. INTRODUCTION & OVERVIEW

1. BFI Canada Inc. ("BFI") needs a Compressed Natural Gas ("CNG") fueling station to fuel a newly purchased fleet of waste haulers to fulfill a winning bid for the City of Surrey's waste collection services, and has contracted with FortisBC Energy Inc. ("FEI" or "the Company") for the CNG fueling service.[1] In order to construct the CNG fueling station and provide the fueling service to BFI, FEI brings this Application to the British Columbia Utilities Commission (the "Commission") seeking the following approvals:

- approval under sections 45 and 46 of the *Utilities Commission Act* (the "UCA" or the "Act") for a Certificate of Public Convenience and Necessity ("CPCN") for the construction and operation of the CNG fueling station for BFI at its premises (the "Project"); and

- approval of rate design and service rates established in the Fueling Station License and Use Agreement between BFI and FEI (the "BFI Agreement" or "Service Agreement") under sections 59-61 of the Act.

2. The Commission has previously determined in its decision on FEI's Application for Approval of a Service Agreement for Compressed Natural Gas Service and for Approval of General Terms and Conditions for Compressed Natural Gas and Liquefied Natural Gas Service (the "NGT Decision") that not only can FEI provide CNG fueling service, but also FEI's business model – owning, installing and maintaining a CNG fueling service and entering into a long-term take-or-pay contract with the customer to recover the cost of service associated with provision of CNG service – is a regulated service.[2] FEI's fueling service provided to BFI under the Service Agreement follows the same model. Further, to provide natural gas to this fueling station, FEI

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[1] Exhibit B-1, at page 7.

[2] Commission Order No. G-128-11 and Reasons for Decision on FEI's Application for Approval of GT&Cs for CNG and Liquefied Natural Gas Service ("NGT Decision"), at pages 18-19.

will also deliver natural gas to BFI under existing natural gas delivery tariffs, such as Rate Schedule 25, under which, FEI will receive revenues.

3. FEI submits the Project is in the public interest as it serves BFI's interests and also accrues benefits to the City of Surrey and likely its residents, FEI's existing natural gas ratepayers, and the residents of British Columbia as a whole through Greenhouse Gas ("GHG") emission reduction and natural gas royalty as further explained below in Section B of this Submission. These benefits are the same as the ones outlined and accepted by the Commission in the NGT Decision "to be generally in the public interest."[3] Specifically, when discussed the benefits of FEI's CNG serve offering, the Commission provided the following summary:

> *The Panel is persuaded that benefits will accrue to FEI, FEI's NGV customers, its ratepayers and the people of British Columbia if the NGV market can be kick-started. FEI's NGV customers could potentially save a significant amount on their fuel costs and its ratepayers may enjoy some rate stability or even a reduction in terms of delivery charges, other things being equal, if the load building that is forecast can be realized in the longer term. In addition, residents of the province will benefit from GHG reductions if diesel and gasoline vehicles switch to natural gas as a fuel."*[4]

4. Moreover, the Project exemplifies the recently released provincial "Natural Gas Strategy," which promotes natural gas as a transportation fuel by replacing diesel in heavy and medium vehicle fleets.

5. The rate design for the fueling service to BFI is based on the Commission's approved Section 12B of FEI's General Terms and Conditions ("GT&C section 12B" or "Section 12B").[5] Section 12B was endorsed by the Commission in March this year following the in-depth review of FEI's CNG fueling service model and further revisions in accordance with the Commission's directives in the NGT Decision. As the Commission has acknowledged, Section 12B is to ensure that the, "total actual cost of the refueling facility will be recovered from the CNG/LNG

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[3] NGT Decision, at page 30.
[4] NGT Decision, at page 30.
[5] Commission Order No. G-14-12.

customer to the extent possible" and that "existing ratepayers should bear minimum risk in the service offerings."[6] With a customer fueling service rate based on a forecast capital cost and in full compliance with cost of service factors outlined in Section 12B, the rate design for the BFI Project achieves the intent of Section 12B.

6. The Company submits that both approvals sought – approval of the CPCN application and approval of the rate design in the Service Agreement - can be granted now, without waiting for the outcome of FortisBC Energy Utilities' Alternative Energy Solutions Inquiry (the "AES Inquiry"). In Section D of this Submission, the Company addresses why and how the Commission can and should approve this Application now.

B. BFI'S REFUELING STATION IS IN THE PUBLIC INTEREST

(a) Legal Framework for Assessing Public Interest and CPCN Guidelines

7. Section 45 of the Act requires FEI to obtain a CPCN to construct and operate BFI's fueling station. Generally, when considering whether a CPCN should be granted in the public interest, the Commission needs to weigh the interests of potentially affected parties; specifically, section 46(3.1) of the Act sets out factors that the Commission must consider in assessing FEI's CPCN application, such as British Columbia's energy objectives and the Company's most recent long term resource plan.

8. In a project that primarily serves the interest of one customer, such as BFI here, interests of other parties, such as the City of Surrey's choice of BFI's proposal for its waste collection service which is the impetus of the Project here, can provide an important context and often lends support for a finding that the Project is in the public interest.[7] As summarized

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[6] NTG Decision, at pages 4, 30.
[7] Ex. B-5, BCSEA IR 1.3.3.

below and discussed in the Application, the Project serves the interest of BFI and also results in a broader range of benefits.

9. Currently, all CNG and LNG fueling station projects need a CPCN pursuant to Commission Order G-1-12. Thus, the Commission's 2010 Certificate of Public Convenience and Certificate Application Guidelines[8] (the "CPCN Guidelines") would be generally applicable to provide guidance as to the information expected in a CPCN application to facilitate the preparation and review of the application. As FEI has explained, not all requirements of the CPCN Guidelines would be applicable to a CNG project depending on purpose, size and complexity of the project.[9] For example, the fueling service projects are usually not capital intensive and will be mostly located on the customer's private property and will only be constructed and operated at the request of the customer. These features of the Project mean that the need for project alternative analysis rarely exists and the relevant requirements for the CPCN application will not apply.[10] This accords with the Commission's acknowledgement that the Guidelines should be applied "in a flexible and reasonable manner" and "to reflect the specific circumstances of the applicant, the size and nature of the project, and the issues that it raises."[11]

(b) <u>Need and Justification for the Project</u>

10. Unlike a traditional natural gas infrastructure project, the need for the Project in this instance is primarily determined by BFI, who requires the Project to serve its customer, the City of Surrey. The City of Surrey, after working two years with various industry participants, including FEI, decided to use CNG powered trucks for its waste collection services, among other things, to have a more cost-effective service and to reduce adverse environmental impacts.[12] BFI was awarded the service contract with the City of Surrey as BFI's proposal to the City of

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[8] Order No. G-50-10.
[9] Ex. B-1, at page 5.
[10] Ex. B-3, BCUC IR 1.7.1, 1.7.3.
[11] CPCN Guidelines, page 1 of 12.
[12] Ex. B-3, BCUC IR 1.11.2.1, see also Exhibit A2-7.

Surrey was approximately $2 million lower than the next bidder, in addition to meeting the service objectives set out by the City of Surrey.[13] To commence its contractual services to the City of Surrey, BFI is purchasing a new fleet of CNG trucks, and, after its own solicitation and evaluation process, decided to work with and have FEI provide CNG fueling service for its CNG trucks.[14]

11. The Project brings benefits not only to BFI but also to FEI's natural gas ratepayers, potentially to the City of Surrey and its residents, the Provincial government, and the people of British Columbia in general. The evidence, including section 3.3 of the Application and responses to the information requests, demonstrates benefits in the potential cost savings to BFI, a more cost-effective collection service to the City of Surrey, economic benefits to the Province in the form of increased natural gas royalties, lower delivery rates for existing natural gas ratepayers all else being equal, and reduction of GHG emissions. The nature of these benefits is no different from the ones accepted by the Commission in its NGT decision "to be generally in the public interest;" only the extent of these benefits vary from project to project. The benefits from this Project and the BFI Agreement are summarized below:

- It is estimated that BFI could see a fuel cost reduction of $1.23 million per year.[15]
- The natural gas ratepayers will enjoy a delivery revenue margin of $84,000 per year, which translates to approximately $483,000 over the initial seven-year term of the BFI Agreement.[16] Moreover, the Service Agreement is subject to renewal beyond the initial seven-year term and the fueling station is still useful after the initial contract years; thus, the benefits to the natural gas ratepayers will not be stopped after the initial

[13] Ex. A2-7.
[14] Ex. B-3, BCUC IR 1.12.2.
[15] Ex. B-3, BCUC IR 1.13.1.1
[16] Ex. B-3, BCUC IR 1.23.1; ($84,000 x 5.75 yrs = $483,000, please note that 5.75 years, rather than 7 years is used for the determination of the total benefit, taking into consideration the fact that the BFI delivery margin recoveries will not be included as a reduction to the delivery rates of non-bypass customers until the next revenue requirement application)

seven-year term.[17] Even if the Service Agreement is not renewed, the natural gas ratepayers will not be prejudiced because FEI is able to recover the unrecovered un-depreciated capital cost of the Project as stipulated in the Agreement.[18]

- BFI's proposal, to which FEI's fueling service is part, represents a saving to the City of Surrey's solid waste utility of approximately $2.8 million per year for collection services, which is likely to benefit the residents of the City of Surrey.[19]

- The Project will bring in approximately $30,000 in natural gas royalty revenues to the Province per year based on a $.50/GJ flow-through value, thereby benefiting the people of British Columbia in general.[20]

- The Company has estimated a reduction of GHG emission of 419 tonnes per year based on 52 trucks traveling 23,400 kilometers per year. As the Commission acknowledged in the NTG Decision, "residents of the province will benefit from GHG reductions if diesel and gasoline vehicles switch to natural gas as a fuel".[21] The benefit of GHG emission reduction is aligned with the Provincial energy policy, which is further discussed in Section B(c) of this Submission.

12. A number of information requests question whether there is a need for FEI, a public utility, to be the entity to provide the CNG fueling service to BFI and suggest that the service may be provided by a non-regulated third party entity or a regulated affiliate of FEI.[22] FEI acknowledges that the CNG/LNG fueling service can be provided by a non-public-utility third party in British Columbia, but submits that it is necessary for FEI to provide the fueling service to BFI as a regulated public utility service for the following reasons.

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[17] Exhibit B-1, Appendix A, clause 1.2.
[18] Exhibit B-1, Appendix A, clause 11.1.
[19] Ex. B-3, BCUC IR 1.13.1, 1.13.1.1.
[20] Ex. B-1, at page 9; Ex. B-3, BCUC IR 1.16.1.
[21] NGT Decision, at page 30.
[22] Ex. B-3, BCUC IR 1.11.1 and 1.11.2.

- First, the choice to have FEI construct and operate a fueling station to serve its CNG trucks was made by BFI. As articulated in Exhibit D-1, not only is it important for BFI to have FEI as a service provider option due to the limited number of qualified service providers, BFI decided to work with FEI after a competitive process because:

  > *"a. Fortis offering was the most complete bid in covering all aspects required to fuel with CNG*
  >
  > *b. Fortis demonstrated it had the relevant as well as the previous experience in this market building a similar facility*
  >
  > *c. Fortis demonstrated their service and support capabilities*
  >
  > *d. Fortis demonstrated their safety and emergency response capabilities*
  >
  > *e. Fortis demonstrated their ability to complete the project on time for our customer, the City of Surrey*
  >
  > *f. Competitively priced"* [23]

  Thus, even if the same fueling service can be provided by another entity, it is necessary for FEI to provide the fueling service here as BFI had made a choice to work with FEI.[24]

- Second, when CNG fueling service is to be provided by FEI, the Commission has determined that it is a regulated public utility service, subject to the Commission's oversight.[25] Moreover, FEI's CNG/LNG fueling service offering cannot, and should not, be separated from its natural gas class of service because the overall costs and benefits of the CNG fueling service are interlinked with natural gas delivery service.[26] Adding the fueling station will result in an increased throughput on the natural gas system. As the CNG service customer will also take natural gas service under an applicable rate schedule, a delivery revenue margin will be generated, for the benefits of all natural gas ratepayers. As an illustration, fueling BFI's CNG trucks under the BFI Agreement by

[23] Exhibit D-1.
[24] Ex. B-3, BCUC 1.6.1, 1.11.1, 1.11.2.
[25] NGT Decision, at pages 18-19.
[26] Ex. B-3, BCUC IR 1.2.3, 1.2.4, 1.58.1. The issue is more fully explored in the AES Inquiry. See AES Inquiry, FEU Final Submission, paragraph 192.

compressing and dispensing natural gas to a useful form means adding a minimum 60,000 GJ of load to FEI's system under Rate Schedule 25, which results in delivery margin benefits of approximately $84,000 per year to all natural gas ratepayers. This will generate delivery margin benefits of approximately $483,000 over the initial seven-year term of the Service Agreement.[27]

- Third, FEI continues to play a vital role in the natural gas transportation market. Contrary to the implication that the natural gas transportation market is more mature now[28] or that there already is a "presence of active competition,"[29] the natural gas transportation market has been dormant for the past ten years.[30] FEI is taking the lead amongst Canadian natural gas utilities in the development of using natural gas as a transportation fuel by offering CNG/LNG fueling services and is the only market participant that has successfully delivered a CNG fueling project in British Columbia in recent years.[31] FEI's participation means, as BFI testified to and Dr. Ware opined, that there is not only a regulated option for customers but also a competitively priced service alternative to customers.[32]

(c) Alignment with Provincial Government Energy Policy

13. The City of Surrey concluded that one way to reduce the adverse environmental impacts from the performance of its waste collection services was to use collection trucks powered by CNG, instead of diesel powered trucks.[33] There should not be any dispute that, "fuel switching from diesel to natural gas will assist the province in meeting its energy objectives" because of

[27] Ex. B-3, BCUC IR 1.23.1, 1.42.2, 1.47.1, 1.51.5.1.
[28] Ex. B-3, BCUC IR 1.3.1,
[29] Ex. B-3, BCUC IR 1.58.1.
[30] Ex. B-3, BCUC IR 1.58.1.
[31] Ex. B-3, BCUC IR 1.2.2.
[32] Ex. B-3, BCUC IR 1.3.1, 1.3.3; Exhibit D-2.
[33] Ex. A2-7.

the resulting GHG emission reduction in British Columbia.[34] In the present situation, BFI's CNG trucks would reduce GHG emissions by approximately 419 tonnes per year.[35]

14. FEI submits that British Columbia's energy objectives are advanced by fuel switching regardless which entity will or may monetize the GHG emission reductions.[36] The potential for these GHG reductions to be monetized is a benefit in addition to the environmental benefit from GHG reductions. This is recognized by the Commission in the NGT Decision.[37]

(d) Projected Project Cost

15. The total Project cost is approximately $1.9 million. Section 5.1 of the Application provides a breakdown of the cost components. FEI submits that the Project cost is reasonable for the following reasons.

- The cost estimate meets the AACE's Class 3 estimate;[38]
- The cost estimates are largely based on unit cost line items obtained either from actual quotes or past experience on similar projects;[39]
- Each line item corresponds to the layout defined in the preliminary site plan which contains a level of detail typical of the budget estimates that Jenmar Concepts, an engineering firm with experience in building NGT stations, formulates;[40] and,

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[34] NGT Decision, at page 16.

[35] Ex. B-3, BCUC IR 1.14.1.

[36] See Ex. B-3, BCUC IR 1.14.1 and 1.14.2. There are two potential benefits related to the carbon reduction. One is that the requirement to pay to the Pacific Carbon Trust may be avoided, while the other is a sale of carbon credits. The first benefit may be claimed by Surrey, while the second one could be either Surrey's or BFI's depending on their contract.

[37] NGT Decision, at page 30. The Decision states that "residents of the province will benefit from GHG reductions if diesel and gasoline vehicles switch to natural gas as a fuel. Further, a potential exists for these GHG reductions to be monetized by FEI's NGV customers". [emphasis added].

[38] Ex. B-1, at page 15. As explained below and in the Application, the service rate will be adjusted if the capital cost variance is greater or less than 2%.

[39] Ex. B-3, BCUC IR 1.44.1.

[40] Ex. B-3, BCUC IR 1.44.1.

- The total capital cost includes a contingency of 10 percent.[41]

16. The Commission has expressed a concern about the potential for cost overruns or a variance between the forecast capital cost and the actual capital cost.[42] However, FEI submits that the risk for the cost variance was anticipated and has been mitigated through both contract provisions and other means. For instance, the BFI Agreement contains a provision allowing the parties to amend the service rate if the capital cost variance is greater or less than 2 percent. Any variances (positive or negative) within this 2 percent range, which represents a maximum cost variance of $37,000, will be offset by delivery margin revenue benefits. In light of the delivery margin revenue benefits of $483,000 over the initial seven-year term of the Service Agreement, any potential for a cost overrun is reasonably mitigated.[43] Additionally, the site design and layout have been confirmed by BFI, thereby further mitigating the chances for capital cost overruns.[44]

(e) Conclusion Regarding CPCN Considerations

17. The City of Surrey's mandate for using CNG powered collection trucks gave impetus to BFI's CNG fueling station. BFI decided to take service from FEI after considering and evaluating proposals for its fueling station. BFI's own evidence is that FEI's service offering presented it with a competitive choice and with a solution that suits all aspects of its fueling needs.[45] The Project also advances British Columbia's energy objectives. Further, the Project cost is reasonable. Not only does the estimate have an accuracy range consistent with the AACE's Class 3 estimate, a contingency of 10 percent is built into the Project cost. For these reasons,

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[41] Ex. B-1, at page 15.
[42] See, e.g., Exhibit A-2, IR 1.23.1, 1.33.2.
[43] Ex. B-3, BCUC IR 1.23.1, 1.33.2, 1.33.4.
[44] Ex. B-1, at page 14.
[45] Ex. D-1.

FEI submits that the Commission should grant a CPCN for the Project as requested in this Application.

C. RATE DESIGNED FOR THE BFI REFUELING SERVICE IS JUST AND REASONABLE

(a) Application of GT&C Section 12B – Vehicle Fueling Stations

18. Section 12B resulted from the Commission's directives in the NGT Decision and from a full regulatory proceeding. In the NGT Decision, the Commission identified six specific cost input requirements for the cost-of-service calculation, in addition to a long term "take or pay" minimum consumption commitment from a CNG service customer, that would provide assurance that "the actual cost of service is collected from the [NGT] customer as fully as possible" and that the existing natural gas ratepayers bear minimum risk in the CNG/LNG service offering.[46] In other words, Section 12B would ensure that there is no cross-subsidy of the NGT customer by core natural gas customers. Moreover, the absence of such cross-subsidy means that FEI is competing on a fair basis with other potential providers of CNG fueling service.

19. FEI worked with Commission staff to develop and draft Section 12B provisions to be compliant with the Commission's directives.[47] FEI's proposed GT&Cs Section 12B was approved on February 7, 2012, by Commission Order No. G-14-12 and endorsed by the Commission on March 2, 2012.

20. Consistent with the directives of the Commission, Section 12B specifies that a take-or-pay rate that allows recovery of the present value of the cost of service associated with the provision of the CNG fueling service over the term of the Service Agreement is to be charged to the customer. It also defines certain cost inputs in the cost-of-service calculation, including:

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[46] NGT Decision, at page 5, 30.
[47] Ex. B-3, BCUC IR 1.57.1.

"(a) the actual capital investment in the fueling station including any associated labour, material, and other costs necessary to serve the Customer, less any contributions in aid of construction by the Customer or third parties, grants, tax credits or non-financial factors offsetting the full costs that are deemed to be acceptable by the British Columbia Utilities Commission;

(b) depreciation and net negative salvage rates and expense related to the capital assets associated with the vehicle fueling station;

(c) all operating and maintenance expenses, with no adjustment for capitalized overhead, necessary to serve the Customer, escalated annually by British Columbia CPI inflation rates as published by BC Stats monthly; and

(d) an allowance for overhead and marketing costs relating to developing NGV Fueling Station Agreements to be recovered from the Customer."[48]

21. Section 12B further requires a contractual provision for recovery of the un-depreciated capital cost of the fueling station if such is remaining at the termination of the Service Agreement.[49] In the event that the buyout is triggered, the cumulative contract revenues in excess of the minimum take-or-pay offset the payment required by BFI for the undepreciated capital costs. This provision does not adversely impact natural gas ratepayers as capital costs are fully recovered through the take-or-pay commitment and contract renewal provisions.[50] Excess fueling station recoveries will flow to natural gas ratepayers by way of the Commission approved CNG and LNG Recoveries deferral account.[51] As described in the response to Exhibit B-3, BCUC IR 1.44.3.1, it is only in the event that the buyout is triggered that the excess recoveries will be used to offset the termination payment (i.e. the un-depreciated capital cost of the fueling station).[52] Furthermore, with respect to the calculation of recovery in excess of

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[48] Approved GT&C Section 12B, para. 12B.4.
[49] See Order No. G-14-12 and approved GT&C Section 12B, para. 12B.6.
[50] Exhibit B-1, Section 5.2, page 16
[51] Exhibit B-3, BCUC IR 1.42.1, 1 and 1.42.3
[52] Please refer to Exhibit B-3, BCUC IR 1.44.3 for an example calculation of the termination payment assuming an annual volume based on 86 trucks, which exceeds minimum contract demand by 40,000 GJs per year (i.e. 167% of minimum contract per year). This response clarifies that the termination payment cannot be negative and that any excess credit balance would remain as a benefit to the ratepayers.

the take-or-pay volume, in the BFI Agreement FEI negotiated an excess rate at 50% of the customer's base price, in contrast to the 25% of the customer's base price in the Waste Management Agreement. Therefore, the BFI Agreement provides the potential for a greater percentage of revenue benefits to all non-bypass customers.[53]

22. The key provisions of the BFI Agreement that demonstrate fulfilment of Section 12B requirements are summarized in Section 3.2 of the Application. Based on a take-or-pay commitment of $60,000 GJ per year (starting from October 1, 2012 and ending September 30, 2019, subject to renewal) and the capital investment of $1.9 million, FEI designed a service rate of $4.662 per GJ to be charged to BFI. This rate, comprising of a capital rate and an O&M rate and including an allowance for overhead and marketing cost of $0.20 per GJ,[54] is adjusted annually. Additionally, the BFI Agreement contemplates an amendment of the contractual rate if the actual capital cost results in a cost variance of plus or minus two percent. Further, the Service Agreement addresses two different scenarios under which the early termination may take place and provides FEI with methods to recover the remaining un-depreciated capital cost in each scenario.[55]

23. In responses to information requests, FEI provided further clarification on calculation of different cost-of-service factors listed in Section 12B.4 of General Terms and Conditions and on the rates arrived at in the BFI Agreement. For instance, in Exhibit B-3, responses to BCUC IR 1.45.1, FEI explained that the O&M costs that were factored into the O&M rate and the service rate were determined by taking the forecast delivery costs and dividing them by the forecast throughput volume and by taking into account previous experience and a recommendation from its manufacturer. FEI's methodology is similar to the established cost of service ratemaking principles applicable to natural gas customers.[56] In Exhibit B-3, responses to BCUC

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[53] Exhibit B-3, BCUC IR 1.42.2; see also Exhibit B-3, BCUC IR 1.39.1.
[54] Ex. B-3, BCUC IR 1.33.1
[55] Ex. B-1, Appendix A, the Service Agreement, clause 11.1.
[56] See also Exhibit B-3, BCUC IR 1.57.1 for an explanation why Section 12B.4 should not be made interim.

IR 1.32.4, FEI confirmed that FEI has used BFI's minimum contract value to calculate the overhead component of the fueling charge and explained why it is reasonable to do so.

24. FEI submits that the evidence in the Application demonstrates that the BFI Agreement is in full compliance with GT&C Section 12B and permits FEI to recover as fully as possible the cost of service associated with provision of CNG fueling service to BFI over the term of the BFI Agreement.[57]

(b) Reasonable and Non-Discriminatory Rates

25. In the Application and responses to information requests, FEI has addressed questions relating to the revenue requirements for the Project, cost-of-service calculation and inputs, and the rate structure designed for the Project, and has demonstrated that the rate designed for this Project and charged to BFI is just and reasonable. Besides questions that seek confirmation, clarification, or explanation of various components of the Project's revenue requirements or inputs of the cost-of-service calculation, the information requests can be grouped into the following two main categories:

(a) Whether the costs are appropriately allocated between the NGT customer and the core natural gas ratepayers, thereby ensuring that the natural gas ratepayers are insulated, to the greatest extent possible, from the costs and risks of the NGT program; and

(b) Whether the differences in the service terms and conditions between the BFI Agreement and the Waste Management Agreement that was previously approved by the Commission result in a discriminatory rate.

26. FEI will address each above question and associated issues respectively below.

Cost Allocation

[57] See Ex. B-3, BCUC IR 1.5.1, 1.24.2 and 1.35.1.

27. The information requests reflect a concern that costs associated with BFI's fueling station are not appropriately allocated to BFI, thereby subjecting the core natural gas ratepayers to more risks. For instance, the Commission questioned whether the cost of service calculation for the Project should include market development costs, all costs relating to certain company personnel who are involved in the development of the NGT program, internal one-time project team and regulatory costs, and the costs for any corporate logo on the CNG trucks or on the fueling facilities.

28. FEI submits that by fully complying with the approved GT&C Section 12B, FEI has ensured that to the extent possible, the full cost of service is recovered from BFI. As explained above, Section 12B was revised based on the NGT Decision. In that Decision, the Commission expressed its concerns over issues such as unrecovered capital costs due to early termination, capital cost variance, and recovery of operating and maintenance costs, and directed FEI to revise Section 12B to better reflect full cost recovery from the CNG customer and better insulate the natural gas ratepayers from potential risks.[58] The revised and final approved Section 12B followed what was directed by the Commission, thereby having addressed concerns of the Commission. Accordingly, the approved Section 12B and the rate design thereunder thus ensure that the costs between the NGT customer and the core natural gas customers are properly allocated and that the natural gas ratepayers bear minimal risk in the service offering proposed in this Application.

29. Specifically to the BFI Agreement, the following contractual provisions demonstrate the proper allocation as contemplated by the Commission in the NGT Decision and by the Commission's endorsed GT&C Section 12B:

- Capital investment of $1.9 million in the fueling station, with the possibility of rate adjustment if the capital expenditures are greater or less than two percent;

[58] NGT Decision at page 25, 30,

- Customer to be charged a take or pay fueling charge of $4.66 per GJ based on a minimum contract demand of 60,000 GJ;
- All operating and maintenance expenses of $50,000 per year, with no adjustment for capitalized overhead, necessary to serve the Customer, escalated annually by British Columbia CPI;
- An allowance for overhead and marketing costs of $0.20 per GJ relating to developing NGV Fueling Station Agreements to be recovered from the Customer; and
- An agreement to pay FEI the un-depreciated capital cost of the fueling station if the contract is terminated after the initial term of seven years.

30. It is neither fair nor practical to allocate the costs relating to the natural gas market development to BFI or any single CNG customer. As FEI explained in Exhibit B-3, response to BCUC IR 1.51.5.1:

> *"…provision of fueling service is just one link in the chain required to develop NGT markets. Other links in the chain are supply of commodity and supply of natural gas delivery services. Expenditures FEI is making to develop the NGT market, such as the NGT Sales Manager's costs and the Business Development costs should not all be attributed to the fuelling station cost of service but are more appropriately covered by the overall FEI budgets for these areas."*

31. Additionally, section 12B applies only to FEI's ownership and operation of the CNG/LNG vehicle fueling station. Thus, a customer, such as BFI, that receives fueling service, also takes natural gas service under an applicable rate schedule such as Rate Schedule 25 (applicable to provision of firm transportation service through FEI's energy system and through one meter station to one shipper). Thus, there may be a danger of over collection of overhead allowance for marketing development from the NGT customer.

32. Further, FEI has historically supported the NGT market and incurred costs in doing so regardless of whether FEI has been providing fueling stations. For instance, FEI currently has Rate Schedules 6, 23, and 25 and has already incurred costs related to activity in support of

these delivery tariffs. Further, loading the cost of service calculation with all costs associated with promoting the overall NGT market as suggested by the Commission (i.e. not just the costs associated with establishing, maintaining and promoting the fueling stations) is likely to make the service offering less competitive and will likely reduce the rate of market adoption.[59] Less market adoption can mean fewer public interest benefits as discussed above. For instance, the natural gas ratepayers may not see the benefit from rate reduction from the increased throughput on FEI's system (all else being equal), and the provincial government may not see the natural gas royalties discussed in Exhibit B-1, section 3.3.3.

Comparison with the Waste Management Agreement

33. There are several questions asking for a comparison of the Waste Management Agreement that was previously approved by the Commission and the proposed BFI Agreement. FEI submits that the comparison is neither appropriate nor helpful as two projects are of different scale and meet different commercial needs of each customer; nor do the differences between the two agreements constitute rate discrimination.

34. First, the comparison of the service terms and conditions of the two agreements is not appropriate. The Waste Management was developed based on previously proposed General Terms and Conditions. In the NGT Decision, the Commission rejected the previously proposed general terms and conditions, but approved the WM Agreement, "on an exception basis only" as the WM Agreement was the first of its kind (at least in recent years) and was a "unique" agreement.[60] The BFI Agreement was developed based on the GT&Cs that have been revised to the satisfaction of the Commission, namely Section 12B. It is entirely appropriate for FEI now to apply for approval of a contract (and future contracts) based on the Commission approved GT&Cs that came out of the NGT Decision. This approach simply reflects FEI's adherence to the Commission's approved rate design elements.

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[59] Ex. B-3, BCUC IR 1.57.1.
[60] NGT Decision, at page 31.

35. Second, in the NGT Decision, the Commission reasoned that it favored a, "more structured approach to the General Terms and Conditions, which will result in a more standard form, leaving less to negotiate and consequently reducing the likelihood that an agreement will be discriminatory within the meaning of section."[61] Based on the Commission's directives, Section 12B was revised and subsequently approved. All of FEI's contracts going forward, including the BFI Agreement, will be required to adhere to these revised GT&Cs, which, as the Commission noted in the NGT Decision, should address the requirement found in section 59(2)(b) of the UCA.

36. Third, as recognized under section 59, there is no undue discrimination if the public utility offering a service made it available to all similarly situated persons. Both Waste Management and BFI received the service of construction and maintenance of a fueling station on its respective sites. Both services involve compression and delivery of 3,600 PSI fuel to a fleet of trucks through time-fill fueling posts. The services received by Waste Management and BFI are also substantially similar in that rates established in both service agreement are based on a take-or-pay commitment from the customer and on the cost of service model.[62]

37. Fourth, the extent of differences in these service agreements do not constitute undue discrimination as they reflect the substantially different operational reality of two different customers, such as the customer's fuel demand requirements, customer operational practices, the physical geography of the property, and other commercial requirements for the operation. For example, Waste Management needed FEI's fuel service for 20 trucks, while BFI will fuel 52 CNG trucks. Waste Management required two compressors while BFI requires three. Waste Management operates its trucks six days a week while BFI is expected to operate waste collection trucks five days per week. These operational differences will result in different rates. Specifically, the rate variations will reflect the different minimum contract volumes, the

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[61] NGT Decision, at page 23.
[62] Ex. B-3, BCUC IR 1.40.1.

different capital costs and the different operating costs for each installation.[63] Section 59(1) of the UCA states that, "A public utility must not make, demand or receive (a) an unjust, unreasonable, *unduly discriminatory or unduly preferential* rate for a service provided by it in British Columbia" [Emphasis added]. Reading section 59(2) together with 59(1) of UCA makes clear that what the UCA prohibits is "undue" discrimination. Some rate discrimination, such as a large volume, high load factor industrial customer receiving lower rates than a low volume, low load factor residential customer, or the commercial class paying more than its allocated costs while the residential class is paying less than allocated costs have been accepted. The rate variances in the two agreements here are similarly not unduly discriminatory.

(c) Conclusion

38. GT&C Section 12B was developed and approved as a rate structure to permit FEI to offer CNG fueling service to NGT customers and to prevent any potential cross-subsidization of the NGT customers by the core natural gas ratepayers. FEI submits that the rate structure in the BFI Agreement adheres to the provisions of Section 12B and that the rates therefore established in the Agreement are just and reasonable and should be approved as requested.

D. THE APPLICATION SHOULD BE APPROVED NOW

39. There are a number of information requests asking some broader context issues, ranging from whether the CNG refueling service is regulated,[64] whether the CNG market is matured sufficiently for FEI to consider a different business model,[65] whether a third party can provide BFI's requested service as an alternative to FEI,[66] or whether the fueling service should be offered by "a regulated affiliate of FEI."[67] FEI submits that these questions have already been answered by the NGT Decision or are being further explored in the AES Inquiry. For instance,

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[63] Ex. B-3, BCUC IR 1.40.1.
[64] See Ex. B-3, BCUC IR 1.2.1.
[65] See Ex. B-3, BCUC IR 1.3.1 to 1.3.8.
[66] Ex. B-3, BCUC IR 1.6.1.
[67] Ex. B-3, BCUC IR 1.58.1.

the Commission has previously decided that when a public utility such as FEI provides CNG fueling service, it is a regulated service.[68] Thus FEI, as a regulated public utility, can only offer a *regulated* CNG service according to the approved GT&C's. Whether CNG fueling service should remain regulated is an issue that is being addressed in the AES Inquiry.[69] Similarly, the questions regarding the status of the CNG fueling market and FEI's business model and role in this market have been discussed extensively in FEI's December 2010 NGT Application and the NGT Decision.[70] In the AES Inquiry, FEI's role in the market is again addressed.[71] FEI submits that not only have the market conditions not changed significantly within a short six-month period, but FEI has played, and continues to play, a vital role in the NGT market in British Columbia and offers a competitive service alternative to NGT customers, as discussed in Section B(b) above.[72]

40. Although some broader context questions are being addressed in the AES Inquiry, FEI submits that this Project should be approved without waiting for a decision in the AES Inquiry. In Order No. G-118-11 of the AES Inquiry, the Commission Panel has made the following determination:

> *"The Panel agrees that it is not appropriate for this Inquiry to be used as a vehicle to re-open past Decisions of the Commission. 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."*[73]

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[68] NGT Decision, at 18-19.
[69] Ex. B-3, BUCU IR 1.2.1-1.2.3; see also AES Inquiry, FEU Final Submission, at pages 85.
[70] NGT Decision, at pages 8 to 10.
[71] See AES Inquiry, FEU Final Submission, at page 89.
[72] Ex. B-3, BCUC IR 1.2.2; see also Ex. D-1.
[73] Order G-118-11, page 5 of 8.

41. As the Commission Panel has made clear in the above excerpt, the AES Inquiry is not intended to re-open the NGT Decision or the recent order approving GT&C 12B (Order G-14-12). Furthermore, the AES Inquiry is not to delay a proceeding such as this one that is concurrent with the AES Inquiry.[74] Thus, this Application should proceed accordingly.

E. CONCLUSION

42. As discussed above, BFI requested FEI to provide fueling service to its CNG trucks, which, in turn, are needed to provide waste collection service to the City of Surrey. The rates developed for the Project and established in the BFI Agreement were developed in adherence to the Commission's approved GT&C 12B. In this Application and in responses to over 200 information requests, FEI has provided the relevant information, such as the delivery rate impact, GHG emissions savings and general economic benefits to the Province, an estimation of fuel cost savings flowing to BFI, and any potential for those cost savings to be passed on to others (such as the City of Surrey), all of which enables the Commission to make a determination in this CPCN request. Moreover, FEI has provided information, verification, and clarification as to the rate design and cost-of-service model developed for the BFI Project.

43. Accordingly, FEI respectfully submits that the Commission now has all the relevant and sufficient information to grant a CPCN for the Project and approve the rate established in the BFI Agreement.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: April 2, 2012

[original signed by Song Hill]

Song Hill

Counsel for FortisBC Energy Inc.

[74] Ex. B-3, BCUC IR 1.4.1.