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May 28, 2013

Via Email
Original via Mail

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

Attention: Ms. Erica M. Hamilton, Commission Secretary

Dear Ms. Hamilton:

Re: FortisBC Energy Inc. (FEI or the Company)

Biomethane Service Offering: Post Implementation Report and Application for Approval for the Continuation and Modification of the Biomethane Program on a Permanent Basis (2012 Biomethane Application) (the Application)

Response to the British Columbia Utilities Commission (BCUC or the Commission) Confidential Information Request (IR) No. 1 – FILED PUBLICLY

On December 12, 2012, FEI filed the Application as referenced above. In accordance with Commission Order G-53-13 setting out the Revised Regulatory Timetable for the review of the Application, FEI respectfully submits the attached response to BCUC Confidential IR No. 1 on a non-confidential basis.

FEI notes that while BCUC Confidential IR No. 1 was issued confidentially, the responses are being filed publicly for the record of this proceeding as they do not contain confidential information.

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC ENERGY INC.

Original signed by: Ilva Bevacqua

For: Diane Roy

Attachments

cc (e-mail only): Registered Parties

FortisBC Energy Inc. (FEI or the Company) Biomethane Service Offering: Post Implementation Report and Application for Approval of the Continuation and Modification of the Biomethane Program on a Permanent Basis (2012 Biomethane Application) (the Application)	Submission Date: May 28, 2013
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1.0 Reference: INTERCONNECTION FACILITIES

Exhibit B-1-1, CONFIDENTIAL MetroVan Biomethane Supply Agreement

Responsibility for costs

Under Schedule C of the Biomethane Supply Agreement between Metro Vancouver and FEI, biomethane supply in excess of 40 TJ per year, up to an additional 60 TJ per year for a total of 100 TJ, is purchased at the Sumas monthly index price as reported by Platts for the applicable month.

According to the Agreement, Metro Vancouver retains ownership of any GHG reduction credits associated with the displacement of non-renewable natural gas, for biomethane deliveries in excess of 40 TJ per year. (Article 7)

1.1 Please confirm that FEI purchases of biomethane in excess of 40 TJ annually cannot be considered as purchases of renewable gas and therefore cannot be sold as RNG to customers participating in the RNG gas offering.

Response:

Confirmed.

1.2 What is the cost to deliver this gas to Sumas including the cost of the interconnection facilities and FEI transportation charges?

Response:

FEI has not calculated this cost because it is not a true reflection of the situation for this contract. In addition, it is not likely that Metro Vancouver (GVS&DD) will ever reach the maximum volume.

The configuration of this project will realistically result in the injected gas either being injected and re-used by the wastewater plant or used in the immediate area.

FEI used the Sumas monthly index price because it is reasonable and easily referenced. There was no intention to deliver gas to Sumas and then have non-bypass customers purchase it at that point. Instead it was meant to provide a reasonable price to Metro Vancouver for supplying natural gas onto the distribution system.

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Further, GVS&DD does not intend to supply more than 40,000 GJ per year. Rather, GVS&DD and FEI agreed that it is preferable to inject pipeline quality gas into the natural gas system to flaring the gas on site. This was considered a more responsible approach. The maximum limit of 100,000 GJ/year was simply a result of the available capacity at the proposed location and not based upon any firm plans by either GVS&DD or FEI to increase gas volumes significantly above 40,000 GJ/year.

FEI notes that the necessary approvals required for the GSV&DD supply project are not within the scope of this proceeding.

1.2.1 Please confirm that these costs are recovered from all non-bypass customers?

Response:

Gas Purchase costs (not the delivery costs) made under this Agreement for the deliveries in excess of 40 TJ per year will be recovered from all non-bypass customers. FEI believes this is reasonable because FEI regularly purchases natural gas at the Sumas monthly index price and the volumes are expected to be relatively small (please also refer to the response to BCUC Confidential IR 1.1.1).

As with all of the previously approved biomethane contracts, FEI intends to recover the costs of interconnection facilities from all non-bypass customers.

1.2.2 Please explain the nature and quality (i.e. is it spot, firm, and or non-firm) of this natural gas supply to FEI.

Response:

This purchase is non-firm and would be made on a spot basis.

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1.2.3 Assuming GVS&DD has supplied in excess of 40 TJ of Biomethane, how is the price paid to them for these excess volumes affected if supply is sporadic and uneven?

Response:

The price is simply based upon the monthly Sumas index price regardless of volume and timing of delivery within a given month.

Regardless, GVS&DD has indicated that its biogas generation and therefore biomethane supply are reasonably predictable.

1.3 If gas purchases in excess of 40 TJ annually have no renewable attributes accruing to FEI, then why is FEI paying a premium for delivery of this gas onto its system? In other words, is a price based on the Sumas monthly index less the cost associated with the interconnection facilities a more appropriate reflection of the value of the gas supply?

Response:

There is not a premium associated with the purchase of this gas. The price paid for the additional 60 TJ is reasonable and there is no significant impact on non-bypass customers. This aspect of the Agreement was developed as a means to allow GVS&DD to inject gas into the system rather than flaring. The price was considered equivalent to the cost of regular natural gas.

FEI does not believe that the price should be discounted from the Sumas Monthly Index. Because the gas is being received on system and the cost of the interconnection facilities are considered as part of the biomethane purchase agreement, FEI did not factor the cost of interconnection facilities into this price (see also response to BCUC Confidential IR 1.1.4). It could be argued that FEI is avoiding a transportation tariff required to receive equivalent gas at the Sumas Hub and should pay a premium equal to these avoided costs. Therefore, the price is reasonable.

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1
2 1.4 Should GVS&DD pay for any or all of the pipe interconnection costs, given that
3 GVS&DD plan to supply up to 60,000 GJ's of biomethane annually (in excess of
4 the 40,000 GJ's), into the FEI grid?
5

6 **Response:**

7 No. Fundamentally, this is a Biomethane Agreement and the GVS&DD should be treated
8 consistently with other suppliers of biomethane in this regard. Therefore, the interconnection
9 costs should be treated consistently with other approved biomethane projects. Interconnection
10 costs from the Spectra system are currently recovered from all non-bypass customers for the
11 receipt of traditional natural gas. This is consistent with that of the proposed treatment of
12 interconnection costs for the GVS&DD supply project.

13 Regardless, as stated in response to BCUC Confidential IR 1.1.1, GVS&DD does not intend to
14 supply significant amounts of biomethane in excess of the annual 40 TJ contracted amount.

15
16
17
18 1.5 In the event that a redacted version of the MetroVan contract is filed as part of
19 the IR1 process, FEI is requested to file the answers to this IR non-confidentially,
20 if appropriate.
21

22 **Response:**

23 Acknowledged, FEI is satisfied that these responses can be filed non-confidentially. Please
24 also refer to the responses to BCUC IRs 1.57.1 through 1.57.6 for additional responses related
25 to the GVS&DD contract.

26 Please refer to Attachment 1.5 for a redacted copy of the GVS&DD Agreement.

27

Attachment 1.5

BIOMETHANE PURCHASE AGREEMENT

THIS AGREEMENT made as of 16 OCTOBER 2012 (the "Effective Date")

BETWEEN:

FORTISBC ENERGY INC., 16705 Fraser Highway, Surrey, British Columbia,
V4N 0E8

("FEI")

AND:

GREATER VANCOUVER SEWERAGE AND DRAINAGE DISTRICT,
4330 Kingsway, Burnaby, British Columbia, V5H 4G8

("Metro Vancouver")

WHEREAS:

- A. FEI is a natural gas utility with a distribution system in British Columbia;
- B. Metro Vancouver owns and operates the Lulu Island Wastewater Treatment Plant (the "**Lulu WWTP**"), which is located in the City of Richmond on lands legally described as follows:
PID: 018-501-575
Parcel One Section 17 Block 3 North Range 6 West NWD Reference Plan LMP12801
(the "**Lands**"), and which produces biogas through the anaerobic digestion of wastewater sludge;
- D. Metro Vancouver intends to finance, design, construct, operate and maintain facilities on the Lands to increase the rate of biogas production and to purify and upgrade the biogas to pipeline quality biomethane (the "**Biomethane**");
- E. Metro Vancouver wishes to sell the Biomethane and FEI wishes to purchase the Biomethane from Metro Vancouver; and
- F. In order to monitor the quality and quantity of the Biomethane and inject the Biomethane into FEI's existing natural gas distribution system adjacent to the Lulu WWTP, FEI intends to finance, construct and operate facilities on the Lands to connect the Metro Vancouver facilities to FEI's gas distribution system.

NOW THEREFORE, in consideration of the mutual promises set out herein and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the parties agree as follows:

ARTICLE 1 - CONDITION PRECEDENT

- 1.1 **Approvals:** This Agreement will not come into effect and does not bind the parties until FEI has obtained the necessary approvals for this Agreement of all regulatory or other applicable governmental authorities having jurisdiction, including the British Columbia Utilities Commission, on terms and conditions which are satisfactory to FEI and Metro Vancouver.

ARTICLE 2 - TERM

- 2.1 **Term.** Subject to section 1.1, this Agreement will be for a period of commencing on the Effective Date and expiring on October 31st following the [REDACTED] of the First Delivery Date (the "**Initial Term**"), unless terminated earlier or renewed in accordance with the terms of this Agreement (the "**Term**"), where "**First Delivery Date**" means the business day after FEI has accepted the minimum quantity of 30 gigajoules ("**GJ**") of Biomethane per day for seven (7) consecutive days.
- 2.2 **Renewal.** This Agreement will renew automatically for additional two (2) year terms (each a "**Renewal Term**") unless a party provides the other party with written notice of its intention to terminate this Agreement at least one (1) year prior to the expiry of the Initial Term and six (6) months prior to the expiry of any Renewal Term.

ARTICLE 3 - DIVISION OF RESPONSIBILITY

- 3.1 **Metro Vancouver Facilities.** Metro Vancouver will be responsible at its own cost for designing, building, operating, maintaining and supporting facilities on the Lands to deliver Biomethane to the Interconnection Facilities, including but not limited to:
- (a) microsludge equipment;
 - (b) biogas purification/upgrading equipment;
 - (c) control systems,
 - (d) compression equipment to reach the minimum required delivery pressure of 420 kilopascals;
 - (e) a flare system; and
 - (f) piping between the purification/upgrading equipment and the Interconnection Facilities;
- (collectively, the "**Metro Vancouver Facilities**").
- 3.2 **FEI Facilities** - FEI will be responsible at its own cost for designing, building, operating, maintaining and supporting facilities on the Lands to connect the Metro Vancouver Facilities to FEI's existing gas distribution system, including but not limited to:
- (a) main extension and connection to FEI's gas distribution system;
 - (b) inlet valve;
 - (c) return valve;
 - (d) metering equipment;

- (e) gas quality monitoring equipment;
 - (f) pressure regulation equipment;
 - (g) odorizing equipment;
 - (h) safety shut offs;
 - (i) monitoring sensors and communications equipment capable of automatically re-starting injection of Biomethane into FEI's gas distribution system once Biomethane has met the Specifications, in the event that the Biomethane has temporarily failed to meet the Specifications;
 - (j) foundation; and
 - (k) fencing to enclose all of the above;
- (collectively, the "**Interconnection Facilities**")

- 3.3 **FEI Approvals.** FEI shall obtain and maintain any consents, permits, filings, orders or other approvals, including governmental consents and approvals, building and construction permits, environmental permits, zoning changes or variances (collectively the "**Approvals**") required, affecting or necessary for the ownership, installation, maintenance and operation of the Interconnection Facilities.
- 3.4 **Metro Vancouver Approvals.** Metro Vancouver shall obtain and maintain the Approvals required, affecting or necessary for the ownership, installation, maintenance and operation of the Metro Vancouver Facilities.
- 3.5 **Application of Utility Commission Act.** Metro Vancouver acknowledges FEI is a public utility as defined in the *Utilities Commission Act (British Columbia)* and this Agreement, including the terms and conditions contained herein, are subject to BCUC approval. If BCUC approval is granted subject to terms and conditions which are not reasonably satisfactory to the parties having regard to their *bona fide* business interests, the parties will negotiate in good faith to address the impacts thereof.
- 3.6 **Ownership.** The Interconnection Facilities are, and shall at all times remain, personalty and the property of FEI despite the degree to which they may be annexed or affixed to the Lands and despite any rule of law or equity to the contrary. FEI shall be entitled at any time and from time to time to remove the Interconnection Facilities in whole or in part, and the Interconnection Facilities shall be freely alienable by FEI as its own property. FEI shall be entitled to install signage and notices on the Interconnection Facilities identifying FEI's ownership.
- 3.7 **System Improvement.** Recognizing the value in continued improvement in operating efficiency and Biomethane production, the parties agree to meet periodically to discuss methods and future initiatives that may improve system operability or improve the environmental benefit of the project.
- 3.8 **Quality Monitoring.** FEI shall be responsible, at its own cost, for Biomethane quality monitoring from the Metro Vancouver Facilities prior to injection into its natural gas distribution system.

- 3.9 **Existing Operating Certificates.** Metro Vancouver will ensure any relevant permits or operating certificates issued prior to the Effective Date are updated to reflect the operation of the Interconnection Facilities on the Lands.
- 3.10 **Utilities.** Metro Vancouver will make electrical power and telephone lines available for use by FEI with respect to the Interconnection Facilities at no cost to FEI, and will pay hookup and service charges for electrical power and telephone lines. Metro Vancouver does not guarantee that either electrical power or telephone service will always be available, as service outages from electrical and telephone service providers occur at times.
- 3.11 **Cooperation.** In order to facilitate the connectivity between the Metro Vancouver Facilities and the Interconnection Facilities and maximize the production of Biomethane, FEI and Metro Vancouver agree to:
- (a) cooperate in the design, permitting, construction and connection of the respective facilities, including any upgrades and modifications to such facilities; provided that despite the exchange or review of, or comment on, any design drawings, by the other party, each party shall be solely responsible for the design and construction of their respective facilities;
 - (b) share operating data and work together to optimize operation of their respective facilities; and
 - (c) notify each other in advance of proposed operational changes or system modifications or upgrades to their respective facilities to ensure such changes, modifications or upgrades do not negatively impact the operation of the other parties facilities.

ARTICLE 4 – ACCESS TO AND USE OF LANDS

- 4.1 **Grant of License.** Metro Vancouver hereby grants to FEI, at no cost, a non-exclusive irrevocable license to those portions of the Lands identified as the License Area on the drawings attached as Schedule B (the “**License Area**”) at all times and from time to time, with or without vehicles, machinery and equipment, for FEI and its authorized employees, contractors and agents, to excavate, install, place, construct, renew, alter, repair, maintain, use, remove or replace the Interconnection Facilities, in whole or in part.
- 4.2 **Access over the Lands.** Metro Vancouver hereby grants to FEI, at no cost, the free and unobstructed right to access over and across those portions of the Lands identified as the Access Area on the drawings attached as Schedule B (the “**Access Area**”), with or without vehicles, machinery and equipment, as required from time to time, for FEI and its authorized employees, contractors and agents to access the Interconnection Facilities; provided however this right shall in no way restrict Metro Vancouver from maintaining, changing or improving the Lands as long as FEI and its authorized employees, contractors and agents continue to have access to the Interconnection Facilities. FEI’s right of access over the Lands is subject to FEI’s compliance with the reasonable requirements of Metro Vancouver for the safety and security of the Lands, including as to access points and limitation on access during normal working hours except in the case of emergency.

- 4.3 **Grant of Rights to Third Parties.** Subject to section 4.5, the grant of rights to FEI hereunder does not preclude or prevent Metro Vancouver from granting easements, statutory rights of way or other grants, leases or licences over the Lands to any other person.
- 4.4 **Use of Lands.** FEI shall:
- (a) not do, suffer or permit anything in, on or from the License Area or the Access Area that may be or become a nuisance or annoyance to the owners, occupiers or users of land or premises adjacent to or near the Lands or to the public, including the accumulation of rubbish or unused personal property of any kind;
 - (b) not do, suffer or permit any act or neglect that may in any manner directly or indirectly cause injury to the License Area or the Access Area;
 - (c) use the License Area and the Access Area only for the purposes set out in this Agreement;
 - (d) except as otherwise provided in this Agreement, pay all costs and expenses of any kind whatsoever associated with and payable in respect of FEI's use of the License Area, the Interconnection Facilities and all equipment, furniture and other personal property brought onto the License Area by FEI, including without limitation, all property taxes, levies, charges and assessments, permit and license fees, repair and maintenance costs, administration and service fees, gas, water, sewage disposal and other utility and service charges and payments for work and materials;
 - (e) carry on and conduct its activities in, on and from the License Area in compliance with any and all Laws from time to time in force, and to obtain all required approvals and permits thereunder, and not to do or omit to do anything in, on or from the License Area in contravention thereof;
 - (f) not erect or place any sign or advertising within the License Area, save and except signage identifying FEI's ownership of the Interconnection Facilities in accordance with section 3.6, without the prior written approval of Metro Vancouver, acting reasonably;
 - (g) not bring on or deposit any soil or fill onto the License Area except with the written consent of Metro Vancouver;
 - (h) not place, store, manufacture, install or bring upon any Contaminants in or on the Lands except in compliance with all environmental laws and immediately notify Metro Vancouver of any release of Contaminants caused by FEI and FEI's remediation plan with respect thereof; and
 - (i) co-ordinate all installation and construction activities on the License Area with Metro Vancouver;
 - (j) not install above ground works in those portions of the License Area that are used by Metro Vancouver, its agents or contractors;

- (k) cover all below ground works and restore the surface of the Lands to the same condition that existed at the commencement of the works to the reasonable satisfaction of Metro Vancouver;
- (l) discharge any builders lien which may be filed against the title to the Lands within 30 days of filing, and comply at all times with the *Builders Lien Act* (British Columbia), in respect of any improvements, work or other activities undertaken by or on behalf of FEI.

4.5 **Non-Interference.** Metro Vancouver will not do or knowingly permit to be done anything in, under, over, upon or with respect to the Lands which, in the reasonable opinion of FEI, may interfere with, diminish or injure FEI's rights hereunder or the installation, maintenance use or operation of the Interconnection Facilities, including but not limited to, anything which:

- (a) interrupts, endangers, impedes, disturbs or causes damage to the Interconnection Facilities or its operation, use, security or functionality;
- (b) removes, diminishes or impairs any vertical or lateral support for, or causes the movement or settlement of, the Interconnection Facilities; and
- (c) causes, permits or suffers any structure, equipment, act or function to exert any vertical load or lateral load upon or against, or impair the structural integrity of, the Interconnection Facilities;

without the prior written consent of FEI and in accordance with any conditions FEI may specify as a condition of such consent.

4.6 **Failure to Repair.** If FEI fails to repair or maintain the License Area or Interconnection Facilities in accordance with this Agreement after written notice to FEI, Metro Vancouver may, by its agents, employees or contractors make the required repairs or do the required maintenance and the cost of the repairs or maintenance shall be a debt due from FEI to Metro Vancouver; provided that Metro Vancouver shall not be liable to FEI for any inconvenience, annoyance, loss of business or other injuries suffered by FEI as a result of such repairs and maintenance.

4.7 **Excuse from Non-Performance for Maintenance.** Neither party will be considered to be in default under this Agreement where such party's non-performance is as a result of undertaking maintenance or repair on their respective facilities provided that such party is diligently undertaking such maintenance or repair to minimize its impacts and it being the intention of the parties that maintenance or repair work will not exceed 5 days per month.

4.8 **Prime Contractor.** For the purposes of the *Workers Compensation Act* (British Columbia), FEI is designated the prime contractor in relation to the construction, operation, maintenance and support of the Interconnection Facilities.

ARTICLE 5 – QUALITY, QUANTITY, TITLE AND INDEMNITY

5.1 **Biomethane Quality and Monitoring.** In order to be accepted by FEI, the Biomethane must meet the specifications set out in Schedule A (the “Specifications”) as determined

by FEI. FEI shall monitor Biomethane quality to ensure the Biomethane meets the Specifications prior to injection into its natural gas distribution system.

- 5.2 **Biomethane Volume and Delivery Quantity.** The parties expect the volume of Biomethane produced by the Metro Vancouver Facilities to range from approximately 30,000 to 40,000 GJ per year over the Term. Subject to section 5.3, Metro Vancouver agrees to sell the Biomethane to FEI in the following quantities, as measured by equipment forming part of the Interconnection Facilities:

- (a) **Maximum Yearly Delivery** – 100,000 GJ per year;
- (b) **Maximum Daily Delivery** – 225 GJ per day, in the months of June, July and August.

FEI will be responsible for measurement of Biomethane flow and the calculation of energy delivered for the purpose of determining delivery quantities.

- 5.3 **Excess Production** – If, from time to time, Metro Vancouver anticipates Biomethane production may exceed the maximum limits set out in section 5.2, Metro Vancouver shall notify FEI immediately of the anticipated delivery quantity, and FEI may, in its discretion, accept the additional Biomethane production volume. Metro Vancouver will notify FEI at least six (6) months in advance of any proposed changes or improvements to the Metro Vancouver Facilities or the Lands that could result in long term increase to Biomethane flow by more than 10% above the Maximum Yearly Delivery quantity set out in section 5.2 to allow FEI to evaluate the impacts of such increase on the Interconnection Facilities and its gas distribution system and FEI's ability to accommodate and accept such increased production volume.

- 5.4 **Exclusivity.** Metro Vancouver covenants and agrees to exclusively sell the Biomethane to FEI; provided that if FEI is unable to accommodate and accept all the Biomethane from time to time, Metro Vancouver shall be entitled to use, sell or otherwise dispose of the Biomethane in a commercially and environmentally reasonable manner after consultation with FEI.

- 5.5 **Title and Warranty.** Title to and responsibility for the Biomethane shall pass from Metro Vancouver to FEI upon delivery to the connection point between the Metro Vancouver Facilities and the Interconnection Facilities. Any Biomethane not meeting the Specifications will be redirected by FEI back to the Metro Vancouver Facilities and title to and responsibility for such Biomethane shall, upon return to the Metro Vancouver Facilities, revert back to Metro Vancouver. Metro Vancouver warrants it has the right to convey and will transfer good and merchantable title to the Biomethane free and clear of all liens, encumbrances and claims.

- 5.6 **Indemnity.** Metro Vancouver hereby agrees to indemnify and save FEI harmless from all losses, liabilities or claims including reasonable legal fees and costs of court arising from or out of claims of title, or for personal injury or property damage caused by the Biomethane ("**Claims**") which attach before title passes to FEI. FEI hereby agrees to indemnify and save Metro Vancouver harmless from all Claims which attach after title passes to FEI. Despite the foregoing, Metro Vancouver will be liable for all Claims arising from the failure to deliver title to the Biomethane to FEI free and clear of any encumbrances.

ARTICLE 6 – PURCHASE PRICE AND PAYMENT

- 6.1 **Purchase Price.** Commencing from the First Delivery Date, FEI shall pay Metro Vancouver for the quantity of Biomethane delivered to the Interconnection Facilities and accepted by FEI, as determined by meter readings, at the rates and subject to the adjustments set out in Schedule C. Metro Vancouver shall not be entitled to receive any payment from FEI for any Biomethane which does not meet the Specifications.
- 6.2 **Payment Terms.**
- (a) On or about the 15th day of each month, FEI shall generate a statement for the preceding month showing the quantity of Biomethane accepted by FEI in GJ, the applicable rates and adjustments, the amount payable and the cumulative quantity of Biomethane accepted for the then current year up to that month. If the quantity of Biomethane accepted is not known by the billing date, FEI will issue the statement based on a reasonable estimate of the quantity accepted and make the necessary adjustments as soon as practical and in any event by the next billing period.
 - (b) FEI will pay the purchase price within 30 days of delivery of the statement to Metro Vancouver .
 - (c) Any errors in any statement or disputes as to amounts due shall be promptly reported to FEI and any resulting underpayments or overpayments identified will be refunded or repaid with accrued interest at the rate of 1.5% per month (19.56% per annum).

ARTICLE 7 - GREENHOUSE GAS (GHG) EMISSIONS

- 7.1 **Offsets for Natural Gas Displacement.** The parties agree FEI will own any GHG reduction credits arising from the first 40,000 GJ of Biomethane delivered pursuant to this Agreement per calendar year and Metro Vancouver will own any GHG reduction credits arising from Biomethane delivered pursuant to this Agreement in excess of 40,000 GJ per calendar year. Each party will, at its own cost, administer the process to obtain compensation for the GHG reduction credits they own, including quantifying, validating and registering the credits. The parties agree to explore ways to cooperate in the administration of GHG reduction credits.
- 7.2 **Verification by Metro Vancouver.** At the request and to the satisfaction of FEI, Metro Vancouver will provide to FEI all relevant data and analysis necessary to enable FEI to verify the Biomethane is carbon neutral.

ARTICLE 8 – TERMINATION BY METRO VANCOUVER

- 8.1 **Funding.** Within 45 days of the date that BCUC approval is determined to be acceptable to both FortisBC and Metro Vancouver pursuant to section 1.1, Metro Vancouver has the right to terminate this Agreement by providing written notice to FortisBC if Metro Vancouver does not obtain:

- (a) a binding commitment from the Province of British Columbia to contribute \$3 million towards the purchase and installation of the Metro Vancouver Facilities; or
- (b) a binding commitment from the Union of British Columbia Municipalities to contribute \$1.4 million towards the purchase and installation of the Metro Vancouver Facilities.

ARTICLE 9 – DEFAULT

- 9.1 **Default.** Either party (the “**Defaulting Party**”) shall be in default of this Agreement if the Defaulting Party is in breach of any term, covenant, agreement, condition or obligation imposed on it under this Agreement, provided that:
- (a) the other party (the “**Non-Defaulting Party**”) provides the Defaulting Party with a written notice of such default and a 10-day period within which to cure such a default (the “**Cure Period**”); and
 - (b) the Defaulting Party fails to cure such default during the Cure Period, or if such default is not capable of being cured within the Cure Period, fails in good faith to commence the curing of such default upon receipt of notice of default and to continue to diligently pursue the curing of such default thereafter until cured.
- 9.2 **Effect of Default.** Upon default, the Non-Defaulting Party may, at its option and in addition to and without liability therefore or prejudice to any other right or remedy it may have:
- (a) cease performing its obligations under this Agreement, including suspending or refusing to make any payment due hereunder, until the default has been fully remedied, and no such action shall relieve the Defaulting Party from any of its obligations under this Agreement;
 - (b) undertake the necessary steps to remedy the default at the Defaulting Party’s expense, and such action shall not relieve the Defaulting Party from any of its obligations under this Agreement; or
 - (c) terminate this Agreement immediately upon notice to the other party, whereupon the provisions of ARTICLE 10 shall apply.

ARTICLE 10 - EFFECT OF EXPIRY OR TERMINATION.

- 10.1 **Removal of Interconnection Facilities.** Upon the expiry of this Agreement or in the event of termination upon default pursuant to section 9.2(c), FEI will, within 90 days following the expiry date or termination date, as the case may be, remove the Interconnection Facilities from the Lands and repair any damage to the Lands arising from such removal, or if requested by Metro Vancouver at such time, restore the Lands to the same condition as prior to the installation of the Interconnection Facilities to the reasonable satisfaction of Metro Vancouver provided such restoration is commercially reasonable and feasible; provided that FEI will be obligated to remove only those portions of the Interconnection Facilities located above surface level and may leave any unremoved portions in a safe manner to the satisfaction of Metro Vancouver acting

reasonably. Any portion of the Interconnection Facilities not removed by FEI will become the property of Metro Vancouver at no cost to Metro Vancouver.

ARTICLE 11 - INSURANCE REQUIREMENTS

11.1 Insurance. Each party shall obtain and maintain the following insurance coverage and provide proof of coverage to the other party:

(a) General Commercial Liability Insurance from insurers registered in and licensed to underwrite insurance in British Columbia for bodily injury, death and property damage in the amount of not less than \$5,000,000 per occurrence naming the other party as an additional insured with respect to this Agreement; and

(b) Such other insurance as reasonably required by the other party from time to time.

Each party shall be responsible for payment of any deductibles of their policies. All such policies shall provide that the insurance shall not be cancelled or changed in any way without the insurer giving at least 10 calendar days written notice to the other party.

ARTICLE 12 - ENVIRONMENTAL PROVISIONS

12.1 Definition of Contaminants. "Contaminants" means collectively, any contaminant, toxic substances, dangerous goods, or pollutant or any other substance which when released to the natural environment is likely to cause, at some immediate or future time, material harm or degradation to the natural environment or material risk to human health, and includes any radioactive materials, asbestos materials, urea formaldehyde, underground or aboveground tanks, pollutants, contaminants, deleterious substances, dangerous substances or goods, hazardous, corrosive or toxic substances, hazardous waste or waste of any kind, pesticides, defoliants, or any other solid, liquid, gas, vapour, odour or any other substance the storage, manufacture, disposal, handling, treatment, generation, use, transport, remediation or release into the environment of which is now or hereafter prohibited, controlled or regulated by law.

12.2 Metro Vancouver Release and Indemnity. Despite any other provision of this Agreement, Metro Vancouver acknowledges and agrees that FEI is not and shall not be responsible for any Contaminants now present, or present in the future, in, on or under the Lands, or that may or may have migrated on or off the Lands and hereby releases and agrees to indemnify FEI and its directors, officers, employees, successors and permitted assigns, from any and all liabilities, actions, damages, claims (including remediation cost recovery claims), losses, costs, orders, fines, penalties and expenses whatsoever (including all consulting and legal fees and expenses on a solicitor-client basis) arising from or in connection with:

- (a) any release or alleged release of any Contaminants at or from the Lands;
- (b) the presence of any Contaminants on or off the Lands before or after the Effective Date of this Agreement;

except to the extent that such release or the presence of such Contaminants was a direct result of the FEI's activities on the Lands, including the construction and operation of the Interconnection Facilities.

- 12.3 **FEI Release and Indemnity.** Despite any other provision of this Agreement, FEI shall release and indemnify Metro Vancouver and its directors, officers, employees, successors and permitted assigns, from any and all liabilities, actions, damages, claims (including remediation cost recovery claims), losses, costs, orders, fines, penalties and expenses whatsoever (including all consulting and legal fees and expenses on a solicitor-client basis) arising from or in connection with the release of any Contaminants which was a direct result of the FEI's activities on the Lands, including the construction and operation of the Interconnection Facilities.

ARTICLE 13 - INDEMNIFICATION AND LIMITATION OF LIABILITY.

- 13.1 **Indemnification.** Each party hereby indemnifies and holds harmless the other party and its employees, directors and officers from and against any and all adverse claims, losses, suits, actions, judgments, demands, debts, accounts, damages, costs, penalties and expenses (including all legal fees and disbursements) arising from or out of:
- (a) the negligence or wilful misconduct of such party, its employees, directors, officers or contractors; or
 - (b) the breach by such party of any of the provisions contained in this Agreement.
- 13.2 **Limitation of Liability.** Each party's liability to the other party under this ARTICLE 13 shall be limited to the payment of direct damages. In no event shall either party be responsible or liable to the other party for any indirect, consequential, punitive, exemplary or incidental damages of the other party or any third party arising out of or related to this Agreement even if the loss is directly attributable to the gross negligence or wilful misconduct of such party, its employees, or contractors.
- 13.3 **Duty to Mitigate.** Each party has a duty to mitigate the damages that would otherwise be recoverable from the other party pursuant to this Agreement by taking appropriate and commercially reasonable actions to reduce or limit the amount of such damages or amounts.

ARTICLE 14 - FORCE MAJEURE

- 14.1 **Effect of Force Majeure.** Neither party will be in default of this Agreement by reason only of any failure in the performance of such party's obligations pursuant to this Agreement if such failure arises without the fault or negligence of such party and is caused by any event of Force Majeure (as defined below) that makes it commercially impracticable or unreasonable for such party to perform its obligations under this Agreement and, in such event, the obligations of the parties will be suspended to the extent necessary for the period of the Force Majeure condition, save and except neither party will be relieved of or released from its obligations to make payments to the other party as a result of an event of Force Majeure. For the purpose of this section, "**Force Majeure**" means any cause which is unavoidable or beyond the reasonable control of any party to this Agreement and which, by the exercise of its reasonable efforts, such party is unable to prevent or overcome, including, acts of God, war, riots, intervention by civil or military authority, strikes, lockouts, accidents, acts of civil or military authority, or orders

of government or regulatory bodies having jurisdiction, or breakage or accident to machinery or lines of pipes, or freezing of wells or pipelines or the failure of gas supply, temporary or otherwise; provided however, the lack of funds or other financial cause shall not be an event of Force Majeure.

- 14.2 **Notice of Force Majeure.** The party whose performance is prevented by an event of Force Majeure must provide notification to the other party of the occurrence of such event as soon as reasonably possible.

ARTICLE 15 - DISPUTE RESOLUTION

- 15.1 **Dispute Resolution.** The parties will make a *bona fide* attempt to settle any dispute which may arise under, out of, in connection with or in relation to this Agreement by amicable negotiations between their respective senior representatives and will provide frank and timely disclosure to one another of all relevant facts and information to facilitate negotiations. If the parties are unable to resolve the dispute within fifteen (15) days, or if the parties agree to waive such discussions in respect of a particular issue, then the dispute shall be promptly submitted to and finally settled by arbitration in a manner agreed by the parties or, if the parties have not agreed to a manner of arbitration within fifteen (15) days, then by a single arbitrator who is appointed and renders a decision in accordance with the then current "Shorter Rules for Domestic Commercial Arbitration" or similar rules of the British Columbia International Commercial Arbitration Centre ("BCICAC"). The decision of the arbitrator shall be final and binding. The costs and expenses of the arbitration, but not those incurred by the parties, shall be shared equally, unless the arbitrator determines that a specific party prevailed, and in such a case the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party. The arbitration will take place in Vancouver, British Columbia and be conducted in English.
- 15.2 **Performance of Obligations.** The parties shall continue to fulfill their respective obligations pursuant to this Agreement during the resolution of any dispute in accordance with this section.

ARTICLE 16 - CONFIDENTIALITY

- 16.1 **Confidentiality.** All information or documentation received by a party (the "**Receiving Party**") which has been specifically marked by other party (the "**Disclosing Party**") as confidential (the "**Information**") shall be deemed to be confidential and proprietary to the Disclosing Party. Except as otherwise provided herein, the Receiving Party shall not directly or indirectly disclose the Information to any third party without the prior written consent of the Disclosing Party. Such consent is not required where the third party is another contractor or consultant retained by the Receiving Party for the purposes contemplated in this Agreement and to the extent that such disclosure is necessary for the proper performance of this Agreement or such disclosure is required by law, including the *Freedom of Information and Protection of Privacy Act*.
- 16.2 **Exception for Regulatory Submission.** Despite the foregoing, the Receiving Party may use the Information in the preparation of and submissions to regulatory agencies.

- 16.3 **Exclusions.** The obligation of confidentiality set out above shall not apply to material, data or information which is known to either party prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same.

ARTICLE 17 - GENERAL

- 17.1 **Costs.** Except as otherwise set out in this Agreement, each party will be responsible for the payment of its own costs related to performing its obligations under this Agreement.
- 17.2 **Publicity.** Neither party shall initiate any media releases, interviews, or presentations to the media relating to this Agreement without the agreement and approval of the other party, not to be unreasonably withheld or delayed
- 17.3 **Compliance with Laws.** Each party covenants, as a material provision of this Agreement, it will comply with all codes, statutes, by-laws, regulations or other laws in force in British Columbia during the Term.
- 17.4 **Governing law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada. The parties hereby attorn to the jurisdiction of the courts of British Columbia and all courts competent to hear appeals therefrom.
- 17.5 **Notice.** Any invoices, payments, notices or other communication required to be given or made pursuant to the Agreement shall, unless otherwise expressly provided herein, shall be in writing and shall be personally delivered to or sent by facsimile to either party at its address set forth below and deemed to have been received the next business day following delivery or facsimile transmittal:

If to: **FortisBC Energy Inc.**
16705 Fraser Highway, Surrey, BC
V4N 0E8

Attention: Doug Stout, VP Energy
Solutions & External Relations
Fax: 604-592-7670

With a copy to:
scott.gramm@fortisBC.com

If to: **Greater Vancouver Sewerage
and Drainage District**
4330 Kingsway, Burnaby, BC
V5H 4G8

Attention: Jeff Carmichael,
Division Manager, Utility
Research & Opportunity Projects
Fax: 604-436-6811

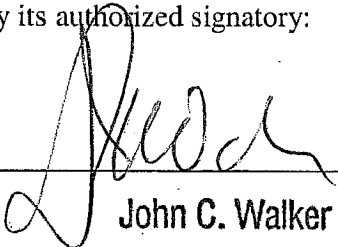
- 17.6 **Schedules.** The schedules attached to this agreement are an integral part of this Agreement and are hereby incorporated into this Agreement as a part thereof.
- 17.7 **Amendments to be in writing.** Except as set out in this Agreement, no amendment or variation of the Agreement shall be effective or binding upon the parties unless such amendment or variation is set forth in writing and duly executed by the parties.
- 17.8 **Waiver.** No party is bound by any waiver of any provision of this Agreement unless such waiver is consented to in writing by that party. No waiver of any provisions of this Agreement constitutes a waiver of any other provision, nor does any waiver constitute a continuing waiver unless otherwise provided.

- 17.9 **Enurement.** This Agreement enures to the benefit of and is binding on the parties and their respective successors and permitted assigns.
- 17.10 **Survival.** The following provisions shall survive the termination or expiration of this Agreement: Section 5.6 [*Indemnity*], ARTICLE 12 [*Environmental Provisions*], ARTICLE 13 [*Indemnification and Limitation of Liability*], ARTICLE 15 [*Dispute Resolution*], ARTICLE 16 [*Confidentiality*], Section 17.4 [*Governing Law*] and Section 17.5 [*Notice*].
- 17.11 **Remedies Cumulative.** All rights and remedies of each party under this Agreement are cumulative and may be exercised at any time and from time to time, independently and in combination.
- 17.12 **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination does not impair or affect the validity, legality or enforceability of any other provision of this Agreement.
- 17.13 **Further Assurances.** The parties shall sign such further and other documents and do and perform and cause to be done and performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement.
- 17.14 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, covenants, representations, warranties or other provisions, whether express or implied, collateral, statutory or otherwise, relating to the subject matter of this Agreement except as provided in this Agreement.
- 17.15 **Time is of the essence.** Time is of the essence of this Agreement.
- 17.16 **Execution.** This Agreement may be executed in counterparts, each of which shall be deemed as an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission hereof shall be as effective as delivery of an originally executed counterpart hereof.
- 17.17 **Interpretation.** In and for the purpose of this Agreement:
- (a) this "**Agreement**" means this agreement as the same may from time to time be modified, supplemented or amended in effect,
 - (b) the headings are for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement, and

- (c) the singular of any term includes the plural, and vice versa, the use of any term is generally applicable to any gender and, where applicable, a corporation, the word "or" is not exclusive and the word "including" is not limiting (whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto).

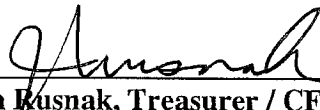
IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

FORTISBC ENERGY INC.
by its authorized signatory:



John C. Walker
President & CEO

**GREATER VANCOUVER SEWERAGE
AND DRAINAGE DISTRICT**
by its authorized signatory:



Jim Busnak, Treasurer / CFO

Schedules attached:

Schedule A – Specifications

Schedule B – Drawing of License Area and Access Area

Schedule C – Purchase Rates and Adjustments

Schedule A
Biomethane Acceptance Specification

The Biomethane shall meet the following requirements:

1. pipeline quality specifications identified in the Westcoast Energy Inc. General Terms and Conditions, Article 12, item 12.07 as at the Effective Date, which are set out below;
2. not contain more than 1 milligram per cubic meter of total siloxane; and
3. be free of any objectionable material.

Westcoast Energy General Terms and Conditions, Article 12, item 12.07:

12.07 Residue Gas at Receipt Points - Residue gas delivered to Westcoast by or for the account of a Shipper at a Receipt Point shall:

- (a) not contain sand, dust, gums, oils and other impurities or other objectionable substances in such quantities as may be injurious to pipelines or may interfere with the transmission or commercial utilization of the gas;*
 - (b) not contain more than six milligrams per cubic meter of hydrogen sulphide;*
 - (c) not contain water in the liquid phase and not contain more than 65 milligrams per cubic meter of water vapour;*
 - (d) be free of hydrocarbons in liquid form and not have a hydrocarbon dew-point in excess of minus 9°C at the delivery pressure;*
 - (e) not contain more than 23 milligrams per cubic meter of total sulphur;*
 - (f) not contain more than two percent by volume of carbon dioxide;*
 - (g) be as free of oxygen as Shipper can keep it through the exercise of all reasonable precautions and shall not in any event contain more than 0.4 percent by volume of oxygen;*
 - (h) have a temperature not exceeding 54°C; and*
 - (i) have a total heating value of not less than 36.00 megajoules per cubic meter."*
-

Schedule C
Purchase Rates and Adjustments

1.1 **Purchase Price.** FEI shall pay Metro Vancouver for the quantity of Biomethane accepted by FEI per month commencing the First Delivery Date at the following rates, plus applicable taxes thereon:

- (a) subject to adjustment pursuant to sections 1.2 and 1.4 of this Schedule, the rate of \$13.40 per GJ (the “**Base Rate**”) for the first 40,000 GJ accepted per year (the “**Base Quantity**”); and
- (b) the rate, per GJ, for natural gas commodity pricing identified as the Sumas Monthly Index Price contained in “Inside FERC” published by Platts for the applicable month (the “**Excess Rate**”) for each GJ accepted in excess of the Base Quantity.

1.2 **One-Time Capital Adjustment.** The Base Rate has been calculated on the basis that the costs, excluding taxes, incurred by Metro Vancouver for the design and construction of the Metro Vancouver Facilities, calculated based on the expense categories set out in the table below, will be no less than [REDACTED]. If the actual costs, excluding taxes, paid by Metro Vancouver are less than [REDACTED] the Base Rate will be amended, effective from the date that is 180 days from the First Delivery Date, in the following manner:

- (a) Where the actual costs are less than [REDACTED] the Base Rate will be [REDACTED] per GJ; and
- (b) Where the actual costs are between [REDACTED] the Base Rate will be decreased by [REDACTED] that the actual costs are less than [REDACTED]

1.3 **Cost Calculation.**

EXPENSE CATEGORIES
Engineering and Project Management
Paradigm Supply Contract
Biomethane System Supply Contract
Construction Contract

1.4 **Annual Increase.** The Base Rate shall be subject to an annual increase of [REDACTED] from the previous year on 1st of November of each year of the Term beginning November 1, 2013; provided that no adjustment will be made which results in the Base Rate exceeding the then current BCUC - approved maximum rate for delivered biomethane.