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

**Attention: Ms. Erica M. Hamilton,
Commission Secretary**

Dear Sirs/Mesdames:

**Re: Application for Reconsideration and Variance
of Order G-26-13, dated February 25, 2013
on FortisBC Energy Utilities' Common Rates, Amalgamation, and Rate
Design Application (Reconsideration Application)**

We are counsel for the FortisBC Energy Utilities (the "FEU"), consisting of FortisBC Energy Inc. ("FEP"), FortisBC Energy (Vancouver Island) Inc. ("FEVI") and FortisBC Energy (Whistler) Inc. ("FEW").

By letter dated May 8, 2013, the British Columbia Utilities Commission (the "Commission") established phase one of the reconsideration process related to the applications for reconsideration and variance of Order G-26-14 filed separately by the FEU and the Commercial Energy Consumers of B.C. (the "CEC"). The Commission invited participants to comment on a number of questions in order to assess whether the Commission should proceed to the second phase of the reconsideration process. In accordance with the process set out by the Commission, the FEU are filing this letter to reply to the comments made by participants.

The following entities and individual submitted comments: the Rental Owners and Managers Society of BC ("ROMSBC"), Fort Nelson & District Chamber of Commerce ("FNDCC"), the British Columbia Pensioners' and Seniors' Organization et al. ("BCPSO"), the Association of Vancouver Island and Coastal Communities ("AVICC"), and Mr. Randolph Robinson.

FNDCC takes no position on the reconsideration because the FEU have excluded the Fort

Nelson service area from the Reconsideration Application. The FEU reiterate that they are not seeking reconsideration of the determination not to adopt postage stamp rates in the Fort Nelson service area.

ROMSBC and AVICC each support the reconsideration process proceeding to the second phase. BCPSO also supports proceeding to the second phase of the reconsideration on the basis of a subset of the grounds set out by the FEU and CEC. Only Mr. Robinson appears to oppose the requests for reconsideration.

In the following submissions, the FEU address the comments of BCPSO and Mr. Robinson regarding new evidence, as well as the topic of whether new parties should be given the opportunity to present evidence. The FEU otherwise rely on the content of their Reconsideration Application in support of proceeding to phase two of the reconsideration process.

New Evidence Regarding LNG Export Facility

BCPSO submits that in the event the Commission orders a reconsideration, then new evidence should be admitted on “the proposed development of an LNG export facility at the Woodfibre site near Squamish.” Mr. Robinson, however, submits that the evidence on the LNG export facility near Squamish is “prospective in nature and not definite and therefore not to be given any weight in this reconsideration.” Mr. Robinson also submits that new evidence should only be admitted if it “was available at the time of the submissions on this application but was overlooked.” He submits that evidence regarding events subsequent to the conclusion of the proceeding should not be admitted.

The FEU submit that, in general, new evidence that has arisen since the close of the record of the proceeding is the type of evidence that should be admitted upon reconsideration. For instance, new evidence can be admitted to demonstrate that there has been a fundamental change in circumstances or facts that warrants reconsideration. This is a recognized ground for reconsideration in the Commission’s reconsideration guidelines.¹ Such new evidence may also support other grounds for reconsideration.

With respect to the circumstance of the proposed LNG export facility near Squamish, this facility is in the project development phase and there is still uncertainty as to whether it will proceed.² However, the fact that an LNG facility is being considered, whether or not

¹ British Columbia Utilities Commission, “Understanding Utility Regulation: A Participant’s Guide to the B.C. Utilities Commission”

² The FEU rely here on the record of the proceeding related to the FortisBC Energy (Vancouver Island) Inc.’s Application for Approval of a Deferral Account in Connection with a Development Agreement between FEVI and Pacific Energy Corporation.

it ultimately materializes, is new evidence that should be considered by the Commission. As indicated by the Ministry of Energy, Mines and Natural Gas (the “Ministry”) in its letter of April 15, 2013,³ one of the reasons the government favours postage stamp rates as a matter of policy is to ensure that economic development in the FEVI and FEW service territories is not disadvantaged due to energy input costs. The Ministry expressed its concern that in the absence of postage stamp rates investors looking to add value to provincial natural gas resources may be dissuaded from developing resources within FEVI and FEW’s service territories. The proposed LNG facility near Squamish is an example of investors looking to add value to provincial resources. However, the decision whether to proceed will be influenced by the profitability of the enterprise, which, in turn, may be affected by natural gas delivery rates. Postage stamp rates will lower delivery rates for FEVI which could encourage such a development. The FEU therefore submit that it is appropriate for the Commission to consider the potential for the development of an LNG facility in the context of how postage stamp rates might affect LNG development, independent of the probability of such a development proceeding. However, the FEU believe it is too speculative at this time to consider the LNG facility as evidence that FEVI delivery rates will be reduced due to LNG demand.

New Evidence Regarding Integration

BCPSO submits that in the event the Commission orders a reconsideration then new evidence should also be admitted on “the degree of integration of the FEU at the date of acquisition from Terasen and the meaning of Fortis Inc.’s assurances regarding ‘local functions’.” The FEU agree that new evidence should be admitted on this topic. The Commission’s Decision relied on the Commission’s interpretation of these assurances, yet there was no evidence related to these assurances in the original proceeding and parties were not given an opportunity to speak to their meaning or significance (if any) during the original proceeding. As discussed in the Reconsideration Application, the FEU were operated as an integrated utility at the time of the acquisition and the assurances of Fortis Inc. did not relate to maintaining local functions within the FEVI and FEW service areas. The FEU therefore submit that it would therefore be appropriate to consider new evidence on this topic.

Other Categories of New Evidence

BCPSO submits that the reconsideration of other issues “do not require the admission of new evidence or evidence from new parties.” The FEU submit that there are at least two other areas where new evidence should be admitted:

³ FEI Reconsideration Application, Appendix A.

1. As noted above, the FEU have included with their Reconsideration Application a letter from the Ministry which sets out the government policy in favour of postage stamp rates. As submitted by the FEU in the Reconsideration Application, the letter provides just cause for the Commission to reconsider and vary Order G-26-13. In the FEU's submission, the letter from the Ministry is highly relevant and probative and should be considered by the Commission.
2. The CEC have submitted that a new rate design principle has been raised by the Decision "that cost causation makes postage stamp rates unfair when a difference in a regional cost or cross subsidization is significant but with no determination as to the relevant threshold." If the Commission concludes that a new principle has been raised as submitted by the CEC, then new evidence should be permitted on the consideration of that principle so that it may be fully and fairly considered by the Commission.

New Parties

The FEU note that no participants addressed the topic of whether new parties should be given the opportunity to present evidence. The Ministry's letter regarding policy in favour of postage stamp rates indicates that the Ministry intends to seek intervenor status should the Commission undertake a reconsideration proceeding.⁴ FEI submits that the Ministry brings a unique and important policy perspective to the issues being considered by the Commission in this proceeding and that the Ministry should be given the opportunity to participate and present further evidence if it desires to do so.

Conclusion

The FEU submit the Commission should proceed to phase two of the reconsideration process on the grounds set out in the FEU's Reconsideration Application.

All of which is respectfully submitted,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by Christopher Bystrom]

Christopher Bystrom

⁴ FEI's Reconsideration Application, Appendix A, p. 4.