



Diane Roy
Director, Regulatory Affairs

FortisBC Energy
16705 Fraser Highway
Surrey, B.C. V4N 0E8
Tel: (604) 576-7349
Cell: (604) 908-2790
Fax: (604) 576-7074
Email: diane.roy@fortisbc.com
www.fortisbc.com

Regulatory Affairs Correspondence
Email: gas.regulatory.affairs@fortisbc.com

August 1, 2014

Via Email
Original via Mail

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC
V6Z 2N3

Attention: Ms. Erica M. Hamilton, Commission Secretary

Dear Ms. Hamilton:

Re: FortisBC Energy Utilities (FEU)¹

**Application for Removal of the Restriction on the Location of Data and Servers
Providing Service to the FEU, currently Restricted to Canada**

As directed by Order G-116-05 (and subsequent amendments and clarification) of the British Columbia Utilities Commission (the Commission), the FEU currently store all of their data on servers located within Canada. The FEU believe that it is unnecessary to continue to restrict the location of data and servers providing services to the FEU as the original order was made in 2005 and privacy protection and technology have both significantly advanced. The FEU thus apply to the Commission for the removal of the restriction imposed by Order G-116-05.

Regulatory Background

1. Order G-116-05 – Kinder Morgan, Inc. Acquisition

On August 17, 2005, Kinder Morgan, Inc. and 0731297 B.C. Ltd. (collectively KMI) applied to the Commission for approval of the acquisition of the common shares of (then) Terasen Inc., which would cause KMI to have indirect control of the (then) Terasen Utilities. During the Commission review process, letters of comment were filed raising privacy concerns from the proposed acquisition due to the fact that KMI was an American company, and that if the acquisition was approved, it would result in moving Canadian owned and controlled utilities (and as a result data and other functions) to foreign ownership and control.

¹ Comprised of FortisBC Energy Inc., FortisBC Energy (Vancouver Island) Inc. and FortisBC Energy (Whistler) Inc.

On November 10, 2005, the Commission issued its Decision and Order G-116-05 (the KMI Decision) granting approval of the application subject to certain conditions. With respect to data location and related privacy concerns, the Commission Panel (in section 7.2.3, on page 50 of the KMI Decision) stated that:

In order to address privacy concerns and other concerns, the Commission Panel determines that it would be appropriate to attach a condition to approval of the Transaction that requires KMI not to change the geographic location of any existing functions or data currently in TGI's service area without prior approval of the Commission."

2. Revised by Order G-75-06 – Customer Records Located Outside the Service Area

On April 20, 2006, the (then) Terasen Utilities sought clarification regarding a number of items in the KMI Decision, one of which was the restriction on the location of data. The reason for the clarification was that the KMI Decision did not consider that certain customer records of the Terasen Utilities were already located outside the Terasen Gas Inc.'s service area at the time of the KMI Decision.

On June 26, 2006, the Commission issued Order G-75-06, revising the KMI Decision conditions with respect to the location of data and servers which provided service to the (then) Terasen Utilities as follows:

"The Commission orders that the location of data and servers providing service to the Terasen Utilities is to be restricted to Canada and that any proposal to locate data and servers providing services to the Terasen Utilities (including data and servers providing back-up services) outside Canada will require the Commission's approval."

3. Further Clarified by Letter L-30-06 - Location

Also on June 26, 2006, the Commission issued Letter L-30-06 in response to the April 20, 2006 clarification request. The Commission clarified that the location of the data is determined by the location of the server, and that any change to the geographic location of any data that was located in the service area on November 10, 2005 would require Commission approval.

4. Fortis Inc. Acquisition

On March 1, 2007, Fortis Inc. (Fortis) applied to acquire the issued and outstanding shares of (then) Terasen Inc. from KMI. In the application, Fortis stated that it was prepared to accept the continued application of the existing conditions established by Commission Order G-116-05, revised by Order G-75-06, and clarified by Letter L-30-06, which included the following:

"Location of Functions and Data

In order to address privacy concerns and other concerns, the Commission Panel determines that it would be appropriate to attach a condition to approval of the Transaction that requires KMI not to change the geographic location of any existing

functions or data currently in TGI's service area without prior approval of the Commission.

The location of data and servers providing service to the Terasen Utilities is to be restricted to Canada and any proposal to locate data and servers providing services to the Terasen Utilities (including data and servers providing back-up services) outside Canada will require the Commission's approval.²

On April 30, 2007, the Commission issued its Decision and Order G-49-07 (the Fortis Decision) granting approval of the application subject to certain conditions. With respect to the location of data, the Commission Panel determined that:

"... the Conditions should be imposed relating to ... location of ... data as set out in Commission Decision and Order No. G-116-05, revised by Commission Order No. G-75-06 and clarified by Commission Letter No. L-30-06 related to the previous application by KMI to acquire Terasen as conditions to the approval of the Application."³

Reasons for Removal of Restriction on Data/Server Location

At the time of KMI's application to acquire the FEU, a significant number of letters of comment were received during the proceeding, voicing concerns with respect to privacy and foreign ownership and control. In the KMI Decision and subsequent orders and clarifications as outlined in the Regulatory Background section above, the Commission cited "privacy concerns and other concerns" as the reasons for imposing the restriction on the geographic location of data (as determined by the location of the server) to Canada. For the reasons outlined below, the FEU believe that continuing to restrict the location of data and servers is no longer necessary or practical.

Privacy Concerns

In 2005 when the initial privacy concerns were raised, the provincial private sector legislation (the British Columbia *Personal Information Protection Act* or "PIPA") had just come into force (2004) and the federal private sector legislation (*Personal Information Protection and Electronic Documents Act* or "PIPEDA") had only been in force for a few years. In addition, awareness of the new legislation and how it would be administered and enforced, and ultimately how privacy would be protected by the private sector was in the development phase.

A decade later the privacy regime in British Columbia is in a far more robust state, privacy awareness is much more prevalent and there is an abundance of guidance and case law from the British Columbia Office of the Information and Privacy Commissioner ("OIPC") and the federal Office of the Privacy Commissioner ("OPC"). These developments in the privacy sphere are sufficiently robust to ensure all Canadian corporations abide by the stringent rules with respect to what information is considered personal information, and the obligations

² Fortis Inc. Acquisition Application, Ex. B-1, para. 71-72, pp. 20-21.

³ Order G-49-07, Appendix A, p. 15.

around the collection, use, disclosure and security of that information. The FEU are no exception and need to abide by the applicable rules.

In addition, the FortisBC Utilities (FBCU)⁴ have a published privacy policy, attached hereto as Appendix A. The FBCU policy sets forth the FBCU's commitment to privacy protection, and outlines the purposes for which personal information is generally collected, used and disclosed, and the limited scope of collection, use and disclosure of personal information. As stated in this policy, the FBCU,

collect, use and disclose personal information about our customers to enable us to establish and manage the relationship necessary to provide services to [customers]. While FortisBC places a high priority on the protection of personal information shared with us by our customers, legislation is in place that governs how personal information must be managed and protected. We are committed to complying with the legislation.

The FEU believe that the provincial and federal privacy legislation and framework in place today, along with the FBCU's privacy policy, sufficiently address any and all privacy concerns, including those that were raised in the initial proceedings in 2005.

Foreign Ownership Concern

In 2007, when Fortis Inc., a Canadian owned and controlled corporation, purchased the FEU from KMI, the FEU were preparing and finalizing transition plans with respect to data maintenance.⁵ Since then, all the FEU data have been moved and are stored on servers located in Canada as directed by Order G-112-06, and potential concerns regarding foreign ownership and control were resolved.

Moreover, in absence of the current restriction, the FEU will continue to own and control its data, to have access, if necessary, to the data on a 24 hours per day, 365 days per year basis, except for temporary system outages, and to comply with applicable provincial and federal privacy legislation. Additionally, the data would be just as secure as if the data were stored on servers in Canada as there are security standards in place that any vendor doing business with the FEU must adhere to.

The FEU, therefore, believe that there is no longer a need to impose restrictions on the location of data or servers due to concerns about foreign ownership and control.

Technology Advancement

Technology relating to data storage and server services has advanced since 2005 when the restriction on data/server location was considered and imposed by the Commission. For instance, due to technological advancements in recent years such as improvements in bandwidth, latency and infrastructure performance, there are several organizations offering third-party services for software, storage and servers. Technology solutions are becoming more available as utility-style services, and some vendors are only offering their products,

⁴ Comprised of the FEU and FortisBC Inc.

usually software, as a hosted service. Further, due to economies of scale, these third-party services may be less costly than in-house solutions.

Today, the current data/server geographical location restriction prevents the FEU from considering any third-party service provider that results in data or software being hosted on servers outside Canada. The FEU should be able to consider all feasible and applicable hosted options when new products are evaluated or existing systems are upgraded to find a solution that best fits the FEU's business and services to customers. Moreover, the restrictions on the FEU may hinder opportunities for investment in information systems, software, service providers, and technology platforms which may result in benefits for customers as well as cost savings.

As an example, Microsoft Office 365 is a commonly used third-party service that provides the Office suite of tools, including email, as a service. If this service is used, it can remove the need for in-house FEU servers for these systems and the associated costs of operating them. It also maintains a perpetually updated suite of Office tools for the end user, as the hosted solution which always has the latest versions and updates, further reducing the operating costs when compared to in-house style solutions that require regular maintenance and support.

In addition, many of the vendors that the FEU may wish to use for services other than technology services may have servers located outside of Canada. For example, if the FEU wished to engage a talent sourcing firm we would be restricted to those firms which store all data on Canadian servers and accordingly, the FEU has been faced with restrictions on which vendors can be retained for various services. As technology continues to advance and more and more businesses take advantage of third-party software services, the FEU will be faced with decreasing responses from vendors able to provide the services we require.

Potential Inconsistencies

As noted above, the protection of personal information in British Columbia is governed by PIPA and PIPEDA, as applicable. Neither of these statutes contains a restriction to maintain the location of data and servers for private sector companies within British Columbia or Canada.

As a result, the imposition of this restriction by the Commission creates an additional obligation for the FEU that does not apply to other private sector companies and creates an inconsistency between how the FEU and other private sector companies operate in British Columbia with respect to location of their data and servers and the vendors and services which they can use. Removal of this restriction will ensure the FEU are able to manage their information systems selections in a manner consistent with other private sector companies in British Columbia.

The data/server location restriction on the FEU also creates an inconsistency in practices between the FEU and FortisBC Inc. (FBC), which has no similar general restriction. The existing data/server restriction not only requires different servers for the FEU and FBC, but

⁵ See Fortis Inc. Acquisition Application, Ex. B-2, response to BCUC IR 1.7.1.

also prevents the FEU from operating in a consistent manner with respect to information services between the FEU and FBC.

Approval Sought and Recommended Regulatory Review Process

As noted above, in Order G-75-06, the Commission clarified that any proposal to locate data and servers providing services to the Terasen / FortisBC Utilities (including data and servers providing back-up services) outside Canada will require the Commission's approval. Further to this order, the FEU hereby seek an Order from the Commission removing the restriction on the location of data and servers providing services to the FEU. A draft form of Order sought is provided in Appendix B.

Because the approval sought is limited and straightforward, the FEU recommend a written hearing process, with one round of information requests. Depending on the nature and number of information requests, the arguments by the FEU and the Interveners may be waived. The FEU accordingly propose the following regulatory timetable:

| Action | Date (In 2014) |
|--|------------------------|
| Registration of Interveners and Interested Parties | Friday, August 15 |
| Commission Information Request No. 1 to FEU | Thursday, August 21 |
| Intervener Information Request No. 1 to FEU | Thursday, August 28 |
| FEU Response to Information Request No. 1 | Thursday, September 18 |
| FEU Final Argument (if necessary) | Thursday, October 2 |
| Intervener Final Argument (if necessary) | Thursday, October 16 |
| FEU Reply Argument (if necessary) | Thursday, October 23 |

If further information is required, please contact Ilva Bevacqua at 604-592-7664.

Sincerely,

on behalf of the FORTISBC ENERGY UTILITIES

Original signed by: Song Hill

For: Diane Roy

Appendix A

FORTISBC PRIVACY POLICY

[NATURAL GAS](#)[ELECTRICITY](#)[ALTERNATIVE ENERGY](#)[Share](#)[Print](#)

FortisBC Privacy Policy

1. GENERAL

1.1 Our Commitment to Protecting Your Privacy

We, at FortisBC, value your privacy and we strive to ensure that our customers are aware that their privacy is of the utmost importance to us. We collect, use and disclose personal information about our customers to enable us to establish and manage the relationship necessary to provide services to you. While FortisBC places a high priority on the protection of personal information shared with us by our customers, legislation is in place that governs how personal information must be managed and protected. We are committed to complying with the legislation. We want you to understand why and how we collect, use, disclose, retain and secure your information.

1.2 Definitions

“collection” – the act of gathering, acquiring, recording, or obtaining Personal Information from any source, including sources other than the Individual to whom the Personal Information belongs, by any means.

“Consent” – voluntary agreement to the collection, use or disclosure of Personal Information for defined purposes.

“disclosure” – making Personal Information available outside FortisBC.

“Employee” – means an employee or ex-employee of FortisBC.

“FortisBC” means the group of FortisBC companies and their affiliates, including but not limited to, FortisBC Inc., FortisBC Energy Inc., FortisBC Energy (Vancouver Island) Inc., FortisBC Energy (Whistler) Inc. and FortisBC Holdings Inc.

“identified purposes” – means the purposes identified in this Policy.

“Individual” – any person, who directly or indirectly provides his or her Personal Information to FortisBC as described in the Policy.

“Personal Information” – means information about an identifiable Individual, and therefore does not include information that cannot be associated with a specific individual.

“Privacy Legislation” – means, the British Columbia Personal Information Protection Act and associated regulations as amended from time to time; and the Canada Personal Information Protection and Electronic Documents Act and associated regulations as amended from time to time, as applicable.

“Privacy Officer” – means the privacy officer of FortisBC.

“use” – the treatment, handling, management and retention of Personal Information.

1.3 Scope

FortisBC provides electricity, natural gas, piped propane and integrated energy solutions throughout the province of British Columbia. This Policy applies to each of the entities which are collectively defined as “FortisBC” in section 1.2 above.

The Policy does not impose any limits on the collection, use or disclosure of the name, title, business address, business email address, business telephone number or business fax number, of any employee at FortisBC or any other organization, if that information is collected, used or disclosed for the purpose of contacting individuals in that person’s capacity as an employee of FortisBC or any other organization.

This Policy does not impose limits on the collection, use or disclosure of personal information without consent where that collection, use or disclosure is in accordance with the Privacy Legislation.

1.4 Scope of Accountability

FortisBC is responsible for Personal Information in its custody and under its control, and have designated a Privacy Officer who is generally accountable within the organization and is responsible for our compliance with this Policy, and for ensuring that the Policy complies with the Privacy Legislation.

2. PURPOSES FOR COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION

2.1 Purposes Identified at Time of Collection

We identify the purposes, through either direct explanation (ie. this Privacy Policy, verbally over the phone, etc.) or use of other notification means, for which we collect Personal Information at or before the time of collection from an Individual, and collect only that information necessary for such identified purposes.

2.2 New Purposes

When we wish to use or disclose the Personal Information for a new purpose, we will identify the new purpose prior to such use or disclosure and obtain consent at that time, unless such use or disclosure without consent is permitted or required by law. In certain circumstances, Consent for the use or disclosure for a particular purpose may be sought after the information has been collected, but before it is used or disclosed (for example, when we want to use the Personal Information for a new purpose).

2.3 Purposes Limited

We ensure that the purposes for collection, use and disclosure are limited to purposes that a reasonable person would consider appropriate in the circumstances. Some of the purposes for which we collect, use and disclose or communicate Personal Information are:

- To create and maintain an effective business relationship;
- For quality assurance purposes such as the recording of telephone calls to our call centers;
- To facilitate account, billing, credit, collections and customer services, this may include the collection of contact information, emergency contact information, consent to complete a credit check for new customers;
- To provide ongoing electricity, natural gas, propane and various other services to its customers;
- To avoid and investigate fraud and identity theft;
- To enable energy efficiency and enhanced customer energy consumption feedback, including the collection of hourly consumption data;
- To reduce energy and revenue theft which may include the collection of outage, voltage, load profile and consumption information;
- To further develop, enhance and market products and services offered by FortisBC, which may include contacting our customers to offer them energy efficiency rebates or other programs;
- To understand customer needs and preferences, which may include contacting our customers to ask them to participate in a survey regarding our programs and services;
- To meet legal and regulatory requirements;
- To manage FortisBC's business and operations.

3. CONSENT FOR COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION

3.1 Types of Consent

We may seek Consent in various ways, depending on the circumstances and the type of information collected, including, for example, using an application form and/or a check-off box, or collecting oral consent - in particular, when information is collected over the telephone.

3.2 Withdrawal of Consent

An Individual may withdraw Consent at any time, on reasonable notice, subject to legal or contractual restrictions. We will inform the Individual of the implications of such withdrawal, which in some cases may be an inability for FortisBC to continue to provide services to the Individual.

3.3 Exceptions to Requirement for Consent

The Privacy Legislation set out specific circumstances under which FortisBC may collect, use or disclose personal information without the knowledge or Consent of the individual.

4. LIMITING COLLECTION, USE, DISCLOSURE AND RETENTION OF PERSONAL INFORMATION

4.1 Collection

FortisBC limits both the amount and type of Personal Information collected to that which is necessary to fulfil the identified purposes.

With your consent, we may collect Personal Information from you in person, at one of our offices, over the telephone or by corresponding with you via mail, email or the Internet. By providing your Personal Information to or otherwise corresponding with FortisBC via email you acknowledge that you are aware that email is not a secure form of communication. Furthermore, with your consent, we may collect Personal Information from other sources including, but not limited to credit bureaus.

The type of Personal Information we collect and maintain in your customer file, may include, but is not limited to your: name, mailing and property address, email address, telephone number, social insurance number, date of birth, credit history, transaction history, electricity consumption, driver's license number and other payment and billing information.

4.2 Use and Disclosure

FortisBC limits the use and disclosure of Personal Information for purposes other than those identified purposes, unless the Consent of the Individual has been obtained or if the use and disclosure is permitted or required by law.

Unless we have your explicit consent to do so, we will not sell, rent or lease your personal information to third parties.

There are some instances where FortisBC may disclose your Personal Information to fulfill regulatory and legislative obligations and to conduct our business in the ordinary course. In those instances where we do provide information to third parties, we provide only that Personal Information that is required in the circumstances and we include various provisions in our contracts that have been designed to protect privacy and security of your Personal Information. Third parties may include, but are not limited to:

- (a) a collection agency for the purpose of collection of accounts payable; and
- (b) a service provider that has been engaged by FortisBC to perform certain services for us, which may include partners, consultants and suppliers to FortisBC.

We may further disclose your Personal Information without your consent, in the following circumstances:

- (a) as permitted or required by applicable law or regulatory requirements;
- (b) to comply with valid legal processes such as search warrants, subpoenas or court orders;
- (c) during emergency situations or where necessary to protect the safety of a person or group of persons; or
- (d) any other circumstances permitted or required under PIPA.

4.3 Retention Limited

FortisBC has developed guidelines for the retention of Personal Information, which include minimum and maximum retention periods in compliance with the Privacy Legislation. The underlying principle of these retention guidelines is to keep Personal Information only as long as remains necessary or relevant for the identified purposes; and as required by law.

5. ACCURACY, CORRECTION, AND ACCESS

5.1 Accuracy

We endeavor to keep Personal Information in our custody and control accurate, complete, and up-to-date as this will allow us to provide the best service to our customers. Our

customers can assist us by ensuring that the information they provide to FortisBC is current and accurate.

5.2 Correction Requests

Individuals may make a request to correct or rectify Personal Information held by FortisBC. The request must be made in writing and provide sufficient detail to allow FortisBC to identify the Personal Information, and the correction being sought. If the Individual successfully demonstrates that the Personal Information is inaccurate or incomplete, we will correct the Personal Information, as required, and send the corrected Personal Information to any third party to which we disclosed the Personal Information in the prior year. If no correction is required to be made, we will note the request for correction and annotate the file accordingly.

For clarity, the requirement for a correction request to be made in writing does not pertain to requests to change contact information such as address, telephone number or email address. These changes may still be made over the telephone by contacting one of our customer service representatives.

5.3 Access Requests

An Individual may make a request for access to his or her Personal Information in the custody or control of FortisBC. The request must be made in writing and provide sufficient detail to allow FortisBC to identify the Personal Information they desire access to.

FortisBC will:

- a) inform the Individual of the existence, use and disclosure of his or her Personal Information, as requested;
- b) provide the Individual with access to the requested Personal Information, subject to statutory exemptions; and
- c) respond to the Individual within the time limits prescribed by the Privacy Legislation.

5.4 Fees for Access

Where we are entitled to charge a fee in order to implement the access request, we will advise the Individual of the amount of the fee and the statutory entitlement to challenge the amount of the fee or request a fee waiver.

6. SECURITY

6.1 Security Safeguards

To protect Personal Information, regardless of the format in which it is held, against loss or theft, unauthorized access, collection, disclosure, copying, use, or modification, we have implemented security safeguards which are appropriate to the sensitivity of the information that has been collected, the amount, distribution, format of the information, and the method of storage.

The methods of protection used include, but are not limited to:

- physical measures, for example, locked filing cabinets and restricted access to offices and data centres;
- organizational measures, for example, limiting access on a “need-to-know” basis; and
- technological measures, for example, the use of passwords and encryption.

From time to time, we may store your Personal Information outside of Canada, where it may be subject to the lawful access requirements of the jurisdiction in which it is being held.

7. UPDATES

7.1 Updates to Privacy Policy

Any updates to this Privacy Policy shall be acknowledged and updated in a timely manner. We may add, modify, or remove portions of this Privacy Policy when we feel it is appropriate to do so.

This Privacy Policy was last updated in July of 2012.

8. COMPLIANCE AND CONTACTS

8.1 Complaint to Privacy Officer

An Individual can submit a complaint in writing to the Privacy Officer concerning our compliance with the above principles. We will receive and respond to inquiries or concerns/complaints about our policies and practices relating to the handling of Personal Information.

8.2 Privacy Officer Contact Information

All inquiries should be in writing and addressed to the Privacy Officer as follows:

Chief Privacy Officer
Suite 100, 1975 Springfield Road
Kelowna, British Columbia
V1Y 7V7
Email: privacyofficer@fortisbc.com

Appendix B

DRAFT FORM OF ORDER



BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

DRAFT ORDER

IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

An Application by the FortisBC Energy Utilities (FEU) consisting of FortisBC Energy Inc., FortisBC Energy (Vancouver Island) Inc. and FortisBC Energy (Whistler) Inc.
For Removal of the Restriction on the Location of Data and Servers Providing Service to the FEU, Currently Restricted to Canada

BEFORE:

(Date)

WHEREAS:

- A. On August 17, 2005, Kinder Morgan, Inc. and 0731297 B.C. Ltd. (collectively KMI) applied to the British Columbia Utilities Commission (the Commission), pursuant to Section 54 of the *Utilities Commission Act* (the Act), for an Order approving the acquisition of the common shares of (then) Terasen Inc. which would cause KMI to have indirect control of the (then) Terasen Utilities;
- B. On November 10, 2005, the Commission issued its Decision and Order G-116-05 (the KMI Decision) granting conditional approval, and among other conditions, restrictions on the Location of Functions and Data were set out in section 7.2.3, on page 50, as follows:

"7.2.3 Location of Functions and Data

In order to address privacy concerns and other concerns, the Commission Panel determines that it would be appropriate to attach a condition to approval of the Transaction that requires KMI not to change the geographic location of any existing functions or data currently in TGI's service area without prior approval of the Commission."

- C. On April 20, 2006, the (then) Terasen Utilities sought clarification from the Commission on section 7.2.3 of the KMI Decision with respect to a number of items, including data location. On June 26, 2006, the

Commission issued Order G-75-06, revising the KMI Decision conditions with respect to the location of data and servers which provide service to the (then) Terasen Utilities as follows:

“The Commission orders that the location of data and servers providing service to the Terasen Utilities is to be restricted to Canada and that any proposal to locate data and servers providing services to the Terasen Utilities (including data and servers providing back-up services) outside Canada will require the Commission’s approval.”

- D. Also on June 26, 2006, the Commission issued Order L-30-06, also as a result of the April 20, 2006 clarification request, clarifying that the location of the data is determined by the location of the server, and that any change to the geographic location of any data that was located in the service area on November 10, 2005 would require Commission approval;
- E. On March 1, 2007, Fortis Inc. (Fortis) applied to acquire the issued and outstanding shares of (then) Terasen Inc. from KMI. In the application, Fortis acknowledged and accepted the continued application of the existing conditions established by Commission Order G-116-05, revised by Order G-75-06, and clarified by Order L-30-06, which included the following:

“Location of Functions and Data

In order to address privacy concerns and other concerns, the Commission Panel determines that it would be appropriate to attach a condition to approval of the Transaction that requires KMI not to change the geographic location of any existing functions or data currently in TGI’s service area without prior approval of the Commission.

The location of data and servers providing service to the Terasen Utilities is to be restricted to Canada and any proposal to locate data and servers providing services to the Terasen Utilities (including data and servers providing back-up services) outside Canada will require the Commission’s approval.”

- F. On April 30, 2007, the Commission issued its Decision and Order G-49-07 (the Fortis Decision) granting approval of the application subject to certain conditions. With respect to the location of functions and data, the Commission Panel determined that:

“... the Conditions should be imposed relating to ring-fencing, governance and location of functions and data as set out in Commission Decision and Order No. G-116-05, revised by Commission Order No. G-75-06 and clarified by Commission Letter No. L-30-06 related to the previous application by KMI to acquire Terasen as conditions to the approval of the Application.”

- G. On August 1, 2014, the FEU applied for removal of the restriction on the location of data and servers providing service to the FEU, currently restricted to Canada, as the restriction is no longer necessary and removal is required to ensure consistency with other utilities in British Columbia, and that the FEU are able to source information and technology solutions providing the best value and benefit for customers;
- H. The Commission has reviewed the Application and concludes that approval is warranted.

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER**

3

NOW THEREFORE the Commission orders as follows:

1. Effective the date of this order, the restriction imposed under Orders G-116-05, G-75-06, and G-49-07 that the location of data and servers providing service to the FEU be restricted to Canada, is removed and no longer in effect.

DATED at the City of Vancouver, In the Province of British Columbia, this day of **<MONTH>**, 2014.

BY ORDER