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November 12, 2014

Via Email
Original via Mail

Commercial Energy Consumers Association of British Columbia
c/o Owen Bird Law Corporation
P.O. Box 49130
Three Bentall Centre
2900 – 595 Burrard Street
Vancouver, BC V7X 1J5

Attention: Mr. Christopher P. Weafer

Dear Mr. Weafer:

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**

**Response to the Commercial Energy Consumers Association of British
Columbia (CEC) Information Request (IR) No. 1**

On August 1, 2014, the FEU filed the Application as referenced above. In accordance with British Columbia Utilities Commission letter (Exhibit A-4 Log No. 48300) dated September 29, 2014, the FEU respectfully submit the attached response to CEC IR No. 1.

If further information is required, please contact the undersigned.

Sincerely,

on behalf of the FORTISBC ENERGY UTILITIES

Original signed by: Ilva Bevacqua

For: Diane Roy

Attachment

cc: Commission Secretary
Registered Parties (e-mail only)

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



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1.2.1 Please indicate why FEU added Section 6.1 to its Privacy Policy, and why it included the reference to storage of Personal Information outside of Canada given the current restriction?

Response:

Please refer to the response to CEC IR 1.1.2.

In addition, that section of the Privacy Policy remains accurate. At the current time if the Commission approved the FEU's current Application, the FEU could store personal information outside of Canada. The Privacy Policy was drafted in compliance with the British Columbia *Personal Information Protection Act* and the federal *Personal Information Protection and Electronic Documents Act*.

1.3 Please identify any instances in which FEU have and/or does store data outside of Canada including an overview of the types of data stored, the Personal Information stored, where it was stored, when and for how long it was stored outside of Canada.

Response:

Please refer to the response to BCUC IR 1.2 series.

1.3.1 Please explain how such storage occurred given the restrictions on data location in place.

Response:

Please refer to the responses to the BCUC IR 1.2 series.



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1.4 Please provide an overview of the lawful access requirements to which FEU is referring.

Response:

That statement is referring to any legal access requirements of the jurisdiction in which the information is being held. As the FEU do not currently store information outside of Canada there are currently no lawful access requirements of another jurisdiction to which the FEU would be subject.

1.5 Would FEU agree that security breaches are very often a result of unlawful insider access?

Response:

The FEU agree that security breaches can be the result of unlawful insider access. This is the reason that various security checks are conducted, such as reference checks, background checks, and in many cases criminal records checks, are done on prospective employees, depending on the position being recruited for. The FEU also perform due diligence on third party service providers during the procurement process, which includes reference checks and criminal records checks for all third party employees having access to any of the FEU facilities or data. The FEU further require that agreements and contractual obligations contain the appropriate provisions necessary to protect the FEU's facilities, systems and data prior to retention of such a third party. Other measures such as access of least privilege and role-based security are other methods used by the FEU that limit the effect an individual or insider can have on systems and data.

1.5.1 If yes, how would FEU characterize the risk of unlawful insider access occurring outside of Canada versus inside of Canada?



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1 **Response:**

2 The FEU would characterize the risk of unlawful access occurring inside or outside of Canada to
3 be the same. The level of rigor in regards to controlling insider access is consistent whether the
4 access is from inside or outside of Canada.

5

6

7

8 1.6 Please discuss whether FEU considers 'lawful access of the jurisdiction in which
9 the data is being held' as an acceptable risk in all jurisdictions outside of Canada.

10

11 **Response:**

12 In any case where FEU data was to be held outside of Canada, the FEU would evaluate the risk
13 of that particular jurisdiction and the specific practices, policies and processes of the specific
14 third party vendor against the sensitivity and volume of personal information which would be
15 disclosed. The decision as to whether to proceed would be based on the results of the risk
16 assessment and would ensure that the FEU are able to get appropriate contractual provisions in
17 place to minimize any risks identified. Please also refer to the response to BCUC IR 1.2.8.

18

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20

21 1.7 Are there jurisdictions that FEU considers to be 'safer' than other jurisdictions?

22

23 **Response:**

24 Please refer to the response to CEC IR 1.1.6.

25

26

27

28 1.7.1 If yes, please provide a discussion of the protocols or policies in place in
29 foreign jurisdictions that would determine the safety of the data.

30

31 **Response:**

32 Please refer to the response to CEC IR 1.1.6.



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1.7.2 If yes, please provide a rough scale identifying which jurisdictions FEU deems to be safer and less safe, and explain why. Please include Canada in its risk assessment.

Response:

Please refer to the response to CEC IR 1.1.6.

1.7.3 If yes, in the event that the data location restriction is removed please explain how FEU will ensure the data is not stored in any less safe jurisdictions.

Response:

Please refer to the response to CEC IR 1.1.6.

1.7.4 If yes, would FEU agree that the jurisdictions may change in regard to security depending on the political situation?

Response:

Please refer to the response to CEC IR 1.1.6.

1.7.5 If no, please explain why or why not.



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1 **Response:**

2 Please refer to the response to CEC IR 1.1.6.

3
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6 1.7.6 If yes, how would FEU protect the security of its data in the event that a
7 change in government policy or other change in risk occurred?

8

9 **Response:**

10 Please refer to the response to CEC IR 1.1.6.

11
12

13

14 1.7.7 Please provide a discussion of the US Patriot Act and the concerns it
15 raised with respect to data security, and how these concerns were
16 resolved.

17

18 **Response:**

19 The FEU are not clear on what kind of “discussion” is being asked for in this question, and does
20 not know what the CEC means when it asks about “how these concerns were resolved”. For
21 clarity, the FEU do not currently have an immediate plan to store data outside Canada. Please
22 also refer to the response to BCUC IR 1.4.1.

23
24

25

26 1.8 Would FEU consider the lawful access of data being held in jurisdictions outside
27 of Canada to be an acceptable risk for all types of corporate data, or is there data
28 of such sensitivity that it should not be stored outside of Canada? Please
29 discuss.

30

31 **Response:**

32 The FEU would undertake a similar type of security and risk assessment regarding the use of a
33 third party service provider with respect to corporate data (i.e., data not containing personal



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1 information). However in that case, a Privacy Impact Assessment would not likely be required
2 as there would not need to be compliance with the British Columbia and Canadian privacy
3 legislation regarding purely corporate data as the data are not containing personal information,
4 and the purpose of a Privacy Impact Assessment is to determine any risks associated with the
5 collection, use and disclosure of personal information.

6
7

8

9 1.8.1 If FEU differentiates its data for security levels, please explain how FEU
10 differentiates between the types of information it would store outside
11 Canada, and the types of data it would keep inside Canada.

12

13 **Response:**

14 The FEU require all data to be secure regardless of location. Please refer to the response to
15 CEC IR 1.1.6.

16

17

18

19 1.9 Does FEU anticipate any customer concerns regarding the storage of personal
20 information outside of Canada?

21

22 **Response:**

23 The FEU can confirm that, since the FEU were acquired by Fortis Inc., they have not had any
24 significant privacy concerns raised by customers to date with respect to storage of customer
25 information outside of Canada and as a result the FEU do not anticipate further customer
26 concerns.

27

28

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30 1.9.1 If yes, please discuss why FEU does not consider data storage location
31 to be an important issue for customers.

32

33 **Response:**

34 Please refer to the response to CEC IR 1.1.9.



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1.9.2 If not, what evidence does FEU have that customers are accepting of the data being stored outside of Canada?

Response:

Please refer to the response to CEC IR 1.1.9.

FortisBC Energy Utilities (consisting of FortisBC Energy Inc., FortisBC Energy (Vancouver Island) Inc. and FortisBC Energy (Whistler) Inc. (the FEU) Application for Removal of the Restriction on the Location of Data and Servers Providing Service to the FEU, currently Restricted to Canada (the Application)	Submission Date: November 12, 2014
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1 **2.0 Reference: Exhibit B-1, Pages 3 and 4**

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

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

2

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.

3

4

2.1 Please confirm that Privacy and Security are different issues, in that privacy refers to ensuring that personal information is collected, used and disclosed in appropriate ways, while security refers to retaining and protecting the integrity of the confidential information.

5

6

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Response:

10 Privacy and security are both terms used to describe the protection of personal information,
11 which is governed by the British Columbia *Personal Information Protection Act* and the federal
12 *Personal Information Protection and Electronic Documents Act*.

13

14

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16

2.2 Please explain how the issue of Privacy legislation in BC and Canada relates to the issue of storing data outside of Canada.

17

18

19

Response:

20 As the FEU understand it, at the time of the Kinder Morgan acquisition, there was concern over
21 foreign ownership and how personal information would be protected in that case. The FEU
22 believe that the privacy legislation in BC and Canada are sufficiently robust now to protect
23 personal information regardless of whether it is stored in Canada or outside of Canada. Please
24 see the response to BCUC 1.4.2.

25



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2.3 Would FEU agree that security of the information is the greater issue in the removal of the data location restriction? Please explain why or why not.

Response:

Please refer to the response to CEC IR 1.2.1. The FEU consider both privacy and security to be issues of equal concern and priority, regardless of where data is stored. The removal of the data location restriction does not impact the priority of security or the ability to apply the required level of security to protect the FEU's data. The FEU do not agree that removal of the data restriction has the effect of creating a greater security concern or issue as compared to storing data inside of Canada

2.4 What difficulties would FEU experience if a security breach occurred in data stored offshore versus those experienced on-shore? Please explain.

Response:

The difficulties an organization may experience in the event of a security breach would be similar regardless of the location of the data. The contractual obligations that the FEU requires of third party service providers are similar regardless of the location of the third party service provider or the data or servers involved.



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1

2 **Response:**

3 The FEU do not understand this question and respectfully decline to answer it. Please refer to
4 the response to BCUC IR 1.4.1 for a discussion about application of foreign law.

5

FortisBC Energy Utilities (consisting of FortisBC Energy Inc., FortisBC Energy (Vancouver Island) Inc. and FortisBC Energy (Whistler) Inc. (the FEU) Application for Removal of the Restriction on the Location of Data and Servers Providing Service to the FEU, currently Restricted to Canada (the Application)	Submission Date: November 12, 2014
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1 **4.0 Reference: Exhibit B-1, Page 5**

2 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.

2

3 4.1 Please give examples of the types of third-party service providers that require
4 data to be hosted outside of Canada.

5

6 **Response:**

7 The following are two examples of third-party service providers that host data outside of
8 Canada:

9 1. Microsoft Office 365, which would store email and SharePoint information on servers
10 located in the US.

11 2. Microsoft Azure, which is an infrastructure service that provides servers and storage
12 located in the US.

13

14

15

16 4.2 Please give examples of the types of third-party service providers that require
17 software to be hosted on servers outside of Canada.

18

19 **Response:**

20 Please refer to the response to CEC IR 1.4.1.

21

22

23

24 4.3 Are there any differences in the risks to information security that accrue from
25 hosting data outside of Canada versus hosting software outside of Canada?
26 Please explain

27

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1 **Response:**

2 The requirement for hosting software or storing data outside of Canada would be the same from
3 a security perspective. That level of security would have to be at least as high as it would be for
4 internally hosted software and data; therefore, the risk would be the same.

5

6

7

8 4.4 Please provide a qualitative overview of the customer benefits that FEU
9 considers may arise from the removal of the data location restriction.

10

11 **Response:**

12 The FEU believe that the level of service provided to customers would remain the same or
13 improve with any initiative that considered using a third-party service, regardless of data
14 location. Removal of the data location restriction will result in the ability for the FEU to operate
15 its information systems requirements in the most efficient and cost effective manner. Removal
16 of the data location restriction will allow the FEU to consider and possibly select information
17 systems, service providers and software which provide the greatest value and benefits for
18 customers, without limiting the selection process based on data location. Further, as service
19 providers continue to be multi-national, the number of vendors able to serve the FEU under this
20 restriction will continue to diminish, which may also have an impact on costs.

21

22

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24 4.5 Please identify and provide a quantitative analysis of the cost savings that FEU
25 considers may result as a result of the removal of the data location restriction.

26

27 **Response:**

28 There is no existing quantitative analysis of cost savings specifically in respect to the removal of
29 the data location restriction. However, the economies of scale that third party providers may
30 have for specific systems should have cost benefits, as compared to building out systems
31 internally. Cost benefits for any initiative involving third-party services, regardless of data
32 location, would be identified in a business case.

33

34

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1 **5.0 Reference: Exhibit B-1, Page 5**

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.

2

3 5.1 Please confirm that the need for in-house servers is not a requirement of the data
4 location restriction.

5

6 **Response:**

7 Confirmed. If the third-party services that were displacing in-house servers were able to locate
8 data/servers in Canada, it would not violate the data location restriction.

9

10

11

12 5.2 Please confirm operating costs related to in-house maintenance and support can
13 be reduced while still retaining the information in Canada.

14

15 **Response:**

16 The FEU endeavor to operate in an efficient and cost-effective manner at all times. The FEU
17 consider benefits that impact operating costs to be a factor in determining the viability of any
18 and all projects, regardless of the location of systems or data. However, the restriction to retain
19 the information in Canada reduces the potential options that can be considered and therefore,
20 may reduce the potential for cost reductions or avoidance of cost increases.

21

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23

24 5.3 Does Microsoft Office 365 require data to be stored outside of Canada, or could
25 the removal of the need for in-house FEU servers and the associated costs also
26 be accomplished with servers located in Canada?

27



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1 **Response:**

2 The Microsoft Office 365 solution is hosted on servers outside of Canada only.

3
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5

6 5.3.1 If the use of Microsoft Office 365 does not require data to be stored
7 outside of Canada please explain why the issue of removing the data
8 location restriction is relevant to the use of this service.

9

10 **Response:**

11 Please refer to the response CEC IR 1.5.3.

12

13

14

15 5.4 Would FEU agree that the level of control of data diminishes as the data moves
16 further away from in-house control, to off-site in Canada, to offshore storage?
17 Please explain why or why not.

18

19 **Response:**

20 No, the FEU do not agree. The level of control required over the FEU's data is specified by the
21 FEU, and those requirements include control over the data, regardless of the location where the
22 data resides. Whether the FEU data resides on a server in Canada or elsewhere, any third-
23 party providing services to the FEU would be required to meet the FEU's requirements in
24 regards to control of that data or server(s).

25

26

27

28 5.5 For the types of storage offsite in a foreign jurisdiction, what is the difference in
29 control relative to the tightest levels of control that FEU could apply to data stored
30 in Canada? Please explain.

31

32 **Response:**

33 Please refer to the response to CEC IR 1.5.4.

34

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1 **6.0 Reference: Exhibit B-1, Page 5**

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

2

3 6.1 Please provide further explanation as to why FEU is restricted to using only firms
4 which store all their data on Canadian servers.

5

6 **Response:**

7 Order G-116-05, revised by G-75-06 and clarified by L-30-06, states that, without making
8 separate applications to the Commission for exceptions, the location of data and servers
9 providing service to the utilities is restricted to Canada. Therefore, absent an exception granted
10 by the Commission, the FEU cannot use any third party firm providing services to the FEU who
11 would not store the FEU data on Canadian servers.

12

13

14 6.2 Do the data location restrictions apply to all firms which FEU may wish to
15 engage, such as engineering firms?

16

17 **Response:**

18 Depending on the nature of the engagement, the data/server location restriction could apply and
19 could impact the FEU's ability to engage certain firms. See the response to CEC 1.6.1.

20

21

22

23 6.2.1 If not, please provide a discussion as to the types of firms that FEU
24 would be restricted from engaging due to their data storage location and
25 which types of firms FEU would not be restricted to using. Please
26 explain the distinguishing elements.

27

28 **Response:**

29 Please refer to the response to CEC IR 1.6.2.



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1 The Commission order discussed in the Application restrict the FEU data location to Canada,
2 and the data location is determined by the servers providing services to the FEU. The FEU can
3 employ a firm if the FEU data won't end up being on a server outside Canada. However, if a
4 firm to be employed by the FEU will store applicable FEU data on servers outside Canada, the
5 FEU cannot engage such firm. The distinction is not based on the types of firms as suggested
6 by the question.

7
8

9

10 6.3 Please provide additional examples of the types of services, other than
11 technology services which FEU would be restricted from employing as a result of
12 the data location restriction.

13

14 **Response:**

15 Please refer to the response to CEC IR 1.6.2.1. The potential exists for any type of service
16 which the FEU considers outsourcing to a third party to be impacted by this restriction.

17

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1 **7.0 Reference: Exhibit B-1, Page 5**

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.

2

3 7.1 Is PIPA and PIPEDA legislation applicable and is it enforceable in foreign
4 jurisdictions?

5

6 **Response:**

7 PIPA and PIPEDA will be enforceable against the FEU for personal information collected, used
8 or disclosed on our behalf regardless of what jurisdiction we retain a third party contractor in.
9 Please refer to the responses to BCUR IRs 1.4.2 and 1.4.4.

10

11

12

13 7.1.1 Please explain why or why not.

14

15 **Response:**

16 Please refer to the response to CEC IR 1.7.1.

17

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20 7.1.2 Please explain how FEU will ensure PIPA and PIPEDA legislation is
21 enforced in the event that data is stored in a foreign jurisdiction.

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23 **Response:**

24 Please refer to the response to CEC IR 1.7.1.

25 Any third party service provider would be contractually obligated to the FEU to comply with PIPA
26 and PIPEDA as applicable. Please also refer to the response to BCUC IR 1.4.2.

FortisBC Energy Utilities (consisting of FortisBC Energy Inc., FortisBC Energy (Vancouver Island) Inc. and FortisBC Energy (Whistler) Inc. (the FEU) Application for Removal of the Restriction on the Location of Data and Servers Providing Service to the FEU, currently Restricted to Canada (the Application)	Submission Date: November 12, 2014
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7.2 What is the importance of an inconsistency between FEU and other private sector companies with respect to data location restrictions? Please include how customers are impacted in the discussion.

Response:

As explained in the Application on page 4 under the heading “Technology Advancement”, the current data/server location is an additional burden to the FEU not faced by other private sector companies. Because of this extra burden, the FEU can be at a disadvantage when seeking the most suitable and cost effective information technology solutions to meet the customers and Companies’ needs. For example, the FEU’s choices for potential vendors are limited due to the restriction and the FEU may potentially pay higher prices due to the limited pool of available vendors and solutions. Other businesses that do not have such a restriction have a wider range of choices and potentially better price choices as well.

7.3 Please provide information on any opportunities that may be available to mask, or strip out personal or other information of strategic importance so that FEU could utilize servers outside of Canada while still retaining critical information within Canada.

Response:

Encryption and secure communication channels are some of the methods used to protect information. In some cases anonymizing data is a consideration. However, this can add a level of complexity and cost. Strong security and privacy standards are the best way to ensure data security. Please also refer to the response to BCUC IR 1.2.8.

7.3.1 If such a possibility is available, would FEU still receive a benefit from a removal of the data location restriction accompanied by a caveat to this effect? Please explain why or why not.



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Response:

It is unlikely that the FEU would still receive the benefit from the removal of the data location restriction if it were subject to the restrictions identified in the question posed by CEC IR 1.7.3 (to mask or strip out information). Anonymizing or obfuscating data requires additional steps, complexities, and systems that would have the effect of negatively impacting project benefits and result in increased costs.

7.4 Please identify any large utilities/corporations that FEU is aware of that retain their information in Canada, either as a result of restrictions or preference.

Response:

Please refer to the responses to BCUC IRs 1.8.4 and 1.8.6.

The FEU have no knowledge of the reasons for other entities' decisions for their data/servers location, except what is stated in the response to BCUC IR 1.8.6 regarding Pacific Northern Gas. That condition was imposed under section 54 of the UCA.

The FEU are also not privy to other entities' measures and precautions undertaken to ensure security of, and prevent unwanted access to, their own systems.

7.4.1 If FEU is aware of restrictions facing these large utilities, please identify the restrictions in place.

Response:

Please refer to the response to CEC IR 1.7.4.

7.5 Is FEU aware of where BC Hydro stores their information and of any restrictions that are applied to BC Hydro? Please explain.



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2 **Response:**

3 The FEU do not have knowledge about BC Hydro's data/server locations. Please also refer to
4 the response to BCUC IR 1.8.6.

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8 7.6 Where other large companies and/or utilities store data outside of Canada, is
9 FEU aware of any additional precautions the companies take to ensure
10 protection of the data from unwanted access and/or use.

11 **Response:**

12 Please refer to the response to CEC IR 1.7.4.

13

FortisBC Energy Utilities (consisting of FortisBC Energy Inc., FortisBC Energy (Vancouver Island) Inc. and FortisBC Energy (Whistler) Inc. (the FEU) Application for Removal of the Restriction on the Location of Data and Servers Providing Service to the FEU, currently Restricted to Canada (the Application)	Submission Date: November 12, 2014
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1 **8.0 Reference: Exhibit B-1, Pages 5 and 6**

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

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

2

3 8.1 Please explain the importance of the inconsistency between FEU and FBC.

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5 **Response:**

6 The FEU and FBC have been seeking opportunities to integrate, which can bring benefits to the
7 ratepayers of both companies. However, because of the restriction on the FEU's data/server
8 location, the companies may not be able to implement an information technology system/server
9 that can be used by both companies. This may mean that the companies potentially forgo an
10 opportunity for more advantageous negotiation positions with vendors. This may also mean
11 two sets of information technology systems, which potentially require different resources
12 internally or externally to operate and maintain, which would result in inefficiencies and
13 increased costs.

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17 8.2 Would applying the same restrictions to FBC resolve this inconsistency and
18 enable the companies to operate in a consistent manner?

19

20 **Response:**

21 As explained in the Application, the data location restriction is a condition imposed as part of the
22 approval of the Kinder Morgan acquisition of the then Terasen Utilities under section 54(9) of
23 the UCA, to address privacy concerns and concerns over foreign ownership. There are no
24 justifications to impose similar data/server location restrictions on FBC, since FBC is not facing
25 the same circumstances as the Terasen Utilities did in 2005.

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