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April 10, 2015

**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 Inc. (FEI)**

**Customer Choice Annual General Meeting - Response to British Columbia Utilities Commission (the Commission) Order A-2-15**

**FEI Reply Submission on Issues for the Seventh Annual General Meeting**

On February 26, 2015, the Commission issued Order A-2-15 requiring all Customer Choice Annual General Meeting (AGM) participants to:

1. Submit issues for discussion at the Seventh Customer Choice Annual General Meeting (AGM) by March 27, 2015; and,

2. Submit reply submissions on those issues by April 10, 2015.

On March 27, 2015, Direct Energy Marketing Limited (Direct Energy), Just Energy (BC) Limited Partnership (Just Energy), Access Gas Services, British Columbia Public Interest Advocacy Centre representing the British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC, and the Tenant Resource and Advisory Centre *et al.* (BCOAPO), Commission staff and FEI each raised issues to be discussed at the Seventh AGM.

In accordance with Order A-2-15 and after review of all issues raised by the aforementioned AGM participants, FEI believes the following agenda topics are appropriate for further discussion at the Seventh Customer Choice AGM:

1. Third Party Verification (TPV) Process review as requested by Just Energy, Access Gas and Direct Energy;
2. Voice Contracting for new contracts as requested by Just Energy, Access Gas and Direct Energy;
3. Proposed changes to the Code of Conduct for Gas Marketers as requested by Commission staff;
4. An update on customer complaints as requested by BCOAPO;
5. Customer protection education activities as requested by BCOAPO;
6. Consumer protection measures related to marketing disputes as requested by BCOAPO;
7. Customer Choice Program funding review as requested by FortisBC Energy Inc. and BCOAPO; and,
8. An update on the inclusion of all customers currently served by FEVI and FEW into Customer Choice effective November 1, 2015 as requested by FortisBC Energy Inc.

FEI addresses the remaining issues raised in Appendix A attached to this letter.

If further information is required, please contact Scott Webb, Manager Customer Programs, at 604-592-7649.

Sincerely,

**FORTISBC ENERGY INC.**

***Original signed by: Ilva Bevacqua***

***For:*** Diane Roy

Attachment

cc (email only): Registered Parties

# Appendix A

## I. UPDATE ON "PAY-AS-YOU-SAVE" (PAYS) PROGRAM

*Just Energy requested an update on the PAYS On-Bill financing program which includes:*

1) *An overview of how it is working;*
2) *Uptake on the program;*
3) *Modifications made since the program was implemented;*
4) *Information as to when retailers will be able to have the option of offering products through this program; and*
5) *Next steps in the program.*

***Update on FEI/FBC's On-Bill Financing Program:***

The FortisBC Inc. (FBC) and FortisBC Energy Inc. (FE) (collectively, FortisBC) On-Bill Financing (OBF) program was a Demand Side Management program implemented in response to Section 17.1 (2) of the Clean Energy Act and the Improvement Financing Regulation. The program was operated by FBC on behalf of FortisBC. This program is entirely independent of Customer Choice.

For more information on the OBF program, please contact Carol Suhan, Manager PowerSense Services at carol.suhan@fortisbc.com.

**FEI Position**

FEI believes the written update provided sufficiently addresses Just Energy's request for an update on the OBF Program. A presentation at the Annual General Meeting (AGM) is unnecessary as the OBF program lacks direct relevance to the Customer Choice Program.

## II. ACCESS TO THE UTILITY BILL

FEI continues to strongly oppose providing Gas Marketers with an additional line on the Utility invoice to bill for other product offerings. Allowing Gas Marketers access to the FEI bill was not part of the original energy policy objectives of the Customer Choice Program. The purpose of the Program was to provide customers with gas commodity vendor options. Gas Marketers and FEI have separate roles in the Program that need to be maintained to minimize customer confusion.

Allowing Gas Marketers access to the utility bill would be detrimental for the following reasons. Firstly, there would be incremental costs incurred by the Program but minimal consumer benefit. Some of the incremental costs would include:

- New collections processes and increased risk of bad debt;

- Changes to the Customer Information System;
- Increased occurrence of two page bills;
- Administration of bill messaging; and
- Increased call centre activity.

Most of these incremental costs would be difficult to allocate accurately to the Customer Choice program. For example, if a customer is in arrears, it is not clear how collections and bad debt costs be allocated.

Secondly, it remains important to maintain separate identities between FEI and Gas Marketers to avoid unnecessary customer confusion about the relationships between the companies. In the Standard Dispute Data issued by BCUC, findings show that in the past three years, marketing issues related to the rate; the term; and/or the marketer's identity are one of the top three most common reasons for a dispute being raised[1]. Clearly, there is already customer confusion about the relationship between FEI and the Gas Marketing companies and allowing Gas Marketers access to the FEI bill would likely increase this confusion.

Thirdly, it would be inappropriate for FEI to undertake collections activity for items owing to Gas Marketers or have the customer's credit impacted because they have costs owing for items other than the gas commodity.

Finally, FEI believes that the Commission has been clear in its Decisions, as first set out in Order A-3-10 and again in Order A-9-11, in denying the request for an additional bill line. In Order A-4-14, the Commission determined that the agenda item on access to the utility's bill was not a valid discussion item as there had been no change in circumstances allowing third-party access in the PAYS program[2]. In the past year, there have been no material changes in circumstances that warrant further review in regard to allowing Gas Marketers access to the FEI bill to charge for third-party products and services.

**<u>FEI Position</u>**

FEI requests that the Commission consider this topic closed for future discussion unless new arguments or evidence is presented by Gas Marketers that suggest otherwise.

## III. AUTOMATIC RENEWALS (EVERGREEN PROVISION)

For the purposes of the Customer Choice Program, the term "evergreen" referred to a Consumer Agreement that would automatically roll-over for an additional 12-month period at the

1 Commission's Overview of Standard Disputes 2014 issued March 6, 2015 p. 7.
2 Commission Order A-4-14 Regulatory Timetable and Issues List, Appendix B, p. 3.

same rate per GJ if a new enrollment or non-renewal drop was not received before the entry deadline of the term end. Customers received a confirmation letter when they were first enrolled in the Program, a renewal notice 90 days prior to the renewal date, and a bill notification 75 days prior to the expiry date of their evergreen contract. If customers did not wish to renew their contracts or change their renewal terms, they were required to contact their Gas Marketers within 30 days after receipt of written notice, otherwise their contracts were automatically renewed for a one-year term. This renewal process continued indefinitely until the Gas Marketer entered an evergreen cancellation code (3320) into the GEM system.

In 2011, the Commission determined that evergreen contracts were to be discontinued to improve consumer protection, eliminate the negative perception by customers of automatic renewals, and eliminate associated processing errors and resultant program costs. FortisBC continues to believe that automatic renewals are not in the best interest of customers.

Both the BCOAPO and the Commission have previously stated they object to an evergreen provision for the Program as they see no benefits to the customer.

BCOAPO stated in the 2010 Program Summary and Recommendations that they oppose the evergreen provision[3]. They commented that “evergreening” is an anti-competitive practice and not in consumers’ best interest. They feel that if Gas Marketers are prepared to lower their price at renewal time, then they should be prepared to renegotiate the entire contract.

On May 26, 2011, the Commission determined[4]:

> *“The Commission determines that the Evergreen Provision shall be discontinued with no circumstances warranting grandfathering of the provision. The Commission expressed concerns over the evergreen provision in the past and those concerns remain; particularly the burden of proof with the receipt of the renewal package and whether or not it was sent, received, or reviewed by the appropriate person prior to the contract being evergreened. We agree with Just Energy that it should be effortless to continue service and it is our view that can be done by the gas marketer taking initiative early to provide clear communication to their customer, allowing them to enroll in continued service at an agreed upon rate.”*

Further, in order to accommodate automatic renewals today, system changes would have to be implemented at a cost to the Program. The new Customer Information System was implemented in 2012 after the discontinuation of the Evergreen Provision and a new system process would need to be developed and programmed into the system infrastructure. There is no justification for the additional development costs required to include this provision in the Program again.

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[3] FEI – Customer Choice Program - 2010 Program Summary and Recommendations dated November 23, 2010, page 23.

[4] Commission Decision Order A-9-11, Section 2.4.1 Evergreen Provision, p. 13.

**FEI Position**

FEI maintains their position that automatic renewals are not in the best interests of consumers, and as such, sees no benefit to revisiting this topic. FEI respectfully requests that the Commission consider the topic of automatic renewals inappropriate for the 7th AGM and not include it on the agenda. Re-allowing the evergreen provision would constitute a regression from our endeavor to ensure adequate customer protection.

## IV. PROGRAM REVIEW OF ESSENTIAL SERVICES MODEL AND ANNIVERSARY DROP RULE

The following table illustrates the issues raised by Gas Marketers with respect to the Essential Service Model and the Anniversary Drop Rule. This is followed by FEI's response:

| Gas Marketer's Issue Reference | Issue | Raised By |
|---|---|---|
| 1. | FEI Cost Estimate to Add Functionality to Calculate MCRA Impact of Early Cancellations and the Essential Services Model | Direct Energy |
| 2. | Anniversary Drop Rule: Customer Choice rules should permit cancellations by consumers at any time | Access Gas |
| 3. | ESM Review: Change the ESM to a monthly settlement of marketer supply requirements | Access Gas |
| 1. | Review of the Essential Services Model | Just Energy |
| 3. | Limitation of changing the customer's rate only on the anniversary date | Just Energy |
| 4. | Different Product and Service Offerings – Bill Ready Billing Capacity | Just Energy |

The Essential Services Model (ESM) that underpins the Customer Choice Program specifically recognizes the supply infrastructure constraints particular to BC. Further, the Program fully meets its original goal, which is to give customers an alternative to the default variable price offering from FEI.

It remains FEI's position that the Essential Services Model should continue to govern the Customer Choice Program and that the abiding principle should be to limit non-participants' exposure to program costs. The Essential Services Model and the accompanying business rules, such as the anniversary drop rule, were designed to meet the unique demands of the BC marketplace providing benefits to the Gas Marketers such as 100 percent load factor gas. The strength of the model has proven its effectiveness after enduring two Gas Marketer failures in 2008. It should be understood by all participants that there will be benefits and drawbacks no matter which business model is used. During the development process, all stakeholders, including Gas Marketers understood and accepted the ESM model after rejecting other models such as a monthly balancing model. The Commission Order A-3-10[5] states that, "A key business rule of the ESM is that the customer must remain enrolled in the Program for at least 12 months, and in 12 month increments to a maximum of five years at any one time for the same fixed price…" FortisBC dealt with this issue extensively in the 2010 Program Summary, demonstrating that price changes outside of an anniversary date adversely affect all customers' midstream costs[6]. Revenues collected from customers only balance to the costs paid to Gas Marketers, on the anniversary date in a normal year. Any differences caused by price or volume changes are absorbed in midstream costs and borne by all customers. Any violation of the ESM model resulting in a cost to midstream should be paid by Gas Marketers.

FEI is of the view that Gas Marketers have the ability within the ESM to address customer concerns without dropping the contracts outside of the anniversary date. This can be accomplished by taking several different approaches.

The first approach Gas Marketers can take is to use marketing strategies to provide customer satisfaction within the ESM and also serve their request to offer a variety of different contract options.

The second approach is for Gas Marketers to follow the existing Code of Conduct in order to avoid the need to renegotiate signed Consumer Agreements. Sales representatives should refrain from advertising fixed-rate Consumer Agreements as assured ways of saving money on their gas bill. This just leads to customer discontent with the Gas Marketer when the savings do not materialize. The third approach FEI suggests is to sign customers to shorter-term, more competitively priced contracts to avoid the need to use cancellation drops outside of the one-year anniversary date. The fourth approach Gas Marketers can employ are marketing sales tactics such as rebate programs and trailer fees where commissions are paid to sales agents throughout the contract instead of at contract sign-up.

Gas Marketers have the tools they need to operate within the Essential Services Model and address customer concerns with pricing without resorting to cancellation drops. There are four ways that Gas Marketers are able to cancel contracts once they are signed: the 10-day cancellation window, the operational correctional drop, the anniversary drop, and the dispute drop. The first three options are done before the MSR is finalized. The dispute drop occurs after the MSR is set and therefore violates the ESM and is only intended to be used for compassionate reasons as determined by the Commission. The statistics[7] show that the ratio of net enrollments to gross enrollments was 84 percent in 2014 and 88 percent in 2013. Additionally, cancellation disputes continue to decline each year and in 2014 alone declined 74 percent over 2013. This suggests that the majority of Customer Choice customers are remaining on their contracts once signed and not requesting as many early exits from their contract term.

[5] Commission Order A-3-10 dated February 22, 2010, p. 11 item 4.15.
[6] FEI – Customer Choice Program - 2010 Program Summary and Recommendations dated November 23, 2010, Appendix I, pp. 2-4.
[7] 2014 Customer Choice Program Statistics, p.7 and p.9.

In December 2014, FEI submitted the Cost Estimate to Add Functionality to Calculate Midstream Cost Revenue Account (MCRA) Impact of Early Cancellations. It was estimated the process and system change would cost approximately $64 thousand dollars to implement. Although FEI believes that the addition of an Early Exit Fee mechanism is not warranted given that it appears to FEI that there is not a large enough issue to justify changing the current processes and system infrastructure to justify the expenditure, it is an approach that Gas Marketers can investigate. In Decision Order A-5-14 the Commission noted that should Gas Marketers wish to pursue the option for the quoted Early Exit Fee mechanism, they must present the benefits of such a mechanism to justify the expenditure via a separate application at the AGM[8]. In response to Order A-2-15 requesting AGM issues, Direct Energy, the main proponent for the added functionality, indicated that they did not wish to proceed with the implementation of an exit fee at this time. No other Gas Marketer elected to pursue the option at this time.

At the 2012 AGM[9], the Commission suggested that Gas Marketers, coordinated by Access Gas and Just Energy, form an informal working group and submit three potential product offerings that would work within the ESM model for FEI to evaluate for appropriateness and feasibility. To date, no product offerings that work within the ESM model have been submitted.

In previous proceedings when the topics of re-evaluating the Essential Services Model and program rules have been brought up, the Commission's views have been in line with FEI's. In Order A-3-10[10] from the 2009 Program Decision, the Commission states:

"It is the Commission's view that the ESM as currently designed ensures the reliability and low cost objectives of the Commission and will continue to be the operating model for the Customer Choice Program. It should be noted that the ESM also supports Terasen Gas' (FEI) obligation as the "Supplier of Last Resort" and provides smaller gas marketers the ability to compete based on the supply of 100 percent load factor supply to Terasen Gas (FEI) even though their customers may have very low load factor profiles."

BCOAPO has also previously stated[11] that they strongly support FEI's conclusions regarding the ESM and oppose any changes to the model:

> *"BCOAPO is strongly in favour of maintaining the ESM which is a fundamental part of the Customer Choice Program. Changes to the ESM will undermine previous efforts to inform consumers and will create increased confusion, risk and cost that, in our view, is not justified by the benefits."*

FEI asserts that any further investment or activity to replace the ESM is unnecessary and not in the best interests of customers. FEI believes that after already spending approximately $11 million dollars on the capital investment of the Customer Choice Program, ratepayers would

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8 Commission Order A-5-14 Appendix A, p. 2.
9 4th Annual General Meeting minutes April 23, 2012, p. 139-142.
10 Commission Order No. A-3-10, p.2.
11 BCOAPO – Final Submission December 11, 2009 BCOAPO File 7396.

have little appetite to fund a Program redesign to satisfy Gas Marketers' requests. The Program is functioning well and is readily available to interested customers. Gross enrollments averaging over 1100 enrollments[12] per month by active Gas Marketers in the past three years show there is already interest in the Program as designed.

FEI submits that the Essential Services Model is providing Gas Marketers and customers with more benefits than drawbacks such as being the Supplier of Last Resort, 100 percent load factor gas for Marketers and billing services provided by FEI.

**FEI Position**

FEI requests that the AGM agenda topics be limited to discussing enhancements and improvements to the existing Program model.

[12] 2014 Customer Choice Program Statistics, Figure 3-2, Comparison of Yearly Enrollment Activity, p. 7.