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

**Attention: Laurel Ross, Acting Commission
Secretary and Director**

Dear Sirs/Mesdames:

**Re: FortisBC Energy Inc. (“FEI”)
Application for Common Equity Component and Return on Equity for 2016**

As you know, we are counsel for FEI. We write in response to the letter from the Association of Major Power Customers of BC (“AMPC”) dated May 5, 2016, which included sur-reply on some issues.

FEI will not respond to the individual substantive items raised in AMPC’s letter as FEI’s Submission and Reply Submission are sufficient answer in that regard. However, FEI will comment on AMPC’s grounds for filing sur-reply argument along with its request for leave to do so. In short, for the reasons set out below, FEI submits that its Reply was proper and AMPC’s rationale for filing its sur-reply does not withstand scrutiny. It is not proper sur-reply and the Commission should not consider it as such.

The primary argument that AMPC is making is that FEI’s Reply Submission was too long to be properly characterized as reply. This is not the test for determining proper reply. In any event, the length of FEI’s Reply Submission was proportionate to the submissions to which it was responding. The Submission of AMPC/BCOAPO was 70 pages. The Submission of the CEC was over 100 pages, single-spaced. ICG also filed a submission. In the course of those 200+ pages of intervener submissions, the interveners

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raised many issues. FEI was entitled to reply to them, regardless of how many pages that takes.

With respect to market to book ratios, it will be noted that the section of the Reply Submission about which AMPC complains addressed a different issue than paragraphs 217 and 218 of FEI's initial Submission (which AMPC cites). In the initial Submission, FEI was addressing Dr. Booth's application of the sustainable growth DCF model and his suggestion that it would make a negligible difference if one assumed that the utility's market to book value is close to one (which it is not). AMPC then made a different argument about market to book ratios. Although it indicates to the contrary now, its submission appeared to be suggesting that the Commission should be fixing FEI's ROE and capital structure to try to achieve a particular market to book ratio. As FEI stated "AMPC/BCOAPO warn that 'Mr. Coyne's recommendation is likely to lead to market to book ratios that exceed one by a substantial measure.'" AMPC is also not recognizing the fact that CEC made a similar argument, to which FEI was also replying. It is appropriate for FEI to be responding to a new argument being raised by those interveners.

The argument that pension returns are relevant is an intervener position, and is not one that FEI agrees with or relies upon in making its case. An applicant can anticipate many things, but it will never know with confidence what issues interveners are going to argue and those it will drop. It is typical for dozens of different issues to be raised in the course of IRs or at a hearing, yet not pursued. A good example of this is the fact that AMPC spent significant time cross-examining FEI's expert suggesting that there are inconsistencies between FEI's business risk analysis and its Management Discussion and Analysis. There was not one mention of that argument in intervener submissions.

The type of limitation on reply being advocated by AMPC here goes beyond a reasonable interpretation of the well-understood principle against "splitting one's case". Requiring the applicant to address every issue raised in a proceeding in its initial submission with no opportunity to reply unless something was totally unforeseeable -- particularly when the issues are not a part of the applicant's case -- is a recipe for inefficiency. Utilities will have to address matters that are no longer key issues.

We also note that, by AMPC's standard, it is presently "splitting its own case" by filing sur-reply. The passage from the 1961 version of Bonbright's textbook that AMPC is now taking issue with was first provided in response to BCUC IR 1.33.2 (Exhibit B-9). AMPC could have asked follow up questions on it, responded to it in its own evidence, or addressed it in their argument. FEI submits that AMPC's argument that the authors have departed from their original view is not evident on a complete reading of the current edition, and FEI would explain why if it was given an opportunity to do so.

In any event, AMPC is incorrect in suggesting that there was no evidence on the record to support FEI's Reply Submission that pension funds have very different business

objectives and risk profiles from a corporation or a utility. FEI made that point in paragraph 143 of the Reply Submission, and the quoted evidence in support of that proposition can be found in the very next paragraph (144). There was also evidence to that effect in the responses to BCUC IRs 1.3.2 and 1.40.2.

In summary, AMPC's rationale for departing from the standard process and regulatory timeline in this instance is without merit. However, since (i) AMPC has decided to file its substantive argument before having obtained leave to do so, and (ii) FEI's previously filed submissions have answered the points now being raised, FEI will simply defer to the Commission on whether the sur-reply remains on the record. The proceeding should be brought to a close.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[original signed by Matthew Ghikas]

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cc: Registered Interveners