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August 3, 2017

BY ELECTRONIC FILING

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Patrick Wruck, Commission Secretary and Manager, Regulatory Support

Dear Sirs/Mesdames:

Re: Application for Reconsideration and Variance of Order G-199-16, dated December 29, 2016 (Reconsideration Application), on FortisBC Inc.'s Net Metering Program Tariff Update Application

We write to provide our reply to the submissions received to date on the workshop proposal set out in Exhibit A-5.

Mr. Shadrack (Exhibit C4-3) has advanced specific positions in this regard, while the Commercial Energy Consumers Association of British Columbia (**CEC**) (Exhibit C3-2) and the British Columbia Old Age Pensions Organization et al (**BCOAPO**) (Exhibit C2-2) defer to the British Columbia Utilities Commission (**BCUC** or the **Commission**) on the point. Beyond expressing support for the described workshop, the British Columbia Sustainable Energy Association and Sierra Club of BC (**BCSEA**) (Exhibit C1-3) has directed its comments to Exhibit C4-3. Given all the above, Exhibit C4-3 is the submission on which we focus here.

We underline that process-related questions are being addressed here specifically in the context of the Reconsideration Application. With that in mind, we note the following.

First, if there were to be an oral component to the Reconsideration Application process (which we oppose for the reasons stated in Exhibit B-6, which is our letter of July 26, 2017), it would be appropriate that the room be open to members of the public in person or by other means. However, contrary to Exhibit C4-3, it would **not** be appropriate that persons who are outside the categories of panel/staff, applicant and interveners actually **participate**.

We note that Mr. Shadrack is seeking participation for people who have no standing in this proceeding. Even in respect of interested parties, Rule 7.03 of the BCUC Rules of Practice and Procedure states:

“An interested party may file a letter of comment in the proceeding, in accordance with these rules, but cannot otherwise participate in the hearing.” Rule 8.09 provides: “Submitting a letter of comment does not enable persons to otherwise participate in a hearing or reconsideration proceeding.” We also note that a Streamlined Review Process (**SRP**) hearing, which bears some similarities to the proposed workshop, is only open to participation by the Applicant, Registered Interveners and Commission staff pursuant to the Commission’s SRP Guidelines (Order G-37-12).

Second and in a related sense, the individuals listed in Mr. Shadrack’s letter on further regulatory process (Exhibit C4-3) are individuals who were listed in the May 16, 2016 letter of comment (Exhibit E-2) in the original Net Metering Tariff Program Update Application (the **NM Application**) to which the Commission responded by inviting submissions on process in the NM Application. Some of these individuals also submitted other letters of comment in that process. These individuals should not be afforded what would effectively be an opportunity to revisit the process and standing that applied to the NM Application. (Mr. Scarlett, who is a registered intervener, is in a different category.)

Third, as noted in our submission of July 26, the issues to which the Reconsideration Application relates are discrete and limited. This proceeding is not a revisiting of the substance of the Commission’s underlying decision regarding the NM Application (the **NM Decision**) other than as the Panel specifically provided, after hearing submissions on appropriate scope, in its Phase One decision. However, Mr. Shadrack’s July 25 letter reflects an intent to revisit the NM Decision and issues related to the NM program more broadly. For example, Mr. Shadrack concludes his letter by observing that “the concept of having customer-generators” in FBC’s service area is “a relatively new experience for both the Company and the Commission” and that FBC needs to listen (presumably through the proposed workshop) to its NM customers’ “concerns and needs” and then determine “how to incorporate those concerns and needs into its program”. This is of a piece with his email to the Commission, dated May 31, 2017 (Exhibit C4-2), which envisages that NM customer participants will be offering “solutions of mutual benefit to both parties” in a negotiating session mediated by the Commission.

No matter what the process for resolution of the Reconsideration Application, it should not extend beyond what the Commission ordered to be reconsidered. If a workshop process is ordered despite FBC’s continued objection, then participants should be required to submit in advance a written list of specific topics for discussion at the workshop and questioning of FBC’s participants, so that FBC’s representatives can properly prepare and that the content of the discussion stays within the scope of the Commission’s Phase One order. However, more fundamentally, in our view a workshop should not occur.

In addition to the points raised in our prior correspondence, we also note that in Mr. Shadrack’s Exhibit C4-3, the only substantive issue he raises regarding the Reconsideration Application is FBC’s asserted legal entitlement to remove NM customers who produce persistent annual net excess generation (**NEG**) from RS 95. In our view it is notable that (given the workshop is being considered at Mr. Shadrack’s initiative) this is not an issue that appears to affect Mr. Shadrack himself. This is because, based on information he submitted about his solar PV system in the NM Application proceeding, he has not

(with one exception) historically produced NEG on a monthly basis, let alone annually.¹ Based on the earlier submitted information, to do so he would first need to increase the size of his generating capacity; however, the NM Decision has finally determined that NM customers cannot do so without FBC's prior approval, and that determination is not subject to reconsideration in this proceeding. Again, we question the utility and appropriateness of a workshop in this context.

We reaffirm our submission that a written process (with a round of IRs if necessary) is the appropriate course for the Reconsideration Application.

Yours truly,

FARRIS, VAUGHAN, WILLS & MURPHY LLP

Per:

Ludmila B. Herbst, Q.C.

LBH/NTH/trw

c.c.: Registered Intervenors
client

¹ See Mr. Shadrack's Final Argument, dated September 23, 2016, Appendix B, p. 11 (pdf). In particular, according to the data he submitted, Mr. Shadrack only had one billing period over the course of two years of service in which his system produced generation in excess of household consumption (this was in June 2016, where an excess of 70 kWh was generated reflecting a credit of only about \$7.00 at then current rates).