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June 22, 2015

Via Email
Original via Mail

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC
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Attention: Ms. Erica M. Hamilton, Commission Secretary

Dear Ms. Hamilton:

Re: FortisBC Inc. (FBC)

Self-Generation Policy Application

FBC Reply Submission on the Panel's Issues List

Attached is FBC's Reply Submission on the Panel's Issues List attached to the British Columbia Utilities Commission Order G-51-15.

If further information is required, please contact Corey Sinclair at 250-469-8038.

Sincerely,

FORTISBC INC.

Original signed by: Corey Sinclair

For: Diane Roy

Attachment

cc (email only): Registered Parties

BRITISH COLUMBIA UTILITIES COMMISSION

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

and

FortisBC Inc.
Self-Generation Policy Application

REPLY SUBMISSIONS OF
FORTISBC INC.

JUNE 22, 2015

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PART A - INTRODUCTION

1. Set out below is the reply of FortisBC Inc. (FBC) to the intervener submissions filed in this matter on June 8, 2015, namely the submissions of:

   (a) 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 (BCOAPO) (Exhibit C1-3);

   (b) British Columbia Hydro and Power Authority (**BC Hydro**) (Exhibit C2-3);

   (c) the Commercial Energy Consumers Association of British Columbia (**CEC**) (Exhibit C3-3);

   (d) the British Columbia Sustainable Energy Association *et al*. (**BCSEA**) (Exhibit C4-3);

   (e) the British Columbia Municipal Electrical Utilities (**BCMEU**) (Exhibit C5-3);

   (f) the Association of Major Power Customers of British Columbia (**AMPC**) (Exhibit C6-3); and

   (g) Zellstoff Celgar Limited Partnership (**Celgar**) (Exhibit C7-5).

2. FBC's reply is in part organized with reference to the questions that the Commission posed in Appendix B to Order G-51-15. This format is used in **Part C** below, where FBC replies, under each question, to the points raised by interveners as applicable.

3. Before turning to the questions, FBC addresses more generally (in **Part B**) certain erroneous presumptions which colour the responses of BC Hydro and Celgar, including as set out in the lengthy introductions to Exhibits C2-3 and C7-5.

4. Finally, in **Part D**, FBC addresses certain additional points made in intervener submissions that extend beyond the questions posed and that have not otherwise been addressed in this reply.

5. As this format reflects, in order to expedite matters FBC has generally sought to address the merits of intervener submissions even where their subject matter arguably extends beyond the questions asked. However, it has refrained from doing so:

   (a) where it believes that to do so would usurp other processes and/or prejudice the ability both of the utility and other interveners to participate meaningfully and on the basis of an appropriate record in that discussion. This is the case, for example, in relation to the resource-planning considerations that BC Hydro has raised in its submissions; FBC touches on BC Hydro's points in Part B of this reply, but only to a very limited extent. FBC has similar concerns about opening up broadly, at Celgar's behest, the "obligation to serve" topic that the Commission, in its reasons for Order G-51-15, suggested was more appropriately deferred to a later stage of this proceeding. In this regard and more generally, any non-response from FBC on a given topic should not be taken as endorsement or acceptance of the intervener statement that was not responded to; and

   (b) where already addressed in FBC's original May 25, 2015 submissions (Exhibit B-6), on which FBC continues to rely.

6. Except as otherwise defined below, the capitalized terms used in this reply are as defined in FBC's May 25 submissions.

PART B - ADDRESSING ERRONEOUS BC HYDRO/CELGAR PRESUMPTIONS

7. BC Hydro and Celgar both answer the Commission's questions on the basis of certain erroneous presumptions, in part as set out in the lengthy introductions that these two interveners provided to their submissions. FBC addresses those presumptions in this part of its reply before turning more specifically to how BC Hydro, Celgar and other interveners answered the questions posed.

(1) BC Hydro's Presumption that FBC Intends to Permit "Short-Term Opportunistic Behaviour"

8. BC Hydro presumes throughout its submissions that FBC proposes to offer "services that allow self-generating customers to elect, on a <u>short-term opportunistic basis</u>, whether any

self-generation in excess of a Commission-approved generator baseline (**GBL**) will be deemed to serve the customer's load or deemed to be exported..." (see pages 2, 3, 17, 19; underlining added). This is not the case.

9. Indeed, Celgar itself does not appear to seek the opportunity to engage in the "short-term opportunistic" behaviour about which BC Hydro expresses concern. While the intent of its submissions in this regard is not entirely clear, Celgar says that "the sale of self-generation output in response to spot market prices should be prohibited" (paragraph 55; see also paragraph 60). As noted at page 87 of the New PPA Decision:

> Further, Celgar submits that it does not intend, and has never intended (for its below-load energy), to participate in the hour-by-hour markets, as do utilities. It further states that:
>
>> "The load served [by FortisBC] must be predictable and that will ensure that self-generators do not use their self-generation investments for 'short-term opportunistic buy/sell arbitrage'. Indeed, the capacity-related charges in FortisBC's transmission service rate schedules already provide a strong disincentive to such transactions, as the self-generator typically would be obligated to pay capacity charges throughout the contract period based on its peak demand." (Supplemental Submission, Exhibit C5-10, para. 58)

10. The findings that the Commission made in the New PPA Decision took such submissions into account. While FBC acknowledges that the Commission saw some potential for risk which for the time being justified the retention of s. 2.5 of the New PPA (insofar as it relates to self-generating customers), the apparent degree of BC Hydro's concern with "risk" and "risk mitigation" in the present process (pages 2, 3) does not entirely accord with the Commission's reasoning. As the Commission stated in the New PPA Decision, at page 92:

> The Commission Panel notes BC Hydro has confirmed that it expects the electricity supply in the Pacific Northwest to remain in surplus for the foreseeable future along with the continuation of low spot market prices. Yet, BC Hydro argues that although spot market prices are low there are hours when they are high. However, as stated previously, <u>the Panel believes the capacity charges in the underlying rates would be a disincentive for self-generating customer to participate in hour-by-hour markets for its below-load energy and as a result they most likely would not be participating in these types of transactions</u>.
>
> The Panel also has already agreed that relatively low spot markets do not incent FortisBC's self-generating customer to arbitrage between embedded costs rates and market rates. Further if they were to do so, FortisBC would likely not use RS 3808 energy to serve them. However, the Panel also agrees with BCPSO's assertion that the New PPA is for a twenty-year term and given the

> unpredictability of energy supply markets and spot market prices the situation will likely change over at term of the New PPA. [underlining added]

11. If it ever transpired that a self-generating customer of FBC sought to engage in "short-term opportunistic" behaviour, FBC anticipates that customer would be prevented from doing so through specific provisions in the GBL Guidelines. Indeed, more generally, the concept of a GBL is intended to provide the predictability that might otherwise be lacking; allowing short-term manipulation in this regard is inconsistent with that objective. As the Commission said in the Kelowna Decision, at page 6:

> Another interest is that of a utility to have a predictable customer load, for its system planning purposes. When a customer is also a self-generator, there is a potential for the load the utility must serve to fluctuate, depending on the amount of energy the self-generating customer uses to serve its own load, and the amount it sells. Thus, the utility and its customer may agree on a baseline amount of load that the utility is obliged to provide.

12. While as returned to below, FBC is proposing that its high level self-generation policies will include a provision for service pursuant to a GBL, the specific GBL Guidelines for FBC have not been filed or approved at this point. Order G-32-15 confirmed that FBC's approach of filing GBL Guidelines at a later stage was compliant with Order G-60-14. Whether or not the GBL Guidelines would allow for the "short-term opportunistic" behaviour with which BC Hydro is concerned is a matter best left for the regulatory process that will review the FBC GBL Guidelines application

(2) BC Hydro's Presumption that FBC Intends to "Encourage" Exports

(i) Does the Proposed FBC Policy "Encourage" Exports?

13. On occasion in its submissions, BC Hydro expresses concern over FBC "encouraging" the export of self-generation (pages 4, 14; at other times, with greater restraint, BC Hydro refers to "enabling" or "facilitating" such export). FBC would not describe its policy as encouraging exports (nor, of course, would Celgar, which seems to consider FBC to be placing barriers on its use of self-generation output; this allegation is returned to in Part B(4) below). In this regard, FBC:

    (a) is fulfilling what it considers to be the obligation expressed in paragraph 1 of Order G-38-01, which has been extended to FBC, to "allow...customers with idle self-generation capability to sell excess self-generated electricity" under certain conditions. Order G-38-01 clearly refers to sales to the "market"; and

(b) contemplates recognizing net benefits of self-generation through the stand-by rate, as the Commission has provided for.

14. More generally, as returned to in Part B(4) when addressing Celgar's contention that FBC is somehow constricting self-generating customers' ownership rights, FBC is not telling self-generating customers that their business plans should be to find export markets, or otherwise trying to set other business plans for them, and is not asking the Commission to do so.

15. FBC returns below to a discussion of alternatives to the export of self-generation output (see Part B(2)(iv), in particular), but notes as well that nothing by way of conceptual preference should be read into the fact that its policy, as developed, does in fact focus on the sale by self-generators of their output to third parties. That aspect of self-generation seemed to be significant to the direction that FBC received in the New PPA Decision, and Order G-60-14, to develop and submit a self-generation policy. In this regard:

(a) The Commission noted in the New PPA Decision that "GBLs determine the amount of self-generation output required, before self-generators can rely on the utility to serve its required additional load. Establishment of historical GBLs in turn gives self-generator an opportunity to consider third-party sales of its own incremental generation" (page 66).

(b) In footnoting the "Self-Generation Policy Issue" at page 79 of the New PPA Decision, the Commission said: "The Commission directs B.C. Hydro to allow Rate Schedule 1821 customers with idle self-generation capability to sell excess self-generated electricity, provided the self-generating customers do not arbitrage between embedded cost utility service and market prices. This means that B.C. Hydro is not required to supply any increased embedded cost of service to a RS 1821 customer selling its self-generation output to market" (underlining added). This again relates to sales "to market".

(c) The arbitrage activity discussed in the New PPA Decision relates to "market prices", as was the case in Order G-38-01. For example, as the Commission wrote at page 100 of the New PPA Decision:

> ....The Panel especially recognises FortisBC position that if self-generating customers were clearly prohibited from arbitraging between embedded cost

> FortisBC rates and market prices in the FortisBC service territory, the proposed restrictions in section 2.5 of the New PPA would be redundant. However, FortisBC points out previous Commission rulings appear to have qualified the Self-Generation Policy Principle by reference to FortisBC's obligations under the Access Principles Application (APA).
>
> This Panel continues to agree with the Order G-48-09 determination that extended the principles established for BC Hydro's self-generating customers as articulated in Order G-38-01 to FortisBC. Further, the Panel still agrees that self-generating customers should not be permitted to arbitrage between embedded cost rates and market prices to the detriment of other ratepayers. [underlining added]
>
> And at page 103:
>
> ...the Commission would want to ensure that (i) FortisBC determines for existing self-generating customers, how much generation must be used for self-supply, and (ii) all FortisBC's customers with idle self-generation capability are able to sell excess self-generated electricity, provided the self-generating customers do not arbitrage between embedded cost utility service and market prices. [underlining added]

16. Further, as noted at paragraph 45 of its May 25 filing, the practical reality in FBC service territory is that it is not aware of existing cost-effective opportunities for the purchase of self-generation output. (This is with the exception of the limited-scale purchases that it does on occasion make from Celgar and Tolko, as described below.)

17. For clarity, FBC notes, as well, that all power presently leaving the FBC service territory from self-generating customers (that is, the present "exports" from those customers) is going to BC Hydro. Presumably this export is, as BC Hydro states is the objective for its self-generation policy, cost-effective for BC Hydro. That does not mean it is cost effective for FBC.

(ii) Compliance With Order G-38-01

18. As noted above, FBC believes that its course is in accordance with Order G-38-01 which, indeed, BC Hydro says at one point "would appear to be" the "most pertinent Commission decision" (page 7). While BC Hydro then suggests that elements of FBC's proposal "depart from the objectives and principles of Order G-38-01" (page 8), in its discussion BC Hydro seems to highlight specifically the divergence between Order G-38-01 and BC Hydro policies, not those of FBC. BC Hydro notes, for example, that "BC Hydro's use of Contracted GBLs is quite different from the use of baselines contemplated in Order G-38-01" and "does not enable electricity sales by a self-generator to export markets" (page 9). It continues at page 10:

> BC Hydro is concerned that the Commission and others are under a mistaken assumption that BC Hydro self-generating customers are buying embedded cost electricity from BC Hydro and simultaneously selling electricity in export markets. <u>Although such activity was contemplated by Directive 1 of Order G-38-01 some 14 years ago, to be clear BC Hydro has not implemented a program to enable self-generators in the BC Hydro service area to simultaneously purchase embedded cost electricity from BC Hydro and sell electricity in export markets</u>... [underlining added]

19. To the extent that BC Hydro returns later in its submissions to argue that FBC's proposed policy "proposes something quite different than what was contemplated by Order G-38-01" (page 17), this seems to be based in part on a mistaken view of what FBC proposes, and in part on BC Hydro's interpretation of the context of Order G-38-01 (and whether or not it remains relevant) rather than on what Order G-38-01 actually requires on its face.

20. In short, FBC is not "encouraging" exports, nor is it mandating whether a self-generating customer uses its self-generation for self-supply, sales to FBC, or export. Its proposed policy would accommodate the export situation provided for in G-38-01, that has been the object of a direct request by one of its customers, and the focus of several regulatory processes preceding the Self-Generation Policy Application.

(iii) Whether BC Hydro Ratepayers To Bear the Costs of Incentivizing Export

21. At page 14 of its submissions, BC Hydro says that "BC Hydro ratepayers should not bear the cost of any incentives FortisBC might provide to its self-generating customers in connection with enabling and/or encouraging them to export electricity". It is not apparent what in FBC's application or submissions has given rise to BC Hydro's expressed concern in this regard. The footnote attached to BC Hydro's statement simply leads back to BC Hydro's own footnote 6, which says: "The 2014 RS 3808 PPA includes provisions in Sections 2.5 specifically to address the risk that FortisBC self-generation policies facilitate electricity exports using utility generation resources and FortisBC seeks to rely on BC Hydro resources for that purpose. It is expected that at some point the need for these provisions will be revisited and they might be revised". FBC does not believe there is a basis for the concern that BCH expresses in relation to incentivizing export.

(iv) Whether FBC Is Neglecting Other Uses of Self-Generation

22. BC Hydro paints the picture of FBC preferring the export of electricity by self-generators to users outside its service territory over the purchase of self-generators' output by FBC. However, FBC has not ruled out purchasing the output of self-generators in its service

territory; its May 25 filing notes simply that FBC would consider this only "where it compared favourably to other power supply options that were available" (paragraph 48), and notes as well that FBC is not aware of such opportunities (paragraph 45). This approach is neither unreasonable nor much different than BC Hydro's suggestion in its submissions that FBC "secure cost-effective incremental self-generation within the FortisBC service area" (page 4; underlining added). Notably as well, despite seeming at times to invoke various broader supports and provincial interests when describing its own conduct, ultimately BC Hydro says that what it does by means of EPAs and LDAs is "economically advantageous to BC Hydro's ratepayers" (page 20); AMPC notes as well that "the utility will not buy from the self-generator if there is no benefit to the utility" (page 2). Respectfully, the situation of the involved utility (and its customers) must be a fundamental consideration.

23. FBC has routinely purchased power from both Celgar and Tolko. In terms of a larger and sustained purchase, FBC evaluates its various power supply options in the context of its resource plans, and is in the course of preparing its next long-term resource plan. The prospect of purchasing power from self-generating customers may be evaluated in the course of that exercise as it has been in the past, though presently FBC cannot sensibly do so in the absence of resolution on the GBL parameters that will be in place. Further, given the history of BC Hydro purchasing from Celgar and its interest in purchasing from Tolko, it is unclear how much if any power would remain available.

24. BC Hydro has also raised the possibility of including in FBC's resource plan consideration of "opportunities for demand-side measures such as FortisBC implementing rate structures and providing funding for load displacement projects to encourage self-generation and reduce the demands placed on the FortisBC system" (page 4However, even apart from the difficulties identified above in relation to an assessment of these options at this stage, this proceeding is not the forum in which to embark on a resource planning exercise. Resource planning involves a detailed, time-intensive internal process leading to the filing of an application by FBC; in the regulatory proceeding that ensues, interveners may have the opportunity to make information requests and submissions, and FBC has the opportunity to respond in an orderly manner. FBC will be filing its next long-term resource plan for Commission review in 2016 and will continue in that context to pursue the most cost-effective resource portfolio.

Encouraging, in a vacuum, a particular form of resource acquisition, as Celgar and BC Hydro both at times appear to seek to do, is not appropriate.

25. Only BC Hydro has raised resource planning in its submissions in any substantive manner (without having specifically flagged it as an issue that it sought to address, when the Commission was developing its issues list), and FBC does not believe it is appropriate to attempt or to provide (even if it could at this stage) the detailed response that BC Hydro's submissions might otherwise seek to elicit. In any case, should intervenors or the Commission wish to explore the extent to which FBC may rely on self-generation in the future, the appropriate venue for the discussion is during an examination of the Company's resource plan. FBC is concerned about the potential for drawing out the present proceeding.

26. Given the tenor of BC Hydro's remarks, it should also be noted, of course, that FBC is in a far different position than BC Hydro in terms not only of its mandate but also of its ability to feasibly organize and implement programs which make sense in its service area. To the extent that BC Hydro seems to be expecting that FBC replicate its offerings (indeed, BC Hydro goes as far as to suggest some disappointment in FBC for not doing so, which is entirely out of line), it should be remembered that:

    (a) BC Hydro has a substantially larger number of customers, including self-generating customers;

    (b) BC Hydro evidently no customers who seek to export power;

    (c) it has different needs;

    (d) BC Hydro has a substantially greater ability to store energy saved by one customer for later use by others;

    (e) while BC Hydro does not appear to acknowledge any differences, it is subject to particular obligations which apply simply to the "authority", not other utilities. For example:

        (i) section 6(2) of the Clean Energy Act provides that "[t]he authority must achieve electricity self-sufficiency by holding, by the year 2016 and each year after that, the rights to an amount of electricity that meets the electricity supply obligations solely from electricity generating facilities

within the Province, (a) assuming no more in each year than the heritage energy capability, and (b) relying on Burrard Thermal for no energy and no capacity, except as authorized by regulation" (underlining added).1 Specific to BC Hydro, s. 8 of the Clean Energy Act provides that "[i]n setting rates under the Utilities Commission Act for the authority, the commission must ensure that the rates allow the authority to collect sufficient revenue in each fiscal year to enable it to recover its costs incurred with respect to (a) the achievement of electricity self-sufficiency..." (underlining added).

(ii) section 15 of the *Clean Energy Act* provides that "[t]he authority must establish and, except in the prescribed circumstances, maintain a standing offer program to acquire electricity from eligible facilities" (underlining added). An "eligible facility" is defined as "a generation facility that (a) either (i) has only one generator and the generator's nameplate capacity is less than or equal to the maximum nameplate capacity or has more than one generator and the total nameplate capacity of all of them is a capacity less than or equal to the maximum nameplate capacity, or (ii) meets the prescribed requirements, and (b) either (i) is a high-efficiency cogeneration facility, or (ii) generates energy by means of a prescribed technology or from clean or renewable resources, but does not include a prescribed generation facility or class of generation facilities". As the standing offer program is listed in s. 7 of *Clean Energy Act*, BC Hydro also benefits from the rate treatment described in the next subparagraph below.

(f) BC Hydro is subject to lesser regulatory oversight in respect of certain purchases, as s. 7(1) of the *Clean Energy Act* exempts the authority from s. 71 of the *Utilities Commission Act* with respect to matters including "a bio-energy phase 2 call to acquire up to 1 000 gigawatt hours per year of electricity"; "one or more agreements with pulp and paper customers eligible for funding under Canada's Green Transformation Program under which agreement or agreements the

[1] By contrast, under s. 6(4), "[a] public utility, in planning in accordance with section 44.1 of the Utilities Commission Act for (a) the construction or extension of generation facilities, and (b) energy purchases, must consider British Columbia's energy objective to achieve electricity self-sufficiency" (underlining added).

authority acquires, in aggregate, up to 1 200 gigawatt hours per year of electricity"; "the clean power call request for proposals, issued on June 11, 2008, to acquire up to 5 000 gigawatt hours per year of electricity from clean or renewable resources" and "the standing offer program described in section 15". At the same time, s. 8 of the *Clean Energy Act* provides that "[i]n setting rates under the *Utilities Commission Act* for the authority, the commission must ensure that the rates allow the authority to collect sufficient revenue in each fiscal year to enable it to recover its costs incurred with respect to ... (b) a project, program, contract or expenditure referred to in section 7 (1), except to the extent the expenditure is accounted for in paragraph (a)..." (underlining added).

(g) BC Hydro has sufficient resources to open its calls for power to self-generating customers in FBC service territory. Correspondingly:

(i) BC Hydro and Celgar entered into an electricity purchase agreement for a term of 10 years in 2009. That agreement was still subject to s. 71 when entered into, and was accepted by the Commission as being in the public interest (RDA Decision, page 112).

(ii) At the time of the Kelowna Decision, BC Hydro and Tolko were engaged in discussions for Tolko to sell power into BC Hydro's Standing Offer Program (Kelowna Decision, page 16) and an arrangement has subsequently been entered into; power is now flowing to BC Hydro.

27. BC Hydro says at page 7 of its submissions that "[t]here is no indication in the FortisBC Application or Exhibit B-6 submission that the [FBC] policy has been designed to support self-generators in the FortisBC service area that might wish to submit a commercial proposal into a BC Hydro electricity procurement process". However, as the ability of BC Hydro and Celgar to enter into such an agreement demonstrates, no further support seems to be required. Further, while at page 19 of its submissions, as part of its appendix, BC Hydro says that "[t]here is no indication in the Application that the FortisBC self-generation policy considered or seeks to address the challenges that have arisen when BC Hydro has procured energy from generators in the FortisBC service area", BC Hydro does not specify what "challenges" it is referring to.

28. As the Commission has previously noted (for example, in its reasons for Order G-110-12, at pages 20-21, which are the source of the passage quoted below), some divergence between FBC and BC Hydro is only to be expected:

> FortisBC operates with a different set of supply resources and with a different customer base in terms of geography, population density and the residential/commercial/industrial mix it faces. The Commission Panel has no mandate, nor does it find it appropriate, to require FortisBC to manage its utility business to produce rates or programs identical to those of BC Hydro. The Commission Panel believes that FortisBC's responsibility is to provide safe and reliable service in a cost-effective manner consistent with British Columbia's energy objectives. To do so, FortisBC must design and manage its system based on the resources available to it and the needs of its customers. This, at times, may result in rates that are greater than those of BC Hydro and potentially times when they are less.

29. The reference to consistency with British Columbia's energy objectives in the above passage refers, in FBC's submission, to those sections of the UCA in which those objectives are incorporated, as detailed in FBC's May 25 filing (see paragraph 34).

(3) Celgar's Presumption of FBC "Fail[ure]" in Relation to the "Obligation to Serve"

30. Celgar claims that FBC has "failed to address" and "seemingly ignores" the "obligation to serve" (paragraphs 1-2). It is true that FBC does not have a section entitled "obligation to serve" in its May 25 submissions. However, when Celgar proposed adding to the Commission's issues list an issue (#11) called "The Obligation to Serve" (Exhibit C7-4), the Commission said "no". In its reasons for Order G-51-15, the Commission said as follows at page 4:

> Furthermore, the Panel is not persuaded that the additional issues proposed by Celgar would add to a better understanding in determining high level principles for a self-generation policy. **The Panel finds that Celgar's issues may better be addressed when dealing with the setting of the GBL Guidelines themselves and not in establishing the high level principles.** [emphasis in original]

31. It is not appropriate for Celgar to suggest that FBC has somehow been remiss in not addressing an issue that the Commission (a) expressly did not include in the questions to be addressed in these submissions and (b) considered could be better addressed at a later stage.

32. The Commission was clearly right to reach the conclusion that it did in its reasons for Order G-51-15. While Celgar refers to the "obligation to serve" in its submissions, those references do not advance the discussion in any tangible way.

33. To the extent Celgar may be suggesting in its submissions that FBC has not honoured the "obligation to serve" or that FBC wishes to avoid such an obligation, this is also simply wrong. FBC notes the following:

(a) FBC has never denied having an obligation to serve Celgar. If there is any doubt about this, FBC reaffirms that position now. As returned to below in responding to Question 2, this position is not dependent in any way on the application of the Access Principles. Issues have arisen as to whether or how this obligation is or may be characterized or affected in the context of self-generation.

(b) FBC has never denied power to Celgar. The matters in dispute have related to deemed flows, not actual flows, of power. In this regard, the complaint that Celgar filed leading to the Celgar Complaint Decision (Order G-188-11 and accompanying reasons) was made under s. 25 of the UCA, and as such based on the premise that "the service of a public utility is unreasonable, unsafe, inadequate or unreasonably discriminatory". In its reasons, the Commission noted the following at pages 6-7:

> The Commission determines that the Complaint is not about the nature or level of service being provided to Celgar by FortisBC. There has been no evidence provided to suggest that the service provided by FortisBC to Celgar has been unreasonable, unsafe, inadequate, or unreasonably discriminatory. Indeed, as stated by FortisBC: "it should be noted that FortisBC has not at any time…denied service to Celgar. Celgar has been supplied with electricity at every point it has called on FortisBC to do so." (FortisBC Final Submission, para.34) In essence, the Complaint is about the rate Celgar is being charged for the service it receives. Therefore, the Commission Panel concludes that it should apply sections 58 and 61 of the *Act* in making its decision on the Complaint. [underlining added]

(c) As the above formulation reflects, there is no circumstance in which FBC would cut off power to Celgar (perhaps other than in the presence of a system problem in which load must be reduced, whether by voluntary curtailment or other measures). Rather than being about whether there is an "obligation to serve" Celgar, the issues include the following:

(i) whether the rate(s) at which Celgar is served while selling self-generation output should reflect full or partial access to embedded cost power;

(ii) how to calculate a rate or rate rider based on the concept of Celgar receiving, in whole or part, non-embedded cost power;

(iii) whether the power that is notionally to be sourced for Celgar under scenario (ii) is to replace only that portion of FBC supply otherwise consisting of BC Hydro embedded cost power, or also to replace that portion of FBC supply otherwise consisting of power from FBC's other embedded cost sources; and

(iv) how to structure rates that address Celgar's needs as a self-generator (*e.g.*, in the Stepped Rate Decision, the Stage II Decision and the Stage III Decision).

(d) As set out in Appendix A to FBC's May 25 filing, with reference to pages 113-116 of the RDA Decision, the Commission has not found "an unconditional obligation on a utility to provide service to all persons at embedded costs....section 39(i) of the UCA gives the Commission the power to establish rates for service to FortisBC's customers, and that sections 60-61 give the Commission the power to set rates that may not necessarily be based on embedded costs".

34. Celgar refers at paragraph 21 of its submissions to a "'net-of-load' based service denial". Again, there has not been a denial of service to Celgar, whether based on net of load or otherwise. The question has been whether and to what extent Celgar can sell its self-generation output while taking power at <u>embedded cost</u> rates.

(4) Celgar's Presumption of FBC Interference with Ownership of Self-Generation

35. Celgar claims repeatedly in its submissions that FBC "effectively claims ownership rights" in some or all of customers' self-generation (*e.g.*, paragraph 44) and that "Celgar no longer has the usual rights and privileges of ownership to determine the use of its own self-generation output" (paragraph 48). More generally, Celgar repeatedly refers to the Commission determining the use of self-generation output (*e.g.*, at paragraph 17).

36. There are two issues, at least, that Celgar is conflating. One is the self-generating customers' choice of what to do with its self-generation output. The other is whether the self-generating customer will have access specifically to embedded cost power (and pay commensurate rates) while selling its self-generation output, and if so to what extent.

37. It may be that a self-generating customer's extent of access to power at embedded cost rates influences its decision on whether to self-supply or to sell power. However, neither the utility nor the Commission is dictating what needs to be done. The customer takes a myriad of other factors into account as well in determining how to proceed.

38. FBC does not wish either directly or indirectly to control the use of customer output, or indeed (as specified in its May 25 submissions) the customer's decision as to whether or not to install generation facilities.

(5) Celgar's Criticism of Taking into Account "Harm to Other Ratepayers"

39. Celgar at times suggests in its submissions that FBC is the source of the proposition that utilities and the Commission should be concerned about the effect of self-generation (including of the sale of self-generated power while the self-generating customer is using embedded cost power) on other ratepayers (see, for example, paragraphs 6, 44). Celgar contends that by attempting to factor in harm to other ratepayers, FBC is somehow "disguis[ing]" or attempting to "obfuscate" the real question (paragraph 13).

40. However, considering potential harm to other ratepayers has been a consistent theme of Commission decisions. For example, in the New PPA Decision, the Commission described Order G-48-09 as determining "that self-generating customers in FortisBC's service territory should not be permitted to arbitrage, between FortisBC's embedded rates and market prices, to the detriment of FortisBC's other ratepayers" (page 80). BC Hydro likewise identifies as a key consideration "whether the activities will be detrimental to ratepayers in the form of higher rates" (page 15). While attacking FBC for its perceived departure from the Access Principles decision (as returned to below under Question 2), Celgar seems to feel that FBC is entitled to disregard (and, indeed, egregiously wrong not to have disregarded) the bulk of Commission decisions to date on self-generation issues, including their cautions against harm to other ratepayers.

41. At paragraph 7 of Celgar's submissions, it says that "[h]arm must be assessed not as from some arbitrary date on the calendar, when different investors are at different stages in their investment, but at the same point in time relative to each investment". This is not an issue per se with factoring in harm to other ratepayers, but, rather, an issue about how and in what context that harm should be measured. That can be addressed in the context of determining the content of the GBL Guidelines.

(6) Celgar's Allegation that FBC Is Wedded to the Status Quo

42. Celgar says that "FortisBC's ongoing dealings with Celgar have made it clear that it will reject all considerations and principles, including rate design principles, principles espoused in the prior Commission decisions, and BC Energy Objectives, if doing so is likely to preserve its view of the *status quo*" (paragraph 44). Celgar is blaming on FBC a mindfulness of historical consumption and output that the Commission itself required in Order G-38-01 and has generally required of utilities since.

43. Celgar seems to misunderstand the role that Order G-38-01 plays in the self-generation policies proposed by FBC and in particular those dealing with the obligation of the self-generator to meet its own load. Celgar states paragraph 65:

> FortisBC bases its self-generation policy on Order G-38-01. Celgar submits that Order G-38-01 has run its course. Times have changed and policies have evolved. Maintaining the status quo (from whatever starting point is selected) for its own sake cannot reasonably be a basis for ongoing policy development. FortisBC's proposed self-generation policy is based on the concept of "incremental self-generation" from the date of Order G-38-01 - a point in time that is 14 years past.

44. First, Celgar's characterization is overly broad. FBC has not based the entirely of its self-generation policy on Order G-38-01, but for those portions of the policy that deal with the potential for exports, G-38-01 continues to provide principles that are valid and have not been set aside by a subsequent Commission order. To the contrary, Order G-38-01 has been reaffirmed in the 2009 BCH PPA Decision and in the New PPA Decision.

45. Second, FBC has not suggested that the date of Order G-38-01 itself is the marker or starting point in the determination of incremental generation or on the establishment of a GBL.

46. It is difficult for FBC to envision what level of reliance on Order G-38-01 would satisfy Celgar given its comments in the BC Hydro PPA renewal process:

> In Order G-38-01, the Commission set forth its principles for the establishment of a GBL. In Order G-48-09, the Commission applied such principles in FortisBC's service territory. **Nothing beyond the application of the Order G-38-01**

> **principles is required or appropriate, lest the Commission unduly sanction different GBL principles for BC Hydro customers and FortisBC customers.** [2]

47. The only "instance"[3] of a Commission decision that Celgar can give which seems to contemplate something other than historical consumption or output as the threshold is the Kelowna Decision. This is not the Commission's most recent word on these issues; in this regard, in the New PPA Decision, the Commission again referred to Order G-38-01 and its extension to FBC in Order G-48-09. Indeed, AMPC itself makes reference to historical concepts, noting at page 2 of its submissions:

> AMPC agrees with FortisBC that the existence of a self-generator Generation Baseline Load (GBL) protects other ratepayers by ensuring that the electricity to be sold to the utility, or exported, is truly incremental, and <u>not a change in use of the historic generation</u>. While the calculation of a GBL is truly company and situation specific, the principles that guide its calculation are not. <u>The GBL must define the line between historic and incremental generation</u>.
>
> ....where the demand exists FortisBC and its customers should negotiate GBLs that <u>reasonably reflect representative historical customer purchases</u>, and thereby identify incremental generation, as BC Hydro and its customers have. [underlining added]

48. Celgar also (such as in paragraphs 7 and 10 of its submission), takes issue with what it asserts is FBC's inequitable treatment of existing self-generation as compared to new self-generation. Celgar contends that "All self-generation should be placed on an equal footing by assessing the benefits and burdens of the investment, when it was made. Harm must be assessed not as from some arbitrary date in the calendar, when different investors are at different stages in their investment, but at the same point in time relative to each investment." However, none of the terms or considerations that underpin Celgar's assertion have been developed or have any common understanding. There does not seem to be any disagreement from any party that new generation should be considered incremental, and FBC has already stated that such generation should be eligible to be used without restriction. The use of existing generation is exactly what GBL Guidelines are

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[2] Celgar Final Submission, page 34, British Columbia Hydro and Power Authority Application for Approval of Rates between BC Hydro and FortisBC Inc. with regards to Rate Schedule 3808, Tariff Supplement No. 3 – Power Purchase and Associated Agreements, and Tariff Supplement No. 2 to Rate Schedule 3817 (emphasis added).

[3] Celgar says, at paragraph 65 of its submissions, that "[p]rior Commission decisions have already recognized" its position and starts paragraph 66 by saying: "For instance, in the much more recent [than Order G-38-01] Tolko decision..." It does not cite any other "[p]rior Commission decisions".

intended to address. Celgar's series of statements in this regard are at best premature.

(7) Whether FBC Has Met the Order G-60-14 Requirements

49. Celgar contends that "FortisBC has yet to propose high level principles relevant to a self-generation policy" and that its "so-called high level principles are not principles at all" (paragraph 75). BC Hydro's submission also frequently refers to some point or other that BC Hydro claims not to have been explained in FBC's materials, though at least BC Hydro elsewhere acknowledges the restricted parameters of this stage of the process.

50. Whether or not FBC satisfied the requirements of Order G-60-14 was addressed at the procedural conference in this matter. In correspondence of January 27, 2015 (Exhibit A-3), the Commission Panel requested that registered parties address the following items, among others, at the procedural conference: "Has FBC fulfilled the requirement to consult on and submit high level principles as required by Order G-60-14?" (underlining added). That issue was addressed at length at the procedural conference, including by the BCMEU and CEC (Transcript, Vol. 1, p. 28 ll. 12-21), Celgar (p. 33 l. 25 – p. 42 l. 3), BCOAPO (Transcript, Vol. 1, p. 70 l. 13 – p. 71 l. 15) and BCSEA (p. 74 ll. 7-9, 17-22).

51. Celgar's fundamental issue at the procedural conference appeared to be that the FBC filing should have included proposed GBL Guidelines as "[t]he guidelines themselves are the principles that we are looking to discuss and argue about and eventually settle in these proceedings" (p. 37, ll. 8-11, per Mr. Moller). Mr. Moller said that "absent of the GBL guidelines, that goal [that the consultation process would lead to clearly documented Commission approved principles] is not met" (p. 38, ll. 15-18). However, the Commission determined that neither in this respect nor otherwise was the FBC filing incomplete. In Appendix A to Order G-32-15, the Commission said:

> FortisBC asserts that it has fulfilled the requirement to consult and submit high-level principles under Order G-60-14. CEC and BCMEU concluded that it is the acceptance of those high level principles that is the outstanding matter for the Commission and no party has submitted that FortisBC did not fulfill the requirement except for Celgar.
>
> Celgar maintains that the filing is deficient because it did not include GBL Guidelines which Celgar interprets Directive 5 of Order G-60-14 to require. However, Celgar acknowledges that the language in Directive 5 is a little awkward.

....

> The Commission Panel concurs with FortisBC that the wording of Order G-60-14 is the measure of any deficiency in the Application. Directive 5 states:
>
> > 5. FortisBC Inc. is directed to initiate a concurrent consultation process in its service territory to address or ensure:
> >
> > (i) the potential benefits of self-generation;
> >
> > (ii) the 1999 Access Principles in the context of self-generating customers;
> >
> > (iii) if the GBL methodology is proposed, GBL Guidelines for both idle historic self-generation and new self-generation; and
> >
> > (iv) arbitrage is not allowed.
> >
> > FortisBC Inc. is further directed to file a resultant Self-Generation Policy application with the Commission by December 31, 2014, that establishes high level principles for its service territory.
>
> The Panel acknowledges that the wording of the Directive is open to at least two interpretations as indicated by the parties. FortisBC is proposing a staged approach with the filing of the GBL Guidelines after the high level principles have been established by the Panel. The Panel notes that there is nothing specific in the Directive specifically requiring the inclusion of the GBL Guidelines in the initial application materials as opposed to requiring them to be filed at a later time in the proceeding. FortisBC has elected to proceed based on its reasonable interpretation of the Directive that does not require the GBL Guidelines to be filed with the initial application materials. **Given the wording of the Directive, the Panel finds that the Application as filed does comply with the Directive.** [footnotes omitted; underlining added]

52. Compliance with Order G-60-14 (including the submission by FBC of proposed high level principles) is of course a separate issue from whether the interveners agree with the content of the high level principles that FBC has proposed (see, *e.g.*, Transcript, Vol. 1, p. 28, ll. 19-22, and p. 29, ll. 3-6, per Mr. Weafer). Certainly Order G-32-15 did not preclude Celgar, for example, from arguing that it does not agree with all or part of the principles that had been proposed; the Commission's questions permitted interveners' positions on relevant matters to be articulated and assessed.

53. It is evident that most interveners have been readily able to review, assess and comment on the principles that FBC put forward in its application and May 25 submissions. For example, BCOAPO notes that, subject to the comments it sets out in its submissions, it "generally agrees with FBC's high level policy statement regarding self-generation and its policy statements regarding the four specific areas identified by the Commission in Order

G-60-14" (page 9). Even if compliance had not already been determined by Order G-32-15, it is confirmed by most interveners' demonstrated ability to address FBC's material.

PART C - SPECIFIC RESPONSES TO INTERVENER SUBMISSIONS ON COMMISSION QUESTIONS

54. In Part B of this reply, FBC addressed the general presumptions on which Celgar and BC Hydro erroneously proceeded when answering the Commission's questions. In Part C, FBC addresses specific intervener responses to those questions.

(1) What, if any, past Commission decisions are applicable in establishing a self-generation policy in the FortisBC service area? If any are applicable, please specify why.

(i) What decisions are applicable?

55. There does not appear to be significant divergence among FBC and the interveners on the list of decisions which are applicable. With the addition noted below, Celgar "accepts that FortisBC has provided an adequate list" (paragraph 25). Though it has proposed two additions, which are also addressed below, BCOAPO says that it "views the list FBC has provided as fairly comprehensive" (page 3). Further, with one proposed addition, the list of the BCSEA largely overlaps with that of FBC. For its part, CEC says more generally that FBC's May 25 submissions "represent both customers' and FBC's interests fairly and are accurate. In that regard, CEC fully supports the submissions of FBC on each of the questions posed". FBC does not repeat these CEC comments below, but notes that they apply to each of Questions 2-9 as well.

56. As to the proposed additions to the list of applicable Commission decisions:

(a) Celgar contends that added to the list should be "the many decisions of the Commission [in the BC Hydro service area] that have approved GBLs upon the request of the self-generator" (paragraph 26). Celgar does not refer to any specific decisions, and FBC is not aware of any such decisions that set out an analysis of the issues in the context even of BC Hydro service territory. In the absence of any specifics on which FBC may comment or which the Commission may consider, FBC opposes Celgar's proposed addition.

(b) At page 5 of its submissions, BCOAPO suggests that Order G-113-01 and G-198-11, which pertain to Tolko Industries Ltd., be added to the list of applicable Commission decisions. Based on its submissions, it appears that BCOAPO is mindful in this regard of Order G-191-13, which varied Order G-113-01 and revoked G-198-11. Keeping in mind that context, FBC does not object to the addition of Orders G-113-01 and G-198-11 to the list, but also has no particular submissions on them.

(c) BCSEA proposes to add to the list of applicable Commission decisions Order G-93-15, which is the Commission's Stage III decision dated May 29, 2015 on the Stepped and Stand-by Rates Application (the **Stage III Decision**). The Stage III Decision was issued subsequent to FBC's May 25 filing, and FBC agrees that it should be included. As noted in FBC's original submissions, the Commission has addressed various issues related to self-generators through the stand-by rate.

57. In reviewing certain points made in interveners' submissions, one further decision has emerged as potentially applicable as well: Order G-93-14, which is the order made on July 10, 2014 denying Celgar's application to reconsider Order G-60-14 (together with the accompanying Reasons for Decision, referred to herein as the **PPA Reconsideration Decision**). The PPA Reconsideration Decision addresses an aspect of Celgar's argument on the Access Principles, as returned to below under Question 2. Further, in the PPA Reconsideration Decision the Commission acknowledges that "as in the past, also in the current proceeding, the focal issue is which party or parties should benefit from generation installed by a self-generating customer – the utility and indirectly its other customers or the self-generation customer. In other words, the crux of the issue is how the benefits of self-generation should be shared" (Appendix A, pp. 5-7). These matters are returned to under Question 5, below. Of course, the PPA Reconsideration Decision was not found in the document that various participants seem to have used as a resource in compiling their lists – Appendix C to the New PPA Decision – because issued only afterwards.

(ii) Celgar's proposed reservation of submissions

58. While generally (with the exception noted in paragraph 51(a) above) Celgar accepts that FBC has provided an "adequate list" of applicable decisions, Celgar also says at paragraph 25 that it "does not accept many of the submissions of FortisBC related to the

interpretation and application of those decisions, and reserves the right to provide submissions as to their interpretation and application in due course".

59. Respectfully, it is not open to Celgar to reserve an opportunity to make submissions on this topic at a later stage. In its reasons for Order G-32-15 in this proceeding, the Commission said the following at pages 8-11:

> The proposed Stage I suggests that there are more issues affecting the development of GBL principles and guidelines than are addressed in previous Commission decisions. Appendix C provides a listing of those issues which the Panel has identified as potentially impacting this Application. As an example, FortisBC indicates that the 1999 Access Principles have little implication for the development of their proposed GBL methodology, whereas Celgar argues the opposite. The Panel is also concerned about government policies and statements such as the *Clean Energy Act* and the BC Energy Plan that could impact the establishment of any guidelines. Receiving further commentary on the importance of these and other issues is, in the view of the Panel, important to this Application.
>
> The Commission Panel finds that the most efficient way to proceed is to seek submissions in order to obtain the positions of the parties on the relevance and applicability of past decisions in current and future circumstances as well as any other issues as directed by the Panel.
>
> The Panel recognizes that many of the past decisions were made in other contexts and at other historical periods of time. The question therefore arises as to the extent to which they apply here. The Panel agrees with BCPSO that the parties can save a lot of time by having these issues resolved before FortisBC files the detailed GBL Guidelines.
>
> The Panel is mindful that FortisBC has stated that it has absolutely no intent to revisit issues but rather to crystallize and articulate past Commission decisions, or its understanding of those decisions, as a way that could be used as a policy statement to guide customers as directed by the Commission in Order G-60-14.
>
> The Panel agrees with FortisBC that it makes little sense for FortisBC to be drafting and filing GBL Guidelines which it believes to be based on past Commission decisions when other people would take the view that in fact, the high level principles on which the GBL Guidelines would be based, are departures from those past Commission decisions.
>
> ....
>
> The Panel is persuaded by FortisBC's arguments and determines that the best way to proceed, is for FortisBC to first file its written submission, followed by interveners filing written responses and then for FortisBC to file a written reply regarding the positions of the parties on the relevance and applicability of past decisions in current and future circumstances and any other issues as directed by the Panel.
>
> The Panel is in agreement with FortisBC that there is no need for IRs at this time, as this is more a matter of law and interpretation on the application of past

> Commission decisions than something that can be tangibly distilled into an evidentiary backdrop.
>
> If the parties disagree on the principles or the interpretation of past decisions, the Panel will consider at that time whether or not a process similar to a streamlined review process should be followed whereby the parties could articulate their concerns and Commissioners could ask questions.
>
> [underlining added; bolding in original]

60. While the last paragraph in the above-quoted passage suggests the possibility of further process, this is clearly in order to resolve a substantive disagreement that arises on the face of the submissions. Celgar's statement at paragraph 25 that it "does not accept many of the submissions of FortisBC related to the interpretation and application of those decisions" cannot rise to the threshold of triggering that further process. To put other interveners, the Commission and FBC to the time and expense of a further round of submissions or streamlined review process, there would have to be a tangible need for this to occur, and there is not.

61. The Commission emphasized the importance of participants addressing past Commission decisions in their submissions when it issued its reasons for Order G-51-15. The Commission did so after certain of those participants (including FBC) suggested that those decisions be dealt with in the context of addressing specific substantive questions, rather than as a freestanding topic. In its reasons for Order G-51-15, the Commission said the following at page 3:

> The Commission considered FortisBC's comment that legislation and policies should be addressed in the context of addressing other topics and is aware of FortisBC's position that there is virtue in addressing past Commission decisions in the context of particular subject matter. However, the Panel is concerned that the participants would not want to address the suggested first three issues other than in the form of support as required for the other issues. In its earlier reasons for decision in Order G-32-15, the Panel clearly indicated that it wanted to obtain the positions of the parties on the relevance and applicability of past Commission decisions to the proposed FortisBC self-generation policy in current and future circumstances.
>
> The Panel also is aware of the potential impact of provincial policies on issues such as self-generation and believes addressing FortisBC self-generation in light of overall provincial energy policies would be of benefit to all parties.
>
> Accordingly, the Panel is not persuaded that FortisBC's proposal regarding the first three issues should be accepted. The Panel agrees with CEC that the application of past Commission decisions, the BC Energy Plan and the *Clean Energy Act* are best addressed as individual issues and not only referred to in support of the other issues. **Therefore, the Panel determines that the final Panel Issues List will not be modified as suggested by FortisBC.**

[underlining added; bolding in original]

62. Celgar should not be taken by surprise by the need to make use of the opportunity that the Commission has provided to make submissions. A similar situation recently arose in the Commission's Stage III Decision, after Celgar had sought to reserve an opportunity to make further submissions (in addition to the opportunity that the Commission had actually provided) regarding a proposed penalty to be included in Rate Schedule 37. The Commission wrote at page 14:

> Celgar submits that:
>
> > Nevertheless, notwithstanding the above concerns, Celgar accepts the Proposed Penalty (in the form proposed by the Commission) as it represents a good faith attempt to resolve one of Celgar's many impasses with its utility. However, Celgar would like the opportunity to request further consideration of the Proposed Penalty by the Commission, and to provide more in-depth submissions, in the event that the Commission is considering applying the amended penalty provision to energy, or to exceptional or unusual circumstances, in the manner proposed by FortisBC. [underline added]
>
> Commission determination
>
> The Commission denies Celgar's request for further process given that Celgar already had an opportunity to respond to FortisBC's proposed penalty and should not be entitled to reserve the right for further consideration once the Commission has made its determination.
>
> [underlining added]

(iii) BCMEU's "Clean Slate" Comment

63. BCMEU notes at page 1 of its submissions that "past Commission decisions should be used for context of the matter but it is not necessary or desirable to try and develop a self-generation policy that is entirely consistent with all past decisions. This is an opportunity for a 'clean slate' decision that will become the guiding document on matters pertaining [to] self-generation".

64. FBC encourages the Commission to make use of the work various Panels have done on these topics in the past (and the input that participants have had in this regard), and has attempted to structure its proposed policy in light of those past decisions. However, FBC:

(a) shares the BCMEU's desire for a "guiding document" in relation to FBC service territory; and

(b) acknowledges that certain of the Commission's past decisions may not in all respects be consistent with what the Commission determines to do. A clear and final guiding document would be preferable to crafting a document that attempts to reconcile all aspects of the Commission's past decisions.

(2) Should the 1999 Access Principles established in Order G-27-99 (the Access Principles) apply to self-generating customers in the FortisBC service area?

65. Generally interveners who have expressed a view on this question support FBC's position in this regard. In addition to CEC, BCOAPO "generally agrees with [FBC's submissions] and supports FBC's position on this issue" (page 5). BC Hydro "agrees with FortisBC that the FortisBC 1999 Access Principles...should not apply to the activities and service contemplated by the FortisBC self-generation policy" (page 10), and "specifically agrees with FortisBC that 'applying the Access Principles to self-generation use is a fundamental misapplication of them'" (page 11). BCSEA says that "it is too confusing to try to apply the 1999 <u>Access</u> Principles to the different topic of export sales" (page 3). BCMEU says that it "agrees with FBC that the 1999 Access Principles were developed for use in circumstances that are fundamentally different than the disposition of a customer's self-generation" (page 1).

66. Celgar takes a different position. Its position seems in part to be that FBC was not permitted to give a "no" answer in response to the question that the Commission posed. However, the Commission would surely not have asked the question if the only permitted answer were "yes".

67. Further and in any event, BCSEA correctly suggests in its submissions that participants were not limited to answering the question based on a view of how past Commission decisions are properly interpreted. BCSEA notes correctly in its submissions that the question extends beyond that, as it commences with the word "should".

68. FBC notes that the Commission stated in Appendix A to Order G-93-14 (the PPA Reconsideration Decision) that "[m]any related applications received since 2009 clearly demonstrated that there was a problem. That problem was the fact that FortisBC's self-

generation policies have not been sufficiently developed or articulated nor have they been approved by the Commission. For instance, the 1999 Access Principles clearly were due for a review in today's context" (p. 6; underlining added). This further confirms that, even if Celgar were correct in its interpretation of past Commission decisions related to the Access Principles, that was not intended to be the end of the matter.

69. Similar to FBC's comments about Celgar's proposed reservation of a "right" to make further submissions pertinent to Question 1, FBC is concerned that Celgar seems to be preparing to argue more about Question 2 at a later stage. Celgar says at paragraph 33 of its submissions that it "will not, at this juncture repeat the entirety of the record that led to the above-cited Commission conclusions" (paragraph 33; underlining added). FBC is not asking that any participant repeat the whole of any record, but it should not be open to that intervener to do so at a later stage.

70. FBC's substantive comments on the Access Principles were largely captured in its May 25 filing, and as such it will not repeat them here. However, specifically in response to Celgar's comment at paragraph 2 of its submissions that "the APA and the obligation to serve are inextricably linked to one another", this is not the case. Other customers of FBC who would not, even on Celgar's view of the Access Principles, be subject to them are also served by FBC, and FBC has an obligation to do so. The Access Principles simply translated that obligation to a particular context, which FBC says is different from the context before the Commission in this proceeding.

(3) What, if any, application does the BC Energy Plan have in establishing a self-generation policy in the FortisBC service area? If applicable, please specify why.

71. BCOAPO says that it "generally agrees with FBC's comments regarding the application of the BC Energy Plan in the establishing of a self-generation policy in the FBC service area" (page 6). BCSEA offers insightful comments as well (page 4). BC Hydro states that "[t]he BC Energy Plan and [*Clean Energy Act*] do not apply to the FortisBC self-generation policy proposal", referencing its perceived export orientation (page 2).

72. In its response to Question 3 (though more directly related to Question 4), Celgar notes in passing that "FortisBC has consistently, both with respect to investments in self-generation and investments in DSM initiatives, refused to implement BC Energy Objectives" (paragraph 39). If Celgar has some particular instance in mind apart from

the theoretical disagreement that is addressed in its submissions as to application of the BC Energy Plan and *Clean Energy Act*, it does not identify it. FBC is thus unable to respond and Celgar's point should not be taken into account.

73. In its response to Question 3, BCMEU says that "any self- generation policy should not be seen as an inhibitor to the development of these [new energy sources that are clean and renewable] such as requiring new energy to be first used to serve own load" (page 2). Whatever view is taken of the application of the BC Energy Plan, FBC does not believe that its proposed policy would inhibit the development with which BCMEU is concerned.

(4) What, if any, application does the *Clean Energy Act* have in establishing a self-generation policy in the FortisBC service area? If any are applicable, please specify why.

74. BCOAPO notes that its views are "similar when it comes to the application of the *Clean Energy Act* to those noted above under application of the BC Energy Plan" (page 6). As noted above, as well, BC Hydro states that "[t]he BC Energy Plan and [*Clean Energy Act*] do not apply to the FortisBC self-generation policy proposal" (page 2).

75. BCMEU "submits that the Clean Energy Act does not have a specific role in self-generation policy, but as a minimum self-generation policy should be structured so as not to impede meeting Clean Energy Act objectives, specifically in relation to clean or renewable energy development" (page 2). FBC does not believe that its proposed policy would constitute such an impediment.

76. The points necessary to be made in relation to Celgar's submissions in this regard are largely found in FBC's May 25 filing. For clarity, however, with respect to Celgar's comment that "FortisBC claims that it is not appropriate for a self-generator to receive a monetary incentive to undertake a project", what FBC says in the paragraph that Celgar cites is instead that "[i]t is not appropriate for a customer to receive a monetary incentive to undertake a project <u>that does not lead to a net reduction to FBC's revenue requirement</u>" (underlining added).

(5) What, if any, are the current and future potential benefits or drawbacks to self-generation in the FortisBC service area?

77. BCOAPO seems to be generally supportive of FBC's position in this regard (pages 6-7). BCSEA notes that "the answers to this question will be too general to assist in determining an appropriate FBC policy for financial arrangements applicable to self-generation for export by its customers" (page 4); FBC does not oppose this position, given FBC also suggests that each instance of self-generation is unique and must be evaluated on its own merits (paragraph 41).

78. BC Hydro says at page 12 of its submissions that "FortisBC suggests that incremental generation in the FortisBC service area, which is not exported out of the service area, benefits only BC Hydro". BC Hydro cites paragraph 44(1) of FBC's May 25 filing in support of its point, but that subparagraph addressed simply the question of "freeing up of utility power for export if the self-generating customer's load is reduced". FBC does not exclude the possibility of other benefits being applicable in some circumstances within its service territory; otherwise it would not be applying a "net benefits" concept in its stand-by rate without expressly limiting it to exports (which it has not done).

79. FBC's analysis in paragraph 44(1) of its May 25 filing is specifically addressed as well by BCMEU, which notes that "if new self-generation is not exported outside the FBC service area then that could (would) result in reduced power purchases by FBC, much of which would be reduced power purchases from BC Hydro thus BC Hydro would end up with more energy for export or less purchases" (page 2).

80. In addressing Question 5, BC Hydro characterizes the New PPA as having "an inclining block rate structure" when engaging in its analysis (page 13). To be clear, the Commission rejected this characterization in its reasons for Order G-60-14, stating at page 47 of that decision: "The Panel agrees with FortisBC and ICG that, given it is not revenue neutral, RS 3808 two-tranche structure <u>cannot be described as an 'inclining block' rate structure</u>" (underlining added).

81. For its part, Celgar addresses to a considerable extent in its submission the question of past benefits from its self-generation. Apart from its analysis being unsupported (as returned to below), this is not, strictly, within the parameters of any of the questions that the Commission asked. The Commission's question related to the "<u>current and future</u>

potential benefits or drawbacks" (underlining added), rather than historical analysis, and rightly so. The nature of this proceeding does not accommodate a historical fact investigation, and in any event the discussion in which Celgar seeks to engage does not relate to the setting of a generic, go-forward generation policy. It is the setting of such a policy that is at issue in this proceeding and not to attempt to either set or apply such a policy on a retroactive basis.

82. In any event, however, Celgar's position that its self-generation has conferred benefits on FBC ratepayers while (it appears to suggest) those benefits have been denied in some part to Celgar, is not supported. To the extent that the Commission wishes to consider Celgar's points on these issues, FBC notes the following:

(a) Celgar used its self-generation to serve its load presumably because it made economic sense to do so. One might conclude that using self-generation instead of utility supply was less expensive for Celgar. During that time FBC had lines in place capable of serving the full load of Celgar. Other FBC customers shared in the costs of serving Celgar and Celgar was served, when the occasion arose, on a non-cost based brokerage rate that capped capacity and power supply charges in a manner unavailable to other industrial customers. Given the historical variability in the reliability of the Celgar generation, those occasions arose quite frequently.

(b) Further, as BC Hydro points out at pages 10-11 of its submissions, none of FBC's customers (including Celgar) have chosen to exit FBC service using the Access Principles – *i.e.*, in Celgar's case, to serve all or part of its requirements via power that it would source on the market. BC Hydro notes that "[t]his is presumably because the costs, benefits and risks of obtaining electricity supply from FortisBC are viewed as favourable compared to the costs, benefits and risks of obtaining supply from an alternative supplier under the Access Principles".

(c) Celgar supports its claim regarding historical benefits to FBC solely on the basis of avoided power purchase costs.[4] However, this analysis entirely ignores the possibility that there were losses to FBC, including:

[4] See paragraph 5 of Celgar's submissions ("[i]f used for load displacement, [private investment in self-generation] saves BC utilities from the marginal costs of generating or purchasing the incremental energy that would otherwise be needed..."); and paragraph 50 ("other ratepayers (primarily those of BC Hydro) have benefited by avoiding their

(i) the revenues that would have resulted from FBC serving a greater portion of the Celgar load. It is possible that serving Celgar over the historical period would have provided revenues that would have served to lower rates for other customers and that by FBC not serving the load, rates are higher, not lower as suggested by Celgar (*e.g.*, at paragraph 8, where it says "[r]ates are lower than they otherwise would be"). While Celgar asserts that self-generation investment at its plant "indisputably has provided a benefit both to FortisBC ratepayers, and to BC Hydro ratepayers through the impact of the 3808 Agreement" (paragraph 8), the margin on power sales can be either positive or negative depending on the relationship between retail rates and the cost of power. It appears that Celgar, having benefited by its use of self-generation to serve load, and backstopped by ratepayer-funded infrastructure, now wishes to garner further consideration for its generation (although it is not specific on how or where such consideration should be determined or reflected).

(ii) the regulatory costs that AMPC cites at page 3 of its submissions as associated with "Celgar's campaign against FortisBC". AMPC relies on evidence from FBC's Dennis Swanson, filed in Celgar's NAFTA proceeding:

> Celgar has also adopted a practice of intervening in any FortisBC regulatory process that might provide an opportunity for it to advance its ambition of arbitraging its self-generated energy at the expense of BC Hydro or FortisBC ratepayers. This regulatory practice by Celgar (i.e., multiple interventions and repeated attempts to expand the scope of BCUC proceedings) is costing FortisBC ratepayers a rate increase equivalent to 1.5% every year. For FortisBC, these costs not only include representation before the BCUC, they also include part of the BCUC's costs and the interveners' costs, such as Celgar's. [emphasis omitted]

83. At various points in its submissions, Celgar characterizes the withdrawal of "benefits" to which ratepayers were not "entitled" as the potential harm to them. Setting aside all the other flaws in that analysis, it depends on a peculiarly narrow characterization of harm. Other ratepayers can suffer harm not simply in situations where earlier benefits are

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share of the burden of the higher marginal costs of acquiring incremental electricity that would have been necessary to serve Celgar's load (which they otherwise would have been obligated to incur had Celgar not self-supplied)".

withdrawn, but where a neutral situation becomes negative, where more harm is layered on existing harm, etc.

84. Further, while Celgar's narrative in its introduction (not simply in response to Question 5) focuses on the supposed redistribution of benefits that its self-generation provides, BC Hydro correctly highlights as another important issue at page 3 of its submissions: that is, the need to avoid "redistributing the value of existing embedded generation resources". Celgar's determination to access embedded cost power, specifically, when choosing to engage in other activities is a significant issue.

85. Celgar says at paragraph 5 of its submissions that "in the case of self-generation from Biomass, [private investment in self-generation]...reduces carbon emissions". Whether this statement is accurate necessarily depends on what the self-generation is replacing; if it replaces other clean energy, there is no reduction of carbon emissions.

86. At paragraph 11, Celgar says that "all investment in self-generation provides benefits to the Province". This statement is much too broad; it surely depends on the circumstances, including whether the self-generation is devoted solely to export and the nature of the self-generation. FBC believes it is important to be mindful of BCSEA's caution at page 4 of its submissions (consistent with its own statement at paragraph 41 of its May 25 filing, for example) that "the pros and cons (the current and future potential benefits or drawbacks) of self-generation are intrinsically specific to the particular self-generation situation".

(i) How does a self-generator's location impact the assessment of current and future benefits?

87. Celgar has addressed this question at paragraph 51 of its submissions with reference to whether a self-generator is in FBC service territory or in BC Hydro service territory. More generally, when Celgar refers at various points in its submissions to the proposition that self-generators should be treated on an "equitable" basis (paragraphs 11, 23(e), 75(e)), given the context of these remarks it may also be referring to cross-jurisdictional considerations. FBC does not believe that this is the issue being explored by the Commission with this question, and it seems that Celgar has taken the opportunity to again advance its desire to be treated in the same manner as if it were resident in the BC Hydro service area. FBC notes, however, that BC Hydro has stated repeatedly that export sales cannot occur in its service area, and that there is a lack of applicable tariffs

and programs. BC Hydro does not appear to favour the such sales even if it were otherwise possible to make them from its service territory.

88. Clearly self-generators within a service territory should be treated equitably, as addressed in the Kelowna Decision. Utilities are bound by obligations including the following in s. 59 of the UCA:

> (1) A public utility must not make, demand or receive
>
> (a) an unjust, unreasonable, unduly discriminatory or unduly preferential rate for a service provided by it in British Columbia, or
>
> (b) a rate that otherwise contravenes this Act, the regulations, orders of the commission or any other law.
>
> (2) A public utility must not
>
> (a) as to rate or service, subject any person or locality, or a particular description of traffic, to an undue prejudice or disadvantage, or
>
> (b) extend to any person a form of agreement, a rule or a facility or privilege, unless the agreement, rule, facility or privilege is regularly and uniformly extended to all persons under substantially similar circumstances and conditions for service of the same description.

89. However, the Commission has previously held that "[i]n the Commission Panel's view, which was shared by all parties (including Celgar) to the proceeding, the issue of equity between pulp mills in BC falls outside the Commission's jurisdiction" (RDA Decision, page 115).

90. At paragraph 51 of its submissions, Celgar says that while "[p]rior Commission Panels have felt restrained from dealing with issues relating to competition and fairness across service areas", in its view "those issues should be open for consideration in establishing self-generation policies in the FortisBC area". However, as this reflects, under consideration in this proceeding is specifically the policy in FBC service territory, not policy province-wide. Further, BC Hydro's submission suggests that Celgar is unique in the province in seeking to export power; even if situations across service territories could be compared, those situations are not the same.

(ii) How, if at all, should the relative benefits or drawbacks of any particular self-generator be reflected in determining a GBL?

91. At page 7 of its submissions, BCOAPO considers whether the costs or benefits associated with self-generation should be reflected in the GBL when the customer

explicitly chooses not to contract for stand-by service (of course, FBC says that it is in the terms of that service that those net benefits should otherwise be recognized). BCOAPO posits that it "may be more appropriate to recognize such direct costs/benefits through either direct payments from the customer to FBC or vice-a-versa". In FBC's view, and as summarized accurately and repeatedly throughout various regulatory processes, a GBL is a number that signifies the amount of self-generation that must first be used to serve load before generation can be used for another purpose. In Order G-38-01, a GBL as conceived of by the Commission is based on historical generation or load. FBC does not believe that a GBL should be varied for reasons unrelated to its determination.______________________

92. In the Stage II Decision in FBC Stepped and Stand-by Rates process, at page 21, the Commission did not approve FBC's suggestion to adjust the Contract Demand of a customer to reflect the net benefits of self-generation. It would be inconsistent to allow a GBL to be adjusted for the same reason.

(6) Should FortisBC's self-generation policy incent self-generation? If yes, under what circumstances?

93. It is possible that some of the divergence in opinions on whether or not FBC should "incent" self-generation stems from differences in participants' conceptual understanding of what constitutes an incentive. FBC does not consider the recognition of net benefits of self-generation to be an incentive, nor does it consider the case where the FBC would purchase the output of a self-generator's plant where FBC considered that to be a cost effective resource to be an incentive. FBC will make these assessments based on what makes economic sense for its customers.

94. BCOAPO says the following at page 7 of its submissions:

> As a general rule, FBC's self-generation policy should not 'incent' self-generation. However, there may be specific circumstances where additional self-generation would benefit FBC's ratepayers as a whole, and where the economics (from the self-generating customer's perspective) are inadequate to warrant those customers purs[u]ing such generation. In such circumstances it may be appropriate for FBC to consider incenting the self-generation.
>
> BCOAPO agrees with FBC that, in such situations, Commission approval should be obtained on a case by case basis.

95. BCOAPO cites page 32 of FBC's application (Exhibit B-1) as support for the second paragraph.

96. For clarity, FBC believes that BCOAPO is referring to FBC's proposal to recognize net benefits of self-generation in the stand-by rate. At page 2 of Exhibit B-1, FBC said:

> With respect to the Commission's determination that the net-benefits of self-generation should be reflected in the Stand-by Rate schedule, FBC has proposed in this Application, a means to recognize the net benefits to the credit of the self-generating customer. Since the opportunities to use such this method are anticipated to be infrequent due the small number and unique nature of potential self-generation customers, and need to be developed in consideration of each specific circumstance, the Company believes that the most reasonable approach is to bring each case, with all relevant supporting documentation, to the Commission for approval on a case by case basis.

97. This is consistent with FBC's submissions on page 32 of its May 25, 2015 filing.

98. BCMEU notes as well in relation to Question 6 that it "agrees with the FBC position and in particular with FBC whereby if a self-generation project has a net benefit to FBC customers as a whole it would be appropriate for FBC to recognize the net benefit" (page 3).

99. While related, recognition of those net benefits is likely not, strictly, the provision of an incentive as discussed above. If recognition of net benefits in the stand-by rate is excluded from the category of "incentives", FBC would agree with BCSEA's view that "FBC should not have a policy either to incent or to discourage self-generation by its customers" (page 5).

100. At paragraph 52 of its submissions, Celgar says that FBC should provide incentives "in similar circumstances as those being provided to BC Hydro self-generation customers". However, even apart from the considerations noted above pertaining to equity across jurisdictions, the circumstances are not similar:

   (a) it appears that only Celgar may seek to export power;

   (b) FBC and BC Hydro face different mandates and resource issues, as noted above; and

(c) even if equity between pulp mills were open to the Commission to consider, it does not need to require equivalent programs in FBC and BC Hydro service territory.

101. Also at paragraph 52 of its submissions, Celgar expresses its view that "the current 'net-of-load' restrictions, if continued and broadly applied, will provide a disincentive to future investment in self-generation in the FortisBC service area, both as to itself and others that may consider investing". However, a central part of FBC's proposed policy is the availability of a GBL as an alternative to "net of load"; Celgar's position does not appear to take that into account.

(7) What should the definition of arbitrage be in the current and future FortisBC service area environment?

(i) Should "arbitrage" be defined at all?

102. FBC has some sympathy for those intervener submissions which noted that defining arbitrage is not the critical issue. BC Hydro observes at pages 14-15 of its submissions that "with respect to the electricity buying and selling activities of utilities and self-generators that occurs or may occur in the province, nothing should turn on whether the activities fall within or outside the definition of arbitrage", and that "the issue is whether the proposed activity is in the public interest and not whether it falls within a definition of arbitrage". Further, BCSEA notes its view at page 5 of its submissions that "the term 'arbitrage' by itself is too fraught to be useful in defining FBC's policy regarding customer self-generation for export".

103. However, it is specifically in relation to "arbitrage" that FBC's obligation to consult and formulate high-level principles was framed in Order G-60-14 and the accompanying reasons. FBC has therefore referred to "arbitrage" in its proposed high level principles. FBC is not "miss[ing] the point" (to use BC Hydro's wording at page 15 of its submissions) by addressing arbitrage there; rather, it is complying with a direction from the Commission.

(ii) How should "arbitrage" be defined?

104. FBC acknowledges that, as certain interveners have noted, there is some circularity in defining arbitrage with reference to the GBL when the GBL is itself intended to prevent

arbitrage detrimental to other ratepayers. However, FBC believes this definition of "arbitrage" is better than:

(a) defining arbitrage quite broadly, given that the edict in Order G-60-14 was "no" arbitrage. A broad definition could result in a broad swath of activity being prohibited; or

(b) simply repeating definitions of "arbitrage" from www.google.ca or investopedia.com (see BC Hydro's submission, page 14), which do catch more than FBC suspects was intended to be subject to the "no" arbitrage direction.

105. In its submissions on arbitrage, Celgar primarily ascribes to FBC rather than to the Commission the passages from past Commission decisions with which Celgar disagrees. Where at paragraph 59 of its submissions, it says that "FortisBC submits that GBLs are a means to prevent arbitrage", citing to FBC's May 25 submissions, what is found at that portion of the FBC submissions are quotations from Commission decisions on the point (Appendix A, paragraph 11). (Celgar does acknowledge the content of Order G-38-01, however, when addressing Question 9.)

106. BCOAPO has proposed at page 8 the following definition of "arbitrage":

> Arbitrage occurs whenever a utility (or FBC) provides embedded cost power to a self-generating customer at any time when that customer is selling self-generated power that is not in excess of its load and where such self-generation would normally have been used for self-supply".

107. FBC does not oppose this definition but notes that it intends the GBL to be equivalent to circumstances "when that customer is selling self-generating power that is not in excess of its load and where such self-generation would normally have been used for self-supply". Thus the definition that FBC has advanced is very similar in its meaning to the definition proposed by BCOAPO.

108. With respect to Celgar's adoption of the "true arbitrage" approach noted in the Kelowna Decision (and the graphical representation thereof in BCMEU's depiction of arbitrage on page 4 of its submissions), FBC relies on its submissions at page 36 (paragraph 73) and 43 (paragraph 6) of its May 25 filing.

109. At paragraph 4 of its submissions, Celgar says that "in an unhelpful exercise, FortisBC accuses Celgar of arbitrage, or of a desire to arbitrage". It is not clear where Celgar

believes that FBC has levied this accusation, unless it is the NAFTA proceeding from which the AMPC quotes at page 3 of its submissions. However, whether or not its conduct is labelled as arbitrage, it is apparent that Celgar has in the past been associated with a desire to act in a manner that would be contrary at least to the regime outlined in Order G-48-09. The Commission said that "the Commission's determination at page 31 of Order G-48-09 is clear, and sets out to prevent exactly what Celgar is proposing to do": RDA Decision, at pages 102-103.

(8) Is there a role for the net-of-load concept in the FortisBC service area if the GBL methodology is accepted? If yes, what is that role?

(i) What is "net of load"?

110. Having reviewed the interveners' submissions, FBC is concerned that there may be a misunderstanding as to what "net of load" entails. Fundamentally, net of load is not a philosophical issue. Rather, in long form, it is the amount of a customer's generation that flows into the FBC system at any point of time, and is equal to the total generation less the amount of load concurrently consumed on the customer side of the meter. This generation, "net of load" is the circumstance to which FBC speaks in its submission, and that must apply as a matter of the physical flow of electricity. The GBL creates the possibility of charging the customer embedded cost rates for an amount different than manifest at the meter. As BCSEA says, "[i]n the absence of a Commission-approved GBL, the net-of-load concept is necessary as the default concept" (page 5).

111. To the extent that interveners raise concerns with net of load, that concern may relate to having a net of load regime which does not include the option of having a GBL.

(ii) How would a GBL number alternative to "net of load" to be set?

112. BCOAPO says at page 8 that in its view, "the 'net-of-load' approach should remain the default <u>unless a particular GBL value is (a) agreed to by the utility and customer, and</u> (b) approved by the Commission" (underlining added). FBC of course agrees that there should be a default role for "net of load", but notes that BCOAPO's formulation assumes that a GBL cannot be set in the absence of agreement between the utility and the customer.

113. In this regard, BCOAPO's formulation is consistent with Celgar's approach to the setting of a GBL. In this regard:

(a) Celgar refers to an "existing practice of not establishing a GBL in the absence of a request or agreement from a customer" (paragraph 23(f)). FBC is not aware of whether this issue has come before the Commission in BC Hydro's service territory (*i.e.*, whether the Commission has been asked to or did establish a GBL in the absence of a customer request). However, in any event, FBC agrees that a GBL should not be used unless the customer would like to have one.

(b) What FBC does not agree with is that the customer can dictate the GBL amount. Celgar refers at paragraph 72 of its submissions to customer nomination of a service level, and says that "the GBL is determined by the customer". In FBC's view, the Commission should have the power to intercede whether the customer and the utility do not agree on that number. It also notes that Celgar has repeatedly sought to have the Commission establish a GBL in the absence of agreement on the amount by FBC.

(iii) BC Hydro's views of net of load

114. In its May 25 filing, FBC quoted a passage that reflected BC Hydro's apparent unease with the "net of load" concept; this seems also to be reflected in Celgar's statement, at paragraph 18 of its submissions, that "[e]ven BC Hydro does not support 'net-of-load' as a concept".

115. However, BC Hydro's strong feelings against export of electricity by self-generating customers, as expressed in its submissions, suggest that whatever unease it has with "net of load" is limited to situations where the customer sells to the utility.

(iv) Determination of use of self-generation output

116. Celgar contends that "the net-of-load concept is inappropriate because under its application the Commission, not the self-generation investor, determines the use of the investor's self-generation output" (paragraph 62). As addressed in Part B, as well, this is not accurate. The self-generating customer even under the net of load concept may determine how to use its self-generation output. The issue is whether that customer can access power at embedded cost of service rates when selling that self-generation output, and if so to what extent. Again, while that may factor into the customer's decision as to

what to do with the output, this is no different from other factors that the customer must take into account when determining how to proceed.

117. Also at paragraph 62 of its submissions, Celgar says that it believes "the net-of-load criteria [sic] does not have any role in self-generation policy, with or without the acceptance of GBL methodology". Given Celgar's expressed support in its submissions for self-determination by self-generating customers, this position peculiarly disregards the preferences of Tolko, which has expressed itself as being in favour of the net of load concept.

(9) How should the GBL be defined in the context of both idle historic self-generation and current idle self-generation?

118. BCMEU generally agrees with the FBC comments in this regard, footnoting paragraphs 80-91 of the May 25 filing, "and in particular with Paragraphs 83 and 84" (page 4).

119. BCOAPO comments on how long a GBL should last, noting that in its view, "GBLs should not last indefinitely once established; they need to be reviewed periodically" (page 8). FBC agrees with BCOAPO's suggestion that "the expected duration of GBLs along with the need for periodic review should be addressed within FBC's GBL Guidelines" (page 8). FBC does not oppose the amendment of a GBL over time. This may to some extent address, as well, Celgar's opposition to having GBLs determined "in perpetuity" (paragraph 65).

PART D - FURTHER RESPONSE

120. BC Hydro concludes its submissions by stating that it "remains concerned that the FortisBC self-generation policy proposal would be expected to increase costs to BC Hydro ratepayers through an inappropriate reliance on BC Hydro embedded generation resources to support electricity exports from the FortisBC service area" (page 18). Here and elsewhere in its submissions, BC Hydro seems to seek to address in part the issue (which under Order G-32-15 has been deferred to a later point) of whether the s. 2.5 restrictions in the New PPA that relate to self-generating customers should be preserved.

121. By implication, at least, BC Hydro appears to suggest that an appropriate self-generation policy in the FBC service territory would alleviate the need to retain those s. 2.5

restrictions. FBC agrees, though the two utilities evidently disagree on what content would be appropriate. FBC also questions why BC Hydro suggests on page 18 that FBC would proceed in a manner that involves “inappropriate reliance” on BC Hydro, given that:

(a) by the time FBC was called upon to decide how to supply any needed power, there would presumably be Commission-approved contractual terms and policies in place; and

(b) FBC could be expected to abide by them.

122. Originally FBC had proposed that a determination in the s. 2.5 guidelines proceeding precede Stage II of the present process, though after consultation with various participants noted at the procedural conference herein that it was also content to defer the matter to a later point. As the Commission set out in Appendix A to Order G-32-15, at page 12:

> In Exhibit B-2 submitted at the Procedural Conference, FortisBC provided two options on how best to proceed with the review of the Application. Under Option A, a Commission decision on the Section 2.5 Guidelines Application could occur before the FortisBC Application moves to Stage II. Under Option B the Section 2.5 Guidelines Application process could be deferred until after Stage II was completed.
>
> FortisBC states that the Application envisioned Option A; however, after further consultation, FortisBC sees some benefits as well with Option B and has no strong preference either way.

123. The Commission noted at page 13 that “BC Hydro suggests that the Section 2.5 Guidelines Application should continue to be adjourned at this time and a determination on the duration of that adjournment is not needed at this time”.

124. The Commission concluded at page 13 that “[t]he suspension of the Section 2.5 Guidelines Application proceeding established by Order G-4-15 does not impact the review of this proceeding and therefore no alteration to that timetable as it relates to this proceeding is required”.

125. Given that BC Hydro’s present submissions appear to be infused with the considerations it would apply to s. 2.5, the Commission may wish to determine in full what would satisfy BC Hydro, and whether those expectations are reasonable, before finally concluding this

portion of the present proceeding. It would be unfortunate if a similar set of debates between FBC and BC Hydro had to recur at a later stage.

126. Finally in this regard, FBC notes that while in its view the Commission was correct in retaining s. 2.5 of the New PPA, including its self-generator-related provisions, for the time being, BC Hydro's submissions do not take into account the reasoning in the New PPA Decision which found that the bases for concern, objectively, had been attenuated. The Commission found, for example, at page 92 of the New PPA Decision:

> Hence, the Commission Panel determines that as long as there is an energy surplus and spot markets are low there is very little risk to BC Hydro ratepayers of FortisBC using its excess Tranche 1 energy to supply any incremental load.
>
> Based on FortisBC's forecast, which the Commission has accepted, 85 percent23 of the excess Tranche 1 energy is available in 2014, 2015 and 2016 only. Therefore, the Panel finds that although the current energy surplus does not necessarily provide protection to BC Hydro's ratepayers over the entire twenty-year term of the New PPA, it does provide protection in the near future where the greatest amount of risk lies. [emphasis in original omitted]

PART E - CONCLUSION

127. In light of all the circumstances, including as outlined above, FBC reaffirms the high-level principles set out in its application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Original signed by:

Corey Sinclair

Dated: June 22, 2015