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September 6, 2018

E-FILED

British Columbia Utilities Commission  
Sixth Floor – 900 Howe Street  
Vancouver, B.C. V6Z 2N3

Attention: Patrick Wruck, Commission Secretary

Dear Mr Wruck:

**Re: British Columbia Utilities Commission (Commission)  
FortisBC Inc. Self-Generation Policy Stage II Application  
Project No. 3698820**

We are counsel to British Columbia Hydro and Power Authority for the above-referenced application (the Application) to the Commission. The Application was filed with the Commission on November 10, 2016, and by Order No. G-140-18 dated July 26, 2018 the Commission established a regulatory timetable, pursuant to which we enclose our Final Argument.

Yours very truly,

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**BRITISH COLUMBIA UTILITIES COMMISSION**

**FORTISBC INC.**

**SELF-GENERATION POLICY STAGE II APPLICATION**

**PROJECT NO. 3698820**

**Final Argument of the  
British Columbia Hydro and Power Authority**

**September 6, 2018**

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## 1. SUMMARY

1. The British Columbia Hydro and Power Authority (**BC Hydro**) participated in this proceeding and in previous British Columbia Utilities Commission (**BCUC**) proceedings concerning the development of policies applicable to FortisBC Inc. (**FortisBC**) customers with self-generation capability because FortisBC has made proposals that have the potential to cause harm to BC Hydro ratepayers.
2. In FortisBC's response to BCUC IR No. 1 submitted on April 21, 2017, FortisBC confirmed that its Self-Generation Policy (**SGP**) proposal as set out in its SGP Stage II Application (the **Application**) would introduce the risk of harm to ratepayers "including a potential increase in the cost of resources used to supply customers in general and the possibility of stranded assets resulting from the reduction in historical customer load" relative to the *status quo*.<sup>1</sup>
3. Following that confirmation by FortisBC, the BCUC Panel issued a letter dated August 10, 2017 (Exhibit A-6) noting that the Panel considers the risk of harm to ratepayers as attested by FortisBC to be important, and seeking input on whether "development of a Self-Generation Policy (SGP) is required and/or the most effective means for addressing issues including..." several issues listed in the Panel's correspondence. The Panel further indicated that it wished to explore if, and potentially the extent to which, the key issues of the proceeding are (i) appropriately framed, (ii) still relevant, (iii) still require a remedy, and/or (iv) within the jurisdiction of the BCUC.
4. FortisBC's SGP proposal introduces a new risk of harm to ratepayers. While it might be possible for FortisBC to justify imposing a new risk on ratepayers, FortisBC has not provided analysis of the extent of the risk, the justification for taking the risk or the options for mitigating the risk if taken.

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<sup>1</sup> Exhibit B-2, FortisBC response to BCUC IR 1.1.3. FortisBC's response to BCUC IR 1.1.3 also says that FortisBC believes that the risk of harm should be borne by BC Hydro and its customers rather than FortisBC customers.

5. In short, FortisBC has not provided evidence in this proceeding demonstrating that its SGP proposal is required and/or the most effective means for addressing issues, despite the concerns raised by the BCUC Panel in Exhibit A-6 and by interveners.
6. Given that FortisBC has confirmed that its SGP proposal will introduce the risk of harm to ratepayers, and that FortisBC has not undertaken analysis or quantification of the extent of the risks, the justification for taking them or the options for mitigating the risks if taken, BC Hydro respectfully submits that the BCUC ought to dismiss the Application.

**2. IS THE SGP PROPOSED IN THE APPLICATION REQUIRED?**

7. BC Hydro submits that FortisBC has not demonstrated its SGP proposal as set out in the FortisBC Application is required.
8. The SGP proposal is not required to remove or mitigate barriers to new investment in cost-effective clean self-generation in the FortisBC service area. FortisBC has not identified any barriers to new investment in cost effective clean self-generation in the FortisBC service area that need to be removed or mitigated.<sup>2</sup>
9. The SGP proposal is not required to enable FortisBC customers to install and operate self-generation to reduce their electricity purchases from FortisBC. Subject only to meeting technical interconnection and permitting requirements, a FortisBC customer can install and operate self-generation facilities to supply the customer's plant and equipment.<sup>3</sup>
10. The SGP proposal is not required to enable self-generators to use the FortisBC Open Access Transmission Tariff (**OATT**) on the same basis as any other generator. Like other generators, self-generators in the FortisBC service area can use the OATT to supply capacity and energy to the FortisBC transmission system and transfer such capacity and

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<sup>2</sup> Exhibit B-7, FortisBC response to BC Hydro IR 1.1.1.

<sup>3</sup> Exhibit B-7, FortisBC response to BC Hydro IR 1.1.2.

energy to counterparties at designated points of delivery, subject to the terms and conditions of the OATT.<sup>4</sup>

11. The SGP proposal is not required for BC Hydro to acquire incremental clean energy from self-generators in the FortisBC service area. BC Hydro has been clear that it will not be purchasing power based on any Self-Supply Obligation (**SSO**) mechanism that may exist between FortisBC and a FortisBC self-generating customer unless the SSO is comparable to the baseline BC Hydro would determine for the purpose of acquiring incremental/new clean energy.<sup>5</sup>
12. FortisBC indicated that the primary driver for its Application is “concluding the work that has been done to date on the self-generation policies (SGP) in [FortisBC’s] service area”.<sup>6</sup> FortisBC further explained that “the focus of FBC in this and related processes has been on meeting the requirements set out by the Commission and providing mechanisms that mitigate the potential for impacts on other customers. While the SGP may facilitate the sales to third parties by its SG customers, [FortisBC] does not consider that the potential sales opportunities that may exist for a self-generation customer are properly a matter to which it should devote resources.”<sup>7</sup>
13. Although FortisBC states that in designing and bringing forward its SGP proposal its focus has been on meeting the BCUC’s requirements as set out in previous decisions (most importantly the BCUC’s Order G-27-16 SGP Application Stage 1 Decision dated March 4, 2016 (**Stage 1 Decision**)), key elements of FortisBC’s SGP proposal do not comply with the BCUC’s requirements. Specifically, FortisBC confirmed that its SGP proposal does not comply with the BCUC’s Stage 1 Decision requirement to set the SSO

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<sup>4</sup> Exhibit B-7, FortisBC response to BC Hydro IRs 1.1.3.

<sup>5</sup> Exhibit B-7, FortisBC response to BC Hydro IR 1.1.7.2. BC Hydro’s RS 3808 Section 2.5 Guidelines Application (BCUC Project No. 3698813) reflects BC Hydro’s approach to determining a baseline for the purpose of acquiring incremental/new clean energy.

<sup>6</sup> Exhibit B-3, page 1.

<sup>7</sup> Exhibit B-7, FortisBC response to BC Hydro IR 1.1.7. Also refer to Exhibit B-6, FortisBC response to BCUC IR 2.6.1

at the self-generating customer's normal historical level for self-supply for idle generation.<sup>8</sup>

**Table 3-1: Self-Supply Obligation Guideline Checklist for Compliance to Stage I Decision**

	Decision Page	Complies?
9. The setting of the SSO (SSO) is at the normal historical level for self-supply for idle generation (and includes a definition of Idle Generation.)	44	

Moreover, while FortisBC stated that its SGP proposal complies with the requirement to mitigate the risk to other ratepayers (as follows),

2. Mitigates the risk to other ratepayers due to difference between the regulated rates and the contract price or market price;	26-27	
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the evidence is that FortisBC's proposal to set the SSO at 50 percent of the self-generator's normal generation output introduces new risk to ratepayers rather than mitigating risk.<sup>9</sup> It would be more appropriate to set the SSO at the self-generating customer's normal level for self-supply (*i.e.*, at 100 percent of the self-generator's normal generation output) as this would comply with the BCUC's requirement 9 referenced above and would significantly reduce the risk to ratepayers.<sup>10</sup>

14. FortisBC also indicated in its Application that its SGP proposal might provide self-generators in the FortisBC service area with an enhanced opportunity to realize greater returns on historical investments.<sup>11</sup> However, that is not a requirement of the Stage 1 Decision. To the contrary, the first requirement of the Stage 1 Decision is that the SGP proposal should allow customers with self-generation to export incremental self-

<sup>8</sup> Exhibit B-1, FortisBC Application, Appendix B – SSO Guidelines Discussion Guide, Table 3-1: SSO Guideline Checklist for Compliance to Stage 1 Decision.

<sup>9</sup> Exhibit B-2, FortisBC response to BCUC IR 1.1.3.

<sup>10</sup> Exhibit B-7, FortisBC responses to BC Hydro IRs 1.1.6.6 and 1.1.6.7.

<sup>11</sup> Exhibit B-2, FortisBC response to BCUC IR 1.1.2, page 2, lines 28-32.

generation to a third party. Nowhere in the Stage 1 Decision is there a requirement to set an SSO at 50 percent of the self-generator's normal generation output<sup>12</sup> to enable the self-generator to export non-incremental, existing self-generation to a third party particularly if doing so creates the risk of harm to ratepayers.<sup>13</sup>

15. The primary purpose of FortisBC's Application is said to be compliance with the BCUC's requirements, but FortisBC's SGP proposal does not comply with those requirements. FortisBC suggests that its SGP proposal would provide self-generators in the FortisBC service area with an enhanced opportunity to realize greater returns on historical investments, which is not a requirement of the Stage 1 Decision. FortisBC has not explained why it is necessary or appropriate to provide such opportunity when the enhanced returns would likely be funded by higher costs to FortisBC and/or BC Hydro ratepayers.

**3. IS THE SGP PROPOSED IN THE APPLICATION THE MOST EFFECTIVE MEANS FOR ADDRESSING ISSUES?**

16. FortisBC has not provided analysis or quantification of the risks associated with its SGP proposal, nor of alternative, lower risk means that might be available. BC Hydro submits that on the basis of the evidence it is not possible to determine whether the SGP proposal is an effective or the most effective means for addressing issues.
17. BC Hydro asked FortisBC IRs related to the effectiveness of the SGP proposal. For example, BC Hydro's IR 1.1.7 to FortisBC asked if FortisBC has considered who might be interested in paying a self-generator in the FortisBC service area for self-generation not

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<sup>12</sup> Exhibit B-6, FortisBC response to BCUC IR 2.4.1.2 confirms that no evaluation of economic efficiency was taken into account in selecting the 50 percent factor. FortisBC said that the "50 percent factor is intended to recognize the assumed presence of net-benefits of SG" and that the 50 percent factor was selected on the basis of convenience and avoiding complicated analysis and process. Also refer to Exhibit B-6, FortisBC response to BCUC IR 2.21.1.

<sup>13</sup> At page 25 of the Stage 1 Decision, the BCUC Panel clearly stated that "the Panel supports a policy that would allow self-generation customers to export incremental self-generation to a third party subject to certain safeguards." (underlining added)

in excess of load, and to provide a summary of any consultation with such potential purchasers. FortisBC responded in part that it “does not consider that the potential sales opportunities that may exist for a self-generation customer are properly a matter to which it should devote resources.” Thus, we do not know whether the SGP proposal will be effective for providing self-generators in the FortisBC service area with an enhanced opportunity to realize greater returns on historical investments assuming for the moment that that is a reasonable objective for FortisBC self-generation policy.

18. FortisBC was asked for analysis of the risks associated with its SGP proposal and the means available to mitigate the risks. For example, BC Hydro’s IR 1.1.6 to FortisBC asked for any analysis FortisBC performed to reach the conclusion that its SGP proposal will provide a self-generating customer with an enhanced opportunity to realize a greater return on its investment “without unreasonably impacting other customers”.<sup>14</sup> FortisBC responded that “no detailed analysis is required to support this conclusion”. BC Hydro’s IR 1.2.1.1 to FortisBC asked FortisBC specifically to quantify the risk to (i) other FortisBC customers, and (ii) BC Hydro customers. FortisBC responded in part that “any potential future risk is too uncertain to quantify.”<sup>15</sup>
19. FortisBC’s response to BC Hydro IR 1.2.5 also did not provide any analysis or quantification of the risks that would be introduced by its SGP proposal, and instead offered the following:<sup>16</sup>

“It is apparent through previous filing in this process (and these IRs) that BC Hydro’s main concern regarding the proposed FBC SGP pertains to the impact that below-load third-party sales by FBC’s SG customers may have on the customers of BC Hydro.

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<sup>14</sup> In Exhibit B-2, FortisBC response to BCUC IR 1.1.3 FortisBC said that its SGP proposal would introduce the risk of harm to ratepayers. FortisBC later said that the impacts to ratepayers will not be unreasonable, and BC Hydro requested the basis for that claim.

<sup>15</sup> Also refer to Exhibit B-6, FortisBC response to BCUC IR 2.4.1.1.2, which provides a similar response to a similar question.

<sup>16</sup> Exhibit B-7, FortisBC response to BC Hydro IR 1.2.5.

The BC Hydro position ignores the Commission determinations made in the [2014] PPA Decision as repeated on page 7 of the SGP Stage II Application.

Either there is a material risk to the customers of BC Hydro or there is not. As the adjudicator of such matters in BC, the Commission has found, quite strongly in the view of FBC, that there is no longer the need to protect against any such risk since it is not considered material or significant.

To the extent that any risk to BC Hydro customers were to exist, the mitigation that the mechanisms included in the SGP provide to FBC customers also reduce the prospect of harm to BC Hydro customers no matter how remote.”

20. It is important not to lose sight of the fact that FortisBC has attested its SGP proposal introduces the risk of harm to BC Hydro and its customers in the form of higher rates relative to the status quo (see paragraph 2, above). The problem is that FortisBC claims the risk of harm is not unreasonable but offers no supporting analysis. Moreover, there is no analysis of alternative means for addressing the issues that might have lower risks.
21. Rather than providing analysis of the risks the SGP proposal would impose on BC Hydro and its customers, FortisBC argues that the BCUC previously determined that there is no need to protect BC Hydro and its customers from such risks. On that point, FortisBC relies on the BCUC’s Order G-60-14 Decision<sup>17</sup> regarding BC Hydro’s RS 3808 Power Purchase Agreement (**New PPA**) with FortisBC; however, FortisBC does not provide an accurate review of that BCUC determination.
22. The BCUC determination at issue is on pages 98 to 99 of the Order G-60-14 Decision, most of which is reproduced on page 7 of FortisBC’s Application. The BCUC determination was based on the assumption that “any embedded cost energy that could have been used to serve [FortisBC's] incremental load under the 1993 PPA has almost totally been eliminated by the terms of the New PPA”. That assumption has

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<sup>17</sup> FortisBC references this BCUC Decision in its Application, at page 7, in numerous IR responses, and at paragraph 31 of its final argument.

proven to be incorrect: due to low market prices, FortisBC has actually reduced its purchases under the New PPA and has much more embedded cost Tranche 1 energy available to it to serve incremental FortisBC load than had been assumed at the time of the Order G-60-14 Decision.<sup>18</sup>

23. Furthermore, in that Decision the BCUC concluded that FortisBC's self-generation policies were not sufficiently developed or articulated to make any final determinations regarding risks to BC Hydro and its customers. The BCUC clearly contemplated at that time that FortisBC would bring forward an articulated SGP proposal that does not introduce significant risk of harm to FortisBC or BC Hydro customers (as subsequently made clear in the Stage 1 Decision requirements). Only after such an SGP proposal is approved by the BCUC would there be further consideration of whether the restrictions in section 2.5 of the New PPA are still needed. The FortisBC SGP proposal in this proceeding does not comply with the BCUC's requirements and would introduce risk of harm to BC Hydro customers that was not envisaged by the BCUC at the time of the Order G-60-14 Decision.<sup>19</sup> This is confirmed by Exhibit A-6 in this proceeding.
24. BC Hydro asked FortisBC if a SSO set at 100 per cent of the customer's normal self-generation output (instead of the 50 per cent proposed by FortisBC) would better mitigate the risk of harm to ratepayers. FortisBC responded that it would likely set an SSO in the manner suggested by BC Hydro's question were it not for the requirements directed by the BCUC in its Stage 1 Decision.<sup>20</sup> As discussed above, the BCUC supports a policy for FortisBC that would allow self-generation customers to export incremental self-generation to a third party subject to certain safeguards, and has not required

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<sup>18</sup> Refer to Exhibit B-6, FortisBC responses to BCUC IRs 2.8.1, 2.8.2 and 2.8.3. Exhibit B-6, FortisBC response to BCUC IR 2.4.1.3 also confirms that FortisBC's SGP proposal could result in FortisBC purchasing additional energy from BC Hydro under the RS 3808 PPA. Incremental purchases by FortisBC under the New PPA will be at BC Hydro's embedded cost Tranche 1 energy rate for the foreseeable future.

<sup>19</sup> At paragraph 12 of its final argument, FortisBC acknowledges that the BCUC's plan was for FortisBC to develop clearly articulated SGP for its service territory that all parties are comfortable with, and then further consideration would be given to whether the restrictions in section 2.5 of the New PPA are necessary in the interests of regulatory efficiency.

<sup>20</sup> Exhibit B-7, FortisBC response to BC Hydro IR 1.1.6.7.

FortisBC to set an SSO at 50 per cent of the customer's normal self-generation output. FortisBC has not provided analysis or quantification of the incremental costs, benefits and risks of its proposal relative to the policy directed by the BCUC.

**4. CONCLUSION**

25. There is no evidence that the SGP proposal is needed, and it is not possible to ascertain whether the SGP proposal is the most effective means for addressing issues. It is clear; however, that the SGP proposal introduces a new risk of harm to FortisBC and BC Hydro ratepayers that was not contemplated by any of the BCUC's decisions going back to the Order G-48-09 Decision. The new risk of harm to ratepayers is not only relative to the *status quo* but also relative to alternative policies that could be proposed.
26. Accordingly, BC Hydro is of the position that the BCUC should dismiss the FortisBC Application. BC Hydro's Exhibit C2-2 submission dated October 5, 2017 addresses what, if any, issues remain if the Application is dismissed.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 6<sup>TH</sup> DAY OF SEPTEMBER 2018.**

Counsel for BC Hydro



Ian D. Webb