

From: Andy Shadrack [ashadra@telus.net]
Sent: Monday, January 7, 2013 7:09 AM
To: Commission Secretary BCUC:EX; 'electricity.regulatory.affairs@fortisbc.com'; 'Dennis.Swanson@fortisBC.com'; 'david@legalmind.ca'; 'wjandrews@shaw.ca'; 'alex.atamanenko.c1@parl.gc.ca'; 'alex.atamanenko@parl.gc.ca'; 'curtis@thermoguy.com'; 'tbraithwaite@bcpiac.com'; 'support@bcpiac.com'; 'jerryjgf@shaw.ca'; 'bhydroregulatorygroup@bhydro.com'; 'gfulton@boughton.ca'; 'ngabana@gmail.com'; 'thackney@shaw.ca'; 'bharper@econanalysis.ca'; 'shonnahayes@shaw.ca'; 'rhhobbs@shaw.ca'; 'zerowaste@shaw.ca'; 'ekung@bcpiac.com'; 'support@bcpiac.com'; 'guylerox2@gmail.com'; 'lerouxconsulting@shaw.ca'; 'bmerwin@mercerint.com'; 'kemiles@telus.net'; 'bcjoey68@gmail.com'; 'cweafer@owenbird.com'; 'fredweislaw@gmail.com'
Cc: Robert Mclennan; Bob Watters
Subject: Objection Clarification Sought: FortisBC Inc. - Advanced Metering Infrastructure CPCN

Kaslo

Monday January 7

On behalf of Area D, I write in reply to the Commission's letter of January 3, 2013 (A-22) written in response to a December 31, 2012 letter of objection (C13-13) to FortisBC's request for confidentiality (B14-1).

With all respect, I find the letter's reference to notice under section 23 of the *Freedom of Information and Protection of Privacy Act* (FOIPPA) to be a bit confusing. Section 23 (1) states:

"If the head of a public body intends to give access to a record that the head has reason to believe contains information that might be excepted from disclosure under s. 21 or 22, the head must give the third party written notice under subsection (3)".

Sections 21 and 22 are concerned exclusively with potential exceptions to Freedom of Information applications made pursuant to that Act.

The Commission's Confidential Filing Practice Directive states that "*subject to other related statutory provisions and exceptions or exclusions by law, including the FOIPPA, the ATA, and the UCA, information filed by parties in a public hearing will be placed on the public record*" and then provides a procedure, not for freedom of information applications, but for confidentiality requests. Applications and related notices under the FOIPPA do not appear to be procedures contemplated in the Commission's Confidential Filing Practice Directive. I am aware that the Commission has asked (A-20) FortisBC to respond to the CSTS objection (C9-6). However, I am unaware of any applications being made under the FOIPPA or of any consequent notice given by the Commission to Itron under section 23, although the Commission's letter seems to suggest otherwise.

I believe it would be helpful to myself and the other intervenors if the Commission could further clarify whether or not a section 5 application under the FOIPPA has been made, and if so, when and by whom; and, in the event such an application has been made, has the Commission given the third party the required notice, and, if so when?

Finally, although the Commission's letter initially refers to Area D's letter of December 31 as expressing objection to the FortisBC request for confidentiality, the Commission's letter goes on to suggest that the Area D objection is being considered as merely a comment on the earlier CSTS objection (C9-6). I therefore write to

confirm that, by its letter of December 31, 2012 (C13-13), Area D filed its own separate objection to the FortisBC request for confidentiality of December 14 (B14-1).

I regret that it has taken me a few days to notice this ambiguity, but I note that FortisBC's response to the CSTS objection has been granted an extension until January 11 (A-23). I would therefore humbly suggest that the Commission may wish to direct FortisBC to respond to both objections at the same time.

At the conclusion of its letter, the Commission contemplates the possibility of the necessity of further process to decide on the propriety of disclosure. Given the circumstances at hand, including FortisBC's complete lack of particulars in support of its request and an apparent conflict of the FOIPPA with the Commissions Practice Directive, possibly due to a procedural gap, I suggest that further process may be very desirable.

Respectfully submitted
Andy Shadrack
Director Area D
RDCK