British Columbia Utilities Commission

Sixth Floor, 900 Howe Street
Vancouver, BC Canada V6Z 2N3
TEL: (604) 660-4700
BC Toll Free: 1-800-663-1385
FAX: (604) 660-1102

ORDER NUMBER
A-1-17

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc.
Customer Choice Program Cost Recovery Compliance Filing to Order A-9-16

BEFORE:
D.A. Cote, Panel Chair/Commissioner
W.M. Everett, Q.C., Commissioner

on February 20, 2017

ORDER

WHEREAS:

A. FortisBC Energy Inc. (FEI) obtained a Certificate of Public Convenience and Necessity on August 14, 2006 for the Commodity Unbundling Project for Residential Customers (Customer Choice) in accordance with the provincial government's 2002 energy policy, which allows for the direct sale of natural gas to residential and small volume commercial customers through gas marketing companies licensed by the British Columbia Utilities Commission (Commission);

B. In the FEI 2016 Customer Choice Program Cost Recovery Decision and accompanying Order A-9-16, the Commission directed FEI to file specific information on Customer Choice program costs to facilitate a review of the costs (the Compliance Filing);

C. On November 17, 2016, FEI submitted the Compliance Filing to the Commission and the interveners registered in the FEI 2016 Customer Choice Program Cost Recovery proceeding;

D. By letter dated November 30, 2016, to FEI and registered interveners in the Customer Choice Program Cost Recovery Application proceeding, the Commission proposed a simplified review process for the Compliance Filing, with one round of Commission written information requests and no argument, and requested comments on the proposed review process by December 7, 2016;

E. By letters submitted by December 7, 2016, FEI, Direct Energy Marketing Ltd., the BC Old Age Pensioners' Organization et al. and the Commercial Energy Consumers Association of BC agreed with the Commission's proposed review process for the Compliance Filing. No other parties submitted comments;

F. On December 15, 2016, by Order A-13-16, the Commission established the regulatory timetable. In accordance with the timetable, the Commission submitted written information requests to FEI by letter dated December 28, 2016 and FEI filed its response by letter dated January 16, 2017; and

G. The Panel has reviewed and considered all evidence on record for the Compliance Filing.

NOW THEREFORE, pursuant to section 71.1 of the *Utilities Commission Act*, and for the reasons attached to this order, the Commission accepts FortisBC Energy Inc.'s forecast 2017 Customer Choice program costs and orders as follows:

1. FortisBC Energy Inc.'s proposed Customer Choice program service fees are approved: the Marketer Price Group Set-Up Fee is $125 per setup request; the Confirmation Letter Fee is $0.87 per confirmation letter; and the Dispute Fee is $50.

2. FortisBC Energy Inc. is directed to calculate the 2017 variable transaction fees using the forecast 2017 Customer Choice program costs.

3. Beginning in the year 2018 and beyond, FortisBC Energy Inc. is directed to calculate the variable transaction fees based on the prior year's actual program costs, as set out in Order A-9-16.

DATED at the City of Vancouver, in the Province of British Columbia, this 20th day of February 2017.

BY ORDER

Original signed by:

D.A. Cote
Commissioner

Attachment: Yes

British Columbia Utilities Commission

IN THE MATTER OF

FortisBC Energy Inc.
Customer Choice Program Cost Recovery Compliance Filing to Order A-9-16

REASONS FOR DECISION

February 20, 2017

Before:
D.A. Cote, Commissioner/Panel Chair
W.M. Everett, Q.C., Commissioner

TABLE OF CONTENTS

PAGE NO.

1.0 INTRODUCTION

1.1 Background

FortisBC Energy Inc. (FEI) obtained a Certificate of Public Convenience and Necessity on August 14, 2006 for the Commodity Unbundling Project for Residential Customers (Customer Choice). In accordance with the Provincial Government's 2002 energy policy, this allowed for the direct sale of natural gas to residential and small volume commercial customers through gas marketing companies licensed by the British Columbia Utilities Commission (Commission, BCUC).

On April 14, 2016, FEI filed the Customer Choice Program Cost Recovery Application (Application) with the Commission. The Application set out the costs that are incurred with respect to the Customer Choice program and how FEI proposed the costs be allocated between gas marketers and all non-bypass customers.

The Application did not address the reasonableness of costs associated with the Customer Choice program as it was not a revenue requirements application. However, during the regulatory process, FEI introduced a revenue requirement element by revising the approvals sought to include an approval seeking an increase in the Operating and Maintenance (O&M) amount recovered under the Performance Based Ratemaking (PBR) formula by $200,000. Because this substantive change to the Application was made so late in the process there was no opportunity for the evidence on costs to be adequately reviewed or fully tested.

In the FEI Customer Choice Program Cost Recovery Decision (Decision), the Commission determined that an assessment of Customer Choice program costs and any determination as to whether to increase the PBR base O&M amount should be addressed through a separate regulatory process. To this end, the Commission directed FEI to file specific information on Customer Choice program costs to facilitate a review of the costs and FEI's request to increase the PBR O&M amount.

On November 17, 2016, FEI filed the required information on Customer Choice program costs (Compliance Filing) with the Commission and the registered interveners in the Application.

1.2 Regulatory process

By letter dated November 30, 2016, the Commission proposed a simplified process for reviewing the Compliance Filing, with one round of Commission information requests and no arguments and sought submissions from the parties on the proposal.

By letter dated December 6, 2016, FEI agreed with the Commission's proposed review process and timing. By letters dated December 7, 2016, Direct Energy Marketing Ltd., the BC Old Age Pensioners' Organization *et al*. and the Commercial Energy Consumers Association of BC also agreed with the Commission's proposal. No other parties provided submissions.

On December 15, 2016, by Order A-13-16, the Commission established a regulatory timetable to review the Compliance Filing that included one round of written Commission information requests.

2.0 COST REVIEW AREAS

In the Decision, the Commission directed FEI to file specific information on the following Customer Choice program cost areas: FEI Program Administration and Infrastructure Sustainment (section 2.1); BCUC Costs (section 2.2); and Customer Education (section 2.3). This section provides an overview of these costs areas and Panel discussions following review of the information filed during this proceeding.

2.1 FEI Program Administration and Infrastructure Sustainment costs

The FEI Application includes information on the Customer Choice program costs in 2015. According to the Application, Program Administration costs were $274,024 and Infrastructure Sustainment costs were $75,882 in 2015.[1]

In accordance with the Commission's Decision, FEI filed additional evidentiary information on Program Administration and Infrastructure Sustainment costs with the Commission, as outlined below.

<u>FEI Program Administration costs</u>

As requested by the Commission, FEI's Compliance Filing provides information on the following Program Administration matters:

- Further description of the tasks performed by each of the two FEI program analysts, the time requirement to fulfill each task and how often each of the tasks needs to be performed;
- A detailed explanation for the costs incurred each year, including how many analysts were used, whether the analysts were senior or junior and the percentage of management time allocated to the Customer Choice program; and
- An explanation of the impact of reducing the frequency of performance of tasks by the analysts.

FEI states the Program Administration cost includes the salary and benefits for one Senior Customer Program Analyst and one Customer Program Analyst along with some associated non-labour expenses. The two program analysts divide their time between the following functions: regulatory (35% of annual work); systems support (35% of annual work); system development and enhancements (20% of annual work); and senior customer program analyst tasks (10% of annual work). FEI lists the detailed tasks performed, and corresponding approximate time spent on these tasks, under each function.[2]

FEI explains that the majority of costs incurred are for management, Program Administration staff (the two analysts) and associated benefits. In particular, FEI notes "a significant increase in the benefit loading

[1] FortisBC Energy Inc., Application for the Customer Choice Program Cost Recovery, Exhibit B-1, dated April 14, 2016, Section 3, p. 21.
[2] Exhibit B-1, Section 1, pp. 2–8.

costs…accounting for 88% of the total increase to the benefit loading allocation", which is "not influenced by FEI directly, but rather determined by actuarial analysis."[3]

FEI believes a reduction in the frequency of the tasks performed by the program analysts would degrade the program's systems and data, ultimately leading to the erosion of customer and marketer confidence and satisfaction with Program Administration.[4] However, FEI submits that if its proposed reduction in Customer Education cost is approved, some tasks can be eliminated and further labour savings may be achievable. In particular, FEI can reduce the total labour cost allocated to Program Administration by the Customer Program Analyst, allocating approximately 30% of person hours worked to other tasks outside of Customer Choice.[5] Please see section 2.3 for a discussion on FEI's proposal to reduce the Customer Education costs.
FEI has also committed to summarizing the savings that will materialize in Program Administration costs in its future annual reports.[6]

FEI believes that in order to deal with issues and stakeholder requests and to ensure that expert coverage is always available to adequately attend to ongoing operation of the Customer Choice program, two analysts are required. FEI makes the following submission:

- Staffing with two analysts allows FEI to provide reliable, accurate Customer Choice services during planned and unplanned employee absences. This is critical for real-time operations.
- Workloads are too high for one analyst at many times, particularly during peak periods. Peak periods often occur during regulatory processes and information system upgrades and enhancements.
    - Regular regulatory processes include annual report preparation, Annual General Meetings and Customer Choice disputes. Less predictable regulatory processes, such as this Compliance Filing, also occur.
    - Customer Choice participation is required in many system upgrade and enhancement projects since they have the potential to impact Customer Choice systems. These projects are often beyond the control of the Customer Choice analysts with respect to timing and scope. The Customer Choice analysts must be available during the implementation and post-implementation review of these projects, which can vary in resource effort from several days to weeks to months. The day-to-day administration of the Customer Choice program must also continue while resources are dedicated to these projects.[7]

<u>Infrastructure Sustainment costs</u>

As requested by the Commission, FEI's Compliance Filing includes information on the following Infrastructure Sustainment matters:

---

[3] Exhibit B-1, p. 7.
[4] ibid., p. 8.
[5] ibid., p. 8.
[6] ibid., p. 8.
[7] Exhibit B-3, pp. 10–11.

- An explanation of why Infrastructure Sustainment was adequately maintained in 2015 despite staff vacancies, but requires additional costs to be attributed to it once the vacancies have been filled; and
- An explanation of why no sustainment cost savings are possible given the number of Customer Choice program customers continues to decline.

FEI explains that the reported Infrastructure Sustainment costs for 2015 were understated due to an error. During a period of staff vacancies, support for the program was redistributed amongst remaining staff and those costs were not allocated to the program. Going forward, FEI will set the Infrastructure Sustainment cost at a fixed amount and will only revise the fixed amount where material changes to the program are required.[8]

FEI states Infrastructure Sustainment savings are not possible because these costs "are determined by the time and effort required to keep all of the processes, systems and interfaces operational. These costs do not vary based on participation volume…"[9] and will only change if there are material changes to the design of the Customer Choice program.[10]

Panel discussion

<u>FEI Program Administration costs</u>

The Panel accepts FEI's position that it requires a Senior Customer Program Analyst and a Customer Program Analyst in order to be able to carry out the tasks necessary to perform the program's regulatory obligations and systems support, development and enhancements. Any further reduction in administration staffing in our view could diminish FEI's necessary expert systems and data coverage and erode customer and marketer confidence in the program. Moreover, the Panel notes that two analysts also make it possible to provide proper service during peak workloads and unplanned employee absences.

The Panel also accepts that the significant reduction in FEI's costs for Customer Education will make it possible for the Customer Program Analyst to eliminate some tasks, currently allocated to Customer Choice Program Administration. This will allow the Customer Program Analyst to allocate some time to tasks outside of the program. FEI estimates that the elimination of such tasks can reduce the total labour costs, currently allocated to the program by the Customer Program Analyst, by approximately 30% of the analyst's hours worked. While FEI will continue to require two analysts for Program Administration, it will only allocate approximately 1.7 full-time equivalent analysts to Program Administration costs. The Panel accepts FEI's estimate in the reduction of Program Administration costs and recognizes that this cost area includes a recent increase in benefit loading which was determined by actuarial analysis over which FEI has no direct influence. The Panel notes that FEI has committed to provide a summary of the savings that will materialize in Program Administration costs in its future annual reports.

---

[8]Exhibit B-1, p. 12.
[9]ibid., p. 12.
[10] ibid., p. 12.

Infrastructure Sustainment costs

FEI has explained that it understated the 2015 Infrastructure Sustainment costs in error due to a misallocation of costs.

The Panel understands that Infrastructure Sustainment costs are fixed and do not vary based on the number of customers. Therefore, the Panel accepts FEI's explanation that no Infrastructure Sustainment cost savings are possible given the continuing decline in program enrolment because such costs are determined by the time and effort required to keep all of the processes, systems and interfaces operational and do not vary based on participation volume.

The Panel notes that, going forward FEI will set the Infrastructure Sustainment cost at a fixed amount and will only change that fixed amount if there are material changes to the design of the Customer Choice program. The Panel accepts this approach as there is no evidence suggesting there is an opportunity, at this time, to curtail these costs.

2.2 BCUC costs

As noted in the FEI Customer Choice Program Cost Recovery Application, FEI's costs in 2015 for BCUC were $175,771.

Appendix A to FEI's Compliance Filing provides an overview of the BCUC's costs associated with the Customer Choice program, under the following categories: staff, commissioner, legal and other. Table 1 outlines detailed BCUC cost information by function between 2012 and 2015.[11] Table 2 presents the costs by function as a percentage of the total annual costs.

Table 1: BCUC Costs by Staff, Legal, Commissioner and Other

Year	Total	Staff	Commissioner	Legal	Other
2015	$163,467	$139,972	$5,440	$11,230	$6,824
2014	$144,558	$134,648	$1,378	$2,869	$5,661
2013	$164,106	$155,960	$1,050	$2,008	$5,087
2012	$251,479	$228,611	$3,740	$12,729	$6,398

[11] The Commission's annual totals of expenditures charged to the Customer Choice program do not match FEI's reported totals for BCUC costs due to a number of factors, including that the Commission's fiscal year differs from FEI's. The Commission provided the expense information in FEI's calendar format and recasting the data caused some variances.

Table 2: BCUC Cost Categories as a Percentage of Total Costs

Year	Total	Staff	Commissioner	Legal	Other
2015	$163,467	86%	3%	7%	4%
2014	$144,558	93%	1%	2%	4%
2013	$164,106	95%	1%	1%	3%
2012	$251,479	91%	1%	5%	3%

Staff costs comprised an average of 90 percent of BCUC costs between 2012 and 2015. According to the BCUC's submission included as Appendix A in the Compliance Filing, these costs can be reduced from current levels by approximately 0.25 of a full-time equivalent (FTE) staff. This reduction is due to the decreased workload resulting from declining program enrollment and, based on 2015 staffing costs, would result in approximately $30,000 in annual cost savings.[12]

Commissioner, legal and other costs have consistently been a relatively low percentage of the total BCUC costs. These costs are primarily tied to items such as the Annual General Meeting and dispute adjudication. Given their small magnitude, BCUC considers there to be little opportunity to reduce these costs. Moreover, Commissioner and legal costs related to dispute resolution can be unpredictable as they are driven by individual cases further providing reasons as to why it is difficult to commit to cost reductions in these areas.

FEI suggests that in the future BCUC should provide more detail on invoices so that FEI can provide more detailed information on BCUC costs in respect of the Customer Choice program in its annual reporting to BCUC.[13]

Panel discussion

The Panel notes that the overview of BCUC costs was provided to FEI by the BCUC in order to facilitate FEI's compliance with the direction in Order A-9-16 and this Compliance Filing. We acknowledge these are as reported by BCUC, and that FEI has little or no ability to control or reduce the costs being incurred by the BCUC in connection with the Customer Choice program. The BCUC has indicated that it can further reduce its staff costs from 2015 levels in connection with the program by approximately 0.25 of a full-time equivalent, given current circumstances. This estimated $30,000 reduction in costs is due to the decreased workload resulting from declining program enrollment and there is no evidence that this can be expected to change in the near future.[14] The Panel is therefore persuaded that it makes sense to curtail this staff expenditure for the immediate future, but accepts there may be a need to revisit this if circumstances, such as program enrollment, were to change.

The Panel accepts that the Commissioner, Legal and Other costs categories detailed in Table 2 are a small percentage of BCUC's total Customer Choice program costs and are primarily tied to proceedings such as the

[12] Exhibit B-1, Appendix A, p. 3.
[13] Exhibit B-1, p. 8; Appendix A, p.3.
[14] ibid.,, p. 3.

Annual General Meeting and required applications. Further, any curtailment in Commissioner and legal costs with respect to the dispute resolution process under the Customer Choice program are also difficult to commit to because disputes are unpredictable and are driven by the circumstances of the individual cases. The Panel accepts that there is no opportunity to commit to a reduction in the Commissioner, legal and other costs at this time.

The Panel notes FEI's request for the BCUC to provide more detailed information in its invoicing for program costs to facilitate reporting on program costs going forward. The Panel requests that Commission staff work with FEI to determine an appropriate method of reporting BCUC costs going forward.

2.3 Customer Education

FEI has included a proposal for the expenditure of $225,000 as part of its 2017 cost forecast for the Customer Choice program. In its Decision, the Commission questioned the need for the Customer Education Program as the number of customers enrolled in the Customer Choice Program has been dropping steadily and is expected to continue to drop going forward. Given this lack of customer intake and FEI's admission that customer awareness levels of the program were satisfactory, the Commission recommended FEI reconsider planned Customer Education expenditures or at least ensure gas marketers supported these expenditures. The Commission also requested FEI to add to the evidentiary record by providing information on the costs of making the Standard Informational Booklet available and continuing to maintain an informational presence on the FEI website.[15]

FEI states that among its objectives for the Customer Education Program are the following:

- Raising Unbundling awareness and the creation of a general understanding to in excess of 85 percent of residential customers.
- Providing ready access to needed information allowing all interested customers to make a knowledgeable decision in the selection of a commodity supplier.

With respect to the first of these objectives, FEI points out that its proposed expenditure of $225,000 is insufficient to meet this objective noting the amount is too small to generate high customer awareness levels. Therefore, FEI asserts that while a broader awareness program may be necessary at some future time, it believes communication should be at a lower expenditure level but enough to ensure consumers have access to unbiased program information allowing the second objective to be fulfilled.[16]

FEI acknowledges the Commission's position regarding Customer Education spending and the lack of customer uptake. Therefore, in consideration of its inability to meet the first objective even with the originally proposed expenditures and the need to reduce costs, FEI proposes to reduce the education expenditure from the previously recommended $225,000 in 2017 to $40,000, a saving of $185,000. An amount of $10,000 will be used to cover the costs of the Standard Information Booklet and $30,000 to fund Search Engine Optimization (SEO).

---

[15] FortisBC Energy Inc., Application for the Customer Choice Program Cost Recovery, Order A-9-16 and Decision, dated October 18, 2016, pp. 25-27.
[16] Exhibit B-1, pp. 8–9.

The SEO will allow for the display of the Customer Choice website as a search result when customers search online for terms like "gas marketer" or "Customer Choice". In reducing this amount, FEI proposes to discontinue all newspaper, magazine, company newsletter, radio, television and digital media in support of the Customer Choice program in 2017. FEI points out this will also result in some labour efficiency as previously discussed and addressed in Section 2.1.

Prior to making this proposal FEI states that it requested feedback from gas marketers to help inform this decision. Four of the six gas marketers solicited responded and all indicated support for the proposed reductions.[17]

Panel discussion

The Panel accepts FEI's proposal to substantially reduce Customer Choice communication expenditures to $40,000 for 2017. In spite of significant communication expenditures in recent years, the customer base for the Customer Choice program has had continued negative growth and there is no evidence that this is expected to change in the near future. Moreover, gas marketers who stand to benefit from communication expenditures have also embraced this reduction in communication expenditure. Therefore, the Panel is persuaded that it makes sense to curtail these expenditures for the immediate future but accepts there may be a need to revisit this if circumstances were to change.

3.0 OTHER ISSUES

3.1 Service fee approvals

In addition to setting overall Customer Choice program costs for 2017, FEI requests BCUC approve the following service fees:

- Marketer Price Group Set-up Fee
- Confirmation Letter Fee
- Dispute Fee

These service fees are in addition to overall program costs and the specifics of each of these service fee requests are outlined in the following sections.

3.1.1 Marketer Price Group Set-Up Fee

FEI describes the Marketer Price Group Set-Up Fee as "… a per use, one-time fee to set-up a new Marketer price group." FEI explains that the effort required to perform a price group set-up includes the following; 0.50 hours for configuration at a resource rate of $100 per hour, 0.50 hour for testing at $50 per hour and 0.50 hours for approval at $100 per hour, resulting in a total fee of $125 per set-up request. FEI reports that had this $125 set-

[17] Ibid.,pp. 9–10.

up fee been in place previously, it would have resulted in costs to gas marketers totalling $1250 over the last two years. [18]

FEI further explains that setting up a marketer price group is a multistep process requiring resources from the Infrastructure Sustainment team and the Customer Choice program analysts. Program analysts are required to review and approve the marketer request for the price group and then set up the price group in the GEM system, coordinate with the Infrastructure Sustainment team as well as undertaking the validation and approval of test results in the billing system. Members of the Infrastructure Sustainment team are responsible for managing the set-up of the marketer price group in the billing system, including system configuration, testing and approval, while liaising with the Customer Choice program analysts.

The proposed $125 Marketer Price Group Set-Up Fee is intended to replace the current $150 price-group maintenance fee charged monthly for each group and has been set to serve as an incentive to gas marketers to only request setup of a reasonable number of price groups which they expect to actively use. FEI states that the costs to set-up groups is included in the Public Administration and Infrastructure Sustainment costs, but any recoveries of these fees would be included in the Marketer Cost Variance deferral account and be part of the annual variance reconciliation.[19]

3.1.2 Confirmation Letter Fee

FEI states that the Confirmation Letter Fee is an existing variable fee to cover the cost of confirmation letters sent to newly enrolled Customer Choice program customers. This charge is a cost flowed through from an outside vender who performs the work. While proposing to retain this fee, FEI recommends reducing it from the current $1.02 to $0.87 per confirmation letter, which is more reflective of the actual cost.[20]

3.1.3 Dispute Fee

FEI describes the Dispute Fee as a variable fee charged at the discretion of the Commission when customer – raised disputes result in a ruling against the gas marketer. The current Dispute Fee is $50, an amount FEI proposes to maintain. Like the set-up fee, any recoveries from dispute fees charged would be posted in the Marketer Cost Variance Account and included as part of the annual variance reconciliation.

FEI's rationale for retaining the fee is that it incents gas marketers to operate in accordance with the Code of Conduct for Gas Marketers, with the expectation it will serve to limit the number of disputes and encourage the parties to resolve the issue before going to arbitration. FEI asserts that while elimination of the fee is an option, doing so would provide less incentive for marketers to resolve customer issues prior to a dispute being raised. It would also potentially penalize gas marketers with fewer disputes in favour of gas marketers with a larger number of disputes and cause the total cost of adjudication to increase.

---

[18] ibid., p. 14; Exhibit B-3, BCUC IR 5.1.1.
[19] Exhibit B-3, BCUC IR 5.1, 5.1.1 and 5.2.
[20] Exhibit B-1, p.14.

FEI indicates it is amenable to an alternative fee amount if the Commission determines this to be more appropriate. It outlines one such alternative is to set the fee based on a three year rolling average of the costs to adjudicate a standard dispute. Using the dispute costs for years 2012 through 2014, FEI has calculated a Dispute Fee amount of $221 and states that this amount better reflects the true cost of adjudicating a standard dispute.[21]

Commission determination

The Panel approves the Marketer Price Group Set-Up Fee of $125 per setup request, the Confirmation Letter Fee of $0.87 per confirmation letter and maintaining the current Dispute Fee at $50 as proposed by FEI.

Marketer Price Group Set-Up Fee

In spite of what is a very low number of requests to set up price groups over the past two years, the Panel agrees with FEI that maintaining a fee for set-up is appropriate. Having a fee in place will discourage gas marketers from requesting price groups that are unnecessary and waste valuable resource time. The Panel also agrees that the $125 fee proposed by FEI is appropriate as it is based on cost causation, as those who make use of the service are paying for it.

The Panel notes that any revenue generated through the set-up fee will be captured in the Marketer Cost Variance deferral account and used to offset total costs when reconciled at year-end. This again is an appropriate approach as it returns any fees collected by FEI to be deducted from the total cost calculation with the benefits being shared proportionally by all gas marketers.

Confirmation Letter Fee

The Confirmation Letter Fee is an external cost that is not reflected in total program costs. Based on FEI's evidence the Panel finds the $0.87 per letter cost is the actual cost and reflects adherence to the cost causation principle, because they are flowed through directly to the user of the service.

Dispute Fee

FEI asserts there is a need for a Dispute Fee because it incents gas marketers to operate in accordance with the Code of Conduct for Gas Marketers. The Panel agrees. While assessed at the discretion of the Commission it is typically charged only when a dispute decision has ruled against a gas marketer. To eliminate the fee entirely would not necessarily result in gas marketers operating in breach of the Code of Conduct but in our view could lead to an increase in the number of disputes because gas marketers may be less likely to try to take steps to deal with an issue prior to it becoming part of the formal dispute process.

[21] ibid.,, p.14; Exhibit B-3, BCUC IR 5.4 and 5.5.

The $50 Dispute Fee as proposed by FEI is a relatively small sum and in the view of the Panel the impact it plays, in terms of directing appropriate behaviour with respect to operating in accordance with the Code of Conduct, is questionable. Moreover, the $50 Dispute Fee is substantially less than the $221 calculated by FEI as representative of the average cost of settling a dispute over the last three years. This raises the question as to whether the current $50 fee should be maintained or whether another amount is more appropriate. FEI has indicated that it is amenable to an alternate amount if the Commission were to consider it appropriate. The Panel considers this approach to be a reasonable alternative. However, the matter of changing the Dispute Fee has not been adequately canvassed in this proceeding as the gas marketers have not been afforded the opportunity to offer comment. Because of this the Panel has approved the proposal to leave the Dispute Fee at $50 for now but is open to a recommendation for future change to the Dispute Fee amounts if any of the parties wish to raise this issue at a future Annual General Meeting.

3.2 Performance Based Ratemaking impacts

In the Decision, the Commission noted that a "revenue requirement element" was introduced by FEI in its response to the Streamlined Review Process (SRP) Undertaking No. 1, in which FEI revised its approvals sought to include an approval to increase the Operating and Maintenance (O&M) expenses recovered under FEI's Performance Based Ratemaking (PBR) plan formula by $200,000.[22]

As a result of the additional approval sought, the Commission directed FEI to provide: "An explanation of how the Customer Education costs were charged to PBR and how this links to the additional $200,000 requested."[23]

FEI states that it no longer requires the additional $200,000 increase to its PBR Base O&M as a result of FEI's forecast decreases to the 2017 Customer Choice program costs. FEI explains that the total Customer Choice program costs to be allocated to non-bypass customers in 2017 is forecast to exceed the PBR formula by only a minor amount, $36, 000; thus, an increase to the PBR Base O&M is no longer required. The forecast $36,000 variance will be captured in the PBR O&M sharing calculation and will be shared equally between FEI and non-bypass customers. FEI also states that it will be "incented to reduce this variance in future years to create savings for both the utility and customers."[24]

Panel discussion

The Panel agrees with FEI that an increase to the PBR Base O&M is not warranted given the minimal forecast variance between the Customer Choice program costs to be allocated to non-bypass customers in 2017 and the PBR formula O&M. The Panel also accepts that the PBR creates an incentive to reduce negative O&M variances and create operational savings and, as a result FEI will be "incented to reduce" spending, as creating savings for both FEI and its customers is a key component of FEI's PBR plan.

---

[22] FortisBC Energy Inc., Application for the Customer Choice Program Cost Recovery, Order A-9-16 and Decision, dated October 18, 2016, , p. 26.
[23] Ibid., p. 27.
[24] Exhibit B-1, p. 11.

4.0 HANDLING OF 2017 FORECASTS AND BEYOND

This final section provides: (i) an overview and panel discussion on: the recent and forecast program costs; and (ii) a determination on the variable transaction fee calculation method for 2017 and beyond.

Program costs

FEI provides the following information on actual and forecast Customer Choice program costs:[25]

Table 3: Customer Choice Program Costs

Description	2015 Actual	2016 Actual	2017 Forecast
Program Administration	$274,024	$308,627	$229,000[26]
Technology Sustainment	$175,769	$68,346	$80,000
System Infrastructure	$99,882	$109,660	$112,000
BCUC Costs	$175,771	$217,264	$120,000
Customer Education	$263,893	$285,633	$40,000
Total	$989,339	$989,530	$581,000

As shown in the table above, FEI forecasts 2017 program costs to be approximately 40% less than the costs in 2016, due to large cost reductions in many program cost areas. Going forward, FEI anticipates program costs to remain relatively stable given the large cost reductions already made, except in the case of "unforeseen events, changing business requirements or technological platform changes that may be required in future".[27]

Panel discussion

The program costs have undergone significant review, during the FEI Customer Choice Program Cost Recovery Application proceeding and this Compliance Filing proceeding. The Panel accepts the forecast 2017 program costs as being reasonable based on the information presented in the aforementioned proceedings. However, the Panel notes the forecast does not include potential labour reductions in FEI Program Administration costs related to Customer Education. FEI is expected to include any impact on gas marketer recoveries in the Marketer Cost Variance deferral account.

In the event conditions change, or a party requests that the Commission review the program costs, for example during an Annual General Meeting proceeding, the Commission may determine whether such review is

[25] Exhibit B-1, Table 7, p. 13; Exhibit B-3, BCUC IR 4.3.
[26] On page 13 of the Compliance Filing, FEI notes the 2017 forecast cost for Program Administration does not reflect the savings achieved by its proposal to reduce labour from 2 FTE to 1.7 FTE if the reduction in Customer Education costs (and thus efforts) is approved.
[27] Exhibit B-3, BCUC IR 4.4.

necessary. Until such time, the Panel expects the program costs to remain relatively stable and based upon the reduced 2017 forecast amount.

Variable transaction fees

In the FEI Customer Choice Program Cost Recovery Decision, the Commission approved a cost recovery model which included a flat monthly fixed fee of $750 and a variable fee charged to gas marketers based on the number of active customers in a given month. The pool of costs to be recovered from gas marketers was approved to be set annually based on the prior years' actual program costs, and any over or under recoveries would be returned to/recovered from gas marketers in the subsequent year.[28]

In its Compliance Filing, FEI indicates that based on the Commission's approved program cost recovery model, the expected over-recovery from gas marketers in 2017 is $171,500.[29] FEI confirms that the forecast over-recovery from gas marketers is due to anticipated lower program costs in 2017, as the 2016 actual program costs are $989,530 compared to forecast 2017 program costs of $581,000.[30]

FEI explains that the "intent of the proposed fee structure is to match fees to actual costs" and submits that in light of the "significant expected change to the program costs in 2017, FEI believes that, in this circumstance, it is more appropriate to base the 2017 variable transaction fees on the forecast 2017 program costs as opposed to the actual 2016 Program costs."[31]

FEI further explains that while the variance between the variable fees collected from the gas marketers in 2017 and the actual program costs incurred in 2017 will be recorded in the Marketer Cost Variance deferral account and thus be returned to or recovered from gas marketers in the following year, it "believes it would not be appropriate to request that gas marketers fund an expected over-recovery of fees in this case."

However, FEI submits that going forward, the method approved in the Decision of using the prior years' actual program costs to calculate the following year's variable transaction fees is most appropriate stating that it anticipates ongoing program costs to remain relatively stable.[32]

Commission determination

The Panel directs FEI to calculate the 2017 variable transaction fees using the forecast 2017 program costs. The Panel acknowledges that using the forecast 2017 program costs as the basis for calculating the 2017 variable transaction fees is a departure from the recovery method approved by the Commission in the FEI Customer Choice Program Cost Recovery Decision. However, the magnitude of the forecast reduction to the Customer

[28] FortisBC Energy Inc., Application for the Customer Choice Program Cost Recovery, Order A-9-16 and Decision, dated October 18, 2016, pp. 27–30.
[29] Exhibit B-1, Table 6, p. 11.
[30] Exhibit B-3, BCUC IR 4.3.
[31] Ibid., BCUC IR 4.4.
[32] Ibid., BCUC IR 4.4.

Choice program costs in 2017 warrants such a departure, as, in the Panel's view, the actual 2016 program costs are not reflective of the program costs in 2017 or going forward.

The large reduction in program costs between 2017 and 2016 result from an examination of costs conducted by FEI and BCUC in conjunction with the Compliance Filing. The 2017 forecast costs have in effect, created a new base and there is no evidence to suggest there will be a need for significant changes in the program cost requirements going forward. Therefore, the Panel expects the program costs to remain relatively stable and the 2017 forecast amount will serve as a base for any future cost increases. **Given this expected cost stability, the Panel directs FEI to calculate the variable transaction fees based on the prior year's actual program costs, as set out in Order A-9-16, beginning in the year 2018 and beyond.**