

# William J. Andrews

## Barrister & Solicitor

1958 Parkside Lane, North Vancouver, BC, Canada, V7G 1X5  
Phone: 604-924-0921, Fax: 604-924-0918, Email: wjandrews@shaw.ca

October 5, 2017

British Columbia Utilities Commission  
900 Howe Street, Box 250  
Vancouver, BC, V6Z 2N3  
Attn: Patrick Wruck, Commission Secretary

By Web Posting

Dear Mr. Wruck:

Re: FortisBC Inc. Self-Generation Policy Stage II Application ~ Project No.3698820  
B.C. Sustainable Energy Association and Sierra Club B.C. Comments

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These are the comments of B.C. Sustainable Energy Association and Sierra Club British Columbia in accordance with the Commission's August 10, 2017 letter [Exhibit A-6]. These comments respond in part to FBC's September 7, 2017 comments [Exhibit B-3].

***1) Matters relating to Section 2.5 of the 2014 Rate Schedule 3808 Power Purchase Agreement between FBC and the British Columbia Hydro and Power Authority (BC Hydro) (Order G-60-14), and the extent to which it:***

***a) Is necessary/effective in protecting BC Hydro's ratepayers;***

In BCSEA-SCBC's view, section 2.5 of the 2014 Rate Schedule 3808 Power Purchase Agreement between FBC and BC Hydro (New PPA) remains necessary and effective in protecting BC Hydro's ratepayers.

In the current factual situation it may be unlikely that in the absence of s.2.5 FBC would purchase embedded cost power from BC Hydro to meet incremental load due to sales to third parties by FBC customers with self-generation capabilities. However, s.2.5 of the New PPA provides contractual certainty that such conduct would not occur.

FBC appears to acknowledge this point when in its September 7, 2017 submission it notes that in its position leading up to the PPA Decision (Exhibit C1-24) it stated:

“21. All this being said, even if as a practical matter FortisBC would not seek to access additional BCH power in the current environment to serve self-generator customers, FortisBC acknowledges that it would theoretically be able to do so in the absence of the restrictions in s. 2.5 of the New PPA. FortisBC acknowledges that BC Hydro desires the certainty provided by the restrictions in s. 2.5 of the New PPA and that, without that certainty, BC Hydro may engage in certain conduct which results in additional time and cost being incurred at a later stage, to deal with an issue that the parties have already addressed in s. 2.5 of the New PPA as it presently stands. This is not intended to be critical of BC Hydro, but clearly, if the restrictions in s. 2.5 were not included in the New PPA now, it is reasonable to assume that BC Hydro would:

(a) seek to revisit the New PPA in order to include them if economic or other circumstances changed such that increased purchases of New PPA power from BC Hydro were likely to occur; and

(b) be more inclined to continue to intervene in FortisBC regulatory proceedings in order to ensure its perceived interests were safeguarded.”<sup>1</sup>

BCSEA-SCBC’s view is that the potential removal of section 2.5 of the New PPA is a matter that should be dealt with separately from the current proceeding. They note FBC’s response to Panel IR 2.1 as follows:

“...whether or not the approved policy is adequate for the removal of the Section 2.5 Restrictions is a separate matter for consideration, but not part of the SGP itself, and none of the elements of the SGP would be invalidated by the result.”<sup>2</sup>

***b) Is necessary/effective in protecting FBC’s ratepayers;***

In BCSEA-SCBC’s view, section 2.5 of the New PPA is not intended to protect FBC and its ratepayers (except to the extent the FBC is a customer of BC Hydro.) BCSEA-SCBC concur with FBC on this point.

***c) Affects the ability of FBC and its customers to establish terms of service; and/or***

BCSEA-SCBC note that FBC acknowledges that “even in the case where the [section 2.5] restrictions remain, ...[o]nce the general mechanisms are agreed upon between FBC and BC Hydro to account for the flow of energy, any future FBC customer terms of service would be routine.”<sup>3</sup>

***d) Affects regulatory efficiency.***

The question is to what extent section 2.5 of the New PPA affects regulatory efficiency.

The concern that section 2.5 of the New PPA would lead to regulatory inefficiencies was stated by the Commission in Decision and Order G-60-14. The GBL mechanism in section 2.5 of the New PPA contemplates that BC Hydro and FBC would reach agreement on a GBL regarding an FBC customer. In Decision and Order G-60-14, the Commission said that this “would lead to regulatory inefficiencies as lengthy regulatory proceedings would likely be required for the setting of each self-generating customer’s GBL.”<sup>4</sup> The Panel added that section 2.5 of the New PPA could result in inconsistent outcomes for FBC self-generating customers and might result in rate design complications for FBC.<sup>5</sup> For these reasons, the G-60-14 panel directed FBC to consult on and file with the Commission a self-generation policy application that establishes high level principles for its service territory.

FBC consulted with stakeholders, and in January 2015 it filed a Self-Generation Policy application with the Commission. Following review of that application, the Commission issued Decision and Order G-27-16. Decision and Order G-27-16 directed FBC to file a Stage II Self-

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<sup>1</sup> FBC September 7, 2017, p.2, underline added.

<sup>2</sup> Exhibit B-3, Panel IR 2.1, pdf p.9.

<sup>3</sup> FBC September 7, 2017, p.3.

<sup>4</sup> Decision and Order G-60-14, p.76, underline added.

<sup>5</sup> *Ibid.*

Generation Policy Application that includes a comprehensive Self-Generation Policy and Generator Baseline Guidelines.

Following further consultation with stakeholders, FBC filed its Stage II Self-Generation Policy Application in November 2016. This is the subject of the current proceeding. In March 2017, the Commission issued information request no. 1 to FBC.<sup>6</sup> In April 2017, FBC filed its responses to BCUC IR 1.<sup>7</sup> Included in its responses are stand-alone policy documents titled Policies Regarding Self-Generating Customers, and Self-Supply Obligations Guidelines. In June 2017, the panel said it was taking FBC's response to BCUC IR No.1 under consideration.<sup>8</sup> On August 10, 2017 the Commission set out the questions to which FBC and the interveners are now responding.

FBC's response is:

“FBC's comments regarding regulatory efficiency are closely aligned to the discussion of the ability to establish terms of service. Once a decision is reached with respect to the Section 2.5 restrictions, and particularly in the case where the Company's SGP is also approved, FBC does not envision that it will be required to submit further applications to the Commission for the routine establishment of terms of service for customers, other than the final approval of those terms as would be the case regardless of the outcome of the SGP process.”<sup>9</sup>

BCSEA-SCBC are not aware of regulatory inefficiency arising at the present time from s. 2.5 of the New PPA, particularly now that FBC's standby rates have been approved.

***2) Matters relating to the utility's obligation to serve and/or the self-generator's obligation to offset load as it pertains to:***

***a) Existing FBC self-generation customers under their current configuration;***

***b) Existing FBC self-generation customers who wish to take advantage of idle generation capacity and/or add to existing self-generation capacity; and***

***c) Existing or new FBC customers wishing to become self-generators.***

FBC responds to this question by saying that it does not wish to reopen issues settled in Decision and Order G-27-16 regarding Stage 1 of this Self-Generation Policy proceeding. BCSEA-SCBC are unsure why FBC apparently interprets this question as contemplating the reopening of issues settled in the Stage 1 decision. That said, BCSEA-SCBC have no particular desire to have those issues reopened.

FBC concludes its response to question 2 by stating:

“The proposals contained in the Company's Stage II SGP Application effectively address the issues raised, for the term of the agreement between FBC and its customer.

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<sup>6</sup> Exhibit A-3.

<sup>7</sup> Exhibit B-2.

<sup>8</sup> Exhibit A-5.

<sup>9</sup> Exhibit B-3, p.3.

The provisions contained in the proposed SGP are sufficient to deal with each of the circumstances described in the above bullet points.”<sup>10</sup>

BCSEA-SCBC acknowledge that the Stage II SGP Application addresses the topics in question 2, though they take no position at this time as to whether the Application adequately addresses these topics.

**3) Matters relating to the extent to which FBC should be neutral, encouraging or discouraging towards self-generation.**

BCSEA-SCBC concur with the position expressed by FBC in response to this question as follows:

“In the Stage I Application, the Company stated,

FBC supports the principle that the decision by a customer to install self-generation should be made by the customer based on the merits of the project. In general, it is not the role of the utility to either encourage or discourage the installation of customer-owned generation by any customer. Rather, customers should be free to make strategic investment decisions appropriate to their circumstances which may include consideration of the benefit that the self-generation provides to FBC customers as a whole, including the self-generating customer.

This remains the basic position of FBC today. If a self-generating customer wishes to sell its output to FBC and can do so at a price that is comparable to a resource of similar characteristics to which the Company has similar access, then FBC would consider this within the overall resource planning criteria. This does not constitute an incentive and would not cause harm to other customers.”<sup>11</sup>

**4) Matters relating to the measurement and allocation of any benefits/costs arising out of self-generation activity.**

BCSEA-SCBC agree with FBC’s response as follows:

“The SGP filed by FBC addresses the benefits/costs by making an assumption that such net-benefits may exist. Any attempt to actually define, identify, measure and provide some form of compensation based on that exercise to either a customer or FBC is likely to be an incredibly difficult and contentious undertaking that seems unlikely to justify the effort and expense to other customers. FBC does not consider that anything further is required in this regard.”<sup>12</sup>

**5) A consideration of whether the SGP Stage 1 decision and accompanying directives provide the most appropriate foundation for moving forward.**

FBC’s response is:

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<sup>10</sup> Exhibit B-3, p.4.

<sup>11</sup> Exhibit B-3, p.5.

<sup>12</sup> Exhibit B-3, p.5.

“The SGP Stage 1 Decision was the basis for the Company’s Stage II Application. Although FBC has stated that it has reservations regarding some of the potential outcomes of the SGP as filed, it expressed those reservations (such as the in the response to BCUC IR 1.3 referenced above) not because it is seeking to abandon the process, but in an effort to make clear institution of the SGP, which FBC can certainly work with, is not without risk.”

FBC’s response to BCUC IR 1.3 states in part:

The key context in which FBC has proceeded in formulating the SGP is the set of BCUC determinations and directions made on the issue to date. Principles that have emerged through those determinations and directions include that:

1. Under the appropriate circumstances, a self-generating customer should be able to sell self-generated power that would otherwise be used to serve plant load;
2. While doing so the customer can replace this power with purchases from FBC at embedded cost rates; and
3. Such purchases would be enabled by the establishment of a baseline amount of load that the SG customer must serve, which serves to mitigate the potential for harm to other customers.

FBC has expressed concerns in the past about certain of these principles and their implications (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). In the opinion of FBC, while the baseline (or SSO) serves to mitigate harm to other customers by placing a limit on the amount of power that may be exported, it still introduces the risk of harm relative to the status quo. FBC does not believe more can be done in the SGP to address this issue reasonably; rather, it is inherent in the concept....

Like FBC, BCSEA-SCBC have expressed concerns, perhaps not as articulately, that the self-generation policy principles emerging from the various Commission decisions are leading to an approach in which there could be energy sales by industrial self-generation customers while simultaneously receiving embedded cost power that could harm other ratepayers.

***6) Within this context, the Panel wishes to explore if, and potentially the extent to which, the key issues of the current proceeding are:***

***a) appropriately framed;***

***b) still relevant;***

***c) still require a remedy; and/or***

***d) within the jurisdiction of the Commission***

BCSEA-SCBC acknowledge frankly that they don’t fully understand the premises on which this question is based.

BCSEA-SCBC’s views include the following:

- New self-generation by existing or new FBC customers may or may not be beneficial to other FBC ratepayers or to the public interest. New policies should allow new self-generation but should not require the utility to necessarily incent it and should not permit simultaneous sales and receipt of embedded cost power to the disadvantage of other ratepayers.
- As stated above, BCSEA-SCBC consider s. 2.5 of the New PPA to be effective and desirable. If removal of s.2.5 is contemplated then this should be the subject of a separate proceeding.

FBC's response to question 6 is:

“The overall SGP is a collective of policies and rates that describe how service to a customer with self-generation within the FBC service area is to be managed. FBC considers that providing some clarity to customers through these documents is a positive outcome and that they are still relevant and should be put in place. As the SGP is structured, FBC believes that the Commission has jurisdiction to decide the matter. FBC does not see it as necessary to frame the SGP as linked directly to the Section 2.5 restrictions since those restrictions can either stay or be removed without impacting the SGP in its current state.”<sup>13</sup>

BCSEA-SCBC are unsure what would be the status of the FBC Policies Regarding Self-Generating Customers, and Self-Supply Obligations Guidelines, in the event that the proceeding was discontinued. Similarly, they are unsure what the jurisdictional question is. As noted above, BCSEA-SCBC do note FBC's acknowledgement that s. 2.5 of the New PPA could “either stay or be removed without impacting the SGP in its current state.”

## **7) Additional Comments**

### **1. Should the current proceeding proceed or be dismissed?**

FBC says the proceeding should be allowed to proceed.

As stated above, BCSEA-SCBC do not fully understand the premises or the consequences of continuation of the proceeding or dismissal of the application. BCSEA-SCBC would not support dismissal of the application at this time if that implies that a new application would have to be filed.

### **2. If your view is that the proceeding should be dismissed, what issues remain that the Commission must address through some other means?**

BCSEA-SCBC have no submissions on this question.

### **3. What approach would be most effective in addressing any issue(s) identified in response to question 2?**

BCSEA-SCBC have no submissions on this question.

All the above is respectfully submitted.

Yours truly,

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<sup>13</sup> Exhibit B-3, p.7.

William J. Andrews

A handwritten signature in black ink, appearing to be 'WJ Andrews', written over a horizontal line.

Barrister & Solicitor