

REQUESTOR NAME: **Richard T. Landale BCUC Intervener C1**

Intervener REBUTTAL Evidence

DATE: **21 December 2017**

PROJECT NO: **1598915 BCUC**

APPLICATION NAME: **FortisBC Energy Inc. and City of Surrey Applications for Approval of Terms for an Operating Agreement.**

1. CONSIDERATION OF FORTISBC and THE CITY of SURREY EVIDENCE

The City of Surrey’s evidence Exhibit B2-11 is truly disappointing, 156 pages of little value, and substance for going forward. A historical look that is so out of tune with the City’s 10 year vision, and beyond to 2040. The Municipality of Surrey is “*unique*”, its land maze I believe is the second largest in Canada. The City is expanding at a rate of some 1,000 peoples per month. Surrey should be looking forward in the application, not backwards. This intervener is further not moved by the City citing other jurisdictions, as amplified in their evidence and their application, Section 4(i) and 4(ii)(b).

Rebuttal of City of Surrey “Attachment 1”, the careless miscalculation of increased costs:

If simple arithmetic is a challenge to the City, then we must question all their other assertions, it seems to me.....

Project	Increase in Costs for upgrading / betterment	City of Surrey Calculation in Evidence
1	\$ 22,200.00	
2	\$ 16,499.49	
3	\$ 22,778.00	
4	\$ 323,175.00	
5	\$ 39,893.00	
Total	\$ 424,545.49	\$424,345.49
%	372%	372%
100%	\$ 114,125.13	\$ 114,071.37

FortisBC at least provided some substance in their evidence, addressing many issues raised within the official hearing documents. The following evidence from this intervener generally supports FEI, by citing and repeating some key aspects from their evidence, with my own comments.

2. REBUTTAL EVIDENCE

It is the contention of this rebuttal evidence to highlight the City of Surrey By-Law cited as "Highway and Traffic By-law, 1997, No. 13007.", as referenced by FEI Evidence, wherein this bylaw has been in existence since Mayor Douglas W. McCallum signed the bylaw into effect 17th February 1997, with amendments through to 19th December 2016

http://www.surrey.ca/bylawsandcouncilibrary/BYL_reg_13007.pdf.

The provisions of this bylaw are quite explicit in the meaning, coverage, permits, fees and penalties. The bylaw has provisions for exceptions as noted in “Part II – Authorities” operations within the Municipality of Surrey, the following is a brief (not complete) highlight of the provisions specific to “Utility”, quote:

“Exemptions

4. *The provisions of this By-law do not apply to:*

(1) *persons employed by the City, vehicles or other equipment owned or operated by employees of the City while lawfully engaged in highway or public utility construction, maintenance or repair work on, over or under the surface of a highway;*

(2) *the driver of any emergency vehicle:*

(a) *while it is responding to an emergency call and sounding an audible signal, siren, or bell, and showing at least a flashing red light; or at the scene of an emergency and showing at least a flashing red light;*

(b) *who is a Peace Officer in immediate pursuit of an actual or suspected violator of the law; or*

(c) *who is a Peace Officer engaged in a police duty of a nature that the sounding of an audible signal or siren would unduly hamper the performance of that duty;*

(3) the stopping, standing or parking of vehicles:

(a) being owned, leased or under contract with the Government of Canada, Province of British Columbia or the City;

(b) by a public utility corporation; or

(c) as a tow vehicle; while such vehicles are in actual use for official purposes. Notwithstanding the foregoing, the stopping, standing or parking of such vehicles shall, wherever possible, obstruct traffic as little as possible; or

(4) a By-law Enforcement Officer or Parking Patroller engaged in the performance of his or her duties in enforcing the by-laws of the City.”

The City does make these Utility provisions, quote:

“Highway Use Requiring Permit

84. (1) Except as authorized by a permit issued by the Engineer pursuant to this By-law, no person shall:..... clause: (q) obstruct or interfere with the free flow of traffic or attempt to control or detour traffic on any highway, whether by use of signs or flag persons or by barricades or other physical obstruction on the highway, provided that this clause shall not apply to: sub clause:

(iii) emergency vehicles or public utility or City crews while making emergency repairs within a highway; or”

AND

Heavy Trucks at Night 89. (1) (2) (a)

In support for the City of Surrey, the by-law again is explicit in the provisions to issuing permits and fees according to Schedule B, as provided in, quote:

Highway Use Permits 85. (1) and (2)

86. As a pre-requisite to the issuance of a permit under Section 85 and Section 86.1, the Engineer may require the applicant to: amongst other things, clause (9)

It is incumbent upon the Commission to “**Read and Review**” this bylaw in detail and within the context of this hearing’s purpose, being to establish an operating agreement between the parties.

3. IN SUPPORT OF FEI

The following quote is taken from FEI Evidence, page 2,

“This serves to highlight FEI’s view that an Operating Fee higher than what FEI is proposing would really be more akin to a tax by the City on FEI’s customers in Surrey to cover costs that the City would otherwise be recovering from all residents of Surrey.”

Quote from page 5:

“Much of FEI’s larger transmission infrastructure has been present in the City of Surrey since the late 1950s, originally built in Statutory Rights of Way (SROW). However, due to the City’s development, FEI had to either surrender its SROWs or have them expropriated to allow the City to install its own infrastructure. As such, the development that has taken place over the years now causes FEI significant costs to manage its infrastructure as a result of the presence of Surrey’s own utility facilities and road infrastructure. Not unlike Surrey, FEI and other third party utilities have similar challenges to those cited in the Report. FEI incurs additional costs to comply with Surrey’s by-laws, rules, and requirements. FEI also incurs additional costs to work around Surrey’s own facilities and infrastructure, and from working within constrained corridors. Effectively, these types of costs must be managed and factored into each party’s own business, operations, planning, and budgeting processes in the normal course.”

Quote from pages 8 to 14 incl.:

Capital Program Costs

The City’s Report discusses capital program costs . FEI provides the following general comments on themes that appear throughout the Report, and provides more specific comments in Table 5 which follows.

4. IN SUPPORT OF THE CITY OF SURREY

While I have many concerns with the City’s 10 Year expansion vision on many fronts, the health and welfare of the municipality does have a vested interest in growth. Growth in all its forms,

population, homes, industrial base, parks, social amenities. All of which will to a large part have service connections to FEI natural gas distribution network and customer base.

It is the contention of this rebuttal evidence to support By-Law 13007 in its present form, scope, permitting structure and fee structure. With the caveat that the City increase its fees to cover the cost of the City's planned and unplanned 10 year growth vision. (Generally follow the 3.9% approved increases across the board by the City's Finance Committee just this past December 4th meeting). Thereby all new comers pay for the services they need, rather than tax existing ratepayers, who have already paid for the services.

There is no doubt the City is entitled to recover costs on the basis of who initiates the project. If the City initiates the project, then ultimately the existing and new ratepayers will pay the costs. If FEI initiates the project, then FEI must pay the permit fees (all of them, no exceptions), including the capital cost of that project. Further, FEI notes it does pay various taxes to the City as a business corporation operating in the municipality, good. It is of no concern to the City or the Commission whether FEI pays school taxes, and should have no weight bearing in this hearing. FEI will recapture these costs within their existing rate base, as approved in the normal course of hearings from within the purview of the British Columbian Utilities Commission hearings.

5. CLOSING REMARKS

This intervener has been troubled by the City of Surrey's "**Laissez a fair**" approach to this application in as much their application cannot quantify how much money they are anticipating from a 3% Operating Fee imposition onto every FortisBC customer account. Which amounts to an added taxation on every Surrey taxpayer, existing or new. The City cannot even get their arithmetic straight, and according to FortisBC (without corroborative evidence), says the City has inflated their costs, which I am inclined to believe, based on the City's entire submission in this hearing.

This intervener believes the message the Commission should consider comes from my information requests, my evidence and this rebuttal evidence. The City has not demonstrated their cost for the purposes of supporting a 3% Operating Fee, for that matter neither has FEI.

In my evidence I postulate some alternatives. These alternatives do provide some numerical substance for evaluation purposes. The Commission should require a hard customer count base from FortisBC, and hard costs from the City, without either my recommendation on page 4 of my evidence suggests "**Option 4, supported by 11 points**", all of which have meaning for the purposes of this hearing.

It remains for the Commission Panel to settle this matter in their final decision.

The following pages 4 & 5 are highlights from the City of Surrey Bylaw 13007, in support of this rebuttal evidence. It is clear from the provisions in this by-law, the City can recover costs and permit fee remuneration. As an observation, it appears the By-Law Officer should be exercising these provisions and fines. What is the point of the By-law if the City does not enforce it ?

All of which is respectfully said and submitted.

Richard T. Landale
Intervener C-1

CITY OF SURREY

BY-LAW NO. 13007

A By-law to regulate traffic, parking and the use of highways, boulevards,
sidewalks and public land in the City of Surrey

As amended by By-law Nos: 13042, 07/21/97; 13210, 09/08/97; 13361, 03/30/98; 13495, 07/28/98;
13562, 11/02/98; 13605, 12/14/98; 13832, 10/04/99; 13861, 10/25/99; 13938, 02/14/00; 14144, 11/06/00;
14619, 01/28/02; 14634, 02/18/02; 14656, 03/25/02; 14768, 07/22/02; 15024, 06/23/03; 15155, 11/03/03;
15288, 02/23/04; 15214, 06/07/04; 15473, 07/28/04; 15722, 05/02/05; 15767, 06/20/05; 15768,
06/20/05; 15976, 04/03/06; 16205, 01/15/07; 16478, 11/19/07; 16493, 12/03/07; 16525, 01/14/08;
16643, 05/12/08; 16853, 01/19/09; 16940, 05/25/09; 17075, 12/14/09; 17109, 01/25/10; 17317, 01/10/11;
17562, 02/06/12; 17837, 12/17/12; 18024, 07/29/13; 18130, 01/13/14; 18304, 10/20/14; 18354, 01/12/15;
18404, 02/23/15; 18461, 06/29/15; 18586, 12/14/15; 18978, 12/19/16

SCHEDULE B
SCHEDULE OF FEES

Amended B/L 13832, 10/04/99; 14768, 07/22/02; 15976, 04/03/06; 16205, 01/15/07; 17075,
12/14/09; 17317, 01/10/11; 17562, 02/06/12; 17837, 12/17/12; 18130, 01/13/14; 18354, 01/12/15;
18586, 12/14/15; 18978, 12/19/16

City Road and Right-of-Way Use Permit

- General:	\$60.00
- Servicing Agreement:	\$90.00
- Inspection ^{1,2} :	\$105.00
- Video inspection ^{1,2} :	\$215.00
- Shoring and hoarding:	\$365.00

Traffic Obstruction Permit

- General: ³	
▪ Arterial/Collector Road	\$170.00
▪ Local Road:	
▪ Significant obstruction	\$170.00
▪ Minor obstruction	\$ 60.00
- Servicing Agreement: ³	
▪ Arterial/Collector Road	\$365.00
▪ Local Road:	
▪ Significant obstruction	\$365.00
▪ Minor obstruction	\$120.00
- Road Closure:	\$185.00
- Traffic Control Training:	\$180.00
- Storage Containers/Bins:	\$110.00
- Filming:	\$170.00

Oversize Permit

- Single trip:	\$60.00
- Book of 10:	\$545.00
- Annual permit (up to 3.20 m wide):	\$300.00
- Annual permit (> 3.20 m & up to 3.80 m wide):	\$605.00

Overload Permit

- Single trip:	\$60.00
- Annual permit:	\$300.00

Pavement Cut

- < 50 m ² :	\$90.00/m ²
- > 50 m ² :	\$80.00/m ²
- Minimum charge:	\$540.00

- Pavement degradation fee (\$10.00/m ²):	Included
All Land Development Works:	Fees collected at execution of Servicing or Mini-Servicing Agreement
Capital Works Projects:	Fees included as part of contract
Site Specific Municipal Access Agreement	
- Works per site < 20 m:	\$1,700.00
- Works per site >= 20 m:	\$1,700.00 plus \$10.00/m

¹ Number of inspections required based on scope of work.

² Fee for regular work hours. After-hour fee may apply.

³ For permits with multiple road classifications, fees based on highest road classification.

All fees are subject to applicable taxes.

For Example (but not limited to the following exclusively):

City Road and Right-of-Way Use Permit	
- General:	\$60.00
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- Video inspection ^{1,2} :	\$215.00
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