

D Barry Kirkham, QC*
Duncan J Manson*
Daniel W Burnett, QC*
Ronald G Paton*
Karen S Thompson*
Harley J Harris*
Kari F Richardson*
Edith A Ryan*
Daniel H Coles*
Patrick J O'Neill

Robin C Macfarlane*
Alan A Frydenlund, QC**
Harvey S Delaney*
Paul J Brown*
Gary M Yaffe*
Jonathan L Williams*
Paul A Brackstone**
James W Zaitsoff*
Jocelyn M Bellerud*
Sarah M. Pélouquin**

Josephine M Nadel, QC*
Allison R Kuchta*
James L Carpick*
Patrick J Haberl*
Heather E Maconachie
Michael F Robson*
Scott H Stephens*
Pamela E Sheppard*
Katharina R Spotzi

James B Burns*
Jeffrey B Lightfoot*
Christopher P Weafer*
Gregory J Tucker, QC*
Terence W Yu*
James H McBeath*
Zachary J Ansley*
George J Roper*
Sameer Kamboj

OWEN BIRD

LAW CORPORATION

PO Box 49130
Three Bentall Centre
2900-595 Burrard Street
Vancouver, BC
Canada V7X 1J5

Carl J Pines, Associate Counsel*
Rose-Mary L Basham, QC, Associate Counsel*
Hon Walter S Owen, OC, QC, LLD (1981)
John I Bird, QC (2005)

* Law Corporation
* Also of the Yukon Bar
** Also of the Ontario Bar

February 2, 2018

VIA ELECTRONIC MAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, B.C.
V6Z 2N3

**Attention: Patrick Wruck, Commission Secretary
and Manager, Regulatory Support**

Telephone 604 688-0401
Fax 604 688-2827
Website www.owenbird.com

Direct Line: 604 691-7557
Direct Fax: 604 632-4482
E-mail: cweafer@owenbird.com
Our File: 23841/0167

Dear Sirs/Mesdames:

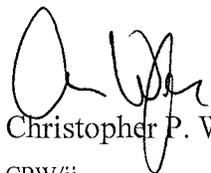
**Re: FortisBC Energy Inc. and City of Surrey Applications for Approval of Terms for an
Operating Agreement ~ Project No. 1598915**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the "CEC"). Attached please find the CEC's 2nd Information Request to FortisBC Energy Inc. with respect to the above-noted matter.

If you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Yours truly,

OWEN BIRD LAW CORPORATION



Christopher P. Weafer

CPW/jj
cc: CEC
cc: FortisBC Energy Inc.
cc: Registered Interveners

**COMMERCIAL ENERGY CONSUMERS ASSOCIATION
OF BRITISH COLUMBIA (the “CEC”)**

CEC’s INFORMATION REQUEST NO. 2 TO FORTISBC ENERGY INC. (“FEI”)

**FortisBC Energy Inc. and City of Surrey Applications for
Approval of Terms for an Operating Agreement
Project No. 1598915**

February 2, 2018

13. Reference: Exhibit B2-8-1, BCUC 1.6.4 and 1.6.4 and 1.6.4

FEI is of the opinion that Relocation Costs should exclude the costs of any upgrading and/or betterment “*beyond that which is required to comply with applicable Laws or sound engineering practices*”, which we understand means that essentially all costs of upgrading and/or betterment are burdened on the party requesting a change to the other party’s facilities. Only if the upgrading and/or betterment is not required by the very broad and discretionary term “sound engineering practices” would they be excluded. Surrey has submitted information requests to FEI seeking clarification of what if any costs would be excluded by FEI’s preferred caveat.

On pages 5 and 6 of the FEI application for approval of terms for an operating agreement with City of Surrey (FEI Application), it states:

Changes to City [City of Surrey] bylaws in 2016 have increased the frequency of instances where Surrey is requesting FEI to apply for permits and pay fees. In circumstances where FEI crews are deployed to install gas services (as opposed to FEI’s contractors), the City is requiring FEI to pay traffic obstruction fees. In circumstances where FEI has retained contractors to perform work, the City is requiring FEI’s contractors to pay permit fees for FEI’s gas installation activities. FEI is of the view that it is not required to pay fees or obtain permits under the 1957 Agreement.

The City and FEI agree that FEI must adhere to the CSA Z662 code/standard for FEI’s pipelines in the city. However, the City is of the opinion that if FEI has infrastructure that is not in compliance with CSA Z662 and the City requests that FEI alter a portion of said infrastructure to accommodate municipal work, the City should not be burdened with FEI’s incremental cost to

bring its facilities into compliance with CSA Z662. FEI’s costs to alter its facilities, as requested, should be Relocation Costs, and its incremental costs above and beyond that to comply with the applicable standard should not be. Likewise, CSA Z662 has frequently changed in the past 10 years and as this standard continues to change it is not Surrey’s responsibility to reimburse FEI for its costs to keep its infrastructure up to the standard.

- 13.1. Please confirm that FEI's proposal would exclude the costs of increasing the size of a pipeline unless there was an applicable legal requirement or sound engineering reason.
- 13.2. Please provide a list of the types of changes that are normally included in upgrades or betterments as a result of complying with applicable laws, and standards such as CSA Z662 or others
- 13.3. Please provide a list of the types of changes that are normally included in upgrades or betterments as a result of complying with 'sound engineering practices'.
- 13.4. Please confirm that 'sound engineering practices' are subject to ongoing change as are the codes and standards.
- 13.5. Who is the arbiter of what constitutes 'sound engineering practice'? Please explain.
- 13.6. How does FEI normally comply with the types of 'sound engineering practices' being referred to when there are no relocations or other activities requiring disruption to the facilities? Please explain and differentiate the types of situations in which FEI would initiate construction in order to comply with 'sound engineering practices' and those in which FEI would not initiate construction in order to do so.
- 13.7. How do people using the roadways and other impacted sites in the City of Surrey benefit from the betterments and upgrades that would typically be included in FEI's compliance with applicable Laws and sound engineering practices? Please discuss.
 - 13.7.1 Would FEI always conduct the work to achieve those same benefits if the relocation or other event did not occasion the work? Please explain.
- 13.8. How does FEI benefit from the betterments and upgrades that are associated with compliance with applicable laws and sound engineering practice? Please explain and provide quantification of any benefits to the reasonably available, if applicable.
- 13.9. Please confirm that ratepayers benefit from the betterments and upgrades associated with FEI's compliance with applicable laws and 'sound engineering' practices.

14. Reference: Exhibit B-2-8-1, BCUC 1.4.4.1 Attachment 2, pp 50 and 52

50. Accordingly, it would be appropriate to have a 16-year sliding scale to more accurately reflect the mutual benefits derived from the partnership between carriers

and municipalities, without placing undue limitations on either party to plan future investments. Under this sliding scale, the City is primarily responsible for relocation costs in the first five years, following which its responsibility linearly diminishes to zero by the end of the 16th year.

52. Accordingly, wording of Section 25 of the MAA between the City and Bell Canada will read as follows:

In the case of a Municipality-initiated requirement to relocate a Company facility, the following schedule is to be used to allocate costs directly attributable to such relocation. These costs include, but are not limited to, depreciation, betterment and salvage costs.

Year(s) After Installation of Equipment	Percentage of Relocation Costs Paid by Municipality
1	100%
2	100%
3	100%
4	90%
5	80%
6	70%
7	65%
8	60%
9	55%
10	45%
11	40%
12	35%
13	30%

Year(s) After Installation of Equipment	Percentage of Relocation Costs Paid by Municipality
14	20%
15	10%
16	5%
17 onwards	0%

14.1 Please provide FEI's views, with explanations, as to the appropriateness of a schedule related to cost allocation similar to the above schedule included in the Municipal Access Agreement between the City of Hamilton and Bell Canada.

15. Reference: Exhibit B-1-12 page 14 and Exhibit B1-5, CEC 1.10.5

Second, FEI has described in responses to IRs that its assets have a much longer life. As noted in the response to Surrey-FEI IR 1.3.3, were it not for third party requests to relocate, much of FEI's system would not have to be replaced for a very long time. The most recent depreciation study estimates the financial end of life of distribution mains at 64 years and 65 years for transmission pipelines, but the financial end of life is shorter than the actual useful life of the assets. The financial life is shortened by the fact that there are many relocation requests. FEI explained that the life would be much longer if third parties were not requesting relocations. The CRTC's logic, applied to the long-lived pipeline assets would suggest a much slower decline from 100 percent in terms of the proportion recoverable from the City for FEI's assets.

Also, there is a proviso in the CRTC's allocation that should be noted for the sake of completeness:

Consistent with Previous Commission determinations, where costs directly attributable to a Municipality-initiated requirement to relocate a Company facility are incurred as a direct result of work undertaken by or on behalf of the Municipality for beautification, aesthetics, or other similar purposes, such costs are to be entirely borne by the Municipality. These costs include, but are not limited to, the depreciation, betterment and salvage costs. (Decision, para. 52)

- 10.5 Would it be appropriate for FEI to modify its request for reimbursement based on the expected time frame under which the beneficial upgrades would be required absent the relocation request? Please explain why or why not.

Response:

FEI does not replace its facilities based on a definitive formula or financial depreciation. Many factors influence the future projection of an asset's fitness for use including material type, soil conditions, pipe coating, cathodic protection and ongoing maintenance. Using continual monitoring programs, FEI projects asset longevity segment by segment. It is possible that facilities could last indefinitely.

- 15.1 Is it a reasonable principle to consider that older assets are more appropriately subject to betterments and upgrades on Fortis' own initiative than are newer assets? Please explain why or why not.
- 15.1.1 If yes, would FEI consider it reasonable to adjust the percentage of relocation costs paid by the municipality based on the remaining life of the asset or time before repair, such that the municipality pays a larger portion of upgrades and betterments for assets with a longer remaining asset life than those with a shorter remaining asset life? Please explain.
- 15.2 If the Commission were to approve a schedule similar to that provided in the City of Hamilton Bell Canada MAA, please provide FEI's views as to what criterion the declination should be based upon (ie. years since installation, remaining asset life or other qualification).

15.2.1 If the Commission were to approve a schedule with a changing contribution based upon the identified criterion, please provide the schedule FEI would deem to be appropriate.

16. Reference: Exhibit B1-11, page 15 and Exhibit B1-5, CEC 1.3.2

3.2 Please provide order of magnitude costs for relocation of Gas Mains and High Pressure Pipelines.

Response:

Gas Main relocations have been a regular occurring activity each year in the City of Surrey. For the past six years costs have averaged approximately \$400 thousand per year.

High Pressure Pipelines relocations have been less frequent and with higher costs and variability in annual spending. For the past six years costs have averaged approximately \$500 thousand per year.

It is important for the Operating Agreement to retain cost discipline on Surrey when it requests relocations. FEI believes that allocating a greater portion of the costs of relocation to FEI than what has been proposed by FEI would materially erode benefits to FEI under the Proposed Operating Agreement. Certainly, it would be very harmful to FEI and its customers if the relocation allocation adopted by the Commission were to allow, for instance the City to insist on a relocation that may cost FEI a significant amount when the City could work around FEI's pipeline at a fraction of the cost.

- 16.1 How does FEI's proposed agreement provide a 'cost discipline' to FEI? Please address the costs for Gas Mains as well as for High Pressure Pipelines.
- 16.2 Would both parties have a cost discipline if there was a pre-established threshold on every project such that the City would pay 100% of the relocation costs up to a certain level, and the parties would share the costs (excluding FEI discretionary improvements) above that level? Please comment.
- 16.3 Would a pre-established threshold based on the lowest cost alternative option be a potentially feasible option for providing cost discipline fairly to both parties? Please explain why or why not.
- 16.4 If FEI considered such a threshold to be a reasonable compromise, what threshold would FEI deem to be appropriate? Please explain.
- 16.5 Please confirm or otherwise explain that total cost-effectiveness for projects is a valid and important principle for gas ratepayers.
- 16.6 Please confirm or otherwise explain that total cost-effectiveness for projects is a valid and important principle for municipal taxpayers.

17. Reference: Exhibit B1-5, CEC 1.10.3 and Exhibit B1-12, page 9

10.3 To the extent that the applicable laws might require FEI to upgrade its facilities at some point regardless of the relocation, would FEI consider it appropriate to exclude the value of such incremental costs? Please explain why or why not.

Response:

FEI is unclear of what is meant by the question. The provisions of the Proposed Operating Agreement are only triggered in the case of a request to relocate facilities. FEI's position is that if a legal requirement to upgrade is triggered by a requested relocation that occurs prior to the end of the service life of the asset, then the cost would be paid by the requestor (Surrey) in the case of Gas Mains and shared 50-50 for High Pressure Pipelines.

Surrey's Consolidated Columns:	FEI's Response:
<p>(1) 105 Avenue Road Extension</p> <p>(2) The City is planning to construct a new road across FEI High Pressure Pipeline in the 10500 block of 105 Avenue near 140 Street. The existing High Pressure Pipeline has been located and is not in conflict with the City's project, nor does the pipeline need to be relocated or altered as a result of the City's project. Furthermore, the City has proven to FEI that there is sufficient depth of cover to comply with CSA Z662 for a road across the pipeline.</p> <p>FEI has requested the City expose the pipeline such that FEI can inspect the pipeline for dents, damages and defects as well as complete maintenance inspections of the joints as the standards for welding in 1957 when the pipeline was installed are different from current standards. FEI's request is for the City to pay the costs to expose the pipeline and 100% of FEI's estimated cost of \$323,175 to inspect and maintain the pipe, none of which is required to accommodate the City's road project.</p> <p>(3) \$323,175</p> <p>(4) \$0</p> <p>(5) \$323,175</p>	<ul style="list-style-type: none"> • This crossing is in SROW and the required work is driven by a change in land use. In other words, what was installed in a farmer's field in 1957 does not necessarily meet the load and stress requirements today for underneath a new Highway. • Going forward based on FEI's Proposed Operating Terms, in a project with similar circumstances, FEI would bill Surrey for the actual Relocation Costs involved. This is because "but for" the City's project to change the land use and construct a new road, FEI's pipe would not need to be inspected and maintained. As a result, the costs incurred to inspect, maintain, and ensure the pipeline is compliant with codes/applicable Laws in these changing land use circumstances are driven by Surrey's new road project, and Surrey would be responsible for the costs.

FEI notes that under its proposed Operating Terms, FEI would charge the City based on the 'but for' situation. The CEC would like to understand how the 'but for' comes into play when work needs to be accomplished in the future, but not necessarily at the time of the request. The CEC uses the following examples to clarify its question.

Example 1: FEI is aware of an upgrade to a Gas Main that would be required by law at a cost of \$100,000 but the upgrade need only be undertaken in the event that FEI in some way disrupts or replaces its existing pipelines and not as part of regular or special maintenance. If the City of Surrey requests a relocation, FEI must conduct the upgrade.

Example 2: FEI is aware of an upgrade that is required by law at a cost of \$100,000 that must be undertaken as part of regular or special maintenance and it must be completed within 5 years. If the City of Surrey requests a relocation in 3 years and it is cost-effective for FEI to undertake the required upgrade at that time.

17.1 Please confirm that under Example 1 FEI would charge the City the entire cost of the upgrade.

- 17.2 Under Example 2 would the ‘but for’ situation mean that FEI charged the City for the entire cost, even though the upgrade would likely be required within 2 years in any event?
- 17.3 Would it be appropriate for FEI, in Example 2, to deduct the costs of the upgrade it would have had to undertake in any event from the charges it recovers from the City of Surrey? Please explain why or why not.

18. Reference: Exhibit B2-8-1, City of Surrey Response to BCUC 1.6.4 and BCUC 1.6.4

This example illustrates that FEI’s opinion is that there are no objective rules, codes, standards, and that is up to their engineering group to decide what is required apparently on a case-by-case

basis. In this case, it would likely cost in excess of \$1 million to do the work necessary to comply with the requirements stated in FEI’s Pipeline Crossing Permit.

Secondly, FEI states the minimum depth of cover within “the road allowance”, not just the travelled road, “shall be 1200mm” which is in direct contradiction to the example above on 173A Street, even though both project correspondence occurred within one week of each other and from the same FEI Right-of-Way Department. FEI staff do not appear to be aware of what codes/standards apply to their own pipelines, and if they are aware then they are not consistent as to what the applicable depth of cover requirements are nor are they aware as to what should be done with existing pipelines that are non-conforming. This inconsistency is not acceptable, particularly when the potential High Pressure Pipeline alteration/relocations cost in excess of \$1 million for each pipeline and have the ability to induce significant delay costs on the City's projects.

- 18.1 Please comment on the City of Surrey’s charge that FEI does not appear to be aware of what codes/standards apply to its pipelines, that they are simply up to the engineering group and that the regulations are not consistently applied in any event.
- 18.2 Does FEI believe that its proposed Operating Agreement will prevent issues such as the above occurring between FEI and the City of Surrey? Please explain why or why not.