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Our File: 7664

May 18, 2017

VIA EMAIL

Mr. Patrick Wruck
Commission Secretary and Manager, Regulatory Support
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC
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Dear Mr. Wruck:

Re: FortisBC Inc. (FBC) 2017 Cost of Service Analysis and Rate Design Application ~ Project No. 1598939

Please be advised that we make the following submission on behalf of the groups known collectively in this process as BCOAPO *et al.* in response to the Commission's May 7, 2018 letter (Exhibit A-8) suspending the existing regulatory timetable for the above noted process and soliciting comments on the sequence and format of the regulatory timetable due to the expression by interveners of differing views on the appropriate regulatory process and timetable. More specifically, the Commission said:

> *It is clear to the Panel that there are a number of differing views on the appropriate regulatory timetable. Perhaps most significant of these differences is the timing of intervener evidence. The Panel acknowledges FBC's and interveners' arguments regarding intervener evidence as they relate to issues such as regulatory efficiency and appropriate sequencing of evidence; however we remind all parties that the primary goal in setting the regulatory timetable is to ensure that the Panel is provided with the necessary evidence to reach decisions on the application. Further, with respect to FBC's concerns pertaining to the lengthening of the regulatory process, the Panel notes that FBC's proposed schedule has already created delays and, based on the somewhat limited availability of the Panel and certain interveners in late August and early September, a potential oral hearing would not be able to be held during the proposed week of August 20, 2018. Therefore, the earliest a potential oral hearing could be held now appears to be late September.*

In its May 7th letter, the Panel posed three questions:

1. What the appropriate timing of intervener evidence is and why.

2. Whether or not parties intend to file intervener evidence. Parties must specifically identify the nature of the evidence they intend to file and explain how this evidence is relevant to the issues in the proceeding.
3. Whether or not a second round of IRs is necessary and why. If a second round of IRs is required, please identify any topics which do not need to be included in IR No. 2 and can proceed to written argument.

BCOAPO's Response

Question 1: What is the appropriate timing of intervener evidence and why?

The original timetable called for intervener's to file their evidence after FBC responded to the first round of IR's but BCSEA has requested that there first be a second round of IR's. This request has garnered support amongst other interveners, including BCOAPO. We see that there is a need for a second round of IR's, at least on some issues if not all, and in our experience it would be far more efficient and helpful to the Commission if those intervenors who do file evidence did so in a context where parties have the better understanding of FBC's rate design and COS proposals and how they were developed. This additional knowledge would allow everyone to prepare their evidence based on a better and fuller understanding of the evidence upon which FBC intends to rely as well as giving them the opportunity to better focus their evidence to improve its usefulness to the Commission Panel.

Question 2: Do we intend to file intervener evidence and if so, what is the nature of the evidence we intend to file and how is it relevant to the issues in this proceeding?

BCOAPO does not intend to file intervener evidence in this proceeding.

Question 3: Is a second round of IR's necessary and why? If so, what are the topics that do not need to be included in IR No. 2 and can proceed to written argument?

We would like to begin our response to this question bringing two concerns to the Commission Panel's attention. First, this question presumes that, absent a second round of IR's, an issue will go to written argument but it is not at all clear at this point that this is the appropriate course of action. Indeed, there is at least one party who has indicated that they feel a second round of IR's is unnecessary but that cross-examination on those issues is required. If the IR's have served the purpose of providing adequate discovery on certain issues that does not mean that parties to this process cannot reasonably see there is a need for an oral hearing and cross examination to challenge and test the Applicant's proposals.

In our view, all reasonable formats should be given due consideration. Secondly, this presumption assumes that parties will not want to present evidence on issues where a second round of IR's are not requested. There are times when parties to a regulatory process see a live issue remaining, sometimes ones central to their participation in the process, but they do not see any purpose in a second round of IR's for one reason or

another. If one takes the view that IR's are meant to facilitate discovery to ensure that we share an understanding of the Applicant's proposals and its underlying reasons then there is no reason to assume that if they have achieved this understanding they will not want to file their own evidence.

BCOAPO does note that this assumption is counter to the statement found later in the Panel's May 7th letter where it indicates they "will not be making a determination on process beyond the need for and timing of intervener evidence and a second round of IRs (but will include a placeholder date for FBC to file rebuttal evidence). Submissions on the process for testing FBC's rebuttal evidence (if such evidence is filed), the need for and timing of an oral hearing or oral arguments, and the timing of written arguments will be sought at a future date once the evidentiary record is more complete." But BCOAPO felt it prudent to address this issue in the first instance and to ask the Panel to ensure that it limits its determinations to the need for and timing of intervener evidence as well as a second round of IR's.

Now, to address the substance of Question 3: having reviewed a significant portion of FBC's IR responses, BCOAPO and its expert both feel there is a need for a second round of IR's. Specifically, we have identified Section 3, Section 5, Section 6, and Section 8 as areas that require greater development. We have included Section 3 in our list of areas requiring a second round of IR's because although our anticipated questions are not likely to be overly detailed or technical, it is at this time unclear whether we would have the opportunity to ask them at an oral hearing. As a result, we must be conservative in order to ensure we are protecting our clients' interests in further discovery.

We see a risk, albeit a minimal one, in forgoing additional IR's on Section 4, Section 7, Section 9, and Section 10 but that cannot be said to be forfeiting our right and desire to test and/or challenge those sections during an oral hearing should one occur.

If you have any questions regarding our position on these questions, please do not hesitate to contact the undersigned.

Sincerely,

Leigha Worth
Executive Director, General Counsel