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January 26, 2018

BY EMAIL

British Columbia Utilities Commission
410 – 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary and Manager, Regulatory Support

Dear Sirs/Mesdames:

**Re: BC Hydro and Power Authority (BC Hydro) –
F2017-2019 Revenue Requirements Application (the Application)
Project No. 3698869**

We are counsel for FortisBC Inc. and FortisBC Energy Inc. (collectively, **FortisBC**) on the Application. We write further to Order G-16-18, which attached as Appendix “B” certain comments that the Premier made on January 16, 2018 (the **January Remarks**).

As was the case immediately prior to the January Remarks, the choices that the British Columbia Utilities Commission (the **Commission**) has in this proceeding remain whether to (a) implement the 3 per cent F2019 rate increase that BC Hydro originally sought, (b) freeze F2019 rates pursuant to BC Hydro’s amended request, or (c) make one of the alternative orders that certain interveners sought in their submissions of January 15. In determining which of these orders to make, the Commission may have regard to the January Remarks insofar as they set out the Premier’s:

- confirmation that the government will “see how [BC Hydro’s application for a rate freeze] unfolds” (that is, that the government does not presume the Commission will necessarily grant BC Hydro’s amended request);
- view that BC Hydro’s “deferral accounts” should be “drive[n] down...as quickly as possible”. For some period a rate freeze would further drive up the Rate Smoothing Regulatory Account, though BC Hydro hopes to deal with this expeditiously;
- view of the accounts as being in “runaway” mode and as still to be subject to the “rigorous review” that the auditor general is “going to be putting in place”. (We acknowledge that BC Hydro has assured the Commission that it has the situation under control.¹); and
- view that “blanket reductions or freezes” (a category into which the relief sought in BC Hydro’s amended request falls) are not the best course of action to achieve the government’s affordability

¹ See paragraph 16 of BC Hydro’s January 19 submission.

objective.² As noted later in this letter, the Premier has not asked the Commission to implement the “lifeline rates”/“means testing” that the Premier views as the “better” course, nor could the Commission do so in the present circumstances. However, where BC Hydro’s only regulatory justification for seeking the rate freeze is the government’s wish to have one,³ evidence of the fairly muted nature of government support for this course may be pertinent to whether or not the rate freeze should be implemented.

The weight that the Commission gives the above-noted expressions of government policy relative to other evidence on the Application may be informed by the sorts of factors that FortisBC outlined in its January 15 submission. As also noted in its January 15 submission, FortisBC does not advocate for a rate increase if the Commission is satisfied, on consideration of all the circumstances, that there is sufficient regulatory justification not to have one. That remains FortisBC’s position.

More broadly with respect to the Premier’s stated preference for “lifeline rates”/“means testing”, the Commission would not be able to implement that preference itself (1) unless the Legislative Assembly first amended the presently incompatible⁴ statutory regime to provide for this;⁵ and (2) unless this were a rate design proceeding in which that statutory amendment, once made, could be applied. Correspondingly, in the January Remarks the Premier did not suggest that the Commission should order “lifeline rates”/“means testing”. He indicated instead that BC Hydro’s board is still undertaking the review he directed of those concepts. He also left open the possibility that relief might ultimately come from “the province” rather than “the utility”. In this regard, although the January Remarks may be taken into account in relation to whether a rate freeze should be ordered, they would not in themselves form the basis for a Commission order in this proceeding regarding alternative affordability measures such as “lifeline rates”/“means testing”.

Yours truly,

FARRIS, VAUGHAN, WILLS & MURPHY LLP

Per:



Ludmila B. Herbst, Q.C.

LBH/trw

c.c.: Registered parties

² Loosely, the Mandate Letter might also be taken to have associated the rate freeze with that objective: paragraph 29(a) of FortisBC’s January 15 submission (on page 11).

³ See paragraph 16 and footnote 8 on page 5 of FortisBC’s January 15 submission.

⁴ See the Commission’s reasons for Order G-5-17 (on BC Hydro’s 2015 Rate Design Application) and for Order G-87-17 (on British Columbia Old Age Pensioners Organization’s reconsideration application). See also *British Columbia Old Age Pensioners Organization v. British Columbia Utilities Commission*, 2017 BCCA 400, in which Goepel J.A. dismissed applications for leave to appeal from low income aspects of those decisions.

⁵ See paragraphs 29(d)(iii)(D) (at the bottom of page 14 and top of page 15) and paragraph 31(d) (on page 18) of FortisBC’s January 15 submission.