

March 28, 2019

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

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

Dear Mr. Wruck:

**Re: British Columbia Utilities Commission (BCUC) – An Inquiry into the Regulation of Electric Vehicle Charging Service – Phase 2 ~ Project No. 1598941**  
**FortisBC Alternative Energy Services Inc. (FAES) Final Argument**

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## **Introduction**

FAES greatly appreciates the BCUC's consideration and acceptance of its late registration as an intervener in order to allow it to file argument in this proceeding.

FAES is an affiliated regulated business of FortisBC Energy Inc. and FortisBC Inc. (FBC) operating in a non-natural monopoly environment that is providing thermal energy service<sup>1</sup> (TES) to the market in BC.

The purpose of this submission is to draw to the BCUC's attention that though TES providers such as FAES fall within the definition of "non-exempt public utilities" as the term has been used in the course of this Inquiry, TES providers such as FAES may be more appropriately regulated in a manner similar to "exempt public utilities" for the purpose of electric vehicle (EV) charging service rather than regional electric utilities (i.e., BC Hydro and FBC).

In providing its guidance for future applications and recommendations to government, FAES submits that the BCUC should consider the potential for unintended and unnecessary regulation of EV charging service that could occur if all "non-exempt public utilities" were treated in a similar fashion.

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<sup>1</sup> A TES consists of equipment or facilities for the production, generation, storage, transmission, sale, delivery or provision of heat, hot water and/or cooling from one or more thermal energy sources and through a distribution system. Energy sources may include waste heat, renewable (solar, ground/water source or air source heat pumps, geothermal, biomass etc.) as well as non-renewable energy sources. A TES may include plant, equipment, distribution piping, apparatus, property and facilities employed by or in connection with the provision of thermal energy services.

## **FAES Background and Regulatory Framework**

FAES was an active participant in the development of the BCUC's TES Guidelines, which were developed to address the regulatory treatment of TES services that were considered to lack natural monopoly characteristics but were public utilities according to the *Utilities Commission Act* (UCA).<sup>2</sup>

The TES Guidelines issued by the BCUC<sup>3</sup> provide a scaled approach to the regulation of TES. The framework contained in the TES Guidelines provides increased regulatory oversight as the size and scope of the TES increases, with a number of exemptions from the UCA for most categories of TES projects.

Almost all of FAES's projects fall within TES Guideline categories that call for light-handed regulation and exemptions from provisions of the UCA. The one exception is the Delta School District project, which is regulated similar to other public utility systems, requiring rate and other approvals.

## **Applicable Findings in the Inquiry**

In the Phase One Report, the BCUC noted that by virtue of being a utility, a TES operator would not qualify for the recommended exemption that applies to "persons who are not otherwise a utility who provide EV charging services."<sup>4</sup>

Phase Two of the Inquiry initially included consideration of the merits of using a separate non-regulated business as a means for non-exempt public utilities to participate in the EV charging market (part of scope item 3).

The Phase Two Continuation Order<sup>5</sup> removed this matter based in part on submissions from the Ministry of Energy, Mines & Petroleum Resources that the Province of BC "strongly supports investments in electric vehicle charging services by those non-exempt public utilities" and "it would be appropriate for non-exempt public utilities to recover those costs from ratepayers." The Panel accepted that there is a role for non-exempt utilities in providing public EV charging services. To reflect this public policy objective, the Panel found it appropriate to narrow the scope for Phase Two of the Inquiry to address the manner in which non-exempt public utilities should participate, which included narrowing scope item 3.

If non-exempt utilities are to participate in the EV charging market, in FAES's submission, consideration should be given to the treatment of non-exempt public utilities other than regional electric utilities.

## **TES Providers Should be Treated Differently from Regional Electric Utilities**

FAES is not a regional electric utility and has more in common with EV charging service providers that are not otherwise public utilities, and landlords or stratas providing EV

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<sup>2</sup> AES Report at page 76: "The Panel finds that TES systems other than Discrete Energy Systems meet the definition of "public utility" in the UCA, and are regulated. However, the degree of natural monopoly characteristics and the degree of consumer protection required will affect the form of regulation."

<sup>3</sup> BCUC Order G-27-15.

<sup>4</sup> Page 40.

<sup>5</sup> Exhibit A-41, BCUC Order G-50-19.

charging service in that capacity. Like those entities, FAES generally operates outside of traditional regulation under the UCA, and within the service area of regional electric utilities.

The “otherwise existing utility” taxonomy introduced by the Panel in Phase One of the Inquiry is all that differentiates FAES from other providers of EV charging service that are also not regional electric utilities. In addition, FAES’s TES projects are already subject to regulatory treatment in accordance with the TES Guidelines.

FAES submits that in preparing its Phase Two Report, the BCUC should be cognizant of the potential for unintended regulation of EV charging service that could be provided in future by non-exempt public utilities other than regional electric utilities, particularly TES providers.

FAES submits that it is consistent with the determinations that have already been made by the BCUC in Phase One of this Inquiry and the TES Guidelines that TES providers such as FAES to be regulated in a manner similar to “exempt public utilities” for the provision of EV charging service, rather than in the same manner as regional electric utilities.

If you require further information or have any questions regarding this submission, please contact Grant Bierlmeier at (604) 443-6548.

Sincerely,

**FORTISBC ALTERNATIVE ENERGY SERVICES INC.**

***Original signed:***

Lloyd Jacobs  
General Manager

cc (email only): Registered Parties