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December 5, 2019

VIA ELECTRONIC MAIL

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

Dear Sirs/Mesdames:

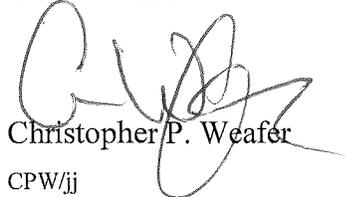
**Re: FortisBC Energy Inc. Application for Acceptance of Biomethane Purchase
Agreements between FortisBC Energy Inc. and Tidal Energy Marketing Inc.**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the "CEC"). Attached please find the CEC's Final Submissions 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**

FINAL SUBMISSIONS

**FortisBC Energy Inc. Application for Acceptance of Biomethane Purchase
Agreements between FortisBC Energy Inc. and Tidal Energy Marketing Inc.**

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Commercial Energy Consumers Association of British Columbia

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**COMMERCIAL ENERGY CONSUMERS ASSOCIATION
OF BRITISH COLUMBIA**

FINAL SUBMISSIONS

**FortisBC Energy Inc. Application for Acceptance of Biomethane Purchase Agreements
between FortisBC Energy Inc. and Tidal Energy Marketing Inc.**

The Commercial Energy Consumers Association of BC (the “**CEC**”) represents the interests of ratepayers consuming energy in applications before the BC Utilities Commission (“**BCUC**” or “**Commission**”).

FortisBC Energy Inc. (“**FEI**” or the “**Company**”) seeks acceptance, pursuant to section 71 of the *Utilities Commission Act* (“**UCA**”) of two Biomethane Purchase Agreements (“**BPA**s”) between FEI and Tidal Energy Marketing Inc. (“**Tidal**”).

The BPAs are established with two out-of-province projects:

- a) a privately owned landfill site in Niagara Falls, Ontario (“**Niagara BPA**”), and
- b) an anaerobic digestion biogas processing facility in London, Ontario (“**London BPA**”).

Key elements of the BPAs are provided Confidentially in Exhibit B-1 non redacted.

The CEC has participated in the proceeding and reviewed the evidence on the record.

The CEC provides the following submissions for the Commission’s review and consideration.

CEC SUMMARY POSITION

The CEC recommends that the Commission approve the BPAs as proposed by FEI.

I. CEC FINAL SUBMISSIONS

At page 11 of its application, FEI provides the following key reasons for Commission acceptance of both the Niagara BPA and London BPA.

These are:

1. Both BPAs are prescribed undertakings;
2. Expansion of biomethane supply is in the public interest; and

3. The BPAs support the overall policy direction provided by the BC Government in the CleanBC plan.¹

The CEC submits that FEI has adequately demonstrated that the acquisitions are supported by each of the statements above.

The CEC recommends that the Commission approve the application as filed by FEI.

II. ACQUISITIONS ARE A PRESCRIBED UNDERTAKING

FEI seeks approval of the BPAs on the basis that they are Prescribed Undertakings under section 18 of the *Clean Energy Act* and section 2(3.8) of the *Greenhouse Gas Reduction (Clean Energy) Regulation* (“**GRR**”).²

Section 2 (3.7) and (3.8) of the GRR as amended by OIC 161-2017 state:

(3.7) A public utility's undertaking that in the class defined in subsection (3.8) is a prescribed undertaking for the purposes of section 18 of the Act.

(3.8) The public utility acquires renewable natural gas

(a) for which the public utility pays no more than \$30 per GJ, and

(b) that, subject to subsection (3.9), in a calendar year, does not exceed 5% of the total volume of natural gas provided by the public utility to its non-bypass customers in 2015.³

FEI discusses the need for a liberal interpretation in its Final Argument at pages 5-6.

The CEC agrees that the object of section 2(3.7) to 2(3.9) of the GRR are to increase FEI's ability to acquire renewable natural gas in order to reduce greenhouse gas emissions.

The three-part legal test was established in BCUC Decision and Order G-122-19, as described in FEI's Final Argument.

The CEC submits that the FEI acquisitions can appropriately be considered as Prescribed Undertakings for the following reasons.

“ACQUIRES RENEWABLE NATURAL GAS”

- The public utility must be acquiring renewable natural gas (as opposed to some other form of commodity).⁴

¹ Exhibit B-1, page 11

² FEI Final Argument, page 1

³ Exhibit B-1, page 12

⁴ FEI Final Argument, page 6

In BCUC 1.1.1 and 1.1.2, FEI identifies the requirements to meet the definition of ‘acquires renewable natural gas’.

‘Acquire’ means to obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate.⁵

In the Tidal BPAs, FEI is purchasing the physical Renewable Natural Gas (“**RNG**”), including securing the rights to the associated environmental attributes and GHG emissions reduction benefits.⁶

Further, the Tidal BPAs include transportation of the RNG, such that the RNG supply is injected into the natural gas system, displacing an equal unit of conventional natural gas, and delivered to FEI.⁷

The CEC submits that this scenario fulfills a reasonable interpretation of acquiring natural gas that can be used to displace conventional natural gas.

FEI points out in BCUC 1.1.1 that a purchase of RNG that did not include the cost of transportation would, in FEI’s submission, still qualify as an acquisition of RNG, as the RNG would still be injected into the natural gas system, displacing conventional natural gas, and the environmental attributes would be acquired.⁸

The CEC agrees with this position and notes that the delivery of RNG to customers is notional in any event. The key issue is whether or not the RNG is physically acquired and injected into the natural gas system at some point, displacing conventional natural gas, rather than whether or not it is physically delivered to the interconnection point. This approach is similar to that used with respect to electricity generated by renewable biomass that is placed into the electricity grid.⁹

FEI notes in BCUC 1.1.2 that acquiring only the environmental attributes of RNG would not be an acquisition of ‘renewable natural gas’.

The CEC agrees with this position as well since the environmental attributes and the physical RNG are not one and the same.

Section 2 (3.8) of the GGRR clearly states that under a prescribed undertaking the utility will acquire ‘renewable natural gas’.

⁵ Exhibit B-1, BCUC 1.1.1

⁶ Exhibit B-2, BCUC 1.1.1

⁷ Exhibit B-2, BCUC 1.1.1

⁸ Exhibit B-2, BCUC 1.1.1

⁹ Exhibit B-2, BCUC 1.1.1

\$30 PER GJ MAXIMUM PRICE

- The utility must pay no more than \$30 per GJ for that renewable natural gas.¹⁰

The Tidal BPAs include a certain, fixed price which is below the GRR threshold¹¹ of \$30 per GJ.

FEI confirms that the price FEI pays per GJ is established in the BPA and will not vary based on production levels or other factors, with the exception that the established price increases tied to CPI until it reaches the GRR threshold price.

The CEC has reviewed the evidentiary record, including Confidential evidence, and accepts that the maximum price of the GRR will not be breached in the BPA.

The purchase price in each BPA cannot exceed the maximum acquisition price and FEI's cost of RNG under the BPAs will not exceed the maximum acquisition prices of \$30/GJ in the GRR unless there is an increase to the maximum acquisition price in the GRR or other legislation, or a BCUC decision that increases the maximum acquisition price.¹²

The CEC submits that the BPAs fulfill the requirements contained in section 2 (3.8)(a) of the GRR.

5% OF TOTAL NATURAL GAS MAXIMUM VOLUME

- Subject to certain exceptions, the annual volume of renewable natural gas acquired must not exceed 5% of the total volume of natural gas the utility provided to its non-bypass customers in 2015.¹³

The maximum volume of biomethane acquisition that would qualify under section 2(3.8)(b) of the GRR is approximately 8,900,000 GJs. The current maximum supply contracted by FEI including the recently filed BPA for the City of Vancouver totals 899,250 GJs annually¹⁴, or approximately one tenth of the maximum. The actual production for all biomethane projects in 2018 was approximately 180,000 GJs¹⁵, or approximately 2% of the maximum.

The volume of GJs per year to be sold to FEI is considered confidential for the reasons described in CEC 1.3.1 and 1.4.1.

¹⁰ FEI Final Argument, page 6

¹¹ Exhibit B-3, BCSEA 1.2.1

¹² Exhibit B-3, BCSEA 1.3.1

¹³ FEI Final Argument, page 6

¹⁴ Exhibit B-1, page 12

¹⁵ Exhibit B-1, page 12

FEI estimates that its total RNG supply with the London BPA and the Niagara BPA will be approximately 17% of the 5% GRR criterion.¹⁶

The CEC notes that FEI will not need to displace any other potential projects in order to meet the volume criterion.

FEI confirms that if the two projects are completed and FEI develops all of the 1 PJ of its prospective projects currently available, FEI will still remain below the maximum volume of biomethane acquisition that would qualify as prescribed undertakings, which is approximately 9 PJ.¹⁷

The CEC has reviewed the evidence with regard to the volumes of RNG available from the Tidal BPAs with respect to the volume criterion for acquisition under a prescribed undertaking.

The CEC submits that there is more than adequate room to acquire the RNG supply from the BPAs under the prescribed undertaking maximum of 5% of total natural gas provided by the public utility to its non-bypass customers in 2015.¹⁸

Overall, the CEC submits that the acquisitions meet the test of the prescribed undertaking and accordingly should be approved.

III. PUBLIC INTEREST

Notwithstanding that the applications should be approved as prescribed undertakings, the CEC submits that the acquisitions are generally in the public interest and do not result in significant negative economic consequences either for ratepayers or for other stakeholders such as RNG providers in BC.

SUPPORTS OVERALL POLICY DIRECTION

FEI's understanding is that CleanBC is focused on reducing GHG emissions in BC to achieve its 2030 GHG reduction targets. Furthermore, the provincial government has stated that it believes its GHG reduction goals and economic development goals are mutually reinforcing.¹⁹

As noted above, the plan specifically establishes a target of 15% renewable natural gas by 2030.

CleanBC relies heavily on RNG as 75 percent of emission reductions in the building sector are expected to come from RNG. This will require more agreements similar to the two proposed BPAs in order to achieve the GHG reduction targets.²⁰

¹⁶ Exhibit B-3, BCSEA 1.1.4

¹⁷ Exhibit B-5, CEC 1.12.1

¹⁸ GRR, s. 2(38)(b)

¹⁹ Exhibit B-5, CEC 1.9.2

²⁰ Exhibit B-1, BCUC 1.1.6

The CEC agrees with FEI that the proposed acquisitions are therefore supportive of BC provincial policy direction.

The CEC also agrees with FEI’s statement that emissions abatement is a global issue that is not contained within jurisdictional borders²¹ and can be considered as contributing positively to larger climate policies.

RATEPAYER IMPACTS

Impact on RNG Customers

RNG is a voluntary purchase and is marketed to RNG customers at a discount to its actual purchase price. It is an important element in assisting customers to meet their energy and climate objectives.²²

The evidence below demonstrates that there is significant unmet demand for the product from RNG customers at the current pricing levels. Accordingly, the RNG projects can be expected to benefit RNG customers in providing additional opportunities for voluntary purchases.

FEI provides the following demand forecast through 2028 which represents ongoing increases to 2023, and lower demand thereafter.

Year	2020	2021	2022	2023	2024	2025	2026	2027	2028
Expected Demand (TJ)	605	660	741	1,064	563	587	643	666	682

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The CEC notes that demand from all customers, including commercial customers, has risen significantly since the introduction of the RNG option and is continuing to increase.

All Customers

²¹ Exhibit B-2, BCUC 1.1.3.1

²² Exhibit B-1, BCUC 1.1.5

²³ Exhibit B-5, CEC 1.7.6

Year	(i) Customers	(ii) RNG Volumes (TJ)
2011	947	2.72
2012	4,609	19.95
2013	6,403	74.85
2014	6,823	123.06
2015	6,770	150.32
2016	7,481	163.58
2017	8,986	233.10
2018	10,339	276.31

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Commercial Customers

Year	Non Residential RNG Volume (TJ)
2012	2.47
2013	30.61
2014	70.00
2015	97.54
2016	103.10
2017	144.71
2018	179.45

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Demand from customers for RNG currently exceeds available supply. As a result, FEI has suspended new applications to RNG subscription programs for residential and commercial customers, and has curtailed RNG supply to interruptible and long-term agreement RNG customers.²⁶

FEI provides the following inventory balances included in the BVA over the last 10 years.

RNG Inventories TJs	2010	2011	2012	2013	2014	2015	2016	2017	2018
Opening Inventory	-	6.0	42.3	79.6	99.0	79.9	62.2	32.4	(46.9)
Purchases	6.0	41.1	60.7	94.3	104.0	132.6	133.7	153.8	323.1
Sales		(4.7)	(23.5)	(74.9)	(123.1)	(150.3)	(163.6)	(233.1)	(276.2)
Closing Inventory	6.0	42.3	79.6	99.0	79.9	62.2	32.4	(46.9)	-

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²⁴ Exhibit B-5, CEC 1.11.1

²⁵ Exhibit B-5, CEC 1.7.2

²⁶ Exhibit B-3, BCSEA 1.3.1

²⁷ Exhibit B-5, CEC 1.7.7

FEI estimates that supply limitations will prevent approximately 1500 residential rate class customers from enrolling in 2020, representing a 15 TJ shortfall. Similarly, approximately 20 small commercial customers will not be added to the program in 2020, for an unmet annual RNG demand of 1.5 TJ.

Based on expressions of interest for RNG among larger volume customers, FEI estimates there to be 15-21 customers currently not able to participate with a requested volume approaching 3,000 TJ, which cannot currently be met.

FEI states that ‘certainty of supply’ is required to support a decision to purchase RNG on a long-term basis, which is explained in CEC 1.7.5.²⁸ For instance, in the absence of long-term RNG supply for transportation, TransLink may in the future choose electric buses. UBC considered the availability of RNG when selected RNG as an energy input for generating electricity.²⁹

Non-Bypass Customers

FEI expects that if RNG were to be priced at the full acquisition price, FEI would see a decline in voluntary participation.³⁰

FEI’s calculated rate impact to non-bypass customers is contained in the Confidential application. The rate impact is no greater than FEI would expect for projects of similar volume and price located in BC.³¹

The CEC has reviewed the evidence and submits that the ratepayer impact to non-bypass customers is modest and acceptable.

In BCUC 1.3.1, FortisBC provides its views as to the benefits to ratepayers. These include:

1. Reduction in emissions are in the public interest and the purchase assists customers in meeting provincial energy objectives;
2. RNG is a low cost, renewable alternative; and
3. It provides resiliency to provincial energy system, and is less costly than duplication of energy infrastructure.

The CEC submits that FEI has made adequately convincing arguments with regard to these items.

The CEC has been supportive of the development of FEI’s biomethane program as a reasonably cost-effective³² means to introduce renewable natural gas into the gas system that permits

²⁸ Exhibit B-5, CEC 1.7.5

²⁹ Exhibit B-5, CEC 1.7.5

³⁰ Exhibit B-2, BCUC 1.6.3

³¹ Exhibit B-1, page 10

³² Exhibit B-5, CEC 1.7.10

customers to reach their sustainability objectives and does not require any additional specialized equipment or capital expenditure.³³

The CEC submits that the voluntary basis is valuable in offering customer choice while not significantly impacting non-participating ratepayer interests as there is limited cost impacts to non-bypass customers who do not wish to participate.

The CEC submits that from a high-level perspective the increasing inclusion of biomethane in the natural gas system could ultimately help mitigate potential existential threats to the utility arising from the natural gas contribution to climate change. Such mitigation can potentially serve to reduce customer migration away from the utility and maintain lower rates overall.

Additionally, there are certain customer benefits as FEI has secured the ability to report directly under the *Renewable and Low Carbon Fuel Requirements Act* which allows FEI to transfer the emissions reductions to its customers.³⁴

OUT-OF-PROVINCE PURCHASES

The Tidal BPAs will represent the first purchases of RNG from out-of-province.³⁵

In addition to the Tidal BPAs, FEI expects to file additional BPAs for out-of-province RNG in 2020.³⁶

The CEC is of the view that acquiring RNG from within BC is preferable in that local acquisition contributes to economic development and jobs within the province.

However, the CEC submits that FEI has adequately established that out-of-province RNG is necessary to meet supply objectives now and in the future, and has made reasonable determinations which support the purchase of RNG from out-of-province at this time.

Further, there does not appear to be significant detriments to the RNG supply within BC from out-of-province purchases.

BC Supply Cannot Meet Demand

When FEI evaluated projects it reviewed them based on volume, speed to market, price per GJ of RNG, location, technology, and carbon intensity. When ranking projects, FEI considered RNG producers within BC more favourably than those out of province.³⁷

The CEC submits that this is appropriate criteria by which to evaluate RNG projects.

³³ Exhibit B-5, CEC 1.7.4

³⁴ Exhibit B-3, BCSEA 1.7.1

³⁵ Exhibit B-5, CEC 1.6.1

³⁶ Exhibit B-5, CEC 1.6.1

³⁷ Exhibit B-3, BCSEA 1.8.2

FEI expects that it will need to develop all of the RNG supply available within BC, as well as pursuing projects outside of BC to reach the CleanBC plan target of 15% renewable gas content.³⁸

The CEC submits that this statement is supported by the evidence.

FEI is continuing to actively review BC RNG projects, and expects that it will reach 1 PJ of annual supply in about 2 years.³⁹ It has a prospect list of 15 RNG projects in BC at this time.⁴⁰

Category	Volume in PJ		
	2019	2020	2021
Existing Accepted Projects	0.24	0.30	0.38
BC Projects Signed Agreements	0.30	0.38	0.92
Total	0.54	0.67	1.30

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FEI confirms that 1PJ does not represent the total available amount of RNG if it were developed to maximum capacity in BC.⁴²

The best estimate FEI has regarding RNG potential in BC over the next 10 years is between 8.0 PJs and 12.0 PJs.⁴³

FEI provides the following forecast of the value in PJs required to meet the 15% renewable natural gas target over the next 10, 15, and 20 years.

Timeframe	Volume (PJ)	15 Percent (PJ)
2030 (10 years)	198.3	29.7
2035 (15 years)	201.6	30.2
2040 (20 years)	205.0	30.8

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Accordingly, the near term (2 year) available potential in BC represents about 4% of the total that will be required in 10 years, and the overall total potential RNG development opportunity in

³⁸ Exhibit B-5, CEC 1.7.12

³⁹ Exhibit B-5, CEC 1.7.11

⁴⁰ Exhibit B-1, page 7

⁴¹ Exhibit B-5, CEC 1.7.11

⁴² Exhibit B-5, CEC 1.7.14

⁴³ Exhibit B-5, CEC 1.7.14

⁴⁴ Exhibit B-5, CEC 1.7.1

BC (est. 10 PJ) appears to represent only about one third of the RNG required to meet the 15% RNG targets in 2030 and beyond.

The CEC notes that even if BC RNG is double that estimated by FEI, substantial out-of-province RNG will still be necessary to meet the 15% renewable gas target.

BC Projects Will Not be Impeded

FEI is clear that it does not expect to delay, terminate or curtail any in-province RNG projects as a result of the purchase of RNG from out-of-province.⁴⁵

BC Benefits from GHG Emissions Reductions Out of Province

FEI states that acquiring biomethane in Ontario will reduce GHG emissions in BC.⁴⁶

Greenhouse gas emissions are accounted for at the end-use, which requires a clear contractual path, real displacement of conventional gas, and the retirement of environmental attributes upon use.⁴⁷

FEI sees no limitations to using the same arrangements elsewhere within Canada or within the Continental US due to the contiguous pipeline network.⁴⁸

FEI also states that the:

“BPAs reduce GHG emissions in BC by increasing the amount of RNG supply available to FEI’s customers. The availability of RNG supply for those customers that wish to participate in FEI’s voluntary RNG programs means that customers that are currently precluded from signing up for FEI’s voluntary program due to supply constraints will be able to subscribe. This is particularly true for large customers such as commercial, institutional and industrial customers and for customers in the Natural Gas for Transportation (NGT) market segments. There are large NGT customers that wish to participate in the RNG programs that are ‘on hold’ until FEI can bring on more RNG supply. The use of RNG in the NGT market will reduce GHG emissions because customers seeking a GHG neutral transportation solution can switch to CNG in anticipation of electing to participate in FEI’s RNG program. This switch to CNG from diesel in and of itself reduces GHGs by 10 – 30 percent.”⁴⁹

Out of Province Supply Offers Additional Benefits

As noted in the Application, diversification of RNG supply enhances the reliability of the supply portfolio.⁵⁰

⁴⁵ Exhibit B-5, CEC 1.7.12

⁴⁶ Exhibit B-2, BCUC 1.2.1

⁴⁷ Exhibit B-2, BCUC 1.2.1

⁴⁸ Exhibit B-2, BCUC 1.1.3

⁴⁹ Exhibit B-2, BCUC 1.2.1

⁵⁰ Exhibit B-1, page 9

Additionally, because FEI is one of the first utilities to acquire RNG, it has the advantage of securing RNG at better prices than if it were competing for the gas with other jurisdictions. A lower price of acquisition from outside of BC will provide an opportunity to secure an overall lower average RNG supply pool cost.⁵¹

Overall, the CEC does not find evidence to suggest that there are significant limitations on the benefits of biomethane purchases in BC if the RNG is acquired out of province.

The CEC does not take issue with the out-of-province aspects of this application.

IV. BPA CONTRACTS ARE ACCEPTABLE

The BPA contract specifics are provided in the Confidential, non-redacted application.

The CEC has reviewed the evidence related to the BPA contract terms and finds them to be acceptable.

V. CONCLUSION

The CEC finds the projects to be both prescribed undertakings and beneficial in the public interest.

The CEC recommends that the Commission approve the application as filed by FEI.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

David Craig

David Craig, Consultant for the Commercial Energy
Consumers Association of British Columbia



Christopher P. Weaver, Counsel for the Commercial
Energy Consumers Association of British Columbia

⁵¹ Exhibit B-1, page 9