



Direct Energy.



**BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT**

**FortisBC Energy Inc. Complaint filed by Cascadia Energy Ltd., Direct Marketing Energy Ltd and
Access Gas Services Inc.**

**Cascadia Energy Ltd. (Cascadia), Direct Marketing Energy Limited (Direct) and Access Gas
Services Inc. (Access)
(collectively BC GMC)**

ARGUMENT

15 May 2020

1. INTRODUCTION

1. On 4 September 2019, Cascadia Energy Ltd. ("**Cascadia**"), Direct Energy Marketing Limited ("**Direct**"), and Access Gas Services Inc. ("**Access**") filed a complaint and requested that the Commission inquire into FortisBC Energy Inc.'s ("**FEI**") administration of Rate Schedules 22, 23, 25 and 27 related to transportation customer service.¹
2. Cascadia, Direct and Access are separate companies but have a common perspective and experience related to the points outlined below and have collaborated to present a joint argument. For ease of reference, we will refer to the companies collectively as the BC Gas Marketers Coalition ("**BC GMC**"), but the BC GMC is not a formal entity.
3. BC GMC represents a substantial segment of Transportation Service ("**T-Service**") interests on the FEI system – i.e. about 30% of the total T-Service demand and 48% of the 2,400 T-Service customers².
4. The BCUC determined that the BC GMC complaint warranted further process to review the issues and issued Procedural Order G-340-19 for the Inquiry on 20 December 2019.
5. The issues in this Inquiry include the following
 - a. The nature and adequacy of the information that FEI provides to enable transportation customers to comply with the transportation service gas balancing and tolerance rules.
 - b. Measures necessary to assure timely access to customer consumption data.
 - c. Potential adjustments to the balancing rules to allow for inter-customer group balancing.
 - d. Review of FEI's practices related to curtailment and return of gas.
 - e. The need for a FEI code of conduct for its gas marketing activities, to establish a competitive market for all gas marketers and their customers.

¹ Exhibit B1-1, BC GMC Complaint.

² Exhibit C1-1, FortisBC Response to BC GMC Complaint, page 1.

2. OVERVIEW

6. In 1995 and 1996, FEI (then BC Gas) completed a Rate Design that established the foundation for the present-day rate schedules related to large commercial and industrial T-service. Among the changes, there was a shift in the onus to manage peak-day gas supplies. Instead of the utility supplying peak-day gas for transport customer groups based on an agreed peak-day DTQ, the transportation customer assumed responsibility to supply its peak-day gas, subject to reasonable balancing and unauthorized over-run rules.
7. The balancing and tolerance rules related to the transportation service rate schedules were tightened in the recent Commission decision³ on the FortisBC 2016 Rate Design Application ("**2016 RDA**"), yet the flow of necessary information from FEI to the transportation customers remains inadequate to manage gas supply within the new rules.
8. The quality of the gas supply management information (as detailed later) has not improved as FEI has transitioned to the tighter rules.⁴ The inadequacy of this information makes it difficult for gas marketers to comply with the tighter balancing and tolerance rules. This situation compels overly conservative gas management actions to avoid penalties and works against a collaborative approach to managing the overall gas system supply.
9. FEI asserts that the foundation of the issues raised by the BC GMC complaint results from the "energy market disruption" because of the Enbridge pipeline rupture upstream of the FortisBC system.⁵ FEI maintains that, apart from this recent disruption, the system is operating as intended.
10. BC GMC disagrees. The Transportation Model should work in all circumstances. It failed during the Enbridge disruption. That disruption exposed problems with the Transportation Model and how FortisBC administers it.
11. Further, FEI's actions during that disruption also exposed FEI's efforts to use its market power to take advantage of a difficult situation and acquire customers in a way that was unfair and anti-competitive. Those actions resulted from a deliberate marketing strategy that FEI implemented – a management choice, not an uncontrollable physical event.

³ BCUC Reasons for Decision on FortisBC Energy Inc. 2016 Rate Design Application, July 20, 2018 ("FEI 2016 RDA Decision").

⁴ See Exhibit B1-1, BC GMC Complaint for more details.

⁵ Exhibit B1-1, FEI Response, pages 1 and 2.

12. The BC GMC is seeking changes to FEI's administration Transportation Model so the information flow is better and the enforcement of the tolerance and balancing rules is reasonable and fair. Specifically, the BC GMC seek the following
- a. More accurate and timely customer gas consumption information to inform supply nominations including the integration SCADA data into the burn reports
 - b. Clear and consistent criteria for curtailment.
 - c. Clear and consistent criteria for the return of Hold for Authorized gas inventory and/or some mechanism for returning any premium value of that inventory.
 - d. Allowance for and implementation of standardized practice for inter-group and inter-company balancing.
 - e. FEI adherence to the Gas Marketer Code of Conduct.
13. Further elaboration of the issues and the changes BC GMC seeks follows.

3. REVIEW OF THE INQUIRY ISSUES

3.1. The nature and adequacy of the information that FEI provides to enable transportation customers to comply with the transportation service gas balancing and tolerance rules.

14. The 1996 changes increased the importance of BC Gas measuring and reporting transportation customer daily consumption to the customer's gas managers so they could adjust the supply arrangements.
15. Since BC Gas did not have the ability to report accurate consumption information on a daily basis, it allowed a daily balancing tolerance of 20%. Further, BC Gas worked cooperatively with the transportation customer gas managers ("**Gas Managers**") to manage the system supply and to avoid curtailments and penalties related to customer imbalances. This cooperative approach served the overall system interests, by allowing for efficient and timely adjustment to the system gas supply.
16. Over the course of the last two decades, the balancing rules and curtailment processes have become increasingly strict. The past practice of working cooperatively with the transportation customer gas managers has diminished, to the detriment of the utility, transportation customers

and other customers. For example, curtailments of inventory return gas were initially placed on a priority equal to curtailment of utility interruptible customers. Today, that practice has been abandoned in favour of curtailments that are based on discretionary criteria that only FEI knows. The informal “give and take” that was common in the past is now gone.

17. In response to BCUC IR1, FEI acknowledged that the Web Information & Nomination System (“WINS”) data is at least two days old, but argued that gas marketers should not base their gas nominations on that data.

The data in WINS for the day immediately prior to the current day is always an estimated quantity since, at the time that the data is collected, the gas day is not yet complete. Actual metered customer data is provided for the day that is two days prior (not three) to the day the 26 nomination is made.

...

As a result, the assertion that the BC GMC are unable to nominate more accurately due to the delay in volume data provided in WINS is, in FEI’s view, inconsequential because, as noted above basing nominations on past consumption is not appropriate because customer demand is impacted more by other factors than the prior few days’ consumption.⁶ [underlining added]

18. In response to a subsequent question, FEI confirmed that the quality of the information has not improved since the 2016 RDA Decision, and then asserted that the information is adequate to inform nomination decisions (which is at odds with the point FEI tried to establish in the previous response).

No, the quality of the volume data provided to Shipper Agents and T-Service customers has not changed since the 2016 RDA approval. The volume data provided in WINS as well as the real time flow data available through SCADA remains the same and is adequate for the purposes of informing forecasts for nominations, as evidenced by the fact that the majority of Shipper Agents continue to nominate and manage supply imbalances within reasonable levels. [underlining added]⁷

⁶ Exhibit C1-2, FEI Response to BCUC IR1, Q1.1.

⁷ Exhibit C1-2, FEI Response to BCUC IR1, Q1.3.

19. FEI also clarified that the quality of the information has not changed during the last decade.

As indicated in the 2016 RDA response to BCUC-FEI IR 1.56.1.1, the volume data has not substantially changed since 2009/10 where FEI moved to wireless (cellular) AMR technologies, which effectively improved actual volume reporting for the majority of transportation customer locations.⁸

20. Despite FEI's attempt to defend the quality of the information, FEI itself has not been able to comply with the balancing rules. FEI is not among "the majority of Shipper Agents" that nominate and manage supply imbalances within reasonable levels.

21. In the recent 2016 RDA proceeding, the record showed that FEI had difficulty complying with the balancing rules, even before they were tightened.

In its role as Shipper Agent, FEI has incurred significant balancing gas penalties in recent years. Over the past five years FEI's share of overall monthly balancing gas volumes has ranged from 3.9 to 21.5 percent. The revised version of Table 10-8 of the Application provided in response to BCUC IR 60.9.1 shows FEI ranked as the Shipper Agent with the second worst balancing issues.⁹

22. As of 1 November 2019, FEI no longer has any customers being served under Rate Schedule 14A.¹⁰ When FEI was serving such customers, however, it did not manage the gas supply for its Schedule 14A customers on a day-to-day basis.

Historically, FEI's Rate Schedule 14A customers has included a relatively small group with no large industrials that had any large swings in daily consumption from day to day. Accordingly, FEI did not communicate with its Rate Schedule 14A customers on a daily basis regarding their projected consumption forecasts for the upcoming gas days' nominations. Instead, FEI choose to use historical customer consumption and historical weather coupled together with upcoming weather forecasts and recent customer consumption trends to develop its Rate Schedule 14A forecast consumption estimates and

⁸ Exhibit C1-2, FEI Response to BCUC IR1, Q1.4.

⁹ 2016 RDA Decision, page 79

¹⁰ Exhibit C1-3, FEI Sur-Reply, page 6.

corresponding nominations. This methodology resulted in infrequent changes to FEI's Timely nomination for Rate Schedule 14A.¹¹

23. Despite the decreasing the balancing tolerance to 10% following the 2016 RDA Decision, FEI has not improved the quality and timeliness of customer consumption measurement data to align with the changes.
24. While Shipper Agents have access to FEI's Supervisory Control and Data Acquisition ("SCADA") information, only 39 large volume customers are on SCADA, which is a small percentage of FEI's 2400 T-Service customers.
25. The remaining 2,361 T-Service customers still report volume data that is an estimate two days after the gas consumption, which is actually three days behind when taking into account the nomination practices and deadlines.
26. FEI elaborated on its timing on reporting information as follows.

As indicated in response to RDA BCUC IR1 56.2, FEI makes the best available data or metered non-billable data that it has from its field devices available to the Marketer ahead of the gas trading window. Since the gas trading window is a day out (e.g. the day before, usually between 5:30am to 7:30am for tomorrow's gas day), FEI is only able to provide an estimate for the current gas day because the current gas day, running from 7am to 7am, has not yet completed during the gas trading window.¹²

However, at the time such nominations are made the available data, with the final day of that data (the estimate) is dated two days before the date the nomination is made for. Measured data, at that moment, is actually three days old.

27. FEI confirmed that SCADA flow data is available for slightly more than one half of the overall T-Service demand.

The SCADA flow data represents approximately 20.0 Petajoules (PJs) out of 38.2 PJs of Total 21 T-Service demand in the Winter of 2018/2019 and 48.2 PJs out of 83.7 PJs of Total T-Service annual demand for the 2018/2019 Gas Year across the Lower Mainland,

¹¹ Exhibit C1-5, FEI response to BC GMC IR1, Q.1.9.

¹² Exhibit C1-5, FEI response to BC GMC IR1, Q.2.1.

Interior and Columbia regions. Shipper Agents, therefore, have received additional real-time flow data that represents roughly 52 to 58 percent of the T-Service customer demand in addition to the traditional consumption history available through WINS.¹³

28. FEI also confirmed that it only offers SCADA to RS 22 customers.

Real-time SCADA data is currently only available for large gas users, namely RS 22 customers that are primarily served off the transmission pressure system. Gas Control has no need to have SCADA data at all customer sites as many are too small individually and are mostly served off the distribution system. As such, FEI does not offer SCADA for all T-Service customers on the system as it is not required from an operational standpoint and would be very costly to administer and maintain.¹⁴

29. Thus, for most T-Service accounts, Shipper Agents do not have the necessary timely information to manage their supply to comply with the Transportation Model gas balancing and tolerance rules.

30. To compensate for the inadequate information, gas supply managers will tend to over-deliver to the FEI system – i.e. deliver well in excess of worst-case flow volumes – to avoid under-delivering and attracting penalties. This approach is not optimal to balance the overall system, but it is a logical consequence of inadequate information paired with the tighter balancing and tolerance rules. FEI acknowledges that over-delivers are an outcome.¹⁵

31. Generally, the over-deliveries coincide with higher market prices and the gas may only be returned (by under-delivery) after the lifting of curtailments, which coincides with the abatement of market prices. FEI receives extra gas when prices are high and returns the gas when prices are low.

3.2 Measures necessary to assure timely access to customer consumption data.

32. The quality and timeliness of the information is critical to the success of the Transportation Model gas management system. It is in the interests of all involved – FEI, shippers and the shipper agents – to communicate and collaborate effectively to manage the overall gas supply.

¹³ Exhibit C1-2, FEI Response to BCUC IR1, Q1.6.

¹⁴ Exhibit C1-2, FEI Response to BCUC IR1, Q1.7.

¹⁵ Exhibit C1-5, FEI response to BC GMC IR1, Q4.7.

FEI has claimed that providing line-pack information to Shippers "...would not useful"¹⁶ but the BC GMC disagrees with this claim. If FEI, at a minimum, could provide line-pack information prior to a weekend, then Shippers could communicate to customers that the system may become constrained and provide advance notice that customers must manage to the expected burn numbers for the weekend or expect penalties. This information flow would also aid FEI in managing its line-pack back to a 'normal state', which is beneficial to all parties. Shippers would find this information useful and the provision of this additional information should not be unnecessarily burdensome for FEI. FEI claims that it "...is not aware of any local distribution company that provides this type of information to its customers"¹⁷; however, the BC GMC is aware that Union Gas, operating in Ontario, provides line-pack information to the benefit of all customers.

33. BC GMC believes that FEI could optimize the measurement data provision to at minimum provide one additional day of data. BC GMC understands that currently each AMR meter dials in during the nighttime hours and reports the data for the preceding gas day and that FEI then internally vets that data and reports the information the following day (two days later). The data received on any day could easily be relayed directly to the WINS reporting system. If there are concerns that this data has not been vetted, BC GMC contends that 1) the data would still be better than the estimate currently provided; and 2) the data could easily be vetted throughout the day and the WINS data updated. The effect would be to make the actual measured data during the nomination window two days old rather than the three day. It is useful to note that the current estimate provided is nothing more than a number derived from the measured burn seven days previous.
34. BC GMC believes that with advancements in technology it should be both feasible and cost efficient to integrate real time data into the WINS data-flow. The SCADA system is already configured to give last-hour, previous day, and current-day intermediate burn data in a rudimentary report that marketers can access on an ad hoc basis. This data could be added to the WINS system at times that would allow marketers to make intraday nominations which would improve system efficiency, and alleviate some of the concerns related to stranded value.

¹⁶ Response to BC GMC Information Request (IR) No. 1, pdf 51, line 5.

¹⁷ *Ibid*, line 3.

35. BC GMC believes that FEI could, with nominal cost and technology, implement a “marketer dashboard” into WINS that would incorporate data from AMR, SCADA, line-pack, and any other relevant data and news. Marketers could see, upon signing in, estimates of their current burns and previous days burns, FEI line-pack trends, and a host of other data and tools to help manage supply. BC GMC believes this would enhance gas marketer efficiency and improve overall system efficiency for all customers.
36. BC GMC would be willing to form a working group with FEI to help study and create the parameters that would be most effective in supplying measurement data, nomination tools, and any tariff adjustments that would be required.

3.3 Potential adjustments to the balancing rules to allow for inter-customer group balancing.

37. BC GMC would like the Transportation Model rules to allow for “intercompany group balancing” so that Shippers may transfer volumes among their accounts when they are in off-setting positions. If one Shipper is long in its gas balance position and another short on a given day, then balancing the gas between the Shippers would help minimize Shipper penalties and over deliveries, which, in turn, would help FEI balance its system more efficiently.
38. Even though prudent gas supply managers will tend to over-deliver (as explained above), customer volatility sometimes causes an under-delivery when curtailed. FEI rules do not allow for balancing between marketer groups automatically, so the imbalances are additive and incur penalty charges. The cumulative penalties exceed what is necessary to protect the core market and promote the desired supply-management behavior.
39. In the 2016 RDA Decision, the BCUC encouraged FEI to communicate its practices to its shippers and shipper agents, and to modify those practices as needed.

The Panel encourages FEI to clearly and transparently communicate its business practices to Shippers and Shipper Agents and to establish a process that facilitates consultation with these parties to modify business practices as required by changing markets and systems.¹⁸

¹⁸ 2016 FEI RDA Decision, at page 79.

40. FEI confirms that it does practice intercompany group balancing on a discretionary basis, applying a “no-harm” to the core customer group test.

FEI has allowed inter-customer group balancing in the past and continues to do so on a case by-case basis under certain conditions. FEI has permitted inter-customer group balancing only during Hold to Authorize periods to help reduce Unauthorized Overrun Gas (UOR) charges incurred by transportation customers and their Shipper Agents. FEI enables adjustments only if Shipper Agents as a whole, by location, achieve the intent and purpose of a supply restriction of providing sufficient supply to meet the total transportation customer demand each day.

...

FEI has only allowed retroactive inter-group balancing of this nature on occasion where FEI was of the view that it would benefit Shipper Agents and their customers without detriment to FEI’s other customers.¹⁹

41. The purpose of balancing and penalty charges is to encourage transportation market customers to deliver adequate supply in all cases. The allowance of intra-company supply and inventory adjustments post flow-date has the effect of rationalizing the individual decisions made by companies to best match aggregate demand with aggregate supply.
42. BC GMC contends that post flow-date adjustments between gas marketers are not detrimental to core-customers. It would reduce balancing and penalty charges that would otherwise accrue to the core market. Presumably, marketers would trade for their own benefit, to reduce these penalty and balancing charges, but in doing so, will have no impact on aggregate transport customer supply and demand.
43. The BC GMC is open to working with FEI on this approach to allow it to be available consistently, assuming reasonable criteria are met.

¹⁹ Exhibit C1-5, FEI response to BC GMC IR1, Q.3.

3.4 FEI's practices related to curtailment and return of gas

44. In recent years, FEI has often restricted inventory returns (curtailed) for reasons other than weather-driven supply issues. The criteria that FEI applies to its decisions on limiting gas returns is not clear, but it is clear that the practice has changed recently. Inventory gas is gas already delivered to FEI and should not be "held hostage" without some explicit understanding of priority of supply.

45. FEI explains its curtailment criteria as follows.

A supply curtailment, also referred to as a supply restriction or Hold to Authorized, is typically imposed in response to periods of cold or extreme weather or operational issues that cause a disruption on the system. The restriction applies to all transportation customers at a specific location (typically the Lower Mainland or Interior), regardless of their rate schedule.

Generally, as cold weather approaches, FEI first reduces or eliminates Imbalance Return in order to incentivize Shipper Agents to manage their supply and demand imbalances more tightly. However, when sustained or extreme cold weather occurs, FEI may also impose a Hold to Authorized restriction on all transportation customers. This restriction reduces their balancing requirements from 10 percent to 5 percent. Accordingly, the risk that transportation customers may incur UOR penalties for Unauthorized Overrun Gas provides additional incentive for Shipper Agents to manage their imbalances more tightly to ensure they have provided sufficient supply to meet their customer demand.²⁰

46. FEI also confirmed that it has, on occasion, sold some of the "Hold to Authorized" gas inventory.

Curtailments are generally put in place as part of FEI's response to cold weather events. As such, FEI's general practice is not to sell next day or same day gas as it is required to meet core load. However, there are times when FEI will sell excess gas as mitigation required by operational conditions that prevent FEI using incremental supply from AECO/NIT. These sales are reflected and occur at Kingsgate.

²⁰ Exhibit C1-5, FEI response to BC GMC IR1, Q.4.1.

As the attached table illustrates, FEI sold gas on a small number of days during Hold to Authorized restrictions and the associated volumes are minor when compared to system throughput. Typically, FEI will not sell gas during cold snaps or during a Hold to Authorized restriction.²¹ [underlining added]

47. Although FEI does not consider the Hold to Authorized gas inventory as a gas supply resource, FEI's use of the curtailed gas as a gas supply resource creates an operational and economic benefit for the FEI sales gas system at the expense of T-customers.

The provisions of the Transportation Service Rate Schedules permit FEI to use Shipper's Gas that is not consumed by the Shipper or is not authorized for delivery to the Shipper (for example Section 4.1 of RS 23). Nonetheless, FEI does not consider the curtailment of transportation customers, through the application of the Hold to Authorized or Imbalance Return conditions, as a "source of supply" because FEI wishes to incent Shippers to make accurate nominations on each Day and provides Shippers Agents access to the same information that FEI itself can access for this purpose.²²

48. During the 2018/2019 winter, FEI curtailed its system for almost one month with only a two-day reprieve. Substantial volumes were banked in customer inventories at very high prices (day prices topped \$200/GJ and averaged \$20/GJ-\$40/GJ) and were only returned in the subsequent period when prices average \$3/GJ-\$4/GJ. The net transfer in value from the BC GMC to FEI was in the millions of dollars, a penalty unfairly levied against transport customers to the benefit of core market customers, who enjoyed low commodity prices throughout winter.
49. During the Enbridge disruption, FEI changed its imbalance return practices and did not communicate the changes effectively. FEI's changes can result in substantial penalties for the shippers.

As discussed in the response to BCUC IR 1.2.2, if, for operational reasons, it was necessary for FEI to authorize different amounts of the imbalance return service in the Lower Mainland as compared to the Interior; under these circumstances Shipper Agents serving customers in each region would have a different allocation of this imbalance return service. Historically, FEI has usually made this service available at both locations

²¹ Exhibit C1-5, FEI response to BC GMC IR1, Q.4.6.

²² Exhibit C1-5, FEI response to BC GMC IR1, Q.4.8.

at the same time; however, following the Enbridge incident and the resulting upstream pipeline restrictions, the circumstances required FEI to determine the availability of imbalance return service on a regional basis more frequently than what Shipper Agents have experienced in the past.²³

50. FEI places the responsibility for adequate provision of peak day supplies on the transport customers. BC GMC believes that FEI can provide transparency about the criteria for curtailment decisions and timing. As part of this, FEI should be required to make clear the order of priority for curtailing various rate schedules, and the basis of and timelines for curtailments. This would help marketers better anticipate and work cooperatively with FEI to manage overall gas loads, system supply, and improve system efficiency.
51. BC GMC believes it is inappropriate for FEI to be permitted to sell excess gas obtained from transportation customers for the benefit of FEI, other customers, or other parties. The uncontrolled ability for FEI to use excess marketer over-supply discourages restraint in curtailing and may indeed incent earlier, more frequent, or lengthier curtailments. BC GMC strongly believes that the tariff should ensure and incent FEI to curtail “only when necessary, only as long as necessary” as opposed to “at any time, for any reason”.

3.5 The need for a FEI code of conduct for its gas marketing activities, to establish a competitive market for all gas marketers and their customers.

52. FortisBC claims it does not market bundled service. However, the record shows that FEI has contacted customers offering bundled service and presenting rate comparisons for bundled versus T-Service.²⁴ This marketing campaign was clearly designed to promote its bundled service. As part of that campaign, FEI offered to suspend the normal service contracting deadlines.
53. In its 24 May 2019 letter to all transportation customers, FEI informed the customers that the “offer” to return to utility service had been extended to July 1st, with the caveat that even later switches may be considered.

²³ Exhibit C1-2, FEI Response to BCUC IR1, Q2.3.

²⁴ See the FEI letters filed with Exhibit B1-1, BC GMC Complaint.

54. During the past winter, FEI sent a letter, dated 15 February 2019, to transportation customers just when they were receiving very high bills from their gas marketers. In that letter, FEI stated reminded customers that they could return to bundled service with FEI.
55. In the interim, FEI, provided potential customers with historical rate comparisons.
56. On 24 May 2019 – days before the June 1st deadline – FEI sent an additional letter to all transportation customers, informing them that the “offer” to return to utility service had been extended to July 1st, with the caveat that even later switches may be considered.²⁵
57. This marketing effort by FEI raises serious concerns about how FEI competes in this market space. FEI must not be permitted to use its access to customer information and dominant market power to compete unfairly.
58. FEI protests against the characterization of its activities as marketing.

To address this question, it is FEI’s understanding and interpretation that the marketing activities being referred to in the question pertain to activities or initiatives FEI undertakes to “encourage” customers to move from Transportation Service to Bundled sales service. Using this interpretation, FEI confirms that it does not carry out any activities in this regard.

59. Despite FEI’s protests, the letters speak for themselves.
60. The Commission has established rules of conduct in other situations such as for:
- a. services downstream of the residential meter.²⁶
 - b. alternate energy services.²⁷
 - c. affiliated regulated businesses operating in a non-natural monopoly environment,²⁸ and

²⁵ See the FEI letters filed with Exhibit B1-1, BC GMC Complaint

²⁶ Retail Markets Downstream of the Utility Meter – Guidelines, April 1997

²⁷ BCUC Decision, *Fortis Energy Inc. Code of Conduct and Transfer Pricing Policy for Affiliated Non-regulated Businesses Operating in a Non-natural Monopoly Market*, 27 February 2015.

²⁸ FortisBC Energy Inc. Application for Approval of Code of Conduct (COC) and Transfer Pricing Policy (TPP) for Affiliated Regulated Businesses Operating in a Non-Natural Monopoly Environment (ARBNNM)

61. In 2017, the BCUC consolidated these inter-affiliate Codes of Conduct into all-inclusive Code of Conduct and Transfer Pricing.²⁹ That Code includes rules related to the inappropriate use of customer information.

The control of FEI Customer information should not provide an inappropriate competitive advantage to an Affiliate.³⁰

62. The BCUC has also established *Gas Marketer Rules*³¹ and *Code of Conduct for Gas Marketer*.³²

63. In accordance with Article 8 (Code of Conduct) of the *Gas Marketer Rules*,

All Gas Marketers must comply with the Rules and the Code of Conduct for Gas Marketers approved by the Commission and as may be amended by the Commission from time to time.³³

64. In accordance with the “Comparisons and Fair Competition” section of the *Code of Conduct of the Gas Marketers*, FEI must refrain from

Article 17 – using comparisons, statistics and visual material which might mislead and/or which are incompatible with the principles of fair competition.

Article 18 – discrediting any competing company, firm or individual, or any supplies or services provided by such parties, directly or by implication.

Article 19 – induce any Consumer to breach a contract with another Gas Marketer.

65. A basic principle underlying these Codes of Conduct is that FEI must not use its dominant market position and access to customer information to harm competitors in the marketplace.

66. FEI sent out a series of letters to its T-Service customers that offered its service as an alternative to the customer’s existing service, and then bent the gas contracting deadlines and rules to

²⁹ FortisBC Energy Inc. All-Inclusive Code of Conduct and Transfer Pricing Policy Application

³⁰ BCUC Order G-25-17 and Reasons for Decision on *FortisBC Energy Inc. All-Inclusive Code of Conduct and Transfer Pricing Policy Application*, March 2017, page 11.

³¹ BCUC Order A-12-13, *Gas Marketer Rules*, October 2013.

³² BCUC Decision, Appendix A, *Code of Conduct for Gas Marketers*, Ninth Revision, November 2015.

³³ BCUC Order A-12-13, *Gas Marketer Rules*, Article 8.

facilitate the switch in service. Other gas marketers do not have this access to FEI customers, nor the ability to bend FEI gas contracting rules. FEI's actions were unfair and anti-competitive.

67. FEI must adhere to the spirit, not just the letter, of the Codes.

The Code is to be applied in spirit as well as to the letter, bearing in mind the varying degrees of knowledge, experience and discriminatory ability of Consumers.³⁴

CONCLUSION

68. For the reasons explained above, BC GMC seeks the following:

- a. More accurate and timely customer gas consumption information to inform supply nominations including the integration of SCADA data into the burn reports, and specifically that FEI:
 - i. shorten the AMR-to-WINS process,
 - ii. include real time SCADA information prior to the intra-day nomination cycles, and
 - iii. create marketer dashboards to provide collected data snapshots of marketer group information.
- b. Clear and consistent criteria for curtailment, and specifically that:
 - i. FEI provide clear information, timelines, priorities, and other information related to curtailment, and
 - ii. the tariff be structured so FEI may curtail only when absolutely necessary.
- c. Clear and consistent criteria for the return of Hold for Authorized gas inventory and a mechanism for returning any premium value of that inventory, and specifically that FEI publish its criteria so customers and marketers can understand how FEI will make its decisions.

³⁴ *Code of Conduct for Gas Marketers, Scope.*

- d. Implementation of a standardized practice for inter-group and inter-company balancing, and specifically that FEI:
 - i. Allow it, and
 - ii. Standardize an administrative approach to carrying it out on a basis reasonable to both gas marketers and FEI.
- e. FEI adherence to the Gas Marketer Code of Conduct.

69. To facilitate these changes, the BC GMC requests that the Commission direct FEI to establish a working group with the gas marketers to develop and implement the changes.

70. Finally, the BC GMC requests that the Commission direct FEI to report on the working group outcomes to the Commission by no later than September 30, 2020.

71. All of which is respectfully submitted on behalf of the BC GMC.

Sincerely,

ON BEHALF OF BC GMC



Nick Caumanns, President, Cascadia Energy Ltd.



James Bartlett, Legal Counsel, Access Gas Services Inc.



Nicole Black, Sr. Manager Government & Regulatory Affairs, Direct Energy Marketing Ltd.