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**File No. 551952/000002**

August 4, 2020

**Delivered by Email (commission.secretary@bcuc.com)**

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

**Attention: Marija Tresoglavic, Acting Commission Secretary**

Dear Sirs/Mesdames:

**Re: FortisBC Alternative Energy Services Inc. 2019/2020 – Application for Approval of the Fiscal 2020/2021 Annual Cost of Service and Cost of Service Rate for the Thermal Energy Services to Delta School District No. 37 (the "Application")**

We are counsel to Delta School District No. 37 (the "**DSD**").

We write in regard to the above-noted matter, and further to the Application delivered by Fortis Alternative Energy Services Inc. ("**FAES**") on June 9, 2020, and the further regulatory tables established by Order G-155-20 on June 17, 2020 and by Order G-194-20 on July 20, 2020.

Please find attached DSD's Final Argument dated August 4, 2020.

We trust this is satisfactory. If you have any further questions regarding this matter, please contact the undersigned directly.

Yours truly,

**Borden Ladner Gervais LLP**

Dionysios (Dino) Rossi
DKR:mec
Enclosure

# BRITISH COLUMBIA UTILITIES COMMISSION
# IN THE MATTER OF THE UTILITIES COMMISSION ACT
# R.S.B.C. 1996, CHAPTER 473

**AND**

# FORTISBC ALTERNATIVE ENERGY SERVICES INC.
# FISCAL 2020/21 APPLICATION FOR COST OF SERVICE RATE
# FOR THE THERMAL ENERGY SERVICE
# TO DELTA SCHOOL DISTRICT NO. 37

## FINAL SUBMISSIONS OF DELTA SCHOOL DISTRICT NO. 37

## AUGUST 4, 2020

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## A. OVERVIEW

1. These are the final submissions of Delta School District No. 37 ("DSD") regarding the 2020-21 Cost of Service Rate Application (the "Application") by FortisBC Alternative Energy Services Inc. ("FAES").

2. In specific response to paragraph 2 of FAES' submissions dated July 27, 2020 ("FAES' Final Submissions"), DSD confirms that the sole issue in dispute in this proceeding is the calculation of the appropriate deemed debt rate.

3. For the reasons set out below, DSD submits that the deemed debt rate methodology should be modified. The deemed debt rate should be based on credit spreads between 10-year debt for BBB-rated distribution utilities (such as AltaGas Ltd. and Emera Inc.) and the 10-year Government of Canada bond (the "10-Year Debt Rate"). DSD submits that this approach is warranted, rather than the methodology proposed by FAES in the Application (the "20-Year Debt Rate").[1]

4. Contrary to FAES' Final Submissions, DSD takes no position on the issue of whether the BCUC should depart from its current practice of requiring FAES to update the deemed debt rate on an annual basis.

## B. PROCEDURAL HISTORY

5. FAES and the DSD entered into an Energy System Rate Development Agreement (the "**RDA**"), as well as a number of individual Energy System Service Agreements (the "**Service Agreements**") in respect of the thermal energy service provided by FAES to DSD. It bears emphasis that none of those agreements prescribe the methodology by which to determine the deemed debt rate at issue in this proceeding. Accordingly, the appropriate deemed debt rate falls to be determined by the BCUC.

6. By Order G-71-12, the BCUC required FAES to review its deemed cost of debt rate on an annual basis:

> ...FAES is directed to update its cost of debt rate annually using that Interest AAM. Alternatively, if the Commission does not approve an Interest AAM in

[1] Exhibit B-2, response to BCUC IR 2.4, p. 11, illustrates the different debt rates calculated under each proposed approach, and the associated financial impact.

> the GCOC proceeding, FAES is to review its deemed cost of debt rate in its revenue requirements annual filing, using the same methodology as directed in this Order and accompanying Reasons for Decision.[2]

7. In specific response to paragraph 11 of FAES' Final Submissions, DSD confirms that it originally agreed to the use of a 20-Year Debt Rate in 2012, as set out in the Compliance Filing for Order G-31-12,[3] and that it did not oppose the use of a 20-Year Debt Rate in subsequent annual rate approval proceedings.[4] DSD further confirms that it does not take issue with the deemed debt rate approved by the BCUC in prior years.

8. However, DSD maintains that any prior agreement to the initial use of a 20-Year Debt Rate does not somehow operate to now preclude DSD from objecting to the proposed deemed debt rate in this proceeding, or in future FAES cost of service rate application proceedings. In specific response to paragraph 11(a) of FAES' Final Submissions, DSD notes that the signed Compliance Filing for Order G-31-12 was only submitted for the purpose of determining an initial deemed debt rate, which was expressly subject to further BCUC review and approval on an annual basis, pursuant to BCUC Order G-71-12.

9. While the BCUC approved a deemed debt rate on the basis of the 20-Year Debt Rate proposed by FAES in Order G-71-12 and its accompanying Reasons for Decision, in doing so, it did not expressly direct FAES to use a 20-Year Debt Rate. A review of Order G-71-12 and its accompanying Reasons for Decision confirm that the focus of the BCUC's decision was on the use of a deemed debt rate calculated based on BBB-rated entities operating in the thermal energy sector or other distributing utilities, rather than on the use of a 20-Year Debt Rate.[5]

10. DSD further submits that the Reasons for Decision accompanying Order G-71-12 expressly contemplate the adoption of an alternative methodology of determining the deemed debt rate in future years (i.e. in the event that the BCUC were to "establish a deemed interest rate automatic adjustment mechanism" in the BCUC Generic Cost of Capital ("GCOC") proceedings).[6] As set out below, DSD maintains that an adjustment to the 20-Year Debt Rate

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[2] Appendix A to Order G-71-12 (dated June 5, 2012), p. 5.
[3] Compliance Filing to Order G-31-12, Exhibit B-1.
[4] FAES Final Argument (dated July 27, 2020), paragraph 11(a).
[5] Order G-71-12 (dated June 5, 2012); Order G-88-12 (dated June 25, 2012).
[6] Order G-71-12 (dated June 5, 2012) Appendix A, p. 5; see also Order G-88-12 (dated June 25, 2012).

is warranted by the BCUC decisions in the GCOC proceedings, as well as other BCUC orders and decisions concerning the deemed debt rate for other thermal energy projects.

11. In any event, DSD submits that reviewing the reasonableness of the 20-Year Debt Rate relied upon by FAES in these proceedings is consistent with the entire purpose of the BCUC expressly requiring FAES to subject its deemed debt rate to BCUC review and approval on an annual basis, pursuant to BCUC Order G-71-12.

12. DSD further maintains that a review of the use of a 20-Year Debt Rate is also warranted by both: a) other BCUC Orders and decisions that have approved a 10-year debt rate for a number of other thermal energy projects; as well as b) the Generic Cost of Capital Proceedings ("GCOC") Stage 2 decision, which stated: "… the Panel confirms that the default debt component of the capital structure is set to track a benchmark credit spread that reflects BBB or BBB (low) rated debt relative to the 10 year Government of Canada bond yield."[7]

### C. BCUC HAS ORDERED A 10-YEAR DEEMED DEBT RATE FOR SIMILAR TES PROJECTS

13. DSD submits that a 10-Year Debt Rate is consistent with BCUC Orders and decisions rendered in respect of other thermal energy projects.

14. As a starting point, the GCOC Stage 1 decision – which FAES cites in its Application materials – expressly contemplates the use of a "Government of Canada (GoC) bond yield reflecting the proposed term of debt that could be either the 10-year or 30-year bond as the benchmark, or an interpolation of the two. The selected benchmark should reflect the long-term nature of utility assets, contractual terms, and available debt terms."[8] Based on the foregoing, DSD submits that there is no reason in principle as to why a 10-Year Debt Rate would be unreasonable to adopt in this proceeding.

15. Furthermore, DSD notes that in other BCUC Orders and decisions concerning thermal energy projects with similar service horizons, the BCUC has approved the use of a 10-year debt rate, rather than the 20-Year Debt Rate proposed by FAES:

[7] GCOC Stage 2 Decision (dated March 25, 2014), p. 123.
[8] Exhibit B-1, Application, p. 16, lines 18-21, citing GCOC Stage 1 Decision (dated May 10, 2013), p. 108.

a. For its Burnaby Mountain DEU thermal energy project, Corix proposed a debt rate based on BBB and BBB (low) credit spread over a 10-year Government of Canada bond. The BCUC accepted this rate in 2017.[9]

b. For its UBC NDES thermal energy project, Corix proposed a debt rate based on BBB and BBB (low) credit spread over a 10-year Government of Canada bond. The BCUC accepted this rate in 2017.[10]

c. In River District Energy's 2011 CPCN application, RDE requested a deemed debt rate of 6%. The BCUC set the deemed debt rate at 5.5%. In its decision, the BCUC held that it reached this debt rate using a fixed credit spread of 262 basis points above the 10-year Government of Canada benchmark bond yield due to an intervening drop in interest rates.[11]

16. DSD submits that there is no material distinction between the thermal energy projects in the above-noted BCUC decisions and the one at issue in this proceeding that would warrant a departure from the methodology approved by the BCUC in respect of these other projects. To this end, DSD notes that, for the Corix Burnaby Mountain DEU thermal energy project, the BCUC accepted the use of a 10-year debt rate notwithstanding that the contemplated service term was 30 years.[12] Similarly, in the Corix UBC NDES thermal energy project, a 10-year debt rate was adopted notwithstanding that a 30-year forecast was used for the depreciation and amortization of the utility assets.[13] Lastly, in the River District Energy DEU thermal energy project, the BCUC approved the use of a 10-year debt rate, notwithstanding that the project forecasted an initial service term of 20 years and depreciation periods ranging from 25-to-40 years for the utility assets.[14]

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[9] Corix BMDEU 2017 CPCN Application, Exhibit B-1, p. 37, Section 8.8 including Table 15, discussed in Order C-5-17 (dated September 15, 2017).
[10] Corix 2015 UBC NDES Final Rates Application, Exhibit B-1, pp. 32-33, Section 4.2 including Table 22, approved by Order G-84-15 (dated May 25, 2015).
[11] Decision accompanying Order C-14-11 (dated December 19, 2011), pp. 20-21.
[12] Corix BMDEU 2017 CPCN Application, Exhibit B-1, p. 37, Section 8.8 including Table 15, and p. 11, Appendix II – Amended and Restated Thermal Energy Services Agreement, discussed in Order C-5-17 (dated September 15, 2017).
[13]Corix 2015 UBC NDES Final Rates Application, Exhibit B-1, pp. 32-33, Section 4.2 including Table 22, and p. 29, Section 4.1.1.7 including Table 14, approved by Order G-84-15 (dated May 25, 2015).
[14] River District Energy DEU 2011 CPCN Application, Exhibit B-1, p. 34, Section 3.7 including Table 22, approved by Order C-14-11 (dated December 19, 2011).

17. Taken together, these decisions belie FAES' assertion that "the 20-year debt rate is more appropriate than a 10-year debt rate" or its suggestion that even longer term debt rates would be more appropriate due to either the anticipated life of utility assets, or the remaining term of the contract between FAES and DSD (which is only 11 years).[15]

18. DSD further notes that, in its Reasons for Decision pursuant to Order G-205-19, the BCUC found that interest calculated on the additions to the DDA should be treated in the same manner as interest calculated on deductions from the DDA, and that this approach was fairer to DSD and more consistent with ordinary utility practice, contrary to the approach put forward by FAES.[16] In doing so, the BCUC held that, pursuant to sections 59 and 60 of the *Utilities Commission Act*, R.S.B.C. 1996, c. 473, rates for service must not be unjust, unreasonable, unduly discriminatory or unduly preferential. The DSD submits that the same reasoning holds true in this instance, and that FAES has failed to establish that the continued use of a 20-Year Debt Rate is reasonable, having regard to the above-noted decisions concerning other thermal energy projects.

19. Changing the debt rate methodology to use credit spreads between BBB distribution utilities and the 10-year Government of Canada bond yield instead of the 20-year Government of Canada bond yield will reduce the DSD's debt rate in 2020/2021 from 4.55% to 3.96%, a savings to DSD of $22,000 in 2020/2021.[17]

### D. BCUC HAS CHARACTERIZED THE 10-YEAR DEBT RATE AS THE BASIS FOR THE DEFAULT RATE

20. DSD notes that in the GCOC Stage 2 Decision, the BCUC adopted the "Guiding Principles for Setting Deemed Capital Structure and Deemed Debt" as follows:

> In reference to the Stage 1 Decision, the Panel confirms that the default debt component of the capital structure is set to track a benchmark credit spread that reflects BBB or BBB(low) rated debt relative to the 10 year Government of Canada bond yield.[18]

[15] FAES Final Argument, paragraph 13.
[16] Appendix A to Order G-205-19 (dated August 29, 2019), p. 5.
[17] Exhibit B-2, response to BCUC IR 2.4, p. 11.
[18] GCOC Stage 2 Decision, p. 123.

21. DSD submits that the foregoing determination provides further support for the adoption of the 10-Year Rate in these proceedings.

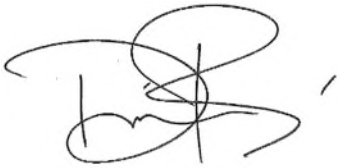
**E. NO EVIDENCE THAT 10-YEAR RATE WOULD BE UNREASONABLE**

22. DSD submits that, to justify a departure from the "default" use of a 10-year debt rate referred to above, FAES is required to adduce evidence establishing why its proposed 20-Year Debt Rate should be adopted, and FAES has failed to do so.

**F. UPDATING THE DEEMED DEBT RATE ANNUALLY**

23. In specific response to paragraphs 13-17 of FAES' Final Submissions, contrary to the submissions of FAES, DSD takes no position on the issue of whether the BCUC should discontinue the practice of requiring FAES to update the deemed debt rate annually.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**



DATED: August 4, 2020

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