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VIA E-FILING

Patrick Wruck
Commission Secretary
BC Utilities Commission
6th Floor 900 Howe Street
Vancouver, BC V6Z 2N3

Reply to: Leigha Worth
ED@bcpiac.org
Ph: 604-687-3034
Our File: 7310.310

Dear Mr. Wruck,

**Re: FortisBC Energy Inc. (FEI) Biomethane Energy Recovery Charge (BERC) Rate Methodology - British Columbia Utilities Commission (BCUC) Decision and Order G-133-16 Compliance Filing – BERC Rate Assessment Report
BCOAPO Final Argument**

We represent the BC Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, and Together Against Poverty Society, known collectively in this process as "BCOAPO et al.".

Enclosed please find the BCOAPO's Final Argument with respect to the above-noted matter.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,
BC PUBLIC INTEREST ADVOCACY CENTRE

Original on file signed by:

Leigha Worth
Executive Director | General Counsel

Encl.

British Columbia Utilities Commission (BCUC)
FortisBC Energy Inc. (FEI)
Biomethane Energy Recovery Charge (BERC) Rate Methodology
Order G-133-16 Compliance Filing – BERC Rate Assessment Report

Final Argument of

BC Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, and Tenant Resource and Advisory Centre (BCOAPO)

April 8, 2021

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1. Introduction

Please note we file this Final Argument regarding the above noted compliance report on behalf of the client groups known in this and other FEI regulatory proceedings before the BCUC as BCOAPO or BCOAPO *et al.* The community-based organizations and groups in BCOAPO have been active and effective participants in FEI's (and its corporate predecessors') regulation, representing a large and diverse population of the utility's residential ratepayers' interests before the BCUC, including in the 2016 application where FEI sought approval of its BERC rate methodology. As such, the results of this regulatory process will invariably and materially affect our clients.

On August 12, 2016 the BCUC issued its Decision and Order G-133-16 on FEI's 2015 BERC Rate Methodology Application, approving changes to the BERC rate methodology, a Short-Term BERC Rate (STBR) and a Long-Term BERC Rate (LTBR). In that Decision, the BCUC also directed FEI to file a comprehensive assessment report ("FEI Assessment Report") for BCUC consideration at the earlier of (1) an application by FEI for a transfer of biomethane inventory from the Biomethane Variance Account (BVA) to the Midstream Cost Reconciliation Account (MCRA) or (2) four years after the date of the Decision. This FEI Assessment Report was to include FEI's views, assessments and evaluations of the following¹:

- The degree to which the new BERC methodology achieved the objective of maximizing revenues;
- The supply/demand balance for the Renewable Natural Gas (RNG) Program, to date and for the near future;
- Annual (January 1) information on the composition of the STBR, LTBR, BVA balance and transfers to the BVA rate base deferral account;
- Monthly data, by rate class, with respect to number of customers, customer churn rate and RNG sales volumes and revenues;
- A summary of the terms and conditions for long-term contracts that had been executed to date;
- An analysis of customer awareness and education spending and effectiveness, based on metrics established by FEI; and
- Recommendations regarding the need for any changes to the BERC rate methodology.

FEI filed its Assessment Report on August 12, 2020 and, following submissions on process from interveners, the BCUC issued Order G-35-21² specifying the subsequent regulatory review process would proceed in two stages. Stage 1 is the review of the Assessment Report and Stage 2 will be a comprehensive review of the RNG Program based on a comprehensive assessment by FEI that is expected to be filed late in 2021.

FEI requests that the BCUC accept its position that the Assessment Report proves the BERC rate has been successful, achieving its purpose, and that any consideration of potential changes to

¹ Exhibit B-1, pages 2-3

² Exhibit A-6

the RNG Program should be deferred until the second stage of the proceeding. FEI's recommendations to the BCUC are summarized in two key points, within two distinct timelines³:

1. The BER-C rate has been successful for the four-year compliance reporting period between August of 2016 and August of 2020 (Compliance Period); and
2. The BER-C rate should remain in place at this time until the comprehensive review in Stage 2 of the proceeding has occurred, the period in which the BCUC considers FEI's comprehensive review and approves any changes to the RNG Program and BER-C rate methodology, as necessary (Comprehensive Review Period).

2. Summary of BCOAPO Positions and Recommendations

BCOAPO's review indicates there is sufficient evidence to support the Utility's position that its Assessment Report demonstrates that the revised BER-C rate methodology has directionally achieved the objectives set out in Order G-133-16 during the four-year compliance period spanning 2016 to 2020.

However, BCOAPO submits that the BCUC's decision framework should be based on three key questions as opposed to the two proposed by FEI, within three distinct timelines:

1. Has the BER-C rate methodology achieved the BCUC-specified objectives between 2016 and 2020 (Compliance Period);
2. What is the appropriate BCUC oversight of the current RNG Program in 2021 and early 2022, before the review and approval of potential RNG Program changes by the BCUC, and during the time when FEI plans to significantly ramp-up the RNG supply (Transitional Period); and
3. What is the appropriate BCUC oversight and regulatory stakeholder input with respect to the scope of FEI's comprehensive review of the RNG Program, with the expected filing of Stage 2 by FEI late in 2021 and any BCUC approved changes to likely take effect in mid-2022 (Comprehensive Review Period).

BCOAPO has organized its final argument around these three key issues and the corresponding time periods.

Notwithstanding our position on results of the FEI Assessment Report, BCOAPO respectfully makes the following recommendations with respect to BCUC directives to FEI for the transitional period and comprehensive review period:

- That FEI file quarterly gas costs reports on the status, results, forecasts, projected BVA transfer balances associated with the RNG Program until the BCUC issues a decision on the comprehensive review of the Program; and
- That FEI file the RNG Program review project charter/terms of reference and associated consultation and engagement plan as part of its June 30, 2021 status update and that the BCUC and interveners provide comments and meaningful input into these plans in response.

³ FEI Final Argument, page 1

The following sections provide the analysis and rationale for the above-noted position and recommendations of the BCOAPO.

3. Evaluation of the FEI Assessment Report (Compliance Period)

FEI provides the following justifications for its position that the BERC rate methodology has been successful in achieving the BCUC's three overarching objectives of: a) maximizing the recovery of RNG Program costs from RNG customers, b) managing the biomethane inventory, and c) establishing a BERC rate-setting methodology that is robust, effective, and efficient⁴.

Increased RNG customer enrollment

FEI asserts that the BERC rate methodology successfully reversed the negative trend in customer enrollment and that the increased customer response to the change in the BERC rate was clear and consistent up until the end of 2019 when the lag in additional RNG supply was such that it was not able to meet the increase in demand causing the temporary closure of the Program. FEI reported that total RNG customers were 6,828 in January of 2015, 7,090 in October of 2016, peaked at 11,251 in November of 2019 and were 10,260 in January of 2021.⁵

Increased RNG sales volumes

FEI asserts that the BERC rate methodology increased the volumes of RNG sold and reported that total RNG sales were 150.4 TJ in 2015, 163.6 TJ in 2016, peaked at 315.1 TJ in 2019 and then went to 306.1 TJ in 2020.⁶

Increased RNG revenues

FEI asserts that the BERC rate methodology increased RNG revenues, even though the price per GJ of RNG declined and reported that total RNG revenues (in \$000's) were \$2,167 in 2015, \$2,147 in 2016, peaked at \$3,204 in 2019 and were \$3,153 in 2020.⁷

All the RNG has been sold

FEI indicates that it has sold all its inventory of RNG since the change in the BERC rate methodology and that the balance in the BVA has been nil (or virtually nil) in recent years. FEI reported that the BVA balance (in \$000's as of January 1) was \$1,844 in 2015, \$1,784 in 2016 and between \$0 and \$1.5 in 2019 to 2021.⁸

The revised BERC rate methodology has addressed the problems

⁴ Exhibit B-1, page 19

⁵ FEI Final Argument, Section B, pages 2-4; Exhibit B-7, CEC IR 3.1

⁶ FEI Final Argument, Section C, pages 4-5; Exhibit B-7, CEC IR 5.1 and Exhibit B-5, BCSEA IR 12.2

⁷ FEI Final Argument, Section D, pages 5 to 6, Exhibit B-7, CEC IR 6.1 and Exhibit B-5, BCSEA IR 12.2

⁸ FEI Final Argument, Section E, page 7, Exhibit B-7, CEC IR 15.1 and Exhibit B-4, BCUC IR 14.1

FEI reports that the revised BERC rate methodology has successfully addressed the problem it was designed to solve: it reversed the declining customer enrollment experienced in the early years of the program and increased RNG customers, volumes and revenues. FEI has sold all of its RNG inventory, and it has never been necessary to transfer unsold RNG to the MCRA for recovery from non-RNG customers. FEI concedes that while it may not be possible to determine with certainty that revenue has been maximized, the BERC pricing methodology has clearly enhanced revenue and improved the recovery of RNG Program costs from RNG customers.⁹

The revised BERC rate methodology is robust, effective and efficient

FEI also submits that the BERC rate mechanism has proven to be robust, effective and supports regulatory efficiency as it has been unnecessary to file subsequent applications since Order G-133-16¹⁰.

Customer knowledge & awareness of the RNG Program have increased

FEI believes that customer knowledge and awareness levels about the RNG Program has increased during the period from 2016 to 2019. During this period, FEI customer awareness activities and expenditures focused on a customer research study in 2016, mass market campaigns targeted towards the residential customer segment (targeting Eco-Friendly Millennial and Gen X customer segments) which were launched in 2017, along with education to municipalities and commercial customers. In 2018, as it became apparent that demand would exceed supply, customer awareness expenditures for the RNG Program were scaled back. FEI reported that Customer Awareness expenditures (in \$000's) were \$100 in 2016, rising to \$246 in 2017, and then were scaled back to \$151 in 2018, \$29 in 2019 and \$22 in 2020¹¹.

BCOAPO accepts that the FEI Assessment Report demonstrates that the revised BERC rate methodology has, on balance, directionally achieved the objectives set out in Order G-133-16 (during the four-year compliance period between 2016 and 2020).

It appears that FEI has generally complied with all the 16 BCUC directives contained in Order G-133-16.¹² RNG customers, volumes and revenues have all increased in the last four years. Between October of 2016 and November of 2019 (when supply issues emerged), total RNG customers increased by 4,161 or 59%. Total RNG sales volumes and revenues, increased 151.5 TJ's (93%) and \$1,057 (49%), respectively, between 2016 and 2019.

BCOAPO agrees with FEI that it is impossible to definitively determine if the BERC rate methodology changes have maximized RNG revenues, due to the multiplicity of factors that are part of a customer's decision to participate in the RNG Program¹³. However, there is evidence

⁹ FEI final argument, Section F, page 7

¹⁰ Exhibit B-1, page 19

¹¹ Exhibit B-1, pages 17 - 18, Exhibit B-4, BCUC IRs 20.1 and 21.1

¹² Exhibit B-8, BCOAPO IR 5.1

¹³ Exhibit B-4, BCUC IR 2.1

that the financial outcomes of the RNG Program are directionally improved and there is no other evidence or analysis on the record to suggest otherwise. For instance, FEI confirmed that it has not conducted any price elasticity research since the filing of the 2015 BERC Application.¹⁴

BCOAPO notes that FEI never directly addressed the objective of minimizing the impact of the RNG Program activities to non-RNG customers in its Assessment Report or Final Argument. During the information request process, FEI produced a table indicating that the total RNG costs (in \$ 000's) recovered from non-RNG customers was \$3,977 (2018), \$2,735 (2019) and \$2,864 (2020) and that the corresponding bill impact to the average residential customer was \$2.41 (2018), \$1.67 (2019) and \$1.76 (2020)¹⁵. If BCOAPO understands correctly that these are the total impacts to non-RNG residential customers during then compliance reporting period, then these impacts are assessed as reasonable, considering the policy goals of the RNG Program.

FEI's evidence is that it has sold all of its RNG inventory, and it has not been necessary to transfer unsold RNG to the MCRA for recovery from non-RNG customers.¹⁶

BCOAPO has no significant concerns with respect to the effectiveness and efficiency of the revised BERC rate methodology but has concerns with respect to the scaling back of customer awareness activities in 2019 and 2020 and their potential impact on the transitional period between 2021 and mid-2022 which addressed in the section below.

4. BCUC Oversight During the Transitional Period

FEI's evidence with respect to the transitional period between 2021 when the RNG Program is planned to significantly ramp up and the completion of Stage 2 of the proceeding in mid-2022, show that the total RNG Supply is expected to ramp up many multiples. FEI provided revised information with respect to expected RNG supply volumes between 2020 and 2024 during the information request process. This information indicates that the RNG supply is expected to significantly ramp up in 2021 and 2022, with the expectation of total RNG supply being 770 TJ (2021), 3,740 TJ (2022), 5,100 TJ (2023) and 5,583 TJ (2024). FEI reports that the actual 2020 RNG supply for 2020 was 250 TJ.¹⁷

Additionally, there is a significant RNG Surplus forecast for 2021 and 2022. FEI's forecast for 2021 indicates a total supply of 770 TJ and total demand of 345 TJ, for an expected RNG surplus of 425 TJ¹⁸. FEI's forecast for 2022 indicates a revised total supply of 3,740 TJ and total demand from currently enrolled customers of 580 TJ, for a potential RNG surplus of 3,160 TJ in the absence of new customer additions. FEI is aware of the potential for up to 4,000 TJ of incremental demand but has not provided any detailed information on the expected RNG sales volumes of this potential.¹⁹

¹⁴ Exhibit B-8, BCOAPO IR 1.1

¹⁵ Exhibit B-4, BCUC IR 6.2

¹⁶ FEI Final Argument p.7

¹⁷ Exhibit B-4, BCUC IR 3.1

¹⁸ Exhibit B-4, BCUC IR 3.1

¹⁹ Exhibit B-1, page 14

Finally, the projected impact on non-RNG customers is also up many multiples. While it was not the central focus of Stage 1 of the proceeding, FEI has provided its projections of the BVA transfer to the BVA rate rider account in the information request process and as part of its 2020 Fourth Quarter Gas Cost Report. From this information, it appears that FEI's projection of the 2021 and 2022 BVA transfers (\$ 000's) are \$9,031 and \$32,282 on a pre-tax basis²⁰ and \$6,593 and \$23,566 on an after-tax basis²¹, respectively.

With respect to the transitional period forecasts of RNG supply, demand and potential BVA transfers to rate riders for 2021 to 2022, BCOAPO notes that the projected total RNG supply for 2021 of 770 TJ is a multiple of 3 times the 2020 supply of 250 TJ and the projected supply for 2022 of 3,740 TJ is a multiple of 15 times the 2020 supply. FEI is projecting that by 2024 the total RNG supply will be 5,583 TJ or a multiple of 22 times the 2020 supply.

BCOAPO also points out that the projected surplus of 425 TJ in 2021 is a full 55% of the expected supply of 770 TJ. The potential surplus of 3,160 TJ for 2022 could be as high as 85% of the expected supply of 3,470 TJ, absent demand from new RNG customers.

Additionally, the average BVA recovery from non-RNG customers over the three-year period of 2018 to 2020 was \$3,192. The projected after-tax transfer into the BVA rate rider account for 2021 and 2022, of \$6,593 and \$23,566, is a multiple of over 2 times to 7 times that of the past three-year average.

Given that FEI expects to file a comprehensive review of the RNG Program late in 2021, it is expected that the review and resulting decision by the BCUC will not be completed until at least mid-2022, based on past experience with normal regulatory process time requirements.

Reporting Recommendation

BCOAPO is concerned about the ramping up of RNG supply to many multiples of the historic program in 2021 (3 times) and 2022 (15 times), the potential for significant BVA transfers balances (\$6.6 million to \$23.6 million) and associated rate impacts on non-RNG customers in advance of the BCUC review and decision on the RNG Program. There is a risk associated with the costs of ramping up the RNG Program supply and the realization of potential incremental demand and timing of this demand, as well as the associated cost recovery from RNG customers (and by extension the necessity of recovery of costs from non-RNG customers).

While BCOAPO understands the business issues associated with actively marketing a program to customers that is closed to new demand, it questions the advisability of FEI significantly scaling back its customer awareness expenditures to minimal levels in 2019 and 2020, while at the same time expecting a significant ramping up of the RNG Program in the near future. In BCOAPO's view, a robust customer awareness campaign is going to be essential to ensuring the success of the enhanced RNG Program, reducing expected RNG surpluses and appropriate cost recovery from RNG customers.

²⁰ Exhibit B-8, BCOAPO IR 4.1

²¹ FEI 2020 Fourth Quarter Gas Cost Report, Tab 4, page 2

While FEI's Assessment Report may demonstrate that the problems that occurred in the 2016 timeframe were dealt with by the revisions to the BERC rate methodology, it appears that those same problems are inherently re-appearing in the transitional period of 2021 and 2022 and in advance of a revised RNG Program.

BCOAPO asked FEI in the information requests if it had contemplated reporting to the BCUC during the transitional period in 2021 and 2022 to keep it informed on the results of the RNG Program and the potential rate impacts to non-RNG customers. FEI's response was that it will continue to file a Fourth Quarter Gas Cost Report in November and an Annual BVA Report in April of the following year and sets the BVA rate rider through the annual rate process, filed in August of the following year. FEI does not contemplate filing additional reports with the BCUC²².

BCOAPO has reviewed the contents of the Fourth Quarter Gas Cost Report and the Annual BVA Report and is of the view that they do not meet the objective of keeping the BCUC informed on the issues associated with the planned ramp up of the RNG Program during the transitional period. A Fourth Quarter Gas Cost Report would not be filed until November of 2021 and would contain 10 months of actual results and two months of forecast for 2021. The Annual BVA Report would not be filed until April of 2022 and is essentially a report on the actual results of the program to the end of 2021. Both reports essentially contain *post facto* information and are lagging indicators, not leading indicators to provide the BCUC with information on potential issues associated with the RNG Program in 2021.

Accordingly, BCOAPO recommends that the BCUC direct FEI to file quarterly gas costs reports on the status, results, forecasts and projected BVA transfer balances associated with the RNG Program until it issues a decision on the comprehensive review of the Program, currently expected no earlier than mid-2022. Such reporting may provide the opportunity to consider rate-setting alternatives that would better match the ramping up of RNG supply with the timing of the addition of potential new RNG customer additions, rather than the default assumption that the historic BERC rate rider mechanisms will recover excess costs from non-RNG customers.

5. Comprehensive review of the RNG Program (Stage 2)

FEI's evidence with respect to the comprehensive review of the RNG Program, can be summarized as follows²³:

1. No changes should be made to the BERC rate methodology at this time.
FEI's position is that no changes should be made to the BERC rate methodology at this time and that any changes should be considered as part of the comprehensive review to be filed with the BCUC in the second stage of the proceeding.
2. The BERC rate methodology has been successful.
FEI asserts that its has not faced any challenges which are attributable strictly to the current BERC rate methodology and that the current challenges with the RNG Program are primarily related to the lack of supply to serve demand.
3. There is no foundation in this proceeding for any change to the BERC rate.

²² Exhibit B-8, BCOAPO IR 13.4

²³ FEI Final Argument, pages 8 - 9

FEI indicates that it is not in a position to provide suggested alternate offerings or changes to the BERC offerings in the absence of further research and analysis and there is insufficient information on the record for the BCUC to determine that any changes would be just and reasonable.

4. The comprehensive review will provide the foundation for considering changes.
FEI asserts that its comprehensive review will provide the appropriate context and foundation for considering changes to the RNG Program, including the BERC rate. FEI indicates that it will (1) consult and engage with customers and interested parties as an important input to the process (2) assess various drivers of demand and if modifications to the Program are warranted to suit current market conditions (3) assess government objectives, regulations and changing customer preferences to determine if changes to the Program are required to effectively serve the market (4) analyze pricing mechanisms and market factors that could impact the willingness of customers to pay different rates for RNG and (5) consider changes to emissions regulations and climate policy at the three levels of government. FEI's position is that prior to this analysis, any change to the RNG Program would be premature and uninformed.
5. FEI will provide the BCUC with a status update by June 30, 2021.
FEI has indicated that a project charter/terms of reference for the comprehensive review/assessment of the RNG Program has been initiated, but not yet finalized and that third-party work is currently underway, along with early elements of the consultation and engagement plan. As well, FEI expects to provide the BCUC and intervenors with a status update on or before June 30, 2021, including updated timing of the filing of the comprehensive review²⁴.

BCOAPO agrees with FEI that it is difficult to consider changes to the RNG Program and BERC rate methodology in the absence of the types of policy considerations and analysis that it has indicated it will undertake as part of the comprehensive review. However, given the issues that have been raised in Stage 1 of this proceeding, BCOAPO does see a meaningful role for the BCUC and intervenors in the development of the scope of the comprehensive review (Stage 2) and has a recommendation for the BCUC that is provided below.

Further Process on the Scope of Stage 2

BCOAPO notes that FEI indicates that it will consult and engage with customers and interested parties as an important input to the comprehensive review process. Presumably, FEI's intent was to collect this input during the comprehensive review process after it had already set the scope of review.

BCOAPO is encouraged by FEI's willingness to be open to stakeholder input into the comprehensive review of the RNG Program but believes that there is a meaningful and effective role for the BCUC and intervenors in providing input into the scope of the review before it is finalized by FEI and the utility undertakes the planned policy and analytical review.

BCOAPO recommends that the BCUC direct FEI to file the RNG Program review project charter/terms of reference and associated consultation and engagement plan as part of its June 30, 2021 status update and that the BCUC and intervenors be allowed to provide comments and

²⁴ Exhibit B-8, BCOAPO IR's 13.1, 13.2 and 13.3

input into these plans, at that time. The BCUC could then aggregate the comments from the interveners and decide the form of its input to FEI, whether it is specific directives or general comments, based on the feedback obtained. This input will assist to ensure that there is a robust review of the RNG Program that meets the needs of the regulatory stakeholders.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:

Original on file signed by:

Leigha Worth, Executive Director

Original on file signed by:

Irina Mis, Staff Lawyer