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Reply Attention of: Ludmila B. Herbst, Q.C.
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Our File No.: 05497-0245

July 21, 2017

BY ELECTRONIC FILING

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

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

Dear Sirs/Mesdames:

**Re: FortisBC Inc. 2016 Long Term Electric Resource Plan &
Long Term Demand Side Management Plan (BCUC
Project No. 3698896)**

We are counsel for FortisBC Inc. (**FBC**) in respect of the above noted British Columbia Utilities Commission (**Commission**) proceeding.

We write with respect to the inclusion in the evidentiary record of Exhibit C10-8-1, which is a letter dated July 13, 2017 from Mr. Shadrack together with assorted enclosures. We received a copy of Mr. Shadrack's July 13 letter and enclosures on July 20, when posted on the Commission's website under Exhibit C10-8-1.

We understand from Mr. Shadrack's cover letter and his "key" that the material provided in Exhibit C10-8-1 is intended to be in further response to various information requests on his evidence (presumably the evidence he filed by letter dated May 23, 2017). Under Commission Order G-197-16, responses to information requests on that evidence were due on June 29, 2017.

Mr. Shadrack's letter does not request an extension of time from the June 29 deadline for responding to information requests, nor provide support for such an extension. All the material enclosed with his cover letter dated July 13 is dated prior to June 29, so it is not evident why the material was not included in Mr. Shadrack's earlier filing.

Effectively Mr. Shadrack has proceeded directly to the filing of late responses in the same manner as if Order G-197-16 had been varied or if otherwise directed by the Commission. Rule 11.06 of the Commission's Rules of Practice and Procedure notes: "Whether filed electronically or non-electronically, documents must be received by the Commission by the specified filing date, if applicable, unless otherwise directed by the Commission."

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The material in Exhibit C10-8-1 also has quite substantial redactions that Mr. Shadrack does not explain. Though we assume that certain redactions relate to personal information, it appears in some respects that the redacted material could have a bearing on substantive points that may be sought to be conveyed.

Our concern is somewhat akin to that expressed in our letter of July 17, 2017 (Exhibit B-22, enclosed for reference). In that letter, we expressed our concern that we had not had notice of Mr. Shadrack's request (of July 7, 2017) to file certain evidence late until the Commission's order of July 13, 2017 granting that request. This time Mr. Shadrack filed other late material without, as far as we are aware, even making a request that timelines be adjusted for this purpose.

We recognize that pursuant to Rule 11.08, the assignment of an exhibit number to a document does not prevent other parties from challenging its admissibility, and if the Commission rules a document inadmissible, the document and its exhibit letter and number will be expunged from the record.

However, we do not view this as a substitute for a participant who wishes to file material late making a request for late filing, on notice to other participants, with the opportunity for participants to consider and respond to the request. This is not in our view a technical matter but, rather, gives rise to procedural fairness issues, issues regarding compliance with Commission orders (including with respect to the deadlines set), and potential prejudice in terms of participants' ability to respond to the underlying late-filed material.

We have only had a brief opportunity to review the material filed. Presently we are not seeking that the material be expunged from the record though reserve our right to do so based on further review. However, as in our July 17 letter, we wish to flag our concern with the process associated with the filing that was made.

Thank you.

Yours truly,

FARRIS, VAUGHAN, WILLS & MURPHY LLP

Per:



Ludmila B. Herbst, Q.C.

LBH/ltt

c.c.: FBC Regulatory Affairs;
Registered Intervenors

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Reply Attention of: Ludmila B. Herbst, Q.C.
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Our File No.: 05497-0245

July 17, 2017

BY ELECTRONIC FILING

COPY

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

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

Dear Sirs/Mesdames:

**Re: FortisBC Inc. 2016 Long Term Electric Resource Plan &
Long Term Demand Side Management Plan (BCUC
Project No. 3698896)**

We are counsel for FortisBC Inc. (**FBC**) in respect of the above noted British Columbia Utilities Commission (**BCUC** or the **Commission**) proceeding.

We write regarding the request of Mr. Andy Shadrack, by email to the Commission dated July 7, 2017, for leave to file late intervenor evidence in this proceeding (Ex. C10-9), as well as the Commission's Order G-107-17, dated July 13, 2017, by which leave was granted to Mr. Shadrack to file his late intervenor evidence and the regulatory timetable for this proceeding amended.

FBC received notice of Mr. Shadrack's request at the same time as it received notice of the order. As such, it did not have the opportunity to respond to the request in advance of the order being made.

We are not certain of whether the problem in this instance stemmed from the mode of filing or from the timing of the posting of Mr. Shadrack's request to the Commission's website, and expect that whatever occurred was inadvertent. However, we did wish to draw this to the attention of the Commission and participants in order that steps may be taken to avoid this occurring in future, given the procedural fairness concerns the incident raises. In particular, FBC was entitled to reasonable notice of Mr. Shadrack's application to vary the Commission's prior orders regarding the regulatory timetable and to be given an opportunity to respond.

In this case, having now had the opportunity to review the content of the evidence that Mr. Shadrack sought to file late, FBC will not be objecting to the filing of that evidence or seeking to set aside the order. However, FBC does note that there would have been a basis on which to do so. Pursuant to Order G-197-16, the deadline for intervenor evidence to be submitted was May 25, 2017. The sum and

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substance of the late-filed evidence is a report dated “December 2016” of the Community Energy Association (CEA), titled “Regional District Central Kootenay Area ‘D’ and Kaslo Green Energy Opportunities Scan”. The CEA’s website indicates that the report was posted and publically available no later than April 21, 2017. We note that Mr. Shadrack was formerly a director of Electoral Area “D” in the Regional District of Central Kootenay, which is itself a member of the CEA. He is in fact mentioned as such in the CEA report being tendered in evidence (see p. 35).

This said, again, having now reviewed the content of the report FBC is not objecting to the filing of it. We simply wish (1) to note the procedural issue for the record so that FBC is not taken as accepting the process that occurred as a precedent for the future and (2) as noted earlier, to ensure that any necessary steps are taken to address whatever problem resulted in FBC not having notice of the request before an order was granted, so that the issue not recur in future.

Thank you.

Yours truly,

FARRIS, VAUGHAN, WILLS & MURPHY LLP

Per:



Ludmila B. Herbst, Q.C.

LBH/NTH/bd

c.c.: FBC Regulatory Affairs;
Registered Interveners