

REQUESTOR NAME: **Richard T. Landale BCUC Intervener C1**

**COMMENTS ON FURTHER PROCESS:**

TO: **British Columbia Utilities Commission**

DATE: **13 October 2017**

PROJECT NO: **1598915 BCUC**

APPLICATION NAME: **FortisBC Energy Inc. and City of Surrey Applications for Approval of Terms for an Operating Agreement.**

**COMMENTS ON FURTHER PROCESS**

In my review of all the Intervener responses filed with the BCUC, whether from FortisBC Energy Inc, or the City of Surrey in this hearing, I have arrived at the following summary points, as reasons for a continuance of these hearings in the manner described below. Due to the very heavy work load prevailing at the BCUC.

I am proposing a timetable, but respectfully request the Commission determine the best efficient and responsive timeline between the three principles. As an intervener, it is my job to fit in.

**REASONS FOR HEARING PROCESS CONTINUANCE:**

1. Neither Fortis BC or the City of Surrey have quantified the actual “homeowners” costs proportioned on either a 0.7% or a 3% Rate Operating Fee to be billed on homeowners FortisBC monthly billing. How much is it going cost. In spite of the City of Surrey saying to the contrary, this operating fee is a “tax” (revenue producer then). Even ICBC Hearings tell policyholders what their next Basic Premium costs will be at renewal time.
2. Neither FortisBC or the City of Surrey have submitted “factual” evidence within their filed application or in any intervener responses with supportive data for the 0.7% or 3% Rate. Each principle has alluded to what amounts to “hear-say”. To quantify this point, both principles responded to my IR’s, including a response to my own FortisBC billing example, but neither can give an answer as to how much any new operating fee contract is going to cost me. I am not alone with this question, as can be noted in 13 letters of comment filed with the BCUC in – Exhibit E.
3. Neither FortisBC or the City of Surrey have engaged any account holders or citizens of surrey in any form of public consultation or open Public Hearings at City Hall. No notices in the local newspaper that even these hearings are underway. If it were not for me checking-in with the BCUC website, I would not even be writing to the Commission. This is a major breach of public trust. And I am sure the Community Charter Chapter 26 and the Local Government Act must have some provisions for public engagement. I’m not a lawyer, so I cannot cite any particular section from either documents.
4. There remains several information requests / responses that need further clarification, regarding billing, background clarification and removal of “hear-say” such as BCUC IR.1.2.5 Response: FEI not obtaining permits, without quantitative evidence or historical fact to support the claims by surrey, just commentary coupled to account record inadequacy problems. That’s not evidence.

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5. Neither FortisBC or the City of Surrey have attempted to address my Information Request IR#1 Addendum, which is attached hereto as yet another reason for continuance.
6. I am most concerned with the City of Surrey's reply to the BCUC IR.1.2, as it amounts to a "spoiled child" crying when the child does not get his/her way, wherein, quote:

**"1.2 If the Commission does not approve the proposed Operating Agreement, please discuss what City of Surrey's next steps would be.**

**RESPONSE:**

If the Commission does not approve an operating agreement for Surrey and FEI, Surrey would consider applying for leave to appeal the Commission's decision and consider seeking a declaration that the 1957 Agreement has been terminated. Surrey would also consider other options available to it including, but not be limited to, enforcing FEI compliance with Surrey bylaws and property rights. On this latter point, pursuant to s. 35 of the *Community Charter*, the soil and freehold of highways is vested in Surrey as is the power to regulate what takes place on or within highways. Surrey's control over highways is also highlighted by s. 34 the *Oil and Gas Activities Act* which mandates that FEI must not begin or carry out an oil and gas activity in a highway without first having obtained authorization from the City of Surrey.

In the absence of a robust operating agreement setting out the terms for FEI's use of public places in the city for its gas distribution business generally, there would likely be further disputes between the parties about the placing and relocating of FEI facilities, and project-specific applications for an order from the Utilities Commission (e.g., under sections 33 or 36 of the *UCA*) and from the Oil and Gas Commission, as applicable."

7. It is unclear how the BCUC Commissioners can make any determination of facts that could lead to a reasonable decision by the Commission Panel.
8. I believe the Commission Panel should consult with the Provincial Government Attorney General, and the Minister Responsible for Municipal Affairs to address the legal issues brought to the Commission by reference to s. 35 of the *Community Charter* and 34 the *Oil and Gas Activities Act* and sections 33 or 36 of the *UCA* . And any other legal recourse available to the BCUC for the protection of the citizens of Surrey for a right to public consultation in this matter, i.e.: Referendum or Alternative Approval Process.
9. Further I recommend the Commission Panel request of the Provincial Government Attorney General, and the Minister Responsible for Municipal Affairs appoint a binding Arbitrator to settle the final Operating Fee, after public consultation with the account owners and homeowners and businesses of Surrey.
10. In my FortisBC home billing yesterday, FortisBC included an Information Flyer which included a graph; "Cost of natural gas per gigajoule (GJ)" from 2006 to 2018. This graph represents another powerful financial reason to be examined by the Commission ahead of their final decision, 0.7% or 3% (or as they determine). The cost to each Surrey homeowner takes on a whole new meaning.
11. Please consider the following proposed regulatory timetable:

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### (PROPOSED) - REGULATORY TIMETABLE

<u>PROCESS</u>	<u>PROPOSED DATE #1</u>	<u>ALTERNATIVE DATE #2</u>
PROCEDURAL CONFERENCE	NOVEMBER 2	NOVEMBER 7
INTERVENER PACA BUDGET	NOVEMBER 8	NOVEMBER 10
INFORMATION REQUEST 2	NOVEMBER 17	NOVEMBER 24
FEI & SURREY RESPOND TO IR # 2	DECEMBER 1	DECEMBER 8
INTERVENER EVIDENCE	DECEMBER 8	DECEMBER 15
FEI & SURREY RESPOND TO INTERVENER EVIDENCE	DECEMBER 22	DECEMBER 29
INTERVENER FINAL ARGUMENT	JANUARY 12	JANUARY 19
FEI & SURREY FINAL ARGUMENT	JANUARY 19	JANUARY 26

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**ADDENDUM**

THE FOLLOWING BCUC EXHIBITS ARE BROUGHT FORWARD  
FOR  
THE CITY OF SURREY TO RESPOND TO  
IN THE RECORD

BCUC EXHIBIT # E-2	LETTER OF COMMENT by	Mr ALLEN FORREST
BCUC EXHIBIT # E-4	LETTER OF COMMENT by	Mr MANJIT DHILLON
BCUC EXHIBIT # E-5	LETTER OF COMMENT by	Mr JOHN ESSEX
BCUC EXHIBIT # E-7	LETTER OF COMMENT by	Mr BRYN PECK

**Comment**

It is particularly “vexing” to note the common theme in all of the Exhibits E-1 through to E-13. Where they seem to collectively suggest amongst other things, the City is transferring their financial responsibilities onto the homeowner, thereby levying a form of double taxation onto homeowners. Further the City has failed to communicate their intentions to levying an operating fee onto residents. The City has not been transparent with the Commission in their application regarding costs, calculations, proportionality, and how the 3% total “Delivery Margin” or “Gross Revenue” will be determined. The City has not explained the accounting process that will be involved between FEI and the City. And who is going to pay for these additional accounting costs.

How can the City move forward with this operating levy without a Referendum, or undertaking the CCC26 Section 26 Alternative Approval Process, and the necessary public announcement notice requirement prescribed in the AAP process. ? Really ....! The merits of each concerned citizen and exhibitor are very poignant, and deserve the Commissions full attention.

The City is demonstrating no accountability to the Citizens of Surrey, by seeking the BCUC approval in this matter..... shame...!

All of which is respectfully said and submitted.

Richard T. Landale  
Intervener C-1