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E-filed

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British Columbia Utilities Commission
Sixth Floor, 900 Howe Street
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Attention: Patrick Wruck, Commission Secretary

Re: FortisBC Energy Inc. ("FEI") - Application for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* in the City of Coquitlam ("City") for the Lower Mainland Intermediate Pressure System Upgrade ("LMIPSU") Project (the "Application") Project No. 1598963

Dear Mr. Wruck:

We write on behalf of the City in connection with the FEI Application to the Commission for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* in the City of Coquitlam for the LMIPSU Project. The Application was filed with the Commission on June 28, 2018, and by Order No. G-144-18A dated August 3, 2018 the Commission established a regulatory timetable, pursuant to which we enclose the City's response to the BCUC's Information Request (IR).

Yours very truly,

LAWSON LUNDELL LLP

A handwritten signature in blue ink that reads "Ian Webb".

Ian Webb
IDW
Enc.

cc. Stephanie James, City of Coquitlam
Regulatory Affairs, FortisBC Energy Inc.



FortisBC Energy Inc.
Application for Use of Lands under Sections 32 and 33 of the *Utilities Commission Act* in the City of Coquitlam for the Lower Mainland Intermediate Pressure System Upgrade Projects

INFORMATION REQUEST NO. 1 TO THE CITY OF COQUITLAM

- 1.0 Reference: Exhibit B-1, Application, pp. 2, 3, 7; Exhibit C1-2, p. 3, Appendix A, p. 11 Engineering Drawing Approvals**

On page 7 of Exhibit B-1, FortisBC Energy Inc. (FEI) states the City of Coquitlam (City) has indicated that it is withholding formal sign-off of engineering/alignment drawings unless FEI agrees to two conditions that require FEI to assume financial responsibility for over \$10.5 million of additional work. On page 3 of Exhibit B-1, FEI states that withholding the engineering drawing approvals despite the substantial resolution of the technical matters as set out in the “Terms Agreed To” is adding risk to the Lower Mainland Intermediate Pressure System Upgrade Projects (LMIPSU Project or Project).

On page 2 of Exhibit B-1, FEI refers to paragraph 2 of the 1957 Operating Agreement, which provides that the City Engineer’s approval is not to be unreasonably withheld or delayed.

Section 3(b) of Appendix A to Exhibit C1-2 (City Terms), states:

The Clarke Road Engineering Drawings listed below require further review, before City approval is granted, to mitigate traffic impacts at the Clarke Road and Como Lake Avenue intersection in order to be consistent with the conceptual plan attached at Schedule "A":

Alignment Sheet #	Rev #	IFC/Re-IFC Date
42090-P-200-1025	2	20-Jun-2018
42090-P-200-1026	2	20-Jun-2018

On page 3 of Exhibit C1-2, the City submits that the “Terms Agreed To” document filed by FEI as Appendix B to Exhibit B-2 (FEI Terms) was contemplated as a non-binding guide to assist the parties in their efforts to identify opportunities for collaboration going forward.

- 1.1 Please explain the City’s position as to the reasons why further review is needed for the two Clarke Road Engineering Drawings listed above.

A. City staff had not received these drawings from FEI.

1.1.1 Please discuss the steps that the City and FEI are taking to resolve these issues.

A. FEI has now delivered these drawings to the City and they are satisfactory to the City.

1.2 Please explain whether the City believes that a delay in approval to the two Clarke Road Engineering Drawings listed above will cause a delay in the project's schedule.

A. The City has now received the referenced drawings, and has approved them.

1.2.1 Please identify any other risks associated with delays to engineering drawing approvals.

A. Please refer to the City's response to BCUC IR 1.2.

1.3 Notwithstanding the City's position on the matters to be addressed in Phase Two of this proceeding, please explain whether the City views that there are any other unresolved issues with respect to the engineering drawings issued by FEI.

A. In its August 8, 2018 Order G-144-18A Decision, the BCUC strongly encouraged the City and FEI to work together on terms and conditions that are supported by both parties, and which would address the three Phase 1 issues:

- **Protocols and processes**
- **Traffic management plans**
- **Engineering drawings.**

In the spirit of BCUC's request, the City and FEI have agreed to revised Terms and Conditions for the Lower Mainland Intermediate Pressure System Upgrade Project within the City of Coquitlam (the "Revised Terms and Conditions") addressing the Phase 1 issues.

**2.0 Reference: Exhibit C1-2, Appendix A, p. 2-3
Project Communications**

Section 1.3(a)(i) of the City Terms states that FEI's communications plan should include an FEI contact centre with FEI staff available 24 hours a day, 7 days a week to receive inquiries from the public.

2.1 Please explain if the availability of FEI staff represents a modification or clarification to the FEI Terms.

A. The term is not a modification, and FEI has agreed to this term.

2.1.1 If confirmed, please briefly explain the purpose of this addition, and whether the City believes this represents a "mutually agreed to term."

A. This term is not a recent addition. The City confirms that it is a mutually agreed to term.

**3.0 Reference: Exhibit B-2, Application, Appendix B, p. 21
Construction Hours**

Section 16.1 of the FEI Terms contains the provision that "The City intends on supporting Fortis and its contractor to complete the Project in a timely manner, including permitting early start times on Saturdays and extended hours for tunneling operations, noting that the City maintains the right to deny any permit if it believes the impacts to the public are too great."

3.1 Please explain why the City Terms do not directly reference early start times on Saturdays and

extended hours for tunneling operations.

- A. The Terms and Conditions submitted by FEI contain many ambiguities. The City’s Terms and Conditions attempted to remove the ambiguities to provide clarity and certainty to the parties when the Project is underway and timely decisions need to be made. Section 1.4(c) of the City’s Terms and Conditions contains the following broad and clear wording: “The City shall use reasonable efforts to approve Noise Regulation Bylaw Exemption Permits to support FEI in completing the Project in a timely manner.”**

3.1.1 Does the City foresee any issues regarding early start times on Saturdays and extended hours for tunneling operations?

- A. The City’s Noise Regulation Bylaw, No. 1233, 1982, does not regulate the hours of operation for construction activities *per se*, but rather the noise associated with construction. Construction-related noise cannot disturb the public before 07:00 or after 20:00, except Saturdays, Sundays and holidays when the hours are 09:00 and 18:00. No noise associated with for-profit construction is permitted on Sundays and holidays. Construction can occur outside of those timeframes provided it does not generate noise that disturbs. The City Engineer and City Council can (and do) provide exemptions to this bylaw when it is believed to be in the public interest to do so. Typically this permit is evaluated and approved by the City Engineer (or his delegate), and typically for a period of no longer than one week, to allow for observation of the impacts of the work, and to determine if modifications to the work are needed to mitigate the impacts to the nearby residents.**

Early start times on Saturdays are not anticipated to be an issue. Extended hours for tunneling likely would not be an issue; however, the City anticipates that FEI or its contractor might request a permit for 24/7 work on the tunneling operations. While the City supports FEI’s effort to expeditiously complete the Project, the City reserves the right to mitigate noise impacts, such as requiring measures to be added to reduce the noise, or providing residents with a break from the noise.

**4.0 Reference: Exhibit B-2, Application, Appendix B, pp. 8, 11, 18
Mobilization and Construction Timelines**

Sections 7.5, 8.4 and 13.4 of the FEI Terms set out the mobilization and construction timeline for electrical/street lighting, water and the City’s telecom system (QNet) respectively.

4.1 Please explain why information on mobilization and construction timelines is not included in the City Terms.

- A. The City believes that it is in the interest of the public and the City in general to have the Project completed in a timely fashion, as this will reduce the impacts to the public. The City has no interest whatsoever in delaying the Project, and so specific mobilization and construction timelines do not need to be addressed in the Terms and Conditions.**

With respect to section 7.5 of the Terms and Conditions submitted by FEI, please refer to the City’s response to FEI IR 6.7. With respect to section 8.4 of the Terms and Conditions submitted by FEI, FEI or its contractor will actually do the work on the City’s water infrastructure so it does not make sense to have a construction mobilization timeline for such work in the Terms and Conditions. With respect to section 13.4 of the Terms and Conditions submitted by FEI, the City has instead proposed the provision in section 1.10(h) of the City’s Terms and Conditions and FEI has agreed to this provision in the Revised Terms and Conditions.

4.1.1 Does the City foresee any issues regarding mobilization and construction timelines?

A. No.

**5.0 Reference: Exhibit C1-2, Appendix A, p. 4
City Electrical Infrastructure**

Section 1.7 of the City Terms sets out terms and conditions related to City electrical infrastructure.

5.1 Please confirm, and briefly explain, if clause (1) (d) should be interpreted as additional to or a clarification of section 7 of the FEI Terms.

A. In general, the City's Terms and Conditions clarify FEI's Terms and Conditions, which contain many ambiguities. Section 1.7(d) of the City's Terms and Conditions clarifies and does not add to FEI's terms related to the City's electrical infrastructure.

**6.0 Reference: Exhibit C1-2, Appendix A, p. 5, 6, 8
Design Drawings**

Sections 1.8(d), 1.9(c), 1.11(f)¹ of the City Terms set out conditions related to design drawings for City Electrical Infrastructure, Sewer and Drainage Infrastructure and QNet Infrastructure, respectively.

6.1 Please clarify and briefly explain if the wording in sections 1.8(d), 1.9(c) and 1.10(f) of the City Terms should be interpreted as modifications or clarifications of the relevant provisions in the FEI Terms.

A. Sections 1.8(d), 1.9(c) and 1.11(f) of the City's Terms and Conditions clarify the relevant provisions of FEI's Terms and Conditions. These items have been further revised in the Revised Terms and Conditions.

**7.0 Reference: Exhibit B-2, Application, Appendix B, p. 14
City Street Infrastructure**

Article 10 of the FEI Terms states: "FortisBC's contractor is to work on the City's streets infrastructure with oversight from the City Inspector (with all work to be completed in accordance with... any Project specific supplementary specifications - see Reference Material B)."

7.1 Please discuss why the City Terms do not include a provision for the Project's specific supplementary specifications in section 1.10.

A. The "Project specific supplementary specifications", which is a document that was prepared by the City, refer to the full curb-to-curb repaving of Como Lake Avenue, which is an issue that will be addressed in Phase 2 of this BCUC proceeding. The City assumes that it was an oversight by FEI to leave this reference in FEI's Article 10.

7.1.1 Does the City foresee any issues regarding work being completed with the Project's specific supplementary specifications?

¹ Section 1.10 is listed twice; the BCUC is assuming the latter to be section 1.11.

A. Please refer to the City's response to BCUC IR 7.1.

Section 10.2 of the FEI Terms with respect to City Streets Submission Requirements, states: "A cross section showing the typical trench and pavement restoration must be included in the approved utility permit drawings."

7.2 Please explain why the City Terms do not explicitly reference this provision.

A. Section 1.10(c) of the City's Terms and Conditions specifies the requirements for FEI and its contractor conducting work on the City's street infrastructure, and the City believes that further details and/or requirements are not needed in the Terms and Conditions.

7.2.1 Does the City foresee any issues regarding inclusion of a cross section showing the typical trench and pavement restoration in the utility permit drawings?

A. Please refer to the City's response to BCUC IR 7.2.

**8.0 Reference: Exhibit B-2, Application, Appendix B, p. 16;
Exhibit C1-2, Appendix A, p. 9
Traffic Management Plans**

Article 11 of the FEI Terms states:

The City has approved (in principle) traffic management plans submitted by FortisBC on March 20, 2018 and the conceptual amendments to the Clarke Road and Como Lake Avenue area discussed between FortisBC and the City on June 19, 2018 (Refer to Appendix A) with conditions that include:

- those listed in Appendix A;
- adjustments will be required by the City during the implementation and monitoring phase by FortisBC's Contractor, based on their effectiveness; and
- each plan submitted by the contractor contains an Incident Management Plan and Implementation Plan (IMPIP) that is satisfactory to the City.

8.1 Please confirm if the City's position is that it agrees to the traffic management plans as described in the FEI Terms.

A. The City has had the opportunity to review and provide feedback to FEI on a traffic management plan FEI provided to the City dated March 20, 2018, and FEI has made modifications to that plan that will assist with traffic flow and community access. This is reflected in sections 2.1(a) and (b) of the City's Terms and Conditions. That traffic management plan can be considered as a framework within which FEI or its contractor will submit many detailed traffic management plans, including incident management plans and implementation plans, for specific intersections, etc., through the course of the Project. This is reflected in sections 2.1(c) to (e) of the City's Terms and Conditions. FEI has agreed to the City's terms for traffic management, with some revisions as reflected in the Revised Terms and Conditions.

8.1.1 Please confirm that sections 2.1(a) and 2.1(b) of the City Terms should also be interpreted as the City's approval of the traffic management plans.

A. Please refer to the City's response to BCUC IR 8.1.

Section 2.1(c) of the City terms states “FEI or its contractor shall submit the required traffic management plans to the City Representative in accordance with the City's Road & Sidewalk Closure Permit Application requirements, including payment of any application and permit fees specified in such requirements.”

8.2 Please clarify whether the fees in question represent standard practice for utility projects such as the LMIPSU Project.

A. Yes, these fees are specified in existing City bylaws.

8.2.1 If not, please explain.

A. Not applicable.

**9.0 Reference: Exhibit C1-2, p. 3
Other Amendments to FEI Terms**

On page 3 of Exhibit C1-2, the City states with respect to the City Terms, that the terms FEI and the City were discussing prior to the filing of the FEI Application are reflected but the format has been restructured to better organize each party's responsibilities and minimize uncertainty. The City also states that the terms have been improved to eliminate ambiguities and to be appropriate for including as terms of a BCUC order.

9.1 Please discuss whether the City identifies any additional issues regarding the “Terms Agreed To” that are not captured in the City Terms or the responses to these information requests.

A. There are no additional issues.