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August 22, 2018

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC
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Attention: Mr. Patrick Wruck, Commission Secretary and Manager, Regulatory Support

Dear Mr. Wruck:

**Re: British Columbia Utilities Commission (Commission) Inquiry into the
Regulation of Electric vehicle (EV) Charging Service (the Inquiry)
Project No. 1598941
FortisBC Inc. (FBC) Reply Argument**

In accordance with Commission Order G-119-18 establishing the Regulatory Timetable for the above noted Inquiry, attached please find FBC's Reply Argument in the above noted proceeding.

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC INC.

Original signed:

Diane Roy

Attachments

cc (email only): Registered Parties

Before the British Columbia Utilities Commission

**An Inquiry into the Regulation of
Electric Vehicle Charging Service**

**Phase One Reply Submission of
FortisBC Inc.**

August 22, 2018

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A. INTRODUCTION

1. The Final Submission of FortisBC Inc. (FBC) dated August 1, 2018 addressed most of the issues raised by other interveners in their submissions. In this Reply Submission, we have briefly addressed issues where further response is necessary, without unnecessarily repeating FBC's August 1, 2018 submissions. FBC's silence on a particular issue should not be construed as agreement with intervener submissions.
2. This submission provides FBC's reply with respect to the following matters:
 - a. the submissions of other interveners regarding the Commission's "straw man" regulatory framework for electric vehicle (EV) charging services;
 - b. the submissions of other interveners regarding the "for compensation" wording within the definition of a public utility under the *Utilities Commission Act* ("UCA");
 - c. the submissions of other interveners regarding interpretation of section 18 of the *Clean Energy Act* ("CEA") and section 4 of the *Greenhouse Gas (Clean Energy) Reduction Regulation* ("GGRR") as a prescribed undertaking, thereby enabling existing public utilities such as BC Hydro and FBC to provide EV charging services with the inclusion of EV charging stations in their regulated rate base; and
 - d. other submissions made by particular interveners.

B. THE "STRAW MAN" REGULATORY FRAMEWORK

3. Most of the interveners provided submissions regarding the Commission's "straw man" regulatory framework. Some addressed exemptions from particular provisions of the UCA, while others argued that an exemption should be granted from all of Part 3 of the UCA, or the entirety of the UCA.
4. FBC acknowledges the concern raised by interveners including AddÉnergie Technologies Inc. (ATI),¹ that the continued application of some sections of the UCA could be overly burdensome for some EV charging service providers that are not otherwise public utilities. FBC encourages the Commission to consider these potential effects in preparing its Phase One report. However,

¹ Exhibit C20-6, ATI Submission, p. 3, lines 6-28.

as set out further below, FBC submits that at least a basic level of supervision from the Commission would be appropriate.

5. FBC sees merit in a regulatory framework that may provide differing degrees of regulation for Level 1/Level 2 charging stations and Direct Current Fast Charging (DCFC) stations, as suggested by the BC Ministry of Energy, Mines and Petroleum Resources (MEMPR).² As stated in FBC's primary submissions, FBC believes that more regulatory oversight may be appropriate for DCFC stations and future higher capacity charging stations.³
6. A number of interveners suggested exemptions from the UCA that may be too broad:
 - a. BC Sustainable Energy Association and Sierra Club BC (BCSEA) recommended an exemption from most of Part 3 of the UCA;⁴
 - b. the Clean Energy Association of British Columbia (CEABC) submitted that there is "no need for the BCUC to have regulatory oversight";⁵
 - c. ChargePoint Inc. (ChargePoint) opposed most of the "carving out" of provisions from Part 3 of the UCA;⁶
 - d. Mr. Guthrie submitted that there should be an exemption from all of the UCA's provisions;⁷
 - e. Tesla Motors Canada ULC (Tesla) submitted that EV charging station operators that are not otherwise public utilities should not be subject to BCUC regulation;⁸ and
 - f. the Vancouver Electric Vehicle Association (VEVA) submitted that there should be an exemption from all sections of Part 3 of the UCA for entities not otherwise public utilities supplying electricity to EV end users.⁹

² Exhibit C19-10, MEMPR Submission, para. 21.

³ Exhibit C12-3, BCUC-FBC IR 1.4.3, 1.5.2, BCOAPO-FBC IR 1.1.1.

⁴ Exhibit C6-14, BCSEA Submission, pp. 36-37.

⁵ Exhibit C2-2, CEABC, Submission, pp. 1 and 3.

⁶ Exhibit C25-10, ChargePoint Submission, pp. 8 and 11-12.

⁷ Exhibit C16-5, Guthrie Submission, pp. 1-2.

⁸ Exhibit C28-6, Tesla Submission, pp. 7-13.

⁹ Exhibit C30-8, VEVA Submission, p. 6.

7. FBC submits that charging stations that are owned by parties not otherwise public utilities should either be provided some form of exemption from relevant sections of the UCA or alternatively the Commission might consider some degree of very light-handed regulation to help support growing EV demand.

C. MEANING OF “FOR COMPENSATION”

8. As described in FBC’s primary submissions, the meaning of “for compensation” within the definition of a public utility as defined in the UCA appears to be consistent with a requirement that there be some form of *quid pro quo*, and that something more than goodwill as a result of the provision of a free service would be required.
9. FBC agrees with the submissions of BC Hydro that only when compensation is provided by the person receiving the service¹⁰ is the person providing the service (potentially) a public utility under the UCA.¹¹ FBC also agrees with BC Hydro that only where EV charging services are provided on condition of the customer being required to provide some other “rate, remuneration, gain or reward” should the arrangement be seen as compensation and a public utility issue.¹²
10. FBC submits that an overly restrictive interpretation with respect to the meaning of compensation, such as that alluded to by the BC Old Age Pensioners’ Organization *et al.* (BCOAPO)¹³ and CEABC¹⁴, should be rejected and that the Commission should make use of a purposive approach in its interpretation of the UCA as encouraged by MEMPR.¹⁵

D. PRESCRIBED UNDERTAKINGS UNDER THE CEA AND GGRR

I. SUBSECTION 4(3)(E) OF THE GGRR ALSO APPLIES TO EV CHARGING SERVICES

11. In reply to the submissions of BC Hydro¹⁶ and BCOAPO,¹⁷ FBC does not agree that only one of the GGRR classes has potential applicability in the context of this proceeding. As described in

¹⁰ In FBC’s submission, or on behalf of the person receiving the service (as opposed to an arm’s-length third party).

¹¹ Exhibit C1-5, BC Hydro Submission, para. 13.

¹² Exhibit C1-5, BC Hydro Submission, para. 19.

¹³ Exhibit C21-10, BCOAPO Submission, p. 4.

¹⁴ Exhibit C2-2, CEABC Submission, p. 1.

¹⁵ Exhibit C19-10, MEMPR Submission, para. 7.

¹⁶ Exhibit C1-5, BC Hydro Submission, para. 21.

¹⁷ Exhibit C21-10, BCOAPO Submission, p. 14.

FBC's primary submissions, in addition to section 4(3)(c), section 4(3)(e) could also apply to EV charging services:

(e) a project for the construction, acquisition or extension of a plant or system, that the public utility reasonably expects is necessary to meet the public utility's incremental load-serving obligations arising as a result of an undertaking defined in paragraph (a), (b), (c) or (d), if the public utility reasonably expects any one such project to cost no more than \$20 million.

12. It is clear from the language of section 4(3)(e) that if section 4(3)(c) applies, a related project could also apply under subsection 4(3)(e).

13. Accordingly, FBC does not support paragraph 3 of BC Hydro's Proposed EV Service Guidelines.¹⁸ At the least, modification to paragraph 3 of the proposed guidelines would be required to account for this omission. However, FBC submits that the paragraph is not required in any event.

II. BC HYDRO'S PROPOSED AMENDMENT TO THE GGRR SHOULD BE SLIGHTLY MODIFIED

14. BC Hydro proposed that an amendment be made to section 4 of the GGRR, by adding the following subsections:¹⁹

(5) A public utility's undertaking that is in a class defined as follows is a prescribed undertaking for the purposes of section 18 of the Act:

(a) the public utility constructs or operates an electric vehicle charging station.

15. While FBC believes that such an amendment would be reasonable, if such an amendment is proposed, FBC submits that the language should also include "purchases" in order to allow for a public utility to acquire an EV charging station (in addition to the ability to construct one). This would be more consistent with language already found in the GGRR with respect to compressed natural gas fuelling stations²⁰ and liquefied natural gas fuelling stations.²¹

¹⁸ Exhibit C1-5, BC Hydro Submission, Appendix A.

¹⁹ Exhibit C1-5, BC Hydro Submission, Appendix B.

²⁰ Section 2(2)(a).

²¹ Section 2(3)(a).

III. NATURE OF TRADITIONAL PUBLIC UTILITY PARTICIPATION IS OUT OF SCOPE

16. In its submission CEABC suggests that FBC should only be allowed to participate in the EV charging market on a non-regulated basis.²² This is outside the scope of Phase One of the Inquiry, and also contrary to the position of a number of interveners, including FBC. FBC believes that there are a number of potential benefits resulting from utilities providing regulated EV charging services, which include:²³

- a. the adoption of practices to support reliable EV charging service, particularly in those areas where there are very limited choices available to EV customers;
- b. planning for the adequacy of the local distribution system and upgrades to infrastructure in advance of deployment of the station(s);
- c. long-term pricing stability and reliability, as utilities will not be entering and exiting the market according to the current market opportunities; and
- d. costs associated with various locations can be blended so that the higher cost to serve locations are mitigated by the lower cost to serve locations.

17. These matters can be examined in more detail in a further phase of the Inquiry or another proceeding; the Commission should not accept CEABC's suggestion on this matter in the course of Phase One.

IV. BCOAPO'S SUBMISSION REGARDING "COST EFFECTIVE" UNDER THE GGRR IS MISTAKEN

18. FBC submits that BCOAPO's submission regarding the application of "cost effective" under the GGRR²⁴ is based on a misreading of the regulation.²⁵ BCOAPO suggests that the "cost-effective" requirement of the GGRR applies to investments under subsection 4(3)(c).²⁶ However, subsection 3(4) of the GGRR provides as follows:

(4) An undertaking is within a class of undertakings defined in paragraph (a) or (b) of subsection (3) only if, at the time the public utility decides to carry out the

²² Exhibit C2-2, CEABC Submission, p. 4.

²³ Exhibit C12-2, FBC Evidence, p. 15; Exhibit C12-3, BCUC-FBC IR 1.22.2.1.

²⁴ Exhibit C21-10, BCOAPO Submission, p. 13.

²⁵ The City of Vancouver appears to make a similar suggestion at para. 30 of its submissions (Exhibit C5-7).

²⁶ Exhibit C21-10, BCOAPO Submission, p. 13.

undertaking, the public utility reasonably expects the undertaking to be cost-effective.

[Emphasis added.]

19. While FBC has taken guidance from the “cost-effective” definition in section 4(1),²⁷ and believes these principles are appropriate in considering the cost of service of EV charging stations,²⁸ it is clear that the “cost-effective” requirement is not prescribed under the GGRR to other paragraphs of section 3, such as (c) and (e).

V. THE CITY OF VANCOUVER’S PROPOSED GGRR AMENDMENTS GO TOO FAR

20. In its submissions, the City of Vancouver suggests that section 4 of the GGRR be amended to require BC Hydro and FBC to invest in the EV charging network based on thresholds, and upgrade infrastructure.²⁹ In addition to being beyond the scope of the GGRR, such an amendment is inappropriate as it would represent an incursion upon the utility’s management. While legislation can provide incentives for utility investments, FBC should not be compelled to make investments beyond those required to meet its obligations as a public utility. FBC is already required to provide adequate, safe, efficient, just and reasonable service to the public without undue discrimination.³⁰ Accordingly, it can already be expected to make appropriate investments and upgrades to its infrastructure. An amendment to the GGRR *compelling* additional investment is not required and would be beyond the scope of what can be regulated under the CEA.

E. OTHER ITEMS

I. CEC’S SUGGESTIONS REGARDING LONG TERM REGULATION SHOULD BE IGNORED

21. In its submissions the Commercial Energy Consumers Association of British Columbia (CEC) suggests that “it will be appropriate for the Commission to determine that in the long term the EV charging market should not be regulated by the Commission”.³¹ FBC submits that such a determination is beyond the scope of Phase One of the Inquiry. There is an overwhelming amount of evidence on the record that EVs are at a relatively early stage of market adoption.

²⁷ Exhibit C12-3, Flintoff-FBC IR 1.6.1.

²⁸ Exhibit C12-3, BCUC-FBC IR 1.17.1.

²⁹ Exhibit C5-7, City of Vancouver Submission, paras. 31(c) and (d).

³⁰ UCA, Sections 38 and 39.

³¹ Exhibit C24-19, CEC Submission, paras. 61, 65-73 and 105.

The Commission should allow the EV charging market to further develop before reaching any conclusions on a long term form of regulation for public utility involvement.

22. Part of CEC's justification for its position is the assertion that the Commission does not generally regulate energy end-uses.³² However, end-use regulation does occur, and there is nothing inappropriate with rates being set based on end-use. For example, FBC has specific rate schedules in its tariff for irrigation and drainage,³³ and street lighting.³⁴

II. TESLA REQUEST FOR INACTION SHOULD BE REJECTED

23. In its submissions Tesla suggested that decisions in this Inquiry should be deferred for at least a year and pending cabinet consideration.³⁵ FBC believes that further delay in the Commission's consideration of the Phase One issues could hinder EV charging station deployment efforts and further stifle EV adoption. The Commission should proceed with the Inquiry and proceed in accordance with the timetable set out in Order G-119-18.

III. VEVC'S ADDITIONAL ISSUES SHOULD BE CONSIDERED AT A LATER DATE

24. In its submission the Victoria Electric Vehicle Association (Victoria EVA) listed a number of items that it identified as "additional priority issues", including a DCFC general tariff.³⁶ In FBC's submission, these items are better left for consideration at a later date, likely with the benefit of additional evidence and more developed arguments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: August 22, 2018

[original signed by]

Diane Roy

³² Exhibit C24-19, CEC Submission, para. 108.

³³ Rate Schedule 60.

³⁴ Rate Schedule 50.

³⁵ Exhibit C28-6, Tesla Submission, pp. 2 and 15.

³⁶ Exhibit C35-7, Victoria EVA Submission, p. 6.