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E-filed

Ian Webb
D: 604.631.9117
F: 604.694.2932
iwebb@lawsonlundell.com

British Columbia Utilities Commission
Sixth Floor, 900 Howe Street
Vancouver, BC V6C 2N3

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. By letter dated September 12, 2018, the Commission requested that FEI and the City file submissions on the issues that need to be addressed in Phase Two of this proceeding, as established by Order G-144-18A, and the relief being sought in this proceeding.¹ The City's response to this request is below.

The scope of the proceeding includes the five Project Issues

In the Order G-144-18A Decision dated August 8, 2018, the Commission determined that the scope of this proceeding focuses on the five "Project Issues" set out on page 2 of the Decision, and that the five issues will be considered in two phases of the proceeding.²

The Commission established a two-phase process because the Commission was persuaded that

- there was urgency to determining whether to permit FEI to proceed with the Coquitlam segment of the LMIPSU Project;³

¹ Exhibit A-9.

² Exhibit A-5, Appendix A to Order G-144-18A, section 3.2.

³ The Commission was of the view that the potential for an escalation of costs due to a delay (not quantified) justified the need to deal with the initial issue with urgency, although safety concerns also dictated moving forward with the project and avoiding unnecessary delays due to regulatory process.

- FEI and the City were largely in agreement with respect to the most urgent terms and conditions (“Terms Agreed To”) such that it ought to be possible to settle such terms and conditions on an expedited basis;⁴ and
- the matters in dispute (“Terms Not Agreed To”) related to work near the end of the Coquitlam segment of the LMIPSU Project and therefore may be determined in a second phase of the proceeding subsequent to determining the most urgent issue of whether to permit FEI to proceed with the Coquitlam segment of the LMIPSU Project.⁵

The relative urgency of the need to make determinations on each of the five Project Issues underlies the two-phase process, not the significance or importance of each issue. The City maintains that the remaining matters to be addressed in this proceeding are significant, interrelated with the other matters, and need to be addressed to mitigate the impacts of the LMIPSU Project on the City's infrastructure and the community to the extent reasonably possible.

The City's letter to the Commission dated August 3, 2018 (Exhibit C1-2) included Terms and Conditions proposed by the City to permit FEI to proceed with the Coquitlam segment of the LMIPSU Project. The City's letter stated that the proposed Terms and Conditions are without prejudice to the City's position on the issues that are to be addressed in Phase Two. The City also submitted in that letter that the Commission should include as terms of any Phase One Order confirmation that FEI will remove the 380m of the decommissioned NPS 20 Pipeline if it interferes with municipal infrastructure, and repair and repave all pavement disturbed by the Project, with consideration of evidence and detailed terms and conditions for these two matters to follow in Phase Two.

Pursuant to Order G-158-18 dated August 22, 2018 the Commission authorized FEI to proceed with the Coquitlam segment of the LMIPSU Project, based on the terms set out in the Terms and Conditions document appended to the City's letter dated August 17, 2018 (Exhibit C1-5), and the terms of the documents forming part of such Terms and Conditions.

The Terms and Conditions specified pursuant to Order G-158-18 do not address the Phase Two Issues for the reasons outlined above. Directive 2 of Order G-158-18 provides that Phase Two of the proceeding will continue in accordance with Order G-144-18A. Phase Two of the proceeding will be open to interveners and interested parties.

Phase Two Issues

Phase Two will address Project Issues 4 and 5 as set out on page 2 of the Order G-144-18A Decision:

4. Removal of 380m of the decommissioned NPS 20 IP gas line under Como Lake Avenue between North Road and Clarke Road in the Burquitlam area
5. Repair and repaving of damage to Como Lake Avenue caused by the Project

⁴ Exhibit A-5, Appendix A to Order G-144-18A, section 3.2.

⁵ *Ibid.*

Project Issue 4

FEI has confirmed on the record to the media that the decommissioned NPS 20 Pipeline will remain FEI's responsibility and that FEI will remove it if it interferes with municipal infrastructure. To date, FEI has not provided details of such removal.

The City continues to believe that the NPS 20 Pipeline must be removed to make space for other utility projects that support the public interest (e.g., water mains, sewers, telecommunications, etc.). FEI's current plan to fill the NPS 20 Pipeline with concrete and leave it in place would only exacerbate the existing congestion issue and make it more costly for FEI to remove the pipeline (filled with cement) in the future.

The City believes that the best approach from the City's perspective and the most cost-effective approach for FEI is for FEI to remove the 380m section of the NPS 20 Pipeline between North Road and Clarke Road when this pipeline is decommissioned.

In Phase Two of this proceeding the City will submit evidence regarding the existing congestion issues and need for the 380m section to be removed to accommodate planned City works. The City will be seeking a Commission Order requiring FEI to remove the 380m section when it is decommissioned.

In addition to the need to remove the 380m section of the decommissioned pipeline to make way for planned City works, the City expects that the Commission will also have to consider in a subsequent proceeding FEI's obligations to remove the entire approximately 5.5 km length of its NPS 20 Pipeline in Coquitlam in the future. The City fundamentally believes that the decommissioned pipeline should be removed from the City's street to make way for other public interest infrastructure like water works, sewers and other utilities. FEI has confirmed that the decommissioned NPS 20 Pipeline will remain FEI's responsibility and that FEI will remove it if it interferes with municipal infrastructure; however, FEI has not provided details of such removal. The City expects that the matter will require the Commission's attention subsequent to the current proceeding.

Project Issue 5

Section 1.10 of the Terms and Conditions specified pursuant to Order G-158-18 provides that FEI shall repair and restore the pavement disturbed by the Project, including patching and repaving the lanes of Como Lake Avenue disturbed by the Project, and that this requirement is without prejudice to the City's position that FEI will be required to undertake curb-to-curb repair and repaving of Como Lake Avenue the determination of which is expected to be made by the Commission in Phase Two.⁶

Thus, the City expects that in Phase Two of this proceeding the Commission will determine whether FEI will be required to undertake curb-to-curb repair and repaving of Como Lake Avenue based on evidence related to the extent to which FEI's Project is anticipated to disturb the pavement.

⁶ Section 8 of the 1957 Operating Agreement between the City and FEI also requires FEI to reinstate the pavement disturbed by FEI's work in the City. A copy of the 1957 Operating Agreement is provided at Appendix B of Exhibit B-1.

The City will submit such evidence, and will be seeking a Commission order requiring FEI to undertake curb-to-curb repair and repaving of Como Lake Avenue.

FEI indicated in its letter to the Commission dated September 5, 2018 that FEI anticipates filing evidence for Phase Two that includes an assessment of the existing condition of Como Lake Avenue. The City intends to discuss with FEI whether it would be possible for the City and FEI to commission and submit a joint assessment of the existing condition of Como Lake Avenue in aid of determining the extent to which the LMIPSU Project will disturb the pavement.

In addition to submitting the evidence outlined above, the City also requests the opportunity to submit information requests to FEI in Phase Two.

Yours very truly,

LAWSON LUNDELL LLP



Ian Webb

IDW/drr

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