



Diane Roy
Vice President, Regulatory Affairs

Gas Regulatory Affairs Correspondence
Email: gas.regulatory.affairs@fortisbc.com

Electric Regulatory Affairs Correspondence
Email: electricity.regulatory.affairs@fortisbc.com

FortisBC
16705 Fraser Highway
Surrey, B.C. V4N 0E8
Tel: (604) 576-7349
Cell: (604) 908-2790
Fax: (604) 576-7074
Email: diane.roy@fortisbc.com
www.fortisbc.com

September 26, 2018

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC
V6Z 2N3

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

Dear Mr. Wruck:

Re: FortisBC Energy Inc. (FEI or the Company)

**Application to Exclude Employee Information from 2015 Data Order G-161-15
(the Application) Project No. 1598960**

**Request for Temporary Relief to Permit Completion of Pension Work for
Financial Reporting**

FEI's August 18, 2018 Reply Submissions on Jurisdiction noted that, if this process remains unresolved by the end of September, then we will need to seek a temporary exemption from the Data Order to permit us to provide Willis Towers Watson (WTW) with Employee Information. FEI requires WTW's services to perform pension analysis that is essential for the preparation of FEI's 2018 year-end audited external financial statements.

On September 24, the British Columbia Utilities Commission (BCUC) issued Order G-174-18, setting out a Regulatory Timetable for the further review of this Application. The Order contemplates the process extending at least through the end of October. As such, it is now necessary to seek temporary relief pursuant to section 88(2) of the *Utilities Commission Act*, pending the BCUC's final order in this matter.

Basis for Requested Temporary Relief

FEI's submission regarding the basis for this request¹, which remains accurate, was as follows:

¹ FEI's Reply Submission on Jurisdiction, dated August 18, 2018, paras. 69-71 (footnote references omitted).

H. MORE PENSION ANALYSIS, AND MORE DATA, WILL BE REQUIRED IN NEAR FUTURE

69. FEI is under some time constraints when it comes to the administration of the pension plans, of which the Commission should be aware.

70. WTW prepares pension financial information that is required for compliance with pension legislation for the three FEI company sponsored plans, and that is required for compliance with securities legislation for the preparation of FEI's 2018 year-end audited external financial statements. The next round of work must be completed by December 2018. That timeline will require FEI to deliver additional personal information to WTW before the end of September 2018. If this process remains unresolved by the end of September, then FEI may have to seek an interim/temporary exemption from the 2015 Data Order (without prejudice to its position on jurisdiction) on short notice.

71. It would not be practical to conduct a procurement process for a Canadian actuarial firm to complete the work this year, and it is questionable whether a suitable candidate could be identified that only backs-up data in Canada, is independent from actuaries already engaged by IBEW, MoveUP and three sets of Trustees, and is among the limited number of specialized firms that has the reputation expected for a company and plans of this size. Another actuarial firm would not have ready access to past data held by WTW, which would delay the work and add to FEI's cost.

The Application outlines WTW's track record of protecting confidential information. It explains measures in place at WTW to protect data, including having the equivalent level of encryption as FEI's own databases (AES 256 bit encryption). We have every expectation that the data will remain secure.

Order Sought

FEI is respectfully seeking the following approval from the BCUC:

Pending the BCUC's final order in this proceeding, FEI is temporarily exempted from Order G-161-15 as it relates to "Employee Information" sent to FEI's pension actuaries, Willis Towers Watson (WTW) provided that:

- (a) FEI transmits Employee Information to WTW in de-identified or encrypted format; and
- (b) between the date of this order and providing an Encryption Key to WTW to access Employee Information, FEI re-confirms with WTW that any new Employee Information delivered to WTW that is subsequently de-encrypted by WTW will be held in databases that are encrypted using AES

256 bit encryption, or another means of providing equivalent protection from inadvertent disclosure.

A draft form of order sought is attached in Appendix A.

FEI submits that this temporary order is a reasonable and practical means of addressing the current challenge, while ensuring that data remains appropriately protected. It will afford the BCUC the time necessary to make a considered decision on the overall Application.

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachments

cc (email only): Registered Parties

Appendix A
DRAFT ORDER



ORDER NUMBER

G-xx-xx

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

FortisBC Energy Inc.

Application to Exclude Employee Information from 2015 Data Order

BEFORE:

[Panel Chair]
Commissioner

on **Date**

ORDER

WHEREAS:

- A. On May 23, 2018, FortisBC Energy Inc. (FEI) submitted an application with the British Columbia Utilities Commission (BCUC) seeking the following:
 - an order pursuant to section 99 of the Utilities Commission Act (UCA) that Order G-161-15 be varied so as to exclude “Employee Information” as defined in that order; or alternatively,
 - an order pursuant to section 88(2), exempting from Order G-161-15 all “Employee Information” or, at minimum, particular employee data (Pension Data) held by FEI’s pension actuaries, Willis Towers Watson (WTW) (Application).
- B. On October 13, 2015, the BCUC issued Order G-161-15, permitting FEI to store the Customer Information, Employee Information, and Sensitive Information on servers outside of Canada where (i) the data is encrypted or de-identified and (ii) the encryption keys and de-identification keys are located within FEI’s data centres that are located in Canada;
- C. FEI advised in its May 23, 2018 filing that the Chief Privacy Officer, in a recent internal review, identified that WTW has held the employee information regarding employees who participate in pension plans on US-based servers (Pension Data), without encryption or de-identification, for more than 30 years. This includes former and current employee information. FEI wishes to apprise the BCUC of the issue, and to apply to the BCUC for an order that will determine how FEI proceeds;
- D. FEI submits that the BCUC’s jurisdiction under the UCA does not extend to employee data, or alternatively the BCUC should not exercise its jurisdiction in respect of Employee Information;
- E. On July 12, 2018, the BCUC issued order G-125-18, establishing a regulatory timetable to include submissions on BCUC jurisdiction by FEI and registered interveners;

- F. In their submission on August 10, 2018, MoveUP made a request to suspend the regulatory timetable to afford FEI an opportunity to consult with MoveUP and explore the possibility of finding an adequate resolution to the underlying issue of employee information protection.
- G. On August 20, 2018, registered parties were invited to provide comments on the request by MoveUP for a suspension of the regulatory timetable;
- H. By August 31, 2018, FEI and intervener Commercial Energy Consumers Association of British Columbia (CEC) submitted comments on suspension of the regulatory timetable. CEC submitted that it does not object to the proposal made by MoveUP to suspend the proceeding briefly to explore the possibility of finding an adequate resolution of the underlying issue of employee information protection. FEI submitted that it does not support a suspension of the regulatory timetable, arguing pursuing that approach at this point in the proceeding presupposes the BCUC has jurisdiction to bless any negotiated outcome. FEI suggests a more logical time to hold those discussions would be after the BCUC's determination on the preliminary issue of jurisdiction;
- I. On September 24, 2018, the BCUC issued Order G-174-18 denying MoveUP's application to suspend the proceeding and issued an amended regulatory timetable establishing final and reply arguments;
- J. On September 26, 2018, FEI applied, pursuant to section 88(2) of the UCA, for temporary relief requesting that, pending the BCUC's final order in this proceeding, FEI is temporarily exempted from Order G-161-15 as it relates to "Employee Information" sent to FEI's pension actuaries, Willis Towers Watson (WTW) for the purposes of performing analysis that is essential for the preparation of FEI's 2018 year-end audited external financial statements;
- K. The Commission reviewed the application for temporary relief and considers that it should be approved.

NOW THEREFORE the Commission orders as follows pursuant to section 88(2) of the UCA:

1. Pending the BCUC's final order in this proceeding, FEI is temporarily exempted from Order G-161-15 as it relates to "Employee Information" sent to FEI's pension actuaries, Willis Towers Watson (WTW) provided that:
 - (a) FEI transmits Employee Information to WTW in de-identified or encrypted format; and
 - (b) between the date of this order and providing an Encryption Key to WTW to access Employee Information, FEI re-confirms with WTW that any new Employee Information delivered to WTW that is subsequently de-encrypted by WTW will be held in databases that are encrypted using AES 256 bit encryption, or another means of providing equivalent protection from inadvertent disclosure.
2. The temporary exemption referred to in Directive 1 of this order remains in effect until the BCUC issues a final order in the Application.

DATED at the City of Vancouver, in the Province of British Columbia, this (XX) day of (Month Year).

BY ORDER

(X. X. last name)
Commissioner