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Sent via eFile

FEI EXCLUDE EMPLOYEE INFORMATION FROM 2015 DATA ORDER G-161-15 EXHIBIT A-11
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Ms. Diane Roy
Vice President, Regulatory Affairs
FortisBC Energy Inc.
16705 Fraser Highway
Surrey, BC V4N 0E8
electricity.regulatory.affairs@fortisbc.com

**Re: FortisBC Energy Inc. – Application to Exclude Employee Information from 2015 Data Order G-161-15 –
Project No. 1598960 – Panel Information Request No. 1**

Dear Ms. Roy:

Further to BCUC Order G-201-18, please find enclosed Panel Information Request No. 1. Please file your responses no later than Monday, November 5, 2018.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

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Enclosure



FortisBC Energy Inc.
Application to Exclude Employee Information from 2015 Data Order G-161-15

PANEL INFORMATION REQUEST NO. 1 TO FORTISBC ENERGY INC.

- 1.0 Reference: Kinder Morgan Inc. (KMI) 2005 Terasen Inc. Acquisition Decision with Order G-116-05, p. 50; TGI/RGVI/TGSQ/TGW Request for Clarification of Commission Order No. G-116-05 and Decision, G-75-06; Fortis Inc. 2007 Acquisition of Terasen Inc. Shares, G-49-07, Reasons for Decision, p. 15
BCUC Jurisdiction**

Page 50 of the KMI 2005 Terasen Inc. Acquisition Decision accompanying Order G-116-05 states:

In order to address privacy concerns and other concerns, the Commission Panel determines that it would be appropriate to attach a condition to approval of the Transaction that requires KMI not to change the geographic location of any existing functions or data currently in TGI's service are without prior approval of the Commission.

Order G-75-06 states:

...The Commission orders that the location of data and servers providing service to the Terasen Utilities is to be restricted to Canada and that any proposal to locate data and servers providing services to the Terasen Utilities (including data and servers providing back-up services) outside Canada will require the Commission's approval.

Page 15 of the Fortis Inc. 2007 Acquisition of Terasen Inc. Shares reasons for decision accompanying Order G-49-07 states:

Section 54(9) of the Act provides that the Commission may attach conditions to any approval that the Commission considers necessary and desirable for the public interest.

...Conditions should be imposed relating to ring-fencing, governance and location of functions and data as set out in Commission Decision and Order No. G-116-05, revised by Commission Order No. G-75-06 and clarified by Commission Letter No. L-30-06 related to the previous application by KMI to acquire Terasen as conditions to the approval of the Application.

- 1.1 Please confirm if FortisBC Energy Inc. (FEI) believes that the British Columbia Utilities Commission (BCUC) had the jurisdiction under section 54 of the *Utilities Commission Act (UCA)* to restrict the location of servers and data in the following orders:**

- G-116-05
- G-75-06
- G-49-07

Please explain your answer and differentiate between the jurisdiction with respect to

“Employee Information” and the jurisdiction with respect to other data.

1.1.1 If FEI believes that the BCUC did not have jurisdiction under section 54 to issue the above named orders with respect to the location of servers and data, does FEI believe that these decisions should also be reconsidered? Please explain your answer.

1.1.1.1 If the BCUC were to reconsider the above named orders with respect to their conditions restricting the location of servers and data, please explain on what basis FEI would consider applying for such reconsideration, and what regulatory process FEI believes would be most appropriate.

2.0 Reference: FEI Application to Exclude Employee Information from 2015 Data Order G-161-15 (Application), Exhibit B-1, Section 1.1, p. 1, Section 4, p. 5; FEU 2015 Remove Data Location Restriction Application, Order G-161-15 BCUC Jurisdiction

FEI’s Application on page 1 states:

Commission Order G-161-15 (2015 Data Order) established restrictions on FEI’s ability to send data – defined as “Customer Information”, “Sensitive Information” and “Employee Information” – outside of Canada. In particular, the 2015 Data Order required that “Employee Information” be encrypted or de-identified before being stored outside of Canada, and that encryption keys must be kept in Canada. In this Application, FEI is respectfully requesting:

- an order pursuant to section 99 of the *Utilities Commission Act* (UCA) that the portion of Order G-161-15 applicable to “Employee Information” be rescinded; 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 or Towers).

Further, page 5 of the Application states:

...the Commission had relied upon section 44 of the UCA to issue the 2015 Data Order, nothing that it was the only potential basis for finding jurisdiction. Section 44 does refer to the location of “accounts and records”, but the section must be interpreted with regard to the purpose of the legislation and intention of the Legislature. The purpose and intent of section 44 is to ensure that records are available to allow the Commission to regulate the utility, not about protecting privacy or dictating how and where electronic copies must be stored. The 2015 Data Order was beyond the Commission’s jurisdiction as it related to Employee Information.

Order G-161-15 states:

D. The approval sought by FEI is as follows:

- (a) Effective the date of this order, the restriction imposed under Orders G-116-05, G-75-06, and G-49-07, that the location of data and servers providing service to FEI be restricted to Canada, is removed and no longer in effect.

(b) For the purposes of this order:

- “**Customer Information**” means information of or about the FEI residential, commercial, or industrial customers.
- “**Employee Information**” means information of or about the FEI employees.
- “**Sensitive Information**” includes:
 - financial, commercial, scientific or technical information, the disclosure of which could result in undue financial harm or prejudice to the FEI; and
 - information that relates to the security of the FEI critical infrastructure and operations, the disclosure of which could pose a potential threat to the FEI operations or create or increase the risk of a debilitating impact on the safe and reliable operation of the FEI system.
- “**Encrypted**” means an encryption methodology using current industry standards for secure encryption.
- “**De-identified**” means a de-identification methodology consistent with current industry practice for the purpose of protecting personal information.
- “**Encryption keys**” and “**De-identification keys**” mean any information or methodology used to access encrypted or de-identified data.

(c) Effective as the date of this Order, FEI is permitted to store data on servers located outside of Canada, provided that data containing **Customer Information, Employee Information, or Sensitive Information**, or any combination thereof, must be either **Encrypted** or **De-identified** if such data is to be stored on servers located outside of Canada.

(d) **Encryption keys** and **De-identification keys** for **Encrypted** or **De-identified** FEI data stored outside of Canada must be stored on servers located within FEI’s data centres that are located in Canada.

- 2.1 Please confirm that the Application relates to “Employee Information” only, and not the “Customer Information” and “Sensitive Information” to which Order G-161-15 also applies.
- 2.2 Please confirm that in the Application “Employee Information” applies only to recital D (b) through D (d) of Order G-161-15, and not to section D (a) which removes the restrictions on all data that were imposed by Orders G-116-05, G-75-06, and G-49-07. Please explain your answer.
- 2.3 Does FEI believe that the BCUC had jurisdiction under any section of the UCA to make Order G-161-15 recital D (a) rescind the restriction regarding “Employee Information”? Please explain your answer.
- 2.4 Does FEI believe that if recital D (a) of Order G-161-15 were to be rescinded with respect to “Employee Information”, the restrictions imposed on “Employee Information” by Orders G-116-05, G-75-06, and G-49-07 would continue to apply? Please explain your answer.