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**File No. 551952/000002**

November 20, 2018

**Delivered by Email (commission.secretary@bcuc.com)**

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

**Attention: Patrick Wruck, Commission Secretary**

Dear Sirs/Mesdames:

**Re: FortisBC Alternative Energy Services Inc. (“FAES”) 2018/2019 Revenue Requirements and Cost of Service Rate Application for the Thermal Energy Service to Delta School District No. 37 – Project No. 1598949 (the “Application”)**

We write on behalf of Delta School District No. 37 (“DSD”), to respond to the request of the B.C. Utilities Commission (the “BCUC”) for submissions on the remaining regulatory steps to be taken in this proceeding (Exhibit A-8). For the purposes of these submissions, DSD repeats and relies upon its responses to BCUC Information Request No. 1.5 (Exhibit A-7) with respect to its position on the matters at issue in the Application proceedings, and the relief that DSD is seeking from the BCUC. DSD likewise adopts the defined terms in its earlier submissions.

#### **DSD POSITION ON NEXT STEPS**

In its prior submissions, DSD confirmed that it is seeking, among other things, a determination as to whether all of the expenditures included in the DDA and in the calculation of the COS Rate proposed by FAES were prudently incurred, and whether and to what extent such amounts should be recoverable by FAES as part of any COS Rate to which DSD is switched.<sup>1</sup> DSD maintains that these questions are central to the Application proceedings.

Accordingly, through its Information Requests to date, DSD has sought to obtain information from FAES to assess the prudence of the capital costs and other costs related to heat pump-based systems for the Project. For a variety of reasons, however, FAES has failed or refused to provide DSD with the information it has requested. In this regard, the following outstanding requests arising from its most recent Information Requests to FAES are of particular concern to DSD:

1. FAES has failed to provide a full and adequate response to DSD Information Request No. 3.3, in which DSD asked FAES to provide specific information regarding the impact of

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<sup>1</sup> Exhibit C1-8, Response to IR No. 1.5.

the 2013 re-configuration on the Project. In its response, FAES did not provide the information requested. Instead, it simply reproduced a table with the nameplate capacity of the heat pump-based systems.

2. FAES has failed to provide a full and adequate response to DSD Information Request Nos. 6.3, 6.3.1, 6.3.3 and 6.3.3.1 on the grounds that FAES is unable to provide the information requested. DSD understands that most of the information required to respond to these Information Requests should either be possessed by FAES or readily extractable from the record of the Application proceedings, or related proceedings (e.g. the CPCN proceedings and annual rate approval proceedings).
3. FAES has refused to provide a full and adequate response to DSD Information Request Nos. 7.1, 8.2, 8.3, 9.2, 11.1 and 11.2 (which, generally, concern certain energy models devised by JCCLP and the analysis that JCCLP performed in doing so), on the grounds that, generally, the information requested would be too costly to obtain (because JCCLP would charge FAES to provide the information) and because FAES maintains that the information sought is irrelevant to the Application proceedings.

As set out above, with respect to relevance, DSD maintains that the question of whether and to what extent FAES complied with its contractual obligation to design the heat pump systems to be operationally compatible with the pre-existing terminal equipment in DSD schools is a central issue in the Application proceedings. Specifically, it is directly relevant to the question of whether the expenditures associated with those systems were prudently incurred by FAES, which, in turn, directly informs whether such costs should be recoverable by FAES.

Moreover, FAES has failed to specify the amount of any cost that JCCLP would allegedly charge FAES to provide the information sought. FAES has also failed to explain the basis for any such charge, given that: JCCLP originally produced the energy modelling analysis for the benefit of FAES; JCCLP presumably provided this information to FAES in the past; and JCCLP has already produced at least some of the information sought for Neilson Grove Elementary School for the purpose of this Application proceeding.

Based on its review of the energy modelling analysis for the Neilson Grove Elementary School (which FAES did provide) DSD expects that there may be further DSD Information Requests relating to the underlying assumptions and inputs that formed the basis for the JCCLP energy modelling analysis for that school. Specifically, DSD also expects that there may be further DSD Information requests for shop drawings for any heat coils, air handling units, and pumps used in each school, as well as the identification of any architectural floor plans or building exterior elevations relied upon by JCCLP in its analysis. Moreover, it bears emphasis that while DSD has limited its current Information Requests to information concerning Delview Secondary, Richardson Elementary, and Neilson Grove Elementary schools, following its review of the materials sought, it may request similar information for other DSD schools also equipped with heat pump-based systems as part of the Project.

4. Similarly, FAES has failed to provide a full and adequate response to DSD Information Request No. 7.2, in which DSD requested information regarding the analysis that FAES

undertook to determine that utilizing heat pumps were preferable to the use of boilers at Delview Secondary, Richardson Elementary, and Neilson Grove Elementary schools. FAES repeats and relies upon its comments under Item 3 above on this point.

5. FAES has refused to provide a full and adequate response to DSD Information Request No. 10.1, in which DSD requested information regarding the impact of DSD’s actions on system efficiency, on the grounds that the information requested is too costly to obtain.

Rule 14.01 requires FAES to provide a full and adequate response to each of DSD’s Information Requests. DSD requires full and adequate responses to each of its Information Requests so that it can provide complete and accurate evidence to the BCUC in the Application proceedings in support of the relief it seeks.

Should FAES fail or refuse to adduce evidence substantiating the assertions it has made in response to the evidence of DSD’s experts (which appears to be the case with respect to the FAES responses discussed in Items 1 and 5 above), DSD submits that the BCUC should draw an adverse inference against FAES with respect to the assertions in question.

In light of the foregoing, DSD respectfully submits that the next step in the regulatory process should be as follows:

<b>Action</b>	<b>Date</b>
FAES to provide DSD with full and adequate responses to DSD Information Request Nos. 3.3, 6.3, 6.3.1, 6.3.3, 6.3.3.1, 7.1, 7.2, 8.2, 8.3, 9.2, 10.1, 11.1 and 11.2.	December 14, 2018
DSD to provide submissions on further process	January 18, 2019
FAES to provide submissions on further process	January 25, 2019

DSD submits that once FAES has provided full and adequate responses to DSD’s outstanding Information Requests, and DSD has had a reasonable opportunity to review the responses provided, the parties should be afforded the opportunity to provide further submissions to the BCUC regarding the further regulatory process to be followed. To this end, DSD notes that, following its review of any additional information provided by FAES, further information requests and/or the submission of additional expert evidence may be warranted.

**FORM OF HEARING AND SUBMISSIONS**

With respect to whether or not an oral hearing is necessary, and whether the argument phase of the proceedings should be in written or oral form, DSD is generally of the view that, based on the evidence adduced to date, a written hearing and written argument would be appropriate. It bears emphasis, however, that DSD reserves the right to make further submissions on these issues following its review of the outstanding information requested from FAES.

**REPLY TO FAES PROPOSED TIMETABLE**

It is evident from the foregoing that DSD disagrees with the procedural timetable proposed by FAES in its submissions dated November 13, 2018. However DSD also notes that its representatives, experts and/or legal counsel will be unavailable between December 17, 2018, and January 6, 2019. Given this, DSD will not be able to meaningfully respond to any FAES submissions served on December 21, 2018, by January 11, 2019, as FAES has proposed.

We trust that this clarifies the position of DSD on the procedural issues concerning the Application proceedings. Should the BCUC require further information or have any questions regarding this submission, please contact the undersigned.

Yours truly,

**Borden Ladner Gervais LLP**



Dionysios Rossi

cc Matthew Ghikas (mghikas@fasken.com)