Doug Slater
Director, 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: (778) 578-3874
Cell: (778) 214-3842
Fax: (604) 576-7074
Email: doug.slater@fortisbc.com
www.fortisbc.com

July 16, 2019

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, B.C.
V6Z 2N3

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

Dear Mr. Wruck:

Re: FortisBC Energy Inc. (FEI)

Project No. 1598977

Application for Acceptance of the Biogas Purchase Agreement Between FEI and the City of Vancouver (COV) (Application)

Response to the British Columbia Utilities Commission (BCUC) Decision and Order G-122-19

On September 21, 2018, FEI filed an application with the BCUC for acceptance, pursuant to section 71 of the *Utilities Commission Act* (UCA), of a Biogas Purchase Agreement (BPA) between FEI and the City of Vancouver (COV) (Application). Under the COV BPA, FEI will purchase raw landfill gas (LFG) from the COV landfill and will construct and operate upgrading and interconnection facilities (Facilities) on COV land to upgrade the LFG to pipeline-quality biomethane, also referred to as renewable natural gas (RNG), for injection into FEI's natural gas system. The cost of these Facilities will be included in FEI's rate base with the resulting cost of service (COS) accounted for in the Biomethane Variance Account (BVA). The purchase of raw LFG and construction and operation of the Facilities are together referred to as the Project.

On June 6, 2019, the BCUC issued its Decision and Order G-122-19 regarding FEI's September 21, 2018 Application. In the Decision and Order G-122-19, the BCUC adjourned the proceeding for 60 days in order to:

> ... allow FEI, should it so choose, to restructure and resubmit the Project and its BPA with the COV in a way that provides the required certainty to FEI's

> acquisition cost of the RNG so as to qualify as a prescribed undertaking within the specified cost threshold.[1] [emphasis added]

As described in the Application and evidence, FEI continues to be of the view that the Project qualifies as a prescribed undertaking under the Greenhouse Gas Reduction Regulation (GGRR) because the cost estimates demonstrate that the levelized cost over the life of the Project is not expected to exceed the maximum price set under the GGRR (Threshold Price), currently set at $30 per GJ. FEI believes that the Project meets the spirit and intent of the clause regarding the Threshold Price in the GGRR, and supports the objectives of the GGRR.

Given that there are limited opportunities for domestic RNG supply in the province, that FEI's Biomethane Program needs the RNG volumes from the Project, and that the Project supports government policy objectives, both the COV and FEI are eager to move forward with the Project as swiftly as possible.

In this letter, FEI proposes an accounting mechanism for this Project only at this time – the COV BPA Deferral Account - which provides certainty to the Panel that the cumulative average cost per GJ flowing into the BVA and subsequently into rates over the life of the Project will not exceed the GGRR Threshold Price of $30 per GJ. In the unlikely event that a balance remains in the COV BPA Deferral Account at the end of the Project's initial term, that balance would not be recoverable from customers absent clarification from the government regarding the GGRR language, or BCUC approval.

With this accounting mechanism satisfying the Panel's request for certainty, FEI submits that the Panel should find that the Project is a prescribed undertaking under the GGRR. The proposed accounting mechanism is described in further detail below and includes an illustrative example.

Background:

In the Decision, the Panel determined that the COV BPA met two parts of the three-part test that determines whether a project qualifies as a prescribed undertaking, pursuant to section 18(3) of the *Clean Energy Act* (CEA) and under section 2(3.8) of the GGRR. The three-part test is summarized as follows[2]:

1. The public utility must be acquiring renewable natural gas (as opposed to some other form of commodity);
2. The utility must pay no more than $30 per GJ for that renewable natural gas; and
3. Subject to certain exceptions, the annual volume of renewable natural gas acquired must not exceed 5% of the total volume of natural gas the utility provided to its non-bypass customers in 2015.

[1] Decision, page 15.
[2] Decision, page 8.

The Panel in its Decision determined that the Project satisfied the meaning of acquiring RNG[3] and that the projected RNG volume remains well within the maximum annual RNG acquisition volume to qualify[4].

With respect to the cost the utility is paying for that RNG, the Panel stated[5]:

> Simply stated, the Panel finds that FEI has not provided a certain, fixed cost for the acquired RNG during the term of the contract. **As such, the Panel is unable to determine with any degree of certainty whether the cost is below, at or above the $30 per GJ threshold and therefore cannot find this Project to be a prescribed undertaking.**

As described in the Application and responses to IRs, FEI has used conservative assumptions and risk mitigation strategies, and provided the BCUC with a robust and reasonable cost estimate for construction, initial and ongoing operating expenses for the Project, which results in a total acquisition cost well under the GGRR Threshold Price[6]. As such, FEI concluded that it does not expect the levelized cost per GJ over the life of the Project to exceed the price threshold set out in the GGRR.

As previously stated, FEI believes that the Project does meet the spirit and intent of the GGRR based on the reasonable estimates provided and that absolute cost certainty should not be a requirement. Inherent in all cases except fixed-price contracts for RNG, costs for construction and operation of the Facilities are estimates; final actual construction costs and ongoing operating costs will not be known until construction is completed and ongoing operations have stabilized. It is for these reasons that determining such costs in advance with absolute certainty is not possible.

There are a number of factors, as discussed in the evidence[7], which can affect total costs and thus FEI's resulting acquisition cost for RNG from the Project. Such factors include actual construction costs, quality of LFG, performance of equipment, and resulting volumes of LFG. These factors are not within FEI's ability to control and for that reason FEI included the provision of both anniversary reviews and supply-based reviews in the COV BPA.[8] The purpose of these reviews is to allow for the evaluation of the performance of the Project to determine its ongoing economic viability and whether renegotiation of any of the terms of the BPA is required. FEI can use these reviews, if necessary, to make adjustments to the terms of the COV BPA related to volumes of gas and LFG gas quality and recalculate the COS, to ensure the price for RNG remains within the maximum threshold for prescribed undertakings under the GGRR at that time.

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[3] Decision, page 11.
[4] Decision, page 15.
[5] Decision, page 14.
[6] Decision, page 11.
[7] FEI response to BCUC IR 1.5.5
[8] Exhibit B-1, page 10; Exhibit B-4, BCUC IR 1.4.1; Exhibit B-4-1, BCUC Confidential IR 1.3.1.

Proposal to Address Price Certainty:

In order to provide the Panel with the requested cost certainty, FEI will limit the average production cost for the Project flowed to ratepayers to a maximum of the GGRR Threshold Price.

To accomplish this, FEI proposes to create a new non-rate base deferral account (COV BPA Deferral Account) to capture the cumulative average cost per GJ of the Project that is greater than the GGRR Threshold Price. This mechanism will ensure that the Project costs that flow to the BVA and subsequently into rates will be the lower of the actual Project cost or the GGRR Threshold Price over the life of the Project.

Under the proposed mechanism, each year the cumulative average Project costs up to the Threshold Price established in the GGRR will be recorded in the BVA and costs exceeding the GGRR Threshold Price, if any, will be recorded in the COV BPA Deferral Account, as follows:

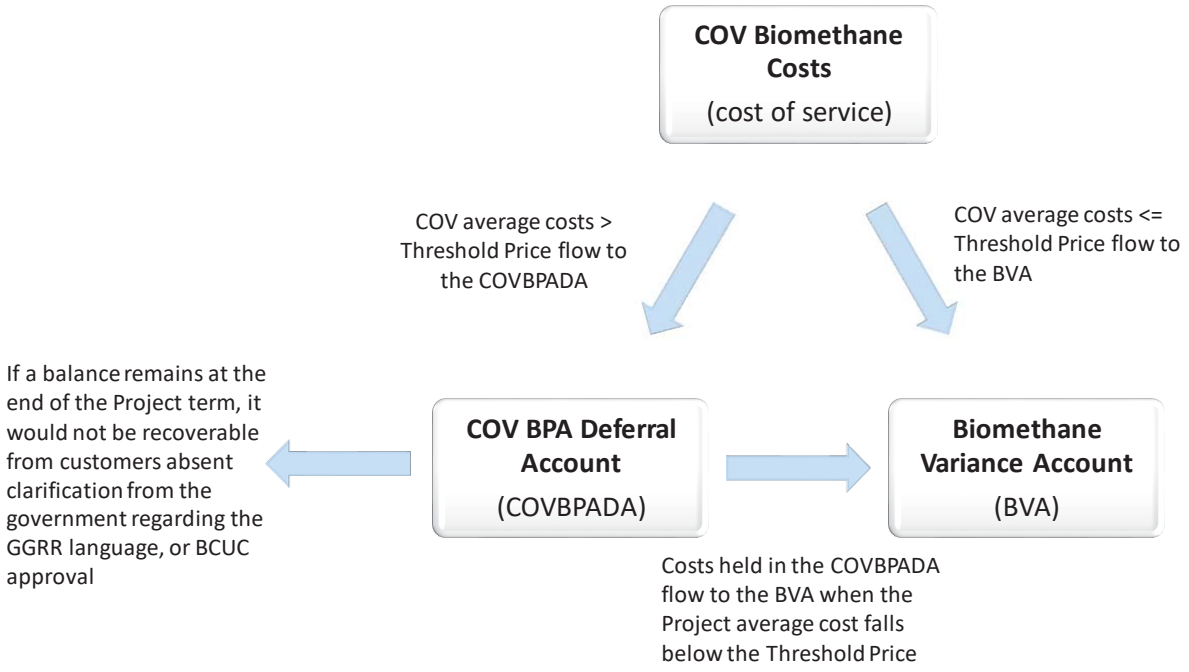
- If the Project cumulative average cost of RNG ($/GJ) is greater than the GGRR Threshold Price, FEI will flow that portion of the cost of service of the Project to the COV BPA Deferral Account such that the cumulative average cost per GJ that flows to the BVA does not exceed the GGRR Threshold Price.

- If the Project cumulative average cost of RNG ($/GJ) falls below the GGRR Threshold Price, FEI will flow the cost of service of the Project to the BVA plus an amount from the COV BPA Deferral Account such that the cumulative average cost per GJ that flows to the BVA is no greater than the GGRR Threshold Price.

Put more simply, the above mechanism ensures that the biomethane volume produced under the term of the COV BPA and that flows to the BVA will cost no more than $30 per GJ. The proposed approach ensures that the unit price of biomethane has a certain, fixed ceiling price; however customers also receive the benefit of costs below the ceiling price when they occur.

The following diagram illustrates the mechanism described above:

Figure 1: COV Biomethane Cost Flow



FEI proposes that the COV BPA Deferral Account attract a weighted average cost of capital (WACC) return. As shown in the figure above, if a balance in the COV BPA Deferral Account accumulates, it will flow to the BVA if the average costs fall below the Threshold Price. As a result, the COV BPA Deferral Account may carry a balance for a number of years before ultimately being recovered in rates through the BVA. The COV BPA Deferral Account should, therefore, receive similar financial treatment as FEI's other deferred charges.

FEI has provided a detailed example in Confidential Appendix A of how the COV BPA Deferral Account will operate to ensure the average cost of production flowing to the BVA will not exceed the GGRR Threshold Price.

Reporting:

FEI currently already produces two reports that outline forecasts, actuals and variances for its biomethane projects – the Fourth Quarter Gas Cost Report and the BVA Status Report. If FEI's proposal outlined herein is approved, these reports will be amended to include information relevant to the Project showing forecast and actual production costs and variance analysis. The calculations illustrated in Confidential Appendix A will also be included so that the BCUC has full visibility of the production costs per GJ, additions to the COV BPA Deferral Account if required, and additions to the BVA for the Project, to ensure it qualifies as a prescribed undertaking.

COV BPA Deferral Account Balance:

In the unlikely event that a balance remains in the COV BPA Deferral Account at the end of the Project's initial term and any subsequent renewals, that balance would not be recoverable from customers absent clarification from the government regarding the GGRR language or BCUC approval.

Conclusion:

FEI believes that the proposed accounting mechanism provides the requested certainty to the Panel that the cost per GJ flowing into the BVA and subsequently into rates will not exceed the $30 per GJ GGRR Threshold Price to qualify as a prescribed undertaking. With this amendment, FEI's proposal satisfies all three parts of the three-part test, and the BCUC should find that the Project is a prescribed undertaking under the GGRR and should accept for filing the COV BPA, pursuant to section 71 of the UCA and the Rules for Natural Gas Energy Supply Contracts[9] and Order in Council 161/2017[10] without further delay or process.

Request for Confidentiality of Appendix A:

FEI is requesting that this information be filed on a confidential basis pursuant to Section 18 of the BCUC's Rules of Practice and Procedure regarding confidential documents as set out in Order G-15-19, and Section 71(5) of the *Utilities Commission Act* and requests that the BCUC exercise its discretion under Section 6.0 of the Rules for Natural Gas Energy Supply Contracts and allow these documents to remain confidential. FEI believes this will ensure that market sensitive information is protected, preserving FEI's ability in the future to negotiate competitive pricing with other biomethane suppliers in an effort to minimize the overall costs of the Biomethane Program. Appendix A contains commercially sensitive financial information specific to the Project which, if disclosed, may impair FEI's ability to negotiate future agreements. Maintaining confidentiality will ensure that market sensitive information is protected,

If further information is required, please contact Sarah Smith, Director NGT, Regional LNG and RNG Supply at (604) 582-7528.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Doug Slater

cc (email only): Registered Parties

[9] Approved by BCUC Order G-130-06, dated October 26, 2006.
[10] Dated March 21, 2017.