



September 24, 2019

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

Attention: Patrick Wruck, Commission Secretary and Manager, Regulatory Services

Dear Mr. Wruck:

**Re: FortisBC Energy Inc. Application for Acceptance of the Biogas Purchase Agreement between FortisBC Energy Inc. and the City of Vancouver – Project No. 1598977**

**Streamlined Review Process – Written Submissions of the Province of British Columbia (the “Province”)**

The Province, as represented in this proceeding by the Ministry of Energy, Mines and Petroleum Resources, makes these written submissions in lieu of oral submissions at the September 25, 2019 Streamlined Review Process established by the Panel on September 12, 2019.

First, the Province respectfully seeks confirmation of the specific nature of the Panel’s findings, in Decision G-122-19, with respect to the levelized cost method FortisBC Energy Inc. (FEI) has used in determining the price that it will pay to acquire renewable natural gas (RNG)<sup>1</sup>.

In the decision, the Panel states: “... we are asked to approve, as a prescribed undertaking, a contract with a levelized cost that is “significantly below” \$30 per GJ and is “unlikely” to exceed that cap”<sup>2</sup>. The Panel goes on to find that FEI “has failed to satisfy the Panel that FEI would be paying no more than \$30 per GJ of RNG throughout the life of the Project, even on a conservative levelized cost basis”<sup>3</sup>.

It is unclear to the Province whether, in reaching the conclusion that FEI has failed to provide a “certain, fixed cost for the acquired RNG during the term of the contract”<sup>4</sup>, the Panel takes issue with the levelized cost approach FEI has relied on, or whether it accepts the validity of that method, but finds that the levelized cost itself has not been determined with sufficient certainty.

<sup>1</sup> FEI Final Argument, para. 53-60.

<sup>2</sup> Decision G-122-19, p. 14.

<sup>3</sup> *Ibid.*, p.15.

<sup>4</sup> *Ibid.*, p. 14.

Ministry of Attorney  
General

Legal Services Branch  
Resource, Environment and  
Land Law Group

Mailing Address:  
PO BOX 9289 STN PROV GOVT  
Victoria BC V8W 9J7

Location:  
340 - 1675 Douglas Street  
Victoria BC

Telephone: 778 974-4579  
Facsimile: 250 356-0064

If the Panel takes issue with FEI's use of the levelized cost method in determining the total price, on a \$/GJ basis, it will pay to acquire RNG, then the Province submits that the use of this method is entirely appropriate in the circumstances. The Province agrees with FEI when it submits that

... the levelized cost is a reasonable means of determining the acquisition cost because it averages the effects that the change in annual cost of service has on the cost per GJ of produced biomethane in any one year. Annual variations in the cost of service and resultant cost per GJ could be due to the impact of taxes, such as capital cost allowance, or the initial ramping up of volumes during the start-up period of a project. Due to temporary or variable factors such as these, it would not be reasonable to use a non-levelized acquisition price for the purpose of the GGRR [Greenhouse Gas Reduction Regulation].<sup>5</sup>

The Province also supports FEI's assertion that the levelized cost approach is a well-established approach, which has been used and accepted by the British Columbia Utilities Commission in evaluating other projects and setting other rates<sup>6</sup>.

If the Panel accepts that calculating the price of acquiring RNG on a levelized cost basis is appropriate in the circumstances, then the Province submits that it is for the Panel to determine which mechanism ought to be used to address annual overages and underages. The Province takes no position on the specific nature of the mechanism to be used for this project.

The Province further submits that absolute certainty with respect to the levelized acquisition cost may not be realistically achievable. Following its determination that purchasing raw landfill gas and constructing and operating upgrading and interconnection facilities amounts to "acquiring" RNG for the purposes of the GGRR, and that the price FEI will pay for the RNG includes the cost of the construction and operation of these facilities, the Panel itself has already recognized that determining the price of RNG in the context of this application is not a straightforward exercise. In the Panel's own words, "if this were an application to acquire finished RNG supply at a contract price of, say \$30.50 per GJ, our decision would be much more straightforward"<sup>7</sup>.

FEI further describes the uncertainty associated with the calculation of such costs as follows:

Inherent in all cases expect 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.<sup>8</sup>

The Province concurs with FEI in that regard, and further notes that achieving cost certainty is particularly difficult in circumstances such as these, with the production of RNG being a relatively new addition to the energy industry.

Finally, the Province reiterates the broad policy position it stated in its letter of comment dated February 27, 2019, and again draws the Panel's attention to the key role increased RNG supply

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<sup>5</sup> Exhibit B-4, FEI Response to BCUC IR No. 1(5.5), p. 21-22.

<sup>6</sup> *Ibid.*, p. 21.

<sup>7</sup> *Supra* note 2, p. 14.

<sup>8</sup> Exhibit B-7, FEI Response to Order G-122-19, p.3.

will play in reaching the Province's legislated greenhouse gas (GHG) emissions targets<sup>9</sup>, and to the role this project can play in helping achieve those targets. As FEI states in its final argument, "[t]he CoV BPA proposed in the Application will provide a significant supply of RNG in the Province and is in alignment with policy at every level of government to reduce GHG emissions and transition to a lower carbon economy"<sup>10</sup>.

Yours truly,



**Elisabeth Graff**  
Legal Counsel

EG/sw

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<sup>9</sup> Exhibit C1-2, MEMPR Letter of Comment, p.1.

<sup>10</sup> *Supra* note 1, para. 81.