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September 24, 2019

Sent via email

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| <b>FEI BIOGAS PURCHASE AGREEMENT BETWEEN FEI<br/>AND THE COV EXHIBIT A-12</b> |
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Mr. Doug Slater  
Director, Regulatory Affairs  
FortisBC Energy Inc.  
16705 Fraser Highway  
Surrey, BC V4N 0E8  
gas.regulatory.affairs@fortisbc.com

**Re: FortisBC Energy Inc. – Application for Acceptance of the Biogas Purchase Agreement Between FortisBC Energy Inc. and the City of Vancouver – Project No. 1598977 – Staff Questions No. 1**

Dear Mr. Slater:

Further to your September 21, 2018 filing of the above-noted application, please find enclosed British Columbia Utilities Commission Staff Questions No. 1.

Sincerely,

*Original signed by Ian Jarvis for:*

Patrick Wruck  
Commission Secretary

/dc  
Enclosure



FortisBC Energy Inc.  
Application for Acceptance of the Biogas Purchase Agreement  
Between FortisBC Energy Inc. and the City of Vancouver

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**STAFF QUESTIONS NO. 1 TO FORTISBC ENERGY INC. IN ADVANCE OF THE STREAMLINED REVIEW PROCESS**

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**On Page 4 of Exhibit B-7, FEI states:**

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.

**Exhibit B-8**

**BCUC IR2 3.2, p.9**

Please explain how the proposed COV BPA Deferral Account mechanism provides the required certainty to FEI's acquisition cost as stated in BCUC Decision and Order G-122-19.

**Response:**

...Given the requirement to construe the GGRR in a large and liberal construction to obtain the object and intention of the GGRR, the **utility's acquisition cost should not be interpreted to include amounts borne by the shareholder**, which is a separate entity from the public utility.

**BCUC IR2 1.1, pp. 1-2**

Please confirm, or explain otherwise, that absent clarification from the government regarding the GGRR language or BCUC approval for recovery in rates, **any balance remaining in the COV BPA Deferral Account at the end of the Project's initial term and any subsequent renewals would be written off and recovered from FEI's shareholders.**

**Response:**

Confirmed.

**BCUC IR2 1.1.1. 9.2**

If confirmed, please discuss whether the resulting amounts that are recovered from the shareholder would still be in compliance with the UCA, in particular Section 59(5). As part of the response, please discuss whether this scenario would violate the regulatory compact and the Fair Return Standard for the services provided by the utility.

**Response:**

FEI's proposed COV BPA Deferral Account does not violate the regulatory compact or the Fair Return Standard as it preserves FEI's right to apply for recovery of any remaining balance in the COV BPA Deferral Account at the end of the term of the COV BPA. As a matter of practice and for regulatory efficiency, **FEI will only apply for recovery of the balance in the account if there is a significant balance**

that, absent recovery, would violate the Fair Return Standard, or where changes in the wording of the GGRR or other legislation enable recovery of the balance.

### **BCUC Staff Scenarios – Exhibit A2-5**

- 1.1 Under what circumstance(s) would FEI write off a balance in the COV BPA Deferral Account?
  - 1.1.1 Which of the scenarios in Exhibit A2-5 would this treatment apply to?
- 1.2 Under what circumstance(s) would FEI recover a balance from ratepayers?
  - 1.2.1 Which of the scenarios in Exhibit A2-5 would this treatment apply to?
- 1.3 Please explain what is meant by a ‘significant balance’.
  - 1.3.1 Please define FEI’s threshold for establishing a balance that would warrant recovery from ratepayers. Please explain why it is appropriate or necessary for FEI to reserve the right to claim recovery of a “significant balance” if the BCUC approval of the acquisition is premised on an acquisition cost not exceeding \$30/GJ.
- 1.4 Could recovery of this balance from ratepayers result in the effective \$/GJ exceeding \$30 and the requirement of section 2(3.8)(a) of the GGRR not being met?
- 1.5 How does the potential for recovery of a balance in the COV BPA provide certainty that the acquisition cost per GJ does not exceed \$30/GJ?
- 1.6 Would FEI agree to a mechanism where any cost per GJ in excess of \$30/GJ were held in the COV BPA deferral account and were guaranteed to be recovered from FEI’s shareholders? (Essentially a fixed price contract)
- 1.7 In light of FEI’s view that the ‘acquisition cost should not include amounts borne by the shareholder’, please explain why it is appropriate for the COV BPA Deferral Account to include those amounts that may be borne by the ratepayer and a mechanism for FEI to apply for recovery of the balance in the account if there is a ‘significant balance’.

### **Exhibit A2-1, p.1**

TGW files within 10 days of the date of this Order, a statement regarding **its willingness to accept a CPCN for the conversion of its propane system to natural gas that includes, as a condition, the mechanism to limit customer exposure to capital cost overruns.**

TGVI files within 10 days of the date of this Order, a statement regarding **its willingness to accept a CPCN for the construction of a natural gas pipeline lateral to connect Whistler and Squamish that includes, as a condition, the mechanism to limit customer exposure to capital cost overruns.**

**TGW and TGVI accept a mechanism whereby direct costs allowed into rate base for these items, in aggregate, are capped at 110 percent of the Total Incentive Base...** Similarly, if these items can be completed for less than 90% of the Total Incentive Base, as adjusted for inflation, these savings will accrue to the benefit of TGW and its shareholder.

### **TGW and TGVI hereby advise of their acceptance of the conditions in Order No. G-53-06.**

- 1.8 As part of the Whistler CPCN decision, FEI accepted that customer (ratepayer) exposure to capital cost overruns would be limited. Would FEI accept a mechanism that provides a limit to ratepayers’ exposure to costs above the \$30 per GJ requirement?

## Exhibit A2-2

### **BCUC IR 29.3, pp 68-69**

Why does TGW believe that conditions set as prerequisite for CPCN approval under Section 45.9 of the UCA can be reconsidered upon completion of the project?

#### **Response:**

The prerequisite for CPCN approval of the Whistler Conversion and IP Pipeline project was TGW and TGVl accepting a cost risk sharing mechanism. The fact that TGW agreed to a cost risk sharing mechanism does not preclude the Commission from reconsidering the cost risk sharing mechanism based on a subsequent application or ordering a rate treatment now that varies from the mechanism.

**TGW is applying to the Commission in the context of a Revenue Requirements Application for rates including approval of expenditures beyond the cost cap imposed by the CPCN decision,** and the Commission must consider the rate case on its merits. TGW believes that it would be just and reasonable for the Commission to vary from the cost control mechanism previously imposed.

### **BCUC IR 29.8, p.71**

Does TGW believe that if the shareholder takes responsibilities of any costs incurred by a public utility that responsibility is not binding and is always available for reconsideration?

#### **Response:**

**TGW believes that there is good reason to revisit the risk sharing mechanism** in this case. TGW is entitled to an opportunity to earn a fair return on its investment, and where (as here) a risk sharing mechanism precludes this it is appropriate to allow recovery of prudently incurred costs in future rates.

### **BCUC IR 29.9, p.71**

Does TGW believe that once a project has obtained Commission approval, any cost limitations included in the decision are not enforceable?

#### **Response:**

No. However, **a utility is able to apply for a different treatment and the Commission must consider that case on its merits.** Please see TGW's response to BCUC IRs 1.29.3 and 1.29.4. TGW is entitled to an opportunity to earn a fair return on its investment, and where (as here) a risk sharing mechanism precludes this it is appropriate to allow recovery of prudently incurred costs in future rates.

## Exhibit A2-3

### **BCUC IR 13.6, pp 44-45**

Why did TGW propose the cost sharing mechanism in the Reply Submission?

#### **Response:**

Neither TGVl nor TGW proposed a cost risk sharing mechanism in the applications for CPCNs for the

Pipeline Project or the Conversion Project. In the Application **the Companies anticipated that TGW would be responsible for recovering from its ratepayers all prudently incurred costs in excess of the forecasted amounts. The Companies stated that the shareholder should be permitted to recover prudently incurred costs and that it was not reasonable that the shareholder be at risk for project cost escalation beyond its reasonable control.** Nevertheless, in response to information requests and its final submissions, TGW did indicate that it was prepared to consider a cost/benefit risk sharing mechanism that would provide incentive to the Companies to effectively and efficiently manage project costs for those costs that were reasonably within its control based on the aggregate of the high cost estimates of the pipeline and conversion projects provided that there was an appropriate benefit sharing mechanism for any costs savings below the high cost estimate. In its submissions, TGW also indicated that any such cost sharing mechanism would have to recognize the level of cost uncertainty due to issues beyond its control such as the named stream crossings and obtaining MOT approvals.

As discussed in the response to BCUC IR 2.13.1, the cost risk sharing proposal put forward by the Company in its reply submissions during the CPCN proceedings was substantially different than the cost collar included as a condition of granting the CPCNs.

**TGW accepted the cost risk sharing mechanisms proposed by the Commission because it believed that the projects were in the best interests of its customers and TGW believed, based on the information available at the time, that the project could be completed for that amount. TGW was also cognizant that any party, or the Commission on its own application, could apply after the fact to rectify an unanticipated result that leads to unjust and unreasonable rates.** TGW has done so in this case, and believes that allowing the recovery of prudently incurred costs resulting from unforeseen events is appropriate. TGW's view that the Commission lacks jurisdiction to impose the cost cap was formulated later based on developments in the law. **TGW's experience with the Conversion Project has also confirmed for TGW that such mechanisms are fundamentally unfair to its shareholder, and TGW would no longer agree to such a condition.**

- 1.9 In FEI's view, does approval of the proposed deferral mechanism exclude FEI from proposing an alternative mechanism or structure in the future?
- 1.10 Under what circumstances could FEI apply to the BCUC for different treatment of the COV BPA deferral account and/or balance?

#### **Unregulated Subsidiary Entity**

- 1.11 Please discuss if FEI considered other arrangements, such as using an unregulated entity to construct, own and operate the facilities, to supply the RNG to FEI within the \$30/GJ threshold specified by 2(3.8)(a)the GGRR.
- 1.12 Please discuss the pros and cons of any alternate arrangements considered by FEI.