

OWEN BIRD

LAW CORPORATION

PO Box 49130
Three Bentall Centre
2900-595 Burrard Street
Vancouver, BC
Canada V7X 1J5

Telephone 604 688-0401
Fax 604 688-2827
Website www.owenbird.com

Direct Line: 604 691-7557
Direct Fax: 604 632-4482
E-mail: cweafer@owenbird.com
Our File: 23841/0206

D Barry Kirkham, QC ⁺	Robin C Macfarlane ⁺	Josephine M Nadel, QC ⁺	James D Burns ⁺
Duncan J Manson ⁺	Alan A Frydenlund, QC ⁺⁺	Allison R Kuchta ⁺	Jeffrey B Lightfoot ⁺
Daniel W Burnett, QC ⁺	Harvey S Delaney ⁺	James L Carpick ⁺	Christopher P Weafer ⁺
Ronald G Paton ⁺	Paul J Brown ⁺	Patrick J Haberl ⁺	Gregory J Tucker, QC ⁺⁺ ^{***}
Karen S Thompson ⁺	Gary M Yaffe ⁺	Heather E Maconachie	Terence W Yu ⁺
Laura A Wright	Harley J Harris ⁺	Jonathan L Williams ⁺	Michael F Robson ⁺
James H McBeath ⁺	Kari F Richardson ⁺	Paul A Brackstone ⁺⁺	Barbara E Janzen
Scott H Stephens ⁺	James W Zaitsoff ⁺	Pamela E Sheppard ⁺	George J Roper ⁺
David W P Moriarty	Daniel H Coles ⁺⁺	Jocelyn M Bellerud ⁺	Tony R Anderson
Katharina R Spotzl	Sameer Kamboj	Brian Y K Cheng ^{**}	Charlene R Joanes
Steffi M Boyce	Patrick J Weafer	Georgia Barnard	Lucky D Johal
H Hailey Graham			

Rose-Mary L Basham, QC, Associate Counsel⁺
Jennifer M Williams, Associate Counsel⁺
Hon Walter S Owen, OC, QC, LLD (1981)
John I Bird, QC (2005)

⁺ Law Corporation
^{*} Also of the Yukon Bar
^{**} Also of the Alberta Bar
^{***} Also of the Ontario Bar
^{**} Also of the Washington Bar

October 28, 2019

VIA ELECTRONIC MAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, B.C. V6Z 2N3

**Attention: Patrick Wruck, Commission Secretary
and Manager, Regulatory Support**

Dear Sirs/Mesdames:

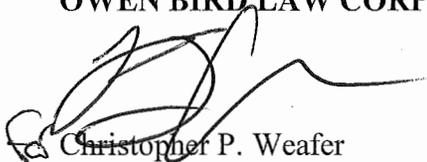
Re: FortisBC Energy Inc. and FortisBC Inc. (collectively "FortisBC") Multi-Year Rate Plan Application for 2020 to 2024 - Project No. 1598996

We are counsel to the Commercial Energy Consumers Association of British Columbia (the "CEC"). Attached please find the CEC's Information Requests on Intervener Evidence with respect to the above-noted matter.

If you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Yours truly,

OWEN BIRD LAW CORPORATION



Christopher P. Weafer

CPW/jj
cc: CEC
cc: FortisBC
cc: Registered Interveners

**COMMERCIAL ENERGY CONSUMERS ASSOCIATION
OF BRITISH COLUMBIA**

**INTERVENER INFORMATION REQUEST NO. 1 ON INTERVENER
EVIDENCE**

**FortisBC Energy Inc. (“FEI”) and FortisBC Inc. (“FBC”), (and collectively
“FortisBC” or the “Utilities”) Multi-Year Rate Plan Application for 2020 to 2024
Project No. 1598996**

October 28, 2019

1. Reference: Exhibit B-1, page 2

I have been involved in over 30 PBR-related proceedings in Alberta and British Columbia. I have extensive experience with PBR in Alberta. I have been involved in the development of the PBR models, in the rebasing proceeding, in the annual filings, as well as Z factor filings. Currently, I am involved in the proceeding before the Alberta Utilities Commission dealing with the definition of an anomaly for use in rebasing. My experience in rebasing is directly applicable to this proceeding.

- 1.1 Please provide Mr. Bell’s experience under cost of service regulation.
- 1.2 Does Mr. Bell have experience with regulation which alternates between cost of service and PBR?
 - 1.2.1 If yes, please describe.
- 1.3 Please briefly highlight differences between PBR as it is implemented in Alberta and the PBR that has been implemented in BC.
- 1.4 Please provide the principles which should guide a proper rebasing for the utilities.

2. Reference: Exhibit C7-5, BCOAPO Evidence, page 3

The evidence will also examine the prior FortisBC plan, which was successful in totality and provided a reasonable opportunity to recover prudently incurred costs and achieve a fair rate of return, although some components, such as capital may have been under-funded.

- 2.1 Please provide Mr. Bell's definition of 'successful in totality'.
 - 2.2 How does Mr. Bell define 'under-funded'?
 - 2.3 How would Mr. Bell define 'over-funded'?
 - 2.4 How would Mr. Bell define 'properly funded'?
- 3. Reference: Exhibit C7-5, BCOAPO Evidence, page 5 and page 6**

The Commission Panel is not looking at this Application from a short-term viewpoint. We see an opportunity to make significant change over the long term with the way regulation is conducted in this jurisdiction and the way in which revenue requirements are determined. What form this may take is at this point undecided. **Standing in the way of this is the lack of trust among the parties.** If moving forward with an initiative like this PBR is going to work for the future the level of trust must be addressed and increased. To address this, the Commission Panel, in its Decision, has included a more lengthy discussion of the Annual Review Process than perhaps many of the parties anticipate. We have made significant changes to the purpose, content and process for this important program element. This will be discussed further in Section 2.3.6.

Regardless of the method chosen, to be successful over the longer term the parties need to feel that their concerns are heard and where reasonable, acted upon. To facilitate this, the Commission Panel has taken steps in this Decision to ensure there is ongoing communication between the parties, which will result in greater transparency.³

- 3.1 Please provide Mr. Bell's views as to the best methods for establishing trust between ratepayers and the utilities, and how these can best be accomplished.
- 3.2 What opportunities for questioning should be available in an Annual Review in order to establish trust by ratepayers? Please elaborate.
- 3.3 Does Mr. Bell consider that a final review of a past PBR is useful in identifying areas of weakness or strength? Please explain why or why not.

4. Reference: Exhibit C7-5, BCOAPO Evidence page 6 and 7

Q6. Did the prior MRP achieve the objectives.

A6. One must assume that FortisBC sought efficiencies and achieved them and the objectives of the MRP were achieved. In fact, the only quantitative measure is achieved returns. In each of the five years from 2014 through 2018, both FEI and FBC exceeded the allowed return. The following tables are taken from the data provided in response to BCOAPO 24.3.⁴

		2014	2015	2016	2017	2018	Average
FEI ROE	Actual	9.20%	9.19%	9.28%	9.04%	8.93%	9.13%
	Formula	8.75%	8.75%	8.75%	8.75%	8.75%	8.75%
	Higher (Lower) than formula	0.45%	0.44%	0.53%	0.29%	0.18%	0.38%

		2014	2015	2016	2017	2018	Average
FBC ROE	Actual	9.22%	9.26%	9.38%	9.31%	9.29%	9.29%
	Formula	9.15%	9.15%	9.15%	9.15%	9.15%	9.15%
	Higher (Lower) than formula	0.07%	0.11%	0.23%	0.16%	0.14%	0.14%

The data clearly demonstrates that for both FEI and FBC, the utility achieved a return that exceeded the allowed rate of return, and on average, FEI exceeded that return by 38 Bp and FBC by 14 Bps.

- 4.1 Please confirm that the Formula rate of return is considered a ‘fair’ rate of return and assumes prudent management of the utility on behalf of ratepayers.
- 4.2 Please confirm that ‘prudent management’ assumes that the managing party will properly seek efficiencies that are available to it in accordance with best business practices.
- 4.3 Please confirm that if the MRP is to be successful for all parties, and given that the formula rate of return is ‘fair’, then a greater than ‘fair’ return for the utility paid for by ratepayers should properly be compensated by greater expected cost savings for the ratepayers under PBR.
- 4.4 In what ways can ratepayers distinguish efficiencies that are or should be undertaken by the utility in achieving its ‘Formula’ or regulated rate of return versus those that are undertaken under PBR and for which the ratepayers pay a greater than ‘Fair’ rate of return.

- 4.5 Is it Mr. Bell's contention that a successful PBR should always result in the utility being able to achieve a higher than formula ROE? Please explain.
- 4.6 Could a PBR plan that resulted in an average ROE being achieved at formula levels (i.e. 8.75% for FEI and 9.15% for FBC), with some years being above and some years being below, be considered successful? Please explain.
- 4.7 If ongoing PBR plans continuously exceed the formula ROE, please explain when it could be considered that the utilities have effectively been provided with a higher formula ROE.
- 5. Reference: Exhibit C7-5, BCOAPO Evidence page 8 and page 9 and page 10**

Q9. What are your concerns with the changes to O&M?

A9. Both Fortis utilities have changed the structure of the PBR plan related to O&M. The change to O&M per customer enhances the MRP in the favour of the utilities.

Both utilities have spent less than formula for O&M for each of the years 2014-2018⁵. FEI underspent by \$46 million over the course of the last PBR plan.

Also, FortisBC asserts that because there is a high correlation coefficient between O&M and customers, then the appropriate measure is O&M per customer.

In addition, the incremental cost per incremental customer is not linear. As demonstrated below, the incremental cost per incremental customer fluctuates from year to year.

	2014	2015	2016	2017	2018	2019P
FEI <i>Average Number of Customers</i>	959,196	968,766	983,807	997,380	1,016,353	1,024,962
<i>Actual Formula O&M (\$000)</i>	\$ 223,970	\$ 225,380	\$ 225,930	\$ 232,500	\$ 238,690	\$ 246,940
<i>Incremental Customers</i>		\$ 9,570	\$ 15,041	\$ 13,573	\$ 18,973	\$ 8,609
<i>Incremental O&M</i>		\$ 1,410	\$ 550	\$ 6,570	\$ 6,190	\$ 8,250
<i>Incremental cost per Incremental customer</i>		\$ 147	\$ 37	\$ 484	\$ 326	\$ 958
FBC <i>Average Number of Customers</i>	129,525	131,016	132,480	134,246	137,300	138,649
<i>Actual Formula O&M (\$000)</i>	\$ 52,046	\$ 51,880	\$ 51,839	\$ 52,520	\$ 53,839	\$ 55,581
<i>Incremental Customers</i>		\$ 1,491	\$ 1,463	\$ 1,766	\$ 3,054	\$ 1,349
<i>Incremental O&M</i>		\$ (166)	\$ (41)	\$ 681	\$ 1,319	\$ 1,742
<i>Incremental cost per Incremental customer</i>		\$ (111)	\$ (28)	\$ 386	\$ 432	\$ 1,291

In fact, I note that the incremental cost per incremental customer is the highest in the forecast year and appears to be an outlier.

- 5.1 Please confirm that “Incremental Customers” should not be presented in \$.
- 5.2 Please confirm that utility O&M is composed of fixed, variable and semi-variable costs.
- 5.3 Please provide Mr. Bell’s understanding of the key fixed costs that gas and electric utilities include in O&M.
- 5.4 Please provide Mr. Bell’s understanding of the key variable costs that gas and electric utilities include in O&M.
- 5.5 Please provide Mr. Bell’s understanding of the key semi-variable costs that gas and electric utilities include in O&M.
- 5.6 Please confirm that the timing of many fixed and semi-variable costs can be managed (either brought forward or deferred) at the discretion of management.
- 5.7 Would Mr. Bell agree that a series of short periods for MRP provides an opportunity for the utility to manipulate the addition of fixed and semi-variable costs to their advantage in short term MRPs? Please explain.
- 5.8 Would Mr. Bell please explain the Productivity Factor in the former PBR plan, and the use and justification for this under PBR regulation?

6. Reference: Exhibit C7-5, BCOAPO Evidence, page 11 and 12

Having one component based on a formula and one component based largely on forecasts may be inconsistent. In my experience there are trade offs between various inputs such as O&M and Capital, and the basis of each should as much as possible be consistent. FortisBC appears to agree with me.

Q12. Does there need to be a change in the way capital is treated in the MRP?

A12. No, as noted above, both FEI and FBC were able to earn an adequate return under the old model. Also, reconnecting the capital to a forecast dulls some of the incentives of the PBR model, as it moves back to a Cost of Service type of rate making. Further, when I have been involved in forecasting, the further out one forecasts, the less reliable the forecast is, and the more an uncertainty premium one puts into the forecast.

This is entirely inconsistent with any intent of a PBR model.

- 6.1 Please provide a discussion of the appropriateness of removing capital from PBR models altogether.
- 6.2 If capital were removed from the PBR model altogether, what would be the likely impact on O&M? Could it be expected to decline if the utility were incented to use capital projects instead of O&M? Please explain.

7. Reference: Exhibit C7-5 page 13

Q13. What are your concerns with the ECM?

A13. FortisBC appears to have changed the ECM to be based on two years data, and not a five-year rolling average. This change seems to place more reliance on the last two years of data. My concern with any ECM is that it does not reward a continuation of performance that has been ongoing but be based on truly new innovations that have occurred in the last two years of the plan. If the ECM is to be based on the last two years data, then the base should be the achieved return for the first three years of the MRP. In this case, it would only be additional efficiencies that are achieved that exceed the achievement in the first three years that would be rewarded. If the base is the allowed ROE, there is the potential for double counting, where the utility is compensated for efficiencies found in the early stages of the PBR, and then again in the ECM. If the average achieved ROE for the first three years is used as the base for calculating the ECM calculated in the last two years, then this double counting is eliminated.

- 7.1 Please elaborate on how the double counting could occur, and provide a hypothetical example.
- 7.2 Please provide a discussion of the various types of treatments for ECM that occur in different PBR models.
- 7.3 Are there any jurisdictions that do not include an ECM at all?
 - 7.3.1 If yes, please list.

8. Reference: Exhibit C7-5 BCOAPO Evidence page 13

Q14. What are your concerns with the changes to off ramps and reopeners?

A14. FortisBC added a reopener for 150 Bps for two consecutive years and removed the reopener for a serious degradation in SQIs. While I have no issue with the inclusion of the second level for returns, the removal of SQIs is a concern. If there is a serious degradation of service levels, customers may suffer. As an example, if there are serious and prolonged outages, and SAIDI and SAIFI increase dramatically, there should be an understanding of the reason for the outage, and if it relates to delayed or avoided maintenance or inspections, that should be a reason to reopen the PBR plan.

- 8.1 Please comment on the current ‘threshold’ and ‘benchmark’ format for the two utilities (e.g. what role should a ‘benchmark’ play vs a ‘threshold’)?
- 8.2 Please comment on the addition of the Interconnection Utilization SQL.
9. **Reference: Exhibit C7-5, BCOAPO Evidence page 13 and 14**

Q15. Are there sufficient reasons to change the basic inputs to the MRP.

A15. No. I look at this as a form of rebasing. In Alberta, when the AUC rebased its PBR, it looked at a narrow set of issues.

3. In particular, this decision deals with four main next generation PBR plan parameters: (i) rebasing and the going-in rates for the next generation PBR term, (ii) the X factor, (iii) the treatment of capital additions, and (iv) the calculation of the return on equity (ROE) for reopener purposes.¹⁶

The AUC did not change all components of the plan, but only examined specific issues. The one that most closely relates to this MRP is item (iii). In Alberta the issue of incremental funding for capital was an issue in the first generation PBR. In the second generation the AUC moved to a more formulaic method of providing incremental capital funding known as the K Bar model¹⁷. In the K Bar model, incremental capital funding is determined by averaging the first four years of capital on an inflation adjusted basis.

It is interesting that in Alberta, the AUC is moving to a more formulaic approach to get away from testing forecasts, while in BC, both Fortis utilities are moving away from a formulaic approach.

- 9.1 Please provide further details as to why the current plan may be considered a form of ‘rebasings’.
- 9.2 Please provide further details of the K Bar model.

10. Reference: Exhibit C7-5 pages 14 and 15

Q16. What are your recommendations?

A16. Regarding O&M and Capital, I recommend that the same determination of O&M and Capital as was used in the 2014-2018 MRP be used in this 2020-2024 MRP.

Regarding the ECM, I recommend that the same ECM be used as was used in the 2014-2018 MRP. If the BCUC desires to adopt the revised ECM, then the base for the ECM should be the higher of the average of achieved ROE for the first three years of this ECM, or the approved ROE.

Regarding the reopener provision, I recommend that the conditions related to SQIs be reintroduced into this MRP.

10.1 Mr. Bell does not address the utilities' proposed 'targeted incentives'. Please provide an overview of Mr. Bell's views of these incentives.

10.2 Mr. Bell does not address the utilities' proposal to remove the materiality threshold from the proposed MRP. Please comment on this proposal.