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E-FILED

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

Attention: Marija Tresoglavic,
Acting Commission Secretary

Dear Ms. Tresoglavic:

City of Coquitlam
Application to the British Columbia Utilities Commission (BCUC) for
Reconsideration and Variance of BCUC Order No. G-80-19 (Reconsideration Application)
BCUC Project No. 1599008

In accordance with the regulatory timetable established by BCUC Order G-202-20A, we write on behalf of the City of Coquitlam (the **City**) to submit the City's response to FEI Information Request No. 1.

For clarity, nothing in the City's response to FEI Information Request No. 1 should be construed as an acceptance of the BCUC's determinations on the jurisdictional issues raised in the Reconsideration Application.

Yours very truly,

LAWSON LUNDELL LLP

Ian Webb

cc. Stephanie James, City of Coquitlam
Regulatory Affairs, FortisBC Energy Inc.
Registered Interveners

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**City of Coquitlam Application for Reconsideration and Variance of Order G-80-19
in the matter of the FortisBC Energy Inc. Application for Use of Lands under
Sections 32 and 33 of the Utilities Commission Act in the City of Coquitlam for the
Lower Mainland Intermediate Pressure System Upgrade Projects
BCUC Project No. 1599008**

City of Coquitlam Response to FEI IR No. 1

1.0 Reference: Exhibit B-12, City Evidence

On PDF page 2 (letter from Mr. Webb dated August 25, 2020) the City states:

The City submits that paragraph 2 of Order G-80-19 should be varied to this effect, and to require FEI to pay any and all incremental costs of the City that result from FEI's decommissioned NPS 20 pipes remaining in Como Lake Avenue.

On PDF pages 146 and 147 (Mark Zaborniak Evidence dated August 25, 2020, pages 2 and 3) the City states:

Further, if the BCUC has such jurisdiction and allows FEI to abandon its decommissioned NPS 20 pipes in Como Lake Avenue subject to the BCUC directing FEI to remove portions of the pipe on a case-by-case basis as needed to accommodate infrastructure projects of others that the BCUC deems to be necessary, the City's position is that FEI should be required to pay any and all incremental costs of the City that result from FEI's decommissioned pipes remaining in Como Lake Avenue, including the additional costs the City will incur when the pipes have to be removed.

1.1 Please explain what the City means by "incremental costs".

RESPONSE:

The City's position is that if the BCUC has jurisdiction and requires, as a condition of the CPCN granted to FEI, that FEI abandon its decommissioned NPS 20 pipes in Como Lake Avenue subject to the BCUC directing FEI to remove portions of the pipe on a case-by-case basis as needed to accommodate infrastructure projects of the City and others that the BCUC deems to be necessary, FEI should be required to pay:

- 1. FEI's own costs to remove the decommissioned NPS 20 pipes when so directed; and**

2. any and all incremental costs of the City that result from FEI's decommissioned pipes remaining in Como Lake Avenue.

The second category of costs above includes all costs that the City otherwise would not incur if the decommissioned NPS 20 pipes were removed promptly after the NPS 30 Pipeline is in service rather than being abandoned in Como Lake Avenue and removed piecemeal over time. This would include:

- a) any costs due to delay caused by FEI or its contractors in relation to removing NPS 20 pipes when required;
 - b) costs related to regulatory proceedings to obtain BCUC approval for removal of portions of the decommissioned NPS 20 pipes and approval of costs; and
 - c) additional costs if the City is required to undertake a more expensive alternative to its preferred project in order to avoid NPS 20 pipes.
- 1.2 Please explain if some or perhaps all of the “incremental costs” to the City could be avoided if the City worked cooperatively with FEI to have FEI remove the decommissioned NPS 20 IP gas line in the course of the City’s infrastructure project (for example, at the same time that the City has already excavated in the vicinity of the NPS 20 IP gas line for its project).

RESPONSE:

The City agrees that the incremental costs under item (a) in the response above could be largely avoided if the City and FEI agree to a schedule for FEI or its contractor to remove NPS 20 pipes as required, and FEI and its contractor abide by the schedule. The costs under items (b) and (c) in the response above would not be avoided.

1.3 Please provide an explanation of how the City's "incremental costs" approach would apply between the parties in a hypothetical scenario where for a new City infrastructure project:

- the City requested the removal of a section of the NPS 20 IP gas line;
- \$100 of work was required to excavate a trench for the installation of the new infrastructure (such as a water main) in the vicinity of that section of the NPS 20 IP gas line; and
- \$20 of additional work was required to remove that section of the NPS 20 IP gas line (including disposal).

RESPONSE:

In the hypothetical scenario set out above, the City would bear the costs of its own project including the \$100 for trench excavation, and FEI would bear its own costs including the \$20 to remove its NPS 20 pipe. As outlined in the response to FEI IR 1.1 above, there would be additional incremental costs to the City not mentioned in the hypothetical above.

1.4 Please provide an explanation of how the City's "incremental costs" approach would apply between the parties in a hypothetical scenario where for a new City infrastructure project:

- the City requested the removal of a section of the NPS 20 IP gas line;
- no excavation was to occur for the installation of new infrastructure (such as a water main) in the vicinity of that section of the NPS 20 IP gas line;
- \$100 of work was required to excavate a trench to remove that section of the NPS 20 IP gas line; and
- \$20 of additional work was required to remove that section of the NPS 20 IP gas line (including disposal).

RESPONSE:

We do not fully understand what the circumstances are in the hypothetical scenario that have caused the City to request removal of a section of NPS 20 pipe when no excavation is to incur for installation of City infrastructure in the vicinity of the NPS 20 pipe. That said, if the BCUC has jurisdiction and directs FEI to remove a section of the NPS 20 pipe, and there is no excavation by the City in the vicinity, FEI would bear its own costs including the \$100 for excavation and \$20 for removal and disposal. As outlined in the response to FEI IR 1.1 above, there would be incremental costs to the City not mentioned in the hypothetical above.

2.0 Reference: Exhibit B-12, City Evidence

On PDF page 149 (Mark Zaborniak Evidence dated August 25, 2020, page 5) the City states:

In addition, BC Hydro has major transmission facilities along Como Lake Avenue in various alignments, and is currently adding underground infrastructure in the eastern section of Como Lake Avenue in Coquitlam. This facility consists of a 9-way concrete encased duct bank and associated manholes. This new BC Hydro facility will extend for approximately 1400m along Como Lake Avenue, and will occupy one of the few remaining utility corridors along this section of this roadway, which highlights the need to remove FEI's NPS 20 pipes to make way for other utility lines.

2.1 Has BC Hydro advised the City that portions of the NPS 20 IP gas line will need to be removed for this work?

RESPONSE:

BC Hydro has not advised the City that portions of the NPS 20 pipeline will need to be removed. However, BC Hydro's project is currently underway, and the NPS 20 pipeline is still in operation, so relocation of the NPS 20 pipeline was probably not a feasible or cost effective option for BC Hydro. As noted previously the installation of BC Hydro's new duct bank is occupying one of the few remaining utility corridors along this section of Como Lake Avenue.

3.0 Reference: Exhibit B-12, City Evidence

On PDF Page 149 (Mark Zaborniak Evidence dated August 25, 2020, page 5) the City states:

It is important for the BCUC to be aware that gravity mains (sanitary sewers and storm sewers that use difference in elevation to move water) must have continuous slope, within specific parameters, to operate properly and safely. In addition, gravity mains are generally installed at greater depths than other utilities, requiring trench shoring cages and other safety apparatus. This means that if there is a conflict between the required alignment of a gravity main and other infrastructure, for example, the other infrastructure will have to be relocated (or removed in the case of an abandoned utility such as the NPS 20 pipes) to accommodate the gravity main.

- 3.1 If the City was to install such a gravity main that conflicted with the NPS 20 IP gas line, is it possible that the installation work for the gravity main would require excavation to or close to the NPS 20 IP gas line?

RESPONSE:

Yes. The installation of such gravity main would require removal of the conflicting NPS 20 pipe for the reasons noted in the reference above.

4.0 Reference: Exhibit B-12, City Evidence

On PDF Pages 149 and 150 (Mark Zaborniak Evidence dated August 25, 2020, pages 5 and 6) the City states:

The City has many examples of challenges posed by the presence of other utilities in the City's streets, and this is particularly the case for our gravity mains.

An example of this is a large sanitary sewer main installed on Barnet Highway with complications crossing a TELUS duct.

- 4.1 Did the City require TELUS to make payments to the City for incremental costs that the City incurred resulting from the pre-existing TELUS duct? If so, what was the nature of these incremental costs, and how were the costs allocated?

RESPONSE:

This TELUS duct is currently in operation and was put in operation in approximately 1995, prior to the City taking over ownership of Barnet Highway. It is acknowledged that avoiding existing, operating utilities is necessary and will add costs which we may not be able to anticipate, and (in the absence of an agreement that states otherwise) the cost to avoid these

utilities is borne by the agency installing the new equipment, whether this is the City or a third party. This is a typical cost that happens with underground utility projects. However, the City's position is that the City should not have to bear increased costs due to the presence of an abandoned pipe that is not serving a purpose or benefitting anyone. If TELUS were to come forward today with a new project the City would look to have the ducts placed in a manner that limits the impacts to future utility projects as much as possible, whether the future projects are by the City or third parties. The objective is the best overall use of the limited space in this corridor by and for all parties. The City would also look to recover or avoid any significant extra costs, such as from degradation to the pavement.

5.0 Reference: Exhibit B-12, City Evidence

On PDF Page 150 (Mark Zaborniak Evidence dated August 25, 2020, page 6) the City states:

The benefit that FEI and the BCUC believe that FEI will receive under this arrangement (*i.e.*, FEI being able to leave its decommissioned NPS 20 pipes in City land until they interfere with City or third-party infrastructure) should not come at the City's expense.

5.1 Please explain how FEI leaving the NPS 20 IP gas line in place until it interferes with third party infrastructure imposes costs on the City.

RESPONSE:

Leaving the decommissioned NPS 20 in the ground impacts the City directly (in terms of installing our infrastructure in the future) and indirectly (in terms of providing space for third-party infrastructure in the future). With regard to the City's own infrastructure there will be direct costs, such as the cost to find alignments for utilities that are more difficult and costly, or to remove all or some of the NPS 20 pipe to provide space for our new utilities. The City also has an interest in accommodating third-party utilities since many of these provide direct benefits to Coquitlam residents. If the decommissioned NPS 20 pipe is left in place it may result in a cost increase for a third party to install their utility, which could lead to a reduction in services or an increase in costs in services for Coquitlam residents.

6.0 Reference: Exhibit B-12, City Evidence

On PDF Page 150 (Mark Zaborniak Evidence dated August 25, 2020, page 6) the City states:

The BCUC decisions do not address a process for the City or a third party to request and the BCUC to approve removal of decommissioned NPS 20 pipe. I understand that the BCUC's April 2020 decision effectively makes the BCUC the arbiter, on a case by case basis, of the reasonableness of City and third party projects that require FEI to remove its decommissioned NPS 20 pipes to proceed.

6.1 Please explain how the BCUC's decision relates to a third party request to have FEI remove a portion of the decommissioned NPS 20 IP gas line. Please provide a reference or references in the decision that are the basis for the expressed understanding.

RESPONSE:

Orders G-80-19 and G-75-20 and the reasons for decision do not direct FEI to remove the decommissioned NPS 20 pipes in circumstances where the pipes interfere with third party infrastructure projects. It appears that abandonment of the NPS 20 pipes as a condition of the CPCN would apply equally to conflicts with proposed third party infrastructure. The BCUC did not address whether a third party is to bear any portion of the costs of NPS 20 pipe removal; the orders do not mention third party infrastructure. Please also refer to the responses to BCUC IRs 9.1.1 and 9.3.

7.0 Reference: Exhibit B-12, City Evidence

On PDF Page 151 (Mark Zaborniak Evidence dated August 25, 2020, page 7) the City states:

A requirement for a BCUC process to review and approve each request for FEI to remove portions of its decommissioned NPS 20 pipes creates uncertainty around the procedure, timing, and cost of work that the City needs to perform, as well as posing challenges to the City in attempting to properly budget for work, and also challenges to the City in attempting to schedule its work and that of third parties along Como Lake Avenue.

7.1 Does the City believe that a BCUC process would be required if the parties, acting reasonably, agreed on the scope of work, timing, and the costs involved in the removal work?

RESPONSE:

Yes, that is our understanding of the BCUC's determinations and orders. Based on our understanding of the BCUC's decisions as explained in the responses to BCUC IRs 8.1 and 8.2, the City and FEI cannot contract out of the perpetual jurisdiction under sections 45 and 46 of the *Utilities Commission Act* the BCUC has proclaimed over the decommissioned NPS 20 pipes. If the BCUC had varied Order G-80-19 as requested by the City in its Reconsideration Application, the City and FEI would have the power to negotiate agreed terms to allow FEI to leave the decommissioned NPS 20 pipes in Como Lake Avenue and later remove them when required.

On PDF Page 151 (Mark Zaborniak Evidence dated August 25, 2020, page 7) the City states:

Adding BCUC approval as a prerequisite to installing and replacing City utilities along Como Lake Avenue would complicate the City's internal design process as the City would be unable to rely on its designs of proposed work as being "constructible" since those designs could be rejected by the BCUC. Adding BCUC approval process could also delay the design process resulting in the City missing construction windows.

7.2 Please provide a reference or references in the decision for the basis of the City's statement that BCUC approval is a prerequisite to installing and replacing City utilities along Como Lake Avenue.

RESPONSE:

Please refer to the response to BCUC IR 8.1.

For clarity, Mr. Zaborniak's statement quoted above could have included the following additional underlined words "Adding BCUC approval as a prerequisite to installing and replacing City utilities along Como Lake Avenue where there is a potential for such utilities to conflict with FEI's abandoned NPS 20 pipes would complicate the City's internal design process...". Due to the congestion of utilities in the Como Lake Avenue corridor, Mr. Zaborniak expects that such potential conflicts will arise in many cases.

7.3 Please provide a reference or references in the decision for the basis of the City's statement that BCUC would review its designs.

RESPONSE:

Please refer to the responses to BCUC IRs 4.3 and 8.1.

8.0 Reference: Exhibit B-12, City Evidence

On PDF Page 152 (Mark Zaborniak Evidence dated August 25, 2020, page 8) the City states:

Further, in an emergency situation (such as a failed water main), the City is required to act quickly and would not have time to prepare an application to the BCUC for approval to commence emergency work. The existing practice for emergency work in proximity to FEI gas mains is to contact FEI inspectors so that they can assist with the emergency work, but there would not be time to obtain the approval of the BCUC.

8.1 Please provide a reference or references in the decision for the basis of the City's belief that it would need BCUC approval before emergency work can be performed.

RESPONSE:

Based on our understanding of the BCUC's decisions as explained in the responses to BCUC IRs 8.1 and 8.2, the City and FEI cannot contract out of the perpetual jurisdiction under sections 45 and 46 of the *Utilities Commission Act* the BCUC has proclaimed over the decommissioned NPS 20 pipes. The BCUC's decisions do not indicate an exception for an emergency situation.