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November 12, 2020

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC
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Attention: Ms. Marija Tresoglavic, Acting Commission Secretary

Dear Ms. Tresoglavic:

Re: British Columbia Utilities Commission (BCUC) – Inquiry into the Regulation of Safety
FortisBC Energy Inc. (FEI) and FortisBC Inc. (FBC), collectively FortisBC
Written Submissions

FortisBC writes in response to BCUC Order G-241-20, which established an inquiry to seek clarity on the BCUC's jurisdiction over safety. As a first step, the BCUC is seeking input on safety regulation in the energy sector and ways by which the BCUC can most effectively deliver on its safety mandate.¹ In particular, the BCUC requests input on the following key topics:²

1. What is the BCUC's jurisdiction with respect to the regulation of safety and what aspects of a public utility's activities does it apply to?
 - (a) Does the BCUC have the authority under the *Utilities Commission Act* (UCA) to set standards, rules or regulations with respect to safety?
2. Are there currently any legislative gaps in the oversight of public utilities with respect to safety?
3. Are there any areas of legislative overlap or duplication in the oversight of public utilities with respect to safety?
4. Would a workshop in support of the Inquiry be beneficial?
 - (a) If so, what would an appropriate scope for a workshop include?

¹ Order G-241-20, Appendix B, p. 4.

² Order G-241-20, Appendix B, p. 5.

Safety is a Core Value at FortisBC

First and foremost, safety is the number one core value at FortisBC. FortisBC is committed to delivering safe, reliable energy in an environmentally responsible manner to all of the communities that we serve. In all aspects of how we design, construct, operate, and maintain our assets, infrastructure and workplaces, FortisBC is internally committed to a strong safety culture to ensure that our people return home safely every single day. FortisBC is also externally focused on working to educate customers, contractors, and others about safe practices around natural gas and electricity.

In addition, FortisBC recognizes that sound safety and environmental practices make good business sense. Employees and contractors are expected to work safely and to protect their health – along with the health and safety of others – and the natural environment during the course of their work, by following established policies, rules, and procedures. FortisBC will not compromise employee and public safety, and strives for excellence in safety performance. Some examples are FortisBC's commitment to:

- comply with safety and environmental legislation, and operate in accordance with accepted industry practices and standards, and require the same of our contractors;
- injury and incident prevention, the conservation of resources, and the prevention of pollution;
- identify and manage operational hazards, and minimize risks that have the potential for adverse consequences;
- train employees to be aware of and meet their responsibilities in the areas of safety and environmental stewardship;
- develop, implement, maintain, manage and practice integrity, security, environmental, emergency, and safety management policies and programs;
- regularly conduct safety and emergency exercises and drills independently and in collaboration with communities, other utilities and agencies;
- communicate openly with employees, the general public and all stakeholders about our activities and the potential impacts on our safety and environment;
- support community-oriented safety and environmental initiatives and programs; and
- review safety and environmental policy on a regular basis, regularly monitor our safety and environmental performance, and strive for continual improvement.

The following are FortisBC's submissions on the topics requested by the BCUC.

1. What is the BCUC's jurisdiction with respect to the regulation of safety and what aspects of a public utility's activities does it apply to?

The BCUC's jurisdiction with respect to the regulation of safety is statutory and grounded in its main function of rate setting and in protecting the integrity and dependability of the supply

system.³ The BCUC's statutory jurisdiction can be found in a number of provisions of the UCA, including:

- Section 23(1)(c) which provides that the BCUC may make orders about safety devices in the context of its general supervision of public utilities.
- Section 23(1)(g)(i) which provides in part that the BCUC may make orders about matters it considers necessary or advisable for the safety of the public.
- Section 25 which provides in part that if the BCUC finds that the service of a public utility is unsafe, the BCUC must (a) determine what is reasonable, safe, adequate and fair service, and (b) order the utility to provide it.
- Section 27 which addresses in part the safety of jointly used facilities.
- Section 37 which in part allows for the BCUC to appoint supervisors and inspectors to carry out measures for the safety of the public.
- Section 38 which provides in part that a public utility must provide and maintain its property and equipment in a condition to enable it to provide a service to the public that the BCUC considers is in all respects safe.

FortisBC notes that many of these provisions are permissive, meaning that the BCUC is not required to act but has the ability to do so, consistent with the BCUC's supervisory role under the UCA. For example, the BCUC may make orders with respect to safety devices under section 23(1)(c), and may appoint supervisors or inspectors under section 37, but it is not required to do so. The UCA does under section 38, however, require a public utility's service to be in all respects safe in the consideration of the BCUC.

(a) Does the BCUC have the authority under the UCA to set standards, rules or regulations with respect to safety?

The BCUC has the authority, including under section 26 of the UCA, to set standards, rules and regulations with respect to safety for the matters for which it has jurisdiction. Though, as described above, it is not required to do so.

2. Are there currently any legislative gaps in the oversight of public utilities with respect to safety?

FortisBC does not believe that there are any legislative gaps in the oversight of major public utilities with respect to safety. FortisBC's operations are subject to oversight in areas ranging from workplace safety under the *Workers Compensation Act* to the handling of waste under the *Environmental Management Act*, and from dam safety under the *Water Sustainability Act* to pipeline operations under the *Oil and Gas Activities Act*.

In addition to legislative requirements, FortisBC also follows relevant industry guidelines and standards that are not adopted by law, and irrespective of legislative requirements, as described at the outset of this submission, safety is a core value for FortisBC. Under the

³ *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4 at para. 7.

current Multi-Year Rate Plan for 2020 through 2024, FortisBC also reports to the BCUC on a number of safety service quality indicators.

While FortisBC does not believe that there are any legislative gaps, as it submitted in the Indigenous Utilities Regulation Inquiry, FortisBC believes that the BCUC should retain jurisdiction with respect to safety and service reliability for Indigenous utilities, and Indigenous utilities, like other utilities, should be regulated in accordance with the applicable provisions of the UCA governing these issues.⁴ The BCUC retaining jurisdiction with respect to safety and service reliability will ultimately preserve regulatory harmonization across British Columbia, thereby promoting reliable service and the safety of the general public. Put another way, FortisBC believes that the creation of gaps in the oversight of public utilities as a result of exemptions from provisions of the UCA governing safety should generally be avoided.

3. Are there any areas of legislative overlap or duplication in the oversight of public utilities with respect to safety?

Most of FortisBC's activities are in areas where there is overlapping oversight.

As an example of overlapping jurisdiction, a project where FEI relocates a low pressure gas main and a high pressure gas line would be governed by legislation and best practices including:

1. The *Workers Compensation Act* with respect to workplace safety, for example, the co-ordination of safety at a multiple employer worksite, shoring, personal protective equipment, safe work procedures, flagging and traffic management, asbestos containing material handling, first aid attendants, and the requirement to locate other underground utilities before digging;
2. The *Oil and Gas Activities Act* with respect to the construction codes, construction permits and operating permits for the high pressure gas line;
3. The *Safety Standards Act* and the *Gas Safety Regulation* with respect to the construction code for the low pressure gas line;
4. The *Environmental Management Act* with respect to the handling of and disposal of waste and contaminated soil;
5. The *Motor Vehicle Act* with respect to the operation of vehicles and the vehicles that are used for the work; and
6. BC Common Ground Alliance Best Practices for any ground disturbances.

As another example, FEI's work related to a liquefied natural gas facility would be governed by legislation and best practices including:

1. The *Workers Compensation Act* with respect to workplace safety;
2. The *Oil and Gas Activities Act*, including the *Liquefied Natural Gas Facility Regulation*;

⁴ BCUC Indigenous Utilities Regulation Inquiry, FortisBC Comments on Draft Report, pp. 18-19.

3. The *Safety Standards Act*, which authorizes Technical Safety BC to take enforcement actions if it discovers a non-compliance with the statute or regulations;
4. The *Building Act* and *British Columbia Building Code*, which provide technical requirements for the construction, alteration, repair and demolition of buildings; and
5. The *Canadian Environmental Protection Act*, which imposes requirements on those who own or manage a listed substance (which includes natural gas) in a quantity at or over the prescribed minimum quantity.

As a further example, FBC's work related to vegetation management on a high-voltage transmission line would be governed by legislation and best practices including:

1. The *Workers Compensation Act* with respect to workplace safety;
2. The *Integrated Pest Management Act* with respect to the pesticides that are used;
3. The *Environmental Management Act* with respect to the handling of and disposal of waste;
4. The *Wildfire Act* with respect to the work if it may present a fire risk;
5. The *Motor Vehicle Act* with respect to the operation of vehicles and the vehicles that are used for the work;
7. Design and operations standards consistent with Good Utility Practice in the Western Electricity Coordinating Council (WECC) region; and
8. Compliance with all associated BC Mandatory Reliability Standards requirements.

4. Would a workshop in support of the Inquiry be beneficial?

FortisBC does not believe a workshop is required in support of the Inquiry, but FortisBC would participate in such a workshop if the BCUC determines that it would be beneficial.

(a) If so, what would an appropriate scope for a workshop include?

An appropriate scope for a workshop could be for public utilities to make presentations explaining their existing safety programs and initiatives, as well as the legislative schemes that regulate their safe operation. Given the numerous potentially relevant pieces of legislation and the importance of the consideration of safety to the many aspects of FortisBC's operations, if a workshop is scheduled, it would be helpful for the BCUC to identify in advance particular topics of interest so that those topics could be included in a presentation.

FortisBC appreciates and thanks the BCUC for the opportunity to provide these submissions for consideration.

If further information is required, please contact Paul Chernikhowsky at (250) 717-0894.

Sincerely,

on behalf of FORTISBC

Original signed:

Diane Roy

cc (email only): Registered Parties