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March 25, 2021

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

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Mr. Wruck:

**Re: FortisBC Energy Inc. (FEI)**

**Project No. 1599152**

**Application for Approval of a Certificate of Public Convenience and Necessity (CPCN) for the Okanagan Capacity Upgrade (OCU) Project (Application)**

**FEI Submission on Penticton Indian Band (PIB) Request for Access to Confidential Information**

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FEI writes to acknowledge receipt of the letter dated March 24, 2021 from counsel for PIB in addition to the filing of Confidential Declarations and Undertakings (Exhibit C5-3) requesting access to information filed confidentially in this proceeding for Ms. Razzaghi (counsel), Ms. Gaertner, Ms. Clemente, and Dr. Joseph. In its letter, counsel for PIB requests specific access to Appendices A, B, C, E, H-14, H-18 and I-5 to the Application relating to engineering, cost estimates, risk assessments, negotiations with private landowners and responses from Indigenous groups engagement (referred to as Confidential Information).

FEI acknowledges that it has released the Confidential Information on signed undertakings previously submitted by registered interveners representing customer groups in this proceeding.<sup>1</sup>

FEI is currently reviewing PIB's request for access to the Confidential Information in the context of FEI's ongoing discussions with PIB. There is ongoing dialogue between FEI and PIB which includes consideration of PIB, through its businesses, bidding on and participating in the procurement process, which FEI will undertake for the supply of materials or services related to the execution of the OCU Project, should it be approved. As such, FEI is considering PIB's request for access to the Confidential Information as it relates to such

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<sup>1</sup> Residential Customer Intervener Association (Exhibit C-2-3) and Commercial Energy Consumers Association of British Columbia (Exhibits C4-2 and C4-3).

matters in consideration of fairness to potentially bidding parties as FEI will be going to the market to seek competitive bids for the materials and construction work for the Project. FEI believes that disclosure of costs and strategies to potential bidding parties would hinder the competitive bidding process and FEI's ability to negotiate fair and reasonable agreements.

After FEI's review of PIB's request, FEI expects to be in a position to file a response by the end of next week with respect to whether PIB should be entitled to access all or a portion of the requested Confidential Information. Concurrent with that response, FEI intends to make available to PIB confidential material which FEI believes does not raise concerns such as those noted above. FEI expects that, should it have any objections to disclosing certain aspects of the Confidential Information to the PIB, the PIB will have an opportunity to respond followed by a reply from FEI prior to the British Columbia Utilities Commission (BCUC) making a final determination.

FEI believes that it would be most efficient for any additional regulatory process required to determine access to the Confidential Information to occur concurrent with the recommencement of the regulatory process, as discussed in FEI's submission regarding PIB's extension request (Exhibit B-10). Given that PIB also indicated an intent to file Intervener Evidence, there will be ample opportunity to schedule an additional round of information requests specific to Confidential Information for PIB, if required.

If further information is required, please contact the undersigned.

Sincerely,

**FORTISBC ENERGY INC.**

***Original signed:***

Diane Roy

cc (email only): Registered Parties