

BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT
R.S.B.C. 1996, CHAPTER 473

And

RE: FortisBC Energy Inc.
Application for Approval of Biomethane Energy Recovery
Charge Rate Methodology

Vancouver, B.C.
November 16th, 2015

Procedural Conference

BEFORE:

D. Morton,	Commissioner/Panel Chair
K. Keilty,	Commissioner
H. Harowitz,	Commissioner

VOLUME 1

APPEARANCES

P. MILLER	Commission Counsel
C. BYSTROM	Counsel for FortisBC Energy Inc.
C.P. WEAVER	Counsel for Commercial Energy Consumers Association of British Columbia (CEC)
W.J. ANDREWS	Counsel for B.C. Sustainable Energy Association and Sierra Club of B.C. (BCSEA/SCBC)
T. BRAITHWAITE	Counsel for British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance B.C. Council of Senior Citizens' Organizations of B.C. and Tenant Resource and Advisory Centre (BCOAPO)

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CAARS

VANCOUVER, B.C.

November 16th, 2015

(PROCEEDINGS COMMENCED AT 8:59 A.M.)

THE CHAIRPERSON: Please be seated. Thank you.

Good morning, ladies and gentlemen. My name is Dave Morton. With me are Commissioners Karen Keilty and Howard Harowitz. Welcome to this morning's proceeding to consider various procedural matters related to an application by Fortis Energy Inc., which I'll refer to as "FEI", for approval of its biomethane energy recovery charge, or the "BERC" rate methodology.

The application was filed on August the 28th, 2015. Three interveners have registered and on November the 6th, FEI responded to four sets of IRs. In a letter dated June 25th, Exhibit A-5, the Commission requested participants to specifically address the following items at this procedural conference: first, whether any regulatory -- any further regulatory process is required, and the reasons why; (2) if further regulatory process is required, what's the most appropriate process and the reasons why; and (3) the extent to which it's necessary to clarify the scope of the proceeding regarding the subject application. For example, are

1 the following within the scope of this proceeding:
2 (a) the approval of the annual customer education and
3 awareness expenditure, as part of this proceeding; and
4 (b) changes to the maximum quantity of biomethane that
5 Fortis -- sorry, that FEI received approval to
6 purchase in the Commission's December 11th, 2013
7 decision, accompanying Order G-210-13 in the
8 biomethane service offering post-implementation
9 application for approval of the continuation and
10 modification of the biomethane program on a permanent
11 basis proceeding.

12 In addition to the above, the Panel also
13 invites submissions on any other procedural matter
14 that you may wish to identify.

15 **Proceeding Time 9:01 a.m. T2**

16 At this stage, I would like to acknowledge
17 and introduce some individuals who will play an
18 important role in the review of this application.
19 Cathy Mar, seated at the front, is lead staff. With
20 her are Doug Chong and Leon Chang. And also
21 Commission Counsel for the proceeding is Mr. Paul
22 Miller from Boughton Law Corporation, and Mr. Hal
23 Bemister is the hearing officer.

24 I am going to ask Mr. Miller to call for
25 appearances, and as you enter your appearance, please
26 state your name for the record and the party that you

1 represent; and at that time identify any additional
2 issues that you may wish to add to the agenda for
3 consideration, and advise whether you prefer any or
4 all of the issues to be dealt with in a separate round
5 of submissions. Otherwise, we will deal with all of
6 the issues together.

7 After appearances, the first round of
8 submissions will begin with Creative Energy, and then
9 follow the order of appearances -- sorry, with Fortis
10 -- with FEI, and then follow the order of appearances.
11 Once we've reached the end of intervener submissions,
12 I believe that Mr. Miller has a submission. Is that
13 correct, Mr. Miller?

14 MR. MILLER: Yes.

15 THE CHAIRPERSON: And then beginning with the last
16 intervener to speak, interveners will have the right
17 to reply in reverse order. FEI will have the final
18 right of reply.

19 Before Mr. Miller takes over, I'd ask you
20 to please make sure that your submissions are directed
21 to the issues that I've just outlined, together with
22 any other issues that you or any of the other
23 participants identify and that the Panel accepts as
24 appropriate for addition to the agenda. In
25 identifying any additional issues, please bear in mind
26 that it is not the purpose of the goal of this

1 conference to compare or discuss the merits of the
2 application itself, but to address the issues that I
3 have just described.

4 Mr. Miller, are you ready? Thanks.

5 MR. MILLER: Thank you, Mr. Chair. The first in the
6 order of appearances is FortisBC Energy Inc.

7 MR. BYSTROM: Good morning, Commission Chair, Panel. My
8 name is Chris Bystrom, B-Y-S-T-R-O-M, appearing for
9 FortisBC Energy Inc, and I note that we have no items
10 to add to the agenda.

11 THE CHAIRPERSON: Thank you, Mr. Bystrom.

12 MR. MILLER: Commercial Energy Consumers?

13 MR. WEAFFER: Good morning Mr. Chairman, members of the
14 Panel. Chris Weaffer, spelt W-E-A-F-E-R, appearing for
15 the Commercial Energy Consumers, with no issues to add
16 to the agenda and we are happy to deal with all of the
17 items in one appearance.

18 THE CHAIRPERSON: Thank you, Mr. Weaffer.

19 MR. MILLER: B.C. Sustainable Energy Association and the
20 Sierra Club of B.C.?

21 MR. ANDREWS: William Andrews, representing BCSEA and the
22 Sierra Club B.C. We have no additions for the agenda,
23 and would be content with having all of the issues
24 addressed at the same time.

25 THE CHAIRPERSON: Thank you, Mr. Andrews.

26 MR. MILLER: B.C. Old Age Pensioners' Organization, et

1 THE CHAIRPERSON: Okay, thank you.

2 MR. BYSTROM: And turning to the agenda item with respect
3 to the scope of the process. Generally, in our view,
4 the scope of the proceeding is defined by the matters
5 relevant to the approval sought in our application.
6 And so that's the high-level response.

7 Turning to the two particular examples
8 pointed out in the letter, I'll first address the
9 question of whether the approval of the annual
10 customer education awareness expenditure is part of
11 the proceeding. And our position is that we do not
12 see that approval of these expenditures is within the
13 scope of the proceeding. FEI did not list approvals
14 of these expenditures in its application, and it also
15 confirmed in BCUC IR 1.3.1 that it had not sought
16 approval of customer education awareness spending.
17 And for that reason, the application wasn't prepared
18 as a justification of these types of expenditures
19 generally, or as a justification of the particular
20 amount planned to be spent if the application is
21 approved.

22 So for those reasons, in our view, the
23 customer -- approval of an annual customer awareness
24 and education spending is not within scope. And I
25 might just add a bit of explanation there. The
26 application was conceived as a rate design application

1 rather than a revenue requirements proceeding. That
2 is, the application was focused on the methodology for
3 determining the BERC rate as opposed to the costs that
4 go into that, if I could put it at that high level.

5 So, the customer -- annual customer
6 awareness and education spending isn't relevant to the
7 core of the application, which is the BERC rate
8 methodology. And FEI also does not believe that the
9 customer education awareness spending should be
10 particularly controversial. It's the resumption of
11 customer awareness and education spending levels that
12 would be a return to what is the *status quo* for the
13 program. And what was contemplated in FEI's last
14 major application with respect to this program, the
15 post-implementation review. So in that sense, in
16 FEI's submission, the resumption of the customer
17 awareness and education spending, if the application
18 is approved, is more of a return of what should be
19 expected for the program.

20 And as we also noted in FEI's response to
21 BCU IR 1.3.1, FEI is cognizant that there is an
22 existing process in place for review of the customer
23 awareness and education spending amount. As you are
24 aware, the customer awareness and education spending
25 is part of the O&M for the program that is captured in
26 the biomethane variance account, or "BVA", as I will

1 call it. The biomethane program O&M is forecast as
2 part of the annual review process, and actual
3 additions to the BVA are reviewed in the annual status
4 report pertaining to the BVA. So in my submission
5 there is no need to duplicate those other ongoing
6 processes here.

7 I'll just make one more note on this, in
8 that our approach in this application is similar to
9 that taken in the 2013 application, the post-
10 implementation review and application to have the
11 program approved on a permanent basis. In that
12 application FEI also did not seek approval of an
13 annual spending amount. However, the spending was a
14 topic in that proceeding, and the Commission did
15 provide directions to FEI with respect to customer
16 awareness and education spending, notably to remove
17 the air miles spending.

18 So, we saw this application as proceeding
19 on a similar basis as what happened in the past.

20 **Proceeding Time 9:09 a.m. T4**

21 With that I will turn to the second example
22 with respect to scope, whether the changes to the
23 maximum quantity of biomethane are within the scope of
24 this proceeding. And in my submission the change to
25 the maximum quantity of biomethane, or supply cap, is
26 clearly not within scope. First the supply cap is not

1 within scope as we did not seek approval for any
2 change to the supply cap, and nor is a change to the
3 supply cap relevant to any of the approvals sought in
4 the application. And the application was not prepared
5 on the basis of defending the supply cap or providing
6 the evidence on which to make a change to that supply
7 cap. So for that reason, in our submission it's not
8 within scope and it would be inappropriate at this
9 stage to add that into the scope of the proceeding.

10 I'll make a few more points in respect to
11 this. As outlined in the application in some detail,
12 the application is a modification to the existing
13 approved program. It's not a wholesale revisiting of
14 all the program elements. And in FEI's submission,
15 given the Commission's approval of the program in
16 December 2013, it is too early to engage a sort of
17 wider review of the program elements.

18 It's also significant that FEI is bringing
19 forward this application as directed by the Commission
20 in the previous -- in its December 2013 decision
21 approving the program on a permanent basis. As
22 outlined in the application, the Commission did
23 contemplate that the BERC rate might, as set, could
24 potentially reduce adoption rates, and the Commission
25 did direct FEI to bring forward an application to
26 lower the BERC rate if it came about that the BERC

1 rate was reducing adoption rates.

2 So in our view, our application was -- is
3 something, is a modification to the program that was
4 contemplated at the time it was approved on a
5 permanent basis, and widening the scope to the supply
6 cap in our view would be inappropriate at this time
7 and we don't think enough time has passed since the
8 last review to really revisit all those parameters.

9 And I guess one final point and then I'll
10 close my submissions, but we think it would also be
11 premature to change the supply cap at this time either
12 by lowering it or increasing it. First with respect
13 to increasing it, FEI doesn't have a need to increase
14 the supply cap at this time. We believe that -- FEI
15 believes that it has enough room under the supply cap
16 for the next couple of years at least. And if FEI did
17 see a need for an increase it would bring forward an
18 application for the Commission's consideration, and we
19 think that would be a better mechanism to push that
20 forward.

21 In terms of reducing the cap, the existing
22 supply cap was approved by the Commission less than
23 two years ago on the basis of the potential supply and
24 demand in the province, and these essential facts have
25 not changed. It was known at the time the supply cap
26 was approved, as I have said, that the level of the

1 BERC rate might reduce adoption rates. So FEI has
2 brought forward this proposal to address that
3 challenge and increase program adoption.

4 **Proceeding Time 9:13 a.m. T05**

5 In our view, the program should be given a
6 chance to succeed based on our proposal with the lower
7 BERC rate before any other changes are made to the
8 parameters of the program.

9 So with that, I'll close my submissions
10 unless there are any questions from the Panel.

11 COMMISSIONER KIELTY: No questions.

12 THE CHAIRPERSON: Thank you, Mr. Bystrom. Mr. Weafer?

13 **SUBMISSIONS BY MR. WEAFER:**

14 MR. WEAFER: Thank you, Mr. Chairman. Just dealing with
15 your Exhibit A-5 and the question set out in that
16 letter, just to start, the CEC has generally been in
17 support of this program over the last five years, and
18 so my comments today need to be taken in that context.
19 We do think there is a need for the regulatory
20 process, and we'll be proposing a streamlined review
21 process. And the reasons for that is that there are
22 some issues that have arisen as a result of the IR
23 process that we think would benefit from a round-table
24 with the company, and with the Panel present, to get a
25 better understanding of how this program is working.

26 And three of those areas are the

1 expenditure on marketing, the \$300,000 expenditure,
2 and getting a comfort level as ratepayers that the
3 company is proposing to use those monies appropriately
4 and effectively.

5 Secondly, the long-term contracts that are
6 proposed as part of this application, which are new
7 and again potentially put ratepayers at risk in terms
8 of the effectiveness and functioning of the program.
9 And I think again we would benefit from being able to
10 have that discussion with the utility in a streamlined
11 review process.

12 And lastly, we noted in recent years, 2014
13 and 2015, we've seen the biggest variance in terms of
14 forecast of take-up of renewable gas, and what was
15 returned to the MCRA. And it raises a concern, is the
16 program working effectively, and working to get a
17 comfort from the company that it does have its tackle
18 in order, and what it's proposing here in terms of
19 revising the BERC rate, while a rate adjustment still
20 goes to the overall program. And fundamentally as
21 ratepayers we understand the policy reason for the
22 program. We understand it's consistent with
23 provincial policy. But as ratepayers, we still have
24 to look at the risks versus the opportunity and the
25 benefits versus the costs. And having a half-day
26 session to get a better understanding from the company

1 on that balancing we think will be beneficial to the
2 Commission and to the other stakeholders.

3 So I think I've addressed questions 1 and
4 2. Question 3, to be frank, I had expected the
5 company to be saying these would be in scope and was
6 going to stand up to support them. And now I'm
7 surprised at the position taken, and fair enough. But
8 I think it does lead to reinforce the need to get
9 around the table, because there is a bit of confusion
10 in the room in terms of the scope of this proceeding.
11 And now we've heard a very narrow scope proposed by
12 the company. But we've certainly had IRs and
13 commentary on both of these topics that would have led
14 us to believe they were topics for consideration in
15 the process. And I guess one -- where we can get some
16 concern, or some lack of clarity, in 3(b) we talk
17 about the changes to maximum quantity of biomethane
18 that FortisBC Energy received approval to purchase in
19 the Commission's December 11, 2013 decision.

20 **Proceeding Time 9:17 a.m. T6**

21 And as I understand, there is the
22 discussion from Mr. Bystrom, the counsel Mr. Bystrom,
23 that that's not an issue in this proceeding. In
24 response to an IR, IR 1.12.1, we asked how much unsold
25 biomethane is permitted to be transferred to MCRA
26 under G-210-13, and the response was there is no

1 specific limit as to the amount of R&G supply that may
2 be transferred to the MCRA under G-210-13. So we'd
3 like to get a better understanding what are the
4 parameters the company is operating under, because
5 that IR would indicate they don't see caps in terms of
6 what's transferred. And again, to get -- we could go
7 back and forward in IRS, but we think there is a value
8 in being in a room and making sure we all understand
9 what's on the table for the approval.

10 THE CHAIRPERSON: Excuse me, Mr. Weafer, is that a CEC
11 IR?

12 MR. WEAFER: It is CEC 1.12.1.

13 THE CHAIRPERSON: Yes. Mr. Weafer, I wonder if we could
14 just ask you another question then.

15 MR. WEAFER: Of course.

16 THE CHAIRPERSON: So when you're saying that you do think
17 that 3(a) and (b) should be in scope and then that's
18 one more reason to support an SRP, are you suggesting
19 that they should be in scope for discussion at the
20 SRP?

21 MR. WEAFER: I think where we're at, Mr. Chairman, is
22 just getting a clear understanding from the company
23 what's being proposed, because topics have been
24 addressed in IRs which could lead people to believe
25 there's a broader scope. The Commission has asked
26 these questions trying to understand what's clearly in

1 scope and out of scope. And I think, given this has
2 been a functioning program for five years and we have
3 what I think is a fairly material application in
4 relation to the program, there'd be a value in making
5 sure there's clarity around the table in an SRP.

6 THE CHAIRPERSON: Thank you for clarifying, thanks.

7 MR. WEAVER: Those are my submissions, Mr. Chairman,
8 subject to any questions.

9 THE CHAIRPERSON: Thank you, Mr. Weaver. Mr. Andrews,
10 thank you.

11 **SUBMISSIONS BY MR. ANDREWS:**

12 MR. ANDREWS: Thank you, Mr. Chairman and members of the
13 Panel. In response to the first question, BCSEA/SCBC
14 do not a second round of information requests. My
15 clients would be content to have a written argument to
16 complete the proceeding, but they're certainly not
17 opposed to a streamlined review process and Mr. Weaver
18 makes a persuasive case for why that might be useful.

19 In terms of 3(a) and 3(b), I would make a
20 distinction between whether the question is that the
21 scope includes the topic in the case of the education
22 spending, and the topic of the cap as distinct from an
23 approval. We've heard the company say that they have
24 not sought an approval. So then the only question
25 remaining is should the Commission make a direction on
26 that topic even though the company hasn't sought an

1 approval.

2 As for the topics, it seems to me that they
3 are generally relevant to the program as a whole, and
4 BCSEA/SCBC did ask IRs particularly on the education
5 spending. But I guess I am inclined to agree with the
6 company's characterization of these topics as being,
7 this is using my words, generally relevant to the
8 current status of the program, but not the subject of
9 specific approval requests.

10 **Proceeding Time 9:22 a.m. T07**

11 And I'm anticipating that counsel for the Commission
12 will be making comments and obviously these items have
13 been added to the agenda. So there may be different
14 thoughts about what should happen with these topics.

15 And so I'll just leave my remarks at that.
16 From my client's perspective, we don't feel a need to
17 put approval of those items on the agenda, but the
18 topics strike me as being helpful to get a context.

19 THE CHAIRPERSON: Okay.

20 MR. ANDREWS: Subject to any questions, those are my
21 submissions.

22 THE CHAIRPERSON: Thank you, Mr. Andrews. Ms.
23 Braithwaite?

24 **SUBMISSIONS BY MS. BRAITHWAITE:**

25 MS. BRAITHWAITE: I would essentially echo the comments
26 of Mr. Andrews. BCOAPO is content either with a

1 written argument or an SRP. We see this as a
2 relatively straightforward application involving a
3 relatively small amount of money overall, and BCOAPO
4 does not require any additional IRs.

5 With respect to what's in scope, I would
6 agree with the company that it may make more sense to
7 see the impact of any -- of any rate design changes
8 that are approved on the take-up rate of biomethane
9 before revisiting the issue of the supply cap. I'm
10 not sure it makes sense to do those two things, both
11 to revisit the supply cap and change the rate design,
12 at the same time, when they're obviously going to
13 impact each other.

14 And with respect to the customer education
15 spending, I think it would be useful to have
16 clarification on how that budget is identified, how
17 it's tracked, how it's charged. Under the PBR we
18 heard earlier that it's part of the O&M budget that is
19 addressed in the annual review. But I think it would
20 be useful to have some clarification on that. But I
21 don't see it as being technically in scope, given that
22 the company hasn't asked for any changes to how it's
23 handled.

24 So those are my comments.

25 THE CHAIRPERSON: Thank you, Ms. Braithwaite.

26 **SUBMISSIONS BY MR. MILLER:**

1 MR. MILLER: Panel members, Staff does believe that
2 further process is required. Staff has no preference
3 whether that process is written IRs and then
4 submissions, or an SRP. Staff wants to explore a
5 couple of issues further.

6 The first issue is on the customer
7 education spend. We don't think the annual review is
8 the best place to do it, because technically what
9 would happen there is, we'd only be addressing the
10 return on equity and interest components. And what
11 we're really interested in is the cost-effectiveness
12 of the education program. Because at least on a
13 preliminary basis, there appears to be a correlation
14 -- I'm not saying it's cause and effect, but a
15 correlation between sales and the amounts spent on
16 education. And staff would like to explore that issue
17 a little further.

18 The other issue staff would like to explore
19 is related to the long-term contracts on the sales
20 side of the biomethane. The terms and conditions
21 under which that biomethane may or may not be sold
22 appear to be rather undefined at this point in time,
23 and staff would like to explore that.

24 Staff is not looking to explore the issue
25 of the cap on the biomethane. But it is interested in
26 what potential impacts there may be on ratepayers with

1 back, I wonder if I could ask all parties to please
2 clarify when you -- there's general agreement on an
3 SRP, could you please clarify whether, when you use
4 that term whether you also include final arguments as
5 part of the SRP. Because I know that sometimes
6 there's some -- everyone is not always in agreement
7 that the argument should necessarily be included as
8 part of the SRP. If you could just comment on that
9 I'd appreciate it. Thanks.

10 Ms. Braithwaite.

11 **REPLY BY MS. BRAITHWAITE:**

12 MS. BRAITHWAITE: Our preference would be to have a
13 written argument rather than oral argument as part of
14 the SRP.

15 THE CHAIRPERSON: Okay. And you have no further
16 submissions on any --

17 MS. BRAITHWAITE: No.

18 THE CHAIRPERSON: Thank you.

19 **REPLY BY MR. ANDREWS:**

20 MR. ANDREWS: For my clients, we certainly have no
21 objection to a further round of IRs, though we would
22 not be making an additional round of IRs. The dates
23 proposed for an SRP would be fine for us.

24 We would likely be in a position to make
25 final argument during an SRP, but I can understand
26 that other parties, because of the relationship they

1 may have with consultants that are not in the room,
2 require a written opportunity to provide argument, so
3 I would support them in that.

4 THE CHAIRPERSON: Okay.

5 MR. ANDREWS: Thank you.

6 THE CHAIRPERSON: Thank you.

7 **REPLY BY MR. WEAVER:**

8 MR. WEAVER: Thank you, Mr. Chairman. We are content
9 with either a written argument or oral argument on the
10 end of the day, but echo Mr. Andrews' comments about
11 availability of consultants if needed.

12 THE CHAIRPERSON: Okay.

13 MR. WEAVER: And the dates as proposed by Staff are fine
14 for my consultant and myself. And I don't see another
15 round of IRs. From our perspective we don't need
16 another round of IRs.

17 THE CHAIRPERSON: Okay.

18 MR. WEAVER: Thank you.

19 THE CHAIRPERSON: Thanks, Mr. Weaver. Mr. Bystrom?

20 **REPLY BY MR. BYSTROM:**

21 I have a number of comments in reply. I
22 think first of all I agree with my friend Mr. Andrews'
23 comments about the matters in scope. Certainly agree
24 that the topics related to the customer education
25 awareness spending, supply cap, can be explored in
26 IRs. I wasn't trying to suggest that we were going to

1 refuse to answer questions on those topics.

2 **Proceeding Time 9:31 a.m. T09**

3 We did put information in the application
4 with respect to those topics, and we are fine to
5 respond to questions. We want to be helpful and make
6 sure everyone understands what they need to
7 understand. Our point, and I think as Mr. Andrews
8 clarified, is that the approval of those, the annual
9 spending amount, is not something we asked for in the
10 application. In that sense, it's not within scope in
11 our view. And also changes to the supply cap were
12 also not sought, and in our view aren't relevant to
13 what we're asking. So it's -- an approved change to
14 the supply cap, in our view, is also not within scope.

15 And on that point too, relevant to the
16 supply cap anyway, I'm not sure if there is some
17 confusion. Mr. Weafer referenced the IR CEC 1.12.1.
18 It was about the transfer to the MCRA. I see that as
19 a different issue than the supply cap. I take the
20 supply cap being as the 1.5 PJs that FEI is permitted
21 to bring supply on as part of the program, rather than
22 the amount that can be transferred to the MCRA.

23 Now, in terms of further regular process,
24 I'll address that next. We've heard a general request
25 for more process, and it seems to be either an SRP or
26 IRs, with some parties favouring an SRP. In our view,

1 another round of IRs would be preferable to an SRP.
2 I've listened to the reasons given -- or I should say
3 maybe the topics that the parties have said they wish
4 to explore. And in our view, in FEI's view, these
5 topics can be quite technical, and there is some
6 concern whether we'll be able to answer on the spot in
7 an SRP all the questions that will be asked.

8 Mr. Weafer spoke about sort of the cost and
9 benefits balance. That's a paraphrase. But in order
10 to be able to sort of weigh the costs and benefits and
11 present that kind of material might require some
12 numbers and spreadsheets. There is a significant
13 amount of sort of research that's gone into the
14 program, and that is drawn upon to answer these
15 questions that come up. And so I'm just not sure that
16 an oral process would enable the company witnesses to
17 be able to draw on, on the spot, and answer the
18 questions that are likely to come up.

19 So, one of the topics mentioned was, you
20 know, the potential impact on ratepayers from the
21 supply cap. You know, calculating impact to
22 ratepayers is not something that can be done, you
23 know, typically anyway, with any degree of accuracy,
24 sitting in an SRP. So if those are the kinds of
25 questions, probably written process would be more -- I
26 think more helpful to the Commission.

1 Same with focus group results. For
2 instance, if there is more detail on that, that might
3 be better provided in writing.

4 THE CHAIRPERSON: Would that mean that you would be --
5 would you characterize that as saying you're opposed
6 to an SRP?

7 MR. BYSTROM: Well, I don't wish to say I'm outright
8 opposed to it. We want to be helpful here. But in
9 our submission, another round of IRs in writing -- a
10 written process --

11 THE CHAIRPERSON: Yes.

12 MR. BYSTROM: -- would enable us to, I think, respond to
13 the concerns raised here in more detail, and with more
14 accuracy. And so it is our submission that the second
15 round of IRs would be more beneficial to the
16 Commission than an SRP in this case.

17 THE CHAIRPERSON: Thank you.

18 MR. BYSTROM: And one more point on the -- Mr. Weafer --
19 one more point with respect to the process. Mr.
20 Weafer talked about getting clarity on the scope of
21 what's in the proceeding and suggested that an SRP
22 would be a way to get around a table and figure out
23 what's in scope. In my view, the scope should be
24 resolved in this process here. That we shouldn't be,
25 I hope, debating what's in scope at the SRP. It
26 should be -- we should hopefully go into the SRP, if

1 that in an SRP format. I guess just from what I
2 heard, I'm not convinced that all the topics raised
3 would be of that nature. Even on the topic, for
4 instance, of the customer education awareness
5 spending, which there appears to be quite a bit of
6 interest in, if we're looking for budgets or support
7 of what we're going to do, and that may not be
8 material that our witnesses have on hand. I'm not
9 sure what all the questions might be. Or even the
10 long-term contracts proposal. I heard a comment that,
11 you know, it wasn't as well defined as one might wish.
12 If the other parties are looking for FEI to define
13 those parameters in more detail, that might be
14 something that actually requires the company to spend
15 some time thinking about what that might look like and
16 then come up with some more information that's on the
17 record now, and it might not be something that the
18 company can just answer on the spot. So, but --

19 COMMISSIONER HAROWITZ: Would I be accurate, though, in
20 saying that if you knew the direction of those
21 questions with appropriate preparation, you could
22 easily put that into evidence in an SRP as well as in
23 writing or --

24 MR. BYSTROM: We can provide undertaking responses, for
25 sure.

26 COMMISSIONER HAROWITZ: Okay.

1 MR. BYSTROM: So I'm not suggesting that it's not
2 workable. I'm just suggesting that based on what I
3 understood the issues to be, I thought that a written
4 process would be more helpful to the Commission. I do
5 respect the fact that there is an opportunity for
6 undertakings and there might be some value in sitting
7 around a table and being able to talk about issues.

8 In respect of the dates put forward by the
9 Staff, Wednesday, January 27th will be problematic for
10 the company due to another ongoing proceeding. But
11 the dates in the first three days of February would be
12 acceptable to the company.

13 I guess just one more comment about the
14 approval process, the customer education awareness
15 spending. It is a bit more complicated than usual,
16 given the workings of the BVA, so I understand Ms.
17 Braithwaite's request for further clarification. I
18 don't know if I can really provide anything too more
19 substantive here, but we can do that in whatever
20 further process is there, becomes available.

21 And I have no more comments in reply.

22 THE CHAIRPERSON: If I could, Mr. Bystrom, just ask you
23 for your comment on the oral argument part of the SRP,
24 if there were to be an SRP. Would you be prepared to
25 make a final argument at that time?

26 MR. BYSTROM: I have heard comments that seem to suggest

1 The Panel -- thank you very much, first of
2 all, for all of your comments. And the Panel is of
3 the view that an SRP may be a more appropriate forum.
4 We are certainly persuaded that there should be extra
5 process, and we acknowledge, Mr. Bystrom, your
6 concerns. So we would encourage any parties that have
7 particularly complex questions, and I'm -- we don't
8 think there should be another round of IRs before the
9 SRP. But if you have particularly complex questions,
10 we would encourage you to get them to Mr. Bystrom
11 beforehand, so that at least you're forewarned, and
12 you can -- you could come prepared.

13 And also if you're prepared to make your
14 final argument at that time, that would be
15 appreciated. And then we could do intervener
16 arguments and the reply argument as part of a written
17 process, subsequent to the SRP.

18 As far as the two scope items are
19 concerned, I think there was a general agreement that
20 they are in scope, although they're not subject to any
21 Panel approvals or non-approvals. But they're in
22 scope for discussion purposes and for background for
23 the SRP.

24 Unfortunately we don't have our calendars
25 with us, so I can't set a date right now. But it will
26 either be the 1st, 2nd, or 3rd. I think everyone said

1 they were available on those dates. And the written
2 argument process, we'll schedule that in the couple of
3 weeks after that.

4 So unless anyone has anything further,
5 we're adjourned. Thank you.

6 **(PROCEEDINGS ADJOURNED AT 9:57 A.M.)**

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