

**BRITISH COLUMBIA UTILITIES COMMISSION**  
**IN THE MATTER OF THE *UTILITIES COMMISSION ACT***  
**RSBC 1996, CHAPTER 473**

**and**

**FortisBC Inc.**  
**Application for Approval of Rate Design and Rates**  
**for Electric Vehicle Direct Current Fast Charging Service**

**Vancouver, B.C.**  
**May 27<sup>th</sup>, 2021**

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**WEB-BASED ORAL SUBMISSIONS**

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**BEFORE:**

<b>D.M. Morton,</b>	<b>Panel Chair/Chairman</b>
<b>A.K. Fung, Q.C.,</b>	<b>Commissioner</b>

**VOLUME 1**

## APPEARANCES

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B.C.

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**VANCOUVER, B.C.**

**MAY 27<sup>th</sup>, 2021**

**(PROCEEDINGS COMMENCED AT 3:00 P.M.)**

THE CHAIRPERSON: Good afternoon and welcome. My name's Dave Morton, Chair and CEO of the BCUC and the Chair of this panel. With me on the panel is Commissioner Anna Fung, Vice Chair of the BCUC. Welcome to today's sessions, which is part of the review of FortisBC Inc.'s rate design and rates for electric vehicle direct current fast charging service application.

With us is our staff team, Yolanda Domingo, our executive director of rates, along with Leon Cheung and Tanya Lai. Lino Bussoli is our counsel and Hal Bemister is our Hearing Officer.

The purpose of today's sessions is to provide Fortis and interveners with the opportunity to provide oral submissions and to clarify and elaborate on their arguments, in particular in the areas noted in Exhibit A-16. I won't repeat the contents of Exhibit A-16 here but I'm sure you're all familiar with them.

As part of Exhibit A-16, interveners who are unable to attend today's session may file their submissions in writing. And to date, or at least the last time I checked, we'd received written submissions

1 from Mr. Flintoff, BC Hydro and ChargePoint, and they  
2 were posted on the proceeding page yesterday.

3 In addition, yesterday the BCUC posted  
4 Exhibit A-17. In that exhibit we invite ante comments  
5 that any parties may have on the data in this  
6 spreadsheet in that exhibit. And we realize it was  
7 short notice and while you're welcome to provide  
8 comment today, you may either instead or in addition  
9 provide comment after today's sessions, provided we  
10 get it by June the 3<sup>rd</sup>, please.

11 In a few moments I'm going to turn things  
12 over to Mr. Bussoli and he will call for appearances.  
13 At that time please indicate whether there are any  
14 other items that you wish to add to today's agenda.  
15 Following introductions, the panel will hear  
16 submissions in the order of appearances. When we  
17 reach the end of that order, we will proceed backwards  
18 up the list thereby providing an opportunity for  
19 everyone to reply to the submissions of others.

20 This session is being transcribed and the  
21 audio portion broadcast on the internet. So when  
22 introducing yourselves, please and spell your first  
23 and last name for the transcribers. And also when  
24 speaking please try to precede your comments with your  
25 name so that the transcription will accurately  
26 attribute your comments.

1                   So I'm now going to turn things over to Mr.  
2                   Bussoli. Please, go ahead.

3 MR. BUSSOLI:       Thank you, Mr. Chair. When I call for  
4                   your order of appearance, please introduce yourself  
5                   and any other person that is in attendance with you  
6                   today, since we are on MS Teams and there are a number  
7                   of -- when there are more people on MS Teams than  
8                   there are parties, so we just like to account for  
9                   everybody.

10                   First in the order of appearances is  
11                   FortisBC Inc.

12 MR. BYSTROM:       Good afternoon, my name's Chris Bystrom,  
13                   that's first name, C-H-R-I-S, last name, B-Y-S-T-R-O-  
14                   M, appearing on behalf of FortisBC Inc. There's a  
15                   number of folks from FortisBC on the line on the call  
16                   and I'm not sure if you'd like me to introduce them  
17                   all but they are here in case I need to seek  
18                   instructions.

19 MR. BUSSOLI:       Thank you, Mr. Bystrom. Next is the  
20                   Commercial Energy Consumer Association of British  
21                   Columbia.

22 MR. C. WEAFFER:    Good afternoon, it's Chris Weafer, C-H-  
23                   R-I-S, last name, W-E-A-F-E-R, appearing for the  
24                   Commercial Energy Consumers Association. Also on the  
25                   call from Owen Bird is Patrick Weafer for the CEC.  
26                   Thank you. Nothing to add to the agenda.

1 MR. BUSSOLI: Thank you, Mr. Weafer. Next is British  
2 Columbia Old Age Pensioners' Organization, Disability  
3 Alliance B.C., Council of Senior Citizen Organizations  
4 of B.C. and the Tenant Resource and Advisory Centre.

5 MS. WORTH: Good afternoon, Mr. Chair and member. I am  
6 here solo today representing our clients. My co-  
7 counsel, who would normally be here, is now on  
8 maternity leave, so we're without the benefit of her  
9 attendance today. Thank you. I have nothing to add  
10 to the agenda.

11 THE CHAIRPERSON: Perhaps you'd like to state your name  
12 for the record though, please? I don't think you did.

13 MS. WORTH: My apologies, Mr. Chair. Leigha Worth,  
14 (audio drops) here as counsel for BCOAPO *et al.*

15 **Proceeding Time 3:04 p.m. T2**

16 THE CHAIRPERSON: Thank you.

17 MR. BUSSOLI: And finally we have B.C. Sustainable  
18 Energy Association and Vancouver Electric Vehicle  
19 Association.

20 MR. ANDREWS: William Andrews. Last name A-N-D-R-E-W-  
21 S, appearing for BCSEA and Vancouver Electric Vehicle  
22 Associations. Also on the call today is Tom Hackney,  
23 of BCSEA. I have nothing to add to the agenda.

24 MR. BUSSOLI: Thank you, Mr. Andrews.

25 I'm just going to ask if there are any  
26 other parties who are in attendance that I have no yet

1           called?

2                           Okay, Mr. Chair, I think that is all for  
3           the order of appearances.

4   THE CHAIRPERSON:       Thank you very much, Mr. Bussoli.

5                           Mr. Bystrom, are you ready to go?

6   **SUBMISSIONS BY MR. BYSTROM:**

7   MR. BYSTROM:        Yes, thank you. My name is Chris  
8           Bystrom. Good afternoon again. Thank you for this  
9           opportunity to make submissions and I'll make my  
10          submissions in response to each of the questions posed  
11          by the panel beginning with the first question. And  
12          that question is -- it is lengthy but I think it's  
13          worth repeating just for the record and so that we're  
14          all on the same page here.

15                        "How does a "fair, large and liberal  
16                        interpretation" lead to the interpretation of  
17                        the CEA and GGRR "endorse and encourage" public  
18                        utilities (as opposed to non-regulated EV  
19                        charging service providers) to invest in EV  
20                        charging stations? Why is it not equally  
21                        plausible that a reduction of greenhouse gas  
22                        emissions in BC can be achieved by public  
23                        utilities not investing in EV charging stations,  
24                        limiting investments in certain segments of the  
25                        EV charging market only, or having other EV  
26                        charging service provides make the investments

1                   in a competitive market?"

2                   So in response to this question, section 18  
3 of the *Clean Energy Act* and section 5 of the GGRR, the  
4 *Greenhouse Gas Reduction Clean Energy Regulation*, I'll  
5 just refer to it from here on out as the GGRR, endorse  
6 and encourage public utilities and not non-regulated  
7 EV charging service providers to invest in EV charging  
8 stations because this legislation only applies to  
9 public utilities regulated by the BCUC.

10                  Section 18 of the *Clean Energy Act* imposed  
11 an obligation of the BCUC to set rates that allow  
12 public utilities to collect enough revenue in each  
13 fiscal year to enable them to recover their costs  
14 incurred on prescribed undertakings and section 18  
15 also imposes an obligation on public utilities to  
16 report to the Minister respecting prescribed  
17 undertakings. However, nothing in section 18 of the  
18 *Clean Energy Act* speaks to non-regulated EV charging  
19 service providers.

20                  So as the CEA, *Clean Energy Act*, and GGRR  
21 have no application or relevance to non-regulated EV  
22 charging service providers, they do not endorse or  
23 encourage non-regulated EV charging service providers  
24 investments in EV charging stations.

25                  Now, that's not to say that the government  
26 does not encourage such investment, it is just saying



1        *Energy Act* and the GRR encourage this investment  
2        because going forward public utilities can confidently  
3        invest in EV charging stations knowing that their  
4        costs will be recovered in rates.

5                    So to sum up, section 5 of the GRR and  
6        section 18 of the *Clean Energy Act* indeed endorse,  
7        encourage public utility investment in EV charging  
8        infrastructure. They do not have any application to  
9        non-regulated EV charging service providers.

10                   I'm going to move on to Question 2, but I  
11        note if you do have a question, I'd be happy to hear  
12        the questions as I go as well. So --

13 THE CHAIRPERSON:        I have a question, Mr. Bystrom,  
14        there. So I appreciate what you're saying, but isn't  
15        it also a potential reading of the Act and the  
16        Regulation that it's government's attempt to prescribe  
17        or reduce the amount that utilities might otherwise  
18        invest in EV charging? The very fact that there is a  
19        site limit, for example, would seem -- could support  
20        that argument, rather than saying, well, you know,  
21        utilities can -- they can invest whatever they want  
22        into EV charging. Isn't really what it's all about is  
23        the idea of limiting investment and therefore we  
24        should look beneath that and say, well, why is  
25        investment being limited?

26 MR. BYSTROM:        No, I don't think that would be a

1 reasonable interpretation because I would expect the  
2 legislation then to say, "Public utilities shall not  
3 invest beyond X," and what the GGRR and section 18 do  
4 is provide assurance that the public utility will have  
5 costs recovery. They limit the jurisdiction of the  
6 Commission in that regard, so that provides the  
7 encouragement for public utilities to actually invest,  
8 whereas before their cost recovery would be subject to  
9 Commission determination.

10 So in my submission it's quite clear that  
11 the intent is to encourage investment. Yes, and now  
12 I'm anticipating the answer to the second question,  
13 right? There are limits on the extent of that  
14 encouragement. It's only to the extent that the  
15 investment matches the description of the prescribed  
16 undertaking in section 5 of the GGRR. However, within  
17 those limits the purpose is to encourage the  
18 investment, in my submission.

19 THE CHAIRPERSON: Thank you, Mr. Bystrom.

20 MR. BYSTROM: Okay, I'm going to move to Question 2  
21 then, which I've already anticipated here, but that  
22 question is,

23 "How does the notion of a site limit support the  
24 purpose and objective of section 18 of the *Clean*  
25 *Energy Act* and section 5 of the GGRR?"

26 And so it may go without saying, and I've already

1 alluded to this, but section 18 of the *Clean Energy*  
2 *Act* and section 5 of the GRRR endorse and encourage  
3 public utility investment in EV charging  
4 infrastructure only insofar as such investment meets  
5 the class of prescribed undertaking described in  
6 section 5 of the GRRR, and has been canvassed in this  
7 proceeding in depth. The site limit in section 5 of  
8 the GRRR limits the scope of the prescribed  
9 undertaking in those municipalities with a population  
10 of 9,000 or more, which I refer to as limited  
11 municipalities.

12 So, in short, there are limits on the scope  
13 of the prescribed undertaking in section 5 of the GRRR  
14 and, indeed, that's been a major focus of this  
15 proceeding. However, as I had submitted, the intent  
16 of the regulation must be to encourage investment as  
17 it provides guaranteed cost recovery in rates of the  
18 investment insofar as it meets the description in  
19 section 5 of the GRRR.

20 **Proceeding Time 3:13 p.m. T4**

21 Hearing no questions on that, I'm going to  
22 move to questions 3 and 4, which I will address  
23 together.

24 So I'm not going to repeat this question  
25 because it is lengthy, but it involved clusters of EV  
26 charging stations and sets out two scenarios of such

1 clusters. And my primary submission in response to  
2 questions 3 and 4 is that none of FBC's charging  
3 stations -- sorry, charging sites involve clusters of  
4 EV charging stations as described in the question.  
5 Specifically, scenarios A and B, as described in the  
6 question, do not describe any situation in which FBC  
7 has or plans to have a charging station. So,  
8 therefore, in my submission, these scenarios aren't  
9 relevant to any determination that the Commission  
10 needs to make in this proceeding.

11 And I would also submit that it's difficult  
12 to speculate on these hypothetical scenarios in the  
13 absence of real-world facts. In my submission, the  
14 details are important and will help or would help make  
15 it clearer whether any particular scenario is a single  
16 site or not.

17 And I think it's also worth noting that an  
18 EV charging site is not necessarily like a gas  
19 station, which we might think of as a paradigm for EV  
20 charging stations but in fact it may not be. Gas  
21 stations are centred around a single tank and we're  
22 all familiar with them. But EV charging sites may not  
23 be purpose-built sites. As these scenarios talk  
24 about, they may be in existing parking lots, they may  
25 be added to existing gas stations. And in these  
26 scenarios there may be benefits to spreading out

1 charging stations for reasons of access and space and  
2 traffic flow. And in my submission it's for reasons  
3 like this that it's really best to address scenarios  
4 when you have the real-world facts on the ground about  
5 what the charging site looks like and why it's  
6 designed that way. And that, in my submission, will  
7 clarify whether a particular scenario is a single  
8 site.

9 I just would add, in response to question  
10 number 4, which asks about whether the scenario would  
11 change if there were multiple EV charging station  
12 operators. As we've submitted in writing, the number  
13 of station operators at a site is not relevant under  
14 the criteria in the GGRR. The GGRR does not place any  
15 limit based on the number of station operators.  
16 Therefore, in my submission, the number of station  
17 operators would not change the outcome of these  
18 scenarios.

19 I'll turn to the last question then.

20 Question 5 asks,

21 "How would FBC ensure that its EV charging  
22 station technology is kept current and  
23 competitive with other service providers? How  
24 would FBC address the disposal and retirement of  
25 its EV charging equipment if it becomes obsolete  
26 sooner than expected?"



1                   My second point in response to this  
2                   question is that there is no reason to believe that  
3                   FBC station technology will be obsolete within the 10-  
4                   year horizon in which we've forecast our rates. All  
5                   of the charging stations follow industry standard  
6                   charging technology, which is the combined charging  
7                   system, or CCS, and CHAdEMO, which for the transcriber  
8                   is spelt C-H-A-d-e-M-O. And that is noted in Exhibit  
9                   B-5 pages 7 to 8.

10                   Generally one of the points of having  
11                   industry standards like this is to provide  
12                   coordination across the industry, making investment in  
13                   the technology less risky for both the makers of the  
14                   cars and the charging stations and there's no evidence  
15                   in this proceeding of a competing industry standard  
16                   that is set to supplant CCS or CHAdEMO.

17                   Moreover, all commercially available EVs  
18                   that are being made right now are using charging  
19                   technology compatible with FortisBC's charging  
20                   stations. The reference for that is Exhibit B-8-1 and  
21                   it's BCOAPO IR 1.5.1.

22                   These cars will likely have a longer  
23                   lifespan than FortisBC's charging stations, so there  
24                   will be many electric vehicles that will be able to  
25                   use the charging stations for the foreseeable future.

26                   Nonetheless, if the circumstance arose that

1 the stations required some technological upgrade that  
2 was not forecast, FortisBC would need to assess the  
3 situation at that time. One option would be to make  
4 the investment to update or replace the stations,  
5 which it's worth noting may be relatively inexpensive  
6 as the charging technology itself is only one  
7 component of the costs of the station. And of course  
8 the old charges may be repurposed in some way which  
9 would further reduce costs.

10 And so while there may be may hypothetical  
11 scenarios that could be envisioned, FortisBC would  
12 just need to assess the impact of any increase in cost  
13 at the time the scenario arose. If there were  
14 material costs, FortisBC may have to bring forward an  
15 application to adjust the rate. However, it's simply  
16 not possible to reasonably forecast the timing or cost  
17 of such an unexpected event at this time. In my  
18 submission, this potential hypothetical situation  
19 should have no bearing on FortisBC's proposed rate.

20 So subject to any questions, that brings me  
21 to the conclusion of my submissions.

22 THE CHAIRPERSON: Commissioner Fung, do you have any  
23 questions?

24 COMMISSIONER FUNG: Yes, I do. Thank you, Mr. Bystrom,  
25 that was helpful.

26 I just want to go back to the issue of the

1 site limits. If I accept your argument that the *Clean*  
2 *Energy Act* along with section 5 of the GGRR, as  
3 revised, is intended to encourage the investment in EV  
4 infrastructure by public utilities like Fortis, then  
5 what's the purpose of imposing a site limit? Because  
6 wouldn't that, in essence, discourage Fortis from  
7 investing in areas where there are site limits? Where  
8 you are likely to maybe run afoul of them?

9 MR. BYSTROM: Yeah, it's -- FortisBC has noted on the  
10 record that it's in the larger municipalities where  
11 private investment is most likely to occur.

12 COMMISSIONER FUNG: Right.

13 MR. BYSTROM: And I think it was clear from the  
14 Ministry's consultation that the purpose was to limit  
15 investment where private investment is already likely  
16 to be. So I think that's the underlying rationale for  
17 why there's a site limit.

18 But in my submission it doesn't -- that is  
19 -- there's all sorts of other limits in the GGRR in  
20 terms of the charging station has to be open 24 hours  
21 a day and so on. Those, those are -- FortisBC has to  
22 meet that description of the prescribed undertaking.  
23 But if it does do that, then the section 18 of the  
24 *Clean Energy Act* unequivocally encourages the  
25 investment because it provides guaranteed cost  
26 recovery and rates of that investment.

**Proceeding Time 3:23 p.m. T6**

1  
2 COMMISSIONER FUNG: Okay. I just want to turn to some  
3 questions that Mr. Flintoff raised in his written  
4 submissions. And if you're not able to answer them  
5 now, I'm happy to receive your submissions later on,  
6 but I think he does raise three questions that are  
7 good questions and that I would like the answers to.  
8 And that is, the first one is does the *Clean Energy*  
9 *Act* expect the prescribed undertaking costs to be  
10 recovered from all or some of the ratepayers whether  
11 they use the benefit from the prescribed undertaking  
12 or not? What is Fortis' position on this?

13 MR. BYSTROM: Yeah, I believe we have addressed this in  
14 our written submissions in IR responses. The *Clean*  
15 *Energy Act* states that the cost of the prescribed  
16 undertaking must be recovered in rates, but it does  
17 not specify from which customers it must be recovered.

18 COMMISSIONER FUNG: Right.

19 MR. BYSTROM: Right? So, and we've spoken about this  
20 in the context of the levelized cost of service rate  
21 that we proposed, where in the early years cost  
22 recovery might be less and in the later years more,  
23 right, and the difference is picked up by other  
24 customers, but over the ten year period the rates will  
25 recover the cost of service.

26 Does that answer your question?

1 COMMISSIONER FUNG: But it would still be limited to  
2 recovery from the class of people who I guess take  
3 advantage of that rate, right? It wouldn't be  
4 recovered from all ratepayers across the board, only  
5 the EV charging users, in other words?

6 MR. BYSTROM: Under our proposal that's right. Over  
7 the ten-year period the cost of service would be  
8 recovered only from the users of the EV charging  
9 stations over the ten-year period.

10 COMMISSIONER FUNG: Good. Thank you. Now, he raises a  
11 further issue, and I think I know the answer to this  
12 one, but I just want you to confirm your  
13 interpretation of this or Fortis' interpretation of  
14 this, is the question do the cost recovery include all  
15 costs including stranded costs? And that relates to  
16 the question about -- that we've raised about what if  
17 technology changes so rapidly that contrary to  
18 anybody's expectations at this time this equipment  
19 becomes obsolete in five years' time and nobody wants  
20 to use it because the bigger and better batteries  
21 require much higher voltage to be used at the charging  
22 station than what they're capable of providing  
23 currently. Do the costs that you get recovery for  
24 include all those costs including the stranded assets  
25 that arise as a result of this change in technology,  
26 for instance?

1 MR. BYSTROM: Yes, absolutely. I think section 18 of  
2 the *Clean Energy Act* is, again, unequivocal that full  
3 cost recovery is required. And I think this goes back  
4 to the purpose that it is -- this is how the *Clean*  
5 *Energy Act* encourages this investment. And if a  
6 utility were concerned that it was going to invest  
7 because it might be left with stranded assets, then it  
8 might not invest. And so what the *Clean Energy Act*  
9 does, it says, no, you're going to get full cost  
10 recovery, please go ahead. And we've made submissions  
11 on his too in terms of that, you know, anything  
12 related to the prescribed undertaking is guaranteed  
13 cost recovery. And so, in my submission, even if  
14 there were a stranded asset, the cost recovery would  
15 be required.

16 COMMISSIONER FUNG: Okay, thank you very much.

17 Those are all my questions, Mr. Chair.

18 THE CHAIRPERSON: Thank you, Commissioner Fung. Thank  
19 you, Mr. Bystrom.

20 MR. BYSTROM: Thank you.

21 THE CHAIRPERSON: Mr. Weafer.

22 **SUBMISSIONS BY MR. C. WEAFER:**

23 MR. C. WEAFER: Thank you, Mr. Chair. Thank you,  
24 Commissioners. I'll be fairly brief in my  
25 submissions. In the CEC's final written submissions  
26 at paragraph 20 to 24, CEC adopted and accepted the

1 arguments of FBC which were set out at pages 3 to 18  
2 of their final submissions in response to the specific  
3 statutory interpretation questions that the Commission  
4 had put to the parties for argument. And so, we  
5 adopted and accepted those submissions today. We were  
6 concerned when we saw your letter setting out this  
7 process that we'd made a mistake, but having heard Mr.  
8 Bystrom's submissions today, we continue to align with  
9 the Fortis interpretation.

10 And just to be clear, the CEC has from the  
11 start of discussions around EV charging supported the  
12 competitive market, supported alternative entry, but  
13 the bottom line is we do not see this proceeding as  
14 the opportunity to argue those points again. This was  
15 around determining whether the prescribed -- whether  
16 the Fortis proposal or prescribed undertakings under  
17 the Act and the Regulations, and that was the focus of  
18 our submission. So I'll be fairly brief in addressing  
19 the five questions with that context set because I do  
20 generally endorse -- CEC generally endorses Mr.  
21 Bystrom's submissions.

22 Question 1 -- and I won't repeat the  
23 questions -- this was not an either/or proceeding.  
24 This was dealing with the regulated utility and not  
25 the role or alternatives or options for other non-  
26 regulated businesses in terms of the emergence of the

1 electric vehicle charging market. I would note that,  
2 you know, the competitive market is a challenged one  
3 in terms of a new technology and evolution of a new  
4 industry sector, and ChargePoint makes that point in  
5 their submission filed yesterday in terms of looking  
6 for government subsidy or alternatives in terms of  
7 seeing the market emerge, that's -- we're in a  
8 transition time and there will be other government  
9 policy initiatives we expect, but that's not what this  
10 proceeding is about.

11 **Proceeding Time 3:29 p.m. T7**

12 This is about Fortis', the determinant demonstrating  
13 that their proposal consists of prescribed  
14 undertakings.

15 In terms of question 2, again to be brief,  
16 we don't think too much should be read into the site  
17 limit definition. It's a definition which provides  
18 guidance and sets out what is a site limit under the  
19 Regulation. But, again, I don't think it necessarily  
20 -- I think the discussion that's been had is a helpful  
21 discussion, but again, I do not think much should be  
22 read into that site limit definition.

23 In terms of questions 3 and 4 and the  
24 hypotheticals, again, we've got an evolving market  
25 here, evolving opportunity to be careful around trying  
26 to over anticipate what is going to happen. So in

1 terms of these eligible sites, scenarios, the only  
2 additional comment I would make is, and it comes from  
3 BC Hydro's submission, is that they use a residential  
4 -- sorry, an address as the definition of a site. And  
5 that could include a large shopping centre with  
6 multiple parking lots with a municipal address that  
7 set the site as opposed to -- and therefore not  
8 restricted. There was multiple parcel identifiers on  
9 the site, one under the *Land Title Act*, and still  
10 potentially be a large single site because of the  
11 municipal address. It's not necessarily responsive to  
12 the hypotheticals that are raised, but I think it's a  
13 logical framework for the Commission in terms of  
14 interpreting site.

15 In terms of question 5, and I'm sorry I  
16 poured through and not asked for questions but we can  
17 deal with at the end. I'm not adding much to Mr.  
18 Bystrom's comments, in any event. In terms of  
19 question 5, and I think it is I relevant that the  
20 Commission be -- as the ratepayers are funding these  
21 prescribed undertakings and we have an evolving and  
22 emerging developing business sector, to be keeping a  
23 watch is not a bad thing. And certainly in response  
24 to IRs, the company, Fortis, has accepted the role of  
25 the annual review in terms of potential opportunities  
26 for reviews aspects of the charging station experience

1 for FortisBC. And we would see that as an opportunity  
2 for the Commission to perhaps carve a wider detail as  
3 to what they might want to include in the annual  
4 review and looking at the status of the electric  
5 vehicle charging expenditures of Fortis, indeed  
6 whether some may be coming obsolete or maybe some are  
7 seeing more investment. And that may be a useful way  
8 of protecting the ratepayer's interest in terms of  
9 this developing opportunity for Fortis. And we expect  
10 that they would be -- that they would welcome that  
11 opportunity to be fulsome in that discussion.

12 So, failing questions, those are my  
13 submissions on the five questions.

14 THE CHAIRPERSON: Commissioner Fung?

15 COMMISSIONER FUNG: No, I have no questions of Mr.  
16 Weafer. Thank you.

17 MR. C. WEAFER: Thank you.

18 THE CHAIRPERSON: I just have one question, Mr. Weafer.  
19 Regarding your comment that you don't want to, I think  
20 the term used is, read anything into the site limit,  
21 can you just give me a little bit of context around  
22 that when you say "read into"? Read into in what  
23 respect? Are you talking -- are you referring now to  
24 the, for example the discussion I was having earlier  
25 that the site limit may be an attempt to limit utility  
26 involvement. Is that what you meant by "reading into"

1 or are you saying reading -- like, what exactly did  
2 you mean by that?

3 MR. C. WEAFFER: I think what I'm saying is the formula  
4 is the formula. The regulation sets the number of  
5 sites within a particular size of municipality. And I  
6 think it is a fair interpretation that it is  
7 (inaudible) settle limit. But it is what it is, the  
8 formula is staged and there's no differing ways of  
9 interpreting it.

10 THE CHAIRPERSON: But it doesn't define "site" though.  
11 I mean, that was the point of the question, right?

12 MR. C. WEAFFER: Yes. And trying to be assistance with  
13 respect to using the street address as the --

14 THE CHAIRPERSON: No, I understand. But since it  
15 doesn't define site, you do have to read something  
16 into the word "site" in order to understand what the  
17 GGRR is saying. You know, it would seem to me.

18 MR. C. WEAFFER: I think that it's a fair interpretation  
19 of the intent. I agree with you in that there's  
20 little other way to interpret except that it was to  
21 limit the number of sites within a certain size of  
22 municipality. So I think that's as far as you can go.

23 THE CHAIRPERSON: Yeah. Sorry, yeah, but -- sorry,  
24 maybe we're talking at cross purposes. That isn't my  
25 point about reading into "site" though. I mean, what  
26 I'm saying is that in order to understand what the

1 GRR means when it does set a site limit, you have to  
2 know what the GRR means by a "site".

3 **Proceeding Time 3:34 p.m. T8**

4 And that's what the panel was seeking, seeking help  
5 with. And so that's why I didn't really understand  
6 your comment that you don't think we should read  
7 anything into site. It seems to me you have to read  
8 something into it in order to understand how the  
9 formula works.

10 MR. C. WEAVER: I agree. I think if we -- the  
11 challenge is it doesn't give -- you know, for example  
12 if it said a site would be a street address that would  
13 have been an assist.

14 THE CHAIRPERSON: And that helps. That's helpful, I  
15 agree.

16 MR. C. WEAVER: So I think we're left --

17 THE CHAIRPERSON: But that's an interpretation and I  
18 agree that's helpful, yeah.

19 MR. C. WEAVER: Yes. And I think that's a reasonable  
20 interpretation and subject to -- and again this is --  
21 because there isn't a particular defined -- you know,  
22 helpful definition for the Commission and because this  
23 is evolving, again I would go to the potential  
24 opportunity through the annual review process while  
25 Fortis is in PBR. If they're doing something -- if  
26 they're proposing something different in terms of the

1 creative definition of site, they're running the risk  
2 of their proposal not being accepted as a prescribed  
3 undertaking.

4 So there is a discipline there --

5 THE CHAIRPERSON: Yeah.

6 MR. C. WEAFFER: -- that they have to come to the  
7 Commission if they're trying to argue a more creative  
8 interpretation of site definition and those -- I think  
9 the point to be made, and Mr. Bystrom makes it as  
10 well, is we have to see how this evolves. You know,  
11 there's certainly enough definition there to cause a  
12 public utility to behave in a reasonable manner around  
13 what they do. There's enough certainly around site  
14 that if they don't come to the -- they don't seek some  
15 form of prior understanding that what they're doing is  
16 going to be a prescribed undertaking, they run a risk  
17 of non-recovery. So there is a discipline there that  
18 I would submit -- suggest we shouldn't get too caught  
19 up in the definition at this point.

20 THE CHAIRPERSON: Okay, thank you, Mr. Weafer.

21 COMMISSIONER FUNG: Sorry, let me just follow up on  
22 that, Chair Morton. That's where we're having a  
23 problem, you know, just to be honest. Because  
24 depending on how broadly you define "site", you know,  
25 you could say the entire municipality is an eligible  
26 charging site. You know, it really does -- does it

1           serve as an appropriate limit on the public utility in  
2           terms of the number of charging stations you can put  
3           in a particular municipality?

4                         And the question, the definition of "site"  
5           is relevant to that question because depending on how  
6           broadly you define or how narrowly you define it will  
7           either constrain the public utility in terms of the  
8           amount of investment or it won't. It will be  
9           unlimited, right?

10                        So you see where the problem is? We can't  
11           just say well, we'll just pick a definition, right?  
12           There has to be some sensible way for us to read it  
13           and interpret it in a way that provides a reasonable  
14           limit on what the utility can or cannot do.

15 MR. C. WEAFFER:       Yeah, and I submit that the Hydro  
16           proposal of using the street address is a reasonable  
17           interpretation and I've not heard Fortis or anybody  
18           else argue beyond that at this point.

19 COMMISSIONER FUNG:    Mr. Bystrom? Maybe you should  
20           respond to that. Are you adopting then BC Hydro's  
21           proposed definition of "site" which it put forward in  
22           its argument, which is based on the street address?  
23           That's the definition? A reasonable definition of  
24           "site"?

25 MR. BYSTROM:          Let me preface that with one comment that  
26           it has to -- whatever interpretation it is has to be

1 reasonable.

2 COMMISSIONER FUNG: Yes.

3 MR. BYSTROM: And I think this proceeding, there is no  
4 question around sites. Like it's -- we are at the  
5 point where we have a difficult scenario where it's  
6 really unclear where, you know, is this one side or  
7 not and if it even matters.

8 My client is not -- doesn't have many  
9 stations at all in any -- in the limited  
10 municipalities. This issue hardly arises. So I just  
11 wanted to preface that because in this proceeding, for  
12 my client's stations it's really not an issue. I  
13 don't think there's any reasonable interpretation that  
14 would say that, you know, the sites are different than  
15 as counted in -- on the record in this proceeding.

16 So that's my primary submission. And the  
17 second one, I think it's -- as I said, I think it's  
18 better to address the situations as they occur, just  
19 like the courts do. They don't pronounce on things.  
20 In the absence of a factual question or a question  
21 they have to answer because the facts matter, the  
22 facts inform that decision and trying to frame a rule  
23 to interpret all scenarios I think is difficult, and  
24 as Mr. Weafer is talking about, it is an evolving  
25 industry and I just think it's a better way to go to  
26 wait for the actual facts to come before you and you

1 can see, "Oh, this charging station is set up this  
2 way. Is that one site?" I just think that you'll  
3 have the real facts and then it will be clearer and  
4 easier to make a decision.

5 And like Mr. Weafer said, if the utility is  
6 coming with an outlandish proposal, where there's a  
7 risk there.

8 In terms of Mr. -- I'm sorry, and so I  
9 don't really have -- for those reasons I can't -- I  
10 just don't want to come out and outright agree with  
11 this street address. Again, it's not -- I don't think  
12 its relevant to my client's stations in this  
13 proceedings. So I haven't got instructions on that,  
14 so I can't comment further on it. I think it could be  
15 reasonable, but in my submission we should wait until  
16 the scenarios actually come before the Commission.

17 **Proceeding Time 3:40 p.m. T9/10**

18 COMMISSIONER FUNG: So, just to be clear, Mr. Bystrom,  
19 then I assume that you're implying, if I can admit  
20 that I'm just verifying this, is that based on the  
21 current deployment plans and based on the stations  
22 that Fortis currently has in place, you would not run  
23 afoul of those rules, right? In terms of the eligible  
24 charging site limits for any of those stations that  
25 are already there.

26 MR. BYSTROM: That's right. There's only, I think --

1           what is it? I'm sorry, I might have the numbers wrong  
2           but I think there's only three limited municipalities  
3           in FortisBC's service territory. And there's only  
4           stations in one of them and there's only a few. Like,  
5           it's a very limited number of stations we're talking  
6           about here and we're not up against the site limit yet  
7           and we're not trying to say, "Oh, it's okay because  
8           we're sticking this charging station in this complex  
9           of clusters." Like, there's no complex scenarios like  
10          that happening.

11   COMMISSIONER FUNG:        So, can I take it then, if and when  
12          you bump up against the potential of the site limits  
13          being applicable, how is Fortis going to deal with  
14          that situation? Will it come before the Commission  
15          and ask for permission, advance approval or some kind  
16          of advance ruling before you start implementing  
17          deployment of these additional stations? What is the  
18          process by which the Commission can then deal with the  
19          facts, as you say?

20   MR. BYSTROM:            Yeah. And so, as we've proposed, in our  
21          annual reviews we have proposed to bring forward an  
22          update on the EV charging station program that would  
23          include, you know, new planned stations and how the  
24          existing ones are -- you know, whether they're in  
25          service and so on. And, you know, and that's the  
26          natural place to do it because that's where the costs

1 will hit the revenue requirement. So the annual  
2 review is the place to provide the Commission with  
3 that information. And I think that, you know, if  
4 there was a situation where it was really unclear  
5 whether this was within the site limit, that is  
6 something we would raise in the annual review and we  
7 could get the Commission's guidance at that point if  
8 it was really that unclear.

9 COMMISSIONER FUNG: Okay, thank you very much. Those  
10 are all my questions. Thank you.

11 MR. C. WEAVER: If I might add, I did wish to address  
12 the exhibit which was circulated yesterday with  
13 respect to the list of stations. And I don't have a  
14 submission, in fact I more have a question what the  
15 Commission would like to us to comment on in respect  
16 to that document and that information.

17 I can tell you the question that came to my  
18 mind, and I don't know if it was helpful or not, which  
19 is is it the Commission looking at that part of the  
20 province seeing stations being built quicker than in  
21 other parts of the province? Because there you have  
22 this private utility that is entering this business.

23 So I don't want to be speculating on what  
24 to say but at the end of today, if others that -- it  
25 may be helpful to -- and in fairness to Fortis,  
26 because it has put evidence on the record, just what

1 is it the panel would like to see us comment on in  
2 regard to that piece of evidence.

3 THE CHAIRPERSON: Thanks, Mr. Weafer, it's a very good  
4 question. Of course, you're free to comment on any  
5 aspect of it, but I think it's probably fair to say  
6 that -- well, first of all, we're concerned about the  
7 accuracy of the data. That would be our first and  
8 foremost concern. And I think we were primarily  
9 thinking of it in the context of rate setting, a  
10 comparison for rate purposes. You know, you bring up  
11 an interesting point. You know, it is a wholistic  
12 look at an entire region and, you know, maybe one  
13 could glean some information concerning that. And if  
14 you wish to comment on that, that's fine. But it was  
15 primarily for the rate comparisons, I would say.

16 Commission Fung, if you would like to -- I  
17 don't know what's on your mind but that was on my  
18 mind.

19 COMMISSIONER FUNG: Yeah, I echo Chair Morton's view of  
20 this. We want to understand if you agree with the  
21 data, if you're aware of any errors that we should be  
22 aware of. And then, secondly, you know, to the point  
23 that its relevance or lack of relevance, I guess,  
24 depending on where you stand, of this kind of  
25 comparison to, you know, what other service providers  
26 are charging in the same area, for instance.

**Proceeding Time 3:45 p.m. T11**

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MR. C. WEAVER: Thank you, that's helpful. Those are all of my submissions, thank you.

THE CHAIRPERSON: Thank you, Mr. Weaver.

COMMISSIONER FUNG: And just to be clear, I notice that Mr. Bystrom has not commented on this document, so I assume at some point in time you may or may not do that, Mr. Bystrom, whether in this particular hearing, in this oral hearing, or subsequently.

MR. BYSTROM: Thank you. I should have noted that. We will be submitting our comments in writing after. We're reviewing the document now for accuracy and we'll file a letter with the Commission with any comments we have.

THE CHAIRPERSON: Sure.

COMMISSIONER FUNG: Thank you.

THE CHAIRPERSON: Thank you, Mr. Bystrom. Yeah.

Ms. Worth? Ms. Worth?

**SUBMISSIONS BY MS. WORTH:**

MS. WORTH: Thank you, Mr. Chair, members of the panel. Thank you. I apologize. There's a bit of a delay. I think that my -- because my server is in a cloud it might be sent to parts unknown and then coming back. So if I'm slow to respond I apologize. I'm going to try to address that in future.

My submissions could have been a lot (audio

1 drops) but I think we can start by saying that in  
2 response to the Panel's question 1, the BCOAPO does  
3 (audio drops) view Fortis as being entirely wrong, but  
4 ultimately not entirely right. In our minds the  
5 purpose of the *Clean Energy Act* and the GRR is not  
6 necessarily to endorse and encourage the actions of  
7 public utilities like FBC to invest in eligible  
8 charging stations in order to reduce greenhouse gas  
9 emissions in B.C. as a primary player.

10 I think that, you know, in context of  
11 section 2 of the *Clean Energy Act* which sets out the  
12 energy objectives and the purpose of the CEA and GRR,  
13 you know, there is some support for that view, but  
14 there's additional context that needs to be taken into  
15 account. And part of that context is actually the  
16 section of the GRR that you put to Mr. Bystrom in  
17 your question, Mr. Chair, the limitations on the  
18 ability of the public utilities to construct and  
19 operate or purchase and operate charging stations as  
20 prescribed undertakings.

21 An additional piece of context is the BCUC  
22 Phase 1 Report from its enquiry into the regulation of  
23 electric vehicle charging services because it  
24 concluded that EV charging was not going to be a  
25 monopoly market and that there existed multiple  
26 service providers, and further concluded that there was

1 no natural barriers to entry -- precluding additional  
2 providers from entering the market. But, we are in a  
3 situation where, like the scenario where there's a  
4 charging station necessary along a highway or  
5 something like that, the technology or the cheaper  
6 technology, the economics may not yet be there for  
7 players other than Fortis to expand into those areas  
8 at this point.

9 So our clients actually see that there's  
10 significant support for a measured encouragement  
11 that's taking place, which is the government has  
12 placed limits on the utility with the intention that  
13 it would be that that player who could go out and who  
14 could spark that market transformation or expand into  
15 areas that are not yet economic to bring about market  
16 changes or the demands that would bring about market  
17 change, as well as going towards the climate change  
18 and greenhouse gas reduction goals of the government,  
19 so that eventually those other players could step into  
20 the market. Those multiple service providers that do  
21 see some barriers simply because it is an -- it's a  
22 young market, it's a young service compared to  
23 something like natural gas, you know, or electricity.

24 So for us, we see that there is some  
25 support for the endorse and encourage, but it's not to  
26 endorse or encourage the utility to become the

1 monopolistic provider or, you know, sort of the giant  
2 provider with some minor players that might pick away  
3 at the edges going forward.

4 I think that the context that we have in  
5 British Columbia right now is one that supports the  
6 interpretation that I put forward today.

7 **Proceeding Time 3:50 p.m. T12**

8 So in regards to the question, the second  
9 question, I think I've kind of addressed that, which  
10 is the site limit and objective of section 18 of the  
11 *Clean Energy Act* and the greenhouse gas reduction.  
12 So, you know, I think again those are intended to --  
13 those are intended to encourage, yet do so in a  
14 measured way so that this market transformation, which  
15 is a slow, expensive, and challenging process, can be  
16 led by regulated and stronger economic utilities like  
17 FBC, because they play an important role in this  
18 process, and that they're there to change the  
19 situation so that these types of expansions can be  
20 more attractive to other players, and then they would  
21 have the competitive market that I think the  
22 government has clearly signaled that they would like.

23 So for issue 3, we've got this -- the  
24 questions about the scenarios, Scenario A and Scenario  
25 B. And in our submission regarding the current  
26 application, BCOAPO made comments with respect to the

1 definition and interpretation of an eligible charging  
2 site. I have it sort of set out in a great amount of  
3 detail, but I'm kind of loath to actually do that  
4 right now. But I can say that the current BCUC  
5 question introduces additional terms like "area",  
6 "cluster", which are similarly undefined just like  
7 "site". And as a result it's really difficult to  
8 respond to the hypothetical scenarios that were posed.

9 Similarly as it was to respond to the  
10 BCUC's original question about how should "site" be  
11 interpreted. And we attempted to do so in our  
12 arguments, but, you know, it's something that I think  
13 is a moving target. It's open to interpretation. You  
14 know, the utility has offered their interpretation,  
15 we've offered ours, and that is something that rests  
16 with the Commission at this point. But it makes it  
17 very difficult for us and I think for everybody here  
18 to offer sort of informed positions on this. It's  
19 really speculation at this point.

20 With respect to the parking lot scenario,  
21 the other relevant issues that would need to be  
22 established before responding could include how large  
23 is the parking lot; is it practical for users to see  
24 all sites simultaneously with a view to choosing the  
25 least busy one; are all sites similarly accessible  
26 from all points in the parking lot. You know, like

1           how different is the decision regarding the choice  
2           between existing clusters of stations from having to  
3           choose between stations available at a specific  
4           cluster?

5                       So similar to BCOAPO's response to the  
6           initial question about sites, these are all factors  
7           where a party or parties assert prescribed undertaking  
8           status for any new electric vehicle charging station  
9           where there's material change to an existing one.  
10          That needs -- it would need I think consideration of  
11          the context of the specific circumstances of the site  
12          and the charging station in question.

13                      So in regards to Question 4 -- I think that  
14          kind of my answer to Question 3 has addressed that as  
15          well. And Question 5, which is, "How would FBC ensure  
16          that its EV charging station technology is kept  
17          current?" and then on from there, you know, in my  
18          submission ensuring that the EV station technology is  
19          kept current and competitive would require Fortis to  
20          monitor trends, new developments with respect to both  
21          of the needs of EV users and the vehicles themselves  
22          in terms of the charging stations, and to make the  
23          necessary investments if and when required to respond  
24          to those changes.

25                      Also, when or if material investments are  
26          required, it would prompt, hopefully, Fortis to make

1 strategic decisions regarding whether or not we  
2 actually continue to participate in this market as a  
3 provider of EV charging services. And that would  
4 depend not only on the economics of making these  
5 changes in the market, but also any signals that it is  
6 receiving from government and the Utilities Commission  
7 as a provider of EV services. So that would be  
8 something that would change as time went on and it  
9 would be something that would really be context  
10 dependant.

11 If EV stations are included in FortisBC's  
12 rate base and revenue requirement, then any remaining  
13 costs – meaning the undepreciated costs due to early  
14 retirement or disposable costs due to obsolescence –  
15 would need to be written off obviously. And  
16 treatments of such write-offs could be to the expense  
17 of the EV charging service users, FortisBC's  
18 ratepayers in general, or Fortis' shareholders. And I  
19 think the determination of the appropriate treatment  
20 would depend, again, on the circumstances and it's not  
21 really something that we could consider at this point  
22 given all of the unknowns. We're really, you know,  
23 looking at the crystal ball and trying to come up with  
24 definitive answers to largely undefined circumstances,  
25 in our submission.

26

**Proceeding Time 3:56 p.m. T13**

1                   So, to minimize the likelihood of such  
2                   occurrence of EV costs, should -- in our view, they  
3                   should be depreciated over the service life that  
4                   recognizes not only the physical life of the assets  
5                   concerned but also to the extent practicable, the  
6                   technological life of the assets concerned. Because  
7                   sometimes, you know, the mechanics of something are  
8                   sound but the technology has progressed to the point  
9                   where it is obsolete.

10                   So I think that that is something that  
11                   should be looked at, whether there's a disconnect  
12                   there. And then also whether there's a disconnect  
13                   between the service that Fortis would be able to  
14                   provide with the equipment that it is looking at and  
15                   what might be on the horizon going forward that might  
16                   contribute to a potential obsolescence.

17                   Furthermore, rates for the EV service  
18                   should be established with a view for a timely  
19                   recovery of costs like this and periodically reassess  
20                   them to determine the initial rate design assumptions  
21                   continue to be appropriate.

22                   So, you know, this isn't a situation where  
23                   obsolescence would sneak up on the utility. There  
24                   would be signals, there would be signs and I think  
25                   that that's something that they would be obliged to  
26                   bring to the Commission's attention or that the

1 Commission of its own motion could bring forward and  
2 have an inquiry into with the utility or utilities.  
3 And that could be addressed in those times and in that  
4 manor so that there could be the best possible format  
5 for recovery of these types of costs planned ahead of  
6 when the actual obsolescence occurs, should it occur.

7 Anyway, those are my submissions, subject  
8 to any questions that you have.

9 THE CHAIRPERSON: Thank you, Ms. Worth. Commissioner  
10 Fung, do you have any questions?

11 COMMISSIONER FUNG: No, I do not have any questions.  
12 Thank you, Ms. Worth.

13 THE CHAIRPERSON: Okay, thank you, Ms. Worth.

14 MS. WORTH: Thank you.

15 THE CHAIRPERSON: Mr. Andrews?

16 **SUBMISSIONS BY MR. ANDREWS:**

17 MR. ANDREWS: Yes. BCSEA and VEVA welcome this  
18 opportunity to contribute to the panel's consideration  
19 of the law and evidence in this proceeding. I won't  
20 repeat the questions, I think they're in everybody's  
21 minds at this point.

22 On question 1, it's a legal truism that the  
23 *Clean Energy Act* section 18 and the GRR section 5  
24 require a fair, large and liberal interpretation that  
25 best ensures the attainment of its objects. CEA  
26 section 18 and GRR section 5 are abundantly clear,

1 given that FBC's public fast charging stations are  
2 prescribed undertakings, and I'm not aware of any  
3 credible argument that they are not prescribed  
4 undertakings, two statutory requirements are binding  
5 on the BCUC.

6 First, the BCUC must set rates to allow a  
7 utility such as FortisBC, in this case, to recover its  
8 costs, in this case public fast charging stations,  
9 that are prescribed undertakings. And, secondly, the  
10 BCUC must not directly or indirectly prevent FBC from  
11 carrying out the public fast charging stations that  
12 are prescribed undertakings.

13 And to jump to one of the questions that  
14 came up, nothing in CEA section 18 limits the  
15 requirement that the BCUC set rates to allow cost  
16 recovery, limits that cost recovery to recovery from  
17 the users of a fast charging station. The requirement  
18 is that the utility must be able to recover its costs  
19 in rates. And, in the context, that would mean that  
20 that leave undefined what rates but it is certainly  
21 and most definitely not limited to EV drivers.

22 So, in my submission, there is no ambiguity  
23 and so there's no -- there's only one reasonable  
24 interpretation of how the CEA section 18 and GGRR  
25 section 5 apply to FortisBC's public fast charging  
26 stations. So, the questions in question 1 of whether

1 a reduction of GHG emissions in B.C. could be achieved  
2 by public utilities not investing in EV stations and  
3 other similar questions, those are interesting policy  
4 topics on which everyone is free to express an  
5 opinion. In fact, I spend quite a bit of time  
6 discussing those very topics on a daily basis these  
7 days.

8 However, if the question is whether the  
9 BCUC could interpret CEA section 18 and GGRR section 5  
10 to mean that a reduction of GHG emissions in B.C.  
11 would be achieved by public utilities not investing in  
12 EV charging stations and/or any of the other questions  
13 embedded there, then the answer is no. The BCUC  
14 cannot reasonably interpret CEA section 18 and GGRR  
15 section 5 as meaning that a reduction of GHG emissions  
16 could be achieved by public utilities not investing in  
17 EV charging stations.

18 **Proceeding Time 3:45 p.m. T14**

19 This is because CEA section 18 and GGRR  
20 section 5 provide in no uncertain terms that if FBC  
21 public fast charging stations are prescribed  
22 undertakings, then the BCUC must set rates to allow  
23 Fortis to recover the costs and the BCUC must not  
24 directly or indirectly prevent FBC from carrying out  
25 public fast charging stations.

26 And I think the context of this is really

1 important, to help the Commission put this in context.  
2 The second phase of the BCUC's inquiry into the  
3 regulation of the EV charging focused on non-exempt  
4 utilities, in particular BC Hydro and FortisBC.

5 The phase 2 report says that, and I'll  
6 quote here:

7 "Given the Clean BC..."  
8 That's the government's policy on climate action.

9 "Given the Clean BC goals to expedite EV  
10 adoption and expand clean vehicle infrastructure  
11 and the perceived need for non-exempt public  
12 utilities to participate in the market, the  
13 government could require BCUC to consider  
14 specific policy objectives when reviewing EV  
15 charging investment applications."

16 The Inquiry panel continued:

17 "In the alternative, the government may seek to  
18 completely de-risk all or some non-exempt public  
19 utility investment in EV charging assets by  
20 making specific directions, such as permitting  
21 public utilities to make certain EV charging  
22 investments which transfers risk from public  
23 utility shareholders to ratepayers. These  
24 regulatory approaches are not binary choices and  
25 could be used in various combination."

26 The Inquiry panel also said:

1 "On one end of the spectrum is a non-  
2 prescriptive approach where government broadly  
3 defines its policy goals and provide a high  
4 level of direction to the BCUC.

5 On the other end of the spectrum, if  
6 government wishes to stipulate that some or all  
7 EV CS investments made by non-exempt utilities  
8 should be at the risk of the ratepayers, it can  
9 provide specific direction to either eliminate  
10 completely any regulation of the non-exempt  
11 public utility involvement in EV CS or provide  
12 prescriptive direction that would limit the role  
13 of the BCUC's economic regulation."

14 So as the Commission is aware, on receiving  
15 the phase 2 report of the EV Charging Regulation  
16 Inquiry, the BC government consulted publicly on what  
17 response it should take and I -- BCSEA received a  
18 September 15, 2019 request for feedback titled, "The  
19 Government Response to BCUC EV Inquiry from the  
20 Ministry of Energy, Mines and Petroleum Resources" as  
21 it was then known. In particular, the government  
22 invited input on the two approaches identified by the  
23 inquiry panel: that is a non-prescriptive approach or  
24 a prescriptive approach.

25 In the result, the government chose to take  
26 the prescriptive approach. On June 22<sup>nd</sup>, 2020 the BC

1 Lieutenant Governor in Council adopted section 5 of  
2 the GRR. The Ministry of Energy's website says,  
3 succinctly:

4 "As a response to the BCUC findings for the  
5 Phase 2 inquiry of the Regulation of EV Charging  
6 Service amendments were made on June 22, 2020 to  
7 the GRR. The new amendments add a prescribed  
8 undertaking for EV charging stations allowing  
9 utilities to recover costs from ratepayers for  
10 public fast charging infrastructure being  
11 specified criteria. The measures come into  
12 force as in June 2020 and apply to stations  
13 installed before December 31, 2025."

14 So in conclusion regarding question 1, I  
15 respectfully submit that CEA section 18 and GRR  
16 section 5 are abundantly clear, both on their face and  
17 in the context of the government's response to the  
18 inquiry's second report. The government has taken the  
19 prescriptive approach. This approach, as the  
20 Commission acknowledged in the inquiry report, limits  
21 the role of the BCUC's economic regulation.

22 I submit that there's no room for the BCUC  
23 to interpret CEA section 18 and GRR section 5 in any  
24 other way.

25 **Proceeding Time 4:07 p.m. T15**

26 The second question to do with eligible

1 charging site, the question is how does the notion of  
2 a site limit support the purpose and objective of  
3 section 18 of CEA and section 5 of the GGRR. In my  
4 submission, the site limit provision supports the  
5 purpose and objective of section 18 of CEA and section  
6 5 of GGRR by focusing the prescribed undertaking  
7 treatment on a maximum number of eligible charging  
8 sites located within a limited municipality.

9 One of the topics of the Ministry  
10 consultation on how it would respond to the inquiry  
11 panel's second report was the idea of a criteria  
12 limiting the number of qualifying public fast charging  
13 sites within a municipality. The criteria that was  
14 floated for comment was very similar to what was later  
15 adopted in section 5, although it wasn't exactly the  
16 same. What was said at the time of the consultation  
17 was, "If the DCFC's station is located in a  
18 municipality with a population of 9,000 or more, the  
19 number of public DCFC sites in the municipality must  
20 not exceed X where X is determined by dividing the  
21 municipal population by 9,000 and rounding up to the  
22 next whole number."

23 In the consultation letter, the Ministry  
24 set out its rationale in the very next paragraph. It  
25 said, "From a government perspective, DCFC investments  
26 made by non-exempt public utilities until the end of

1           2025 should be focused on the creation of a  
2           comprehensive network that will allow an EV driver  
3           to," bullet one, "conveniently travel anywhere within  
4           the province and," bullet two, "access DCFC services  
5           within the driver's home community."

6                        So, in my submission, that statement  
7           explains how the municipal site limit supports the  
8           purpose and objective of section 18 of CEA and section  
9           5 of the GRRR.

10                      Now, in preparing for this I wasn't -- I'm  
11           not sure if the question behind the question is really  
12           whether the limited municipality provision is within  
13           the jurisdiction of Cabinet. And, if so, then my  
14           submission is yes, it is within the jurisdiction of  
15           Cabinet. It's within the scope of section 35(n) of  
16           the *Clean Energy Act*, which authorizes Cabinet to make  
17           regulations, including under (n), for the purpose of  
18           definition of a prescribed undertaking, prescribing  
19           the class of projects, programs, contracts or  
20           expenditures that encourage the use of electricity,  
21           and I'll leave out the parts that aren't related to  
22           electricity, instead of the use of other energy  
23           sources that produce higher greenhouse gas emissions  
24           or the use of electricity in vehicles and the  
25           construction and operation of infrastructure for  
26           electricity charging.

1                   So, I submit that the municipal site limit  
2                   provision is certainly within the ambit of the  
3                   Cabinet's authority under section 35(n) of CEA.

4                   And to go back to the question that came  
5                   from the panel, in my submission, the municipal site  
6                   limit is, as Mr. Bystrom said, one of a number of  
7                   limits that are set out, criterion or criteria plural,  
8                   that are set out to define what is a prescribed  
9                   undertaking. And that's a totally normal part of  
10                  defining a prescribed undertaking is to have limits  
11                  that set out what is and what is not a prescribed  
12                  undertaking. In this case, the government has chosen,  
13                  for the reasons that I referred to earlier,  
14                  apparently, because we can't know definitively what  
15                  reasons Cabinet has in mind when it adopts a  
16                  regulation, but they included the municipal site limit  
17                  in the regulation as they anticipate.

18                  Questions 3 and 4 and the definition,  
19                  interpretation, of eligible charging site, in response  
20                  to both of them, in my submission these scenarios are  
21                  hypothetical and are not based on any evidence  
22                  suggesting that any of these scenarios would arise in  
23                  the future. I submit that the panel should be very  
24                  reluctant to speculate on how hypothetical scenarios  
25                  would be dealt with by future panels. Rather, I  
26                  submit that the panel in this proceeding should leave

1 the resolution to such future panels that would have  
2 the full factual matrix before it in evidence on the  
3 record. The future panel would also have the  
4 opportunity to hear argument from the "other operators  
5 of EV fast charging stations", that I quote from the  
6 question itself, if they were to choose to intervene  
7 in the Commission's proceedings.

8 **Proceeding Time 4:13 p.m. T16**

9 In terms of an analysis of the hypothetical  
10 scenarios, well I could provide one, just instead I  
11 think make several short comments. One of them is  
12 that the question that is really begged in this -- in  
13 the two scenarios is whether the term "eligible  
14 charging sites" refers to only charging sites that  
15 become prescribed undertakings, that is charging sites  
16 that are operated by non-exempt public utilities, BC  
17 Hydro and FortisBC, or whether the term applies --  
18 could apply to an exempt public utility, another  
19 provider, not BC Hydro or FBC.

20 Now, it's easy for me to jump to the  
21 conclusion that that term probably means eligible  
22 charging sites regardless of who operates them,  
23 whether it's Fortis or Hydro or Tesla or anybody else.  
24 But that's a legal question that would need to be  
25 actually determined by a panel on facts in front of  
26 it. And in my submission the way that the definition

1 of charging sites arises in the current proceeding  
2 does not require the panel to go into any exploration  
3 of what the limit of the definition of "site" is.

4 The evidence is that Fortis' charging sites  
5 are defined areas and Fortis' sites aren't in any way  
6 close to going beyond the municipal site limit. So  
7 all the questions about what constitutes a site limit  
8 don't arise in the current case. And the fact that  
9 the term "site" is used in the regulation, it's just a  
10 normal world that's used in regulations all the time.  
11 The question itself used the term "parking lot". Well  
12 what's the definition of a parking lot? Is it -- does  
13 it have to be contiguous? Does it have to be owned by  
14 the same company? I mean there's all kinds of  
15 questions that one can ask once you try to push the  
16 boundaries of any given term. But in the present case  
17 there's no need to push the boundaries of the term  
18 "site". The only relevance would be if there was a  
19 problem with a municipal site limit, and there isn't.

20 The Question 5, the first sentence I'll  
21 just respond to is BCSEA and VEVA's response is that  
22 it is FortisBC's responsibility to determine whether  
23 and how to keep its EV charging station technology  
24 current and competitive with other service providers.  
25 Any issues in that regard could be addressed in the  
26 FBC annual reviews under the multi-year ratemaking

1 plan.

2 In terms of the second question about  
3 Fortis would address disposal and retirement of  
4 obsolete equipment, my submission is that that is a  
5 regulatory accounting issue that I assume would be  
6 addressed if and when it arose and presumably the  
7 default approach would be the same way that it's dealt  
8 with in any other situation. But if there are any  
9 wrinkles caused by the GGRR, they would be addressed  
10 at the time.

11 I do want to step back and put this fifth  
12 question into a larger context because the preamble  
13 refers to Fortis saying in an IR response that it  
14 didn't believe a formal EV Charging Service resource  
15 plan is required at this time. And I know that that  
16 comes from Fortis' IR response to a staff IR that's  
17 premised on a recommendation of the inquiry panel that  
18 the government chose not to accept.

19 The recommendation was that -- on pages 38  
20 and 39 of the Phase 2 report, was that non-exempt  
21 public utilities be required to develop an EV CS  
22 resource plan for review by the BCUC. However, that  
23 recommendation was one aspect of the non-prescriptive  
24 approach that the government chose not to take when it  
25 took the prescriptive approach by adopting section 5  
26 of the GGRR.



1 disagree. I think the site limit is very clear as  
2 it's worded right now and it's not an issue in this  
3 proceeding and that ought to be enough to leave it at  
4 that.

5 The question of whether the site limit is  
6 an appropriate limit is one for the Lieutenant  
7 Governor in Council, not for the BCUC, and in any  
8 event, it's not an issue in this proceeding.

9 To respond briefly to Ms. Worth for BCOAPO  
10 who described the term "site" as a moving target, I  
11 respectfully take issue with that. There's nothing  
12 moving about the term and the concept of the site  
13 limit. It goes back to the criteria that was proposed  
14 by the Ministry and adopted in a somewhat different  
15 form in the regulation itself. It's not an issue that  
16 affects the merits of the application at hand and in  
17 my submission there really is no need for the  
18 Commission to take that topic any further.

19 Subject to any questions, those are my  
20 submissions.

21 THE CHAIRPERSON: No. I have no questions either, Mr.  
22 Andrews, thank you.

23 COMMISSIONER FUNG: Neither do I. Thank you, Mr.  
24 Andrews.

25 MR. ANDREWS: Thank you.

26 THE CHAIRPERSON: Ms. Worth, do you have -- yes, Ms.

1       Worth, sorry, do --

2   MR. BUSSOLI:       Mr. Chair?

3   THE CHAIRPERSON:    Yes?

4   MR. BUSSOLI:       Sorry to interrupt. Staff do have some  
5       questions that they'd like to ask.

6   THE CHAIRPERSON:    Do you want -- of Mr. Andrews?

7   MR. BUSSOLI:       Of, sorry, no, of --

8   THE CHAIRPERSON:    Of everyone. Anyone. Okay, go  
9       ahead. Please, yeah.

10   MR. BUSSOLI:       Just two questions. First, Mr. Bystrom,  
11       I think I interpreted or heard this correct, and if I  
12       didn't please correct me if I'm wrong, but I think  
13       earlier in your presentation you might have said that  
14       the GGRR is not relevant or doesn't apply to private  
15       charging service providers which are currently exempt  
16       utilities. However, in FBC's response to BC IR 3.1  
17       and 3.2 -- and I believe that is Exhibit B-7 and it's  
18       PDF page 11 if you want to go there -- the FBC  
19       confirmed that the GGRR does apply to both non-exempt  
20       and exempt utilities. So I was wondering if you could  
21       clarify that statement or if I misheard you when you  
22       did say that earlier?

23   MR. BYSTROM:       Just took me a while to find the mute  
24       button there.

25                       So I was responding to the specific  
26       question set out by the panel about non-regulated EV

1 chargers and that is when I was referring to the,  
2 yeah, the -- it doesn't apply to EV service providers  
3 that are not regulated by the BCUC. I understand  
4 there's the exempt ones, but they're exempt and not --  
5 the Commission doesn't set their rates due to the  
6 exemption, I believe, so it doesn't have any  
7 application to them in that sense.

8 **Proceeding Time 4:25 p.m. T18**

9 MR. BUSSOLI: Thank you. And one other question, and  
10 this is going back to the definition of "site". And  
11 although there isn't one, I guess the question is how  
12 would anyone know if they have -- or if Fortis had  
13 passed the site limit?

14 MR. BYSTROM: Could you repeat the question, please?

15 MR. BUSSOLI: Yeah. Since there is no definition of  
16 "site", how would you know if you had passed the site  
17 limit in the GGRR? If FBC, for example, thinks that  
18 they have not passed the site limit but the regulator  
19 believes that you have, if there's no definition of  
20 "site", how would one know whether or not you've  
21 passed the limit? Like if the site is a parking lot  
22 or if you determine it to be a residential address or  
23 several addresses. I guess, like, when do you know  
24 you've reached that maximum?

25 MR. BYSTROM: Okay. Like my friend Mr. Andrews  
26 submitted, the word "site" is an ordinary word and

1       legislation is full of ordinary words that aren't  
2       defined. And so this issue of interpreting ordinary  
3       words in legislation is something we have to deal with  
4       all the time when we're interpreting the law. And in  
5       this case I don't think it actually poses any  
6       difficulty. There's no debate in this proceeding  
7       about what constitutes a site for any of FBC's  
8       eligible charging sites. It's really a non-issue.

9               And in terms of how you would decide if  
10       we'd exceeded it, it would be decided based on the  
11       evidence in the proceeding, like all other evidentiary  
12       issues. In our application filed we set out the  
13       number of charging stations, where they're located, if  
14       they're in a limited municipality how many sites there  
15       are already in that municipality and drew the  
16       conclusion that, no, we're not exceeding any of the  
17       site limits. And that evidence has been tested in  
18       this proceeding through IRs and argument and no  
19       intervener in this proceeding has taken any issue with  
20       that. And no one is suggesting that any of the  
21       eligible charging sites exceed the site limits.

22               So, in my submission, it's not an issue in  
23       this proceeding. It doesn't pose any particularly  
24       difficulty matters of interpretation. The word "site"  
25       is an ordinary word. I understand that you can  
26       imagine scenarios that would be difficult. You know,

1           you would have to sort that out at the time when those  
2           difficult scenarios arose.

3                         But the utilities, I'm sure, will keep that  
4           in mind when they're siting their charging stations  
5           and they'll have to come forward with something that's  
6           reasonable, right? At the end of the day the  
7           interpretation has to be reasonable, and I think the  
8           Commission should wait for that unreasonable scenario  
9           to actually come before them before it tries to sort  
10          that out. It's really quite impossible in the absence  
11          of in detailed facts.

12 THE CHAIRPERSON:         Sorry, Mr. Bussoli, I just would like  
13          to circle back to your original question.

14                         Mr. Bystrom, I'd just like to confirm that  
15          you did misspeak earlier on when you said that the  
16          GGRR does not apply to exempt EV utilities or EV  
17          charging utilities, for want of a better description.  
18          Is that correct?

19 MR. BYSTROM:            Yes, it does apply. I guess it doesn't  
20          -- the Commission isn't setting the rates, right? Of  
21          the exempt EV charging service provider and I didn't  
22          take that to be the real context of the panel's first  
23          question. But I stand, yes, I think with that  
24          clarification.

25 THE CHAIRPERSON:         Sorry, in other words, your answer to  
26          the IR hasn't changed, because you did confirm that it

1 does apply. So I just want to make sure you're not  
2 changing your answer to that IR, correct?

3 MR. BYSTROM: That's correct. I'm not sure what hangs  
4 on it, frankly. So --

5 THE CHAIRPERSON: The definition of "site" because  
6 "site" includes all sites, including sites from the  
7 exempt public utilities and non-exempt public  
8 utilities. I believe, Mr. Bussoli, that's the essence  
9 of your question, correct? That's the essence of the  
10 IR that you -- at least my reading of it at least.

11 MR. BUSSOLI: Yes, that was the --

12 THE CHAIRPERSON: Yeah. That's why the GGRR considers  
13 both exempt utilities and non-exempt utilities because  
14 when it defines "site" it defines them for every --  
15 it's not just Fortis' chargers, it's also  
16 ChargePoint's and BC Hydro's and everybody else.

17 MR. BYSTROM: Yes. I'm not changing that answer. I  
18 misunderstood the question that was just posed to me.  
19 I thought it was going somewhere else. And, yeah,  
20 we're not changing that answer.

21 MR. BUSSOLI: Thank you, Mr. Bystrom.

22 Mr. Chair, those are all the staff  
23 questions.

24 THE CHAIRPERSON: Okay, thank you. Commissioner Fung,  
25 you're okay?

26 COMMISSIONER FUNG: I'm okay. I just want to, though,

1 confirm that Mr. Bystrom, then going back to an issue  
2 that I think Mr. Andrews raised, as I understand it  
3 now eligible charging site would include sites where  
4 only, for instance, exempt utilities are operating.

5 THE CHAIRPERSON: No, it's both.

6 COMMISSIONER FUNG: It's both. Well, I mean, it could  
7 be both. In other words, it's not limited to sites  
8 involving BC Hydro and Fortis.

9 MR. BYSTROM: That's how we've interpreted it and we've  
10 applied the site limit in that fashion in the  
11 evidence.

12 COMMISSIONER FUNG: Okay, good. Yeah, thank you very  
13 much.

14 THE CHAIRPERSON: Thanks, Commissioner Fung.

15 Ms. Worth, do you have any reply?

16 **Proceeding Time 4:31 p.m. T19**

17 MS. WORTH: Would Mr. Andrews be more appropriate if he  
18 have any response to Mr. Bussoli's question?

19 MR. ANDREWS: If I may, Mr. Chair.

20 THE CHAIRPERSON: Yes, please go ahead.

21 MR. ANDREWS: On the topic of the definition in the  
22 GGRR section 5, eligible charging site means a site  
23 where one or more eligible charging stations are  
24 located. Eligible charging station itself is defined  
25 and it includes certain criteria, one of which is (c)  
26 is capable of charging electric vehicles of more than

1           one make. And so that may or may not mean that simply  
2           because there's a fast public -- there's a public fast  
3           charging station operated by another provider, it may  
4           or may not be an eligible charging station. But in  
5           any event, as I submitted earlier, there is no doubt  
6           that the municipal limit is not exceeded in this case,  
7           no matter how -- if you classified all of the other  
8           stations as eligible charging stations.

9   THE CHAIRPERSON:        But Mr. Andrews, the question was is  
10           it possible that an eligible charging station could be  
11           owned by someone other than Fortis or BC Hydro, to put  
12           it simply. Owned and operated by.

13   MR. ANDREWS:            When I addressed that point in my main  
14           submissions I said that that's a legal point that has  
15           yet to be determined. My assumption is that the  
16           answer would be yes. But I note that there's been --  
17           because of the fact that there is no issue in the  
18           current proceeding about the application potentially  
19           exceeding the municipal site limit, this issue has not  
20           been explored. And so there's been no investigation  
21           into whether other charging stations that are located  
22           on other sites meet the criteria of an eligible  
23           charging station.

24                            So like on the A-17 list of other sites,  
25           there's no indication whether each of those other  
26           charging facilities is available for use 24 hours a

1 day, whether it requires users to members of a  
2 charging network. You know, out of an abundance of  
3 caution one can assume that all of those things have  
4 been met and you still conclude that Fortis has not  
5 exceeded the municipal limit.

6 But in the event that it actually becomes  
7 an issue in a future proceeding, all of these  
8 questions would be open for the panel at that time to  
9 determine on the facts of that case. And that's my  
10 submission.

11 THE CHAIRPERSON: I appreciate that, Mr. Andrews. The  
12 context of the question, however, was not in the  
13 context of the limit. The context of the question was  
14 whether the GGRR applied only to Fortis, and I'll just  
15 overly simplify, whether it applies only to Fortis and  
16 BC Hydro or does it potentially apply to a non-exempt  
17 -- sorry, to an exempt providers of EV charging  
18 services. That was the context of the question.

19 MR. ANDREWS: Well, if that's the question, then I  
20 would say the effect of section 5 that is defining a  
21 public -- is defining a prescribed undertaking and  
22 that is applicable only to a public utility and in the  
23 context of the history that would be a non-exempt  
24 public utility.

25 But I don't think that's an issue that  
26 needs to be pursued in this proceeding because there's

1 no question that FortisBC Inc. is a public utility to  
2 which the GGRR applies.

3 THE CHAIRPERSON: I understand, Mr. Andrews, we're  
4 simply trying to clarify a statement that Mr. Bystrom  
5 made earlier this afternoon.

6 MR. ANDREWS: Fair enough, thank you.

7 THE CHAIRPERSON: Thank you. Ms. Worth?

8 **REPLY BY MS. WORTH:**

9 MS. WORTH: Thank you. I hear -- or I heard Mr.  
10 Andrews and I'm going to just briefly correct myself  
11 to be more specific. Site is, of course and I said  
12 this in my submissions, a plain meaning word and it's  
13 not necessarily a moving target, but it is a word that  
14 as a plain meaning with the definition or sort of the  
15 boundaries being undefined for the purposes of the  
16 subject matter before the panel.

17 And I think that I'm going to specifically  
18 sort of adopt and support Mr. Bystrom's submissions on  
19 that point, which is that consideration of those  
20 specific boundaries and those specific circumstances  
21 or any hypotheticals would really be something that  
22 would be better done when those circumstances arise or  
23 are seen to be arising.

24 And I get that the Commission was  
25 attempting to kind of get an idea of issues that may  
26 arise, but I think that it is really premature for us

1 to be taking positions on things when we don't have  
2 the specific case, facts of any potential concern, you  
3 know, concerning kind of circumstance. Whether it's,  
4 you know, something that might not comply with site or  
5 any other kind of concerns that may arise in this  
6 regard.

7 So I think that our position would be that  
8 while this is a really interesting topic, it is  
9 something that I think is better left to when we have  
10 the specific cases -- or sorry, the specific facts of  
11 any case where a concern may arise, whether by  
12 interveners, the Commission or something that the  
13 utilities have identified themselves.

14 **Proceeding Time 4:37 p.m. T20**

15 Subject to any questions, those are my  
16 submissions.

17 THE CHAIRPERSON: Commissioner Fung? That's a no I  
18 think.

19 COMMISSIONER FUNG: Oh, sorry. My -- I should know by  
20 now after a year and a half, right, how to unmute  
21 myself. But, no, I don't have any questions for you,  
22 Ms. Worth. Thank you.

23 THE CHAIRPERSON: Thank you, Ms. Worth. I don't  
24 either, thank you.

25 Mr. Weafer, any reply?

26 MR. C. WEAFER: No reply, but perhaps Mr. Bystrom can

1 just confirm, because I'm not clear, on when the site  
2 topic may be discussed and determined? Is that  
3 intended to happen at the annual review when Fortis  
4 comes in with a list of propose sites? Just when  
5 might this discussion happen would be my only  
6 unanswered question. Thank you. But I have no other  
7 comments.

8 THE CHAIRPERSON: Thank you.

9 MR. BYSTROM: I guess it's over to me now.

10 THE CHAIRPERSON: Yes, Mr. Bystrom.

11 **REPLY BY MR. BYSTROM:**

12 MR. BYSTROM: So maybe I'll start by addressing Mr.  
13 Weafer's question. So the evidence is that FortisBC  
14 Inc. doesn't have any other planned stations other  
15 than the ones set out in the application. So it may  
16 not -- the situation may never arise where we have a  
17 difficult scenario about, you know, how -- is this a  
18 site or not. If it did come up, it would come up in  
19 the annual reviews or revenue requirements where my  
20 client's asking for recovery of a new station that is  
21 currently not planned. So that's I think when it  
22 would come up, in the annual review process.

23 I just have two quick reply comments, one  
24 to Ms. Worth's submission. The first one, Ms. Worth  
25 submitted about the, sort of the purpose of section 18  
26 of the *Clean Energy Act* and section 5 of the GGRR as

1 measured encouragement of investment. And I made the  
2 submission that it encourages investment, you know, to  
3 the extent that the investment meets the definition of  
4 prescribed undertaking. And in a way I think that's a  
5 similar point, but the main reply point I have is that  
6 the extent of the encouragement is defined in section  
7 5 of the GGRR. So there's no question about the  
8 extent to which investment is encouraged, that has  
9 been answered equivocally in the prescribed  
10 undertaking that is described in section 5 of the  
11 GGRR.

12 And to the extent that the investment meets  
13 that description there is a guaranteed cost recovery.  
14 As, you know, Mr. Andrews noted, it de-risks the  
15 investment, and that's why it encourages the  
16 investment. The GGRR does not forbid any investment,  
17 it just says for this particular type of investment  
18 you're guaranteed cost recovery, you have no risk, so  
19 please do it, essentially. But it doesn't say thou  
20 shalt not do anything else, and so I just wanted to  
21 make that point in reply.

22 The other second point to Ms. Worth is Ms.  
23 Worth did mention in the context of Question 5 about  
24 in obsolescence, in a write-off, being potentially  
25 recovered from the shareholder, and as I've submitted  
26 in my submission, that is not possible under section

1 18 of the *Clean Energy Act*. So, and I've made  
2 submissions on that point, but I just wanted to for  
3 the record note our disagreement with that point.

4 I have no further submissions at this time.

5 THE CHAIRPERSON: Thank you, Mr. Bystrom.

6 Commission Fung, is there anything further  
7 that you have?

8 COMMISSIONER FUNG: No, I have no further questions of  
9 you, Mr. Bystrom. Thank you.

10 MR. BYSTROM: Thank you.

11 THE CHAIRPERSON: Mr. Bussoli, does staff have any  
12 questions of Mr. Bystrom or anyone else at this point?

13 MR. BUSSOLI: No, Mr. Chair.

14 THE CHAIRPERSON: Okay. I have no further questions  
15 either, so we'll -- class can be dismissed a little  
16 bit early today.

17 Thank you very much, everyone, for your  
18 thoughtful submissions and appreciate the time that  
19 you've taken to come and join us here. And look  
20 forward to any further submissions you have on the  
21 spreadsheet. As I said earlier, the primary purpose  
22 -- or as both Commissioner Fung and I said, the  
23 primary purpose is we're looking at kind of a survey  
24 of rates, so we do want to hear from you if there's a  
25 calculation error or observation error in those  
26 numbers, please.

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So, yes, so then that brings us hopefully to the end of any further submissions or any further get-togethers in this proceeding and the panel will go away and deliberate and hopefully will have a decision ready as soon as we possibly can. And so once again, thank you very much. We're adjourned.

**(PROCEEDINGS ADJOURNED AT 4:42 P.M.)**

I HEREBY CERTIFY THAT THE FORGOING is a true and accurate transcript of the proceedings herein, to the best of my skill and ability.



A.B. Lanigan, Court Reporter

May 27<sup>th</sup>, 2021