



LETTER L-71-12

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VIA EMAIL

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December 14, 2012

**FORTISBC INC. – CPCN FOR THE
ADVANCED METERING INFRASTRUCTURE PROJECT EXHIBIT A-18**

TO: FortisBC Inc.
Registered Interveners

Re: FortisBC Inc.
Certificate of Public Convenience and Necessity for the
Advanced Metering Infrastructure Project
Application for Reconsideration of
British Columbia Utilities Commission Decision and Order G-177-12

By letter dated December 7, 2012, Mr. Andy Shadrack applied on behalf of Area D in the Regional District Central Kootenay (RDCK) (Exhibit C13-9) for a reconsideration of Order G-177-12 (Reconsideration Application) issued by the British Columbia Utilities Commission (Commission) with the accompanying decision on November 23, 2012. The relief sought by Mr. Shadrack is that the Decision and Order be reconsidered and varied to permit financial, operational, fire safety and privacy issues including wireless vs. wired meters in the oral hearing.

As a result of the Procedural Conference held in Kelowna on November 8, 2012, the Commission issued Order G-177-12 which, among other things, directed that:

The review of the Application will proceed by a combination of a written and an oral hearing, divided as follows:

- (i) Financial, operations, fire safety and privacy issues will be reviewed by way of the written process.*
- (ii) Health, security and environmental issues will be reviewed by way of the oral hearing.*

Mr. Shadrack appeals to the Commission under section 99 of the *Utilities Commission Act* to reconsider its decision to limit issues to be reviewed at the oral hearing. Mr. Shadrack cites a number of reasons, which are set out in Item 4 (page 13) of his Application.

Attached to this letter are: i) a copy of the Reconsideration Application, and ii) a copy of the Reconsideration and Appeals section of the Commission's Participant Guide, which identifies the criteria that the Commission generally applies to determine whether a reasonable basis exists to allow a reconsideration.

An application for reconsideration by the Commission proceeds in two phases. In the interest of both regulatory efficiency and fairness, and before the Commission proceeds with a determination on the merits of an application for reconsideration, the application undergoes an initial screening phase. In this first phase, the applicant must establish a *prima facie* case sufficient to warrant full consideration by the Commission. The Commission usually invites submissions from the other participants in the proceeding that led to the Decision that is the subject of the reconsideration request, or may consider that comments from the parties are not necessary. The Commission generally applies the following criteria to determine whether or not a reasonable basis exists for allowing reconsideration:

- the Commission has made an error in fact or law;
- there has been a fundamental change in circumstances or facts since the Decision;
- a basic principle had not been raised in the original proceedings; or
- a new principle has arisen as a result of the Decision.

Where an error is alleged to have been made, in order to advance to the second phase of the reconsideration process, the application must meet the following criteria:

- the claim of error is substantiated on a *prima facie* basis; and
- the error has significant material implications.

If the Commission determines that a reconsideration is warranted, the reconsideration proceeds to the second phase where the Commission hears full arguments on the merits of the application.

The Commission hereby establishes a written comment process on Mr. Shadrack's Reconsideration Application to address the first phase issue of whether a reasonable basis exists to allow a reconsideration. The first phase will be a preliminary examination to assess the application in light of the following questions:

- Should there be a reconsideration by the Commission?
- If there is to be a reconsideration, should the Commission hear new evidence and should new parties be given the opportunity to present evidence?
- If there is to be a reconsideration, should it focus on the items from the Reconsideration Application, a subset of these items or additional items?
- If there is to be a reconsideration, what process should be established for the reconsideration?

The first phase assessment process for the Reconsideration Application will be as follows:

- Intervenors are to submit written comments, if any, to the Commission by Friday, December 21, 2012, with a copy to Mr. Shadrack.
- FortisBC is to submit written comments, if any, to the Commission by Friday, January 4, 2013.
- Mr. Shadrack submits a written reply, if any, to the Commission by Friday, January 11, 2013.

Written comments in the first phase should address whether the threshold for reconsideration has been met, rather than the substance of the issues. Following the completion of this written comment process, the Commission will decide whether or not a reconsideration should proceed. If the reconsideration proceeds to the second phase, the parties will be allowed subsequently to address the substance of the issues that the Commission approves for reconsideration.

Yours truly,

Erica M. Hamilton

JTS/cms
Enclosures