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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER C-7-15**

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IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

FortisBC Energy Inc.
Application for Approval of Operating Agreements
with 26 Municipalities on the Vancouver Island, the Sunshine Coast and the City of Powell River

BEFORE: L. F. Kelsey, Commissioner
C. A. Brown, Commissioner
H. G. Harowitz, Commissioner
K. A. Keilty, Commissioner
D. M. Morton, Commissioner

June 18, 2015

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

WHEREAS:

A. On March 24, 2015, FortisBC Energy Inc. (FEI, Company) applied to the British Columbia Utilities Commission (Commission), pursuant to section 45 of the *Utilities Commission Act* (UCA) for approval of Operating Agreements with 26 municipalities on Vancouver Island, the Sunshine Coast, and the City of Powell River (Application). Listed below are eight of the 26 municipalities in the Application (collectively the Municipalities) that have an existing or expired 1991 Pro Forma Operating Agreement with FEI and no transmission customers within their municipal boundaries;

- | | |
|--------------------------|--------------------------|
| 1. District of Highlands | 5. City of Courtenay |
| 2. District of Saanich | 6. Town of Comox |
| 3. Town of View Royal | 7. Town of Gibsons |
| 4. City of Colwood | 8. Village of Cumberland |

B. FEI undertook negotiations with the Municipalities and the Association of Vancouver Island and Coastal Communities (AVICC) to establish the terms of a new form of Vancouver Island municipal operating agreement (VIMOA), which concluded in the fall of 2014. In October of 2014, each of the Municipalities entered into the VIMOA agreement with FEI;

C. Section 16.3 of the VIMOA provides that if not already terminated or expired, any franchise or operating agreement between the Municipalities and FEI is terminated upon the effective date of the new VIMOA between the parties;

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- D. The VIMOA between FEI and the Municipalities is for an initial term of 20 years from the date that it comes into effect and, after the initial term, shall continue indefinitely unless terminated by the parties pursuant to the terms in the VIMOA;
- E. The VIMOA sets out the terms and conditions, including the collection of a three percent operating fee from its customers, under which FEI exercise its rights to use the public places of the Municipalities in conducting its business of distributing gas within the Municipalities;
- F. Bill 4 – 2014 Miscellaneous Statutes Amendment Act (No. 2), 2014 amended the *Vancouver Island Natural Gas Pipeline Act* by repealing, effective January 1, 2015, a section that previously prevented local governments from collecting franchise (operating) fees; and
- G. The Commission reviewed the Application and considers that the operating agreements are necessary for the public convenience and properly conserves the public interest.

NOW THEREFORE pursuant to section 45 of the *Utilities Commission Act*, the British Columbia Utilities Commission orders as follows:

- 1. The operating agreements between FortisBC Energy Inc. (FEI) and the following municipalities are approved as filed:
 - 1. District of Highlands
 - 2. District of Saanich
 - 3. Town of View Royal
 - 4. City of Colwood
 - 5. City of Courtenay
 - 6. Town of Comox
 - 7. Town of Gibsons
 - 8. Village of Cumberland
- 2. FEI is to implement the collection of the operating fees within a reasonable time, but no later than 90 days from the date of this order. FEI is to coordinate with the Municipalities the appropriate communication and notification to customers.

DATED at the City of Vancouver, In the Province of British Columbia, this 23rd day of June 2015.

BY ORDER

Original signed by:

D. Morton
Commissioner