



October 29, 2019

Sent via email

**Letter L-52-19**



**Re: FortisBC Inc. – Complaint filed by J. S. et al – British Columbia Utilities Commission Review**

Dear [REDACTED]:

On June 27, 2019, the British Columbia Utilities Commission (BCUC) received your complaint concerning the FortisBC Inc. (FBC) infrastructure trespass on your property. In the complaint, you also expressed concerns regarding the possibility of your services being suspended as a result of the parties not being able to come to a mutual resolution. The BCUC received additional correspondence from you between June 27 and September 6, 2019. Following requests by BCUC staff, FBC provided its responses to your complaint on July 17, August 7, August 22 and September 18, 2019.

When the BCUC reviews complaints, it uses the criteria of whether the utility reasonably responded to the customer's concern(s) and whether the utility followed its Electric Tariff (Tariff) and the *Utilities Commission Act* (UCA). As an administrative tribunal, the BCUC follows its own process for a number of procedures, including complaints. The BCUC is not a mediator of disputes, rather it is an independent regulatory agency of the Provincial government that operates under and administers the UCA.

Based on our review of your complaint and related correspondence provided in this matter, the BCUC sees no indication that FBC was in contravention of its Tariff or the UCA.

### **Review Process**

In reviewing FBC's response, under the BCUC Complaints Guidelines, the BCUC has, amongst other things, referred to FBC's approved Tariff, which contains the terms and conditions of service between FBC and its customers to ensure FBC's actions were in accordance with the Tariff.

The current version of the Tariff was approved by Order G-40-19 and came into effect July 1, 2019. The Tariff is set through a formal BCUC proceeding. In the Tariff, rates for each class or type of customer (residential, commercial, industrial) and terms and conditions are designed through a public consultation process to cover the cost of supplying customers in that class with electricity. As a public utility, FBC is required to strictly adhere to the Tariff in its service provisions to customers and is unable to change the Tariff without BCUC approval.

### **Complaint**

With regard to trespass and the suspension of services, FBC addressed your concerns and outlined its policies regarding these matters as follows:

- If the customer is unable to provide the necessary right-of-way to the existing infrastructure, the service will need to be relocated to an area where right-of-way can be provided or not required.
- FBC states that the existing infrastructure was installed in 1983 in accordance with FBC's Electric Tariff Terms and Conditions at the time.
- The cost of the relocation due to refusal of right-of-way is to be borne by the customer.
- FBC will consider the age of the existing infrastructure and any other factors in the design and estimate of the service relocation.

The BCUC notes that this aligns with Sections 10.2 and 11.1 of FBC's Tariff.

With respect to right of way, Section 11. 1 states:

By applying for electric Service, the Customer agrees to grant to the Company such rights-of-way, easements and any applicable permits on, over and under the property of the Customer as may be necessary for the construction, installation, maintenance or removal of facilities.

On request, the Customer, at their own expense, will deliver to FortisBC documents satisfactory to FortisBC in registrable form granting the rights-of-way, easements and executed permits. The Customer will, at their own expense, be responsible for obtaining rights-of-way, easements and any applicable permits on other properties necessary for FortisBC to provide Service to the Customer.

With respect to Suspension of Service, Section 10.2 (I) of the Tariff states:

FortisBC may refuse Service or demand Suspension of Service if, in the opinion of FortisBC the applicant has breached any agreement or terms with FortisBC.

Further, the BCUC notes that FBC have stated that suspension of services would be undertaken only as a "last resort."

The BCUC finds that as the issues raised in your complaint regarding right-of-way and relocation of FBC infrastructure and suspension of services are governed by the Tariff, FBC needs to adhere to the terms and conditions of the Tariff.

In order to acquire and maintain an electrical connection, customers are also required to follow the terms and conditions outlined in the Tariff, including providing a utility with a right-of-way. In this instance, should you wish to continue receiving service from FBC, you will need to provide them with the required rights of way and easements.

Accordingly, your file is now closed.

### **Office of the Ombudsperson**

If you have concerns about how the BCUC handled your complaint, you may wish to contact the Office of the Ombudsperson. The Office of the Ombudsperson receives enquiries and complaints about the practices and services of public agencies within its jurisdiction. Their role is to impartially investigate complaints to determine whether public agencies have acted fairly and reasonably, and whether their actions and decisions were consistent with relevant legislation, policies and procedures.

If you decide to file a complaint with the Ombudsperson, they will review the BCUC's process to ensure it was fair. Though this may not result in a different outcome for you, the office could request that the BCUC reopen its investigation.

Provided is a link to the Office of the Ombudsperson's website: <https://www.bcombudsperson.ca/>. You can also call their office toll-free at: 1-800-567-3247. An employee at the office will be able to assist you and inform you of your options.

Thank you again for contacting the BCUC.

Sincerely,

*Original Signed By:*

Patrick Wruck  
Commission Secretary

OK/mp

cc: FortisBC Electricity Regulatory Team  
Gas.Regulatory.Affairs@fortisbc.com