



October 21, 2021

Sent via email

Letter L-36-21

Re: FortisBC Energy Inc. and FortisBC Inc (FortisBC) – Complaint filed by E.V. – British Columbia Utilities Commission Review

Dear [REDACTED],

On April 8, 2021, the British Columbia Utilities Commission (BCUC) received your complaint regarding an alleged lack of right of way and overhead trespass of Electric lines at your property by FortisBC. In your complaint you stated that this took place after a highway expansion project was completed adjacent to your property. Further, you stated that the location of the FortisBC Inc. power poles on municipal land were not in the appropriate locations [Referring to] the design criteria that the ministry of transportation and the city of Kelowna entered in to regarding placement of utilities.

Within the complaint you submitted that the expansion project also included installation of a replacement gas line near your property, alongside decommissioning the existing lines. Further, you stated that the original Teresan Gas line installation project, in 2010, resulted in damages to your property for the alleged [REDACTED] and expressed concerns that any additional work on the pre-existing line would cause further damages.

With regard to the alleged trespass lack of right of way, you requested [REDACTED]

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 approved 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 is satisfied that FortisBC have reasonably responded to your concerns and acted in accordance with the Tariff and the UCA.

Review Process

In reviewing FortisBC's responses, under the BCUC Customer Complaints Guide,¹ the BCUC has, amongst other things, referred to FortisBC Inc. and FortisBC Energy Inc.'s respective approved Tariff which contains the terms and conditions of service between FortisBC and its customers to ensure FortisBC's actions were in accordance with the approved Tariff.

¹ [BCUC Customer Complaints Guide](#)

The current version of each Tariff was approved by Order G-135-18 (FortisBC Energy Inc), which came into effect November 1, 2018 and Order G-40-19 (FortisBC Inc.) which came into effect July 1, 2019. Each 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.

Complaint

On April 8, 2021, the complainant submitted a complaint regarding an alleged trespass with FortisBC and lack of a right of way on their property. In further correspondence, the complainant stated concerns regarding the location of FortisBC infrastructure and a request for compensation.

On May 22, 2021, BCUC staff requested further clarification from FortisBC requesting a copy of a Statutory Right of Way (SRW) for the overhead lines (the document titled “blanket SRW LB8480358”), a timeline of events leading up to the electrical agreement and an updated independent survey of the infrastructure.

On June 2, 2021, FortisBC provided information regarding the SRW status on the complainant’s property. Within the response FortisBC stated that on August 4, 2011, FortisBC met with the complainant and completed execution of an SRW document and confirmed a copy was sent by email to the complainant. Further, FortisBC stated that three of the overhead electrical lines were installed on the basis of FortisBC’s SRW. An additional overhead electrical line crosses over the northeast corner of the complainant’s property, from a power pole located outside the northeast corner of the complainant’s property, to a pole [REDACTED]. this additional Electrical Line extends south to serve the neighboring property and as the additional Electrical Line is necessary to provide service to the complainant’s property, FortisBC stated that “the line is not in trespass.”

On June 22, 2021, FortisBC provided the requested independent survey regarding the location of its infrastructure as it relates to the complainant’s property including four (4) FortisBC overhead electrical lines cross the Subject Property.

The BCUC notes that the locations of FortisBC’s infrastructure before the Highway expansion were confirmed through the complaints process. The original locations of electrical lines were confirmed in a sketch included with the document titled “blanket SRW LB8480358” and the gas line locations were confirmed in a survey drawing of the location of the original gas lines (dated 2011).

With regard to a potential lack of the SRW on the complainant’s property the BCUC notes that FortisBC submitted a document, titled “blanket SRW LB8480358” that offers evidence that a SRW is in place for three (3) of the four (4) overhead electrical lines in place. As noted within the independent land survey, the fourth overhead line does provide the complainant’s property with service and as such is not in trespass.

With regard to compensation for a trespass or potential damages, the BCUC is not able to assist customers seeking financial compensation from regulated utilities as these matters are beyond the BCUC’s jurisdiction.

The BCUC finds that FortisBC’s actions have been consistent with its duties and responsibilities as set out in its Tariff and the UCA. **Accordingly, the complaint is dismissed.**

As such, 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 for contacting the BCUC.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

DD/dg