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Dear Independent Taskforce:

Re: Independent Taskforce
Independent Review of the British Columbia Utilities Commission

We have had the opportunity to review the first round of comments and submissions filed by stakeholders in the Core Review of the British Columbia Utilities Commission (Commission, BCUC). While we found the content of these submissions to be generally consistent with matters of interest and concern for the BCUC and the Taskforce alike, we have provided brief clarifications below that we hope you will find useful.

Performance Monitoring, Conduct and Compliance (PMCC):

The PMCC function was established in 2012 to address internal concerns with respect to the Commission's ability to track, maintain, review and monitor compliance matters. No established process existed previously. A report from the Auditor General concerning the compliance monitoring effectiveness of another government agency heightened these concerns for the BCUC. The Provincial Ministries of Justice and Energy were consulted with respect to the creation of PMCC and supported the initiative prior to its implementation.

Much thought went into identifying a cost-effective way to ensure compliance oversight within the Commission. Options considered included adding compliance and monitoring resources to the regulatory operational groups. However, as the Commission frequently must prioritize resources on urgent and significant applications, compliance staff resources within operational groups risk being redirected from compliance to ongoing applications. In addition, there were economies of scale to centralizing compliance monitoring and review rather than having each operational group set up independent monitoring processes. As such, an independent function appeared to offer the most effective way to address the existing shortcomings in compliance monitoring. Further, the addition of administrative penalties to the *Utilities Commission Act* (UCA) supported this approach. Should the Commission need to take such action, appropriate separation from other parts of the Commission is established organizationally.

During its limited existence, the role of PMCC has evolved. Initial months were spent designing and implementing a tracking system for Commission directives and internal review work flow. The Commission is now aware of the schedule and requirements of utility filings and is able to manage and carry out a timely review of the compliance filings. Under the new PMCC process, an overview review of the filing is made. If necessary, PMCC will follow up with the utility, largely on an informal basis, to collect outstanding information. If a significant matter is noted, it is forwarded to the relevant operational group for additional review and

possible action and further process is tracked. Such a system ensures reliable, efficient and effective review of compliance filings.

Over the past year, PMCC lead the development of the Mandatory Reliability Standards (MRS) administrative process, a task that the operational groups lacked resources to deal with. The MRS compliance component is now undergoing integration into PMCC to optimise efficiency and effectiveness.

PMCC is its own function within the Commission's organizational structure and does not represent a separate entity nor have its own office space. The Commission has grown over recent years but existing space within its current location did not have capacity to grow as well. A small footprint, previously occupied by the Ministry of Justice, is leased on the 3rd floor of 900 Howe which is occupied by several Commission members related and unrelated to the PMCC group and also provides needed commissioner "hotel" office space.

Commissioners:

Commissioners are skilled, qualified professionals from diverse backgrounds such as Accounting, Law, Engineering, Business and Environmental Academics. Commissioner recruitment follows a resourcing plan that is discussed with the Provincial Government's Board Resourcing and Development Office. The plan speaks to the benefits of a mix of full-time and part-time commissioners; however, current term limits and compensation are significant challenges in attracting qualified candidates particularly for full-time positions. Commissioners are independent but report to the Chair and CEO to the extent that they must conduct themselves in a manner that complies with organizational and public sector tribunal requirements. Commissioners address a very broad range of issues from accounting, engineering and finance to energy conservation and first nation consultation. Commissioners are required to interpret and prudently apply government policy both in energy and insurance regulation. Panels are appointed by the Chair under section 4 of the UCA, generally as three-person panels where the skills and experience complement suits the nature of the applications made.

Neutrality of Commission Staff:

Commission staff provide professional analysis and expertise to panels in the course of decision making. Staff do not take positions in hearings before the Commission, and all decisions are made by commissioners based on the evidence of the proceeding.

The only exception to this approach is in a negotiated settlement proceeding, where the Commission may appoint Commission staff to play roles such as an Active Participant. When that occurs, Commission guidelines clarify the role of the Commission staff member and establish protocols and mechanisms to ensure that the procedural fairness of the hearing is not compromised. Recently, the Commission effectively used the Active Participant role with positive effect in rate setting negotiations.

Insurance Corporation of British Columbia (ICBC):

The Commission has overseen the Basic Insurance component of ICBC since 2004. Since that time, the Commission has played a role in establishing rates, rate design, capital reserves and various other administrative matters. Further, the Commission continuously evaluates the complex and contentious allocation of cost between ICBC's basic insurance program and those of the unregulated, competitive optional insurance group.

There are many similarities in ICBC's oversight to that of traditional utility regulation. Matters such as cost allocation, investment oversight, capitalization and rate setting principles are required in both instances. Through training, recruiting and experience, the Commission has developed auto insurance expertise similar to other auto insurance regulators across the country.

Actuarial oversight by the Commission is a very significant and legally required component in reviewing ICBC's rates. For example, almost half of the Commission's informational requests in the 2014 revenue requirements application were actuarial-based. The Commission does not maintain internal actuarial resources to perform this review as these specialists have very focussed skillsets and are very costly. However, Commission does engage a qualified actuarial firm to review ICBC's applications and work as a part of the Commission staff team. The actuarial firm used by the Commission is a recognized expert in the field of auto insurance and provides similar services to Insurance Regulators in Alberta, Ontario and Nova Scotia. It is more effective to temporarily retain the expertise of an actuary only when insurance matters are before the Commission.

The Commission is an active member of Canadian Auto Insurance Rate Regulators (CARR) and the Chair and CEO of the Commission was a founding member. Currently, Commission staff chair CARR's governance Committee and hold membership on its Information, Training and Communications Committee. The Commission participates in annual industry update and training events and also holds a seat on the Executive of CARR.

Chair and CEO's Role:

The Chair and CEO is an appointed position responsible for the Leadership and oversight of the Commission as empowered by the UCA. The position entails two distinct roles- one as Chair and one as CEO. The Chair is responsible to lead the weekly meetings of the Commission where matters that are either not being heard through full public hearings or are deliberated prior to the appointment of a panel. Matters of policy and Commission direction are discussed frequently at these meetings. The CEO works closely with the team of directors and leads organizational and operational initiatives. The aforementioned describes the traditional requirements of the position.

In addition, the Chair has played a leadership role as Panel Chair on a number of important proceedings with significant public interest. Recently, this includes acting as Panel Chair for the BC Hydro 2014 Meter Choices program, a proceeding with 35 Registered Interveners, 159 Interested Parties and 1,009 letters of comment from the Public. Other recent Panel Chair assignments were the FortisBC Inc. Advanced Metering Infrastructure proceedings. The main proceeding combined an oral and written hearing, involved multiple community engagement sessions and was of significant public interest. The Chair has also lead a number of other proceedings involving new issues and processes.

Commission's Budget and Levy to Recover Costs:

Under the UCA and Levy Regulations, the Commission recovers its operational costs from the utilities it regulates. It should be noted for clarity that as a quasi-judicial tribunal, the Commission's operating costs must demonstrate fiscal responsibility, but are not restrictive, as restrictiveness may compromise the Commission's ability to effectively undertake its mandate with neutrality and prudence. Financial affairs are scrutinized by the Provincial Government as the financial records of the Commission fall within the jurisdiction of the Ministry of Justice and are also subject to oversight by the Ministry of Finance.

The Commission undertook analysis of its operational recoveries over past years and determined that partial costs were deferred outside the fiscal year in which they were incurred. With several new, smaller entities entering the otherwise stagnant list of regulated entities, it is imperative that the Commission anticipates and, to the extent possible, recovers costs within the same fiscal year.

The alignment of recoveries is not reflective of an expenditure increase of 26 percent, as reported in one of the submissions. F2015 operating costs are forecast at \$7,957,553 compared to actual expenditures of F2013 and F2014, which were \$7,945,665 and \$7,619,441, respectively.

Conclusion:

To conclude, we thank the stakeholders for their input, support and recognition of the contributions of our members. As previously stated, we appreciate the taskforce's efforts to seek greater clarity on issues and concerns, and look forward to any further dialogue that would further support this process.

Kind Regards,

A handwritten signature in black ink, appearing to read "Len Kelsey". The signature is fluid and cursive, with a long horizontal stroke at the end.

Len Kelsey

KB/kbb