



FortisBC Energy Inc.  
16705 Fraser Hwy  
Surrey, BC V3S 9B3  
Tel: 604-592-7859  
Fax: 604-592-7893  
Email: [nina.virdee@fortisbc.com](mailto:nina.virdee@fortisbc.com)  
[www.fortisbc.com](http://www.fortisbc.com)

June 17, 2013

DELIVERED VIA ELECTRONIC MAIL

British Columbia Securities Commission  
701 West Georgia Street  
Vancouver, BC V7Y 1L2  
Email: [Mbrady@bcsc.bc.ca](mailto:Mbrady@bcsc.bc.ca)

Attention: Mr. Michael Brady, Senior Legal Counsel

Dear Mr. Brady:

**RE: Comment Letter to CSA Staff Consultation Paper 91-407 Derivatives: Registration**

1. Introduction

FortisBC Energy Inc. and its affiliate FortisBC Inc. (collectively "FortisBC") hereby respectfully submit comments on the Canadian Securities Administrators ("CSA") Staff Consultation Paper 91-407 Derivatives: Registration published by the CSA over-the-counter (OTC) Derivatives Committee (the "Committee") on April 18, 2013. FortisBC appreciates the opportunity to submit these comments on Derivatives: Registration and looks forward to further working with the Committee as it moves forward to implementing Canada's G-20 commitments that relate to the regulation of the trading of derivatives in Canada through the British Columbia Securities Commission.

2. FortisBC Use of Derivatives

In order to mitigate the risk of market price movements on its natural gas rates for customers, FortisBC has actively engaged in OTC natural gas commodity hedging in the past. FortisBC has undertaken hedging to protect customers and not for speculative purposes. FortisBC has also engaged in physical commodity (gas and electricity) trading for the purposes of managing costs for customers. As will be discussed in this letter, FortisBC believes that these types of transactions by end users should not be classified as derivatives per the Derivatives: Registration categories and therefore not subject to the pending derivative legislation.

FortisBC performs financial hedging and physical trading on behalf of its customers in order to mitigate risks and manage commodity costs for customers; FortisBC believes it should be classified as a derivatives end user, rather than a derivatives dealer, derivatives adviser or large

derivatives participant. As such, FortisBC expects to be exempt from the reporting, clearing, and margin, capital and collateral requirements and as well as registration.

### 3. Comments Regarding Derivatives: Registration

FortisBC understands the registration requirements being consulted on in this paper to apply to derivative dealers, derivative advisers, large derivative participants (“LDPs”) and certain individuals who are employed by derivative dealers, advisers or LDPs only. As such, FortisBC believes the regulations flowing out of this consultation should clearly define “derivative dealers”, “derivative advisers” and “large derivative participants” so that market participants can easily establish whether they fit within the categories required to register. Further, the regulations should clearly establish that the registration requirements do not apply to market participants who do not fit within the categories of dealer, adviser, or LDP.

FortisBC notes with interest the suggested exemption set out in Section 8.1 for exemption from Registration Requirements for derivative dealers where the dealer is already subject to regulation by other entities with regulatory responsibility. We suggest a similar exemption should be available to end-users with respect to the reporting of trading activities to a trade repository. In the case of FortisBC, our financial hedging and physical commodity purchases and trading strategies and plans are reviewed and approved by the British Columbia Utilities Commission on a regular basis before their implementation. As a result, if FortisBC is also required to report its trades to a trade repository, it will be undertaking duplicative reporting.

FortisBC would like to reiterate its concern regarding the fees that may be charged by trade repositories to cover costs relating to data reporting and access and also those relating to registration. We would like to emphasize that these fees should not be material in amount or change significantly from year to year as they will be costs that our customers will have to pay. As a regulated utility, FortisBC’s costs relating to managing costs for customers are passed on to customers through rates.

**Q2: What is the appropriate standard for determining whether a person is a qualified party? Should the standard be based on the financial resources or the proficiency of the client or counterparty? If the standard is based on financial resources should it be based on the net assets of the client or counterparty, gross annual revenues of the client or counterparty, or some other factor or factors?**

FortisBC does not have any opinion on which standard is used to determine whether a person is a qualified person; however, FortisBC believes this standard should include FortisBC. FortisBC believes that it has both sufficient financial resources and sufficient sophistication to allow it to bear the risk of loss and to make responsible investment decisions when participating in the derivatives markets. However, FortisBC believes that any regulations establishing the definition of a qualified party should not also require end-users to establish whether their counterparties meet this definition. Any such “know your client” obligations should be limited to dealers and advisers who may already have, or would more appropriately have a fiduciary duty

to their client or counterparty. Consistent with the foregoing, FortisBC suggests that trades should not be void nor voidable should a counterparty not be a qualified person.

**Q13: Is the Committee's proposal to implement a requirement on registrants to "act honestly and in good faith" appropriate?**

FortisBC supports a requirement that registrants act honestly and in good faith.

4. Conclusion

FortisBC appreciates the Committee's consideration of comments in developing the derivatives regulation. FortisBC has submitted its concerns and comments in the interests of managing its gas and power supply and costs for its customers. FortisBC welcomes further discussion of these comments and concerns if it is required and would like to have the opportunity to review and comment on future papers and provincial rules.

Please direct any further questions to Nina Virdee at (604) 592-7859.

Yours very truly,

*Roger Dall'Antonia*

VP, Strategic Planning, Corporate Development & Regulatory Affairs

**FortisBC Energy Inc.**