

Report to Council



Date: April 26, 2012
File: 0505-15
To: City Manager
From: Cindy McNeely, Electrical and Administration Manager
Subject: Wholesale Power Agreement - FortisBC INC.

Recommendation:

THAT Council approves extending the current power supply agreement with FortisBC for another 23 months (February 29, 2012 - March 1, 2014) in accordance to the terms and conditions outlined in the attached agreement and form part of this report of the Electrical Administration Manager dated April 26, 2012.

AND THAT the Mayor and City Clerk be authorized to execute the extended Agreement for Supply of Electricity - Wholesale Service between FortisBC Inc. and the City of Kelowna.

Purpose: The City of Kelowna has an existing power supply agreement with FortisBC which expired and needs to be extended. Only the term of the agreement will be changed and the existing agreement is proposed to be extended to March 1, 2014.

Background: The following information applies to the City of Kelowna Electrical Utility, which supplies power to approximately 14,700 residents and businesses in the city. The electrical boundary for the City extends north from KLO Road to Knox Mountain Drive and East from the lake to east of Spall Road north of Highway 97 and Gordon Drive south of Highway 97 (map attached).

As a municipality the City of Kelowna along with the Cities of Penticton, Nelson, Grand Forks and District of Summerland are all eligible to purchase Wholesale Power for resale through FortisBC under rate tariff "Schedule 40 - Wholesale Service -Primary Power". Under this wholesale tariff FortisBC generates approximately 48 per cent of their own power and purchases 30 per cent from Columbia Power Corp (Brilliant Agreement), 22 per cent from BC Hydro and about one per cent off the open market. They usually have surplus sales during the year of one per cent. In order to obtain this wholesale tariff rate the City is subject to a signed written agreement.

The City of Kelowna's current wholesale power purchase agreement terminated in February 2010. Due to FortisBC's lengthy and ongoing negotiations with FBCUC regarding the cost of

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the Cost of Service Hearing this agreement has been sitting in abeyance. Both the City, City's Solicitor and FortisBC have now reviewed the current agreement and feel only the "Term of the Agreement" change is necessary at this time.

The following summarizes a few key points of the agreement and outlines the potential affects/benefits to the City.

1. **Access Principles Agreement**

This is a clause in the agreement and probably the most important for us as municipalities.

The Interior Municipal Electrical Utilities (IMEU) negotiated through a "Negotiated Settlement Process" (NSP) in September 1998 with WKP (now FortisBC) and the British Columbia Utilities Commission (BCUC), the right to leave its current electricity supplier (given proper notice) if the market appears to be beneficial for the municipality and return back to its original supplier if and when the market is non-beneficial.

Key point of this clause is that FortisBC and BCUC recognized that all IMEU members are in a unique situation because they actually have rights to a "Stranded Benefit" with their current supplier instead of having to pay for a "Stranded Asset" not like the scenario that happened in California and Ontario where the customers are required to pay down any utility debt.

2. **Duty to Act Prudently in Arranging for Electricity Supply**

This clause indicates that FortisBC has a duty not to be imprudent when arranging for the supply of electricity and FortisBC will be liable to the City for any loss, injury, damage or expense caused to the City if the BCUC determines that FortisBC has failed to meet its duty not to be imprudent.

Key point of this clause is that FortisBC is now buying and selling power on the open market and at times creates risk for the end use customer such as the City. If FortisBC is found to be imprudent the City can make claim on any loss.

3. **Billing Adjustments**

This is a clause added to capture suspension or reduction in service which may automatically create a peak demand on the monthly power bill. FortisBC and the City have mutually agreed on an adjustment if an occurrence like this should happen. The adjustment shall be determined in consideration of weather conditions and previous load experience.

Key point being that if a power outage occurs, once the system powers back up, if the peak demand created by FortisBC has artificially spiked a high demand charge to the City this will not form part of the City's monthly billing record.

It should also be noted that as part of City's Electric Utility Public, Private, Partnership RFP (dated 1999), it was identified that the current supplier of electricity was providing the best deal for the City for Wholesale Power and the City should continue its contract with its now current provider, FortisBC.

This agreement between FortisBC and the City of Kelowna does not address the wholesale electrical rate. Rates are approved on an annual basis by the BCUC as part of the FortisBC revenue requirements application, through which wholesale rates are set for all FortisBC wholesale customers, including the City of Kelowna.

Financial/Budgetary Considerations:

Circulated to the Finance Department for information only.

Considerations not applicable to this report:

Legal/Statutory Authority:

Legal/Statutory Procedural Requirements:

Existing Policy:

Personnel Implications:

External Agency/Public Comments:

Communications Comments:

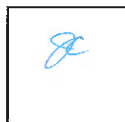
Alternate Recommendation:

Submitted by:



C McNeely, Electrical and Administration Manager

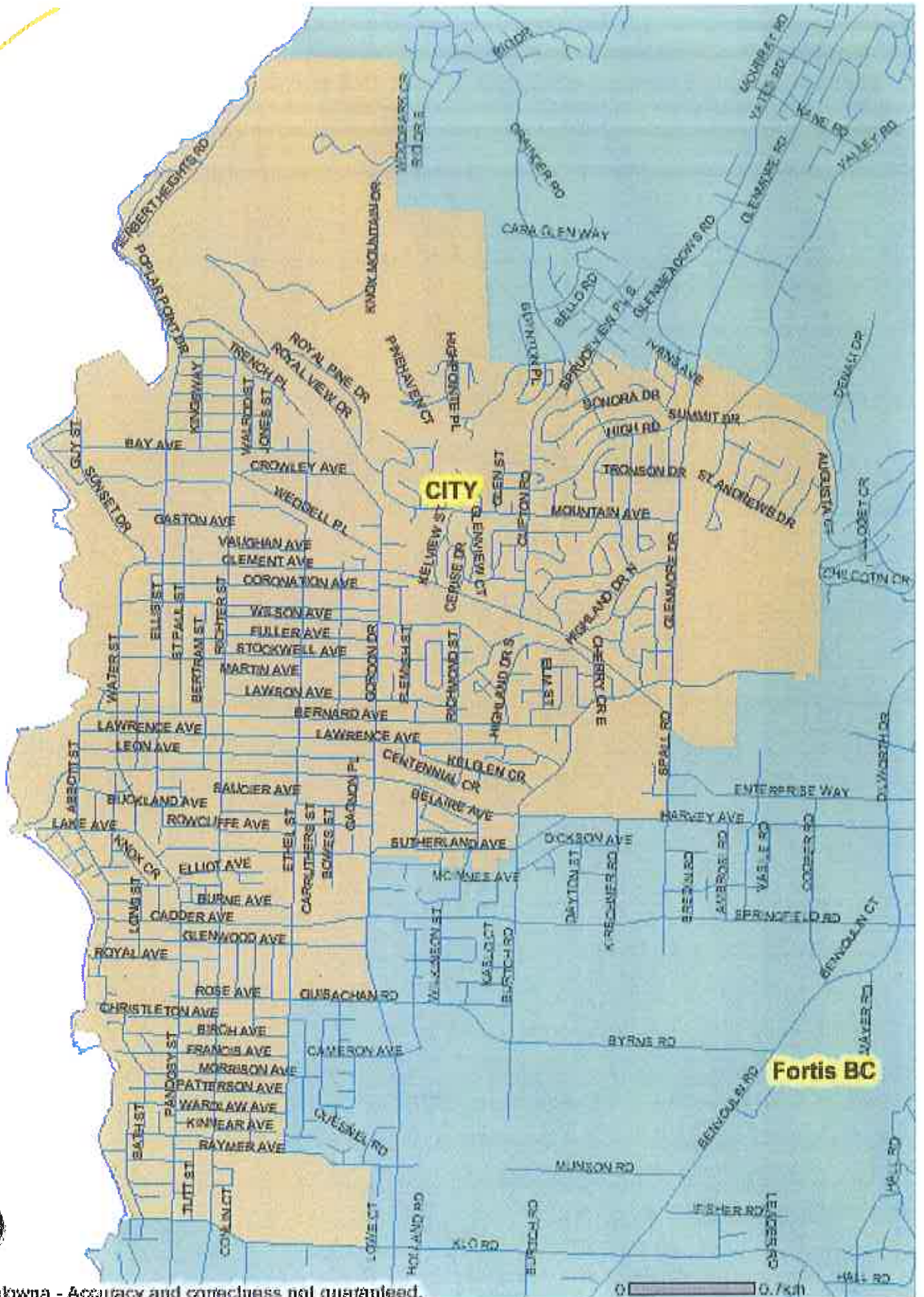
Approved for inclusion:



J. Creron, Director - Civic Operations

cc: Director of Financial Services
General Manager, Community Services
Director, Community and Media Relations

Attachments



City of Kelowna - Accuracy and correctness not guaranteed.

AGREEMENT FOR THE SUPPLY OF ELECTRICITY

WHOLESALE SERVICE

FORTISBC INC.

and

THE CITY OF KELOWNA

FORTISBC INC.

THE CITY OF KELOWNA

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THIS AGREEMENT is made as of the 29th day of February, 2012.

BETWEEN:

FORTISBC INC.

(the "Company")

AND:

THE CITY OF KELOWNA

(the "Customer")

WHEREAS the Company is a supplier of electricity in the southern interior region of the Province of British Columbia;

AND WHEREAS the Customer wishes to purchase electricity from the Company for its own use and for resale to customers within the Customer's Service Area as hereinafter described;

AND WHEREAS both the Company and the Customer have agreed to the principles set forth in the Proposed Settlement Agreement resulting from the British Columbia Utilities Commission Decision dated March 10, 1999.

NOW THEREFORE this Agreement witnesses that in consideration of the terms and conditions hereinafter set forth the Parties covenant and agree as follows:

1. DEFINITIONS

In this Agreement:

- a) **"Check Metering"** means any measurement device or system installed, owned and maintained by the Customer to check the measurements and calculations carried out by the Metering System.
- b) **"Commission"** means the British Columbia Utilities Commission.
- c) **"Commodity Service"** means the supply of power, expressly excluding the services set forth in the Transmission Services Tariff, to the Customer by a third party and may include full or partial supply of the load requirements of the Customer.
- d) **"Demand Limit"** means the capability of the Company's facilities at each of the Points of Delivery, specified in Appendix A attached hereto.

- e) **"Good Utility Practice"** means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.
- f) **"Maximum Demand"** means the highest month's rate of taking of electricity by the Customer recorded in kilovolt-amperes by the Company from time to time.
- g) **"Metering System"** means the measurement device or system installed, owned and maintained by the Company used to determine the Customer's electricity consumption.
- h) **"Parties"** means both the Company and the Customer.
- i) **"Point of Delivery"** means the point or points at which the Customer's distribution system attaches to the Company's facilities, as specifically described in Appendix A attached hereto.
- j) **"Power Factor"** means the percentage determined by dividing the Customer's demand measured in kilowatts by the same demand measured in kilovolt-amperes.
- k) **"APSA"** means the Access Principles Settlement Agreement, also known as the Proposed Settlement Agreement, as amended from time to time, attached as Appendix A to the Commission Decision dated March 10, 1999 in the matter of the Access Principles Application and attached hereto as Appendix C.
- l) **"Service Area"** means the Customer's service area, the boundaries of which are shown by the red line on the map identified as the Customer's Electrical Service Boundaries, attached hereto as Appendix B and shall include any area(s) added from time to time by the municipality.
- m) **"Services"** means the supply and delivery of power to the Customer by the Company under the Agreement.
- n) **"Term"** means the period defined by subsection 2.01 herein.
- o) **"Transmission Services Tariff"** means the tariff as approved from time to time by the Commission for the use by a third party supplier to deliver power to the Customer or by the Customer to deliver power to a third party on the

transmission and distribution facilities of the Company, including ancillary services required for the delivery of power.

2. TERM OF AGREEMENT

2.01 Term

This Agreement shall be effective as of February 29, 2012 and shall continue for a term of two years thereafter, terminating on March 1, 2014.

2.02 Early Termination

If the Customer elects to engage any third party supplier to perform the Commodity Services and notice as provided for in the APSA is given to the Company the Customer may terminate this Agreement prior to expiry of the Term. If this Agreement terminates pursuant to this subsection, the Customer may then be liable to pay such costs, including stranded costs, if any, as directed by the Commission.

3. ACCESS PRINCIPLES SETTLEMENT AGREEMENT

3.01 Access Principles Settlement Agreement Rights

Nothing contained in this Agreement shall be construed as affecting in any way the rights of either Party as set forth in the APSA (Appendix A to Commission Order No. G-27-99) nor as affecting in any way the rights of either Party to unilaterally make application to the Commission for further directions or orders from the Commission related to the terms and conditions of the APSA.

3.02 Regulatory Principles

If any provision of this Agreement is declared by the Commission to be inconsistent with the regulatory principles set forth in the APSA, the Parties shall amend that provision in such reasonable manner as achieves the intention of the declaration of the Commission. In the event the Parties cannot agree on such amendments, either Party shall be entitled to seek further direction from the Commission and the Parties hereby agree to be bound by such direction from the Commission.

4. CONDITIONS OF SUPPLY

4.01 Supply of Electricity

During the term of this Agreement, except in an emergency described in subsection 6.03, the Company shall supply up to the Demand Limit electricity required by the Customer solely for its own use and for supplying the needs of its customers within the

Service Area. The Company shall supply electricity to the Points of Delivery through suitable plant and equipment in accordance with Good Utility Practice on a continuous basis, except as provided in this Agreement. The responsibility of the Company for the delivery of electricity to the Customer shall cease at the Points of Delivery.

4.02 Duty to Act Prudently in Arranging for Electricity Supply

Notwithstanding the provisions of subsection 4.03 and 4.04 the Company has a duty not to be imprudent in arranging for the supply of electricity required pursuant to subsection 4.01 of this Agreement and the Company will be liable to the Customer for any loss, injury, damage or expense caused to the Customer if the British Columbia Utilities Commission determines that the Company has failed to meet its duty not to be imprudent.

4.03 Failure to Deliver

At any time during a Company actual or anticipated shortage of electricity, or in the event of a breakdown or failure of generating, transmitting or distributing plant, lines or equipment, or in order to comply with the requirements of any law, the Company shall have the right to curtail or discontinue the supply of electricity to the Customer or reduce the voltage or frequency of the electricity supplied. To the extent that it is practical and reasonable, the Company will not unduly discriminate in favour of or against the Customer in the supply of electricity.

4.04 Liability, Indemnity, Limitations and Requirements for Notice with respect to Variations or Defects in Supply

The Company does not warrant a continuous supply of electricity or the maintenance of unvaried frequency or voltage and the Company, its servants or agents, shall not be liable to the Customer for any loss, injury, damage or expense of the Customer caused by or resulting from any suspension, discontinuance or defect in the supply of electricity, alleged or caused by an act or omission of the Company, its servants or agents, except for direct loss or damage to the physical property of the Customer, resulting from willful misconduct or negligent acts or omissions by the Company, its servants or agents.

It is also further agreed that the Company shall not be liable for loss or damage which could have been prevented, in whole or in part, if the Customer had taken reasonable protective measures.

It is also further agreed that the Company shall not be liable under this subsection unless the Customer has given notice to the Company of a potential claim within 30 days of when the Customer knew or ought to have known of the alleged loss or damage.

The liability of the Company under this clause applies only when the loss or damage arising from a single occurrence exceeds the sum of \$10,000.00. In no event shall the liability of the Company exceed the sum of \$10,000,000.00 for any single occurrence.

4.05 Mutual Indemnity

- (a) The Company will indemnify and save harmless the Customer from and against any and all actions, proceedings, claims and demands that may be made against, and all loss or damage suffered by, the Customer by reason of any damage or injury to any person or property, including the property of the Customer, resulting from any electrical facilities owned by the Company located within the Service Area.
- (b) The Customer will indemnify and save harmless the Company from and against any and all actions, proceedings, claims and demands that may be made against, and all loss or damage suffered by, the Company by reason of any damage or injury to any person or property, including the property of the Company, resulting from any electrical facilities owned by the Customer.

4.06 Commodity Services

The Customer shall have the rights set forth in the APSA to purchase power from a third party supplier and to meet part or all of its load requirements from Commodity Services.

4.07 Limits on Other Supply

Unless the Customer has exercised its rights pursuant to the APSA, the Customer shall, during the Term, only purchase electricity from the Company and the Customer's own customers for its own use and the use of its customers within the Service Area. The Customer may obtain 15 MWs of electricity from new generation owned and operated by the Customer or the Customer's customers.

4.08 Retail Access on the Customer's Facilities

The Customer shall give notice, consistent with the APSA requirements, in writing to the Company prior to providing the Customer's transmission and distribution services for the direct delivery of third party supply to a customer of the Customer.

4.09 Sales out of Service Area

If service to a customer outside or within the Service Area would require duplication of existing electrical plant which duplication could be avoided, then the Party that has the right to serve that customer pursuant to this Agreement may consent to the other Party serving that customer, such consent not to be unreasonably delayed or withheld.

5. CONDITIONS OF SERVICE

5.01 Supply Characteristics

The electricity to be supplied to the Customer shall be three-phase alternating current, having a nominal frequency of 60 hertz and the nominal voltages designated in Appendix A for the Points of Delivery, as amended from time to time.

The Company is a signatory of the Western Systems Coordination Council (WSCC) Reliability Management System (RMS) Agreement. The Company is committed to the service reliability standards detailed in this document and is liable for financial sanctions that WSCC can impose for non-adherence to those standards.

Additionally, the Commission may exercise its authority by whatever means it deems appropriate in the event that frequency or voltage excursions occur that could reasonably have been prevented.

5.02 Underground Facilities

When the Customer requests the construction or installation of underground facilities, the Customer shall be responsible for the difference between the cost of constructing or installing the facilities underground and the cost of constructing or installing similar facilities above ground.

5.03 Ownership of Facilities

Notwithstanding the payment of any contribution by the Customer toward the cost of facilities pursuant to subsection 5.02, the Company shall retain full title to all facilities.

5.04 Revenue Guarantee

The Customer may be required to provide a revenue guarantee if the Company's facilities must be upgraded significantly to meet a proposed increase in the Customer's load in excess of 5000 kVA resulting from either a new customer or the increased load of an existing customer. The revenue guarantee will be equal to the cost of upgrading the facilities and will be refunded, with interest, in equal installments over a period of five years at the end of each year of continued service to that customer at the increased load. The revenue guarantee shall be in the form of cash, surety bond or other form of security satisfactory to the Company.

6. INTERCONNECTED OPERATION

6.01 Obligation of the Company

The maintenance by the Company of the agreed frequency and voltage at the Points of Delivery, set out in Appendix B, shall constitute delivery of electricity under this

Agreement, whether or not any electricity is taken by the Customer, and shall, subject to subsection 10.01 constitute the complete discharge by the Company of its obligations to the Customer for Services.

6.02 Use of Facilities

Each Party shall cooperate with the other to secure the most efficient use of the plant and equipment of the other Party, which may include wheeling power through the other Party's transmission and distribution circuits to facilitate supply to either Party or its customers.

6.03 Exceeding Demand Limit

The Customer shall not take electricity in excess of the Demand Limit of a Point of Delivery without the prior written consent of the Company, unless an emergency condition requires that the Customer take in excess of the Demand Limit, and then only for the duration of the emergency condition. The Customer shall immediately advise the Company when such an emergency condition occurs. The Customer shall reduce immediately its use of electricity to the Demand Limit for that Point of Delivery or to a specified limit above the Demand Limit upon the oral or written request of the Company.

6.04 Restrict or Suspend Service

If the Customer fails to comply with the request of the Company pursuant to the previous paragraph, the Company may, when necessary in the opinion of the Company, restrict or suspend the supply of electricity to the Customer at the Point of Delivery summarily without further notice.

6.05 Avoidance of Excess Loads

The Customer shall provide for interconnection of its lines so as to transfer and arrange the loads taken at each Point of Delivery to balance as far as is practicable the loads at each Point of Delivery given the Demand Limit at each Point of Delivery.

6.06 Maintenance of Adequate Supply Capability

If at any time, except in an emergency condition described in subsection 6.03, the Customer notifies the Company that it has taken electricity in excess of 95 percent of the Demand Limit of a Point(s) of Delivery, the Company shall take appropriate measures at no cost to the Customer to increase the supply capability at the Point(s) of Delivery to bring the Customer's anticipated future demand to or below 95 percent of the Demand Limit.

6.07 Customer's Facilities

The Customer shall be responsible for designing, constructing, installing and maintaining all auxiliary and interconnecting equipment on the Customer's side of the Point of Delivery and the Customer shall have ownership rights in all such auxiliary and interconnection equipment.

6.08 Installation of Facilities

All electrical facilities owned by the Customer from the Points of Delivery up to and including the Customer's overload and overcurrent protection and isolation devices shall be approved and coordinated in a manner satisfactory to the Company, and may be inspected by the Company from time to time. Notwithstanding the foregoing, the Company shall not require a higher standard for the Customer's electrical facilities than the standard of the Company facilities supplying that portion of the Customer's facilities.

6.09 Coordination of Protective Devices

Either Party shall notify the other Party in advance of any changes to its facilities that may affect the proper coordination of protective devices between the two systems.

6.10 Power Factor

The Customer shall endeavor to regulate its load so that the Power Factor at each Point of Delivery will be no less than 90 percent, lagging.

6.11 Load Fluctuations

The Customer shall maintain and operate its equipment, and shall endeavor to ensure that its customers' equipment is operated in a manner that will not cause sudden fluctuations to the Company's line voltage, or introduce any influence into the Company's system deemed by the Company to threaten to disturb or disrupt its system or the plant or property of any other customer of the Company or of any other person.

6.12 Hazard to Property and Public Safety

Each of the Parties shall operate and maintain electrical plant within the Service Area so as to avoid hazard to the property of the other Party or danger to persons. To avoid hazard to property and to ensure public safety, the Parties agree that:

- (a) All electrical generating facilities intended to be operated within the Service Area and in parallel with the Company's electrical system shall be installed only after the Company has been provided with full particulars of the facilities and the Company has given its written approval that the proposed operation of the facilities is satisfactory to the Company, acting reasonably. Upon completion, the Company shall be permitted to inspect the installation.

- (b) The Customer shall ensure that any parallel generating facility installed shall not backfeed into the Company's system or facilities unless the Customer receives express permission in writing from the Company, which will not be unreasonably withheld.
- (c) The Customer shall ensure that all standby generation facilities within the Service Area to provide electrical service in the event of a disruption of service shall be installed so that they remain at all times electrically isolated from the Company's electrical system either directly or indirectly, and shall be installed in such a way that it is not possible for the facilities to operate in parallel with the Company's electrical system.

6.13 Permit to Install & Access

If any equipment or facilities associated with any Point of Delivery and belonging to a Party to this Agreement are or are to be located on the property of the other Party, a permit to install, test, maintain, inspect, replace, repair and operate during the term of this Agreement and to remove such equipment and facilities at the expiration of the Term, together with the right of entry to said property at all reasonable times is hereby granted by the other Party.

The rights hereby granted shall be exercised subject to prior notification and to any reasonable requirement of the granting Party necessary for the safety or security of Party's facilities and employees and the continuity of the Party's operations.

6.14 Use of City Streets and Lanes

During the existence of this Agreement the Company shall have the right and easement to enter upon and use the streets and lanes within the boundaries of the Customer for all purposes connected with the furnishing of electricity to the Customer, and, without limiting generality, for the purpose of erecting, maintaining, repairing, replacing, removing or using poles, wires, meters, machinery and equipment, subject to the plan of any new erection of pole lines receiving such reasonable approvals as the Customer deems necessary.

6.15 Drawings to be Provided

If either Party is required or permitted to install, test, maintain, inspect, replace, repair, remove or operate equipment on the property of the other, the owner of such property shall furnish the other Party with accurate drawings and wiring diagrams of associated equipment and facilities, or, if such drawings or diagrams are not available, shall furnish accurate information regarding such equipment or facilities. The owner of such property shall notify the other Party of any subsequent modification which may affect the duties of the other Party in regard to such equipment, and furnish the other Party with accurate revised drawings, if possible.

6.16 Inspection of Facilities

Each Party may, for any reasonable purpose under this Agreement, inspect the other Party's electrical installation at any reasonable time after giving suitable notice. Such inspection, or failure to inspect, shall not render such Party, its officers, agents, or employees, liable or responsible for any injury, loss, damage, or accident resulting from defects in such electric installation, or for violation of this Agreement. The inspecting Party shall observe written instruction and rules posted in facilities and such other necessary instructions or standards for inspection as the Parties agree to. Only those electric installations used in complying with the terms of this Agreement shall be subject to inspection.

7. PLANNING AND OPERATING INFORMATION

7.01 Increases in Maximum Demand

The Customer shall notify the Company in writing of any anticipated additional single load in excess of 5000 kW A resulting from a new customer or the increased load of an existing customer, providing as much advance notice of the increase as can be given in the circumstances. The Company shall endeavor to provide the service requested by the date the increase is intended to become effective, or as soon thereafter as is practicable.

7.02 Records and Forecasts

Each Party shall retain and make available upon request for the other Party log sheets, records of recording meters, and any other readily available information of an operational character relating to the electricity supplied under this Agreement, excluding non-public records of a financial or business nature relating to the Customer's utility undertaking.

7.03 General Information Requests

The Parties agree to cooperate in the full exchange of such planning and operating information as may be reasonably necessary for the timely and efficient performance of the Parties' obligations or the exercise of rights under this Agreement. Such information shall be provided on a timely basis and no reasonable request shall be refused.

7.04 Load-Resource Forecast

By June 30 of each year or with two months written notice by the Company, whichever occurs first in the current calendar year, the Parties agree to exchange a five year forecast of loads and resources for their respective electrical systems including a forecast of their Maximum Demand at each Point of Delivery normalized for average weather conditions and shall also provide a forecast of energy consumption for each year. These forecasts shall include programs for resource acquisition, transmission and

firm loads. The degree of detail in these forecasts shall be decided by mutual agreement.

7.05 Load from Previous Year

Before the end of November in each year, the Customer shall provide the Company with a record of the number of customers and load by customer class for the previous calendar year.

7.06 Scheduled and Maintenance Outages

Each party shall submit to the other Party a list of outages scheduled for inspection, testing, preventative maintenance, corrective maintenance, repairs, replacement or improvements that might affect the delivery of electricity under this Agreement, providing as much advance notice of the outage as can be given in the circumstances. The Parties shall use reasonable efforts to keep such schedules current and to revise such schedules so as to minimize the impact on the other Party's system.

8. METERING

8.01 Installation

The Company shall furnish, install and maintain the Metering System and the Customer, in accordance with subsection 8.03, may furnish, install and maintain the Check Metering, each at their own expense, at the Points of Delivery, which shall accurately measure and record electricity within the limits prescribed by the federal Department of Consumer and Corporate Affairs ("Prescribed Limits") and pursuant to subsection 8.07.

8.02 Totalizing Metering

The Company shall also, at its expense, install totalizing metering to compensate for demand diversity at the different Points of Delivery.

8.03 Check Metering

Check Metering and connecting equipment and facilities to be furnished by the Customer shall be satisfactory to the Company, and shall be installed in accordance with Good Utility Practice and in a manner satisfactory to the Company, acting reasonably.

8.04 Meter Tests and Adjustments

Unless otherwise agreed to by the Parties, each Party shall, at its own expense, arrange to have its meters tested by an inspector or accredited meter verifier authorized pursuant to the federal Electricity and Gas Inspection Act and regulations, as amended from time to time.

8.05 Inspection of Metering Equipment

Notwithstanding subsection 8.04, either Party may, after giving two days' notice, inspect in the presence of the other Party, the metering equipment installed in accordance with this subsection by the other Party, and may request that that metering equipment be tested by an inspector or authorized meter verifier.

- (a) If the result of any test performed pursuant to this subsection shows that any of the metering equipment is not recording within the Prescribed Limits, then the owner of that metering equipment shall pay for the costs of testing.
- (b) If after testing the metering equipment is found to be recording within the Prescribed Limits, the Party that made the request shall pay for the costs of testing.

8.06 Calculating the Amount to be Paid

The measurements recorded by the Metering System shall be used for calculating the amount to be paid for the electricity delivered to the Customer, except in the following circumstances:

- (a) If a totalizing meter is temporarily not in service or is found after testing to be not recording within the Prescribed Limits then the measurements recorded by the Customer's totalizing meter shall be used to determine the total consumption and demand, or, in the absence of a Customer totalizing meter, the Company's meters shall be used to determine the total consumption and demand taking into account established load diversity until the Company's totalizing meter has been recalibrated;
- (b) If the Metering System is not in service or is found after testing to be not recording within the Prescribed Limits then the measurements recorded by the Customer's totalizing meter or, in the absence of a totalizing meter, the Customers' meters shall be used for calculating the amount to be paid for electricity delivered to the Customer;
- (c) If neither the Metering System nor the Check Metering are in service or are found after testing to be not recording within the Prescribed Limits then the amount of electricity delivered since the previous billing shall be estimated from the best information available.

8.07 Prescribed Limits

If at any time the testing described in subsections 8.04 and 8.05 shows that the metering equipment was not recording within the Prescribed Limits, and if such recordings were used for billing purposes, then the billings shall be adjusted as prescribed by the Electricity and Gas Inspection Act.

8.08 Access to Meters

Each Party shall have the right, by giving suitable notice, to enter the property of the other Party at all reasonable times for the purpose of reading any and all meters mentioned in this Agreement which are installed on such property.

9. INVOICES AND PAYMENT

9.01 Meter Reading

Meters shall be read at the end of each month. An accurate record of all meter readings shall be kept by the Company and shall be the basis for determination of all bills rendered for service.

9.02 Invoices and Payment

The Company shall render a billing invoice monthly pursuant to the terms of the Company's Electric Tariff, as amended from time to time:

9.03 Rates for Electricity

The Customer shall pay for Services during the term of this Agreement in accordance with the tariff applicable to the Customer filed with the Commission, as amended from time to time.

9.04 Demand Period and Demand

For billing purposes, Demand Period means the period, expressed in minutes, over which meter readings are integrated to obtain the Demand, which is the power measured in kilovolt amperes (kV A), or multiples thereof, at the Point of Delivery. In this Agreement and for billing purposes, the Demand Period shall be a rolling window until January 1, 2001 and thereafter shall be a sixty minute clock hour interval.

9.05 Billing Adjustments

If the Company suspends or reduces Service for reasons other than a request by the Customer or an interruption of Service caused by the Customer's system, and the suspension or reduction results in a peak Demand which would otherwise be used for billing purposes, the Demand in the Demand Period immediately following restoration of service may be reduced, by mutual agreement, to an estimate of what the Demand would have been if Service had not been suspended or reduced. The estimate shall be determined in consideration of weather conditions and previous load experience.

9.06 Late Payments

If the amount due on any invoice has not been paid in full after twenty calendar days from the billing date shown on the invoice, a late payment charge shall be applied to the

unpaid balance, and the resulting amount will be shown and identified on the next invoice to be rendered. The late payment charge shall be as specified in the Company's Electric Tariff, as amended from time to time.

9.07 Taxes

In addition to payments for electricity, the Customer shall pay to the Company the amount of any sales tax, goods and services tax, or any other tax or assessment levied by any competent taxing authority on any electricity delivered pursuant to this Agreement.

9.08 Payment of Accounts

The Customer shall pay to the Company the amount of the billing within 20 calendar days from the date appearing on the statement.

10. CONTINUITY OF SUPPLY

10.01 Standard of Performance

The Company shall perform the Services with skill, care, and diligence consistent with Good Utility Practice and consistent with directions from the Commission, including the quality performance standards, if any, approved by the Commission from time to time.

10.02 Interruptions and Defects in Service

The Company shall avoid interruption of delivery of electricity, but nevertheless shall not be liable to the Customer for any loss or damage owing to failure to supply electricity, or owing to other abnormal conditions of supply resulting from force majeure as defined in subsection 12.01.

10.03 Suspension of Supply

Either party shall have the right to demand the temporary suspension of, or to suspend temporarily, the delivery or taking of electricity, as the case may be, whenever necessary to safeguard life or property, or for the purpose of replacing, repairing or maintaining any of its apparatus, equipment, or works. Such reasonable notice of the suspension as the circumstances permit shall be given by one party to the other.

10.04 Discontinue Service

The Company may discontinue the supply of electricity to the Customer at a Point of Delivery for the failure by the Customer to commence remedial action acceptable to the Company, within 15 days of receiving notice from the Company, to correct the breach of any significant practice, term or condition to be observed or performed by the Customer under this Agreement. The Company shall be under no obligation to resume service until

the Customer gives assurances satisfactory to the Company that the breach which resulted in the discontinuance shall not recur.

10.05 Obligations Continue

Discontinuance of Services by the Company pursuant to the provisions of this Agreement shall not relieve the Customer of any obligation under this Agreement, or alter any of the obligations of the Customer under this Agreement.

10.06 Other Remedies

The Company's right to discontinue the supply of electricity under this Agreement shall not operate to prevent the Company from pursuing, separately or concurrently, any other remedy it may have under this Agreement or by operation of law.

11. REMOVAL OF FACILITIES UPON TERMINATION

After the termination of this Agreement, the Company shall have the right to, and must expeditiously if requested by the Customer, remove from the property owned or controlled by the Customer any and all electrical apparatus and equipment which the Company owns and has installed on the property and the Company shall leave the property in good repair after such removal.

12. GENERAL PROVISIONS

12.01 Force Majeure

Neither Party to this Agreement shall be considered to be in default in the performance of any of its obligations under this Agreement to the extent that performance of those obligations is prevented or delayed by any cause which is beyond the reasonable control of the Party prevented or delayed by that cause. If either Party is delayed or prevented from its performance at any time by any act, omission or neglect of the other Party Of its representatives, or by an act of God or the public enemy, or by expropriation or confiscation of facilities, compliance with any order of any governmental authority or order of a court of competent jurisdiction, acts of war, rebellion or sabotage, fire, flood, explosion, riot, strike or other labour dispute beyond the reasonable control of the Party or any unforeseeable cause beyond the control and without the fault and negligence of the Party, the Party so prevented or delayed shall give notice to the other Party of the cause of the prevention or delay but, notwithstanding giving of that notice, the Party shall promptly and diligently use reasonable efforts to remove the cause of the prevention or delay.

12.02 Notices

Any notice, direction or other instrument required or permitted to be given under this Agreement in writing shall be sufficient in all respects if delivered, or if sent by fax, or if sent by prepaid registered post in Canada to the Parties at their respective addresses as they appear in subsection 12.03, or to any substitute address of which the Party sending notice has had notice in writing.

12.03 Addresses

Any notice, direction or other instrument shall be delivered or sent to the following addresses:

- (a) To the Company:
FortisBC Inc.
Suite 100, 1975 Springfield Road
Kelowna, BC V1Y 7V7
Attention: Bob Gibney
Fax Number: 250-717-0802

With a copy to the Legal Department at:
Fax Number: 1-866-266-7976

- (b) To the Customer:
City of Kelowna
City Hall
1435 Water Street
Kelowna, BC V1Y 1J4
Attention: City Clerk

12.04 Dates

Any notice, direction, or other instrument shall be deemed to have been received on the following dates if,

- (a) sent by fax, on the business day next following the date of transmission.
- (b) delivered, on the business day next following the date of delivery.
- (c) sent by registered mail, on the fifth business day following its mailing, provided that if there is at the time of mailing or within two days thereafter a mail strike, slowdown, lockout or other labour dispute which might affect delivery, then any notice, directions or other instrument shall only be deemed to be effective if delivered or sent by fax.

12.05 Disputes

If any difference or dispute occurs regarding any matter arising under this Agreement, either Party may request that the Commission settle the difference or dispute. If the Commission declines to settle the dispute then the dispute shall be arbitrated pursuant to the Commercial Arbitration Act of British Columbia.

12.06 Invalidity

If any provision of this Agreement or the application of any provision to any Party or circumstance is declared or held to be wholly or partially invalid, this Agreement shall be interpreted as if the invalid provision had not been a part hereof so that the invalidity shall not affect the validity of the remainder which shall be construed as if this Agreement had been executed without the invalid portion. The Company and the Customer shall, either independently, jointly or in concert with other wholesale customers of the Company, make all reasonable efforts to validate any portion of this Agreement declared or held to be invalid.

12.07 Headings

The headings in this Agreement have been inserted for convenience of reference only, and shall not affect the construction or interpretation of this Agreement.

12.08 Enurement

This Agreement shall be binding upon and shall enure to the benefit of the Parties hereto and of their respective successors and assigns.

12.09 Governing Law

Notwithstanding anything to the contrary in this Agreement, this Agreement the Company shall comply fully with all applicable federal, provincial and municipal laws (including bylaws) in effect from time to time.

12.10 Entire Agreement

This Agreement and the Appendices attached hereto are intended by the Parties to be the final expression of their agreement and are intended also as a complete and exclusive statement of the terms of the Agreement.

12.11 Commission Approval

This Agreement and all the terms and conditions contained in it shall be subject to the provisions of the Utilities Commission Act of British Columbia, as amended or re-enacted from time to time and to the jurisdiction of the Commission.

This Agreement and subsequent amendments including changes to the Service Area, shall not be binding on the parties until it has been approved by the Commission.

IN WITNESS WHEREOF the Parties, by the signatures of their duly authorized officers set out below, have executed this Agreement.

The CITY OF KELOWNA this _____ day of _____, 2012 by

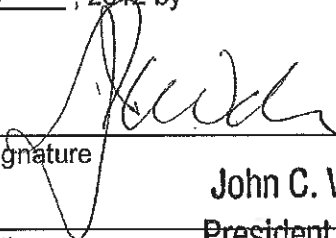
Signature

Title

Signature

Title

FORTISBC INC. this 26th day of April, 2012 by



Signature

John C. Walker

Title **President & CEO**

Signature

Title

**This is Appendix A to the Agreement for the Supply of
Electricity - Wholesale Service between
FortisBC Inc. and the
City of Kelowna**

City of Kelowna - Points of Delivery

1. Glenmore Substation

Description: Load side of billing current transponders on 13 kV Feeder No.4

Nominal Voltage Supplied: 13 kV

Demand Limit:	Summer	20 MVA
	Winter	20 MVA

2. Recreation Substation

Description: Load side of disconnect switches on 13 kV bus where Customer facilities join Company facilities

Nominal Voltage Supplied: 13 kV

Demand Limit:	Summer	60 MVA
	Winter	60 MVA

3. Saucier Avenue Substation

Description: Load side of disconnect switches on 13 kV bus where Customer facilities join Company facilities

Nominal Voltage Supplied: 13 kV

Demand Limit:	Summer	30 MVA
	Winter	30 MVA

4. Delivery to Kelowna Pollution Control Centre

Description: Delivery is from the OK mission substation via feed No.5 to the Customer's primary metering point

Demand Limit:	Summer	11.8 MVA
	Winter	11.8 MVA