

**IN THE MATTER OF THE *UTILITIES COMMISSION ACT*
R.S.B.C. 1996, Chapter 473**

and

**Re: British Columbia Transmission Corporation
Project No. 3698395 /Order No. G-70-05
Certificate of Public Convenience and Necessity
Application Vancouver Island Transmission
Reinforcement Project**

**Reply Submission of
Bradley Campbell**

April 26, 2006

Reply to BCOAPO

1. I take exception to, in its introduction, the BCOAPO's characterization of myself and other groups from Tsawwassen as "NIMBY's" whose "fundamental approach ... was that any alternative to serve Vancouver island that did not involve the use of the existing right of way through Tsawwassen was preferable, regardless of cost to ratepayers" and who could reap "direct financial benefit"¹ if their positions were accepted by the commission.

Their position, in addition to being offensive is untrue. I submit that my position has always been and continues to be that transmission infrastructure does not belong in privately owned residential backyards and that it is fundamentally incompatible with densely populated residential areas when viable, affordable options that do not present this problem are available. I also respectfully submit that I have never been involved in this process to gain financial benefit, as evidenced at 17 of my closing argument when I say that "I for one would be agreeable to owing compensation in an effort to achieve equity between the parties" if the right of way were removed, which if accepted could go some ways towards paying for whatever alternate route is chosen. However, my very real fear and one of the reasons I have chosen to intervene in these proceedings has always been that I will suffer financial hardship should the commission choose options 1 or 2.

Reply to Joint Industry Electricity Steering Committee

2. The JIESC states that "option 1 maintains EMF levels at current levels"² however according to BCTC's own submission³ the EMF levels will be higher than they currently are.

¹ BCOAPO final argument, page 3-4.

² JIESC final submission page 8, (c).

3. The JIESC states that “the unique access problems BCTC faces have been created by the property owners in **violation of the terms and conditions of the row agreements**”⁴ and goes on to quote Mr. Barrett “ and in theory we have no obligation to necessarily to repair those if they actually impede our access to our structures”.⁵

The access problems that BCTC faces with accessing this right of way were not created by the property owner’s in violation of the right of way agreements; they are created by the unique nature of this right of way. The right of way agreement states “2. The Owner hereby covenants with the Company: (a) Not to make, place, erect or maintain any building, structure, excavation, pile of material or obstruction or to plant any growth **upon the right of way** which, in the opinion of the company, might interfere with the safe and efficient operation of its works. Therefore the homes, which along with the fences that border the fronts of people’s properties and enclose the right of way on both sides and cause part of the access problem, are not built on, but up to, the right of way and not subject to the right of way agreement.

The agreement also goes on to say “3. The Company hereby covenants with the Owner: (a) to pay full compensation to the owner for any damage to any buildings outside the right of way, and to crops, livestock, drains, ditches, culverts, **fences**, bridges, roads and fruit, nuts or ornamental trees **anywhere on the land** caused by the company in the exercise of any of its rights here and without negligence on the part of the owner”. So while the right of way agreement does give BCTC/ BC Hydro the rights to clear the right of way it also acknowledges that fences, bridges, roads and trees may be placed anywhere on the land, and of course this would be open to legal interpretation, it appears to afford a *prima facie* case for compensation regarding these improvements.

³ Exhibit B1-1, table 3-6,

⁴ JIESC final submission page 14, para, 35.

⁵ Transcript 15, page 2509, lines 15 and 16.

I would also respectfully submit that at the time the houses and fences were being built that BCTC or BC hydro knew this construction was under way and did nothing to prevent the right of way from being enclosed and has in fact benefited from the homeowners doing much of the right of way maintenance for them, therefore it is not only incorrect but unfair to blame the homeowners for BCTC's problems with access to this right of way.

Reply to the Commercial Energy Consumers of British Columbia

4. The CEC in its final argument add 192 and 193 state "given that we're dealing with 50 properties related to the portion of the transmission lines were BCTC is proposing to go underground" is incorrect on the evidence as there are over 100 homes with bread of ways encompassing the property therefore their calculations that need to be amended to show that in 192 over \$10 million would be the compensation and in 193 under 130,000 per house (this error is repeated at 209) would be the correct figure based on their argument, which by pointing this out I am not proposing I agree with.

Reply to BC Hydro and Power Authority counsel's argument

5. In its opening statements and again in the introduction to its argument BC hydro identified its primary role in these proceedings "to be "assisting in the development of a record that will permit the commission to certificate the project which will most likely be built on time, on budget, and can best accommodate, cost effectively, the need of BC hydro's customers in both the short and long-term." BC hydro believes that the lengthy proceedings over the past two months have created such a record and it is now possible to confidently determine which of the proposals to increase transmission capacity to Vancouver island is in fact

the most cost effective and will therefore best serve the public convenience and necessity as that term is used in utility commission act.”⁶

I respectfully submit that BC hydro has done everything but assist in developing a record that would permit the commission to choose the best option. I submit that BC hydro has been nothing more than a partner to BCTC and a proponent of the VITR project. In its closing argument BC hydro argues that the BCUC cannot approve the VIC project even if it is deemed to be the best solution because it has no sponsor and that neither BCTC nor BC hydro will become that sponsor. While I agree with others that BC hydro is incorrect, and that the commission can turn down BCTC’s CPCN application and direct BCTC to apply for a CPCN for the VIC project, it would seem that BC hydro is not interested in the commission choosing the best option on the merits of each project as presented at the hearings, but would like to deny the commission the ability to choose the best option based on it having no sponsor, even though BC hydro had played no small role in the loss of the sponsor for the VIC project.

If BC hydro had done what it claimed in its opening statement, then it would not have been able to say at page 14 of its closing argument that “the record in this proceeding is simply not adequate to permit general conclusions about how these issues should be resolved when comparing merchant to utility transmission projects”⁷ and “(BC hydro) is not persuaded on the record of this preceding that the financial basis on which that should occur has been established sufficient clarity to allow the commission to make a general determination on what that should be.”⁸

BC hydro has also refused to consider negotiating with Sea Breeze regarding the Juan de Fuca project and argues that the commission should not compel them to enter negotiations. On this point I agree with the Commercial Energy Consumers

⁶ BC hydro closing argument page 1.

⁷ BC hydro closing argument, page 14.

⁸ BC hydro closing argument, page 13.

when it says “the CEC is puzzled as to why a Powerex has not been present negotiating and pursuing this option on behalf of the province and why BC hydro has not been present in pursuing this option on behalf of the customers. None of BCTC, BC hydro, Powerex or the Province has identified another or better alternative to expanding the export and trade capabilities of the BC electrical transmission system. Without a better option it would seem prudent for these parties to be intensely engaged in looking into the JDF project potential.”⁹

I submit that based on the evidentiary phase of these hearings, and its final argument, the only record that BC hydro was interested in assisting to develop was one that promoted the VITR project. I submit that BC hydro did not follow through on the comments it made in its opening statement, when BC hydro said “hydro’s role, is that BC hydro is listening here, rather than advocating particular pieces of evidence”¹⁰ and “from a financial perspective hydro is largely indifferent to who builds new transmission to Vancouver Island.”¹¹ I further respectfully submit that BC hydro’s argument should be assessed bearing these points in mind.

Reply to issues in multiple arguments

6. Multiple arguments including those of the JIESC¹², the CEC¹³ and the BCOAPO¹⁴ argue that the property owners knew, or ought to have known about the property value implications of the existing right away. I respectfully submit that while most if not all of the current property owners purchased their properties subject to the right of way agreement and the lines that are currently in place. Many believed, including myself, that the agreement was for the lines that are in place and did not include provisions for new higher voltage lines.

⁹ CEC final argument, page 21, para 100.

¹⁰ Transcript 6, page 804, lines 13-15.

¹¹ Transcript 6, page 807, lines 8-10.

¹² JIESC final argument, para. 32.

¹³ CEC final argument, page 35, para. 187.

¹⁴ BCOAPO final argument, page 12.

7. I respectfully submit that with regard to the VITR project options 1 and 2, when BC hydro states “its affect on third parties (is) mitigatable or otherwise acceptable”¹⁵ and the CEC states they have “reasonable social consequences”¹⁶, this is stated from their perspective and not that of those who will be affected. It is not surprising that those representing large corporate interests would be more concerned with profits and dividends than the financial hardship and adverse health effects that could be experienced by those who would get in the way of providing the cheapest possible electricity, whatever the social consequences, but it is my sincere hope that the commission will consider the consequences to those who will have to live with this decision for the next 60 years.

Reply to TRAHVOL’s complaint

8. I respectfully submit that I fully support TRAHVOL’s complaint that the existing lines on the right of way in Tsawwassen should be removed. In support of this complaint I refer you to my closing argument as well as those of IRAHVOL and the Corporation of Delta, in that “high voltage electric transmission lines should be recognized as a land use that is fundamentally incompatible with residential uses”¹⁷ and that the lines can be removed while maintaining reliable service to the gulf islands.

This reply is respectfully submitted, this 26th day of April, 2006

Bradley Campbell

Intervenor C4

¹⁵ BC hydro final argument, page 20, para. 50.

¹⁶ CEC final argument, page 4, para. 9.

¹⁷ Corporation of Delta final argument, page 5, para. 8.

