

3400 First Canadian Centre  
350 - 7th Avenue SW  
Calgary, Alberta, Canada, T2P 3N9

403 261 5350 Telephone  
403 261 5351 Facsimile



**A.W. (Sandy) Carpenter**  
Direct 403 261 5365  
Facsimile 403 261 5351  
scarpenter@cgy.fasken.com

May 16, 2006  
File No.: 260254.00006 / 15311

**VIA ELECTRONIC FILING**

British Columbia Utilities Commission  
Sixth Floor  
900 Howe Street  
Box 250  
Vancouver, BC V6Z 2N3

**Attention: Rob Pellatt**

Dear Mr. Pellatt:

**Re: British Columbia Transmission Corporation (“BCTC”) Certificate of Public Convenience and Necessity (“CPCN”) Application Vancouver Island Transmission Reinforcement Project (“VITR”) Project No. 3698395, Order No. G-70-05**

**BCTC Reply to Submissions on Cable Tender Information**

This letter responds to the submissions of IRAHVOL and Sea Breeze on BCTC's response to its undertaking at TR 37, pages 7238 to 7246 contained in Exhibit B1-135.

Each of IRAHVOL and Sea Breeze's submissions are based on the premise that BCTC did not adequately respond to the undertaking set out above. Sea Breeze relies on the further premise that BCTC agreed to provide information for the Commission to carry out a “sufficiently thorough independent assessment of the impact of the cable tender costs on the costs and risks associated with the VITR proposal.”<sup>1</sup> Both IRAHVOL and Sea Breeze then go on to seek certain relief based on these premises and make further submissions on the information provided.

BCTC submits that it responded fully to the Commission's request and that it did not agree to provide detailed information or analyses beyond the undertakings given. Since

---

<sup>1</sup> Sea Breeze, page 12, para. 31.

IRAHVOL and Sea Breeze's submissions rest primarily on these premises, BCTC will focus its submissions on these primary issues and will not attempt to address all of IRAHVOL's, and particularly Sea Breeze's, submissions. BCTC will respond to specific aspects of IRAHVOL's and Sea Breeze's further submissions below.

### **Response to Undertaking**

Both IRAHVOL and Sea Breeze say that BCTC failed to provide a high-level assessment of the commercial and technical compliance of the bids and failed to identify the risks from a performance, schedule and commercial point of view of the tenders.<sup>2</sup> Sea Breeze also claims that BCTC did not provide information with respect to whether or not there are any bids that will satisfy the tender requirements.<sup>3</sup>

In answer to IRAHVOL and Sea Breeze on these points, BCTC has provided all of this information on page 3 (point 6) of its May 4, 2006 letter. Regarding the compliance of the bids, BCTC has stated that it is worthwhile proceeding with a detailed technical and commercial evaluation of the tenders. BCTC has also indicated that the contract price is not expected to be higher than the lowest read out costs. With respect to risks, BCTC has stated that it anticipates that a contract will result in satisfactory performance, schedule and commercial arrangements. At Transcript 37, page 7240, lines 23 to 25, Mr. Nelson stated that what would be provided would be a high-level assessment. Although it is a high-level assessment, BCTC was able to form a view on the issues that were to be addressed.

In addition, at paragraph 16 of its submission, Sea Breeze argues that BCTC failed to seek the Commission's direction, citing Exhibit B1-69 in which Mr. Barrett said that if BCTC received no bids that fell within the estimated cost and contingency in the Application, then BCTC would seek direction from the Commission. BCTC believes that it was clear, given the information and process provided, that BCTC was seeking the Commission's direction. Having said this, given the bids received, BCTC believes that the only reasonable direction at this point is to proceed with the cable tender process in the normal course. If the VITR is found to be in the public interest, then the process will continue. If not, it would presumably be terminated. However, at this time, the only other direction with respect to the cable tenders would be to stop, or somehow restart, the tendering process, which would adversely affect the cost and schedule of the Project. From BCTC's perspective, based on the information provided, there is no justification for such a direction.

---

<sup>2</sup> IRAHVOL, page 1 and Sea Breeze, page 11, para. 26.

<sup>3</sup> Sea Breeze, page 11, para. 26.

### **Further Assessment and Analysis**

In addition to responding to the undertaking in Transcript 27, Sea Breeze argues that BCTC should have submitted further information, including the information requested by Mr. Herbert.<sup>4</sup> However, BCTC never agreed and was under no obligation to provide such information. In particular, BCTC did not agree, and was under no direction from the Commission, to provide information for the Commission to undertake a “sufficiently thorough independent assessment of the impact of the cable tender costs on the costs and risks associated with the VITR proposal.”<sup>5</sup> Neither did BCTC commit to providing information regarding the compliance of any optional bids.<sup>6</sup> In fact, Mr. Nelson expressly stated that the read-out costs would not include any optional bids.<sup>7</sup>

Sea Breeze states at paragraph 17 of its submission that BCTC “implicitly acknowledged” in Ex. B1-69 that it would be incumbent upon it to provide substantially more information if no bids were within the estimated costs. BCTC does not accept that it acknowledged in any way to provide further information. What it said was that it would notify the Commission and seek its direction, which BCTC has done.

The request from Sea Breeze that the Commission draw an adverse inference from BCTC’s choice not to provide further information is completely unwarranted. BCTC has answered the undertaking to which it was subject. If Sea Breeze believed further information on the cable bids was necessary for it to make its case, it could have requested this during the evidentiary phase of the hearing. BCTC has no intention of re-opening the hearing record to provide information beyond what was provided for in its undertaking. Further, there was no indication that the Commission was going to do an independent assessment of the cable tenders. With respect, this is not the Commission's role on a CPCN application and BCTC does not know how such an assessment could take place without extending the hearing. Re-opening the evidentiary phase of the hearing for this purpose was never discussed.

### **Other Comments**

Based on the information provided, IRAHVOL argues that BCTC's cost estimate needs to be significantly increased<sup>8</sup> and Sea Breeze similarly states that the bids are substantially higher than BCTC’s estimates.<sup>9</sup> Sea Breeze also states that “the VITR

---

<sup>4</sup> Sea Breeze, page 9, at para. 9.

<sup>5</sup> Sea Breeze, page 12, para. 31. Also see page 12, para. 30 to page 14, para. 39.

<sup>6</sup> Sea Breeze submission, pages 14 to 15, para. 40.

<sup>7</sup> TR 37, page 7240, lines 16 to 18.

<sup>8</sup> IRAHVOL, page 3.

<sup>9</sup> Sea Breeze, page 2, para. 4

proposal is critically deficient due to the high degree of risk and uncertainty in relation to the VITR Project schedule.”<sup>10</sup> BCTC submits that neither of these submissions is correct.

With respect to the cost estimates, the tendered bids are not “substantially higher than the cost estimates previously produced” as claimed by Sea Breeze. The \$135 million for the submarine cable tender is higher than the P50 estimate of \$131.5 million, but below the P80 estimate. As stated in Exhibit B1-79, the estimates established for the submarine cable project, including terminal station civil work, are \$138,202,000 for P50 and \$154,702,000 for P80.<sup>11</sup> Since the submarine cable costs comprises 95.13% of these costs,<sup>12</sup> the P80 estimate for the submarine cable costs is \$147.2 million. The tendered costs are therefore well within the certainty established for the estimate.

Sea Breeze argues at paragraph 14 that a contingency must still be added to the “read out” costs of the tenders. However, as indicated in the tender documents, once the contract is awarded, the prices are fixed. “Equitable adjustments” are entertained under the terms of the contract where there are changes to conditions that are not contemplated in the contract. These changes are expected to be minor for this contract and are included in the response to the Commission on May 4. As indicated in the letter of May 4, the contract award value is not expected to be any higher than the lowest read out costs.

Regarding scheduling risks, the tender documents state that “Circuit 2L129 is required to be in-service by October 2008, prior to the 2008-2009 winter peak load season.”<sup>13</sup> While even with a contract in place there are always risks, that in-service date is now more certain than ever. As stated in its May 4, 2006 letter, BCTC believes that a contract award “will result in satisfactory performance, schedule and commercial arrangements.”

Sea Breeze’s speculations at paragraph 8 regarding the qualifications of the bidders and who might be involved in carrying out the work as well as the various references to websites in its submission appear to be attempts to adduce new evidence and should not be considered by the Commission. In any case, Sea Breeze has no basis for its speculation regarding who is, or is not, involved in each bid or its suggestion that either of the tenders might have put together a team that is not capable of performing the work in question, and that BCTC would award a contract to such a team. This does not reflect commercial reality.

---

<sup>10</sup> Sea Breeze, page 2, para. 2.

<sup>11</sup> Costs of the civil work are not included in the submarine cable cost. The costs of the station civil work are provided in Ex. B1-11, BCUC 2.161.2 (Asset 2).

<sup>12</sup> This percentage is calculated by dividing the submarine cable cost of \$119.3 million (in Ex. B1-67, column Route 2, row 16) by the best estimate cost in Ex. B1-79.

<sup>13</sup> Ex. B2-58, page 7.1-1.

**Conclusion**

Contrary to the submissions of IRAHVOL and Sea Breeze, since the submarine tender represents such a large portion of the project, the tender bids received actually reduce the risk and uncertainty to the cost and schedule of the VITR Project. BCTC submits that based on the information provided, the proper course of action is to carry on with the tender process while awaiting the Commission's decision on the Application.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**

*“original signed by”*

A.W. (Sandy) Carpenter

cc: Marcel Reghelini, British Columbia Transmission Corporation  
Registered Intervenors