

British Columbia Utilities Commission

BC Hydro 2008 LTAP Application

Final Argument of Peace Valley Environmental Association

April 27, 2009

The Peace Valley Environmental Association ("PVEA", "the Association") was formed in 1975 to counter the proposal then being put forward by BC Hydro to build the Site C dam on the Peace River. It was the major intervenor opposing Site C at the hearing held in 1982. BC Hydro's application to build Site C was not approved.

In the intervening years PVEA has worked to preserve and enhance water, land and air values in the Peace Valley. Its opposition to Site C continues and the Association and its members have actively participated in the consultation processes carried out by BC Hydro with respect to Site C to date.

While Site C and expenses related to it constitute a relatively minor part of the 2008 Long Term Acquisition Plan ("2008 LTAP") , PVEA requested intervenor status in order to have its concerns about the project on record at the earliest possible stage of the regulatory process and to explore BC Hydro's evidence in support of the project more fully than was possible in the consultative process.

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Site C and the 2008 LTAP

Site C is not a Base Plan resource in the 2008 LTAP as set out in Exhibit B-1 page 5-74. It is considered to be a contingency resource (Ex B-1 p. 6-60; Ex B-10 p.36). The final decision on whether to proceed further with the development of the project rests with the provincial government. The Application (Ex B-1) sets out the 5 proposed stages

in the development of Site C (pp.6-24-25). Stage 1 has been completed. On the completion of Stage 2 BC Hydro will recommend to the government whether or not to proceed to Stage 3.

It is clear that Site C has no role to play in BC Hydro meeting the goals to be met by 2016 as set out in section 3(d) of Special Direction No. 10 to the Commission. The earliest in service date for Site C is 2019 (T v5 pp.626-7). It could be later or even not at all. As Mr. Elton indicated on cross-examination by counsel for PVEA, the process outline for Site C in the 2008 LTAP is, subject to obtaining the appropriate approvals at each stage, designed to get approval to move the project to shelf-ready status and that BC Hydro and/or the provincial government could keep the option available after 2019 (T v5 pp. 638- 639)

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On the other hand, the evidence suggests that it is possible that Site C will not be required even to meet the 2026 goal of Special Direction No. 10. BC Hydro's response to BCUC IR 1.143.1 (Ex B-3) outlines the actions in the 2008 LTAP that prepare the utility to be self-sufficient as required by the Special Direction. On cross-examination by PVEA counsel, Mr. Elton these actions could allow BC Hydro to achieve the 2026 goal prior to 2019. (T v5 pp.641-45).

Nevertheless, BC Hydro is asking the Commission to approve, in this application, \$41 million in expenditures for Site C Stage 2 activities (Ex B-1 Appendix A). It has already, or will have before the Commission's decision, spent this money without any

Commission approval. Its justification is that the provincial government directed it to proceed through Stage 2 in the 2007 Energy Plan. (PVEA IR 2.1.1, Ex B-4). However, Mr. Elton agreed that the prudence of the Stage 2 expenditures remains subject to Commission review. (T v5 p.659).

Evaluating Site C as a Necessary Component of the 2008 LTAP

Because of its very secondary role in the 2008 LTAP it is not obvious how to determine whether, or to what extent, these expenditures are reasonable and in the public interest.

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However, in PVEA's submission, BC Hydro has provided a guideline to take into account in evaluating aspects of the 2008 LTAP. While it is useful, if not definitive, as discussed later in this submission, it does provide some assistance in evaluating Site C and whether it is a necessary, or appropriate, inclusion in the 2008 LTAP.

BC Hydro, in its defense of its inclusion, for planning purposes, of 3000 Gwh/yr rather than higher amounts suggested by various intervenors raised the concept of a "social licence". Ms Preston defined it as follows on page 1215 of Tv7:

"And a social licence consists of many different elements. We defined it as requiring both the tacit and explicit approvals of governments, communities and other stakeholders. So part of that is to have the required permits, but also there's a requirement from a social aspect to go beyond compliance."

She went on to say, at p.1224 of the same transcript volume":

"...the social licence is also dependent upon tacit approvals by communities and other stakeholders as well"

BC Hydro agrees that this concept is not limited to Burrard Thermal but is equally applicable to other projects. On cross-examination by counsel for BCOAPO, Mr Matheson stated (T v12 p.2215):

"So I think this idea that there's a social licence and that its important for us as an operating company to recognize that has been part of our lexicon now for a number of years."

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Mr. Matheson then agreed with Mr. Quail that social licence is obviously an issue for the Site C dam. He confirmed this later on cross-examination by PVEA counsel when he stated, in relation to Site C, "And, yes, there's a social licence component and element to it. It would be silly to suggest there isn't." (T v13 p.2442)

How can that concept be applied to Site C in this specific application? In PVEA's view it is difficult for communities and stakeholders, including the Association and its members to have meaningful input at this stage for a number of reasons. The information available to the public is so preliminary as to be meaningless in allowing interested parties to assess the project.

First, it is far from clear what the ultimate capital cost of Site C will be, making it difficult to compare it to alternatives. The present estimate is between 5 and 6.6

billion.(Ex B-1, p.3-29 Table 3.19). PVEA IR 1.4.1 (Ex B-3) asked how confident BC Hydro is in that estimate. The reply was:

"The final cost estimate will only be known after a competitive procurement process is completed, and final bids are accepted. This occurs just prior to construction"

Mr. Elton confirmed that fairly concrete costs will not be known until after Stage 4. (T v5 p.654) and that at the end of Stage 2 "we'll be a long way from being able to make, you know, solid and reliable cost estimates". (T v5 p.655)

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A second concern with the information available at this point is the status of the various technical and environmental studies that have been carried out to date. On cross-examination by counsel for CECBC, Mr. Savidant set out certain criteria BC Hydro will take into account on whether to move to Stage 3. One of the criteria is "whether or not we think it's actually technically feasible to build the project from a technical and social perspective". (T v12 p.2309.) Later Mr. Savidant indicated that the word "environmental" was missing from his answer. (T v13 p.2428).

The technical and environmental work carried out in Stage 2 are set out in some detail in Appendix L2 to the Application (Ex B-1-1), particularly on pages 7 of 20 to 11 of 20. It is clear from that document that the work is primarily reviewing and updating existing studies dating back to the original application in 1982 and to designing further studies. Mr. Savidant confirmed this while pointing out that some fieldwork was being

done in Stage 2. (T v13 pp.2428-30)

One of the key issues to be addressed with respect to the construction of Site C is the stability of the proposed site. Designing studies to address this issue in future stages was identified as a key Stage 2 activity on page 10 of 20 in Appendix L2 to the Application (Ex B-1-1). Mr. Savidant stated that these studies are to look at "what the stability is on the existing site right now , and what the potential impacts of the reservoir and the dam site would be on those issues." (T v13 p.2431).

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How can participants have any meaningful input into the relative benefits and negative impacts of Site C in the absence of such fundamental facts as a reasonable capital cost estimate and some basic technical and environmental impact information. The concept of social licence , however applicable, has very limited meaning in this context.

This is primarily why there has been such concern raised about the utility of the consultative process carried out by BC Hydro in Stages 1 and 2. There have been some strong concerns raised about the thrust of the process as , for example set out in in the letter from Ken and Arlene Boon to Mr. Elton (Ex C12-4). In PVEA's submission, this is to some extent inevitable given the lack of concrete information available to participants in the process. Without this information, BC Hydro is forced to focus on more general issues in its process and to ask, in effect, for a degree of trust from participants.

The fact that the consultative process is scheduled to be completed at the end of

Stage 2 is of particular concern. The more concrete information becomes in later stages, if Site C proceeds, the less opportunity there is for communities and stakeholders to take advantage of the social licence, as the public consultation process will have been completed before the up-to-date information on some significant social, technical and environmental issues becomes available. There will probably be some form of public process before the Commission and the Environmental Assessment agency but these are more formal processes not easily accessible to the general public nor to organizations with limited resources.

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However, the social licence issue is only a background to how the Commission should evaluate the role of Site C in the 2008 LTAP.

BC Hydro's argument for including Site C in the 2008 LTAP appears to be twofold:(
BC Hydro Final Argument pp.170-173)

a) it is a useful option to keep available as a contingency resource if preferred options such as DSM and IPP resources are not able to meet the 2026 Special Direction No. 10 goals.

b) the provincial government's 2007 Energy Plan requires it.

In PVEA's submission, the first reason does not warrant, by itself, the expenditure of \$41 million in the 2008 LTAP, especially since Site C has no impact on the important 2016 goals of Special Direction No. 10 and is only a potential contributor to the 2026

goals. A more reliable assessment of the need to include it in BC Hydro's long term planning can be made in the 2011 or later LTAPs since 2019 is consistently stated to be the earliest possible in-service date for the project, the implication being that a later in-service date is clearly an option.

There is no clear statement in the 2007 Energy Plan that requires BC Hydro to include Site C in its long term planning process. The only clear reference in the 2007 Energy Plan to Site C is as follows: (Ex B-1-1 Appendix B1 p.4).

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"BC Hydro and the province will enter into initial discussions with First Nations, the government of Alberta and communities to discuss Site C, to ensure that communications regarding the potential project and the processes being followed are well-known.

Mr. Elton agreed that this was not a mandate to proceed with Site C and did not constitute a policy direction from government. (T v5 pp.651-52). PVEA notes that there is no reference to Site C in the "Relevant Policy Action Items" set out on pages 48-50 Of BCHydro's Final Argument. Even if the 2007 Energy Plan could be taken to refer back to the 2002 provincial government Energy Plan (which it does not on this issue), the latter, in Policy Action No. 13 specifically leaves the decision to proceed with a facility such as Site C up to the utility. Only when BC Hydro proposes to do so is it necessary to bring it to Cabinet for approval.(Ex B-1 p. 6-24).

BC Hydro clearly did not take that Policy Action as a directive to proceed with Site C. It did not even start considering it in any serious way until June 2004 when it began to undertake a "feasibility study". (Ex B-1-1, Appendix L-1, p.10 of 19) And clearly, on

cross-examination by counsel for PVEA, Mr. Elton indicated that BC Hydro considered it prudent to check with the government with respect to Site C rather than considering it directed by the 2007 Energy Plan. He stated:

"That's the -- so although the staging is not -- you're right, it's not directed by the Energy Plan, we believe it's the prudent way to go about this project."

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There is clearly no government requirement that BC Hydro proceed any further with Site C. There is not even a requirement that it make a recommendation to government with respect to whether or not to proceed to Stage 3. Mr. Elton agreed that the prudence of the Site C Stage 2 expenses is subject to Commission approval. (T v5 p.659).

In its April 2, 2009 letter, the Commission invited Parties to address a number of issues. The first is the interpretation of a "part" of the 2008 LTAP as to whether the Commission, under section 44.1(7) can reject a part of the Plan while accepting it as a plan.

In PVEA's submission the answer is clearly "yes". The legislature has given the Commission authority to review public utilities' plans and it cannot have intended the Commission to have only the alternative of totally rejecting a plan if it considered a part of it to not meet the public interest. This would require the utility to have to reapply to the Commission if only a part of the plan was considered unacceptable. The issue is what constitutes a part of the plan that may be rejected without it requiring the whole plan to be unacceptable.

The Oxford English Dictionary pocket version defines "part" as "some but not all of a number of things; essential member or component". PVEA notes that BC Hydro cites the same definition on pages 21-22 of its Argument. PVEA agrees with BC Hydro that this would include any part of the 2008 LTAP for which BC Hydro is requesting a specific order from the Commission. This includes the Site C Stage 2 expenditures.

In PVEA's submission, BC Hydro has not established that the inclusion of Site C as part of the 2008 LTAP is reasonable and in the public interest. It is not mandated by the 2007 Energy Plan or any other government requirement. It has not been established that it is required to meet the goals of Special Direction No. 10 and it does not even meet BC Hydro's self-imposed social licence guidelines.

Order Requested

PVEA submits that the Commission should:

- a) reject the inclusion of Site C as part of the 2008 LTAP; and
- b) disallow the \$41 million Stage 2 costs of Site C. If the Commission determines that the 2007 Energy Plan did not require this expenditure, BC Hydro must establish that it was otherwise prudent and reasonable. In PVEA's submission, given the limited

role Site C plays in the 2008 LTAP and that it has no role to play in meeting the 2016 goals, and a limited role to play in meeting the 2026 goals, of Special Direction No. 10, these costs are not reasonably incurred at this time, and should be rejected.

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The Commission in its April 2, 2009 letter invited comment from intervenors on a number of issues. While it only indirectly affects PVEA, it wishes to comment on one of them.

Issue 5 raises the issue of potential demand from electric vehicles and the announcement by BC Hydro after the conclusion of the hearing. In PVEA's submission, even given a report by the end of April, it is unlikely that this would result in any change to the 2008 LTAP. Any significant increase in BC Hydro's demand from this source, given the present status of the electric car market, will not take place in the next two years and can be more appropriately addressed in the next LTAP application. Accordingly, PVEA does not support the re-opening of the evidentiary record to deal with this issue.

Respectfully submitted,

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