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(“BCOAPO *et al.*”)

FINAL SUBMISSION
ON BCOAPO PROPOSALS

BRITISH COLUMBIA UTILITIES COMMISSION
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
2015 RATE DESIGN APPLICATION

Project No. 3698781

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1. INTRODUCTION

1.1. Description of BCOAPO

These are the final submissions in BC Hydro's 2015 Rate Design Application (2015 RDA) of a coalition of seven anti-poverty, seniors', tenants' and disability organizations: the British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, BC Poverty Reduction Coalition, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Together Against Poverty Society, and Tenant Resource & Advisory Centre, known collectively in regulatory processes as "BCOAPO *et al.*" The member groups of BCOAPO represent the interests of low and fixed income residential energy consumers in proceedings before the BC Utilities Commission (Commission or BCUC),¹ and more specifically in this process, the interests of BC Hydro's low and fixed income residential electricity ratepayers. As such, all seven organizations have a direct and material interest in the outcome of the 2015 RDA.

Some of our client organizations provide services on a province-wide basis, such as the BC Old Age Pensioners' Organization, BC Poverty Reduction Coalition, Council of Senior Citizens' Organizations of BC, Disability Alliance BC and Tenant Resource Advisory Centre, while Active Support Against Poverty provides services in the Prince George region, and Together Against Poverty Society serves Victoria and the surrounding region.²

These organizations, through interventions before the Commission, attempt to ensure that residential electricity rates are kept to a minimum, and that barriers to affordability are addressed so that the most vulnerable members of our society can access this essential service.

1.2. Remedies BCOAPO Seeks

The 2015 RDA is about the design of BC Hydro's rates and terms and conditions of service. BC Hydro has filed the 2015 RDA in response to Commission Order No. G-13-14, which required BC Hydro to file an updated RDA in Fiscal 2016.³ The Commission has authority under s. 58(1)(a) and s. 60 of the *Utilities Commission Act*⁴ (UCA) to review BC Hydro's application and to make orders regarding BC Hydro's rates and terms and conditions of service.⁵

¹ All of the groups except the BC Poverty Reduction Coalition regularly participate as intervenors in proceedings before the Commission. The BC Poverty Reduction Coalition intervened in the 2015 RDA in order to ask the Commission to order BC Hydro to implement programs for low income BC Hydro residential ratepayers.

² Transcript Volume 3, p. 374, lines 20-26; p. 375, lines 1-13.

³ Exhibit B-1, p. 1-1.

⁴ *Utilities Commission Act*, [RSBC 1996] c. 473.

⁵ Exhibit B-1, p. 1-1.

In addition, the Commission is currently undertaking the Residential Inclining Block (RIB) Rate Review at the request of BC's Minister of Energy and Mines.⁶ The Minister has asked the Commission to report back to the government on five specific questions concerning the impact of BC Hydro's and FortisBC's RIB rates on particular customers, including low income customers and customers without access to natural gas. One of the questions the Minister poses is: "Within the current regulatory environment, what options are there for additional Demand Side Management programs, including low income programs?" The Minister requested that the Commission use BC Hydro's 2015 RDA to gather the information necessary for the RIB report.

BC Hydro's residential rates have been increasing every year for a decade, and will continue to increase each year for years to come. The organizations that comprise BCOAPO are acutely aware of the very real impacts of rising BC Hydro rates, and how the most vulnerable members of our community are struggling to keep the lights and heat on in their homes.

Unlike revenue requirement applications, which BC Hydro usually files with the Commission on a biennial basis, BC Hydro's rate design applications before the Commission are a much rarer event. The 2015 RDA is only the fourth rate design application since 1980, when the provincial government made BC Hydro subject to Commission regulation.

BCOAPO is asking the Commission, through the 2015 RDA, to implement a strategy to assist low income ratepayers who are having increasing difficulty paying their electricity bills in an environment where electricity rates continue to rise while many people's incomes have stagnated.

Specifically, BCOAPO is asking the Commission to order BC Hydro to implement an Essential Services Usage Block (ESUB) rate for qualified low income ratepayers. Further, BCOAPO is asking the Commission to order BC Hydro to establish a Crisis Intervention Fund for qualified low income ratepayers who are facing disconnection. BCOAPO is also asking the Commission to amend the Electric Tariff to allow for rules specific to qualified low income customers and residential ratepayers more generally, such as waiver of late payment charges for low income customers, a reduction and delay in application of late payment charges for all residential customers, and waiver of reconnection charges, account charges, and security deposits for low income customers, among other amendment. BCOAPO further requests that BC Hydro adopt several business practices, such as offering increased flexibility in installment plans, conducting a customer segmentation analysis, engaging in enhanced data reporting, and setting up a low income Customer Assistance Unit. Finally, BCOAPO asks that the Commission to direct BC Hydro to increase the number of Energy Conservation Assistance Program (ECAPs) it carries out for eligible low income ratepayers. These requests are described in more detail in section 6 below.

⁶ Exhibit A-1 in BCUC RIB Rate Report proceeding, PDF pp. 4-6.

1.3. BCOAPO's Participation in this Proceeding

BCOAPO began developing its proposals for low income BC Hydro ratepayers during the Company's pre-application stakeholder consultation process, which took place between May 8, 2014 and the middle of September, 2015. BCOAPO attended all 15 workshops held by BC Hydro, and provided feedback on the main issues involved in design of BC Hydro's rates. BCOAPO advised BC Hydro and participants to the stakeholder engagement process that continuing residential electricity rate increases are causing hardship to low income customers, and that once BC Hydro filed its RDA, BCOAPO would be asking the Commission to order the Company to implement various measures to assist low income customers.

BC Hydro invited BCOAPO to engage in an iterative process to review a potential business case for implementing low income customer rules, as a business case could avoid a debate over whether the Commission has jurisdiction to implement such rules. BCOAPO retained Roger Colton, an expert in low income rate design and customer rules to review BC Hydro's business case, and participated in a productive iterative process with BC Hydro concerning BCOAPO's proposed terms and conditions throughout the fall of 2015. The resulting report was filed initially as part of BC Hydro's response to the first round of information requests in the 2015 RDA, for consideration by all participants.⁷

After BC Hydro filed the 2015 RDA, BC Hydro continued to engage with BCOAPO in order to discuss low income proposals. The Company also implemented a variety of changes helpful to low income customers who also receive assistance from the MSDSI, such as waiver of security deposits in some cases and taking steps to avoid disconnection. BCOAPO found the process with BC Hydro to be very productive.

BCOAPO prepared two rounds of information requests to BC Hydro, presented expert evidence of Mr. Colton and Seth Klein in support of a suite of proposals to assist low income ratepayers who are having difficulty coping with rising BC Hydro residential electricity rates, presented evidence from 13 low income residential ratepayers and their advocates, and responded to information requests from other parties on the expert evidence. During the oral hearing in August 2016, BCOAPO played an active role in cross-examining all of BC Hydro's witness panels, and presented Mr. Colton and Mr. Klein for cross examination.

Below BCOAPO sets out an outline of its proposals, the reasons why the Commission should take action to address the impact of rising residential rates on low income customers, the Commission's jurisdiction to order the proposals, a description of low income programs in Ontario and Manitoba, and a detailed review of each of each of the proposals.

⁷ Exhibit B-5, BCOAPO 1.192.1 Attachment 1.

2. OUTLINE OF BCOAPO'S PROPOSALS

In this proceeding, BCOAPO is requesting that the Commission adopt a strategy aimed at assisting qualified low income residential ratepayers to maintain electricity service in the context of ever-increasing electricity bills.

BCOAPO defines a “qualified low income customer” for the purposes of its proposals as residential ratepayers who are at or below Statistics Canada’s pre-tax Low Income Cut Off (LICO). The only exception to this definition is that BCOAPO is asking that expanded offerings of ECAP be available to ratepayers who have incomes at or below LICO plus 30%.

i. Establish an Essential Service Usage Block

BCOAPO is asking the Commission to order BC Hydro to offer an Essential Services Usage Block (ESUB) rate as part of its Electric Tariff in which low income residential ratepayers would be eligible to receive the first 400 kWh of service each month at a discount of \$0.04/kWh. This discounted rate would not otherwise affect the Tier 1 and Tier 2 thresholds of BC Hydro’s residential inclining block rate. BC Hydro could also solicit eligible low income ratepayers to participate in the ECAP program.

BCOAPO recommends that the Commission order BC Hydro to spread the ESUB costs over all residential consumption. BCOAPO also recommends that BC Hydro offer the ESUB to Ministry of Social Development and Social Innovation (“MSDSI”) assistance recipients in the first year, and expand access to the ESUB rate to all customers who have incomes at or below LICO in future years.

In the alternative, should the Commission determine that it requires further information prior to ordering BC Hydro to implement a rate for low income residential customers, BCOAPO asks that the Commission direct BC Hydro to prepare and file, within six months of the date of the Commission’s order, a proposed rate that provides a discount to low income customers for an initial block of electric service for each month or billing period or similar rate structure.

As will be discussed in detail in section 4 below, the Commission has the jurisdiction to approve the ESUB (or a similar rate structure for low income customers), as the ESUB that BCOAPO is proposing is just and reasonable, and is not unduly discriminatory.

ii. Establish a Crisis Intervention Fund

BCOAPO is asking the Commission to order BC Hydro to implement a Crisis Intervention Fund through which low income residential customers who have arrears with BC Hydro and are facing disconnection can apply for a grant to avoid disconnection. BCOAPO is also asking the Commission to order that BC Hydro collect money for the fund through a \$0.25/month charge per BC Hydro account.

In the alternative, should the Commission determine that it requires further information prior to implementing a Crisis Intervention Fund for low income residential customers, BCOAPO asks that the Commission direct BC Hydro to prepare and file, within six months of the date of the Commission's order, a proposed crisis assistance program for low income customers who have arrears with BC Hydro and are unable to pay their electricity bills.

A detailed description of BCOAPO's proposal for a crisis intervention fund is set out in section 6 below.

As will be discussed below in section 4, the Commission has the jurisdiction to approve a Crisis Intervention Fund (or similar program for low income customers), as the Crisis Intervention Fund that BCOAPO is proposing is just and reasonable, and is not unduly discriminatory.

iii. Establish Low Income Customer Terms and Conditions

BCOAPO is also asking the Commission to amend the Electric Tariff to allow for the following customer rules for qualified low income ratepayers:

- Exempt low income customers from the minimum reconnection charge;
- Exempt low income customers from the account charge;
- Waive security deposits for low income customers; and
- Exempt low income customers from Late Payment Charges on a going forward basis.

Again, the Commission has the jurisdiction to amend the Electric Tariff to allow for these changes, on the basis that the proposals are just and reasonable and not unduly discriminatory.

iv. Establish New Customer Service Rules for All Residential Customers

BCOAPO is also asking BC Hydro to implement the following customer service rules for all residential customers. As far as BCOAPO is aware, most of these would involve changes to BC Hydro's business practices, except where indicated that the change would require an amendment to the Electric Tariff:

- Implement time-based winter shutoff restrictions for all customers between November and April;
- Implement a renewable 60-day delay on disconnections for the families with young children, seniors, and people with medical emergencies based on Mr. Colton's model regulation;

- Bar the use of external credit scores as basis for security deposits for all customers;
- Allow for alternatives to cash security deposits by offering customers the opportunity to:
 - provide sureties in lieu of a deposit, whereby, for example, another person or organization could provide a guarantee for the applicant/account holder (this would require a Tariff amendment)⁸; or
 - enter into an Equal Payment Plan in lieu of providing a security deposit (this would require a Tariff amendment)⁹; and
- Set Late Payment Charges equal to BC Hydro's Weighted Average Cost of Debt rounded to ½ percent for all customers, and start LPCs at Day 60 beyond due date for all customers (this would require a Tariff amendment).

These proposals would apply to all residential customers, and the Commission clearly has the jurisdiction to implement them.

v. Establish New Customer Service Practices and Reporting Requirements

BCOAPO requests that BC Hydro establish a dedicated, specially trained low income Customer Assistance Unit.

BCOAPO asks that the Commission order BC Hydro to conduct a customer segmentation analysis and adopt the National Association of State Utility Consumer Advocates data reporting recommendations.

vi. Expand ECAP to reach significantly more low income households

Although BCOAPO is not seeking an expenditure order in this proceeding, in response to the RIB Rate Review, we ask that the Commission recommend that BC Hydro be required to expand installs of BC Hydro's low-income ECAP program to serve a significantly higher percentage of the low income households than it is currently serving.

⁸ BC Hydro Electric Tariff, <https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/tariff-filings/electric-tariff/bchydro-electric-tariff.pdf> at p. 11-13 (PDF pp. 20-22); Transcript Volume 6, p. 1006, lines 13-26; 1007, lines 1-26; 1008, lines 1-26, 1009, lines 1-9.

⁹ BC Hydro Electric Tariff, <https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/tariff-filings/electric-tariff/bchydro-electric-tariff.pdf> at p. 11-13 (PDF pp. 20-22).

3. WHY THE COMMISSION SHOULD TAKE ACTION TO ADDRESS THE IMPACT OF RISING RESIDENTIAL RATES ON LOW INCOME CUSTOMERS

3.1. BC Hydro's Rate Increases Have No End in Sight

BC Hydro's electricity rates have risen by 51% over the last 11 years and are on track to increase by over 30% in the next eight years. Over the same period income assistance rates have only increased by \$100 to a total of \$610 per month (for a single person), and the province's minimum wage has only increased by \$2.85 per hour. As will be detailed below in section 3, low income BC Hydro customers have no spare money to pay higher electricity costs. Since electricity is essential to survival, people can only pay their electricity bills at the expense of competing household necessities, such as food and medicine. As a result, low income BC Hydro ratepayers are having more difficulty than ever paying for electricity, which is an essential service provided by a monopoly public utility.

Table 1 below compares BC Hydro's rate increases, MSDSI social assistance rate increases and minimum wage rate increases from 2006 to present, and includes planned increases until 2018.

Table 1: Comparison of BC Hydro Rate Increases, MSDSI Rate Increases, and Minimum Wage Increases from 2006 to 2018¹⁰

Year	BC Hydro Residential Rate Increases	Ministry of Social Development and Social Innovation Income Assistance Rates for a single person		General Minimum Wage
		Basic Assistance	Disability Assistance	
2006	1.54%	\$510.00	\$856.00	\$8.00
2007	0.10%	\$610.00	\$906.00	\$8.00
2008	2.34%	\$610.00	\$906.00	\$8.00
2009	8.74%	\$610.00	\$906.00	\$8.00
2010	6.11%	\$610.00	\$906.00	\$8.00
2011	8%	\$610.00	\$906.00	\$8.75/\$9.50
2012	3.9%	\$610.00	\$906.00	\$10.25
2013	1.44%	\$610.00	\$906.00	\$10.25
2014	9%	\$610.00	\$906.00	\$10.25
2015	6%	\$610.00	\$906.00	\$10.25/\$10.45
2016	4% cap	\$610.00	\$906.00*	\$10.85
2017	3.5% cap	\$610.00	\$906.00*	\$11.25 est.
2018	3% cap	\$610.00	\$906.00*	\$11.25 est.
Total increases experienced and/or projected (2006-2018)	74.16%	19.61%	5.84%	40.6%

**There was a \$77/month increase for MSDSI disability assistance clients starting on September 1, 2016, which was largely offset by transportation costs.*

¹⁰ The income assistance data in the chart is taken from an MSDSI series of charts entitled "Income Assistance Rate Tables", which provides additional data for different income assistance categories and can be found at: <http://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/bc-employment-and-assistance-rate-tables/income-assistance-rate-table#a>. The minimum wage data in the chart below is taken from a Minimum Wage Fact Sheet prepared by the BC Employment Standards Branch and a press release dated March 16, 2011 from the Office of the Premier, as well as a recent press release dated May 4, 2016 from the Office of the Premier: <https://news.gov.bc.ca/releases/2016PREM0048-000715>

BC Hydro estimates that about 10 percent (170,000) of its residential customers have incomes at or below Statistics Canada's pre-tax Low Income Cut-off (LICO) measure.¹¹ About 21 percent of its residential customers have incomes at or below LICO plus 30%.¹²

Currently, BC Hydro offers no rates or terms and conditions of service that specifically apply to low income customers to assist these customers to mitigate the rising cost of electricity, other than Energy Savings Kits and the Energy Conservation Assistance Program. While these two energy efficiency programs are important, for the reasons outlined in section 6.4 below, they are not a complete answer to the adverse impact of rising electricity rates on low income customers.¹³

Notwithstanding the fact that DSM will be addressed in BC Hydro's recently filed F2017 – F2019 Revenue Requirements Application, BCOAPO is of the view that demand side measures must also be addressed in this proceeding, as DSM (and energy efficiency more broadly) forms an important part of bill affordability. In considering the need for a comprehensive bill affordability program for low income ratepayers, the Commission must evaluate the extent to which BC Hydro's DSM programs are equipped to respond to the energy affordability crisis that BCOAPO's evidence depicts.

Further, while BC Hydro states that it has the third lowest electricity rates in North America,¹⁴ the Company fails to mention that virtually every other jurisdiction that has higher rates than BC Hydro has bill assistance programs in place to assist low income customers. Ontario, for example, has higher electricity rates than BC, but it has implemented a comprehensive strategy to assist low income electricity customers. Ontario's programs are described in more detail in section 5.1 below. Manitoba Hydro, which has lower electricity rates than BC, was ordered last year by the Manitoba Public Utilities Board to implement a bill affordability program, and that utility is in the process of developing a program. The Board's decision in Manitoba is described in more detail in sections 4.1.3 & 5.2 below.

3.2. Poverty and Energy Poverty in British Columbia

Poverty in BC is a very real issue, and one that is increasing. BCOAPO provided significant evidence about the extent and profile of poverty in BC, and how rising BC Hydro rates represent a hardship for low income people through our expert witness, Seth Klein, who is the Director of the BC Office of the Canadian Centre for Policy

¹¹ Exhibit B-1, p. 5-12 and p. 5-67 (BCOAPO understands that the figure of 161,287 low income households is based on the 2013 tax year and that this figure is derived from BC Hydro's 2014 Residential End Use Survey). See also Transcript Volume 3, p. 375, lines 24-26 and p. 376, line 1.

¹² Exhibit B-1, Appendix C-3B, p. 216 of 609 (p. 2011 of PDF). Figure based on BC Hydro's 2012 Residential End Use Survey.

¹³ BC Hydro provides a range of DSM rebate programs to its residential customers which require the customer to make an initial capital investment. BC Hydro readily acknowledges that low income customers do not participate in these rebate programs because they cannot afford to participate (see, for example, Exhibit B-23, BCOAPO 2.332.1 Att 1 p.5 of 33).

¹⁴ <https://www.bchydro.com/news/conservation/2016/how-our-rates-compare.html>

Alternatives.¹⁵ Mr. Klein's evidence situates BC Hydro rates within a broader analysis of the circumstances of people living in poverty in BC. The Commission qualified Mr. Klein as an expert on the extent and profile of poverty in BC, and the difficulties that low income people in BC have paying for the basic necessities of life, including residential electricity.¹⁶

3.2.1. Poverty Levels in BC

Poverty causes very real harm to human dignity. Many British Columbians are just a step away from the poverty that can arise from events such as the loss of a job, the loss of a spouse or the loss of good health.¹⁷ There are also significant economic and social costs of poverty – costs that are borne not only by the individuals and households that experience poverty, but also by society as a whole.¹⁸

As there is no official “poverty line” in Canada, Mr. Klein discussed in detail what “poverty” means in terms of actual income levels. His evidence considers and explains various low income measures, including Statistics Canada's Low Income Cut Off (“LICO”), the Low Income Measure (LIM), and the Market Basket Measure (MBM)¹⁹, and then uses those poverty measures to detail the depth, breadth and persistence of poverty in BC.²⁰ Depending on the measure used, between 451,000 and 663,000 British Columbians lived below the poverty line in 2013 – this includes both those on social assistance and other forms of income assistance, and the working poor.^{21 22}

There is a common perception that the poor are virtually all on social assistance, which is incorrect – for example, while the 2013 poverty rate in BC ranges from 9.9% to 14.4% depending on the measure used, the average monthly number of social assistance recipients in the 2013/14 fiscal year was approximately 3.8%.²³ Many poor people in BC are gainfully employed, yet given the nature of our polarized labour market, they remain poor nonetheless.²⁴ About half of those below the poverty line in BC are either the working poor or the children of the working poor, which refutes the common response

¹⁵ Exhibit C2-12, Direct Testimony of Seth Klein (starting at PDF p. 255/341); Transcript Volume 5, pp. 783-812 (PDF pp. 23-52/341).

¹⁶ Transcript Volume 5, p. 774, lines 20-24; 782, lines 12-19.

¹⁷ Exhibit C2-12, Direct Testimony of Seth Klein, pp. 5-6 (PDF pp. 259-260/341).

¹⁸ Exhibit C2-12, Direct Testimony of Seth Klein, pp. 6-7 (PDF pp. 260-261/341).

¹⁹ Exhibit C2-12, Direct Testimony of Seth Klein, pp. 8-12 (PDF pp. 262-266/341).

²⁰ *Ibid.*

²¹ Exhibit C2-12, Direct Testimony of Seth Klein, p. 12 (PDF p. 266/341).

²² While Mr. Klein prefers the MBM poverty lines, as he thinks they pass a common sense test, he states that the LICO-before tax thresholds are likely the only practical measure to use for a customer survey to determine if their income falls below the qualifying threshold for a program, as people are much more likely to know their *gross* income than their after-tax income (Exhibit C2-19, BCOAPO Response to BCUC 24.1). Also, the LICO-BT offers poverty lines for households up to 7 people, whereas the MBM is only calculated for households between 1 and 4 people (Exhibit C2-19, BCOAPO Response to BCUC 24.1). Mr. Klein also notes that, despite their methodological differences, in concrete dollar terms, the LICO-BT, the LIM and the MBM all cluster fairly closely (Exhibit C2-19, BCOAPO Response to BCUC 24.1).

²³ Exhibit C2-12, Direct Testimony of Seth Klein, p. 16 (PDF p. 270/341).

²⁴ Exhibit C2-12, Direct Testimony of Seth Klein, p. 8 (PDF p. 262/341).

that the poor should simply “get a job”, or governmental responses that their preferred strategy to address poverty is to create more jobs.²⁵

For those who do rely on social assistance, much of day-to-day life is about survival. The current basic income assistance (or “welfare”) benefit rate for a single person is \$610 per month, and for a single person on disability assistance, the rate is \$906 per month, even in Metro Vancouver.²⁶ The disability assistance rate will increase to \$983 per month in September 2016, but since the government will no longer offer a yearly bus pass, recipients who require a bus pass will need to purchase a monthly pass using \$52 of the \$77 increase.²⁷ These rates have been frozen for long periods of time (most recently, since 2007), despite the rising costs of everything else, and so the real value (after inflation) of a social assistance cheque has eroded over time.²⁸ Importantly, people on social assistance do not have an income just below the poverty line, but rather, thousands of dollars below the poverty line. The meagre income assistance and disability assistance rates are supposed to cover everything – food, rent, utilities, clothing, transportation, and other basic necessities.²⁹ For both income assistance and disability assistance, for a single person, the portion of those monthly amounts designated for rent is only \$375 (an amount at which it is virtually impossible to now find housing).³⁰ Among those on social assistance, the majority receive long-term disability assistance, which recognizes that those people cannot, nor are they expected to, earn a living through paid employment.³¹

Poverty impacts the most vulnerable members of our communities. BC has a startlingly high level of child poverty – approximately 20% of the poor in BC are children (or between 122,000 and 126,000 children, depending on the measure used).³² Poverty is also gendered – the overall BC poverty rate for women is higher than for men, and particularly high for single-mother led households and for unattached senior women.³³ Poverty rates are especially acute for certain demographic groups, such as Indigenous people, people with disabilities, various racialized groups, and recent immigrants and refugees.³⁴ Mr. Klein’s discussion of poverty and its correlation with age categories and family type provides useful context for who makes up BC’s low income population.³⁵

²⁵ Exhibit C2-12, Direct Testimony of Seth Klein, p. 17 (PDF p. 271/341).

²⁶ Exhibit C2-12, Direct Testimony of Seth Klein, p. 8 (PDF p. 262/341).

²⁷ Exhibit C2-12, Direct Testimony of Seth Klein, p. 37 (PDF p. 291/341).

²⁸ Exhibit C2-12, Direct Testimony of Seth Klein, p. 24 (PDF p. 278/341); Transcript Volume 5, p. 785, lines 23-26; 786, line 1.

²⁹ Transcript Volume 5, p. 786, lines 6-12.

³⁰ Exhibit C2-12, Direct Testimony of Seth Klein, p. 8 (PDF p. 262/341).

³¹ Exhibit C2-12, Direct Testimony of Seth Klein, p. 16 (PDF p. 270/341).

³² Exhibit C2-12, Direct Testimony of Seth Klein, p. 18 (PDF p. 273/341).

³³ Exhibit C2-12, Direct Testimony of Seth Klein, p. 20 (PDF p. 275/341).

³⁴ *Ibid*; Transcript Volume 5, p. 786, lines 25-26; 787, lines 1-3.

³⁵ Exhibit C2-19, BCOAPO Response to BCUC 25.1.

There are other indicators of poverty and hardship, such as:

- increased food bank use and higher percentages of British Columbians reporting food insecurity in national surveys;
- high incidence of homelessness;
- waitlists of around 10,000 applicants for social housing; and
- high levels of core housing need (defined as the share of the population living in housing that is overcrowded, in need of major repairs, or that costs more than 30% of pre-tax income), particularly for renters.³⁶

3.2.2. Energy Poverty in BC

With that background, Mr. Klein's evidence (both in direct and in cross-examination) outlines his view that there is a growing energy poverty problem in BC, and one that "has become more emergent in the face of escalating BC Hydro rates."³⁷ Energy poverty is a situation where a household's quality of life is compromised by the high cost of energy needed for heating, hot water, lighting and appliances.³⁸

Rising energy costs are regressive – that is, rising BC Hydro bills do not impact everyone equally.³⁹ While upper-income households may spend more on energy in dollars, lower-income households spend more on energy as a share of their income⁴⁰; therefore, when BC Hydro rates go up for all households by the same percent, the impact on the budgets of lower income households will be felt much more acutely.⁴¹ Moreover, people with incomes below any of the poverty lines Mr. Klein describes do not have areas where they can "trim the fat" in their monthly budgets to offset those increases.⁴² Further, home retrofits, and the purchase of newer energy-efficient appliances may not be an option for many low income households.⁴³ Each across-the-board rate increase exacerbates the regressivity of energy costs, and places additional hardship on the finances of lower income residents.⁴⁴ Mr. Klein notes that "[p]eople must instead make difficult choices between essentials, like heating their home and feeding their families."⁴⁵

While it is true that many basic necessities, including food, have costs with a regressive distributional impact, BCOAPO states that this is precisely why, where possible, public

³⁶ Exhibit C2-12, Direct Testimony of Seth Klein, pp. 21-25 (PDF pp. 275-280/341).

³⁷ Transcript Volume 5, p. 787, lines 15-17; 803, lines 1-4.

³⁸ Exhibit C2-12, Direct Testimony of Seth Klein, p. 30 (PDF p. 284/341).

³⁹ Exhibit C2-12, Direct Testimony of Seth Klein, p. 32 (PDF p. 286/341).

⁴⁰ *Ibid*; Transcript Volume 5, p. 788, lines 4-7.

⁴¹ Exhibit C2-12, Direct Testimony of Seth Klein, p. 33 (PDF p. 287/341).

⁴² Transcript Volume 5, p. 788, lines 10-13; 795, lines 4-9.

⁴³ Exhibit C2-12, Direct Testimony of Seth Klein, p. 33 (PDF p. 287/341).

⁴⁴ Exhibit C2-12, Direct Testimony of Seth Klein, pp. 33-34 (PDF pp. 287-288/341).

⁴⁵ Transcript Volume 5, p. 788, lines 20-22.

institutions should take steps to mitigate this reality.⁴⁶ And for some basic necessities such as food, a low income person can purchase lower priced food at a lower cost shop, rather than purchasing food at a higher cost store like Whole Foods Market.⁴⁷ There is no monopoly food service provider. Low income BC Hydro ratepayers, by contrast, cannot purchase less expensive electricity from another utility, as BC Hydro has a monopoly on residential electricity service in BC Hydro's service territory.⁴⁸ Electricity is an essential service that all British Columbians need.

BCOAPO's evidence about poverty and energy poverty provides important context for those, including the Honourable Minister responsible for BC Hydro, who have rejected the proposition that BC Hydro residential rates pose an energy poverty challenge, given that BC Hydro rates are among the lowest in North America. While it is true that BC Hydro residential rates remain relatively low compared to other jurisdictions, the problem with this response is that it views electricity in isolation from other costs.⁴⁹ Mr. Klein presents the following costs as examples⁵⁰:

- Housing costs in BC (particularly the Lower Mainland) rank among the highest in Canada, which impacts the rental market as tenants are less able to leave the rental housing market – my evidence notes that the low vacancy rates translates to higher average rents.
- Child care expenses have been increasing at a rate steadily outstripping CPI (the overall inflation rate), and represent the second largest expense after housing for a family in Metro Vancouver.

Finally, BC Hydro residential rates are rising faster than incomes in BC, by a considerable margin. Specifically, between 2008 and 2013, BC Hydro rates increased by 34.4% (an increase of 25.6% after inflation), continued to increase in 2014, 2015 and 2016 and are forecast to continue to rise.⁵¹ Meanwhile, average after-tax incomes in BC only grew by 4.1% over the same period – and this is an *average*; the poorest 10% in BC (combining individuals and “economic families”) actually saw a drop in real incomes of 25% over that period.⁵² While there are some programs and services available to British Columbians to address child care fees and housing in BC, these are inadequate.⁵³

With the overall cost of living being comparatively high in BC, lower-income households have less room in their budgets for energy costs, and are consequently more sensitive

⁴⁶ Exhibit C2-19, BCOAPO Response to BCUC 26.2

⁴⁷ *Ibid*

⁴⁸ *Ibid.*

⁴⁹ Exhibit C2-12, Direct Testimony of Seth Klein, p. 34 (PDF p. 288/341).

⁵⁰ Exhibit C2-12, Direct Testimony of Seth Klein, pp. 34-35 (PDF pp. 288-289/341).

⁵¹ Exhibit C2-12, Direct Testimony of Seth Klein, p. 36 (PDF p. 290/341).

⁵² *Ibid.*

⁵³ Exhibit C2-20, BCOAPO Response to CEC 30.1.

to rising energy and electricity bills.⁵⁴ Mr. Klein stated the following during cross-examination:

So, when Hydro rates are increasing at a rate that's outstripping incomes and inflation, you know, for many of us in this room, a few more dollars a month in a Hydro rate may seem like no big deal, and we just accommodate it in our household budgets. For the people I'm talking about in this testimony, that is simply not true. That's not the reality.⁵⁵

Mr. Klein's evidence establishes that that rising BC Hydro rates represent a substantial hardship for low income British Columbians and that some forms of mitigation are required, stating that in absence of such measures, energy poverty in BC can be expected to worsen as BC Hydro rates continue to increase.⁵⁶

3.3. Advocates' Testimony

Six anti-poverty advocates from across the province provided direct evidence about the impact of rising BC Hydro rates on their clients – all of whom are low and fixed income residential ratepayers. For context, “advocates” assist people with various barriers in navigating legal and administrative processes to ensure they can access their rights and the services they need. The six advocate witnesses that provided statements are:

1. Patty Edwards, Constituency Assistant for Scott Fraser, MLA (Alberni-Pacific Rim);
2. Emma Gauvin, Social Work Team Lead, Vancouver Coastal Health's STOP HIV/AIDS Program;
3. Stephen Portman, Advocacy Lead, Together Against Poverty Society in Victoria;
4. Audrey Schwartz, Executive Director, Active Support Against Poverty in Prince George;
5. Keith Simmonds, Coordinating Minister, Duncan United Church, current Chair of the BC Conference of the United Church of Canada; and
6. Stacey Tyers, Manager of Counselling Support Services, Terrace and District Community Services Society;

None of the parties in this process had any information requests for BCOAPO's advocate witnesses, nor did they wish to cross-examine them on their evidence. Therefore, the advocates' evidence is uncontradicted.

BCOAPO's advocate witnesses provided evidence about their clients' increasing inability to pay BC Hydro bills, and how difficult it is for low income people to get

⁵⁴ Exhibit C2-12, Direct Testimony of Seth Klein, p. 36 (PDF p. 290/341); Transcript Volume 5, p. 790, lines 2-9.

⁵⁵ Transcript Volume 5, p. 795, lines 16-23.

⁵⁶ Exhibit C2-12, Direct Testimony of Seth Klein, pp. 39-40 (PDF pp. 293-294/341).

reconnected once their service is disconnected. The advocates' testimony covered the following topics:

- Their job description;
- The client demographic served by their organization;
- How the advocate had become familiar with bill affordability issues for low income BC Hydro ratepayers;
- How long they had worked on BC Hydro low income issues;
- The types of BC Hydro issues they had dealt with;
- the impact of BC Hydro bill affordability issues on their clients;
- Their and their clients' awareness of upcoming BC Hydro rate increases;
- Their level of knowledge concerning BC Hydro's Low Income Demand-Side Measures (Energy Efficiency) Programs; and
- The sources of financial assistance that exist in their community for people facing difficulties with BC Hydro bills.

All six advocates work with low income clients, some of whom are additionally marginalized by other aspects of their identities such as mental and physical disabilities, gender identity or expression, sexuality, or being seniors, First Nations, or recent immigrants and refugees. Four of the advocates said that a significant or disproportionate number of their clients are First Nations (in Port Alberni, Victoria, Prince George, and Terrace, respectively).⁵⁷ The areas served by the advocates' organizations cover a broad cross section of BC Hydro's service territory, including Vancouver's downtown eastside, Vancouver Island, Prince George, and Terrace. The advocate witnesses have worked with clients with BC Hydro issues for periods ranging from 2 to 29 years.

When asked how they had become familiar with bill affordability issues for low income BC Hydro ratepayers, all six advocates stated that they regularly and directly see clients who are unable to pay their BC Hydro bills.⁵⁸ Stacey Tyers' evidence noted in particular that while some people in Terrace have gas heating, many have electric heating, leading to very high BC Hydro bills which low income people are often unable to pay⁵⁹; as Ms. Tyers notes, this is particularly an issue in the North, where it is much darker and colder in the winter than in other parts of the province, and people must use light and heat a lot more.⁶⁰ As stated succinctly by Audrey Schwartz (Prince George):

⁵⁷ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 2 (PDF p. 302/341); Direct Testimony of Stephen Portman, p. 2 (PDF p. 338/341); Direct Testimony of Audrey Schwartz, p. 2 (PDF p. 324/341); Direct Testimony of Stacey Tyers, p. 1 (PDF p. 332/341).

⁵⁸ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 2 (PDF p. 302/341); Direct Testimony of Emma Gauvin, p. 2 (PDF p. 308/341); Direct Testimony of Stephen Portman, p. 2 (PDF p. 338/341); Direct Testimony of Audrey Schwartz, p. 2 (PDF p. 324/341); Direct Testimony of Stacey Tyers, p. 2 (PDF p. 333/341); Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 2 (PDF p. 3).

⁵⁹ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 2 (PDF p. 333/341).

⁶⁰ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 2 (PDF p. 333/341).

“Low income people do not have a financial cushion that allows them to pay huge bills in a way that will actually make the problem go away – even if they manage to avoid disconnection one month, the rates mean they could be in the same place with the next bill. For our clients with electric heating, this is a life and death crisis.”⁶¹

Similarly, Keith Simmonds (Duncan, Vancouver Island) points out that

“Affordable rental housing is often also the least energy efficient, and the hardest to heat. Affordable rental accommodation in our area can be poorly insulated, drafty, and heated by older, inefficient baseboards that either fail or need to be supplemented by portable heat sources.”⁶²

All six advocates stated that they primarily see clients who have been disconnected or are facing service disconnection due to inability to pay.⁶³ All but one also said that they see people who are on Equal Payment Plans, and receive unexpected bills that they cannot afford to pay when BC Hydro reviews the customer/client’s actual usage.⁶⁴ Ms. Tyers’ evidence highlighted the difficulty many of her clients have in understanding BC Hydro’s EPP bills, especially given some of her clients’ low literacy and comprehension levels.⁶⁵ Many noted that reconnection following disconnection for non-payment was difficult.⁶⁶ Several of the advocates noted that their BC Hydro-related caseloads had been increasing over the past few years.⁶⁷

Many of the advocates noted that BC Hydro was not an easy organization for low income clients to interact with, given that many clients have no access to internet, limited cell phone use, and no bank account.⁶⁸

⁶¹ Exhibit C2-12, Direct Testimony of Audrey Schwartz, p. 2 (PDF p. 324/341).

⁶² Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 3 (PDF p. 4).

⁶³ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 3 (PDF p. 303/341); Direct Testimony of Emma Gauvin, pp. 2-3 (PDF pp. 308-309/341); Direct Testimony of Stephen Portman, p. 2 (PDF p. 338/341); Direct Testimony of Audrey Schwartz, p. 2 (PDF p. 324/341); Direct Testimony of Stacey Tyers, p. 2 (PDF p. 333/341); Exhibit C2-14, Direct Testimony of Keith Simmonds, p. 2 (PDF p. 3).

⁶⁴ Exhibit C2-12, Direct Testimony of Patty Edwards, pp. 3-4 (PDF pp. 303-304/341); Direct Testimony of Stephen Portman, p. 2 (PDF p. 338/341); Direct Testimony of Audrey Schwartz, p. 2 (PDF p. 324/341); Direct Testimony of Stacey Tyers, pp. 2-3 (PDF pp. 333-334/341); Exhibit C2-14 Revised Direct Testimony of Keith Simmonds, p. 2 (PDF p. 3).

⁶⁵ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 3 (PDF p. 334/341).

⁶⁶ Exhibit C2-12, Direct Testimony of Patty Edwards, pp. 4-5 (PDF pp. 304-305/341); Direct Testimony of Audrey Schwartz, p. 3 (PDF p. 325/341).

⁶⁷ Exhibit C2-12, Direct Testimony of Patty Edwards, p.2 (PDF p. 302/341); Direct Testimony of Audrey Schwartz, p. 2 (PDF p. 324/341); Direct Testimony of Stacey Tyers, pp. 2-3 (PDF pp. 333-334/341); Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 2 (PDF p. 3).

⁶⁸ Exhibit C2-12, Direct Testimony of Emma Gauvin, p. 3 (PDF p. 309/341); Direct Testimony of Audrey Schwartz, p. 3 (PDF p. 325/341).

In terms of specific impacts of BC Hydro bill affordability issues on their clients, the advocate witnesses provided some striking examples, including the following:

- Clients having to choose between paying rent, purchasing food or medications, and paying their BC Hydro bill⁶⁹;
- Clients keeping their heat well below safe and healthy levels in order to reduce costs⁷⁰;
- HIV patients being disconnected and losing access to a working fridge, despite needing their medicine refrigerated, and needing access to proper nutrition given that they are prone to opportunistic infections⁷¹;
- Clients fearing that disconnection raises or increases the possibility of their children being taken into care;⁷²
- Clients facing eviction from rental housing if their residential electricity service is disconnected;⁷³
- Clients who need to pump their domestic water supply losing access to drinking water when disconnected by BC Hydro;⁷⁴
- Clients being disconnected by BC Hydro for bill non-payment during extended hospital stays;⁷⁵ and
- Clients becoming completely consumed by the stress of trying to make ends meet.⁷⁶

Stephen Portman (Victoria) summarized the impact of rising BC Hydro rates on low income people in the following way in his evidence:

“The increasing unaffordability of BC Hydro rates for our clients means that people are unable to pay their bills, and are more often disconnected.

The impact of not having electricity should be obvious, but is particularly problematic when someone has a disability, or has small children and due to a lack of electricity is unable to cook. Being unable to afford electricity means not

⁶⁹ Exhibit C2-12, Direct Testimony of Keith Simmonds, p. 3 (PDF p. 4); Direct Testimony of Patty Edwards, p. 4 (PDF p. 304/341).

⁷⁰ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 3 (PDF p. 334/341).

⁷¹ Exhibit C2-12, Direct Testimony of Emma Gauvin, pp. 3-4 (PDF pp. 309-310/341).

⁷² Exhibit C2-12, Direct Testimony of Keith Simmonds, p. 3 (PDF p. 4); Direct Testimony of Stacey Tyers, p. 3 (PDF p. 334/341).

⁷³ Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 3 (PDF p. 4).

⁷⁴ Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 3 (PDF p. 4).

⁷⁵ Exhibit C2-12, Direct Testimony of Emma Gauvin, p. 4 (PDF p. 310/341).

⁷⁶ Exhibit C2-12, Direct Testimony of Audrey Schwartz, p. 3 (PDF p. 325/341).

being able to clean laundry, shower and prepare for work, and heat your home in the middle of the winter – especially since a lot of low income housing in the Victoria area has electric baseboard heating. Getting cut off has a big impact very quickly.”⁷⁷

Almost all of the advocates stated that their clients were either unaware or only vaguely aware of BC Hydro’s future rate increases.⁷⁸ Those that are aware of impending increases are “panicking.”⁷⁹ Several reiterated that their clients will not be able to cope with additional rate increases.⁸⁰ Ms. Tyers stated the following: “When it comes to low income communities, every time there is a rate increase, you are taking food out of someone’s mouth. That is literally the choice that people have to make.”⁸¹

Almost none of the advocates said that they or their clients had any experience with or knowledge about BC Hydro’s low income DSM programs. One advocacy group (Together Against Poverty Society in Victoria) actively tries to promote ESKs, but Mr. Portman stated that ESKs “seem to provide little relief to those few clients that are using them.”⁸² The only two other advocate witnesses who knew of clients using ESKs agreed that the ESKs did not seem to make a difference to their clients’ electricity bills.⁸³ As many clients rented their accommodation, ECAP was not considered as an option as it required landlord consent⁸⁴; advocates noted that their clients assume these kinds of upgrades are the landlord’s responsibility and think they are overstepping their role to ask the landlord to participate.⁸⁵ One advocate also noted that many low income people move frequently.⁸⁶

All six advocate witnesses provided evidence that corroborated BCOAPO’s understanding of how difficult it is for people on income assistance or disability assistance to obtain a crisis supplement from MSDSI to pay their hydro bills, and avoid disconnection.⁸⁷ Mr. Portman explains this difficulty as follows:

⁷⁷ Exhibit C2-12, Direct Testimony of Stephen Portman, p. 3 (PDF p. 339/341).

⁷⁸ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 5 (PDF p. 305/341); Direct Testimony of Stephen Portman, p. 3 (PDF p. 339/341); Direct Testimony of Audrey Schwartz, p. 3 (PDF p. 325/341); Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 4 (PDF p. 5).

⁷⁹ Direct Testimony of Stacey Tyers, p. 4 (PDF p. 335/341).

⁸⁰ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 5 (PDF p. 305/341); Direct Testimony of Stephen Portman, p. 3 (PDF p. 339/341); Direct Testimony of Audrey Schwartz, p. 3 (PDF p. 325/341); Direct Testimony of Stacey Tyers, p. 4 (PDF p. 335/341); Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 4 (p. 5 of PDF).

⁸¹ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 4 (PDF p. 335/341).

⁸² Exhibit C2-12, Direct Testimony of Stephen Portman, p. 3 (PDF p. 339/341).

⁸³ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 4 (PDF p. 335/341); Exhibit C2-14, Revised Direct Testimony of Keith Simmonds, p. 4 (PDF p. 5).

⁸⁴ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 4 (PDF p. 335/341)

⁸⁵ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 5 (PDF p. 305/341); Direct Testimony of Stephen Portman, p. 4 (PDF p. 340/341).

⁸⁶ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 5 (PDF p. 305/341).

⁸⁷ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 5 (PDF p. 305/341); Direct Testimony of Emma Gauvin, p. 4 (PDF p. 310/341); Direct Testimony of Stephen Portman, p. 4 (PDF p. 340/341); Direct

“In my experience, crisis supplements are very difficult to get because of the ‘unexpected need’ criteria: to be eligible for a crisis supplement from MSDSI, you must be financially eligible for income assistance or disability assistance, and be able to show that (1) you have an unexpected need, (2) you have no other resources to meet that need, and (3) there is a threat to your physical health or safety if the need is not addressed. This is hard to show in the utility context. For example, clients will apply for a crisis supplement for a bill they cannot pay following an EPP adjustment or some kind of complex billing mistake, and MSDSI will deny it and say the need is not unexpected because the client has been receiving electricity bills, and electricity is not an unexpected need.”⁸⁸

Similarly, advocate witnesses that were aware of additional assistance occasionally being available locally through community funds corroborated BCOAPO’s understanding that such funds are discretionary, and very limited – the available funds each month are small and are always exhausted within the first few days of each month.⁸⁹ The advocates’ testimony was clear that neither MSDSI crisis supplements nor small community funds provide reliable sources of assistance with BC Hydro bills that clients are unable to pay.

Overall, the six advocates’ evidence consistently depicts a context in which their low income clients are already seriously struggling to make ends meet, and face the very real threat of losing access to this essential service in the context of current and future BC Hydro rate increases.

3.4. Ratepayers’ Testimony

BCOAPO also filed written evidence of five individual BC Hydro residential ratepayers, including:

1. Curtis Barton;
2. Conrad Dennis;
3. Christopher Shay
4. Confidential Ratepayer 1; and
5. Confidential Ratepayer 2.

The two confidential ratepayers who provided evidence are single mothers who requested that the Commission keep their witness statements confidential in order to

Testimony of Audrey Schwartz, p. 4 (PDF p. 326/341); Direct Testimony of Stacey Tyers, pp. 4-5 (PDF pp. 335-336/341); Exhibit C2-15, Revised Direct Testimony of Keith Simmonds, p. 4 (PDF p. 5).

⁸⁸ Exhibit C2-12, Direct Testimony of Stephen Portman, p. 4 (PDF p. 340/341).

⁸⁹ Exhibit C2-12, Direct Testimony of Stephen Portman, pp. 4-5 (PDF pp. 340-341/341); Direct Testimony of Audrey Schwartz, p. 4 (PDF p. 326/341); Direct Testimony of Stacey Tyers, p. 5 (PDF p. 336/341); Exhibit C2-15, Revised Direct Testimony of Keith Simmonds, p. 4 (PDF p. 5).

protect the privacy of their children, who could be readily identifiable based on the contents of their statements.

As with the advocate witnesses, none of the parties in this process had any information requests for our individual ratepayer witnesses, nor did they wish to cross-examine them on their evidence. Therefore, the ratepayers' evidence is uncontradicted.

These ratepayers and their children have all personally experienced hardship as a result of increasing BC Hydro rates; these individuals include First Nations people, people with disabilities, single mothers and a family who came to Canada through the refugee process. Their evidence provides powerful examples of the serious impact that rate increases and the lack of low income customer specific services are having for people struggling to maintain electricity service.

We provide brief summaries of the circumstances of the three non-confidential ratepayer witnesses, to give concrete examples of the real people that are being impacted by these rate increases. We have summarized the evidence of the two confidential ratepayer witnesses, removing identifying information. The complete confidential witness statements are available to any participants to this proceeding who provide a signed confidentiality agreement.

Curtis Barton is a 57-year old man that lives alone in Prince Rupert, BC, and relies solely on provincial income assistance, which is \$610 per month.⁹⁰ He has no assets or savings.⁹¹ His rent is \$500 per month, and his BC Hydro bill is \$133 every two months. Mr. Barton notes that after he pays his rent, he has only \$110 per month to spend on other expenses – he must regularly choose between utilities and food.⁹² He has already given up other expenses, including gas heating and internet in his home, and owning a car. He currently uses an electric heater and blankets to stay warm. He states that his electricity has been disconnected in the past, and that MSDSI has told him they will not assist him again. He expects to be disconnected again in the future, as his arrears are accumulating; he says there is no way he could pay higher BC Hydro bills.⁹³

Conrad Dennis is a 46-year old First Nations man living in Williams Lake, BC. He relies on a monthly income of \$610 per month, and lives in an older, electrically-heated home. Mr. Dennis lives with his elderly mother, and states that he cannot turn down the heat because of his mother's health.⁹⁴ Mr. Dennis says the following: "We have difficulty paying the BC Hydro bill because rates keep going up, and our income stays the same. I am right against the wall in terms of expenses. I have less than \$100 left once I pay all my bills and my share of groceries each month."⁹⁵ Mr. Dennis's witness statement

⁹⁰ Exhibit C2-12, Direct Testimony of Curtis Barton, p. 1 (PDF p. 319/341).

⁹¹ *Ibid.*

⁹² Exhibit C2-12, Direct Testimony of Curtis Barton, p. 2 (PDF p. 320/341).

⁹³ Exhibit C2-12, Direct Testimony of Curtis Barton, p. 4 (PDF p. 322/341).

⁹⁴ Exhibit C2-12, Direct Testimony of Conrad Dennis, p. 3 (PDF p. 317/341).

⁹⁵ Exhibit C2-12, Direct Testimony of Conrad Dennis, p. 2 (PDF p. 316/341).

states that he and his mother have had their electricity disconnected on a couple of occasions in the past because of inability to pay.

Christopher Shay is a 43 year old man living in Coquitlam, BC. He is Deaf and his first language is American Sign Language. At the time his statement was made, Mr. Shay relied on provincial disability assistance, and a small amount of irregular employment income, which taken together left him well below LICO. Mr. Shay's apartment is electrically heated, and although he had not been disconnected in the past,⁹⁶ prioritizing his BC Hydro bill meant that he had to cut back on other essential expenses like food.

All five ratepayer witnesses stated that their monthly incomes left them with very little funds available to pay their hydro bills, and forced them to make impossibly difficult choices each month, such as choosing between heating and buying food and diapers.

Three of the ratepayer witnesses had been disconnected in the past at least once⁹⁷; a fourth said that BC Hydro's annual true up of her Equal Payment Plan had left her owing \$200 and facing disconnection.⁹⁸ While all five ratepayer witnesses receive some form of provincial social assistance (either income assistance or disability assistance), only two of the ratepayer witnesses had ever received MSDSI crisis assistance to avoid electricity disconnection. Those who had attempted to apply for crisis supplements from MSDSI noted that they were becoming increasingly hard to obtain.⁹⁹

Two ratepayer witnesses described their difficulties in understanding their BC Hydro bills, including having credits on their accounts of which they were unaware.¹⁰⁰

Four of the ratepayer witnesses had no awareness of low income DSM programs; none had heard of ECAP, and the one witness who had installed an ESK did not find that the products made a difference in the electricity bill.¹⁰¹

All five ratepayer witnesses were aware that their BC Hydro bills have been increasing,¹⁰² and several described their inability to cope with additional increases.¹⁰³

⁹⁶ Exhibit C2-12, Direct Testimony of Christopher Shay, pp. 2-3 (PDF pp. 313-314/341).

⁹⁷ Exhibit C2-12, Direct Testimony of Curtis Barton; Direct Testimony of Conrad Dennis; Confidential Ratepayer #2.

⁹⁸ Confidential Ratepayer #2.

⁹⁹ Exhibit C2-12, Direct Testimony of Curtis Barton, pp. 2-3 (PDF pp. 320-321/341); Direct Testimony of Conrad Dennis, p. 4 (PDF p. 318/341).

¹⁰⁰ Exhibit C2-12, Direct Testimony of Conrad Dennis, p. 2 (PDF p. 320/341); Confidential Ratepayer #2

¹⁰¹ Confidential Ratepayer #1.

¹⁰² Exhibit C2-12, Direct Testimony of Curtis Barton, p. 4 (PDF p. 322/341); Direct Testimony of Conrad Dennis, p. 3 (PDF p. 317/341), Confidential Ratepayers #1 & #2.

¹⁰³ Exhibit C2-12, Direct Testimony of Curtis Barton, p. 4 (PDF p. 322/341); Direct Testimony of Conrad Dennis, p. 3 (PDF p. 317/341); Confidential Ratepayer #1.

3.5. Conclusions that Can be Drawn from the Advocates' and Ratepayers' Testimony

Based on the uncontradicted evidence of the advocates and BC Hydro ratepayers, BCOAPO submits that it has established that:

- BC Hydro rates are becoming increasingly unaffordable for people with very low incomes, and people are having to make choices between necessities like heating and eating;
- There is no room in low income people's household budgets to cope with additional rate increases;
- Low income customers face significant difficulty getting their electricity reconnected once they have been disconnected;
- Sources of assistance with BC Hydro bills (like MSDSI and community funds) are highly discretionary and difficult to access; and
- Awareness of BC Hydro's energy efficiency programs (both ESKs and ECAP) is limited, and ESKs provide little discernable difference in bill amounts to those that have used them.

3.6. MSDSI and Community Programs Are Inadequate to Address Low Income Customers' Arrears

As referenced briefly in the preceding sections, there are a few potential sources of funding for low income customers who are having difficulty paying their BC Hydro bills: (i) utility crisis supplements through MSDSI for people who are receiving income assistance or disability benefits through MSDSI; and (ii) limited funds available through the Homeless Prevention Program and a few community agencies. These programs provide funds on a discretionary basis, and are therefore inadequate to address rising BC Hydro rates.

3.6.1. Assistance Available Through MSDSI

Section 59 of the Employment and Assistance Regulation (the "EA Regulation") and MSDSI policy allow MSDSI to provide a "crisis supplement" to a person in receipt of income assistance where the person's expense was unexpected, where the person has no other available resources to meet the need, and where failure to meet the expense would result in "the imminent danger to the physical health of any person in the family unit." Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (the "EAPWD Regulation") sets out the comparable provision for a person in receipt of disability assistance.

MSDSI's January 8, 2007 "Essential Utilities Supplement" policy applies to requests from clients who require a supplement to pay for essential residential utilities. The policy states that a crisis supplement for essential utilities (which includes electricity) may be

provided if recipients have exhausted all resources, and do not have the ability to maintain essential utilities for their home when served with a disconnection notice or faced with the inability to re-establish essential utilities. The essential utilities supplement counts towards a recipient's cumulative annual limit for crisis supplements.¹⁰⁴

The utility crisis supplement is discretionary, and recipients of income assistance or disability assistance can qualify for the supplement.

As discussed in the summary of the advocate's evidence, BCOAPO understands that MSDSI frequently denies requests for crisis supplements for utility arrears on the basis that the applicant's need does not meet the eligibility requirements set out in section 59 of the EA Regulation and section 57 of the EAPWD Regulation - that disconnection due to non-payment cannot be said to be "unexpected" as is required by the Regulations for the issuance of a crisis supplement. Specifically, the Ministry finds that it is not "unexpected" that one's power would be disconnected if they do not pay their utility bills, and that it is a predictable and foreseeable expense.¹⁰⁵

Where crisis supplement requests are denied based on the "unexpected need" criterion, and an applicant must then go through MSDSI's reconsideration and appeal process, it can take months for a supplement to be granted (if at all). By that point, the person may have been disconnected (if they were not already disconnected), and will also face a reconnection charge in addition to the arrears.¹⁰⁶

BCOAPO understands that BC Hydro has recently committed to and implemented a process for deferring disconnection for low income customers that have applied (or are about to apply) for social assistance or a crisis supplement until the Ministry completes its review.¹⁰⁷ This helps mitigate the timing issue outlined above; however, it does not resolve the fundamental issue that requests for Ministry assistance with BC Hydro bills are often not granted.

3.6.2. Assistance Available through the Homeless Prevention Program and Community Groups

Aside from the assistance that may be available through MSDSI, there is a BC Housing initiative called the Homeless Prevention Program (HPP), which is available in many communities across the province and which provides limited funds on a discretionary

¹⁰⁴ Exhibit C2-17, BCOAPO Response to BC Hydro 14.1. As noted in the response, this policy can be found in MSDSI's "BC Employment and Assistance Policy and Procedure Manual", online: Government of BC <http://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/general-supplements-and-programs/crisis-supplement>.

¹⁰⁵ Exhibit C2-17, BCOAPO Response to BC Hydro 14.1. As noted in the response, this is corroborated by the Direct Testimonies of Patty Edwards (Exhibit C2-12, PDF p. 305/341), Stephen Portman (Exhibit C2-12, PDF p. 340/341), Audrey Schwartz (Exhibit C2-12, PDF p. 326/341), Keith Simmonds (Exhibit C2-12, PDF p. 330/341), and Stacey Tyers (Exhibit C2-12, PDF p. 335-336/341).

¹⁰⁶ Exhibit C2-17, BCOAPO Response to BC Hydro 14.1.

¹⁰⁷ Exhibit B-26-1, BCOAPO 1.192.1 REVISED Attachment 1, p. 19 of 65.

basis to people who are ineligible for financial assistance from MSDSI to pay their BC Hydro bills.¹⁰⁸

People in need of assistance may apply through local agencies that administer the HPP funds. The amount in these funds is limited to a total amount each month in each community to assist people in the area with both rent and utilities; for example, in Terrace, BC, the total amount of the fund to provide emergency assistance for applicants with their rent or utility bill (if they are facing disconnection) is \$1200.¹⁰⁹ We understand that the HPP funds generally run out in the first few days of each month.¹¹⁰

BCOAPO is aware of some informal sources of assistance through community agencies, but these are limited and inconsistent sources of funding, and are highly discretionary. In addition, residents of Vancouver, Surrey or Kamloops who are not receiving assistance through MSDSI may be able to access “Rent Banks” which make small loans to low income working people to help pay rent and/or utility bills.¹¹¹

The HPP, community agencies and Rent Banks all provide discretionary and limited financial assistance for low income people who cannot afford to pay their BC Hydro bills. Such funds are inadequate to assist all low income customers that face insurmountable arrears and service disconnection.

3.7. BC Hydro Has Dramatically Increased the Number of Disconnections of Residential Customers

The sections above detail the hardship that low income customers face when they are unable to pay their electricity bills and BC Hydro disconnects service for non-payment, and the extremely limited sources of assistance available. Since installing smart meters and implementing the capability to remotely disconnect customers, BC Hydro has dramatically increased the number of customers it is disconnecting each year due to non-payment. Table 2 below sets out the number of disconnections BC Hydro has carried out for non-payment in the past five years¹¹²:

¹⁰⁸ Exhibit C2-17, BCOAPO response to BC Hydro 14.1. See *Homeless Prevention Program*, online: BC Housing http://www.bchousing.org/Options/Emergency_Housing/HPP.

¹⁰⁹ Exhibit C2-17, BCOAPO response to BC Hydro 14.1; Exhibit C2-12, Direct Testimony of Stacey Tyers, PDF p. 336/341.

¹¹⁰ *Ibid.*

¹¹¹ Exhibit C2-17, BCOAPO response to BC Hydro 14.1.

¹¹² Exhibit B-26 BCOAPO 1.192.1 REVISED Attachment 1, p. 35 of 63.

Table 2: BC Hydro Disconnections for Non-payment

Year	Disconnections Ordered	Disconnections Completed
F2012	18,381	6,376
F2013	11,987	4,995
F2014	25,362	20,940
F2015	38,781	32,564
F2016	36,827	30,283

Counsel for BCOAPO cross examined the BC Hydro Policy Panel about the reasons for the significant increase in both orders and completions over the five year period ended March 31, 2016.¹¹³ BC Hydro testified that the increase in completed disconnections began in April 2013, which was the same time that BC Hydro's smart meters went into service, as follows:

"...But certainly with smart meters rolling out and optimizing the number of disconnects has gone up. The number of disconnects that we have the ability to do has gone up significantly.

Previously we would issue a disconnect order and it would be something that the field crew had to get to along with all of their other work. And so we've got the information to show that there was a big gap between the orders issued and the numbers that were implemented. Now that we've got effectively the real time capability to do that over the air, that's really what's causing the large increase in disconnects that are taking place."¹¹⁴

The evidence establishes that smart meters have allowed BC Hydro to close the gap between when disconnection orders are issued and when the disconnections take place, resulting in a significant increase in the number of customers that are actually disconnected for non-payment.

4. THE COMMISSION HAS JURISDICTION TO ORDER PROGRAMS TARGETED AT LOW INCOME RATEPAYERS

In this section BCOAPO addresses the Commission's jurisdiction to order programs targeted at low income residential ratepayers.

¹¹³ Transcript Volume 3, p. 467, lines 21-26; p. 468, lines 1-26; p. 469, lines 1-26; p. 470, lines 1-4.

¹¹⁴ Transcript Volume 3, p. 469, lines 13-25.

The question of whether the Commission has jurisdiction to implement BCOAPO's proposed low income programs – and in particular an Essential Services Usage Block rate – is a live issue in this application, as the Commission has never ruled on its jurisdiction over programs of this nature in the past.

BC Hydro's 2008 Residential Inclining Block (RIB) application resulted in the implementation of the current RIB rate. In those proceedings, BCOAPO requested that the Commission establish a "lifeline" rate for low income BC Hydro residential ratepayers, arguing both that the Commission had the jurisdiction to consider a lifeline rate, and that it should exercise its jurisdiction to do so. In its decision, the Commission declined to decide the jurisdictional issue on the grounds that even if it had jurisdiction to approve a lifeline rate, it would not exercise its jurisdiction at that time.¹¹⁵ The Commission's reason for this decision was that the majority of BC Hydro's low-income customers would experience some rate relief from the two-block rate structure. For the reasons set out below, BCOAPO submits that the *UCA* does confer jurisdiction to the Commission to implement BCOAPO's proposed low income programs.

4.1. The Legal Framework

Administrative tribunals or agencies are statutory creations: they cannot exceed the powers that were granted to them by their enabling statute.¹¹⁶ The *UCA* is the enabling statute of the Commission. Whether the Commission has jurisdiction under the *UCA* to order BC Hydro to implement BCOAPO's proposed low income programs is therefore a question of statutory interpretation.

More specifically, the Supreme Court of Canada has held that administrative tribunals obtain their jurisdiction from two sources: explicit powers expressly granted by statute, and implicit powers by application of the common law doctrine of jurisdiction by necessary implication.¹¹⁷ Under the "doctrine of jurisdiction by necessary implication," the powers conferred by an enabling statute are construed to include not only those expressly granted but also, by implication, all powers which are practically necessary for the accomplishment of the object intended to be secured by the statutory regime created by the legislature.¹¹⁸

In *Bell Canada v. Canada (Canadian Radio-Television and Telecommunications Commission)*, [1989] 1 SCR 1722, the Supreme Court of Canada observed:

The powers of any administrative tribunal must of course be stated in its enabling statute but they may also exist by necessary implication from the wording of the

¹¹⁵ Reasons for Decision to Commission Order G-124-08, September 24, 2008, at p. 32.

¹¹⁶ *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, [2006] 1 SCR 140, 2006 SCC 4, para 35.

¹¹⁷ *Advocacy Centre for Tenants-Ontario v Ontario Energy Board*, 2008 CanLII 23487, at para 13, citing *ATCO*, *supra* note 116, at para. 38.

¹¹⁸ *ATCO*, *supra* note 116, at para 51, citing D. M. Brown, *Energy Regulation in Ontario* (loose-leaf ed.), at p. 2-16.2; *Bell Canada v. Canada (Canadian Radio-Television and Telecommunications Commission)*, [1989] 1 S.C.R. 1722 at 1756.

act, its structure and its purpose. Although courts must refrain from unduly broadening the powers of such regulatory authorities through judicial law-making, they must also avoid sterilizing these powers through overly technical interpretations of enabling statutes.

In *Advocacy Centre for Tenants-Ontario v Ontario Energy Board*¹¹⁹, the Ontario Superior Court of Justice summarized at paragraph 51 that:

The Court must apply a “pragmatic or functional” analysis in determining the issue of jurisdiction, by considering the wording of the *Act* conferring jurisdiction upon the Board, the purpose of the *Act* creating the Board, the reason for the Board’s existence, the area of expertise of its members and the nature of the problem before the Board. *Union des employés de Service, local 298 v. Bibeault*, 1988 CanLII 30 (SCC), [1988] 2 S.C.R. 1048 at 1088.

Both the common law and British Columbia’s *Interpretation Act*¹²⁰ provide guidance in interpreting the Commission’s express and implied powers under the *UCA*. Canadian courts have long endorsed E.A. Driedger’s “Modern Approach” to statutory interpretation, which establishes:

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament (emphasis added).¹²¹

In *Novak v. Bond*, 1999 CanLII 685 (SCC), McLachlin J. (as she then was) described the approach to statutory interpretation in these terms, at para. 63:

The cardinal principle of statutory interpretation is that a legislative provision should be construed in a way that best furthers its objects: see *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 S.C.R. 27, at paras. 21-22, *per* Iacobucci J., and *Interpretation Act*, R.S.B.C. 1996, c. 238, s. 8. Subsidiary rules of statutory interpretation provide that each part of an enactment must be given meaning, and that statutes must be construed in such a way that absurdities are avoided: see *Rizzo Shoes*, *supra*, at para. 27, *per* Iacobucci J.

Driedger’s Modern Approach is buttressed by sections 7 and 8 of BC’s *Interpretation Act*, which state:

¹¹⁹ *Advocacy Centre for Tenants-Ontario*, *supra* note 117, at para. 14.

¹²⁰ *Interpretation Act*, R.S.B.C. 1996, c. 238.

¹²¹ E.A. Driedger, *Construction of Statutes*, 2nd ed. (Toronto: Butterworths, 1983). See, e.g., *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27, at para. 21; *Bell ExpressVu Limited Partnership v. Rex*, [2002] 2 SCR 559, 2002 SC 42, at para. 26. See also *Bell ExpressVu Partnership Limited v. Rex*, 2002 SCC 42 (CanLII), [2002] 2 S.C.R. 559, at para. 26; *Alberta Union of Provincial Employees v. Lethbridge Community College*, 2004 SCC 28 (CanLII), [2004] 1 S.C.R. 727, at para. 25; and *Canada (Information Commissioner) v. Canada (Minister of National Defence)*, 2011 SCC 25 (CanLII), [2011] 2 S.C.R. 306, at para. 27.

Enactment always speaking

7 (1) Every enactment must be construed as always speaking.

(2) If a provision in an enactment is expressed in the present tense, the provision applies to the circumstances as they arise.

Enactment remedial

8 Every enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.

Read together, the Modern Approach and Sections 7 and 8 of the *Interpretation Act* require that the Commission take a textual, contextual and purposive approach to interpreting the *UCA*.

Where a statute has been enacted to regulate an ongoing activity over an infinite period of time, as has the *UCA*, there should be a dynamic interpretation of the legislation, and the Commission must consider evidence of current circumstances in its analysis: *Interpretation Act*, R.S.B.C. 1996, c. 238, ss. 7 and 8, and *R. v. 974649 Ontario Inc.*, [2001] 3 SCR 575.

In *R. v. 974649 Ontario Inc.*, *supra*, the Supreme Court of Canada observed at para 38:

...The intention of Parliament or the legislatures is not frozen for all time at the moment of a statute's enactment, such that a court interpreting the statute is forever confined to the meanings and circumstances that governed on that day. Such an approach risks frustrating the very purpose of the legislation by rendering it incapable of responding to the inevitability of changing circumstances. Instead, we recognize that the law speaks continually once adopted: *Tataryn v. Tataryn Estate*, 1994 CanLII 51 (SCC), [1994] 2 S.C.R. 807, at p. 814; see also *Interpretation Act*, R.S.O. 1990, c. 1.11, s. 4. Preserving the original intention of Parliament or the legislatures frequently requires a dynamic approach to interpreting their enactments, sensitive to evolving social and material realities. While the courts strive ultimately to give effect to legislative intention, the will of the legislature must be interpreted in light of prevailing, rather than historical, circumstances: see, for example, *Symes v. Canada*, 1993 CanLII 55 (SCC), [1993] 4 S.C.R. 695, at pp. 727-29 (*per* Iacobucci J.), and pp. 793-94 (*per* L'Heureux-Dubé J., dissenting); *Tataryn*, *supra*, at pp. 814-15.

4.1.1. The Scope of the Commission's Jurisdiction

The following provisions of the *UCA* are relevant to the Commission's jurisdiction to order programs targeted at low income residential ratepayers:

General supervision of public utilities

23 (1) The commission has general supervision of all public utilities and may make orders about

- (a) equipment,
- (b) appliances,
- (c) safety devices,
- (d) extension of works or systems,
- (e) filing of rate schedules,
- (f) reporting, and
- (g) other matters it considers necessary or advisable for
 - (i) the safety, convenience or service of the public, or
 - (ii) the proper carrying out of this Act or of a contract, charter or franchise involving use of public property or rights.

(2) Subject to this Act, the commission may make regulations requiring a public utility to conduct its operations in a way that does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public.

Public utility must provide service

38 A public utility must

- (a) provide, and
- (b) maintain its property and equipment in a condition to enable it to provide,

a service to the public that the commission considers is in all respects adequate, safe, efficient, just and reasonable.

Discrimination in rates

59 (1) A public utility must not make, demand or receive

- (a) an unjust, unreasonable, unduly discriminatory or unduly preferential rate for a service provided by it in British Columbia, or

(b) a rate that otherwise contravenes this Act, the regulations, orders of the commission or any other law.

(2) A public utility must not

(a) as to rate or service, subject any person or locality, or a particular description of traffic, to an undue prejudice or disadvantage, or

(b) extend to any person a form of agreement, a rule or a facility or privilege, unless the agreement, rule, facility or privilege is regularly and uniformly extended to all persons under substantially similar circumstances and conditions for service of the same description.

(3) The commission may, by regulation, declare the circumstances and conditions that are substantially similar for the purpose of subsection (2) (b).

(4) It is a question of fact, of which the commission is the sole judge,

(a) whether a rate is unjust or unreasonable,

(b) whether, in any case, there is undue discrimination, preference, prejudice or disadvantage in respect of a rate or service, or

(c) whether a service is offered or provided under substantially similar circumstances and conditions.

(5) In this section, a rate is "unjust" or "unreasonable" if the rate is

(a) more than a fair and reasonable charge for service of the nature and quality provided by the utility,

(b) insufficient to yield a fair and reasonable compensation for the service provided by the utility, or a fair and reasonable return on the appraised value of its property, or

(c) unjust and unreasonable for any other reason.

Setting of rates

60 (1) In setting a rate under this Act

(a) the commission must consider all matters that it considers proper and relevant affecting the rate,

(b) the commission must have due regard to the setting of a rate that

(i) is not unjust or unreasonable within the meaning of section 59,

(ii) provides to the public utility for which the rate is set a fair and reasonable return on any expenditure made by it to reduce energy demands, and

(iii) encourages public utilities to increase efficiency, reduce costs and enhance performance,

(b.1) the commission may use any mechanism, formula or other method of setting the rate that it considers advisable, and may order that the rate derived from such a mechanism, formula or other method is to remain in effect for a specified period, and

(c) if the public utility provides more than one class of service, the commission must

(i) segregate the various kinds of service into distinct classes of service,

(ii) in setting a rate to be charged for the particular service provided, consider each distinct class of service as a self contained unit, and

(iii) set a rate for each unit that it considers to be just and reasonable for that unit, without regard to the rates set for any other unit.

(2) In setting a rate under this Act, the commission may take into account a distinct or special area served by a public utility with a view to ensuring, so far as the commission considers it advisable, that the rate applicable in each area is adequate to yield a fair and reasonable return on the appraised value of the plant or system of the public utility used, or prudently and reasonably acquired, for the purpose of providing the service in that special area.

(3) If the commission takes a special area into account under subsection (2), it must have regard to the special considerations applicable to an area that is sparsely settled or has other distinctive characteristics.

(4) For this section, the commission must exclude from the appraised value of the property of the public utility any franchise, licence, permit or concession obtained or held by the utility from a municipal or other public authority beyond the money, if any, paid to the municipality or public

authority as consideration for that franchise, licence, permit or concession, together with necessary and reasonable expenses in procuring the franchise, licence, permit or concession.

In summary, pursuant to sections 23, 38, 59 and 60 of the *UCA*, the Commission is charged with ensuring that utilities provide safe, adequate efficient and secure service to their customers and that their rates are fair, just and reasonable.

4.1.2. Application of Statutory Interpretation Principles

BCOAPO submits that the Commission has express jurisdiction and implied powers to order implementation of low income programs.

4.1.2.1. Express Jurisdiction

The starting point of this analysis requires an examination of the grammatical and ordinary meaning of the relevant sections of the *UCA*.¹²² The next step is to apply a contextual and purposive analysis.

4.1.2.1.1. Sections 23 and 38

The Commission derives its overarching jurisdiction from Section 23 of the *UCA*, which assigns the Commission “general supervision” of all public utilities and the power to make orders and regulations. Specifically, the Commission is authorized to make orders about “other matters it considers necessary or advisable for” “the safety, convenience or service of the public” and to “make regulations requiring a public utility to conduct its operations in a way that does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public.”

Section 38 requires public utilities to provide “a service to the public that the commission considers is in all respects adequate, safe, efficient, just and reasonable.” By implication, it is the Commission’s responsibility, as the regulator, to ensure that public utilities are providing such service.

Read together contextually, Sections 23 and 38 give the Commission the express jurisdiction to ensure that public utilities are providing services in the public interest, as well as to consider the public interest in making orders and regulations. More specifically, the consideration of the public interest, in conjunction with Commission’s powers to ensure, *inter alia*, the “convenience...of the public,” “service of the public,” “adequate [service]” and “efficient [service],” give the Commission the express jurisdiction to consider proposed low income programs, subject to Sections 59 and 60 of the *UCA*.

¹²² ATCO, *supra* note 116, at paragraph 40.

The Commission's public interest function was underscored during the passing of the *UCA*. The Hon. Robert H. McClelland stated the following when introducing the *UCA* for Second Reading in the legislature in 1980:

“As I've said, the BC Utilities Commission will take over from the Energy Commission the role of rate regulation. This role will be expanded to include the regulation of BC Hydro rates. Proposed rate increases will be subject to hearings before the Utilities Commission. **These hearings will ensure a rate structure for energy that is fair to all and consistent with overall government energy policy.** In addition, the Utilities Commission will take on the regulation of services and additions to facilities of all energy utilities in the province, including B.C. Hydro. **In this role the commission can help to ensure secure and continuous supplies of energy to all British Columbians.**¹²³ [Emphasis added]

The Hon. H. McClelland's reference to the Commission's role in ensuring “secure and continuous supplies of energy to all British Columbians” reflects the requirement under Section 38 to provide a service to the public that is “adequate.” BCOAPO submits that BC Hydro's service to the public is not adequate where, by virtue of its cost, it is not accessible to all British Columbians to meet their basic energy needs.

4.1.2.1.2. Sections 59 and 60

Sections 59 and 60 define the scope of the Commission's jurisdiction as it applies to rates. When read together, Sections 59 and 60 ground the Commission's rate setting jurisdiction in a traditional cost of service analysis, while also giving the Commission discretion to consider other factors, such as “ability to pay” and efficiency. In other words, while cost of service is a starting point to the Commission's jurisdiction over rate setting, it is not determinative.

4.1.2.1.2.1. Section 60

In its ordinary meaning, Section 60 (1) gives the Commission discretion in its approach to rate setting. As a starting point, the Commission “must consider all matters that it considers proper and relevant affecting the rate” (s.60 (1) (a)) and “may use any mechanism, formula or other method of setting the rate that it considers advisable” (s.60(1)(b.1)).

Section 60(1)(b.1) is similar in wording to Section 36(3) of the *Ontario Energy Board Act*¹²⁴, which authorizes the Ontario Energy Board to fix “just and reasonable rates” by adopting “any method or technique it considers appropriate.” The Ontario Superior Court of Justice held in *Advocacy Centre for Tenants-Ontario* that this section gives the

¹²³ https://www.leg.bc.ca/documents-data/debate-transcripts/32nd-parliament/2nd-session/32p_02s_800820a at p. 4062.

¹²⁴ *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, Sched. B.

Ontario Energy Board the jurisdiction to consider ability to pay in rate setting (see a more detailed analysis of this case below).

The discretion conferred by Section 60 to consider factors other than cost of service is confirmed in Special Direction No. 7 to the BC Utilities Commission,¹²⁵ which, pursuant to section 3 of the *UCA*, overrides any provision of the *UCA*.

Determining the cost of energy

5 In setting the authority's rates, the commission

- (a) must treat the heritage contract as if it were a legally binding agreement between 2 arms-length parties,
- (b) must determine the energy required by the authority to meet its domestic service obligations and must determine the cost to the authority of the portion of that required energy that is in excess of the energy supplied under the heritage contract,
- (c) may employ any mechanism, formula or method referred to in section 60 (1) (b.1) of the *Utilities Commission Act*, and
- (d) unless a different mechanism, formula or method is employed under paragraph (c), must ensure that electricity used by the authority to meet its domestic service obligations is provided to customers on a cost-of-service basis.

Section 5(c) of Special Direction No. 7 states that in setting BC Hydro's rates, the Commission may "employ any mechanism, formula or method referred to in section 60 (1) (b.1) of the *Utilities Commission Act*." Section 5(d) states that the Commission, "unless a different mechanism, formula or method is employed under paragraph (c), must ensure that electricity used by the authority to meet its domestic service obligations is provided to customers on a cost-of-service basis." Section 5 therefore explicitly contemplates the Commission departing from a cost-of-service basis (s.5(d)).

Returning to the ordinary meaning of Section 60, Section 60(1)(b) defines limits on the Commission's rate-setting jurisdiction, stating that the Commission must have due regard to the setting of a rate that:

- (i) is not unjust or unreasonable within the meaning of section 59,

¹²⁵ On March 6, 2014 Direction No. 7 to the Commission was enacted. Direction No. 7 repeals Heritage Special Direction No. HC2 (HC2) and re-enacts the essential elements of the Heritage Contract formerly enshrined in HC2. Special Direction No. 7 can be found at: <http://www.bcuc.com/Documents/SpecialDirections/2014/OIC097-SpecialDirectionNo7-BCUC-HC2-BCH-Repealed.pdf>.

(ii) provides to the public utility for which the rate is set a fair and reasonable return on any expenditure made by it to reduce energy demands, and

(iii) encourages public utilities to increase efficiency, reduce costs and enhance performance,

When interpreting section 60(1)(b), it is important to note that the Commission is only required to “have due regard” to the limits defined within. In other words, the limits do not constitute absolute prohibitions on the Commission’s rate setting jurisdiction. The presumption against tautology requires that the Commission give appropriate weight to the term “due regard.” In *Placer Dome Canada Ltd. v. Ontario (Minister of Finance)*, 2006 SCC 20, Justice LeBel, writing for a unanimous court, noted:

Under the presumption against tautology, “[e]very word in a statute is presumed to make sense and to have a specific role to play in advancing the legislative purpose”: see R. Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994), at p. 159. To the extent that it is possible to do so, courts should avoid adopting interpretations that render any portion of a statute meaningless or redundant: *Hill v. William Hill (Park Lane) Ltd.*, [1949] A.C. 530 (H.L.), at p. 546, *per* Viscount Simon.¹²⁶

In any event, in their ordinary meaning, none of the limits set out in s. 60(1)(b) can be understood as automatically precluding BCOAPO’s proposed low income programs.

Section 60(1)(b)(i) constitutes a limit on “unjust or unreasonable rates within the meaning of section 59.”

Section 60(b)(iii) directs the Commission to consider rates that encourage utilities to increase efficiency, reduce costs and enhance performance.

4.1.2.1.2.2. Section 59

Section 59 also constitutes limits on the Commission’s jurisdiction to set rates. It prohibits “unjust, unreasonable, unduly discriminatory or unduly preferential” rates, as well as prohibits a public utility from extending to “any person a form of agreement, a rule or a facility or privilege, unless the agreement, rule, facility or privilege is regularly and uniformly extended to all persons under substantially similar circumstances and conditions for service of the same description.”

4.1.2.1.2.3. Regarding Undue Discrimination

It is important to note that the *UCA* does not prohibit discriminatory or preferential rates – rather; it prohibits “unduly” discriminatory or “unduly” preferential rates. The presumption against tautology requires that the Commission give appropriate weight to

¹²⁶ *Placer Dome Canada Ltd. v. Ontario (Minister of Finance)*, 2006 SCC 20, at para. 45.

the word “unduly.” According to the Oxford Concise Dictionary, the meaning of “undue” is “not owed or suitable; excessive, disproportionate”. Therefore, s.59 can be understood as prohibiting excessively or disproportionately discriminatory or preferential rates.

By including the qualifier “unduly,” the Legislature clearly anticipated circumstances in which rate discrimination is permissible. In other words, the Legislature intentionally created room for differential treatment where the discrimination is “due.”

The prohibition on “undue discrimination” (as opposed to mere “discrimination”) also reflects established approaches to utility regulation, premised on the Bonbright principles. Charles F. Phillips writes in *The Regulation of Public Utilities* (1984)¹²⁷ at p. 62:

It should be noted at this point that discrimination is accepted in the rate structures of public utilities, but that such discrimination must be “just and reasonable.” Discrimination is both unintentional and purposive. It is unintentional in that some discrimination results from the efforts of utilities and commissions to simplify the rate structures by grouping customers into a limited number of classifications. It is purposive in that discrimination may be the only way in which service can be provided to some customers. Low-density routes may be subsidized by high density routes (even under competition), small towns by large cities. Rather than preventing discrimination, regulation merely seeks to control what discrimination takes place.

BC Hydro has stated that it interprets the Bonbright principle of “avoiding undue discrimination” as being a matter of the Commission’s opinion as to what constitutes “undue discrimination.”¹²⁸ However, BC Hydro has stated the following about “undue discrimination”:

Generally speaking, BC Hydro accepts Bonbright’s view that rates are unduly discriminatory when they have a **serious distortion effect on the relative use of the service**. This means rate structures must not be divorced from the nature and quality of the associated service, including cost of service.¹²⁹ [Emphasis added]

The Commission’s past decisions also inform the interpretation of “unduly discriminatory.” In Commission Order G-133-12,¹³⁰ the Commission had approved an Industrial Sales Agreement between Centra Gas BC and Doman Forest Products Ltd. for gas supply to Doman’s forest products operations at Chemainus, B.C. (“the Previous

¹²⁷ Charles F. Phillips, *The Regulation of Public Utilities: Theory and Practice* (Arlington, VA: Public Utilities Report, Inc., 1984).

¹²⁸ Exhibit B-1, p. 2-57.

¹²⁹ Exhibit B-1, p. 2-57.

¹³⁰ Order G-133-12, Final Order in FEVI Application for an Industrial Sales Agreement between FEVI and Western Forest Products Inc.

Agreement”). Later, the successor to Centra Gas BC, FEVI, applied to the Commission for approval of a new Industrial Sales Agreement (“the New Agreement”) between FEVI and Western Forest Products Inc. (WFPI), the successor to Doman Forest Products Ltd. The New Agreement combined gas usage for the initially contracted facility with 5 additional WFPI facilities for the purposes of determining the rate applicable to WFPI. The Commission held that the New Agreement provided for rates that were unduly discriminatory and refused to approve the New Agreement:

FEVI is applying to provide this preferential rate that arises by virtue of the ability to combine loads at disparate geographical locations for billing purposes, for one customer only. As such, this represents an unduly discriminatory rate.

In the Panel’s view, undue is interpreted to mean, among other things: excessive, unjustifiable or improper...As to the excessiveness or impropriety of the discriminatory rate, the Panel notes that the rate reduction amounts to 23 percent, which is a material amount. To offer this to one customer and not others is excessive and improper.

4.1.2.1.2.4. Unjust or Unreasonable

Section 59 defines an “unjust” or “unreasonable” rate as a rate that is:

- (a) more than a fair and reasonable charge for service of the nature and quality provided by the utility,
- (b) insufficient to yield a fair and reasonable compensation for the service provided by the utility, or a fair and reasonable return on the appraised value of its property, or
- (c) unjust and unreasonable for any other reason.

The definition of an “unjust” or “unreasonable” rate does not prohibit rates that merely exceed the cost of service or fail to compensate the cost of service. Rather, the Legislature prohibits rates that “*unfairly*” or “*unreasonably*” exceed the cost of service, or fail to compensate the cost of service. Again, the presumption against tautology requires that the Commission give appropriate weight to the words “unfairly” and “unreasonable.” According to the Oxford Concise Dictionary, the meaning of “unfair” is “not equitable or honest or impartial or according to rules”; the meaning of “unreasonable” is “not reasonable; going beyond the limits of what is reasonable or equitable”; and the meaning of “reasonable” is “(2) in accordance with reason, not absurd; within the limits of reason, not greatly less or more than might be expected; inexpensive, not extortionate; tolerable, fair.”

The definition of an “unjust” and “unreasonable” rate also includes rates that are “unjust or unreasonable” for “any other reason.” It is a principle of statutory interpretation that where there are more specific subsections preceding a general “catch-all” provision, the more general provision must not apply to the subject matter of the more specific ones.

Returning to the Commission's public interest function, and its powers to ensure, *inter alia*, the "convenience...of the public," "service of the public," "adequate [service]" and "efficient [service]," BCOAPO submits that an "unjust or unreasonable" rate can be interpreted to include a rate that renders BC Hydro's services inadequate or inaccessible to low income ratepayers.

More specifically, a rate which fails to take account of the poverty of many households in the pricing of essential energy for heating, cleaning and cooking, when it would be practicable to adopt measures to help maintain those households' access to essential energy, is unjust and unreasonable. A rate which ignores the fact of massive inequality of means, and the extreme inequality of impact of rising household energy cost on different households, is also unjust and unreasonable.

4.1.2.1.2.5. Other Limits

59(2)(b) states that public utilities "must not" "extend to any person a form of agreement, a rule or a facility or privilege, unless the agreement, rule, facility or privilege is regularly and uniformly extended to all persons under substantially similar circumstances and conditions for service of the same description."

The ordinary meaning of the wording in section 59 can be interpreted as prohibiting public utilities from charging different rates for the same service provided to persons under substantially similar circumstances and conditions. In other words, section 59 can be interpreted as not precluding different rates for the same service provided to persons who are not under substantially similar circumstances and conditions.

Further, Section 59 (2) (b) must not be read in isolation, but harmoniously with the scheme of the *UCA*.

4.1.3. Case Law

4.1.3.1. Ontario

The decision in *Advocacy Centre for Tenants-Ontario*¹³¹ is applicable to the question of the Commission's jurisdiction. In that case, the Ontario Superior Court of Justice (OSCJ) addressed the scope of the Ontario Energy Board's (Board) jurisdiction under the *Ontario Energy Board Act*.

The case originated in an application to the Board by Enbridge Gas Distribution Inc. (EGD) for approval of EGD's 2007 gas distribution rates based simply upon traditional "cost of service" rate-making principles. The Appellant Low Income Energy Network (LIEN) intervened in the application before the Board, arguing that without a rate affordability program, the interests of low income consumers were not protected. Specifically, LIEN emphasized that the supply of natural gas (or other source of energy)

¹³¹ *Supra*, note 158.

serves to meet basic human needs such as warmth from heating and the generation of power. Those who cannot afford to use natural gas as a source of energy may therefore be placed at a significant disadvantage.

LIEN proposed that the Board accept the following as an issue in the EGD proceeding:

Should the residential rate schedules for EGD include a rate affordability assistance program for low-income consumers? If so, how should such a program be funded? How should eligibility criteria be determined? How should levels of assistance be determined?

The majority of the Board held that it did not have the jurisdiction to implement the LIEN proposal, noting that such a scheme would require a consumer rate class based upon income characteristics and would implicitly require subsidization of this new class by other rate classes.

In LIEN's appeal of the Board's decision, the Ontario Superior Court of Justice undertook a statutory interpretation analysis of the Board's jurisdiction. The provision at issue of the *Ontario Energy Board Act* was Section 36, which states:

- 36**
- (1) No gas transmitter, gas distributor or storage company shall sell gas or charge for the transmission, distribution or storage of gas except in accordance with an order of the Board, which is not bound by the terms of any contract.
 - (2) The Board may make orders approving or fixing just and reasonable rates for the sale of gas by gas transmitters, gas distributors and storage companies, and for the transmission, distribution and storage of gas.
 - (3) In approving or fixing just and reasonable rates, the Board may adopt any method or technique that it considers appropriate.

The Appellant Advocacy Centre for Tenants-Ontario argued that the Board had jurisdiction because the Board's authority to fix "just and reasonable rates" by adopting "any method or technique it considers appropriate" is very broad. The Respondent Board, on the other hand, argued that its jurisdiction was limited to a rate setting process based on cost causality.

In its legal analysis, the Court considered the factors including:

- Section 36 replaced a repealed provision (s.19) which explicitly proscribed a traditional cost-of-service basis to rate setting (para. 23);
- The Board had authorized specific funding for low income consumers for "Demand Side Management Programs" (para. 26);

- The Board on occasion had reduced a significant rate increase because of so-called “rate shock” by spreading the increase over a number of years. The OSCJ observed that “although this does not in itself suggest an unequal approach as between residential consumers it does indicate that the Board considers it has jurisdiction to take “ability to pay” into account in rate setting” (para. 27);
- Section 79 of the *Act* explicitly authorizes the Board to provide rate protection for rural or remote consumers of an electricity distributor. The OSCJ observed “rate protection” through s. 79 operates as a subsidy paid by some of Ontario’s residential electricity consumers for the benefit of others and represents a departure from the principle of cost causality being applied on the same basis to all consumers within a given class (i.e., residential, commercial and industrial)” (para. 31); and
- The Board is charged under s. 2 of the *Act* with protecting “the interests of consumers with respect to prices” (para. 34).

The Court ultimately concluded that the Board had the jurisdiction to take into account “ability to pay” in setting rates for reasons including:

- “...the expansive wording of s. 36(2) and (3) of the statute and giving that wording its ordinary meaning, having considered the purpose of the legislation within the context of the statutory objectives for the Board seen in s. 2, and being mindful of the history of rate setting to date in giving efficacy to the promotion of the legislative purpose (para. 61);
- “...the interpretation is appropriate taking into account the criteria articulated in *Driedger*, above, namely it complies with the legislative text, it promotes the legislative purpose and the outcome is reasonable and just” (para. 62);
- While cost of service remains a root principle in rate setting, the Board need not stop there. It is authorized to employ “any method or technique that it considers appropriate” to fix “just and reasonable rates.” Further, the Board must determine what are “just and reasonable rates” within the context of the objectives set forth in s. 2 of the *Act*. Objective #2 therein speaks to protecting “the interests of consumers with respect to prices” (paras. 52-53);
- “...so long as the global amount of return to the utility based upon a “cost of service” analysis is achievable, then the rates/prices (and the methods and techniques to determine those rates/prices) to generate that global amount is a matter for the Board’s discretion in its ultimate goal and responsibility of approving and fixing “just and reasonable rates”” (para. 59).

The Ontario Court of Appeal had the opportunity to consider the *Advocacy Centre for Tenants-Ontario* case in 2010 in *Toronto Hydro-Electric System Ltd. v. Ontario Energy*

Board.¹³² The court considered the Tenants case and relied upon the decision in its analysis of the jurisdiction of the Ontario Energy Board, observing:

[25] The case law suggests that the OEB's power in respect of setting rates is to be interpreted broadly and extends well beyond a strict construction of the task.

[26] For example, in *Advocacy Centre for Tenants-Ontario v. Ontario (Energy Board)*, 2008 CanLII 23487 (ON SCDC), [2008] O.J. No. 1970, 293 D.L.R. (4th) 684 (Div. Ct.), the majority of the court held that the OEB had the jurisdiction to establish a rate affordability assistance program for low-income consumers purchasing the distribution of natural gas from the utility. Section 36(3) of the Act states that "[i]n approving or fixing just and reasonable rates, the Board may adopt any method or technique it considers appropriate". In paras. 53-56, the majority noted the breadth of the OEB's rate-setting power when its actions were in furtherance of the statutory objectives:

[T]he Board is authorized to employ "any method or technique that it considers appropriate" to fix "just and reasonable rates." . . . the Board must determine what are "just and reasonable rates" within the context of the objectives set forth in s. 2 of the Act. Objective #2 therein speaks to protecting "the interests of consumers with respect to prices."

[T]he Board in the consideration of its statutory objectives might consider it appropriate to use a specific "method or technique" in the implementation of its basic "cost of service" calculation to arrive at a final fixing of rates that are considered "just and reasonable rates." This could mean, for example, to further the objective of "energy conservation", the use of incentive rates or differential pricing dependent upon the quantity of energy consumed. As [page490] well, to further the objective of protecting "the interests of consumers" this could mean taking into account income levels in pricing to achieve the delivery of affordable energy to low income consumers on the basis that this meets the objective of protecting "the interests of consumers with respect to prices."

The Board is engaged in rate-setting within the context of the interpretation of its statute in a fair, large and liberal manner.

Section 36 of the *Ontario Energy Board Act* largely accords with Section 60 of the *UCA*, which states that the Commission "must consider all matters that it considers proper and relevant affecting the rate" (s.60 (1) (a)) and "may use any mechanism, formula or other method of setting the rate that it considers advisable" (s.60 (1) (b.1)). Further, many of the Ontario Superior Court of Justice's considerations in determining the Board's jurisdiction are equally applicable to determining the Commission's jurisdiction.

¹³² 2010 ONCA 284

While the *UCA* does not contain a provision explicitly setting out its objectives, the Commission's public interest function can be clearly inferred from sections 23 and 38, as described above. We also submit that the Commission should take into account the following:

- The Demand Side Measures Regulation¹³³ requires public utilities (including BC Hydro) to provide demand side management programs to low income residential customers, defined as of 2014 as being customers with incomes at or below LICO plus 30%.
- Similar to the Ontario Energy Board, the Commission has considered "rate shock" in both revenue requirements and rate design applications.¹³⁴ Adopting similar reasoning as the OSCJ, this indicates that the Commission considers it has jurisdiction to take "ability to pay" into account in rate setting.
- The provincial government has embraced "postage stamp" rate-making, in which rates are the same no matter where its services are delivered, even though it may cost more to provide services to rural and remote parts of the province. As a result, similar to section 79 of the Ontario *Energy Board Act*, this system operates as a residential intra-class subsidy and represents a departure from the principle of cost causality being applied on the same basis to all consumers within a given class.
- Further, BC Hydro has acknowledged that the winter moratorium pilot will result in a departure from postage stamp rates because there are regional differences to the pilot. BC Hydro states that there are other examples of a departure from postage stamp rates, such as rates for non-integrated areas and extensions.¹³⁵

¹³³ B.C. Reg. 326/2008, including amendments up to B.C. Reg. 141/2014.

¹³⁴ See, for example, Commission Order G-91-11 regarding Hemlock Valley Electrical Service Ltd.'s (HVES) 1990 Rate Application, in which the Commission denied HVES' request for reconsideration with respect to the issue of phasing in the proposed rate base costs as a result of potential rate shock to customers. See also Commission Order G-36-92 Commission Order No. G-36-92 and In the Matter of a Rate Design Application by British Columbia Hydro and Power Authority, Decision, April 24, 1992 regarding BC Hydro's 1991 Rate Design Application, at page 16 in which the Commission determined that "The Commission agrees that the current declining block rate structure is inappropriate in light of B.C. Hydro's resource realities and the direction of government policy. The first priority of the Commission will be to move from a declining block structure to a flat rate structure as soon as possible, recognizing rate shock and lack of data as constraints", and at page 17 where the Commission found that "As indicated by the evidence, whether a particular increase constitutes rate shock depends on the overall rate environment and the circumstances of the particular customer (T. 175-178). It is the Commission's responsibility to assess these circumstances and determine when rate shock may be properly said to have occurred."

¹³⁵ Transcript Volume 6, p. 1015, lines 4-19.

4.1.3.2. Nova Scotia

BCOAPO submits that the decision *Dalhousie Legal Aid Service v Nova Scotia Power Inc.*¹³⁶ is not applicable to the scope of the Commission's jurisdiction. In Nova Scotia, the Utility and Review Board's rate-setting jurisdiction is set out in sections 44 and 67 of the *Public Utilities Act*. Section 44 states:

The Board may make from time to time such orders as it deems just in respect to the tolls, rates and charges to be paid to any public utility for services rendered or facilities provided, and amend or rescind such orders or make new orders in substitution therefor.

Section 67(1) states:

All tolls, rates and charges shall always, under substantially similar circumstances and conditions in respect of service of the same description, be charged equally to all persons and at the same rate, and the Board may by regulation declare what shall constitute substantially similar circumstances and conditions.

The Nova Scotia Court of Appeal upheld the Utility and Review Board's interpretation of section 67 of the *Public Utilities Act* as prohibiting the charging of different rates to consumers receiving a substantially similar service.

The NSCA rejected the appellant's argument that section 67(1) does not prohibit an income-based rate assistance program because low income consumers do not have "substantially similar circumstances" to higher income consumers, stating:

[24] With respect, the factum's submission misinterprets s. 67(1). The provision refers to "substantially similar circumstances and conditions ***in respect of service of the same description.***" To justify a rate difference, the relevant dissimilarity is not in customers' incomes. It is in the service from NSP. The Board accepted, and there is no basis to question, that NSP provides substantially similar electrical service whatever the domestic customer's income.

Section 59(2)(b) of the *UCA* is distinguishable from Section 67 of the *Public Utilities Act* because of an important difference in the wording. Section 59(2)(b) refers to "substantially similar circumstances and conditions for service of the same description, whereas section 67 refers to "substantially similar circumstances and conditions in respect of service of the same description." The wording in section 59 can be interpreted as prohibiting public utilities from charging different rates for the same service provided to persons under substantially similar circumstances and conditions. However, section 59 does not prohibit the charging of different rates for the same service provided to persons who are not under substantially similar circumstances and

¹³⁶ *Dalhousie Legal Aid Service v Nova Scotia Power Inc.*, 2006 NSCA 74, 268 D.L.R. (4th) 408.

conditions. Further, the title to s. 67 is “Equal rates and charges for similar services,” is more prescriptive than the title of s. 59, which is “Discrimination in rates.” Finally, s.59(1) must be read in the context of the scheme of the Act, and in particular ss.23, 38, 59 and 60 must be read together. In Nova Scotia, the statute in general was much more prescriptive.

In *Advocacy Centre for Tenants-Ontario*, the Court distinguishes *Dalhousie* in a similar manner.¹³⁷

4.1.3.3. Manitoba

On July 24, 2015, the Manitoba Public Utilities Board (PUB) decided in Manitoba Hydro’s 2014/15 and 2015/16 General Rate Application that it had the jurisdiction to order bill assistance for low income Manitoba Hydro residential ratepayers.¹³⁸ The need for a low income bill affordability program was addressed in that proceeding by the Green Action Centre (GAC), who noted that Manitoba Hydro had not sufficiently investigated or addressed the issue of non-payment resulting from unaffordable bills.¹³⁹ GAC recommended that the PUB direct Manitoba Hydro to establish a collaborative process to address bill affordability for low income ratepayers.¹⁴⁰

Rather than implementing a specific bill affordability program, the PUB ordered Manitoba Hydro to initiate a collaborative process to develop such a program. In making this order, the PUB recognized that “Manitoba Hydro is currently offering ratepayers some relief through its Demand-Side Management (DSM) program, including the Affordable Energy Program (AEP)...but it is prudent to recognize that bill affordability will become a more pressing issue in the years to come and that some additional measures may be required.”¹⁴¹ The PUB’s key findings regarding the bill affordability program are set out below:

“The Board recognizes that higher electricity rates will have an impact on lower income ratepayers. This is a particular concern with respect to all-electric customers, many of whom live in areas in which natural gas is not available as an alternative heating source.”¹⁴²

“The Board has been asked to consider establishing a bill assistance program before, notably in Order 116/08, in which the Board required Manitoba Hydro to propose such a program for approval. In Order 116/08, the Board concluded that it has jurisdiction to order the implementation of a bill affordability program. This

¹³⁷ *Advocacy Centre for Tenants-Ontario*, *supra* note 117, at para. 41.

¹³⁸ Manitoba PUB Order No. 73/15, Final Order with Respect to Manitoba Hydro’s 2014/15 and 2015/16 General Rate Application, <http://www.pub.gov.mb.ca/pdf/15hydro/73-15.pdf>.

¹³⁹ Terms of Reference for a Collaborative Process to Further Develop a Manitoba Hydro Bill Affordability Program, <http://billaffordabilitymb.ca/wp-content/uploads/term-of-reference.pdf> at p. 4.

¹⁴⁰ *Ibid.*

¹⁴¹ *Supra* note 138, at p. 25.

¹⁴² *Supra* note 138, at p. 27.

remains the Board's view. However, the Board notes that at this time, it is not ordering such a program to be established and the collaborative process should not be limited to the consideration of special lower income rates. From a policy perspective, there may well be better solutions that have not been proposed to date. **Furthermore, the optimal solution may well involve a portfolio of measures rather than a single measure. However, the idea of lower income rates should not be discarded upfront due to jurisdictional concerns.**¹⁴³

“The Board interprets section 39(1) of The Manitoba Hydro Act to require the aggregate price of power realized by Manitoba Hydro to be such as to achieve full cost recovery, subject to the requirement that such rates must be just and reasonable. This is illustrated by several examples:

- The power from historical generating stations is currently being sold for significantly more than the actual cost to generate, while power from new generating stations is sold for significantly less than the cost to generate. Rates are set based on Manitoba Hydro's aggregate revenue requirement, not the cost attributable to individual stations.
- While Manitoba Hydro exports some power (primarily firm power) at prices higher than the average cost to generate, it also sells opportunity power for less than the average cost to generate, attributing no fixed costs to such power.
- Certain classes of customers, such as existing Curtailable Rate Program customers, achieve benefits not available to other customer classes or customers in the same class.

The Board does not read the legislative requirement for "postage stamp" rates to prohibit the creation of a lower income customer class, provided that no geographic limitations are imposed on such a class. Similarly, while subsection 43(3) prevents the commingling of government funds with Manitoba Hydro funds, it does not prohibit the creation of a rate class that pays less than the average cost to serve such customers.

The Board notes that while Manitoba Hydro is regulated on a cost of service basis, section 26(4) of The Crown Corporations Public Review and Accountability Act specifically authorizes the Board to consider "any compelling policy considerations that the Board considers relevant to the matter." In that respect, the Board's jurisdiction is similarly broad as that of the Ontario Energy Board pursuant to The Ontario Energy Board Act, 1998. Subsection 26(3) of The Crown Corporations Public Review and Accountability Act further stipulates that The Public Utilities Board Act applies with any necessary changes to the Board's rate-setting mandate. **As such, rates are not only required to meet the requirements of subsection 39(1) of The Manitoba Hydro Act but must also**

¹⁴³ *Supra* note 138, at p. 28.

be "just and reasonable." In the Board's view, affordability is a factor to consider when setting just and reasonable rates.

As such, **it is the Board's intention to evaluate any future proposals for bill assistance programs from a comprehensive policy perspective rather than through the lens of jurisdictional constraints**, provided that such proposals fall within the legislative framework set by The Manitoba Hydro Act, The Crown Corporations Public Review and Accountability Act, and The Public Utilities Board Act."¹⁴⁴

(Emphasis added)

Manitoba's PUB has ordered the development of a bill affordability program despite that their residential electricity rates are lower than BC Hydro's.

Many of the issues considered by the Manitoba PUB in deciding that it had jurisdiction to order a bill affordability program are virtually identical to the factual and legal context surrounding BC Hydro's rates. For example:

- The PUB recognized that higher electricity rates will have an impact on lower income ratepayers. BC Hydro recognizes that low income customers are more strongly impacted by rate increases.¹⁴⁵
- The PUB recognized that this is a particular concern with respect to all-electric customers, many of whom live in areas in which natural gas is not available as an alternative heating source. The Commission is also conducting the RIB Review Report proceeding to look into a similar issue in BC.
- The Board noted that Manitoba Hydro is regulated on a cost of service basis, subject to rates being just and reasonable. Rates are set based on Manitoba Hydro's aggregate revenue requirement, not the cost attributable to individual stations. While Manitoba Hydro exports some power (primarily firm power) at prices higher than the average cost to generate, it also sells opportunity power for less than the average cost to generate, attributing no fixed costs to such power. Certain classes of customers, such as existing Curtailable Rate Program customers, achieve benefits not available to other customer classes or customers in the same class. Virtually all of the same factors apply to BC Hydro.
- The Board does not read the legislative requirement for "postage stamp" rates to prohibit the creation of a lower income customer class, provided that no geographic limitations are imposed on such a class. In BC, the government has reiterated the policy of postage stamp rates, although this policy is not legislated. And, as noted already, there are examples of departures from postage stamp rates in BC Hydro's service territory.

¹⁴⁴ *Supra* note 138, at pp. 28-30.

¹⁴⁵ *Supra* note 138, at p.27; Exhibit B-23, BCOAPO 2.332.1 Attachment 1, p.5 of 33.

The PUB concluded that it had jurisdiction to implement a bill affordability program in its 2008 116-08 Order, on the basis of the LIEN decision, stating¹⁴⁶:

Because both the Manitoba and Ontario rate setting jurisdictions are similarly broad, this Board has previously indicated its concurrence with a dissenting position of the OEB on its ability to establish a rate affordability program for low income utility customers, a position since upheld by the Court.

Energy affordability for low-income families is very much an issue that requires more or less immediate attention in Manitoba. The Board suspects that low-income individuals, families and seniors, unable to pay their natural gas or electricity bills due to personal hardship or crisis, could receive support from a rate reduction program without causing a major rate increase for MH's other customers.

The Board believes that in light of the recent Ontario court ruling, it (the Board) would be acting within its mandate and in the public interest if it were to direct MH to implement a bill assistance program. Accordingly, the Board sees merit in the proposition put forward by Mr. Weiss. And, therefore, the Board will direct MH to propose for Board consideration (as soon as possible for the coming heating season, but no later than September 30, 2008) a low-income bill assistance program, where such a program would occur in conjunction to and compliment an expanded low-income DSM program.

The PUB upheld its 2008 decision on its jurisdiction in the 2015 Order 73/15,¹⁴⁷ even though pursuant to s.39(1), Manitoba Hydro is generally regulated on a cost of service basis. First, the PUB observed that pursuant to the Public Utilities Board Act, rates must be "just and reasonable" and, in the PUB's view, "affordability is a factor to consider when setting just and reasonable rates."¹⁴⁸ Second, the PUB cited Subsection 26(3) of *The Crown Corporations Public Review and Accountability Act* as giving the PUB "similarly broad" jurisdiction as that of the Ontario Energy Board. The PUB wrote:

The Board notes that while Manitoba Hydro is regulated on a cost of service basis, section 26(4) of *The Crown Corporations Public Review and Accountability Act* specifically authorizes the Board to consider "any compelling policy considerations that the Board considers relevant to the matter." In that respect, the Board's jurisdiction is similarly broad as that of the Ontario Energy Board pursuant to *The Ontario Energy Board Act, 1998*. Subsection 26(3) of *The Crown Corporations Public Review and Accountability Act* further stipulates that *The Public Utilities Board Act*

¹⁴⁶ Manitoba PUB Order No. 166/08, An Order Setting out Further Directions, Rationale and Background for or Related to the Decisions in Board Order 90/08 with Respect to an Application by Manitoba Hydro for Increased Rates and for Related Matters, p. 231, <http://www.pub.gov.mb.ca/pdf/08hydro/116-08.pdf>

¹⁴⁷ *Supra* note 138, p. 28.

¹⁴⁸ *Supra* note 138, p. 29.

applies with any necessary changes to the Board's rate-setting mandate. As such, rates are not only required to meet the requirements of subsection 39(1) of The Manitoba Hydro Act but must also be "just and reasonable." In the Board's view, affordability is a factor to consider when setting just and reasonable rates.¹⁴⁹

The Commission's jurisdiction is also "similarly broad" as the Ontario Energy Board and the Public Utility Board, as all three administrative tribunals have enabling statutes that provide them with the discretion to depart from a pure cost of service analysis. In particular, all three administrative tribunals are governed by similarly worded provisions authorizing them to fix just and reasonable rates by adopting "any method or technique that it considers appropriate [in rate setting]" (s.36 of the Ontario Energy Board Act); considering "all matters that it considers proper and relevant affecting the rate" and using "any mechanism, formula or other method of setting the rate that it considers advisable" (s.60 of the *UCA*); or considering "any compelling policy considerations that the Board considers relevant to the matter" (s.26(4) of the Crown Corporations Public Review and Accountability Act).

5. PROGRAMS IN OTHER JURISDICTIONS

As noted above in the discussion of the Commission's jurisdiction to order BCOAPO's proposals, BCOAPO's proposals are not without precedent. Utilities in other jurisdictions in Canada have set up programs targeted at low income customers.

5.1. Ontario

The Ontario Energy Board (OEB) has established a suite of programs for low income residential ratepayers.

Ontario's Low-income Energy Assistance Program (LEAP) consists of three targeted programs for low income customers, with income eligibility now based on Statistics Canada's after tax Low Income Measure derived thresholds¹⁵⁰:

1. Emergency financial assistance

- Low income customers can get up to \$500 in emergency assistance for electricity bills (\$600 if the home is heated electrically), which is only available if the customer is in arrears and may face disconnection. It is not meant to provide ongoing bill assistance.
- Eligibility is based

¹⁴⁹ *Ibid.*

¹⁵⁰ <http://www.ontarioenergyboard.ca/oeb/Consumers/Consumer%20Protection/Help%20for%20Low-Income%20Energy%20Consumers/Low-Income%20Energy%20Assistance%20Program%20%28LEAP%29>.

- The program is funded by ratepayers.¹⁵¹
2. Special rules for qualified low income customers (if local designated social agency determines requirements are met **or** customer has received emergency financial assistance in past two years)
- Security deposit – can have security deposit waived (or returned to the customer if it was already paid)
 - Billing errors – can be refunded immediately by cheque if overcharged in error, and low income customers can pay back over a longer period of time than other customers if undercharged in error
 - Equalized billing – spreading electricity payments evenly over 12 months
 - Disconnection grace period – if utility is notified that customer may be eligible for emergency assistance, disconnection can be suspended for 21 days
 - Arrears payment arrangements – low income customers are allowed more time to pay outstanding balances, and are allowed to default twice on payment plan before the arrears arrangement can be cancelled. Also, if disconnected prior to payment plan, will not have not pay disconnection or reconnection fees.
3. Targeted energy conservation programs
- Energy savings kits and/or equipment that can be installed to help improve energy efficiency, offered directly through utility

Each distributing utility has partnered with a local social agency to deliver LEAP. The OEB determined that the greater of 0.12% of a distributor's OEB-approved distribution revenue requirement, or \$2,000, is a reasonable commitment by all distributors to emergency financial assistance.¹⁵² Unused funds can be carried forward by individual utilities, which cannot distribute more than it collects. The agencies appear to earn an administration fee of up to 15% of amounts disbursed.¹⁵³

As of January 1, 2016, low income ratepayers in Ontario can also access on bill credits through the Ontario Electricity Support Program (OESP). The OESP provides an ongoing fixed monthly credit that is applied to eligible customer's bills. The average credit varies, as it is set on a sliding scale based on the number of residents and the

¹⁵¹ Exhibit C2-12, Direct Testimony of Roger Colton, Appendix C – March, 2016 OEB Presentation, p.3 (PDF p. 202).

¹⁵² http://www.ontarioenergyboard.ca/oeb/ Documents/2017EDR/OEB_Filing_Requirements_2017Rates_Chapter02.pdf.

¹⁵³ http://www.ontarioenergyboard.ca/oeb/ Documents/EB-2008-0150/LEAP_Manual.pdf, pp. 22-23.

average annual household income after tax (based on the after-tax LIM). The OESP is administered by a centralized online service, but ratepayers who require in-person service can also apply through community agencies.¹⁵⁴ The costs of the OESP are recovered from utility customers on a provincial basis – that is, from all customer classes through a per kilowatt-hour charge on electricity bills.¹⁵⁵

5.2. Manitoba

As discussed above in section 4.1.3, in July 2015, the Public Utilities Board directed Manitoba Hydro to lead a collaborative process with stakeholders and organizations who deal with low income people in Manitoba to develop a bill affordability program harmonized with Manitoba Hydro's other programs supporting low income ratepayers. That process is well underway.¹⁵⁶ The Terms of Reference filed with the PUB for the collaborative process frame the purpose of the process as being "to identify and assess a potential portfolio of measures which may result in Manitoba Hydro energy bills being more affordable to lower income customers."¹⁵⁷ The process is anticipated to take one year to complete.¹⁵⁸

Both Ontario and Manitoba's approaches recognize the impact of higher electricity rates on low income ratepayers, and the importance of a harmonized multi-pronged approach to electricity bill affordability issues in order to ensure access to the essential service.¹⁵⁹

6. BCOAPO'S PROPOSALS AND TESTIMONY OF ROGER COLTON

As noted above, BCOAPO is making a number of proposals in this proceeding, which have been developed by Roger Colton, an expert in low income rate design who has testified extensively throughout North America on low income rate structures, customer rules, emergency assistance programs and demand side measures. Mr. Colton provided Direct Testimony in this proceeding, and appeared in person during the oral hearing.¹⁶⁰ The Commission qualified Mr. Colton as an expert witness in low income utility rate and customer service issues, including low income usage, payment patterns, affordability programs, and low income DSM.¹⁶¹

BCOAPO's proposals reflect the fact that low income customers are already struggling to pay their electricity bills, they will have a more difficult time responding to future rate increases, and they do not have the same ability to reduce bills through usage reduction. These proposals are set out in the sections below.

¹⁵⁴ Exhibit C2-12, Direct Testimony of Roger Colton, Appendix C – March, 2016 OEB Presentation, pp. 16 – 24 (PDF pages 215 – 223).

¹⁵⁵ <https://ontarioelectricitysupport.ca/FAQ>.

¹⁵⁶ Manitoba PUB Order 73/15 <http://www.pub.gov.mb.ca/pdf/15hydro/73-15.pdf>.

¹⁵⁷ Terms of Reference for a Collaborative Process to Further Develop a Manitoba Hydro Bill Affordability Program, <http://billaffordabilitymb.ca/wp-content/uploads/term-of-reference.pdf> at p. 1.

¹⁵⁸ *Ibid.*

¹⁵⁹ Exhibit C2-19, BCUC 23.1.

¹⁶⁰ Exhibit C2-12, starting at PDF p. 3; Transcript Volume 7, starting at p. 1219.

¹⁶¹ Transcript Volume 7, p. 1226, lines 12-26; p. 1227, lines 1-11.

6.1. Essential Services Usage Block

BCOAPO has proposed an Essential Services Usage Block (ESUB) for low income customers. The ESUB is grounded in a three-part regulatory foundation. It will improve cost-reflectivity to low income, low-use customers; it will increase the efficiency of BC Hydro operations; and it will improve the affordability of essential electric service to low income customers.

In its most fundamental form, ESUB will provide an initial block of 400 kWh to low income customers to reflect the lower costs imposed on the system by low-use customers. ESUB will provide that first 400 kWh at a price of \$0.04 per kWh below the Step 1 rate. The structure, cost and rationale for the ESUB are all discussed below.

6.1.1. The Structure of the ESUB

BCOAPO proposes adoption of an ESUB for low income customers. The ESUB would provide a price reduction of \$0.04 per kWh for the first 400 kWh of consumption on each monthly bill.¹⁶²

The 400 kWh block has an empirical basis. Even BC Hydro agrees that roughly 400 kWh is an appropriate demarcation of a “low use” customer.¹⁶³ In addition, the 400 kWh usage block for ESUB closely tracks the actual usage of low income customers, neither providing excessive consumption for customers considered to be very small users (e.g., apartment dwellers) nor too little for larger customers (e.g., residents of single-family homes).¹⁶⁴

The ESUB price discount of \$0.04 per kWh has an empirical basis as well. “A four cent discount provides meaningful assistance to low income customers without imposing unreasonable burdens on residential customers not taking service under the Essential Services usage block.”¹⁶⁵ The proposed discount would provide a bill reduction of between \$9 and \$16 per month on low-use, low income bills.¹⁶⁶ The Essential Services usage block, in other words, will mitigate, but not completely protect, low income customers against rate increases.

¹⁶² ESUB usage would be billed the same as BC Hydro’s other usage blocks are billed. For example, if a customer is issued a bi-monthly bill, the ESUB block would be set at 800 kWh. In addition, for billing periods that have more, or less, than 30-days days in them, the usage would be determined on a per-day basis, just as Step-1 and Step-2 usage blocks are billed (Exhibit C2-18, BCOAPO Response to BCSEA 1.1).

¹⁶³ Exhibit C2-12, Direct Testimony of Roger Colton, p. 15 (PDF p. 20), citing Exhibit B-1, at Appendix C-3B, p. 126 of 609.

¹⁶⁴ Exhibit C2-12, Direct Testimony of Roger Colton, at pp. 15-16 (PDF pp. 20-21/341).

¹⁶⁵ Exhibit C2-12, Direct Testimony of Roger Colton, at p. 19 (PDF p. 24).

¹⁶⁶ *Ibid.*

6.1.2. The Cost of the ESUB

At a 100% take-up rate, ESUB would impose a cost of roughly \$26.9 million annually.¹⁶⁷ Mr. Colton testified, however, that it would be unreasonable to expect a 100% take-up rate. Experience with similar programs indicates that it is more reasonable to expect a 50% take-up rate.¹⁶⁸ The total costs would be rateably lower.¹⁶⁹ The total costs of the ESUB would thus be \$13.456 million ($26.912 \times 0.5 = \13.456).

At a 100% take-up rate, the cost per kWh (when spread over the entire residential consumption base as recommended by Mr. Colton) is 1.54 mils per kWh (\$0.00154/kWh).¹⁷⁰ The cost at the projected 50% take-up rate would thus be \$0.00077 per kWh (or roughly eight-tenths of a mil per kWh). The bill impact for non-participating customers, at median usage, at a 50% take-up rate, would be less than \$0.50 per month.¹⁷¹

6.1.2.1. Ongoing Costs

There would be ongoing administrative costs for an ESUB. BC Hydro's own estimate of ongoing annual administrative costs was only \$550,000.¹⁷² This is substantially lower than the 10% administrative costs that such programs generally involve.¹⁷³ The administrative costs, when spread over the same residential consumption as the discount costs, would result in an additional per charge of \$0.000031 per kWh, or roughly \$0.23 per year.

¹⁶⁷ Exhibit C2-12, Direct Testimony of Roger Colton, at Schedule RDC-2 (PDF pp. 142-143/341); see also, Exhibit C2-18, BCOAPO Response to BCSEA 9.4.

¹⁶⁸ Exhibit C2-20, BCOAPO Response to CEC IR 1.17.1; see also, Exhibit C2-48, BCOAPO Undertaking No.1, commenting on Ontario data provided by BC Hydro, at p. 4 ("it is possible to reasonably conclude that the Ontario data tables support BCOAPO's observation that the participation in a low-income program such as the proposed Essential Services Usage Block (ESUB) would be less than 100% of the low-income population. As can be seen, only 3.5% of all Ontario customers in arrears are reported to be low-income; only 3% of the total residential accounts in arrears for Hydro One Networks are attributed to eligible low-income customers; only 1% of the total residential accounts in arrears for Hydro Ottawa and for PowerStream are attributed to eligible low-income customers. Unless one wishes to assert that only 3.5% of Ontario's customer base is low-income, or that only 3% of the Hydro One customer base is low-income, or that only 1% of the Hydro Ottawa or PowerStream customer base is low-income, the Ontario data reports demonstrate that the bill affordability and crisis assistance programs enroll substantially less than 100% of the low-income customer base, precisely as Mr. Colton projects will occur for BC Hydro.")

¹⁶⁹ Exhibit C2-18, BCOAPO Response to BCSEA 9.5.

¹⁷⁰ Exhibit C2-12, Direct Testimony of Roger Colton, at p. 25 (PDF p. 30/341).

¹⁷¹ Exhibit C2-12, Direct Testimony of Roger Colton, at p. 26 (PDF p. 31/341); Exhibit C2-18, BCOAPO Response to BCSEA 9.5.

¹⁷² Exhibit B-31, BC Hydro Rebuttal Evidence, p. 5.

¹⁷³ Transcript Volume 7, p. 1308, lines 4-5.

6.1.2.2. Start-Up Costs

Mr. Colton stated that there would also be some level of “start-up costs,” projected by BC Hydro to reach \$230,000 in technology costs¹⁷⁴ and \$1.25 million to create a web portal for third party agencies¹⁷⁵ (\$1.5 million total). Mr. Colton reported, however, that these start-up costs would not impose incremental burdens on ratepayers. Instead, the start-up costs are paid from the benefits that are collected, but not distributed, during the initial ramp-up period.

My testimony is that we should assume a 50 percent take-up rate. But we don't achieve the take-up rate on day 1. We don't start on the first day of the program with everybody participating. And so the ramp-up from day 1 to full penetration means that there will be some excess costs in there that will have been collected but not spent on benefits. And in other jurisdictions, those costs are used to fund the set-up costs. And it's simply because no matter what kind of program you implement, there will be a ramp-up of participation, which means that there will be a certain period of time where you're over-collecting. . . [Y]ou're collecting money that you're not spending on benefits. And that money is used for set-up costs. So the net set-up costs won't increase the cost to ratepayers.¹⁷⁶

In fact, in its cross-examination of Mr. Colton, BC Hydro provided some recent data from the Ontario Energy Board and asked BCOAPO to comment on it. BCOAPO noted, that

the Ontario data tables support Mr. Colton's conclusions that the start of a low income program will involve a ramp-up period, during which the under-spent “benefits” can be used to pay for start-up costs. In his testimony, Mr. Colton did not deny that a utility would incur start-up costs to implement either ESUB or BCOAPO's low income terms and conditions. What Mr. Colton did say, however, was that there would be no incremental costs that would need to be separately charged to ratepayers. The OEB data tables demonstrate that Mr. Colton's conclusions in this regard are correct.¹⁷⁷

BCOAPO further stated:

As with this incremental increase in participation as evidenced by the Ontario data tables provided by BC Hydro, the ESUB proposed by BCOAPO will, as Mr. Colton testified, also have a ramp-up period. As Mr. Colton indicated, this ramp-up period will provide ample revenue from which any program start-up costs can be paid without a net increase in costs to be charged to ratepayers.¹⁷⁸

¹⁷⁴ Exhibit B-31, BC Hydro Rebuttal Evidence, p. 12.

¹⁷⁵ Exhibit B-31, BC Hydro Rebuttal Evidence, p. 5.

¹⁷⁶ Transcript Volume 7, p. 1309, lines 15-26; p. 1310, lines 1-9.

¹⁷⁷ Exhibit C2-48, BCOAPO Undertaking, at para. 7.

¹⁷⁸ Exhibit C2-48, BCOAPO Undertaking, at para. 7.

6.1.2.3. Comparative Costs

As the Commission is aware the provincial government has issued two directions to the Commission concerning BC Hydro's obligation to provide funding of up to \$100 million to the pulp and paper industry and to suspend the mining industry's payment of power bills, and has directed the Commission not to disallow these costs (which may total \$430 million), but to allow their recovery from BC Hydro's customers.¹⁷⁹

While BCOAPO readily acknowledges that the provincial government ordered BC Hydro to implement these subsidies to the mining and pulp and paper industries, it references them to point out that the combined cost of these two programs for BC Hydro's ratepayers is potentially \$430 million, which is about 16 times the cost of BCOAPO's proposed ESUB rate for one year, assuming there is a 100% take up rate of the ESUB.

6.1.3. The Regulatory Justification of an ESUB

The regulatory justification for BCOAPO's proposed ESUB rate stands on three pillars: (1) improved cost-reflectivity; (2) improved efficiency; and (3) improved affordability. While any one of these pillars would be sufficient, unto itself, to merit approval of the ESUB rate, the support provided by all three pillars provides a rock solid basis upon which to predicate approval of the ESUB proposal.

6.1.3.1. Improve Cost-Reflectivity

Adoption of the ESUB will improve the cost-reflectivity of rates. There is no dispute in this proceeding that income and usage are directly related. BC Hydro reports that its "2013 RIB Evaluation Report found that average per-capita disposable income for the Province of B.C. has a statistically significant effect on consumption."¹⁸⁰ BC Hydro further notes that its 2014 REUS indicates that "electricity consumption varies with household income (i.e., overall there is a positive correlation). This relationship is statistically significant."¹⁸¹

This observation has cost implications. Higher use residential customers tend to have lower load factors.¹⁸² By implication, therefore, lower use customers tend to have higher load factors.

Low-use, high load factor, customers impose lower costs on the BC Hydro system. This is, however, not simply the conclusion of Mr. Colton, it is the conclusion of BC Hydro itself. BC Hydro explicitly and unequivocally states: "low load factors are indicative of

¹⁷⁹ http://www.bcuc.com/Documents/SpecialDirections/2015/07-14-2015_OIC404-BCHydro-TMP-Program.pdf; <http://www.bcuc.com/Documents/SpecialDirections/2016/02-29-2016-OIC123.pdf>.

¹⁸⁰ Exhibit B-5, BCOAPO 1.111.1.

¹⁸¹ Exhibit B-5, BCOAPO 1.111.1; see also, Exhibit C2-12, Direct Testimony of Roger Colton, p. 5 (PDF p. 10/341).

¹⁸² Direct Testimony of Roger Colton, p. 9 (PDF p. 14).

customers that are relatively more costly to serve and load factor is therefore a consideration when evaluating rate class segmentation”¹⁸³ (emphasis added).

This conclusion, however, is not simply drawn from generalized conclusions asserted by BC Hydro. The conclusions are drawn from BC Hydro’s own testimony. When BC Hydro was asked to compare its F2016 COS methodology with the directives found on p. 118 of the Commission’s Decision in the FortisBC Inc. 2009 Rate Design and Cost of Service Analysis proceeding, BC Hydro replied in relevant part that “Load profiles for each customer class are created using the load data described in section 3.5.4 of Exhibit B-1. These profiles are then analyzed to determine 4CP and NCP allocations for each class”¹⁸⁴ (emphasis added). As can be seen from BC Hydro’s own statements, in other words, BC Hydro relies exclusively on the 4CP and NCP. This was further confirmed when BC Hydro reported its allocation of demand costs for the residential class.

Function	Generation	Transmission	Distribution (primary)	Distribution (secondary)	Distribution (transformer)
Classification	Demand	Demand	Demand	Demand	Demand (50%)
Allocator	4CP	4CP	NCP	NCP (w/o primary)	Direct Assigned
Residential (\$mm)	\$282.4	\$364.3	\$331.1	\$36.0	\$46.7

SOURCE: BCOAPO 1.27(c).

As can be seen, \$1,013.8 million of BC Hydro’s total \$1,060.50 residential demand costs (96%) were allocated using either the 4CP or NCP factors. Moreover, BC Hydro notes the obvious: demand costs far outstrip energy costs in customer rates. In 2016, residential demand costs of \$1,060.6 million exceeded the \$708.4 of allocated energy costs.¹⁸⁵ As can be seen, demand costs are the most substantial part of rates, and the demand costs are allocated using the 4CP and NCP factors.¹⁸⁶

BC Hydro’s data further documents that low-use customers have lower peaks using both the 4CP and NCP factors, combined with higher load factors. As a result, the

¹⁸³ Exhibit B-1, p. 4-8.

¹⁸⁴ Exhibit B-5, BCOAPO 1.28.1.

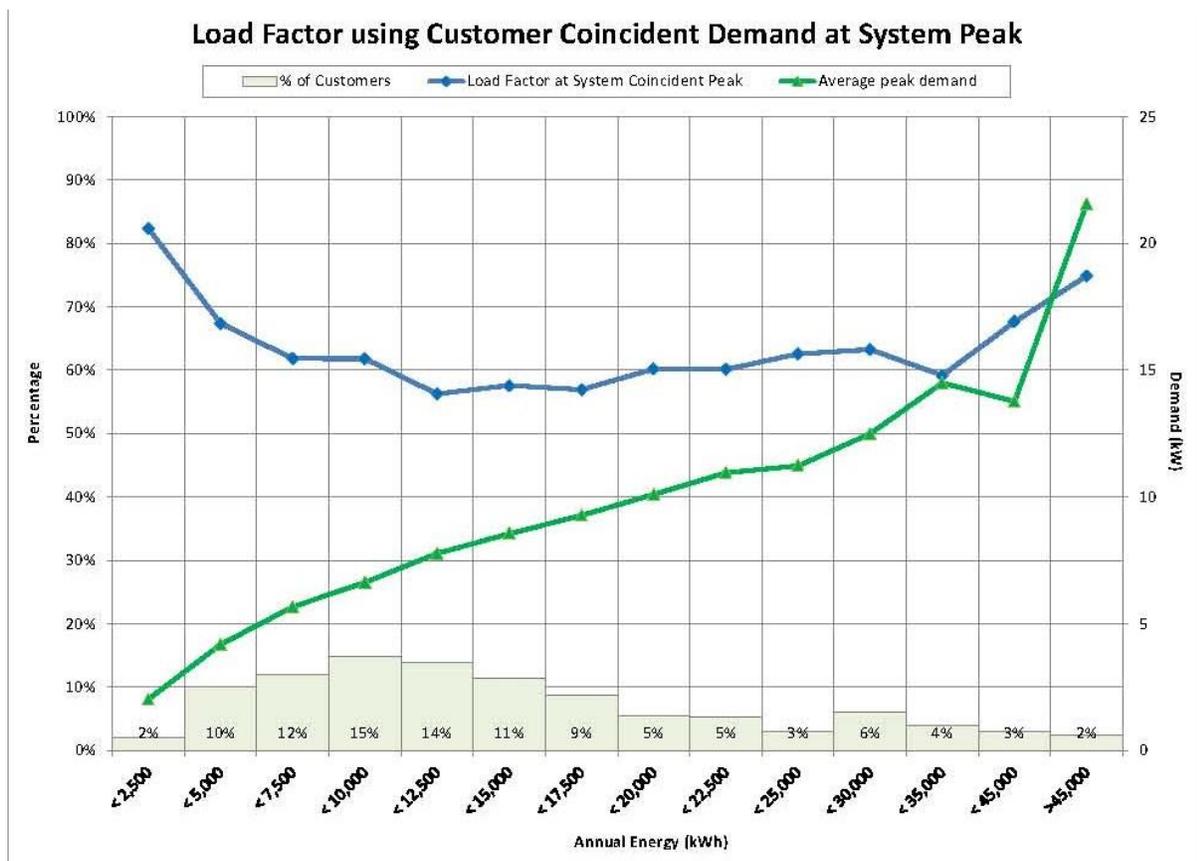
¹⁸⁵ Compare Exhibit B-23, BCOAPO 2.271.1, citing Appendix E, Exhibit B-1, Sheet 4.1, Cell C4 (residential energy costs of \$708.4 million) to BCOAPO 2.271.1, citing Appendix E, Exhibit B-1, Sheet 4.1, Cell G4 (residential demand costs of \$1060 million); see also, Exhibit B-5, BCOAPO 1.27.1(c) (summed allocated residential demand cost of \$1060.5 million) compared to Exhibit B-5, BCOAPO 1.27.1(e)(i) (allocated residential energy cost of \$708.4 million).

¹⁸⁶ While the numbers may differ somewhat, the same results (and conclusions) appertain if the COS methodology is that COS methodology approved in the 2007 RDA decision was applied using 2016 costs. (Exhibit B-5, BCOAPO 1.29.2(a), showing residential energy costs of \$658.3 million compared to residential demand costs of \$1107.3 million).

lower demand costs are spread over more kWh of consumption, thus lowering the cost per kWh even further. This conclusion simply cannot be disputed given the data reported by BC Hydro

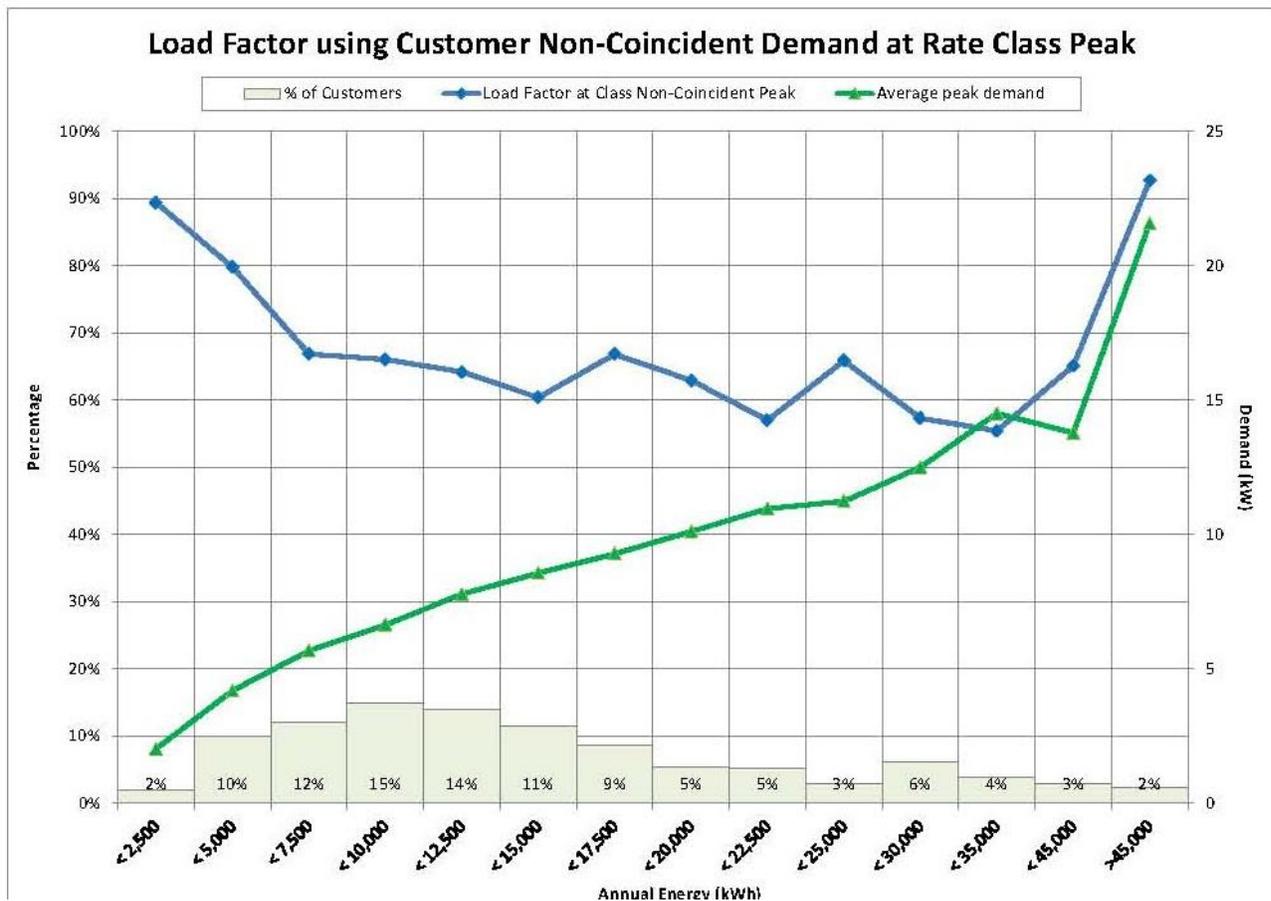
Consider BC Hydro’s data on the Four Coincident Peak (4CP) demand factor as shown below.¹⁸⁷ As this BC Hydro data shows, starting about mid-way between 5,000 and 7,500 kWh per year, load factors substantially increase as consumption decreases. Load factors take an even sharper increase between 2,500 and 5,000 kWh of annual consumption. For customers with usage below 5,000 kWh, load factors are between 65% and 70%. Customers with usage below 2,500 have load factors 75% and higher. At the same time, peak demands for these low use customers are decreasing.

Using the same 4CP measurements that BC Hydro uses to allocate its demand costs, in other words, low use customers impose lower costs on the Company and have more kWh of usage per kW of 4CP demand (thus, meriting an even lower per-kWh rate).



¹⁸⁷ Exhibit B-5, BCOAPO 1.49.1.1.

The same results can be seen from BC Hydro’s data on the Non-Coincident Peak (“NCP”) demand factor.¹⁸⁸ The data is presented in BC Hydro’s own chart of NCP load factors.¹⁸⁹ As can be seen, customers with annual usage of between 2,500 and 5,000 kWh have an NCP load factor of between 72% and 85% (compared to a typical residential load factor of less than 70%). Even more importantly, for purposes of the argument that ESUB improves cost-reflectivity is the sharp increase in NCP load factors, and the noticeable decrease in NCP peak demand for these low use customers. The low use customers impose fewer costs, and, because of higher load factors, have more usage over which to spread those costs on a per-kWh basis, thus meriting a lower price.



Despite these relatively lower costs that low income customers impose on the system as low use customers, low-use customers do not have the reduced costs reflected in their rates. As the Table below demonstrates, despite their lower costs overall, and despite their lower costs on a per kWh basis, under BC Hydro’s proposed rates, customers with usage less than 200 kWh per month have the highest prices per kWh, while customers with usage between 200 and 400 kWh have the second highest

¹⁸⁸ Exhibit B-5, BCOAPO 1.49.1.2.

¹⁸⁹ Exhibit B-5, BCOAPO 1.49.1.2.

prices.¹⁹⁰ The proposed ESUB helps to remedy that unreasonable result and helps to improve cost reflectivity. Those customers imposing the lowest costs are not charged the highest rates, but are instead charged rates that better reflect their lower costs.

	<u>BC Hydro RIB Rate Design</u>	<u>BCOAPO ESUB Rate</u>
<u>Usage (per 30 days)</u>	<u>Avg/kWh</u>	<u>Avg/kWh</u>
200 kWh	\$0.1104	\$0.0704
400 kWh	\$0.0967	\$0.0567
600 kWh	\$0.0921	\$0.0654
800 kWh	\$0.0963	\$0.0763

Indeed, when the Commission specifically asked whether BCOAPO considers that “while low-use customers may make a lower contribution to the Company’s peak demand, they also pay lower average unit costs for their electricity compared to high-use customers under the RIB rate,” BCOAPO pointed out the error in that assertion:

The proposition put forward in the question is not necessarily correct. Based on BC Hydro’s proposed Residential RIB rate average bills will decrease as usage increases up to 675 kWh per month. After this point, average bills will start to increase with usage but usage has to exceed 800 kWh/month before the average bill exceeds that of a Residential customer using 400 kWh/month.¹⁹¹

There simply can be no reasonable dispute that adoption of the ESUB will improve the cost-reflectivity of BC Hydro’s residential rates.¹⁹²

6.1.3.2. Improved Efficiency of Collections

Adoption of the ESUB rate will improve the efficiency of BC Hydro operations. Section 60 of the *UCA*, subsection 60(1)(b), provides that the Commission “must have due regard in the setting of a rate. . .to encourage public utilities to increase efficiency, decrease costs and enhance performance.”¹⁹³ As Mr. Colton noted:

¹⁹⁰ Exhibit C2-19, BCOAPO Response to BCUC 1.21.1 and BCUC 1.22.1.

¹⁹¹ Exhibit C2-19, BCOAPO Response to BCUC 1.21.1.

¹⁹² Accordingly, the proposed ESUB rate is most consistent with the Bonbright criteria of the just and reasonableness of rates. As Colton stated: “Providing a discount on the Essential Services usage block, in other words, improves rather than impedes cost reflectivity. In this sense, the Essential Services usage block is consistent with the Bonbright criterion of “fair apportionment of the costs amongst customers.” (Colton Direct, at 17, citing 2015 Rate Design Application, at 1-20).

¹⁹³ 2015 Rate Design Application, at pp. 2-4.

While the Company asserts that this “efficiency criterion” applies only to the procurement of energy and capacity resources,¹⁹⁴ there is nothing in the language of the statute which supports this limitation.

In fact, efficiency of operations extends to all elements of the Company’s provision of service. One aspect of the Company’s operations is the collection of the revenue which it bills. Time and again, third party evaluations have documented that reducing the bills to low-income customers results in an improved revenue collection.¹⁹⁵

BCOAPO acknowledges that BC Hydro disputes this increased efficiency and improved revenue collection. BC Hydro states:

In general terms, tangible savings from improved payments could result from a reduction in dunning communications, call centre resourcing, bad debt expense, or borrowings on deferred revenues. BC Hydro has no evidence to suggest that any of these costs would be materially reduced by the introduction of the proposed ESUB rate.¹⁹⁶

This “rebuttal evidence,” however, should be dismissed. BC Hydro’s statement that it “has no evidence to suggest” that reducing bills would result in reduced arrearages is directly contrary to other statements the Company has made. For example, BC Hydro’s witness acknowledged that contrary to his rebuttal testimony, reducing bills will, indeed, result in improved efficiencies and reduced costs. He agreed with BC Hydro’s previous observation:

Managing active AR¹⁹⁷ is important to minimize bad debt expense. If receivables on active accounts can be minimized, then BC Hydro also limits the magnitude of potential write-offs if the accounts are closed. Accordingly, it’s not surprising that the increases in bad debts. . . correspond with the increases in aged AR for active accounts.¹⁹⁸

Moreover, BC Hydro’s rebuttal testimony that it “has no evidence to suggest” that the improved efficiencies identified by BCOAPO would occur was made six months subsequent to BCOAPO filing its Direct Testimony of Mr. Colton. In that Direct Testimony, Mr. Colton stated:

Time and again, third party evaluations have documented that reducing the bills to low-income customers results in an improved revenue collection. I have attached, as Appendix B, a list of third party evaluations of low-income programs

¹⁹⁴ Exhibit B-5, BCOAPO 1.7.1.

¹⁹⁵ Exhibit C2-12, Direct Testimony of Roger Colton, p. 18 (PDF p. 23/341).

¹⁹⁶ Exhibit B-31, BC Hydro Rebuttal Evidence, at p. 6.

¹⁹⁷ “A/R” stands for “accounts receivable” (Transcript Volume 6, p. 1044, line 11).

¹⁹⁸ Transcript Volume 6, p. 1044, lines 10-19.

prepared over the past thirty years. . . [T]hese evaluations provide empirical support for the proposition that adopting an Essential Services usage block will allow the Commission to ensure that BC Hydro will “increase efficiency, decrease costs and enhance performance” as required by the *UCA* by improving bill collection and reducing the costs of low-income nonpayment.¹⁹⁹

Mr. Colton indicated that he could electronically provide any one of the 77 reports he referenced as “providing empirical support” for the proposition that the ESUB would “increase efficiency, decrease costs and enhance performance as required by the *UCA*.” At the same time the BC Hydro witnesses were asserting there was “no evidence to suggest” that these efficiencies would arise, those witnesses conceded that they had not read or reviewed even one of the 77 reports Mr. Colton offered to make available.²⁰⁰

In addition to being a direct contradiction to their other statements, and in addition to being made without having reviewed the 77 studies that BCOAPO offered to make available as “providing empirical support,” BC Hydro’s own data shows that lower bills are associated with lower arrears. This is evident from any number of perspectives. BC Hydro’s data shows that when customers have higher bills, they also have higher (and older) arrearages.²⁰¹ Overall, BC Hydro’s data shows that customers who have arrears have higher bills (and to the extent that bills can be lowered, arrears will be less likely). The data, as agreed to by BC Hydro witnesses on cross examination, is as follows:²⁰²

	Non-Heating Bills		Heating Bills	
	All Accounts	Accounts in Arrears	All Accounts	Accounts in Arrears
2012	\$105		\$149	
2013	\$110	\$139	\$149	\$177
2014	\$114		\$149	

BC Hydro’s witness finally agreed that increasing revenues, and decreasing costs such as working capital and bad debt, would provide benefits to the utility as a utility. These impacts are not simply “social” benefits; they are internal utility benefits.²⁰³

BC Hydro seeks to hang its hat on its assertion that it is doing an adequate job of collections without the ESUB.²⁰⁴ But BC Hydro is responding to an argument that BCOAPO never made – that is, that BC Hydro is doing a bad job of collections. In fact, Mr. Colton specifically disclaimed the need to demonstrate that BC Hydro was

¹⁹⁹ Exhibit C2-12, Direct Testimony of Colton Direct, p. 18 (PDF p. 23/341).

²⁰⁰ Transcript Volume 7, p. 1388, line 13; 1390, line 9.

²⁰¹ Transcript Volume 6, p. 1036, lines 3-26; 1040, lines 1-10.

²⁰² Transcript Volume 6, p. 1041, lines 20-26; 1043, lines 1-19, quoting Exhibit C2-45.

²⁰³ Transcript Volume 6, p. 1046, lines 2-24.

²⁰⁴ Exhibit B-31, BC Hydro Rebuttal Evidence, at p. 14.

performing poorly in that regard. Mr. Colton specifically stated “we don't have to find that the utility is doing a bad job now in order to find, as I point out in my testimony, that the utility can do a better job and improve the complete, regular, timely and unsolicited payment of bills from low-income customers. . .”²⁰⁵ While Mr. Colton's reference was specifically in relation to Terms and Conditions, it applies equally to ESUB.

Further, amongst the 77 reports that BC Hydro chose not to review was data and analysis provided by independent third party evaluators²⁰⁶ that rates such as the ESUB BCOAPO proposes would improve BC Hydro's efficient operation.²⁰⁷

In sum, BC Hydro's assertion that it “has no evidence to suggest” that its costs such as bad debt and working capital would be reduced is simply not credible when it chose not to review even one of the 77 reports that Mr. Colton offered to provide as providing “empirical support” for the proposition that adopting an Essential Services usage block will allow the Commission to ensure that BC Hydro will “increase efficiency, decrease costs and enhance performance. . .by improving bill collection and reducing the costs of low-income nonpayment.”

The reports have found empirical, experience-based, data-driven conclusions, as advanced by Mr. Colton, that the ESUB rate will:

- Improve the degree to which BC Hydro receives complete payments from low income customers;
- Improve the extent to which BC Hydro receives timely payments from low income customers;
- Improve the extent to which BC Hydro receives regular payments from low income customers; and
- Improve the extent to which BC Hydro receives payments from low income customers without need to “chase” those payments through credit and collection activities.²⁰⁸

There can be no question given the overwhelming evidence provided in this proceeding that, as Mr. Colton testified,²⁰⁹ “the collection of revenue debt, the complete, timely, regular, unsolicited collection of money will be better under ESUB than it would be without ESUB.”²¹⁰

²⁰⁵ Transcript Volume 7, pp. 1240-1241.

²⁰⁶ Exhibit C2-12, Direct Testimony of Colton Direct, Appendix B, p. 1 (PDF p. 191/341)

²⁰⁷ Transcript Volume 7, p. 1253.

²⁰⁸ Exhibit C2-17, BCOAPO Response to BC Hydro 1.19.2, Attachment 1.

²⁰⁹ Transcript Volume 7, pp. 1297-1298.

²¹⁰ This focus on improving the efficiency of utility operations is one of the primary ways in which BCOAPO's ESUB (as well as its low income Terms and Conditions) differs from a social service program. As Mr. Colton stated: “Social Service programs, as a general rule, do not care whether -- and I don't say

There simply can be no reasonable dispute that adoption of the ESUB will improve the efficiency of BC Hydro's credit and collection operations.²¹¹

6.1.3.3. Address Affordability

Adoption of the ESUB rate will improve the affordability of BC Hydro rates. There can be little, if any, debate that there is a substantial degree of energy poverty in British Columbia. As Mr. Klein established, "[e]nergy poverty is understood as "a situation where a household's quality of life is compromised by the high cost of energy needed for heating, hot water, lighting and appliances."²¹² Mr. Klein documented that:

A report for the Ministry of Energy, Mines and Resources estimated that around 292,000 BC households (18% of total households) were living in energy poverty in 2005 [meaning, a household that spent 10% or more of its after-tax income on home energy]. An update of energy poverty by the University of Victoria's Environmental Law Centre for 2007 estimated between 297,000 (17%) and 349,000 (20%) households living in energy poverty. Thus, the extent of energy poverty in BC is significant. (internal footnotes omitted).²¹³

This energy poverty is exacerbated by BC Hydro's failure to take affordability into account in the structuring of BC Hydro's rates. Mr. Klein noted that "the distribution of energy costs is highly regressive – meaning, rising BC Hydro bills do not impact everyone equally. . . This reality has profound implications for rising BC Hydro rates. It means that if BC Hydro rates go up for all households by the same percent, the impact on the budgets of lower income households will be felt much more acutely."²¹⁴

The problem is getting worse. Between 2008 and 2013, BC Hydro rates increased by 34.4%. After inflation, this represents an increase of 25.6%. (And of course they have continued to increase in 2014, 2015 and 2016.) In contrast, households that comprise

this pejoratively, this is just an observation. Social service programs don't care whether they improve the efficiency of the utility operation. Their job is to get money out to the household...What we're proposing to do is to focus the distribution of crisis assistance and the distribution of the improved cost reflectivity so as to improve the utilities' efficiency of operation, so that they will collect more money more quickly, in a more timely way, and devote less effort in doing that. That's simply beyond the purview of a government program. They don't care about that. And that's not a bad thing, it's just that's beyond their...purview. Our program is designed to take that utility operating impact into account." (Transcript Volume 7, pp. 1253-1254).

²¹¹ While Mr. Colton cited Section 60, subsection 60(1)(b) of the *UCA* for the proposition that the Commission "must have due regard in the setting of a rate...to encourage public utilities to increase efficiency, decrease costs and enhance performance," (Exhibit C2-12, Direct Testimony of Roger Colton, p. 17 (PDF p. 22/341)), in addition, Section 38 of the *UCA* requires that BC Hydro public utility must "provide. . .a service to the public that the commission considers is in all respects adequate, safe, *efficient*, just and reasonable." (emphasis added)

²¹² Exhibit C2-12, Direct Testimony of Seth Klein, p. 30 (PDF p. 284/341).

²¹³ Exhibit C2-12, Direct Testimony of Seth Klein, p. 31 (PDF p. 285/341).

²¹⁴ Exhibit C2-12, Direct Testimony of Seth Klein, p. 33 (PDF p. 287/341).

the poorest 10% (combining individuals persons and economic families) actually saw a drop in real incomes of 25%, the second decile saw an increase of 3.7%, the third decile of 1%, and the fourth decile a rise of only 2.4%. Thus, for all these families, BC Hydro rate increases in recent years have far out-stripped income growth.²¹⁵

BC Hydro rates have been going up considerably faster than social assistance rates. Mr. Klein noted that:

Welfare incomes have historically failed to keep pace with inflation. Basic welfare rates have been frozen since 2007 (therefore inflation has significantly eroded the real value of a welfare cheque since then). The latest BC Budget announced a very small monthly increase in disability assistance (PWD) rates of \$77/month (the first since 2007), although, as has been widely reported, the government also clawed back two transportations subsidies it provided to over half the people on PWD, making the increase for such people a mere \$11 to \$25 a month.²¹⁶

As Mr. Klein concluded: “Poverty and energy poverty in BC are serious problems. And in the absence of mitigating policy and regulatory measures, energy poverty in BC can be expected to worsen as BC Hydro rates go up.”²¹⁷

In the absence of an ESUB, BC Hydro is increasing rates to households for whom service is already unaffordable (as documented by Mr. Klein); who lack the ability to mitigate those rate increases through usage reduction; and who are facing the higher rates even though they impose lower costs on the Company. The proposal for an ESUB, however, is not based exclusively on affordability concerns. It is a mechanism through which BC Hydro can simultaneously address these affordability concerns, improve cost reflectivity in rates, and improve the efficiency of BC Hydro’s operations and reduce overall operating costs.

Addressing this unaffordability is one justification for the proposed ESUB, but it is certainly not the exclusive justification. If one were interested only in addressing bill unaffordability, for example, it might be easier simply to eliminate the basic customer charge. When Mr. Colton was asked by COPE why eliminating the customer charge would not be a “step in the right direction” for affordability, Mr. Colton responded:

if your only point is to deliver dollars of bill reduction to low income customers, then eliminating the fixed basic customer charge would serve that objective. If your point is not simply to deliver dollars of bill reduction to low income customers, but to deliver dollars of bill reduction in a way that you can justify on traditional regulatory grounds, such as improving cost reflectivity, then no, it's not a step in the right direction. Because I can't think of a reason why low income customers would have a zero dollar basic monthly customer charge.

²¹⁵ Exhibit C2-12, Direct Testimony of Seth Klein, p. 36 (PDF p. 290/341).

²¹⁶ Exhibit C2-12, Direct Testimony of Seth Klein, p. 36 (PDF p. 290/341).

²¹⁷ Exhibit C2-12, Direct Testimony of Seth Klein, p. 40 (PDF p. 294/341).

So you know, it really boils down again to, what are you trying to accomplish? If all you're trying to do is to give low income customers a break, then you eliminate the fixed monthly customer charge. And yes, the bills will be lower. But that's not what my proposal is. My proposal is to . . .to improve cost reflectivity, help improve the efficiency of bill collections, and to address affordability. . .If you . . .say, "yes, we want to do each of those three," then you need to do it through a mechanism such as ESUB. If all you want to do is to create a social service program, then eliminate the customer charge.²¹⁸

The objective of ESUB is not simply to distribute money to low income customers in the form of lower electric rates in order to approve affordability. The three-part justification of ESUB is to improve the cost reflectivity of rates; and to improve the efficiency of bill collections; and to address affordability. While affordability is unquestionably one aspect of the justification for ESUB, it is only one of three justifications.

6.1.4. Response to Miscellaneous ESUB Objections

Two primary questions were raised with regard to ESUB that do not address the fundamental regulatory justifications for the ESUB proposal. First, some parties questioned whether the ESUB discount would result in increased low income consumption as a result of price elasticity. Second, some parties questioned why an ESUB based on improved cost reflectivity should be limited to low income, low-use customers, rather than being extended to all low-use customers.

6.1.4.1. Increased Consumption of ESUB Participants

While BC Hydro argued in its Rebuttal Testimony that the proposed ESUB would result in "some" increased energy consumption for low income customers,²¹⁹ the Company quickly backed away from that proposition on cross-examination.

- BC Hydro's witness, on cross-examination, stated quite unequivocally that a decrease in price "would not result in a meaningful increase in consumption for low-income customers."²²⁰
- BC Hydro's witness stated that the Company "couldn't find any statistically meaningful response to low usage customers" to increased or decreased prices.²²¹
- BC Hydro's witness said that, with respect to low income customers, "as a class overall, I would expect [usage changes based on price changes] to be modest,

²¹⁸ Transcript Volume 7, pp. 1295-1296.

²¹⁹ Exhibit B-31, BC Hydro Rebuttal Evidence, p. 5.

²²⁰ Transcript Volume 4, p. 726, lines 12-14.

²²¹ Transcript Volume 4, p. 726, lines 21-23.

very negligible, and we can't statistically pick it up in any kind of modeling in British Columbia."²²²

BC Hydro's testimony is consistent with what empirical evaluations have found for low income bill affordability programs. No after-the-fact empirical evaluation of a low income bill affordability program has ever found that the decreased prices offered through the program have resulted in any systematic increase in low income usage.²²³

Even though BC Hydro raised an objection in its rebuttal testimony that the costs of ESUB presented by Mr. Colton were understated because ESUB participants would increase their consumption in response to lower prices,²²⁴ as indicated immediately above, the Company's own witnesses stated that there would be no "meaningful increase" in ESUB consumption; that any increase in ESUB consumption would be "very negligible"; and that there would be no "statistically meaningful response" to the price discount provided by ESUB.

6.1.4.2. Failure to Extend ESUB to All Low Use Customers

One objection raised to the proposed ESUB was that if the price reduction is designed to reflect the lower costs imposed on the system by low use customers, the ESUB should be extended to all low use customers, not merely to low income low-use customers.²²⁵

This argument isolates one justification for ESUB to the exclusion of the other two rationales for the proposed ESUB rate. When pressed on why BCOAPO did not propose to make ESUB available to all low-use customers, Mr. Colton responded that he rejected that alternative ESUB structure "for a couple of reasons":

Number one is that the ESUB, the essential services usage block, the foundation for it – I'm going to mix my metaphors here – is a three-legged stool. One is the cost reflectivity. ESUB clearly increases cost reflectivity. Number 2 -- and so that would apply whether you're low income or non-low income. The second part of the stool is that the ESUB improves the efficiency of the company in being able to collect its bill revenue. Those four metrics that I talk about [are] the complete payment, timely payment, regular payment, unsolicited payment. When you move away from low income, you lose that part of the foundation for the ESUB, and the third was simply a cost consideration that if we make ESUB available to everyone, we would not be talking about a 26.9 million dollar program decreased by 50 percent. But we would be talking about much, much larger costs. When we limit it to low income, low usage, we keep the various foundations, which aren't

²²² Transcript Volume 4, p. 727, lines 5-7.

²²³ Exhibit C2-18, BCOAPO Response to BCSEA 13.3 (citing specific evaluations); see also, Exhibit C2-12, Direct Testimony of Roger Colton, p. 27 (PDF p. 32/341) at footnote 15.

²²⁴ Exhibit B-31, BC Hydro Rebuttal Evidence, at p. 5.

²²⁵ Transcript Volume 7, p. 1290, lines 19 - 22.

applicable to the total population, plus we keep the costs reasonable. And all of those were objectives.²²⁶

Mr. Colton conceded that low-use customers were not exclusively low income.²²⁷ He explained, however:

The evidence is that low income customers are disproportionately low-use, and cost --the three stools are cost reflectivity, the increased efficiency and affordability. And if we only use the cost reflectivity aspect as a justification, then we could talk about extending ESUB to everyone. But when you extend the justification also to increasing the efficiency of utility operations and improving affordability, you -- it doesn't -- it no longer works to extend ESUB to everyone. You lose two-thirds of the justification for doing it in the first instance. So we didn't. And in addition, it costs more to boot. So we didn't do that.²²⁸

In addition, when queried on the relationship between low income customers and low-use customers, Mr. Colton referenced the observations of law professor and evaluation expert Michael Hennessey.²²⁹ Professor Hennessey identifies the “myth” that sufficiently detailed inquiry will result in the discovery of “a potential policy that benefits all and burdens none.” Hennessey dismisses the search for such a policy as not only bound to fail, but also as being harmful in the meantime.

The pervasiveness of this particular myth in the lifeline literature is quite amazing. The review of survey simulations . . . shows that in virtually every case lifeline rates are superior to the alternative rate structure, with greater percentages of targeted households benefiting and lesser proportions of nontargeted households burdened. Yet lifeline rates are routinely criticized (and rejected) for always producing some proportions of the targeted who are burdened and some proportions of the nontargeted who are benefited. As Berg states; “opportunities are missed when our lack of complete understanding causes unnecessary delays. The goal of perfect policies is one of the greatest enemies of the achievement of good policies.”²³⁰

In sum, ESUB should not be rejected because some small portion of low income customers are not low use, or because some small portion of non-low income customers are low use. BC Hydro’s own empirical data presented in this proceeding

²²⁶ Transcript Volume 7, p. 1290, line 26; 1291, lines 1-22.

²²⁷ Transcript Volume 7, p. 1292, line 1.

²²⁸ Transcript Volume 7, p. 1292, lines 1-13.

²²⁹ Exhibit C2-18, BCOAPO Response to BCSEA 4.2. Page 84 of the report cited at that IR cites Michael Hennessey, “The Evaluation of Lifeline Electricity Rates: Methods and Myths,” 8 Evaluation Review 327 (1984).

²³⁰ Exhibit C2-18, BCOAPO’s response to BCSEA 4.2. Page 85 of the report cited at that IR cites Cleveland State University (1980), *Lifeline Electric Rates and Alternative Approaches to the Problems of Low-Income Ratepayers: Ten Case Studies of Implemented Programs*, at p. 253, National Technical Information Center: Washington D.C.

clearly indicated that the overwhelming disproportionate share of low use customers are low income and, conversely, that the overwhelming disproportionate share of low income customers are also low-use.

6.1.5. Summary and Conclusions on ESUB

BCOAPO submits that the Commission should approve its proposal for an ESUB. The \$0.04 price discount on the first 400 kWh of low income usage provides meaningful assistance to low income customers without imposing an unreasonable burden on customers not eligible for the ESUB. The ESUB is supported by traditional regulatory principles. The proposed rate is necessary to improve price reflectivity. ESUB will increase the efficiency of BC Hydro operations. ESUB will address affordability problems facing BC Hydro's poorest customers.

6.2. Crisis Intervention Fund

BCOAPO urges the adoption of a reasonable addition to the fixed monthly customer charge to fund a crisis intervention fund for BC Hydro customers. A crisis intervention program would involve providing funds when a low income customer faces a situation that threatens the continuing ability of that customer to take electric service. Such a crisis situation may, but need not necessarily, involve providing a grant to prevent the disconnection of service for nonpayment. In the alternative, a crisis intervention grant might respond to a level of arrears that the program administrator deems is of sufficient size that the customer will never be capable of retiring them in full. Moreover, a crisis situation might involve circumstances where a customer is already "off-system" and lacks sufficient funds to make an arrearage payment, along with paying a reconnection charge and possibly a cash security deposit.²³¹ A crisis intervention grant is intended to respond to unexpected and temporary circumstances that place a customer's service in jeopardy.²³²

6.2.1. The Structure of a Crisis Intervention Fund

The crisis intervention fund should be administered through an independent third party. That third party can, at its discretion, take responsibility for performing intake and grant disbursement or, in the alternative, can oversee a network of community-based organizations (CBOs) and local/provincial government agencies who would do outreach, intake and grant-making within program-prescribed guidelines. Mr. Colton stated that in his experience, "the network approach is the more effective and efficient mode of operation. Participating CBOs are allocated a not-to-exceed sum of funds that would be available for distribution as crisis intervention grants consistent with contract obligations."²³³

²³¹ Exhibit C2-12, Direct Testimony of Roger Colton, pp. 36-37 (PDF p. 41-42/341).

²³² Exhibit C2-12, Direct Testimony of Roger Colton, p. 38 (PDF p. 43/341).

²³³ Exhibit C2-12, Direct Testimony of Roger Colton, p. 37 (PDF p. 42/341).

Mr. Colton urged the Commission not to insert itself into the day-to-day operations of the crisis intervention fund.²³⁴ Rather, the role of the Commission is to approve the reasonableness of the funding.²³⁵ Mr. Colton recommended that the administration of the program be handled as a matter of contract between BC Hydro and the third party administrator.²³⁶

6.2.2. The Cost of a Crisis Intervention Fund

The Crisis Intervention Fund should be funded through the imposition of an undifferentiated addition to the fixed monthly customer charge of \$0.25 per month.²³⁷ This would generate a fund of \$5.4 million.²³⁸

The cost of the Crisis Intervention Fund was set at \$0.25/month. The \$5.4 million was a derived number. "We didn't start with \$5.4 million and say what monthly amount does it take to get to \$5.4 million. We started with the 25 cents and multiplied it out to say, does that give us a reasonable amount to work with, and concluded that it did."²³⁹ The resulting \$5.4 million fund includes all costs, including administrative costs.²⁴⁰

BCOAPO proposes that all customer classes pay the \$0.25 per month charge for the Crisis Intervention Fund.²⁴¹ This recommendation has a traditional regulatory basis to it.

The crisis intervention fund, it benefits more than the residential class ... There is a study, for example, by the U.S. Chamber of Commerce and the American Manufacturer's Association which stated that the number one problem of employees involved financial crisis at home. And that problem was the chief contributor to the lack of employee productivity. And so in addressing the underlying crisis of the customer, not only is the customer benefitted, but the customer's employer is benefitted as well. And given the fact that the proposal was made to make it 25 cents, we thought that it was --given the benefits that extended to all customer classes, that was not an unreasonable decision to extend the cost responsibility to all customer classes.²⁴²

Mr. Colton states that "[i]f all customer classes were going to receive benefits, then all customer classes should make some minimal payment as well,"²⁴³ and elaborates that "[t]he benefits extend not to only residential or households, but the benefits extend to

²³⁴ Transcript Volume 7, p. 1339, lines 17-26; 1342, lines 1-18.

²³⁵ Transcript Volume 7, p. 1339, lines 23-26; 1340, lines 1-13.

²³⁶ Exhibit C2-12, Direct Testimony of Roger Colton, p. 37 (PDF p. 42/341).

²³⁷ Exhibit C2-12, Direct Testimony of Roger Colton, p. 43 (PDF p. 48/341).

²³⁸ Exhibit C2-12, Direct Testimony of Roger Colton, p. 44 (PDF p. 49/341).

²³⁹ Transcript Volume 7, p. 1327, lines 23-26; 1328, lines 1-2.

²⁴⁰ Transcript Volume 7, p. 1308, lines 3-6.

²⁴¹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 43 (PDF p. 48/341).

²⁴² Transcript Volume 7, p. 1250, lines 24-26; 1251, lines 1-18.

²⁴³ Transcript Volume 7, p. 1251, lines 19-20.

each aspect of the community including commercial and large commercial and large general service.”²⁴⁴

6.2.3. The Regulatory Justification of a Crisis Intervention Fund

The Crisis Intervention Fund is a necessary element of providing a cost-effective response to nonpayment by low income customers. It allows BC Hydro to respond to the “fragility” of incomes experienced by the working poor in particular.

Income for the working poor in particular can be erratic and unpredictable. Working poor families, for example, tend to find themselves in lower-quality hourly wage jobs. In addition, working poor customers lack paid leave time. So the combination -- there's a combination of hourly wages with the absence of paid vacation or paid sick leave can directly affect the ability of the working poor customer to maintain his or her utility service. A sick kid, or a personal illness, can result in three days of lost wages, and three days of permanently lost income. It's inherent in the nature of the incomes of working poor customers.²⁴⁵

A Crisis Intervention Fund contributes to the cost-effective response to utility nonpayment.

A crisis intervention program benefits, not only the customers receiving such grants, but benefits the utility as well. In research I did for the United States Department of Health and Human Services, the federal LIHEAP office, which is our federal fuel assistance program, on measuring the outcomes of federal fuel assistance, I found that the range of negative options available to a consumer facing an unaffordable home energy bill far outstrips the available positive options that are available to the low-income customers.

Most of those negative options are actually counterproductive to utility bill payment. Not only do they not solve the consumer's long-term inability to pay a problem, they affirmatively contribute or exacerbate that inability to pay problem.

My research on responses to bill payment found that there are indeed constructive responses to bill unaffordability pursuing usage reduction strategies, budget billing, and taking household actions to reduce their household expenses and increase their income are all constructive responses to bill non-payment.

All too frequently, however, the customer is faced with an immediate need, which is bill payment by a date certain, that with the available constructive responses, unable to deliver assistance in either the timing or the amount that -- or in the form that would be responsive to that need, to pay the bill immediately by a date certain. And given the immediate consequences of failing to address that short-

²⁴⁴ Transcript Volume 7, p. 1252, lines 8-11.

²⁴⁵ Transcript Volume 7, p. 1233, lines 11-36.

term non-payment crises, the customer is pushed into the negative actions that I talk about: borrowing money or not paying their rent in order to pay their electric bill. All of those exacerbate the long-term problem. Those bills will come due. And it may serve the short-term problem, but in the long-term they are counterproductive. One purpose of the crisis intervention fund is to address the immediate need to prevent the consumer from pursuing one of the negative options that will be ineffective or even counter-productive to having the customer maintain a long-term paid-up relationship with BC Hydro. The purpose of the crisis intervention process, in other words, is to short circuit the need for the customer to pursue the negative options that would cost not only that customer but cost all ratepayers money in the long-term.²⁴⁶

BCOAPO's proposed crisis intervention program was presented "as a way to respond more effectively and more efficiently by the utility to non-payment, and to improve the complete timely, regular, unsolicited payment of bills. It was not a social program. It is a program to help the utility improve its own efficiency of operations. And it will do so."²⁴⁷

Mr. Colton clearly distinguished the Crisis Intervention Fund from a "social services" program operated by the government:

Social Service programs, as a general rule, do not care whether -- and I don't say this pejoratively, this is just an observation. Social service programs don't care whether they improve the efficiency of the utility operation. Their job is to get money out to the household.

What we're trying to do is to focus and what we're proposing to do is to focus the distribution of crisis assistance and the distribution of the improved cost reflectivity so as to improve the utilities' efficiency of operation, so that they will collect more money more quickly, in a more timely way, and devote less effort in doing that. That's simply beyond the purview of a government program. They don't care about that. And that's not a bad thing, it's just that's beyond their -- it's beyond their purview. Our program is designed to take that utility operating impact into account.²⁴⁸

It is this focus on generating a utility benefit that distinguishes the Crisis Intervention Fund from a government-funded social assistance program.

What the crisis assistance program does is to . . . short-circuit that short-term decision-making to allow the customer the time to engage in some positive responses to the unpaid bill, whether it's through reducing their consumption, or entering into a payment plan, or reducing other household expenses. It takes away -- by providing resources to get past that immediate crisis point, it allows a

²⁴⁶ Transcript Volume 7, p. 1234, lines 3-26; 1236, line 1.

²⁴⁷ Transcript Volume 7, p. 1252, lines 13-20.

²⁴⁸ Transcript Volume 7, p. 1253, lines 13-26; 1254, lines 1-5.

more productive response in the long term, to keep that customer on the system and paying the utility bill. And that is financially beneficial to the utility to have that happen.²⁴⁹

At the oral hearing, BC Hydro introduced data reported by the Ontario Energy Board, and asked for BCOAPO's comments on that data. As BCOAPO noted in its subsequent undertaking to provide such commentary:

"The Ontario data tables support BCOAPO's proposals regarding deferred payment plans, a crisis intervention fund, and the renewable delays on disconnections for vulnerable customers. Mr. Colton's testimony at hearing explained that in the lack of such proposals, low-income customers were faced with a payment by a date certain without the ability to engage in "positive" responses (such as entering in deferred payment plans. As a result, low-income customers engage in counter-productive responses."²⁵⁰

As BCOAPO noted, "precisely the outcomes that Mr. Colton testified would likely occur for BC Hydro as resulting from the adoption of the recommended Terms and Conditions, as well as the crisis intervention fund, have, in fact, occurred in Ontario after the OEB adopted similar proposals."²⁵¹

6.3. Low Income Customer Terms and Conditions

BC Hydro customers, including low income customers, have an obligation to pay their utility bills. The sad, but unquestionable truth in British Columbia is that the reality of being poor in British Columbia means that it is difficult, if not impossible, for low income customers to pay their BC Hydro bills.

The question, therefore, is what is to occur when those two realities run into each other and create conflict. In response to this conflict, BCOAPO has proposed a series of low income Terms and Conditions that reflect the reality of inability-to-pay for low income customers within a construct of enforcing a payment obligation. The purpose of the low income Terms and Conditions is to improve the cost-effective collection of the bills that

²⁴⁹ Transcript Volume 7, p. 1306, lines 4-16.

²⁵⁰ Exhibit C2-48, BCOAPO Undertaking No. 1, at para. 9.

²⁵¹ BCOAPO observed: "The positive results accruing from such an approach are evident in the Ontario data tables, both in the province-wide data and in the data for Ontario's largest utility. In 2013, the percentage of Hydro One low-income customers in arrears that had entered into payment plans (34%; 1,589 of 4,734) was roughly the same as the percentage of residential customers overall in arrears entering into payment plans (38%; 69,024 of 183,934). After the OEB adopted proposals similar to those which have been advanced by BCOAPO in this proceeding, however, the level of engagement by low-income customers substantially exceeded that of residential customers as a whole. In 2015, while 64% of low-income customers in arrears entered into payment plans (4,869 of 7,570), only 26% of residential customers as whole had (59,233 of 225,952). By 2015, on a province-wide basis, while 40% of low-income customers in arrears had entered into payment plans (8,064 of 19,914), only 15% of residential customers as a whole had done so (86,090 of 566,902)" (Exhibit C2-48, BCOAPO Undertaking No. 1, at para. 9).

BC Hydro renders to its low income customer base. BC Hydro's response is to continue to do the same things it has always done over and over and hope for a better result. Such an approach is not a rational way to manage collections.

6.3.1. Overview: What BCOAPO and BC Hydro Agree on About Terms and Conditions

BC Hydro customers, including low income customers, have an obligation to pay their utility bills. No one disputes this truism, and no one in this proceeding has proposed anything other than to acknowledge this. According to Mr. Colton, four metrics should be used to determine whether bills are being paid:²⁵²

- Complete payment: When BC Hydro issues a bill for \$100, the Company wants a payment of \$100.
- Timely payment: When BC Hydro issues a bill with a due date of Day 20, the Company wants a payment by Day 20.
- Regular payment: When BC Hydro issues twelve bills a year, the Company seeks 12 payments a year.
- Unsolicited payment: When BC Hydro issues a utility bill, the Company seeks a payment without having to engage in a process of collection.

The problem posed by inability-to-pay is that when customers are poor, not only do the customers have payment problems, but the utility has a collection problem as well. Given that the utility has a statutory obligation to operate in an efficient fashion, however, it behooves BC Hydro, and the Commission, to find ways in which to address inability-to-pay. As Mr. Colton stated:

One objective of utility regulation is to achieve the efficient delivery of utility service, which is the precise objective which cost-effectiveness is designed to measure. One objective of utility regulation is to operate in the most cost-efficient manner to accomplish the desired objectives, which is the precise objective that cost-effectiveness analysis is designed to measure.²⁵³

Even BC Hydro acknowledges the validity of BCOAPO's observations about inability-to-pay. According to BC Hydro:

BCOAPO communicated that BC Hydro should assess the proposed terms and conditions in light of both the effectiveness and efficiency of collections. BCOAPO contends that low income terms and conditions can be expected to improve the productivity of collection activities from two different but related

²⁵² Transcript Volume 7, p. 1240, lines 12-25.

²⁵³ Transcript Volume 7, p. 1240, lines 1-10.

perspectives. On the one hand, the terms and conditions will affect how much revenue (outputs) is generated by each collection intervention. On the other hand, the terms and conditions will affect how many collection activities (inputs) are needed to generate the revenue.

BC Hydro agrees with this proposition in concept. *It is logical that spending money on notices or customer contacts is pointless if the customer does not have the ability to pay. Similarly, if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive* (emphasis added).²⁵⁴

BCOAPO's proposals in this proceeding are directed toward a limited number of situations where BC Hydro agrees, as "logical" that "spending money on notices or customer contacts is pointless" and where BC Hydro agrees, in concept, that "credit and collection responses that further increase a customer's bill may not be productive."

6.3.2. The Reality Facing Low Income BC Customers

There is little question that the reality of being poor in British Columbia means that it is difficult, if not impossible, for low income customers to pay their BC Hydro bills. Irrespective of what stakeholders might believe social assistance payments "should be," or "might be," the reality facing BC Hydro's low income customers is that, as BCOAPO witness Patty Edwards testified, "Welfare rates have not changed in almost a decade. With shelter rates from the welfare Ministry being \$375 (which is supposed to cover both rent and utilities), and with housing and electricity costs going up so much, people are really struggling."²⁵⁵ The reality is that, as Ms. Edwards testified, there are low income customers who face monthly \$200 electric bills on a monthly income of \$906.²⁵⁶ The further reality is that when these low income customers get behind on their bill, even if through no fault of their own (e.g., an equal payment plan does not fully cover an annual bill), BC Hydro can issue all the \$400 bills for arrears it wishes, and demand the corresponding deposits, but those bills and deposit demands do not increase the low income customer's ability to pay.

As BC Hydro itself stated:

It is logical that spending money on notices or customer contacts is pointless if the customer does not have the ability to pay. Similarly, if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive.²⁵⁷

²⁵⁴ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

²⁵⁵ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 4 (PDF p. 304/341).

²⁵⁶ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 3 (PDF p. 303/341); Direct Testimony of Emma Gauvin, p. 2 (PDF p. 308/341).

²⁵⁷ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

Consider the situation of BCOAPO ratepayer witness Curtis Barton. Mr. Barton has a monthly income from MSDSI of \$610 and a monthly rent of \$500.²⁵⁸ This leaves Mr. Barton \$110 a month to pay his monthly BC Hydro bill of \$67 (\$133 bill every two months).²⁵⁹ This is *before* paying any other monthly living expenses, such as food and clothing.

Once customers like those testifying on behalf of BCOAPO get behind on their bills, it is impossible for them to get caught up, particularly if their service is disconnected for nonpayment. There is simply not sufficient public aid to provide dependable bill payment assistance. It doesn't matter what stakeholders such as BC Hydro (or even BCOAPO) might want public assistance levels to be, or what BC Hydro might believe such public assistance levels should be. Adequate public assistance simply does not exist.

And yet, these low income customers have an obligation to pay their bills. In responding to their nonpayment, however, the question is whether BC Hydro's existing Terms and Conditions help or hinder the desired bill payment outcomes. BCOAPO agrees with BC Hydro's statement that "if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive." BCOAPO's proposed low income Terms and Conditions are reasonable alternatives to existing processes that, in BC Hydro's own words, are "pointless" or "not productive."

The following low income Terms and Conditions are advanced by BCOAPO as an improved way to resolve the conflict between the obligation to pay of low income customers and BC Hydro's acknowledgement that "it is logical that spending money on notices or customer contacts is pointless if the customer does not have the ability to pay. Similarly, if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive."

6.3.3. Installment Payment Plans

One of the most difficult collection mechanisms to use to retire arrears is the deferred payment arrangement (also known as an "installment agreement"). Through a deferred payment arrangement, BC Hydro (or any other utility) asks a customer to retire an unpaid account balance over time. The problem with low income customers is that adding an arrearage payment to the bill for current service runs afoul of what BC Hydro acknowledges is a problem, i.e., "if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive."²⁶⁰

²⁵⁸ Exhibit C2-12, Direct Testimony of Curtis Barton, p. 1 (PDF p. 319/341).

²⁵⁹ Exhibit C2-12, Direct Testimony of Curtis Barton, p. 2 (PDF p. 320/341).

²⁶⁰ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

BC Hydro's payment plan procedures and practices are largely ineffective as a means to retire unpaid account balances.²⁶¹ BC Hydro's data demonstrates that the BC Hydro's increased collection efforts have resulted neither in generating immediate payments nor in generating agreements to make deferred payments over an extended period of time.²⁶² In addition, just as BC Hydro is working harder to generate immediate payments, it has had to work harder to generate Deferred Payment Arrangements (DPAs) as well. The issuance of disconnect notices is used as the surrogate for collection activity. BC Hydro has had to issue more and more disconnect notices to generate agreement with each DPA from its customers in arrears. Moreover, even the additional outcomes generated, in terms of number of accounts is not matched by a corresponding proportionate increase in dollars subject to agreement.²⁶³ BC Hydro is getting more agreements for its extra work, but the agreements relate to smaller and smaller arrears rather than to customers in real trouble with larger balances.

BC Hydro's current deferred payment plan practices also lack success. Even BC Hydro's "updated" information presented in its Rebuttal Evidence shows that BC Hydro needs to work harder and harder to gain what little success it has achieved in retiring arrears through deferred payment arrangements.²⁶⁴ BC Hydro is forced to engage in more collection activities for each successful payment plan than it did even two years ago. The flipside of that observation shows the harm of the BC Hydro's current practices to other ratepayers. Even BC Hydro's "updated" information presented in its Rebuttal shows that despite the increasing collection efforts BC Hydro pursues, it is generating fewer and fewer successful deferred payment plans.²⁶⁵

An unpayable payment plan not only places the underlying debt in jeopardy, it places the bill for current service in jeopardy as well. Nearly 50% of BC Hydro's payment plans that were two months in length defaulted. Between 64% and 75% of BC Hydro's payment plans that were between three and eight months in length defaulted. A lower percentage of payment plans with terms of 12 and 13 months respectively defaulted than payment plans with terms of four through eight months.²⁶⁶ One substantial reason for this default rate is that the installment payments imposed by BC Hydro are not affordable. Nearly 90% of BC Hydro's average monthly installments are not affordable, measured as a percentage of income.

²⁶¹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 83 (PDF p. 88/341).

²⁶² Exhibit C2-12, Direct Testimony of Roger Colton, p. 84 (PDF p. 89/341), Schedule RDC-3, p. 2 (PDF p. 140/341). While the Company "updated" this data in its Rebuttal Testimony, the data changed very little. The trend line in the Company Rebuttal was virtually identical to the trend line presented in Colton's Schedule RDC-3 (Exhibit B-31, BC Hydro Rebuttal Evidence, at p. 15).

²⁶³ Exhibit C2-12, Direct Testimony of Roger Colton, p. 85 (PDF p. 90/341). While the Company "updated" this data in its Rebuttal Testimony, the data changed very little. The trend line in the Company Rebuttal was virtually identical to the trend line presented in Colton's Schedule RDC-3 (Exhibit B-31, BC Hydro Rebuttal Evidence, p. 17).

²⁶⁴ Exhibit B-31, BC Hydro Rebuttal Evidence, p. 19, updating Colton Direct, Schedule RDC-3, p. 6.

²⁶⁵ Exhibit B-31, BC Hydro Rebuttal Evidence, p. 20, updating Colton Direct, Schedule RDC-3, p. 7.

²⁶⁶ Exhibit C2-17, BCOAPO Response to BC Hydro 1.19.2, Attachment 1, at pp. 2-3.

For example, according to BC Hydro, a payment plan with two installments has an average monthly installment payment of \$290.²⁶⁷ Payment plans are deemed to be affordable if the annual payments do not exceed 1% of income.²⁶⁸ To be affordable on an annual basis at the one percent (1%) of income identified by Mr. Colton, the household would need to have an income of nearly \$60,000 ($\$290/\text{payment} \times 2 \text{ payments} = \$580 \text{ arrears} / 1\% \text{ of income affordable annual payment} = \$58,000 \text{ annual income needed for installment plan to be affordable on annual basis}$). Similarly, BC Hydro reports that installment plans with five installments have an average monthly payment of \$289.²⁶⁹ To be affordable on an annual basis at the one percent of income identified by Mr. Colton, the household would need to have an income of \$144,500 ($\$289 / \text{payment} \times 5 \text{ payments} = \$1,445 \text{ arrears} / 1\% \text{ of income affordable annual payment} = \$144,500 \text{ annual income needed for installment plan to be affordable on annual basis}$). More than 86% of BC Hydro's installment plans have five or fewer installments.²⁷⁰

The lowest before-tax LICO for a family in Canada is \$29,706. BC Hydro's payment plans, in other words, whether calculated on a monthly or on an annual basis, require incomes that far exceed anything close to low incomes in order to be affordable. There should be little wonder that, routinely, 70% of the payment plans that BC Hydro enters into fail.²⁷¹

The *UCA* requires BC Hydro to operate in an efficient fashion. When BC Hydro's collection activities are considered with respect to deferred payment plans, the Company fails that statutory obligation. As Mr. Colton documented:

BC Hydro is spending more and more collection resources to obtain fewer and fewer accounts being paid, involving even fewer dollars, and to enter into payments plans that remain unsuccessful despite a noticeable increase in the collection activity being expended. The process is not only ineffective, but inefficient as well. The efforts are both least effective and least efficient for long-term arrears, and becoming even less so over time.²⁷²

The fact is that BC Hydro knows very little about the operation of its deferred payment plans and why they do not work. BC Hydro concedes that it does not know why customers do not successfully maintain payment plans to avoid the disconnection of their utility service.²⁷³ BC Hydro specifically admits that it has no information, no study, no data, no analysis – in other words, it has never ever considered the question –

²⁶⁷ Exhibit B-5, BCOAPO 1.204.1.

²⁶⁸ Exhibit C2-17, BCOAPO Response to BC Hydro 19.2, Attachment 1, p. 5.

²⁶⁹ Exhibit B-5, BCOAPO 1.204.1.

²⁷⁰ Exhibit C2-17, BCOAPO Response to BC Hydro 19.2, Attachment 1, page 5.

²⁷¹ Exhibit C2-17, BCOAPO Response to BC Hydro 1.19.2, Attachment 1, at pp. 2-3.

²⁷² Exhibit C2-12, Direct Testimony of Roger Colton, p. 86 (PDF p. 91/341).

²⁷³ Exhibit B-23, BCOAPO 2.307.1.

showing whether its deferred payment plan processes reduce either residential bad debt²⁷⁴ or reduce residential arrears.²⁷⁵

BC Hydro's payment agreement process simply does not work as well as it could or should. The Company's hardline approach to setting the terms of DPAs results in customers "agreeing" to DPAs that they cannot hope to successfully complete. The fact that nearly half of the DPAs to which customers "agreed" end in default is evidence unto itself that the BC Hydro payment plan process is fundamentally broken and can be cost-effectively improved.²⁷⁶

In an apparent acknowledgement that its approach installment plans is not working for low income customers, BC Hydro notes that it is working on business process changes to installment plans to allow repayment over longer periods provided that bills are paid before the next winter heating season.²⁷⁷

BCOAPO submits that this should go further. BCOAPO recommends improving the affordability of payment plans, and thus the effectiveness of payment plans, through three steps for low income customers:

- Setting the down payment at no more than 10% of arrears;²⁷⁸
- Limiting the term to not less than 12 months;
- In the alternative to the second recommendation, placing a limit on required arrearage payments so that arrearage payments would not exceed an average monthly bill.²⁷⁹

BCOAPO provided empirical data showing that adopting such recommendations would improve both the effectiveness and efficiency of BC Hydro's collection of low income arrears (in light of BC Hydro's own concession that "if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive").²⁸⁰ Based on the Ontario data that BC Hydro itself asked BCOAPO to comment on, for example, it can be seen that:

²⁷⁴ Exhibit B-5, BCOAPO 1.199.1(b).

²⁷⁵ Exhibit B-5, BCOAPO 1.200.1(b).

²⁷⁶ Exhibit C2-12, Direct Testimony of Roger Colton, p. 88 (PDF p. 93/341).

²⁷⁷ Exhibit B-38, Opening Statement of Keith Anderson, p. 5.

²⁷⁸ The Company asserts that it "may" waive the down payment, but is not required to offer any cap on a down payment requirement.

²⁷⁹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 87 (PDF p. 92/341). Offering this alternative addresses the "small" arrears. If someone owes \$50, it makes less sense to require that account balance to be spread over a minimum of 12 months. Under the BCOAPO proposal, fewer months can be used, so long as the monthly payment does not exceed the average monthly bill.

²⁸⁰ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

The positive results. . . are evident in the Ontario data tables, both in the province-wide data and in the data for Ontario's largest utility. In 2013, the percentage of Hydro One low-income customers in arrears that had entered into payment plans (34%; 1,589 of 4,734) was roughly the same as the percentage of residential customers overall in arrears entering into payment plans (38%; 69,024 of 183,934). After the OEB adopted proposals similar to those which have been advanced by BCOAPO in this proceeding, however, the level of engagement by low-income customers substantially exceeded that of residential customers as a whole. In 2015, while 64% of low-income customers in arrears entered into payment plans (4,869 of 7,570), only 26% of residential customers as whole had (59,233 of 225,952). By 2015, on a province-wide basis, while 40% of low-income customers in arrears had entered into payment plans (8,064 of 19,914), only 15% of residential customers as a whole had done so (86,090 of 566,902).

The beneficial impact of low-income Terms and Conditions proposals such as those advanced by BCOAPO in this proceeding, which have been adopted in Ontario, are evident as well by the fact that at the same time that residential engagement (as evidenced by the proportion of customers in arrears entering into payment plans) declined from 2013 to 2015 for residential customers as a whole (from 22% down to 15% province-wide; from 38% down to 26% for Hydro One), the low-income engagement (as evidenced by the proportion of customers in arrears entering into payment plans) substantially increased (from 33% to 40% province-wide; from 34% to 64% for Hydro One).²⁸¹

Moreover, BCOAPO provided the results of Pennsylvania's affordable payment plan program.

In 2013 (the most recent year for which data is available), Pennsylvania utilities had 1.046 million confirmed low-income customer accounts statewide.²⁸² The confirmed low-income accounts were heavily payment-troubled. Fifteen percent of these confirmed low-income customers had been disconnected for nonpayment in 2013, of which only 72% were reconnected. More than 22% of all confirmed low-income accounts were in debt, with those confirmed low-income customers having an average monthly arrears of \$656. Of those confirmed low-income accounts in arrears, fewer than half were on payment agreements.

In contrast to these payment difficulties for confirmed low-income customers, the participants in the low-income CAP programs²⁸³ had an average payment coverage ratio of 86%. Through their affordability programs, in other words,

²⁸¹ Exhibit C2-48, BCOAPO Undertaking No. 1, at para. 10.

²⁸² Pennsylvania utilities had an *estimated* 1,987,364 number of low income customer accounts. Accordingly, the utilities had "confirmed" roughly 53% of their estimated number of low income accounts. Given that these numbers include both gas and electric utilities, however, it cannot be concluded that these numbers reflect "households." Some accounts may be counted twice, once by the electric utility and again by the natural gas utility.

²⁸³ "CAPs" are Pennsylvania's affordable payment programs for electric and natural gas utilities.

Pennsylvania's utilities took extremely payment-troubled confirmed low-income customers and structured a response where the utilities were receiving nearly \$9 of every \$10 billed.²⁸⁴

As BCOAPO documented, results similar to those presented with respect to Ontario and Pennsylvania have been found in Washington, Indiana, Colorado and New Jersey as well.²⁸⁵ The only conclusion, based on the evidence in this proceeding, must be, as BCOAPO demonstrated "The data shows that not only does the utility collect more money, and collect that money in a more timely fashion when the payment plan takes affordability into account, but it works less hard to make the collection."²⁸⁶

6.3.4. Late Payment Charges

The Commission should approve BCOAPO's proposed modifications to BC Hydro's late payment charges. BCOAPO recommends that low income customers be exempted from being charged late payment charges. In addition, BCOAPO recommends specific modifications to the late payment charges irrespective of low income status.

6.3.4.1. Exempting Low Income Customers from Late Payment Charges

Low income customers should be exempt from paying a late payment charge. Imposing a late payment charge on low income customers suffers from the same problem, and is based on the same fallacy, as other increased collection charges imposed on low income customers. In BC Hydro's own words, "*if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive.*" (emphasis added)²⁸⁷

This BC Hydro conclusion, of course, is the same conclusion advanced by Mr. Colton. According to Mr. Colton:

BC Hydro's collection expense is counterproductive when the Company is further from full payment after the collection process than before it. Particularly in situations involving low-income households, this will often be the case. In these situations, even when the collection process obtains some payment toward the arrears, and assuming that the full cost of collection can be charged to the delinquent payer through a Late Payment Charge, if the nonpayer is incapable of paying her bill in full, the utility ends up worse off having undertaken the collection efforts than having not.²⁸⁸

²⁸⁴ Exhibit C2-17, BCOAPO Response to BC Hydro 1.19.2, Attachment 1, p. 10.

²⁸⁵ Exhibit C2-17, BCOAPO Response to BC Hydro 1.19.2, Attachment 1, pp. 5-13.

²⁸⁶ Exhibit C2-17, BCOAPO Response to BC Hydro 1.19.2, Attachment 1, p. 7.

²⁸⁷ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

²⁸⁸ Exhibit C2-12, Direct Testimony of Roger Colton, p. 98 (PDF p. 103/341).

The late payment charge certainly cannot be viewed as an “incentive” for low income customers to pay their bills. Not even BC Hydro seriously makes the claim that this is the function of a late payment charge. In its 2015 RDA, BC Hydro cited the Ontario Energy Board for the proposition that “the rationale for late payment charges is that all customers benefit from encouraging prompt payment of bills.”²⁸⁹ BC Hydro later backs away from the notion that late payment charges are used as an incentive to pay. BC Hydro refers to “providing an inducement for timely payments” as “a secondary factor” in justifying its Late Payment Charge.²⁹⁰

This lack of reliance on an incentive function as justifying the imposition of a late payment charge, let alone the level of a late payment charge, is a good thing. BC Hydro has no empirical foundation upon which to base any assertion that the late payment charge is an effective incentive for people to pay. When specifically asked to “provide all written studies currently within BC Hydro’s custody or control, whether or not prepared by or for BC Hydro, that explicitly assesses the extent to which [late payment charges] reduce residential bad debt,” BC Hydro admitted that it “does not have studies or analysis on the extent to which the other activities²⁹¹ reduced residential bad debt.”²⁹² Similarly, BC Hydro could not provide any such analysis that linked the imposition of Late Payment Charge to the reduction of residential arrears in general.²⁹³

The BC Hydro Late Payment Charge is not cost-based. BC Hydro argues that the Late Payment Charge is cost-based because the “costs” which the Company attributes to late payments (\$8,048,729)²⁹⁴ exceed the revenues generated by the Late Payment Charge (\$7,843,653).²⁹⁵ There are, however, at least two problems with this assertion.

First, the “costs” which BC Hydro attributes to late payments are considerably overstated. BC Hydro claims the following as the costs of late payment:

Accenture Business Service (ABSBC) Costs (credit and call center) (\$)	\$3,881,143
Customer Late Payment Communications (\$)	\$1,949,170
BC Hydro Interest (\$)	\$1,968,415
BC Hydro Operating and Maintenance (\$)	\$250,000
Total (\$)	\$8,048,729

²⁸⁹ Exhibit B-1, p. 8-11.

²⁹⁰ BCOAPO 1.177.1.

²⁹¹ The “other activities” included imposing late payment charges.

²⁹² Exhibit B-5, BCOAPO 1.199.1(g).

²⁹³ Exhibit B-5, BCOAPO 1.200.1(g), citing BCOAPO 1.198.2.

²⁹⁴ Exhibit B-1, p. 8-13.

²⁹⁵ Exhibit B-1, p. 8-13.

²⁹⁶ Exhibit B-1, p. 8-13.

BC Hydro subsequently revised its cost of late payment communications downwards (to \$1,696,145) and a total late payment cost of \$7,795,704.²⁹⁷ When asked to provide a “detailed breakdown” of this cost, however, the Company could not do so.²⁹⁸

In discussing the details of its collection costs, BC Hydro acknowledged that ABSBC activities were “primarily” (but not exclusively) directed toward “active accounts.”²⁹⁹ BC Hydro did not explain why active residential customers with unpaid balances should, through their Late Payment Charges, pay for collection activities directed toward inactive accounts.³⁰⁰ BC Hydro further acknowledged that portions of the costs collected through Late Payment Charges were for activities related not simply to residential accounts, but for activities related to commercial accounts as well.³⁰¹ BC Hydro makes no effort to track the Late Payment Charge revenue paid by residential customers relative to the late payment costs imposed by such customers.³⁰²

More disturbing is that BC Hydro simply allocates certain costs to the Late Payment Charge, even though those costs may have no relationship to accounts that pay after the due date. Asserting that a certain level of dollars attributed to the call center is covered by the Late Payment Charge makes no sense if the calls are not attributable to people who generate those calls after a bill’s due date. For example, BC Hydro states that it allocates 100% of the costs associated with people seeking to negotiate deferred payment arrangements to the Late Payment Charge, irrespective of whether those negotiations occur before or after the billing due date.³⁰³ In addition, BC Hydro simply deems a proportion of the calls it receives regarding payment inquiries and payment options to be “collection related.”³⁰⁴

Outside the context of Late Payment Charges, BC Hydro acknowledges the burden it bears to justify a proposed charge. BC Hydro’s witness stated that: “if you have an identifiable service and the costs are clearly identifiable to providing that service, it seems to make sense that, you know, where we can, we propose these sort of standard charges.”³⁰⁵ The fact that both the service for which the charge is being levied and the costs associated with that service, however, according to BC Hydro’s own witness, must be “clearly identifiable.”³⁰⁶ As is evident, BC Hydro’s Late Payment Charge fails that test.

²⁹⁷ Exhibit B-5, BCUC 1.126.3.

²⁹⁸ Exhibit B-5, BCUC IR 1.126.3.

²⁹⁹ Exhibit B-26-1, BCOAPO 1.183.1.

³⁰⁰ Inactive account would involve no payments toward bills, let alone any payments toward Late Payment Charges.

³⁰¹ Exhibit B-26-1, BCOAPO 1.183.1.

³⁰² Exhibit B-5, BCOAPO 1.180.1.

³⁰³ Exhibit B-26-1, BCOAPO 1.183.1.

³⁰⁴ Exhibit B-26-1, BCOAPO 1.183.1.

³⁰⁵ Transcript Volume 3, p. 464, lines 1-3.

³⁰⁶ Transcript Volume 3, p. 464, lines 10-12.

BC Hydro simply cannot cost-justify the Late Payment Charge which it imposes on its residential customers. BCOAPO recognizes, however, that simply eliminating the Late Payment Charge would eliminate a substantial stream of revenue for the Company.

For low income customers in particular, however, BC Hydro's unjustified charge must be balanced against the fact that, in the Company's own words, "if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive."³⁰⁷ To impose a non-cost-based Late Payment Charge on low income customers, in other words, not only would not enable BC Hydro to collect the revenue it seeks, it would impede such collection.

BCOAPO urges that low income customers be exempted from being charged the Company's non-cost-based Late Payment Charge. As demonstrated above, imposing a Late Payment Charge on low income customers would, in effect, be imposing a charge that does not cover costs associated with late payment; that seeks to recover costs from customers before those costs, if any, are incurred; that are not limited to costs created exclusively by residential customers; and that impede rather than improve the receipt of billed revenue.

6.3.4.2. Impose Late Payment Charges at Day 60 after the Due Date

The Commission should approve BCOAPO's proposal to limit the imposition of a Late Payment Charge to account balances that are at least 60-days overdue. This proposal is not income-based. The limitation should apply to all residential account balances irrespective of the income of the account holder.³⁰⁸

BC Hydro's Late Payment Charge is not cost-justified because it imposes a charge on customers before the costs to be recovered by that charge are incurred. BC Hydro imposes its Late Payment Charge on Day 30 after a bill is initially issued. Most collection activities costing significant dollars do not begin in that first ten days after the due date of a bill.³⁰⁹ BC Hydro reports, for example, that by Day 30 after the due date, it had collected 90% of its May 2014 bills; 93% of its August 2014 bills; and 91% of its January 2015 bills.³¹⁰ (This is significant because the Company claims that nearly half of the "collection" costs that it uses to cost-justify its Late Payment Charge are associated with Accenture Business Service ("ABSBC") costs (credit and call center).³¹¹ The call center costs are one of the cost-justifications for the late payment charge.³¹² However, not only does BC Hydro include call center costs in its justification that are not specifically "credit and

³⁰⁷ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

³⁰⁸ The same rationale would presumably dictate that a similar decision-rule apply to non-residential accounts as well.

³⁰⁹ BCOAPO 1.178.1, Attachment 1.

³¹⁰ BCOAPO 2.299.1 citing BCOAPO 1.179.1.

³¹¹ Exhibit B-1, p. 8-13

³¹² Exhibit B-23, BCOAPO 2.316.1; Exhibit B-26, BCOAPO 1.201.1.

collection,³¹³ but even those costs that it does include are not generally caused by customers who are paying as quickly after the due date as BC Hydro's own data indicates happens.

Moreover, while BC Hydro boldly asserts that it is necessary to impose a Late Payment Charge in order to prevent customers from taking an interest-free loan in the form of unpaid bills, the data provided by BC Hydro demonstrates quite clearly that imposing a late charge does not prompt customers with unpaid account balances to retire those balances. BC Hydro's witnesses acknowledged, based on their own data, that the vast majority of customers pay their bills by the due date. In fact, a substantial portion of customers pay their bills on Day 1 after the bill is issued.³¹⁴ While the stream of revenue then decreases on Day 2 and Day 3 after the bill is issued, there is a substantial uptick in payments in Day 4 through Day 6 after a bill is issued.³¹⁵ The next noticeable influx of payments comes in Day 21 and Day 22 after the bill is issued.³¹⁶ The fact is, as BC Hydro's data shows, that prompting bill payment that would not otherwise have been made is simply not associated with the imposition of a Late Payment Charge. Even when the Late Payment Charge is imposed, there is no resulting noticeable increase in payments as a result.³¹⁷

Finally, if BC Hydro's Late Payment Charge is, in reality, designed to compensate the Company for the borrowing costs it incurs due to unpaid bills, along with being designed to compensate the Company for collection costs associated with unpaid bills, it would be reasonable to expect the level of Late Payment Charge revenue to be associated with the level of unpaid bills on a monthly basis. If the Late Payment Charge is to be cost-based, the months with the most unpaid accounts, and the highest unpaid dollars, should be matched to the months with the highest levels of late payment charge revenue.

BC Hydro provided both a listing of Late Payment Charge revenue by month,³¹⁸ and a listing of its unpaid account balances by the age of the arrears by month.³¹⁹ BCOAPO Exhibit C2-42 sorted the Late Payment Charge revenue from highest to lowest, by month, and highlighted the months with the largest revenue stream. BCOAPO Exhibit C2-44 also sorted the arrears by age by month for the 30-59 day age bucket, the 60-89 day age bucket, and the 90-119 day age bucket. In this way, it is possible to compare the months with the highest levels of arrears with the months with the highest levels of Late Payment Charge revenue. While there is some overlap between the lists, there is not a systematic

³¹³ Exhibit B-26-1, BCOAPO 1.183.1.

³¹⁴ Transcript Volume 6, p. 1055, lines 8-19.

³¹⁵ Transcript Volume 6, p. 1056, lines 2-8.

³¹⁶ Transcript Volume 6, p. 1056, lines 9-24.

³¹⁷ Exhibit B-5, BCOAPO 1.179.1, as responded to in Exhibit B-23, BCOAPO 2.299.1, Attachment 1. When first asked for this data (BCOAPO 1.179.1), the Company indicated it lacked the time to generate the response but would respond at the time of IR #2 responses. BCOAPO 2.299.1 is simply the restatement of the request to document that the information that the Company had already committed to provide would be forthcoming.

³¹⁸ Exhibit B-5, BCOAPO 1.180.1; introduced at hearing as Exhibit C2-42 (Transcript Volume 6, p. 1032).

³¹⁹ Exhibit C2-44; Transcript Volume 6, p. 1041.

overlap between the level of arrears and the level of Late Payment Charge revenue, particularly for the 30-59 day age bucket. The correspondence becomes greater as the aging of arrears becomes older. As can be seen, it is simply not possible for BC Hydro to argue that its Late Payment Charge is related to the costs that nonpayment imposes on the Company. The revenue generated is not matched to the costs incurred. The people paying the Late Payment Charge revenue are not the same people causing the costs (asserted by BC Hydro) to be incurred. This “matching principle” is a fundamental principle of utility ratemaking. It is a principle that BC Hydro’s Late Payment Charge fails.

In sum, even if one were to accept the costs reported by BC Hydro as a reasonable justification for its Late Payment Charge, which BCOAPO does here solely for the purposes of examining this timing issue,³²⁰ there is an issue relating to the timing of the Late Payment Charge imposition as well as relating to the level of the Late Payment Charge. The Company imposes its Late Payment Charge starting on Day 30, ten days after a billing due date. That timing is not justified because the activities which incur the costs purportedly to be paid by the Late Payment Charge³²¹ have simply not begun at that point in time. Those activities, the costs of which are purportedly covered by the Late Payment Charge, do not begin to occur until substantially later. The imposition of the Late Payment Charge should be delayed until the cost-causing activities begin to occur. The proposal of BCOAPO to delay the imposition of the Late Payment Charge until Day 60 should be approved.

6.3.4.3. Set Late Payment Charges Equal to Short-Term Cost of Debt

At the very least, the late payment charge for all residential customers should be reduced to the short-term cost of debt. BC Hydro’s witness testified that

if the interest that we paid on security deposits decreased to the amount of the short-term borrowing, that correspondingly the costs would also balance approximately if the late payment charge was reduced to 1.25 percent from 1.5 percent. The difference being that the change specifically in the interest rate on borrowing for deferred or delayed revenues.³²²

When asked during cross-examination whether BC Hydro would agree “the vast majority of the instances when a late payment charge is assessed is when there is a payment that is within a short time of the due date? That is, within a time -- a short time as roughly defined by banks, when they talk about short-term interest rates, say six months or less,” BC Hydro’s witness conceded: “Yes, I think we could infer that from the arrears data that we’ve seen. . .”³²³

³²⁰ As documented in detail above, BCOAPO disputes the Company’s claim that its Late Payment Charge is cost-justified.

³²¹ Exhibit B-5, BCOAPO 1.198.2, Attachment 3.

³²² Transcript Volume 6, p. 1146, lines 9-16.

³²³ Transcript Volume 6, p. 1146, lines 17-25.

6.3.5. Cash Security Deposits

The Commission should approve BCOAPO's proposed modifications to BC Hydro's cash security deposits. BCOAPO recommends that low income customers be exempted from posting cash security deposits. In addition, BCOAPO recommends that BC Hydro accept certain specified alternatives to posting cash security deposits.

6.3.5.1. Exempting Low Income Customers from Cash Security Deposits

BC Hydro has established processes with MSDSI to avoid security deposits and postpone disconnections for customers awaiting MSDSI decisions on applications for support.³²⁴ BCOAPO supports this development and commends BC Hydro for implementing it. However, BCOAPO submits that all low income customers should be exempted from the security deposit requirement, whether they are recipients of MSDSI assistance or not.

We begin this discussion with the truism, agreed to even by BC Hydro, that, in the Company's own words, "if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive."³²⁵ The concrete reality of BC Hydro's statement was repeatedly established by BCOAPO witnesses in this proceeding:

- Advocate witness Patty Edwards discussed a woman with a total monthly income of \$906. When this customer's equal payment plan failed to cover the woman's entire winter bill, BC Hydro "wanted her to pay more than \$400, plus a huge security deposit of more than \$400."³²⁶ Even though an advocate who helped the customer "was eventually successful in securing Ministry assistance for both (the make-up bill and the deposit)," the woman "will have to pay the Ministry back for the security deposit through monthly deductions from her disability assistance."³²⁷
- Advocate witness Keith Simmonds testified that in his experience, "once a low income person's power is disconnected, it is very difficult for them to get reconnected. Not only do they have to deal with the outstanding bill, but they have to find a way to pay the reconnection fee and potentially a security deposit on top of that."³²⁸
- Advocate witness Stacey Tyers testified that "if someone is actually disconnected it creates huge problems, as they then need to pay the whole outstanding bill, as

³²⁴ Exhibit B-38, Opening Statement of Keith Anderson, p. 5.

³²⁵ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

³²⁶ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 2-3 (PDF p. 302-303/341)

³²⁷ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 3 (PDF p. 303/341).

³²⁸ Exhibit C2-14, Revised Direct Testimony of Keith Simmonds Direct, p. 3 (PDF p.4).

well as the reconnection fee and security deposit – I have seen security deposits as high as \$1300, but we regularly see security deposits in the \$700-\$800 range if the customer is heating their home with electricity.”³²⁹ Tyers continued: “Depending on a person’s financial situation, it can be very difficult to get reconnected once they are disconnected – the person has to pay the entire outstanding bill (no exceptions), plus the reconnection fee, and often a security deposit. The problem is finding that money.”³³⁰

Aside from the hardships that cash security deposits impose on low income customers, two lessons can be derived from this testimony for purposes of structuring BC Hydro’s collections practices and policies in the most cost-effective fashion possible. First, public assistance to help pay deposit requirements is frequently not available and, when available, is difficult to access. Second, and more importantly, the public assistance that is available does not present “new” government money to be applied against deposits. When MSDSI helps pay a deposit, those dollars of “assistance” are subsequently deducted from the household’s monthly low income assistance payments. The payment toward a deposit, in other words, leaves fewer customer resources to be devoted toward future bills for current service.

The conclusion is not only that the hardships imposed by such cash security deposits are both real, and frequent, but also that the threat is real that imposing such cash security deposits serves not to protect BC Hydro against the loss of revenue, but serves instead to prevent the connection (or reconnection) of service with an immediate loss of revenue that BC Hydro would not otherwise have experienced. As Mr. Colton states, “the way to protect low-income access to electric service, while at the same time protecting BC Hydro’s financial interests is for the Company to waive deposits for low-income customers.”³³¹

In this proceeding, BC Hydro actually agrees that this is true. In its consideration of low income Terms and Conditions, BC Hydro reports that:

BCOAPO stated that security deposits may be counter-productive to the collection of bills when customers cannot afford to pay their bills. A low-income customer who has experienced a disconnection of service would face not only the financial burden of paying the unpaid bills that led to the disconnection in the first instance, but the additional financial burden of paying a new deposit. The deposit, rather than protecting the company, could represent an insurmountable barrier to the customer, thus both harming the customer and preventing the company from collecting the outstanding amount. BC Hydro acknowledges this concern³³² (emphasis added).

³²⁹ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 2 (PDF p. 333/341)

³³⁰ Exhibit C2-12, Direct Testimony of Stacey Tyers, p. 4 (PDF p. 335/341)

³³¹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 114 (PDF p. 119/341).

³³² Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1, at p. 40.

In opposing the exemption of low income customers from posting deposits, however, BC Hydro simply rearticulates its unsupported argument that its “current security deposit practices are largely ineffective.”³³³ In making this assertion, however, BC Hydro relies upon an internal review of customers who have imposed uncollectible accounts (i.e., bad debt) and customers who have posted security deposits.³³⁴ BC Hydro offers some statistics that are not very meaningful in support of this conclusory assertion. For example, BC Hydro states that “only 10 percent of new residential accounts had initially been assessed security deposits.”³³⁵ What BC Hydro did *not* say, however, was that out of the 94,393 accounts represented by the “10%,”³³⁶ 69,326 of those accounts had their deposits returned to them,³³⁷ demonstrating that, in nearly 75% of those cases (69,326 / 94,393 = 0.73), BC Hydro’s review indicating that these accounts were poor risks was *incorrect*.³³⁸ As Mr. Colton notes, in other words, BC Hydro’s decision rule on when to impose a cash security deposit “has erroneously assessed a deposit in 73% of the cases in which the decision rule has been exercised.”³³⁹

Not only has BCOAPO documented that BC Hydro’s deposit decisions are demonstrably wrong (i.e., deposit imposed when a customer is later found not to have been a credit risk) in three out of every four times a deposit is assessed, but BCOAPO has also documented that BC Hydro cannot establish a link between the deposits that have been collected and the prevention of any financial loss to the Company. While BC Hydro states that “only 10 percent of new residential accounts had initially been assessed security deposits,” it could not say of those accounts, how many had final bills resulting in uncollectible dollars,³⁴⁰ or even how many of those accounts had received final bills showing an arrearage at the time of the final bill.³⁴¹ Of the accounts on whom deposits were imposed, in other words, BC Hydro cannot establish that *any* of them, let alone what number (or percent) of them, actually represented a risk of revenue loss to the Company.

Nor can BC Hydro establish that there was a risk of revenue loss, and if so to what extent, from the accounts on whom deposits were *not* imposed. Of the 90 percent of new residential accounts that had not initially been assessed security deposits, BC Hydro could not say how many had final bills resulting in uncollectible dollars,³⁴² or even how many of those accounts had received final bills showing an arrearage at the time of

³³³ Exhibit B-26-1, BCOAPO 1.192.1, Attachment 1 (July Revision), p. 39, citing BCOAPO 1.198.2.

³³⁴ Exhibit B-5, BCOAPO 1.198.2.

³³⁵ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1, at p. 39.

³³⁶ Exhibit B-26-1, BCOAPO 2.320.1(1) (revised).

³³⁷ Exhibit B-26-1, BCOAPO 2.320.1(d) (revised).

³³⁸ Exhibit C2-40, Errata to Direct Testimony of Roger Colton, at pp. 108-109 (PDF p. 3-4/6). In May 2016, the Company submitted “revised” responses to certain Information Requests which BCOAPO had propounded to the Company (and had originally received responses to in January 2016). Based on this revised data, at hearing, Mr. Colton updated his Direct Testimony to reflect the changes that BC Hydro provided.

³³⁹ Exhibit C2-40, Errata to Direct Testimony of Roger Colton, at p. 109 (PDF p. 4/6)

³⁴⁰ Exhibit B-26-1, BCOAPO 2.320.1(c) (revised).

³⁴¹ Exhibit B-26-1, BCOAPO 2.320.1(b) (revised).

³⁴² Exhibit B-26, BCOAPO 2.321.1(c) (revised).

the final bill.³⁴³ Of the accounts on whom deposits were not imposed, in other words, BC Hydro cannot establish that any of them, let alone what number (or percent) of them, actually represented a risk of revenue loss to the Company.³⁴⁴

BC Hydro asserts that 74% of closed accounts with arrears (126,332)³⁴⁵ had never been assessed a deposit (92,923). BC Hydro may well have collected all of these accounts; it does not know whether, or to what extent, it experienced any bad debt at all from these accounts.³⁴⁶ Nor when BC Hydro says that these accounts were “in arrears” does it know what kind of risk really existed. BC Hydro concedes that it has no idea of the age of any of the arrears that existed at the time a customer closed his or her account.³⁴⁷

Despite this utter lack of data from BC Hydro about the extent of risk (or lack thereof) posed by customers from deposits are not collected, what we do know is that BC Hydro’s assertion that a deposit is applied against a final bill offers no insight into, or information about, any risk of revenue loss to the Company. Under BC Hydro’s tariff, when a customer closes an account and BC Hydro holds a deposit on that account, the Company automatically applies the deposit against the outstanding balance. It makes no difference whether the customer is current, or has a bill for a partial month (i.e., closes the account in the middle of the month), or has an arrears. When BC Hydro was asked that “you can’t draw the conclusion that a final bill was in arrears at the time the deposit was applied, is that right?” BC Hydro’s witness responded, “[t]hat’s correct. We immediately apply that security deposit against any outstanding balance.”³⁴⁸

That is significant because the vast majority of deposits are refunded in this fashion, not applied against bills that pose a risk of loss to the Company. BC Hydro’s own data indicates that in 2013, the most recent year of data,³⁴⁹ it applies fewer than one-of-four deposits to final bills.³⁵⁰ Of that less than one-fourth (<25%), only a fraction might have an arrears at all. An even smaller fraction would have an arrearage of more than 30 days.

³⁴³ Exhibit B-26, BCOAPO 2.321.1(b) (revised).

³⁴⁴ The same observation can be made about accounts for which deposits were initially assessed, but later reversed or returned. The Company reversed or returned 145,790 deposits initially imposed on new accounts, and 50,154 deposits imposed on deteriorating accounts (Exhibit B-26, BCOAPO 2.323.1(a)). The Company has no idea of how many of those accounts with reversed or returned deposits ultimately had final bills yielding uncollectible dollars (Exhibit B-26, BCOAPO 2.323.1(e), let alone ultimately had final bills with some level of arrears (Exhibit B-26, BCOAPO 2.323.1(b)).

³⁴⁵ It is important to note what this number is not. This figure does not say that 83% of closed accounts had arrears, but no deposits. It instead begins with the number of accounts that both were a closed account and had an arrears when the account was closed. That number is tiny: 92,923 out of 1.7 million residential customers (Exhibit B-26, BCOAPO 2.319.1(d) (revised)).

³⁴⁶ Exhibit B-26, BCOAPO 2.321.1(c).

³⁴⁷ Exhibit B-23, BCOAPO 2.322.1(f).

³⁴⁸ Transcript Volume 6, p. 1105, lines 25-26; 1106, lines 1-4.

³⁴⁹ Transcript Volume 6, p. 1097, lines 6-16.

³⁵⁰ Transcript Volume 6, p. 1102, lines 19-26; 1103, lines 1-22 (proper calculation relies on the number of deposits assessed after subtracting the number of deposits reversed).

In sum, BCOAPO's proposal to waive deposits for low income customers is eminently reasonable. It builds on BC Hydro's own acknowledgement that "security deposits may be counter-productive to the collection of bills when customers cannot afford to pay their bills."³⁵¹ BCOAPO's proposal to waive cash security deposits for low income customers should be approved.

6.3.5.2. Accepting Alternatives to Cash Security Deposits

In addition to waiving cash security deposits for low income customers, the proposal to require BC Hydro to offer the opportunity to provide alternatives to cash security deposits for all customers should be approved.

BC Hydro has agreed to bring forward tariff changes to allow one customer to be a surety³⁵² for another.³⁵³ BCOAPO urges approval of that proposal. Several attributes of that proposal are positive developments from BC Hydro which the Commission should view with favour:

- Under BC Hydro's proposal, a surety could be a government or non-profit institution.³⁵⁴ In this way, a crisis assistance provider, for example, rather than having to post the full cash payment for a deposit demand, could provide a surety for multiple customers backed by a guarantee fund. Similarly, a house of worship may choose to provide guarantees for congregation members (or community members).
- Under BC Hydro's proposal, an agency or institution can serve as a surety for multiple customer accounts.³⁵⁵ One purpose of providing the option of offering a surety in lieu of a cash deposit is to alleviate the financial hardship on individual customers. Another purpose, however, is to allow an organization providing crisis assistance to stretch its funding further. Rather than having to post a cash security deposit on a dollar for dollar basis, in other words, an agency could use fewer dollars to fund a surety fund.³⁵⁶
- Under BC Hydro's proposal, the option of providing a surety in lieu of a cash deposit would be affirmatively offered to the customer, not simply made available if the customer happens to inquire.³⁵⁷ The availability of a surety option, in other words, does not depend on the customer somehow being sufficiently

³⁵¹ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1, at p. 40.

³⁵² In this argument, the terms "surety" and "guarantor" are intended to be synonymous.

³⁵³ Transcript Volume 3, p. 483, lines 6-20; see also, Transcript Volume 6, p. 1006, line 13-26; 1009, lines 1- 9.

³⁵⁴ Transcript Volume 6, p. 1007, lines 3-11.

³⁵⁵ Transcript Volume 6, p. 1008, lines 10-18.

³⁵⁶ An agency, for example, might capitalize a surety fund for \$5000, and use that fund to back sureties worth \$10,000, recognizing that the vast majority of deposits are not applied against unpaid accounts.

³⁵⁷ Transcript Volume 6, p. 1009, lines 17-26; 1010, line 1.

sophisticated to have independent knowledge of the surety option. Customers will instead be informed of the option.

- BC Hydro intends not only to publicize the availability of the surety option to customers from whom a deposit might be sought, but also to publicize such a mechanism to agencies who are otherwise frequently called upon to provide public dollars to pay cash security deposits.³⁵⁸

BCOAPO differs from BC Hydro in some details of the proposal. For example:

- The requirement that a surety also be a BC Hydro customer imposes unreasonable limitations on the practice. Even if such a requirement may be reasonable for individual households who seek to provide a surety in lieu of a cash security deposit, this practice may impose limitations on agencies and/or organizations who seek to provide sureties. Government agencies and private organizations are more likely to be multi-jurisdictional in nature, and yet still be perfectly acceptable sureties.
- Perhaps most significantly, BCOAPO disagrees with, and opposes, any proposal to require a surety to guarantee the complete bill of an account holder.³⁵⁹ A surety is intended to stand in lieu of a cash security deposit. Accordingly, the surety should extend only to the limits of what the cash security deposit, which the surety is replacing, otherwise would have been.

Overall, while BCOAPO has some differences with BC Hydro's proposal regarding the use of sureties and guarantors in lieu of cash security deposits, the proposal advanced by BC Hydro in this proceeding in response to BCOAPO's proposal to allow sureties and guarantors in lieu of a cash security deposit is reasonable and should be approved with the minor changes recommended above.

6.3.6. Waived Reconnection and Account Charges

BC Hydro should exempt low income customers from its proposed mandatory reconnection and account charges. BC Hydro proposes to set the minimum reconnection charge at \$30 (with graduated charges depending on varying circumstances, such as a manual reconnection performed on overtime).³⁶⁰ BC Hydro proposes to apply an "account charge" whenever "a customer submits an application for a new account or an existing customer moves an account, regardless of whether it is done online or via a customer service agent."³⁶¹

³⁵⁸ Transcript Volume 6, p. 1010, lines 2-12.

³⁵⁹ Transcript Volume 6, p. 1007, lines 22-26; 1008, lines 1-9.

³⁶⁰ Exhibit B-1, Table 8-3, p. 8-8.

³⁶¹ Exhibit B-1, p. 8-15.

Exempting low income customers from the two charges (reconnect charge; account charge) is in BC Hydro's own financial interests. As Mr. Colton explained:

For its own best business interests, BC Hydro should not impose a charge that is likely to leave the Company worse off financially than had it not assessed the charge in the first instance as documented by BCOAPO witness Seth Klein. Low-income customers generally face unique circumstance (not faced by other residential customers) in that they have a limited *corpus* of income from which to pay their bills. Klein's testimony details and documents the extent to which low-income households face a deficit between the dollars of income they have and the dollars of living expenses they face. The deficit is not small, but rather is in the thousands of dollars a year. When BC Hydro imposes a miscellaneous service charge such as the account charge or reconnection charge, rather than collecting funds from a cost-causer, as is the justification for most charges, the utility simply makes it less likely that it will receive payment of either the extra charge or the bill for current service associated with that charge. The low-income household ends up without service while the utility ends up without revenue.³⁶²

BCOAPO's recommendation builds on BC Hydro's own acknowledgement that "if a customer does not have the ability to pay, conceptually, it makes sense that credit and collection responses that further increase a customer's bill may not be productive."³⁶³ The same analysis applies to the account charge. If a low income customer is facing an unaffordable bill, and seeks to move to more affordable housing, BC Hydro imposes a charge on the customer for changing account locations.

One problem with imposing both the account charge and the reconnection charge is that BC Hydro itself contributes to the problems leading to such charges. Once a low income customer makes a misstep, BC Hydro's business practices virtually ensure that increasingly stricter collection processes will be pursued, ultimately leading to the imposition of added charges to an unaffordable bill that was the reason for the initial misstep with which to begin. One need only consider the operation of BC Hydro's collection process to reach this conclusion.

BC Hydro states that its "dunning process is based on creditworthiness. Demerit points are added whenever dunning actions take place on one of a customer's accounts...To calculate creditworthiness, the points are weighted based on how recently each action took place."³⁶⁴ Different levels of "demerit points" are assessed for reminder/important reminder notices, final notice of disconnect, send to operator review, write-off/bankruptcy, return item (NSF), return item (non-NSF), and disconnect for non-pay.³⁶⁵

³⁶² Exhibit C2-12, Direct Testimony of Roger Colton, at p. 101 (PDF p. 106/341).

³⁶³ Exhibit B-26-1, BCOAPO 1.192.1, REVISED Attachment 1 (second revision, July 2016), at p. 32.

³⁶⁴ Exhibit B-5, BCOAPO 1.178.1.

³⁶⁵ Exhibit B-5, BCOAPO 1.178.1.

As points build up, BC Hydro takes more intense credit and collection activities more quickly, thus imposing even more points as a result.³⁶⁶

BC Hydro itself thus acknowledges the obvious: “[T]he creditworthiness points are cumulative such that if sufficient points are accumulated then future dunning actions will be more likely”.³⁶⁷ Only “if a customer with a poor payment history maintains on time payments for one year from the time of the last dunning action, he or she will have no creditworthiness points remaining.”³⁶⁸ As Mr. Colton observes:

Under this process, once a low-income customer gets into payment trouble, it becomes increasingly difficult to get (and stay) out of payment trouble. An increasingly lesser infringement of payment obligations will yield an increasingly stringent dunning activity, which, in turn, makes even more stringent dunning activity even more likely. The result of this self-fulfilling process is designed to generate failure on the part of an unable-to-pay customer. The resulting failure will then generate the assessment of even further charges that will make the future ability-to-pay of the low-income customer even more limited.

Again, it makes little difference whether the additional charge is assessed in the form of a “reconnection charge” because the low-income household has been disconnected for non-payment, or in the form of an “account charge” because the low-income household seeks more affordable housing. In either case, the Company detracts rather than facilitates the ability of the low-income household to make a future payment.³⁶⁹

BCOAPO’s proposed exemption of low income customers from the account charge and reconnection charge is thus based on the straightforward rationale of how the Company’s own business practices contribute to, rather than alleviate, the underlying payment problems of low income customers. “Rather than continuing that process, which leads to a never-ending loop of nonpayment and assessment of additional charges, leading to yet more nonpayment, the Company break the loop by waiving both the account charge and the minimum reconnection charge for low income customers.”³⁷⁰

6.3.7. Barring the Use of External Credit Scores

BC Hydro should be prohibited from imposing a cash security deposit on an applicant for service based on a credit rating from an external credit agency unless that credit rating is based exclusively on the prior utility bill payment history of the new applicant. In the immediately preceding three years, BC Hydro assessed a cash security deposit

³⁶⁶ Exhibit B-5, BCOAPO 1.178.1, Attachment 1.

³⁶⁷ Exhibit B-23, BCOAPO 2.311.1.

³⁶⁸ Exhibit B-5, BCOAPO 1.178.1.

³⁶⁹ Exhibit C2-12, Direct Testimony of Roger Colton, at p. 103 (PDF p. 108/341).

³⁷⁰ Exhibit C2-12, Direct Testimony of Roger Colton, at p. 104 (PDF p. 109/341).

on 48,111 customers (2013), 48,597 customers (2014), and 46,498 customers (2015).³⁷¹ BC Hydro cannot report how many of those deposits were assessed based on a failure to have a “pass” rating from Equifax.³⁷²

The fact is that when BC Hydro imposes a deposit based on its Equifax report, BC Hydro does not even know the basis for the deposit demand. When BC Hydro obtains a rating from Equifax:

the underlying details are not known by BC Hydro. In performing a credit check, BC Hydro’s call centre agents are provided with a ‘pass’ or ‘fail’ recommendation from Equifax, or a response that credit information is not available. These are determined on the basis of the customer’s Equifax credit score. For privacy reasons, agents are not provided with the customer’s credit score and BC Hydro does not record the score or underlying credit file details. If the Equifax recommendation is ‘fail’ BC Hydro requires a security deposit. If the recommendation is ‘passed’ a security deposit is not required.”³⁷³

Customers do not know the basis for the finding of a “failed” creditworthiness determination. Since Equifax does not report the factual basis of its rating to BC Hydro, customers do not know what facts were known or unknown to Equifax, let alone what facts were relied upon in making the “pass” or “fail” report. Since Equifax provides no facts to BC Hydro, customers have no process through which they might challenge the accuracy of whatever facts Equifax might have had internally; nor do they have a means to challenge the interpretation that Equifax places on any given set of facts. Since BC Hydro concedes that the “underlying details are not known by BC Hydro,” customers cannot correct errors in the details that underlie BC Hydro’s deposit demand. Not even BC Hydro knows the factual basis relied upon by Equifax.

BC Hydro’s decision on whether to impose a cash security deposit, in other words, differs from when a household might receive a credit report for standard consumer credit transactions. It is reasonable for the Commission to take administrative notice of the fact that the Financial Consumer Agency of Canada counsels³⁷⁴ consumers with respect to consumer credit reports that it is important for consumers to check for errors because “errors can give lenders the wrong impression. You could be turned down for a credit application or be charged a higher interest rate. Errors can also be a sign that someone is trying to steal your identity and open credit cards, mortgages or other loans under your name.”³⁷⁵

³⁷¹ Exhibit B-5, BCOAPO 1.218.1.

³⁷² Exhibit B-5, BCOAPO 1.218(2).

³⁷³ Exhibit B-5, BCOAPO 1.219.1.

³⁷⁴ Administrative notice is asked of the FACT that the Financial Consumer Agency made these statements. Administrative notice is appropriate given that the statements were made by a government agency in its official capacity.

³⁷⁵ <http://www.fcac-acfc.gc.ca/eng/resources/publications/creditLoans/Pages/Protecti-Proteacu.aspx#check>

This federal agency tells consumers that common errors include: mistakes in personal information, such as wrong mailing addresses or incorrect date of birth; errors in credit card and loan accounts, such as a payment you made on time that is shown as late; negative information about your accounts that is still listed after the maximum number of years it is allowed to stay on your report; and signs of identity theft, such as credit cards or loans listed that you never opened yourself.³⁷⁶

Indeed, the Financial Consumer Agency of Canada warns consumers that mistakes in consumer credit reports may not even represent the mistake of Equifax. The Agency tells consumers: “Before the agencies can make any changes, they first need to check your claim with the lender that reported the information” (emphasis added).³⁷⁷

As can be seen, the Financial Consumer Agency advice, in other words, recognizes that a credit reporting agency such as Equifax can make errors. Despite all this, BC Hydro does not even know the details upon which Equifax is issuing its “pass” or “fail” determination. BC Hydro does not record the score, and does not review the “underlying credit file details.” And yet, based on this shrouded, frequently inaccurate, unchallengeable determination, BC Hydro imposes a substantial financial charge that frequently makes the difference between whether a low-income household can gain access or not to the essential life service of electricity.

In addition, the use of third-party supplied credit information as a basis for making utility deposit decisions constitutes a problem when the third party information is not itself comprised of utility payment histories. Several reasons support this conclusion.

- First, substantial research has found that consumers tend to pay their utility bills before paying any other outstanding credit (other than rent or mortgage obligations).³⁷⁸
- Second, it has been found that low income consumers frequently acquire poor credit ratings by refusing to complete payments on abusive credit card terms.
- Finally, persons who have never borrowed from a reputable institutional lender, or maintained a charge account at a large store, may have difficulty establishing that their credit is good.³⁷⁹

Aside from the business aspects of the issue, to bar the use of non-utility credit experience is consistent with long-standing utility regulatory principles proscribing the

³⁷⁶ <http://www.fcac-acfc.gc.ca/eng/resources/publications/creditLoans/Pages/Protecti-Proteacu.aspx#check>

³⁷⁷ <http://www.fcac-acfc.gc.ca/eng/resources/publications/creditLoans/Pages/Protecti-Proteacu.aspx#check>

³⁷⁸ Exhibit C2-20, BCOAPO Response to CEC 1.18.1 (including Attachments 1 through 8 presenting the underlying data).

³⁷⁹ Exhibit C2-12, Direct Testimony of Roger Colton, pp. 111-112 (PDF pp. 116-117/341).

denial of service for "collateral" matters. It matters not to other ratepayers whether a household fails to pay its Hudson's Bay bill if that household *will* pay its utility bill. The overwhelming data provided by BCOAPO demonstrates that consumers pay their utility bills before paying any other consumer bill.³⁸⁰

As Mr. Colton established, "nonpayment of non-utility bills has little relevance to whether utility bills will be paid."³⁸¹ Basic fairness requires that third-party credit information on non-utility transactions not serve as a basis for utility demands for a cash security deposit.

6.4. Low Income DSM

BCOAPO urges the Commission to find that there is reasonable room for the expansion of BC Hydro's low income DSM programs. In the Minister's July 6, 2015 letter to the Commission, the Minister specifically requested that the Commission provide information on several issues, including "within the current regulatory environment, what options are there for additional Demand Side Management programs, including low income programs?" While BC Hydro initially asserted that such information needs to be provided only if and to the extent that low income customers had significant (over 10 percent) bill impacts as a result of this proceeding,³⁸² there is no language in the Minister's letter that imposes such a limitation.³⁸³

6.4.1. BC Hydro's Existing Low Income DSM Programs

BC Hydro offers two DSM programs to its low income customers (defined as LICO plus 30% in the Demand Side Measures Regulation)³⁸⁴: (1) the Energy Saving Kits (ESK) program; and (2) the Energy Conservation Assistance Program (ECAP).

The ESKs provides "a package of basic, low-cost energy savings measured believed to be easily installed by any homeowner or tenant."³⁸⁵ The ESKs have generated annual savings per customer of between 241 kWh and 329 kWh per year for participants.³⁸⁶ These savings, however, include the ESKs that were "professionally installed." The savings from ESKs that were self-installed reached only 203 kWh per year.³⁸⁷ At a Step

³⁸⁰ Exhibit C2-20, BCOAPO Response to CEC 1.18.1 (including Attachments 1 through 8 presenting the underlying data).

³⁸¹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 112 (PDF p. 117/341).

³⁸² Exhibit B-5, BCOAPO 1.102.1

³⁸³ Exhibit C2-12, Direct Testimony of Roger Colton, p. 45 (PDF p. 50).

³⁸⁴ BC Hydro's two DSM program offerings were originally designed for residential low income customers who had incomes at or below before-tax LICO, but on July 10, 2014, amendments to the Demand Side Measures Regulation came into effect whereby the low income program eligibility threshold was raised to 1.3 times the LICO, and extended to include a list of pre-qualified recipients of various government income and housing assistance programs: Exhibit B-1, pp. 5-75 & 5-76.

³⁸⁵ Exhibit B-14, BCOAPO 1.105.1 (Revised), Attachment 1, p. 6.

³⁸⁶ Exhibit B-14, BCOAPO 1.105.1 (Revised), at p. 7.

³⁸⁷ Exhibit B-14, BCOAPO 1.105.1 (Revised), at p. 13.

1 rate of \$0.0829, therefore, the self-installed ESKs resulted in annual bill savings of roughly \$17, or a bill reduction of \$1.40 per month.

The ECAP offers two approaches: (1) the “basic” ECAP; and (2) the “advanced” ECAP. The Basic ECAP provides the same low-cost measures as the ESK plus “additional energy saving products such as energy-efficient refrigerators.”³⁸⁸ The Advanced ECAP provides the Basic ECAP services plus comprehensive home insulation.³⁸⁹ Out of roughly 2,326 homes receiving Basic ECAP services, about 700 received new refrigerators.³⁹⁰ More than two-thirds ($1,626 / 2,326 = 0.699$) of ECAP participants, in other words, received basically the same services as were provided through ESK.³⁹¹ ECAP resulted in an average annual energy savings of 874 kWh.³⁹² At a Step 1 rate of \$0.0829, therefore, ECAP resulted in an annual bill savings of \$72, or a bill reduction of six dollars (\$6) a month.

The Advanced ECAP program serves very few customers. BC Hydro projects that it will serve 50 low income homes a year through Advanced ECAP.³⁹³ That represents about three percent (3%) of BC Hydro’s annual ECAP production.³⁹⁴ In contrast, the Company reports that it has 84,777 low income electric heating customers on its system.³⁹⁵ Each year, in other words, BC Hydro seeks to treat less than 0.06% (six one-hundredths of one percent) of the low income electric heating population through its advanced ECAP program ($50 / 84,177 = 0.000594$).

Finally, it should be remembered that neither the ECAP nor the ESK programs should be confused with comprehensive energy efficiency programs offered to low income households. When asked, BC Hydro confirmed that the ESK program is not designed to identify and install all cost effective measures.³⁹⁶ Moreover, BC Hydro further confirmed that ECAP, including both the “basic” ECAP and the “advanced” ECAP, is not designed to identify and install all cost-effective measures.³⁹⁷ As Mr. Colton observed, “relying exclusively on ESK and ECAP will leave cost-effective usage reduction potential undone. And, once a home is treated through ESK or ECAP, BC Hydro will not later go back to the home to install cost-effective usage reduction measures left undone the first time around.”³⁹⁸

³⁸⁸ Exhibit B-14, BCOAPO 1.105.1 (Revised), Attachment 2, p. 8.

³⁸⁹ Exhibit B-14, BCOAPO 1.105.1 (Revised), Attachment 2, p. 8.

³⁹⁰ Exhibit B-14, BCOAPO 1.105.1 (Revised), Attachment 2, p. 8.

³⁹¹ BC Hydro reports providing no energy savings appliances other than refrigerators. For a comparison of the services delivered by ECAP and ESK, compare BCOAPO 1.105.1 (revised), Attachment 1, Table 3.9, page 21 (ESK measures installed) to BCOAPO 1.105.1 (revised), Attachment 2, Table 3.6, page 25). The only measures delivered through ECAP, but not through ESK, are refrigerators (installation rate of 31.6%) and insulation (installation rate of 5.6%).

³⁹² Exhibit B-14, BCOAPO 1.105.1 (Revised), Attachment 2, p. 20.

³⁹³ Exhibit C2-12, Direct Testimony of Roger Colton, p. 53 (PDF p. 58/341), citing BCOAPO 1.109.11.

³⁹⁴ Exhibit C2-12, Direct Testimony of Roger Colton, p. 53 (PDF p. 58/341).

³⁹⁵ Exhibit B-5, BCOAPO 1.60.5.

³⁹⁶ Exhibit B-23, BCOAPO 2.330.8.

³⁹⁷ Exhibit B-23, BCOAPO 2.330.9.

³⁹⁸ Exhibit C2-12, Direct Testimony of Roger Colton, p. 60 (PDF p. 65/341)

BC Hydro estimates that approximately 250,000 units in its service territory are eligible for ECAP, based on an extrapolation of the 2014 Residential End Use Survey of BC Hydro's customers, considering ECAP eligible housing types and the income threshold of LICO x 1.3.³⁹⁹

6.4.2. BC Hydro's Decreasing Commitment to Low Income DSM

BC Hydro is systematically reducing its commitment to low income DSM. Unlike its initial efforts to reach 2,625 homes per year, BC Hydro now seeks to serve only 1,550 homes per year through ECAP.⁴⁰⁰ As Mr. Colton observed:

the Company proposes to significantly decrease its low-income program expenditures over time.⁴⁰¹ As a result, the incremental energy savings (and thus the incremental bill reductions) generated by BC Hydro's low-income programs are expected to be substantially curtailed as well.⁴⁰² The Company proposes to curtail the low-income program even though the low-income program has been found to be cost-effective.⁴⁰³

BC Hydro sets out the following low income program budget:⁴⁰⁴

	F2017 (\$000)	F2018 (\$000)	F2019 (\$000)	F2020 (\$000)	F2021 (\$000)	F2022 (\$000)	F2023 (\$000)	F2024 (\$000)
ESK (variable costs)	\$462	\$472	\$481	\$371	\$379	\$270	\$276	\$281
ECAP (variable costs)	\$1,041	\$1,062	\$1,083	\$940	\$958	\$776	\$791	\$807
Fixed Costs	\$1,032	\$1,074	\$1,096	\$1,119	\$1,143	\$1,167	\$1,191	\$1,216
Total	\$2,535	\$2,607	\$2,660	\$2,430	\$2,480	\$2,213	\$2,258	\$2,305

BC Hydro does not even seek to ensure that its annual low income "targets" are met. "BC Hydro has not spent to its budget for its low-income DSM programs in past years. In Fiscal Year 2014, BC Hydro budgeted \$2.652 million for its low-income programs, while spending only \$2.185 million (spending only 82% of its budget). In Fiscal Year 2015, BC Hydro under-spent even more, spending only \$1.925 million while having

³⁹⁹ Exhibit B-51, BC Hydro Undertaking No. 6.

⁴⁰⁰ Exhibit C2-12, Direct Testimony of Roger Colton, p. 53 (PDF p. 58/341), citing BCOAPO 1.109.10.

⁴⁰¹ Exhibit B-14, BCOAPO 1.108.7 REV.

⁴⁰² Exhibit B-14, BCOAPO 1.108.7 REV.

⁴⁰³ Exhibit C2-12, Direct Testimony of Roger Colton, pp. 54-55 (PDF p. 59-60/341), citing BCOAPO Exhibit B-23, 2.330.4 and 2.330.6.

⁴⁰⁴ Exhibit B-14, BCOAPO 1.108.7 REV.

budgeted \$2.478 million. Unspent funds budgeted for low-income DSM are not rolled over into future years.”⁴⁰⁵

6.4.3. BC Hydro Could Be More Proactive in Reaching Low Income Customers

BC Hydro could remedy its failure to reach a significant portion of its low income customer base with targeted DSM by being more proactive. This conclusion is based on several observations.

- First, BC Hydro could be more proactive in seeking out the types of community partnerships that are generally used to deliver low income DSM. The Company acknowledges that “with additional resources, BC Hydro and its contractors could process more than the target number of ECAP applications. However, meeting BC Hydro’s current targets already requires heavy and concerted efforts with a range of partner organizations to recruit customers into the program.”⁴⁰⁶ BC Hydro’s use of a plural “contractors” in this statement is misleading. When directly asked, BC Hydro conceded: “Carillion Canada is the delivery contractor for Energy Conservation Assistance Program. There are currently no other delivery contractors.”⁴⁰⁷ When asked, BC Hydro conceded that it “has not tried to create a list of organizations with the capability of delivering low-income DSM.”⁴⁰⁸
- Second, BC Hydro has not undertaken the steps that its own DSM evaluators have recommended in response to BC Hydro’s failure to reach low income customers. In the February 2012 evaluation of ECAP, the BC Hydro third party evaluator recommended that “BC Hydro should develop a better understanding of the characteristics of the residential customers that are not participating in DSM initiatives due to limited financial means to qualify and support an appropriately sized factor.”⁴⁰⁹ Moreover, BC Hydro’s own evaluator concluded that “one barrier to higher market penetration in British Columbia may be the apparent difficulty in identifying those low income customers in electrically heated homes who require the more significant insulation upgrades. As this is most likely the result of insufficient outreach methods, a rigorous process review might identify important areas for improvement” (emphasis added).⁴¹⁰ The evaluator concluded: “Better penetration and understanding of the target market would result in a higher participation rate and savings value.”⁴¹¹

⁴⁰⁵ Exhibit C2-12, Direct Testimony of Roger Colton, pp. 53-54 (PDF p. 58-59/341), citing Exhibit B-23, BCOAPO 2.333.1.

⁴⁰⁶ Exhibit B-5, BCOAPO 1.109.12.

⁴⁰⁷ Exhibit B-5, BCOAPO 1.109.1; Exhibit C2-12, Direct Testimony of Roger Colton, p. 54 (PDF p. 59/341).

⁴⁰⁸ Exhibit C2-12, Direct Testimony of Roger Colton, p. 55 (PDF p. 60/341), quoting, BCOAPO 3.329.1.

⁴⁰⁹ Exhibit B-14, BCOAPO 1.106.1 (revised), Attachment 2, at p. 34 of 40.

⁴¹⁰ Exhibit B-14, BCOAPO 1.105.1 (revised), Attachment 2, at p. 27 of 31.

⁴¹¹ Exhibit B-14, BCOAPO 1.105.1 (revised), Attachment 2, p. 10 of 31.

Despite this recommendation, when asked to provide all planning documents for low income DSM programs, as well as all low income DSM evaluations, BC Hydro provided no such “process review.”⁴¹² Indeed, despite the recommendation of its own evaluator, BC Hydro stated quite explicitly that “all the core elements of the program remain the same even if eligibility has changed as a result of the July 2014 DSM Regulation amendments. No new evaluation has been conducted over the last four years” (emphasis added).⁴¹³ In other words, BC Hydro continues to do the same things it has always done despite the fact that its own evaluator found these actions to be “insufficient” and recommended modifications.

- Third, BC Hydro states that it does not use the level of arrearages or payment history to target possible low income customers for ECAP.⁴¹⁴ The most BC Hydro can say is that “credit and collection agents at the BC Hydro call centre are trained to identify customers that likely meet the criteria for BC Hydro’s low income program offerings and offer enrollment in the ESK program as part of the solution to the customer’s credit issues”⁴¹⁵ (emphasis added). As described above, the ESK program differs sharply from ECAP, most notably in the negligible bill reductions it would provide to program participants (\$1.40 per month for self-installed ESKs, as documented above). BC Hydro has not sought to study the relationship between arrearages and consumption. It has not assessed the proposition that the greater the energy bill is in the pre-treatment period, the greater the reductions in energy consumption realized by DSM investments.⁴¹⁶ Moreover, BC Hydro concedes that it “has not assessed the impacts on customers’ on-time payment performance following participation in a low income DSM program.”⁴¹⁷ According to BC Hydro, “the evaluations of DSM measures have focused on the energy savings resulting from the respective programs. BC Hydro has not undertaken studies to determine the impacts on payment history or arrearages.”⁴¹⁸ Accordingly, there has been no effort to use the Company’s billing and payment records to target ECAP.

This failure occurs despite the documented role that low income DSM can play in reducing arrearages and improving bill payment patterns.⁴¹⁹

- Fourth, a lot of “low-hanging fruit” is being missed. For example, BC Hydro contractors have not completed ESK and ECAP installs in all non-profit housing units.⁴²⁰ BC Hydro estimates that 63% of non-profit units have yet to receive an

⁴¹² Exhibit B-14, BCOAPO 1.105.1 (revised).

⁴¹³ Exhibit B-5, BCOAPO 1.109.9.

⁴¹⁴ Exhibit B-5, BCOAPO 1.128.1.

⁴¹⁵ Exhibit B-5, BCOAPO 1.128.1.

⁴¹⁶ Exhibit B-5, BCOAPO 1.121.1.

⁴¹⁷ Exhibit B-5, BCOAPO 1.122.1.

⁴¹⁸ Exhibit B-5, BCOAPO 1.126.1.

⁴¹⁹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 59 (PDF p. 64/341).

⁴²⁰ Exhibit B-52, BC Hydro Undertaking No. 5.

ESK or ECAP installation.⁴²¹ Even though, during cross-examination by Zone II Ratepayers Group, BC Hydro highlighted some initiatives it is undertaking to improve ECAP uptake among First Nations communities in Zone 1B and Zone 2,⁴²² in F2015, only 111 First Nations households participated in ECAP Basic offerings, and no First Nations households participated in ECAP Advanced offerings.⁴²³

- Finally, BC Hydro has not adequately extended ECAP to all areas within its service territory. Of the 6,976 assessments performed by the current contractor, BC Hydro states that 1,923 were in the Lower Mainland, 4,027 were on Vancouver Island, 889 in the South Interior, and 137 in the Northern Interior.⁴²⁴ BC Hydro asserts that ECAP availability is not limited in the Northern and Southern Interior regions, but is available throughout BC Hydro's service area; however, offering a service area wide in-home installation service is a challenge given the dispersed nature of participants.⁴²⁵ To serve as many customers as efficiently and safely as possible, regional service needs to be bundled so that a number of customers can be serviced during the trip to the area.⁴²⁶

Although BC Hydro does not deny additional eligible customers access to the ECAP program once it reaches its targets,⁴²⁷ BC Hydro has acknowledged that there are no contractual obligations for Carillion Canada to provide a specified number of residential energy assessments each year. Instead, Carillion is compensated based on the actual number of assessments it completes each year.⁴²⁸

6.4.4. Recommended Commission Action Relative to Minister's July 2015 RIB Review Letter

In the Minister's July, 2015 letter to the Commission,⁴²⁹ the Minister specifically requested that the Commission provide information on several issues, including "within the current regulatory environment, what options are there for additional Demand Side Management programs, including low income programs?" BCOAPO urges that in response to that letter, the Commission should report as follows:

1. BC Hydro is under-performing on providing DSM services to its low income population.

⁴²¹ Exhibit B-52, BC Hydro Undertaking No. 5.

⁴²² Exhibit B-44, BC Hydro Undertaking No. 8.

⁴²³ Exhibit B-5, BCOAPO 1.135.8; Exhibit B-23, Zone II 2.26.3.

⁴²⁴ Exhibit B-19, BCOAPO 1.109.3 REV.

⁴²⁵ *Ibid.*

⁴²⁶ Exhibit B-1, Appendix C-3B, p. 219 of 619.

⁴³³ Exhibit B-52, BC Hydro Undertaking No. 6.

⁴²⁸ Exhibit B-41, BC Hydro Undertaking No. 3.

⁴²⁹ Exhibit A-1 in BCUC RIB Rate Report proceeding, PDF pp. 4-6.

2. BC Hydro has failed to undertake those reasonable efforts identified by the Company's own evaluator that would allow the Company to improve its performance.
3. By under-performing with low income DSM in particular, the Company is failing to use all reasonable and available resources to help low income customers respond to the increased bills those low income customers will face over time.
4. In the absence of reasonable BC Hydro expenditures on low income DSM, low income customers are effectively shut out of the market for responding to increased rates. This result is true both for market-based usage reduction measures and for energy efficiency investments that BC Hydro directs toward residential customers generally.
5. Directing BC Hydro to engage in those efforts recommended by its own low income DSM evaluator to "develop a better understanding of the characteristics of the residential customers that are not participating in DSM initiatives"⁴³⁰ would expand the options for additional low income DSM programs, as BC Hydro's evaluator itself noted.
6. Directing BC Hydro to engage in efforts to remedy what its own evaluator referred to as "insufficient outreach methods"⁴³¹ would, as BC Hydro's evaluator, itself, noted, expand the options for additional low income DSM.
7. BC Hydro's ESK delivers minimal usage reductions, and thus minimal bill savings, to program participants.
8. Neither ESK nor ECAP seek to deliver all available cost-effective electric efficiency measures in a home. Moreover, BC Hydro will not revisit a home to deliver additional cost-effective measures once a program has been treated through the limited ESK and/or ECAP initiatives.

In addition, BCOAPO urges that the Commission report to the Minister in response to the Minister's explicit request for "what options are there for additional Demand Side Management Programs, including low-income programs," that the following options are available and reasonable:

1. Expanding ESK and ECAP to represent whole-house energy efficiency programs, charged with installing all cost-effective energy efficiency measures at the time each home is treated, is an option for additional DSM programs for low income households.⁴³²

⁴³⁰ Exhibit C2-12, Direct Testimony of Roger Colton, p. 55 (PDF p. 60/341).

⁴³¹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 56 (PDF p. 61/341).

⁴³² Exhibit C2-12, Direct Testimony of Roger Colton, p. 59-60 (PDF p. 64-65/341).

2. Expanding ESK and ECAP targeting based on the existence and level of arrears and/or payment history is an option to expand the number of low income households served by DSM; to increase the cost-effectiveness of low income DSM; and to expand the savings potential of low-income DSM.⁴³³
3. Making certain minimum DSM service level guarantees for low income customers is appropriate. The level of DSM funding to be devoted to low income should be sufficient to reach 50% of the below 130% of LICO-PT low income population through ECAP, both heating and non-heating, within 15 years.⁴³⁴

As noted above, Mr. Colton's Direct Testimony states that based on BC Hydro's representations that it believes it more appropriate to leave the actual design of low-income DSM programs to the DSM review that is taking place as part of BC Hydro's F2017-F2019 RRA, and given the inextricable link between program design and program budget, BCOAPO proposes to defer actual program design and budgeting to that proceeding. Although BCOAPO is not seeking an expenditure order in this proceeding, in response to the RIB Review, we ask that the Commission recommend that BC Hydro be required to expand installs of BC Hydro's low-income ECAP program to serve a significantly higher percentage of the low income households than it is currently serving.

6.5. BCOAPO Proposals Not Involving Terms and Conditions

BCOAPO is putting forward several proposals that will markedly improve service to low income BC Hydro customers, but for which we are not seeking Commission orders. Specifically, BCOAPO proposes that BC Hydro undertake a customer segmentation study, engage in data reporting, and establish a dedicated Low Income Customer Assistance Unit.

6.5.1. Customer Segmentation Analysis

BCOAPO submits that BC Hydro should engage in a planning process to determine an appropriate response to nonpayment. To that end, BCOAPO requests that BC Hydro undertake a customer segmentation study that is specifically directed toward characterizing patterns of nonpayment; identifying the characteristics of nonpayers; identifying predictors of nonpayment; and identifying early indicators of nonpayment.⁴³⁵ Mr. Colton recommended that this study "further be specifically directed toward assessing, for each customer segment (e.g., type of nonpayer, type of nonpayment), the extent to which, if at all, the following activities have the impact of reducing residential arrears and/or residential bad debt: (1) cash security deposits; (2) deferred

⁴³³ Exhibit C2-12, Direct Testimony of Roger Colton, p. 56-59 (PDF p. 61-64/341).

⁴³⁴ Exhibit C2-12, Direct Testimony of Roger Colton, p. 63 (PDF p. 68/341).

⁴³⁵ Exhibit C2-12, Direct Testimony of Roger Colton, p. 120 (PDF p. 125/341).

payment agreements; (3) disconnections for nonpayment; (4) field collections; (5) call center collection calls; (6) budget billing plans; and (7) late payment charges. Based on this empirical analysis, which should be pursued in consultation with residential and low income stakeholders, BC Hydro should identify the most effective and cost-effective strategies to respond to nonpayment.”⁴³⁶ In his direct testimony, Mr. Colton noted that such a study was conducted for Wisconsin Public Service Corporation.⁴³⁷

Mr. Colton’s testimony suggested that such an approach would assist BC Hydro in identifying existing problems, developing responses, determining performance metrics, and establishing a feedback process to measure actual performance against expected (or desired) performance.⁴³⁸

6.5.2. Data Reporting

Further to the desired end of establishing an informative feedback loop by which to evaluate program activities for managing “inability to pay” customers, BCOAPO is proposing that BC Hydro begin, no later than six months after a final decision is rendered in the 2015 RDA, reporting basic consumer credit and collection activities and outcomes.⁴³⁹ Mr. Colton stated that creating such a feedback loop would involve “articulating performance criteria; identifying metrics that will measure performance; monitoring performance using those metrics; assessing actual performance relative to the articulated performance criteria; and determining the changes, if any, that need to be made should actual performance not meet the expected or desired performance.”⁴⁴⁰ Mr. Colton suggested that one reasonable model for such collection is the list of data elements included in a resolution of the National Association of State Utility Consumer Advocates (NASUCA).⁴⁴¹

Mr. Colton’s direct testimony stated that while BC Hydro was able to produce information on nonpayment and credit and collection activities as requested by BCOAPO during this proceeding, BC Hydro does not routinely collect and make available such information either internally or to interested stakeholders.⁴⁴²

6.5.3. Dedicated Low Income Customer Assistance Unit (CAU)

BC Hydro notes that it has opened in-person customer service desks at its Dunsmuir and Edmonds offices, with plans to explore providing similar services in other district offices. In addition, BC Hydro customer service staff who speak other languages are able to communicate with customers who speak the same language in that language,

⁴³⁶ Exhibit C2-12, Direct Testimony of Roger Colton, p. 120 (PDF p. 125/341).

⁴³⁷ Exhibit C2-12, Direct Testimony of Roger Colton, p. 118 (PDF p. 123/341).

⁴³⁸ Exhibit C2-12, Direct Testimony of Roger Colton, p. 118 (PDF p. 123/341).

⁴³⁹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 122 (PDF p. 127/341).

⁴⁴⁰ Exhibit C2-12, Direct Testimony of Roger Colton, p. 121 (PDF p. 126/341).

⁴⁴¹ *Ibid.* NASUCA’s proposed list of data reporting elements is attached as Schedule RDC-5 to the Direct Testimony of Roger Colton (PDF p. 154-155/341).

⁴⁴² Exhibit C2-12, Direct Testimony of Roger Colton, p. 122 (PDF p. 127/341).

and BC Hydro utilizes a third party translation service through its customer service line in order to provide services in languages other than English.⁴⁴³

BCOAPO is strongly supportive of the restoration and expansion of in-person services, particularly given the barriers that automated methods of service delivery (both call centres and online services) can create for marginalized people, particularly those with language barriers or certain disabilities.

To that end, BCOAPO also proposes that BC Hydro create a dedicated Low Income Customer Assistance Unit (CAU) in which customer service representatives would be specially trained on how to respond to circumstances which low income customers disproportionately face.⁴⁴⁴

Specifically, in his direct testimony, Mr. Colton recommended that a Low Income CAU would consist of the following separate action steps on the part of BC Hydro:

- Implementation of an “early identification program”;
- Creation of a process of special “skills-based routing” for low income customers; and
- Implementation of a specific skills training for the CAU staff in responding to low income customers’ payment difficulties.⁴⁴⁵

In his Direct Testimony, Mr. Colton stated that early identification of customers who are unable to pay their bills involves more than noticing when a customer is in arrears; rather, it involves hearing indicators of financial distress during normal day-to-day customer contacts, which should alert the customer service representative to the potential that the customer has limited income and could benefit from a referral to available assistance.⁴⁴⁶

The specialized skills-based training would not only allow these dedicated staff to identify particular problems, and to respond in a culturally-appropriate way, but would involve knowing what assistance might be available to respond to the problem.⁴⁴⁷

BCOAPO submits that the creation of the CAU would not only benefit the customer base, but would benefit the utility as well. While additional assistance to which customers may be referred may not always be able to be used directly for utility bills, it can help free up limited household resources and make bill payment more likely.⁴⁴⁸

⁴⁴³ Exhibit B-38, Opening Statement of Keith Anderson, p. 5; Transcript Volume 6, p. 1001, lines 11-26; 1002, lines 1-5.

⁴⁴⁴ Exhibit C2-12, Direct Testimony of Roger Colton, p. 129 (PDF p. 134/341).

⁴⁴⁵ Exhibit C2-12, Direct Testimony of Roger Colton, p. 129 (PDF p. 134/341).

⁴⁴⁶ Exhibit C2-12, Direct Testimony of Roger Colton, p. 130 (PDF p. 135/341).

⁴⁴⁷ Exhibit C2-12, Direct Testimony of Roger Colton, p. 131 (PDF p. 136/341).

⁴⁴⁸ Exhibit C2-12, Direct Testimony of Roger Colton, p. 126 (PDF p. 131/341).

6.6. Uncontested and Partially Contested Proposals Advanced by BCOAPO

BCOAPO advanced a series of proposals in this proceeding with which BC Hydro has either agreed, or has made a reasonable counter-proposal that seem to reasonably address the BCOAPO concerns. BCOAPO urges the Commission, where an order is necessary, to approve the proposals and/or program modifications advanced in this proceeding.

6.6.1. Uncontested: Low Income Advisory Group

BCOAPO proposed creation of a Low Income Advisory Group. In his Direct Testimony, Mr. Colton noted that:

BC Hydro has indicated that it is “supportive of this proposal because it would build upon the relationships recently developed with BCPIAC and MSDSI, allow all parties to better understand the challenges faced by low income customers as they navigate BC Hydro’s and MSDSI’s processes, and identify opportunities that support BC Hydro’s corporate priorities of making it easy for customers to do business with us, exploring the full potential of energy conservation, and continuing to improve the way we operate” (BCOAPO 1.192.1, at 55). Because BC Hydro has explained the proposal in its evaluation of Terms and Conditions, and because it appears as though not only BC Hydro, but also MSDSI is supportive of such a proposal, I reiterate, but do not further elaborate on, the need and justification for such an Advisory Group.⁴⁴⁹

On cross-examination, BC Hydro witnesses identified numerous instances where, already, they would propose assigning issues to such an Advisory Group for consultation.⁴⁵⁰ It is BCOAPO’s understanding that no Commission order is required for approval of the Low Income Advisory Group.

6.6.2. Uncontested: Winter Shutoff Restrictions

In response to BCOAPO’s proposal for a winter shutoff moratorium, BC Hydro has brought forward a proposed “pilot project.” The pilot project would consist of two components for the 2016/17 winter:

- for the Lower Mainland and Vancouver Island, not disconnecting service for customers where in the next 24-hour period the forecast temperature will go below zero degrees; and

⁴⁴⁹ Exhibit C2-12, Direct Testimony of Roger Colton, p. 133 (PDF p. 138/341).

⁴⁵⁰ See, e.g., Transcript Volume 6, pp. 1000, 1005-1006, 1010, 1016, 1069, 1110; see also, Transcript Volume 7, pp. 1214, 1217, 1330-1331.

- in the rest of BC Hydro’s service territory, the pilot will involve a time-based moratorium as well as temperature: from November to March, BC Hydro would not proceed with disconnections, and in other months, will not disconnect where in the next 24-hour period the forecast temperature will go below zero degrees.⁴⁵¹

BCOAPO views this proposed BC Hydro “pilot” is an appropriate interim resolution of BCOAPO’s proposed winter shutoff restrictions and the concerns that gave rise to that proposal.⁴⁵² While BCOAPO notes that the manner in which this pilot is evaluated, the metrics to be used in such evaluation, and the decision-making process upon the extension (if any) of the winter protections subsequent to the pilot, all remain unresolved, BCOAPO is confident that appropriate agreements can be reached through an appropriate consultation process. BC Hydro obviously cannot, and should not, undertake to design, effect, and consider an evaluation of the winter shutoff protections pilot on its own. However, it would be unreasonable, given the collaboration exhibited in this proceeding to date, to expect, before-the-fact, that problems would arise.

It is BCOAPO’s understanding that no Commission order is required for BC Hydro’s proposed winter shutoff protection pilot project for implementation during the 2016 – 2017 winter heating season.⁴⁵³

6.6.3. Partially Contested: Extended Time for Customers with Medical Problems

In response to concerns raised by BCOAPO in this proceeding, BC Hydro has proposed to implement changes that will delay disconnections where customers demonstrate a medical reason for requiring power. While BC Hydro’s witnesses testified that BC Hydro is “in the process right now of determining the mechanics for how we would actually...get the information from a customer that we would need” and that the BC Hydro has not yet “worked through all the details,”⁴⁵⁴ the fundamental proposal is to provide 20 days for persons with a medical condition to enter into a deferred payment plan to address unpaid account balances.⁴⁵⁵

BCOAPO construes BC Hydro’s proposal to provide 20 *business* days. BC Hydro witnesses indicated that the intent was to provide a time period “which in effect is about a month.”⁴⁵⁶

Such a mechanism, of course, is meaningful only if, and to the extent, that the deferred payment plan process is modified to offer a reasonable opportunity for customers

⁴⁵¹ Transcript Volume 3, p. 485, lines 1-14.

⁴⁵² Exhibit C2-12, Direct Testimony of Roger Colton, p. 68-77 (PDF p. 73-82/341).

⁴⁵³ The substantive rationale supporting the reasonableness of this proposal was set forth in Exhibit C2-12, Direct Testimony of Roger Colton, p. 68-77 (PDF p. 73-82/341).

⁴⁵⁴ Transcript Volume 6, p. 1005, lines 8-13.

⁴⁵⁵ Transcript Volume 6, p. 1005, lines 13-20.

⁴⁵⁶ Transcript Volume 6, p. 1005, lines 14-15.

availing themselves of that process to succeed. BCOAPO's proposed deferred payment plan modifications, described in detail above, become even more important in light of this proposal.

While BC Hydro's proposal does not fully address the concerns that BCOAPO presented about the need for customers with young children, seniors, and people with medical emergencies,⁴⁵⁷ BCOAPO endorses the proposal advanced by BC Hydro, with two caveats.

- First, the extension proposed by BC Hydro should apply not simply to customers with medical problems, but should apply to customers comprised of households having very young children and to households with seniors.
- Second, in the event that a customer availing themselves of the 20-day extension cannot reach agreement on an affordable payment plan with BC Hydro, BC Hydro should be required to inform the customer that they have the right to file a complaint with the Commission about the reasonableness of the payment plan to the Commission. Even within the 20-day period, in other words, deferred payment plans should not be presented on a take-it-or-leave-it basis.

BC Hydro's proposal is responsive to specific testimony that was presented to the Commission by BCOAPO witnesses. That testimony repeatedly indicated how low income clients have difficulty navigating BC Hydro processes without assistance, and also require assistance in working with agencies that might provide financial aid.

BCOAPO Advocate witness Patty Edwards stated the following: "We also tend to get contacted about some really bad cases involving people that are very low income, and those that are really low functioning, do not have a phone, and/or cannot navigate complicated phone and computer systems. For these reasons, they really need assistance when contacting BC Hydro."⁴⁵⁸ Moreover, as Edwards testified: "Ever since the Ministry has increasingly centralized its services over the past several years, it has become harder to get crisis grants. Requests for crisis grants are often turned down because the Ministry will say the issue is not life-threatening, and that it is not unexpected to have your electricity cut off if you do not pay your bill."⁴⁵⁹

BCOAPO Advocate witness Emma Gauvin also indicated the need for low income clients to enlist assistance to, in turn, help gain assistance to pay their bills. "MSDSI clients generally do not know that they can apply to MSDSI for a utility crisis supplement, and even if they do, it can be very difficult to navigate MSDSI customer service on their own, as it can take an hour to get through to MSDSI's 1-800 line. Our clients generally cannot afford telephones, so they cannot give a callback number. I

⁴⁵⁷ Exhibit C2-12, Direct Testimony of Roger Colton, pp. 77-83 (PDF p. 82-88/341).

⁴⁵⁸ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 2-3 (PDF p. 302-303/341)

⁴⁵⁹ Exhibit C2-12, Direct Testimony of Patty Edwards, p. 5 (PDF p. 305/341)

have found that with increasing bureaucracy, low income and marginalized people feel increasingly helpless and require assistance to navigate the systems.”⁴⁶⁰

BCOAPO ratepayer witness Conrad Dennis indicated why there is a need for some extra time, such as that which BC Hydro is proposing for people with medical conditions: “I applied for a crisis grant from the Ministry when we got a disconnection notice a couple of weeks ago, but it was denied. My advocate helped me apply for a reconsideration of the Ministry’s decision, but we didn’t get an answer in time, and my power was disconnected. We still don’t have the Ministry’s reconsideration decision.”⁴⁶¹

BCOAPO Advocate witness Audrey Schwartz probably explained the circumstances the best:

Clients who are on provincial income assistance or disability assistance may apply for a crisis supplement from the Ministry of Social Development and Social Innovation to avoid disconnection, but this is not a reliable source of funding. Let’s just say there is an advocacy office here for a reason. Crisis supplements are so difficult to get. The Ministry usually turns down requests for crisis assistance with BC Hydro bills, because it says that it is not unexpected that you would be disconnected if you don’t pay your electricity bill, and in order to be eligible for a crisis supplement, the “need” must be unexpected.

If someone is ineligible for a crisis supplement, they can apply for emergency assistance through the Homelessness Prevention Program (HPP). The HPP is a finite pool of money for emergency housing and utility needs, and it usually runs out early in the month. ASAP helps determine who receives these funds for the Prince George region. People can generally apply for a maximum amount of \$450 for a particular need. In order to be eligible for assistance through the HPP, the applicant must be ineligible for a crisis supplement through the Ministry, must provide three months of bank statements, and must meet certain criteria – essentially, the applicant must be one of the following: First Nations, being discharged from a hospital, leaving corrections, fleeing violence, or at imminent risk of homelessness. An applicant will only receive a grant if it will help them remain housed moving forward. We need to talk to the person’s landlord prior to approving an application.⁴⁶²

The point of this discussion is not that BC Hydro’s proposal is unreasonable, but rather simply that it is unreasonably restrictive when BC Hydro proposes to limit the extension to persons with medical emergencies. As is evident from the BCOAPO testimony discussed above, it is clear that the time that is required to determine that advocacy help is needed, and then to allow that advocacy help to negotiate the bureaucracy and

⁴⁶⁰ Exhibit C2-12, Direct Testimony of Emma Gauvin, p. 3 (PDF p. 309/341).

⁴⁶¹ Exhibit C2-12, Direct Testimony of Conrad Dennis, p. 4 (PDF p. 322/341).

⁴⁶² Exhibit C2-12, Direct Testimony of Audrey Schwartz, p. 4 (p. 326 of PDF).

administrative processes to find and gain access to assistance, is not limited to households with medical emergencies.

BCOAPO recommends that BC Hydro's proposal relating to medical emergencies be approved with the modification that the 20-day extension being proposed be expanded not only to households with medical emergencies, but also to other vulnerable households including those with very young children and those with elderly members. Moreover, while the 20 business days should be available automatically, BC Hydro should extend that 20 days upon a showing of due cause. The testimony above demonstrates that the administrative processes cannot always be completed within 20 days. In addition, the testimony shows that, frequently, advocates need to package multiple sources of assistance, requiring multiple application processes, many of which must be pursued seriatim rather than simultaneously. BC Hydro's proposal should provide for an *initial* 20-day extension subject to extension where appropriate.

6.7. The Commission Has the Jurisdiction to Order BCOAPO's Proposed ESUB Rate, Crisis Intervention Fund, Expanded DSM and Low Income Terms and Conditions

The overarching question before the Commission in relation to BCOAPO's proposals is whether the Commission has the jurisdiction to order BCOAPO's proposed ESUB rate, Crisis Intervention Fund, expanded DSM, and low income Terms and Conditions.

Pursuant to sections 23, 38, 59 and 60 of the *UCA*, the Commission is charged with ensuring that BC Hydro provides safe, adequate efficient and secure electricity service to its customers and that customers' rates are fair, just and reasonable, and not unduly discriminatory or unduly preferential.

BCOAPO submits that BC Hydro's service to the public is not adequately just or reasonable as residential electricity is no longer affordable and therefore accessible to low income customers, and the cost of this essential service is projected to continue to increase indefinitely. BCOAPO has put forward detailed proposals that will help alleviate the energy burden on low income BC Hydro customers who are struggling to pay their electricity bills— proposals that are well within the Commission's jurisdiction to order. Our proposals are reasonable, and are not unduly discriminatory or unduly preferential. They also encourage BC Hydro to increase efficiency, reduce costs, and enhance performance.

BCOAPO's proposed ESUB rate would provide meaningful assistance to low income customers without imposing an unreasonable burden on customers not eligible for the ESUB. It improves cost reflectivity, increases the efficiency of BC Hydro operations, and addresses affordability problems facing BC Hydro's poorest customers. Time and again, third party evaluations have documented that reducing the bills to low-income customers results in an improved revenue collection.

A Crisis Intervention Fund funded through a nominal increase to the fixed monthly customer charge would provide critical support to low income customers facing

insurmountable arrears and/or service disconnection. The Fund will respond more effectively and more efficiently by the utility to non-payment, and to improve the complete timely, regular, unsolicited payment of bills. It is not a social program. It is a program to help the utility improve its own efficiency of operations. Social Service programs, as a general rule, do not care whether they improve the efficiency of the utility operation. Their job is to get money out to the household. However, the Crisis Intervention Fund will focus the distribution of crisis assistance and improved cost reflectivity so as to improve the BC Hydro's efficiency of operation, so that BC Hydro will collect more money in a more timely way, and devote less effort in doing so.

BCOAPO's proposed low income Terms and Conditions reflect the reality of customers who are unable to pay their bills, and offer accommodations to assist those customers in maintaining or re-establishing their electricity service. The problem posed by inability-to-pay is that when customers are poor, not only do the customers have payment problems, but the utility has a collection problem as well. Given that the utility has a statutory obligation to operate in an efficient fashion, however, BCOAPO's proposed low income Terms and Conditions aim to improve the cost-effective collection of the bills that BC Hydro renders to its low income customer base.

BCOAPO's proposals recognize that electricity is an essential service, that there is significant income disparity among BC Hydro's residential customers, and that energy pricing should take into consideration the ability to pay.

While BCOAPO's proposals do discriminate between low income and other members of the residential rate class, BCOAPO submits that this discrimination is not "undue" in that it is not excessive, disproportionate, unjustifiable or improper. Further, with respect to BC Hydro's definition of "undue discrimination" specifically, BCOAPO's proposals do not have a serious distortion effect on residential rates, and are not divorced from the nature and quality of electricity service, including cost of service. Rather, BCOAPO's proposals are very modest. If the Commission is to order BC Hydro to implement BCOAPO's proposals, the relief that will accrue to low income ratepayers who are struggling to maintain an essential service is significant to those ratepayers, but has a limited cost to other ratepayers.

Further, BCOAPO's proposed low income programs are tied to before tax LICO rather than LICO plus 30%. Although BCOAPO does not generally accept LICO as an adequate measure of low income, we are using this conservative metric in the interests of ensuring that discrimination between members of the residential rate class is not "undue." Using LICO instead of LICO plus 30% will restrict the number of BC Hydro customers accessing the low income programs, which will in turn restrict the cost of the program to non-participating ratepayers.

7. CONCLUSION

For all of the reasons outlined above, BCOAPO asks the Commission to direct BC Hydro as follows:

- To establish an Essential Service Usage Block in which low income residential ratepayers would be eligible to receive the first 400 kWh of service each month at a discount of \$0.04/kWh, or in the alternative, direct BC Hydro to prepare and file, within six months of the date of the Commission's order, a proposed rate that provides a discount to low income customers for an initial block of electric service for each month or billing period or similar rate structure;
- To establish a Crisis Intervention Fund whereby low income residential customers who have arrears with BC Hydro and are facing disconnection can apply for a grant to avoid disconnection. BCOAPO is also asking the Commission to order that BC Hydro collect money for the fund through a \$0.25/month charge per BC Hydro account;
- In the alternative, should the Commission determine that it requires further information prior to implementing a Crisis Intervention Fund for low income residential customers, to direct BC Hydro to prepare and file, within six months of the date of the Commission's order, a proposed crisis assistance program for low income customers who have arrears with BC Hydro and are unable to pay their electricity bills;
- To amend the Electric Tariff to allow for Low Income Customer Terms and Conditions, including:
 - Exempting low income customers from the minimum reconnection charge;
 - Exempting low income customers from the account charge;
 - Waiving security deposits for low income customers; and
 - Exempting low income customers from Late Payment Charges on a going forward basis;
- To amend the Electric Tariff to allow for new customer service rules for all Residential customers, including:
 - Allowing for alternatives to cash security deposits by offering customers the opportunity to:
 - provide sureties in lieu of a deposit, whereby, for example, another person or organization could provide a guarantee for the applicant/account holder, or

- enter into an Equal Payment Plan in lieu of providing a security deposit;
 - To set Late Payment Charges equal to BC Hydro's Weighted Average Cost of Debt rounded to ½ percent for all customers, and start LPCs at Day 60 beyond due date for all customers;
- To change certain business practices, including:
 - Changes installment plans for low income customers to improve affordability, such as
 - Setting the down payment at no more than 10% of arrears;
 - Limiting the term to not less than 12 months; or
 - In the alternative to the second recommendation, placing a limit on required arrearage payments so that arrearage payments would not exceed an average monthly bill.
 - Implementation of a renewable 60-day delay on disconnections for families with young children, seniors, and people with medical emergencies based on Mr. Colton's model regulation; and
 - Barring the use of external credit scores as basis for security deposits for all customers;
- To conduct a customer segmentation analysis; and
- To adopt the National Association of State Utility Consumer Advocates data reporting recommendations.

BCOAPO is supportive of the changes that BC Hydro has either already made or has committed to making to assist low income customers, such as introducing a pilot time-based winter shutoff restrictions between November and April, restoring in-person services in two of its offices, delaying disconnection for customers who demonstrate a medical reason for requiring power, waiving the security deposit requirement for customers whose bills are paid directly by MSDSI, bringing forward tariff changes to allow another customer to take responsibility for a customer's account, and increasing flexibility in the length of installment plans.

Finally, BCOAPO asks that the Commission recommend that BC Hydro be required to expand installs of BC Hydro's low-income ECAP program to serve a significantly higher percentage of the low income households than it is currently serving.

All of which is respectfully submitted this 26th day of September, 2016.

Sincerely,
BC Public Interest Advocacy Centre

Sarah Khan and Erin Pritchard
Barristers & Solicitors