



ROBERT J. PELLATT
COMMISSION SECRETARY
Commission.Secretary@bcuc.com
web site: <http://www.bcuc.com>

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. CANADA V6Z 2N3
TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

Log No. 8362

VIA E-MAIL

keoughl@bennettjones.ca

January 6, 2005

British Columbia Hydro and Power Authority
Call for Tenders for Capacity on Vancouver Island
Review of Electricity Purchase Agreement

Exhibit No. A-20

Mr. Loyola G. Keough
Bennett Jones
4500 Bankers Hall East
855 2nd Street SW
Calgary, AB T2P 4K7

Dear Mr. Keough:

Re: British Columbia Hydro and Power Authority
Call for Tenders for Capacity on Vancouver Island
Review of Electricity Purchase Agreement

Further to your application for two Orders as described in your December 28, 2004 letter, enclosed is Commission Order No. G-1-05 and Reasons for Decision.

Yours truly,

Original signed by:

for: Robert J. Pellatt

cms
Enclosure
cc: Registered Intervenors

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-1-05**

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

A Filing by British Columbia Hydro and Power Authority
Call for Tenders for Capacity on Vancouver Island
Review of Electricity Purchase Agreement

BEFORE: R.H. Hobbs, Chair
L.A. Boychuk, Commissioner January 5, 2005

O R D E R

WHEREAS:

A. On December 28, 2004, Duke Point Power Limited Partnership ("DPP") applied for two Orders ("the DPP Application") as follows:

"(i) BC Hydro is directed to provide similar information to that contained in (Appendix 3) to the EPA with DPP, as well as information regarding plant configuration, capital cost, fuel supply and permitting status, for the other bidders in the final round of the CFT process held by BC Hydro;

(ii) Any evidence parties may seek to file in these proceedings which attempts to address alternatives sources of electricity to the DPP Project is outside the scope of these proceedings and will not be allowed"; and

B. On December 30, 2004, Green Island Energy Ltd. ("Green Island") responded to the DPP Application; and

C. On January 3, 2005, the Joint Industry Electricity Steering Committee ("JIESC") responded to the DPP Application; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-1-05

2

- D. On January 4, 2005, DPP replied to the JIESC submission and amended the DPP Application by stating that it is not attempting to constrain the disclosure of information with respect to projects that were included in the Call for Tenders (“CFT”) process, but rather to prevent parties from bringing forward projects that were not part of the CFT process; and
- E. The Commission has considered the related submissions on the DPP Application.

NOW THEREFORE for the Reasons for Decision that are attached as Appendix A to this Order, the Commission denies the amended DPP Application.

DATED at the City of Vancouver, in the Province of British Columbia, this 6th day of January 2005.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair

Attachment

An Application by Duke Point Power Limited Partnership
for Orders Related to the Review of the Electricity Purchase Agreement
from the British Columbia Hydro and Power Authority Call for Tenders

REASONS FOR DECISION

On December 28, 2004, Duke Point Power Limited Partnership (“DPP”) applied for two Orders (“the DPP Application”). As described in the accompanying Order, the Commission received submissions on the DPP Application from Green Island Energy Ltd. (“Green Island”) and the Joint Industry Electricity Steering Committee (“JIESC”), and a submission from DPP in reply to the JIESC.

FIRST REQUESTED ORDER

DPP stated the First Requested Order as follows:

“(i) BC Hydro is directed to provide similar information to that contained in (Appendix 3) to the EPA with DPP, as well as information regarding plant configuration, capital cost, fuel supply and permitting status, for the other bidders in the final round of the CFT process held by BC Hydro;”

The matter of the disclosure of information identified in the First Requested Order was the subject of submissions at the December 22, 2004 Pre-hearing Conference (T4: 747, 760, 779).

The DPP Application states that it is not requesting reconsideration of Order No. G-119-04, but the First Requested Order would have the effect of reopening matters that were discussed at the December 22, 2004 Pre-hearing Conference and been determined by Order No. G-119-04. **Therefore, the Commission Panel denies the DPP Application with respect to the First Requested Order.**

SECOND REQUESTED ORDER

DPP stated the Second Requested Order as follows:

“(ii) Any evidence parties may seek to file in these proceedings which attempts to address alternatives sources of electricity to the DPP Project is outside the scope of these proceedings and will not be allowed.”

The DPP Application referred to parties that “otherwise did not emerge as the winning bidder”, but in its January 4, 2004 submission DPP amended the DPP Application to oppose parties who would now seek to bring forward different and new projects that were never part of the CFT. Presumably DPP no longer objects to Green Island filing evidence on its project. DPP argued that to allow parties to put in new bids, as alternatives to the DPP project, after it was required to disclose confidential information would make a mockery of the competitive bidding process.

Green Island referred to the Commission Panel’s statement at Transcript page 312 that “... in the absence of evidence from developers, it may not be persuaded that the CFT is not satisfactory evidence that Duke Point is the most cost-effective resource for Vancouver Island at this time.” Green Island noted that its project, as bid in the CFT, is part of a Tier 2 portfolio; and argued that evidence of alternatives to the DPP project should only be limited by a test of relevance to the principal issue or other in-scope issues.

The JIESC argued that the purpose of the proceeding is to determine whether the DPP Electricity Purchase Agreement (“EPA”) is in the public interest. JIESC believes this requires a determination that the EPA is the most cost-effective means to reliably meet Vancouver Island’s short-term capacity requirements, which in turn requires an examination of available alternatives. Furthermore, the JIESC submitted that all CFT criteria that are relevant to the selection of the Tier 1, Tier 2 and No Award alternatives, and resource option bias options issues, are also within the scope of the review. The JIESC felt these issues necessitate a discussion of available options, and opposed the Second Requested Order.

The Commission Panel notes that British Columbia Hydro and Power Authority (“BC Hydro”) used load curtailment based on the Norske Canada Demand Management proposal to fill current capacity requirements on Vancouver Island in its cost-effectiveness assessment (Exhibit B-1, Appendix J, p. 2).

The Commission Panel must obtain sufficient information to discharge its responsibility under Section 71 of the Utilities Commission Act. **The Commission Panel concludes that the amended Second Requested Order would unduly and unreasonably limit the scope of the proceeding, and therefore also denies the DPP Application with respect to the amended Second Requested Order.**