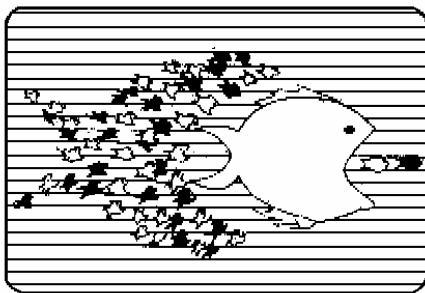


# The British Columbia Public Interest Advocacy Centre

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January 11, 2004

## VIA E-MAIL

Robert J. Pellatt  
Commission Secretary  
BC Utilities Commission  
Sixth Floor - 900 Howe Street  
Vancouver, BC V6N 2N3

Dear Mesdames/Sirs:

### **Re: British Columbia Hydro and Power Authority - Project No. 3698354 Call for Tenders for Capacity on Vancouver Island Review of Electricity Purchase Agreement**

These are the comments of BCOPAO *et al.* in response to Exhibit B-40, concerning BC Hydro's procedural proposals in this matter.

As I warned the Panel at the Pre-Hearing Conference on December 17, it appears that BC Hydro is attempting to "jam" the Commission and produce a pre-ordained end result in these proceedings. A key element of this apparent strategy has been to hold a concocted deadline like a sword over the Commission's head. The implied threat is that the slightest delay or extension of the hearing, and ultimately of the operation of the VIGP plant, will result in the lights going out on Vancouver Island on November 1, 2007. With inadequate time available prior to the posited deadline to conduct a proper exploration of the public interest, the remedy advocated by BC Hydro is to truncate the proceedings by narrowing the issues and hog-tying the participants.

Hydro's way of minimizing the options before the Commission, and impelling the process toward approval of its pet project, has been to restrict the agenda to the limited menu of specific "solutions" selected by Hydro itself. This very constricted stance is itself a retreat from Hydro's initial position, that the only issue before the Commission is whether the Call of Tenders procedure was conducted fairly!

BC Hydro has compounded the pressure on the Commission and hearing participants through an obstructionist approach toward information-disclosure: from one side of its mouth, it says that time-pressures require drastic and arbitrary limits to parties' time for cross-examination; from the

other, its response to every request for pre-hearing disclosures is that parties may cross examine panels, using scarce hearing-time, to obtain more information. Hydro holds fast to this stance even where disclosure would be a quick and simple way to reduce the pressure on hearing time.

On the subject of making efficient use of hearing time, Exhibit B-40 indicates that Hydro knows what witness panels it will produce; however, it has not seen fit to share this information with participants, to assist them to prepare for the hearing. Furthermore, we now are left playing yet another game of “blind man’s buff,” compelled to comment on our right of cross-examination but denied any inkling of the line-up of witness panels to assist us to evaluate these issues concretely.

**We ask that BC Hydro immediately advise participants which witness panels it intends to produce, and in what order, or that the Commission order Hydro to do so by the close of business today.**

If ever there were a case before the Commission that cried out for “getting it done right” rather than plowing through a hasty process, this is it. This reincarnation of the VIGP has a long pre-history, whose genesis lay deep in the political arena. It now has all the hallmarks of a hobbyhorse driven by internal politics and turf.

If the Duke Point proposal is approved, it will have large and long-term ramifications for ratepayers. As things stand now, we would be strongly disinclined to recommend to our clients that they support it; we suggest to Hydro that it would be in its interests (assuming that the proposal is actually aligned with them) to afford us and other participants a full opportunity to be convinced that the project makes more sense than is apparent now.

The Reasons for Decision for Order G-119-04 concludes, at page 4, that the effect of Policy Action #13 of the Provincial Government’s Energy Plan is “to establish competitive bidding processes as an important means to secure future supply.” All the more important that, in this first proposed major implementation of that Policy, the Commission get it right.

The only element of Mr. Sanderson’s proposals that we agree with (and quite emphatically so) is paragraph 5 at page 3 of Exhibit B-40. We are strongly opposed to the kind of “trial by ordeal” that results from extended hearing days. The exhaustion that sets in, especially in the event of successive long hearing days, is absolutely destructive of the kind of careful rational study that the issues demand.

Robert J. Pellatt  
Commission Secretary  
January 11, 2005  
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We have reviewed the comments filed today by Mr. Weisberg, on behalf of Green Island Energy Inc., and fully endorse and adopt those comments on behalf of our clients.

All of which is respectfully submitted this 11<sup>th</sup> day of January, 2005.

Yours truly

**BC PUBLIC INTEREST ADVOCACY CENTRE**

*ORIGINAL IN FILE SIGNED*

Jim Quail  
Barrister & Solicitor

cc: parties of record (via email)