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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** E-1-05

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**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 February 17, 2005

O R D E R

WHEREAS:

- A. On November 19, 2004, British Columbia Hydro and Power Authority ("BC Hydro") submitted to the British Columbia Utilities Commission ("Commission") the Electricity Purchase Agreement ("EPA") and Vancouver Island Generation Project Transfer Agreement ("VIGP Transfer Agreement") with Duke Point Power Limited Partnership ("Duke Point Power") and a Report on the BC Hydro Call for Tenders on Vancouver Island ("CFT") Process ("the CFT Report"); and
- B. Pursuant to Order No. G-99-04, on November 29 and 30, 2004, the Commission Panel held a Procedural Conference regarding an effective and efficient regulatory process for the review of BC Hydro's EPA filing and CFT Report; and
- C. At the Pre-hearing Conference on November 30, 2004, the Commission Panel made determinations regarding the scope of the proceeding and directed that a Public Hearing, and a Town Hall Meeting in Nanaimo, would take place. Order No. G-106-04 established the Regulatory Agenda for the proceeding; and
- D. Pursuant to Letter No. L-62-04, on December 17, 2004 the Commission Panel held a Pre-hearing Conference to consider an application by BC Hydro seeking relief with respect to responding to certain Information Requests. Commission Letter No. L-63-04 set out the Commission Panel's determinations with regard to the application for relief; and
- E. Pursuant to Order No. G-106-04, on December 22, 2004 the Commission Panel held a Pre-hearing Conference to address matters that were identified in Letter No. L-64-04, including applications related to reasonable apprehension of bias, the scope of the proceeding and the disclosure of confidential information. The Pre-hearing Conference also considered revisions to the Regulatory Timetable; and
- F. At the December 22, 2004 Pre-hearing Conference, Commissioner Birch recused himself from the proceeding; and

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- G. Following the December 22, 2004 Pre-hearing Conference, the Commission Panel issued Order No. G-119-04 which included revisions to the Regulatory Agenda established by Order No. G-106-04; and
- H. Pursuant to Order No. G-119-04, the Town Hall Meeting took place on January 15, 2005 in Nanaimo, B.C.; and
- I. Further pursuant to Order No. G-119-04, the Public Hearing took place from January 17 to January 28, 2005 in Vancouver, B.C.; and
- J. Written Final Arguments and Reply Argument were completed by February 7, 2005. An oral argument phase was held on February 10, 2005 so counsel could respond to specific issues arising from the written argument process identified by the Commission Panel; and
- K. The Commission Panel has considered the EPA, the VIGP Transfer Agreement, the Report on the BC Hydro CFT Process, the written evidence filed prior to and during the hearing, the Letters of Comment, and the written and oral arguments submitted by the parties.

NOW THEREFORE the Commission orders as follows:

- 1. For reasons to follow, the EPA is accepted as filed as an energy supply contract pursuant to Section 71 of the Utilities Commission Act, subject to the following conditions:
 - (a) that BC Hydro purchase firm gas transportation service from Terasen Gas (Vancouver Island) Inc. ("TGVI") to serve Duke Point Power's proposed power plant at Duke Point near Nanaimo, British Columbia ("Duke Point Power Plant"); and
 - (b) within 45 days of the date of this Order, that BC Hydro enter into, and facilitate the filing with the Commission of, a long-term firm gas transportation service agreement ("TSA") with TGVI to serve both the Duke Point Power Plant and the Island Cogeneration Plant at Elk Falls, near Campbell River, British Columbia.
- 2. The acceptance of the EPA for filing as an energy supply contract is further subject to the following directions:
 - (a) within 10 days of the date of this Order, BC Hydro is to provide written notice to the Commission of its intention to proceed with the EPA; and
 - (b) within 45 days of the date of this Order, BC Hydro is to notify the Commission if it has been unable to reach an agreement on the terms of a TSA with TGVI; and
 - (c) in the event of a failure to reach an agreement on the terms of a TSA with TGVI within 45 days of the date of this Order, or in the event a filed TSA is not acceptable to the Commission and the Commission does not approve the terms of a filed TSA, either wholly or in part, BC Hydro is to apply to the Commission for further directions; and

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- (d) BC Hydro is to carry forward in a designated deferral account the \$50 million payment received from Duke Point Power under the VIGP Transfer Agreement together with any carrying charges associated with that payment until BC Hydro has made an application providing for the manner of the disposition of the payment and the Commission has made a determination thereon. This designated account is to be separate from the designated account approved by Commission Order No. G-54-04. The application for disposition is to be made concurrently with the application contemplated by Commission Order No. G-54-04; and
- (e) BC Hydro is to comply with any other directions in the reasons to follow.

DATED at the City of Vancouver, in the Province of British Columbia, this 17th day of February 2005.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair