

**BRITISH COLUMBIA UTILITIES COMMISSION**  
**IN THE MATTER OF THE UTILITIES COMMISSION ACT**  
**S.B.C. 1996, CHAPTER 473**

**and**

**Re: British Columbia Transmission Corporation**  
**("BCTC") Project No. 3698395 /Order No. G-70-05**  
**Certificate of Public Convenience and Necessity**  
**("CPCN") Application Vancouver Island Transmission**  
**Reinforcement Project ("VITR")**

**and**

**Sea Breeze Pacific Regional Transmission System, Inc.**  
**for a Certificate of Public Convenience and Necessity for**  
**Vancouver Island Cable Project**

**Vancouver, B.C.**  
**March 8, 2006**

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**PROCEEDINGS AT HEARING**

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**BEFORE:**

<b>R. Hobbs,</b>	<b>Chairperson</b>
<b>N. Nicholls ,</b>	<b>Commissioner</b>
<b>L. O'Hara,</b>	<b>Commissioner</b>

**VOLUME 29**

## APPEARANCES

G.A. FULTON	Commission Counsel
S. CARPENTER C. BYSTROM	British Columbia Transmission Corporation
J. LANDRY J. HERBERT	Sea Breeze Pacific Regional Transmission System Inc Sea Breeze Victoria Converter Corporation
C.W. SANDERSON C. GODSOE H.M. CANE	British Columbia Hydro and Power Authority
S. HANSEN R.B. WALLACE	Joint Industry Steering Committee
D. CRAIG	Commercial Energy Consumers
R. GATHERCOLE	B.C. Old Age Pensioners' Organization, Council Of Senior Citizens' Organizations, Federated Anti-Poverty Groups of British Columbia, End Legislated Poverty, B.C. Coalition Of People With Disabilities, Active Support Against Poverty, and Tenants' Rights Action Coalition
J. YARDLEY	Corporation of Delta
J. RISTOW B. KUDZIN	South Delta Secondary High School Parent Advisory Council
D. POLLACK	City of White Rock
S. JAMES R. HARDING	Islands Trust
C. BAZZARD	Owners of Strata Plan 905 and Shareholders of Maracaibo Estates Limited
J. ARVAY M. UNDERSHILL	Tsawwassen Residents Against Higher Voltage Overhead Lines (TRAHVOL)
D. AUSTIN	Island Residents Against Higher Voltage Overhead Lines (IRAHVOL)
K. HOLMSEN	On His Own Behalf
S. BOYCE	On Her Own Behalf
K.H. NAM	On His Own Behalf
B. CAMPBELL	On His Own Behalf

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**CAARS**

VANCOUVER, B.C.

March 8, 2006

**(PROCEEDINGS RESUMED AT 1:30 P.M.)**

THE CHAIRPERSON: Please be seated. Are there any preliminary matters? Good. Then I think you can proceed, Mr. Landry.

MR. LANDRY: Thank you, Mr. Chairman. What we'll be doing, at least at the beginning, is referring to a couple of exhibits, and I thought I might just give you those exhibit numbers so that you have them in front of you.

One is C31-12, which is a document that was filed -- I can't remember if it was yesterday or the day before yesterday -- which outlined the panels and the evidence -- primary -- or primary evidence that the panels would be dealing with.

The next one is B2-68, which is the direct evidence that was filed last week for Panel number one. And the third one, just for your reference is B2-51, which is the document that attached the various CVs for all of the members of the panels.

And, Mr. Chairman, I was able to get a revised opening statement out -- not as early as I'd hoped, but mid-morning today to everybody. I believe everybody has a copy. I've given copies to Mr.

1 Bemister, so I assume that the panel has copies of  
2 them.

3 THE CHAIRPERSON: Yes. And we've had an opportunity to  
4 read it. So my suggestion, actually, is that you not  
5 read it into the record unless there's a request to do  
6 so. I don't think that's necessary. What you might  
7 have your panel do, if they wish to, is make a few  
8 comments starting on page six of your opening, through  
9 to the -- through to the conclusion, but just because  
10 I anticipate everyone has had an opportunity to read  
11 it. I don't think it's going to be necessary for you  
12 to read it into the record now.

13 MR. LANDRY: First of all, it was not me that was going  
14 to read it into the record, it was going to be the  
15 panel.

16 THE CHAIRPERSON: Right.

17 MR. LANDRY: But I accept your thoughts, and I'll ask Mr.  
18 Manson to consider those comments relative to his  
19 opening statement. Could we just mark that, at least,  
20 as the next exhibit, Mr. Chairman? So that's C31-14.

21 THE HEARING OFFICER: C31-14.

22 (REVISED OPENING STATEMENT OF SEA BREEZE CORPORATE  
23 POLICY/MANAGEMENT PANEL MARKED AS EXHIBIT C31-14)

24 MR. LANDRY: Just for the record, given how much  
25 discussion has gone on between the three alternatives  
26 that we've been talking about, I noticed that in C31-

1           12, which is the -- the various panels -- Panels A  
2           through D, and the evidence -- that the Panel C's  
3           title effectively just said "VITR and JDF". That was  
4           a hangover from the previous document that was filed.  
5           So you -- I would ask that that be changed to "VITR,  
6           VIC and JDF". I think the other ones, it's implicitly  
7           that there will be issues relating to all three  
8           projects, but in that one it seems to be definitive,  
9           and it was not intended to be that way.

10 THE CHAIRPERSON: Right. Thank you.

11 MR. LANDRY: Now, Mr. Chairman, although I know that we  
12           are here for a limited purpose today, obviously we've  
13           -- we now have filed the opening statement, and I will  
14           allow Mr. Manson to, taking your comments into  
15           account, make a few preliminary opening remarks. But  
16           before we do that, I'd like to introduce the panel to  
17           the Commission.

18                           And firstly, in the middle, is -- of the  
19           panel, is Paul Manson, who is the president of Sea  
20           Breeze Victoria Converter Corporation, which is the  
21           intervenor in the proceeding. To Mr. Manson's right  
22           is Mr. Brian Chernack a director of Sea Breeze  
23           Victoria Converter Corporation and also the president  
24           of Boundless Energy, which you've heard about in this  
25           proceeding. And to Mr. Manson's left is Dr. El-Ramly,  
26           who is president of ZE PowerGroup Inc., and ZE Power



1 evidence true?

2 MR. MANSON: A: Yes, it is.

3 MR. LANDRY: Q: And do you adopt the evidence as your  
4 sworn testimony in this proceeding?

5 MR. MANSON: A: I do.

6 MR. LANDRY: Q: And Mr. Manson, could you have Exhibit  
7 C31-12 in front of you, which is the letter to Mr.  
8 Pellatt dated March 7, 2006 from myself? Do you have  
9 that?

10 MR. MANSON: A: I do.

11 MR. LANDRY: Q: And sir, I wonder if you could go to  
12 the third page in that document, more particularly the  
13 evidence that is outlined in the two bullets there.

14 MR. MANSON: A: Yes.

15 MR. LANDRY: Q: You see that evidence? Have you  
16 reviewed that evidence, Mr. Manson?

17 MR. MANSON: A: Yes, I have.

18 MR. LANDRY: Q: And to the best of your understandings  
19 and belief, is that evidence true and accurate?

20 MR. MANSON: A: Yes.

21 MR. LANDRY: Q: Mr. Chernack, do you have the direct  
22 evidence of Brian Chernack filed as part of Exhibit  
23 B2-68?

24 MR. CHERNACK: A: I do.

25 MR. LANDRY: Q: And are there any changes to that  
26 evidence?

1 MR. CHERNACK: A: Yes. I would like to add to question  
2 5 in relation to the role I played in the application  
3 process, that I did participate in the drafting of the  
4 Juan de Fuca NEB application.

5 MR. LANDRY: Q: And sir, with that change, is that  
6 evidence true?

7 MR. CHERNACK: A: Yes, it is.

8 MR. LANDRY: Q: And do you adopt that evidence as your  
9 sworn testimony in this proceeding?

10 MR. CHERNACK: A: Yes, I do.

11 MR. LANDRY: Q: And sir, again I'd like you to refer to  
12 the letter that I just mentioned to Mr. Manson's  
13 Exhibit C31-12. Do you have that?

14 MR. CHERNACK: A: Yes, I do.

15 MR. LANDRY: Q: The third page on that?

16 MR. CHERNACK: A: Yes.

17 MR. LANDRY: Q: Under Panel A do you see the two  
18 bullets?

19 MR. CHERNACK: A: Yes, I do.

20 MR. LANDRY: Q: And sir, the evidence that's listed  
21 there, have you reviewed that evidence?

22 MR. CHERNACK: A: Yes, I have.

23 MR. LANDRY: Q: And to the best of your understanding  
24 and belief, is that evidence true and accurate?

25 MR. CHERNACK: A: Yes, it is.

26 MR. LANDRY: Q: Dr. El-Ramly, do you have the direct

1 evidence of Zak El-Ramly filed as part of Exhibit B2-  
2 68?  
3 MR. EL-RAMLY: A: I do.  
4 MR. LANDRY: Q: And are there any changes to that  
5 evidence?  
6 MR. EL-RAMLY: A: No.  
7 MR. LANDRY: Q: And sir, do you adopt that evidence as  
8 your sworn testimony in this proceeding?  
9 MR. EL-RAMLY: A: Yes.  
10 MR. LANDRY: Q: And sir, again I'd like you to refer to  
11 the letter that I referred to both Mr. Manson and Mr.  
12 Chernack, Exhibit C31-12. Do you have that?  
13 MR. EL-RAMLY: A: Yes.  
14 MR. LANDRY: Q: And the third page?  
15 MR. EL-RAMLY: A: I do.  
16 MR. LANDRY: Q: Under Panel A the two bullets, do you  
17 see that?  
18 MR. EL-RAMLY: A: Yes, I do.  
19 MR. LANDRY: Q: Have you reviewed the evidence filed by  
20 Sea Breeze in relation to that?  
21 MR. EL-RAMLY: A: Yes, I did.  
22 MR. LANDRY: Q: And to the best of your understanding  
23 belief is that evidence true and accurate?  
24 MR. EL-RAMLY: A: Yes.  
25 MR. LANDRY: Q: Now, Mr. Chairman, we'll allow Mr.  
26 Manson to, taking your comments into account, provide



1 owned by B.C. Hydro. We are therefore very  
2 pleased, given the circumstances as they  
3 have evolved, that the Commission has  
4 decided it will still consider whether the  
5 VIC project as defined and advocated by Sea  
6 Breeze in this proceeding provides a better  
7 alternative than VITR for solving the  
8 transmission issues facing Vancouver  
9 Island.

10 In proposing JDF and VIC projects, Sea  
11 Breeze has invited the Commission to think  
12 outside of the box by considering the  
13 ability of private-sector transmission  
14 development and merchant transmission to  
15 meet British Columbia's system planning  
16 needs in innovative ways that can allow  
17 ratepayers to avoid the risk and rate  
18 consequences of lumpy investments and allow  
19 major capital transmission investment risk  
20 to be undertaken by private companies."

21 Turning to page 9:

22 "There are two distinct sets of issues  
23 before the BCUC in considering the JDF  
24 proposal and the revised VIC alternative.  
25 There are now two distinct sets of issues  
26 which the Commission must separately assess.

1           The first is issues relating to the ability  
2           of the VID and/or JDF projects to satisfy  
3           Vancouver Island's need for transmission  
4           reinforcement, and secondly, issues relating  
5           to the capability of the team which Sea  
6           Breeze has assembled to develop the JDF  
7           project. These issues must be considered  
8           separately. As such, this panel will be  
9           available to answer many of the questions  
10          which the Commission and participants may  
11          have relating to the second set of issues,  
12          including questions relating to the  
13          financial capacity of Sea Breeze's team,  
14          supported by EIF, or Energy Investors' Fund,  
15          and Société Generale, and the relationship  
16          between Sea Breeze and ABB."

17                   Turning to page 12, "Conclusion":  
18           "For the first time within this proceeding,  
19           this Commission has given -- has been given  
20           the opportunity to thoroughly and  
21           comprehensively consider private-sector-  
22           driven alternatives to a major transmission  
23           infrastructure development proposed by the  
24           public transmission utility. And although  
25           the VIC alternative is no longer being  
26           proposed as a private-sector-owned facility,

1           the approach taken by Sea Breeze in  
2           advocating both the JDF and VIC alternatives  
3           to VITR represents a watershed for  
4           transmission development and regulation in  
5           this province.

6           Sea Breeze is very pleased to have been  
7           given this opportunity to bring forward the  
8           two alternatives to VITR, and to assist the  
9           Commission in arriving at decisions about  
10          transmission infrastructure development that  
11          will best serve the collective needs and  
12          interests of ratepayers, other stakeholders,  
13          and the provincial transmission system as a  
14          whole."

15 MR. LANDRY:    Now I note that -- I see Mr. Manson's copy  
16           of the opening statement, it's in larger font, and  
17           hence the reason for the pages.  And just for the  
18           record, Mr. Manson was referring to page 4, and then  
19           page 6, and then finally page 7 -- so it's a bit  
20           clearer on the record.

21 THE CHAIRPERSON:  Yeah, that was fine, we were able to  
22           follow it.

23 MR. LANDRY:    Good, thank you.

24           Now, Mr. Chairman, obviously the panel is  
25           here to be cross-examined, and I know we have a  
26           limited purpose in relation to that, and I just want

1 to make sure that we're relatively clear what that  
2 limited purpose is, and as I understand it, it is  
3 effectively an attempt to do something to help the  
4 intervenors determine whether or not there should be  
5 evidence that should be taken off the record as a  
6 result of the turn of events from last week, and that  
7 there will be some discussions with the panel relating  
8 to what has been called by you, Mr. Chairman, as the  
9 revised VIC proposal. And that we'll be limited in  
10 effectively to issues arising around that, subject to  
11 your rulings obviously, and then tomorrow we will pick  
12 up on the -- what I'll call the more full cross-  
13 examination of this panel. That was an attempt to be,  
14 you know, in summary form what we understand to be the  
15 case, and I just want to --

16 **Proceeding Time 1:45 p.m. T4**

17 THE CHAIRPERSON: I might put the emphasis a little bit  
18 differently, but it's going to be what we hear from  
19 the questions that's going to be important. The  
20 difference I put in emphasis that it may be that the  
21 principal purpose this afternoon of the cross-  
22 examination is to better define what the revised VIC  
23 proposal is, and as a secondary issue that may lead to  
24 applications to strike some of the evidence. So I  
25 would just put the emphasis a little bit differently,  
26 but I don't think it matters.

1 MR. LANDRY: I don't either, Mr. Chairman. I just to  
2 make sure that we are -- there are some bounds, and I  
3 don't mean that in the sense of stopping cross-  
4 examination. It'll be full on tomorrow obviously, but  
5 I do think that this has to be in the context of Sea  
6 Breeze is attempting at the moment to respond to the  
7 two information requests that were asked of Sea Breeze  
8 on the record by Mr. Fulton, one of which effectively  
9 is what -- I'm using my words -- what is the revised  
10 proposal and how would you see it. And so that's  
11 being done as we speak, it was this morning, and so  
12 it's an evolving concept.

13 But just in line with what you have said,  
14 Mr. Chair, I think Mr. Manson would like to at least  
15 have a couple of opening comments on that issue, if  
16 that would be helpful for everybody to define, at  
17 least from Sea Breeze's perspective, where they're at  
18 in relation to that.

19 THE CHAIRPERSON: That'll be fine. You may proceed.

20 MR. MANSON: A: Thank you.

21 We would like to reiterate that Sea Breeze  
22 believes that the Juan de Fuca project offers the best  
23 solution for meeting Vancouver Island's reliability  
24 needs. However, even if the Commission does not  
25 accept the JDF proposal as the best solution, Sea  
26 Breeze still believes that the VITR proposal, as it

1 has been defined by BCTC, should not be approved  
2 because there is still another better alternative for  
3 meeting Vancouver Island's transmission challenges,  
4 using HVDC Light to connect between Ingledow and Pike  
5 Lake rather than the AC options between Arnott and VIT  
6 to which BCTC has chosen to confine its consideration.

7 Notwithstanding Sea Breeze's withdrawal of  
8 its CPCN application for VIC, the Commission should  
9 still consider whether VIC or a VIC-like alternative  
10 is the best solution, and that this should still be  
11 part of the Commission's consideration of whether it  
12 should grant the CPCN to BCTC for the VITR project.

13 For the Commission to best be able to fully  
14 and adequately consider a VIC or VIC-like alternative,  
15 we believe that the evidentiary record presently  
16 before the Commission, dealing with a VIC proposal,  
17 should stay essentially as it is. If the Commission  
18 ultimately decides that the best solution for  
19 Vancouver Island is to direct BCTC to proceed with a  
20 VIC or VIC-like alternative, then Sea Breeze has  
21 explained its position in its response to BCUC IR  
22 1.11.3, part of Exhibit B2-8.

23 If in those circumstances we get to that  
24 situation, Sea Breeze believes it should be fairly  
25 compensated to reflect the capital, including the  
26 intellectual capital and the substantial work that it

1 has done in the development of the VIC concept, and  
2 Sea Breeze should have some involvement in the  
3 continued development of the project to reflect and  
4 capitalize on those contributions.

5 At this point in time it's premature for  
6 Sea Breeze to define exactly what form that  
7 involvement could take. If the Commission were to  
8 determine that VIC or a VIC-like alternative is the  
9 best solution Vancouver Island's problem, we are more  
10 than willing to sit down with BCTC and B.C. Hydro to  
11 discuss and negotiate what level of continued  
12 involvement by Sea Breeze would be the most beneficial  
13 for all parties concerned, having regard to all of the  
14 development work Sea Breeze has already done on this  
15 project, Sea Breeze's relationship with ABB, and the  
16 expertise and intellectual capital that Sea Breeze has  
17 assembled.

18 **Proceeding Time 1:50 p.m. T05**

19 At this stage it would be presumptuous for  
20 Sea Breeze to pre-suppose what the outcome of those  
21 negotiations would be, not do we believe it would be  
22 in the interests of stakeholders to negotiate  
23 continued involvement by Sea Breeze in a public forum  
24 or under the confrontational environment of cross-  
25 examination in this proceeding.

26 I'll just say in closing that our interest

1 is to act constructively, cooperatively, and in  
2 collaboration with the parties with whom we are  
3 involved.

4 MR. LANDRY: I think, Mr. Chairman, that the panel is now  
5 open for cross-examination.

6 MR. FULTON: British Columbia Hydro and Power Authority.

7 **CROSS EXAMINATION BY MR. SANDERSON:**

8 MR. SANDERSON: Good afternoon, panel. Good afternoon,  
9 Mr. Chairman, Commissioners.

10 I'm not going to be referring to very many  
11 exhibits at all, but the only one that I would expect  
12 to take the panel to -- gentlemen, if you could have  
13 it, it looks to me like at least Dr. El-Ramly does,  
14 and that's Exhibit 2-1, which is the original Sea  
15 Breeze application. I think that's the only thing  
16 that I'll be referring to.

17 And gentlemen, at the risk of stating  
18 another way what the Chairman and your counsel were  
19 discussing just a moment ago, in terms of the purpose  
20 of this cross-examination, I agree with both of them,  
21 and particularly with the emphasis the Chair put on  
22 it, but the specific things that I want to find out  
23 today are really, I think, three. And that is, I  
24 think we need to understand with the VIC proposal,  
25 when it is that, in your view -- and all I want is  
26 your view -- it's necessary that that project become

1 available, that is, become available for commercial  
2 operation. So what your schedule is for it.

3 Second, what its physical characteristics  
4 are, and third, who will have responsibility for  
5 causing it to happen. And those are the only things I  
6 want to talk about today, and then in subsequent  
7 panels, as I understand it, Sea Breeze will be  
8 presenting evidence as to how these things will  
9 happen, both with respect to VIC and Juan de Fuca.  
10 But today, I want to talk about just the first --  
11 when, what and who, with respect only to VIC.

12 Q: And with that preamble, I guess my  
13 first question's a very simple one, and it's all that  
14 I want to know about "when", and that is, when does  
15 the revised VIC project have to be available for  
16 commercial operation to represent a viable option for  
17 meeting the capacity needs on Vancouver Island, and  
18 therefore replacing VITR as a solution to those  
19 problems.

20 MR. CHERNACK: A: Mr. Sanderson, Mr. Chairman -- we  
21 believe that the need for the VITR replacement,  
22 whether it be VIC, VITR, or Juan de Fuca -- timing has  
23 been established, and we would not propose to any  
24 other schedule. I think the target is 2008 for what  
25 we had proposed for the VIC project, and we see no  
26 reason why that could not be met.

1 MR. SANDERSON: Q: Thank you. That's all I have on the  
2 "when". And then the "what," I think I know the  
3 answer to the "what" but I just want to make sure that  
4 we're on the same wavelength, and that's where I need  
5 to take you to Exhibit B2-1, which is the Application.  
6 And I think if we just look at the Executive Summary,  
7 it's probably all we need. But at lines 5 to 17 on  
8 page 3 of that exhibit, you'll see there's a brief  
9 description there of the project. And I'm assuming  
10 that when we talk about the revised VIC project, we're  
11 still talking a project that has the characteristics  
12 identified on those lines.

13 MR. EL-RAMLY: A: That's correct.

14 **Proceeding Time 1:55 p.m. T6**

15 MR. SANDERSON: Q: And I'm similarly assuming that the  
16 components described in section 1.3, that's on page 4  
17 and over onto 5, continue to be elements of the VIC  
18 revised project.

19 MR. EL-RAMLY: A: Yes, that is correct.

20 MR. SANDERSON: Q: Now, the rest of my questions relate  
21 to the who, and to make that more intelligible for  
22 everybody I've tried to put together something that  
23 might assist you and the Commissioners in  
24 understanding the relative responsibilities. Mr.  
25 Manson, I do understand the comments you just made,  
26 and it may be that we can't fill in some of these

1 boxes, but I think I'd like to try. And to the extent  
2 that Sea Breeze knows what it thinks different  
3 parties' roles should be with respect to different  
4 elements, then that's what we'll try and establish  
5 now, and to the extent you don't know, well then,  
6 you'll tell me that.

7 Mr. Fulton has kindly suggested that I ask  
8 for this to be marked as Exhibit C6-15.

9 THE HEARING OFFICER: Marked Exhibit C6-15.

10 (WITNESS AID: REVISED PROPOSAL: ROLES AND  
11 RESPONSIBILITIES MARKED EXHIBIT C6-15)

12 MR. SANDERSON: Q: Now, Mr. Manson, as I said, what I  
13 want to do is populate, if you will, this table, and  
14 there's some specific sub-categories under each of  
15 these that I want to put to you, and then I want if  
16 you can to tell me which box we should put  
17 responsibility for in.

18 And the first one is, in your mind if the  
19 VIC proposal goes ahead and this Commission at the end  
20 of this process that it will reject VITR and will  
21 direct that work begin as of the next day, one assumes  
22 on bringing forward the VIC proposal as revised, who  
23 would you see being the overall project manager from  
24 that moment until the commercial operation day?

25 MR. CHERNACK: A: Mr. Sanderson, Mr. Chairman, Panel, I  
26 think Mr. Sanderson has put together a very useful

1 document here that will provide a guide, if the  
2 Chairman and the Panel decide that something other  
3 than VITR is appropriate. I think I would reflect Mr.  
4 Manson's earlier comment that this -- we can talk  
5 about possibilities but they're hypothetical at this  
6 point. Sea Breeze has not been engaged by BCTC or  
7 B.C. Hydro to address some of these issues, and we  
8 certainly could fill boxes in, and I think before the  
9 end of the day we will probably be filling boxes in.  
10 But we just are not in a position to say what our  
11 preference would be, because at this point the  
12 decision is not ours. It is up to some other party.

13 MR. SANDERSON: Q: Well, without Mr. Chernack taking  
14 you up on that last comment as to whether the decision  
15 or isn't yours, I may come back to that. I mean, it  
16 seems to me that there may be some things here, and  
17 maybe I'll come at this the other way around, which,  
18 given what you have said, we can say with confidence  
19 will not be Sea Breeze's responsibility.

20 MR. CHERNACK: A: We can agree with that.

21 MR. SANDERSON: Q: Okay, and let me see if we can hit a  
22 few of those. And the one that strikes me as clearest  
23 from your announcement last week is if we go to --  
24 bear with me for a moment -- the very last page, page  
25 4, you'll see the heading "Investment in the Project",  
26 and there's two aspects of that. There's construction

1 financing and then there's capital investment post  
2 commercial operation, and I'm assuming that, given  
3 your announcement, neither of those things would be  
4 Sea Breeze's responsibilities.

5 MR. CHERNACK: A: That's correct.

6 MR. SANDERSON: Q: And I'm also, I think, assuming that  
7 you wouldn't expect any different treatment for these  
8 facilities than exist in the province generally for  
9 other transmission facilities.

10 MR. CHERNACK: A: That's correct.

11 **Proceeding Time 2:00 p.m. T7**

12 MR. SANDERSON: Q: And so if I look at the investment  
13 in project both before and after COD, commercial  
14 operation date, for investment I'd better put a big  
15 tick beside B.C. Hydro.

16 MR. CHERNACK: A: Correct.

17 MR. SANDERSON: Q: And just out of interest, pre the  
18 revised proposal and with the original proposal, that  
19 tick for investment in a project would have gone to  
20 Sea Breeze/EIF, would it not?

21 MR. CHERNACK: A: Correct.

22 MR. SANDERSON: Q: So in essence, what's happened here  
23 is the funding for this project has shifted from Sea  
24 Breeze/EIF to B.C. Hydro.

25 MR. CHERNACK: A: Correct.

26 MR. SANDERSON: Q: And Commission acceptance and

1 approval, that is obtaining ultimate -- assuming  
2 ultimate responsibility to this regulatory body, and  
3 assuming the responsibilities the public utility in  
4 this province assume, that I think similarly is no  
5 longer something Sea Breeze is offering to do?

6 MR. CHERNACK: A: Would you clarify that question? I'm  
7 not sure I understand what you mean by "Commission and  
8 acceptance of approval, approval".

9 MR. SANDERSON: Q: Well, I'll break it down for you if  
10 that helps.

11 MR. CHERNACK: A: Thank you.

12 MR. SANDERSON: Q: First of all, the filing -- I mean,  
13 would it be your understanding that whoever ultimately  
14 constructs these facilities is still going to need a  
15 Certificate of Public Convenience and Necessity?

16 MR. CHERNACK: A: Yes.

17 MR. SANDERSON: Q: And Sea Breeze would not apply for  
18 that now in its own name.

19 MR. CHERNACK: A: It would not.

20 MR. SANDERSON: Q: It would not.

21 MR. CHERNACK: A: It would not.

22 MR. SANDERSON: Q: Thank you. And do you have any  
23 suggestion as to who would?

24 MR. CHERNACK: A: I may suggest that it could be  
25 decided by the Commission in this proceeding, based on  
26 the comments from the Panel that this would be a one

1 decision process.

2 MR. SANDERSON: Q: Well, I don't -- yes, and I don't  
3 want to put you in the position of having to explain  
4 the BCTC/B.C. Hydro division of responsibility, so  
5 maybe the best way to put it is: You're not  
6 suggesting that this particular transmission line  
7 would be handled for that purpose, any differently  
8 than the other transmission line that's being built in  
9 the province. The same regulatory procedures with  
10 respect to who brings the application for what as  
11 between Hydro and BCTC should pertain.

12 MR. CHERNACK: A: Unless there are other transmission  
13 proposals in the province that would be proposed by  
14 the private sector.

15 MR. SANDERSON: Q: Yes, but I'm speaking now with  
16 respect to the revised VIC proposal --

17 MR. CHERNACK: A: That is not --

18 MR. SANDERSON: Q: It's not the case.

19 MR. CHERNACK: A: That is not the case.

20 MR. SANDERSON: Q: All right, so whatever would go for  
21 any other system.

22 MR. EL-RAMLY: A: Unless in the part of the  
23 negotiation, Sea Breeze and BCTC/B.C. Hydro had  
24 decided to develop a certain partnership, in which  
25 case I can see the two of them actually going to the  
26 Commission applying for a CPCN. To explain it, if

1 according to this process BCTC, the Commission or B.C.  
2 Hydro are convinced enough that that intellectual  
3 capital, the approach that Sea Breeze brings to the  
4 table is viable enough, and BCTC/B.C. Hydro would  
5 require to capitalize on this intellectual capital  
6 that has been developed, they may want to partner with  
7 them in one way or another, and as a result the two  
8 parties may viably apply for a CPCN.

9 So the answer is not clear until how much  
10 help from Sea Breeze is required to make the VIC-like  
11 proposal continue in the future, taking advantage of  
12 what had been developed to date.

13 MR. SANDERSON: Q: And Dr. El-Ramly, that's a  
14 negotiation which would have to start after this  
15 Commission had rendered its decision on the VITR  
16 application and rejected it.

17 MR. EL-RAMLY: A: That's a decision that has to start  
18 after the Commission have concluded that the VIC  
19 proposal is a better proposal than either of VITR or  
20 JDF --

21 MR. SANDERSON: Q: Yes.

22 MR. EL-RAMLY: A: -- and want us collectively to pursue  
23 it for the province.

24 MR. SANDERSON: Q: Thank you.

25 With respect to the obligation to ensure  
26 that the facilities remain capable of serving the



1       been my original intent, and we've deal with the two  
2       rows at the bottom of page four, and I'm hoping, Mr.  
3       Chernack, that maybe you had a chance to be looking  
4       through this while Dr. El-Ramly and I were talking.  
5       And I'm wondering whether there's any other specific  
6       elements of this that we can either exclude Sea Breeze  
7       from, or otherwise allocate to a specific party. The  
8       project management I think you've answered by saying  
9       "It's too soon." Obtaining permits and approvals from  
10      parties other than this Commission, is that an area  
11      that Sea Breeze might be interested in performing a  
12      role?

13   MR. MANSON:    A:    I would say that, until a week ago, it  
14      was the intention and hope that Sea Breeze would be  
15      undertaking this project to completion. We certainly  
16      have the competence to execute these activities, and I  
17      would say that we would look forward to that level of  
18      involvement.

19   MR. SANDERSON:  Q:    I guess my concern really comes from  
20      this source, Mr. Manson. And that is, as I understood  
21      your announcement last Wednesday, it was to withdraw  
22      because of financial concerns with respect to the  
23      ongoing funding of this, and some of these activities  
24      do require ongoing funding commitments. And at the  
25      moment, as I understand your position, it is that  
26      you're not in a position to say you have the funding

1 to enable you to carry these out. And so what I'm  
2 really trying to understand is, (1), which of these  
3 can you do between now and whenever this Commission  
4 ultimately a decision; (2), which of these can you  
5 foresee getting funding to do, should the decision be  
6 favourable to your proposal.

7 MR. EL-RAMLY: A: I think you now bring us to exactly  
8 the point, why Sea Breeze is not willing to take the  
9 full risk on the project. But assuming now that B.C.  
10 Hydro or BCTC are the financiers of the project, they  
11 will now -- from now on, take all the risk of going  
12 with the project forward.

13 MR. SANDERSON: Q: Right. And -- and as the risk-  
14 taker, would you see to them, then, the question of  
15 whether to retain Sea Breeze to carry out any of the  
16 particular functions for them.

17 MR. EL-RAMLY: A: Oh, absolutely.

18 MR. SANDERSON: Q: And so if the decision of B.C.  
19 Hydro/BCTC with respect to the boxes, there are --  
20 responsible for -- we're not to retain Sea Breeze, you  
21 wouldn't seek any intervention from this Commission in  
22 that respect.

23 MR. EL-RAMLY: A: And that's answers the very busy  
24 question of why Sea Breeze was not able to come and  
25 say, "I want to be involved in this and this and this  
26 and this." Because it's not a singular party. It's a

1 party that has to work with another party --

2 MR. SANDERSON: Q: Right

3 MR. EL-RAMLY: A: -- and unless the capabilities and  
4 the desire of the other party are defined, that is not  
5 possible.

6 MR. SANDERSON: Q: I understand. But it's no part of  
7 your revised VIC application or any application,  
8 you're bringing this to Commission to seek  
9 intervention to help Sea Breeze achieve any of those  
10 functions.

11 MR. CHERNACK: A: No, it is not.

12 MR. SANDERSON: May I have a moment, Mr. Chairman?

13 Thank you, gentlemen, thank you, Mr.  
14 Chairman, that was helpful.

15 MR. FULTON: British Columbia Transmission Corporation is  
16 next, Mr. Chairman.

17 MR. CARPENTER: Q: Good afternoon, gentlemen. Good  
18 afternoon, Chair, Commissioners. My name is Sandy  
19 Carpenter, I appear for the British Columbia  
20 Transmission Corporation.

21 **CROSS EXAMINATION BY MR. CARPENTER:**

22 Q: Gentlemen, I've listened to your answers -- I  
23 guess both your opening comment and your answers to  
24 Mr. Sanderson -- and I guess we're probably not likely  
25 to make much more progress. But I did want to ask, in  
26 terms of entity responsible from your perspective,

1 does the -- do the names across the top, with the  
2 exception, I guess, of the "other" category, and maybe  
3 that's what I'm talking about -- do they cover the  
4 field, or should we be identifying other parties that  
5 may well have responsibility for some of these tasks?

6 MR. CHERNACK: A: Mr. Carpenter, panel, we -- this is  
7 the first time we've seen this, and we were not  
8 responsible for assigning these entities. As a --  
9 formerly as a Sea Breeze application, Sea Breeze would  
10 have been responsible for doing the development of  
11 project financing and turning over the operation at  
12 some point to BCTC.

13 As far as the rules and responsibilities,  
14 there may be other parties, but at this point I don't  
15 think we're prepared to say who they are because it's  
16 not our project now.

17 **Proceeding Time 2:10 p.m. T9**

18 MR. CARPENTER: Q: So I take it from that then, that  
19 certainly there are no parties that sort of spring to  
20 mind that are so fundamental in their role that they  
21 would necessarily fit into one of these spots.

22 MR. EL-RAMLY: A: Are you speaking of for example  
23 consultant or EIF-like or -- I'm not quite so sure of  
24 the question.

25 MR. CARPENTER: Q: Well, I guess I was assuming with  
26 respect to the revised proposal that EIF and SocGen

1           were off of the list, but if you're telling me that  
2           maybe they still are there --

3 MR. MANSON:    A:    Well, this may speak to the  
4           possibilities of the structure involving a partnership  
5           and the possibility of some participation of private  
6           capital in the overall project.  But I think as Mr.  
7           Chernack has made clear, that is not our decision to  
8           be making right now.

9 MR. EL-RAMLY:   A:    I think another way of saying it is  
10          that going forward, it's an offer not an obligation.  
11          An obligation is a compensation for what happened and  
12          took place until now, and going forward it is an  
13          option of BCTC and B.C. Hydro.  And all what Sea  
14          Breeze is saying is that if you accept the VIC-like  
15          proposal, the proposal that we brought in, and if you  
16          compensated for all the effort and intellectual  
17          capital and whatever we've done so far, we would  
18          endeavour to make ourselves available to the extent  
19          you want us to be available to help you capitalize on  
20          what have taking place up to date.  So you're asking a  
21          question that almost you maybe should be asking of  
22          BCTC and B.C. Hydro.  What do you want going forward,  
23          help, should the Commission find that the big project  
24          is a bit operated on VITR.  Why didn't you conclude  
25          that yourself before?  And if that's the conclusion,  
26          what other assistance do you need in order to develop

1 a project that you yourself did not conclude doing  
2 your own work that it was the right project to go  
3 ahead with?

4 MR. CARPENTER: Q: With all due respect, Dr. El-Ramly,  
5 we went from last Wednesday, Sea Breeze withdrawing  
6 its application for the VIC proposal, to last Friday,  
7 Sea Breeze expressing an interest in continuing on.  
8 We are now a number of days past that, and I am  
9 seeking to clarify what Sea Breeze sees as its ongoing  
10 role here, and what if anything it believes others  
11 which it has engaged in this process it would see as  
12 having a continuing role. And if you don't have a  
13 view on that, that's fine, but that's just the purpose  
14 of what this afternoon's session was about.

15 MR. CHERNACK: A: With that clarification, Mr.  
16 Carpenter, I would add that there may be a role  
17 legitimately for the private sector involved in  
18 procurement, if BCTC decides to go or is ordered  
19 somehow to proceed with a VIC-like project. Because  
20 of the procurement requirements of the public agency,  
21 it may be advantageous in terms of schedule,  
22 expedition to work with someone other than another  
23 public agency in obtaining the necessary B.C.  
24 contract.

25 MR. CARPENTER: Q: And when you say "a private party",  
26 I take it you mean Sea Breeze.

1 MR. CHERNACK: A: As Mr. Manson has said and testified,  
2 Sea Breeze is making itself available if he is so  
3 desired by the project proponents, whether it be BCTC  
4 or B.C. Hydro. We are not proposing that at this  
5 point.

6 MR. CARPENTER: Q: I understand. And I guess just then  
7 to perhaps try one more time on the vertical axis of  
8 the document, I mean, I appreciate that this Mr.  
9 Sanderson's document, but these are all tasks which  
10 you gentlemen have been aware need to take place with  
11 respect to the VIC project since at least last  
12 September or so, correct?

13 MR. MANSON: A: Could you clarify that? Sorry.

14 **Proceeding Time 2:15 p.m. T10**

15 MR. CARPENTER: Q: Well, I mean, since Sea Breeze  
16 started putting together its application for this  
17 project, it has known that all of these tasks down the  
18 left-hand side of this document over the four pages  
19 are major steps in this -- in the VIC project that  
20 would have to occur.

21 MR. EL-RAMLY: A: The major steps not necessarily  
22 complete without a careful review, but they appear to  
23 be reasonable steps.

24 MR. CARPENTER: Q: Yes. And so, knowing that, and  
25 having had some time to think about what a revised VIC  
26 proposal might look like, are there -- apart from the

1 four tasks that have been identified so far, are there  
2 any of the other ones here where you see it clearly  
3 being that there's one party that fits that role, and  
4 that's their responsibility?

5 MR. CHERNACK: A: Well, Mr. Carpenter, Mr. Chairman and  
6 Panel, the -- obviously B.C. Hydro has a legislative  
7 obligations for First Nation consultation in the  
8 stakeholder process.

9 MR. CARPENTER: Q: So you would see B.C. Hydro filling  
10 that --

11 MR. CHERNACK: A: -- project to be -- if it was a  
12 project to be promoted and developed by them. And  
13 going the vertical column again, on page two,  
14 technical studies would be the responsibility of BCTC,  
15 as the interconnected party. We would suggest that  
16 because of the technology that the technology  
17 supplier, if ABB or DC Light, or DC -- there are other  
18 versions, Siemens, whatever, the -- that the supplier  
19 of the technology be involved in those technical  
20 studies as a resource. And getting into  
21 counterparties, major project development, all of page  
22 three would primarily -- if it were a turn-key project  
23 development, would be the responsibility of the turn-  
24 key contractor, primarily. Responsible to the  
25 contracting party.

26 MR. CARPENTER: Q: And when you say the turn-key party,

1 I take it that you mean the -- whether it's ABB or  
2 someone else --

3 MR. CHERNACK: A: Well, whoever the term "EPC  
4 contractor is" --

5 MR. CARPENTER: Q: Yes.

6 MR. CHERNACK: A: -- would be responsible to the  
7 contracting counterparty.

8 MR. CARPENTER: Q: Yes, and I think that was assumed,  
9 and perhaps assumed too quickly by Mr. Sanderson in  
10 his label there, but in terms of the counterparty to  
11 the EPC contract?

12 MR. CHERNACK: A: I think the -- logically, the  
13 counterparty would be whoever's paying the EPC  
14 contractor.

15 MR. EL-RAMLY: A: But then a negotiation could be  
16 assisted -- by, for example, Sea Breeze. They have  
17 experience in doing something like that, they're  
18 actually doing a project right now, and they may have  
19 enough experience to help to negotiate a better  
20 contract with ABB. They have good relation with them,  
21 so that's viably BCTC/Sea Breeze.

22 MR. CARPENTER: Q: Anything else, gentlemen?

23 MR. EL-RAMLY: A: If by the Commission you mean the  
24 Commission, the B.C. Utilities Commission, then --

25 MR. CARPENTER: Q: I think that the Commission gets to  
26 define its own role, so I wouldn't be so presumptuous

1 to ask you what you think that their role should be.

2 MR. EL-RAMLY: A: No, no, I didn't mean it that way. I  
3 wasn't actually thinking that way at all. I'm saying,  
4 if obtaining the Commission approval is fostering the  
5 CPCN --

6 MR. CARPENTER: Q: I see.

7 MR. EL-RAMLY: A: -- then I actually believe that Sea  
8 Breeze could very well help you apply and obtain the  
9 approval of the Commission.

10 MR. CARPENTER: Q: Yes. And I think I heard that  
11 conversation with Mr. Sanderson, so I was trying to  
12 see whether there was any other boxes we could fill  
13 in.

14 I assume, since you've got down to what  
15 appears to be the end of the document, Dr. El-Ramly,  
16 this is about as far as we're going to be able to go.  
17 Okay. Thank you, Mr. Chair, those are my questions.

18 MR. FULTON: Mr. Chairman, there are no other questions  
19 from other parties on the issues that are before you  
20 this afternoon, so -- and I have no questions, so it's  
21 over to the Panel.

22 THE CHAIRPERSON: Thank you. And the Panel has no  
23 questions. Thank you. Yes, Mr. Landry?

24 MR. LANDRY: Mr. Chairman, there are a number of IRs, and  
25 there are a few things that we're working on, and as  
26 the panel has already gone into cross-examination I

1 just want to make it formally in the record, from your  
2 perspective, is it okay that I speak to the panel on  
3 issues that obviously are going to be coming up  
4 tomorrow and over the next couple of days? I leave  
5 that to you. But I need to speak to them about the  
6 IRs, for sure.

7 **Proceeding Time 2:20 p.m. T11**

8 THE CHAIRPERSON: Right. And I'm going to answer your  
9 question, but indirectly. There is a letter dated  
10 November the 4<sup>th</sup>, 2004, in which I spoke to this issue.  
11 And rather than reading it into the record I'll simply  
12 refer you to it. It provides, I think, an adequate  
13 zanswer to your question and we'll allow you to do as  
14 I think you're hoping to be able to do and work with  
15 your panel.

16 MR. LANDRY: Thank you.

17 THE CHAIRPERSON: Is there anything other than that  
18 before we adjourn?

19 Good, we're adjourned until tomorrow  
20 morning at 9:00.

21 **(PROCEEDINGS ADJOURNED AT 2:21 P.M.)**

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