

Reply to: Mark G. Underhill (Vancouver Office)
Our file: 10026

May 12, 2006

VIA E-MAIL

Robert J. Pellatt
Commission Secretary
B.C. Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Sir:

**Re: Re British Columbia Transmission Corporation Project No. 3798395/
Order No. G-70-05 Certificate of Public Convenience and Necessity Application -
Vancouver Island Transmission Reinforcement Project**

We are co-counsel for the Tsawwassen Residents Against Higher Voltage Overhead Lines Society ("TRAHVOL"). Please find enclosed the following:

1. Letter dated May 4, 2006, from Joseph J. Arvay, Q.C. to David Craig, with enclosure;
2. Letter dated May 9, 2006 from David Craig to Joseph J. Arvay Q.C.

TRAHVOL submits, in light of the enclosed correspondence, that the Final Submissions of the CEC can be given no weight whatsoever by the Commission Panel. Indeed, this illustrates the difficulty, as TRAHVOL raised in its Reply Argument to the Intervenors, in this Commission placing weight on the submissions of intervenors who do not file evidence and make witnesses available for cross-examination.

We would be obliged if copies of this letter and enclosures could be provided to members of the Panel.

Thank you for your assistance.

Yours sincerely,

UNDERHILL, FAULKNER, BOIES PARKER
LAW CORPORATION INC.

Per:


Mark G. Underhill

MGU*

cc Clients
J. Arvay, Q.C.
G. Fulton
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In association with Black, Gropper & Company

Reply to: Joseph J. Arvay, Q.C.
Our File: 2310

May 4, 2006

VIA ELECTRONIC MAIL

Mr. David Craig
Commercial Energy Consumers of BC

Dear Sir:

**Re: Re British Columbia Transmission Corporation Project
No. 3798395/Order No. G-70-05 Certificate of Public Convenience and Necessity
Application - Vancouver Island Transmission Reinforcement Project**

We are counsel for TRAHVOL, the Tsawwassen Residents Against Higher Voltage Overhead Lines Society ("TRAHVOL").

We have attached electronic copies of two newspaper articles, dated April 29, 2006, from the *Delta Optimist*.

The second article raises serious questions about the membership of the CEC, and the extent to which the CEC actually represents any "commercial ratepayers" in this proceeding, as is the understanding of all of the participants (see, for example, p. 2 of the BCOAPO Final Argument, where the CEC is said to represent "commercial customers", one of "BC Hydro's major customer classes").

Before deciding on a future course of action, we wish to provide you with an opportunity to make full disclosure on:

- (a) the membership of the CEC at the time of the CEC's intervention in the VITR proceeding, and the current membership of the CEC;
- (b) the extent to which the membership was consulted on or advised as to the content of the CEC Final Submission; and
- (c) the parties or individuals which provided you with instructions on the content of the CEC's Final Submission.

I look forward to hearing from you no later than the close of business on Monday May 8, 2006.

Yours truly,

ARVAY FINLAY

Per:



for Joseph J. Arvay, Q.C.

Cc: Clients

THE DELTA Optimist

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NEWS

Can't put a price on life

by Maureen Gulyas

A lobby group representing large commercial electrical consumers has urged the B.C. Utilities Commission to string high voltage lines along a right-of-way in Tsawwassen.

The Commercial Energy Consumers of B.C. made the recommendation to the commission as closing arguments in a lengthy public hearing on a contentious proposal to send power to Vancouver Island, via South Delta, wrapped up this month.

To the outrage of some local residents, the lobby group, in an attempt to downplay economic liability of the overhead lines option, said the risk of a child getting leukemia as a result of exposure to electromagnetic fields was so low the cost in dollars would be inconsequential.

"I was trying to understand the issue of what is a reasonable amount to be expended to avoid risks," consultant David Craig told the Optimist. "I had pulled out that piece of evidence and was trying to understand it in terms of what the dollars would mean."

Bernadette Kudzin, treasurer of South Delta secondary's Parent Advisory Council, said placing a dollar value on a child is disturbing.

"It's so incredibly offensive and over the top," said Kudzin, who along with council chair Janice Ristow filed a rebuttal on behalf of parents after they learned of the group's recommendation.

Local residents have lobbied the B.C. Transmission Corporation and the utilities commission to move the high voltage lines from the right-of-way, which passes through residential areas and public amenities, including the high school, because of potential health and safety impacts.

BCTC originally proposed putting the high voltage lines overhead on 100-foot towers, but amended its plan to underground the lines along the right-of-way. Residents aren't supportive of either option.

After hearing from angry residents, Craig said the Commercial Energy Consumers of B.C., a registered intervener in the hearing, has filed a request with the utilities commission to have the offending paragraphs removed from its submission.

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NATIONAL SALES



"With regard to this issue and the stir that it's raised, the particular paragraphs that I think were most problematic certainly were not intended to provoke the debate that has followed and we've just filed with the utilities commission to have those paragraphs deleted. It was not our intent to provoke that sort of debate," Craig said.

Kudzin is not impressed.

"Frankly, I can believe anyone actually thinks that way," she said.

The utilities commission is expected to make a decision on the proposal sometime this summer.

by Maureen Gulyas

Mayor Lois Jackson is angry that a lobby group supporting the overhead power lines option in Tsawwassen is claiming to represent Delta.

The municipality has since demanded the Commercial Energy Consumers of B.C. remove Delta's name from its website.

"Who gives them the right to go before the B.C. Utilities Commission claiming to represent Delta. I'm absolutely outraged," Jackson said.

That claim was troubling for Jackson because Delta has supported Tsawwassen Residents Against High Voltage Overhead Lines in its efforts to find an option more agreeable than those put forward by the B.C. Transmission Corporation.

Jackson acknowledged a brief affiliation with the Commercial Energy Consumers when the province introduced its energy plan in 2002. Delta provided the group with a one-time grant of \$500 to hire a lawyer to represent large commercial consumers on rate issues.

"Since then we've had no contact with them," she said. "We have not paid any dues or fees or had any contact with them in three or four years."

Jackson has sent an apology to the residents' group.

TRAHVOL spokesperson Maureen Broadfoot said it understands Delta has nothing to do with the lobby group, even though the municipality is named on its website.

The Commercial Energy Consumers of B.C. also purports to represent other large energy users, such as the City of Coquitlam, the B.C. Greenhouse Growers Association, UBC and UVic.

UBC public affairs officer Steve McRae said the university's initial contact with the group was about four years ago.

"We've been a member in a very loose way, but we've never

paid dues or been to a meeting, so we're not aware of what they're doing," he said.

"We neither endorse it, nor condemn it. We're not even aware of it," McRae said of the lobby group's controversial submission to the utilities commission on the Tsawwassen proposal.

Angie Gaddy, spokesperson for the greenhouse association, said it has had a loose affiliation that began in 2002.

"We don't really have an actual role and on one to two occasions we've given them input," Gaddy said.

The Commercial Energy Consumers of B.C. appears to be a collection of energy consultants that make appearances and register as interveners in various B.C. Utilities Commission hearings.

David Craig, who owns his own consulting firm, Consolidated Management Consultants Ltd., confirmed he made the controversial submission about the Tsawwassen proposal on behalf of the Commercial Energy Consumers.

"It's always run with a small collection of commercial businesses running it, then we reach out to associations for general support," Craig said.

According to Citizens for Public Power, in 2005 the Commercial Energy Consumers of B.C. received \$241,117 from the B.C. Utilities Commission under the Participant Funding program.

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British Columbia

May 9th, 2006

Mr. Joseph V. Arvay
440 – 355 Burrard Street
Vancouver, BC, V6C 2G8

by email

Regarding your letter May 4, 2006 in respect to questions regarding CEC membership and representation of commercial energy consumers' interests in the VITR hearing.

The CEC does not wish, while applications are before the BCUC, to undertake discussions in the media.

The CEC membership at the time of this VITR hearing consists of;
Martello Property Services – Mr. Wayne Smithies
Enterprise Codeworks – Mr. Jim Pigott
Raintree Cabinets – Mr Doug McKay
Elite Body Shop – Mr. John Bartok
BC Greenhouse Growers – Ms. Mary-Margaret Gaye
Union of BC Municipalities – Ms. Marie Crawford

The CEC is prepared to provide the following with regard to how it came to represent commercial energy consumer sector interests before the BCUC with regard to the VITR application and which members of the CEC have provided support and direction and it what way.

The Commercial Energy Consumers of BC (CEC) is an association established in 2003 to represent commercial energy sector interests in utility applications before the BC Utilities Commission (BCUC). This was a first for customers in the commercial sector: to have their interests consistently represented before the BCUC. Industrial and some residential customer groups have been well represented for years before the BCUC. The CEC was initiated and formed by Penny Cochrane of Willis Energy and David Craig of Consolidated Management Consultants Ltd. They have provided the administrative support for the CEC on a voluntary basis, as a service to the commercial energy consumer sector.

As implementation of the 2002 BC Energy Plan began, the CEC contacted energy consumers and some associations of energy consumers receiving electricity and or gas at commercial rates, making them aware of the disparity between the utility costs to serve the sector and the revenue collected from the sector. As reported by BC Hydro to the Legislative Committee in 2003, the utility over-collects from their commercial class customers, as happens in many energy utilities in North America. Members signed up and the CEC engaged legal counsel and energy consultants to intervene and present commercial sector concerns in the BCUC Inquiry into BC Hydro's Heritage Electricity Proposal. The results of the inquiry informed the BCUC recommendations to the provincial government, which accepted the recommendations for the most part, as submitted. The resultant Heritage Contract preserves the right of the benefits for all British Columbia consumers from the legacy electricity generating resources in the province.



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After the Heritage Contract hearings, the CEC added as a member Mr. Jim Pigott, who has ownership interests in software development businesses, with customer bases among commercial energy consumer businesses. At that time he assisted with calling various other businesses to seek their support for future commercial energy consumer representation before the BCUC. He also lent his support to the interest in retaining low rates for energy consumers and for maintaining utility efficiency and cost effectiveness in order to ensure a vital economy for the Province. Mr. Pigott has provided direction and guidance for the CEC since that time in verbal discussions with Mr. Craig.

Since 2003, the CEC has intervened in several proceedings with support from a variety of different commercial sector parties. The BCUC's final decisions in these regulatory proceedings have resulted in substantial improvement over the utilities original applications and resulted in benefits for commercial sector ratepayers. For example the regulatory proceedings for the 2004 BC Hydro Revenue Requirements application resulted in an approved rate increase that was less than the application. For each 1% reduction of the proposed rate increase consumers saved about \$25 million per year on their electricity bills. When the increase is avoided over years, the savings could amount to hundreds of millions of dollars for consumers.

Prior to the BC Hydro Revenue Requirements hearing Mr. Wayne Smithies became a member of the CEC. Mr. Smithies has ownership interest in the Building and Property Management sector and is therefore either directly or indirectly affected by commercial energy consumer rates. Mr. Smithies agreed to become a member of a customer panel, which the CEC was intending to lead. The BCUC did not require to hear from the panel and so the panel was not presented. Mr. Smithies has lent his support to the interest in retaining low rates for commercial energy consumers and for maintaining utility efficiency and cost effectiveness. Mr. Smithies has provided direction and guidance for the CEC since this time in verbal discussions with Mr. Craig.

Toward the end of 2004 the CEC began discussing forming a Board of Directors to provide the direction for the CEC on a more formal basis and at that time discussed the possibility of Mr. Smithies being a member of such a Board. He agreed he would act as a member of a Board of Directors when the transition was ready to be made.

During 2004, the CEC came to understand the breadth and extent of the common viewpoint of the commercial energy consumers to avoid unnecessary rate increases. This core concern joined with the concern that commercial energy consumers' rates are higher than the cost of service for providing them, have become the key touchstones for CEC.

At the end of 2004 beginning of 2005 Mr. Doug McKay became a member of the CEC. The issues of containing rate increases also motivated Mr. McKay who has ownership interest in wood manufacturing, in particular cabinets. His business is directly and indirectly affected by commercial energy consumer rates. Mr. McKay lent his support to the interest of retaining low rates for commercial energy consumers



British Columbia

and for maintaining utility efficiency and cost effectiveness. Mr. McKay has provided direction and guidance for the CEC since that time.

While representing commercial energy consumer sector interests over this time the CEC has accumulated some understanding of the basis for these interests. For instance numerous municipalities and other groups and businesses put forward positions seeking to limit rate increases during BC Hydro's last revenue requirements hearing. The commercial energy consumer sector interests are about ensuring customer service and a reliable, safe, secure and environmentally sound energy supply for the long term while constraining energy cost increases, ensuring least cost supply resource acquisition, least cost capital expenditure projects, and least cost operations. Since regulated utilities must apply to the BCUC for approval of rate and revenue requirements and of projects that impact costs and revenues, it is efficient and effective to bring commercial energy consumer sector interests to this forum.

Toward the later part of 2005 the CEC added Mr. John Bartok as a member. Mr. Bartok has an ownership interest in the automotive body shop business and is directly and indirectly affected by commercial energy consumer rates. Mr. Bartok lent his support to the interest of retaining low rates for commercial energy consumers and for maintaining utility efficiency and cost effectiveness.

Toward the end of 2005 the BC Greenhouse Growers Association reconfirmed its association and provided general guidance lending support to the interest of maintaining efficient and cost effective utilities and to having least cost rates, consistent with reliable, secure, safe and environmentally responsible energy supply.

Also toward the end of 2005 the Union of BC Municipalities reconfirmed its association and provided general guidance lending support to the interest of maintaining efficient and cost effective utilities and to having least cost rates consistent with reliable, secure, safe and environmentally responsible energy supply. In addition they indicated support for renewable BC Clean alternative energy projects where financially viable.

The CEC has transitioned from interim administration working with members to being run by a Board of Directors made up of individuals with commercial energy consumer sector interests in different components of the commercial sector. The Board of Directors is for now formed by Mr. Smithies, Mr. Pigott, & Mr. McKay. To determine a direction for CEC representation of the commercial energy consumer sector interests the CEC is informed by its historical understanding of commercial energy consumer sector interests, has general guidance from members and also reaches out to other commercial energy consumer sector parties to obtain their perspectives.

Prior to forming the Board these three gentlemen were consulted with respect to the CEC intervention into the VITR application, which was made in July 2005.

The primary concerns were that the CEC had taken a position in other hearings and that to be consistent it needed to back the positions it had previously taken. The CEC

positions taken were that the Duke Point Power Purchase Agreement would result in energy that was unnecessarily expensive and was not needed to resolve the real issue, which was provision of capacity on Vancouver Island. It was also known that the BCTC would need to replace transmission capacity to Vancouver Island sometime soon in any event and the CEC thought this formed a better basis for providing the capacity to Vancouver Island.

This led to the formation of a likely opening position of supporting the BCTC application for VITR.

During the course of establishing the CEC position the CEC choose to reach out to some other commercial sector groups. Mr Craig undertook to discuss the situation with Mr. Mike Bradshaw who at the time was the Chair of the BC Chamber of Commerce. Mr Craig suggested that the VITR line was potentially controversial but that the CEC felt that as a matter of being consistent and to support the integrity of the positions it has taken that it would likely support the BCTC VITR Project. Mr. Craig established that Mr. Bradshaw was supportive of BCTC's transmission line to Vancouver Island and that he had spoken in support of the VITR line on the radio. Mr Craig confirmed with Mr. Bradshaw that the BC Chamber as an association would speak for itself and would not be a member of the CEC and that the CEC would not purport to speak for the Chamber. Mr. Craig had further discussion with Mr. Bradshaw with respect to transmission lines in general and the potential for BC clean energy, and wind power in particular. The discussion identified that this sector of the economy could be a significant contributor and that transmission policy would be important to supporting the development.

Also during the course of establishing the positions for the CEC Mr. Craig spoke with a representative of the association member Union of BC Municipalities. The VITR project was discussed and Mr. Craig determined that the UBCM would stay neutral with respect to the VITR Project as it was going to be a significant issue for one of its member municipalities, Delta. Mr Craig provided assurance that the CEC would not speak for the UBCM and that the CEC would take its own positions in its own name. The discussion then turned to more general direction that the UBCM might provide to the CEC in confirmation of commercial sector interest, which might guide the CEC in its activity. This confirmation was provided by the UBCM. Most notably the UBCM confirmed, as had been the case since the 2004 rate hearings, that they saw the commercial sector interest in terms of maintaining least cost rates, while ensuring reliable, secure, safe, environmentally sound supply of energy. Additionally, the UBCM provided support for the alternative clean energy sources.

In forming the final submission for the VITR hearing the Board members were consulted verbally and the direction for supporting the VITR Project route 1 option was agreed as being in the commercial energy consumers interest, as was the request that the approval be subject to a good faith negotiation with SeaBreeze to determine if a suitable contractual arrangement might lead to a more optimal solution for ratepayers and stakeholders. The Board members agreed in verbal discussion that Mr. Craig should make the submission and they did not need to review the details further before submission.



British Columbia

Stakeholders and customer groups, like the CEC, review utility applications, determine the issues before them, and when relevant, register with the BCUC as an intervenor. Once registered the intervenors may ask questions of the applicant in the form of formal information requests filed with the BCUC, complete analysis of technical data, and when applicable, consult experts, develop evidence for filing, and participate in all regulatory proceedings associated with the application, including filing final argument.

The Utilities Commission Act enables the BCUC to approve participant funding requests, covering research, preparation and proceeding participation costs, from those participants requiring support to represent stakeholders and, those who, without funding support, could not afford to participate. The BCUC has guidelines for this participant funding and makes determinations as to the level of support that will be provided to participants after a proceeding's final decision is made. The CEC has filed for and received approval for participant funding in a number of cases and its submissions have been referenced by the BCUC, recognizing to some extent the contribution made by the CEC.

The CEC believes that by participating in these regulatory matters and intervening on behalf of the commercial energy consumer customer class that it has contributed positively, efficiently and economically, improving the final outcomes from these detailed and technical proceedings for all energy customers, and has advanced the interests of commercial energy consumer class customers in particular.

The CEC continues to be focused on commercial energy consumer rates and rate design and related applications, which might affect these interests. The CEC Board anticipates that the commercial sector interest in these issues remains a real and important interest to have represented before the BCUC.

We have tried to provide a full and comprehensive review of how the CEC came to represent commercial energy consumer sector interests before the BCUC particularly with regard to the VITR application and which members of the CEC have provided support and direction and it what way.

We trust this will provide answers to your questions and we would appreciate an opportunity to discuss this with you as well as to discuss the alternative options, for which we supported negotiations.

Yours truly,

for the CEC
David Craig