



Canadian Office and Professional Employees Union Local 378  
2nd Floor, 4595 Canada Way, Burnaby, BC V5G 1J9  
TEL 604-299-0378 TOLL FREE IN BC 1-800-665-6838 FAX 604-299-8211 www.cope378.ca

BC HYDRO – CPCN FOR DAWSON CREEK/CHETWYND  
AREA TRANSMISSION PROJECT EXHIBIT C4-9

LF:BCUC

November 17, 2011

VIA EMAIL: [commission.secretary@bcuc.com](mailto:commission.secretary@bcuc.com)

Ms. Alanna Gillis  
Acting Commission Secretary  
British Columbia Utilities Commission  
Sixth Floor, 900 Howe Street, Box 250  
Vancouver, BC V6Z 2N3

Dear Mesdames/Sirs:

**Re: British Columbia Hydro and Power Authority Project No. 3698640 / Order G-132-11  
Certificate of Public Convenience and Necessity Application for the Dawson Creek/Chetwynd  
Area Transmission Project  
Proceeding Adjournment**

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This is the submission of the Canadian Office and Professional Employees' Union, Local 378, in response to Exhibit A-19 in this proceeding, inviting comment regarding the application of the West Moberly First Nations for an adjournment of this proceeding to permit the production of an impact study. The WMFN application (Exhibit C5-13) indicates that this process will require some six months, once the terms of reference for the study are determined.

COPE 378 urges the Commission to grant the adjournment. In our submission, seeking to move more quickly toward the resolution of the CPCN application could prove directly counter-productive. The constitutional imperatives imposed upon the Crown (and, by extension, upon the Commission when considering project applications from Crown agencies) may well trump other considerations, and a failure to adequately address the Crown obligations to First Nations may make any project approval vulnerable to reversal upon appeal.

The Commission faced an analogous situation in its initial consideration of BCTC's Interior-Lower Mainland Transmission Reinforcement CPCN application. The Commission declined to adjourn the proceeding pending an appeal concerning its role with respect to the Crown obligations to consult with and (where appropriate) accommodate First Nations, in relation to the approval of projects of Crown-owned utilities. The subsequent setting-aside of the CPCN in that matter, and the resultant re-hearing of the entire application, set back the project more than would have been the case had the original hearing simply been suspended pending the appeal. The end result was millions spent by the utilities in regulatory and legal expenses, and a very substantial delay to the transmission line.

Similarly, it would achieve nothing to plunge ahead and make a determination in this matter if short-cuts in the Crown's consultation processes make the outcome vulnerable to an appeal.

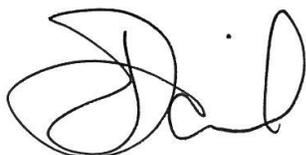
It is beyond dispute that BC Hydro has a duty to consult with the WMFN with respect to the proposed project, and to ensure that the First Nations have adequate capacity resources for that consultation process to be meaningful. Hydro obtained DCAT Definition Phase approval from the Commission on July 13, 2009, but chose not to commence consultations until nearly a year later, in the spring of 2010 (Ex. B-14, BCUC IR 2.26.2). Hydro's proposed capital costs of the project include provision for First Nations Consultation including capacity funding (Ex. B-15, BCOAPO IR 2.1.1). It is hardly in a credible position today to plead either timeliness or cost in the face of the adjournment application.

Furthermore, we submit that the collaborative process of conducting the study is likely to advance significantly the level of mutual understanding between the First Nations and BC Hydro, and reduce or eliminate the range of issues between them, greatly facilitating an efficient and effective regulatory process.

We submit that the prudent course would be to adjourn the proceeding, and to attach a reasonable time-frame to that adjournment (perhaps in the order of seven or eight months).

All of which is respectfully submitted.

Yours truly,

A handwritten signature in black ink, appearing to read 'Jim Quail', with a stylized flourish at the end.

Jim Quail, Barrister & Solicitor  
Legal Director  
COPE 378

JQ/jb:usw2009

cc: Parties of Record