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October 26, 2015

Ms. Erica Hamilton
Commission Secretary
British Columbia Utilities Commission
Sixth Floor – 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Ms. Hamilton:

**RE: British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
2015 Rate Design Application (2015 RDA)**

BC Hydro writes to provide its written reply to the submissions of interveners on the five matters raised in Appendix B of BCUC Order G-166-15 (**Exhibit A-3**). In addition to BC Hydro (**Exhibit B-2**), the following parties made written submissions: Association of Major Power Consumers of British Columbia (**AMPC**) (**Exhibit C12-2**); B.C. Sustainable Energy Association and Sierra Club of B.C. (**BCSEA-SCBC**) (**Exhibit C3-2**); British Columbia Old Age Pensioners' Organization *et al* (**BCOAPO**) (**Exhibit C2-2**); Mr. Roger Bryenton (**Exhibit C11-2**); Canadian Office and Professional Employees Union, Local 378 (**COPE 378**) (**Exhibit C4-2**); Canadian Association of Petroleum Producers (**CAPP**) (**Exhibit C13-1**); Commercial Energy Consumers Association of British Columbia (**CEC**) (**Exhibit C1-2**); Dewdney Area Improvement District (**DAID**) (**Exhibit C30-2**); Mr. Bruce Edwards (**Exhibit C31-2**); FortisBC Inc. and FortisBC Energy Inc. (collectively **FortisBC**) (**Exhibit C26-1**); Ms. Janis Hoffmann (**Exhibit C21-2**); Ms. Lori Hoffmann (**Exhibit C25-2**); Non-Integrated Areas Ratepayer Group (**NIARG**) (**Exhibit C22-2**); Ms. Sharon Noble (**Exhibit C28-2**); and Ms. Jayne Priest (**Exhibit C19-2-1**).

BC Hydro's written submissions follow the order of the five subject matter headings set out in Appendix B of Exhibit A-3.

As a preliminary matter, BC Hydro understands that Exhibit A-3's revised timelines for written submissions (extension from October 14 to October 19, 2015) and reply submissions (extension from October 19 to October 26, 2015) addresses the requests for extensions made by Roger Bryenton (Exhibits C11-1 and section 1 of C11-2), Garry Lybeck (**Exhibit C17-1**), Jane Priest (Exhibits C19-1 and C19-2-1), Hans Karow (**Exhibit C20-1**), Bob Tucker (**Exhibit C23-1**), Sherry Ridout (**Exhibit C24-1**), Sharon Noble (Exhibits C28-1 and C28-2), DAID (**Exhibit C30-2**), Bruce Edwards (**Exhibit C31-2**) and Ethelyn Rankin (**Exhibit C34-1**). BC Hydro is strengthened in this view by the Commission Secretary's October 19, 2015 e-mail response to Ms. Noble advising of directive 2 of Exhibit A-3, which states that with the exception of the revised timelines for

written submissions and reply submissions on the five matters, “[a]ll other dates in the regulatory timetable established in Appendix A to Order G-156-15 remain unchanged”. As is clear from BCUC Order G-156-15 (**Exhibit A-2**), the current written process does not constitute the entirety of the review of the 2015 RDA; rather, it is only the start of the regulatory review process.

Generally those parties seeking extensions questioned the provision of notice of the 2015 RDA filing. Directive 3 of Order G-156-15 requires BC Hydro to “publish, as soon as practicable but no later than October 7, 2015, in display-ad format, notice of the [2015 RDA] attached as Appendix C to this order in such appropriate local news publications as may properly provide adequate notice to the public in its service area”. BC Hydro advises that such notice was provided in the following newspapers on the following dates:

Newspaper	Date of Published Notice
<i>Alaska Highway News</i>	October 7, 2015
<i>Cranbrook Daily Townsman</i>	October 7, 2015
<i>Dawson Creek Mirror</i>	October 9, 2015
<i>Kamloops This Week</i>	October 8, 2015
<i>Kimberly Daily Bulletin</i>	October 7, 2015
<i>Kitimat Northern Sentinel</i>	October 14, 2015
<i>Nanaimo Daily News</i>	October 7, 2015
<i>Port Alberni</i>	October 8, 2015
<i>Prince George Citizen</i>	October 7, 2015
<i>Prince Rupert Northern View</i>	October 14, 2015
<i>Times Colonist</i>	October 7, 2015
<i>The Province</i>	October 7, 2015
<i>Vancouver Sun</i>	October 7, 2015

On October 7, 2015, BC Hydro advised Commission staff that it would not be possible to meet Order G-156-15’s notice publication deadline of October 7, 2015 despite best efforts. As it does on other regulatory filings, BC Hydro will provide the Commission with evidence of compliance with directive 3 of Order G-156-15 in due course.

1 F2016 Cost of Service Study

In BC Hydro’s respectful submission, characterizing the Fiscal (**F**) 2016 Cost of Service (**COS**) as “a contextual document for rate design” is not helpful. As acknowledged by a number of intervener written submissions, the F2016 COS is evidence for both 2015 RDA Module 1 and Module 2 rate design purposes (e.g., BCSEA-SCBC at Exhibit C3-2, page 2 of 4; FortisBC at Exhibit C26-1, page 2). BC Hydro agrees with COPE 378 that as evidence for a number of BC Hydro’s rate design proposals, the F2016 COS “inputs

and results” must be reviewed by the Commission (Exhibit C4-2, page 2), and with BCOAPO (Exhibit C2-2, page 2) and NIARG (Exhibit C22-2, page 2) that this entails “a full review” of the F2016 COS.

No party opposes BC Hydro’s recommendation that the F2016 COS be subject to the first round of Commission and intervener Information Requests (**IR No. 1**). BC Hydro agrees with AMPC that the main F2016 COS issue from a rate design perspective is to test the F2016 COS energy, demand and customer-related changes relative to revenues as compared to the 2007 RDA Decision COS-related directions,¹ but does not see this as limiting; such a review would encompass all F2016 COS inputs and results given that the F2016 COS informs not only 2015 RDA Module 1, but also 2015 RDA Module 2 rate design issues such as Transmission and Distribution extension policies. BC Hydro has no objection to AMPC’s statement that “BC Hydro should still be required to provide calculations of the full impact on revenue to cost ratios of any changes in such classifications or allocations if so requested by interveners” (Exhibit C12-2, page 2). BC Hydro did this as part of the Workshop 4 process for a number of COS methodology issues such as Demand Side Management (**DSM**) functionalization, regulatory account functionalization and classification, Generation hydroelectric classification, independent power producer classification and Distribution classification (refer to Table 3 of the Workshop 4 discussion guide, Appendix C-2B of the 2015 RDA (**Exhibit B-1**), page 64 of 205, with ‘Base F2013 R/C Ratio’ based on the 2007 RDA decision COS-related directions). Note also that the draft F2016 COS model circulated to 2015 RDA workshop participants in February 2015 permits sensitivity testing of the results, including for F2016 COS methodology items for which there was not a fair degree of consensus such as Generation hydroelectric classification and Smart Meter Infrastructure classification; refer to Appendix C-2C of Exhibit B-1, page 3 of 79.

BC Hydro’s F2016 COS-related proposal in Exhibit B-2 is limited. BC Hydro proposes that after it responds to IR No. 1, and after discussion at the January 12, 2016 procedural conference, the Commission order a Negotiated Settlement Process (**NSP**) to determine if, as evidenced by the 2015 RDA stakeholder engagement process, there is general consensus on a number of F2016 COS methodology items that could be the subject of Commission endorsement (by way of Commission approval of any Negotiated Settlement Agreement). BC Hydro notes that many of the F2016 COS methodology items continue with the 2007 RDA Decision, such as classifying Transmission as 100 per cent demand and allocating Generation demand-related and Transmission costs using 4 Coincident Peak.² BC Hydro acknowledges that AMPC and CAPP are not in agreement with respect to the F2016 COS classification of Generation hydroelectric costs and that CEC expressed the concern in the 2015 RDA stakeholder engagement

¹ *In the Matter of British Columbia Hydro and Power Authority: 2007 Rate Design Application, Phase-1, Decision, 26 October 2007 (2007 RDA Decision)*; copy available at http://www.bcuc.com/Documents/Proceedings/2007/DOC_17004_10-26_BCHydro-Rate-Design-Phase-1-Decision.pdf. Table 3-1 of Exhibit B-1 summarizes the F2016 COS methodology changes as compared to the relevant 2007 RDA Decision directions.

² 2007 RDA Decision, direction 3, page 206.

process that it has not had the opportunity to examine in detail the F2016 COS approach to classifying and allocating Distribution costs. Accordingly it is likely that with respect to these COS methodology items, the default will be 2007 RDA Decision direction 5 (Generation hydroelectric classification of 45 per cent energy and 55 per cent demand) and direction 4 (Distribution classification of 65 per cent demand, 35 per cent customer).

2 Expedited Review Process for Large General Service and Medium General Service 100 Per cent Part 1 Pricing Proposal

No party making submissions opposed an expedited review process for BC Hydro's proposed Medium General Service (**MGS**) and Large General Service (**LGS**) new account rate (**100 per cent Part 1 Pricing**) to allow for an implementation date of January 1, 2016. AMPC (Exhibit C12-2, page 2) and CEC (Exhibit C1-2, page 2), each of which representing customers taking service under the LGS and MGS rates, support BC Hydro's proposed expedited review of the 100 per cent Part 1 Pricing proposal. In addition, a number of MGS/LGS customers have expressed their support for the 100 per cent Part 1 Pricing proposal (refer to page 6-71 of Exhibit B-1).

BCSEA-SCBC (Exhibit C3-2, page 2), BCOAPO (Exhibit C2-2, page 2) and COPE 378 (Exhibit C4-2, page 2) qualify their support *on condition that* the effective date for BC Hydro's proposed Minimum Reconnection charges be advanced to either December 1, 2015 or January 1, 2016, with an accommodating review process. Two of these three interveners (BCOAPO, COPE 378) take the same position with respect to the freshet rate pilot review process (refer to part 3 of this letter).

BC Hydro urges the Commission to reject conditioning of the 100 per cent Part 1 Pricing proposal review process and implementation date in the manner advanced by BCSEA-SCBC, BCOAPO and COPE 378. Each rate proposal, including requested implementation date, should be adjudicated on its own merits. There is no logical basis for the BCSEA-SCBC/BCOAPO/COPE 378 conditioning requests, and thus none of these parties have offered a substantive reason for rejecting BC Hydro's proposed expedited review process:

- None of the parties address the reasons why BC Hydro is seeking an expedited review for its 100 per cent Part 1 Pricing proposal. As discussed in Appendix C-4D of Exhibit B-1 (pages 2 and 3 of 8), a number of MGS and LGS customers have complained to BC Hydro about the existing LGS and MGS new account rates, which provide that new accounts be subject to pricing of 85 per cent of monthly consumption billed at the Part 1 energy rates and 15 per cent of monthly consumption at the Part 2 energy Long Run Marginal Cost (**LRMC**) based energy rates. In addition to MGS/LGS customer support for the 100 per cent Part 1 Pricing proposal, BC Hydro notes the Commission recently issued a decision regarding the existing LGS and MGS new account rates in response to a complaint initiated by Sobeys West Inc. (**Sobeys**) (see page 6-71 of Exhibit B-1). Through Order G-142-

15,³ the Commission directed BC Hydro to waive the difference in the amount Sobeys was to be billed under the existing LGS and MGS new account rates as compared to the amount it would have been billed if charged using the acquired assets' baselines. The 100 per cent Part 1 Pricing proposal is consistent with the Commission's decision that BC Hydro not apply existing LGS and MGS new account rates to Sobeys;

- In addition, there are different revenue requirements implications arising from a January 2016 implementation date for both the proposed Minimum Reconnection charges and the 100 per cent Part 1 Pricing proposal. Implementation of the proposed Minimum Reconnection charges on January 1, 2016 leads to a \$950,000 impact to net income in F2016. This is discussed below in part 4 of this letter. In contrast, implementation of the 100 per cent Part 1 Pricing proposal on January 1, 2016 does not have a F2016 revenue requirements impact. Revenues associated with the MGS and LGS new account rate are not included in the forecast revenue amount requested and ultimately approved in BC Hydro's Revenue Requirements Applications (**RRAs**).

CEC recommends that the expedited review process for the 100 per cent Part 1 Pricing proposal consist of: submission of BCUC staff and intervener IRs concerning the 100 per cent Part 1 Pricing proposal by the end of October 2015; BC Hydro responses to these IRs by mid-November 2015; and intervener submissions by end of November 2015 (Exhibit C1-2, page 2). BC Hydro generally agrees with this approach, and proposes the following:

- ▶ BCUC staff/Interveners submit IRs concerning the 100 per cent Part 1 Pricing proposal on November 3, 2015;
- ▶ BC Hydro responds to these IRs on November 17, 2015;
- ▶ Intervener written submissions due on November 24, 2015 (BC Hydro's initial submission is section 6.6 of the 2015 RDA);
- ▶ BC Hydro reply submission on December 1, 2015;
- ▶ BCUC order on or before December 10, 2015.

3 BC Hydro's Proposed Expedited Review Processes for Transmission Service Rates

Freshet Rate Pilot

No party making submissions opposed BC Hydro's suggested expedited review process for its freshet rate pilot proposal, which consists of Round 1 IRs issued and responded to in accordance with the Order G-156-15 timeline, and a Streamlined Review Process (**SRP**) in January 2016.

³ <http://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/120245/index.do?r=AAAAAQAIrY0xNDItMTUB>

AMPC (Exhibit C12-2, page 3) and CAPP (Exhibit C13-1, page 2), who each represent eligible freshet rate pilot customers (Transmission Service customers who take service under Rate Schedule (**RS**) 1823), support BC Hydro's proposed expedited review of the freshet rate pilot. BCSEA-SCBC (Exhibit C3-2 page 3) also supports BC Hydro's proposed expedited review of the freshet rate pilot.

Similar to their position on the expedited review process for the 100 per cent Part 1 Pricing proposal, BCOAPO (Exhibit C2-2, page 3) and COPE 378 (Exhibit C4-2, page 2) are not opposed to BC Hydro's proposed expedited review process for the freshet rate pilot on condition that the Minimum Reconnection charges are subject to an expedited review process and implemented by either December 1, 2015 or January 1, 2015. BC Hydro urges the Commission to reject this conditioning of the freshet rate pilot review process. BC Hydro submits that neither BCOAPO nor COPE 378 have raised a substantive objection to BC Hydro's freshet rate pilot review and implementation date proposal:

- Again, there is no logical basis for the BCOAPO/COPE 378 conditioning requests and that the appropriateness of and timing of an expedited review of each rate proposal should be determined on its own merits. Neither BCOAPO nor COPE 378 address the consequences of holding the freshet rate pilot hostage to the timing of review and implementation of the Minimum Reconnection charge, and in particular if BC Hydro is unable to implement the freshet rate in a timely way prior to the calendar 2016 freshet period. BC Hydro seeks approval of the freshet rate pilot by February 1, 2016 so that the terms of service are available to interested customers and for determining the freshet period baselines in the February to March 2016 timeframe to be ready for the May commencement of the 2016 freshet period;
- The freshet pilot would not commence until F2017, and therefore any resulting revenues from the pilot would not impact BC Hydro's approved F2016 revenue requirements.

CEC (Exhibit C1-2, page 2) indicates support for an expedited review of the freshet rate pilot but submits that the freshet rate pilot should also be made available to General Service customers to ensure "non-discriminatory development of this opportunity". In response, BC Hydro makes the following points:

- The legal test under sections 59(1), 59 (2) and 60(1) of the *Utilities Commission Act (UCA)* is that a rate must not be "unduly discriminatory" (emphasis added); refer to section 2.2.1.1 of Exhibit B-1. CEC appears to imply that it would be unduly discriminatory to offer the two year freshet rate pilot service to RS 1823 customers but not to General Service customers. If this is CEC's position, BC Hydro does not agree. BC Hydro's offering of the two year freshet rate pilot service to RS 1823 customers only, and the Commission setting the freshet rate on this basis for the proposed two year pilot period, is not unduly discriminatory or unduly preferential. The essence of the unduly discriminatory prohibition is that similarly situated

customers must be treated similarly.⁴ General Service customers do not have substantially similar circumstances to RS 1823 customers for purposes of the freshet rate pilot service offering. In addition, BC Hydro notes that the question of whether a pilot program offered to a limited number of customers can or should be considered discriminatory or otherwise unlawful has been considered previously by a United States regulator. **Attachment 1** to this letter is an IR response BC Hydro filed in the 2009 LGS Application proceeding in which it summarized the thinking of the Illinois Commerce Commission on this issue. As is apparent, there is no lawful basis for the claim of discrimination in the current circumstances;

- There are practical considerations flowing from CEC's request. The proposed freshet rate proposal is structured as a two year pilot. Eligible RS 1823 customers amount to about 140 accounts, whereas the three General Service rate classes (LGS, MGS and Small General Service) have in total about 203,000 accounts. Extending the freshet rate pilot beyond eligible RS 1823 customers to all General Service customers would be a very large expansion of the pilot. BC Hydro's freshet rate pilot proposal resulted from 1.5 years of stakeholder engagement from May 2014 to September 2015. During that time, neither CEC nor any other party offered evidence that General Service customers can meaningfully increase consumption during the freshet period. As described on Exhibit B-1, page 217 of Appendix C-4B, CEC raised the potential expansion of the freshet rate pilot to General Service customers at Workshop 11B held on June 26, 2015. BC Hydro committed to examining the potential for a freshet rate for some or all General Service customers following the evaluation of the proposed two year freshet rate pilot. The timing of BC Hydro's suggested freshet rate pilot evaluation is set out at page 7-44 of Exhibit B-1.

As noted in part 3 of Exhibit B-2, BC Hydro requests that the Commission decide the freshet rate pilot review process as soon as practicable after the reply submission due date of October 26, 2015. BC Hydro suggests January 19, 2016 date for the freshet rate pilot SRP.

Existing Transmission Service Rates

BC Hydro's existing Transmission Service rates which are the subject of RDA Module 1 are listed at page 7-1 of Exhibit B-1 (RS 1823 (Stepped Rate); RS 1825 (Time of Use Rate); RS 1852 (Modified Demand); RS 1853 (IPP Station Service); and RS 1880 (Standby and Maintenance Supply)). Section 7.2.1 of Exhibit B-1 sets out the three RS 1823 aspects over which the Commission has jurisdiction: pricing principles for F2017-F2019; definition of revenue neutrality; and the demand charge (referred to as the three RS 1823 matters).

⁴ This is the unduly discriminatory test the Commission used for purposes of its review and approval of BC Hydro's shore power rate proposals (RS 1280, RS 1891 and Tariff Supplement No. 86). Refer to Appendix A to Order G-111-15, page 7 of 10; <http://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/120254/index.do?r=AAAAQAOT3JkZXIqRy0xMTEtMTUB>.

No party making submissions opposed BC Hydro's suggested expedited review process for existing Transmission Service rates, including the three RS 1823 matters. BC Hydro suggested an expedited review process consisting of Round 1 IRs and responses, and a SRP:

- AMPC (Exhibit C12-2, page 3) who represents customers taking service under RS 1823, supports BC Hydro's expedited review process for the existing Transmission Service rates, including the three RS 1823 matters. CAPP (Exhibit C13-1, page 2), which also represents customers taking service under RS 1823, supports an expedited review process for RS 1823 pricing principles and takes no position on the other existing Transmission Service rates;
- CEC (Exhibit C1-2, page 3) submits that an expedited review process for RS 1823 pricing principles and "[RS] 1852 and [RS] 1892" should be adopted by the Commission, and recommends a SRP for that purpose (note that RS 1892 is the proposed two year freshet rate pilot);
- BCSEA-SCBC (Exhibit C3-2) does not object to BC Hydro's expedited review process for all existing Transmission Service rates;
- BCOAPO (Exhibit C2-2, page 3) is undecided on the RS 1823 review process. BCOAPO references the definition of revenue neutrality as the reason for this position, and expects to be in a better position to formulate its position after receipt of BC Hydro's Round 1 IR responses. BCOAPO does not oppose an expedited review process for the remainder of the existing Transmission Service rates, again on condition that the effective date for BC Hydro's proposed Minimum Reconnection charges be advanced to either December 1, 2015 or January 1, 2016 implementation date. COPE 378 (Exhibit C4-2, page 2) does not oppose an expedited review process for the existing Transmission Service rates, including the three RS 1823 issues, on condition that BCOAPO's request regarding the Minimum Reconnection charges implementation date(s) is granted.

BC Hydro submits that the Commission should decide that the existing Transmission Service rates be the subject of an expedited review that includes a SRP as the final step as soon as practicable after the reply submission due date of October 26, 2015. BC Hydro acknowledges that the timing imperatives behind its freshet rate expedited review process request do not apply to the existing Transmission Service rates, and accordingly is of the view that the date of the SRP can be discussed at the January 12, 2016 procedural conference.

4 BC Hydro's Proposed Expedited Review Process for Minimum Reconnection Charges

By way of background, COPE 378 (Exhibit C4-2, page 3) asserts that "it is fair to say that the majority of people who are disconnected incur the [Minimum Reconnection] charge because they are having money troubles or because they are low and fixed income ratepayers". There is no evidence to suggest that the majority of BC Hydro

disconnections result from the fact that the particular customer is low income or on a fixed income. This is a topic that should be tested in the regulatory review process.

There is no consensus on the expedited review timeline or implementation date for BC Hydro's Minimum Reconnection charges proposal:

- CEC (Exhibit C1-2, page 3) and FortisBC (Exhibit C26-1, page 4) support BC Hydro's proposed expedited review process for the proposed Minimum Reconnection charges to permit implementation by April 1, 2016;
- BCOAPO (Exhibit C2-2, pages 3-4) requests that implementation of the proposed Minimum Reconnection charges by December 1, 2015 or January 1, 2016 at the latest, rather than BC Hydro's request for implementation on April 1, 2016, with a review process to accommodate either requested implementation date. BCOAPO states that BC Hydro has not addressed whether it is feasible to achieve a December 1, 2015 implementation date. Similarly, COPE 378 (Exhibit C4-2, page 3) requests a December 1, 2015 implementation date;
- BCSEA-SCBC (Exhibit C3-2) and NIARG (Exhibit C22-2) support an implementation date of January 1, 2016 for the proposed Minimum Reconnection charges. BCSEA-SCBC asks BC Hydro whether its "implicit rejection of [an implementation date prior to the upcoming winter months] is based entirely, or partly, on BC Hydro's estimate of the impact to net income of implementation on December 1, 2015".

BC Hydro continues to maintain that a April 1, 2016 implementation date appropriately balances the need to recognize changed Minimum Reconnection charge cost underpinnings with the identified impact to net income if implementation occurs prior to this date.

In response to BCOAPO's and COPE 378's request for a December 1, 2015 Minimum Reconnection charges implementation date, BC Hydro advises that December 1, 2015 is not a feasible implementation date. A three week period after a Commission decision is required for implementation of the proposed Minimum Reconnection charges relating to BC Hydro's dunning (collections) process. No regulatory review process can accommodate a Commission decision by the first week of November 2015.

Regarding a January 1, 2016 implementation date, BC Hydro would require a Commission decision by December 10, 2015. BC Hydro's proposed regulatory review timetable for the 100 per cent Part 1 Pricing proposal set out in part 2 above could accommodate a Commission decision by December 10, 2015. However, BC Hydro remains opposed to a January 1, 2016 date for implementation of the proposed Minimum Reconnection charges on the basis of the \$950,000 impact to F2016 net income. The Commission approved BC Hydro's F2014-F2016 revenue requirements through Order G-48-14.⁵ If the Commission accedes to BCOAPO's request that the

⁵ <http://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/119400/index.do?r=AAAAQAHRy00OC0xNAE>

Minimum Reconnection charges be implemented on January 1, 2016, BC Hydro will not be left whole in terms of its F2016 revenue requirements.

BC Hydro submits that the written submission process set out in Exhibit A-2 as modified by Exhibit A-3 has not provided an adequate forum for addressing BC Hydro's concern that BCOAPO/COPE 378/BCSEA-SCBC/NIARG's requested January 1, 2016 implementation date will result in BC Hydro not being whole in terms of its F2016 revenue requirements. Consequently, prior to deciding on a January 1, 2016 Minimum Reconnection charges implementation date, it is incumbent on the Commission to provide a process to address this concern. In this regard, BC Hydro submits that a NSP would be suitable, perhaps as early as the week of November 2, 2015. There would be no need for such NSP if the Commission decides on April 1, 2016 as the implementation date for the Minimum Reconnection charges.

5 Any Other Relevant Matters

5.1 Intervention Status Applications

5.1.1 Intervention Status Applications Based On Meter Choices Program Charges

Ten intervention applications (Exhibits C17-1; C19-1; C21-1; C23-1; C24-1; C25-1; C28-1; C31-1; C32-1; and C34-1) are based wholly or at least in part on a desire for the Commission to include in the 2015 RDA Module 1 review the recently approved Meter Choices Program charges set out in section 11.3 of the BC Hydro Electric Tariff.

BC Hydro opposes these ten intervention applications referencing Meter Choices Program charges as the basis for the intervention application. BC Hydro does so given how recently the Commission reviewed these charges under the auspices of Direction No. 4 to the Commission⁶ between October 2013 and April 2014, and how recently the Commission set the Meter Choices Program charges on April 25, 2014 pursuant to BCUC Order G-59-14.⁷ It was on this basis that the Meter Choices Program charges were considered out of scope for purposes of BC Hydro's development of the 2015 RDA.

BC Hydro respectfully requests that the Commission determine that Meter Choices Program charges are out of scope for purposes of 2015 RDA Module 1, and that the

⁶ B.C. Reg. 203/2013; copy available at <https://www.canlii.org/en/bc/laws/regu/bc-reg-203-2013/latest/bc-reg-203-2013.html>.

⁷ *In the Matter of British Columbia Hydro and Power Authority: Application for Approval of Charges Related to the Meter Choices Program*, Decision, 25 April 2014 (**Meter Choices Program Decision**); <http://www.bcuc.com/ApplicationView.aspx?ApplicationId=417>.

Commission render a decision on this matter shortly after the filing of written reply submissions on October 26, 2015 so that parties have clarity going forward.

Meter Choices Program Charges should be Out of Scope for 2015 RDA Module 1

In its extensive 2015 RDA stakeholder engagement processes from May 2014 to July 2015, BC Hydro consistently identified Meter Choices Program charges as being out of scope for purposes of 2015 RDA development given how recently the Meter Choices Program charges were reviewed and set by the Commission:

- At 2015 RDA Workshop 1 held on May 8, 2014, BC Hydro suggested that given the very broad scope of the 2015 RDA, one category of out of scope matters should be rates recently reviewed by the Commission. BC Hydro specifically referenced the Commission's April 25, 2014 Meter Choices Program Decision as one of five Commission decisions that fell into this category. Refer to Exhibit B-1, pages 2-68, lines 2-4 and 15-20; page 8-2, lines 1-10; and Appendix C-1A, Workshop 1 'Introduction and Context' presentation, slide 6, page 9 of 280;
- BC Hydro reiterated its position that Meter Choices Program charges are out of scope for purposes of 2015 RDA development at Workshop 12 on July 30, 2015; refer to Exhibit B-1, Appendix C-1B, Workshop 12 presentation, slide 15, page 15 of 115.

In contrast, the Electric Tariff section 11 standard charges that are the subject of Exhibit B-1, Chapter 8 have not been reviewed by the Commission since the 2007 RDA and thus are clearly in need of cost updates and Commission review.

One of the foundations of the draft Commission Rules of Practice and Procedure (**Draft Rules**) is to ensure "the most expeditious and efficient determinations of every matter before the Commission consistent with the requirements of procedural fairness".⁸ BC Hydro respectfully submits that review of the Meter Choices Program charges as part of 2015 RDA Module 1 is neither effective nor efficient:

- Given sections 3 and 4 of Direction No. 4, the scope of any Meter Choices Program charges review would necessarily be quite narrow. As recognized by the Commission in Order G-167-13 and the Meter Choices Program Decision, the combined effect of sections 3(1), 3(3), 3(4) and 4 of Direction No. 4 restrict the Commission's jurisdiction over Meter Choices Program charges: "In reviewing the Application for approval of [the Meter Choices Program charges], the written hearing is limited in scope to the recovery of costs of providing service to customers in relation to their choice of meters".⁹ Eligibility to participate in the Smart Meter

⁸ Refer to section 2; copy at http://www.bcuc.com/Documents/GuidelineComments/08-27-2015_ReviewParticipationGuidelines-RevisedDraft.pdf.

⁹ Section 4 of BCUC Order G-167-13; http://www.bcuc.com/Documents/Proceedings/2013/DOC_36405_A-3_G-167-13_BCH-Meter-Choice-Program-Timetable.pdf.

Choices Program and the fundamental features of the Program's design were established by the British Columbia (**B.C.**) Government through Direction No. 4. The Electric Tariff Terms and Conditions relating to the Meter Choices Program, including eligibility criteria for the Program and the conditions under which legacy and radio-off meters may be retained at the premises of eligible customers, were set by the Commission pursuant to BCUC Order G-166-13 as required pursuant to section 3(3) of Direction No. 4. Section 3(4) of Direction No. 4 states that the Commission "must not do anything to amend the provisions added to the Electric Tariff under subsection (3) except on application by the authority [emphasis added]". There is no such BC Hydro application. Accordingly, any Commission review of the Meter Choices Program charges as part of 2015 RDA Module 1 must be limited to review of any changes in costs in the 1.5 years between April 2014 and fall 2015 relating to the section 11.3 Electric Tariff Failed Installation Charge, Legacy Meter Charge, the two Radio-off Meter Initial Charges, Radio-off Meter Charge and Radio-off Meter Removal Charge within the limits of section 3(1) of Direction No. 4. However, a number of Meter Choices Program charges-related intervention status applications evidence a desire to question the existence of the charges themselves, and not strictly the cost basis of the charges. For example, refer to the intervention status application of Mr. Lybeck (Exhibit C17-1: "multitudes in BC are fed up with these ridiculous fees, the way they are being assessed, and the lack of justification for them"); the written submission of Ms. Priest (Exhibit C19-2-1, pages 2 and 3: "I am paying them [Meter Choices Program charges] without prejudice to my right to claim these fees back through a class action lawsuit ... I am requesting that all corrections to the legacy meter charges, radio off meters, and failed installation charges be made retroactively to the date that BC Hydro began billing for them"); and the written submission of Mr. Edwards (Exhibit C31-2, page 1 of 3: "I object strenuously to the imposition of so-called 'Smart-meters' (Smeters) and punitive charges");

- A Commission determination that Meter Choices Program charge cost updates are in scope will broaden an already very broad 2015 RDA Module 1 scope. BC Hydro notes that there were 35 interventions and 152 interested parties registered in the 2013/2014 Meter Choices Program regulatory review, with over 1,000 IRs and a review process spanning seven months from the October 2013 application filing to the April 2014 Meter Choices Program Decision. In addition, if the Commission decides that Meter Choices Program charges are in scope, there is no principled basis to resist review of other rates recently reviewed and set by the Commission, including the May 2014 decision concerning RS 3808 (the BC Hydro-FortisBC Inc. Power Purchase Agreement), the July 2014 and July 2015 decisions regarding RS 1289 (Net Metering Service); and the July 2015 decision approving RS 1280, RS 1891 and Tariff Supplement No. 86 (Shore Power Rates).

BC Hydro also notes its request in section 8.2 of Exhibit B-1 that the Commission endorse a review process whereby RRAs serve as the forum for Electric Tariff standard charges cost updates, including Meter Choices Program-related charges; if the endorsement is granted, Meter Choices Program-related charges cost underpinnings will be reviewed more frequently than if RDAs are the vehicle for such updates.

Section 9.06 of the Draft Rules provide that the Commission may ask a person to amend a request for intervener status for the reason that the person has not shown he or she has a substantial interest in a substantial issue. While BC Hydro recognizes that the Draft Rules remain in draft for the time being, it is BC Hydro's view that with respect to this issue, the Draft Rules confirm the principle that the Commission is master of its own processes, including determining whether a party has standing and on if so, on what issues.¹⁰ This is discussed further below in section 5.1.2 of this letter. BC Hydro would not oppose the ten intervention status applications referenced above if the intervention applications are amended to delete references to Meter Choices Program charges, and instead clearly identify the nature of the substantial interest in a substantial 2015 RDA issue (e.g., BC Hydro customer taking service under BC Hydro's Residential Inclining Block (**RIB**) rate or other rate, substantial interest in a specific Module 1 2015 RDA rate proposal). For example, Ms. Janis Hoffmann in Exhibit C21-2 references matters not related to Meter Choices Program charges such as the Equal Payment Plan which are in scope for the 2015 RDA (the Equal Payment Plan is referenced in Exhibit B-1 in sections 1.5.2 and 8.6.2.1).

BC Hydro Requests if Meter Choices Program Charges are In Scope for 2015 RDA Module 1

BC Hydro respectfully requests the following if the Commission determines that Meter Choices Program charges are in scope:

- Confirmation that any Commission review of the Meter Choices Program charges as part of 2015 RDA Module 1 is limited to a review of any changes in costs in the 1.5 years between April 2014 and fall 2015 relating to the section 11.3 Electric Tariff Failed Installation Charge, Legacy Meter Charge, the two Radio-off Meter Initial Charges, Radio-off Meter Charge and Radio-off Meter Removal Charge within the limits of section 3(1) of Direction No. 4;
- Requirement that the ten individual intervention applications which reference Meter Choices Program charges as the basis for the intervention application combine under a single representative individual or organization, as contemplated by section 11.04 of the Draft Rules.

5.1.2 Challenge to the Roger Bryenton Intervention Status Application

BC Hydro challenges the standing of Roger Bryenton of Roger Bryenton & Associates on two grounds:

1. Mr. Bryenton has not shown that he has relevant information; and
2. Mr. Bryenton has not shown he has a substantial interest in a substantial 2015 RDA Module 1 issue.

¹⁰ Refer to section 11(1) of the *Administrative Tribunals Act*, R.S.B.C 1996, c.45, which is applicable to the Commission pursuant to section 2(4) of the *UCA*; copy at <http://www.canlii.org/en/bc/laws/stat/sbc-2004-c-45/latest/>.

Section 9.06 of the Draft Rules provides:

The Commission may refuse ... a request for intervener status for reasons, including but not limited to, that the request:

- (a) is frivolous or vexatious;
- (b) has not shown to have a substantial interest in a substantial issue;
- (c) has not shown to have relevant information or expertise;
- (d) is irrelevant or is not in response to issues addressed in the particular proceeding; or
- (e) is not filed in accordance with the rules.

As set out in section 5.1.1 above, the Draft Rules confirm the principle that the Commission has the jurisdiction and the obligation to control its own practice and procedures, including the right to determine who shall appear before it. The Commission has in the past denied a party standing; refer to Commission L-10-12 dated February 28, 2012 denying Zellstoff Celgar Limited Partnership (**Celgar**) standing in the BC Hydro-Conifex Power Inc. electricity purchase agreement filing review (**Conifex Decision**).¹¹ In addition, section 9.06 of the Draft Rules reflects the rules of practice and procedure of other utility commissions such as the Ontario Energy Board¹² and the Alberta Utilities Commission¹³ which require a person applying for intervener status to satisfy the utility commission that he or she has a substantial interest in the proceeding. The reasonableness of requiring a connection between an intervener's interest and the matters at issue has also been recognized by the courts.¹⁴

(a) *Information is not Relevant to 2015 RDA Module 1*

Mr. Bryenton's intervention application is without merit and will only cause delay and expense. The Exhibit C11-1 and Exhibit C11-2 submissions highlight that Mr. Bryenton anticipates 'substantial involvement' on topics that are irrelevant and do not respond to the issues to be addressed as part of the Module 1 2015 RDA regulatory review.

It is clear from sections 3, 4 and 6 of Exhibit C11-2 that under the guise of F2016 COS and LRMC-related issues, Mr. Bryenton seeks to use the 2015 RDA review as a long-

¹¹ <http://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/118445/index.do?r=AAAAQAHQ29uaWZleAE>.

¹² Section 22.02 of the Ontario Energy Board Rules of Practice and Procedure; http://www.ontarioenergyboard.ca/oeb/Documents/Regulatory/OEB_Rules_of_Practice_and_Procedure.pdf.

¹³ Alberta Utilities Commission Rules of Practice, Rule 001, paragraph 24.3(d); <http://www.auc.ab.ca/acts-regulations-and-auc-rules/rules/Documents/Rule001.pdf>.

¹⁴ *Dene Tha' First Nation v. Alberta (Energy and Utilities Board)*, 2005 ABCA 68, paragraph 14; and *Kelly v. Alberta (Energy Resources Conservation Board)*, 2011 ABCA 325, paragraph 21.

term planning exercise with the objective of having the Commission find that Site C is not cost-effective and should be displaced by significantly increased levels of DSM such as 2013 Integrated Resource Plan (IRP) DSM Option 5 and/or geothermal resources. Examples of Mr. Bryenton's unsupported assertions in this regard include:

- Section 3.2.1 - "Site C should not be allowed to proceed as it contravenes BC Hydro's own definition of both 'incremental' and 'most cost-effective'";
- Section 3.3 - "Deep DSM or DSM 5 can contribute more electricity and capacity than Site C at half the cost and twice the number of jobs!";
- Section 3.4 - "[t]here may be thousands of GW's and GWh's of geothermal energy is available at costs competitive to the \$120/MWh cost of Site C. A directive from BCUC to BCH is needed to address renewable energy and in particular geothermal energy costs and benefits";
- Section 4 - "BC Hydro has chosen to reduce DSM support and activity. It is postulated that this is to avoid further demand erosion, and to intentionally create the illusion of growth and thus justify the need for a major project, Site C";
- Section 6.1 - "BCUC needs to direct BCH to take a 'proactive' stance, to make a shift from capital project identification and construction to identifying and implementing the 'least cost, incremental' DSM projects that over the next 12 years can result in an additional 1,100 MW of Capacity and 5,100 GWh of energy annually above present targets".

Section 3(1) of Direction No. 7 requires that the Commission set the RS 1823 Tier 2 energy rate to reflect BC Hydro's LRMC; refer to Exhibit B-1, section 7.2.1. In addition, the Commission typically makes findings concerning BC Hydro's energy LRMC as part of setting rates for other BC Hydro customers, such as with respect to the RIB Step 2 energy rate; refer to Exhibit B-1, section 2.3.1.6. However, this does not empower the Commission to make decisions concerning which energy and capacity resources BC Hydro is to pursue to meet future requirements. As described in section 1.3 of Exhibit B-1, it is the B.C. Lieutenant Governor in Council that is the body responsible for approving BC Hydro's long-term resource plan (the IRP) pursuant to section 4 of the *Clean Energy Act (CEA)*. As a result of sections 4 and 7(1)(d) of the *CEA*, the Commission has no role in deciding whether Site C should or should not proceed. Accordingly, while the Commission can test how the mix of energy resources identified in the approved 2013 IRP Recommended Actions resulted in the energy LRMC range discussed in section 2.3.2.2 of Exhibit B-1, it cannot direct BC Hydro to not pursue Site C, or to pursue DSM Option 5 (or any DSM target other than the DSM target set out in the approved 2013 IRP), geothermal resources, etc.

Section 5 of Exhibit C11-2, labelled "COS", does not concern BC Hydro's F2016 COS or COS methodology at all. Rather, section 5 consists of a number of requests and Commission directions for expanded DSM programs such as:

- "[a]n aggressive DSM program targeting electrically heated buildings needs immediate implementation";
- "a pilot LED program, if not in place, should be implemented";

- “BCUC needs to direct BCH to explore all avenues of energy and peak reduction and to continue, to expand and where not present, to aggressively implement a series of conservation programs and energy management assistance to further dramatically reduce energy use and demand”;
- “BCUC needs to direct BCH to ‘partner’ with customers to provide the end-use functions needed at the least-cost options”.

The Commission does not have the jurisdiction pursuant to its rate setting power in sections 58-16 of the *UCA* to make directions through 2015 RDA Module 1 concerning the implementation of augmented DSM programs. Even a generous reading of the B.C. Minister of Energy and Mines’ July 6, 2015 letter concerning the RIB report (**Minister RIB Report Letter**) (copy found at Exhibit B-1, Appendix C1-D) does not support a wide-ranging inquiry into all of BC Hydro’s existing suite of DSM programs for Residential, General Service, Transmission Service and other customers.

(b) No Substantial Interest in a Module 2015 RDA Substantial Issue

BC Hydro submits that Mr. Bryenton has not shown in either Exhibit C11-1 or Exhibit C11-2 that he has a substantial interest in any Module 1 2015 RDA substantial issue; in particular, he has not shown that he is a BC Hydro customer. BC Hydro understands that Roger Bryenton & Associates operates out of Los Angeles; the telephone contact information set out in Exhibit C11-1 is a Los Angeles area code. In the Conifex Decision, the Commission denied Celgar standing on the basis that it is not a BC Hydro customer (not a person “who receives or may receive service from BC Hydro”). It is incumbent on Mr. Bryenton to demonstrate that he is directly affected by the outcome of 2015 RDA Module 1. BC Hydro submits that Mr. Bryenton has failed to do so.

BC Hydro respectfully requests that the Commission make a decision on this matter shortly after the filing of written reply submissions on October 26, 2015, and well in advance of the intervenor IR No. 1 submission date of November 17, 2015 set out in Exhibit A-3.

5.1.3 Non-Integrated Areas Ratepayer Group Intervention Status Application

NIARG invites BC Hydro to confirm the “factual nexus” between RDA Module 1 and RDA Module 2 as it concerns Zone IB and Zone II rate design issues (Exhibit C22-2, page 4). BC Hydro agrees with NIARG that there is a “factual nexus” between BC Hydro’s Residential default rate and General Service default rate proposals in RDA Module 1 and potential Zone IB/Zone II rate options to be explored as part of RDA Module 2. For example, one such option entails ‘equalizing’ Zone IB/Zone II rates with the Residential and General Service default rates; refer to section 3.6.3 of the Workshop 9B discussion guide found at Appendix C-3B of Exhibit B-1, pages 267 and 268 of 609. BC Hydro has no objection to NIARG’s intervention within the parameters set out by NIARG in Exhibit C22-2.

5.2 Intervener Evidence

Both DAID and BCOAPO have communicated a desire to file intervenor evidence as part of the 2015 RDA Module 1 regulatory review. BC Hydro submits that the review process should allow for the filing of intervenor evidence, the testing of such evidence and any BC Hydro rebuttals to such evidence:

- DAID's intervention application (Exhibit C30-2) appears to be grounded on an objection to the existing LGS monthly minimum charge (demand ratchet) which was triggered in 2015 because of pump usage for winter flood control. The LGS demand ratchet, which BC Hydro is not proposing any changes to, is in scope for RDA Module 1; refer to Exhibit B-1, pages 6-31 to 6-32. More broadly, the issue raised by DAID in Exhibit C30-2 should be reviewed as part of BC Hydro's LGS proposal, that is, DAID can submit IRs on this matter to BC Hydro in accordance with Exhibit A-2's schedule for intervenor IR No.1 due on November 17, 2015, BC Hydro is to respond on December 18, 2015 and this matter can be further addressed at the January 12, 2016 procedural conference such as discussing the date for the submission of intervenor evidence and the review process for such evidence;
- COPE 378 in part 4 5 of Exhibit C4-2 states that BCOAPO's low income rate proposals "are inevitably going to form part of this RDA process but in, the Union's view, limiting the discussion to a preliminary one of just jurisdiction would be a mistake". In BC Hydro's view, any BCOAPO low income rate proposal(s) should be filed as part of the Module 1 RDA intervenor evidence process, be subject to a round of IRs from BCUC staff, BC Hydro and other intervenors, be the subject of BC Hydro rebuttal evidence, if any, and then and only then should the Commission decide whether it has the jurisdiction to set the low income rate(s) described in BCOAPO's intervenor evidence. BC Hydro supports BCOAPO's position that its low income rate proposals needs to be on the record through an intervenor evidence process prior to any Commission jurisdictional decision.

The timing for filing of intervenor evidence, the review process for such evidence, and any BC Hydro rebuttal should be one of the matters discussed at the January 12, 2016 procedural conference.

5.3 COPE 378 and Future Rate Design Application Order Request

COPE 378 advises that it will seek a Commission order compelling BC Hydro to initiate another RDA shortly after the conclusion of the F2019 COS review (Exhibit C4-2, page 3, section 5). BC Hydro takes this as COPE 378 putting BC Hydro on notice as to its intention, and trusts the Commission will seek input from other parties, including BC Hydro, if and when COPE 378 makes a formal request for such an order.

5.4 Residential Inclining Block Rate Report Process

COPE 378 (Exhibit C4-2, pages 3-4) raises the Minister RIB Report Letter and related Commission RIB Report process in its written submissions. COPE 378 appears to suggest that any BCOAPO intervener evidence concerning low income rates submitted in the 2015 RDA review process could be used to respond to some of the five Minister RIB Report Letter questions. In BC Hydro's view, the Minister RIB Report Letter is clear in questions 4 and 5 that it is DSM low income programs, and not a possible low income rate, that are the initiatives to be canvassed for purposes of both the utility reports and the Commission's report.

BC Hydro takes the opportunity to raise the following concern with the Commission's review process set out in Exhibit A-3 in the RIB Report proceeding. To date, five interveners in the RIB Report proceeding have been afforded the opportunity to comment on BC Hydro's (and FortisBC's) proposed methodology. The utilities have been afforded no avenue to reply. Instead, Exhibit B-3 states that the Commission "will establish the methodologies for the utility reports". BC Hydro has concerns with some of the intervener methodology suggestions. For example, it appears to BC Hydro that what Mr. Nick Marty is suggesting in response to Minister RIB Report Letter question 1 and question 3 would require Residential customer-specific baselines (Marty RIB Report Submission, pages 2-3); and that BCSEA-SCBC is requesting a 10 to 15 year long-term rate increase forecast (BCSEA-SCBC RIB Report submission page 8 of 9). BC Hydro is also of the view some parameters need to be established concerning any RIB Report-related inquiry into BC Hydro's Residential DSM programs.

While recognizing that BC Hydro is not an applicant for purposes of the RIB Report proceeding, BC Hydro submits that procedural fairness requires some avenue for the two utilities to respond to intervener RIB Report methodology comments. BC Hydro urges the Commission to not establish the utility RIB Report methodologies until the 2015 RDA IR No. 1 have issued and been responded to, and the January 12, 2016 procedural conference has occurred. These two 2015 RDA processes will afford BC Hydro the opportunity to respond to the five intervener methodology comments. In the alternative, BC Hydro requests amendment of RIB Report Exhibit B-3 to provide for BC Hydro (and FortisBC) written response(s) to the intervener methodology suggestions. BC Hydro suggests a date for this be sometime in November 2015.

October 26, 2015
Ms. Erica Hamilton
Commission Secretary
British Columbia Utilities Commission
2015 Rate Design Application (2015 RDA)

Page 19 of 19

For further information, please contact Gordon Doyle at 604-623-3815 or by email at bchydroregulatorygroup@bchydro.com.

Yours sincerely,

Original signed

Tom Loski
Chief Regulatory Officer

cg/af

Enclosure

Copy to: BCUC 2015 RDA Registered Intervener Distribution List.

British Columbia Utilities Commission Information Request No. 2.7.3 Dated: December 21, 2009 British Columbia Hydro & Power Authority Response issued January 22, 2010	Page 1 of 4
British Columbia Hydro & Power Authority Large General Service Rate Application	Exhibit: B-7

**7.0 Reference: Default and Mandatory Rate
Exhibit B-5, BCUC IR 1.6.2.1; BCUC IR 1.6.3; BCUC IR 1.25.2;
BCOAPO IR 1.25.1; CEC IR 1.40.3
Control Group**

- 2.7.3 In BC Hydro's response to BCUC IR 1.6.2.1, it states that the Commission is the sole judge as to whether a rate is unduly discriminatory. Due to the absence of evidence from other utilities (Response to BCUC IR 1.25.2), can BC Hydro present evidence to support that the creation of the mandatory control group mandatory is not discriminatory other than the evidence that the control group is important for research purposes?

RESPONSE:

This information request presumably seeks a basis upon which the BCUC can be comfortable that its approval of mandatory, exempt control groups would not be unduly discriminatory and therefore not unlawful.

As set out in the referenced information request response, it is a question of fact over which the BCUC has exclusive jurisdiction whether a rate is unduly discriminatory (section 59(4) of the UCA), subject only to the views of the Court of Appeal with leave (section 101 of the UCA), or upon a stated case (section 104 of the UCA). Because the issue is a question of fact, over which the BCUC has exclusive jurisdiction, it can be said with reasonable certainty that the Court of Appeal would be unlikely to set aside as unlawful a BCUC order approving the creation of a mandatory, exempt control group.

BC Hydro has reviewed the jurisprudence, and decisions of other public utility regulators, and has not found a case where the lawfulness of an exempt, mandatory control group has been considered. The only case that BC Hydro has found that touches on the issue is *Illinois Commerce Commission v. Commonwealth Edison Co.*, 1998 Ill. PUC Lexis 360 (Illinois Commerce Commission, hereinafter referred to as *Illinois*). The issue in the case was whether a pilot program was unduly discriminatory insofar as it was not available to all customers who might benefit from it, but rather only those who met prescribed eligibility criteria. It was not about the lawfulness of a mandatory, exempt control group, and the underlying statutory regime was similar but not identical to the statutory regime currently in place in British Columbia. Nevertheless, the following summary may be of assistance to the BCUC.

British Columbia Utilities Commission Information Request No. 2.7.3 Dated: December 21, 2009 British Columbia Hydro & Power Authority Response issued January 22, 2010	Page 2 of 4
British Columbia Hydro & Power Authority Large General Service Rate Application	Exhibit: B-7

In *Illinois*, the Commonwealth Edison Co. ("ComEd") filed a new experimental tariff entitled Rider CB. Rider CB provided for a voluntary pilot program of consolidated billing systems. It allowed a participating entity having multiple geographically dispersed premises to receive a single bill covering electricity consumption at many of its premises as if they all were a single premise. Two groups of customers were eligible to participate in the pilot program: (i) retail trade businesses having, among other things, at least 5 sites; and (ii) school districts having, among other things, 820 premises. While there were no guarantees of a discount for any customer participating in the pilot program, the rate structure was designed to provide an estimated typical participant with a 5 per cent savings if the customer agreed to participate.

In response to the Illinois Commission's questions, "What is the reason for having an experimental rather than a general new tariff? Should Rider CB be made a non-experimental tariff that is available to all customers who have multiple locations under common ownership, management, or association and elect to receive consolidated billing?", ComEd stated that it reasonably and prudently formulated Rider CB as an experimental or pilot tariff rather than as a general tariff and that submitting Rider CB as a general tariff would have been irresponsible. "Rider CB constitutes an innovative and unprecedented combined test of methods for aggregation, AMR metering, and new communications and billing systems and technologies. Because a program of this sort has never been implemented or even piloted before and because the technologies and systems are largely untested, it would be all too easy for a utility or a utility regulator to make mistakes - in rate design, in the selection of technology and in the basic systems to monitor customer energy use."

The position of the Illinois Commission's Staff was that it was appropriate for ComEd to offer Rider CB to a limited number of customers because the ComEd needed to develop the systems required to implement Rider CB before considering expanding the Rider. Staff further argued that ComEd could gain useful experience by offering the tariff to a limited number of customers. Staff also stated that ComEd's difficulties in implementing Rider CB to date supported its decision to limit the tariff to two sub-classes of customers. Illinois Commission Staff also submitted that ComEd's opportunity to gain information from the program justified a temporary rate difference.

Certain participants in the hearing argued that Rider CB's narrow eligibility requirements were unlawfully discriminatory pursuant to section 9-241 of Illinois' *Public Utilities Act*. They submitted that the Rider CB should be provided on a non-experimental basis to all customers who have multiple locations under common ownership, management or association, and who elect to receive consolidated billing. They argued that in its Order in Docket 95-0435, the Illinois Commission held that an experimental or pilot program may offer different charges for different customers for a limited period of time without violating

British Columbia Utilities Commission Information Request No. 2.7.3 Dated: December 21, 2009 British Columbia Hydro & Power Authority Response issued January 22, 2010	Page 3 of 4
British Columbia Hydro & Power Authority Large General Service Rate Application	Exhibit: B-7

Section 9-241. They went on to say that "Since Rider CB is an open-ended experiment the tariff does not meet the standard the [Illinois] Commission established in Docket 95-0435."

With respect to the indefinite time frame of the experimental tariff, the Illinois Commission Staff proposed that ComEd file certain periodic reports with the Illinois Commission.

As to "unreasonable discrimination", one of the participants recognized that not all rate discrimination is illegal. "Discrimination is only illegal if there is no rational basis for the difference in rates. The test to be applied in determining whether rate discrimination has resulted is whether the differential treatment is reasonable and not arbitrary."

The Illinois Commission found that ComEd had demonstrated that it created the eligibility limitations for Rider CB based on just and reasonable factors. ComEd witnesses testified that ComEd formulated the eligibility criteria for Rider CB to provide for an easily defined class, an adequate sample of meter types and installations, and geographically dispersed premises, to avoid intra-industry inequities, and to produce a pilot program of a size and scope that was administratively and technologically manageable and resulted in a prudent level of financial risk to ComEd. The Illinois Commission noted that ComEd did not oppose complying with the Staff's recommendation regarding reporting requirements.

The Illinois Commission also found that Rider CB was not unreasonably discriminatory under the plain language and long-established standards under Section 9-241. In Docket 95-0435, the Illinois Commission considered and rejected an intervener's contention that pilot programs violated Section 9-241 on similar grounds. The Illinois Commission concluded, in that case, "that the pilot programs should not be rejected as unreasonable or unduly discriminatory. Implementation of pilot programs offering different charges and services for a limited period does not impose unreasonable differences in contravention of Section 9-241. Section 9-241 provides that the Illinois Commission may approve differences in charges based on "the amount used, the time when used, the purposes for which used", and other relevant factors. The Illinois Commission anticipates that the information to be produced by the programs will be beneficial to the public, not just CILCO. This benefit is a relevant factor that justifies allowance of the pilot programs."

The Illinois Commission wrote the following at paragraph 74: "Pilot programs such as this are commonly used throughout the utility industry to test both new technologies and new billing concepts. Pilot programs approved by this Commission typically have highly restrictive eligibility criteria, in many cases far more limited than those of Rider CB. Intervenors' desire to participate in the pilot

British Columbia Utilities Commission Information Request No. 2.7.3 Dated: December 21, 2009 British Columbia Hydro & Power Authority Response issued January 22, 2010	Page 4 of 4
British Columbia Hydro & Power Authority Large General Service Rate Application	Exhibit: B-7

program is not evidence of unjust or unreasonable discrimination under S. 9-241. Nor is the fact that participants may ultimately benefit by participating. Were this true, any pilot program could be charged with discrimination, because pilot programs by their nature are limited."

The Illinois Commission found that the pilot would produce valuable experience and information for ComEd, the Illinois Commission, the industry and the ratepayers. The Illinois Commission also found that the pilot had not yet reached the level of technological certainty and reliability necessary for a prudent general expansion of the experimental tariff and that the expansion would not further, but rather would hinder, achievement of the pilot program's objectives and discourage other pilot programs.