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January 14, 2016

British Columbia Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, BC, V6Z 2N3
Attn: Erica Hamilton, Secretary
By Web Posting

Dear Madam:

Re: British Columbia Hydro and Power Authority 2015 Rate Design Application (RDA);
January 8, 2016 Request for Comments (Exhibit A-9);
BC Sustainable Energy Association and Sierra Club BC Comments

These are BCSEA-SCBC's comments in response to the Commission's January 8, 2016 Request for Comments (Exhibit A-9¹). The Commission refers to a series of submissions² by Ms. Noble to the Commission and requests comments on:

1. *Whether Ms. Noble's requests on behalf of herself and others are appropriate and relevant to the 2015 Rate Design Application proceeding; and*
2. *If yes, should the Commission allow Ms. Noble's late intervention to address her stated issues?*

BCSEA-SCBC's interests in this matter

BCSEA-SCBC's interests in the outcome of this matter are in three categories:

- **Fairness.** As interveners in this and other proceedings of the Commission, BCSEA-SCBC have an interest in any and all parties being treated in accordance with the principles of fairness.
- **Public participation.** BCSEA-SCBC believe that the Commission's proceedings are greatly enhanced by participation of people and organizations representing a diversity of concerns and interests. BCSEA-SCBC strongly support a broad approach to intervener standing.
- **Regulatory efficiency.** To the extent that the RDA proceeding becomes more complicated, lengthier and more time-consuming than is necessary, the size of BCSEA-SCBC's financial risk of an adverse cost award decision is unnecessarily increased.

Background

BC Hydro's Rate Design Application was filed on September 24, 2015.³ Of note regarding the current matter, the Application includes proposed Electric Tariff Standard Charges in section 8.3.

¹ http://www.bcuc.com/Documents/Proceedings/2016/DOC_45375_A-9-Comments-on-NobleRequest.pdf

² December 23 and 27, 2015 and January 6, 2016.

These include Minimum Reconnection Charges in section 8.3.2. Table 8-3 sets out four proposed minimum reconnection charges. The fourth one is “Manual reconnection at the point of connection because the customer refused access to the meter,” the proposed charge for which is \$700 per meter. The \$700 proposed charge would arise where both (a) the disconnection had to be at the distribution line, not at the customer’s meter, and (b) the customer refused to give BC Hydro access to the customer’s meter in order to disconnect it. All of the proposed minimum reconnection charges include also the disconnection that preceded the reconnection.

Ms. Noble applied to intervene in the RDA proceeding,⁴ indicating an interest in a number of issues related to opposition to BC Hydro’s smart meters and concerns regarding BC Hydro’s Meter Choice Program. Other individuals, including Ms. Jayne Priest,⁵ also applied to intervene in the RDA proceeding, citing concerns about smart meters and the Meter Choice Program. It appears that none of these people were represented by legal counsel in their submissions to the Commission.

Of relevance to the present issue, it is understood that Ms. Noble’s application to intervene in the RDA proceeding did not mention the proposed \$700 charge for reconnection where the customer refused access to the meter.

In response to the opportunity to make submissions on topics that should be addressed in the RDA proceeding, Ms. Noble,⁶ Ms. Priest⁷ and eight other interveners⁸ made submissions to the effect that the costs and charges of the Meter Choices Program should be addressed in the RDA proceeding. Ms. Priest also raised a concern that she had not had sufficient time to thoroughly review the lengthy RDA application. It is understood that none of the ten interveners in question raised the proposed \$700 charge for reconnection where the customer refused access to the meter at that time.

On November 3, 2015, the Panel held in Order G-175-15 that BC Hydro’s Meter Choices Program is not within the scope of the RDA proceeding.⁹ The Panel also addressed the status of certain interveners. Regarding the ten interveners who had asked for the Meter Choice Program to be addressed in the RDA proceeding, the Panel found that their intervention applications were based on an interest in the Meter Choices Program fees. The Panel determined that “Unless these

³ Exhibit B-1. http://www.bcuc.com/Documents/Proceedings/2015/DOC_44664_B-1-BCH-2015-Rate-Design-Appl.pdf

⁴ Exhibit C28-1. http://www.bcuc.com/Documents/Proceedings/2015/DOC_44858_C28-1_Noble-S_Intervener-Reg.pdf.

⁵ Exhibit C19-1. http://www.bcuc.com/Documents/Proceedings/2015/DOC_44842_C19-1_Priest-J_Intervener-Reg.pdf.

⁶ Exhibit C28-2. http://www.bcuc.com/Documents/Proceedings/2015/DOC_44903_C28-2_Noble_Submission-on-AppendixB.pdf.

⁷ Exhibit C19-2. http://www.bcuc.com/Documents/Proceedings/2015/DOC_44896_C19-2_Priest-J_Submission-on-AppendixB.pdf

⁸ In Exhibit A-4, Reasons for Decision, p.7 of 10, the Panel lists ten interveners who asked that the Meter Choices Program costs be reviewed in the RDA proceeding.

⁹ Exhibit A-4, Reasons for Decision, p.8 of 10.

http://www.bcuc.com/Documents/Proceedings/2015/DOC_44974_A-4_AppendixB-Submissions_G-175-15.pdf

interveners provide, by November 6, 2015, additional clarification on issues that they intend to pursue that are within the scope of this proceeding, their intervention status will be rescinded.¹⁰

By letter of November 6, 2015,¹¹ Ms. Priest asked the Panel to reconsider its decision that the Meter Choices Program is not within the scope of the RDA proceeding. The letter does not appear to identify issues that Ms. Priest intends to pursue that are within the scope of the RDA proceeding.

The Commission's website for the RDA proceeding¹² does not indicate that Ms. Noble or any the others (apart from Ms. Priest) provided submissions related to the November 6, 2015 deadline.

The website states for Ms. Noble and eight of the other interveners (not including Ms. Priest): "Intervener Status Rescinded – See Exhibit A-4."

On November 24, 2015, the Panel responded¹³ to Ms. Priest's November 6, 2015 request for reconsideration of the finding that the Meter Choices Program is out of scope. The Panel denied the reconsideration request on the grounds that the threshold for reconsideration had not been met. With reference to the fact that Ms. Priest's reconsideration request was dated November 6, 2015, the deadline for information indicating an interest in an in-scope issue, the Panel found that Ms. Priest's letter did not demonstrate in-scope interests she intended to pursue in the RDA proceeding. The Panel states that Ms. Priest's status as an intervener in the RDA proceeding is confirmed as rescinded. The Commission's website states regarding Ms. Priest: "Intervener Status Rescinded – See Exhibit A-7."

On December 21, 2015, BC Hydro filed proposed Electric Tariff amendments and related documents¹⁴ within the RDA proceeding.¹⁵ BC Hydro states: "BC Hydro's intent in making these revisions is not to substantively affect the meaning of any provision, but rather to reflect more modern drafting conventions, eliminate unnecessary duplication, correct inconsistencies, introduce clearer cross-referencing, and generally improve readability and clarity for customers..." However, it is submitted that in determining the intervener standing questions in the present matter the Commission should not assume that the proposed Electric Tariff amendments are non-substantive, because that has not yet been tested.

On December 23, 2015, Ms. Noble emailed the Commission. She asserted that some of the proposed amendments to the Electric Tariff are outside the scope of the RDA application. She asked that "the opportunity for people to register as interveners and to submit comments be extended allow for public input into this specific application: Electrical Tariff Amendment."¹⁶

¹⁰ Exhibit A-4, Reasons for Decision, p.10 of 10.

¹¹ Exhibit C19-3. http://www.bcuc.com/Documents/Proceedings/2015/DOC_45035_C19-3_Priest_Reconsideration-Rqst_Redacted.pdf

¹² <http://www.bcuc.com/ApplicationView.aspx?ApplicationId=511>

¹³ Exhibit A-7. http://www.bcuc.com/Documents/Proceedings/2015/DOC_45122_A-7_Response-to-Priest.pdf

¹⁴ Exhibit B-1-1. http://www.bcuc.com/Documents/Proceedings/2015/DOC_45333_B-1-1_BCH-Amendments-docs.pdf

¹⁵ Exhibit B-1-1. BC Hydro states: Pdf p.5 of 495.

¹⁶ Exhibit A-9, attachment, pdf p.2.

For present purposes it is notable that this is a request for an opportunity for public input regarding the proposed Electrical Tariff amendments.

On December 27, 2015, Ms. Noble sent an email to the Commission¹⁷ that for present purposes can be characterized as doing two things. First, she raised a specific concern with the proposed \$700 charge for reconnection where the customer refused access to the meter. As noted above, this proposed charge is included in the original application. Second, she itemized certain points of concern about the proposed Electrical Tariff amendments.

By email of December 30, 2015 to the Commission, Ms. Noble asked for a response with reasons to the questions in her December 27, 2015 email.

By email of December 31, 2015,¹⁸ Commission staff wrote to Ms. Noble, clarifying the difference between a letter of comment and a complaint.

By email of January 6, 2016 to the Commission, Ms. Noble said she did not know the Commission's procedures, and said that her December 27, 2015 submission warrants a reconsideration of her request for intervenor status. She gives two grounds: that the proposed Electrical Tariff amendments were not included in the initial application; and that the proposed Electrical Tariff amendments include points regarding the Meter Choices Program.

On January 8, 2016, the Panel issued the Request for Comments,¹⁹ to which this letter is in response.

BCSEA-SCBC Submissions

In the paragraphs that follow, BCSEA-SCBC provide the following five comments and then respond to the Panel's two questions.

First, in BCSEA-SCBC's view, it would be reasonable and appropriate for the Panel to allow people to apply to intervene to address the proposed Electrical Tariff amendments within the RDA proceeding.

Second, in BCSEA-SCBC's view, it would be reasonable and appropriate for the Commission to allow Ms. Noble to intervene in the RDA proceeding on the condition that the intervention is limited to BC Hydro's proposed \$700 charge for reconnection where the customer refused access to the meter. Ms. Noble's request in this regard should be treated as a "late request" for intervention.

It is submitted that had Ms. Noble identified her interest in the \$700 charge in her original application to intervene, her comments on the topics that should be considered within the RDA procedure, or in a response to the November 6, 2015 deadline, the Panel would presumably have granted her status to intervene (while noting that the Meter Choice Program is not within scope). In retrospect, it was her mistake not to do so. However, BCSEA-SCBC submit that leniency is warranted in the present circumstances, including: the very lengthy and technical nature of the initial RDA application, the relatively short time for individuals to apply to intervene, the fact that Ms. Noble evinced an intention to intervene prior to the deadline for intervention, and the fact that Ms. Noble is apparently not represented by legal counsel.

¹⁷ Exhibit A-9, pdf p.4.

¹⁸ Exhibit A-9, pdf p.8.

¹⁹ Exhibit A-9.

Third, it is noted that the new Rules of Practice and Procedure will take effect on January 15, 2016.²⁰ A “late request for intervener status” is contemplated under both the current rules and practice and the incoming Rules of Practice and Procedure.²¹ This could raise transition questions in the current matter. However, BCSEA-SCBC submit that it would be unnecessary, and hence undesirable, for the Panel to explore and resolve transitional issues regarding the new Rules in dealing with the present circumstances. It is submitted that the new Rules and the current Commission practice are effectively equivalent regarding the specific issues here. The gist of both regimes is that the Commission has authority to control its own procedure regarding allowing a person to intervene and imposing conditions on an intervention, and the Commission should exercise this discretion taking into account factors such as fairness to the would-be intervener, the applicant (BC Hydro) and other interveners, and regulatory efficiency.

Fourth, in BCSEA-SCBC’s view it is not generally appropriate or desirable to have one individual intervene officially representing the interests of other people who are not named as members of a group of interveners. There is talk in some of the “E” series comments about Ms. Noble “representing” others or the interests of others opposed to smart meters and concerned about the Meter Choice Program. I don’t suggest that Ms. Noble herself necessarily purports to represent others.

Fifth, BCSEA-SCBC submit that it would be appropriate for the Panel to reconfirm in the context of any reopening of opportunities to intervene that the Meter Choice Program is beyond the scope of the RDA proceeding. Further, regarding the proposed \$700 charge for reconnection where the customer refused access to the meter, the Panel may wish to confirm that the merits of a customer refusing access to his or her meter are beyond the scope of the Commission’s consideration of the proposed charge.

In conclusion, BCSEA-SCBC would respond to the Panel’s two questions as follows:

1. Allowing Ms. Noble to intervene regarding the proposed \$700 charge for reconnection where the customer refused access to the meter would be appropriate and relevant to the RDA proceeding. It would not be appropriate for Ms. Noble to be an intervener “on behalf of” other individuals.
2. The Panel should allow people to apply to intervene to address the proposed Electrical Tariff amendments within the RDA proceeding. A reasonable deadline for intervention applications should be set out.

²⁰ Commission January 7, 2015 to Stakeholders, Log No. 50513, p.2.

²¹ Rules of Practice and Procedure, Order G-1-16, section 9.03.

All the above is respectfully submitted.

Yours truly,

William J. Andrews

A handwritten signature in black ink, appearing to read 'WJ Andrews', with a horizontal line extending to the right from the bottom of the signature.

Barrister & Solicitor

cc. Distribution List by email

Ms. Sharon Noble by email