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March 17, 2017

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 Our File: 23841/0163

**Attention: Ms. Erica Hamilton, Commission Secretary and Director**

Dear Sirs/Mesdames:

**Re: BC Hydro 2015 Rate Design Application with British Columbia Old Age Pensioners et al ("BCOAPO") Application for Reconsideration and Variance of Order G-5-17**

We are counsel to the Commercial Energy Consumers Association of British Columbia (CEC). Attached please find the CEC's submission with respect to the above-noted matter.

If you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Yours truly,

**OWEN BIRD LAW CORPORATION**



Christopher P. Weafer

CPW/jj  
 cc: CEC  
 cc: BC Hydro  
 cc: Registered Interveners

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Our File: 23841/0163

March 17, 2017

## VIA ELECTRONIC MAIL

British Columbia Utilities Commission  
Sixth Floor, 900 Howe Street  
Vancouver, BC  
V6Z 2N3

**Attention: Ms. Erica Hamilton, Commission Secretary**

**Dear Sirs/Mesdames:**

**Re: BC Hydro 2015 Rate Design Application with British Columbia Old Age Pensioners et al ("BCOAPO") Application for Reconsideration and Variance of Order G-5-17**

We are counsel to the Commercial Energy Consumers Association of British Columbia ("CEC"). These are the submissions of the CEC on the BCOAPO reconsideration and variance application noted above and in response to the letter issued by the Commission dated February 24, 2017 as Exhibit A-2 in this proceeding.

On January 20, 2017 the Commission issued Order G-5-17 and the accompanying decision in the matter of BC Hydro's 2015 Rate Design Application ("**Decision**").

On February 17, 2017 the **BCOAPO** filed an application for reconsideration and variance of Order G-5-17 ("**Application for Reconsideration**") pursuant to Section 99 of the *Utilities Commission Act* ("**UCA**"). The BCOAPO appeal applies for reconsideration and variance of paragraphs 14, 16 and 17 (as it relates to the late payment charges) contained within Order G-5-17. The BCOAPO Application for Reconsideration sets out the specific grounds for reconsideration.

The Commission ordered that BC Hydro and registered intervenors in the BC Hydro 2015 Rate Design Application proceed to comment on the BCOAPO Application for Reconsideration by way of written submissions as part of Phase One of the reconsideration process. These written submissions address the threshold for reconsideration and whether it has been met rather than providing a full discussion on the substance of the issues, as directed by Commission guidelines and as set out in Exhibit A-2. The fundamental question to be addressed is as follows.

**Should the Commission order a reconsideration of Order G-5-17, specifically paragraphs 14, 16 and 17 (as it relates to the late payment charge)?**

- i. The Commission has made an error in fact or law. If using this rationale, please provide support that the claim of error is substantiated on a prima facie basis and the error has significant material implications;**

The CEC submits that the Commission made no errors in fact or law in its Decision. The Commission properly and thoroughly canvassed the submissions of all parties in its Decision. The CEC submits the Application for Reconsideration filed by BCOAPO essentially reargues points made by BCOAPO and rejected by the Commission in the Decision. The Commission's reasoning on interpreting Sections 23, 38 and 58 to 61 of the UCA were reasonable and the Commission provided sound conclusions supported by the law and the evidence. The CEC submits that the Commission appropriately analyzed whether it had jurisdiction to consider low income rates and, based on the evidence before it, concluded that low income rates are not supported by an economic or cost of service justification and therefore will be unjust, unreasonable and unduly discriminatory and therefore not in accordance with Sections 59 and 60 of the UCA. The Commission panel summarized its key conclusions at page 59 of the Decision:

"The Panel agrees with BC Hydro's analysis of Sections 59-60 of the UCA. The rate setting provisions of the UCA are founded on the characteristic of the service provided and are primarily economic in nature. There is nothing in the plain wording of the UCA indicating that they mean otherwise.

The Panel also agrees with the Court in *Prince George*, that "a 'rate which is set' without regard to what is a fair and reasonable charge for the services rendered by a public utility, for the express purpose of compelling some consumers to subsidize others, is, in my opinion, inconsistent with statutory provisions governing rates."

With regard to MoveUP's assertion that "BC Hydro appears to be relying (on) the idea that low income rate designs, because they are all subsidies between ratepayers, inevitably engage in undue discrimination" the Panel takes no position on what BC Hydro is or is not relying on. However, in our view, a low income rate design rate in the absence of an economic or cost of service justification is necessarily unduly discriminatory because it discriminates on the basis of a customer's personal characteristics as opposed to its electricity consumption characteristics."

The CEC submits that the Commission panel issued a well-reasoned decision and reasonable conclusions based on evidence and legal arguments put before it and no prima facie case for reconsideration and variance of paragraphs 14, 16 and 17 (as it pertains to late payment charges) has been made by BCOAPO and this matter should not proceed to the second phase of reconsideration. The fundamental determination of the Commission, consistent with judicial precedent in this jurisdiction as noted above, is that the BCOAPO proposals compel some consumers to subsidize others and that is inconsistent with the statutory provisions of the UCA:

Given the position of the CEC the remaining criteria for proceeding with a Reconsideration as set out in Exhibit A-2 do not need to be addressed.

March 17, 2017  
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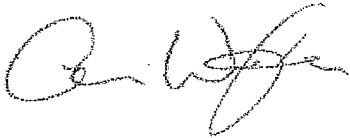
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All of which is respectfully submitted.

Yours truly,

**OWEN BIRD LAW CORPORATION**

A handwritten signature in black ink, appearing to read "C. Weafer", written over a horizontal line.

Christopher P. Weafer  
CPW/js  
cc: CEC  
cc: BC Hydro  
cc: Registered Interveners