

**W E I S B E R G L A W**  
**C O R P O R A T I O N**

2730 Ailsa Crescent  
North Vancouver, B.C.  
V7K 2B2

Reply to: Fred J. Weisberg  
Telephone: (604) 980 – 4069  
Fax: (604) 980 – 6357  
Email: [weislaw@shaw.ca](mailto:weislaw@shaw.ca)

**BY E-MAIL and MAIL**

April 27, 2009

Ms. Erica Hamilton  
Commission Secretary  
British Columbia Utilities Commission  
6<sup>th</sup> Floor, 900 Howe Street Box 250  
Vancouver, B.C. V6Z 2N3

Dear Sirs/Mesdames:

Re: **BC Hydro and Power Authority (“BC Hydro”)**  
**Project No. 3698514/Order No. G-96-08**  
**2008 Long Term Acquisition Plan (“2008 LTAP”)**

We enclose for filing Counsel’s Argument on behalf of Columbia Power Corporation in the BC Hydro 2008 Long Term Acquisition Plan proceeding.

Yours truly,

Fred J. Weisberg  
Weisberg Law Corporation  
Counsel for Columbia Power Corporation

**BRITISH COLUMBIA UTILITIES COMMISSION**

**IN THE MATTER OF THE *UTILITIES COMMISSION ACT*, R.S.B.C.  
1996, c. 473**

**and**

**British Columbia Hydro and Power Authority  
Project No. 3698514/BCUC Order No. G-96-08  
2008 Long-Term Acquisition Plan**

**Counsel's Argument  
On Behalf Of  
Columbia Power Corporation**

**April 27, 2009**

## 1 Introduction

For ease of reference, Columbia Power Corporation’s (“CPC”) Argument is organized in the same manner as BC Hydro’s Argument. Although the same section numbers are used, CPC does not have submissions regarding every section so the numbers are not invariably consecutive. For brevity, defined terms used in BC Hydro’s Argument are incorporated here without repeating the underlying definitions.

CPC’s interests in the outcome of the 2008 LTAP Application arise primarily from its status as a joint venture partner with Columbia Basin Trust in the Waneta Expansion Project (“WAX”). The 2008 LTAP states that the targeted acquisition amount for the Clean Power Call would include any EPA that may be awarded to CPC or its subsidiaries for WAX.<sup>1</sup>

In the 2008 LTAP BC Hydro specifically identified WAX as an example of a supply opportunity. “There are other existing generators in B.C., outside of a structured call process, with whom BC Hydro could negotiate short to long-term EPAs. Examples of these types of opportunities include output from Teck Cominco Metals Ltd. at its Waneta Dam and Generating station and output from Columbia Power Corporation’s Waneta Expansion Project, both located near Trail, B.C.”<sup>2</sup>

### 1.2 Overview of the Application

BC Hydro stated that “the purpose of the LTAP is to identify sufficient resources to reliably serve the growing demand for electricity within the BC Hydro service area and to inform and guide BC Hydro’s resource acquisition processes over the first ten years of the 20-year 2008 LTAP study horizon.”<sup>3</sup>

WAX was discussed and considered in the 2006 IEP/LTAP proceeding that resulted in the Commission issuing Directive #21: “The Commission Panel directs BC Hydro to include the Waneta Expansion Project in its next ROR.”<sup>4</sup>

The Resource Options Update provided the basis for Chapter 3 of the 2008 LTAP, which included a section specifically related to WAX. That evidence included a project description, current status of environmental approvals, confirmation that WAX will generate significant amounts of both energy and dependable capacity, target commencement of construction, earliest ISD of 2013, assumed 335 MW plant size

---

<sup>1</sup> Exhibit B-1, p. 6-28, ll. 26 – 27.

<sup>2</sup> Exhibit B-12, BCUC IR 3.270.1, p. 3 of 4.

<sup>3</sup> BC Hydro Final Argument, p. 4, ll. 16 -19.

<sup>4</sup> BCUC 2006 IEP/LTAP Decision, May 11, 2007, pp. 168 and 218. “ROR” is the acronym for Resource Options Report.

(anticipated maximum of 435 MW) and reference to expected system benefits. Significantly, that evidence was unchallenged throughout the 2008 LTAP proceeding.

## **1.2.2 LTAP Order Sought**

### **D. Endorsements**

CPC fully supports BC Hydro's request for the Commission's endorsement of the proposed Clean Power Call targets of 3,000 GWh/year *pre*-attrition or 2,100 GWh/year *post*-attrition. BC Hydro's Argument accurately canvassed the record regarding the many considerations leading to the conclusion that the requested Clean Power Call targets are appropriate. The updated targets represent a prudent compromise – tempering the original more ambitious acquisition target in light of the economic turbulence but resisting the temptation to risk too much reliance upon ambitious but uncertain DSM programs.

### **2.1.1.1 Section 44.1**

#### **C. Rejection of 2008 LTAP or Part of 2008 LTAP**

CPC submits that the 2008 LTAP represents an appropriate balance of interests, risks and resource options that is in the public interest and supports the Order sought by BC Hydro. Rejection of the entire 2008 LTAP would create significant uncertainty for BC Hydro, its customers and stakeholders - particularly IPPs and CPC - at a relatively precarious time when greater stability and clarity is required to foster investment. Rejection of parts of the 2008 LTAP may carry the risk of upsetting the balance reflected in BC Hydro's proposed action plan.

#### **2.1.2.2 400 MW of Market Reliance**

In considering the availability of incremental capacity that would satisfy the requirement in SD 10, the Commission may find it helpful to recall an aspect of the Revelstoke Unit 5 CPCN proceeding. BC Hydro stated that WAX's "... dependable capacity that could be attributable to the plant would be similar to that provided by Seven Mile."<sup>5</sup> That assessment was expressly accepted by the Commission.<sup>6</sup> As an electricity generating facility within British Columbia, WAX is well suited to contribute to achieving the capacity objective of SD 10.

## **2.3.2 Impact of the Kwikwetlam Decision on 2008 LTAP**

---

<sup>5</sup> BCUC July 12, 2007 Revelstoke Unit 5 CPCN Decision, p. 64.

<sup>6</sup> *Ibid*, p. 65.

The recent Court of Appeal decision in *Kwikkwetlam* respecting BC Hydro's EPA with Alcan underscores the fact that anticipated supply can rather suddenly and unexpectedly be placed in jeopardy, delayed or even be lost entirely. That additional uncertainty and potential for delay contributes to the need to secure additional volumes through the Clean Power Call.

Throughout the course of the hearing there was considerable evidence regarding the risk of specific projects. The impact of the *Kwikkwetlam* decision was just one example of resource option risk. Another prominent example was the generally acknowledged risk that increased reliance on Burrard might lead to a loss of its crucial "social license". Although no project is immune to risk, particularly in the circumstances of a global recession, few if any other projects can claim the strong regional support, net environmental benefits and relative financial stability that characterize the WAX project.

#### **6.1.2.2 Evidentiary Updates Changes to DSM**

CPC supports the relatively aggressive deployment of DSM by BC Hydro. Notwithstanding BC Hydro's past achievements in the delivery of DSM, CPC would be concerned by DSM objectives beyond those BC Hydro has applied for in the 2008 LTAP.

Uncertainty over the deliverability of DSM was explored quite extensively in the course of the hearing. CPC suggests that the reductions in energy and capacity, and the degree of persistence achieved, need to be examined over a multi-year period. As circumstances change and BC Hydro's system and its customers' consumption patterns continue to evolve, much has yet to be learned and proven with respect to DSM's long-term electrical system value in providing energy and capacity. Ultimately, no DSM program – regardless of how well it is conceived, designed and implemented - can replace the certainty provided by iron and concrete in the ground when system needs demand electrical energy and capacity.

#### **6.2.2.2 Social Licence**

The concept of social licence was discussed quite extensively in the hearing. Social licence considerations were raised primarily in the context of operation of Burrard although implications for other projects were also explored. CPC believes that social licence is a significant risk element for both existing and contemplated generation and transmission projects.

Dr. Preston testified that social licence consists of many different elements, requiring both the tacit and explicit approvals of governments, communities and other stakeholders. Part of that is to have the required permits, but also there's a requirement from a social

aspect to go beyond compliance.<sup>7</sup> CPC agrees with Dr. Preston’s definition and believes that WAX enjoys a robust social licence. CPC submits that WAX is a highly desirable project that exceeds mere environmental and regulatory compliance and is characterized by tacit approval from many quarters.

WAX is jointly owned by CPC and the Columbia Basin Trust (“CBT”) and as such will return value directly to the citizens of British Columbia through CPC and benefits to the region through CBT. Construction and operation of WAX will contribute long-term economic benefits to the residents of the Columbia Basin. As noted in the 2006 IEP/LTAP proceeding, operation of WAX will improve the aquatic environment and provide benefits to B.C. Hydro upstream facilities, most notably Seven Mile Dam.<sup>8</sup> WAX will also help the province meet its energy policy goals of maximizing clean and renewable energy and achieving electricity self-sufficiency by 2016.

CPC submits that from a social licence perspective WAX does not give rise to challenges similar to the significant hurdles facing some other projects.

### **6.3 IPP Resources**

One of the most important submissions found in BC Hydro’s Argument was in respect of the impact of IPP acquisition processes. Without the three identified IPP acquisition processes, the 2008 LTAP will not meet BC Hydro’s forecast energy obligations *in any year* of the planning horizon.<sup>9</sup> That sobering realization underlines the necessity of the Clean Power Call, and that it proceed without delay and with a sufficient target size to ensure that cost-effective resources are not effectively excluded.

#### **6.3.3 Size of the Clean Power Call**

Some intervenors advocated a reduction or even elimination of a target volume for the Clean Power Call. There are at least four reasons why the Commission should reject that suggested approach.

First, any substantial reduction in the Clean Power Call volume seems likely to skew the results by effectively barring larger projects. Prices have yet to be determined by the bidding process but it is quite conceivable that larger projects may be among the most cost-effective. CPC is particularly concerned that WAX, a relatively larger scale run of river project, could be adversely affected by a reduced target.

Second, IPP developers are important to B.C.’s clean and renewable energy development both now and in the future. A further reduction in the Clean Power Call volume will

---

<sup>7</sup> Transcript Vol. 7, p. 1215, ll. 17 -23.

<sup>8</sup> CPC Argument, 2006 IEP/LTAP, p. 8, ll. 26-32.

<sup>9</sup> BC Hydro Argument, p. 160, l. 16 – p. 161, l.3.

certainly cause IPPs to reconsider their choice to conduct business in B.C. relative to deploying capital elsewhere.

Third, although it is possible to make an informed guess as to the attrition rate for the Clean Power Call it nevertheless remains an unknown. Attrition in past calls has ranged from 23% to 66%. The 2006 Call had a Combined Attrition Factor of 48%.<sup>10</sup> Past experience demonstrates that the attrition rate for the Clean Power Call could very well exceed the assumed 30%. Under current economic conditions, with unprecedented constraints on credit, the attrition factor may very well turn out to be higher than expected. In that unfortunate circumstance, BC Hydro will be caught short of required new generation supply.

Fourth, undersizing or eliminating the Clean Power Call would create undue and unreasonable reliance on DSM initiatives even though significant long-term reductions in capacity and energy requirements remain uncertain.

The Commission's endorsement of the requested Clean Power Call targets would facilitate BC Hydro offering EPAs to cost-effective projects that are most likely to proceed. CPC expects that WAX, as a project with a firm capability to provide both significant capacity and energy, will be among those projects.

Further, CPC supports BC Hydro's intended approach to remain open to acquiring additional supply through the Clean Power Call, if the potential electricity purchase agreements are cost-effective.<sup>11</sup> CPC encourages the Commission to confirm that it may be appropriate for BC Hydro to exercise its discretion to acquire a volume that exceeds the endorsed target volume, provided of course that the acquisitions are cost-effective. After all, the main benefits of a predetermined Call target are managing expectations and reducing the evidentiary burden in section 71 proceedings. A Call target should not be viewed as an absolute, which might have the unintended effect of preventing cost-effective resource acquisitions.

#### **6.3.4 Possibility to Defer Clean Power Call or Delay EPAs**

The issues CPC identified above as potential harmful outcomes for a reduction in the Call volume would be exacerbated by a postponement of the Clean Power Call. It is unlikely that there will be better or more complete information available to BC Hydro or intervenors two years hence than what is available now. It will still be necessary to forecast future events and develop an action plan with sufficient flexibility to handle the differences in actual versus forecast outcomes. New generation cannot be turned on at will - it requires adequate lead time for the complex interplay among the project developer, BC Hydro, stakeholder and First Nations concerns, financing interests, construction contractors and regulatory and environmental approvals. Keeping the lights

---

<sup>10</sup> Application, p. 6-29.

<sup>11</sup> Transcript Vol. 3, p. 252, ll. 20 – 24 and Exhibit B-11.

on at peak load can't be reliably achieved by playing catch-up – adequate generation must be available when it is required. CPC urges the Commission to reject the suggestions from some intervenors to defer the Clean Power Call or delay the issuance of EPAs. Such deferral or delay would be unacceptably risky and result in unnecessary lumpiness in bringing on new generation facilities.

### **6.3.5 Requirement to be B.C. Clean or Renewable**

WAX is a run of river project that would satisfy the B.C. *Clean or Renewable Electricity Guidelines* definition. Consistent with that aspect of the Clean Power Call, WAX would avoid GHG risk.

### **6.6.1 Near Term Deficit/Reliability**

BC Hydro's Argument stated that "as a result of the review leading up to the Evidentiary Update (Exhibit B-10), BC Hydro discovered there was a deficit in F2013 and F2014 after the updated LTAP action plans. This was a new and unexpected finding."<sup>12</sup>

Fortuitously, the forecast energy deficit in the 2013 – 2014 time period coincides with the expected ISD for WAX. Upon approval, construction of WAX may commence as early as the fall of 2009. CPC submits that with an estimated four-year construction period, WAX output could be available during the 2013 - 2014 timeframe in time to help mitigate the forecast energy deficit. CPC submits that the recent discovery of the near-term deficit heightens the potential importance of WAX as a resource option.

### **6.6.2 Capable of Meeting Self-Sufficiency**

The contemplated 2013 ISD for WAX also makes it a realistic resource option to contribute to meeting the SD 10 self-sufficiency requirement by 2016. CPC expects that details of WAX's contribution to meeting the self-sufficiency requirement would be included in the next LTAP contemplated for filing in 2011.

## **8 Summary and Conclusion**

CPC respectfully submits that the 2008 LTAP, particularly the elements discussed above, represent a reasonable and responsible action plan to meet the needs of BC Hydro's customers, both present and future, in a manner consistent with legislative and provincial policy objectives. Accordingly, CPC respectfully requests that the Commission issue the Order sought as described in Exhibit B-1-11, as modified in BC Hydro's Argument.

---

<sup>12</sup> BC Hydro Argument, p. 174, ll. 8 – 10.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: 27 April 2009

COLUMBIA POWER CORPORATION

per: (signature)

Fred J. Weisberg

Barrister & Solicitor

Weisberg Law Corporation