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July 2, 2009

BY EMAIL & REGULAR MAIL

British Columbia Utilities Commission

900 Howe Street
Sixth Floor, Box 250
Vancouver B.C. V6Z 2N3

Attention: Ms. Erica M. Hamilton
Commission Secretary

Dear Sirs and Mesdames:

Re: British Columbia Utilities Commission
Project No. 3698545/Order G-30-09
Inquiry into British Columbia's Long-Term Transmission Infrastructure

Leave Application of Terry Vulcano, June 30, 2009

This letter is in response to Mr. Vulcano's application dated June 30, 2009 for leave to file his written submission of June 24, 2009. I note that the written submission accompanying the application bears no specific June date, although I do not believe anything turns on the discrepancy.

The Commission Panel and Participants previously involved in Commission proceedings will be aware that, as Commission counsel, I do not ordinarily comment on applications for leave in advance of submissions from other parties, if I comment at all. In this instance, however, I am of the view that it is necessary to do so.

The need arises because Mr. Vulcano has said that he "was under the impression to keep [his] feedback short-to identify the key items for the attention of the Commission." His application does not state the reason for the impression, but the Commission Panel should know that there has been an exchange of emails between myself and Mr. Vulcano on that subject. I had spoken to Mr. Vulcano on June 22 prior to the Procedural Conference and discussed the existence of the audiotape from the Workshop and procedural matters involving the Procedural Conference with him. We disagree on whether or not I told him during that telephone conversation to keep his feedback on other filed comments short.

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Despite the disagreement on that point, Mr. Vulcano's leave application does not suggest that he was told he could file his written comments in reply after the close of the Procedural Conference. Certainly the Chair's comments on process at T2:106; 121-122; and 362-363 provide no suggestion that there would be an opportunity for Participants to file further written submissions following the conclusion of the Procedural Conference.

Participants must understand that there needs to be finality to any process the Commission adopts for submissions, be that process oral or written. Without such finality, the Commission could become involved in endless rounds of submissions and reply. The opportunity to reply is required for reasons of fairness.

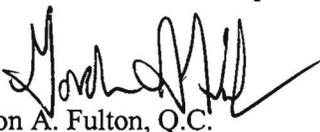
Counsel for the Hwilitsum First Nation circulated her written submission (now Exhibit 89-3) at the Procedural Conference prior to speaking to it. That is the process that Mr. Vulcano should have adopted. One must recognize, however, that Mr. Vulcano is not a lawyer and he cannot be expected to be as familiar with the process relating to filing written submissions after oral argument has been completed and no request for further written submissions has been made by a Commission Panel.

My principal concern about the Panel granting leave in this instance is procedural fairness. I have a secondary concern about procedural efficiency. However, having regard to Mr. Vulcano's lack of experience with the Commission's process, provided no other Participant objects and provided the written submission Mr. Vulcano seeks leave to file is the written submission that he referred to at the Procedural Conference (I do not suggest he needs to file the copy that may have his speaking notes marked on it), the principal concern will have been addressed. The secondary concern, while it remains, could on this occasion be overlooked.

All Participants will presumably have now received notice of Mr. Vulcano's leave application. I suggest that Participants be allowed a fixed date by which to advise the Commission Secretary if they object to Mr. Vulcano's application for leave and the reasons for their objection if any. If there are objections, Mr. Vulcano should be provided with the right of reply.

Yours very truly,

BOUGHTON LAW CORPORATION
by Gordon A. Fulton Law Corporation

Per: 
Gordon A. Fulton, Q.C.

GAF/tl