

Thursday, March 28, 2019

Patrick Wruck
Commission Secretary
BC Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC Canada V6Z 2N3

Re: Commission Inquiry into the Regulation of Electric Vehicle Charging Service ~ Project No.1598941
Phase 2 of Enquiry – Final Argument

Dear Mr. Wruck:

As per the revised scope in Appendix A, Commission Order G-50-19, my Final Argument submission is appended to this letter.

Regards,

Donald Flintoff
Richmond, BC

British Columbia Utilities Commission
An Inquiry into the Regulation of
Electric Vehicle Charging Service –
Phase 2
Final Argument on Revised Scope

Donald J. Flintoff

March 28, 2019

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Chapter 1. Introduction

After the Phase 2 Procedural the Commission, the Panel finds that providing an opportunity for final and reply arguments is warranted but requested that the parties avoid unnecessary repetition. Interestingly enough, and in the face of a lack of legislation or regulation, MEMPR has provide suggestions to limit the scope of the inquiry, and that it is appropriate to allow non-exempt public utilities to invest and recover costs in delivering EV charging services.

The concern I have is that the taxpayers should be taking the investment risk not the ratepayers after all this is MEMPR/Provincial policy and MEMPR¹ appears to be using a crown corporation for the purpose of indirect taxation under the guise of Clean Energy to avoid the route of enacting additional or new legislation.

However, I've taken the request of the Panel to avoid unnecessary repetition into consideration and have limited my comments as best that I can.

¹ <https://www.timescolonist.com/opinion/columnists/les-leyne-ndp-uses-escape-clause-after-two-weeks-1.23653989>

Chapter 2. MEMPR

Actually, MEMPR clearly stated its policy in the February Procedural Conference as:

“Now, the Province has already been working with BC Hydro and FortisBC so as to determine how they can best support the achievement of Clean B.C. targets. The Province further believes that all ratepayers will benefit from investment in electric vehicle charging services by non-exempt public utilities. Therefore, we submit, it would be appropriate for non-exempt public utilities to recover those costs from ratepayers.

The Province is currently considering its options so as to achieve these outcomes, which include for instance proposing legislative or regulatory changes. And although no particular course of action has been chosen at this time, the Province intends to move very quickly to achieve those outcomes.”

“The province believes that achieving the CleanBC targets will require a very significant investment, as I think everybody agrees, in the delivery of these services. -- there's a need for investment by non-exempt public utilities in that sector and that without such investment it may be very difficult to achieve CleanBC targets. And also as was stated in our written submission there is certainly a potential for obviously private service providers as well as public utilities to be involved in that market. It's not an either/or situation. But we believe that participation by non-exempt public utilities is critical.”

MEMPR responded affirmatively to the following question from the Panel - “One of the things that I think I'm hearing you say is that you have made written submissions in this proceeding recently and that those are statements of government policy. They're not just suggestions to the Panel that you consider this rather than that, but they're firm statements of government policy that government is prepared to back by -- presumably backed by legislation or by other means.”

2.1. Indirect Taxation by MEMPR

Later MEMPR states: “And because I have heard many intervenors express concern about the vagueness of our policy objectives, and I have also stated this morning that we would very much value any input from the Panel at the close of this inquiry with respect to certain matters in guiding us in the further development and refinement of our policy.”

As an intervener, I interpreted what MEMPR said is:

1. Non-exempt public utilities are permitted provide to electric vehicle charging services and that all ratepayers will benefit from investment in electric vehicle charging services by non-exempt public utilities; and
2. To allow non-exempt public utilities to invest and recover costs in delivering EV charging services; and
3. Intends to move very quickly to achieve MEMPR policy objectives.

However, the ratepayers are being subjected to indirect taxation by way of an unstated government policy that has not yet been passed by the legislature into law or regulation by employing a “time is of the essence” argument.

Actually the benefits accrue to all taxpayers not just the ratepayers, as all taxpayers will have the benefit of clean air without the risk of investment cost and stranded asset cost recovery proportional to their income. The logic is that until the cost of EVs becomes more affordable, why should the average and lower income earners subsidize and protect these higher income earners from the possibility of increased electricity rates due to the possibility of stranded assets and allowed full cost recovery.

Has MEMPR deliberately pursued the implementation of this policy through the non-exempt utilities without regard to income and having legislation or regulations passed by the Provincial Legislature at the expense of the ratepayers? In doing so, MEMPR may be suggesting that the Panel restrict the scope of the inquiry and bring it to a conclusion as soon as possible to achieve MEMPR policy objectives of permitting non-exempt public utilities to provide electric vehicle charging services.

2.2. Non-Exempt Public Utility Involvement

Now that the issue of non-exempt public utility involvement in the provision of DCFC stations has been clarified by MEMPR as not being prohibited, all that needs to be determined is how cost recovery will be addressed. MEMPR stated that full cost recovery will be allowed but did not elaborate on how this will occur. There appears to be two paths open. First, will MEMPR clarify by regulation that the provision of DCFC stations are a prescribed undertaking; or second, is MEMPR supportive of a CPCN-like application process. I believe the prescribed undertaking path provides MEMPR the ability to achieve its policy objectives as quickly as possible.

2.3. Prescribed Undertaking

As there is some question as to whether the provision of EV Charging DCFC Stations by public utilities is a prescribed undertaking according to CEA/GGRR, why did MEMPR not issue a regulation to clarify this matter in Phase 1 of this Inquiry? If MEMPR had issued a regulation regarding DCFC stations, the Interveners and the Panel would have been able to resolve this matter expeditiously as the Commission's role would have been restricted to setting rates while avoiding prolonged discussion of the other issues, such as safety matters.

2.4. BC Hydro Mandate 2018

On April 18, 2018, the Minister of Energy, Mines and Petroleum Resources issued its guiding principles and BC Hydro priorities for inclusion into its Service Plan.

One of the priorities is to develop a plan in cooperation with MEMPR "...to keep electricity rates low ..." When BC Hydro engages in non-traditional business activities, how does increasing BC Hydro rate base keep electricity rates low unless the rates are set high enough to recover all costs within a fiscal year or, if permitted, a longer period?

Chapter 3. Revised Scope Questions

The Panel acknowledges the importance of scope items (SI) 13 and 14 and accordingly will issue its recommendation on these issues as soon as possible.

3.1. SI-13 Electrical Safety Regulation

As BC Hydro does not have a Direct Current (DC) rate schedule and BC Hydro normally supplies its customers with Alternating Current, then the Panel can find, if it so chooses, that the DCFC stations are not distribution equipment under the Act but rather the DCFC stations are more akin to a customer's battery charger, albeit at a higher voltage and current. In the case of a non-exempt public utility, the load would be the DCFC stations and the same would hold true for the exempt utilities.

3.2. SI-14 Amendments to the GRR

I support an amendment to the GRR that defines DCFC stations as a prescribed undertaking by all public utilities as defined under the UCA. If this is done, then the process for the Commission is simplified and rates can be set and the application for DCFC stations can move quickly forward.

3.3. Argument of Other Scope Items

3.3.1. SI-1 Location and Rates

"In the absence of price regulation, how can EV charging providers that are not otherwise public utilities (which would be exempt from regulation in accordance with the Panel's recommendation) be protected from being undercut by non-exempt public utilities?"

Answered in 4.0.

Should non-exempt public utilities be restricted to participate only in remote geographical locations that are currently uneconomical for exempt EV charging providers to serve?”

No, the market place should remain open (unregulated for location).

3.3.2. SI-3 Separate Rate Class for DCFC Stations

“For EV charging services provided by non-exempt public utilities participating in the EV charging market, should EV charging customers constitute a separate class from which costs associated with EV charging infrastructure is recovered?”

Yes, the DCFC stations require a different rate structure than other class because of the load profiles, location, and other items already mention in earlier submissions.

3.3.3. SI-4 Subsidize Costs

“Should other customer classes of non-exempt public utilities subsidize costs associated with the provision of charging services that can’t be recovered from EV charging customers?”

No, as the owners of EVs are generally in a higher income class.

“How much of the cost is it appropriate for them to subsidize – should there be a cap?”

If the Panel finds that a subsidy is appropriate, it should be capped at 2% in 2019 values, held at the 2019 amount and retired within 5 years.

3.3.4. SI-5 Stranded Assets

If assets are stranded as a result of changing technology or other factors, who should pay for the potential stranded EV charging assets which may be in the non-exempt public utility's rate base?

Obviously, the **regulatory compact** applies and the ratepayer will pay for the cost of the stranded asset unless the costs being recovered are imprudent expenditures. The chances of demonstrating that the expenditures are imprudent would be highly unlikely from my experience.

3.3.5. SI-6 Cross-Subsidization

In the context of BCUC economic regulation, what regulatory justification is required to allow existing utilities to cross subsidize EV charging services?”

See “Example” below.

“If EV charging services add incremental load, does that justify cross-subsidization?”

No. See “Example” below.

“Would the incremental load appear without the subsidization?”

Yes, if EV sale projections are true, then the incremental load will appear.

3.3.6. SI-8 Obligation to Serve

“Do non-exempt public utilities participating in the EV charging market, do they have any obligation to serve EV charging customers?”

No as the UCA provides relief from the obligation.

See UCA Section 28(3): “After a hearing and for proper cause, the commission may relieve a public utility from the obligation to supply service under this Act on terms the commission considers proper and in the public interest.”

3.3.7. SI-10 Other Comments

“Any other comments that may be helpful to the Panel, given the scope as revised.”

Why is BC Hydro pursuing this non-traditional business when it is already carrying \$5.5B of debt²? Would BC Hydro not better serve its customers by increasing its energy sold to reduce its debt burden on ratepayers?

3.3.8. SI-11 Wholesale Provision of Electricity

“Is there a need for a specific tariff provisions for the wholesale provision of electricity for the purpose of EV charging?”

See “Setting of Rates” below.

3.3.9. SI-12 Wholesale Tariff Design

“If so, how should this wholesale tariff be designed?”

Without getting into the Marcon document, see “Setting of Rates” below.

“Is a time of use rate appropriate?”

No. This needs to be determined is a separate hearing on rates.

“Should there be any differences depending on the type of EV charging – Level 1, Level 2, and/or DCFC stations?”

Yes, Levels 1 & 2 can operate on the Residential Rate Tier 2. Other rate adjustments mentioned in the Marcon³ document may require further consideration in another hearing on rates.

² <http://www.bcauditor.com/pubs/2019/rate-regulated-accounting-bc-hydro>

³ https://www.ccme.ca/files/Resources/air/mobile_sources/Final%20DCFC%20Report.pdf

Chapter 4. Setting of Rates

There was a question raised in the Phase 3 Procedural Conference (Proceeding Time: 11:08 a.m. T25) that I would like to address:

“A quick comment on something that Mr. Flintoff said, and this was in relation to setting rates, and I was very puzzled as to how that would work. On one side of the equation we would have regulated utilities getting a regulated rate of return, and stranded asset protection.

On the other side of the equation we have the private sector with no regulated return and no protection with respect to stranded assets. So if rates were set, to which group would they apply, to the utilities side of the equation or the private sector side of the equation and/or both? I just can't see how you could set a rate under those circumstances that would apply to both. And if you did set a rate that applied to the regulated utilities side of the equation, then how would you set it in the context of the private side.”

“The regulated public utilities have distinct advantages over the private sector in the they have protection under the regulatory compact when it comes to stranded assets and access to rate base for funding of the DCFC stations while the private sector does not enjoy the same privileges. If the energy supply pump rate schedules are set the same for both then the private sector could hopefully supply the energy to the EV customers more efficiently than the public utilities and their rate of return should equal or better that of the regulated public utility otherwise they may not participate in the provision of DCFC stations. Likewise, the pump rate needs to be set high enough to allow cost recovery while the supply rate to the DCFC stations needs to be set so that there is sufficient margin for both private and public sector utilities to participate.”

The Clean Energy Act may ready address this aspect in that section18 (2) states:

“In setting rates under the Utilities Commission Act for a public utility carrying out a prescribed undertaking, the commission must set rates that allow the public utility to collect

sufficient revenue in each fiscal year to enable it to recover its costs incurred with respect to the prescribed undertaking.”

Thus, if a regulated public utility must collect sufficient revenue in each fiscal year to recover its costs then one might assume that this could result in sufficiently high enough rates for the private sector to compete successfully as the private sector is considered to be more cost efficient than a regulated public utility.

Chapter 5. Example of Ratepayer Impact

Let's consider an example of H and D (two fictitious characters) making a decision to go "green". H decides when building a house to have a 100% electric home by choice even though he has access to natural gas. Is H afforded any special rate treatment or incentives because of his "green" decision? No. H will pay Tier 2 pricing for most of his electricity use and receive no incentives, or subsidies.

However, D is buying a new car and he decides to buy an EV as his "green" decision. D receives government incentives for purchase the EV but now we are provide D with fueling stations (connection points) throughout the province and these stations may be subsidized by H and others. Also, D enjoys fueling his EV at free or low cost incentivized prices that are not available to H.

While both D and H have made significant investments in their "green" decisions, H's decision has a 50+ years of life while D's decision may only be 10 to 15 years of life.

I would argue that H's decision has the longer life and contributes more to GHG reduction than D's decision. H's decision barely impacts the electric distribution system while D's decision has a shorter life, does contribute to GHG reduction, and impacts the electric system especially outside the urban areas. D's decision also escapes payment of the fuel tax that H pays when fueling his gas powered vehicle.

With this, I submit that cross-subsidises, and rate incentives should not be granted to EV owners.