

Fred James

Chief Regulatory Officer

Phone: 604-623-4046

Fax: 604-623-4407

bchydroregulatorygroup@bchydro.com

March 26, 2020

Mr. Patrick Wruck
Commission Secretary and Manager
Regulatory Support
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Mr. Wruck:

RE: Project No. 1599004
British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
Application to Amend Net Metering Service under Rate Schedule 1289
Reply Argument

BC Hydro writes in compliance with BCUC Order No. G-293-19 to provide its Reply Argument.

Yours sincerely,



Fred James
Chief Regulatory Officer

bh/ma

Enclosure (1)

**Application to Amend Net Metering Service under
Rate Schedule 1289**

**British Columbia Hydro and Power Authority
Reply Argument**

March 26, 2020

PART I: INTRODUCTION

1. This is BC Hydro's Reply Argument concerning its April 29, 2019 application to amend its Net Metering Service. That application was filed and relief is sought from the BCUC pursuant to the rate-setting provisions of the UCA, namely sections 59 to 61.
2. Acronyms and defined terms in this Reply Argument are the same as those in BC Hydro's Final Argument.
3. Eight final arguments have been filed in this proceeding by the following interveners or groups of interveners: CEC, BCOAPO, BCSEA, Mr. Hadland, Silversmith Power, City of Fort ST John, NMRG/BCCSC and Mr. Sjoman.
4. Most of the interveners' submissions set out in their Final Arguments were anticipated by BC Hydro and addressed in its Final Argument; BC Hydro does not repeat submissions already made.
5. BC Hydro's silence in regard to an intervener submission should not be construed as agreement with or acceptance of the submission
6. In a rate design proceeding such as the current one, the Commission determines and sets the final rates, including terms and conditions.¹ Further, the BCUC may employ a significant degree of discretion setting rates.
7. In exercising its rate-setting powers, and discretion, the BCUC must always be cognizant of the fact that in economic terms rate design is generally a "zero-sum game". That is, to the extent a rate design decision of the BCUC benefits the economic interests of one group of customers, it generally burdens another group. Moreover, rarely is it the case that resulting benefits and burdens will be shared equally on a per-customer basis. Instead, a rate determined by the BCUC will generally provide larger per-customer economic benefits (or burdens) to a smaller number of customers, and smaller per-customer economic burdens (or benefits) to a larger number of customers. The BCUC's task is to find a

¹ UCA sub-sections 58(1) and (2).

reasonable balance between competing interests, recognizing that favouring the interests of the few over those of the many is unsustainable.

8. In its Application BC Hydro proposed amendments that it considered would reasonably balance the interests of Net Metering customers and other customers who do not participate in the Program. Upon review of the interveners' final arguments, it is apparent that participating customers generally oppose BC Hydro's proposals insofar as they make the Program less beneficial to them. Similarly, non-participating customers generally oppose proposals insofar as they will result in them bearing more of the economic burden of the Program. In consequence, BC Hydro remains persuaded that its proposals to amend the Net Metering Service strike an appropriate balance between those interests.²

PART II: ENERGY PRICE and SIZE OF GENERATION

9. Both the BCSEA and the CEC, who may be said to represent participating and non-participating interests respectively, offer very similar submissions on the relationship between the Energy Price and restrictions regarding Oversized Generating Facilities. At paragraph 10 of its Final Argument the BCSEA asserts that "Right-sizing the Energy Price removes any cost-shifting due to the impact of the Energy Price on BC Hydro's cost of acquiring annual net energy from NM participants". At paragraph 38 of its Final Argument the CEC asserts that "To the extent that the key issue is mitigating the size of cross-subsidization then an adequate change in the Energy Price such that it reflects the real value of the energy being provided to BC Hydro would be more appropriate."³
10. In principle, BC Hydro agrees that setting the "right" Energy Price would eliminate cost-shifting from participating to non-participating customers related to Surplus Energy Payments. However, it is apparent that there is a wide range of views on the topic and, despite the year-long proceeding, there is little intervenor evidence

² One issue on which there is support across intervenors is BC Hydro's proposal regarding the establishment of Anniversary Dates: all intervenors who comment on that issue are supportive of BC Hydro's proposal.

³ Both the CEC and BCSEA offer alternative views on what the "right" price is consistent with their respective interests, although neither have submitted evidence in support of their arguments. Further, both the BCSEA and the CEC allow that even where the Energy Price is "right", a maximum size of generator is still appropriate.

that might qualify as admissible opinion evidence on what the “right” price is.⁴ For its part, BC Hydro acknowledges that its proposed Energy Price is defined with a view to ease of understanding and transparency as much as precision.⁵ That is, while its proposed Energy Price reflects the most fully-considered and balanced proposal of all those before the Commission,⁶ it is not exact enough to eliminate concerns about related cost-shifting. It is for this reason, in part, that BC Hydro also proposes restrictions related to Oversize Generation Facilities. In particular, BC Hydro submits it would be necessary to account for losses and wheeling charges, at least, if the Commission was inclined to relax proposed restrictions related to Oversized Generating Facilities and still maintain an appropriately balanced approach.⁷ The CEC makes a similar submission at paragraph 49 of its Final Argument, but with a crucial difference. While the CEC sees the 110 per cent limit on generation facilities and a more accurate (lower) Energy Price as equally viable alternatives, BC Hydro believes that “right-sizing” the Energy Price to the satisfaction of all stakeholders would prove difficult and controversial.

11. BC Hydro notes that the BCOAPO, representing non-participating interests, does not accept that “right-sizing” the Energy Price bears any relationship to restrictions regarding Oversized Generating Facilities.⁸ BCOAPO’s alternative perspective on this matter, relative to BCSEA and CEC serves to illustrate the middle-ground that BC Hydro has tried to capture with its proposals.
12. Even if the Energy Price could be “right-sized” to fully account for cost-shifting from participating to non-participating customers related to Surplus Energy Payments, BC Hydro submits it would still be appropriate for the BCUC to

⁴ Interveners have suggested a wide range of prices in both their filed evidence and Final Arguments, ranging from 3 to 4 cents per kWh (Exhibit C24-2, Final Argument of The Peace Energy Cooperative) to 11.8 cents per kWh (Final Argument of NMRG/BCCSC, page 29). Refer also, for example, to the Final Argument of Silversmith Power, at paragraphs 5, 12, 13 and 16.

⁵ Paragraph 58 of BC Hydro’s Final Argument.

⁶ Paragraphs 45 to 58 of BC Hydro’s Final Argument.

⁷ BCSEA submits at paragraph 14 of its Final Argument that BC Hydro uses a Mid-C price unadjusted for losses or wheeling costs as an economic screen for its DSM expenditures. This assertion is unsupported by evidence and in fact is incorrect (acknowledging that there is no evidence on the record on this particular issue).

⁸ Refer in particular to section 3.2.1 of the BCOAPO’s Final Argument.

determine a limit on Oversized Generating Facilities. The reason is that the Program was conceived of and implemented as a program to offset customer load, and not as a program to acquire energy for the purpose of meeting BC Hydro's load-serving obligations.⁹ That is, the Program is and always has been about the terms and conditions of regulated service to Net Metering customers, and not about the provision of an unregulated service to BC Hydro (or other BC Hydro customers).

13. At paragraph 16 of its Final Argument the BCSEA argues that the fact that there has always been an Energy Price applicable to net excess generation demonstrates that the Program was not intended to be a load offset program. With respect, it is inevitable under any net metering program that customer load and generation will not always match, and in consequence it is inevitably necessary to account for net excess generation.
14. To impose no restrictions on Annual Energy Output relative to Annual Load would be to turn a public utility service into an energy-acquisition program. To do so in this proceeding, and simply because cost-shifting related to Surplus Energy Payments could be avoided through right-sizing the "Energy Price", would amount to an inappropriate end-run around BC Hydro's procurement policies.¹⁰

PART III: "NEGATIVE COST-SHIFTING"

15. Part 4 of the NMRG/BCCSC Final Argument advances submissions to the effect that Net Metering Service results in Net Metering Customers bearing not only the costs of their service, but also some of the costs of service of non-participating customers. With respect, the submissions are not credible and ought to be rejected.
16. To begin, a number of factual assertions upon which the submissions depend are unsupported by any evidence, or evidence not properly on the record.¹¹ For this

⁹ Refer to paragraph 26 of the BC Hydro Final Argument and section 3.1 of the BCOAPO Final Argument.

¹⁰ It is also relevant that BC Hydro's procurement policies will be within the scope of BC Hydro's 2021 Integrated Resource Plan application.

¹¹ For example, the reference to an internet quotation by a "highly qualified educator" on page 12.

reason alone they may be rejected. In Part IV below, BC Hydro elaborates on the issues that arise from the use in argument of evidence not on the record.

17. Further, some of the submissions in this section of the NMRG/BCCSC Final Argument materially mischaracterize BC Hydro evidence. For example:

- In section C of part 4, at page 12, the NMRG/BCCSC quotes a BC Hydro IR response as follows: “The value of intermittent, non-firm energy... is based on the Mid-C market price because it will generally result in incremental sales... or decreased purchase... activity with Powerex [emphasis added]”. This response is mischaracterized as a BC Hydro admission that Net Metering energy has a specific use - namely export - and is then used as the basis for the further submission that BC Hydro does not fairly account for the physics of how generation and load interact.
- In section M of part 4, at pages 19 to 20, the NMRG/BCCSC describes electricity sales data presented in a BC Hydro IR response¹² as BC Hydro’s “claimed annual consumption”, and proceeds to make various assertions and calculations about BC Hydro’s cost of service on the basis that the electricity sales data are incorrect. NMRG/BCCSC’s is wrong. The electricity sales data presented are not based on any belief, expectation or claim. They are actual electricity sales data, as recorded by Measurement Canada certified revenue meters.
- In section K of part 4, at page 18, the NMRG/BCCSC states that even throughout peak demand time in the evenings and in winter, BC Hydro does not need to supply any power to the Net Metering customers. However, data presented in a BC Hydro IR response clearly shows that net metering customers delivered minimal electricity to BC Hydro during system peak months (i.e., November through February) and therefore, did rely on electricity delivered by BC Hydro in these months.¹³

¹² The electricity sales data appears in Tables 1 and 8 of BC Hydro’s response to BCUC IR 1.5.2.

¹³ Refer to Figure 1 of BC Hydro’s response to BCUC IR 1.5.2 which provides electricity delivered by net metering customers to BC Hydro’s system. For clarity, this figure only shows generation outflow and not outflow after

18. Finally, some of the NMRG/BCCSC submissions on this topic fail to account for the stark differences between the electricity service BC Hydro is obliged to provide and the net excess generation that Net Metering customers create. For example, in section F of Part 4, NMRG/BCCSC argues that surplus energy from Net Metering customers avoids BC Hydro distribution and transmission costs. Given that Net Metering customers have no obligation to deliver energy to BC Hydro, and no energy-delivery or service obligations to other customers, the submission lacks validity. Indeed, the lack of any delivery or service obligations on Net Metering customers is what fundamentally distinguishes them from public utilities, and is what distinguishes the value of the energy they happen to deliver from time to time, from the value of the energy public utilities are obliged to deliver when it is required.

PART IV: EVIDENCE NOT ON RECORD

19. The submissions of a number of interveners rely on evidence that is not on the evidentiary record of this proceeding. One example was noted above regarding the alleged “negative cost shifting”. Another particularly clear example is in section 5 of part 6 of the NMRG/BCCSC Final Argument concerning the relative carbon-intensity of imports from Mid-C, and Net Metering generation. Starting on page 26, the NMRG/BCCSC makes numerous factual assertions that it admits are unsupported by any evidence on the record.¹⁴ In its submissions on this topic NMRG/BCCSC invites BC Hydro to make “factual corrections” in its Reply Argument.
20. With respect, it is wholly inappropriate to refer to or put new evidence on the record in the argument phase of a proceeding, even with such an invitation. The reason is that such evidence cannot be challenged through contrary (rebuttal) evidence or, potentially, through cross-examination. These are not speculative concerns. For example, in the case of the NMRG/BCCSC’s submissions

inflow has been deducted or after all 409 customer loads have been satisfied, as NMRG/BCCSC appears to be assuming.

¹⁴ The NMRG/BCCSC Final Argument, page 26.

regarding the relative carbon-intensity of imports from Mid-C and Net Metering generation, BC Hydro has noted factual errors that it cannot properly rebut without introducing new evidence.¹⁵

21. Giving weight to submissions based on evidence not on the record is procedurally unfair to all participants who might have a different view of the evidence and might desire to challenge it. Decisions that result from proceedings that are procedurally unfair are subject to legal challenge. It follows, then, that to maintain the integrity of its proceedings, the BCUC cannot give weight to submissions founded on evidence not on the record, even when such evidence is invited.

PART V: ENTHUSIASTIC INTERVENER SUBMISSIONS

22. BC Hydro's final submission to the BCUC is prompted by those intervener submissions that are expressed in exaggerated or aggrieved terms. One example is in the Final Argument of the NMRG/BCCSC, in which it submits that the defined term "Oversized Generating Facilities" is a "pejorative... intended to vilify a few customers...".¹⁶ With respect, the term is appropriately descriptive of a generator that exceeds a participating customer's load, a concept that necessarily arises from the fact that the Program is meant to enable customers to offset their electricity consumption. Moreover, BC Hydro's choice of words, in this instance, are not relevant to the decisions the BCUC must make. BC Hydro urges the BCUC to carefully consider whether this and other similarly enthusiastic submissions have any substantive merit to them before giving them any weight.

¹⁵ BC Hydro also notes that it has provided evidence regarding the carbon intensity of imports into B.C. in a different BCUC proceeding in which it was raised in a timely way.

¹⁶ Page 5 of the NMRG/BCCSC Final Argument. Other examples include suggestions that BC Hydro manipulated public consultation data (Final Argument of Mr. Sjöman) or that BC Hydro has ulterior motives for the Application (Final Argument of Silversmith Power, paragraph 3.)

PART VI: CONCLUSION

23. In summary, BC Hydro submits that it has proposed a reasonable and balanced set of amendments to its Net Metering Service. Its proposals have been informed by the views and interests of both participating and non-participating stakeholders, and remain sensitive to the fact that those views and interests are largely inimical to each other. Moreover, those views and interests have been well-represented through a year-long hearing process. In the circumstances, BC Hydro's proposals should be accepted and effected through the necessary BCUC orders.

ALL OF WHICH IS RESPECTFULLY SUBMITTED MARCH 26, 2020.



Per: _____
Jeff Christian, Counsel for BC Hydro
Lawson Lundell LLP