



June 16, 2020

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC Canada V6Z 2N3

attention: Patrick Wruck, Commission Secretary

filed online

Dear Mr. Wruck:

Re: British Columbia Hydro and Power Authority F2020 to F2021 Revenue Requirements Application ~ Project No. 1598990

These are the comments of MoveUP arising from the Oral Argument phase of this proceeding. We have reproduced each question posed in Exhibit A-35 followed by an excerpt from the transcript of the Oral Argument that we believe captures the essence of BC Hydro's response, followed by our client's observations. Page reference are to Transcript Vol. 16 unless otherwise noted.

1.1 Please clarify BC Hydro's position on whether the *Utilities Commission Act (UCA)* gives the British Columbia Utilities Commission (BCUC) the authority to put any limits on how much BC Hydro can reallocate with respect to its accepted Demand Side Management (DSM) expenditures during the test period. Why or why not?

BC Hydro Response:

... subject to some clarifications of what we understand by limits on reallocations – which I will speak to in a moment – yes, the Commission does, in our view, have the jurisdiction to impose such limits. [2914]

... these limits are not about constraining a utility's ability to actually spend DSM funds. Rather, they are about limits on cost recovery. [2916]

... the utility may spend funds above the transfer limits, but it is at cost recovery risk if it does so. And more particularly, the utility must seek acceptance of an expenditure schedule for expenditures beyond the reallocation limits, either before or after the fact, before it recovers them in rates. [2917]

Comment: MoveUP submits that BC Hydro's synopsis of the applicable legal principles is accurate and uncontroversial.

1.2 Please discuss whether BC Hydro anticipates the COVID-19 Pandemic to result in over or underspending of its DSM forecast during the test period.

BC Hydro Response:

... we are still in the midst of the pandemic and the resulting economic consequences. Consequently, whatever BC Hydro's expectations might be at this time for DSM expenditures, the panel can reasonably conclude that the outcome will be highly uncertain. [2920]

... customers will be kept whole from any underspending or overspending of DSM expenditures due to the pandemic. [2920-21]

Comment: The profound and unique impacts of the pandemic and associated emergency responses on this and, in fact, many key aspects of the current proceedings, are such that attempts to predict the course of events and the shape of whatever emerges will be unreliable. To a large extent, the Commission's task in this respect (and with respect to BC Hydro's load and revenue forecasts, for example) will consist of determining which incorrect numbers to apply. The most certain thing we can say is that they will be wrong, for reasons beyond anyone's control.

1.3 Given that the DSM regulatory account is a benefit matching account rather than a variance account, please explain whether any over or underspending of DSM expenditures during the current test period resulting from the COVID-19 Pandemic would be recovered or returned to customers. If yes, please explain how. If not, please explain why this would not be necessary.

BC Hydro Response:

... BC Hydro can confirm that the DSM regulatory account will in fact keep customers whole from over or under spending of DSM expenditures over the test period due to the pandemic. This is because any such over or under spending over the test period would likely be confined to Fiscal 2021, which will not be amortized into rates until the next test period. Specifically, the amortization of Fiscal 2021 DSM expenditures will begin in Fiscal '22 - 2022 ... and those amortization amounts will be updated in BC Hydro's next revenue requirement filing. [2922]

Comment: MoveUP submits that this is an accurate and adequate response to the question.

2.1 Please clarify how it is possible to maximize the value of surplus energy while maximizing Powerex’s trade income. Please provide a concrete historical example of this/these scenario(s).

BC Hydro Response:

... the two activities need to be optimized together, not individually to yield the highest consolidated net revenue, and hence the lowest cost of energy for BC Hydro's customers. . . . the decision as to what happens with BC Hydro's surplus sales is based on what's economic and the allocation as between BC Hydro's surplus sales and Powerex is an accounting exercise. [2924-2925]

Comment: MoveUP submits that this is an accurate and adequate response to the question.

3.1 Given that Direction No. 8 states that rate base includes “the amount listed as property, plant and equipment in service, less accumulated amortization,” please clarify whether the inclusion of these properties in rate base prior to the development of the substations is in accordance with Direction No. 8. [Emphasis added]

BC Hydro Response:

... these properties are properly included in rate base under the definition of rate base in Direction 8. [2930]

... rate base incorporates both assets that are used and assets that are useful. [2931]

Comment: MoveUP submits that this, and the illustrations provided by BC Hydro in Oral Argument, provide an accurate and adequate response to the question. An asset need not be in actual current service in order to be included in rate base, so long as it is useful for the purpose of providing service to ratepayers and was prudently acquired.

3.2 Please clarify what BC Hydro means when it states that the “carrying costs are not material enough to warrant the establishment of a deferral account for each property.” Please quantify BC Hydro’s view of materiality under these circumstances.

BC Hydro Response:

... in principle there is a point at which costs may be significant enough to warrant creating a regulatory account for a specific project or on a combined basis for multiple projects and that that would go into the mix with the other factors that the Commission would consider in whether or not it's, you know, just and reasonable to create such an account.

... in these circumstances the costs weren't sufficient to merit. And it's evident that on the record that the pre-purchase of properties like this has been a relatively rare occurrence to date, such that an account for carrying the costs on a consolidated basis hasn't been necessary to this point. [2945]

Comment: MoveUP submits that this is an accurate and adequate response to the question.

4.1 Please provide the incremental cost of implementing and maintaining the FERC Uniform System of Accounts for regulatory and benchmarking purposes compared to using the BCUC Uniform System of Accounts.

BC Hydro Response:

... the costs could reasonably be expected to be somewhat greater than for the BCUC system of accounts ...

... the real kicker here is the institutional capacity. That's the difference between the two. [2952-2954]

Comment: MoveUP submits that this is an accurate and adequate response to the question.

5.1 Given that by Order R-18-19 dated September 9, 2019, the BCUC had approved a Compliance Violation Investigation of BC Hydro with respect to a number of vegetation-related events, please explain how the testimony regarding vegetation management follows the BCUC's finding and recommendation in the SAP Inquiry regarding BC Hydro's approach to information disclosure.

BC Hydro Response (from Mr. O'Riley's letter dated June 15 2020)

I agree completely with Commissioner Morton's comments Friday about the need for transparency and his statement that "It's not only the Commission that they're testifying to, they're testifying to other interveners and they're testifying to the general public." The evidence that I and other witnesses gave at the hearing was intended to, and I believe did, convey to the BCUC and the public how seriously we take compliance with MRS and vegetation management more generally. [BC Hydro Additional Submissions p. 1]

Comment: MoveUP submits that BC Hydro's approach to these proceedings has been marked by a refreshing degree of candour, and will help "reboot" the relationship between the utility, its regulator and interveners in a more positive direction, after many years of circumvention of these public fora by the former provincial government. Our client agrees with Mr. O'Riley's characterization of the evidence in question.

6.1 Please discuss the legal and practical issues regarding an advance assessment by the BCUC that BC Hydro is planning to consider.

- and -

6.2 Please clarify when BC Hydro plans to initiate further discussions with BCUC staff.

BC Hydro Response:

... once the argument phase here is done BC Hydro will be carefully considering the issues involved and will be reaching out to BCUC staff in due course to explore potential options. [2972]

Comment: MoveUP submits that this is an accurate and adequate response to the question.

6.3 Please explain whether BC Hydro plans to bring the Bear Mountain Terminal to Dawson Creek Transmission Voltage Conversion project and the North Montney Transmission Development project to the BCUC for an advance assessment of the applicability of the GRR.

6.3.1 If so, please discuss when BC Hydro plans to bring these two projects to the BCUC for an advance assessment. If not, please discuss why not.

BC Hydro Response:

BC Hydro does not have any plans at this time to bring the Bear Mountain and North Montney projects forward for an advanced assessment, because these projects may or may not be prescribed undertakings under the GRR [2977]

Comment: MoveUP submits that this is an accurate and adequate response to the question.

7.1 Please clarify why BC Hydro is now proposing to budget for project write-offs and have it recoverable from ratepayers when in the past its practice was to have these costs be borne by its shareholder. Was there a change in BC Hydro's capital planning and delivery process that prompted this change?

BC Hydro Response:

... the proposal was not prompted by a change in the capital planning and delivery process.

Although there is plenty of evidence to show the continuous improvement of the capital planning processes over time, discussed in part 7 of our final submissions.

The request was prompted by a reassessment of how a regulatory principle should be applied in the context of a mature capital planning process.

... in a revenue requirements context these are accounted for as operating costs, much like other operating costs that are incurred in the course of planning, and they should be approached in the same way. And what is that approach? That approach is that the utility presents a forecast of costs that it expects to occur based on what it believes is a reasonable level of spending. And the BCUC then examines that forecast of the operating costs and it determines based on the totality of the evidence that is before you what amount is reasonable for inclusion in the rates.

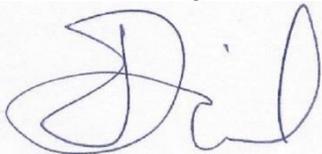
... the panel is entitled to and should, in my submission, consider this issue from the perspective of the evidence and the regulatory principle and that a change in the capital planning process is not and should not be a pre-condition of granting what BC Hydro is seeking in the circumstances. What you need to grant the order, in my submission, is two things. First of all, a sound principle on which to base your decision and evidence about the current planning process to demonstrate that the forecast is reasonable and that BC Hydro's sound practices should be encouraged. In my submission you have both of those things before you on the evidence.
[2979-2982]

Comment: Briefly, in MoveUP's submission, the right of a utility to recover in rates the cost of writing off capital expenditures depends on the prudence of the decision to incur them when they arose, and the prudence of the decision to terminate or abandon them and write them off. Prudence is not a standard of perfection, or one that requires an ability to foretell developments that may thwart reasonable expectations. If BC Hydro has undertaken capital projects or expenditures imprudently (evaluated on the basis of available knowledge at the time they were incurred), or abandoned them imprudently, then their written-off costs should be to the account of the shareholder. In our submission there is no evidence of such circumstances in this proceeding. BC Hydro's submissions regarding the efficacy of the utility's capital planning processes provide relevant context to the prudence issues that arise in this regard.

All of which is respectfully submitted.

Yours very truly,

ALLEVATO QUAIL & ROY

A handwritten signature in blue ink, appearing to read 'Jim Quail', written in a cursive style.

per Jim Quail
Barrister & Solicitor