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**Filed Electronically**

British Columbia Utilities Commission  
Suite 410, 900 Howe St.  
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**Attention: Patrick Wruck,  
Commission Secretary**

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Dear Mr. Wruck:

**British Columbia Utilities Commission Review of British Columbia Hydro and Power Authority's Performance Based Regulation Report – Association of Major Power Customers of BC ("AMPC") Final Argument**

This is the final argument of the Association of Major Power Customers of BC ("AMPC") in the British Columbia Utilities Commission ("BCUC" or "Commission") Review of BC Hydro's Performance Based Regulation ("PBR") Report.

This proceeding was initiated by the BCUC in October 2019 and has spanned well over a year. Over this period, there have been numerous other BC Hydro-related regulatory proceedings before the BCUC including two separate revenue requirement applications ("RRAs"). As AMPC's participation in BCUC proceedings has been constrained by its limited resources, AMPC has largely taken on a "monitoring" role in this proceeding.<sup>1</sup> Nevertheless, AMPC participated in the proceeding by attending the first procedural conference (in person), the PBR workshop (virtually), and providing written submissions as appropriate.<sup>2</sup>

AMPC focuses its submissions on three topics: the benefits of continued cost-of-service regulation, indexing for O&M and capital replacement expenses, and incorporation of specific incentive mechanisms aimed to promote regulatory efficiency. Where AMPC does not address an issue raised in this proceeding, its silence should not be taken for agreement or disagreement. AMPC elaborates on its views below.

**1. AMPC Supports Continued Use of Cost-of-Service Regulation**

AMPC supports the continued use of a Cost-Of-Service Regulation ("COSR") framework for the purpose of rate setting, with a few exceptions detailed below. In general, a COSR approach provides greater transparency for ratepayers, is more intuitive, and ensures rates are set based on costs that are prudently incurred.

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<sup>1</sup> As noted by AMPC legal counsel, Transcript for Procedural Conference, November 22, 2019, Volume 1, page 23.

<sup>2</sup> Exs. C11-2 to 11-5.

Overall, AMPC does not support the adoption of PBR over COSR. As noted by BC Hydro, PBR does not necessarily lead to greater regulatory efficiency, especially for a vertically integrated crown-owned utility such as BC Hydro, which is “more esoteric and relies heavily on specialized expertise.”<sup>3</sup> A comprehensive PBR framework for BC Hydro’s rate setting would be well outside the norm, with the examples provided by Pacific Economic Group Research (“PEG”) relating to only a portion of crown-owned utility businesses, not fully integrated utilities. Further, PEG was unable to provide evidence of successful implementation of PBR for a crown-owned, vertically integrated utility.<sup>4</sup> AMPC believes that the evidence provided in support of PBR is not sufficient to justify a full change to this methodology.

AMPC submits that to the extent that BC Hydro’s revenue requirement is complex or time intensive, this is largely due to BC Hydro’s extensive use of regulatory and deferral accounts. The scale and scope of these accounts create additional layers of complexity in rate reviews, not the use of cost-of-service methodology.

Fully adopting a PBR framework is not the most effective approach to address concerns about regulatory efficiency. Instead, the BCUC should continue to eliminate deferral and regulatory accounts that are not used for the purpose of benefit to cost matching, in line with Auditor General recommendations to reduce reliance on regulatory and deferral accounts for rate setting.<sup>5</sup>

AMPC believes that strides have been made in the last two revenue requirement applications in understanding BC Hydro’s COSR-based revenue requirement, since the BCUC was given back authority over rate setting by Government. Moving fully to PBR would eliminate this progress, and would instead require interveners, BC Hydro and the BCUC to start over with a new methodology. Cost-of-Service Regulation should be given the opportunity to work, with the caveat that there are a few areas that could benefit from improvements suggested in this proceeding.

## **2. Indexing for O&M and Capital Replacement Expenses**

AMPC supports the use of indexing and/or a simple formula approach for rate setting specifically related to Operating and Maintenance expense and capital replacements/renewals. There is significant information asymmetry for these costs. Participants in regulatory proceedings are fully reliant on information provided by BC Hydro and even then, it is extremely difficult to understand and assess the reasonableness of these costs. BC Hydro’s forecast activities in these areas may be prudently managed and planned, but it is not always possible to determine or properly test this within a regulatory proceeding. This makes decision-making on the appropriate levels of spending and incentives for efficiency, while also ensuring reliable electricity service is maintained, difficult and very time-intensive.

Adopting a *simple* indexing or formulaic approach (e.g., inflation) to setting these costs would streamline regulation, introduce stronger cost containment incentives, and allow for operating flexibility and efficient operations for BC Hydro.<sup>6</sup> Such an approach would also maintain COSR for all other cost items in revenue requirement that are more easily reviewed and tested during an RRA proceeding, and would better ensure cost-based, transparent rates.

It is AMPC’s view that developing a baseline and proposal for implementation can be incorporated within the course of BC Hydro’s regular RRAs, approximately every three years (if the three-year rate plans are adopted). Implementing this mechanism does not require additional regulatory steps and proceedings.

<sup>3</sup> Exhibit A2-1, page 11-5.

<sup>4</sup> Exhibit A2-13, PEG response to Zone II IRs 1.1.

<sup>5</sup> Office of the Auditor General of British Columbia, “Rate-Regulated Accounting at BC Hydro” (February 2019), online at: [https://www.bcauditor.com/sites/default/files/publications/reports/OAGBC\\_RRA\\_RPT.pdf](https://www.bcauditor.com/sites/default/files/publications/reports/OAGBC_RRA_RPT.pdf)

<sup>6</sup> As explained by Mr. Lowry, Workshop Transcript, September 8, 2020, pages 157-159.

As a comparison, in the Alberta Utilities Commission's current evaluation of PBR for distribution utilities,<sup>7</sup> the Office of the Utilities Consumer Advocate ("UCA"), one of the primary interveners representing residential and smaller users, submitted an evaluation that found "[i]t is very difficult to conclude with certainty that customers have paid lower rates under PBR than they would have done had cost of service regulation had continued."<sup>8</sup> The UCA observed utility trends for decreased O&M spending on a per customer basis and regulatory efficiencies, but these benefits did not occur immediately, but instead, on average about five years after PBR was adopted.<sup>9</sup> While the Alberta Utilities Commission has not yet made a determination in this review, the submissions to date support targeted adoption of PBR incentive mechanisms for BC Hydro in relation to O&M and capital replacement/renewal spending.

### **3. Incorporation of Incentive Mechanisms (Three-Year Test Period, Statistical Benchmarking, Expanded Use of Performance Metrics)**

BC Hydro's Final Argument, page 4, requests the BCUC to find in favour of incorporating a three-year test period, regularly scheduled statistical benchmarking, and information-only performance metrics into its RRA proceeding.

AMPC supports increasing the test year period in RRAs to three years in an effort to increase regulatory efficiency. However, this needs to be carefully undertaken in a manner that does not increase reliance on regulatory and deferral accounts.

For statistical benchmarking and information-only performance metrics, AMPC cautions that these types of analyses are only as useful as the comparators are relevant to BC Hydro and BC Hydro's framework. As an example, AMPC has raised this issue in the past with regard to rate benchmarking against other jurisdictions and the appropriateness of comparisons of industrial rates when those other jurisdictions are not cost competitive and do not have a large industrial customer base. Benchmarking should reflect relevant comparator jurisdictions, and should include an assessment of the reasonableness of the comparators selected.

All of which is respectfully submitted this 1<sup>st</sup> day of June, 2021.

Norton Rose Fulbright Canada LLP




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<sup>7</sup> Noted by AMPC in Exhibit C11-5, AUC Proceeding # 26356.

<sup>8</sup> Exhibit 26356-X0030 in the AUC's ongoing review of PBR, page 4. Available online:

[https://www2.auc.ab.ca/Proceeding26356/ProceedingDocuments/26356\\_X0030\\_UCA%20Submission%20on%20Evaluation%20of%20PBR%20Proceeding%2026356%20B4083748x7AF53\\_000058.PDF](https://www2.auc.ab.ca/Proceeding26356/ProceedingDocuments/26356_X0030_UCA%20Submission%20on%20Evaluation%20of%20PBR%20Proceeding%2026356%20B4083748x7AF53_000058.PDF)

<sup>9</sup> Ibid., pages 4-5 and 8.