

BRITISH COLUMBIA UTILITIES COMMISSION

**IN THE MATTER OF THE UTILITIES COMMISSION ACT
R.S.B.C. 1996, Chapter 473**

and

**British Columbia Hydro and Power Authority
("BC Hydro")
Resource Expenditure and Acquisition Plan Application**

August 17, 2005
Vancouver, B.C.

PROCEDURAL CONFERENCE

BEFORE:

MR. R. HOBBS	Chairperson
MS. L.A. BOYCHUCK	Commissioner
MR. P. VIVAN	Commissioner

VOLUME 1

APPEARANCES

P. MILLER	COMMISSION COUNSEL
C. GODSOE	BRITISH COLUMBIA HYDRO AND POWER
R.B. WALLACE	JOINT INDUSTRY ELECTRICITY STEERING COMMITTEE
D. AUSTIN	INDEPENDENT POWER PRODUCERS ASSOCIATION
C. WEAVER	COMMERCIAL ENERGY CONSUMERS.
R.J. GATHERCOLE J. QUAIL	B.C. OLD AGE PENSIONERS' ORGANIZATION, COUNSEL OF SENIOR CITIZENS' ORGANIZATIONS, FEDERATED ANTI-POVERTY GROUPS, END LEGISLATED POVERTY, TENANTS RIGHTS ACTION COALITION, WEST END SENIORS' NETWORK, AND BC COALITION OF PEOPLE WITH DISABILITIES
W. ANDREWS	B.C. SUSTAINABLE ENERGY ASSOCIATION
D. NEWLANDS	ELK VALLEY COAL CORPORATION
D. RAMIREZ	CITY OF NEW WESTMINSTER
G. VAMOS	SELF

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CAARS

VANCOUVER, B.C.

August 17, 2005

(PROCEEDINGS COMMENCED AT 9:00 A.M.)

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5 THE CHAIRPERSON: Please be seated. My name is Robert
6 Hobbs. With me is Commissioner Boychuk and
7 Commissioner Vivian. This procedural conference was
8 rescheduled by letter L-51-05 dated July 8th, 2005.

9 Before turning to the issues for this pre-
10 hearing conference, I want to identify the staff,
11 which includes both full-time and part-time staff,
12 that have been or will be involved in the review of
13 the application. Jim Fraser is lead staff. Bob
14 Rerie, Eileen Cheng, Elroy Switlishoff, and Trent
15 Berry will be responsible for the detailed review of
16 the application. I have identified the staff so that
17 you can contact them if you wish.

18 Commission counsel for this morning will be
19 Mr. Paul Miller. The hearing reporter is well known
20 to most of you, Mr. Bemister.

21 By a letter that was circulated yesterday,
22 Exhibit A-8, three broad areas were identified for
23 comment with a draft regulatory timetable. After this
24 pre-hearing conference, the Commission Panel expects
25 to issue an order establishing the regulatory process
26 and timetable for the proceeding.

1 MR. MILLER: The Joint Industry Electricity Steering
2 Committee.

3 MR. WALLACE: R.B. Wallace appearing on behalf of the
4 JISC. We do not have any additional issues.

5 MR. MILLER: Independent Power Producers Association of
6 B.C.

7 MR. AUSTIN: Good morning, Mr. Chairman, Members of the
8 Panel. David Austin appearing on behalf of the
9 Independent Power Producers Association of B.C.

10 I do have two issues that I'd like to add
11 to the list. The first one is the incomplete
12 responses to information requests and how that's going
13 to be dealt with. The second is in relation to the
14 Commission's decision in the Revenue Requirements
15 hearing and also as further illuminated in the
16 Vancouver Island Duke Point proceedings, and that's
17 the concept of filing of the, as the Commission calls
18 it, the EPA's prior to the awarding of contracts, and
19 I can go into that a little bit later on but the IPP
20 B.C.'s problem right now is essentially we've got --
21 we don't have terms of conditions, we don't have an
22 electricity purchase agreement. What we have is what
23 is commonly called in the commercial legal world is a
24 term sheet, and I think that is going to have to be
25 discussed and certainly clarified before we get out of
26 this room this morning.

1 THE CHAIRPERSON: Let me speak to those two issues first
2 so that others have an opportunity to comment. With
3 respect to the first issue, the practice that has
4 recently been adopted is to give intervenors an
5 opportunity at any time to raise issues with respect
6 to the adequacy of responses to information requests.
7 I encourage intervenors to do that earlier rather than
8 later for a number of reasons related to the
9 efficiency of the proceeding. And reasonable
10 opportunity for B.C. Hydro to respond and that would
11 be the approach I would propose for this proceeding
12 unless there are contrary views held, and I welcome to
13 hear those.

14 **Proceeding Time 9:04 a.m. T3**

15 On your second issue, Mr. Austin, I want to
16 reframe the issue just to make sure that I understand
17 you would like us to consider this morning. The terms
18 and conditions of the EPA, if you will, the final form
19 of the EPA, has not yet been filed in this proceeding.
20 As you have mentioned the term sheet has, and is it
21 your position that the final form of the EPA needs to
22 be before the Commission at some stage to approve it
23 before it being awarded?

24 MR. AUSTIN: Before the bidding process starts because
25 that's the point that the IPPs have made continually
26 and have picked up in the revenue requirement decision

1 which is they need to know what the EPA, Electricity
2 Purchase Agreement, looks like before they start
3 bidding. And as I understand the Commission's
4 decision at the Revenue Requirements Hearing and just
5 reading from page 120 it says:

6 "The Commission Panel encourages B.C. Hydro
7 to file pro-forma contracts with the
8 Commission for comment prior to the
9 commencement of a competitive process where
10 practicable. In any case, if B.C. Hydro
11 desires an efficient and effective
12 regulatory process it is incumbent upon B.C.
13 Hydro to design its competitive processes so
14 there is a reasonable opportunity for the
15 Commission to comment on the terms and the
16 conditions of the EPA prior to the awarding
17 of contracts."

18 And to put a point on it the IPPBC does not want a
19 repeat of the Duke Point situation where the bidding
20 process is completed and prior to the final award of
21 the contract the EPA is reviewed. It's certainly not
22 the fault of the Commission or anybody else under
23 those circumstances, but bidders need to know what
24 that EPA looks like and have some form of Commission
25 approval before the competitive bidding process starts
26 because otherwise they can spend millions of dollars

1 only to find out at the end that the EPA that was
2 presented as part of the bid package is not the EPA
3 that is going to be the one's that's going to be
4 executed. It can change things dramatically.

5 THE CHAIRPERSON: Right. Let me continue this discussion
6 with you. The Revenue Requirements decision as you've
7 read it requested an opportunity for comment. It
8 didn't request an opportunity for approval and I bring
9 that distinction to your attention because it may have
10 some significance for you at this stage, so just to
11 identify that for you.

12 And I guess secondly, I think what you're
13 suggesting is that before the bidding process proceeds
14 the final terms of the EPA need to be before the
15 Commission Panel either for comment or for approval.
16 I'm not sure what your position is with respect to
17 that. And then is that -- is your view that should
18 happen as part of this proceeding or after comments
19 are received from the interested bidders, which I
20 would assume would be part of the CFT process, and
21 then filed with us for comment or approval depending
22 on what your view of that is. So, it could be as part
23 of -- are you suggesting it be part of this process --
24 or are you suggesting it would be part of the CFT
25 process and then filed with the Commission?

26 MR. AUSTIN: I'm suggesting it should be part of this

1 process. If we're looking at the Term Sheet we might
2 as well be looking at the Electricity Purchase
3 Agreement at the same time in the efficiency of saving
4 some time. Let's get it all out there, let's get it
5 going, because ultimately the bidders need to know
6 what the situation is before they start bidding.
7 We've set this process up, and I think as other people
8 will perhaps comment this morning, there is a certain
9 desire to proceed in a particular manner. So let's
10 get this done. I'm neutral with respect to whether
11 it's Commission approval or comment, but certainly at
12 least the Commission will have had it before it -- the
13 bidders will have it before them now so that they can
14 discuss it and potentially ask for changes.

15 All we've got right now is the Term Sheet,
16 and the Term Sheet is good for what's there. A Term
17 Sheet is not good for what's not there in terms of the
18 final contract. And as most people in a commercial
19 situation could tell you, there can be a significant
20 difference between what's in the Term Sheet and what's
21 in the actual agreement in terms of how it's reflected
22 in the agreement. So, certainly in order to save time
23 up front, we would really like to see the EPA filed as
24 soon as possible, and we can deal with it as best we
25 can in this process. Certainly not suggesting that if
26 the Commission wants to comment on it or approve it at

1 a later date, or do whatever it wants, that's fine,
2 but at least the Commission and the bidders in the
3 process will have an early opportunity to comment on
4 it.

5 THE CHAIRPERSON: Thank you, Mr. Austin. Just out of an
6 abundance of caution here, the discussion I just had
7 with Mr. Austin was to seek clarification with respect
8 to what his two issues were. After I take appearances
9 and determine if there are any other issues that
10 participants wish to add to the list of issues for
11 consideration this morning, I'll seek comments on
12 those. So are there any further appearances?

13 MR. MILLER: Yes, Mr. Chairman. Commercial Energy
14 Consumers.

15 MR. WEAVER: Good morning, Mr. Chairman and members of the
16 Commission. Chris Weaver for the Commercial Energy
17 Consumers. It's W-E-A-F-E-R. Thank you. We have no
18 other issues to add and we'll speak to Mr. Austin's
19 points after. Is that the process you want?

20 THE CHAIRPERSON: That's right.

21 MR. WEAVER: Thank you.

22 MR. MILLER: B.C. Sustainable Energy Association.

23 MR. ANDREWS: William Andrews appearing for the B.C.
24 Sustainable Energy Association and the Sierra Club of
25 Canada, British Columbia Chapter. I'll refer to them
26 collectively as BCSEA. We have no issues in addition

1 to the two that have been raised already.

2 MR. MILLER: Elk Valley Coal Corporation.

3 MR. NEWLANDS: Good morning, Mr. Chairman, Commissioners.

4 David Newlands, Elk Valley Coal Corporation. Thanks.

5 MR. MILLER: Is there anyone that I missed that wishes to
6 appear?

7 MS. RAMIREZ: Good morning, Mr. Chairman and Panel. My
8 name is Dominique Ramirez from Willis Energy Services
9 and I'm here representing the City of New Westminster.
10 Thank you.

11 MR. VAMOS: Geza Vamos. I don't have any other issues to
12 add, thanks.

13 MR. MILLER: Is there anyone else that wishes to appear?
14 That concludes the list, Mr. Chairman.

15 THE CHAIRPERSON: Thank you. Let me seek comments now
16 first from B.C. Hydro and then from the intervenors
17 with a right of reply with respect to the issues that
18 are raised by Exhibit A-8, together with two issues
19 that are raised by Mr. Austin. And on the first issue
20 with respect to the IRs, I've invited comments with
21 respect to a process to deal with the adequacy of
22 responses to IRs and then I would like your comments
23 on those as well.

24 In previous pre-hearing conferences it has
25 been my practice to deal with process issues and then
26 schedule issues. I'm not going to do that this

1 morning. I think we have three principal areas to
2 deal with -- scope, process, and schedule -- and I'll
3 ask that you deal with each of those issues together
4 with any other issues that are identified, as I say,
5 in either A-8 or the two issues of Mr. Austin when you
6 make your comments, so look for all of your comments
7 on those issues at one time.

8 With that, Mr. Godsoe, I'm ready to hear
9 from you.

10 **SUBMISSION BY MR. GODSOE:**

11 MR. GODSOE: Mr. Chairman and members of the Commission,
12 I propose to divide my submissions into two parts.
13 First I will briefly describe the five components of
14 B.C. Hydro's 2005 Resource Expenditure and
15 Acquisition Plan, which for purposes of this
16 submission I'll refer to as the 2005 REAP. I think
17 this will set the groundwork for the second part of
18 my submission, which deals with our proposed
19 amendments to the regulatory timetable set out in
20 Exhibit A-8, to take into account the potential for
21 negotiated settlement process or NSP to address the
22 2005 REAP issues.

23 I'll also outline B.C. Hydro's request for
24 two Commission orders that arise out of the use of an
25 NSP.

26 So briefly by way of background, the 2005

1 REAP was filed with the Commission and made available
2 to intervenors on 7 March 2005. It is found at
3 Exhibit B-1. It is an exceptional application in that
4 it is the first standalone REAP filed by B.C. Hydro,
5 but it is also the last element in a planning cycle
6 and encompasses both the 2004 REAP and the 2004
7 Integrated Electricity Plan or IEP. It is above all
8 else a bridging document to the next planning cycle.
9 That planning cycle will commence with the filing of
10 B.C. Hydro's 2005 IEP on or about 30 November 2005,
11 and the ensuing regulatory review of the 2005 IEP's
12 long-term acquisition plan as part of and in
13 conjunction with the 2006 REAP.

14 So turning to the five components of the
15 2005 REAP, the first component consists of a plan of
16 capital expenditures B.C. Hydro anticipates making for
17 two years, fiscal 2006 and fiscal 2007. Set out at
18 Chapter 3 of the 2005 REAP are the anticipated capital
19 expenditures for B.C. Hydro's generation and
20 distribution lines of business, and also miscellaneous
21 corporate and service organization expenditures.
22 Collectively I'll refer to those as the Capital
23 Expenditure Plans.

24 **Proceeding Time 9:17 a.m. T5**

25 The Capital Expenditure Plans are filed
26 pursuant to subsection 45(6.1a) of the *Utilities*

1 *Commission Act.*

2 The second component consists of B.C.
3 Hydro's plan of how it intends to reduce the demand
4 for energy purchased from B.C. Hydro by its customers,
5 including a forecast of expenditures required for that
6 purpose for the same two years, fiscal 2006 and fiscal
7 2007.

8 Set out at Chapter 4 of the REAP these
9 demand side management of DSM plans as I'll refer to
10 them as are further subdivided into energy efficiency
11 and low displacement. The DSM plans are filed
12 pursuant to subsection 45(6.1c) of the *Act*.

13 The third component consists of a
14 forecasted expenditures for the acquisition of energy
15 pursuant to existing electricity purchase agreements,
16 of EPAs for fiscal 2006 through to fiscal 2009. I'll
17 refer to these as the existing EPA expenditures and
18 they are found in Section 2.7 of the REAP. These
19 existing EPA expenditures are filed pursuant to
20 subsection 45(6.1b) of the *Act*.

21 Now, Mr. Chairman, and members of the
22 Commission I did want to bring to your attention one
23 amendment to the existing EPA expenditures at this
24 time. In light of the termination of the Duke Point
25 Power EPA, B.C. Hydro is of the view that the DPP
26 related expenditures found in fiscal 2008 and fiscal

1 2009 forecasts should be removed. These are
2 explicitly identified in the REAP and B.C. Hydro
3 undertakes to file revised tables 2-6, 2-7 and 2-9 and
4 related tax to the 2005 REAP by the end of this week.

5 The fourth component consists of a plan of
6 how B.C. Hydro intends to meet the demand for energy
7 by acquiring energy from other persons, namely, the
8 need for the fiscal 2006 call. The need for the
9 fiscal 2006 call is set out in the direct testimony of
10 Mary Hemmingsen, found at Exhibit B-11, and that both
11 supplements and amends the 2005 REAP.

12 Specifically, B.C. Hydro is seeking to
13 acquire the following: a minimum of 800 gigawatt
14 hours per year of firm electrical energy from large
15 projects as that term is defined in Exhibit B-11,
16 associated non-firm energy from large projects, and
17 lastly, a minimum of 200 gigawatt hours per year of
18 electrical energy from small projects as that term is
19 defined in Exhibit B-11.

20 And this brings me to the fifth and final
21 component which Mr. Austin was speaking to, and that
22 consists of the fiscal 2006 mandatory requirements, a
23 valuation criteria methodology and terms and
24 conditions.

25 These fiscal 2006 call elements have been
26 filed with the Commission at this time in response to

1 Commission requests that it be provided with a
2 reasonable opportunity to comment in advance of the
3 issuance of the call for tenders and EPA documents
4 which will be the legal documents between B.C. Hydro
5 and successful bidders. And I'll have more to say on
6 Mr. Austin's comments at the end of my submission on
7 that point.

8 Important to note, though, awarded EPAs
9 will be filed with the Commission pursuant to Section
10 71 of the *Act* together with the report on the
11 evaluation process and outcome. And that commitment
12 is found in Exhibit B to the direct testimony of Mary
13 Hemmingsen.

14 Now, if there are no questions from the
15 Commission Panel at this time, I propose to turn to
16 the second part of my submissions.

17 THE CHAIRPERSON: It's probably going to be useful for me
18 to ask one question here, Mr. Godsoe, just really for
19 the benefit of those who are going to follow you. I'm
20 not certain of this, but I suspect part of Mr.
21 Austin's concerns may arise, and I think he, in part,
22 said this, concerns arise from the process that I
23 think is close to being as follows, and correct me if
24 I'm wrong. The Term Sheet is before us. The
25 opportunity for comment is going to be there on the
26 Term Sheet. I thought his concern was -- is that we

1 were not going to get an opportunity to comment on the
2 pro forma EPA in its final form before it was awarded,
3 certainly, you'll file it with us afterwards, but
4 before it was awarded, and before the bidding process
5 started I think was his comment.

6 You said you were going to deal with this
7 later. At some stage, either now or later, I would
8 like you to let me know whether or not what I have
9 just said is factually correct or not at the very
10 least.

11 MR. GODSOE: Well, let me deal with Mr. Austin's comments
12 now. You are factually correct. The way I read the
13 ERA and VICFT decision, the VICF decision was softer
14 on this point, was that the Commission was requesting
15 an opportunity to comment on the terms and conditions,
16 maybe the pro forma EPA, maybe just the terms and
17 conditions. Now, with all due respect, I don't see
18 any authority for the Commission, in Section 45(6.1)
19 of the Act to require us to file our EPA, detailed
20 EPAs for comment at this time.

21 Bringing the EPAs forward to completion is
22 B.C. Hydro's management's prerogative and their duty.
23 It's the Commission's obligation to accept those for
24 filing under Section 71 or decide they require
25 additional review in the public interest. We've gone
26 far beyond what we've done in the past. We've filed

1 quite detailed Term Sheets, which is all we can do at
2 this time. What we have committed to do with
3 potential bidders is once we have Commission comments
4 on the Term Sheet, to go back out to them and consult
5 with them on the detailed EPAs so that the successful
6 bidder -- sorry, the potential bidders will know what
7 the EPA terms are before they bid in. That's been
8 made abundantly clear to the Independent Power
9 Producers of British Columbia Association.

10 THE CHAIRPERSON: Please proceed.

11 MR. GODSOE: I want to now turn to the proposed
12 amendments to the regulatory timetable you've set out
13 in Exhibit A-8 to take into account, as I said before,
14 the potential for an NSP to address 2005 REAP issues
15 and also I want to outline B.C. Hydro's request for
16 two related orders.

17 So yesterday B.C. Hydro met with most of
18 the 2005 REAP intervenors to discuss the review
19 process and at that meeting it was abundantly clear
20 that all intervenors in attendance overwhelmingly
21 supported the use of an NSP to review the 2005 REAP.
22 Accordingly, B.C. Hydro is seeking amendments to the
23 proposed regulatory timetable to accommodate the
24 potential for a 2005 REAP NSP. B.C. Hydro sees the
25 NSP as Commission sponsored with Bill Grant convening
26 the NSP on 20, September, 2005.

Proceeding Time 9:25 a.m. T6

1
2 In addition to that 20, September, 2005
3 date B.C. Hydro also request that the commencement of
4 an oral hearing date be moved back one week to 18,
5 October, 2005. B.C. Hydro does believe that
6 regulatory timetables should be set for the filing of
7 intervener evidence, the issuance of information
8 requests and responses related to that evidence and a
9 possible oral hearing. B.C. Hydro is merely saying
10 that the regulatory timetable should be amended to
11 accommodate the potential of an NSP. In the event
12 that an NSP is not possible, B.C. Hydro agrees and
13 submits that any written hearing process should
14 consist of the exchange of written submissions and
15 should merge with and take part at the same time as
16 the oral hearing argument phase.

17 THE CHAIRPERSON: I'm going to just -- this is overly
18 cautious but I want to make sure that I do understand
19 you.

20 The NSP would start on September the 20th.
21 If you selected that date because that follows the
22 response to the information requests that you would
23 issue on the intervenor evidence?

24 MR. GODSOE: The date was mainly chosen to allow
25 intervenors to file evidence and to accommodate
26 everyone's schedule to meet after that evidence had

1 been filed.

2 THE CHAIRPERSON: Okay, so there's no need for you to get
3 responses to the information requests before the NSP
4 starts.

5 MR. GODSOE: That's correct.

6 THE CHAIRPERSON: And then your proposal with respect to
7 the submissions on the written portion to be addressed
8 at the same time as argument, does that merge then the
9 two schedules that are set out in A-8?

10 MR. GODSOE: I believe it does. What I'm trying to
11 accommodate is our internal resourcing so that we're
12 not doing the written submissions at the same time
13 potentially, or overlapping with an oral hearing. I
14 think that the exchange of arguments, which is
15 essentially what the written hearing process is,
16 occurs at the same time as the argument phase
17 following any oral hearing that may or may not proceed
18 in light of an NSP.

19 THE CHAIRPERSON: And then does that suggest that there
20 is need for scoping of issues either for the purposes
21 of the NSP or for the oral hearing?

22 MR. GODSOE: At this time, and I've got -- with this
23 caveat that touches on one of the orders I'm
24 requesting from the Commission later in my submission.

25 THE CHAIRPERSON: Okay.

26 MR. GODSOE: But at this time I think there is no need to

1 scope issues because I believe that the NSP, that
2 parties believe the NSP should look at all of the 2005
3 REAP issues and that many may fall out within a couple
4 of hours of the first meeting.

5 THE CHAIRPERSON: And then I suppose just because you are
6 going to be followed by the intervenors, Mr. Godsoe,
7 if -- would it be consistent with your proposal with
8 respect to both process and schedule, to schedule a
9 pre-hearing conference for the first week of October
10 in the event that there wasn't a settlement on all of
11 the issues, so that before we got to the oral hearing
12 we would know what the scope of the oral hearing was?

13 MR. GODSOE: Mr. Chairman, I think that's a good
14 suggestion. As I say, I've got one submission on -- I
15 think might dispose of part of that, but I do believe
16 that that would be very helpful. I think we're going
17 to find that within a day or so, we're going to know
18 whether an NSP is going to work on the 2005 REAP.

19 THE CHAIRPERSON: Okay, thank you.

20 MR. GODSOE: Okay, I'd like to turn now to the two NSP-
21 related orders from the Commission B.C. Hydro requests
22 at this time.

23 First, B.C. Hydro seeks an order from the
24 Commission extending the deadline for requests for
25 intervenor status to 26 August 2005, to ensure that
26 all parties who wish to participate in the NSP process

1 may do so within the timeline B.C. Hydro has proposed
2 for the commencement of that NSP, namely 20 September
3 2005. B.C. Hydro believes that participants that
4 register for this late intervenor status between now
5 and 26 August 2005 should not expect any extensions of
6 any of the filing or other dates set by the Commission
7 in a regulatory timetable to be issued following this
8 procedural conference.

9 Second, B.C. Hydro also seeks a Commission
10 order that with respect to the Capital Expenditure
11 Plan, DSM Plan, and EPA expenditure components of the
12 2005 REAP, that the record be closed today except to
13 the extent that the proposed NSP addresses these three
14 2005 REAP components, and except with respect to the
15 amendment to the existing EPA expenditures I discussed
16 earlier in my submission.

17 THE CHAIRPERSON: But address DPP expenditures through
18 2008 and 2009.

19 MR. GODSOE: Correct. So what I'm saying is the
20 potential exists for these three components to be
21 amended by way of NSP. However, B.C. Hydro believes
22 that the records should be closed subject to such NSP
23 amendments, and that if an NSP is not successful,
24 these three 2005 REAP components should be addressed
25 by way of a written hearing consisting of an exchange
26 of written submissions. B.C. Hydro believes that the

1 following supports the request for such an order.

2 First, there is a need for certainty. We
3 are rapidly reaching the end of the year. Both the
4 capital expenditure plans and the DSM plans provide a
5 snapshot in time of B.C. Hydro's intentions for two
6 years, fiscal 2006 and fiscal 2007, and we are already
7 halfway through fiscal 2006.

8 Second, these three components of the 2005
9 REAP have remained essentially unchanged since the
10 filing of 7 March 2005. In addition, all of these
11 2005 REAP components have been the subject of three
12 rounds of information requests, two from the
13 Commission dated 13 April 2005 and 9 May 2005
14 respectively, and one from intervenors dated 9 May
15 2005.

16 Third, these three components are
17 essentially products of the 2004 REAP and 2004 IEP.
18 The former was reviewed as part of B.C. Hydro's
19 2004/05 and 2005/06 revenue requirements application
20 or RRA, and as such these have been the subject of
21 intervenor comment and Commission review. For
22 example, while the capital expenditure plans and DSM
23 plans incorporate recent information, they are based
24 to a large extent on the plans that were thoroughly
25 vetted by the Commission in the review of the RRA.

26 **Proceeding Time 9:35 a.m. T7**

1 Let me turn briefly to each component just
2 to further illustrate my point.

3 THE CHAIRPERSON: Is this order an order that you've
4 discussed with the intervenors?

5 MR. GODSOE: No.

6 THE CHAIRPERSON: Okay.

7 MR. GODSOE: First, with respect to existing EPA
8 expenditures, this forecast is based on EPAs that have
9 already been executed and filed -- and accepted by the
10 Commission for filing pursuant to Section 71 of the
11 Act. There are no new EPAs since the RRA and 2004
12 REAP.

13 Second, with respect to the DSM plans,
14 there are no new energy efficiency programs proposed
15 in the 2005 REAP, and most of the load displacement
16 expenditures are with respect to a single project, the
17 Canfor load displacement project, initiated prior to
18 and allowed as part of the RRA. Further, B.C. Hydro
19 has committed to bringing any new load displacement
20 projects to the Commission for approval.

21 And finally with respect to capital
22 expenditure plants, the F2007 plan will be updated in
23 the 2006 REAP. More importantly, the amounts
24 identified are estimated costs. Actual expenditures
25 will vary from these estimates in some cases. B.C.
26 Hydro acknowledges that these expenditures will be

1 subject to a later prudence review.

2 Subject to any questions from the
3 Commission Panel, those are my submissions for now.

4 THE CHAIRPERSON: Thank you, Mr. Godsoe. Mr. Miller,
5 I'll have you call the intervenors, please.

6 MR. MILLER: B.C. Old Age Pensioners Organization *et al.*

7 **SUBMISSION BY MR. GATHERCOLE:**

8 MR. GATHERCOLE: Yes, I think I can be quite brief, Mr.
9 Chair. I have discussed a number of these issues with
10 Mr. Quail, and other ones in terms of scheduling.
11 It's very easy for me to agree because he was the one
12 that would have to comply with it.

13 But with respect to the scope, we've taken
14 the position before that the scope is basically
15 determined by the application and the *Utilities*
16 *Commission Act*, and I think Mr. Godsoe outlined what
17 the -- you know, matters that have to be dealt with in
18 this process. With respect to the process, we
19 strongly support having a negotiated settlement
20 process, and we agree that it probably will be
21 determined quite early whether it has a chance of
22 success or whether we'll be going on to a hearing.

23 With respect to the orders that Mr. Godsoe
24 is asking, obviously I have no problem with the first.
25 Basically don't have a problem with dealing with the
26 REAP aspects other than the call, in the way he

1 outlined. The one caveat I have, I haven't reviewed
2 this REAP, but I do recall that in the decision, in
3 the revenue requirements application, they had asked
4 for expenditures for Site C to be approved for a
5 couple of years. I think there was another one as
6 well, and the Commission approved expenditures for one
7 year and then invited B.C. Hydro to re-apply in the
8 next REAP. But I believe even that issue can be dealt
9 with through the process that Mr. Godsoe is
10 suggesting.

11 THE CHAIRPERSON: I need some clarity here, and I think
12 in order to do that I'm going to have to suggest to
13 you what the RA decision says, and subject to further
14 review of it. With respect to Site C, it approved the
15 expenditures for '06, which effectively were Phase 1.
16 After the completion of Phase 1 it was to go to
17 Cabinet for approval before further expenditures.

18 Are you now suggesting that -- I'm not sure
19 what you're suggesting, given that context. Maybe you
20 can help me understand what you're suggesting.

21 MR. GATHERCOLE: I was simply responding to Mr. Godsoe
22 saying that expenditures were approved last year and
23 there are essentially no new expenditures in this
24 REAP, and I, you know --

25 THE CHAIRPERSON: So you just want out of an abundance of
26 caution to make sure that there are no Phase 2

1 expenditures --

2 MR. GATHERCOLE: That's right.

3 THE CHAIRPERSON: -- that are going to be approved as a
4 result of this.

5 MR. GATHERCOLE: That's right.

6 THE CHAIRPERSON: Thank you.

7 MR. GATHERCOLE: With respect to Mr. Austin's issues, the
8 IR responses I believe, Mr. Chair, in the Vancouver
9 Island pre-hearing conference, you suggested a way of
10 dealing with these, and I believe you were suggesting
11 that's the way to deal with them here. I fully agree
12 with that. I think that's the most expeditious way.

13 With respect to the filing of the EPA, you
14 know, my clients are directly involved in that issue
15 and I think -- I think I understand what Mr. Austin is
16 requesting, but I think it's not something that I can
17 take a position on on behalf of my clients today.

18 THE CHAIRPERSON: Thank you.

19 MR. MILLER: Mr. Chairman, the JIESC.

20 **SUBMISSION BY MR. WALLACE:**

21 MR. WALLACE: Thank you, Mr. Chairman, Commissioners.

22 I'd like to deal first with Mr. Austin's two points.
23 With respect to the terms of the EPA, we support that.
24 We believe that it would be useful. We recall back to
25 the Duke Point process at one point where Hydro was
26 seeking approval of the terms of the EPA, and I think

1 over the objections of the some of the intervenors, at
2 least including my clients and Hydro, the Commission
3 did not, although the Commission provided comments.
4 We believe it would be useful to get matters
5 determined now, not when a Section 71 application is
6 filed. That's what happened in Duke Point. It was a
7 disaster for everybody concerned, and we think clarity
8 before the bids and a buy-in before the bids, and
9 that's why we support an NSP, is very important to
10 going forward on a positive manner.

11 Hydro's position appears to us to be a
12 reversal of an earlier position, and frankly we're
13 quite disappointed in that; earlier by my meaning in
14 Duke Point in the way they were trying to treat it
15 there.

16 The Term Sheet is pretty good. We've had a
17 lot of experience in recent years with detailed EPAs
18 prior to and including Duke Point.

19 With respect to the Commission giving
20 comment or approval, we are concerned with the
21 suggestion of comments alone. Approval carries with
22 it procedural safeguards which are valued by the
23 intervenors. Comments don't necessarily have the same
24 safeguards, yet comments appear to be treated by B.C.
25 Hydro with the same authority as approvals, and I
26 think with good reason. If you've been warned by

1 comment and you come back later and seek approval,
2 it's a little late. And therefore, having the
3 procedural safeguards that come with approvals and
4 making sure that it is done appropriately is very
5 important. We shouldn't think that somehow a comment
6 is less meaningful than an approval.

7 With respect to the schedule that was
8 proposed by Mr. Godsoe --

9 THE CHAIRPERSON: Mr. Wallace, just before you go there,
10 --

11 MR. WALLACE: Sure.

12 THE CHAIRPERSON: -- Mr. Godsoe raised the issue of
13 jurisdiction with respect to approval of the -- or
14 comment on the pro forma before it was filed pursuant
15 to Section 71. Are you in a position to comment on
16 his comments with respect to jurisdiction?

17 MR. WALLACE: No, I haven't given the jurisdiction
18 question thought on that.

19 THE CHAIRPERSON: Okay.

20 MR. WALLACE: I mean if it did come down to approval and
21 you gave the procedural safeguards, then maybe there
22 wouldn't be much difference between comments or
23 approval, and if the comments got the safeguards maybe
24 not as concerned. But I am concerned that comments
25 not be treated casually as if it's something that can
26 be done in a lighter vein without submissions.

1 THE CHAIRPERSON: Right, and there's that aspect that
2 arises from the jurisdictional question, but there's
3 also the question of -- and Mr. Godsoe was quite
4 careful here, but there's also the question of whether
5 or not we have the jurisdiction to direct B.C. Hydro
6 to file a pro forma EPA as part of this proceeding so
7 that we are in a position to comment on the pro forma
8 EPA as part of this proceeding.

9 **Proceeding Time 9:45 a.m. T8**

10 MR. WALLACE: Well, I would hope if you asked Hydro to do
11 it, they would do it because otherwise we're facing
12 exactly what we did in Duke Point. We go through and
13 we have our fight after the whole process is carried
14 out. We'll get less bids, we'll have Section 71 and
15 then we'll be fighting. And that just isn't the time
16 to do it. I don't think there are going to be big
17 differences, by the way. I believe the NSP is going
18 to be able to resolve the matters that are
19 outstanding, but if we can look at the detailed
20 language and get that cleared up too, so much the
21 better. If we can't, I guess we can't, but I would
22 hope Hydro would want to see this complete and final
23 with buy-ins so that at the end of the day they carry
24 out the process and everybody endorses the conclusion.

25 I'd like to add also, along with terms of
26 the EPA I think evaluation methodology is absolutely

1 vital. I thought that was sort of included but I
2 heard Mr. Godsoe refer later to evaluation methodology
3 in the context of Section 71 and, again, I think in
4 terms of maximizing the bids, getting the interest,
5 having the evaluation methodology up front is very
6 important.

7 One of the major issues is everybody talks
8 about levelized prices. Unfortunately, levelization
9 can be more than simply discounting and I think that
10 has to be clear for the benefits of the bidders and
11 for agreement on what we're doing.

12 With respect to the negotiated settlement
13 process, I have obviously indicated that we are very
14 supportive of that process. We are quite optimistic
15 that there is a large degree of goodwill to move this
16 forward and given the technical matters we're dealing
17 with, the best way to deal with it is in a negotiated
18 settlement process. In terms of this sort, if they
19 can be kept out of a hearing, they're probably much
20 better off for it.

21 We agree with Mr. Godsoe that it should
22 apply to all elements. In spite of Mr. Godsoe's
23 comments, there are elements of the first three
24 components that he put before you that the parties
25 still want to look at. Whether we'll be calling
26 evidence, whether it will be simply argument is not

1 yet clear, and there may be questions, and I'll come
2 back to that in just a second.

3 The date for the oral hearing is fine but
4 we, I don't think, at this time feel that we should be
5 precluding any issues from the oral process. Hydro
6 delivered 525 odd pages of information responses
7 yesterday, or I mean on Friday. They have not
8 obviously been fully reviewed and, in any event, there
9 may be questions for following up on cross-
10 examination.

11 Again, I don't expect any one of those
12 three subjects to take very long. But a panel on each
13 -- or maybe that should be a matter dealt with at the
14 second pre-hearing conference, which we would support.
15 I think, again, that's the time to look at it, not
16 today. And in that sense I believe there is no need
17 to scope issues at this time.

18 With respect to the two related orders.
19 The first order was an extension of time for
20 participants to intervene to August 26th and in my
21 submission such an order is not necessary. The
22 Commission's normal practice is to allow people to
23 intervene when they come, but they take the process as
24 they find it at the time they come and I think that
25 should simply remain the normal rule. Adding an
26 August 26th date, in my submission, would be

1 artificial, particularly when it's accompanied with a
2 ruling that says you find the process as -- or you
3 take the process as you find it.

4 With respect to the request for an order to
5 close the record today on the first three components,
6 that request is a complete surprise to us. We think
7 it's wrong. We're shocked that it was put forward
8 without notice and we think it's totally
9 inappropriate, in part because of the very extensive
10 information responses that have been put forward with
11 no chance, meaningful chance, to review them in full
12 yet and to discuss it.

13 Again, the arguments seem to be that the
14 three components are essentially unchanged. I'm not,
15 at this point, prepared to concede that, particularly
16 with respect to DSM matters, and find it fairly
17 shocking if the three components are essentially
18 unchanged, that we've been going through this process,
19 that we've had two to three rounds of information
20 requests put before the Commission and we're having a
21 hearing that, if you accept Mr. Godsoe's submissions,
22 is entirely unnecessary and a waste of everybody's
23 time and money. There's either something badly wrong
24 with the process or else the evidence has to be looked
25 at.

26 And again, one point he raised at the end

1 there was -- and in any event there -- the amounts are
2 simply estimates. Well, I mean that's every
3 application and I don't see what it has to do with
4 this one.

5 So our submission would be that that order
6 must be rejected and any order with respect to scoping
7 of that nature should come after the intervenors have
8 had an opportunity to review the information requests
9 and after they've had an opportunity to file evidence.
10 If they don't file evidence, then it may be perfectly
11 appropriate to close the record, although I think our
12 submission at that time would be that there should be
13 an opportunity to cross-examine. But we may, at that
14 time, at least be able to focus in on the scope of the
15 cross-examination much better than we're able to do
16 today. Thank you.

17 MR. MILLER: The Independent Power Producers.

18 **SUBMISSION BY MR. AUSTIN:**

19 MR. AUSTIN: I want to deal with the issues that counsel
20 for B.C. Hydro raised in somewhat reverse order, and
21 not necessarily with respect to all of them. Insofar
22 as there's no comment, then it's precisely that.

23 The IPPBC is violently opposed to B.C.
24 Hydro's request with respect to an order, in my mind,
25 restricting the examination of the capital plan
26 expenditures, the DSM plan expenditures, and

1 expenditure for existing EPAs. And I will use a
2 practical example as to why the IPPBC is so concerned
3 about this. It's in relation to the acquisition plan
4 in 2006 call. What the IPPBC is concerned about, and
5 is evidenced by its information request, is
6 commonality or common approach to, say, for example,
7 the DSM program and, for example, the industrial load
8 displacement, with respect to the terms and conditions
9 upon which those programs go forward. So a lot of
10 effort is being put in by the IPPBC with respect to
11 the proposed Term Sheet, the proposed, hopefully,
12 electricity purchase agreement, so it will be wanting
13 to review that in the context of what's going on in,
14 say, for example, the DSM industrial load displacement
15 programs. So if there is a negotiated settlement
16 process, maybe some of this can all be sorted out.
17 But if it goes to oral hearing, the IPPBC doesn't want
18 to be restricted in terms of written argument with
19 respect to those areas where it's looking for
20 practices in those areas to see if they're any
21 different than what's going on in terms of the 2006
22 call.

23 So there's got to be -- the IPPBC is
24 looking for the level playing field and looking for
25 consistency so it certainly doesn't want to be shut
26 out in terms of going back into the capital plan, the

1 DSM plan and expenditures for existing EPAs if there's
2 evidence that certain practices are being followed in
3 that area and they're totally different than are being
4 followed with respect to 2006 call and for no
5 particular reason. It's a very large issue.

6 In terms of the responses to the
7 information requests, the IPPBC has got them, like
8 everybody else has, on Friday, and is trying to sort
9 through what's there and what's not there and
10 certainly doesn't want to be precluded at this point
11 in time from cross-examining in an oral hearing if
12 there are things that need to be cross-examined on or
13 whether information requests haven't been answered.
14 And I'll just move -- go back to my practical example
15 it's really in terms of this commonality and
16 consistency of approach across these various areas.

17 Moving onto the next area, the IPPBC is in
18 favour of a negotiated settlement process. It's a
19 calculated risk.

20 **Proceeding Time 9:55 a.m. T9**

21 The risk is that we're trying to speed this
22 whole process up and at minimum trying to reduce the
23 issues list. It also lends itself a lot better to
24 perhaps discussing the terms of the call and also the
25 evaluation criteria that don't exist in a full formal
26 oral hearing. So, it's an attempt perhaps to try and

1 narrow some of the issues. We don't know if it's
2 going to be successful or not but in terms of
3 efficiency of time it looks like the best option.

4 In terms of B.C. Hydro's comments about
5 filing the electricity purchase agreement, I'm in
6 complete agreement with the Joint Industrial
7 Electricity Steering Committee that Duke Point was a
8 complete and total disaster. If B.C. Hydro wants to
9 pursue that course again, I guess it's open to it, I
10 haven't had the opportunity to look at the
11 jurisdiction arguments it has raised. In particular,
12 I don't whether Section 71 refers to executed
13 contracts or agreements. There might some room to
14 argue that it doesn't refer only to executed
15 agreements, but I haven't looked at it.

16 The point that I would like to get across
17 to the Commission is: Let's get this all over, up
18 front and early so that we do not have a horrific
19 fight like we did over Duke Point at the backend.
20 This makes absolutely no sense. It's not efficient,
21 it's not businesslike and it's not prudent. And for
22 B.C. Hydro to somehow say that, "Look, we're going to
23 go through this process as we are now, and we'll go
24 through the Term Sheet but then we'll give IPPs an
25 opportunity to review the EPA before the bidding
26 process starts," really doesn't amount to much.

1 Because what B.C. Hydro can do is it can dangle the
2 EPA in front of the IPPs and say, "If you don't agree
3 to all this we're going to delay this call process two
4 or three months while you have to fight it out or do
5 whatever you have to do." And then there's also the
6 possibility that this thing has been dragging on for
7 so long it'll be cancelled.

8 And people don't like that approach. They
9 want a business-like approach. They want to have
10 certainty; they want to have commitment; and they want
11 to be able to spend money in terms of advancing their
12 projects in a business-like manner, not in some sort
13 of manner that still is really driven by negotiation.
14 There's a certain point in time which things should be
15 set and that's what the rules are. And that way
16 losing bidders at the end aren't complaining; people
17 are complaining about the terms and conditions of the
18 contract, and then people aren't filing complaints
19 with the Commission. Because the -- say for example
20 that B.C. Hydro tosses the EPA out to the IPPs before
21 the bidding process starts and they're given one week,
22 well, somebody could easily file a complaint before
23 the Utilities Commission and we're back all over
24 starting to go through material we've already gone
25 through before.

26 It's got to be a business-like and

1 practical approach and that's a lesson from duke
2 Point. If B.C. Hydro hasn't learned that, then they
3 should go back and look through the entrails of that
4 because that was a very, very expensive lesson.

5 I don't think I have any other comments on
6 other areas. Thank you.

7 THE CHAIRPERSON: I have a couple of questions for you.
8 Does it concern you that bidders who don't regularly
9 participate in our proceedings other than through
10 counsel, and maybe that's the full answer here, will
11 not necessarily be part of this process that would, on
12 your submission, I think, lead to comment at the very
13 least on the pro-forma EPA while under B.C. Hydro's
14 proposal and developing the pro-forma EPA's part of
15 the CFT process there's that opportunity for bidders
16 to comment. The decision is then B.C. Hydro's, but at
17 the very least there are the comments received from
18 the bidders that may not be available in a regulatory
19 process that led to the approval of the pro-forma EPA.
20 Does that concern you at all?

21 MR. AUSTIN: No, that doesn't concern me in the sense if
22 there's an EPA on the table then it will get around to
23 anybody who potentially wants to bid in a very big
24 hurry. That's what the internet is very useful for.
25 And if they choose to wade through the EPA and have
26 comments' there's ample opportunity for them to raise

1 those comments before through Negotiated Settlement
2 Process or to the Commission while we're looking at
3 the entire package as we're trying to do now. I don't
4 see that as being a problem. And in addition to that
5 B.C. Hydro sends that type of information out to
6 essentially potential bidders as well as to the IPPBC.
7 It's not only the IPPBC that gets information from
8 B.C. Hydro in the context of upcoming bids. And its
9 got a web site and potential bidders can also look at
10 B.C. Hydro's website in terms of the posting of the
11 EPA which I'm assuming that's where it would be posted
12 as well.

13 THE CHAIRPERSON: But for those comments to be helpful to
14 us, they would need to become part of the record.

15 MR. AUSTIN: Certainly, and if the IPPs want to come
16 forward and put them on the record then they've got
17 ample opportunity to do so.

18 THE CHAIRPERSON: Okay. Thank you.

19 MR. MILLER: Commercial Energy Consumers.

20 **SUBMISSION BY MR. WEAVER:**

21 MR. WEAVER: Mr. Chairman, you've asked us to comment on
22 scope process and schedule. I think Mr. Godsoe
23 appropriately set out the scope for the proceeding.
24 The REAP is the resource expenditure and acquisition
25 plan. It's a comprehensive plan, and where I take
26 issue with Mr. Godsoe's submissions this morning as

1 others have is with the proposal to carve off three
2 silo of this plan and deal with them differently than
3 the acquisition plan and the 2006 call. I was, while
4 not shocked, surprised by the position they took this
5 morning. I compliment B.C. Hydro for getting the
6 intervenors together yesterday, but didn't walk away
7 from that proceeding nor Mr. Craig who was there for
8 the whole proceeding with an understanding they were
9 going seek the order they were seeking from it this
10 morning, and we do not support that order. By its
11 nature a plan has components which interrelate and we
12 believe the three items which Mr. Godsoe has sought to
13 exclude from the negotiated settlement process should
14 not necessarily be excluded. Nor do I expect they
15 would take a lot of time up in that process, but they
16 should be part of the NSP process.

17 To exclude components of the application
18 before the date for evidence to be filed by
19 intervenors has even come up is without merit. We are
20 considering filing evidence on the capital plan, the
21 DSN plan, although not for the expenditures for EPAs.
22 We are reviewing the IR responses filed on Friday and
23 at this point are likely to file evidence, which we
24 think will be helpful to both an NSP process and an
25 hearing process. So the scope is correct, but he
26 scope includes all five elements that Mr. Godsoe

1 suggested. We believe all five of those should be
2 considered in the NSP process. We do strongly endorse
3 an NSP process. As Mr. Godsoe said there was a wide
4 endorsement of that process in the meeting yesterday,
5 and we respect and appreciate the fact that B.C. Hydro
6 is attempting to discuss matters such as these more
7 thoroughly with stakeholders in advance of process,
8 and we think that commends an NSP process for this
9 proceeding.

10 With respect to --

11 THE CHAIRPERSON: Just before you leave that, Mr. Weafer,
12 it may not change your position with respect to your
13 views of Mr. Godsoe's motion for an order, but if Mr.
14 Godsoe's motion for an order was that the record be
15 closed with respect to those three items: the Capex
16 Plan, the DSM**, and the EPA; if that was the extent
17 of his motion and it wasn't intended to preclude there
18 being negotiations on those issues simply that it was
19 to close the record except to the extent that the NSP
20 might lead to amendments to that, that order. Does
21 that change your -- as I said, I didn't think it
22 would, but I just want to confirm this. Does that
23 change your view with respect to Mr. Godsoe's motion?

24 **Proceeding Time 10:05 a.m. T10**

25 MR. WEAFER: Well, if the record is closed, then I don't
26 understand how intervenors can file evidence September

1 6th on those topics.

2 THE CHAIRPERSON: Right, yes. I had thought I heard you
3 say that it was your impression that Mr. Godsoe was
4 suggesting that those three matters not be a subject
5 of the NSP, but I may have misunderstood you.

6 MR. WEAVER: That is my understanding of Mr. Godsoe's
7 position, that he does not wish to have those matters
8 items for the NSP process.

9 THE CHAIRPERSON: That's what I thought you said.

10 MR. WEAVER: And that we would now only have written
11 argument on those components, and the record is
12 closed, and by that I would understand no more
13 evidence, intervenors or otherwise.

14 THE CHAIRPERSON: Well, this is -- yes, okay. We'll hear
15 from Mr. Godsoe.

16 MR. WEAVER: With respect to the schedule as amended by
17 Mr. Godsoe, and I don't think there are any other
18 changes to those dates, those are acceptable to the
19 CEC.

20 With respect to -- sorry, the other order
21 of Mr. Godsoe, I share Mr. Wallace's view. The
22 Commission has set an agenda, it's set a schedule.
23 Interested parties received notice of this proceeding.
24 I have never been aware of the Commission issuing
25 another order to say, "Now we've got an amendment to
26 this process, if you're interested now, sign up." I

1 think that's a bad precedent to set and don't see that
2 order as necessary.

3 Finally with respect to Mr. Austin's
4 comments, I think there's been enough said with
5 respect to answers to IRs and follow-up, and there is
6 a standard process for intervenors to ask the
7 Commission to issue direction if they feel IRs have
8 not been responded to, and that can be followed here.

9 Mr. Chairman, we do support Mr. Austin's
10 comments with respect to the filing of an EPA, and
11 from a customer group perspective we support that
12 filing for two reasons. One is we do encourage
13 transparency in this process and we believe the more
14 that B.C. Hydro files, the more likely we are to
15 successfully see the independent power community
16 expand in this province, which is a specific direction
17 in the Energy Plan, and clearly to date it has not
18 worked effectively, and the Duke Point Power Plant
19 process clearly taught everybody a lesson that we need
20 to do better. And if that is what that community is
21 saying is necessary to help advance this, then we
22 would support that.

23 I have also not done any analysis of the
24 jurisdictional position of the Commission, but clearly
25 the Commission's ability to not approve a contract
26 once signed, would indicate it's got an ability to

1 look at terms and conditions of the contract. And so
2 while we're not going to solve the jurisdictional
3 issue today, I think that point, combined with the
4 fact that there is widespread support for B.C. Hydro
5 to move forward with this, with successful calls for
6 tender and with effective and efficient calls for
7 tender, and that the market is saying we need this, we
8 would support Mr. Austin's position that the
9 Commission give at least a strong indication to B.C.
10 Hydro that this would greatly assist this process if
11 those contracts could be filed in as close to final
12 form as possible, with any caveats that B.C. Hydro has
13 to that provided in filing them.

14 Those are my comments, Mr. Chairman.

15 MR. MILLER: B.C. Sustainable Energy Association.

16 **SUBMISSION BY MR. ANDREWS:**

17 MR. ANDREWS: Mr. Chairman, members of the Panel. The
18 BCSCA supports strongly the suggestion that there be a
19 negotiated settlement process, and if there is any
20 doubt that the scope of the process ought to be the
21 full 2005 REAP as filed, it's BCSCA's view that if
22 there are elements that are either uncontentious or
23 unsuitable for an NSP, those will be identified quite
24 early and those will not be -- it won't be a problem
25 to have those within the scope.

26 In terms of the scheduling, we do ask for

1 one amendment which would be the deadline for
2 intervenor evidence to be moved to September 9th --
3 that would be Friday of that week --from September 6th.
4 I was asked to confirm to the Panel by -- Mr. Bruce
5 Duncan of Columbia Power Corporation was at the
6 meeting with Hydro yesterday to convey his company's
7 support for that suggested change. He indicated that
8 he and counsel were unable to attend today, and I told
9 him that I would relay that information for your
10 benefit.

11 In terms of the two orders requested by
12 B.C. Hydro, first the extension of the intervenor
13 application deadline, BCSCA would support the position
14 of JIESC on that; that is, that there is no need for
15 such an order.

16 Regarding the second order requested, there
17 actually were a number of elements to it, and BCSCA
18 opposes all of the elements of that. In particular it
19 opposes the notion that the record on any topics with
20 the 2005 REAP would be closed prior to the intervenor
21 evidence being filed. With all due respect, that
22 would be absurd. To have the applicant present its
23 evidence and then close the record before the
24 intervenors filed their evidence, would clearly be a
25 violation of due process.

26 Hydro's assertion that there is nothing

1 interesting or changed in the capital expenditures,
2 DSM or EPA expenditures is going to be one of the
3 issues that the intervenors are going to want to
4 address, and I'm not going to now take you through the
5 positions that we'll take on that, but certainly we
6 want to address the DSM component in some detail, and
7 particularly in view of the fact that there were in
8 fact no new DSM programs proposed in that 2005 REAP.

9 In terms of the two additional issues, the
10 intervenor IR responses and how to deal with perceived
11 inadequacies, we are comfortable with following the
12 past process on that.

13 Regarding the filing of the EPA terms and
14 conditions and the filing of the evaluation
15 methodology and criteria, BCSCA would certainly take
16 the -- the initial point is that the filing of both
17 those categories of information would be highly
18 desirable, and that essentially it's a matter of
19 whether those issues are dealt with sooner as opposed
20 to later. There is going to be no ducking those
21 issues and we've heard others expound on the merits of
22 dealing with them sooner, and we would concur with
23 that.

24 As to whether the Commission has
25 jurisdiction to force Hydro to file those items, I
26 don't take a position at this time. I haven't

1 reviewed it in that context. But I do want to comment
2 that in the VIGP process and sort of the tail end of
3 the VIGP process where Hydro was developing the call
4 for tenders, Hydro itself took to the Commission
5 proposed elements of the call for tenders, and asked
6 for endorsement or approval in some form, and the
7 Commission in its wisdom declined to give as
8 categorical endorsement as it appeared Hydro was
9 suggesting. So to put it in context, it strikes me
10 that Hydro is taking a reverse of the position that it
11 took at that time by not putting the terms and
12 conditions and -- and I think it's important -- the
13 evaluation methodology and criteria before the
14 Commission at the earliest opportunity.

15 Subject to questions, those are my
16 comments.

17 THE CHAIRPERSON: That's fine, thank you, Mr. Andrews.

18 MR. MILLER: Elk Valley Coal Corporation.

19 **SUBMISSION BY MR NEWLANDS:**

20 MR. NEWLANDS: Mr. Chairman, Commissioners, Elk Valley
21 FCoal strongly supports B.C. Hydro's initiative to
22 achieve a negotiated settlement. Elk Valley Coal
23 participated yesterday in the meeting, and it would be
24 the view of Elk Valley Coal that there was a positive
25 environment in which a settlement might be achieved.

26 **Proceeding Time 10:15 a.m. T11**

1 Elk Valley Coal would support the argument
2 of Mr. Wallace and Mr. Weafer and would want to
3 reinforce Mr. Austin's argument with regard to the
4 terms and conditions of the EPA. Mr. Austin is not
5 the only group within this room that may come forward
6 with a proposal to B.C. Hydro that coal plants are
7 being considered from time to time. And when you
8 think of these large capital-intensive processes, it
9 even becomes more important that when these processes
10 or this plant, plant, would appear before the
11 Commission in a Section 71 application where there are
12 tens of millions of dollars being invested in the
13 project, that it does not end up in the same fate as
14 DPP.

15 So from Elk Valley's point of view, we
16 would like to see an open process with as many parties
17 satisfied with the terms and conditions as can be
18 reasonably expected, so that the Section 71 process
19 can be more -- I guess reducing the risk of a Section
20 71 is what I'm trying to say, because if that risk
21 stays there then one has to build in a substantial
22 risk premium, which would ultimately be paid by the
23 customers.

24 That would be all the comments, Mr.
25 Chairman. Thank you, sir.

26 MR. MILLER: The City of New Westminster.

1 SUBMISSION BY MS. RAMIREZ:

2 MS. RAMIREZ: Mr. Chairman, the City of New Westminster
3 generally supports the NSP. In terms of all the other
4 issues that were brought up today, we'll need to
5 discuss these with my clients, so I have no comment on
6 those at this time. Thank you.

7 MR. MILLER: Mr. Vamos?

8 MR. VAMOS: Yes, no comments, Mr. Chairman.

9 THE CHAIRPERSON: Thank you. Mr. Godsoe.

10 **REPLY BY MR. GODSOE:**

11 MR. GODSOE: Mr. Chairman and Commission Panel, I'm not
12 sure if you want to take a break at this time. I can
13 be relatively brief, I think about 20 minutes ought to
14 do it, so I'm in your hands.

15 THE CHAIRPERSON: I think we're good. Please proceed.

16 MR. GODSOE: I can assure Mr. Gathercole that there are
17 no expenditures proposed with respect to Site C in the
18 2005 REAP.

19 Now, turning to the Commercial Energy
20 Consumers first, Mr. Chairman and members of the
21 Panel, it is important to note that CEC has filed no
22 information requests, none. So in my submission,
23 lying in the weeds, issuing no IRs, and then seeking
24 to cross-examine on every aspect of the 2005 REAP,
25 does not make for an effective and efficient review
26 process. One can only imagine if every intervenor

1 behaved in this way.

2 I can say though that my submission was
3 clear on closing the record, which is, there are two
4 exceptions. First, if there are any amendments
5 arising out of the NSP, that would be exception number
6 1. And exception number 2 relates to the stripping
7 out of the DPP expenditures in our EPA expenditure
8 forecast.

9 Now let me turn to the submissions of JSIEC
10 and IPPBC and CEC in a more general way.

11 THE CHAIRPERSON: Just out of an abundance of caution
12 here, it's the closure of the record. It's not --
13 that motion doesn't speak to whether or not those
14 issues, those three items that you listed, are to be
15 the subject of the NSP process.

16 MR. GODSOE: Correct. They are subject to the NSP
17 process and that's where the exception is getting at.

18 THE CHAIRPERSON: Correct, thank you.

19 MR. GODSOE: So in my submission, our position with
20 respect to the distinction between a written process
21 and an oral process, supported by BCOAPO, is the only
22 one that's true to your original letter of 7 April
23 2005 set in Exhibit A-1, in which the Commission
24 clearly telegraphed that parts of the REAP would be
25 dealt with in a written hearing process and parts
26 would be dealt with in an oral hearing process.

1 Now, what we're hearing from intervenors
2 today is, I want to preserve my right to cross-
3 examine. Well, that's understandable going into an
4 NSP, but that does not make it right. No intervenors
5 provide any compelling reason as to why the three
6 components ought to be the subject of an oral hearing,
7 and that's the issue. They have all had the 2005 REAP
8 since 7 March 2005, five and a half months ago. They
9 have all had our responses to three rounds of
10 information requests, the last of which was submitted
11 in early June, two and a half months ago. And yet
12 none of them can tell you exactly what they want to
13 cross-examine on. Instead we have generalities.

14 In contrast, B.C. Hydro has given you some
15 concrete reasons as to why those three components
16 should be the subject of a written hearing process;
17 namely certainly, and there's already been a thorough
18 vetting through its two separate processes, the RRA
19 and previous Section 71 filings.

20 Now turning back to the issue of filing
21 detailed EPAs at this juncture --

22 THE CHAIRPERSON: Just before you go there.

23 MR. GODSOE: Sure.

24 THE CHAIRPERSON: The issue that you raise with respect
25 to regulatory lag, in the context of your proposal
26 with respect to the schedule, I think it needs to be

1 commented on further. And it's this issue, I think,
2 Mr. Godsoe. You're proposing that the three matters
3 that you've identified that are the subject of your
4 second motion be the subject of a written proceeding,
5 I believe, --

6 MR. GODSOE: Correct.

7 THE CHAIRPERSON: -- to be followed -- to follow -- that
8 written proceeding to follow the oral hearing so that
9 the proceeding on those matters would end
10 contemporaneously with the end of the proceeding on
11 the oral phase. So how does that help you with
12 respect to your regulatory lag issue, if in fact
13 you're going to get a decision from the Commission at
14 the same time with respect to those three items,
15 whether they're in the oral phase or the written
16 phase, why does it help you with your regulatory lag
17 concerns?

18 MR. GODSOE: Closing the record gives us certainty. I'm
19 not precluding that there shouldn't be argument
20 exchanged. But we need some certainty on closing the
21 record. I think that's what I'm addressing in terms
22 of regulatory lag.

23 THE CHAIRPERSON: Yes, okay, and that linkage, I still
24 don't see how you're drawing that linkage. Perhaps I
25 don't understand it well enough. But are you
26 suggesting that having the closure of the record on

1 those items will provide you with sufficient certainty
2 so that you make some assumptions with respect to your
3 F-06 capital plan, for example, DSM for that matter as
4 well, that it will influence your operation and
5 management decisions?

6 MR. GODSOE: I can't give you a black and white answer on
7 that. I can say that it does provide some certainty.
8 And in addition don't forget all of this is subject to
9 a later prudence review. I mean we're halfway through
10 F-2006 at any rate.

11 THE CHAIRPERSON: Well, precisely. And so I hear you
12 arguing in favour of your second motion because of
13 certainty as it's related to regulatory lag, and yet
14 you're going to get to the decision, at least the
15 closure of the proceedings at the same time if not the
16 decision at the same time, almost to the end of the
17 third quarter, and yet in doing that we'll have
18 determined now, even in advance of the NSP, as to what
19 the record will be on those three issues.

20 MR. GODSOE: Well, I don't think you're determining
21 exactly what the record is going to be, because as I
22 said, there's an exception that there might be
23 amendments flowing out of the NSP.

24 THE CHAIRPERSON: Subject only to those exceptions, the
25 DPP and the NSP.

26 MR. GODSOE: Right.

1 THE CHAIRPERSON: But otherwise the record is closed on
2 your motion if your motion was granted, and I'm not
3 seeing the benefits on the regulatory lag issue, and
4 particularly given your proposed change to the
5 schedule from A-8.

6 **Proceeding Time 10:25 a.m. T12**

7 MR. GODSOE: Well, I think there is a difference between
8 exchange of written submissions and prepping a panel
9 for cross-examination that may or may not occur. What
10 I'm saying is that these intervenors have had these
11 three parts of the 2005 REAP for quite some time now
12 and yet none of them are able to offer you any
13 specifics on what they want to cross-examine on. The
14 order clearly laid out that they should be able to
15 speak to not only the NSP but what should be divided
16 between a written and oral phase and I'm hearing that
17 everything goes into oral.

18 THE CHAIRPERSON: Right, and what confuses me is your
19 comments with respect to certainty. If your comments
20 turn on the efficiency of the process, and that is if
21 we narrow the scope of the oral hearing, the
22 efficiency, the process, from your perspective maybe
23 trumps the opportunity for cross-examination on those
24 three area. Then that's an argument at least I can
25 understand. I'm really having some difficulty with
26 your argument when it turns on certainty. But I think

1 I, at least understand you sufficiently well enough,
2 you know, for me to give it some further thought. So
3 unless you've got something else you'd like to add at
4 this stage on that, we should probably move on.

5 MR. GODSOE: Can you just give me one minute.

6 Mr. Chairman, and members of the Panel,
7 all I can repeat is that I think there really is a big
8 difference between preparing for an exchange of
9 written submissions and preparing for an oral hearing.

10 THE CHAIRPERSON: Sure. That -- yes.

11 MR. GODSOE: That's what I mean by certainty.

12 MS. BOYCHUK: Mr. Godsoe, do you require that certainty
13 now? Given that you're going to, if I understand
14 correctly, have those three components be considered
15 in the NSP, why wouldn't that, following the NSP, be a
16 better time to entertain a motion like the one you're
17 bringing today.

18 MR. GODSOE: Although we support an NSP process I don't
19 think we're full of confidence we can carry through
20 with it, especially what I've heard from today on the
21 EPA issue, which I'll address in a minute. So we
22 certainly think that there's merit in trying an NSP
23 out. As I've said, I think within one or two days
24 we'll know if it's going to work or not. But I think
25 that parties should have been prepared to come here
26 today and address why or how some parts of the REAP,

1 if the NSP doesn't work, should be in written and
2 oral, and all I'm hearing is that everything should be
3 in oral. And I just don't think that's consistent
4 with your original letter of 7 April 2005 or, indeed,
5 your subsequent letters on process.

6 THE CHAIRPERSON: But if the reason for those earlier
7 comments was turning on the issue of regulatory lag in
8 your proposal with respect to the schedule, it seems
9 to me that ground's not quite as available to you.

10 MR. GODSOE: Sorry, I -- could you reword that for me?

11 THE CHAIRPERSON: Yes, I will.

12 MR. GODSOE: I think I'm going to miss that.

13 THE CHAIRPERSON: You're taking us back to the earlier
14 comments --

15 MR. GODSOE: Right.

16 THE CHAIRPERSON: -- in correspondence from the
17 Commission that we, in fact, indicated that there
18 would be an oral and a written proceeding. If, in
19 part, the reason for doing that was to get you to a
20 decision earlier in F-06 for the purposes of
21 management and operation considerations, we've now --
22 that is no longer a reason for the oral and the
23 written because you're proposing a process that no
24 longer gets you to a decision on some issues before
25 you otherwise would.

26 You see if the purpose of the oral and

1 written was in part to get you to a decision early on
2 those matters that could be dealt with in that manner,
3 so that we got you a decision with respect to F-06
4 expenditures before the year completed, or before it
5 was three-quarters completed, then that supported, if
6 you will, at least in that regard – there are other
7 considerations – but at least in that regard supported
8 the Commission's decision with respect to the
9 establishment of written and oral, but now you're
10 suggesting a process that no longer provides that
11 benefit from the written, and so the benefits arising
12 from the written and the oral become less significant
13 given the process proposal that you have made and so
14 the -- again we're going to need to make some
15 considerations with respect to the benefits of oral,
16 written and the disadvantage to the intervenors of not
17 having it all in the oral. I appreciate your comments
18 with respect to the preparation for the oral but
19 that's a completely different set of issues, is it
20 not, from the original reason for the oral and the
21 written as you've brought to our attention.

22 MR. GODSOE: I don't think they're completely different.
23 I think there was an expectation that a written would
24 be quite different in terms of internal resources from
25 Hydro's point of view as opposed to an oral. And in
26 yesterday's meeting, quite frankly, no one raised any

1 concrete issues on those three parts. I think what
2 everybody was focusing on was the fiscal 2006 call and
3 I think there really is some room on the NSP in that
4 regard. There were some interesting issues raised on
5 COD, for example, that we're going to go back and
6 think about, but no one offered anything up on those
7 three parts.

8 THE CHAIRPERSON: I'm not going to hear from you on the
9 substance just as of yet. That's not the process
10 that's been established here. Before I hear from you
11 on the substance, Mr. Andrews or Mr. Austin, I'll need
12 to be convinced that it's appropriate for me to hear
13 you. This is B.C. Hydro's opportunity to reply. It
14 would have to be the equivalent sur-rebuttal and I'm
15 not sure I'm going to entertain that this morning. So
16 why don't we hear from Mr. Godsoe to the end of his
17 comments and then if you want to make a motion to have
18 an opportunity to speak, then I'll give it to you.

19 MR. ANDREWS: If I may address, I would characterize what
20 I have to say as a point of privilege since the
21 position of my client has been represented to the
22 Commission in a manner which I take exception to. And
23 perhaps that's all that needs to be said is that we
24 have a different understanding of what we said at a
25 meeting yesterday.

26 THE CHAIRPERSON: Mr. Austin, if you're --

1 MR. AUSTIN: With reluctance, I'm stepping forward, but I
2 did give a concrete example of why it was necessary to
3 cross-examine with respect to the -- say, for example,
4 the demand side management program. I presented that
5 this morning and it's a total mischaracterization of
6 what I said to say that nobody brought anything
7 forward. I did.

8 THE CHAIRPERSON: Yes.

9 MR. AUSTIN: It's on the record.

10 THE CHAIRPERSON: Now you're going beyond Mr. Andrews and
11 you will need to make a motion if you want to pursue
12 that. Mr. Godsoe, please proceed.

13 MR. GODSOE: Lastly, all the information requests refer
14 to the intervenors were specific to the fiscal 2006
15 call. I understand that those were filed last Friday
16 but they do not relate to the three parts of the REAP
17 that I'm addressing.

18 Finally, with respect to filing pro forma
19 EPAs, both Mr. Wallace and the Commission said to the
20 extent feasible. I can tell you that we will not be
21 in a position to file detailed EPAs by 20 September
22 2005, the commencement of the NSP. I also believe
23 that the jurisdictional argument ends this and to be
24 discussing it without having looked at the Act, I find
25 a little bizarre. And those are my submissions. If
26 you have any questions?

Proceeding Time 10:35 a.m. T13

1
2 THE CHAIRPERSON: If the Commission requested that you
3 file the pro-forma EPA before the commencement of the
4 oral hearing, and this is all in the context of the
5 possibility of a successful NSP, of course, but
6 assuming that some or all of the issues need to
7 proceed to the oral hearing -- if the Commission was
8 to request that you file the pro-forma EPA prior to
9 the commencement of the oral hearing, can you advise
10 me as to what position B.C. Hydro is likely to take on
11 that.

12 MR. GODSOE: Two points, Mr. Chairman, in respect of your
13 question. First, I think it would be very difficult
14 to file the detailed EPAs by 18, October, 2005. There
15 is significant liaison with BCTC that still has to
16 occur. And secondly, I want to repeat that the way
17 the Act works is it is B.C. Hydro's management's
18 responsibility to carry those EPAs forward for file
19 into Section 71. What the Commission had said in its
20 previous two decisions was: If we want an efficient
21 process, give us an opportunity to comment. And
22 that's what we've done with these Terms Sheets. I
23 don't think we've turned our position around. I think
24 we've advanced it. We've filed quite detailed term
25 sheets for you to look at and comment on.

26 THE CHAIRPERSON: Do you have any further comments?

1 MR. GODSOE: Those are my comments.

2 COMMISSIONER BOYCHUK: Mr. Godsoe, then last year when we
3 were looking at the CFT process and B.C. Hydro
4 approached the Commission -- I forget the dates, I
5 thought would have been permanently etched in my brain
6 -- for guidance or what have you, did you feel we had
7 the authority or the jurisdiction at that time to
8 provide you with whatever it was that you were
9 seeking? I won't try to characterize your request at
10 this time, but is what you did back then consistent
11 with what you're telling us today?

12 MR. GODSOE: Again, that flowed out of your comments from
13 the Revenue Requirements Application that you wanted
14 an opportunity to comment on. So there was no section
15 of the Act in play. When you move to a approval or
16 when you request that B.C. Hydro file the detailed
17 EPAs prior to Section 71 I think we do get into a
18 jurisdictional issue. I think just file -- what
19 you've done in your two previous decision to request
20 an ample opportunity to comment is what we're doing.
21 I think that's what we did on the CFT.

22 COMMISSIONER BOYCHUCK: Thank you.

23 THE CHAIRPERSON: I have one last question to you, Mr.
24 Godsoe. You have, as I understand it, now filed the
25 evidence that you intend to for the purposes of this
26 proceeding as it relates to the EPA. Is that correct?

1 MR. GODSOE: Correct.

2 THE CHAIRPERSON: Are we then, in your view, do we then
3 have an ample -- a sufficient record for us to now
4 comment on as to whether to not that's the reasonably
5 opportunity to provide comments to you?

6 MR. GODSOE: In my view you do. When I read the VICFT
7 decision what you were particularly concerned with was
8 risk allocation which this term sheet does. On every
9 single term there is a rational for why we've
10 allocated risk a particular way. You will note in
11 Exhibit B to the direct testimony of Mary Hemmingsen
12 we have moved away from a quantitative, mechanical
13 evaluation approach to a qualitative one, but we've
14 given you as much details as we can at this time on
15 that issue. But I do believe that the record is
16 sufficient for you to comment.

17 THE CHAIRPERSON: Right. And sufficient for us to at
18 this time, following this pre-hearing conference to
19 reach conclusions with respect to whether or not that
20 opportunity to comment is going to be adequate or not.

21 MR. GODSOE: Correct.

22 THE CHAIRPERSON: Right. Thank you.

23 Are there any further matters before this
24 pre-hearing conference closes?

25 MR. ANDREWS: If I may ask for sur-rebuttal on the
26 question of the content of BCSEA's position regarding

1 DSM and evidence of it, since it's BCSEA's position
2 was characterized by counsel or B.C. Hydro and I
3 believe it's not accurate and I would like to just
4 briefly leave the Commission with the accurate
5 information.

6 THE CHAIRPERSON: Are there any other similar requests?
7 Mr. Godsoe?

8 MR. GODSOE: I have no objection.

9 THE CHAIRPERSON: Mr. Andrews, please proceed.

10 **SUR-REBUTTAL BY MR. ANDREWS:**

11 MR. ANDREWS: BSCEA intends to file evidence on DSM and
12 that is, of course, one of the reasons why it opposes
13 the notion of closing the record on that and other
14 topics.

15 THE CHAIRPERSON: Right. Thank you.

16 With that this pre-hearing conference is
17 closed.

18 **(PROCEEDINGS ADJOURNED AT 10:42 A.M.)**

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