



**Bull, Housser
& Tupper** LLP

3000 Royal Centre . PO Box 11130
1055 West Georgia Street
Vancouver . BC . Canada . V6E 3R3
Phone 604.687.6575 Fax 604.641.4949
www.bht.com

Reply Attention of:	R. Brian Wallace
Direct Phone:	604.641.4852
Direct Fax:	604.646.2563
E-mail:	RBW@bht.com
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BC Utilities Commission
6th Floor – 900 Howe Street
Vancouver, BC V6Z 2V3

Attention: Robert J. Pellatt
Commission Secretary

Dear Sirs/Mesdames:

**Re: BC Hydro Project No. 3698388
BC Hydro 2005 Resource Expenditure and Acquisition Plan**

We write on behalf of the JIESC to respond to BC Hydro's letter of August 29, 2005, written in response to Commission letter L-6905, dated August 22, 2005.

The JIESC is of the view that it is as desirable to have as much relevant information on the record with respect to the details of BC Hydro's planned EPAs for the F2006 call and the methodology for evaluating those EPAs as is reasonably possible. The JIESC is disappointed that BC Hydro does not have this information available at this time and that it does not anticipate having it available in a timely manner.

Regrettably, BC Hydro's approach in this matter is very different from the approach it took on the Duke Point call for tenders where BC Hydro sought, but did not receive, a public review of the CFT and EPA terms and conditions in advance of the call for tenders. The fact that such a review was not held may be in large part responsible for the fact that the Duke Point EPA ultimately failed to receive broad public support and was cancelled.

We have read the opinion of Paul Miller of Boughton Law Corporation dated August 31, 2005 (Exhibit A-10). We concur with both BC Hydro and Mr. Miller that the Commission ultimately cannot order the production and filing of a pro-forma EPA if it does not exist. We also agree that BC Hydro takes the risk that if the application and supporting evidence are insufficient for the Commission to make a determination that the applicant is at risk of having the Commission rule against the application. Unfortunately, when BC Hydro takes the risk, stakeholders usually pay the consequences.



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In spite of the limitations discussed previously the Commission is not powerless in this matter. It does have control over its own process and procedures and can decide not to proceed with an application until it believes the record is sufficiently complete to proceed in a proper and expeditious manner. We submit that, if the Commission decides the record in this matter is inadequate to proceed the Commission can make the decision to delay the hearing until the pro forma EPAs are available, given the acknowledgement of BC Hydro that the key terms to be incorporated in the EPA are relevant and that draft EPAs will be available later in the process. However, the JIESC is not making a submission on whether the Commission should exercise the power to delay the hearing until it believes the record is adequate, but only that the Commission has the power to make the decision to do so.

BC Hydro has argued that all stakeholders will have input on the two pro-forma EPAs prior to issuance. We submit that input on the evaluation criteria is also very important. BC Hydro must assure that input on these two important matters is meaningful and effective. Failing to provide stakeholders and the Commission with a full opportunity for early input on vital issues could well lead to unnecessary but predictable opposition to an awarded contract when final approval is sought pursuant to Sec. 71, after the call for tenders. Creating a situation that leads to such a dispute late in the process is not acceptable and not in the interests of BC Hydro or any of the stakeholders, as the example of Duke Point so vividly demonstrates.

Yours truly,

Bull, Housser & Tupper LLP

A handwritten signature in cursive script that reads "R. Brian Wallace".

R. Brian Wallace

RBW/sg/1336933