October 27, 2009

British Columbia Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, BC, V6Z 2N3
Attn: Erica Hamilton, Secretary
By Web Posting

Dear Madam:

Re: British Columbia Hydro and Power Authority, 2008 Long Term Acquisition Plan, BC Hydro Application for Reconsideration and Variance of Condition 7 of BCUC Order No. G-91-09

This is a submission on behalf of the Intervenors B.C. Sustainable Energy Association and the Sierra Club of B.C. (BCSEA-SCBC) in response to BC Hydro’s October 7, 2009 Reconsideration Application (Exhibit B-1) regarding BCUC Order No. G-91-09 (2008 LTAP Decision). This submission is filed pursuant to your October 13, 2009 letter to BC Hydro (Exhibit A-1), which invites Intervenor Submissions by October 27, 2009.

BCSEA-SCBC support the Reconsideration Application, for the reasons that follow.

1. Directive 32, Next LTAP Filing Date

Directive 32 of the 2008 LTAP Decision requires BC Hydro to file a new Long Term Acquisition Plan on or before June 30, 2010. BC Hydro argues in the Reconsideration Application that this requirement meets the tests for reconsideration. Substantively, BC Hydro proposes that Direction 32 be varied to require the next LTAP to be filed no later than June 30, 2011.

The gist of the Commission’s rationale for a June 30, 2010 Next LTAP Filing Date is that the dynamic and uncertain nature of the present economic and policy environment has implications for BC Hydro’s long-term planning that materially impact ratepayers. In the context of there being no approved BC Hydro LTAP in place (due to the Commission’s rejection of the 2008 LTAP), presumably the reasoning is that a new LTAP filed in June 2010 would address the uncertainty of the current conditions better than one filed in June 2011.

Notably, however, the Commission’s June 2010 determination does not address BC Hydro’s argument (in the 2008 LTAP proceeding) that an adequate new LTAP cannot reasonably be prepared in time for a June 2010 filing.

BCSEA-SCBC take no issue with the logic that the current economic and policy uncertainties and the absence of an approved BC Hydro LTAP support the desirability of the next LTAP being filed generally sooner rather than later. However, the same factors also support the desirability of

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1 BCUC Order G-91-09, pp.150-151.
the next LTAP incorporating both serious consideration of the deficiencies in the 2008 LTAP identified by the Commission and a careful examination of the current state of the economic and policy uncertainties that arose late in the review of the 2008 LTAP. In BCSEA-SCBC’s view, determining the best time for the filing of the next LTAP requires consideration of the optimum balance between quickness and effectiveness. BCSEA-SCBC take the position that failure of the 2008 LTAP Decision to consider the effectiveness factor, in choosing the 2010 date over the 2011 date for the next LTAP filing, is an error that warrants reconsideration of this aspect of the Decision.

In the event that the Commission addresses afresh the question of whether the next LTAP filing date should be June 2010 or June 2011, BCSEA-SCBC support a June 2011 filing date over a June 2010 filing date, for the following reasons.

The starting point is the Commission’s decision that BC Hydro should respond to the deficiencies identified by the Commission in the rejected 2008 LTAP in BC Hydro’s next LTAP filing, rather than by re-filing the 2008 LTAP in whole or in part prior to the filing of BC Hydro’s next LTAP.²

Presumably, the major distinction between a new LTAP and an amended version of the 2008 LTAP is that a new LTAP would be based on inputs including the following:

- a new load forecast,
- a new demand-side management plan,
- a new resource options report,
- completion of the electricity-to-natural gas fuel-switching consultation and report,
- a new evaluation of energy for planning purposes from the Burrard Thermal Generating Station,
- new stakeholder consultation, and
- new First Nations consultation and if necessary accommodation.

It would seem unlikely that any of these inputs, with the exception of a new load forecast, would be available in time for an LTAP filing in June 2010. If the Commission was to require BC Hydro to file a new LTAP in June 2010, then it seems reasonable to predict that the ensuing review of the new LTAP would be dominated by attention to flaws in the LTAP resulting from inadequate preparation time. In BCSEA-SCBC’s view, this would be “inefficient,” not to say a waste of time. In BCSEA-SCBC’s view, it would be a more efficient use of the resources of the Commission, BC Hydro and the intervenors, and it would produce more effective regulatory scrutiny of BC Hydro’s long-term plans, for BC Hydro to be given a realistic deadline for filing the next LTAP, such as June 2011.³

² BCUC Order G-91-09, p.150.
³ BCSEA-SCBC’s position supporting a next LTAP filing date of June 2011 has not changed. A June 2011 LTAP filing deadline would be three years from the June 2008 filing of the 2008 LTAP. For the record, in their final argument in the 2008 LTAP proceeding [paras.85-87], BCSEA-SCBC supported a fixed three-year LTAP filing cycle. The text on page 149 of the 2008
2. Directive 45, whether Voltage Optimization programs are DSM

In Directive 45 of the 2008 LTAP Decision the Commission found that voltage optimization programs (VO programs) are not Demand-Side Measures (DSM) initiatives. The Commission reasoned that VO might “‘technically’ meet the criteria for DSM” but that “the classification of VO programs as DSM would unhelpfully ‘blur’ the distinction between transmission and distribution system efficiency enhancement initiatives that should be taken by BC Hydro in the normal course.”

BC Hydro argues in the Reconsideration Application that this conclusion is a legal error because the Commission has no jurisdiction to depart from the definition of “demand-side measure” in section 1 of the Utilities Commission Act. BC Hydro cites the B.C. Court of Appeal decision in BC Hydro and Power Authority v. BCUC, [1996] B.C.J. 379, for the proposition that the Commission’s powers are limited to those expressly delineated by the Act.

BCSEA-SCBC respectfully agrees with BC Hydro that the Commission lacks jurisdiction to exclude VO programs from DSM for the reason given in the 2008 LTAP Decision, which reason exceeds the definition of DSM in the Act.

Further, BCSEA-SCBC respectfully submit that VO programs do meet the definition of DSM in the Act, which states:

"demand-side measure" means a rate, measure, action or program undertaken
(a) to conserve energy or promote energy efficiency,
(b) to reduce the energy demand a public utility must serve, or
(c) to shift the use of energy to periods of lower demand;

BCSEA-SCBC now accept the evidence provided by BC Hydro in the 2008 LTAP proceeding to the effect that the VO programs in question cause electrical devices behind the customer meter to function more efficiently en gross, that the VO programs thereby reduce the energy demand BC Hydro must serve, and that the VO programs are undertaken for that purpose. The VO programs in question therefore meet the definition of DSM.

BCSEA-SCBC would add that application of the statutory definition of demand-side measure does help to distinguish demand-side measures from what the Commission refers to as “transmission and distribution system efficiency enhancement initiatives that should be taken by BC Hydro in the normal course.” The “energy demand a public utility must serve” is load behind the customer meter. While each case would have to be determined on its own merits, it seems likely that most of the “transmission and distribution system efficiency enhancement initiatives”

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4 BCUC Order G-91-09, p.166.
5 In the oral final argument stage, BCSEA-SCBC supported the principle that a program that reduces load behind the customer meter meets the definition of DSM in the Act (assuming other criteria are met). At the time, however, BCSEA-SCBC expressed an inability to take a position on the factual question of whether the VO programs in question actually reduce load behind the customer meter, due to a lack of technical understanding of the physics involved. T16:2864-2865.
referred to by the Commission have the effect of reducing line losses *upstream* of the customer meter and would therefore not constitute demand-side measures as defined in the Act.

### 3. Treatment of 400 MW Market Reliance

BC Hydro’s Reconsideration Application asks for clarification from the Commission that BC Hydro’s removal of the 400 MW market reliance from the capacity/resource balance after 2015 is consistent with Special Direction 10, section 3(d), which states:

3 Subject to section 5 (2) (a), in regulating, and fixing rates for, the authority, including, without limitation,

(a) considering an application made by the authority for a certificate of public convenience and necessity under section 45 of the Act,

(b) doing anything referred to in section 45 (6.2) (a), (b) or (c) of the Act with respect to a plan filed by the authority under section 45 (6.1) of the Act, and

(c) considering an energy supply contract under section 71 of the Act,

the commission must use the criterion that the authority is to achieve energy and capacity self-sufficiency by becoming capable of

(d) meeting, by 2016 and each year thereafter, the electricity supply obligations, and

(e) exceeding, as soon as practicable but no later than 2026, the electricity supply obligations by at least 3 000 gigawatt hours per year and by the capacity required to integrate that energy in the most cost-effective manner

solely from electricity generating facilities within the Province, assuming no more in each year than the firm energy capability from the assets that are hydroelectric facilities. [underline added]

BCSEA-SCBC are of the view that Hydro’s removal of the 400 MW market reliance from the capacity/resource balance after 2015 is consistent with s.3(d) of SD10, and they therefore support BC Hydro’s request for clarification in this regard.

All the above is respectfully submitted.

Yours truly,

William J. Andrews

[Signature]

Barrister & Solicitor

cc. Distribution List by email