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February 1, 2012

Ms. Alanna Gillis  
Acting BCUC Secretary  
British Columbia Utilities BCUC  
Sixth Floor – 900 Howe Street  
Vancouver, BC V6Z 2N3

Dear Ms. Gillis:

**RE: Project No. 3698622  
British Columbia Utilities Commission (BCUC)  
British Columbia Hydro and Power Authority (BC Hydro)  
Amended F2012-F2014 Revenue Requirements Application  
(Amended F12-F14 RRA)  
Canadian Office of Professional Employees Union, Local 378 (COPE)  
Request for Higher Interim Rates**

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BC Hydro writes to respond to the January 10, 2012 letter<sup>1</sup> and the January 27, 2012 submission<sup>2</sup> of COPE, in the above noted proceeding (respectively, COPE Letter and COPE Submission or collectively, COPE Application), in relation to BC Hydro's interim rates for F2013. BC Hydro opposes the COPE Application, for the reasons set out below.

### **Introduction**

On March 1, 2011, BC Hydro submitted its original F12-F14 RRA seeking rate increases of 9.73 per cent for each of F2012, F2013 and F2014.

Following significant concerns expressed over the magnitude of the rate increases BC Hydro initially proposed, the Premier and the Minister of Energy and Mines requested, on behalf of the Province as the sole shareholder of BC Hydro, "a review of BC Hydro in order to provide recommendations and options for minimizing the rate increase".<sup>3</sup>

On April 21, 2011, the BCUC approved an interim rate increase of 8 per cent effective May 1, 2011.

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<sup>1</sup> Exhibit C2-10. All exhibit numbers refer to Exhibits in the F12-F14 RRA proceeding.

<sup>2</sup> Exhibit C2-11.

<sup>3</sup> Government Review Report, June 2011 at page 1.

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On August 11, 2011, the provincial government released the Government Review Report.

On November 24, 2011, BC Hydro filed its Amended F2012-F2014 Revenue Requirements Application (Amended Application).

In the Amended Application, BC Hydro requested an order to set interim rates effective April 1, 2012 (for F2013) and April 1, 2013 (for F2014). The Amended Application sought a revised interim rate increase of 3.91 per cent in each of F2013 and F2014 as set out in Amended Appendix Table X-1<sup>4</sup> and to set the Deferral Account Rate Rider (**DARR**) at 2.5 per cent in each of F2013 and F2014.

On January 10, 2012, in the COPE Letter, COPE wrote to the BCUC with respect to the “anticipated application” by BC Hydro regarding interim rates for F2013. The COPE Letter asked the BCUC to direct BC Hydro to file its application for interim rates for F2013 in time to accommodate a “robust written process” as well as time for a potential oral hearing on the issue of interim rates in order “to ensure that the views of the parties are fully canvassed”.<sup>5</sup>

The BCUC responded to the COPE Letter on January 19, 2012,<sup>6</sup> inviting the Interveners to make submissions on the level of the interim rate increase and the DARR for F2013, along with any comments on what further process may be required, if any.

On January 27, 2012, the following Interveners provided their submissions to the BCUC:

- Association of Major Power Customers of British Columbia (**AMPC**);<sup>7</sup>
- Commercial Energy Consumers Association of British Columbia (**CEC**);<sup>8</sup>
- British Columbia Old age Pensioners’ Organization *et al.* (**BCOAPO**);<sup>9</sup>

<sup>4</sup> As stated in footnote 11a of page 1-41 of the Amended Application, the prices shown in Amended Table X-1 are estimates, and subject to revision when the necessary billing data is available to calculate them in accordance with the various pricing principles applicable to the different rate schedules.

<sup>5</sup> COPE Letter (Exhibit C2-10) at page 3.

<sup>6</sup> Exhibit A-22.

<sup>7</sup> Exhibit C18-5.

<sup>8</sup> Exhibit C5-6.

<sup>9</sup> Exhibit C1-9.

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- B.C. Sustainable Energy Association and the Sierra Club of British Columbia (**BCSEA**);<sup>10</sup>
- Richard Tennant, Vanport Sterilizers Inc. (**Vanport**);<sup>11</sup> and
- COPE;<sup>12</sup>

BC Hydro's response to the COPE Application and the Interveners' submissions is set out below.

### **Most Intervener Submissions Support BC Hydro's Position**

In this section, BC Hydro will briefly outline the position of Interveners on the issue of interim rates and COPE's Application.

With the exception of COPE and BCSEA, none of the 28 registered Interveners in the F12-F14 RRA proceeding opposes BC Hydro's application for interim rates as submitted in the Amended Application. AMPC, CEC and BCOAPO all provided submissions expressly opposing the COPE Application. Vanport's submission does not address the issue directly. Notably, each of AMPC, CEC, and BCOAPO support BC Hydro's requested interim rate increase.

In particular, AMPC stated in its submission that it "does not anticipate BC Hydro to be filing a new or amended application seeking to vary the requested 3.91 per cent interim increase sought at page 1-41 of the Amended Application. AMPC also does not seek to have the BC Hydro requested interim increase varied".<sup>13</sup> Further, "COPE argues that higher interim rate (*sic*) are necessary. AMPC disagrees strongly".<sup>14</sup>

With regards to the achievable level of rate reductions, AMPC observed: "[t]hat such reductions can be achieved is evident from the Provincial Government Review into BC Hydro which called for major cuts in both proposed rates and staffing numbers at BC Hydro, together with capital expenditure restraint".<sup>15</sup>

AMPC concluded by emphasizing that, to the best of AMPC's knowledge, "there is no precedent for [the] BCUC granting a higher interim (*sic*) than that sought by the

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<sup>10</sup> Exhibit C10-7.

<sup>11</sup> Exhibit C27-4.

<sup>12</sup> Exhibit C2-11.

<sup>13</sup> AMPC submission (Exhibit C18-5) at page 1.

<sup>14</sup> AMPC submission at page 1.

<sup>15</sup> AMPC submission at page 2.

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Applicant and we should not create one now. No further process is required on this issue. The BCUC should set interim level of rates in this case at the level proposed in the Amended Application by BC Hydro”.<sup>16</sup>

CEC stated that “the level [of rate increase] applied for by BC Hydro is appropriate in this case”; and concluded its submission with the following: “COPE seeks to argue through additional regulatory process issues which will be the subject of the final determination of this proceeding. That is neither a good precedent nor an efficient use of the regulatory process. The COPE request should be denied”.<sup>17</sup>

BCOAPO, “in deference to the unusual circumstances in this case” also recommended “that BC Hydro’s applied for rate increase of 3.9 % (*sic*) for the upcoming fiscal be granted on an interim basis”. Further, BCOAPO also noted its agreement with AMPC’s position that a precedent for the BCUC granting higher interim rates than sought by an applicant should not be created.<sup>18</sup>

### **COPE Application**

In this section, BC Hydro will address the arguments raised in the COPE Application.<sup>19</sup> COPE’s arguments in the COPE Application can be summarized as follow:

- The Alberta Energy and Utilities Board (**AEUB**) Decision in *ATCO Pipelines 2008 Interim Rates*<sup>20</sup> set out the proper regulatory principles applicable to interim rate-setting.
- The government “wrested” an agreement from BC Hydro to apply for rate increases substantially short of its real needs which “turns BC Hydro’s rates into a kind of Ponzi scheme where the cost of unrealistic short-term promises to participants is being postponed with a vague notion of collection from those who will follow.”<sup>21</sup>
- BC Hydro’s cost cutting measures merely “nibble away at the edges by cutting staff and putting off projects” “inexorably” setting BC Hydro up for an “unmanageable

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<sup>16</sup> AMPC submission at page 2-3.

<sup>17</sup> CEC submission (Exhibit C5-6) at page 1.

<sup>18</sup> BCOAPO submission (Exhibit C1-9) at page 2.

<sup>19</sup> BCSEA’s submission (Exhibit C10-7) does not contradict or add anything to the arguments of COPE and therefore, are not addressed separately.

<sup>20</sup> AEUB Decision 2007-110.

<sup>21</sup> COPE Submission (Exhibit C2-11) at page 1.

scenario” and postponing “the accounting until after the mandate of the current administration”.<sup>22</sup>

- “There is no realistic prospect...that the BCUC will find itself concluding that even more current cost should be deferred, or that even greater short-term cuts should be imposed on BC Hydro...” “The realistic possibilities are that either the applied-for increases will be approved on a final basis, or the BCUC will reject some of BC Hydro’s proposed deferrals...and order final rate increases which are greater than those sought in the Amended Application”.
- Should the interim rates result in under-collection for F2013, there is no viable mechanism for rectification.

BC Hydro’s response to these arguments follows here. Given that BCSEA’s arguments are but an echo of some of the arguments in the COPE Application, BC Hydro’s response to COPE also applies to the arguments made by BCSEA.

In the AEUB case, the utility applied for an interim rate increase while one of the Interveners argued that there should be no interim rate increase at all. In the case of BC Hydro’s application for F2013 interim rates, COPE argues that the interim rate increase should be higher than what BC Hydro applied for. The issue in the AEUB Decision, therefore, is the exact opposite of the issue regarding BC Hydro’s F2013 interim rates. For this reason, the BCUC can disregard the AEUB decision in the present circumstances.

BC Hydro disagrees with COPE’s assertion that the only “realistic possibilities” are the approval of the applied for increases or an order of final rate increases greater than those sought in the Amended Application. COPE’s assertions that the proposed rate increases could not be further reduced and may well be already too small are based on an incorrect assumption unsupported by evidence. The BCUC has broad jurisdiction to determine the appropriate regulatory account recoveries; it also has the jurisdiction to deny cost recovery to BC Hydro if the BCUC finds that the costs had been expended imprudently. Therefore, it is for the BCUC to make the final decision on BC Hydro’s rates and not for COPE to make unsupported predictions as to what that decision may or may not look like.

The balance of the COPE Application<sup>23</sup> presents arguments beyond the scope of what is relevant to a determination on interim rates and a proposed process for setting them. The majority of COPE’s arguments deal with issues that are the very subject of the F12-F14 RRA proceeding and should be canvassed there. The F12-F14 RRA proceeding is at the beginning; BC Hydro has just filed (or is about to file) responses to approximately

<sup>22</sup> COPE Submission (Exhibit C2-11) at page 2.

<sup>23</sup> From pages 3 to 14.

2,800 Information Requests from the BCUC and Interveners. BC Hydro agrees with CEC's comments, as quoted above, that engaging with these arguments at this stage in the proceedings is "neither a good precedent nor an efficient use of the regulatory process". BC Hydro's position is that these arguments are irrelevant to the real issues in the COPE Application and should not be considered by the BCUC at this point. Further, not considering these arguments at this point does not prejudice COPE as the BCUC will have ample opportunity to give them due consideration during the F12-F14 RRA proceeding. Most importantly, asking the BCUC to consider them now amounts to inviting the BCUC to pre-judge relevant aspects of the F12-F14 RRA proceeding, which would undermine procedural fairness to all parties in the F12-F14 RRA proceeding.

As for COPE's claim that there are no viable mechanisms available to BC Hydro to rectify a potential under-collection in F2013, it is BC Hydro's position that this is not the right time and place to speculate on the precise mechanisms for rectifying a not yet materialized, speculative problem. Suffice to say that the mechanisms "discarded" by COPE (such as *e.g.*, a surcharge or further deferral) could be configured, if needed, to rectify any under-collection issues.

As noted by the Chair of the BCUC panel reviewing the F12-F14 RRA, the BCUC is an independent tribunal which reviews BC Hydro's F12-F14 RRA within the mandate given to the BCUC by the *Utilities BCUC Act* bearing in mind the need for efficiency and transparency, both of which ultimately serve the interests of ratepayers.<sup>24</sup> The extent to which the deferral of certain costs is appropriate is one of the many issues to be determined by the BCUC in the F12-F14 RRA proceeding. A "Ponzi scheme" implies secrecy; it is the anti-thesis of a transparent regulatory process. As such, characterizing BC Hydro's proposed rates and the outcome of the Government Review as a "Ponzi scheme" is disrespectful not only to BC Hydro and the government but to the BCUC as well.

## Conclusion

Given that it is inappropriate to pre-suppose the outcome of a complex regulatory proceeding such as the F12-F14 RRA, as COPE did in the COPE Application, and given that the majority of Interveners opposed the COPE Application in their submissions regarding interim rates, BC Hydro submits that:

- BC Hydro's application for interim F2013 rates be approved;
- The COPE Application be dismissed; and
- There be no oral argument in the matter of interim rates, as tentatively scheduled.

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<sup>24</sup> T2: 69/16-23.

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For all these reasons, BC Hydro respectfully requests the BCUC to dismiss the COPE Application, and approve the interim rates as applied for in the Amended Application, without further process in the matter.

In order to allow the interim rates to be calculated and programmed into the billing system, and to allow the interim rates to take effect on April 1, 2012, BC Hydro respectfully requests an order no later than the end of February.

For further information, please contact Fred James at 604-623-4317 or by e-mail at [bchydroregulatorygroup@bchydro.com](mailto:bchydroregulatorygroup@bchydro.com).

Yours sincerely,



Janet Fraser  
Chief Regulatory Officer

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