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Our File: 11-3512
Date: April 3, 2012

British Columbia Utilities Commission
6th Floor – 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Alanna Gillis, Acting Commission Secretary

Dear Madame:

**Re: British Columbia Hydro and Power Authority (“BC Hydro”) Certificate of Public Convenience and Necessity (“CPCN”) Application
Dawson Creek/Chetwynd Area Transmission (“DCAT”) Project
Project No. 3698640
Association of Major Power Customers of BC (“AMPC”) – Responses to BC Hydro and Commission Filings**

We are legal counsel to AMPC in this proceeding. This letter provides AMPC's views on the following matters in response to recent filings by BC Hydro and the Commission:

1. Reactivation of the hearing and whether AMPC plans to file evidence; and
2. The appropriate scope of the hearing and recommended procedural steps.

AMPC's views follow below:

1. Reactivation of the Hearing and Intervener Evidence

AMPC does not oppose the reactivation of BC Hydro's application and does not view a procedural conference as being necessary to consider that issue.

AMPC is concerned by BC Hydro's request to rule areas relevant to its application out of scope, effectively avoiding parties' earlier unanswered information requests (“IRs”). In AMPC's view its IRs directly relate to project justification and are legitimate areas of inquiry, including:

- Whether the tariff's current customer contribution policy is being applied consistently, is equitable, and if a different and apparently imminent policy change would affect the economics driving project need, namely new load; and

- BC Hydro's interpretation of Western Electricity Coordinating Council ("WECC") policies and Mandatory Reliability Standards ("MRS").

AMPC supports an electricity tariff that sends clear and consistent price signals. Its initial IRs sought to confirm that BC Hydro is pursuing a principled approach to its tariff given potentially conflicting outcomes in different parts of the province, and BC Hydro's current willingness to amend its tariff to achieve equitable outcomes.

AMPC is also concerned with BC Hydro's suggestion that the Commission should avoid considering some of the B.C. Energy Objectives contained in the *Clean Energy Act* during this proceeding given an imminent tariff review and Integrated Resource Plan ("IRP") decision, i.e., proceed on the basis that the cart should be put before the horse. The tariff's ability to send price signals and DCAT project need are both directly affected by BC Hydro and government policy surrounding the B.C. Energy Objectives. Those matters are also appropriately within the scope of the hearing.

AMPC plans to file intervener evidence addressing the preceding matters.

2. The Appropriate Scope of the Hearing and Recommended Procedural Steps

BC Hydro states the following in the cover letter to its recent filing concerning how the balance of the hearing should proceed:

This letter has attempted to identify areas that should be ruled outside the scope of this review. BC Hydro is aware that there are questions in the Round 3 IRs that do not relate to those matters that BC Hydro has submitted are outside the scope of this proceeding....

BC Hydro believes that the direct evidence responds to many of the Round 3 IRs in all areas within the scope disclosed above. As well, many questions that remain unanswered may not appear as important in light of the new information in the evidentiary update. Accordingly, BC Hydro believes it may be possible to recommence the hearing process by calling for intervener evidence, establishing an information request process in that connection and setting the matter down for written or oral hearing. Alternatively, a final round of IRs focused exclusively on the attached new evidence may be appropriate.

BC Hydro appears to propose two procedural actions:

- (a) Limit the scope of the hearing to exclude some of the issues raised in outstanding IR responses.

- (b) All parties should treat BC Hydro's supplemental evidence as fully answering the outstanding IRs and, if desired, additional IRs on the supplemental evidence only would be appropriate.

AMPC's comments are as follows:

(a) Scope of the Hearing

BC Hydro's cover letter discusses five policy areas (Tariff Supplement No. 6, End Use Rates, Postage-Stamp Rates, the N-1 operating criterion, and B.C. Energy Objectives) and at one point broadly states that dealing with any of them on a "one off basis" is not appropriate.¹ Presumably BC Hydro means that all of these policies should be considered "out of scope".

BC Hydro clearly states that Postage Stamp Rates and the tariff² should not be adjusted on an *ad hoc* basis, End Use Rates should not be considered in the absence of stakeholder consultation,³ and resource planning issues related to the B.C. Energy Objectives should be left to B.C. Hydro's IRP.⁴

There are clear contradictions within BC Hydro's request:

- BC Hydro acknowledges that some of these policy areas are in fact relevant to its application (see the list on page 10, for example) while arguing they are out of scope.
- AMPC fails to see how the tariff can be considered "out of scope" when part of BC Hydro's Application is to amend the tariff.
- BC Hydro provides little rationale as to how the Commission can rule aspects of the B.C. Energy Objectives out of scope pending the IRP when, as BC Hydro says, "the Energy Objectives [are] relevant to the BCUC's determination of the public convenience and necessity," and the *Utilities Commission Act* requires the Commission to consider them.⁵

As a result, it is unclear precisely what aspects of the five identified policy areas BC Hydro seeks to exclude. Before the Commission takes any steps to rule issues outside of the hearing's scope BC Hydro should more clearly delineate out of scope issues and justify their

¹ Page 8.

² Page 9.

³ Page 5.

⁴ Page 8.

⁵ R.S.B.C. 1996, c. 473, s. 46(3.3)(a).



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exclusion. For efficiency, BC Hydro should also do so in writing before any procedural conference.

(b) Procedural Steps

Additional IRs on the new information are necessary.

AMPC also strongly disagrees with the suggestion that its outstanding IRs be abandoned. AMPC's questions seek to better understand the Application, and were chosen in contemplation of preparing intervenor evidence. Direct questions deserve direct responses.

If the new filing directly answers AMPC's questions, it should be a simple matter to provide a reference and associated explanation. If BC Hydro views the questions as out of scope, it is also a simple matter to say so and say why. If significant further responses are required to answer AMPC's IRs despite the new filing, then they are clearly worth drafting.

Once AMPC and other intervenors have had the benefit of reviewing responses relating to both new and earlier unanswered IRs, then a procedural conference may be appropriate to consider intervenor evidence timing, oral hearing timing and any other procedural steps that may be necessary.

Please contact the writer if you have any questions.

Yours truly,

Bull, Housser & Tupper LLP

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