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British Columbia Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, BC, V6Z 2N3
Attn: Alanna Gillis, A/Commission Secretary
By Web Posting

Dear Madam:

Re: British Columbia Hydro and Power Authority
F2012-F2014 Revenue Requirements Application
Project No. 3698622/Order G-40-11
Level of interim rate increase and DARR for F2013

Pursuant to Order G-69-12 (Exhibit A-35), these are the submissions of the intervenors B.C. Sustainable Energy Association and the Sierra Club of British Columbia regarding the need for any further process on the Amended Application.

I acknowledge receipt of a copy of a June 1, 2012 letter from counsel for COPE Local 378 providing reasons in favour of a procedural conference (scheduled for June 12, 2012 for placeholder purposes), and a copy of a June 1, 2012 letter from counsel for the Commercial Energy Consumers arguing that there is no need for a procedural conference.

By way of background, by letter of May 29, 2012, BCSEA-SCBC supported COPE Local 378's May 29, 2012 request for a procedural conference in this proceeding. BCSEA-SCBC stated:

> Without limitation, one of the topics that remains to be dealt with is establishment of a formulaic mechanism for clearing the net balance of deferral accounts.

I re-affirm that position and will elaborate in this letter.

Background regarding a formulaic mechanism to clear the deferral accounts

In BC Hydro's F2007/F2008 Revenue Requirement Application, the Commission by Order G-143-06 dated November 10, 2006 approved a Negotiated Settlement Agreement (NSA) that introduced a Rate Rider, then set at 2%, to be allocated against the sum of the closing balances of the Heritage Deferral Account, the Non-Heritage Deferral Account, the Trade Income Deferral Account and the BCTC Deferral Account.[1]

The Commission was concerned about the deferral account balances, as is evident from the fact that the Commission had attempted to prevent the parties to the negotiated settlement process (NSP) from addressing the topic. Recital F of the NSA states:

[1] BC Hydro F07/F08 RRA Settlement Agreement dated for reference November 2, 2006, para.13.

> F. ... In the cover letter to Order No. G-96-06 the Commission concluded, on the basis of the material before it at the time, that the disposition of balances in the current deferral accounts should not be within the scope of the NSP (Exhibit B5-1, Section 2.3.2);

However, the participants in the NSP chose to address amortization of the deferral accounts anyway. The approved NSA states:

> 3. Despite the Commission's conclusion regarding the scope of this NSP referred to in recital F above, it would have been impossible to reach any settlement of the F07/F08 RRA without addressing and agreeing on amortization of the current deferral accounts, as reflected in this Settlement Agreement.

One of the key terms of the 2006 NSA was that BC Hydro committed to "<u>address amortizing deferral account balances in a structured or formulaic approach</u>."[2]

In its F2009-F2010 Revenue Requirement Application, BC Hydro proposed a Deferral Account Rate Rider (DARR) Mechanism,[3] which the Commission accepted in Order G-16-09 dated March 13, 2009.[4] The DARR Mechanism includes the following elements:

- The Rate Rider is set in percentage terms effective April 1st based on the net balance of the deferral accounts as of the previous September 30th.
- The size of the Rate Rider varies by increments of 0.5% from negative 5.0% to positive 5.0% according to hypothetical net balances from negative $500-million to positive $500-million. (A DA net balance greater than $500-million was not explicitly contemplated.)
- The DARR Table provided an estimated amortization period of 4 – 6 years.
- The table is subject to the caveat that "Should BC Hydro at any time consider that a deviation from the table is warranted due to special circumstances, it would file an application for approval of such deviation." "[T]here would be an opportunity for intervenors to review and comment on any such applications."[5]

The Commission noted that BC Hydro recognized the permanent nature of the deferral accounts, that there may be the significant volatility in the net balance from year to year, and that the DARR mechanism would meet the following objectives:

- minimize intergeneration inequity by being responsive to the changing net balance in the deferral accounts,
- maintain rate stability for customers to the extent practicable, and
- be administratively simple and transparent.

In Order G-16-09, the Commission approved a final DARR of 0.5% for F2009, which was equal to the interim rate rider then in effect. The rate rider in F2010 was 1%.

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[2] *Ibid.*, para.32(vii), p.11, underline added.
[3] Often referred to as the Table DARR Mechanism.
[4] Order G-13-09, Reasons For Decision, p.172.
[5] *Ibid.*, p.717.

The rate rider for F2011 would have been 5% based on the DARR Table. However, in its F2011 RRA, BC Hydro requested a rate rider of 4% due to special circumstances. In the result, however, the F2011 DARR was reduced to 2.5%[6] as part of the F2011 RRA Negotiated Settlement Agreement approved by the Commission. This was based on a 10-year amortization period.[7] In the F2011 NSA s.9(i), BC Hydro committed to examining and reporting on whether a 10-year amortization period (compared to the 4 – 6 year period implicit in the DARR Table) would effectively clear the net balance of the deferral accounts.

In BC Hydro's F12-F14 RRA, the current application, BC Hydro reported[8] that a 10-year amortization period "is not a satisfactory mechanism for clearing the balances in the Deferral Accounts."[9] For F2012, the rate rider would have been 5% based on the Table DARR. In BC Hydro's original F12-F13 RRA BC Hydro proposed acceptance of the DARR Table mechanism but with a 2.5% rate rider for F2012 based on "special circumstances." And, BC Hydro proposed a rate rider that would be "based on [the Table DARR] subject to an average net bill increase of not more than 10 per cent in each of F2013 and F2014." These rate rider figures would likely have been substantially below the Table DARR values, given that BC Hydro was then proposing rate increases of close to 10%.

In the November 2011 amended F12-F14 RRA, BC Hydro proposed that the DARR for F2012 to F2014 be maintained at 2.5% "as part of the plan to achieve rate increases of 8 per cent in F2012 and 3.91 per cent in F2013 and F2014." On March 14, 2011, the Commission approved an interim F2012 rate increase of 9.53% and continuation of the DARR at 2.5%.[10]

However, in Order G-17-12 dated February 15, 2012, the Commission rejected BC Hydro's proposed interim rate rider of 2.5% for F2013. The Commission states:

> "The applied for continuation of the DARR at 2.5 percent in F2013 is rejected for interim rate setting purposes. The F2013 DARR is to be set at 5.0 percent effective April 1, 2012, on an interim and refundable basis pending the determination of this Application."[11]

The Commission states:

> "In contrast [to the proposed interim rate increases], the DARR is backward looking – based on hindsight and available facts. The DARR is a percentage surcharge on a customer's bill that is intended to recover the amortization of BC Hydro's Deferral Accounts. The percentage, to be effective on April 1 of a given fiscal year, is based on the net balance in the Deferral Accounts as of September 30 of the previous year. In the F2009-F2010 RRA Decision, Order G-16-09, the Commission approved BC Hydro's proposed methodology to establish the appropriate percentage of the DARR at various ranges of net deferral account balances. The Commission Panel notes that BC Hydro's Quarterly Deferral

[6] The F2011 rate rider was 3.53% on an annualized basis, as the 2.5% rate began on January 1, 2011.
[7] Exhibit B-1, section 7.2.2.
[8] Exhibit B-1-3, Appendix H.
[9] *Ibid.*, p.11 of 11.
[10] Exhibit A-3, Order G-40-11.
[11] Order G-17-12, Appendix A, p.6 of 7

> Account Report for the six months ended September 30, 2011, filed on December 6, 2011, shows the net Deferral Account balances as $701.8 million. In accordance with the approved methodology, the DARR effective April 1, 2012, should be set at a minimum at 5.0 percent."[12]

The Commission concludes:

> "The Commission Panel also notes that in its original F2012–F2014 RRA, BC Hydro applied to follow the DARR mechanism for F2012 and F2013. It deviated from this plan in the ARRA in order to achieve lower overall rate increases. The Panel's ultimate concern with this deviation is that of intergenerational equity. Recent history indicates that the Deferral Account net balances have continued and are continuing to grow, without any opportunity in sight to clear them as directed by SDHC2. In conclusion, the Commission Panel finds that there is no reason to deviate from the accepted DARR mechanism until and unless further process determines this to be necessary. Accordingly, the DARR is approved at 5.0 percent effective April 1, 2012, on an interim and refundable basis pending the determination of the Application. The increase represents a 2.5 percent increase from the current level."[13]

Direction No. 3 does not address the mechanism for clearing the deferral accounts

In Direction No. 3 to the BCUC, the Lieutenant Governor in Council, set the DARR at 5% for F2013 and F2014 on a final basis, among other things.[14] Notably, however, Direction No. 3 is silent regarding a formulaic mechanism for clearing the deferral account balances.

As stated above, this has been on the regulatory agenda ever since the Commission-approved 2006 NSA in which BC Hydro committed to "address amortizing deferral account balances in a structured or formulaic approach."[15] BCSEA-SCBC respectfully submit that the topic remains on the regulatory agenda, despite the adoption of Direction No. 3.

The large, volatile and potentially growing size of the net balance of BC Hydro's deferral accounts is a matter of major concern to ratepayers who want a sustainable electricity system and to the public interest generally.

On the latter point, it is instructive to note that the Ministry of Energy and Mines pointed to the Commission's then-upcoming review of BC Hydro's F12-F14 RRA as an "an open, transparent and public hearing process" in response to the B.C. Auditor General's report on the Effects of Rate regulated Accounting. The Response from the Ministry of Energy and Mines states:

> "Recommendations from both the [Auditor General's report on the Effects of Rate regulated Accounting] Report and Review [of BC Hydro undertaken at the direction of the Premier and Minister of Energy and Mines] will be considered by BC Hydro in preparing its amended revenue requirements application which will

[12] *Ibid.*, underline added.
[13] *Ibid.*, underline added.
[14] Exhibit B-30.
[15] *Ibid.*, para.32(vii), p.11, underline added.

> be submitted at the end of November 2011 to the BC Utilities Commission (BCUC) and reviewed in an open, transparent and public hearing process."[16]

Conclusion

In response to the Commission's May 30, 2012 invitation for comments regarding outstanding matters not resolved by Government's recent orders in council, BCSEA-SCBC respectfully submit that a substantial issue that remains to be dealt with is establishment of a formulaic mechanism for clearing the net balance of BC Hydro's deferral accounts.

Yours truly,

William J. Andrews

Barrister & Solicitor

cc. Distribution List by email

[16] Exhibit B-1-3, New Appendix GG, p.8 of 19, underline added.