

Janet Fraser

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November 23, 2012

Ms. Erica Hamilton
Commission Secretary
British Columbia Utilities Commission
Sixth Floor – 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Ms. Hamilton:

**RE: Project No. 3698660
British Columbia Utilities Commission (BCUC)
British Columbia Hydro and Power Authority (BC Hydro)
Generic Cost of Capital Proceeding**

BC Hydro writes further to the BCUC letter of November 20, 2012 to all Registered Parties in the BCUC Generic Cost of Capital Proceeding, requesting submissions on the following potential orders:

- (i) That the current Return on Equity (ROE) and Capital Structure for FEI, be made interim effective January 1, 2013 until a decision on a new ROE and capital structure is issued; and
- (ii) That all regulated entities that use the benchmark to establish rates will also have their rates made interim effective January 1, 2013.

BC Hydro does not generally perceive any legal impediment to the BCUC issuing the potential orders. Nevertheless, BC Hydro submits that such orders, if they are issued, should expressly be inapplicable to BC Hydro. BC Hydro is a public utility regulated by the BCUC under the *Utilities Commission Act*. Pursuant to Heritage Special Direction No. HC2 (**HSD#2**), the BCUC is obliged to include in BC Hydro's revenue requirement a return on equity calculated as the "pre-income tax annual rate of return allowed by the commission to the most comparable investor-owned energy utility regulated under the *Utilities Commission Act*". Under HSD#2 and its predecessors, the "most comparable investor-owned energy utility" has been FortisBC Energy Inc. (**FEI**). It follows that a BCUC order making interim the rates of all regulated utilities that use FEI's allowed rate of return on equity to establish those rates would seem to be applicable to BC Hydro.

However, BCUC Order No. G-77-12A establishes BC Hydro's rates for BC Hydro's fiscal 2012, 2013 and 2014 periods (i.e., from April 1, 2011 to March 31, 2014) subject only to the approval of DSM expenditures in fiscal 2014 (sections 1 (i) and (ii)). The same order established BC Hydro's allowed rate of return on equity in fiscal 2013 and 2014 at 11.73 per cent and 11.84 per cent, respectively (section 1(xxvi)). Finally, BCUC

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Order No. G-77-12A also requires that BC Hydro defer to the Non-Heritage Deferral Account (**NHDA**) the difference in BC Hydro's allowed F2014 return on equity calculated on the basis of 11.84 per cent, and the rate of return that would be applicable to BC Hydro as a result of this proceeding.

In BC Hydro's submission, an order making its rates interim on January 1, 2013, as contemplated by the BCUC letter of November 20, 2012, would be inconsistent with the provisions of BCUC Order No. G-77-12A referred to above. In particular, making BC Hydro's rates interim on January 1, 2013 pending the resolution of this proceeding implies that final rates would be subject to refund or back-billing at a later date, which would be entirely at odds with the fact that fiscal 2013 rates are established as final, and at odds with the direction to defer any variances on the fiscal 2014 return on equity to the NHDA.

For these reasons, BC Hydro submits that any order making the rates of regulated utilities interim pending the conclusion of this proceeding should be made expressly inapplicable to BC Hydro.

BC Hydro also offers that an alternative to making the rates of the other utilities interim on January 1, 2013 pending the resolution of this proceeding is to allow those utilities to defer through a regulatory account any differences in their return on equity arising from their current rate of return on equity and the final rate of return on equity arising from this proceeding. Such an approach avoids the administrative cost and customer relations issues that can arise from a back-billing or refund situation.

For further information, please contact Fred James at 604-623-4317 or by email at bchydroregulatorygroup@bchydro.com.

Yours sincerely,



Janet Fraser
Chief Regulatory Officer

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Registered Intervener Distribution List.