



David M. Aaron

January 29, 2014

BY EMAIL

BC Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, BC V6Z 2N3

Attention: Erica Hamilton, Commission Secretary

Dear Sirs / Mesdames:

**RE: British Columbia Hydro and Power Authority (“BC Hydro”)
Application for Approval of Charges re: Meter Choices Program**

I remain legal counsel for the Citizens for Safe Technology Society and Nomi Davis (“CSTS”). In accordance with the Commission’s letter of January 10, 2014, I had a telephone discussion with Ian Webb on January 10, 2014 (“the Discussion”). I write to report on that Discussion after having received Mr. Webb’s letter to the Commission of January 20, 2014.

“Did not have instructions...regarding the matter”

In his letter to the Commission of January 20, 2014, Mr. Webb states:

Mr. Aaron and I have discussed the matter. Mr. Aaron did not have instructions from his clients regarding the matter and, accordingly, an agreement could not be reached.

[emphasis added]

In fairness to my clients, I feel compelled to address the potential for confusion arising out of Mr. Webb’s statement that I did not, during the Discussion, have instructions from my clients “regarding the matter”.

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I confirm that I entered the Discussion on the basis of clear instructions from my clients and pursuant to the Commission's letter of January 10, 2014. My instructions pertained to the outstanding CSTS information requests enumerated in my correspondence of December 20, 2013. The only points on which I required further instructions related to the specific positions taken by Mr. Webb during the course of the Discussion itself.

I provide this clarification lest there be any misunderstanding with respect to my clients' good faith compliance with the Commission's suggestions by its letter of January 10, 2014.

CSTS IR 1.1

On CSTS IR 1.1, we are not pursuing information beyond that which BC Hydro has provided by way of Mr. Webb's letter of January 20, 2014.

Forced installation questions (CSTS IRs 1.8, 1.9, 1.10, 1.11, 1.14 and 1.65)

BC Hydro ("BCH") declines to answer each CSTS IR question relating to BC Hydro's practice of forcing a smart meter installation upon customers who had posted a conspicuous notice to BC Hydro indicating the customer's objection to the installation of a smart meter. These questions are reproduced as follows:

1.8 Did BCH ever install a smart meter at a residence where the customer had posted a conspicuous notice to BCH indicating the customer's objection to the installation of a smart meter? If so, in how many instances did such an installation occur?

1.9 Please indicate why BCH customers were not individually asked whether or not they would like a smart meter installation.

1.10 Has BCH installed smart meters at the homes of any customers who have requested that the smart meter installation at their premises be put on hold?

1.11 Has BCH installed smart meters at the homes of any customers who have requested that the smart meter installation at their premises be put on hold and who have maintained that request and not resiled from that request?

1.14 Of your customers who now have smart meters, how many have

contacted you, subsequent to the installation of their smart meter, to request that their smart meter be removed? Would it be reasonable for these customers to be permitted to participate in the opt-out program? Would their participation in the opt-out program lower the per-read cost of administering the opt-out program?

1.65 Does BCH take the position that it is entitled, according to the terms of the current tariff, to install a microwave emitting smart meter at a customer's property and attend the property for that purpose? If so, why is BCH applying to amend the current tariff? If not, then on what basis did BCH install smart meters on the properties of customers who explicitly indicated their refusal by way of correspondence to BC Hydro or conspicuous signage on their former analogue meters?

We stand by our request that the Commission compel BC Hydro to answer the above-referenced questions, as they are relevant for the reasons set out below.

BC Hydro, by its own unilateral conduct, has allegedly taken action ("the Unilateral Installations") to install smart meters against the express wishes of customers ("the Violated Customers").

Since the radio-off option is not being provided to the Violated Customers, the Unilateral Installations have the effect of reducing participation rates in the prospective opt-out program, increasing the per-customer cost of the opt-out program. Since BCH is responsible for this increase in cost, we seek to ascertain particulars as to the number of Unilateral Installations so that we can make argument regarding the economic implications of BCH's conduct on the resulting per-customer cost of the opt-out program.

In support of our assertion that the Unilateral Installations have the effect of reducing participation rates in the prospective opt-out program, increasing the per-customer cost of the opt out program, we refer to the following BCH answers to CSTS information requests in round one.

Estimated opt-out numbers?

1.27 Does Table 3-13 in the BCH Application indicate that the cost per read decreases with an increase in the number of customers that opt out?

RESPONSE:

Yes.

Estimated opt-out numbers?

1.28 Would the per-premises costs of the BCH opt-out program be lower if it offered an opt-out opportunity to all customers who wish to opt out, including those who have somehow suffered the installation of a smart meter against their will?

RESPONSE:

If the number of customers choosing to participate in the Meter Choices Program increases, the cost per customer will decrease.

1.29 Does Table 3-2 on page 3-4 of the BCH Application show a correlation between the affordability of the opt-out fee and the percentage of customers who opt out?

RESPONSE:

As noted at lines 12 to 14 on page 3-3 of the Application, participation rates “appear to be negatively correlated with the level of charges to customers for smart meter alternatives.”

Estimated opt-out numbers?

1.32 Does BCH anticipate different opt-out volumes if the charges for opting out are somewhat different from those currently proposed?" If yes, explain the degree of elasticity BCH is anticipating.

RESPONSE:

BC Hydro expects that the level of participation in the Meter Choices Program will be dependent upon the charges for each option. However, the determination of the price elasticity demand would be difficult due to the lack of relevant and robust data, and has not been estimated.

The exclusion of the Violated Customers from eligibility under the meter choices program has the effect of reducing participation rates in the prospective opt-out program, increasing the per-customer cost of the opt-out program.

To the extent that that exclusion is effected by Direction No. 4, those increased costs should be borne by BC Hydro in general (or all ratepayers) rather than factored into the incremental cost recovery attributed to opt-out customers.

Furthermore, the failure to include the Violated Customers as eligible customers for a meter choice comes with a risk analogous to that which was identified by the Commission at page 148 of its July 23, 2013, decision on the FortisBC AMI CPCN application:

In Section 6.5.2, the Panel identified a potential risk to the implementation schedule arising from a protracted difference of views concerning the Project. This risk could increase costs to and reduce potential benefits from the Project, which would be detrimental to all FortisBC ratepayers. The Panel is of the view that an opt-out program could mitigate these potential schedule impacts. On the issue of financial or medical hardship, the Panel is of the view that a properly designed opt-out program allows individuals to decide not to accept a transmitting AMI meter while protecting the remaining FortisBC customers from the increased costs associated with the opt-out Program.

In our submission, the above-referenced risk, as identified by the BCUC, applies also in the context of the BC Hydro smart meter program. That risk is associated with “a protracted difference of views concerning the Project”.

The CSTS information requests at issue contemplate the circumstances of Violated Customers who have made a choice to live in an environment free from radio-frequencies - a choice that has been overridden by the unilateral action of BC Hydro. Where that Violated Customer has been excluded from eligibility under the meter choices program, the above-referenced “risk” identified by the Commission is heightened. As identified by the Commission, this risk could increase costs to and reduce potential benefits from the smart meter program, which would be detrimental to all ratepayers.

If this risk has its source in policies imposed by way of Direction No. 4, then the increased costs associated with that risk should be borne by BC Hydro in general (or all ratepayers) rather than factored into the incremental cost recovery attributed to opt-out customers.

As such, the matter canvassed by CSTS IRs 1.8, 1.9, 1.10, 1.11, 1.14 and 1.65 is relevant and should be answered by BC Hydro in these proceedings.

CSTS IR 1.18

BCH answered CSTS IR 1.18 as follows:

Continued eligibility upon a move

1.18 How does BCH propose to treat an opt-out customer (such as one

who is presently being included in BCH's proposed opt-out program), where that customer moves to a residence that already has a smart meter? Will that opt-out customer be able to carry her opt-out choice with her? What if she is a gestating or nursing mother and she has made a choice to raise her baby in an environment free from radio-frequencies? What if she is a person who claims to be electrohypersensitive?

RESPONSE:

Please refer to sections 4.2.3(d) and (e), and 4.2.4(b) and (c) of the BC Hydro Electric Tariff.

[emphasis added]

We stand by our request that the Commission compel BCH to answer the parts of CSTS IR 1.18 as underlined above ("the Outstanding Questions").

The Discussion did not result in BC Hydro's agreement to answer the Outstanding Questions, nor are those questions answered by Mr. Webb's letter of January 20, 2014.

We submit that the availability (of a meter choice) to moving customers is relevant to these proceedings for the following reasons.

The exclusion of moving customers from eligibility under the meter choices program has the effect of reducing participation rates in the prospective opt-out program, increasing the per-customer cost of the opt-out program.

To the extent that that exclusion is effected by Direction No. 4, those increased costs should be borne by BC Hydro in general (or all ratepayers) rather than factored into the incremental cost recovery attributed to opt-out customers.

Furthermore, the failure to offer a meter choice to vulnerable customers (and/or customers who see themselves as being vulnerable to adverse effects from smart meter emissions) comes with a risk analogous to that which was identified by the Commission at page 148 of its July 23, 2013, decision on the FortisBC AMI CPCN application as cited above.

CSTS IR 1.18 contemplates a person with EHS or a gestating or nursing mother who has made a choice to raise her baby in an environment free from radio-frequencies. Where that person has been excluded from eligibility under the meter choices program upon moving to a new premises, the above-referenced "risk" identified by the

Commission is heightened. As identified by the Commission, this risk could increase costs to and reduce potential benefits from the smart meter program, which would be detrimental to all ratepayers.

If this risk has its source in policies imposed by way of Direction No. 4, then the increased costs associated with that risk should be borne by BC Hydro in general (or all rate payers) rather than factored into the incremental cost recovery attributed to opt-out customers.

As such, the matter canvassed by CSTS IR 1.18 is relevant and should be answered by BC Hydro in these proceedings.

CSTS IR 1.30

BCH answered CSTS IR 1.30 as follows:

Estimated opt-out numbers?

1.30 Does BCH expect that there will be a correlation between the amount of the opt-out fee and the number of customers who are deterred from opting out?

RESPONSE:

The charges proposed in the Application for the legacy and radio-off meter options are based on the assumption that 5,000 customers take each option.

BC Hydro has not taken the position that the question posed in CSTS IR 1.30 is irrelevant. Nevertheless, BC Hydro has failed to directly, fully and frankly answer the question. We stand by our request that the Commission compel BCH to answer the question posed in CSTS IR 1.30.

CSTS IR 1.78

BCH answered CSTS IR 1.78 as follows:

Other utilities

1.78 Do any jurisdictions and/or utilities worldwide provide their customers with an option to opt out without having to pay a fee in relation to the opt-out?

RESPONSE:

Direction No. 4 to the BCUC requires charges for eligible customers that elect

or are deemed to elect the legacy or radio-off meter option. Accordingly, BC Hydro declines to provide the requested information on the basis that is not relevant to the scope of this proceeding.

We stand by our request that the Commission compel BC Hydro to answer the question posed in CSTS IR 1.78. The existence of a no-fee opt-out regime in other jurisdictions is relevant to the level at which the BC Hydro opt-out fee should be approved.

Yours truly,



DAVID M. AARON

cc: clients
cc: Interveners
cc: Ian Webb