

**Tom A. Loski**

Chief Regulatory Officer

Phone: 604-623-4046

Fax: 604-623-4407

bchydroregulatorygroup@bchydro.com

March 29, 2016

Ms. Laurel Ross
Acting Commission Secretary
British Columbia Utilities Commission
Sixth Floor – 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Ms. Ross:

**RE: Project No. 3698781
British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
2015 Rate Design Application (2015 RDA)
Compliance with Exhibit A-24**

BC Hydro writes in response to the Commission's letter of March 21, 2016 (Exhibit A-24) regarding Mr. Bryenton's request for reconsideration of his intervener status in the 2015 RDA, which was previously rescinded by Order No. G-175-15. The Commission seeks submissions on the following two matters, which BC Hydro will address below:

1. Whether Mr. Bryenton's request for reinstatement of his intervener status is appropriate and relevant to the 2015 RDA; and
2. If yes, should the Commission allow Mr. Bryenton's late intervention to address his stated issues?

Summary of BC Hydro Submissions

BC Hydro has reviewed Mr. Bryenton's March 9, 2016 submissions and note that they largely repeat and rely on the issues raised in his original intervention.¹ Importantly, they do not identify an error on the part of the Commission that would trigger the reconsideration process. As such, the Commission's previous ruling regarding Mr. Bryenton's intervener status should stand and it should decline Mr. Bryenton's request for reinstatement.

Having said this, BC Hydro understands that Mr. Bryenton has now become a customer of BC Hydro, and accordingly consents to him being granted interested party status.

¹ In addition to the March 9, 2016 submissions, BC Hydro has also had regard to submissions sent to the Commission by Mr. Bryenton on March 7, 2016 (filed in this proceeding), and March 4, 2016 (filed in the Debt Management Regulatory Account proceeding).

If the Commission is inclined to reinstate Mr. Bryenton's intervener status, BC Hydro submits that to maintain the fairness and integrity of the Commission's process he should be obliged to take the record as it is. In light of procedural Order No. G-12-16 (Exhibit A-15), the primary practical effect would be to limit his right to issue information requests (**IRs**).

If Mr. Bryenton is allowed to participate in this proceeding, whether as an interested party or intervener, BC Hydro submits that the issues he be allowed to pursue exclude those related to BC Hydro's revenue requirements application or its integrated resource plan (**IRP**) planning processes.

BC Hydro has had the benefit of reading BCSEA-SCBC's comprehensive submissions in response to Exhibit A-24, filed on March 23, 2016. BC Hydro generally agrees with those submissions and does not repeat them. Instead BC Hydro offers a few additional submissions as follows.

Background

On October 13 and 14, 2015, Mr. Bryenton filed an application for intervener status (Exhibits C11-1 and C11-2 respectively) which listed a number of issues as the basis for his request. As outlined in BC Hydro's October 26, 2015 submissions (Exhibit B-3), the issues identified by Mr. Bryenton were not relevant or responsive to the issues to be addressed in the 2015 RDA and since he anticipated "substantial involvement" in the proceeding, granting Mr. Bryenton intervener status with respect to issues that were out of scope would only serve to cause regulatory delay and expense. As such, BC Hydro opposed Mr. Bryenton's intervention request.

By Order No. G-175-15 (Exhibit A-4), dated November 3, 2015, the Commission, among other things, determined the scope of the 2015 RDA proceeding. In that Order, the Commission also determined that Mr. Bryenton had "not demonstrated a substantial interest in a substantial issue that is within the scope" of the 2015 RDA and further, that "the issues cited by Mr. Bryenton in his intervention request are issues that are more relevant to a revenue requirement proceeding or the review of an integrated resource plan."² The Commission rescinded the intervener status of Mr. Bryenton on that basis.

On March 9, 2016 Mr. Bryenton filed a request for reconsideration of the Commission's earlier ruling. He asserts that "several errors were made" in the Commission's determination that he be denied status as an intervener however, Mr. Bryenton's submissions are a restatement of his previous submissions which have already been fully considered and adjudicated on by the Commission. Mr. Bryenton has therefore failed to identify a significant error on the part of the Commission such that it would trigger the reconsideration process.

² At page 10 of Exhibit A-4.

Test for Reconsideration

The Commission's Reconsideration Criteria outline that an application for reconsideration by the Commission proceeds in two phases.³ In the first phase and before the Commission proceeds with a determination on the merits of an application for reconsideration, the application is given an initial screening whereby the onus is on the applicant to establish a *prima facie* case sufficient to warrant full consideration by the Commission. During this phase, a party must "be able to identify a specific error which the Commission made in arriving at its decision"⁴ and further, that an intervener "cannot have a decision reconsidered or appealed merely because he or she is unhappy with the result."⁵

Mr. Bryenton raises eight issues that he states are errors made by the Commission in determining his status as an intervener. He proceeds to identify aspects of the record, including information requests and evidence submitted by BC Hydro with respect to long run marginal cost as a basis for reconsideration but links that information to arguments already made in his original application for intervener status. As such, Mr. Bryenton's application does not provide any basis for concluding that the Commission erred in issuing Order No. G-175-15.

It is BC Hydro's respectful submission that Mr. Bryenton is simply unhappy with the Commission's previous ruling and is attempting to re-argue those issues that have already been decided by the Commission. Disagreement with the Commission's decision does not constitute grounds for reconsideration.

BC Hydro notes that Mr. Bryenton has recently become a customer of BC Hydro. In BC Hydro's view this does not constitute a basis for finding that the Commission erred, since the Commission's decision supporting the applicable part of Order No. G-175-15 does not turn on whether Mr. Bryenton is a customer of BC Hydro.

BC Hydro Consent to Interested Party Status

The fact that Mr. Bryenton is now a customer of BC Hydro suggests that it may not be inappropriate for Mr. Bryenton to be granted interested party status, with the limited rights to participate as set out in the Commission's *Rules of Practice and Procedure*, section 7.03. An order establishing his right to participate as an interested party would be consistent with the purpose of those rules, namely to "ensure the fairest, most expeditious and efficient determination of every matter before the Commission consistent in all cases with the

³ Reconsideration Criteria at http://www.bcuc.com/Documents/Guidelines/2009/DOC_22551_Reconsideration-Criteria.pdf.

⁴ *Ibid.* A reconsideration process may also be initiated by an applicant demonstrating on a *prima facie* basis a fundamental change in circumstance; a basic principle not raised in the initial submissions; or that a new principle has arisen since those submissions. Mr. Bryenton's March 9, 2016 submissions do not raise these potential grounds of reconsideration and accordingly they are not addressed further in these submissions except as noted.

⁵ *Ibid.*

requirements of procedural fairness" (section 2). It would also be consistent with BC Hydro's intended customer focus of the 2015 RDA.

Taking the Record as it Stands

If the Commission is inclined at this stage of the reconsideration process to reinstate Mr. Bryenton's intervener status, BC Hydro respectfully submits that he be obliged to take the record of this proceeding as it stands. BC Hydro engaged in comprehensive pre-filing customer engagement prior to filing the 2015 RDA starting in the spring of 2014, almost two years ago; has responded to over 1,300 round 1 IRs; and is in the middle of preparing responses to over 550 round 2 IRs. Procedural Order No. G-12-16 contemplates intervener evidence, IRs on that evidence, and rebuttal evidence, all prior to an oral hearing to commence in the summer of 2016. In these circumstances it would be unfair to customers and other participants who have worked long and hard to get this proceeding to the stage it is now to allow a halt for the purpose of allowing Mr. Bryenton to "catch-up". BC Hydro submits that if Mr. Bryenton is reinstated as an intervener that he be allowed to join the proceeding at its current juncture. The main practical effect of such a ruling would be that Mr. Bryenton could not pose IRs to BC Hydro as the most recent date for round 2 IRs passed on March 8, 2016, before Mr. Bryenton's reconsideration request.

Mr. Bryenton's Stated Issues

The second question asked by the Commission in its March 21, 2016 letter (Exhibit A-24) is whether Mr. Bryenton should be allowed to address his stated issues (on the assumption that he is reinstated as an intervener). As is apparent from the foregoing, BC Hydro does not see any error in the Commission's conclusion regarding Mr. Bryenton's intervention as set out in its decision supporting Order No. G-175-15: "The issues cited by Mr. Bryenton in his intervention request are more relevant to a revenue requirement proceeding or the review of an integrated resource plan". Accordingly, BC Hydro submits that any further participation by Mr. Bryenton in this proceeding, whether as an interested party or intervener, be limited to in-scope issues as set out in Order No. G-175-15, as informed by procedural Order No. G-12-16 and excluding revenue requirement or IRP issues in any event.

March 29, 2016
Ms. Laurel Ross
Acting Commission Secretary
British Columbia Utilities Commission
2015 Rate Design Application (2015 RDA)
Compliance with Exhibit A-24

For further information, please contact Gordon Doyle at 604-623-3815 or by email at bchydroregulatorygroup@bchydro.com.

Yours sincerely,



(for) Tom Loski
Chief Regulatory Officer

jc/ma

Copy to: BCUC Project No. 3698781 (2015 RDA) Registered Intervener Distribution List.