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May 30, 2016

**Via: Email (Commission.Secretary@bcuc.com)**

British Columbia Utilities Commission  
Sixth Floor, 900 Howe Street  
Vancouver, BC V6Z 2N3

**Attention: Laurel Ross, Acting Commission Secretary**

Dear Ms. Ross:

**Re: British Columbia Hydro and Power Authority  
Inquiry of Expenditures related to the adoption of the SAP Platform  
British Columbia Utilities Commission Action on Complaint**

We are counsel to Mr. Adrian Dix, MLA, registered intervener in the above-noted matter.

We write further to the Commission's Order Number G-62-16 of May 9, 2016, in which the Commission invites comments on the Proposed Scope of Inquiry document and process for this proceeding. Our comments are as follows.

*Proposed Scope of Inquiry*

We are heartened by the Commission's Proposed Scope of Inquiry. The five items outlined by the Commission appear to address the main concerns arising from BC Hydro's conduct around the adoption of the SAP platform.

While we do not advocate any amendment to the Proposed Scope of Inquiry, we suggest that it may be beneficial at this early juncture to confirm the scope of Items 1, 4 and 5.

Item 1 reads as follows: "*What are the total capital and operating expenditures incurred by BC Hydro as at the end of F2016 on the SAP platform, SAP modules and other supporting capital enhancements to support the platform adoption?*"

Item 1 may be read very narrowly as inviting an answer in the form of a single monetary figure representing the "total capital and operating expenditures incurred".

While the amount of these expenditures is certainly worthy of inquiry, a monetary figure alone will shed little light on the fundamental issue of whether BC Hydro's expenditures were appropriate and reasonable in the circumstances. From the perspective of

ratepayers and the people of British Columbia, the pertinent question is whether BC Hydro's expenditures on the SAP platform provided value for money or were instead ill-advised, irresponsible or even reckless. Upon completion of the present Inquiry, the Commission will be uniquely situated to make a thorough and independent assessment of this question. We suggest that this opportunity not be wasted due to an overly narrow interpretation of Item 1.

Item 4 currently reads as follows: "*What is BC Hydro's planned capital spending on the adoption of the SAP platform and independent SAP projects on a go-forward basis?*"

As with Item 1, we suggest that Item 4 should subsume a qualitative assessment of whether or not BC Hydro's planned SAP-related capital spending is appropriate and reasonable.

Finally, Item 5 reads as follows: "*Were all SAP-related disclosures to the Commission appropriate, reasonable and in accordance with the Utilities Commission Act?*"

We suggest that any consideration of Item 5 should touch on, among other things, the following matters raised in Mr. Dix's complaint to the Commission.

1. Whether BC Hydro "hid elements of the IT Plan from the BC Utilities Commission by breaking up programs and projects in the IT Plan into smaller projects under the financial threshold where they would trigger a BCUC review of the program or projects" (Letter of December 8, p 2). In this regard, we suggest that particular attention be paid to BC Hydro's Business Cases and related contracts presented to the Commission from 2008 onward (see, e.g., Letter of December 8, p 8).
2. Whether BC Hydro intentionally breached an undertaking to provide the Commission with a copy of the IT Strategy document provided to its Board in May 2008 (Letter of December 8, p 5).
3. Whether BC Hydro's submissions to the Commission at various points in 2008 were intentionally misleading (Letter of December 8, pp 2-7).
4. Whether BC Hydro otherwise "intentionally misled the BC Utilities Commission and the public with respect to BC Hydro Information Technology and Telecommunications 5 Year Plan and in particular the decision to move to an SAP-based IT architecture" (Letter of December 8, p 1).

5. Whether BC Hydro violated any provisions of the *Utilities Commission Act* (Letter of December 8, p 2).

*Procedural considerations*

Mr. Dix's complaint raises serious questions about whether BC Hydro conducted itself honestly and in good faith during the Commission's regulatory process. Given the gravity of the matters in issue and the sums involved, there is a heightened public interest in the present process being as open, transparent and thorough as reasonably possible. We suggest that an oral hearing is necessary to achieve these goals.

An oral hearing will also give the Commission an opportunity to assess witness credibility, which we anticipate will likely be in issue. Moreover, depending on the Inquiry's ultimate conclusions, the Commission may find it appropriate to make an order against BC Hydro "involving an outlay, loss or deprivation". Under section 85 of the *Utilities Commission Act*, such an order cannot be made in the absence of a hearing.

As for the timing of the Commission's process, we note that hydro ratepayers continue to bear the ongoing costs of the SAP project and therefore propose that the Inquiry be conducted as expeditiously as practicable.

We further advise that Mr. Dix will be seeking interim participant assistance funding pursuant to the Commission's Participant Assistance/Cost Award Guidelines (Order Number G-72-07). As the initiator of this complaint and the Official Opposition Critic responsible for BC Hydro, Mr. Dix has a substantial interest in the issues he has brought to the Commission's attention. He also brings a wealth of information and understanding which may be of ongoing assistance to the Commission. While Mr. Dix has already made a considerable investment of his own time in bringing this matter forward, he may be unable to fully participate in the hearing without interim assistance. In these exceptional circumstances, Mr. Dix's continued participation is clearly in the public interest. Pursuant to Order Number G-72-07, we would be pleased to provide a Budget Estimate at your convenience.

Finally, we note that section 118(1) of the *Utilities Commission Act* empowers the Commission to "order a participant in a proceeding before the commission to pay all or part of the costs of another participant in the proceeding". BC Hydro has already acknowledged a number of failures in its dealings with the Commission in respect of the SAP platform. For example, BC Hydro acknowledges that "[m]ore information should

have been proactively provided" to the Commission in 2008 (Response at p 4); that its Chief Information Officer Don Stuckert's testimony before the Commission was "inaccurate" (p 6); and that BC Hydro inexcusably failed to comply with an undertaking that could have "correct[ed] any misapprehension Mr. Stuckert's testimony may have caused" (pp 6-7). While we maintain our request for funding on an interim basis, we suggest that in these circumstances Mr. Dix's costs should ultimately be borne by BC Hydro and not the people of British Columbia as represented by the Commission.

Thank you for your consideration of these submissions. We look forward to the Procedural Conference scheduled for Wednesday, June 1, 2016.

Yours truly,

**CAROLINE + GISLASON LAWYERS LLP**



Gary Caroline