



VIA eFILING

August 9, 2016

BC HYDRO
2015 RATE DESIGN

EXHIBIT A-38

To: British Columbia Hydro and Power Authority
Registered Interveners

Re: British Columbia Hydro and Power Authority
Project No. 3698781/G-156-15
2015 Rate Design Application Module 1

The following will provide participants in the 2015 Rate Design Application Module 1 proceeding with information explaining the oral hearing process.

WHAT CAN I EXPECT AT THE ORAL PUBLIC HEARING?

The Hearing will generally proceed in the following order:

- The Hearing will commence at 9:00 a.m. on Tuesday, August 16, 2016 at the Commission's Hearing Room, 1125 Howe Street, Twelfth Floor, Vancouver, BC. The Panel Chair will make an Opening Statement and comment on procedural matters for the Hearing. British Columbia Hydro and Power Authority (BC Hydro), followed by Interveners, will then be called upon according to the Order of Appearances.¹ When a participant's name is called, the participant or its counsel or representative comes forward stating for the record who they are and/or whom they represent.
- If any participant has a preliminary matter or motion that it wishes to bring at the commencement of the Hearing, prior to evidence being heard by the Commission Panel, the participant must advise Commission Counsel of that matter or motion by 4:00 p.m., Friday, August 12, 2016.
- The Commission Panel may deal with any preliminary matters or motions prior to the hearing of the evidence of the first BC Hydro panel of witnesses.
- Counsel for BC Hydro may then make an Opening Statement identifying the BC Hydro witness panels and outlining the evidence expected from those panels. BC Hydro counsel will next call BC Hydro's first witness panel. The witness panel will be sworn and will then adopt² the pre-filed evidence that the witness panel members will be speaking to. Following the adoption of the evidence, one of the witnesses may make a short Opening Statement. **The Opening Statement should not introduce new evidence and written copies should be provided to participants in advance, at least one business day in advance.**

¹ The Order of Appearances and Order of Cross-Examination will be co-ordinated by Commission Counsel, in consultation with participants. Commission Counsel is Mr. Paul Miller who can be reached prior to the hearing at (604) 647-4102 or by email at pmiller@boughton.ca

² Adoption of evidence means that you confirm under oath that you have read the evidence you filed and that you adopt it as your own. This process does not enable you to repeat the evidence. The Commission will issue a Pre-filed Exhibit List of the pre-filed evidence that will constitute the start of the public record at the commencement of the hearing.

- Following the Opening Statement of the witness panel, BC Hydro's witnesses are available for cross-examination. Commission Counsel cross-examines last. After cross-examination by Commission Counsel, the Commission Panel may ask questions.
- Following the questions of the Commission Panel, BC Hydro's counsel may have some clarification questions in re-examination. This is not an opportunity to supplement evidence or provide new evidence.
- Following the conclusion of any re-examination of the last BC Hydro witness panel, Interveners who pre-filed evidence will be called in an order prearranged with Commission Counsel. The Intervener's witness panel members will be sworn, then asked to adopt the Intervener's evidence and be allowed to make a short Opening Statement. **Once again, the Opening Statement should not introduce new evidence and written copies should be provided to the participants in advance, at least one business day beforehand.** Following any Opening Statement, the Intervener's witness panel becomes available for cross-examination by other parties. Counsel for BC Hydro cross-examines second from last, followed by Commission Counsel and the Commission Panel. Counsel for the Intervener may then re-examine for purposes of clarification or explanation.
- Participants may provide written statements as Letters of Comment to the Commission at any time up to the completion of the evidentiary portion of the Hearing, but are encouraged to provide Letters of Comment no later than the commencement of the Hearing.
- When the oral testimony of all the witnesses has been completed, and subject to any filing of responses to outstanding undertakings made during the Hearing, the evidentiary portion of the Hearing is at an end and the Final Argument phase commences. Final Argument will be written but may have an oral phase. The sequence of the Final Argument on the Application will be BC Hydro followed by Interveners followed by reply of BC Hydro. The schedule of Final Argument will be determined by the Commission Panel during the Hearing.
- The Commission Panel at its discretion may hold an oral phase on the Final Argument after the delivery of the Final Argument, including any Reply Argument of BC Hydro. The purpose of this phase is to allow the Commission Panel an opportunity to ask any questions that may have arisen from the written Final Arguments. Participants are not allowed to reargue their respective positions taken in Final Argument during this phase. Nor are participants allowed to comment on the Final Argument of others during this phase unless in response to a question asked by the Commission Panel. The Commission Panel may not have questions of all participants.

DEFINITIONS

Applicant

The Applicant is BC Hydro. It is up to the Applicant to make its case to the Commission Panel based on all the evidence presented at the Hearing. Subject to any order the Commission Panel may make, the Applicant has the choice of how to present its case, what witnesses it wishes to call and the order of presentation of its evidence. An Applicant's witness panels normally follow each other. Exceptions to the usual order may be made where it becomes necessary to accommodate the schedule of an Intervener's out of town witness. In such circumstances Commission Counsel must first be consulted. Commission Counsel will attempt to reach an agreement with counsel for the Applicant, but if no agreement can be reached, an application may be made to the Commission Panel.

Application

BC Hydro filed its 2015 Rate Design Module 1 Application, pursuant to sections 58(1)(a) and 61 of the *Utilities Commission Act*, and in compliance with Direction 4 of BCUC Order G-13-14 regarding BC Hydro's Residential Inclining Block Rate Re-Pricing Application. The 2015 RDA contains: BC Hydro's F2016 Cost of Service study; BC Hydro's proposals for the default Residential, Small General Service, Medium General Service, Large General Service and Transmission Service rates; and BC Hydro's proposals for Transmission Service rate options. The September 24, 2015 Rate Design Module 1 Application and subsequent amendments are filed as Exhibits B-1, B-1-1, B-1-2, and B-14.

Commission Counsel

Commission Counsel advises the Commission Panel on legal matters, including the conduct of the Hearing. Commission Counsel can also cross-examine the witnesses of BC Hydro and Interveners in order to obtain evidence needed for the Commission Panel to arrive at a decision. Commission Counsel usually questions witnesses after all other parties have finished their cross-examination. Commission Counsel does not play an adversarial role and does not oppose or support either the Applicant or any Intervener. Commission Counsel is also responsible for any issues related to scheduling of witness panels and the order of cross-examination. Commission Counsel is available to assist participants who have questions related to the Hearing process.

Commission Panel

The Commission Panel hearing the Application consists of Commissioner David Morton, who is Chair of the Panel, Commissioner Karen Keilty and Commissioner Dennis Cote. The Commission Panel will hear all the evidence and will decide whether or not to approve the Application. During the hearing of the evidence, the Commission Panel may ask questions of the Applicant, the Interveners and others presenting evidence. The Panel Chair will ensure a fair process and an efficient Hearing. During the Hearing, the Panel Chair may make procedural orders and may limit cross-examination and the duration of presentations.

Commission Staff

The Commission Panel has the assistance of economists, accountants and engineers who advise Commission Panel members on technical matters. Commission staff are also available to assist participants who have technical questions regarding the hearing process.

Court Reporters

The Commission has contracted with Allwest Reporting Ltd. to make verbatim transcripts of the oral evidence at the public hearing. Active Interveners in the Hearing are entitled to receive one hard copy and an electronic copy of each day's proceedings later that same day, at no cost. Interveners are required to make transcript requests in writing to the Commission by Friday, August 12, 2016. Electronic copies will be available by e-mail or downloading from the Commission's web site. A copy of the daily transcript of the proceedings will also be available for review in the Resource Area at the Hearing.

Allwest Reporting Ltd. will also be providing audio on-line broadcasting at this public hearing. Participants should contact the service provider directly for details with respect to how to log-on.

Cross-examination

Cross-examination is the questioning of another party's witness. The Applicant and Interveners have the opportunity to question the other parties' witnesses. Parties who support the testimony of a witness or a witness panel should not expect to cross-examine that witness or witness panel.

Evidence

Evidence may be in written or oral form. It provides the factual basis for the Commission Panel's decision. The evidence includes the pre-filed evidence from the Applicant and Interveners, responses to Information Requests, documents filed at the Hearing, and the oral testimony of witnesses. Participants may sometimes file rebuttal evidence in response to the evidence of another participant.

In this proceeding, BC Hydro has pre-filed its rebuttal evidence and which is posted as Exhibit B-31. It is this Commission's practice that pre-filed rebuttal evidence is not subject to cross-examination unless BC Hydro requests and is granted leave to call a rebuttal panel during the Hearing. The rebuttal evidence may be removed from the record of this proceeding if BC Hydro elects not to call a rebuttal panel or its request to do so is denied by the Commission Panel.

Oral evidence is usually given under oath. **New written evidence can only be filed at the Hearing with leave of the Chair.** Any Intervener who has filed evidence is expected to appear at the Hearing to adopt the filed evidence.

Interested parties who wish to make a statement can do so at the Hearing. Alternatively, individuals can submit written statements as Letters of Comment, which will form part of the “E” class of Exhibits at the Hearing. Individuals making such statements at the Hearing or submitting Letters of Comment are not normally required to do so under oath or undergo cross-examination.

Examination-in-Chief

This is the first questioning of a witness by the lawyer or representative who called the witness to testify. Since the evidence will have been pre-filed in these proceedings, the Commission generally limits examination-in-chief to the adoption of the written evidence and the correction of any errors in the written evidence.

Exhibit List

The Exhibit List is the list of all the documents that have been filed in the proceeding. Documents are to be filed pursuant to the Commission’s Rules of Practice and Procedure. The Exhibit List and the Rules of Practice and Procedure are available in the Resource Materials area.

Final Argument

Final Argument is made at the end of the evidentiary part of the Hearing (after all witnesses have testified and all the undertakings have been completed). It is a summary of a party’s position on the Application, based on the evidence presented. New evidence cannot be introduced in Final Argument.

Hearing Officer

The Hearing Officer is in charge of all physical arrangements for a hearing. He or she receives and records all exhibits, gives the oath to witnesses and generally contributes to the efficient functioning of the Hearing. Mr. Hal Bemister of Allwest Reporting Ltd. is the Hearing Officer for the Hearing.

Interveners

Interveners are parties to the proceeding who have been granted Intervener status. They have the right to cross-examine witnesses, present their own witnesses, bring motions, and make Final Argument. Interveners should only cross-examine parties who are adverse in interest to them. In a large hearing, Interveners who have similar interests to other Interveners may adopt the views of those with whom they share similar interests.

Letters of Comment

Letters of comment are intended to provide for any member of the public to contribute views, opinions, and impact or potential impact, with respect to a matter before the Commission, to a public record. Letters of comment form part of the evidentiary record and are published on the record. Letters of comment must be relevant to the issues in the proceeding and should not include attachments such as newspaper articles or other articles by parties who are not the individual signing the letter or members of the individual’s group or organization. If the Letter of Comment includes such attachments, the Commission may place no weight on the attachments in arriving at its decision.

Opening Statements

Opening Statements fall into four categories. In chronological order, the **first** is the Opening Statement made by a participant or its representative during the identification of issues phase which takes place prior to the commencement of the oral evidentiary hearing. The **second** is the Opening Statement of the Chair which outlines the nature of the proceedings and addresses certain procedural matters. The **third** is an Opening statement made by a participant or its representative immediately prior to that participant calling its evidence. It outlines the position of the participant on the matters that are to be decided by the Commission and generally identifies the witness panels or witnesses that the participant intends to call. The **fourth** category is the Opening Statement of a witness panel or a witness. It is a short statement of the position of the witness or witness panel. A witness panel or witness may choose not to make an opening Statement. The Commission Panel expects participants to circulate copies of the third and fourth category of Opening Statements at least one business day before the witness panel or witness is called.

Re-Examination

Re-examination provides a limited opportunity for the party calling a witness or witness panel to have the witness clarify or explain matters that have arisen during cross-examination. It is not for the purpose of supplementing evidence or providing new evidence.

FREQUENTLY ASKED QUESTIONS

What should I do if I cannot attend on the first day of the Hearing?

On the first day, Commission Counsel will call for appearances from the Applicant and everyone who is registered as an Intervener. If you are unable to be present, you will not be called on in subsequent days for cross-examination, unless you have made other arrangements with Commission Counsel. If you wish to be active in the Hearing but cannot attend the first day or any other day of the Hearing, you should advise Commission Counsel.

What should I do if I only have questions for one witness panel and don't want to be there for the whole Hearing?

It is not known in advance how long each witness panel will take so it is difficult to predict when each new witness panel will start. You should advise Commission Counsel of the witness panel(s) you want to question prior to entering your appearance on the first day. However, Commission Counsel is not responsible for contacting you to advise you when to attend. You are encouraged to monitor the proceedings by contacting people who are in attendance at the Hearing to see when the witness panel you are interested in might be on the witness stand. Commission Counsel will attempt to accommodate the scheduling of your cross-examination time, but you should be aware that the timing of witness panels is often a fluid matter once a hearing starts.

Is this Hearing like a trial where the witnesses testify and go through all of their evidence before Interveners can ask questions?

No. Written "direct" evidence will already have been submitted to the Commission before the Hearing. This helps to streamline the oral phase of the Hearing. Neither the Applicants nor Interveners go through their written evidence again on the witness stand, except to make any necessary corrections to their pre-filed evidence. When a witness is called to testify at the Hearing, the witness adopts the pre-filed evidence under oath. The written evidence then has the weight of sworn evidence. Once the witness takes the stand and adopts his or her evidence with any necessary corrections, and following any opening statement from the witness or witness panel, the next step is to allow Interveners to cross-examine in the case of each Applicant's witness or witness panel and the other Interveners and each Applicant's counsel to cross-examine in the case of an Intervener's witness or witness panel. Commission Counsel may then cross-examine, followed by questions from the Commission Panel. Re-examination by the party calling the witness or witness panel then takes place.

What happens if I can't attend on the day when it's my turn to ask a witness panel questions?

You must make prior arrangements with Commission Counsel or you may miss your opportunity to cross-examine that witness panel. Although efforts will be made to accommodate the schedules of participants, it may not always be possible given the number of parties in this Hearing. If you are unable to make arrangements for a time to cross-examine that is convenient for you, the Applicant who called the witness panel and the Commission, you may miss your opportunity to cross-examine that witness panel.

Can someone else ask questions on my behalf?

Yes. Your representative can ask questions on your behalf but others cannot. However, it is permissible for Interveners to work together on questions and to have one Intervener ask questions that are of interest to a number of Interveners. It doesn't matter which Intervener asks the question because the questions and answers become part of the evidentiary record regardless of who asks them.

Can I cross-examine someone who hasn't filed evidence?

The purpose of cross-examination is to test the evidence that is on the record. Anyone who has not filed evidence is not normally subject to cross-examination. A party can request that the Commission order a person to attend to give evidence or to produce documents but the party must make a motion on notice to the person (or that person's representative) whose attendance is sought to be compelled and satisfy the Commission that such an order is appropriate.

What should I do when I disagree with one of the answers I receive when I am cross-examining?

Since the witness and the person cross-examining are adverse in their interests (i.e. the cross-examiner is opposed to the position of the witness) such disagreement is to be expected. However, it is not appropriate to argue with a witness during cross-examination or to give your opinion to the Commission Panel on the answers you are receiving,

unless you are seeking to establish that the answers are not responsive to your questions. Your interpretation of the answers of the witness panel and your opinion on them should be saved for the Final Argument phase of the Hearing.

What is the difference between cross-examination and argument?

The purpose of cross-examination is to test the evidence of the witnesses who are testifying. This means the witnesses can be asked questions on their evidence and be challenged on its strength and veracity. Argument comes at the end of the Hearing. The purpose of Argument is to present your views and opinions on the evidence to the Commission Panel after the Panel has heard all of the evidence. Therefore, your personal views, opinions and interpretation of filed evidence should be saved for the Argument phase of the Hearing.

I filed written evidence. Do I have to take the witness stand?

If you have filed written evidence, you are expected to adopt that evidence under oath. If you do not adopt your evidence under oath, it will remain on the record unless the Chair grants a motion for it to be struck. However, you should be aware that unsworn evidence has less weight than sworn evidence. There may or may not be parties who wish to cross-examine you on your evidence. If someone asks to cross-examine you, you must be prepared to attend the Hearing and submit to cross-examination on your evidence. If you decline to attend for cross-examination when a request has been made to cross-examine you, your evidence can be struck from the record or the Commission Panel may choose to attach little or no weight to your evidence.

Interested parties and other participants who make a statement of their views on the Applications at the Hearing or submit written Letters of Comment are not normally required to do so under oath or undergo cross-examination.

Yours truly,

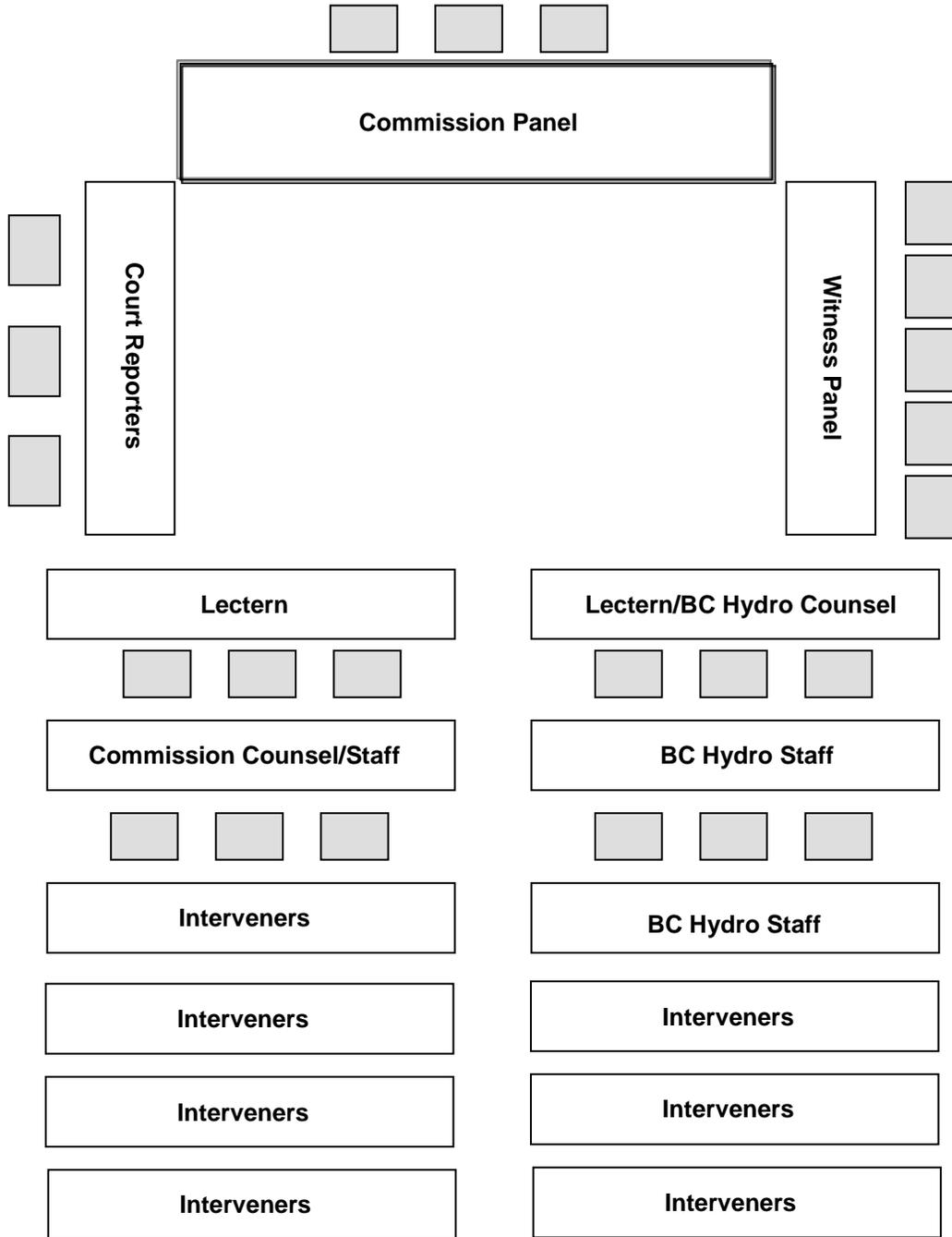
Original signed by:

Laurel Ross

YD/cms

Attachment

HEARING ROOM SEATING CONFIGURATION



Notes:

Interveners will cross-examine from the lectern in front of the Commission Counsel table.
 When Intervener witnesses are giving evidence, their counsel will use the lectern by the BC Hydro counsel table.