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**Via: E-Filing**

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 continue to represent Mr. Adrian Dix, MLA, opposition critic for BC Hydro and intervener in the above-captioned Inquiry.

Pursuant to the schedule of proceedings adopted by the BC Utilities Commission (the "Commission") on June 2, 2016, we provide the enclosed submissions regarding the process to be followed in conducting the Inquiry.

Yours truly,

**CAROLINE + GISLASON LAWYERS LLP**



Gary Caroline

Encl

## **Introduction**

These submissions are divided into three main sections. The first focuses on the need for an in-person hearing. As described below, the documentary record raises very serious concerns that BC Hydro may have (i) knowingly misled a public regulator and (ii) spent hundreds of millions of dollars with no meaningful oversight. In circumstances such as these, a full and transparent oral hearing is in the clear public interest.

The second section below identifies certain obviously relevant documents which BC Hydro has so far failed or refused to disclose; we ask that these documents be provided forthwith.

Finally, we propose a number of procedural steps which we believe may promote the timely and efficient conduct of the Inquiry.

Given the complexity and long history of these matters, however, it may be helpful to begin with some background.

## **Background**

1. Before raising rates, BC Hydro is legally required to file a Revenue Requirements Application ("RRA") with the Commission. The RRA document is typically submitted toward the beginning of the calendar year with an in-person hearing before the Commission scheduled for the fall of the same year, approximately eight months later.
2. According to BC Hydro, this RRA process is "for the purpose of establishing the average rate increases necessary to allow BC Hydro to fund its operations, and the appropriate accounting treatment of certain costs and revenues".<sup>1</sup>
3. Inherent in the RRA process is Commission oversight of major expenditures which might lead to rate increases.

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<sup>1</sup> BC Hydro's January 8, 2016 response to Adrian Dix's complaint (Exhibit A2-2) at page 2.

4. In or about 2007 and early 2008, BC Hydro was contemplating one such major expenditure for the purpose of modernizing its accounting software. This initiative, referred to here as the "Financial Software Project", was just a component of BC Hydro's much broader "Information Technology and Telecommunication (IT&T) Five-Year Plan", which was to be implemented over the period 2009-2014 (the "Five-Year IT&T Plan").
5. A principal goal of the Five-Year IT&T Plan was to provide a single integrated IT architecture for various core purposes across the corporation, including accounting, billing, supply-chain management and others, which together BC Hydro had dubbed "Enterprise Resource Planning" purposes.
6. As described further on, it appears that by May 2008 BC Hydro had firmly settled on the following strategy for fulfilling this principal goal of the Five-Year IT&T Plan: to the greatest extent possible, BC Hydro would purchase software from a single vendor, namely the Germany-based multinational SAP (the "SAP Strategy").
7. While it seems the SAP Strategy initially called for total spending in the neighbourhood of \$200 million, today approximately 110 SAP-related projects have been completed, planned or remain in progress, with \$197 million already spent and a further \$210 million projected over the next ten years.
8. Based on the documentary record, it appears there has been no meaningful approval of these SAP-related expenditures by the Commission or the BC Hydro Board of Directors. Certainly neither the Commission nor the Board ever approved the overarching SAP Strategy itself. Much of the present Inquiry, and a good portion of the following submissions, is concerned with the decision-making process and troubling lack of oversight in respect of the SAP Strategy.
9. We begin, however, with a discussion of BC Hydro's interactions with the Commission regarding the Financial Software Project. As described in detail below, it appears that BC Hydro may have misled the Commission as to the corporation's knowledge and intentions in respect of this discrete component of the Five-Year IT&T Plan.

## **I. THE NEED FOR AN ORAL HEARING**

10. The documentary record raises serious concerns about BC Hydro's behaviour around the implementation of the SAP Strategy in general and the Financial Software Project in particular. In our view, the most pressing of these questions include the following, each of which calls for an in-person hearing.

- a. Did BC Hydro, in the person of one or more executives or employees, mislead the Commission as to BC Hydro's plans for the Financial Software Project?
  - b. Did BC Hydro, in the person of one or more executives or employees, avoid or evade oversight of SAP-related spending by, among other things, (i) mischaracterizing the nature of the SAP Strategy or (ii) breaking up SAP-related projects into smaller-than-necessary projects or contracts?
11. Both of the above questions fall squarely under Item 5 of the Proposed Scope of Inquiry which asks, "Were all SAP-related disclosures to the Commission appropriate, reasonable and in accordance with the *Utilities Commission Act*?" They also raise issues under Item 2, which asks in part whether BC Hydro's approval and oversight controls were appropriately designed and operating effectively with respect to SAP-related expenditures.
  12. A further question which will require oral evidence is that posed by Item 3 of the Proposed Scope of Inquiry, namely this.
    - a. Have the goals outlined in BC Hydro's Five-Year IT&T Plan related to the SAP initiative been achieved?
  13. These questions are addressed in turn below.

**A. Did BC Hydro mislead the Commission in respect of the Financial Software Project?**

14. In 2008 and 2009 BC Hydro made various submissions and representations to the Commission which, taken together and viewed in context, suggest that the Commission may have been misled.
  - i. *BC Hydro's initial statement on the Financial Software Project*
15. On February 8, 2008, BC Hydro filed with the Commission a 754-page Revenue Requirements Application seeking a rate increase for Fiscal Year 2009/2010 ("F2009/2010"). As is normal practice, an oral hearing in respect of BC Hydro's proposed rate increase was set to be held in the fall of that year.

16. In support of the proposed rate increase, BC Hydro's RRA of February 8, 2008 included a description of all projects valued at over \$5 million, one of which was a \$7.2 million upgrade to BC Hydro's existing PeopleSoft accounting software known as Enterprise Financials (the "Enterprise Financials Upgrade"). This upgrade would have been in furtherance or fulfillment of the Financial Software Project.
17. In its description of the planned Enterprise Financials Upgrade, the February 8, 2008 RRA expressly rejected a move to SAP accounting software, writing as follows (emphasis added).<sup>2</sup>

This project involves the upgrade of PeopleSoft Financials software from the version currently in use (release 8.0 SP3) to PeopleSoft Enterprise Financial Management Release 9.0.

...

Discussion of Alternatives:

...

ii) Re-platform to SAP - **BC Hydro has investigated migrating financial systems from PeopleSoft to SAP. It is estimated that the cost to re-platform to SAP would be between \$30 million to \$40 million and would require a significant dedication of management and staff resources, thereby delaying other important BC Hydro projects.** Migration would likely take between 2 and 3 years. While operational savings of \$0.4 million annually would be available for vendor maintenance with SAP, the cost of licensing would be approximately \$10 million. **Overall, this option is not considered appropriate for BC Hydro.**

18. As it turned out, however, this rejection of any possible "re-platforming" to SAP was short-lived.

*ii. Failure to alert the Commission to fundamental changes in the Financial Software Project*

19. After providing the above conclusion to the Commission on February 8, 2008, BC Hydro quickly reversed course. On May 12, 2008, the BC Hydro Executive Team, composed of nine of the highest-ranking corporate officers, approved the "SAP Strategy", which was summarized as follows.<sup>3</sup>

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<sup>2</sup> Adrian Dix's December 8, 2015 complaint (Exhibit A2-1) at Tab 4, Appendix J page 89.

<sup>3</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at page 8. The phrase "bolt-on" is defined by BC Hydro as "non-SAP applications that can be integrated into SAP" (see Exhibit B-3 at page 8).

The SAP Strategy recommended that when a business requirement arises, the SAP alternative will be examined to confirm whether the business need can be appropriately satisfied with SAP. If SAP does not meet the business need, a bolt-on solution will be considered.

20. Although no minutes from this meeting have been provided, a summary was prepared for the Board of Directors' Audit and Risk Management Committee ("ARMC") meeting of May 22, 2008. Relevant portions of this summary include the following.<sup>4</sup>

NEW ADDITIONS FROM DON [i.e., CIO Don Stuckert] – May 20, 2008

...

RESOLUTIONS FROM ET MEETING May 12th 2008

The following recommendations were approved at an extended team including executive team members and representatives from the business groups.

...

Agreement on IT&T Architectures

1. Adopt the technology architectures as proposed. For the recommendation with respect to the single ERP [Enterprise Resource Planning] environment, the following recommendation was agreed to:

Each major initiative will complete the business process design and business functional requirements prior to software design. SAP will be used as a default solution. If the SAP environment does not meet the business needs, a bolt on solution will be considered. The priorities will be established by the IT&T Leadership Group but foundational projects will be considered first.

21. Also provided to the Board's ARMC at that time was an estimate for capital spending in furtherance of BC Hydro's long-term IT goals, the core of which was in essence the SAP Strategy. This estimate, previously provided to the Executive Team, had been prepared by CIO Stuckert and Charles Reid (consultant when the RRA was filed, CFO at the time of the hearing, and subsequently President & CEO), with direction from then-CEO Bob Elton.<sup>5</sup> The estimate apparently put the total cost of the SAP Strategy in the low nine-figures, reading as follows (emphasis added).<sup>6</sup>

The majority of the project implementations could be carried out under the **current capital plan of \$45m per year over the next three years. Some of the projects will need business cases defined and will require additional capital investment. An incremental amount of \$32-38m may be required.** We will refine this amount as we develop the plans for key projects in [various areas].

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<sup>4</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at Attachment 6, page 235.

<sup>5</sup> BC Hydro's Response to BCUC IR 1.2.4 (Exhibit B-6).

<sup>6</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at Attachment 2, page 4.

22. It is unclear from the document whether the "incremental amount of \$32-38m" was to be a one-time supplement to the base \$135 million (i.e., \$45 million over three years), or if an additional \$32 to \$38 million was to be spent annually over three years. Thus at a minimum the above estimate called for \$167 million (i.e., \$135 million plus \$32 million) and at a maximum \$249 million (i.e., \$135 million plus 3 x \$38 million). In any event, it seems fair to say that the initial estimate for the SAP Strategy was apparently somewhere in the neighbourhood of \$200 million.
23. In short, as of at least May 2008, BC Hydro had effectively abandoned the PeopleSoft Enterprise Financials Upgrade described in the RRA of February 2008, and was instead committed in principle to a much broader and more expensive strategy that would see SAP software considered the "default" option for all "Enterprise Resource Planning" purposes across the corporation, which purposes included, for example, accounting, billing and supply-chain management.
24. Over the following months, as the scheduled October 2008 Commission hearing on the RRA drew nearer, BC Hydro took several concrete steps, including a significant financial commitment, in pursuit of the SAP Strategy.
25. In or about July 2008 for example, BC Hydro decided to "blueprint" a planned adoption of "SAP Financials", SAP's accounting-specific software which was to replace the Enterprise Financials software provided by PeopleSoft.
26. In a July 2008 business case, BC Hydro proposed spending several hundred thousand dollars to "validate" this move to SAP Financials, writing as follows.<sup>7</sup>

Phase 1: SAP Financials Blueprint. During this phase, BC Hydro will perform an assessment of SAP Financials to validate the initial decision that it will meet BC Hydro's requirements and provide estimates that support completion of a business cases [sic] ... This work will result in a 'go or no-go' recommendation related to finalization of design, and implementation of SAP Financials.

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<sup>7</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at Attachment 8, page 1.

27. The following month, BC Hydro commissioned Accenture, a multinational corporate consultancy, to undertake this "blueprinting" work during the period August 25 to October 31, 2008. The \$750,000 contract with Accenture, signed by BC Hydro's Chief Information Officer Don Stuckert on August 22, 2008, provided in part as follows (emphasis added).<sup>8</sup>

#### SCOPE OF SERVICES

...

BC Hydro is interested in implementing a new financials system that would allow BC Hydro to meet the following objectives:

1. Enable BC Hydro's financial system to be compliant with International Financial Reporting Standards (IFRS) by April 2010, while continuing to be compliant with evolving Canadian GAAP and other regulatory reporting requirements.
2. Simplify the overall financial processes within BC Hydro's organization.
3. Update aging existing financial applications.
4. Simplify the current IT landscape by reducing the number of different IT applications and/or vendors.

**The primary output of this project is a clear roadmap for an SAP financial system** including workday effort estimates, resource requirements, budget, risk management and an overall timeline for the Design and Implementation phases **targeting an April 2010 go-live date.**

28. In other words, by late August 2008, CIO Don Stuckert had personally signed off on nearly a million dollars in spending with an eye toward the purchase and implementation of SAP Financials accounting software – a move entirely in line with the "SAP Strategy" adopted three months earlier.
29. While this goal was in direct contradiction to what BC Hydro had told the Commission in its F2009/2010 RRA – i.e., that an upgrade of the existing PeopleSoft Financials software was planned and that the far more expensive and wide-ranging SAP option was "not considered appropriate for BC Hydro" – there is of course nothing inherently objectionable about changing business direction in response to evolving circumstances and attitudes.
30. What is concerning, however, is that at no time in the spring, summer or early fall of 2008 did BC Hydro correct or update the now-contradictory information contained in the February 2008 RRA, this despite the fact that by at least late September it seems there may have been widespread and specific awareness that the RRA document no longer reflected reality. For instance, a document titled "BC Hydro Key Business/IT Projects Scorecard" – which identifies numerous key IT projects, summarizes their status as of

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<sup>8</sup> BC Hydro's response to Dix IR 1.20.0 (Exhibit B-8-7), Attachment 1, page 9.

September 22, 2008 and notes whether they were “included in [the] F09/10 RRA” document – reads in part as follows (emphasis added).<sup>9</sup>

Project/Program	...	Status as of 2008-September-22	Included in F09/10 RRA
...	...	...	...
Finance System Upgrade – Financial Blueprint	...	A vendor selection has been made. Work has started. Accenture is on site. Dependencies on IFRS and Rate App.	<b>No, project in RRA based on PeopleSoft</b>

31. This “Scorecard” was part of the briefing materials reviewed by CIO Stuckert prior to his testimony. Given the subject and high-level nature of the document, it is reasonable to suspect that other BC Hydro executives and senior managers may have reviewed it as well, though we have no specific knowledge on this point.

*iii. Misleading testimony before the Commission*

32. The testimony BC Hydro provided before the Commission in the course of the RRA hearing on October 15, 2008 also raises concerns. On that day, CIO Don Stuckert had both the opportunity and the obligation to set the record straight regarding BC Hydro’s Financial Software Project. Instead, he did the opposite.
33. When Commission counsel Mr. Gordon Fulton, Q.C., asked CIO Stuckert about the contemplated changes to BC Hydro’s accounting software, Mr. Stuckert indicated in no uncertain terms that the \$7.2 million upgrade to the PeopleSoft Enterprise Financials software remained the primary option being considered.
34. Relevant portions of the transcript in this regard include the following (emphasis added).<sup>10</sup>

MR. FULTON: Q: Thank you for that. I next have some questions on People, the PeopleSoft Financial System, and the project justification for the enterprise financials upgrade is found at page 89 of the Appendix J.

...

MR. FULTON: Q: And there it's stated:

‘The PeopleSoft Financials as an enterprise system which consists of accounts payable, asset management, billing, contract expenses, general ledger, project costing receivables. It is essential to B.C. Hydro for transaction processing, allocation, consolidation, financial reporting. This project involves the upgrade of People Soft [sic]

<sup>9</sup> BC Hydro’s response to Dix IR 1.23.0 (Exhibit B-8-8), Attachment 1, pages 263-64.

<sup>10</sup> Adrian Dix’s December 8, 2015 complaint (Exhibit A2-1) at Tab 8, pages 1548-49.

Financial Software from the version currently in use, to PeopleSoft enterprise financial management, release 9.0.'

Can you give us some sense of the enhancements in financial reporting that are provided by release 9.0, Mr. Stuckert?

MR. STUCKERT: A: Are you referring to functions, or technology, or --

MR. FULTON: Q: Functions.

MR. STUCKERT: A: The basic PeopleSoft financial system was implemented about 2002, 2003, I believe. It is a basic system that we actually over a period of time did a significant modification to, to meet B.C. Hydro requirements. What we want -- what we're doing today is we're going through a business process re-design project right now, as to incorporate not only the functions and processes we see for the future, but also to incorporate the requirements for IFRS [International Financial Reporting Standards].

**We are, in fact, looking at PeopleSoft as one of the solutions, but we are also looking at other options, just in case we want to find a better solution.**

That said, these functions would include a lot of end user functions, better reporting functions. What's referred to as 'work flow', which is more an automated process, as a step-by-step accounting process and those nature [sic].

35. In short, in his October 2008 testimony before the Commission, CIO Stuckert framed the PeopleSoft upgrade as the *leading* (if not the *only*) option for fulfilling the Financial Software Project, with "other options" being looked at "just in case".
36. But this was of course not so, for in May 2008 the BC Hydro Executive Team had approved the "SAP Strategy" making SAP software the "default" for numerous core purposes (including accounting), and in August 2008, less than three months before his testimony, Mr. Stuckert had personally signed a \$750,000 contract for Accenture to "blueprint" the SAP Financials software.
37. Nonetheless, Mr. Stuckert went on to reinforce the impression that the PeopleSoft upgrade was being actively assessed alongside other unspecified options, speaking as follows.<sup>11</sup>

MR. FULTON: Q: Okay. And do you know whether the [PeopleSoft Enterprise Financials] release 9.0 will provide enhanced reporting to the extent that it can accommodate the IFRS reporting requirements?

MR. STUCKERT: A: That is some current analysis we're going on right as we speak today.

MR. FULTON: Q: Okay, so you don't know the answer at this point in time, but you're looking at it?

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<sup>11</sup> Adrian Dix's December 8, 2015 complaint (Exhibit A2-1) at Tab 8, pages 1549-50.

MR. STUCKERT: A: Correct.

THE CHAIRPERSON: I want to make sure I understood Mr. Stuckert. So you say you are still looking at other options as well?

MR. STUCKERT: A: Yeah, the team -- the accounting team in place today is really looking at all the business processes and reporting requirements, with a reflection of IFRS in particular, yes.

THE CHAIRPERSON: Thank you.

38. Commission counsel then questioned CIO Stuckert about whether the \$7.2 million estimate for the PeopleSoft upgrade found in the February 2008 RRA would have to be adjusted upward to meet requirements of the International Financial Reporting Standards (IFRS), which requirements might necessitate the purchase of a "further release" of the PeopleSoft Enterprise Financials software. In response, Mr. Stuckert indicated that the initial \$7.2-million PeopleSoft estimate was "fairly pessimistic" and that the budgeted amount was "probably fine" even if a "further release" or other changes to the Enterprise Financials software had to be purchased. The portion of the transcript to this effect reads as follows (emphasis added).<sup>12</sup>

MR. FULTON: Q: Okay. So, I take it from that answer, then, that there may be a risk that you -- that B.C. Hydro needs to purchase a further release [of the PeopleSoft Enterprise Financials software] to accommodate the IFRS changes.

MR. STUCKERT: A: I'm not sure it would be necessarily, Mr. Fulton, a further release. **I think the capital forecast that was done in the initial budget was fairly pessimistic, in current terms of capability and what changes had to be made to the software. So within the scope of the financial constraints, I think we're -- I think the project is probably fine,** but, yeah, yes, the answer is we have to review their proposal -- or the processes to ensure that we can deliver to the future.

MR. FULTON: Q: All right, thank you.

39. In summary, at no point in his October 15, 2008 testimony did CIO Stuckert advise the Commission that the "SAP Strategy" -- which apparently called for somewhere in the neighbourhood of \$200 million in SAP-related spending over three years -- had been approved by the BC Hydro Executive Team five months earlier. Instead, Mr. Stuckert reinforced the idea that the PeopleSoft Enterprise Financials Upgrade remained BC Hydro's leading option for the Financial Software Project, even going so far as to indicate that this option would likely come in on budget.

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<sup>12</sup> Adrian Dix's December 8, 2015 complaint (Exhibit A2-1) at Tab 8, page 1550.

*iv. Failure to correct misleading testimony before the Commission*

40. CIO Stuckert's misleading testimony before the Commission did not go unnoticed by some at BC Hydro. Documents disclosed in this process show that one George Koyanagi of the Financial Policy & Control department reviewed the transcript of Mr. Stuckert's testimony and raised a number of concerns with BC Hydro executives and managers, including the Chief Accounting Officer and a manager within the CIO's office named Enn Kiudorf. Mr. Koyanagi wrote as follows (emphasis added).<sup>13</sup>

Enn [Kiudorf], thanks for identifying the October 15th transcript references to me. **I reviewed Don's comments and I think there are a few items that we need to clarify** for the purposes to ensure we get the business case correct:

\* On page 1548, the project justification for the enterprise financials upgrade is questioned, and the reference to Peoplesoft 9.0 is brought up and there was no correction of the fact that we have changed or even modified the justification in the Application. I thought the point in preparing witness material for Don was that he could use the Hearing as an opportunity to identify that the circumstances have changed[.]

\* On page 1548, **they talk about the enterprise financials upgrade and the use of Peoplesoft, release 9.0. Don's comment is that we [are] 'looking at Peoplesoft as one of the options,** but we are also looking at other options, just in case we want to find a better solution.' **I think this directly conflicts with the issue raised by Brian Tabe at the Steering Committee. In that case, it was agreed that is not necessary to spend any more time thinking about alternative options to SAP Financials,** and that it was strictly a 'go / no go' decision. My concern is that our business case will not be able to validate that we have completed a review of Peoplesoft or any other options other than SAP[.]

\* On page 1549, in response to a question of whether (PeopleSoft) release 9.0 will provide enhanced reporting, Don's comment is 'That is some current analysis we're going on right as we speak today'. Again, I think **it is problematic that this is suggesting Hydro is doing something that it isn't - we are not currently reviewing Peoplesoft and have said nothing about even the likelihood of SAP Financials even in response to the question of other options.**

\* On page 1550, my impression is that **we provide comfort that the initial budget (\$7.2 M for Peoplesoft upgrade) was adequate even though I don't think we consider this to be the case.** In the Application, it is suggested that the cost to 'Re-platform to SAP' would be '\$30 million to \$40 million and would require a significant dedication of management and staff resources, thereby delaying other important BC Hydro projects'[.]

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<sup>13</sup> BC Hydro's response to Dix IR 1.23.0 (Exhibit B-8-8), Attachment 3, page 1.

41. Mr. Koyanagi went on to raise a number of pertinent issues and questions for consideration, writing as follows.<sup>14</sup>

At this point, this is a bit of a mess. I would like everyone's thoughts and direction as I suspect that this could become an issue in the next RRA, or when we start to discuss IFRS impacts with the Commission:

\* Is everyone still agreed that the business case can point to the IT strategy as the basis to consider only one option, and that there does not need to be any further consideration of other alternatives (in particular, Peoplesoft) before we proceed with SAP?

\* Is there any issue that we are not doing the analysis of Peoplesoft release 9.0 as Don suggested?

\* Are we comfortable with the budget implications of this initiative, and that there will be no need to inform the Commission prior to proceeding further with this work[?] This will be important to decide before we enter into any commitments (ie we need a final decision by the end of the calendar year)[.]

Thanks

42. It appears the only response Mr. Koyanagi received was from Mr. Kiudorf, who had helped prepare CIO Stuckert for his testimony. Mr. Kiudorf responded by downplaying the misleading nature of CIO Stuckert's testimony, writing as follows.<sup>15</sup>

My read of the testimony was more favourable – I think indeed there has been some past analysis of PeopleSoft and currently the option we are looking at is SAP, so I don't think the evidence is as problematic as suggested below [in George Koyangi's email]. However, I agree with George that [t]his needs to be thought through carefully, and in particular alignment with the IT&T strategy seems key.

43. In the end, it appears that despite Mr. Koyanagi's detailed concerns, BC Hydro took no steps to correct the record.

*v. Failure to fulfill an undertaking given to the Commission*

44. Perhaps more troubling than BC Hydro's testimony before the Commission was its conduct afterwards in respect of an undertaking, the details of which are as follows.

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<sup>14</sup> BC Hydro's response to Dix IR 1.23.0 (Exhibit B-8-8), Attachment 3, page 1.

<sup>15</sup> BC Hydro's response to Dix IR 1.23.0 (Exhibit B-8-8), Attachment 4, page 1.

45. In the spring of 2008, long before the October RRA hearing, the Commission had requested that BC Hydro file an updated version of its Five-Year IT&T Plan, one component of which was the Financial Software Project. At the time, BC Hydro responded that it was "currently updating its five-year IT strategic plan to support forthcoming major IT initiatives" and that "[t]he plan is scheduled to be presented to the board in May 2008, and BC Hydro will file it as part of the evidentiary update".<sup>16</sup>
46. Nothing in the documentary record indicates that the Board ever formally approved the updated Five-Year IT&T Plan. That said, it appears that a summary of the May 12, 2008 Executive Team meeting, where the SAP Strategy was approved, was presented to the Board's Audit and Risk Management Committee on May 22, 2008. This may have been what BC Hydro was referring to when it said the plan was "scheduled to be presented to the board in May 2008".
47. In any event, by the time of the October RRA hearing BC Hydro still hadn't provided the requested document to the Commission. During his October 15, 2008 testimony, CIO Stuckert was specifically asked about this omission.<sup>17</sup> He offered an explanation and undertook to provide the Commission with "the approved principles on which the 5 year IT strategic plan will be based", a commitment which came to be known as "Undertaking 62".<sup>18</sup>
48. As it turned out, BC Hydro did not fulfill Undertaking 62. Instead, in purported fulfillment of the undertaking, BC Hydro submitted a summary of an earlier Executive Team discussion from October 31, 2007, which made absolutely no mention of the SAP Strategy approved in May 2008.
49. Documents disclosed in the course of this proceeding indicate that this may have been a conscious and deliberate omission.

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<sup>16</sup> BC Hydro's 2009 – 2010 Revenue Requirements Application (Exhibit B-5-1: Response to BCUC Information Request 1.71.2.2).

<sup>17</sup> Adrian Dix's December 8, 2015 complaint (Exhibit A2-1) at Tab 8, pages 1508-09.

<sup>18</sup> Adrian Dix's December 8, 2015 complaint (Exhibit A2-1) at Tab 8.

50. For example, on October 21, 2008, Sully Wong, a staffer in CIO Stuckert's office, sent the following email to Mr. Stuckert asking whether BC Hydro's reply to Undertaking 62 should include the May 2008 Executive Team meeting notes.<sup>19</sup>

According to Guy [Leroux, Manager of Regulatory Business Analysis], they [the Commission] want the 'board briefing' that approved the IT Strategic plan principles.

Should we use the one you submitted in May, 2008[?]

Please confirm and provide instruction on this ASAP.

51. Mr. Stuckert responded to the effect that BC Hydro should not provide the briefing notes prepared for the Board's Audit and Risk Management Committee (ARMC) in May 2008, writing as follows.<sup>20</sup>

I don't think we should give the ARMC document as it addresses many things that I don't think we need to communicate. Charles, your thoughts?

(The "Charles" whose thoughts are solicited is presumably Charles Reid. As noted, Mr. Reid was a consultant when the RRA document was submitted in February 2008; by the time of the RRA hearing that fall he was CFO and in 2011 he was appointed President & CEO, a role he held until 2014.)

52. It appears the only reply Mr. Stuckert received was from the staffer Sully Wong, who wrote as follows (emphasis added).<sup>21</sup>

Agreed.

**We should not even talk about it, for it contains information that may contradict your answers in the hearing (i.e SAP)[.]**

53. On October 28, 2008, the non-responsive 2007 summary was provided to the Commission in purported fulfillment of Undertaking 62.

54. On December 18, 2008 – while the Commission was still unaware that SAP was even being considered as a candidate for the Financial Software Project, let alone that the wide-ranging SAP Strategy had been approved by the Executive Team months earlier – BC Hydro spent an additional \$1 million on the licensing of SAP software.<sup>22</sup>

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<sup>19</sup> BC Hydro's response to Dix IR 1.24.0, Attachment 1, page 61 (Exhibit B-8-8).

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> BC Hydro's response to Dix IR 1.22.0 (Exhibit B-8).

55. It was not until June 12, 2009 that BC Hydro first indicated to the Commission that SAP had been selected for the Financial Software Project. Even then, this information was only provided in response to a direct query from the Commission and with the suggestion that the move to SAP had only "recently" been made.<sup>23</sup>

*vi. Misleading the Commission: the need for an oral hearing*

56. Clearly, the documentary record raises very serious concerns about BC Hydro's conduct.
57. As a result of this conduct, the Commission remained unaware of the SAP Strategy for over a year after it was approved by the Executive Team.
58. For the Financial Software Project, the ultimate price of the SAP Strategy was substantial: the adoption of SAP Financials accounting software ended up costing \$14.1 million, double the amount forecast for the PeopleSoft Enterprise Financials upgrade in BC Hydro's F2009/F2010 Revenue Requirements Application.
59. In its recent submission to the Commission (reproduced in part below), BC Hydro acknowledges that the documentary record on its own is troubling but suggests that oral testimony may somehow provide a comparatively innocent explanation.<sup>24</sup>

While it would be easy and convenient to develop a leading theory based on the correspondence contained in the 26 documents that are attached, our review did uncover gaps in the records still available and through extensive internal interviews, partly guided by external professional assistance, to attempt to gain further insight into the thinking that led to the response to Undertaking 62, it has become clear that written statements, without their full context, can be misinterpreted.

For these reasons, BC Hydro believes it is not possible to resolve who made the final determination of which document should be filed in response to Undertaking 62, how they made that determination and who reviewed it before it was filed.

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<sup>23</sup> June 12, 2009 letter from BC Hydro to BCUC at Appendix B, attached to BC Hydro's January 8, 2016 response to Adrian Dix's complaint (Exhibit A2-2).

<sup>24</sup> BC Hydro's response to Dix IR 1.24.0 (Exhibit B-8) at page 2.

60. Given the nature of the documentary record and the grave conclusions that are easily drawn from it, we agree with BC Hydro that those who had a hand in preparing the response to Undertaking 62 should be examined and cross-examined on this issue. We add that Mr. Stuckert's misleading testimony also calls for oral examination regarding his and others' knowledge and intentions at the time.
61. That said, we strongly disagree with BC Hydro's suggested conclusion that it will be impossible to ascertain who was ultimately responsible for BC Hydro's response to Undertaking 62. This is a question for the Commission to determine after it has had the benefit of full documentary disclosure and oral testimony, including an assessment of witness credibility.

**B. Did BC Hydro avoid or evade oversight of its SAP-related spending?**

62. The adoption and implementation of the SAP Strategy has had, and will continue to have, wide-reaching financial and organizational consequences.
63. Given that the SAP Strategy's final price-tag may approach half a billion dollars, the apparent lack of appropriate oversight described below is particularly concerning.

*i. Acquiescence of Executive Team and Board's Audit and Risk Management Committee*

64. As mentioned, the SAP Strategy effectively dictated that SAP software would be used, as far as possible, to meet all applicable goals of BC Hydro's Five-Year IT&T Plan, with non-SAP products being considered only if and when available SAP software was for whatever reason insufficient.
65. At the end of implementation, the thinking apparently went, BC Hydro would have an integrated, SAP-based software platform for all "Enterprise Resource Planning" purposes, including accounting, billing and supply-chain management. This, in turn, would reduce unnecessary complexity and technology conflicts, thereby cutting costs.
66. As described above, it appears that by May 2008 the estimated total cost of the SAP Strategy was somewhere between \$167 million and \$249 million.<sup>25</sup> CIO Stuckert and Charles Reid took this estimate to the Executive Team on May 12, 2008 and a summary of this meeting (including the nine-figure estimate) was prepared for the Board's Audit and Risk Management Committee meeting of May 22, 2008.

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<sup>25</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at Attachment 2, page 4.

67. Surprisingly, it does not appear that the materials provided to the Executive Team included any evidence in support of the SAP Strategy, nor does it appear that Mr. Stuckert or Mr. Reid provided any cost-benefit or similar analysis justifying the adoption of SAP as the "default" software platform.
68. Nonetheless, the Executive Team gave its express approval for the SAP Strategy and the Board's Audit and Risk Management Committee apparently acquiesced, whether expressly or impliedly, to this proposed course of action.
69. BC Hydro now says that neither the Executive Team nor the Board's Audit and Risk Management Committee in fact approved any financial expenditures related to SAP.
70. For example, BC Hydro describes the Executive Team's authority in the following terms (emphasis added).<sup>26</sup>

There are no formal implications from an authorization or approval standpoint. **The Executive Team does not have any formal authority, as a group, to approve financial transactions or set corporate policy.** Under BC Hydro's governance framework, decision making authority is generally either vested in the Board of Directors, a Committee of the Board, or an individual member of management such as the Chief Executive Officer, Chief Financial Officer, an Executive Vice-President, or delegate. **The 'approval' of a recommendation by the Executive Team refers colloquially to the informal endorsement by consensus of a proposed course of action** to be taken in accordance with BC Hydro's governance framework as described above.

71. While decision-making authority may be "vested in ... a Committee of the Board", BC Hydro describes the Board's Audit and Risk Management Committee's involvement in the SAP Strategy as purely "informational", writing as follows.<sup>27</sup>

The purpose of the IT&T Strategy presentation was to provide the ARMC with an annual report on IT&T Strategy as mandated by the Terms of Reference of the ARMC in effect at the time and as part of the ARMC's broader risk management mandate. ... As the IT&T Strategy presentation was for informational purposes only, nothing specifically resulted from this presentation.

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<sup>26</sup> BC Hydro's response to BCUC IR 1.2.7 (Exhibit B-6).

<sup>27</sup> BC Hydro's response to BCUC IR 1.2.11 (Exhibit B-6).

72. Thus in BC Hydro's apparent framing of this matter, it would appear that CIO Stuckert was solely responsible for the ultimate decision to actually spend any money on the move to SAP.
73. This is a difficult proposition to accept. Again, CIO Stuckert and Charles Reid approached the Executive Team with a proposed course of action that would necessarily and inevitably lead to spending in the neighbourhood of \$200 million on SAP-related projects. The Executive Team gave its express approval and the Board's Audit and Risk Management Committee acquiesced. To describe these approvals as merely "strategic" or "informational" without acknowledging their obvious financial component would in our view be disingenuous.
74. In any event, even if it were accepted that just one executive in effect single-handedly committed the corporation to an anticipated nine-figure endeavor with no meaningful internal oversight of his proposed spending, then BC Hydro must surely answer for any consequences that may have stemmed from this shocking lack of supervision.

*ii. Avoidance or evasion of internal and external oversight*

75. In addition to the Executive Team and the Board's Audit and Risk Management Committee, there were three principal oversight mechanisms relevant to the SAP Strategy.
- a. Project Completion and Evaluation Reports (PCERs), which are prepared at the end of a project to compare its actual cost against the forecasted and authorized costs.<sup>28</sup> Of the 18 SAP-related projects completed between 2008 and 2012, only four received PCERs.<sup>29</sup> (PCERs became mandatory in 2012.)
  - b. A requirement for approval from the BC Hydro Board of Directors for all capital expenditures above \$50 million.
  - c. A requirement for approval from the Commission for all capital expenditures above a certain amount. (The threshold amount was \$50 million from 2008 to 2010, at which time it was lowered to \$20 million.)

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<sup>28</sup> BC Hydro's response to BCUC IR 1.17.5 (Exhibit B-6).

<sup>29</sup> BC Hydro's response to Dix IR 1.17.0 (Exhibit B-8).

76. As discussed below, as a result of BC Hydro's questionable characterization and treatment of SAP-related spending, these oversight mechanisms were largely avoided. A live question for this Inquiry is whether they were also deliberately evaded.
77. In our view, BC Hydro has fundamentally mischaracterized the SAP Strategy as a sort of framework or policy direction which various departments would follow as they implemented their own discrete software-related projects. In reality, however, the SAP Strategy was quite plainly a cohesive and concrete plan for the purchase and implementation of SAP software for numerous core functions and over a defined period of time. In short, the SAP Strategy was in substance a single capital program and the money spent on it was (and remains) a single capital expenditure, albeit one involving many different contracts for many different pieces of SAP software.
78. If the SAP Strategy had been properly and accurately characterized as a single capital program, then Board and Commission oversight would have been triggered immediately.
79. Due to BC Hydro's mischaracterization of the SAP Strategy, however, total spending has been allowed to snowball with no meaningful oversight. To date, the SAP Strategy has been applied to 110 software projects across BC Hydro (some of which have been completed and some of which remain planned or in progress). Of these 110, not a single one has failed to select an SAP product, though some have added non-SAP "bolt-ons" to supplement the selected SAP software. In aggregate, the cost has been substantial, with \$197 million already spent between F2009 through F2016<sup>30</sup> and a further \$210 million anticipated in the period F2017 through F2026<sup>31</sup>. This projected total of over \$400 million is perhaps more than double the \$167 to \$249 million initially estimated in May 2008. Yet since each of the 110 SAP-related projects has, in isolation, cost less than \$20 million, not a single one has been subject to scrutiny and approval by the Commission or BC Hydro's Board of Directors.

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<sup>30</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at section 3, table 2.

<sup>31</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at section 6, table 11.

80. One illustrative example of the SAP Strategy in action relates to a project called the Plan and Schedule Work Project ("PSW"). At the preliminary phase of the project, BC Hydro looked only to SAP and failed to explore other software products which may have offered better value or functionality. As BC Hydro wrote in response to an information request from the Commission:<sup>32</sup>

In keeping with the SAP strategy, the PSW project proceeded on the assumption that SAP would be used as the default solution. It was determined that a sufficient proportion of business requirements could be met by SAP. In addition, in order to create a single source of truth for business information, it was determined that SAP would be used. As such, alternative technology solutions were not identified.

81. Once the project was underway, BC Hydro estimated that it would cost \$33.6 million – an expenditure which would require approval from the Commission. BC Hydro subsequently broke the PSW up into multiple discrete projects, with the result that no application for approval was ever made.<sup>33</sup> BC Hydro's reasons for doing so should be examined.
82. To be clear, we do not purport to pass judgment on the wisdom or ultimate effectiveness of the SAP Strategy from a financial or technological perspective (though these are of course relevant questions for the Commission on this Inquiry). We simply note that given the vast sums involved in the SAP Strategy, the apparent lack of oversight is cause for great concern. Issues relating to this lack of oversight must be thoroughly explored.

*iii. Lack of oversight: the need for an oral hearing*

83. As described above, the documentary record suggests a stunning lack of financial oversight for an initiative that may end up costing over \$400 million. Obvious questions for the Inquiry include but are of course not limited to the following.
- a. Did members of the Executive Team and the Board's Audit and Risk Management Committee subjectively believe that their approval of the SAP Strategy in May 2008 encompassed an approval for spending on SAP products? If not, why not?

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<sup>32</sup> BC Hydro's response to BCUC IR 1.18.2.2 (Exhibit B-6).

<sup>33</sup> After spending \$7.3 million on design and implementation work, part of the project was transferred to the Transformation Initiative and \$5.7 million was spent before the project was closed in 2013 after a pilot project raised "usability concerns" (See Exhibit B-6: BC Hydro's Response to BCUC IR 1.10.1 at pages 2 and 3).

- b. Was BC Hydro acting in good faith when it chose to characterize the overarching SAP Strategy as something other than a single capital program? Or was this characterization instead a conscious attempt to avoid the need for Commission and Board-level scrutiny and approval?
  - c. Did BC Hydro ever break up individual SAP-related projects into still smaller projects or contracts for the purpose of evading oversight?
84. These and related questions raise issues of knowledge, intention and credibility which can only be resolved through an oral hearing.

**C. Has the adoption of the SAP Platform achieved the goals set out in the Five-Year IT&T Plan?**

85. As noted above, we are not in a position to pronounce on the wisdom or ultimate effectiveness of the SAP Strategy from a financial or technological perspective.
86. We also acknowledge that large-scale and long-term projects are inherently prone to delays and over-runs, and that sometimes certain goals must be readjusted or abandoned altogether.
87. That said, we suggest that the Commission consider the following facts.
- a. It is now late 2016 and the Five-Year IT&T Plan, which was to be implemented over the period 2009-2014, remains unfulfilled.
  - b. The initial 2008 estimate for SAP-related spending was apparently between \$167 and \$249 million; BC Hydro currently anticipates that approximately \$400 million will ultimately be spent on SAP-related projects.
  - c. The predicted reduction in operating costs, which was used as a selling point for the SAP Strategy,<sup>34</sup> has not materialized.<sup>35</sup>

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<sup>34</sup> In the CIO's presentation to the Executive Team, he told them to "[e]xpect a \$6m - \$8m reduction in annual operating improvement in IT" (BC Hydro's Consolidated Filing (Exhibit B-3) at Attachment 3, page 8).

<sup>35</sup> This was confirmed by the Honourable Bill Bennett's comments in the Legislative Assembly, found in Adrian Dix's December 2015 complaint (Exhibit A2-1) at Tab 16.

d. In 2013, the "Transformation Initiative" of the SAP program – which covered five business departments in which SAP had not yet been implemented – was partly cancelled and partly delayed by a matter of years.<sup>36</sup>

88. The above facts are of course not in themselves conclusive. It may be that the SAP Strategy is proving to be a great success offering excellent value for money spent. It may be that the opposite is true. The people of British Columbia deserve to know and so we urge the Commission to look at this issue quite closely.

89. We anticipate that BC Hydro may rely on the testimony of officers, employees or consultants in support of the SAP Strategy. The accuracy and credibility of such testimony can only be adequately tested through oral examination and cross-examination.

## **II. THE NEED FOR FULL DISCLOSURE**

90. To date, disclosure of certain documents remains outstanding.

91. A key issue in this proceeding is the extent and timing of BC Hydro's commitments to SAP Canada Inc. in respect of software-related purchases and licensing. Accordingly, the following are clearly relevant.

a. BC Hydro's September 2008 agreement with SAP to purchase additional software.

b. BC Hydro's March 2009 agreement with SAP to purchase additional software.

c. BC Hydro's Software End-User License Agreement with SAP Canada Inc.

- i. as it was in May 2008;
- ii. with appendices added in September 2008; and
- iii. with appendices added in March 2009.

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<sup>36</sup> BC Hydro's Consolidated Filing (Exhibit B-3) at section 3.4.

92. Mr. Dix's information request 1.21.4 had asked for "a copy of all contract(s) with SAP". In response, BC Hydro declined to provide the Software End-User License Agreement because it includes a term preventing disclosure "otherwise than as compelled in furtherance of an obligation at law".<sup>37</sup> Accordingly we ask the BCUC to specifically order the disclosure of this and all other documents described above.

### **III. PROCEDURAL POINTS**

93. In the interests of a thorough and efficient hearing of this matter, we make the following procedural suggestions.

*i. Issues not requiring oral hearing should be dealt with via written submissions*

94. In our view, and for the reasons discussed above, Items 2, 3, and 5 of the Proposed Scope of Inquiry can only be adequately addressed with an oral hearing. That said, Items 1 and 4, which are largely concerned with the dollar amounts of past and planned SAP-related expenditures, may perhaps be most efficiently dealt with through written submissions.

*ii. Agreed statement of facts*

95. We suggest it would be efficient for the parties and Commission counsel to work toward a written Agreed Statement of Facts. Even if only a small number of facts prove non-controversial, a great deal of time may nonetheless be saved at hearing. To that end, and assuming the Commission approves, we would suggest that BC Hydro initiate a first draft for discussion.

*iii. Identification of documents in dispute*

96. To avoid undue delay and unnecessary formalities on a document-by-document basis, we propose that all disclosed documents be deemed admissible at hearing unless they are specifically objected to in advance. We therefore suggest that the Commission set a timeline for the parties and Commission counsel to identify controversial documents – perhaps one month prior to hearing or at any other point the Commission deems appropriate.

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<sup>37</sup> BC Hydro's response to Dix IR 1.21.0 (Exhibit B-8).

*iv. Scheduling of hearing*

97. We advise that we do not anticipate making any further Information Requests and ask that the Inquiry be commenced as soon as reasonably possible. While the events and conduct in issue may date back as far as eight years – a long time for any matter to be heard – the consequences of the SAP Strategy are as relevant as ever, with over \$200 million in SAP projects planned for the coming years. Before this money is spent, the public deserves to know how we got here.

**Conclusion**

The matters before the Commission are of significant public importance, not only because they involve nearly half a billion dollars in spending but also because they raise serious questions about the integrity of a regulatory process meant to protect the people of British Columbia.

We thank you for the opportunity to provide these procedural submissions and hope that you find them helpful.

**CAROLINE + GISLASON LAWYERS LLP**

  
for Gary Caroline