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January 4, 2017

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. 3698869**  
**British Columbia Utilities Commission (BCUC or Commission)**  
**British Columbia Hydro and Power Authority (BC Hydro)**  
**Fiscal 2017 – Fiscal 2019 Revenue Requirements Application**  
**Compliance with Exhibit A-13**

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During Procedural Conference No. 2 held on November 29, 2016, the Commission Panel determined that parties should provide written submissions on: "...whether some or all of the issues should be heard by way of an oral hearing, including sufficient specific detail on the focus and scope of any oral component." In response, eight of the 17 interveners registered in this proceeding filed written submissions. Of these eight, the Association of Major Power Consumers of British Columbia (**AMPC**), British Columbia Old Age Pensioners Organization et al (**BCOAPO**) and BC Sustainable Energy Association-Sierra Club BC (**BCSEA-SCBC**) favour a written process. Clean Energy Association of (**CEABC**), Commercial Energy Consumers of British Columbia (**CEC**), Mr. Landale, Non-Integrated Areas Ratepayers Group (**NIARG**) and Zone II Ratepayers Group (**Zone II**) request an oral hearing on limited topic areas. This letter is BC Hydro's response to the Commission's request and intervener submissions.

BC Hydro's position on the appropriate hearing process remains unchanged from our August 29, 2016 pre-filed comments (Exhibit B-4) and our legal counsel's oral submissions at both procedural conferences. Specifically, we are prepared to proceed by whatever hearing format the Commission considers appropriate. BC Hydro's efforts in preparing evidence and responding to information requests positions the Commission well to address any matter arising from the Fiscal 2017 – Fiscal 2019 Revenue Requirements Application based on a written record should it choose to do so. We believe that any oral hearing should be focused to ensure the additional time, resource and cost commitment will add material value for our customers and the Commission in making its decision.

Our comments below focus on (i) the breadth and quality of the evidence, (ii) the matters on which there appears to be consensus, or near consensus, favouring a written

process, (iii) providing further context regarding the issues other interveners have identified as candidates for an oral hearing (“candidate issues”), and (iv) responding to intervener submissions about the burden of proof on these procedural matters.

### **Breadth and Quality of the Evidence**

The breadth and quality of the written record affords the Commission flexibility in crafting a process that will be both fair and efficient.

BC Hydro’s Application was more detailed than in past proceedings. We responded to 2,144 information requests in round one, taking considerable care to provide complete and responsive answers. We have taken a pragmatic approach to addressing questions that strayed beyond the scope of the proceeding.

Round two includes a further 1,288 information requests, to which we are devoting the same consideration and effort that went into the first round responses.

Commission Staff cited the quality of BC Hydro’s written evidence in expressing the view that the Application can be addressed in its entirety in a written proceeding.<sup>1</sup> BCOAPO, BCSEA-SCBC, and AMPC are also of the view that the evidentiary record is sufficiently robust to permit a written hearing on all matters. MoveUp, although it favours a limited oral hearing, acknowledged the quality of the evidence filed.<sup>2</sup> There is a relatively short list of candidate issues identified by interveners favouring an oral hearing.

### **Matters on which there is Consensus that Written Hearing is Appropriate**

There appears to be general consensus, or near consensus, among the interveners who filed submissions that the majority of the Application can be addressed in writing. The topics that are the subject of this general consensus, or near consensus, include:

- With the exception of CEC, Cost of Energy (Chapter 4);
- Operating expenses (Chapter 5);
- With the exception of CEABC, Capital Expenditures and Additions (Chapter 6);
- With the exception of CEABC, deferral and regulatory accounts (Chapter 7);
- Other Revenue Requirement Matters (Chapter 8); and

<sup>1</sup> Procedural Conference No. 2 Transcript, page 373. Mr. Miller: “The first is, as has been noted by other, both the applicant and the interveners, the responses have been very full, and Staff wishes to thank BC Hydro for that. ...Staff believes that after the second round of IRs the record will be full, and therefore does not believe that a oral hearing is necessary. Staff believes that this can be done by a written hearing.”

<sup>2</sup> Exhibit C2-6. MoveUp stated: “BC Hydro has been forthcoming in its responses to IR’s...”.

- The Transmission Revenue Requirement (Chapter 9).

Chapter 2 outlines the regulatory and legal framework, and should be addressed in legal argument rather than an oral hearing. No party has suggested otherwise.

### **Specific Comments on Candidate Issues Identified by Interveners**

Interveners advocating a scoped oral process have identified a limited number of candidate issues. We address each candidate issue identified by interveners below. Our comments on each candidate issue focus on the applicable legislative framework<sup>3</sup> and the extent of the written evidence.

#### ***Demand-Side Management***

BCSEA-SCBC's primary focus in this proceeding is demand-side management, and it is intending to submit evidence on that subject. BCSEA-SCBC has, after considering the written evidence to date, changed its view on the need for an oral hearing. Some of the other interveners still favour an oral hearing on demand-side management.

There is a significant amount of evidence on the record regarding demand-side management, and it describes in detail the rationale and evidence supporting the proposed expenditure schedule. The Application included a chapter on demand-side management, as well as five substantial appendices with program descriptions, data tables, and annual reports, and information on historical expenditures and results. BC Hydro worked with both BCOAPO and Zone II to incorporate responses from the Rate Design Application into the record prior to the round one information requests.<sup>4</sup> We responded to all of the approximately 430 round one information requests on demand-side management and will be responding to a further 306 information requests in round two. After round two, intervener evidence and rebuttal evidence, the evidentiary record on demand-side management will be extensive and more robust than any other topic on the record in this proceeding.

BCSEA-SCBC reserved the right "to ask the Panel to allow an opportunity to test, whether by information requests or cross-examination, rebuttal evidence, if any filed by BC Hydro...". We will respond if and when BCSEA-SCBC makes that request.

#### ***Capital Expenditures and Additions***

CEABC is the only intervener to identify capital expenditures as a candidate for an oral hearing. It frames the issues as follows: "The Capital Expenditures for Growth,

<sup>3</sup> The Commission stated in its December 2, 2016 letter: "Parties are reminded to recognize the legislative parameters and to focus on the aspects of the application over which the Commission retains discretion."

<sup>4</sup> Exhibit B-5.

Redevelopment, Dam Safety and Sustaining” and “The Capital Allocation Process itself”. CEABC does not identify why these are issues of particular concern or provide a rationale for addressing this wide topic area in an oral hearing.

The written evidence on capital includes Chapter 6 and the appendices, the supplemental filing that we made to address Commission staff requirements, and responses to 393 round one information requests. There are another 172 information requests on capital in round two, for a total of 565 responses. The information requests have been focused on particular aspects of Chapter 6.

The Commission’s consideration of whether any aspect of Chapter 6 should be addressed orally should account for the fact that only capital additions, and not capital expenditures, have an impact on the test period. The legislative framework is also pertinent.

- Direction No. 7 provides for cost recovery for “extensions to the authority’s plant or system that come into service before F2017”; and
- The *Clean Energy Act* also exempted a number of projects from a Commission assessment of need and alternatives.

The pending Capital Expenditure and Projects Review proceeding will determine what type of review processes capital projects will go through in the future. That proceeding will result in Commission approved capital project guidelines.

### ***Cost of Energy***

CEC seeks an oral hearing on Cost of Energy, which CEC indicates “is influenced by many factors such as BC Hydro’s ongoing decisions related to Demand Side Management, the Standing Offer Program, the Renewal of IPP power, the Load Forecast, and BC Hydro’s proposed approach to dealing with surplus energy.” CEC did not identify any specific issues within those broader topics. NIARG supports CEC’s request, but intends to focus on other matters. AMPC no longer sees it necessary to hold a hearing on load and rate forecasting after having reviewed BC Hydro’s responses.

Cost of Energy is canvassed in Chapter 4 of the Application. Once the round two information responses are filed, we will have responded to over 140 information requests concerning the Cost of Energy.

There are legislative constraints and deferral accounts that affect Cost of Energy:

- Section 15 of the *Clean Energy Act* authorized the Standing Offer Program. The amount of the Standing Offer Program was set out in the 2013 Integrated Resource Plan that was approved by the Province.

- Direction No. 7 to the Commission, and other regulations, provide for the recovery of costs associated with Electricity Purchase Agreements entered into before fiscal 2017.
- BC Hydro will file any new or renewed Electricity Purchase Agreements with the Commission for review under section 71 of the *Utilities Commission Act*. In that context, the Commission will consider whether the Electricity Purchase Agreements are in the public interest.
- Variances in the Cost of Energy forecast are captured in existing deferral accounts and this ensures that only actual costs of energy are recovered in rates.

### ***Load Forecast***

CEABC seeks an oral hearing on “The details of the updated Load Forecast”, and CEC refers to the load forecast in the context of the Cost of Energy. CEABC also identifies the related issue of: “The role that BC Hydro’s electrification initiatives can play in addressing both the rising electricity rates and achievement of B.C.’s Climate Action Objectives.” BC Hydro has set out in the Application how it has forecasted load and resource requirements. There were over 150 information requests related to the load forecast in round one, and another 231 in round two. We will provide further information in our responses to round two information requests on our electrification initiatives as a result of B.C.’s Climate Action Objectives to the extent they are known.

### ***Regulatory Accounts***

CEABC is the only intervener to identify regulatory accounts as a candidate for an oral hearing. It frames the topic this way: “The role of Deferral and Regulatory Accounts, including the Rate Smoothing Account, in mitigating and exacerbating present and future electricity rate increases”. As with other matters, we are prepared to address regulatory accounts in either type of proceeding. However, most of the accounts discussed in the Application, including the Cost of Energy Deferral Accounts and the Rate Smoothing Account, were either previously approved by the Commission, or are required by Direction No. 7. The effect of deferral and regulatory accounts on future rate increases is either a matter of arithmetic, or is unknown to the extent that future balances in the variance regulatory accounts cannot be forecast with certainty. Despite this limitation, we have provided forecasts out to fiscal 2024 of balances in every regulatory account, including our rate smoothing regulatory account.

### ***Smart Meter and Infrastructure Program***

The Zone II rationale for preferring an oral hearing included “BC Hydro filed the SMI report which was to be filed in November yesterday following the deadline for IR2 and the impact of SMI implementation on future costs has not been explored.” We have three points in response. First, although Zone II cites the filing date as a justification, it

appears to concede that the Smart Meter and Infrastructure Program should be addressed in writing.<sup>5</sup>

Second, in our cover letter for the Smart Meter and Infrastructure Program Report (Exhibit B-1-4), we indicated that we would endeavor to include responses to information requests on the report delivered by January 6, 2017 with our other round two responses.

Third, the Smart Metering and Infrastructure Program is governed by legislation. The *Clean Energy Act* has authorized the Smart Meter and Infrastructure Program, and Direction No. 7 (section 11(g)) exempts those costs from Commission review. The incremental operating costs arising from the Smart Metering and Infrastructure Program over the test period are described in detail in Chapter 5, section 5.3.1.1. Further, as described in Chapter 7, the operating and amortization costs incurred prior to this test period were recorded in a regulatory account previously approved by the Commission. The balance in the regulatory account is being amortized pursuant to that order.

### ***Burrard Thermal***

Mr. Landale is primarily interested in Burrard Thermal. Mr. Landale's stated intent regarding Burrard Thermal is "petitioning the commission Panel to recommend to the British Columbian Government the removal of the BTP [Burrard Thermal Plant] and the BTGP [Burrard Thermal Generating Plant] and the new BSCP [Burrard Synchronous Condense Facility] from the three noted pieces of Legislation and Directions." The Commission's jurisdiction is defined by the existing legislation. It does not include advising Government on amendments to legislation in the manner desired by Mr. Landale.

The treatment of Burrard, and its re-purposing, is subject to legislation.

- The Commission must grant permission to the authority under section 41 of the *Utilities Commission Act* to cease operating those portions of Burrard Thermal that are not required for transmission support services;<sup>6</sup>
- The Commission "must, in regard to the non-heritage deferral account, allow the authority to (ii) defer to that account the Burrard costs";<sup>7</sup>
- The Commission "must not disallow for any reason the recovery in rates of the costs that were incurred by the authority...in consequence of decisions of either with respect to...the Burrard costs";<sup>8</sup> and

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<sup>5</sup> Refer to Zone II submission, page 3, paragraph 9.

<sup>6</sup> Direction No. 7, section 15. On December 22, 2016 BC Hydro filed an application under section 41 of the UCA for approval to cease operations at Burrard Thermal. Order No. G-198-16 issued on December 29, 2016 approved the application.

<sup>7</sup> Direction 7, section 7(c).

<sup>8</sup> Direction No. 7, section 11.

- The Commission must set depreciation rates for the classes of property, plant and equipment at Burrard Thermal as shown in the Appendix B to the direction, which essentially determines the rate of cost recovery.

We have responded to Mr. Landale's information requests on Burrard, even where his questions strayed beyond the proceeding scope as defined by the Commission. We also intend to answer his second round questions on this topic to the best of our ability.

### ***MoveUp's Request for a Policy Panel***

MoveUp believes "the evidentiary record will be significantly improved by the Utility's presentation of a general policy panel prepared to answer questions about how it is proposing to deal with a variety of issues including but not limited to the utility's strategies to deal with the impacts of the Site C Clean Energy Project, the Northwest Transmission Line, IPP purchases, the Mining Customer Payment Plan, etc."

Each of the initiatives identified by MoveUp is the subject of legislation. The *Clean Energy Act* authorized the Site C Clean Energy Project. Direction No. 7, in effect, directs the Commission to allow recovery of costs associated with the Northwest Transmission Line and past Electricity Purchase Agreements. Future electricity purchase agreements must be submitted to the Commission for review. The *Direction to the British Columbia Utilities Commission Respecting Mining Customers* mandates the recovery of BC Hydro's costs under the Mining Customer Payment Plan.

As part of our pragmatic approach to responding to information requests, we have nevertheless answered a number of information requests on the Site C Clean Energy Project, Electricity Purchase Agreements, the Mining Customer Payment Plan and the Northwest Transmission Line. The revenue requirements in the current test period are unaffected by the Site C Clean Energy Project. The cost impacts of the remaining initiatives during the test period are already reflected in the Application. The future cost impacts of these programs, and the steps that we are taking to achieve the targets in the latter years of the 2013 10 Year Rates Plan, will be canvassed in future revenue requirements proceedings.

### **CEABC's Request for an Oral Hearing on Energy Policy Issues**

CEABC identifies the following broad policy issues as candidates for an oral hearing: "How the Application addresses the goals of the *Clean Energy Act*, of B.C.'s Energy Objectives, and B.C.'s Climate Action Objectives". The policy goals and objectives listed by CEABC are matters either of law or policy that are already captured under various other topics of the Application. As this proceeding is related to BC Hydro's rates and revenue requirements, we believe it is more helpful to define scope by reference to the topics within the Application, rather than broader policy goals and objectives that are much broader than the scope of this proceeding.

## **Commission’s Discretion to Determine the Nature of the Process**

Several interveners (AMPC, CEABC, NIARG and Zone II) commented on the Commission’s request that parties advocating for an oral hearing “clearly identify what specific elements or issues require oral evidence and why those elements or issues could not have been dealt with through the written process.” They maintain that an applicant must prove an oral hearing is inappropriate and that the Commission has reversed the onus in this instance. We respectfully disagree with these submissions and submit that the Commission has acted appropriately.

Under section 86.2(1) of the *Utilities Commission Act*, the Commission has discretion as to the process it adopts.<sup>9</sup> The Act establishes neither a presumptive process, nor any onus. The Commission is tasked with making its procedural determinations based on the available information and submissions of the parties. The process must be fair, but it otherwise remains a matter of Commission discretion.

BC Hydro has maintained at both procedural conferences that we are in the Commission’s hands and are prepared to proceed by whatever hearing format the Commission considers appropriate. We have also explained why we believe the evidentiary record is sufficiently developed that any topic raised in this Application is capable of being determined in writing, if the Commission considers it appropriate. The Commission’s request of interveners at this juncture for specificity as to why they believe an oral hearing is required is a reasonable (and appropriate) request in the context of determining a fair and efficient process for our customers.

## **Concluding Remarks**

We appreciate the opportunity to comment on the nature of the hearing process that will best serve our customers. With the date for a potential oral hearing rapidly approaching, and the significant effort involved in preparing for an oral process, we would like to settle the type of hearing process as soon as possible.

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<sup>9</sup> Section 86.2(1) states “Despite any other provision of this Act, in any circumstance in which, under this Act, a hearing may or must be held, the commission may conduct a written hearing.”

January 4, 2017  
Ms. Laurel Ross  
Acting Commission Secretary  
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For further information, please contact Fred James at 604-623-4317 or by email at [bchydroregulatorygroup@bchydro.com](mailto:bchydroregulatorygroup@bchydro.com).

Yours sincerely,



Fred James  
Acting Chief Regulatory Officer

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