

**Fred James**

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February 5, 2018

Mr. Patrick Wruck
Commission Secretary and Manager
Regulatory Support
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Mr. Wruck:

**RE: Project No. 1598933
British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
Waneta 2017 Transaction Application – Response to Exhibit A-11**

BC Hydro writes in response to the Commission's letter of January 31, 2018 (Exhibit A-11), and further to the comments it made in its January 31, 2018 cover letter to Exhibits B-12 and B-13.

In Exhibit A-11 the Commission "*strongly recommends BC Hydro revisit the requested schedule with Teck and report back to the Commission.*" BC Hydro understands that the "requested schedule" refers to the need for final Commission orders by mid-July 2018 to ensure the preservation of the Waneta 2017 Transaction for the benefit of BC Hydro's ratepayers. BC Hydro confirms it has discussed with Teck the current schedule, prior to and since the receipt of Exhibit A-11, and can confirm that both BC Hydro and Teck believe the current schedule is manageable.

BC Hydro appreciates the Commission's concern that the hearing of the Application be both timely enough to secure a transaction closing by August 1, 2018,¹ and procedurally fair to all participants with an interest in the proceeding. Although this is a tight schedule BC Hydro remains reasonably confident that the current schedule, established in part by Order No. G-15-18, will accommodate these objectives. In support, BC Hydro provides the following comments:

- BC Hydro filed over 700 responses to information requests (**IRs**) on January 26, 2018, and three days later on January 31, 2018, BC Hydro filed the Transmission Agreements and all outstanding IRs. BC Hydro respectfully submits

¹ The August 1 2018 closing date arose inevitably from BC Hydro's August 1, 2017 delivery of the Reply Notice to Teck, and the maximum one year period from the date of the Reply Notice to closing. The August 1, 2017 Reply Notice was the last date BC Hydro could deliver it within the parameters of its ROFO rights. The one year period was a feature of the Fortis Transaction and, in accord with BC Hydro's ROFO rights, cannot be extended without the agreement of Teck.

that three working days between the two filing dates would not have led to any downtime or delay in the process, and the proceeding remains on schedule.

- FortisBC in its submission of January 3, 2018 (Exhibit C1-4) asks for at least two weeks to review the Transmission Agreements before having to submit second round IRs. Under the process established by the Commission by Order No. G-15-18, and in light of the January 31, 2018 filing, FortisBC will have more than three weeks to review those agreements. Moreover, the Transmission Agreements are materially the same as described in the Transmission Agreement Term Sheet, which was filed with the Application as Appendix M.
- BC Hydro has requested final orders no later than July 18, 2018 to accommodate a closing no later than August 1, 2018. However, reasons for decision do not need to be issued prior to closing; reasons can be issued any time after August 1, 2018, provided the requested orders are issued by July 18, 2018.²
- Under the current schedule, BC Hydro anticipates the close of evidence by the end of April 2018 (allowing for IRs in regard to intervener evidence and rebuttal evidence, but no oral hearing, as described further below). That would allow May and June for argument.

In light of the foregoing, BC Hydro does not believe that the Commission or parties who may want to see the transaction complete need be unduly worried about sufficient hearing time; moreover, BC Hydro does not believe that any party has cause to complain about a lack of procedural fairness.

Despite the foregoing, BC Hydro has identified three issues that could, if addressed by the Commission now, increase the efficiency of the Application. These are offered as suggestions only.

The first issue arises from the dispute between FortisBC and BC Hydro regarding the former's access to confidential information filed by BC Hydro in this proceeding. That issue has been before the Commission since December 7, 2018. The issue seems to have narrowed to whether identified non-lawyer FortisBC employees can have access to the confidential information on the basis of the Commission's standard Confidentiality Declaration and Undertaking Form without any further safeguards (FortisBC position), or whether further safeguards are required in light of the possibility that those employees might have reporting or commercial responsibilities for matters beyond the scope of this proceeding (BC Hydro position). FortisBC's final submission on the issue was made on January 22, 2018, and BC Hydro respectfully urges the Commission to resolve the issue as soon as possible.

² The Commission has regularly issued reasons after an order when required or convenient. Refer for example to Commission Order Nos. G-161-12 and G-193-15.

The second issue is that in light of March 20, 2018 having been established for intervener evidence, there does not seem to be any reason not to establish dates for IRs on that evidence, and a date by which any BC Hydro rebuttal evidence would be filed. The sooner these dates are established, the easier it is for parties to make necessary resource arrangements. BC Hydro proposes the following:

Action	Date (2018)
IRs on Intervener Evidence	Tuesday March 27 (one week from intervener evidence)
Intervener IR Responses	Tuesday April 10 (two weeks from IRs)
BC Hydro Rebuttal Evidence (if necessary)	Tuesday April 17 (four weeks from intervener evidence)

The last issue is the procedural conference scheduled for February 16, 2018. No party has asked for a procedural conference at this time, and the Commission has not indicated what the purpose of the conference might be. The conference is scheduled before intervener evidence is due to be filed on March 20, 2018, and well before BC Hydro rebuttal evidence, and thus well before it will be clear to the parties what the actual issues are between them (if any). BC Hydro understands that the February 16, 2018 procedural conference will not be for the purpose of addressing confidentiality issues (which BC Hydro expects will have been resolved by then). It falls right in the middle of the IR process, and will cause the diversion of scarce resources. BC Hydro suggests that a procedural conference is not necessary at this time, and does little to advance the objective of a procedurally fair hearing. Instead BC Hydro proposes that dates be set for submissions regarding the need for a procedural conference, and a default procedural conference date, both after the date set for BC Hydro's rebuttal evidence. BC Hydro proposes the following:

Action	Date (2018)
Submissions regarding need for a Procedural Conference	Friday April 20
Procedural conference (if required)	any one of Monday-Wednesday, April 23 to 25

Finally, BC Hydro proposes that on the date that participants are to provide comments on the need for a procedural conference (April 20, 2018 if BC Hydro's proposal is accepted), they also be asked to make submissions regarding a schedule for argument.

For further information, please contact Geoff Higgins at 604-623-4121 or by email at bchydroregulatorygroup@bchydro.com.

Yours sincerely,



(for) Fred James
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