

November 29, 2019

VIA E-FILING

Patrick Wruck
Commission Secretary
BC Utilities Commission
6th Floor 900 Howe Street
Vancouver, BC V6Z 2N3



Reply to: Leigha Worth
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Ph: 604-687-3034
Our File: 7000

Dear Mr. Wruck,

**Re: Boralex Ocean Falls Limited Partnership Application for Rates and Terms and Conditions for Service to the British Columbia Hydro and Power Authority - July 1, 2019 to December 31, 2022
BCOAPO Submissions on Regulatory Process**

We represent the BC Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Tenant Resource and Advisory Centre, and Together Against Poverty Society, known collectively in regulatory processes as "BCOAPO et al." ("BCOAPO").

We provide this submission in accordance with the regulatory timetable established by the British Columbia Utilities Commission (BCUC) Order G-265-19 (Exhibit A-2) for submissions on the regulatory process for the review of the Utility's application.

INTRODUCTION

On September 30, 2019, Boralex Ocean Falls Limited Partnership (Boralex) applied to the BCUC for approval of interim and permanent rates for service to British Columbia Hydro and Power Authority (BC Hydro) for the period of July 1, 2019 to December 31, 2022, terms and conditions for service to BC Hydro and the First Nations relationship building deferral account (Application).

This is Boralex LP's first rate application for the Ocean Falls Facilities following a period of over 30 years under which the rates for service were based on an Electricity Purchase Agreement (EPA) negotiated in 1986. The Application arises as a result of Boralex and BC Hydro being unsuccessful in reaching an agreement on the terms for a new EPA. The filing of the Application is consistent with the BCUC's determination in Order G-143-19 that:

The Panel finds that given that the parties have negotiated in good faith until May of 2019 and given the limited resources available to Boralex, its commitment to filing a full rate application by August 30, 2019 is reasonable. As Boralex has not had sufficient time since the good faith negotiations ended to propose an alternative interim rate, the BCUC approves an interim rate equal to that of the existing EPA effective from July 1, 2019. This interim rate will remain in place until a further interim and or permanent rate is established and any differences between interim and permanent rates would be refundable or recoverable. The Panel also approves the agreed terms and conditions, as filed by BC Hydro on pages 5 and 6 of Exhibit B-14, dated June 7, 2019, and agreed to by Boralex shall remain in effect on an interim basis until a further interim and or permanent rate is established.

Following the filing of the Application, the BCUC issued Order G-265-19 which amongst other matters ordered:

- *The interim rates effective July 1, 2019 and approved by Order G-143-19 will remain in place and any differences between the interim and permanent rate will be refundable or recoverable with interest calculated at the average prime rate of Boralex’s principal bank for its most recent year.*
- *The Panel requests submissions on the regulatory process from Boralex and registered interveners, in accordance with the questions outlined in Appendix B by the dates established in the Regulatory Timetable attached as Appendix A to this order.*

The regulatory process questions set out in the BCUC Order G-265-19 are as follows:

- 1. Whether interveners intend to file intervener evidence and, if so, the subject matter of the evidence and proposed timing of this evidence in the regulatory process;*
- 2. Whether any supplemental information in addition to the item requested in Directive 5 to Order G-265-19 is required at the beginning of the regulatory process. If so, please identify the specific supplemental information and provide a rationale as to why it is required; and*
- 3. Whether the review of the Application should proceed by way of a written public hearing, or some other process. If some other process is proposed, please identify the specific process and the rationale.*

COMMENTS REGARDING THE PROCESS QUESTIONS

1. Whether interveners intend to file intervener evidence and, if so, the subject matter of the evidence and proposed timing of this evidence in the regulatory process

At this time, it is premature for BCOAPO to determine with certainty the need to file evidence. If such evidence were deemed to be necessary, it would be after further discovery has been occurred, which, as we suggest below, should include at least one round of information requests and the filing of supplemental information.

BCOAPO wishes to reserve the right to file evidence until we have an opportunity to review Boralex’s supporting documentation and rationale for the various elements of its Application.

2. Whether any supplemental information in addition to the item requested in Directive 5 to Order G-265-19 is required at the beginning of the regulatory process. If so, please identify the specific supplemental information and provide a rationale as to why it is required

It is not immediately clear what is to be considered “supplemental information” as opposed to say information that could be sought through an interrogatory process. However, for purposes of responding, BCOAPO has interpreted “supplementary information” as being information that would commonly be expected to be filed as part of the initial Application.

Based on this interpretation, the following table sets out BCOAPO’s submissions regarding the supplemental information required and the rationale.

No	Supplemental Information Requirement	Rationale
1.	The rates currently applicable to BC Hydro under the existing EPA.	Allows parties to clearly understand what the proposed changes to the rates are.
2.	The rate increase (%) for BC Hydro associated with the proposed rates for each year of the Application (i.e., the ratio of revenues at proposed rates vs. revenues at current rates using forecast BC Hydro usage).	Allows parties to clearly understand the impact of the proposed changes in rates. It should be noted that this is commonly provided as part of the Application (e.g. BC Hydro's F2020-F2021 RRA, page 1-9 and Nelson Hydro's 2019 Rate Application, page 3).
3.	<p>Affiliate Transaction Details:</p> <ul style="list-style-type: none"> • More detailed breakdown of the Corporate Services sub-component of Corporate Service (per Table 27); • Detailed breakdown of historic Corporate Services costs (Table 26) equivalent to forecast (per Table 27). 	The Application indicates (page 14) that Boralex LP relies on Boralex Inc. for both senior management and site operations oversight services as well as for a number of corporate services. The Application also indicates (pages 14 & 40) that most of the cost of these services was not charged to Boralex LP and that the costs for a number of these services are forecast to increase. These costs are of particular interest as: i) they were not previously charged, ii) they are increasing in the test period and iii) they represent transactions between affiliates as opposed to independent arm's length parties.
4.	Corporate Services Allocation Model – a description of the methodology used to determine the portion of Boralex Inc's Corporate Services cost that would be recovered from Boralex LP in each of the test years.	The dealings between Boralex LP and Boralex Inc are non-arm's length market-based dealings between independent parties but rather represent cost transfers between affiliated parties. As result, there is an interest in understanding the basis for the cost transfers in order to determine if they are reasonable.
5.	Working Capital Requirements – documentation supporting the \$400,000 working capital allowance (page 29).	Working capital requirements are typically supported by a lead-lag study. However, Boralex LP appears to have used a different approach – but provided no details.
6.	Asset Condition Assessment, Engineering Assessments and Inspection Reports – at various places in the Application (e.g., pages 22, 23, 24 and 27) reference is made to engineering assessments, inspections and asset condition assessments that support the proposed spending on capital additions.	Typically, Applications will include available reports and assessments that support the proposed capital spending.

3. Whether the review of the Application should proceed by way of a written public hearing, or some other process. If some other process is proposed, please identify the specific process and the rationale.

BCOAPO submits that at this time, it reasonable for the review of the Application to proceed by way of a written hearing. Provision should be made for at least one round of information requests, following which submissions should be sought and a determination made as to whether further discovery is required, or any parties intends to file Intervener Evidence. At the same time, confirmation can be sought as to whether written process is still appropriate.

All of which is respectfully submitted.

Sincerely,

BC PUBLIC INTEREST ADVOCACY CENTRE

Original on file signed by:

Leigha Worth
Executive Director | General Counsel

Original on file signed by:

Irina Mis
Barrister & Solicitor