

December 12, 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: 7500.310

Dear Mr. Wruck,

**Re: British Columbia Hydro and Power Authority Customer Crisis Fund (CCF) Pilot Program – Year One Evaluation Report ~ Project No. 1599030
BCOAPO Reply Submissions on timing, regulatory process, and scope**

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

We provide this submission in accordance with the regulatory timetable established by Commission Order G-195-19 (Exhibit A-2) for reply submissions on the timing, regulatory process, and scope of the review of the BC Hydro CCF Pilot Program.

Introduction

On November 28, BC Hydro, and six interveners including BCOAPO filed submissions on the timing, regulatory process, and scope. Then, on November 30, Anthony Lo filed late submissions.

We had the opportunity to review all the submissions referenced above.

BCOAPO Reply

BC Hydro, B.C. Sustainable Energy ("BCSEA"), Non-Integrated Areas Ratepayers Group ("NIARG"), Kwadacha Nation and Tsay Keh Dene Nation (together Zone II Ratepayers' Group (RPG))

BCOAPO agrees with BC Hydro, BCSEA, NIARG and the Zone II RP, that the review of the BC Hydro CCF Pilot Program should be deferred until after BC Hydro submits its evaluation report following the completion of the second year of the Pilot Program, without further regulatory process at this time. Attempting to complete an evaluation of this program in the absence of adequate data in order to do so is, in our submission, a serious breach of fairness, however much a very vocal minority might wish us to think otherwise.

Fortis Energy Inc. and FortisBC Inc (“FortisBC”)

In its submission, FortisBC suggested that “Without clarity on the purpose of the CCF Report review...any review process should consider ratepayers complaints and not be limited to cost and benefit analysis.” On its face, a process specifically naming the CCF’s Year One Evaluation Report is intended to focus on just that: the Report and only the contents of the Report.

Given that BC Hydro has clearly shown there is not sufficient data upon which to analyze the Pilot’s successes or failures after just its first year, that seems to satisfy – unless FortisBC or the individual ratepayers who are filing letters of complaint disagree with the Utility on that point – the clear purpose of this process.

Should parties wish to engage in a debate about the merits of arguments like whether the Commission-mandated 13.5 cent per month addition to ratepayers’ bills is discriminatory or unfair then this is not the process in which to do so. Intervener groups like ours have come to the table in good faith expecting an analysis of the evidence regarding the CCF’s performance, not an ideological debate about its fairness. The kinds of things people are complaining of in this process, would, in this context also require an analysis of the costs and benefits of the impugned program. Unfortunately, completion of that analysis is, as BC Hydro has stated, impossible at this time.

Democracies that support free speech are not always comfortable systems because people are not homogenous. We have differing values, ideologies, and beliefs: sometimes widely differing. Those differences are important and, provided they do not hurt others, worth supporting and maintaining. However, our clients’ support for the right of those who have filed their letters of complaint to have them remain on the record in this process does not extend to allowing a number of individuals turn this into a referendum or a backdoor appeal or appeals of BCUC Order No. G-5-17, G-166-17 and/or G-211-18 made long past the deadline to do so. Those Commission decisions were hardly made in a Star Chamber. They were made in the same context as this, an open public hearing and they were widely reported on in the media. One need only Google it for confirmation of that fact.

While we acknowledge that it is unlikely to sway those who have complained about this program on the basis of unfairness and discrimination in this process, we think it prudent to point to two rather salient facts in response.

The first is an important contextual piece: the April 18, 2018 letter of the Honourable Michelle Mungall, M.L.A. Minister of Energy, Mines and Petroleum Resources, in which she set out the Provincial Government’s strategic direction as well as the Crown Utility’s mandate and key performance expectations. This letter specifically cited that BC Hydro was expected to make “substantive progress” on a number of goals including affordability measures: measures we submit would include the CCF. This letter can be found at: <https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/accountability-reports/openness-accountability/2018-2019-bc-hydro-mandate-letter.pdf>.

The second point is that while there is an unprecedented number of individuals writing in to complain of this Pilot, we are here before the Commission representing thousands of British Columbians who belong to or are served by our client organizations: client organizations that strongly support this program in its current format. In the unlikely event that the Commission would be swayed merely by the numbers of those complaining in the manner FortisBC has

suggested, we wish to point out the numbers behind our clients' intervention far outweigh that of the vocal minority. However, as this is not a medieval oath-taking where the party with the most witnesses wins, we trust that the number of letters on the record is an interesting fact but not a determinative one.

Anthony Lo

BCOAPO notes that Anthony Lo failed to comply with the BCUC *Rules of Practice and Procedure* by filing his submissions on November 30, 2019, without requesting an extension of time and without providing reasons for such extension.

Section 11.02 of the BCUC *Rules of Practice and Procedure* prescribes that filings must be submitted on or before a specified filing date. According to section 11.06 of the BCUC *Rules of Practice and Procedure*, whether filed electronically or non-electronically, documents must be received by the BCUC by the specified filing date, unless otherwise directed by the BCUC.

Order G-195-19 (Exhibit A-2) established the regulatory timetable for this proceeding, which required to file submissions on timing, regulatory process, and scope on November 28, 2019.

According to section 6.02 of the BCUC *Rules of Practice and Procedure*, if a party fails to comply with a time limit or filing protocol specified in the rules or by the BCUC, the BCUC may disregard the party's document. Section 4.03 of the BCUC *Rules of Practice and Procedure* allows the BCUC to waive or modify one or more of its rules in exceptional circumstances.

In his submissions, Anthony Lo did not provide a clear position on the appropriate timing for the review of the BC Hydro CCF Pilot but identified seven topics "that should be addressed as part of any review as well as the CCF Year One Evaluation Report". BCOAPO submits that it would not be an efficient use of resources to commence regulatory review at this time, given that better information will be available within less than one year.

Georgina (Georgi) Kirkman

One of the Interested Parties has now filed several comments on the record in this process that make a number of statements that were problematic. What is of concern is that Ms. Kirkman has gone further and put on the record yet another example of such statements, dating from before this process even began. We would not typically take the time to draft a reply to Ms. Kirkman, but while the Commission and many interveners are surely aware of our client groups' long time commitment to programs like low income rates and the CCF and the diligence with which BCPIAC's lawyers have in the past and present represented our clients, the public at large may not be. Regulatory work touches the lives of almost all British Columbians but very few know anything specific about those who intervene on their behalves. As a result, we have reluctantly decided a brief reply is now necessary.

Ms. Kirkman is obviously a woman of strong conviction. She has gone far beyond what most Interested Parties have done in this process. Instead of filing one letter stating her specific objections to this Pilot she has filed five (Exhibits E-45, D-21-1, D-21-2, D-21-3, and D-21-4) including one dated April 15, 2019 (Exhibit D-21-4): long before BC Hydro filed its CCF Pilot Program Evaluation Report for Year One (Exhibit B-1). We note that while all five filings attack the CCF, as of this date Ms. Kirkman has caused to be published on the BCUC website three statements we submit are intended to undermine the CCF in the eyes of this Panel and the public

by making statements that are intended to damage the reputation of our client group BCOAPO and also potentially the BC Public Interest Advocacy Centre as counsel for BCOAPO, ASAP, and our other client groups.

While we do not go so far at this time as to allege that Ms. Kirkman is being deliberately misleading, the effect of her statements is such that it could lead parties to believe that our clients or BCPIAC counsel have acted improperly. Ms. Kirkman is, without evidence, insisting that there is a requirement that BCOAPO poll its an entire membership about the CCF's ratepayer-funded structure. Our clients refute that assertion. A reasonable person would also interpret Ms. Kirkman's statements as allegations that BCPIAC counsel has - in the last BC Hydro Rate Design, the subsequent CCF hearing, this process and in the media - represented to the Commission and others that this payment structure was acceptable to our clients when that was not, in fact the case. We strongly refute this assertion as well.

Ms. Kirkman is not, we note, a member of BCOAPO or the executive group that instruct us. Nor is Elsie Gerdes, the former head of BCOAPO referenced by Ms. Kirkman in D-21-4. Both are third parties to the instructions our clients have given us about this Pilot and therefore neither is in a position to comment on what our clients knew or didn't know or even what BCOAPO processes were necessary or took place in order for our clients to give us instructions.

We trust that we have made our position clear and that no question remains as to our position on our clients' conduct or the conduct of any of the many lawyers who have acted on behalf of BCOAPO et al. in this and other CCF-related processes.

Conclusion

Given the fact that the currently available evidence is insufficient to allow for a full and informed debate of the merits of this program, BCOAPO cannot support proceeding with an evaluation of this program in this context.

If you have any questions, please do not hesitate to contact the undersigned.

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