



January 13, 2020

Sent via eFile

<b>BC HYDRO F2020–F2021 REVENUE REQUIREMENTS EXHIBIT A-28</b>
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**To:** British Columbia Hydro and Power Authority  
Registered Interveners

**Re:** **British Columbia Hydro and Power Authority – F2020–F2021 Revenue Requirements Application – Project No. 1598990 – Oral Hearing Information**

This document provides participants in the above-noted proceeding with information regarding the upcoming oral hearing (Hearing).

Order G-146-19, and as amended by subsequent orders, directed the Hearing to commence on January 20, 2020. Although no end date is indicated, the BCUC Panel anticipates the Hearing to run for no more than five consecutive days, and if necessary, utilize additional days as indicated at the procedural conference held on November 22, 2019. These additional dates are February 24, 25, 28 and March 2, 3 and 4, 2020.

### **WHAT CAN I EXPECT AT THE HEARING?**

The Hearing will generally proceed in the following order:

- The Hearing will commence at 9:00 a.m. on Monday, January 20, 2020 in the BCUC Hearing Room at 1125 Howe Street, 12th Floor, Vancouver, BC. The Panel Chair will make an opening statement and comment on procedural matters for the Hearing. British Columbia Hydro and Power Authority (BC Hydro), followed by Interveners, will then be called upon according to the Order of Appearances.<sup>1</sup> When a participant's name is called, the participant or its counsel or representative comes forward stating for the record who they are and/or whom they represent.
- If any participant has a preliminary matter or motion that it wishes to bring at the commencement of the Hearing, prior to the introduction of evidence, the participant must advise BCUC Counsel of that matter or motion by 4:00 p.m., Thursday, January 16, 2020.
- The BCUC Panel may deal with any preliminary matters or motions prior to BC Hydro's first witness panel.
- Counsel for BC Hydro may then make an opening statement identifying the BC Hydro witness panels and outlining the evidence expected from those panels. BC Hydro counsel will next call BC Hydro's first

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<sup>1</sup> The Order of Appearances and Order of Cross-Examination will be co-ordinated by BCUC Counsel, in consultation with participants. BCUC Counsel is Mr. Paul Miller who can be reached prior to the Hearing at (604) 647-4102 or by email at [pmiller@boughtonlaw.ca](mailto:pmiller@boughtonlaw.ca)

witness panel. The witness panel will be affirmed and will then adopt its pre-filed evidence<sup>2</sup> Following the adoption of the evidence, one of the witnesses may make a short opening statement. **The opening statement should not introduce new evidence and written copies should be provided to all participants at least one business day in advance.**

- Following the opening statement of the witness panel, BC Hydro's witnesses are available for cross-examination. BCUC Counsel cross-examines last. After cross-examination by BCUC Counsel, the BCUC Panel may ask questions.
- Following the questions of the BCUC Panel, BC Hydro's counsel may have some clarification questions for the witness panel in re-examination. This is not an opportunity to supplement evidence or provide new evidence.
- Following the conclusion of any re-examination of the last BC Hydro witness panel, Interveners who pre-filed evidence will be called in an order prearranged with BCUC Counsel. The Intervener's witness panel members will be affirmed, then asked to adopt the Intervener's evidence and be allowed to make a short opening statement. **Once again, the opening statement should not introduce new evidence and written copies should be provided to all participants at least one business day in advance.** Following any opening statement, the Intervener's witness panel becomes available for cross-examination by other parties. BCUC Counsel cross-examines third from last, followed by Counsel for BC Hydro and the BCUC Panel. Counsel for the Intervener may then re-examine for purposes of clarification or explanation only.

## WHAT CAN I EXPECT AFTER THE HEARING?

- When the oral testimony of all the witnesses has been completed, and subject to any filing of responses to outstanding undertakings made or committed to during the Hearing, the evidentiary portion of the Hearing is at an end and the Final Argument phase commences. The timetable for the Final Argument phase is established in Order G-312-19.
- The BCUC Panel, at its discretion, may hold an oral phase of the Final Arguments after the delivery of the written Final and Reply Arguments. The purpose of this phase is to allow the BCUC Panel an opportunity to ask any questions that may have arisen from the written Final and Reply Arguments. Participants are not allowed to reargue their respective positions taken in Final and Reply Arguments during this phase. Nor are participants allowed to comment on the Final or Reply Argument of others during this phase unless in response to a question asked by the BCUC Panel. The BCUC Panel may ask questions of any or all participants in its discretion.

## DEFINITIONS

### Applicant

The Applicant is BC Hydro. The Applicant has the onus of making its case to the BCUC Panel based on all the evidence presented during the proceeding, including evidence presented during the Hearing. Subject to any order the BCUC Panel may make, the Applicant has the choice of how to present its case, what witnesses it wishes to call and the order of presentation of its evidence. The Applicant's witness panels normally follow each other. Exceptions to the usual order may be made where it becomes necessary to accommodate the schedule of an Intervener's out of town witness. In such circumstances BCUC Counsel must first be consulted. BCUC Counsel will attempt to reach an agreement with counsel for the Applicant, but if no agreement can be reached, an application may be made to the BCUC Panel.

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<sup>2</sup> Adoption of evidence means that you confirm under oath that you have read the evidence you filed and that you adopt it as your own. This process does not enable you to repeat the evidence. The BCUC will issue a Pre-filed Exhibit List of the pre-filed evidence that will constitute the start of the public record at the commencement of the hearing.

## **Application**

On February 25, 2019, BC Hydro filed its Fiscal 2020 to Fiscal 2021 (F2020–F2021) Revenue Requirements Application (Application) with the BCUC pursuant to sections 44.2, 58 to 61 and 99 of the *Utilities Commission Act* requesting, among other things:

- (i) approval of a reduction of the Deferral Account Rate Rider from 5 percent to 0 percent effective April 1, 2019;
- (ii) approval of an increase in rates by 6.85 percent effective April 1, 2019;
- (iii) approval of an increase in rates by 0.72 percent effective April 1, 2020; and
- (iv) approval of the F2020–F2021 Open Access Transmission Tariff rates as set out in Table 9-8 of the Application effective April 1, 2019 and April 1, 2020, respectively.

On August 22, 2019, BC Hydro filed an Evidentiary Update to the Application (Evidentiary Update) with the BCUC requesting, among other things, the following amendments to the Application:

- (i) Approval of a decrease in rates by 0.99 per cent effective April 1, 2020; and
- (ii) Approval of the revised F2020-F2021 OATT rates as set out in Table E2 of Appendix E of the Evidentiary Update effective April 1, 2019 and April 1, 2020, as applicable.

## **BCUC Counsel**

BCUC Counsel advises the BCUC Panel on legal matters, including the conduct of the Hearing. BCUC Counsel can also cross-examine the witnesses of BC Hydro and Interveners in order to obtain evidence needed for the BCUC Panel to arrive at a decision. BCUC Counsel usually questions witnesses after all other parties have finished their cross-examination. BCUC Counsel does not play an adversarial role and does not oppose or support either the Applicant or any Intervener. BCUC Counsel is also responsible for any issues related to scheduling of witness panels and the order of cross-examination. BCUC Counsel is available to assist participants who have questions related to the Hearing process.

## **BCUC Panel**

The BCUC Panel hearing the Application consists of Commissioner David Morton, who is Chair of the Panel, and Commissioners Anna Fung, Blair Lockhart and Richard Mason. The BCUC Panel will hear all the evidence and will decide whether or not to approve the Application. During the hearing of the evidence, the BCUC Panel may ask questions of the Applicant, the Interveners and others presenting evidence. The Panel Chair will ensure a fair process and an efficient Hearing. During the Hearing, the Panel Chair may make procedural orders and may limit cross-examination and the duration of presentations.

## **BCUC Staff**

The BCUC Panel has the assistance of economists, accountants, engineers and counsel who provide advice to the BCUC Panel upon request. BCUC staff are also available to assist participants who have questions regarding the Hearing process.

## **Court Reporters**

The BCUC has contracted with Allwest Reporting Ltd. to prepare verbatim transcripts of the oral evidence at the Hearing. Interveners in the Hearing are entitled to receive one hard copy and an electronic copy of each day's proceedings later that same day, at no cost. Interveners are required to make transcript requests in writing to the BCUC by Friday, January 17, 2020. Electronic copies will be available by e-mail or downloading from the BCUC's web site. A copy of the daily transcript of the proceedings will also be available for review in the Hearing Room.

Allwest Reporting Ltd. will also be providing audio on-line broadcasting at this Hearing. Participants should contact the service provider directly for log-on details.

## **Cross-examination**

Cross-examination is the questioning of another party's witness. The Applicant and Interveners have the opportunity to cross-examine the other parties' witnesses (but not their own witnesses or witness panels).

## **Evidence**

Evidence may be in written or oral form. It provides the factual basis for the BCUC Panel's decision. The evidence includes the pre-filed evidence from the Applicant and Interveners, responses to Information Requests, documents filed at the Hearing, the oral testimony of witnesses and written responses to undertakings granted during the Hearing. Participants may sometimes file rebuttal evidence in response to the evidence of another participant.

In this proceeding, BC Hydro has the opportunity to pre-file its rebuttal evidence,<sup>3</sup> which will form part of the "B" class of Exhibits. In its reasons for decision attached as Appendix A to Order G-311-19, the Panel directed that the entirety of the Application be in scope for cross-examination at the oral hearing with the exception of the topics agreed to by all parties for exclusion.<sup>4</sup> As rebuttal evidence is not listed for exclusion, parties will have the opportunity to cross-examine this evidence, if any, at the Hearing.

Oral evidence is usually given under oath. New written evidence can only be filed at the Hearing with leave of the Panel Chair. If requested for cross-examination, any Intervener who has filed evidence is expected to appear at the Hearing to adopt the filed evidence and be available for cross-examination.

## **Examination-in-Chief**

This is the first questioning of a witness by the lawyer or representative who called the witness to testify. Since the evidence will have been pre-filed in these proceedings, the BCUC generally limits examination-in-chief to the adoption of the written evidence and the correction of any errors in the written evidence.

## **Exhibit List**

The Exhibit List is the list of all the documents that have been filed in the proceeding. Documents are to be filed pursuant to the BCUC's Rules of Practice and Procedure. The Exhibit List and the Rules of Practice and Procedure are available on the Application's Proceeding page and the Resources page, respectively, on the BCUC website at [www.bcuc.com](http://www.bcuc.com).

## **Final Argument**

Final Argument is made at the end of the evidentiary part of the Hearing (after all witnesses have testified and all the undertakings have been completed). It is a summary of a party's position on the Application, based on the evidence presented. New evidence cannot be introduced in Final Argument.

## **Hearing Officer**

The Hearing Officer is in charge of all physical arrangements for a hearing. He receives and records all exhibits, administers the oath or affirmation to witnesses and generally contributes to the efficient functioning of the Hearing. Mr. Hal Bemister of Allwest Reporting Ltd. is the Hearing Officer for the Hearing.

## **Interveners**

Interveners are parties to the proceeding who have been granted Intervener status. They have the right to cross-examine witnesses, present their own witnesses, bring motions, and make Final Arguments. Interveners should only cross-examine parties who are adverse in interest to them. In a large hearing, Interveners who have similar interests to other Interveners may adopt the views of those with whom they share similar interests.

## **Re-Examination**

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<sup>3</sup> In accordance with the Regulatory Timetable attached as Appendix A to Order G-312-19.

<sup>4</sup> Order G-311-19, Appendix A, p. 5.

Re-examination provides a limited opportunity for the party calling a witness or witness panel to have the witness clarify or explain matters that have arisen during cross-examination. It is not for the purpose of supplementing evidence or providing new evidence.

## **FREQUENTLY ASKED QUESTIONS**

### **What should I do if I cannot attend on the first day of the Hearing?**

On the first day, BCUC Counsel will call for appearances from the Applicant and everyone who is registered as an Intervener. If you are registered as an Intervener and unable to be present on the first day, you will not be called on in subsequent days for cross-examination, unless you have made other arrangements with BCUC Counsel. If you wish to be active in the Hearing but cannot attend the first day or any other day of the Hearing, you should advise BCUC Counsel.

### **What should I do if I only have questions for one witness panel and don't want to be there for the whole Hearing?**

It is not known in advance how long each witness panel will take so it is difficult to predict when each new witness panel will start. You should advise BCUC Counsel of the witness panel(s) you want to question prior to entering your appearance on the first day. However, BCUC Counsel is not responsible for contacting you to advise you when to attend. You are encouraged to monitor the proceedings by contacting people who are in attendance at the Hearing to see when the witness panel you are interested in might be on the witness stand. BCUC Counsel will attempt to accommodate the scheduling of your cross-examination time, but you should be aware that the timing of witness panels is often a fluid matter once the Hearing starts.

### **Is this Hearing like a trial where the witnesses testify and go through all of their evidence before Interveners can ask questions?**

No. Written "direct" evidence will already have been submitted to the BCUC before the Hearing. This helps to streamline the oral phase of the Hearing. Neither the Applicants nor Interveners go through their written evidence again on the witness stand, except to make any necessary corrections to their pre-filed evidence. When a witness is called to testify at the Hearing, the witness adopts the pre-filed evidence under oath. The written evidence then has the weight of tested evidence. Once the witness takes the stand and adopts his or her evidence with any necessary corrections, and following any opening statement from the witness or witness panel, the next step is to allow Interveners to cross-examine in the case of each Applicant's witness or witness panel and the other Interveners and each Applicant's counsel to cross-examine in the case of an Intervener's witness or witness panel. BCUC Counsel may then cross-examine, followed by questions from the BCUC Panel. Re-examination by the party calling the witness or witness panel then takes place.

### **What happens if I can't attend on the day when it's my turn to ask questions of a witness panel?**

You must make prior arrangements with BCUC Counsel or you may miss your opportunity to cross-examine that witness panel. Although efforts will be made to accommodate the schedules of participants, it may not always be possible given the number of parties in this Hearing. If you are unable to make arrangements for a time to cross-examine that is mutually convenient for you, the Applicant and the BCUC, you will forego your opportunity to cross-examine that witness panel.

### **Can someone else ask questions on my behalf?**

Yes. Your representative can ask questions on your behalf but others cannot. However, it is permissible for Interveners to work together on questions and to have one Intervener ask questions that are of common interest to a number of Interveners. It doesn't matter which Intervener asks the question because the questions and answers become part of the evidentiary record regardless of who asks them.

### **Can I cross-examine someone who hasn't filed evidence?**

The purpose of cross-examination is to test the evidence that is on the record. Anyone who has not filed evidence is not normally subject to cross-examination. A party can request that the BCUC order a person to attend to give evidence or to produce documents but the party must make a motion on notice to the person (or

that person's representative) whose attendance is sought to be compelled and satisfy the BCUC that such an order is appropriate.

**What should I do when I disagree with one of the answers I receive when I am cross-examining?**

Since the witness and the person cross-examining are adverse in their interests (i.e. the cross-examiner is opposed to the position of the witness) such disagreement is to be expected. However, it is not appropriate to argue with a witness during cross-examination or to give your opinion to the BCUC Panel on the answers you are receiving, unless you are seeking to establish that the answers are not responsive to your questions. Your interpretation of the answers of the witness panel and your opinion on them should be saved for the Argument phase of the Hearing.

**What is the difference between cross-examination and argument?**

The purpose of cross-examination is to test the evidence of the witnesses who are testifying. This means the witnesses can be asked questions on their evidence and be challenged on its strength and veracity. Argument comes at the end of the Hearing. The purpose of Argument is to present your views and opinions on the evidence to the BCUC Panel after all of the evidence is heard. Therefore, your personal views, opinions and interpretation of evidence should be saved for the Argument phase of the Hearing.

**I filed written evidence. Do I have to take the witness stand?**

There may or may not be parties who wish to cross-examine you on your evidence. If someone asks to cross-examine you, you must be prepared to attend the Hearing and submit to cross-examination on your evidence. If you decline to attend for cross-examination when a request has been made to cross-examine you, your evidence can be struck from the record or the BCUC Panel may choose to attach little or no weight to your evidence. If you have filed written evidence that is requested for cross-examination, then you are expected to also adopt that evidence under oath at the Hearing. If you do not adopt your evidence under oath, it will remain on the record unless the BCUC Panel Chair grants a motion for it to be struck. However, you should be aware that unsworn evidence has less weight than sworn evidence.

**What if I don't want to swear an oath and would prefer to affirm?**

An oath is a promise to tell the truth, and is usually made while holding the Holy Bible or another relevant religious text. An affirmation is a solemn and formal declaration to tell the truth, which is made in place of an oath. A witness may choose to make an affirmation rather than taking an oath. An affirmation has the same effect as an oath.

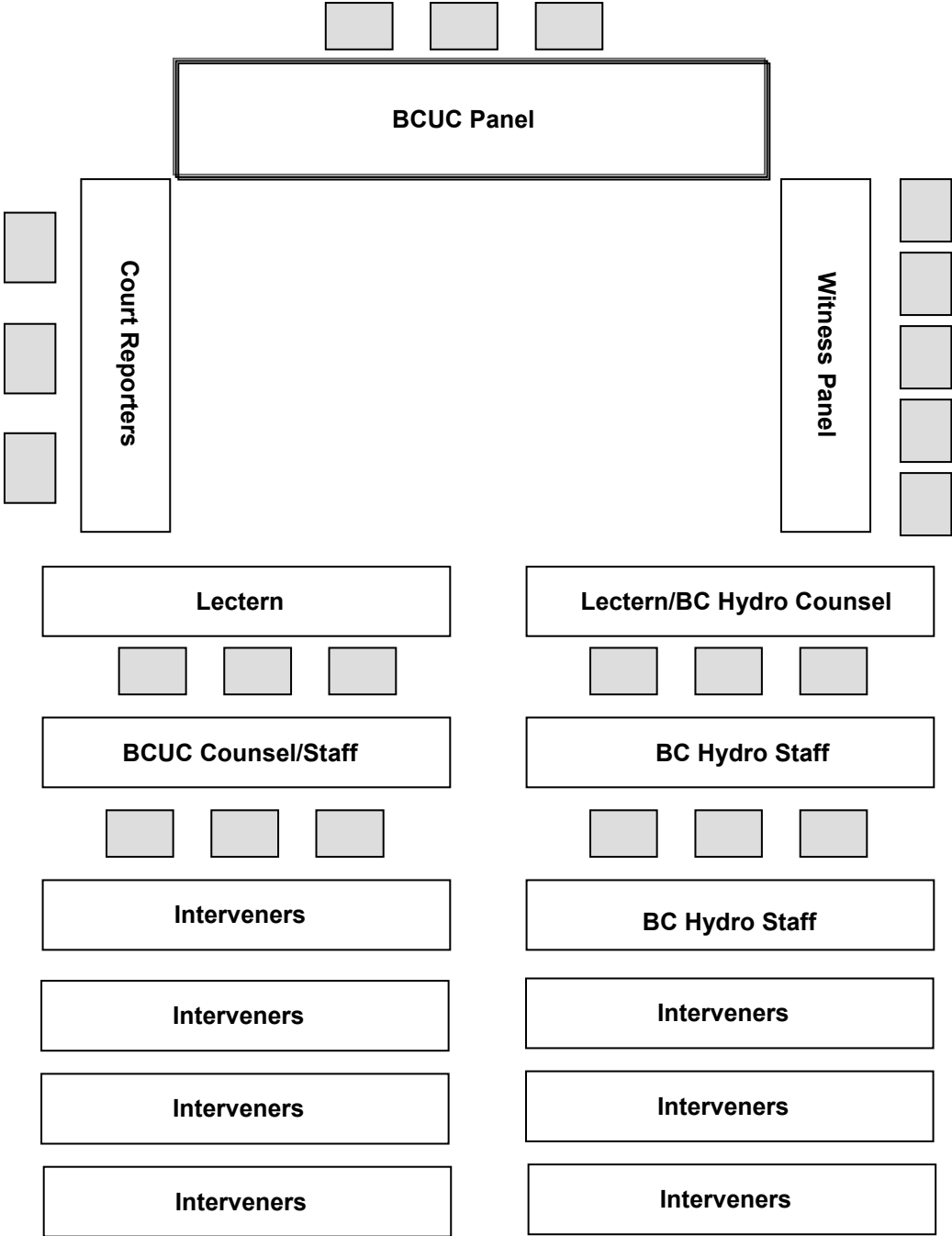
Sincerely,

*Original signed by:*

Patrick Wruck  
Commission Secretary

TL/jo  
Attachment

# HEARING ROOM SEATING CONFIGURATION



Notes:  
 Interveners will cross-examine from the lectern in front of the BCUC Counsel table.  
 When Intervener witnesses are giving evidence, their counsel will use the lectern by the BC Hydro counsel table.