



July 15, 2020

Sent via eFile

**BC HYDRO F2020–F2021
REVENUE REQUIREMENTS EXHIBIT A-38**

Mr. Fred James
Chief Regulatory Officer
Regulatory & Rates Group
British Columbia Hydro and Power Authority
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Re: British Columbia Hydro and Power Authority – F2020–F2021 Revenue Requirements Application – Project No. 1598990 – Panel Request for Comments Regarding Section 3 of Direction No. 8

Dear Mr. James:

In the Panel's letter dated July 6, 2020, the Panel noted its continued concern regarding the timing of British Columbia Hydro and Power Authority's (BC Hydro) revenue requirements applications. In that letter, the Panel stated the following:

It is now approximately 16 months into the 24-month test period and will likely be 17 to 18 months into the test period by the time the final decision is issued for this proceeding. If there are any adjustments made to spending as a result of the final decision, it will be very difficult for BC Hydro to make those adjustments for the time remaining and likely impossible to make them retroactively. Similarly, if there are adjustments to interim rates and those rate impacts are applied to the remaining few months, their impact will be magnified, compared to the effect of an adjustment much earlier in the period.

Not allowing sufficient time to review a revenue requirements application (RRA) contributes to regulatory inefficiency and diminishes the effective role of the regulator, thereby putting both the ratepayer and the shareholder at risk, as noted above.

The Panel acknowledges the requirement provided in section 3 of Direction No. 8 to the BCUC,¹ which specifically states:

In regulating and setting rates for the authority for F2020 and F2021, the commission must ensure that those rates allow the authority to collect sufficient revenue in each fiscal year to enable the authority to achieve an annual rate of return on deemed equity that would yield a distributable surplus of \$712 million.

¹ Direction No. 8 to the BCUC, B.C. Reg. 24/2019, effective February 14, 2019.

The Panel invites parties to provide submissions on the following:

1. Given that it will likely be 17 to 18 months into the test period by the time the final decision is issued for this proceeding, does this timing limit the amount of expenditures that the Panel can disallow for recovery because section 3 of Direction No. 8 requires the BCUC to “ensure” that the rates set for the test period “allow the authority to collect sufficient revenue in each fiscal year to enable the authority to achieve an annual rate of return on deemed equity that would yield a distributable surplus of \$712 million”? [emphasis added]
2. Whether a final decision for this proceeding if issued earlier in the process would make a difference in the amount of expenditures that the Panel can disallow for recovery due to the requirement of section 3 of Direction No. 8.
3. Whether the timing of the decision is irrelevant, and the only consideration is that the approved level of expenditure and cost recovery would have provided the required return if it could have been implemented in a timely manner.
4. The common law notion of “regulatory compact” requires that a utility be provided with the opportunity to earn a reasonable return on invested capital. Is section 3 of Direction 8 simply a restatement of the regulatory compact, substituting a fixed return of \$712 million for a “reasonable return,” or does it afford BC Hydro some additional certainty regarding its return?
5. If, pursuant to the rates set by the BCUC, BC Hydro fails to collect sufficient revenue to achieve the stipulated distributable surplus amount, does that mean that ratepayers must pay the deficiency in the subsequent test period? Why or why not? Conversely, if BC Hydro achieves a distributable surplus that is greater than the stipulated amount pursuant to the rates set by the BCUC, does that mean that BC Hydro must refund to ratepayers the excess surplus in the subsequent test period? Why or why not?
6. Aside from the fact that BC Hydro’s annual return on deemed equity is a fixed dollar amount, whether section 3 of Direction No. 8 changes how the BCUC can regulate and set rates for the test period for BC Hydro compared to an investor owned utility.
7. Certain events initiated by the BCUC, in the course of “regulating... the authority”² could potentially give rise to an expenditure in F2020 or F2021 that is not anticipated in the revenue requirement. Examples of this include: a BCUC directed audit or review; an unanticipated hearing ordered by the BCUC; or an Administrative Penalty. What consideration, if any, should be given to the expenditures that arise from such an event? Does section 3 of Direction 8 require the panel to consider these when setting rates? In the case of an administrative penalty, section 109.5 of the *Utilities Commission Act* (UCA) states: “In setting rates for a public utility, the commission must not allow the public utility to recover from persons who receive or may receive service from the public utility the costs of paying an administrative penalty imposed under this Part.” Does this section of the UCA require a different approach to penalties than other expenditures when considering section 3 of Direction 8?

The Panel requests that these written submissions be included with the submissions requested by the Panel in its letter dated July 6, 2020, according to the following regulatory timetable:

Action	Date (2020)
BC Hydro Comments	Friday, July 24
Intervener Comments	Friday, August 14
BC Hydro Reply	Friday, August 21

² Section 3, Direction 8.

Sincerely,

Original signed by:

Marija Tresoglavic
Acting Commission Secretary

TL/jo