



Allevato Quail & Roy

BARRISTERS AND SOLICITORS

AQR file no. 19-149
Jim Quail
direct (604) 424-8633
email jquail@aqrlaw.ca

September 30, 2020

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3
attention: Commission Secretary

filed online

Dear Mesdames/Sirs:

Re: British Columbia Utilities Commission (BCUC) – Review of British Columbia Hydro and Power Authority’s Performance Based Regulation Report – Project No. 1599045 – Further Process

These are the comments of intervener MoveUP, filed pursuant to Exhibit A-9.

Process to-date and General Prospects

MoveUP commends the Commission for undertaking this initiative. It is a long time since the regulatory process for determining BC Hydro rates has been subjected to a comprehensive examination (if indeed one has ever occurred). The fact that Hydro has recently emerged from a prolonged regime of government-set rate caps and has now completed the public hearing phase of its first “bumper-to-bumper” cost-of-service proceeding in many years looms large in relation to the timing and direction of the appropriate innovations.

The resource material now available for this process consists chiefly of Appendix FF in BC Hydro’s current Revenue Requirements Application, the *Report On The Theory And Practice Of Performance-Based Regulation* authored by Dennis L. Weisman Ph.D., and Exhibit A2-5 in this proceeding, *Performance-Based Regulation: Basic Features and Possible Applications to BC Hydro* by Mark Newton Lowry, PhD, supplemented by the materials presented at the September 8 workshop session.

The Commission and several participants in this proceeding have extensive experience with performance-based ratemaking, going back about a quarter of a century, concerning FortisBC Energy Inc. and its predecessors, and FortisBC Inc. We do not have experience

with versions of multi-year ratemaking for utilities that are not profit-seeking private corporations.

The general characteristics and mechanics of PBR are well-known and unlikely to be controversial. The practical efficacy of PBR, on the other hand and (to a far greater extent) its specific applicability to BC Hydro are questions where there is considerable debate among participants. It is clear that if some version (or perhaps more accurately, some aspects) of PBR are adapted for the regulation of BC Hydro rates in the relatively near term, the customization of that regime to fit the Authority will require careful study. This is particularly so in these exceptionally volatile and uncertain times.

A large proportion of the content of Dr. Lowry's report consists of a description of various features and versions of PBR that were already quite familiar to many participants, and his discussion of the application of these approaches to BC Hydro itself was rather generalized and thin. It became apparent at the workshop that there are significant gaps in his familiarity with Hydro's particular circumstances. At times, his presentation at the workshop seemed more an effort at persuasion than explication.

That being said, we do not call for adding further expert studies to the record, at least for the time being, but suggest that the process make use of what is now available.

The fact that Hydro is only now emerging from a prolonged period of rate-caps and into fuller regulatory oversight by the Commission, and that Hydro has many significant characteristics that make it unsuitable for a simple "off-the-rack" application of established PBR templates, indicate that the "baby steps" strategy identified by Dr. Lowry makes sense, and that the ultimate place where those "steps" might eventually lead should not crystalize prematurely.

The situation calls for an incremental approach. It calls for an approach that is pragmatic and flexible and not categorical.

MoveUP submits that the most challenging aspect of this process is developing clarity about the impact of Hydro's institutional and statutory context on the design of an optimal regulatory framework – whether it is called PBR, COS or otherwise. Mechanisms that rely on financial incentives to utility management may have limited if any value, for instance, given that BC Hydro is not a profit-seeking organization, that its return on equity is a terrain that has been closely regulated by government, that it has a lengthy recent history constrained by fixed or capped rate increases, and that management and executive compensation is subject to the *Public Sector Employers Act*.

Further complicating the task of optimizing the design of BC Hydro's rate-setting framework is the currently unknown and unknowable extent and duration of impact of the pandemic, the currently unknown and unknowable shape of whatever "new normal"

emerges from it, and the rapidly accelerating climate crisis which places low-carbon electrification ever higher on the list of urgent remedial strategies.

1. Scope of the Review – List of Issues

We do not take issue with any of the suggested issues listed by the Commission for the Scope of the Review, except that we suggest that item (c) would better be formulated in a somewhat more balanced manner, *viz.* “What aspects of PBR would help in achieving the above goals? What aspects might hinder achieving them?”

2. Remaining Review Procedure for Current Proceeding

a. Are parties seeking an opportunity for further evidentiary submissions? If yes, in what format?

The answer to this question depends on the extent to which the Commission intends to progress toward the end-point now, mapping a comprehensive re-design of BC Hydro ratemaking. If the Commission’s approach will be one of “baby steps”, monitoring and designing the ongoing development of the regulatory framework as we go, through two or more cycles, on an incremental basis, our accumulating collective experience in the course of that process would provide a much more effective source of guidance than additional filed evidence at this stage.

We submit that the threshold “baby step” issue is test period duration. Dr. Lowry has identified a three-year rate case cycle at the lower end of “key components” of Multiyear Rate Plans [Exhibit A2-7 slide 29]. We suggest that at the conclusion of this Review, the Commission ask BC Hydro to file an application for a three-year cycle with proposed features and mechanisms to adjust rates annually in a manner that is sensitive to Hydro’s circumstances and our volatile times, reflecting the outcome of this proceeding.

We are satisfied that between the existing record and the experience of the Commission and participants, there is a sufficient basis to proceed in that fashion. A detailed examination of the actual mechanics of a modified regulatory regime for BC Hydro would be far more meaningful in a full-scale rates proceeding than in the abstract.

b. Are parties seeking an opportunity for a round of information requests for either of the following?

i. Participant information requests to BCUC Staff Consultant

No.

ii. Participant information requests to BC Hydro

No.

c. Do parties see value in a Streamlined Review Process or an Oral Hearing to review the record further?

- and -

d. Would parties prefer final arguments to be written or oral?

We suggest a written process in the usual format of a final submission from BC Hydro incorporating relevant issues identified by the Commission (along the general lines proposed in Exhibit A-9), followed by reply submissions from interveners, and concluding with a final reply from BC Hydro.

All of which is respectfully submitted.

Yours very truly,

ALLEVATO QUAIL & ROY

A handwritten signature in blue ink, appearing to read "Jim Quail", written over a light blue rectangular background.

per **Jim Quail**
Barrister & Solicitor