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September 30, 2020

**VIA ELECTRONIC MAIL**

British Columbia Utilities Commission  
6<sup>th</sup> Floor, 900 Howe Street  
Vancouver, B.C. V6Z 2N3

**Attention: Marija Tresoglavic, Acting Commission Secretary**

Dear Sirs/Mesdames:

**Re: British Columbia Utilities Commission (“BCUC”) Review of British Columbia Hydro and Power Authority’s Performance Based Regulation Report ~ Project No. 1599045**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the “CEC”). We write in response the Commission’s letter dated September 17, 2020 (Exhibit A-9) requesting submissions from parties on the scope of the further review of BC Hydro’s report and the next steps.

The CEC submits that significant focus should be paid to understanding the goals of regulation, particularly as they may relate to the potential of a PBR process for regulation (i.e. item 1b).

Additionally, the CEC would expect that item 1b of Exhibit A-9 should include discussion on BC Hydro’s role in addressing climate change, as this has become of emerging importance with respect to BC Hydro’s environmental public interest responsibilities.

The CEC considers that the issues itemized by the Commission in Exhibit A-9 are appropriate, and responds as follows:

**1. Scope of the Review – List of Issues**

**a. To what extent does the BCUC have jurisdiction to approve or direct PBR or incentive-based mechanisms for BC Hydro?**

The CEC considers that the BCUC has ample jurisdiction to regulate BC Hydro in regard to setting the methods of regulation and ratemaking.

***b. What should be the goals of BCUC regulation with respect to BC Hydro (e.g. regulatory efficiency, cost control, and/or balancing risk between ratepayers and BC Hydro)?***

The CEC considers that goals of regulation are to provide: fair just and reasonable rates for BC Hydro customers and rates that are not discriminatory; a fair return to the shareholder on its investments; appropriate cost-based rates for the service provided to customers; regulation supporting cost-effective management of BC Hydro, cost-effective customer use of electricity, and assurance of customer service standards meeting the public interest; regulation in the public interest over a number of aspects of BC Hydro's business; openness and transparency with regard to BC Hydro's information sharing with the public and appropriate consultations with affected communities; regulation assuring sufficient regard for the safety and security of BC Hydro customers, BC Hydro's employees and the public; regulation under and compliance with the *Utilities Commission Act* with respect to BC energy objectives and compliance with legitimate government directives; appropriate respect for the honour of the Crown and relations with the First Nations Indigenous peoples of the Province; appropriate respect for the impact of BC Hydro on the environment; and regulation meeting such other Bonbright principles as are applicable to the specific circumstances.

***c. What aspects of PBR would help in achieving the above goals?***

The CEC considers that the above goals referenced are a minor subset of the goals for regulating BC Hydro. The CEC's extensive experience with PBR leads the CEC to conclude that PBR as proposed by the Commission's staff consultant would be dysfunctional in any attempt to impose it into the regulation of BC Hydro and would accordingly not assist in furthering the stated goals. The CEC believes that much can be done to make the BC Hydro Revenue Requirements Application ("RRA") process more efficient and effective for the Commission, intervenors, and the public interest. The CEC would support process focused on this subject and submits that a focus on PBR would be an inappropriate distraction.

***d. Are there unique aspects of BC Hydro regulation that affect the application of PBR to BC Hydro?***

BC Hydro and its shareholder are not motivated by a PBR scheme and a PBR scheme would be a poor substitute for competent regulation of BC Hydro.

***e. Are there unique aspects of BC Hydro regulation that affect the application of PBR to BC Hydro?***

BC Hydro's interactions with its shareholder and government policy are among the most important areas to understand for ensuring that the best results can be achieved from regulation. The BCUC has a unique position from which to encourage productive outcomes in regard to subject matter of concern in the relationship between BC Hydro and government policy. BC Hydro is unique in serving the electricity needs of the vast majority of British Columbia and as a

Crown corporation is uniquely positioned in its focus on the public interests applicable. PBR has little useful to contribute give the unique aspects of BC Hydro.

- f. Should some form of PBR be implemented for BC Hydro? If PBR were to be implemented, is an incremental approach necessary? What is the process and timing to implement that form of PBR?*

PBR should not be implemented for BC Hydro, incrementally or otherwise. No form of PBR should be considered relevant to achieving the regulatory goals of the BCUC in respect of BC Hydro. The proper process and timing would be to defer consideration of PBR for the indefinite future and instead focus on improving the RRA regulation process currently being used.

The CEC is also of the view that item 1f should have sufficient breadth to consider the significant uncertainty associated with the COVID-19 pandemic, and whether or not a return to normal operating conditions is appropriate prior to taking significant steps towards formulaic ratemaking.

- g. What elements of PBR could be added to a more traditional form of rate regulation (i.e. Cost-of-Service) to achieve the BCUC's regulatory goals, and what is the process and timing for implementing those elements?*

While formula metrics for regulating some aspects of BC Hydro might potentially be considered somewhat related to PBR, they are not essentially related to PBR and exist as authorized methods of regulation under the *Utilities Commission Act*. Some of these might be a useful element of discussion in regard to improving the current RRA processes.

## **2. Remaining Review Procedure for Current Proceeding**

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

The CEC does not expect to provide any evidentiary submissions on the PBR subject. If BC Hydro wishes to engage with respect to improving the RRA processes, the CEC would be pleased to consult with BC Hydro and to have the outcome of such discussion become available for review by the Commission.

- 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*
- ii. Participant information requests to BC Hydro*

At this time, the CEC is not seeking an opportunity and has no specific need for further PBR IR questions for either the BCUC Staff Consultant or BC Hydro other than to focus on discussions

with BC Hydro with respect to the goals of regulation for BC Hydro and how best to improve the RRA process.

The CEC would participate in any round of information requests the Commission determines necessary.

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

The CEC does not believe a Streamlined Review Process or Oral Hearing is necessary.

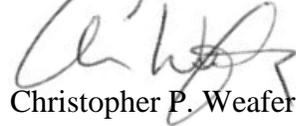
- d. Would parties prefer final arguments to be written or oral?*

The CEC would prefer final arguments to be written.

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

Yours truly,

**OWEN BIRD LAW CORPORATION**



Christopher P. Weafer

CPW/jj  
cc: CEC  
cc: BC Hydro  
cc: Registered Interveners