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VIA E-MAIL

November 3, 2020

British Columbia Utilities Commission
Suite 410 – 900 Howe Street
Vancouver, BC V6Z 2N3

ATTENTION: MARIJA TRESOGLAVIC

Dear Sirs/Mesdames:

Re: The Lake Okanagan Resort – Potential Non-compliance of the Utilities Commission Act – Project Number 1588118 – Extension Request

We are counsel for Lake Okanagan Resort (“**LOR**”) in relation to this matter. We write in response to the BCUC’s letter dated October 19, 2020 with LOR’s submissions.

Our client’s submissions are as follows:

1. The current owners of LOR acquired their interests in LOR in May 2014.
2. At the time the current owners acquired LOR:
 - (a) The owners were not aware of LOR’s lack of regulatory compliance, including that LOR had not applied for or received a Certificate of Public Convenience and Necessity (“**CPCN**”); and
 - (b) Billing practices were in place in respect of electricity services with the strata corporations, including Strata Corporation KAS 316 (“**K316**”).
3. From June 2014 to March 2017, LOR billed Strata K316 (“**K316**”) \$842.09 plus GST for electricity services, in a manner that was consistent with the billing practices in place before the current owners acquired LOR in May 2014.



4. From April 2017 to March 2018, LOR billed K316 \$408.00 plus GST for electricity services.
5. From March 2018, LOR billed K316 based on actual usage at BC Hydro residential rates rather than the flat amount that had been billed previously. This was based on the discovery by LOR personnel of a contract with a commencement date of April 1, 2013 and an expiration date of March 31, 2023 which provided for electricity services to be charged to K316 based on actual usage rather than at a flat rate.
6. K316 rejected LOR's position as to the contractual rate. K316's position was that a later contract, with a commencement date of April 1, 2018 and an expiration date of March 31, 2021 governed the rate for electricity services.
7. LOR continued to issue invoices on the basis of actual usage. K316 refused to pay those invoices.
8. On December 17, 2019, K316 filed a complaint with the BCUC regarding a notice LOR sent to K316 to suspend the supply of services, including electricity, based on K316's refusal to pay LOR's invoices.
9. In February 2020, K316 installed a new meter and changed the lock for the meter room such that LOR could no longer read the meter to determine actual usage.
10. Following further review and receipt of legal advice on the two contracts, LOR accepts that K316's position has merit and therefore proposes an interim rate of \$408.00 plus GST per month for electricity services pending application and approval of permanent rates, electric tariff, and general terms and conditions. Subject to approval by the BCUC, LOR would maintain the interim rate of \$408.00 plus GST per month for the duration of the term of LOR's contract with K316, that is, until March 31, 2021, consistent with K316's position.
11. LOR wishes to work with BCUC staff on an application for the following:
 - (a) Interim tariff pages satisfactory to the BCUC consistent with the above proposal, or as otherwise directed by the BCUC;
 - (b) A permanent rate; and
 - (c) A CPCN.
12. To that end, LOR proposes the following, subject to direction by the BCUC:



- (a) LOR and its counsel have a meeting with BCUC with a view to ensuring compliance. LOR and its counsel will make themselves available for this as early as next week;
- (b) LOR will, through its counsel, submit interim tariff pages to the BCUC within 10 days of the meeting;
- (c) LOR will, through its counsel, submit a permanent rate application by December 18, 2020; and
- (d) LOR will, through its counsel, submit an application for a CPCN at a date to be determined following the meeting with BCUC.

Yours truly,
GALL LEGGE GRANT ZWACK LLP

David Penner
DP/tb