

BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT
R.S.B.C. 1996, CHAPTER 473

And

British Columbia Hydro and Power Authority
F2017 to F2019 Revenue Requirements Application

Vancouver, B.C.
November 23rd, 2017

Procedural Conference

BEFORE:

D. Morton,	Chairman
K. Keilty,	Commissioner
D. Enns,	Commissioner

VOLUME 8

APPEARANCES

P. MILLER L. BUSSOLI	Commissioner Counsel
J. GHIKAS	Counsel for British Columbia Hydro and Power Authority (BCH)
C. WEAFER	Commercial Energy Consumers' Association of British Columbia (CEC)
W.J. ANDREWS	Counsel for B.C. Sustainable Energy Association and Sierra Club of British Columbia (BCSEA-SCBC)
S. KHAN E. PRITCHARD	B.C. Old Age Pensioners Organization, Active Support Against Poverty, Council of Senior Citizen's Organizations of B.C., Disability Alliance B.C., Tenant Resource and Advisory Centre, and Together Against Poverty Society (BCOAPO)
D. AUSTIN	Counsel for Clean Energy Association of BC(CEABC)
L. HERBST	Counsel for FortisBC Energy Inc. and FortisBC Inc.
D. AUSTIN	Counsel for Clean Energy Association of BC(CEABC)
M. KEEN	Association of Major Power Customers of British Columbia (AMPC)
J. McLEAN L. DONG	Zone II Ratepayers Group
R. McCANDLESS	Self
T. VULCANO	Skywind Foundation (SWF)

INDEX

PAGE

NOVEMBER 23rd, 2017 - VOLUME 8

SUBMISSIONS BY MR. GHIKAS	402
SUBMISSIONS BY MR. WEAVER	414
SUBMISSIONS BY MR. ANDREWS	419
SUBMISSIONS BY MS. KHAM	425
SUBMISSIONS BY MR. AUSTIN	426
SUBMISSIONS BY MS. HERBST	429
SUBMISSIONS BY MR. KEEN	441
SUBMISSIONS BY MS. McLEAN	446
SUBMISSIONS BY MR. McCANDLESS	448
REPLY BY MR. ANDREWS	450
REPLY BY MR. GHIKAS	451

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

VANCOUVER, B.C.
November 23rd, 2017

(PROCEEDINGS COMMENCED AT 1:01 P.M.)

CHAIRPERSON: Good afternoon, please be seated. Thank you.

Good afternoon, ladies and gentlemen. My name is Dave Morton. With me are Commissioners Karen Keilty on my left, and Doug Enns on my right.

Welcome to this afternoon's proceeding to consider BC Hydro's submission of November the 8th, which is labeled Exhibit B-23 in the fiscal 2017 to fiscal 2019 revenue requirement application.

In that submission, BC Hydro requests, pursuant to Sections 58 to 60 of the *UCA*, to amend its requests as they relate to fiscal 2019 as follows: to change the requested rate increase for fiscal 2019 from 3 percent to 0 percent, and the request that the open access transmission tariff rates for fiscal 2019 remain unchanged from fiscal 2018.

BC Hydro explains that its amended requests give effect to the B.C. government's recent mandate letter to BC Hydro, which contemplates a freeze of rates while a comprehensive review of BC Hydro is conducted, and while a refreshed plan to keep electricity rates low and predictable over the long term is developed.

1 ask you to please make sure that your submissions are
2 directed to the issues that I've just outlined,
3 together with any other issues that you or any of the
4 other participants identify and that the panel accepts
5 is appropriate for addition to the agenda.

6 In identifying any additional issues,
7 please bear in mind that it's not the purpose or the
8 goal of this conference to discuss the merits of the
9 application but to address the issues that I've just
10 described.

11 After appearances, the order of submissions
12 will begin with BC Hydro and then follow the order of
13 appearances. Once we reach the end of the
14 interveners, beginning with the last intervener to
15 speak, interveners will have a right to reply to the
16 other interveners' submissions in reverse order. And
17 BC Hydro will have the final right of reply.

18 In the view of the panel the issues are
19 most effectively canvassed collectively as opposed to
20 issue by issue, but if anyone disagrees, we are
21 prepared to consider any alternative approach you may
22 suggest during your appearance.

23 I'll now ask Mr. Miller to call for
24 appearances and remind you to please state your name
25 for the record, the party you represent and at that
26 time identify any additional issues you may have.

1 Mr. Miller.

2 MR. MILLER: Thank you, Mr. Chair. The first in the
3 order of appearances is BC Hydro and Power Authority.

4 THE CHAIRPERSON: Thank you.

5 MR. GHIKAS: Good afternoon, Mr. Chairman and
6 Commissioners. My name is Matthew Ghikas, G-H-I-K-A-
7 S. With me counsel is Tarek Ahmed, A-H-M-E-D, and
8 sitting next to me is Fred James, the Chief Regulatory
9 Officer.

10 THE CHAIRPERSON: Thank you.

11 MR. MILLER: Commercial Energy Consumers Association of
12 B.C.

13 MR. WEAFFER: Good afternoon, Mr. Chairman, Members of the
14 Panel. My name is Chris Weafer, spelt W-E-A-F-E-R,
15 appearing for the Commercial Energy Consumers
16 Association of British Columbia. Thank you.

17 THE CHAIRPERSON: Thank you.

18 MR. MILLER: B.C. Sustainable Association and Sierra Club
19 of British Columbia.

20 MR. ANDREWS: Bill Andrews, A-N-D-R-E-W-S, for the B.C.
21 Sustainable Energy Association and Sierra Club B.C.

22 THE CHAIRPERSON: Thank you, Mr. Andrews.

23 MR. MILLER: B.C. Old Age Pensioners Organization et al.

24 MS. KHAN: Good afternoon. My name is Sarah Khan and
25 I'm here with Erin Pritchard and we're representing
26 B.C. Old Age Pensioners Organization, Active Support

1 Against Poverty, Council of Senior Citizens
2 Organizations of B.C., Disability Alliance B.C.,
3 Together Against Poverty Society, and the Tenant
4 Resource and Advisory Centre.

5 THE CHAIRPERSON: Thank you, Ms. Khan.

6 MR. MILLER: Clean Energy Association of B.C.

7 MR. AUSTIN: Good afternoon, panel. David Austin,
8 A-U-S-T-I-N, representing the Clean Energy Association
9 of B.C.

10 THE CHAIRPERSON: Thank you, Mr. Austin.

11 MR. MILLER: FortisBC.

12 MS. HERBST: Thank you, panel. My name is Ludmilla
13 Herbst, H-E-R-B-S-T, here for FortisBC Energy Inc. and
14 FortisBC Inc. Also with me is Dave Perttula, Senior
15 Manager of Rate Design and Projects, and we have no
16 additional issues to add to the list. Thanks.

17 THE CHAIRPERSON: Thank you, Ms. Herbst.

18 MR. MILLER: Association of Major Power Customers.

19 MR. KEEN: Good afternoon, panel. My name is Matthew
20 Keen, spelled K-E-E-N, appearing on behalf of the
21 Association of Major Power Customers of B.C. which I
22 will refer to as AMPCI throughout. With me is Mr.
23 Richard Stout, principal consultant to AMPC. Thank
24 you.

25 THE CHAIRPERSON: Thank you, Mr. Keen.

26 MR. MILLER: Non-integrated Area Ratepayers Group.

1 Sorry, they are not here.

2 Zone II Ratepayers Group.

3 MS. McLEAN: Good afternoon, panel. My name is Jana
4 McLean, counsel for the Zone II Ratepayers Group which
5 consists of the Kwadacha and Tsa Keh Dene Nations, and
6 with me is Linda Dong, primary consultant to the Zone
7 II Ratepayers Group.

8 THE CHAIRPERSON: Thank you.

9 MR. MILLER: Our next appearance, I believe, is on the
10 phone. Mr. McCandless.

11 MR. McCANDLESS: Yes, good afternoon, panel. Richard
12 McCandless, independent intervener.

13 THE CHAIRPERSON: Thank you, Mr. McCandless.

14 MR. MILLER: Mr. Chair, I also understand that we Mr.
15 Vulcano on the phone, although he is not making a
16 submission.

17 MR. VULCANO: Vulcano, Terry Vulcano for the SkyWind
18 Foundation.

19 MR. MILLER: Is there anyone that wishes to appear that I
20 failed to call?

21 That concludes the order of appearances,
22 Mr. Chair.

23 THE CHAIRPERSON: Thank you, Mr. Miller. Mr. Ghikas,
24 are you ready?

25 **SUBMISSIONS BY MR. GHIKAS:**

26 MR. GHIKAS: Thank you, Mr. Chairman. I want to deal

1 with both matters. The first one being the more
2 lengthy of my submissions, but I will keep it brief.

3 **Proceeding Time 1:09 p.m. T03**

4 In terms of the question posed, whether
5 there is a substantive regulatory justification to
6 enable the panel to make a determination, BC Hydro's
7 position in that regard is that there is a substantive
8 regulatory reason, and that it is, in fact, the letter
9 itself.

10 And let me start off by saying, and
11 addressing, right up front the additional matter that
12 you raised, Mr. Chairman, which was with respect to
13 the discretion of the Commission in dealing with this,
14 in the face of the Minister's mandate letter. And I
15 would say, right off, that BC Hydro recognizes that
16 the Minister's mandate is not a binding direction on
17 the Commission such that it would circumscribe the
18 Commission's jurisdiction. It's not a Special
19 Direction. It is a statement of government policy, an
20 expression of government policy. And that the legal
21 effect of that expression of government policy is that
22 it is evidence, and it is evidence that should be
23 considered along with all of the other evidence that
24 the Commission has received in this proceeding, and be
25 weighed as evidence in this proceeding.

26 It will be BC Hydro's position when it

1 comes time to dealing with the substantive issues,
2 that it should be given considerable weight, but
3 recognizing that we're here dealing with procedural
4 issues, I will put that aside for another day.

5 In terms of the reasons why I say that the
6 government's -- Minister's mandate letter is a
7 substantive regulatory justification for the rate
8 freeze, it is that the Commission has, on many
9 occasions, given consideration to expressions of
10 government policy that have not been formalized in the
11 form of a Special Direction. And the Commission has
12 recognized in past decisions that that is in fact
13 appropriate to do, to consider that, along with other
14 evidentiary -- matters of evidence and come to a
15 determination, having considered the full record.

16 I have brought along copies of some of
17 those decisions, and I would like to take you to
18 those. I believe you each have a package of those.
19 Some of them are just -- are complete Orders, because
20 they were relatively brief. There's one or two of
21 them that I just excerpted. But they are in the order
22 that I would like to take you to them.

23 THE CHAIRPERSON: Are these marked as an exhibit?

24 MR. GHIKAS: I don't believe they need to. We could do
25 that, but I'll defer to Mr. Miller.

26 MR. MILLER: Seeing as they're public documents, they

1 don't need to be marked.

2 THE CHAIRPERSON: Thank you. Okay, go ahead, please.

3 MR. GHIKAS: Thank you, Mr. Chairman. The first one is
4 Order G-39-12, and it is in respect of the suspension
5 of retail access. This is a -- if you've got that
6 there, in Recital D, it sets out the circumstances.
7 And what it was is, BC Hydro's application to suspend
8 the retail access program, and the Commission says, in
9 Recital D,

10 "The application states, among other things,
11 that the retail access program is
12 fundamentally flawed. The application
13 encloses a letter from the Minister of
14 Energy and Mines indicating support to
15 suspend the program, and that the provincial
16 government expects to review BC Hydro's
17 industrial tariff over the next two years."

18 And if you turn over to Recital E, the
19 Commission then issued a letter seeking comments much
20 like the circumstances at present. And in G, it
21 indicates that the Commission has reviewed the
22 materials filed and considers the letter of the
23 Minister of Energy and Mines, in that case, to BC
24 Hydro as well, to be a government policy direction.

25 And then made its determination in item
26 number 1 in that regard, based on having considered

1 the government's policy direction from the Minister of
2 Energy and Mines. And so you have a situation where a
3 Minister's letter, much like this one, was given
4 significant weight in the Commission's overall
5 determination.

6 And if you turn over the page, at page 1 of
7 Appendix A, the very last two lines is the lead-in to
8 the Minister's letter in that case. It says:

9 "The Minister of Energy's opinion on the
10 retail access program is a November 21st,
11 2011 letter to the Chair of the BC Hydro
12 board of directors..."

13 **Proceeding Time: 1:14 p.m. T4**

14 Much like this case, the letter is attached as
15 Appendix D to the application. And in it Mr. Coleman
16 states that, and it goes on from there, the underlined
17 portion says,

18 "To this end, I am directing BC Hydro to
19 extend the suspension of the program until a
20 comprehensive review of industrial
21 electricity policy is complete."

22 And if you go down to the determination, you see how
23 the Commission dealt with that direction, and the
24 Commission stated that,

25 "In the Commission's view, it is the letter
26 from Minister Coleman that has the most

1 bearing on the Commission's decision as it
2 is a direct statement of government policy.
3 The Commission is guided by government
4 policy in its decision making. However, the
5 Commission does see merit in the full
6 exploration of the concept of retail access,
7 and notes the support of it at least three
8 stakeholders for the program. Given that
9 the government's desire is to spend the
10 retail access program pending an overall
11 review of BC Hydro's industrial service over
12 the next two years, the Commission suspends
13 the retail access program for a maximum of
14 two years."

15 And it goes on from there.

16 And so, what you have here is the
17 Commission deciding that the program had merit, but
18 there was a clear policy directive that also weighed
19 into the consideration. And in that case, provided
20 the substantive regulatory justification for delaying
21 or suspending the retail access program.

22 The second case in the pile that I
23 provided, Mr. Chairman, is a -- it's the first five
24 pages of an excerpt from Order G-26-04 and the
25 accompanying reasons. And this is in respect of BC
26 Hydro's application for a net metering rate, rate

1 schedule 1289, and it's from March 10th, 2004. And
2 you'll see the first order is indicating that the rate
3 schedule was approved. But if you go over the page,
4 in the background section of the reasons on page 1 of
5 Appendix A, you'll see the background. And the
6 background is that the net metering application in and
7 of itself had its origins in a policy statement. And
8 in that case, it would be the 2002 Energy Plan of
9 government, and particular policy actions that were
10 set out in that plan that were not legislated. But
11 you'll see in the second paragraph, part way down the
12 Commission states that,

13 "The Commission agreed that policy action
14 number 20 makes a clear directive for
15 utilities to develop policies such as net
16 metering to support the voluntary goal of
17 acquiring 50 percent of new supply from B.C.
18 Clean Energy over the next 10 years."

19 And it goes on. There are references to the policy
20 again on pages 2 and 4 as well, but that really
21 captures the point that I'm trying to make here, which
22 is this is another instance where the policy action
23 provided by government provides the substantive
24 regulatory justification for even approving and
25 considering an application regarding net metering.

26 The next case I don't need to spend too

1 much time on, but it is Order G-43-08.

2 **Proceeding Time 1:18 p.m. T05**

3 It's an Order approving a settlement, a negotiated
4 settlement agreement, for the 2008 standing offer
5 program. And I don't need to spend too much time on
6 this, but you'll see in Recital B that it's referring
7 to the Policy Action number 11 of the 2007 Energy
8 Plan.

9 And it's really just here, and I've
10 included it in the package, just as a reminder that
11 although the standing offer program finds itself in
12 the *Clean Energy Act*, it wasn't there to begin with,
13 and that the origins of that program and the
14 regulatory process and the Orders that came out of
15 that approving the rates, were founded and grounded, I
16 should say, in government policy.

17 The next decision is Order G-4-09. And
18 it's with respect to net metering as well, the
19 application by BC Hydro for approval to reprice net
20 metering services. And you'll see in Recital D there
21 is a reference to Policy Action number 11 and what
22 this -- what the Commission was doing in this case is
23 essentially trying to determine how to interpret two
24 words in that Policy Action. It's whether or not the
25 pricing was generally consistent with the standing
26 offer program in that case. And so you really see

1 whether implicitly or explicitly in this case the
2 import that the Commission is placing on those policy
3 statements. And you'll see that again in Appendix A
4 on page 1, starting in the third paragraph. There is
5 a reference to the Energy Plan and the creation of the
6 standing offer program, and then the following
7 paragraph, a reference to the Policy Action that's
8 being interpreted in the decision as to whether or not
9 -- and you'll see midway down that paragraph the
10 Commission is saying,

11 "The Commission interprets "generally
12 consistent" as meaning that the two rates
13 are of similar magnitude and are not biased
14 toward either source of supply."

15 So the Commission is giving weight to the policy and
16 trying to give effect to its intent.

17 The final decision in the bundle is Order
18 G-34-08, and it's with respect to an application by BC
19 Hydro for reconsideration of Orders number G-111-07,
20 G-130-07, G-10-08, and certain directions in the 2007
21 rate design application Phase 1 decision. And as the
22 Commission will recall, in the original rate design
23 decision from which this reconsideration was taken,
24 there were Orders made with respect to rate
25 rebalancing. And subsequent to the Commission issuing
26 its decision, BC Hydro received a letter from the

1 Minister indicating the Minister's intent to introduce
2 legislation to ensure that those rate rebalancing
3 orders did not take effect. And you'll see, if you
4 turn to page 2 of the Order, and Recital H, you see
5 the reference to that letter, where the Minister of
6 Energy, Mines, and Petroleum Resources is writing to
7 the Chair of BC Hydro, much like in the current
8 circumstances.

9 **Proceeding Time 1:22 p.m. T06**

10 And then in Recital I the Minister is also
11 stating that they are intending the legislation to
12 apply retroactively. And if you go over to page 4 of
13 the Order -- sorry, page 5 of the Order, you'll see
14 there's further discussion of the Minister's letter in
15 Recitals M and Q, and in Q particularly, the
16 Commission says that it has reviewed the
17 reconsideration application, the interveners'
18 submissions and BC Hydro's reply submission and
19 considers that given the changed circumstances
20 resulting from the Minister's letter, the relief
21 requested by BC Hydro ought to be granted.

22 So those are just some decisions, Mr.
23 Chairman, that demonstrate, if I can sum up, that
24 government policy can, in and of itself, be a
25 substantive regulatory justification. And it comes
26 about and it's considered in the context of all of the

1 evidence. Doesn't circumscribe the Commission's
2 jurisdiction, but it is evidence, and these are
3 examples of circumstances where it was indeed given
4 significant weight, and it will be our submission at
5 the end, when we get to the substantive arguments,
6 that that is indeed what we would be doing in these
7 circumstances.

8 So with that, I will turn to the second
9 issue, and that is whether additional review processes
10 such as Information Requests should be undertaken or
11 whether the panel can move straight to final
12 arguments.

13 BC Hydro is agreeable to any process that
14 the Commission sees as appropriate. Our submission is
15 that the Commission could reasonable proceed to final
16 submissions on this point, and I say that for three
17 reasons.

18 First of all, the vast majority of BC
19 Hydro's revenue requirements application is unaffected
20 by the request. The revenue requirements themselves
21 remain as originally proposed and it's supported by
22 evidence that's already been filed. The expenditures
23 scheduled for demand-side management expenditures also
24 remains the same.

25 And so, as I just articulated, the basis
26 for the amendment is a narrow one, and it is simply

1 specific issues raised which, as I say, are very
2 narrow, given the nature of the direction, and the
3 fact that the implications flow from Direction Number
4 7.

5 So, with that, I will sit down and wait to
6 hear what my friends are saying, unless there is any
7 comments or questions from the panel.

8 THE CHAIRPERSON: Thank you, Mr. Ghikas.

9 MR. GHIKAS: Thank you.

10 THE CHAIRPERSON: Thank you. Mr. Weafer.

11 **SUBMISSIONS BY MR. WEAFER:**

12 MR. WEAFER: Thank you, Mr. Chairman. I'd like to first
13 deal with -- in terms of question 1, and Mr. Ghikas's
14 precedents with respect to the Minister's letters, or
15 comments from government, I note that in the first --
16 all of the -- until the last one, they were letters on
17 the record when the proceeding occurred, and the
18 parties were conscious of the government's position
19 when the proceedings were ongoing.

20 With respect to the last one, which dealt
21 with the rate design and reconsideration application,
22 there the letter told the Commission there is going to
23 be legislation, and therefore the Commission took that
24 the government was going to act under its legislative
25 authority, and made the decision.

26 So just -- I've only seen these as Mr.

1 Ghikas appeared, but I just would highlight that when
2 the letter is there in the process, all parties can be
3 aware, and can take it into account in their
4 submissions.

5 The one that was done after process, as I
6 say, was the government indicating it was going to
7 legislate. And that's relevant to this consideration
8 of question 1 for a couple of reasons, in terms of
9 whether the amended application of BC Hydro contains
10 substantive regulatory justification to enable the
11 panel to make a determination.

12 The Commission is either making its
13 determination in terms of something from the
14 government, either through Section 3, a Direction, or
15 under the rate-making powers under Section 58 to 60.
16 Here, it's pretty clear, the government elected not to
17 give the Order in Council, and therefore there is --
18 the Commission is acting under its discretion, under
19 the rate-making powers. And there it does have a
20 broad discretion to consider what it believes is
21 relevant.

22 And we would agree with BC Hydro that the
23 Minister's letter is not only relevant but it should
24 be given heavy weight by the Commission in making the
25 determination. But we would say that at this point in
26 time the Commission doesn't have a sufficient record

1 to properly make the determination. And in moving to
2 what will be required to do that, in the submission of
3 the CEC, there is a need for a round of Information
4 Requests, which the companies acknowledge can occur.

5 And the concern the CEC has in looking at
6 the mandate letter, which is -- it might be worth
7 taking a look at while I'm -- the mandate letter --
8 and to be clear, the CEC is recognizing we're dealing
9 with the test period of the revenue requirement and so
10 when I make these comments it's focused on what the
11 impacts may be during the test period. And if we look
12 at page 2 of the government's mandate letter, even
13 within the bullet point dealing with the rate freeze,
14 that would freeze BC Hydro rates and develop a
15 refreshed plan to keep electricity rates low and
16 predictable over the long term while making
17 significant investment to expand the system and
18 maintain aging infrastructure.

19 So even within the freeze paragraph there
20 are commitments to investments that are being put upon
21 BC Hydro and we don't know to what extent these new
22 directions will have any impact on the test period.
23 We recognize the caps are in place, but we don't know
24 if the \$140 million which is proposed to being
25 deferred as a result of the freeze is all that will
26 occur in the test period as a result of the BC Hydro

1 meeting the obligations under the mandate letter.

2 **Proceeding Time 1:31 p.m. T08**

3 We just don't know and we can only speculate. But
4 given that we had a fairly lengthy regulatory
5 proceeding over the past year and a bit, looking at BC
6 Hydro, looking at its cost during the test period, as
7 ratepayers we are concerned that there may be costs
8 within the test period arising, and as I said, there's
9 nine bullet points here. I'm not going to go through
10 them all, but there are requirements, operational
11 requirements, staffing requirements, created by the
12 mandate letter, and we would appreciate an
13 opportunity, and we think the Commission shouldn't be
14 paying attention to and approving this without some
15 understanding if there are other costs arising in the
16 test period as a result of this new direction, you
17 will not be exercising your jurisdiction without a
18 full picture of the impact of the mandate letter.

19 We don't think the IR process needs to be
20 lengthy or detailed. We also expect that in many
21 cases BC Hydro will say, "We don't know yet," or "It's
22 being assessed," but at least there will be a record
23 on these fairly substantive commitments and
24 obligations of the utility which ultimately ratepayers
25 will pay for.

26 And affordability by deferability is not

1 affordability. So we would like to have a sense of
2 whether there are other costs that which will arise as
3 a result of the mandate letter. So we say yes, give
4 it weight, but give it weight that it may create other
5 obligations on the utility that ratepayers may be
6 responsible for.

7 Ultimately the concern approving the
8 application without turning your mind to those other
9 factors is, are you by implication approving those
10 other costs without discussion or any pursuit of what
11 they may be.

12 With respect to the timing of the IRs,
13 that's a tight timeline. CEC does have other
14 regulatory processes ongoing now, as do others. I'm
15 not aware of the urgency of the determination, and
16 perhaps BC Hydro can speak to that. Because that
17 timeline is a bit tight. And I won't put an
18 alternative up because I don't know if there are some
19 timing issues for BC Hydro, but if there are, we would
20 ask that the IR process be accommodative of those, but
21 also accommodative of the time pressures on
22 interveners.

23 THE CHAIRPERSON: Could you give us some sense of how
24 much time you think you would require?

25 MR. WEAFFER: Can you give me one minute to speak to the
26 person who will be very active on that?

1 THE CHAIRPERSON: Absolutely.

2 MR. WEAVER: Thank you.

3 We're not asking for much. Even towards
4 the end of next week would get us through another
5 process we're dealing with. So December 1st for IRs
6 would be a commencement date and then work from there.

7 THE CHAIRPERSON: Thank you.

8 MR. WEAVER: We prefer not to be filing arguments
9 December 25th if that's possible, but we'll wait for
10 your direction.

11 THE CHAIRPERSON: Fair enough. And you're okay with the
12 amount of time between the IRs, which I understand is
13 the response on December 8th and Hydro's submission on
14 the 12th and then your submission would be on the 15th.
15 Are those time intervals, the number of days --

16 MR. WEAVER: Certainly having a few more days with
17 respect to responding to BC Hydro's submission would
18 be preferable in terms of turning around a reply.

19 THE CHAIRPERSON: Thank you.

20 MR. WEAVER: Those are my submissions, thank you.

21 THE CHAIRPERSON: Thank you, Mr. Weaver.

22 **SUBMISSIONS BY MR. ANDREWS:**

23 MR. ANDREWS: Good afternoon, Members of the Panel.

24 BCSEA and the Sierra Club will take the position that
25 the rate freeze is not warranted and I'm explaining
26 this as context, not arguing the point. But they will

1 So, it's not up to me to say what evidence
2 Hydro should put on the record, but certainly my
3 clients will say that in the absence of that evidence,
4 then the Commission ought to deny the application.
5 And if there is an opportunity for information
6 requests, then number one information request from my
7 clients would be how does Hydro plan to clear the
8 deferral account balances?

9 To put this in context and back to the
10 mandate letter, I submit that there is no logical
11 connection whatsoever to the Minister's statement of
12 intention to review Hydro's finances, and a rate
13 freeze. It's like I've got a major problem managing
14 the balance on my credit card, and so what I'm going
15 to do is stop making installment payments and figure
16 out how I'm going to deal with my debt problem. That
17 is not a logical approach.

18 And in my submission, if Hydro wants to
19 make the case that it is prudent to have -- and just
20 and reasonable to have a rate freeze, then it needs to
21 provide the evidence about how it's going to deal with
22 the revenue requirement in a way that doesn't harm
23 future ratepayers.

24 To respond to the orders that my friend has
25 provided to you, as I understand Hydro's position,
26 it's that the Commission is not bound by the mandate

1 letter, and so I am not going to disagree with that,
2 but I do also want to distinguish, in certain
3 respects, the orders that my friend referred to, and
4 Mr. Weafer already noted one major difference is that
5 these other -- the first three of them were ones where
6 the Minister's letter was on the record for the
7 parties to deal with in the course of the proceeding.
8 And I would also say going through them for G-26-04
9 the net metering approval, there was a written
10 hearing. So there was evidence, there was argument
11 that the Minister's letter -- or the energy policy,
12 rather, was part of the evidence that the Commission
13 took into account, and properly so.

14 So, similarly in G-43-08, and the
15 interpretation of the net metering pricing, there was
16 a written hearing -- or there was a hearing, and so
17 the Commission could take into account the
18 government's intention amongst all the other evidence.

19 **Proceeding Time 1:40 p.m. T10**

20 And in G-04-09, essentially the same thing.
21 There was a hearing and the government policy was part
22 of the evidence that was considered.

23 And then G-34-08, to do with the
24 reconsideration and the rate rebalancing, that's, in
25 my submission, totally different than the current
26 situation. Because that was a situation where the

1 Minister had said that the government intends to
2 legislate with retroactive effect. And in our case
3 the Minister has most conspicuously not stated that
4 the government intends to legislate. Instead it has
5 indicated that it is leaving the merits of this
6 proposal to the Utilities Commission.

7 In terms of the process going forward, in a
8 sense I think the timetable depends on the approach
9 that the Commission intends to take to the
10 application. In my submission, the application raises
11 the question of how BC Hydro intends to clear the
12 balances in the deferral accounts and the rate
13 smoothing account. And that, in my submission, is a
14 major policy issue, and would warrant a full
15 evidentiary record, and quite likely an oral hearing,
16 to hear from BC Hydro senior executives about how they
17 plan to deal with this major financial problem in the
18 context of the rate increase, and rate freeze, that is
19 before the Commission to determine.

20 If the Commission adopts that approach,
21 then the time frame would correspond, and in that
22 context I would think that information that a typical
23 schedule, subject to hearing reasons why there may be
24 a need for expedition, would be at least two weeks
25 between the steps in the proceeding, to allow people
26 to participate and consider their contributions.

1 If the Commission is going to adopt a
2 summary-type proceeding approach, then in a sense, as
3 I said earlier, that's -- my clients don't disagree
4 with that, because in their submission the application
5 is not sufficiently supported by evidence, so that
6 would be the gist of their argument.

7 But if that is the approach that the
8 Commission takes, then my submission would be that
9 there should be at least one week between the steps in
10 the procedure; one week between when the Commission
11 issues its procedural decision, and when interveners
12 file Information Requests, and one week, et cetera,
13 down the -- down through the timetable.

14 Subject to any questions, those are my
15 submissions.

16 THE CHAIRPERSON: Mr. Andrews, your suggestion of an oral
17 hearing, would you -- is it something that you would
18 present evidence at, or provide an expert? Or you
19 just want to cross-examine BC Hydro?

20 MR. ANDREWS: I haven't fully thought through whether my
21 clients would have an expert. My initial thought is
22 no, that Hydro would have to make its case that it has
23 a credible plan to eliminate the balances.

24 THE CHAIRPERSON: Okay.

25 MR. ANDREWS: And that that would be a proper subject for
26 cross-examination.

1 THE CHAIRPERSON: Okay. Thank you, sir. Any other
2 questions? No. Okay. Thank you, sir.

3 Ms. Khan?

4 **SUBMISSIONS BY MS. KHAN:**

5 MS. KHAN: We don't see evidence of a cost of service
6 basis for the rate freeze, for F2019. We have been
7 putting, as you know, significant effort into trying
8 to get some rate relief for low income residential
9 ratepayers of BC Hydro's. The low income rates or
10 lifeline rates have yet to be ordered.

11 So in the circumstances, low income
12 ratepayers can't afford to say no to a rate freeze,
13 and therefore can't really afford in this case to
14 stick rigidly by the principle of cost of service
15 regulation. However, we understand that for reasons
16 set out by Mr. Andrews quite clearly, that the
17 Commission may require BC Hydro to provide further
18 evidence in support of its application for a rate
19 freeze, and if the Commission does require BC Hydro to
20 provide such evidence, then we intend to ask
21 information requests about the evidence, and we'll
22 determine our position ultimately on the rate freeze
23 application after that time.

24 **Proceeding Time 1:45 p.m. T11**

25 In terms of the timeline, should you order
26 further process, like an information request and final

1 submissions process, then we also would like to have
2 at least one week to prepare those things. And that's
3 all I have to say.

4 THE CHAIRPERSON: Thank you, ma'am.

5 Mr. Austin.

6 **SUBMISSIONS BY MR. AUSTIN:**

7 MR. AUSTIN: I'd like to respond to question number 1 in
8 Exhibit A-31, and it says:

9 "...where the amended application for BC Hydro
10 contains substantive regulatory
11 justification to enable the panel to make a
12 determination."

13 And what's interesting about BC Hydro's application is
14 that if you look at Exhibit B-23, and it's the second
15 paragraph that says -- and I'm leaving the first part
16 of the sentence out, it says:

17 "...which contemplates a freeze of rates while
18 a comprehensive review of BC Hydro is
19 conducted, and while a refresh plan to keep
20 electricity rates low and predictable over
21 the long-term is developed."

22 In terms of whether there's substantive
23 regulatory justification to enable to make the panel
24 determination, we're missing half the equation. The
25 part that we're missing, and I'd like to hear from BC
26 Hydro is what sort of review is going to be undertaken

1 in this one year period. And if we go to Attachment 1
2 of Exhibit B-23, page 2, it says:

3 "As the Minister responsible for BC Hydro, I
4 expect that BC Hydro will work with the
5 Ministry of Energy, Mines, and Petroleum
6 Resources to..."

7 It just says "work with",

8 "...conduct an immediate and comprehensive
9 review of BC Hydro's activities,
10 performance, and organizational structure to
11 identify potential efficiencies that could
12 benefit ratepayers and ensure that the
13 organization is positioned to deliver on BC
14 Hydro's objectives and government
15 priorities."

16 That's all we know about this review.

17 And from the Commission's perspective, it's
18 going to be pretty difficult to make a decision in
19 relation to whether there should be a one-year rate
20 freeze without at least having some information about
21 what's going to happen in terms of the review.

22 That's just in the review. Then also in
23 that mandate letter, two paragraphs above it says,
24 "Freeze BC Hydro rates and develop a refresh
25 plan to keep electricity rates slow and
26 predictable over the long-term, while making

1 significant investments to expand the system
2 and maintain aging infrastructure."

3 So what's the difference between the refresh plan and
4 the review? So it would be very helpful if BC Hydro
5 could explain what the difference is between a refresh
6 plan and a review, and also in terms of the review,
7 who, what and when. We know the why. Because the
8 mandate letter seems to indicate that the rates should
9 be kept low and predictable for the long term.

10 The other issue that you have to wrestle
11 with is, BC Hydro is a very capital intensive company.
12 And as Mr. Weafer indicated, the applications with
13 respect to the test period, so for the most part
14 commitments with respect to capital improvements for
15 an aging system have already been put in place. And
16 in the broader context, since it's a capital intensive
17 system, there's very little BC Hydro can do to reduce
18 rates and keep them low over the long-term because of
19 the capital intensive nature of the system and its
20 age.

21 **Proceeding Time: 1:50 p.m. T12**

22 So that's why it would be helpful to get
23 some idea of what this review is going to do, what the
24 refresh is going to do, given the constraints that BC
25 Hydro has. And metaphorically BC Hydro could tear up
26 all its IPP contracts, fire all its employees and

1 there would hardly be much of an impact on rates over
2 the long-term because of the capital intensive nature.
3 The plan is to spend another 20 billion, as I
4 understand it, over the next 10 years to keep BC
5 Hydro's aging system properly functioning. So the why
6 or the how still needs to be explained in terms of the
7 request for this one-year rate freeze.

8 The second question in Exhibit A-31 relates
9 to additional review process. The Clean Energy
10 Association has no position on that. Other people
11 have come forward. What the Clean Energy Association
12 of B.C. would like is just an explanation of what is
13 going to happen during this one-year period.

14 And the final question that the panel has
15 posed is whether the panel can follow the ministerial
16 directive. It should take it into consideration as BC
17 Hydro said and other parties have said, and in terms
18 of weight that is just only something that the panel
19 can determine.

20 Those are my submissions.

21 THE CHAIRPERSON: Thank you, Mr. Austin. Thank you, sir.

22 Ms. Herbst?

23 **SUBMISSIONS BY MS. HERBST:**

24 MS. HERBST: Thank you. And I'll of course address the
25 panel's questions in order.

26 In responding to the first question my

1 response picks up on what other interveners have said.
2 My response to it is in two parts. And I'll get to
3 the detail, but just to outline to start off, in our
4 position the amended application from BC Hydro does
5 not provide sufficient -- and I use the word that Mr.
6 Weafer used as well, sufficient regulatory
7 justification for approving the zero percent rate
8 increase for fiscal 2019.

9 We certainly agree that the mandate letter
10 can be taken into account as evidence, but it's not in
11 and of itself determinative, both in terms of the fact
12 that the Commission does have discretion to consider
13 other matters and because in and of itself it doesn't
14 say enough, we say, to justify the zero percent rate
15 increase.

16 Now, in saying that this is not at all
17 intended to be critical of BC Hydro or the material
18 it's put forward on November 8th. Of course BC Hydro
19 faces the awkward situation of a mandate letter that
20 came well after the application was filed in 2016, and
21 evidence and arguments were exchanged. And we're
22 certainly to here to advocate in favour of a rate
23 increase if there is a good regulatory justification
24 not to have one.

25 And that brings me to the second point that
26 I want to cover in answering question one, and it ties

1 into our response to question two as well, which is
2 that in our view BC Hydro should be given a further
3 opportunity to file material to provide and round out
4 the record and provide the additional justification
5 that we say is lacking. At the very least we'd say
6 that there should be an opportunity for IRs to draw
7 out that additional information. But as I'll get to,
8 we've got a few suggestions and one of them has been
9 picked up on by Mr. Austin as well, it may be helpful
10 for a filing that precedes the IRs in order to
11 structure the discussion of it further.

12 So returning to my first point, which is
13 that in our view there is not a sufficient regulatory
14 justification right now for approval in any event of
15 the zero percent rate freeze. We say that for a few
16 reasons, and this will echo in part what others have
17 said. But one important thing to remember is that --
18 and, again, this goes to the awkward position into
19 which BC Hydro was placed given the timing of the
20 mandate letter.

21 **Proceeding Time 1:55 p.m. T13**

22 Up to that point, up to the point of the
23 mandate letter and indeed up to November 8th BC Hydro
24 had made a strong argument that its evidence supported
25 a 3 percent rate increase for fiscal 2019, and its May
26 2017 written argument, understandably, said on page 1

1 that BC Hydro's evidence makes a compelling case for
2 granting the approvals sought in the application, and
3 of course, among the approvals sought was the
4 permanent 3 percent rate increase for fiscal 2019.

5 The evidence also seemed to support that
6 the increase might well have been more given the
7 shortfall from the other caps in prior years had there
8 not been a 3 percent cap in Direction No. 7.

9 So based on the record as it stands, is an
10 evidentiary matter, and Ms. Khan suggested this as
11 well, a zero percent rate increase wouldn't allow the
12 recovery of BC Hydro's cost of service, so contrary to
13 ordinary regulatory principle.

14 Now, of course, all that's changed since
15 the 2017, May 2017 argument is the mandate letter. Or
16 that's what the record presently would suggest, that
17 that's the only change. There might be more, and
18 again, we'd like to leave open the opportunity for
19 that to be brought forward by BC Hydro or explored.

20 Now, I don't mean to diminish the
21 importance of a mandate letter, and certainly we would
22 say that a government letter should be given
23 consideration. We agree entirely with BC Hydro's
24 position that it's evidence, and it might -- a
25 government letter might justify a new rate request on
26 occasion, certainly. However, just a few points on

1 that.

2 While government letters can be meaningful,
3 in relative terms where there is a direction on the
4 same subject matter, they are a bit less meaningful
5 than otherwise. And of course here there is a
6 direction, a formal direction, on the same subject
7 matter, Direction No. 7, which has a cap of 3 percent
8 for fiscal 2019. And as has been said earlier today
9 and as is evident, the government didn't chose to go
10 back to the direction, or issue a new direction to
11 lower the cap, it communicated a lot less formally
12 than that. It did it by way of a letter and it did it
13 by way of a letter to BC Hydro rather than to the
14 Commission.

15 It's also a letter -- its letter is also
16 framed, as BC Hydro said on page 2 of its November 8th
17 letter, as a request. So it doesn't have quite the
18 directive language that seems to flow from some of the
19 other language quoted in the prior orders that were
20 brought forward today.

21 The other element of this is that in the
22 mandate letter, the government chose to communicate
23 less clearly than it might have had it expressly gone
24 into a direction and lowered the cap. So the
25 reference to the rate freeze in the August 24th mandate
26 letter is fleeting at best. It's embedded into an

1 item that deals with other matters as well, which
2 seems to be different from some of the past
3 correspondence. It doesn't mention a particular year
4 for the rate freeze to start, though perhaps by
5 implication it's the next one that could be dug into.
6 And this goes I think a bit to Mr. Austin's point as
7 well. It mentions work with the Ministry to achieve a
8 rate freeze, but we don't know the status of that work
9 and the letter doesn't really spell out the full
10 policy or its effect.

11 So again, in our view, certainly a mandate
12 letter can be considered as evidence, but there is
13 discretion remaining for the Commission not to order a
14 zero percent rate freeze simply because the mandate
15 letter says it. And I simply distinguish this
16 situation as well, from a direction under Section 3,
17 or a government policy expressed in one of the forms
18 that might be found in section 44.2 in certain
19 considerations that the Commission should take into
20 account, or a role for government under section 53 of
21 the *Utilities Commission Act*. It's important and it's
22 there, but it's not determinative.

23 Now, of course, even absent a statutory
24 requirement or a regulatory requirement prohibiting a
25 rate increase in fiscal 2019, there could be another
26 regulatory justification for having that, for having a

1 zero percent, and that might be a cost of service
2 basis.

3 **Proceeding Time 1:59 p.m. T14**

4 Now, the record as it currently stands
5 doesn't go to that. It doesn't suggest that there's
6 going to be some imminent cost saving that could
7 justify capping rates, or justify not having a rate
8 increase, that would suggest that BC Hydro no longer
9 needs to collect quite that amount to satisfy its
10 costs. And the fact that there's going to be an
11 addition contemplated to the rate-smoothing regulatory
12 account suggests that's not arising. But it would be
13 helpful to know more about whether that is a
14 possibility, or is something that might be considered
15 to address the situation, where there's not a clear
16 regulatory requirement to not have a rate increase.

17 We recognize, of course, that Direction No.
18 7 itself in Section 4, where it talks about the
19 Commission's obligation to allow rates that give BC
20 Hydro the ability to collect enough to satisfy its
21 costs, and provide reliable electricity service, and
22 meet its obligations, is subject to Section 7. And
23 Section 7 includes the rate-smoothing regulatory
24 account, and we certainly recognize as well that rate-
25 smoothing can be useful in certain situations. But
26 this isn't necessarily one of them, in its ordinary

1 context.

2 And in that regard as well, and looping
3 back to something that Mr. Andrews said, that the
4 Commission in its key findings in August on the load
5 forecast, itself makes a brief reference to the fact
6 that there are intergenerational equity concerns that
7 are raised by the rate-smoothing regulatory account.

8 And the addition to that account might just
9 exacerbate the concerns that arise with it. And so,
10 in our submission, it would be helpful -- and I think
11 this somewhat goes to Mr. Andrews's point as well, it
12 would be helpful to have a record for the purpose of
13 this amendment that addresses some of those concerns.
14 For example, BC Hydro might address how the revenue
15 that's foregone by having a zero percent rate increase
16 would be made up for in future years. Would it create
17 an undue burden? What would be done to address that
18 so that it doesn't occur?

19 We do recognize that BC Hydro's original
20 application didn't provide for a recovery mechanism,
21 and BC Hydro candidly addressed that up front. It
22 said that it would be addressing that in later years
23 where the recovery was actually going to happen. But
24 it was already going to be a fairly long term
25 proposition to have recovery of the amounts in the
26 rate smoothing regulatory account, and given that this

1 is a further addition, it seems to be a useful context
2 for exploring that a bit more here, as part of the
3 Commission's consideration.

4 And for all of this, and I'm turning now to
5 my second point under question 1, which is that we
6 think that while there's not a sufficient regulatory
7 justification now, we would like to have an
8 opportunity for the record to be filled out, for such
9 a justification to be explored. We think a fuller
10 record would give the Commission the opportunity to
11 give to this process the transparency and value that
12 it brings through its expertise in rate-setting. And
13 filling the record out would allow BC Hydro
14 potentially to achieve the objective that it seeks; it
15 would allow the process to be completed in a
16 considered manner, and it could be better suited to
17 achieving the right result.

18 None of this again is intended to be
19 critical of BC Hydro's filing. It is in an awkward
20 situation because of the mandate letter. So, and we
21 certainly also -- if there is no need for a rate
22 increase, or if the fuller record shows there is no
23 need for a rate increase, that would be the right
24 outcome.

25 So in terms of our suggestions for how to
26 fill out the record, even before getting to an IR

1 stage, it would be for a few additional points to be
2 filed at least, or materials to be filed. One is an
3 updated version of the revenue requirement summary
4 that was found in Schedule 1.0 in Appendix A of BC
5 Hydro's original application, and it shows the various
6 numbers, accounts, what the total revenue requirements
7 are, and so on. And it would put matters in context
8 for the purpose of this -- for considering this
9 amendment.

10 **Proceeding Time: 2:04 p.m. T15**

11 Another element that we think might
12 usefully fill out the record at this stage is an
13 updated forecast of BC Hydro deferral account
14 balances, which takes into account both the proposed
15 rate freeze, and any other updated information that
16 should be taken into consideration.

17 The third item is -- and this again echoes
18 something that Mr. Andrews said. Some evidence on the
19 record of how the revenue foregone by freezing fiscal
20 2019 rates would be recovered in the future.

21 The fourth item is just a basket clause of
22 any other evidence that BC Hydro believes might
23 support its zero percent request beyond the August 24th
24 mandate letter, which certainly provides the why the
25 amendment request is made, but there might be some
26 more to fill in. BC Hydro may not feel that there is,

1 but perhaps in light of the comments that have been
2 made today, there might be something more that's come
3 to mind.

4 And Mr. Austin's point as well, finally,
5 about some status and what's happening with the review
6 that is contemplated in the mandate letter seems like
7 a sensible, additional bit of information to provide.

8 So, in our -- we don't particularly plan to
9 ask IRs at the present stage. We might, depending on
10 the other information that is provided, or further
11 consideration. But we think that it would be helpful
12 and orderly process if some more information were on
13 the record first before IRs, rather than having to
14 have this information elicited through IRs.
15 Particularly if there is a short timeline involved in
16 the IR process.

17 And certainly, if there is an IR process,
18 which we certainly don't oppose, we think it should be
19 short. The timelines that are set out are quite
20 short, but as a not-likely participant in it, I don't
21 have a direct stake in arguing for something longer,
22 but it is a short timeline that's proposed, and we are
23 concerned about intervenor ability to cope with it.
24 Particularly if information isn't provided upfront
25 before the IR process starts.

26 Certainly, I should note a couple of

1 additional things. If there is an IR process, it
2 should be targeted. So, to the subject matter of the
3 proposed amendment. And whether or not, or no matter
4 what process precedes it, in our view there should be
5 a final argument stage, as question 2 suggests. And I
6 think no one would oppose.

7 Mr. Andrews suggested an oral round of
8 argument at least if certain issues are to be
9 explored, and if there is evidence that is on the
10 record, and perhaps more evidence to be gleaned about
11 the inter-generational equity issue. From our
12 perspective, we'd be content with written arguments,
13 as has characterized the rest of this process. And
14 again, the arguments simply should be about the
15 amended request rather than opening up matters
16 further.

17 And for question 3, I have no other issues
18 to raise. So, subject to questions, those are my
19 submissions.

20 THE CHAIRPERSON: Thank you.

21 MS. HERBST: Thank you.

22 THE CHAIRPERSON: Mr. Ghikas, I will be asking you when
23 you come back again if you could provide an estimate
24 at the amount of time, if we were to ask BC Hydro to
25 provide the further information that Ms. Herbst just
26 delineated? If you could prepare an estimate about

1 posed this afternoon. I listened very carefully to
2 that. I listened equally carefully to what my friend
3 Mr. Ghikas had to say, and I think that at a
4 principled level there's not much daylight between
5 AMPC's position and that of BC Hydro concerning the
6 scope of your discretion to deal with Ministerial
7 policy. In AMPC's view, the Commission can say no,
8 you're not bound by that letter. That said, there is
9 a reason that you are independent. There is a reason
10 that the legislative scheme gives Cabinet the ability
11 to issue binding directives. It hasn't done so.

12 But Ministerial policy is useful evidence
13 that should be given weight in and among the other
14 things that you have to take into account.

15 So turning to Exhibit A-31, and the
16 question you pose there, I'd like to address the first
17 two questions and go in reverse order. AMPC prefers
18 to go straight into argument. A round of additional
19 submissions is perfectly adequate, we think, to
20 address and dispose of BC Hydro's recent request. BC
21 Hydro should get a chance to reply to other parties'
22 submissions, and the reason we say that in terms of a
23 procedural preference flow out of our answer to your
24 first question in that letter, and that's that the
25 Commission, very simply, has adequate information in
26 front of it to approve the revised requested rates

1 from the application or otherwise. We don't think
2 that you're in a box. We don't think that you need a
3 lot more on the record to make these determination,
4 and I'll explain why.

5 First, you can take notice of the facts in
6 circumstances that surround the application. We heard
7 a lot about the record, we heard a lot about the
8 letter from the Minister and exploring it, and
9 unpacking it and better understanding it. We think
10 issues are a little bit more simple. The rate freeze
11 was a prominent part of a recent election. Ratepayers
12 watched that campaign, and in the case of AMPC
13 members, members took note of that rate freeze
14 promise. They took note of who formed government on
15 June 29th and they took note of the confirmation that
16 that freeze would be implemented. And since that time
17 they have organized themselves and they have made
18 business decisions based on that premise. So we are
19 in unusual circumstances here. We are not in the
20 normal interim rate territory where you would have a
21 true up between final rates that then get applied to
22 interim rates and any uncertainty is in a foreseeable
23 place down the road.

24 Here you've had an announcement of a
25 freeze, you have made business decisions, and now
26 uncertainty arises, and so we want to avoid and

1 minimize that uncertainty, and that comes with a quick
2 and efficient process.

3 We think that it should be obvious to the
4 Commission, something that it can take notice of, that
5 failing to give effect to that promised freeze is
6 going to very simply disruptive to ratepayers, and you
7 don't need more procedural steps on the record to
8 inform yourself of that fact.

9 And third, I think as you've heard from my
10 friends, the offsetting consideration, what it really
11 boils down to is intergenerational equity. Your
12 potential for intergenerational inequity, and that
13 arises in the context of a very discreet amount. We
14 don't think that that's something you need more
15 information to deal with. It's a small amount in the
16 grand scheme of things, it's a clear issue, and
17 parties are able to make submissions now, right now,
18 in writing. And by "right now" I don't mean this
19 afternoon. My timelines are not quite as severe as
20 Mr. Ghikas's.

21 So we don't think there's anything subtle
22 or esoteric at issue, and the record doesn't have to
23 be expanded for you to grapple with any of that.

24 Now, concerning what my friends have said
25 about unpacking the mandate letter, or exploring it
26 further. AMPC simply is content to wait and see how

1 the rates within deferral account is going to be
2 cleared in the future and is part of any changes or
3 replacements to the ten-year rate plan, is forming the
4 bedrock for policy for the past few years.

5 **Proceeding Time 2:13 p.m. T17**

6 Waiting that small amount of time does not
7 significantly break with the status quo, and so we
8 don't share some of the alarm that we've heard in the
9 previous comments.

10 So as takeaways, panel, I'd like to leave
11 you with six things. The election promised a rate
12 freeze. Parties have organized their affairs based on
13 that promise. You don't need more evidentiary process
14 to be able to note of those facts. The current rate
15 uncertainty is disruptive. And you should chose a
16 quick and efficient procedural process at this point
17 in response. The overall issues raised by BC Hydro's
18 new application are not complex and do not require
19 more evidence to deal with, and the best approach is
20 simply to invite written submissions and give BC Hydro
21 a right of reply.

22 Those are my submissions. I'm happy to
23 answer any questions you've got.

24 THE CHAIRPERSON: Thank you, Mr. Keen. Are you okay
25 with the proposed three to four days that Mr. Ghikas
26 proposed between submissions or arguments?

1 MR. KEEN: I'm pretty agnostic on that. I don't think
2 that we are going to be significantly troubled by them.

3 THE CHAIRPERSON: Thank you.

4 MR. KEEN: Thank you.

5 THE CHAIRPERSON: Ms. McLean.

6 **SUBMISSIONS BY MS. McLEAN:**

7 MS. McLEAN: Thank you, panel. Zone II Ratepayers Group
8 agrees with BC Hydro that the Commission is not bound
9 by the mandate letter or government policy more
10 generally. It is evidence. And we reserve the right
11 to comment on the weight that should be given to this
12 particular mandate letter.

13 Now, with respect to the process going
14 forward, Zone II Ratepayers Group agrees with the
15 submissions of Mr. Keen that this is a relatively
16 small amount of money that we're talking about in the
17 grand scheme of what is before the Commission, and its
18 preference is to go immediately to written submissions
19 in response to the revised application.

20 Appreciating that other parties have
21 requested a more fulsome or a more detailed process,
22 we wanted to highlight that participation in that
23 process does place a significant stress on Zone II
24 Ratepayers Group's resources. Any evidence, IRs and
25 written submissions should be limited to matters
26 raised in BC Hydro's November 8th letter.

1 Also in our submission BC Hydro's proposed
2 timeline is very tight and it does impact parties with
3 limited resources in terms of the amount of time
4 required to respond quickly.

5 We agree with the request that there should
6 be -- if you go directly to IRs, it should be at least
7 one week following your decision in this procedural
8 hearing. To the extent that BC Hydro is required to
9 submit evidence in advance, there also needs to be
10 adequate time for the parties to review that evidence.
11 We would request also that consideration be given to
12 the holiday period. It's my expectation it would be
13 very difficult to get instructions between December
14 23rd and January 1st. So to the extent we're tipping
15 into that time line, we'd ask that that be taken into
16 account.

17 And the Commission asked if we had comment
18 on other issues, and it relates to the limited funding
19 that my client has. The Commission has indicated it
20 would be open to an interim funding award in this
21 matter, and it would be helpful to have some
22 clarification from the Commission about the monies
23 spent to date, and the PACA submissions made this
24 summer with respect to the RRA process to date, and
25 whether this is an ongoing process and those costs
26 have been incurred, and whether the Commission will be

1 open to an interim application that would include all
2 or some of the PACA requests made this summer that
3 have yet to be decided.

4 Those are my submissions.

5 THE CHAIRPERSON: Thank you, ma'am. Okay, thanks.

6 Mr. McCandless, are you still on the phone.

7 MR. McCANDLESS: Yes, I am.

8 THE CHAIRPERSON: Would you -- are you ready to go?

9 **SUBMISSIONS BY MR. McCANDLESS:**

10 MR. McCANDLESS: Yes. I will try and keep it fairly
11 short. I put my submission in on Monday and I've
12 listened carefully to the comments made and I -- as I
13 said in my submission, I don't think, point 1, that
14 the Commission using regulatory principles can do
15 anything but approve the 3 percent.

16 **Proceeding Time 2:18 p.m. T18**

17 BC Hydro has not reduced their forecast
18 requiremet, so I think you're bound. But even if you
19 believe you have discretion, the question is, back to
20 the intergenerational issue that's been raised a
21 number of times.

22 But the broader issue too is, yes, it's
23 been mentioned that this was an election platform of
24 the party, the party got elected, or at least formed
25 government. It's trying to adhere to its promise.
26 But that didn't seem to stop it from -- when it

1 promised to freeze ICBC rates, putting rates up an
2 average of 8 percent this year. So there is some kind
3 of double standard going on.

4 And so yes, affordability is very
5 important. But the broader context suggests that
6 there's something specific to Hydro. I suggest it's
7 got to do with the deferral accounts. The deferral
8 accounts allow the extend and pretend to go ahead.
9 And I've raised that in my submission on the main
10 request, that -- but there's a new issue again in the
11 broader context. This year, the Auditor General has
12 said that the government should withdraw Direction 7,
13 because they're using the rate regulated accounting
14 inappropriately. And that has not been mentioned, and
15 that's new, and that's important.

16 I agree it's a very simple matter. BC
17 Hydro has put their justification to the panel, and we
18 should go on the basis of that. I think that this
19 should be rejected, and I don't think it takes a lot
20 of time to do it. That's basically what I have to
21 say, thank you.

22 THE CHAIRPERSON: Thank you, sir.

23 Mr. Vulcano?

24 MR. VULCANO: It's *vul-CAH-no*. I have nothing to say.

25 THE CHAIRPERSON: Oh, sorry. Nothing to say, sorry?

26 MR. VULCANO: Yes. Thank you.

1 THE CHAIRPERSON: Okay, thank you. Mr. McCandless, do
2 you -- we're going back up the list now. You have
3 nothing further. No?

4 MR. McCANDLESS: No, I don't think so, thank you.

5 THE CHAIRPERSON: Thank you. Ms. McLean? Mr. Keen? Ms.
6 Herbst?

7 MS. HERBST: Nothing further.

8 THE CHAIRPERSON: Mr. Austin.

9 MR. AUSTIN: Nothing further.

10 THE CHAIRPERSON: Thank you, sir. Ms. Khan?

11 MS. KHAN: Nothing further.

12 THE CHAIRPERSON: Mr. Andrews?

13 **REPLY BY MR. ANDREWS:**

14 MR. ANDREWS: I do have two points. The first one is in
15 response to Mr. Keen and his submission that the
16 Commission can take notice of his members having
17 counted on the government delivering on their election
18 promise for a raise -- for a rate freeze. I guess
19 that my response to that is that the Commission, if
20 it's going to be taking notice of things, would also
21 take notice of the fact that government chose not to
22 implement the rate freeze by a Direction, and that
23 must surely have disappointed Mr. Keen's clients.

24 My second point is to do with the statement
25 by Mr. Keen and by Ms. Maclenna [*sic*] that this is a
26 relatively small amount of money. And I think Mr.

1 Keen described it as a specific amount.

2 This 3 percent increase is a permanent rate
3 increase. Therefore, a rate freeze with a zero
4 percent means failure to recover \$140 million not only
5 in the test year, but in every year therefore, unless
6 and until there's a change in the rates. So there is
7 nothing -- while it's a specific amount at the present
8 time, I submit that it is a substantial amount of
9 money. Those are my submissions.

10 THE CHAIRPERSON: Thank you, sir. Mr. Weafer?

11 MR. WEAVER: Nothing further, sir.

12 THE CHAIRPERSON: Thank you. Mr. Ghikas, are you ready,
13 or do you need some more time, sir?

14 MR. GHIKAS: Mr. Chairman, if I could have five minutes
15 just to consult on the issue that you raised, that
16 would be helpful.

17 THE CHAIRPERSON: Yes. Thank you, sir.

18 MR. GHIKAS: Thank you.

19 THE CHAIRPERSON: So we'll come back at -- is that clock
20 right? 2:30.

21 **(PROCEEDINGS ADJOURNED AT 2:22 P.M.)**

22 **(PROCEEDINGS RESUMED AT 2:34 P.M.)** **T19/20**

23 THE CHAIRPERSON: Please be seated, thank you. Mr.
24 Ghikas?

25 **REPLY BY MR. GHIKAS:**

26 MR. GHIKAS: Thank you, Mr. Chairman. I'll try to group

1 my comments by two issues that the Commission had
2 flagged.

3 First of all, on the substantive regulatory
4 justification, first of all I'd like to just take us
5 back to the task, which is procedural in nature, and
6 not substantive. And my impression from what the
7 Commission laid out is there would be an opportunity
8 to speak on the substantive issues. And in my
9 submission, some of what we heard today really goes to
10 the issue of the substance. And that is how much
11 weight should be given to this Minister's letter,
12 relative to other Minister's letters, or other policy
13 statements like the Energy Plan and the like. So, in
14 my submission, I'm going to leave that, not going to
15 deal with those issues, and just simply make that
16 comment.

17 In terms of my friend Mr. Weafer's comments
18 about dealing with distinguishing the decisions that
19 were put forward, the first basis that I understood my
20 friend to be saying was that the policy directions and
21 statements that had been identified in all but the
22 last of the decisions that I addressed, had been put
23 on the record before hand, and parties had an
24 opportunity to comment on them. And my simple answer
25 to that, Mr. Chairman is, we are in a process, and
26 parties are having an opportunity to comment on it.

1 And the timing of when that arose is, in my
2 submission, not a distinguishable feature when the
3 Commission is carrying on with the existing process.

4 Certainly I recognize that we're after the
5 final submissions, but the Commission is carrying on
6 with the process, and rightly so. And that doesn't
7 represent a substantive difference, and a reason to
8 disregard those decisions.

9 The second point that my friend Mr. Weafer
10 made was with respect to the rebalancing decision, and
11 the fact that the legislation was in fact pending.
12 And my only point on that is that that simply gets to
13 the substantive point that my friend believes that
14 more weight should be given to that Minister's letter
15 relative to this one. And so in my submission, that
16 point that my friend was making is one that we can
17 deal with at a future point.

18 My friend Mr. Weafer also made the point
19 that there is a concern that costs could be going up
20 relative to the other points, and I'm not sure whether
21 he was raising that relative to the other items listed
22 in the policy letter, and whether those could be
23 driving additional costs. And I think that point was
24 more related to the process issue, but I'll just deal
25 with it now.

26 The evidence with respect to BC Hydro's

1 revenue requirements is in. BC Hydro supports the
2 evidence, submits that the costs and the revenue
3 requirements that were put forward and justifiable,
4 and stands by that evidence.

5 Any costs that would be driven by those
6 other policy items would not affect a revenue
7 requirement that has been set by the Commission. So,
8 the Commission is going to make its decision based on
9 the revenue requirements that are put forward on the
10 evidence. The decision will be made, and if there is
11 changes in those costs, the only effect that that
12 would have would be with respect to the period after
13 the test period. So, in my submission, that is not a
14 determinative factor either with respect to the
15 process, or with respect to the justification for
16 considering the Minister's letter in the first place.

17 **Proceeding Time 2:39 p.m. T21**

18 Much of what my friend, Ms. Herbst, argued
19 today, in my submission, is really related to the
20 merits, and so apart from the procedural points that I
21 will be dealing with, in my submission we can deal
22 with those on another day.

23 The bulk of the submissions that the
24 parties made today, Mr. Chairman, were on that second
25 issue. And the first point that I wanted to address
26 was the one that my friend Mr. Weafer raised

1 initially, which was with respect to the timing
2 proposed. I heard a few people unhappy with it, the
3 time deadlines set out in that straw man that I had
4 put forward earlier.

5 I do want to make it clear that there was
6 no specific deadline at the back end that was driving
7 that timeline. It was a reflection of our expectation
8 that the issues would be very discrete, and if they
9 were very discrete, that would be a manageable
10 timeline. If the Commission determines that the scope
11 is broader than what I'm putting forward, obviously
12 the time frame would have to be adjusted accordingly.
13 It would be a very difficult one to address. And I'll
14 touch on that again in dealing with the point that you
15 raised, Mr. Chairman, in a moment.

16 There were various reasons that the parties
17 raised to extend the process to make it more involved,
18 to expand it, and expand the scope. And I want to
19 address a few of those. And I think it's not very
20 often that I get to say that Mr. Keen and I are on the
21 same page on things, so I'm going to take the
22 opportunity now and he can mark it in his book as a
23 day that will live in history.

24 But he did put it very well in terms of the
25 discrete nature of the issues. In terms of -- one of
26 the issues that was raised was with respect to the

1 deferral accounts. And my friends were saying that
2 the deferral accounts need to be canvassed, the
3 implications on those accounts need to be canvassed
4 again. And I would simply say, Mr. Chairman, that
5 some of those submissions sounded like they were being
6 made in the absence of the context of the proceedings
7 that we've already been through. The issues with
8 respect to the deferral accounts and how they're being
9 paid down, and the rate at which they're being paid
10 down, was canvassed extensively in IRs and in the
11 submissions.

12 And I would draw your attention to just
13 simply, as a reference, to the reply submissions of BC
14 Hydro, where on page 84, and thereafter, these issues
15 with respect to the deferral accounts were canvassed.
16 Many of the arguments, the same arguments, were
17 raised. And --

18 THE CHAIRPERSON: Page 84 to --

19 MR. GHIKAS: 88, of the -- sorry, let me just double-
20 check here. BC Hydro's July 4th reply submissions
21 starting at page 84. And it outlines how BC Hydro is
22 taking a rigorous approach to reducing regulatory
23 account balances. It outlines the extent to which
24 they will be reduced over the ten-year rates plan,
25 cites a 40 percent reduction in the balance, and that
26 the rate-smoothing account is targeted to be

1 eliminated by the end of the ten-year rates plan.

2 THE CHAIRPERSON: So, Mr. Ghikas, is that given a zero
3 percent rate increase?

4 MR. GHIKAS: No, that's -- that is based on the 3 percent
5 rate increase, of course.

6 THE CHAIRPERSON: Right.

7 MR. GHIKAS: And all other things being equal, obviously,
8 the 100 -- approximately \$140 million would flow into
9 the rate-smoothing regulatory account, just simply as
10 an operation of Directive No. 7.

11 So other things being equal, it would take
12 longer to recover that balance, but all things aren't
13 going to be equal, Mr. Chairman, because the
14 government has identified that they're going to be
15 looking at a different rates plan, a refreshed rates
16 plan going forward.

17 **Proceeding Time: 2:43 p.m. T22**

18 So, in terms of the relative size of the
19 140 million to the amount of the deferral account and
20 the payment schedule. The implications are not going
21 to be that significant.

22 THE CHAIRPERSON: Okay.

23 MR. GHIKAS: Now, one of the issues that my friend Mr.
24 Austin raised was that no -- would like to explore
25 what the issues associated with the government review
26 would look like. What the refreshed rates plan would

1 look like. Those comments were made, I believe, in
2 the context of what type of process, that is we should
3 be looking at here. Simply, I can advise the
4 Commission that there are not terms of reference set
5 out. BC Hydro is not in a position to comment on what
6 the scope of government's review is going to be. Is
7 not in a position to comment on what the refreshed
8 rates plan is going to look like.

9 So, in terms of process to address that
10 issue, there is really not a whole lot to say on BC
11 Hydro's part right now in terms of that issue. The
12 point that BC Hydro is raising is one that is -- is
13 that the policy for the rate freeze is clear, and that
14 we should be considering that issue at the time. And
15 any further implications as BC Hydro stated in its
16 letter, would be addressed after the test period
17 starting in fiscal 2020.

18 Now, the issues that my friend Ms. Herbst
19 raised, it was suggested that BC Hydro should have an
20 opportunity to provide evidence in advance. And my
21 submission is that that is unnecessary in the
22 circumstances, and I will explain why.

23 First of all, with respect to the policy
24 issues, what I understood my friend to be saying is
25 that BC Hydro would have an opportunity to expand on
26 the policy. Simply put, Mr. Chairman, the policy that

1 BC Hydro is relying on is that as stated in the
2 Minister's mandate letter. And there is nothing
3 further from BC Hydro to add to that in evidence.

4 The second point as I understood it was
5 with respect to understanding the implications of
6 following that rate freeze. And that is another area
7 where, Mr. Chairman, it is already articulated in BC
8 Hydro's letter to the Commission requesting the
9 change. And that is the \$140 million that we referred
10 to, and the fact that it is going to be flowing by
11 operation of the direction into the rate smoothing
12 account.

13 The third item that my friend raised was,
14 as I understood it, needing an updated load forecast.
15 And I would simply point out that the Commission has
16 already made a determination on the load forecast, and
17 so with respect to needing further evidence on that
18 point, my submission, it's both unnecessary and would
19 not be a good use for time.

20 MS. HERBST: May I just interrupt to say, no load
21 forecast was requested. If it might have been
22 deferral account balances, but no request.

23 MR. GHIKAS: Thank you. Okay, I take that clarification.

24 And the other one was -- I believe those
25 are the main ones, but as I understood it --

26 THE CHAIRPERSON: How the foregone revenue would be

1 recovered is a note that I made.

2 MR. GHIKAS: How the revenue would be recovered, thank
3 you. And those are the issues that are canvased in
4 the reply submissions that I referred you to as well.
5 And that have been -- and those submissions obviously
6 refer to a significant body of evidence that was
7 dealing with that already. So, the submission that I
8 am making, in effect, Mr. Chairman, is that that
9 evidence is unnecessary.

10 **Proceeding Time 2:48 p.m. T23**

11 Now, it sounded like if we were to be
12 rerunning large rate models and the like, if that's
13 really -- and it did sound like that was being
14 suggested by some, that is a significant undertaking
15 and it would result in a significant amount of work
16 having to be done over the course of a number of
17 weeks. So I would suggest that it could take a month
18 to do that, as I understand it.

19 So if that's really what is intended by the
20 comments that were made this morning, that is a
21 significant undertaking and the timetable would have
22 to take that into account. But as I say, if it's more
23 discreet, and that is, simply running the numbers to
24 see how the 140 million flows into a deferral account,
25 that is something that can be done in a shorter period
26 of time, simply a matter of a week or so. Because

1 that is a more discreet issue, and that is really, in
2 my submission, what you should be looking at, is that
3 scope of things.

4 THE CHAIRPERSON: Mr. Ghikas, what I've heard from a
5 number of parties here is some questions about the
6 impact of this rate freeze on the ten-year rate plan,
7 and the impact on deferral account balances. And it's
8 even been brought up that it's not just a one year,
9 \$140 million impact, but that carries forward into the
10 future years, because that's a rate increase that will
11 forever be missing.

12 And do I understand you correctly to say
13 that it's not really worth looking at those issues,
14 because as a result of the review process we might
15 have a different ten-year rates plan and we're going
16 to have a different plan to deal with deferral account
17 balances and so on, so therefore there's really no
18 point in looking at those issues.

19 MR. GHIKAS: Yes.

20 THE CHAIRPERSON: Am I misunderstanding you?

21 MR. GHIKAS: Let me just clarify.

22 Sorry, I just had to confirm Mr. Chairman,
23 get instruction. And yes, that is our position is
24 that the refreshed rates plan would take care of those
25 issues going forward in future years.

26 THE CHAIRPERSON: But we don't have a refreshed rate

1 plan.

2 MR. GHIKAS: Not at this time and so our position is
3 that the Commission should be giving weight to the
4 rate freeze, putting it in place and issues such as
5 the future implications of the rate freeze would be
6 addressed after the test period.

7 THE CHAIRPERSON: Okay. Thank you.

8 MR. GHIKAS: Thank you. I believe those are my
9 submissions, Mr. Chairman.

10 THE CHAIRPERSON: Thank you very much, Mr. Ghikas.

11 So we're just going to take a few minutes
12 and talk about what we've heard today. We'll try to
13 get back by 3:00. Why don't we aim for that. Thank
14 you.

15 **(PROCEEDINGS ADJOURNED AT 2:51 P.M.)**

16 **(PROCEEDINGS RESUMED AT 3:00 P.M.)** **T24/25**

17 THE CHAIRPERSON: Please be seated, thank you.

18 So we've considered what we've heard here
19 today, and it's the panel's view that, generally
20 speaking, we think there is sufficient evidence on the
21 record that we don't need an oral hearing, as we've
22 heard from at least one party. However, we do think
23 that there should be a more fulsome review of this --
24 I'll call it this amended application. So we are
25 prepared to proceed with a round of IRs, and then
26 proceed to final argument after that round of IRs.

1 And the dates that we're proposing are that
2 questions would be submitted to Hydro by December 1st,
3 and Hydro -- these are all Fridays, until we get to
4 the final date. So, IR questions on the 1st; Hydro's
5 response on December 8th; and then BC Hydro's final
6 submission on the 15th; Intervener submissions on
7 January 5th. So that gives a Christmas period to in
8 between there. And then the Hydro's reply on the 10th,
9 which is not a Friday. I think that's the following
10 Wednesday, if I'm not mistaken.

11 So, unless I hear anything now that those
12 dates are not workable, then we'll prepare an Order
13 with those dates for the schedule moving forward.

14 Mr. Ghikas?

15 MR. GHIKAS: I was just going to note -- it all seems
16 fine. It depends on what the Commission ends up
17 deciding, I guess, to some degree in terms of what the
18 scoping of the questions are. I wasn't sure if you
19 were going to speak to that or not.

20 THE CHAIRPERSON: The questions that would be within
21 scope would only relate to matters that speak to the
22 amended application. So, for example, things like the
23 impact on the ten-year rate plan, impact on deferral
24 account balances. I appreciate that you've said you
25 can't answer these questions, but to the extent that
26 there is any answers that you could provide if

1 questions were asked on what the scope of the review
2 could be, or is likely to be -- the matters that we've
3 heard here this afternoon.

4 We can clarify that further in our Order.

5 MR. GHIKAS: Okay.

6 THE CHAIRPERSON: Okay? Thank you very much, everybody.
7 Much appreciated.

8 **(PROCEEDINGS ADJOURNED AT 3:03 P.M.)**

9

10

11

12

I HEREBY CERTIFY THAT THE FORGOING
is a true and accurate transcript of
the recording provided to me, to the
best of my skill and ability.

13

14



A.B. Lanigan, Transcriber

15

16

17

November 23rd, 2017

18

19

20

21

22

23

24

25

26