



September 29, 2017

BCUC INQUIRY RESPECTING SITE C A-16

Sent via eFile

**Re: British Columbia Hydro and Power Authority – British Columbia Utilities Commission Inquiry
Respecting Site C – Project No. 1598922**

On August 30, the British Columbia Utilities Commission (Commission, BCUC) received two reports from its independent consultant Deloitte LLP (Deloitte). The Panel is aware that an issue has been raised as to whether the Panel acted appropriately in its redaction of information in this Inquiry. The Panel wishes to clarify that in any Commission process, we must carefully and prudently evaluate how to disseminate information that could reasonably be expected to result in significant harm or prejudice to a regulated utility's customers. In this case, the Panel considered the negotiating position of British Columbia Hydro and Power Authority (BC Hydro) with its contractor(s) and was of the view that the inappropriate dissemination of certain confidential financial information could ultimately increase costs to ratepayers.

For the period between August 30 and September 8, 2017, Deloitte worked with BC Hydro to establish appropriate confidentiality redactions that accord with typical Commission confidentiality procedures and the Panel accepted some, but not all, of the redactions proposed. Accordingly, on September 8, 2017, the redacted Deloitte reports were made publicly available on the BCUC's Site C Inquiry website as documents A-8 and A-9. All redacted information in this Inquiry was considered and incorporated into the development of the Panel's findings in the Preliminary Report and will also be taken into consideration in our Final Report.

Upon posting the Deloitte reports on the BCUC's Site C Inquiry website, the Commission was promptly notified by BC Hydro that there may be a breach of confidentiality in the report posted as document A-8 (Deloitte Report No. 1). The Commission removed the filing while staff worked to authenticate the concerns raised. During that time, staff also reached out to a number of parties who accessed the report and further distributed it. All parties reached at the time were cooperative and agreed to remove and not further distribute the report. The unintended posting of the unredacted report and its subsequent removal was not due to an error on the part of the Commission nor was it an attempt to suppress information.

It is the Panel's primary interest at this time to ensure that information that could compromise the financial position of a regulated utility remains appropriately protected. The Panel, in accordance with published Commission procedure, seeks to keep to an absolute minimum the amount of information that is deemed confidential in this inquiry or in any matter before the BCUC.

This Inquiry Panel has made a commitment to the public, interested and affected parties, and to the members of the BCUC to hold an open and transparent public process for the Site C Inquiry. We continue to hold ourselves accountable to this commitment and wish to further explain the matter of confidentiality of the Deloitte Report No. 1.

In a Commission proceeding, we occasionally must assess the propriety of information that is considered confidential and decide whether it is in the public interest for that information to be disseminated further. The

factors for Commission Panels and participants to consider, with respect to confidential information, that we have laid out in our Rules of Practice and Procedure are as follows:

20.01 In determining whether the nature of the information or documents require a confidentiality direction, the Commission will have regard to matters that it considers relevant, including:

- (a) whether the disclosure of the information could reasonably be expected to result in:
 - (i) undue material financial loss or gain to a person, or
 - (ii) significant harm or prejudice to that person's competitive or negotiating position, or
 - (iii) harm to individual or public safety or to the environment;
- (b) whether the information is personal, financial, commercial, scientific, labour relations or technical information that is confidential and consistently treated as confidential by the person;
- (c) whether the person's interest in confidentiality outweighs the public interest in the disclosure of the information or documents in the hearing;
- (d) whether the person submitting the document has any legal obligation to maintain confidentiality; and
- (e) whether it is practicable to hold the hearing in a manner that is open to the public.

In this case, redacted information in the Deloitte Report No. 1, and in BC Hydro's submission of data and analysis, could reasonably be expected to result in significant harm or prejudice to BC Hydro's current and future negotiating position with its contractor(s), which would ultimately increase costs to ratepayers and therefore not be in the public interest to release.

If anyone has further questions on this matter, please contact our office.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

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