



LETTER NO. 4

ROBERT J. PELLATT
COMMISSION SECRETARY

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June 8, 1994

Mr. Charles E. Reasons
Barrister & Solicitor
B.C. Public Interest Advocacy Centre
#701 - 744 West Hastings Street
Vancouver, B.C.
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bee:	E. Sleath
— M. Jaccard	— M. Payne
— L. Barr	— K. Wellman
— M. Dunn	— Extra
— D. Wilson	— Co-ordinator Fdr.
— S. Clark	— W. Grant
— F. Leighton	— O. Enns
— K. Hall	— R. Brownell
— H. Page	— J. Hagar
Letter Only	— J. Fraser
— R. Pellett	— P. Gromart
— C. Smith	— S. Wong
— A. Cormack	— P. Nakomahay
— Com.Sec.Diary	— B. Wilkison
— Complaint File	— N. Smith
— Intervenor File	— B. McKinlay
— Comm. Counsel	— F. James
— Central Files	— R. Rennie

Dear Mr. Reasons:

Re: West Kootenay Power Ltd.
1994/95 Revenue Requirements - Participant Funding Cost Awards

The hearing panel to the West Kootenay Power Ltd. hearing has considered your May 25, 1994 request for reconsideration and variance of the participant cost award to you. You argue that the Commission has erred in law and that it has unlawfully fettered its discretion under Section 133.1 of the Utilities Commission Act ("UCA"). However, Section 133.1(1) of the Utilities Commission Act ("UCA") states that:

"The Commission may order a participant in a proceeding before the Commission to pay all or part of the costs of another participant in the proceeding." (emphases added)

The legislation does not oblige the Commission to cover all, or any, costs of participants in a proceeding and the Commission has established a funding policy that was discussed and approved by the West Kootenay Power Ltd. hearing panel in the determination of the cost award to you. The Commission does not agree with your assertion that "allowing the decision to stand would have a chilling effect on participation in the Commission's processes." The Commission does not intend to cover all legal costs, except in cases of extreme hardship where an Intervenor group has no funding capability and will be substantially disadvantaged by the potential outcome of a proceeding.

You submit that the Commission, by making its decision on the cost application before releasing its decision on West Kootenay Power Ltd.'s application, has raised a reasonable apprehension of bias. However, the evidence considered by the panel in making the awards included not only that provided in the cost applications, but also the exhibits and transcript of the public hearing.

Consequently, the Commission declines to reconsider Order No. F-6-94.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. Pellatt', written in a cursive style.

Robert J. Pellatt

BMK/daw

cc: Mr. Robert H. Hobbs
Corporate Secretary and Solicitor
West Kootenay Power Ltd.