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BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-29-00

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IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

A Complaint by the Electrochemical Producers
for Approval of a British Columbia Hydro and Power Authority
High Load Factor Electricity Tariff

BEFORE:	P. Ostergaard, Chair	)	
	L.R. Barr, Deputy Chair	)	
	P.G. Bradley, Commissioner	)	March 9, 2000
	B.L. Clemenhagen, Commissioner	)	
	K.L. Hall, Commissioner	)	

O R D E R

WHEREAS:

A. On July 8, 1999, the Commission received a letter from CXY Chemicals, BC Chemicals, and Sterling Pulp Chemicals ("the Electrochemical Producers") requesting that the Commission undertake a process to determine the appropriateness of a high load factor electricity tariff for B.C. Hydro; and

B. The Commission treated this letter as a complaint; and

C. A process of review of this complaint and related issues proceeded through February 2000; and

D. The Commission has considered all of the information before it.

NOW THEREFORE pursuant to Section 83 of the Utilities Commission Act, the Commission takes no further action on the Electrochemical Producers' complaint unless the proposed new rate freeze legislation provides for a general rate redesign of Rate Schedule 1821.

The Commission issues its Reasons for Decision, attached as Appendix A, concerning this complaint.

DATED at the City of Vancouver, in the Province of British Columbia, this 9th day of March 2000.

BY ORDER

Original signed by:

Peter Ostergaard
Chair

Attachment

REASONS FOR DECISION

COMPLAINT: HIGH LOAD FACTOR ELECTRICITY TARIFF REQUEST

INTRODUCTION

On July 8, 1999, CXY Chemicals, Sterling Pulp Chemicals, and B.C. Chemicals ("Electrochemical Producers") wrote the British Columbia Utilities Commission ("BCUC", the "Commission") requesting that the Commission instruct British Columbia Hydro and Power Authority ("B.C. Hydro") to establish a process to consider a tariff tailored to the characteristics of high load factor, energy intensive industries. The Commission treated this letter as a complaint. Under Section 83 of the Utilities Commission Act, if a complaint is made to the Commission, it has powers to determine whether to convene a hearing or inquiry, "and generally whether any action on its part is or is not to be taken."

Consistent with Commission practice, the Electrochemical Producers' letter was forwarded to B.C. Hydro for comment. As described below, this triggered a sequence of correspondence and events whereby the original complaint became subsumed in a larger issue of industrial rate design and new industrial service options. These Reasons for Decision respond to the original complaint and subsequent specific requests directed to the Commission arising from the original complaint. These are:

1. The Commission should instruct B.C. Hydro to set up a process to investigate the feasibility of a high load factor, energy intensive electricity tariff.

2. The Commission should implement a new rate schedule, open to all transmission class customers with high load factors, utilizing a Demand Charge of $9.44/kV.A/month and an Energy Charge of $0.158/kW.h.

3. The Commission should initiate a revenue-neutral rate design review of Rate Schedule 1821.

BACKGROUND

A chronology of correspondence and events follows:

July 8, 1999

Electrochemical Producers ask the BCUC to instruct B.C. Hydro to set up a process leading to a new tariff for high load factor customers.

July 14, 1999

Treating this as a complaint, the BCUC asks B.C. Hydro for information on costs of service for high load factor customers.

August 9, 1999

B.C. Hydro responds, stating that these customers benefited from real-time pricing rates, that they should seek relief through the Job Protection Commission if they are in economic distress, and that a new tariff would require a significant reallocation of revenue requirements to low load factor customers. B.C. Hydro also argues that its Fully Allocated Cost of Service ("FACOS") methodology has never been agreed to by its customers and its FACOS studies have never been used in the design of its bundled rates.

August 11, 1999

BCUC asks the Electrochemical Producers to comment on B.C. Hydro's response.

August 19, 1999

Electrochemical Producers' counsel replies, asking BCUC to create a new rate, based on B.C. Hydro's 1996/97 FACOS rate ($9.44/kV.A/month + $0.158/kW.h), representing a rate reduction of approximately 8 percent, to be used until there is a review of all B.C. Hydro rates.

September 10, 1999

BCUC advises the Electrochemical Producers that its jurisdiction to impose new services has been questioned by B.C. Hydro in the context of the Price Dispatched Curtailment ("PDC") Program, that the regulations under the Tax and Consumer Rate Freeze Act limit the BCUC's ability to undertake a comprehensive rate design of industrial rates, and that further consideration of the complaint is deferred pending resolution of jurisdictional issues to be addressed during Phase I of the PDC public hearing.

September 24, 1999

Electrochemical Producers ask BCUC to reconsider, citing an unnecessary and unacceptable delay.

October 4, 1999

Electrochemical Producers' counsel formally asks BCUC to direct B.C. Hydro to offer a menu of new services to its large industrial customers. A high load factor rate is one of seven examples given.

October 17, 1999

The Deputy Minister of the Ministry of Employment and Investment writes the BCUC in the context of the PDC process, stating "industrial customers are interested in working with B.C. Hydro to develop new services and programs. While the rate freeze is in place there is still the flexibility to accomplish this objective in a non-adversarial way. We would encourage customers to work with B.C. Hydro to develop commercial options that meet their needs while not transferring costs between or within rate classes or to the shareholder."

November 3, 1999

BCUC reviews the PDC Settlement Agreement Proposal, adjourns the public hearing into the PDC Program and approves Rate Schedule 1849 (Special Provisions for the Price Dispatched Curtailment Program) as a permanent rate schedule.

November 29, 1999

BCUC advises B.C. Hydro and industrial customers that it is initiating a process that may lead to new industrial service options. "The Commission notes that, at present, rate changes to existing tariffs are constrained by limits imposed by the Tax and Consumer Rate Freeze Act. Such constraints on changes to existing rates, as well as considerations of fairness, may also limit the potential to develop new services that would require rate shifts between customer groups. Without pre-judging its view of any specific tariff or program proposal, the Commission suggests that design criteria for possible new programs and services include mutual benefit to program participants and B.C. Hydro, and a positive overall impact on non-participating customers."

December 14, 1999

A workshop is held on New Industrial Services. A Transmission Service Time of Use Pilot Program is presented and supported. Two more workshops are proposed, the first (February 3) to consider the new load/resource plan update, capital deferment opportunities, and a customer supplied operating reserve program, and the second (February 17) to consider Rate Schedule 1821 rate design matters.

December 17, 1999

B.C. Hydro applies for BCUC approval of the Transmission Service Time of Use Pilot Program.

December 23, 1999

BCUC approves the Transmission Service Time of Use Pilot Program.

January 19, 2000

B.C. Hydro advises it supports proceeding with the February 3 workshop but not the February 17 proposal. With respect to changes to Rate Schedule 1821, B.C. Hydro concludes that the Tax and Consumer Rate Freeze Act and Regulation freeze "the Demand and Energy charges in the Rate section of Schedule 1821. As a result B.C. Hydro does not see any way of developing a mutually beneficial redesign of the 1821 Rate Schedule."

January 26, 2000

Electrochemical Producers' legal counsel expresses their disappointment with B.C. Hydro's Rate Schedule 1821 position, stating "The need to revise the Rate Schedule 1821 electricity tariff, or to create a new tariff for high load factor customers, has been before this Commission since July 8, 1999 and must be dealt with now…".

February 2, 2000

B.C. Hydro reiterates that a redesign of Rate Schedule 1821 is simply not legally possible and that a new high load factor rate is outside the parameters of the workshops.

February 3, 2000

The Provincial Government announces continuation of the rate freeze until September 2001; B.C. Hydro is to file a revenue requirements application in mid-2001.

February 3, 2000

The second workshop is held. Industrial customers want to proceed with the February 17 Rate Schedule 1821 workshop, as they believe it may be possible to have the Government extend the freeze without limiting the Commission's ability to redesign Rate Schedule 1821. Parties are asked to comment.

February 4, 2000

Electrochemical Producers' counsel asks BCUC to proceed with the workshop. "B.C. Hydro is correct that Rate Schedule 1821 is under the freeze and will likely continue to be until the Fall of 2001. However, we like to believe that if a reasonable solution can be found, the parties, collectively or individually, could take that solution up with the Government and the legislation, which will be required to continue the rate freeze, could be varied to address these issues. Alternatively, if revisions to Rate Schedule 1821 are not appropriate or possible, then it is essential that a new high load factor rate be introduced as requested some seven months ago."

February 8, 2000

The British Columbia Public Interest Advocacy Centre ("BCPIAC") submits that changes to Rate Schedule 1821 could not be made until the rate freeze expires, and there is no benefit in holding workshops if the main purpose is to redesign Rate Schedule 1821.

February 8, 2000

B.C. Hydro restates its earlier position, arguing that the Government is unlikely to amend the legislation to exempt high load factor customers and that a Rate Schedule 1821 redesign outside of a general rate design hearing deprives other customers of due process.

DISCUSSION

In May of 1998, Section 2 of the Tax and Consumer Rate Freeze Act was amended by the British Columbia Hydro and Power Authority Rate Freeze and Profit Sharing Act:

…despite the Utilities Commission Act, the rates and rate schedules that were in effect on December 10, 1997 and that are prescribed by the regulations are the only lawful, enforceable, and collectable rates that the British Columbia Hydro and Power Authority may collect, charge, or enforce from December 10, 1997 to March 31, 2000, for the services to which those rates apply.

Order in Council 0695/98 (June 3, 1998) is the regulation implementing the freeze:

Rates and schedules prescribed:

1 (1) The prescribed rate schedules, for the purposes of this section and section 2(2) of the *Tax and Consumer Rate Freeze Act*, are those rate schedules of the British Columbia Hydro and Power Authority that:

(a) are set out in Schedule 1,
(b) were on file with and approved by the British Columbia Utilities Commission as at December 10, 1997, and
(c) are identified in Schedule 1 by the numbers under which were so filed.

(2) The prescribed rates, for the purposes of section 2(2) of the Tax and Consumer Rate Freeze Act, are,

(a) in the case of the prescribed rate schedules identified in Schedule 1 by the numbers 1288 and 1848, the rates, in effect as at December 10, 1997, that are described under the heading "Fixed Charges" on those prescribed rate schedules, and
(b) in the case of the other prescribed rate schedules, the rates, in effect as at December 10, 1997, that are described under the heading "Rate" on each of those prescribed rate schedules.

Schedule 1

Residential Service	General Service	Irrigation Service	Street Lighting Service	Transmission Service
1101	1200	1401	1701	1821
1103	1201		1702	1848
1105	1205		1703	3808
1107	1206		1704	
1111	1207		1755	
1113	1210		1761	
1117	1211		1770	
1121	1220			
1123	1222			
1127	1223			
1131	1233			
1132	1234			
1133	1241			
1134	1242			
1135	1243			
1137	1244			
1148	1255			
	1256			
	1265			
	1266			
	1277			
	1278			
	1288			

These five columns list the prescribed rate schedules for the purpose of the freeze. There are prescribed rates within these listed rate schedules that are frozen. For Rate Schedules 1288 and 1848, the “Fixed Charges” sections are frozen. For the others it is the “Rate” section of the rate schedule. All other sections in the rate schedules are open to change. The “Rate” section of Rate Schedule 1821 reads as follows:

Rate:	Demand Charge:	$4.411 per kV.A of Billing Demand per billing period
		plus
	Energy Charge:	All kW.h per Billing Period at 2.599 cents per kW.h

In July 1998, the Commission solicited submissions on the applicability of the amended Tax and Consumer Rate Freeze Act and Regulation in response to comments by BCPIAC on their interpretation. While the Commission acknowledged that the wording of the amended Act created difficulties of interpretation, it concluded that it was sufficient to allow the Government to issue regulations which identify those portions of different rate schedules to be frozen. Further, the Commission agreed with counsel for B.C. Hydro that any further legal arguments about the validity of the amended Act and the regulation were best dealt with before the Courts, not the Commission. The Commission subsequently concluded that a 1997 Order making B.C. Hydro's rate schedules interim was inoperative and no further action was planned on a 1997/98 revenue requirement review and rate complaint that culminated in that 1997 Order.

The Act and Regulation are complex, in part because they attempt to ensure the "rate" and "fixed charge" portions of the rate schedule could not be changed, while still enabling changes to other terms and conditions in each rate schedule. For example, the Commission has approved changes to B.C. Hydro rate schedules since June 1998:

- For Rate Schedules 1848 and 1288, customers can choose one of the three indices in determining daily Real-Time Prices.
- For Rate Schedules 1821 and 1848, the 5000 kV.A minimum requirement was removed from the "Billing Demand" section.

While a new rate probably cannot be created for an existing service, the Act and Regulation leave open the creation of lawful new rates for new services. New services after December 10, 1997 can be offered through new rate schedules. For example, since June 1998 the Commission has approved:

- Rate Schedule 1849, the Price Dispatched Curtailment Program;
- Rate Schedule 1850, the Transmission Service Time of Use Pilot Program; and
- Rate Schedule 1267, the General Service Time of Use Pilot Program.

Separate from the rate freeze legislation, the PDC Program issue centered on the question of whether the BCUC has the jurisdiction to require B.C. Hydro to provide new or amended rate schedules for new services which it does not support. The PDC Program Settlement Agreement set aside the jurisdiction question and a program was approved that benefited both B.C. Hydro and program participants, and had a positive overall impact on non-participating customers.

With the current rate freeze legislation in effect, B.C. Hydro has indicated that it cannot develop new industrial products or services that would result in rate changes, cost shifting, or revenue reductions.

Following the procedure leading to the PDC Program Settlement Agreement, the Commission might seek agreement on a new rate schedule that afforded benefits for B.C. Hydro and customers taking service under that schedule, while having a positive overall impact on other ratepayers. With respect to Rate

Schedule 1821 rates, the Commission has not been provided with any proposals that would meet these criteria. In particular, were a new rate schedule derived to benefit high load factor customers, bills would increase for customers remaining on Rate Schedule 1821 unless extra revenue could be secured from other ratepayers. Neither of these latter results is acceptable under the current rate freeze. It was in anticipation of the expiry of the rate freeze on March 31, 2000 that the Commission proposed the February 17, 2000 workshop into the design of Rate Schedule 1821. The intent to extend the freeze has since been announced by the Government.

COMMISSION DETERMINATION

The demand and energy charges in the "Rates" section of Rate Schedule 1821 are frozen for all Transmission Service customers. Whether a new high load factor, energy intensive rate schedule could be developed under the existing Tax and Consumer Rate Freeze Act and Regulation for a subset of Rate Schedule 1821 customers would probably depend on the extent to which the new service differed from the service offered under Rate Schedule 1821. The Commission is not prepared to pursue the development of a high load factor, energy intensive rate schedule when the rate freeze clearly prohibits changes to the demand and energy charges paid by customers who remain on Rate Schedule 1821. A revenue-neutral rate design review of Rate Schedule 1821 would have merit only if the new legislation extending the freeze enabled changes to these demand and energy charges.

Pursuant to Section 83 of the Utilities Commission Act, the Commission takes no further action on the complaint unless the proposed new rate freeze legislation provides for a general rate redesign of Rate Schedule 1821.