



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

and

An Application by British Columbia Hydro and Power Authority
for Approval of Access Principles for Public, Municipal and Other Utilities

BEFORE: P. Ostergaard, Chair)
P.G. Bradley, Commissioner)
B.L. Clemenhagen, Commissioner) January 25, 2001
K.L. Hall, Commissioner)
N.F. Nicholls, Commissioner)

O R D E R

WHEREAS:

- A. The Commission, by Letter No. L-11-00, confirmed with British Columbia Hydro and Power Authority ("B.C. Hydro") that it should file an Application on wholesale access principles by September 29, 2000; and
- B. On September 29, 2000, B.C. Hydro filed its application for Access Principles for Public, Municipal and Other Utilities ("the Application"), identified as Tariff Supplement No. 55, for Commission approval; and
- C. The Commission, by Order No. G-101-00, established a written public hearing to deal with the Application and issued a Regulatory Agenda; and
- D. Submissions were received from two Registered Intervenors, namely the Consumers' Association of Canada (B.C. Branch) et al. and the City of New Westminster; and
- E. B.C. Hydro responded to the written submissions filed by both Intervenors and submitted that the Commission approve the proposed Access Principles as filed on September 29, 2000, with the possibility of including an amendment concerning the time period to which a Specified Access Customer would be subject to the proposed Access Principles or any new Access Principles; and

- F. On January 2, 2001, the Joint Industry Electricity Steering Committee (“the JIESC”) provided a late submission. The Commission, in its Reasons for Decision (attached as Appendix A), has responded to the submissions of the JIESC and the other Intervenor; and
- G. The Commission has considered the Application and all of the submissions; and
- H. The Commission finds that approval of the proposed Access Principles for Public, Municipal and Other Utilities is in the public interest.

NOW THEREFORE the Commission orders as follows:

1. The Commission approves for B.C. Hydro its application for Access Principles for Public, Municipal and Other Utilities, identified as Tariff Supplement No. 55 as filed on September 29, 2000.
2. Reasons for Decision are attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this *sixth* day of February 2001.

BY ORDER

Original signed by:

Peter Ostergaard
Chair

Attachment

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
Application for Access Principles for Public, Municipal and Other Utilities

REASONS FOR DECISION

BACKGROUND

The British Columbia Utilities Commission's ("the Commission") Order No. G-25-00 approved the Power Sale Agreement Electric Tariff Supplement No. 1 between the British Columbia Hydro and Power Authority ("B.C. Hydro") and the City of New Westminster ("the City"). In its March 3, 2000 letter to B.C. Hydro the Commission noted that B.C. Hydro's Wholesale Transmission Tariff may be somewhat incomplete by remaining silent on the issue of so-called access principles (i.e., the terms and conditions by which wholesale customers may join or leave the embedded-cost of service of B.C. Hydro). The Commission requested that B.C. Hydro inform the Commission of its intention to file a set of access principles for its wholesale customers. B.C. Hydro responded on May 1, 2000 and acknowledged that, while it was prepared to file an application on access principles in the fall of 2000, such an application could be deferred until it was necessary to facilitate a new arrangement with the City after 2002, following the expiry of the current agreement and when the market environment to which such principles would apply is more clearly developed.

The Commission, in a letter dated May 19, 2000, indicated that its request of B.C. Hydro to develop access principles was necessary because in the absence of such principles there is uncertainty over the terms and conditions of embedded cost service for new and existing wholesale customers. Consequently, the Commission did not wish to compromise the need for parties to have certainty around their rights and obligations for service, should such principles not be developed in advance of future contract negotiations between parties and B.C. Hydro.

B.C. Hydro's application for approval of its Access Principles for Public, Municipal and Other Utilities ("the Application") was filed on September 29, 2000. The Commission established a written public hearing in Order No. G-101-00 to deal with the Application.

B.C. Hydro's Application indicated that it is not in a position to develop access principles that are suited and particular to B.C. Hydro until it receives further direction from the government on the Entitlement issue (i.e., the allocation or assignment of benefits from B.C. Hydro's low cost generation to any particular customer or customer classes). As a result, B.C. Hydro's proposed access principles are largely based on the access principles approved for West Kootenay Power Ltd. ("WKP") in the Commission's March 10, 1999 Decision. The interim measures proposed in the Application enable specified access customers to return to

embedded cost of service upon satisfying conditions of exit and re-entry. Specified access customers are Public Utilities regulated by the Commission, and Municipal Utilities and Other Persons acting as Public Utilities, which are exempt from regulation under the Utilities Commission Act. As a result, departing specified access customers may not take any benefits of B.C. Hydro's low embedded cost generation with them but departing customers do retain an ability to return to embedded cost service after going to the market. B.C. Hydro has also included the principle that customers who remain with the Utility supply are to be made no worse off by the exit, partial exit or re-entry of specified access customers. B.C. Hydro's access principles also address other issues such as B.C. Hydro's rights and obligations to provide service to domestic customers outside its service area and to new specified access customers inside its service area.

SUBMISSIONS AND ISSUES

Written submissions were provided from the Consumers' Association of Canada B.C. Branch et. al. ("the CAC (BC) et al.") and the City on December 8, 2000. A late submission was provided by the Joint Electricity Steering Committee ("the JIESC") on January 2, 2001. The JIESC suggested that there is no need for the Commission to deal with this issue at this time and that no action should be taken on this issue. The JIESC reasoned that existing wholesale customers will not have any desire to move away from embedded cost rates given current market prices and the adoption of WKP's Access Principles by B.C. Hydro will not provide anyone with certainty going forward.

The CAC (BC) et al. commented that the application should be approved, despite the fact that it appears highly unlikely that any of B.C. Hydro's existing wholesale customers will wish to take advantage of the access principles, until revised principles are filed. However, in the event that access principles are required, the CAC (BC) et al. indicated that the proposed principles should be adequate. With respect to the Entitlement issue, the CAC (BC) et al. submitted that it is not necessary for the Commission to address this issue at this time.

The City, B.C. Hydro's existing wholesale customer, submitted its position on two issues related to the access principles. First, the City indicated its opposition to the principle that B.C. Hydro would have no obligation to serve a new specified access customer in its service area at embedded cost prices, where the customer is engaged in the re-sale of its energy at other than the specified access customer's embedded cost prices. According to the City, this principle would effectively give control of setting re-sale rates to B.C. Hydro. Second, the City expressed concern about including an expiry clause limiting a specified access customer from returning to embedded cost supply as defined in the access principles. Under the expiry clause, the customer would not be able to return to embedded supply in accordance with the access principles if revised access principles had been in place for more than five years. The City argued that the expiry provision would create uncertainty as to whether the City's ability to return to embedded cost supply at the start of any

long term agreement (i.e. more than five years) with another supplier would be maintained at the end of such an agreement. B.C. Hydro indicated in its December 21, 2000 reply submission that such a provision is reasonable, but left it to the Commission to decide upon the matter.

DECISION AND REASONS

By the accompanying Order, the Commission approves the Access Principles for Public, Municipal and Other Utilities as applied for on September 29, 2000. The Commission recognizes B.C. Hydro's argument that the substance of these principles may not be appropriate for B.C. Hydro in the medium or long term, given that the Entitlement issue has yet to be resolved. The Commission expects that B.C. Hydro will revise its principles once this issue and other issues concerning further deregulation are clarified. In the interim, the Commission accepts these principles as they provide greater certainty over the rights and obligations for existing and new specified access customers to leave and return to embedded cost of service. In response to the JIESC suggestion that the Commission take no action on this issue, the Commission notes, in addition to the points raised above, that the existing contract between the City and B.C. Hydro requires the parties to begin negotiations nine months before the end of 2002. The Commission concludes that issues concerning parties' rights and obligations to embedded cost of service should be clarified well in advance of future negotiation periods.

With respect to the issue raised by the City as to whether the principles restrict unregulated entities, such as municipal wire owners, from setting its rates independent of B.C. Hydro's rates, the Commission notes that these principles are interim and the Commission anticipates future change. These concerns may also be further explored by parties at the time new principles are developed. At this time, the Commission agrees with B.C. Hydro that it would be inappropriate for an unregulated utility to earn a profit from the re-sale of electricity that has been purchased from B.C. Hydro at embedded cost rates.

The City also expressed concern over a potential amendment to the principles that would set a date when a specified access customer could return to embedded cost service under the principles. B.C. Hydro suggested that such an amendment would be reasonable. The Commission recognizes that such an amendment could limit the options to specified access customers without necessarily providing additional protection for other embedded cost customers. Therefore, the Commission does not require any changes to the principles as originally applied for by B.C. Hydro. If the City determines that it will enter a long-term arrangement (5 years or more) with a separate electricity provider commencing in 2003, the City may wish to clarify its rights to return to B.C. Hydro with the Commission and B.C. Hydro once the new supply contract is known and the impacts of the City's departure on the remaining B.C. Hydro customers can be specified.