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BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-115-01

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

and

An Application by 1198184 Ontario Limited for
Approval to an Amalgamation, Transfer of its Hydroelectric Facility and Transfer of
the Rights, Benefits and Interests Granted by Commission Orders
No. G-46-94, E-10-94, G-62-96 and G-54-99

BEFORE: P. Ostergaard, Chair)
R.D. Deane, Commissioner)
K.L. Hall, Commissioner) October 25, 2001
N.F. Nicholls, Commissioner)

O R D E R

WHEREAS:

- A. By Order No. G-46-94 dated June 22, 1994, the Commission approved for the Tahltan Nation Development Corporation (“TNDC”), an exemption from certain provisions of the Utilities Commission Act (“the Act”) in respect of the sale of power generated from its Hluey Lakes hydroelectric generating facility (the “Project”) at Dease Lake, B.C. to British Columbia Hydro and Power Authority (“B.C. Hydro”); and
- B. By Order No. E-10-94 dated June 22, 1994, the Commission approved the Electricity Purchase Agreement dated November 1, 1993 (the “Electricity Purchase Agreement”) between B.C. Hydro and TNDC; and
- C. By Order No. G-62-96 dated June 13, 1996, the Commission approved the transfer of TNDC’s rights and interests in the Project and in the Electricity Purchase Agreement to Stikine Nation Power Corporation (“SNPC”); and
- D. On March 15, 1999, The Manufacturers Life Insurance Company (“Manulife”), the main lender for the Project, advised the Commission that it had commenced foreclosure proceedings against SNPC’s Project assets and would be seeking a Court Order transferring the rights in the Project to Manulife’s assignee, 1198184 Ontario Limited (“1198184”); and

- E. By Order No. G-54-99 dated May 20, 1999, the Commission approved the transfer of SNPC's rights, benefits and interests under Commission Orders Nos. G-46-94 and G-62-96 to 1198184; and
- F. On October 12, 2001 Manulife advised the Commission that 1198184 intends to amalgamate with its then parent corporation Manucab Ltd. and continue as Manucab Ltd. ("Amalco"); and
- G. On November 13, 2001 B.C. Hydro provided to the Commission an Assignment, Assumption and Consent Agreement dated November 14, 2001 by which all parties have agreed to assign the Electricity Purchase Agreement, as amended, to Clean Power Operating Trust (the "Trust") which is a trust established under the laws of Ontario and which is wholly owned by Clean Power Income Fund; and
- H. On October 12, 2001, 1198184 advised the Commission that it intends to sell to the Trust the Project and applied to the Commission for approval to a transfer of the rights, benefits and interests granted by Orders Nos. G-46-94, E-10-94, G-62-96 and G-54-99 from Amalco to the Trust, which sale and transfer is expected to occur on a closing date of November 14, 2001, (the "Closing Date"); and
- I. The Commission has considered the application and is satisfied that an Order approving the proposed amalgamation and transfer of such rights, benefits and interests to the Trust is necessary and in the public interest.

NOW THEREFORE the Commission approves the proposed amalgamation, the transfer of the Project to the Trust and the transfer of the rights, benefits and interests granted by Orders Nos. G-46-94, E-10-94, G-62-96 and G-54-99 from 1198184 to the Trust and confirms that the Trust and the sale of power generated by the Trust from the Project shall thereby be exempt from the Act, other than Part 2 and Sections 99 and 100, and approved the Assignment, Assumption and Consent Agreement effective on the Closing Date.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of November 2001.

BY ORDER

Original signed by:

Peter Ostergaard
Chair