



SIXTH FLOOR, 900 HOWE STREET, BOX 250 VANCOUVER, B.C. V6Z 2N3 CANADA web site: http://www.bcuc.com TELEPHONE: (604) 660-4700 BC TOLL FREE: 1-800-663-1385 FACSIMILE: (604) 660-1102

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 to Exempt from the Provisions of BC Hydro's Whole Transmission Services Tariff Power Flowing on BC Hydro's System pursuant to the Teck Cominco/BC Hydro Line 71 Agreement and the Line 71 Amending Agreement

BEFORE:	L.F. Kelsey, Commissioner K.L. Hall, Commissioner)	April 7, 2004

WHEREAS:

A. Teck Cominco Metals Ltd. ("Teck Cominco") is connecting its Line 71 to the British Columbia Hydro and Power Authority ("BC Hydro") system at Nelway in order to benefit the interconnected transmission system by reducing loop flows; and

ORDER

- B. Teck Cominco and BC Hydro have entered into agreements regarding the connection of Line 71 to the BC Hydro system at Nelway that are referred to as the Line 71 Agreement and the Line 71 Amending Agreement; and
- C. On February 6, 2003, BC Hydro applied to the Commission to exempt power flowing on the BC Hydro system, pursuant to the Line 71 Agreement and the Line 71 Amending Agreement, from the provisions of BC Hydro's Wholesale Transmission Services Tariff (Tariff Supplement No. 30 and Rate Schedules 3000 to 3010) (the "WTS Tariff"); and
- D. BC Hydro has assured the Commission and other parties that the Line 71 Agreement and Amending Agreement do not prohibit Teck Cominco from entering into arrangements with third parties for the scheduling of power deemed to be flowing over Line 71 and that the exemption would apply to any power deemed to be flowing on Line 71; and
- E. By letters of comment dated March 6, 2003 and February 26, 2003, Aquila Networks Canada (British Columbia) Ltd. ("Aquila") and Columbia Power Corporation ("CPC") respectively, supported BC Hydro's Application; and
- F. On March 20, 2003 the Commission, pursuant to Section 63 of the Utilities Commission Act (the "Act"), issued Order No. G-18-03 approving for BC Hydro an exemption from the application of the WTS Tariffs to power flowing on the BC Hydro system, which would otherwise be deemed to be flowing on Line 71; and

BRITISH COLUMBIA UTILITIES COMMISSION

ORDER

NUMBER

G-34-04

2

- G. On May 1, 2003 Fasken Martineau DuMoulin, on behalf of Teck Cominco, wrote to the Commission requesting a change to Order No. G-18-03 to provide greater certainty of the exemption for future and successor tariffs; and
- H. On May 2, 2003, Aquila wrote to the Commission requesting greater certainty that power scheduled by a third party pursuant to the Line 71 Agreement and the Line 71 Amending Agreement would also be exempt from the provisions of the WTS Tariff; and
- I. The Commission has determined that it does not have the authority to consent to an exemption from future or successor tariffs pursuant to Section 63 of the Act but has no objection to such an exemption; and
- J. By letters dated July 17, 2003, BC Hydro, Teck Cominco, Aquila, and CPC have asked the Commission to seek advance approval of the Lieutenant Governor in Council ("LGIC") under Section 88(3) of the Act to exempt BC Hydro from Section 61(3) of the Act for the purposes of the application of the WTS Tariff or successor or replacement tariffs for power flowing on the BC Hydro system scheduled pursuant to the Teck Cominco/BC Hydro Line 71 Agreement and the Line 71 Amending Agreement.

NOW THEREFORE the Commission orders as follows:

- 1. The Commission rescinds Order No. G-18-03.
- 2. Pursuant to Order in Council No. 285, 2004, attached as Appendix A, the Commission exempts BC Hydro from the application of Section 61(3) of the Act as it applies to:
 - a) BC Hydro's WTS Tariff; and
 - b) Tariffs that are successors to or replacements of the BC Hydro WTS Tariff

for power flowing on the electric transmission system now owned by BC Hydro scheduled pursuant to the Line 71 Agreement and the Line 71 Amending Agreement.

3. For the purposes of this exemption the above references to "BC Hydro" include any public utility that is a successor operator of BC Hydro's system and the above references to "BC Hydro's system" are to the electric transmission system now owned by BC Hydro.

DATED at the City of Vancouver, in the Province of British Columbia, this

day of April 2004.

BY ORDER

Original signed by:

Len F. Kelsey Commissioner

Attachment

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

285 , Approved and Ordered MAR 2 5 2004

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

approval is given to the British Columbia Utilities Commission to issue an order to exempt British Columbia Hydro and Power Authority from the application of Section 61 (3) of the Utilities Commission Act for the purposes, and subject to the terms, substantially set out in the attached draft order of the British Columbia Utilities Commission.

Attorney General and Minister Responsible for Treaty	Presiding Member of the Executive Council
Negotiations	
(This part is for administrative purposes on	ly and is not part of the Order.)
Authority under which Order is made:	
Act and section: Utilities Commission Act section 8	38 (3)
Other (specify):	
	- 1