



LETTER NO. L-60-05

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July 20, 2005

BCH – 2005ROR Exhibit A-3

TO: British Columbia Hydro and Power Authority
Registered Intervenors (ROR05-RI)

Re: British Columbia Hydro and Power Authority
Project No. 3698390 – Order No. G-51-05
2005 Resource Options Report

BACKGROUND

By letter dated April 18, 2005, British Columbia Hydro and Power Authority ("BC Hydro") provided information to the British Columbia Utilities Commission (the "Commission") regarding the BC Hydro 2005 Resource Options Report ("2005 ROR") (Exhibit B-2). The letter included a description of the Stakeholder engagement process, a general description of the 2005 ROR and a proposed form of a regulatory review for the filing.

In the April 18, 2005 letter, BC Hydro stated that the proposed Terms of Reference ("ToR") will be filed on June 6, 2005 and will identify those areas and issues where there is disagreement between BC Hydro and Stakeholders and may be used to establish the scope of the regulatory review of the 2005 ROR. BC Hydro also stated that the 2005 ROR would be filed on June 13, 2005, and proposed a written comment process to review the filing, with a Commission Decision on the 2005 ROR by August 31, 2005.

On May 19, 2005 BC Hydro advised parties involved in its Stakeholder engagement process that the draft 2005 ROR is posted on its website for comments to BC Hydro by May 31, 2005.

By Order No. G-51-05 dated May 26, 2005, the Commission established a Procedural Conference regarding the regulatory process for review of the BC Hydro 2005 ROR to be held on June 15, 2005 (Exhibit A-1).

On June 6, 2005 BC Hydro filed a letter with the Commission containing the following three attachments:

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| Attachment 1 | The proposed ToR to be used to establish the scope of the regulatory review of the 2005 ROR; |
| Attachment 2 | A summary of the written comments received as a part of the formal written Stakeholder commentary and BC Hydro's response to those comments; and |
| Attachment 3 | A complete copy of all written comments submitted as part of the process (Exhibit B-1). |

On June 13, 2005 BC Hydro filed the 2005 ROR and requested a brief adjournment of the Procedural Conference (Exhibit B-3). The adjournment was requested because BC Hydro had received additional Stakeholder comments since filing the ToR. For a more efficient process, BC Hydro wished to review those additional Stakeholder comments and, if appropriate, amend both its ToR and potentially its 2005 ROR to incorporate the comments.

By Letter No. L-37-05 dated June 14, 2005, the Commission adjourned the Procedural Conference to June 29, 2005 (Exhibit A-2) and requested Intervenor comments on the revised ToR and the 2005 ROR by June 27, 2005. On June 21, 2005 BC Hydro filed a Revised Attachment 2 to Exhibit B-1, two additions to Attachment 3 to Exhibit B-1 and a List of Revisions to the ROR Application (Exhibit B-4). On or before June 27, 2005 Intervenor comments were received from the BC Old Age Pensioners Organization *et al.* (“BCOAPO”) (Exhibits C2-2 and C2-3), B.C. Sustainable Energy Association and Sierra Club of Canada, BC Chapter (“BCSEA *et al.*”) (Exhibit C3-2), Commercial Energy Consumers Association of British Columbia (“CEC”) (Exhibit C4-2), the Independent Power Producer Association of British Columbia (“IPPBC”) (Exhibit C8-2), JIESC (Exhibit C9-2), Cloudworks Energy Inc. (“Cloudworks”) (Exhibit C11-2), and Columbia Power Corporation (“CPC”) (Exhibit C14-1).

BC Hydro consulted with several Intervenor on June 28, 2005 in an effort to resolve process concerns. At the Procedural Conference held on June 29, 2005, BC Hydro made a new proposal and specifically sought a Commission order consenting to the withdrawal of the ToR, and an order confirming that there will be no further regulatory process regarding the 2005 ROR (T1:9-16). This request responded, in part, to concerns expressed by several Intervenor regarding the resource plan, regulatory review process. The first significant concern expressed was that there ought to be a review of BC Hydro’s Integrated Electricity Plan (“IEP”) (T1:6). The second concern, stated in many submissions, was expressed by the British Columbia Public Interest Advocacy Centre (“BCPIAC”) as follows:

“For instance, if the Commission intends that the Report will be subject to some form of adoption or approval, and if this means that the cost data will become res judicata in some manner, or if BC Hydro could be permitted to enter into resource commitments on the basis of the data, then we would insist upon a full rigorous review of the 2005 Resource Options Report. If it is filed for information purposes only, as a work in progress but with no intention that parties have to live with any of the numbers contained in it, then a more cursory process would be called-for”(Exhibit C2-2).

BC Hydro was directed to file a letter by July 4, 2005 with its proposal, and the Procedural Conference was adjourned until July 8, 2005 (T1:34).

On July 4, 2005 BC Hydro filed a letter with the Commission which addressed the background of the 2005 ROR process, the proposal and the scope of Commission Order and Decision (Exhibit B-5).

During the July 8, 2005 Procedural Conference, all Intervenor supported the request to conclude the ROR proceeding. The JIESC found all three elements of the proposal, including the termination of the ROR proceeding, acceptable (T1:22). The BCPIAC endorsed the plan of action outlined in the July 4, 2005 letter and urged the Commission to adopt it (T2:39). BCSEA *et al.* stated that they were not opposing the general thrust of the BC Hydro proposal (T2:39). Cloudworks agreed with the BC Hydro proposal with some caveats (T2-43). CPC also generally supported the proposed approach (T2:45). The IPPBC agreed that the ROR review process should come to an end (T2:48). The CEC as well supported BC Hydro’s proposition to terminate the ROR review process (T2:56).

At the conclusion of the Procedural Conference, BC Hydro’s requests for the withdrawal of the ToR and that there be no further regulatory process regarding the 2005 ROR (T2:66) were approved. The Commission Panel reserved on the other issues raised during the Procedural Conference (T2:66). The ROR proceeding was thereby concluded.

BC HYDRO PROPOSAL

BC Hydro stated that its proposal has the following three essential elements:

1. BC Hydro will seek Commission approval of the long-term acquisition plan that is the result of and is a part of the 2005 IEP.
2. BC Hydro proposes to engage with a group of Stakeholders, principally being those who typically appear before the Commission as Intervenor on resource planning issues - for the purpose of developing a common understanding and perhaps a consensus on what precisely the long-term acquisition plan does and does not contain.
3. BC Hydro seeks an end to the current regulatory review of the 2005 ROR (Exhibit B-5, pp. 2-3).

INTERVENORS' COMMENTS

Intervenor strongly expressed their dissatisfaction with the current regulatory review process and, in particular, the interface between BC Hydro's planning processes and the regulatory review of those processes. The concerns expressed and comments regarding three issues are provided below.

Accomplishment of Stated Objectives

BC Hydro is satisfied that the production and filing of the 2005 ROR has already achieved two of its main objectives: (i) to obtain significant Stakeholder input on available resource options; and (ii) to ensure that no suitable resources are inappropriately omitted or prematurely screened out. This is based on the fact that a failure to identify resource options is not among the relatively small set of outstanding issues arising from the 2005 ROR process to date (Exhibit B-5, p. 2).

BCSEA *et al.* challenged the BC Hydro assertion that there was only a "relatively small set of outstanding issues". It noted that there were a number of substantial issues identified and referred to their written comments regarding the ToR for the 2005 ROR review (T2:41). BCSEA *et al.* further noted that while the ROR has achieved the objectives from BC Hydro's planning perspective, the intended regulatory review of the identification of resource options as an objective has not been achieved (T2:40).

Cloudworks cautioned the Commission as to the use of any cost information that has been generated in the 2005 ROR to date. It argued for variation of discount rates to reflect cost uncertainty and suggested that particularly resource options with distant start-up dates and significant fuel price volatility should be discounted at higher rates (T2:45).

CPC expressed concern over BC Hydro's assurance that no suitable resources have been inappropriately omitted or prematurely screened out and found that conclusion overly sweeping. CPC noted that the 2005 ROR process, which essentially has been a central planning process, cannot by definition elicit all potential proposals to the same degree that a competitive bidding process or a call might do (T2:46).

CEC stated that the 2005 ROR may not have achieved all of its stated objectives, but it has achieved a very important aspect which is to provide transparency to BC Hydro's planning process (T2:55).

Intervenor/Stakeholder Engagement

BC Hydro believes that a lack of common understanding, amongst Intervenors and the utility, of what can meaningfully be expected in a long-term acquisition plan continues to be a fundamental impediment to efficient planning and regulatory processes. As a solution, BC Hydro commits to engaging the “Intervenor Stakeholders” in a process separate from its broader Stakeholder consultation process (Exhibit B-5, p. 3).

The BCPIAC endorsed further Intervenor/Stakeholder consultation as a very productive exercise and urged the Commission to adopt it (T2:39). CPC also agreed that the Intervenor/Stakeholder engagement is a worthwhile exercise that should be pursued (T2:46).

BCSEA *et al.* agreed that a dialogue between BC Hydro and the Intervenors would be desirable, but emphasized the importance of distinguishing the regulatory focus of that dialogue from the planning focus of the existing 2005 IEP process. Specifically, BCSEA *et al.* suggested that consideration should be given to the Commission staff being involved in those consultations and framing the dialogue as an early phase of a regulatory review of the long-term acquisition plan (T2:42).

Cloudworks concurred with the Intervenor/Stakeholder engagement but argued that unless the IEP as a whole is discussed, no amount of Stakeholder engagement will address the Intervenor concerns regarding the IEP and potential omissions from the long-term acquisition plan (T2:44).

IPPBC expressed concern over a Stakeholder engagement process controlled by BC Hydro, which would decide on the long-term acquisition plan. In IPPBC’s submission, it is not productive to proceed with the Intervenor/Stakeholder engagement for determining what a long-term acquisition plan is all about. Rather, a comprehensive review of the IEP should take place (T2:51-52).

BC Hydro states that it has no objection to Commission staff involvement as proposed by BCSEA *et al.* (T2:64).

2005 IEP and Long-Term Acquisition Plan

BC Hydro plans to file the 2005 IEP in November 2005. In the first quarter of 2006, BC Hydro will seek approval of the Long-Term Acquisition Plan (“LTAP”), included with the 2005 IEP, in conjunction with seeking approval of the 2006 REAP (Exhibit B-5, p. 3).

The BCPIAC noted the lack of common understanding of what can meaningfully be expected in a LTAP as one of the fundamental issues facing BC Hydro and Intervenors (T2:39).

BCSEA *et al.* sought confirmation that the LTAP will be filed pursuant to Section 45(6.1) of the Utilities Commission Act (“UCA”) with the intention that it be approved or disapproved pursuant to Section 45(6.2) of the UCA (T2:41).

Cloudworks did not object to the review and approval of the LTAP with the 2006 REAP, but had difficulty differentiating a LTAP from the IEP. As a solution, Cloudworks suggested that the whole 2005 IEP be reviewed along with the 2006 REAP (T2:44).

CPC observed that the IEP should not be a document prescriptive of the resources, but rather a document that specifies the required amounts. In CPC’s view, the resource acquisition process should tend to be larger, unrestricted and more open. CPC further noted that in a competitive bidding process the least cost options should naturally reveal themselves if the terms are set appropriately at the outset (T2:47-48).

IPPBC also questioned the meaning of the LTAP identified in the 2005 IEP: for instance, will there be debate over the inputs into BC Hydro’s long-term strategies or will the debate be restricted to the actual strategy inherent in the 2005 IEP (T2:50). IPPBC argued that the termination of the ROR process has to be replaced with a clear

direction from the Commission as to what will be reviewable in terms of the 2005 IEP. In IPPBC's submission, the entire 2005 IEP should be reviewable by the Commission in a public process as certain sections cannot be severed from an integrated document (T2:52).

Regarding the formation of the IEP, IPPBC emphasized the importance of the competitive bid processes and noted that the IEP should set out the parameters upon which bids are evaluated (T2:53).

The CEC described a LTAP as an architecture for the decision-making processes that will result in the acquisition of resources and acknowledged the importance of addressing strategic decisions in those processes (T2:56).

The City of New Westminster requested that the Provincial Integrated Electricity Planning Committee be charged with the task of developing terms of reference for the IEP for filing, review and approval with the Commission as well as filing a draft IEP (T2:60).

In its reply comments, BC Hydro attempted to clarify the distinction between what is for review and what is for approval. By proposing approval of the LTAP, BC Hydro did not intend to preclude a comprehensive review of the entire 2005 IEP. The evidence that supports the plan, contained in the IEP, has to be subject to Commission review (T2:62).

BC Hydro also confirmed that the LTAP would be filed pursuant to Section 45(6.1) of the UCA for approval pursuant to Section 45(6.2) of the UCA. BC Hydro argued that the entire 2005 IEP should be filed for information and evidence, but only the portion of the IEP that meets the definition of a plan in the UCA should be filed for approval (T2:63).

In response to the City of New Westminster request, BC Hydro argued that those options would add two more layers of regulatory process and as such are not a valuable or effective use of Stakeholders' and regulator's time (T2:65).

COMMISSION PANEL CONCLUSIONS

Further to the two orders granted on July 8, 2005, the Commission Panel now provides the following further comments and directions.

The Commission Panel notes Intervenor support for BC Hydro's proposal. Stakeholder consultation processes and the regulatory review process for resource plans filed pursuant to the requirements of Section 45(6.1) of the UCA can reasonably be expected to continue to evolve as was evident in this proceeding. Although clarity and certainty may benefit those processes, the Commission Panel concludes that determinations, including determinations with respect to the scope of the regulatory review of the LTAP and the 2005 IEP, for at least this planning cycle, should continue to be deferred until further regulatory filings.

The Commission Panel notes that Intervenor/Stakeholder consultations may be determinative for BC Hydro of the 2005 IEP and the LTAP filings, particularly the scope of the approvals sought with that filing. In that regard, the Intervenor/Stakeholder consultation process may lead to a common understanding of a "plan" as contemplated in Section 45(6.1) of the UCA. Therefore, the Commission Panel concludes that the purpose and scope of the regulatory review of the 2005 IEP and the LTAP should not yet be determined.

The Commission Panel accepts BC Hydro's submission that there is no need for reconsideration of Order No. G-96-04 dated October 29, 2004 regarding BC Hydro's 2004/05 to 2005/06 Revenue Requirements.

Although Commission staff participation in the Intervenor/Stakeholder engagement process may assist the process, the Commission Panel concludes that only Intervenor/Stakeholders should provide comments to BC Hydro regarding the 2005 IEP and LTAP, and therefore concludes that Commission staff should not participate in the process. With regard to the Intervenor/Stakeholder engagement in general, the Commission Panel notes the Intervenor comments, but finds that the engagement process is for BC Hydro to manage.

The Commission Panel accepts the following filing dates:

- 2005 IEP, including the Long-Term Acquisition Plan November 2005
- 2006 REAP February 2006

Given the submissions of participants in the 2005 ROR process, the Commission Panel suggests that BC Hydro and Intervenor anticipate an oral public hearing for the review of the 2005 IEP, including the LTAP, and 2006 REAP during the first half of 2006.

Finally, the Commission Panel acknowledges the comments regarding competitive bid processes, but finds that there is no need to provide further direction at this time.

Yours truly,

Original signed by:

Robert J. Pellatt

LAH/cms