



**LETTER NO. L-103-05**

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

ROBERT J. PELLATT  
COMMISSION SECRETARY  
Commission.Secretary@bcuc.com  
web site: <http://www.bcuc.com>

**VIA E-MAIL**

December 1, 2005

**BCTC\_VITR and Sea Breeze\_VIC  
Exhibit A-40**

TO: Registered Intervenors

Re: British Columbia Transmission Corporation ("BCTC")  
Certificate of Public Convenience and Necessity ("CPCN") Application  
Vancouver Island Transmission Reinforcement Project ("VITR")  
Sea Breeze Victoria Converter Corporation ("Sea Breeze")  
CPCN Application for Vancouver Island Cable Project ("VIC")  
Projects No. 3698395 and 3698405, Orders No. G-70-05 and G-97-05

HTG Requests for Advance Orders and Revised Regulatory Agenda

By letter dated November 3, 2005 (Exhibit A-29), the Commission Panel established a written comment process for the Hul'Qumi'num Treaty Group (HTG) requests (Advance Orders) and other submissions as set out in Exhibits C27-3, C27-5, and C27-7. Submissions were received from Commission Counsel (Exhibit A-31 and Exhibit A-37), BCTC (Exhibit B1-31), BC Hydro (Exhibit C6-5) and HTG (Exhibit C27-11). By letter dated November 25, 2005 (Exhibit A-38), the Commission Panel extended the time for HTG so that it could file a reply submission further to that of Exhibit C27-11. Although a further reply submission was filed by HTG, it was not filed until after the time established by Exhibit A-38, and not until after the Commission Panel had concluded its deliberations. Therefore, the further reply submission filed by HTG has not been reviewed by the Commission Panel and will not be entered as an Exhibit in this proceeding.

The Commission Panel concludes that it should only consider those issues arising from the Advance Orders sought by HTG that need to be considered at this time in the proceeding. Other issues that have not been considered in this letter may be considered in the decision to be issued at the conclusion of the proceeding (CPCN Decision). Further, the Commission prefers to provide reasons with respect to the matters addressed in this letter with the CPCN Decision. If reasons are requested, then the Commission Panel will provide reasons sooner than the CPCN Decision. However, the issues considered in this letter and other issues raised in the submissions may be interrelated. Therefore, participants may in final argument address both the matters addressed in this letter and other issues raised in submissions.

The Commission Panel concludes that the Advance Orders sought by HTG should not be granted at this time. In particular, the Commission Panel has not revised the regulatory timetable to establish a "separate, distinct or additional process" as proposed by HTG. In this regard, the Commission Panel accepts the submissions of both BC Hydro and BCTC not to revise the regulatory timetable. However, an obligation to consult and, if necessary, to accommodate may still be borne by BC Hydro and BCTC at the conclusion of this proceeding, and it is open to HTG in final argument to argue that the obligation was not met and that a "separate, distinct or additional process" was necessary to meet that obligation.

The Commission Panel agrees with the following submission of BC Hydro:

“To properly apply the public convenience and necessity test, the Commission will require evidence of on-going efforts made by BC Hydro and BCTC to meet concerns expressed by First Nations to the extent practicable, and of any Crown consultation that has occurred and will occur” (Exhibit C6-5, p. 2).

Accordingly, by this letter, the Commission Panel revises the Regulatory Timetable set out in Exhibit A-28 to permit BC Hydro and BCTC to file evidence by December 12, 2005 relevant to consultation and accommodation in relation to the VITR project. HTG may file rebuttal evidence by Friday, January 6, 2006.

The Commission Panel further finds that it should not provide interim funding pursuant to Section 3 of the Participant Assistance/Cost Award Guidelines in this proceeding. Therefore, the Commission Panel denies funding to HTG pursuant to Section 3 of the Participant Assistance/Cost Award Guidelines.

Yours truly,

*Original signed by:*

Robert J. Pellatt

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