

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-143-06

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 ("BC Hydro")
for the Review of the F2007 and F2008 Revenue Requirements Application ("F07/F08 RRA")**

BEFORE: R.H. Hobbs, Chair
N. F. Nicholls, Commissioner November 10, 2006
A.J. Pullman, Commissioner

O R D E R

WHEREAS:

- A. In a letter dated March 15, 2006, BC Hydro applied for Commission approval to set its current rates as interim effective April 1, 2006 and in the same letter informed the Commission that the balance of the F07/F08 RRA would be filed in or about late April 2006; and
- B. By Order No. G-32-06 dated March 23, 2006, the Commission approved current customer rates as interim effective April 1, 2006; and
- C. By Commission Order No. G-103-05 dated October 5, 2005 the Commission approved a Negotiated Settlement in the Resource Expenditure Acquisition Plan ("REAP") proceeding. In the REAP Negotiated Settlement, BC Hydro committed to seek, pursuant to Section 45 (6.2) of the Utilities Commission Act (the "Act, "UCA"), regulatory approval of the 2006 Long-Term Acquisition Plan ("LTAP"), to be included with the 2006 Integrated Electricity Plan ("2006 IEP"); and
- D. On March 29, 2006, BC Hydro filed, pursuant to Section 45 (6.1) of the Act, the 2006 IEP and the LTAP with the Commission for review; and
- E. The 2006 IEP is a long-term plan that describes how BC Hydro could meet customers' electricity needs over a 20-year planning horizon and the resource options available to meet those needs under a variety of assumptions and risks; and
- F. The LTAP is an action plan that is supported by the 2006 IEP. It itemizes the actions BC Hydro intends to take in the next ten years to meet customers' electricity needs as part of BC Hydro's overall planning and resource acquisition process; and
- G. BC Hydro seeks an Order which: (i) states that the 2006 LTAP meets the requirements of Section 45 (6.1) of the UCA; (ii) makes specific determinations under Subsection 45 (6.2)(b) of the UCA with respect to certain

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-143-06

2

planned expenditures; and (iii) approves the transmission LTAP plan and contingency plans for inclusion in the Utility's Network Integrated Transmission Service application; and

- H. In its cover letter dated March 29, 2006, BC Hydro proposes a Pre-hearing Conference to assist with establishing a Regulatory Agenda or Agendas for both its F07/F08 RRA and the 2006 IEP and LTAP; and
- I. By Order No. G-37-06, the Commission established a Procedural Conference to hear submissions on the regulatory process for the review of the both the F07/F08 RRA and the 2006 IEP and LTAP. The Procedural Conference was scheduled for May 19, 2006; and
- J. In a letter dated May 1, 2006, BC Hydro informed the Commission and all Intervenors and Interested Parties of a delay and that the balance of its F07/F08 RRA would be filed towards the end of May 2006; and
- K. The Joint Industry Electric Steering Committee ("JIESC") submitted to the Commission in a letter dated May 5, 2006 that participants should not be required to file Information Requests with respect to the 2006 IEP, LTAP or F07/F08 RRA prior to the filing of the F07/F08 RRA because the applications are intertwined. It submitted that the Procedural Conference be postponed to the week of June 19, 2006. The JIESC also requested that the Commission reconsider its Order No. G-32-06 making BC Hydro's rates interim; and
- L. On May 10, 2006, the Commission issued a letter with a draft regulatory timetable and an accompanying Order No. G-51-06 (IEP Exhibit A-4) to address issues raised by Intervenors with respect to the delay by BC Hydro in filing the F07/08 RRA; and
- M. The Commission held a Procedural Conference on May 19, 2006 wherein the Commission Panel considered submissions on whether or not the Order on interim rates should be reconsidered, whether a rate design application should be filed, and the scheduling for the regulatory review of the 2006 IEP and LTAP, the F07/08 RRA and a rate design application; and
- N. By Order No. G-59-06 dated May 24, 2006 the Commission approved the reconsideration of Order No. G-32-06 on interim rates and set the regulatory timetable leading to the Second Procedural Conference; and
- O. On June 19, 2006, the Commission issued Order No. G-70-06 denying the Reconsideration Application. In the same Order, the Commission approved the request in the F07/F08 RRA for a regulatory asset (deferral account) to record the revenue deficiency incurred during the period from April 1, 2006 to June 30, 2006, net of any disallowance of F07 revenue requirements. The Order also required that if BC Hydro expected to bring an application for carrying costs then BC Hydro was to do so within 30 days of the Order; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-143-06

3

- P. By letter dated July 27, 2006, the Commission asked BC Hydro and Intervenor to comment on the consolidation of the 2006 IEP, LTAP and F07/F08 RRA; the use of the negotiated settlement process (NSP); the filing date for the rate design application; the proposed regulatory timetables; and a contemplated change to the Commission Panel; and
- Q. By letter dated July 28, 2006 BC Hydro informed the Commission that BC Hydro would not be charging carrying costs to the regulatory asset (deferral account) approved by Order No. G-70-06 and accordingly would not be filing an application; and
- R. By letter dated July 28, 2006, BC Hydro asked the Commission to confirm if the F2006 Call Energy Supply Contracts (“ESC”) as filed on August 31, 2006 will proceed without any further regulatory process; and
- S. At the Second Procedural Conference on August 1, 2006, JIESC and BC Hydro separately provided revisions to the proposed regulatory timetables; and BC Hydro advised that it is ready to file the rate design application within thirty days of receipt of a decision on the F07/F08 RRA; and
- T. Following the Second Procedural Conference the Commission issued Order No. G-96-06, dated August 3, 2006, which established, among other things, a NSP for the F07/08 RRA; and
- U. On August 31, 2006 BC Hydro filed an Evidentiary Update to the F07/08 RRA; and
- V. The NSP commenced immediately following a Workshop led by BC Hydro on October 16, 2006; and
- W. The participants in the NSP reached a Negotiated Settlement Agreement, dated November 2, 2006 (“NSA”); and
- X. On November 6, 2006, the NSA, together with the Letters of Support and one Letter of Dissent (the “Settlement Package”) received from the participants in the NSP, was made public and circulated to the Commission Panel. On the same date the Settlement Package was also distributed to Registered Intervenor in the F07/08 RRA review who did not participate in the settlement negotiations (“other Intervenor”). The other Intervenor were requested to provide their comments on the Settlement Package to the Commission at the Third Procedural Conference, which took place on November 8, 2006. The Commission Panel received no comments at the Third Procedural Conference from other Intervenor regarding the Settlement Package. One other Intervenor, EPCOR Utilities Inc. (“EPCOR”), submitted a letter dated November 7, 2006, which stated that EPCOR accepts and supports approval of the NSA; and
- Y. At the Third Procedural Conference the Commission Panel also posed questions, primarily to BC Hydro, regarding the NSA, including the scope of review during the 2006 IEP and LTAP proceeding.; and
- Z. The Commission has determined that the NSA is in the public interest and should be approved.

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-143-06

4

NOW THEREFORE the Commission orders as follows:

1. The Negotiated Settlement Agreement, dated November 2, 2006, attached as Appendix A to this Order is approved.
2. The Commission will accept revised Electric Tariff Rate Schedules in accordance with the terms of the NSA.
3. BC Hydro is to inform all customers in a timely manner of the rate changes approved by this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 10th day of November 2006.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair

Attachment



WILLIAM J. GRANT
TRANSITION ADVISOR
bill.grant@bcuc.com
web site: <http://www.bcuc.com>

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
Log No. 14085

VIA E-MAIL

November 6, 2006

VIA FAX – Ms. Isabel Minty

To: Registered Intervenors (BC Hydro – F2007/08 RRA)

Dear Registered Intervenors:

Re: British Columbia Hydro and Power Authority (“BC Hydro”)
Negotiated Settlement
F2007 and F2008 Revenue Requirements Application (“F2007/2008 RRA”)

Enclosed with this letter is the proposed Negotiated Settlement Agreement, dated November 2, 2006 together with the Letters of Support and one Letter of Dissent (the “settlement package”) received from the participants in the negotiated settlement process.

This settlement package is now public and is being submitted to the Commission Panel and all Registered Intervenors.

Prior to consideration by the Commission Panel, Registered Intervenors who did not participate in the settlement negotiations are requested to provide their comments, if any, on the settlement package to the Commission Panel at the Third Procedural Conference scheduled to commence at 1:00 p.m. on Wednesday, November 8, 2006. Thereafter, the Commission Panel will consider the settlement package. A public hearing may not be required unless there is significant opposition to the proposed settlement.

Yours truly,

Original signed by

William J. Grant

Attachments

cc: Ms. Joanna Sofield
Chief Regulatory Officer
British Columbia Hydro and Power Authority

~~CONFIDENTIAL — WITHOUT PREJUDICE~~

IN THE MATTER OF THE
Utilities Commission Act, R.S.B.C. 1996, Chapter 473, as amended (the UCA)
and
An Application by British Columbia Hydro and Power Authority (BC Hydro) for the
Review of its F2007 and F2008 Revenue Requirements Application (F07/F08 RRA)

BC HYDRO F07/F08 RRA SETTLEMENT AGREEMENT

DATED FOR REFERENCE NOVEMBER 2, 2006

WHEREAS:

- A. In a letter dated March 15, 2006 (Exhibit B-1; RRA), BC Hydro applied to the British Columbia Utilities Commission (Commission) for approval to set its then-current rates as interim effective April 1, 2006, and in the same letter informed the Commission that it proposed to file the balance of the F07/F08 RRA in late April 2006; and
- B. By Order No. G-32-06 dated March 23, 2006 (Exhibit A-1; RRA), the Commission approved BC Hydro's then-current customer rates (F2006 Rates) as interim effective April 1, 2006; and
- C. On May 25, 2006, BC Hydro filed the balance of its F07/F08 RRA (Exhibit B-5-1,2,3; RRA) . The F07/F08 RRA requested approval, pursuant to sections 58, 59, 60 and 90 of the UCA, for an across-the-board rate increase of 4.65 percent from July 1, 2006 to allow a partial recovery of its F2007 revenue requirements, a further increase of 2.71 percent effective April 1, 2007 and a regulatory asset (deferral account) to record the F2007 revenue deficiency between April 1, 2006 and the date BC Hydro's rates would be raised on an interim basis, net of any disallowance of F2007 revenue requirements; and
- D. By Order No. G-70-06, dated June 19, 2006 (Exhibit A-10; RRA), the Commission denied an application brought by certain intervenors to reconsider and rescind Order No. G-32-06, and approved the creation of a regulatory asset (deferral account) to record the F2007 revenue deficiency for the period between April 1, 2006 and July 1, 2006, net of any disallowance of the F2007 revenue requirement; and

~~CONFIDENTIAL – WITHOUT PREJUDICE~~

- E. By Order No. G-71-06, dated June 21, 2006 (Exhibit A-8; RRA), the Commission approved BC Hydro's requested rate increase of 4.65 percent, on an interim basis effective July 1, 2006; and
- F. Following a procedural conference on August 1, 2006, the Commission issued Order No. G-96-06 (Exhibit A-15; IEP/LTAP) establishing, among other things, a Negotiated Settlement Process with respect to the F07/F08 RRA (NSP), to commence on October 16, 2006. Order No. G-96-06 also set out a schedule for the oral hearing phase of BC Hydro's 2006 Integrated Electricity Plan and Long Term Acquisition Plan (IEP/LTAP Hearing), set to commence on November 22, 2006. In the cover letter (Exhibit A-15; IEP/LTAP) to Order No. G-96-06 the Commission concluded, on the basis of the material before it at the time, that the disposition of balances in the current deferral accounts should not be within the scope of the NSP (Exhibit B-5-1, Section 2.3.2); and
- G. On August 31, 2006 BC Hydro filed an Evidentiary Update (Exhibit B-15; RRA) to the F07/F08 RRA. Information received by BC Hydro since May 25, 2006 and provided in the Evidentiary Update established a lower revenue requirement for F2007 than indicated in the May 25, 2006 filing, and the possibility of significant recovery of closing F2006 deferral account balances in F2007; and
- H. The following parties (collectively, the Parties, or individually, a Party) participated in the NSP:

PARTICIPANT

PARTIES

W.J. Grant	British Columbia Utilities Commission
G.A. Fulton	Commission Counsel
S.P. Sue	British Columbia Utilities Commission
D. Chong	British Columbia Utilities Commission
W. J. Krampf	British Columbia Utilities Commission
P.W. Nakoneshny	British Columbia Utilities Commission
E. Cheng	British Columbia Utilities Commission
T. Hackney	Sierra Club of Canada British Columbia (SCCBC), BC Sustainable Energy Association (BCSEA) and the Peace Valley Environment Association (PVEA)
W. Andrews	Counsel for Sierra Club of Canada British Columbia (SCCBC), BC Sustainable Energy Association (BCSEA) and the Peace Valley Environment Association (PVEA)
L. Bertsch	Energy Solutions for Vancouver Island Society

~~CONFIDENTIAL — WITHOUT PREJUDICE~~

C. Weafer	Counsel for Commercial Energy Consumers
L. Worth	Counsel for the BC Old Age Pensioners Organization <i>et al.</i>
J. Quail	Counsel for the BC Old Age Pensioners Organization <i>et al.</i>
C. Fussell	Consultant for the BC Old Age Pensioners Organization <i>et al.</i>
D. Potts	Joint Industry Electricity Steering Committee
L. Guenther	Joint Industry Electricity Steering Committee
B. Wallace	Counsel for Joint Industry Electricity Steering Committee
J. Morgan Hay	Counsel for Joint Industry Electricity Steering Committee
D. Austin	Counsel for Independent Power Producers of BC
J. Weimer	Independent Power Producers of BC
P. Lamarche	Howe Sound Pulp & Paper Limited Partnership
K. MacMillan	Chemtrade Pulp Chemicals
D. Newlands	Elk Valley Coal Corporation
D. Humber	West Fraser Mills (West Fraser Timber Co. Ltd.)
T. Loski	Terasen Gas Inc.
D. Perttula	Terasen Gas Inc.
A. Wait	Ratepayer
F. Weisberg	Counsel for Columbia Power Corporation
J. Griffith	Counsel for Haisla Nation
I. Minty	Ratepayer
D. Farrell	British Columbia Hydro and Power Authority
C. Yaremko	British Columbia Hydro and Power Authority
J. Sofield	British Columbia Hydro and Power Authority
J. Christian	Counsel for British Columbia Hydro and Power Authority
W. Taylor	British Columbia Hydro and Power Authority
C. Badenhorst	British Columbia Hydro and Power Authority
I. Webb	Counsel for British Columbia Hydro and Power Authority
A. Cowan	British Columbia Hydro and Power Authority
L. Gray	British Columbia Transmission Corporation
D. Fitzgerald	Catalyst Paper Corporation

~~CONFIDENTIAL – WITHOUT PREJUDICE~~

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

GENERAL

1. The Parties will maintain in confidence all confidential discussions had in the course of negotiating this Settlement Agreement, unless disclosure is agreed to by all Parties and released publicly by Commission staff.
2. This Settlement Agreement represents a compromise reached on a “without prejudice” basis. Neither this Settlement Agreement, nor the positions taken and the statements made by the Parties in the course of negotiating this Settlement Agreement, will restrict in any way the positions that may be taken by any of the Parties in any future proceedings.
3. Despite the Commission’s conclusion regarding the scope of this NSP referred to in recital F above, it would have been impossible to reach any settlement of the F07/F08 RRA without addressing and agreeing on amortization of the current deferral accounts and the resulting level of the rate increases, as reflected in this Settlement Agreement. The Parties agree that none of the provisions of this Settlement Agreement are severable. If the Commission does not accept and approve the Settlement Agreement in its entirety, there is no agreement.

SCOPE AND EFFECTIVE DATE OF SETTLEMENT

4. The relief sought by BC Hydro in the F07/F08 RRA, as amended by the Evidentiary Update, is accepted, subject to the provisions that follow.
5. This Settlement Agreement is a comprehensive settlement of all issues arising from the F07/F08 RRA, except for the determination under section 45(6.2)(b) of the UCA sought by BC Hydro in respect of the Aberfeldie Project at pages 4-3 and Appendix L of the F07/F08 RRA. For greater certainty, there is no agreement among the Parties that expenditures referred to in the F07/F08 RRA in regard to the Aberfeldie Project are, or are not, “in the interests of persons within British Columbia who receive, or who may receive, service from” BC Hydro. For greater certainty, the Parties also agree that the Commission’s current review of BC Hydro’s proposed expenditures in regard to the Aberfeldie Project (initiated by the filing of the F07/F08 RRA) will continue despite any Commission order approving this Settlement Agreement and could by Commission order continue as an application for a certificate of public convenience and necessity. Parties will not be precluded from raising prudency issues under the UCA with respect to costs incurred.

~~CONFIDENTIAL WITHOUT PREJUDICE~~

6. This Settlement Agreement shall be effective on the date of the Commission order approving it, except for section 10 below, which shall be effective February 1, 2007.

F2007 AND F2008 REVENUE REQUIREMENTS

7. Agreed-to adjustments of BC Hydro's proposed F2007 and F2008 revenue requirements (from the Evidentiary Update) are as follows, and shown in Appendix A to this Settlement Agreement:
- i. changes to the F2008 revenue requirement arising from an increase in the F2008 Light Industrial and Commercial sales forecast from 18,381 GWh in the F07/F08 RRA to 18,700 GWh;
 - ii. a decrease in forecast F2008 interest charges of \$12 million arising from more recent interest rate forecasts than those available for the Evidentiary Update;
 - iii. a decrease in forecast F2007 and forecast F2008 capital related charges for financing costs and depreciation of \$3 million and \$9 million, respectively, arising from fewer capital additions in F2007 and F2008 than forecast in the Evidentiary Update;
 - iv. changes to the F2007 and F2008 revenue requirements arising from a change in amortization period from 45 years to 25 years for assets referred to as "Profile ID 99403 Distribution Pre-1996 Contributions in Aid";
 - v. changes to the F2007 and F2008 revenue requirements arising from a change in the amortization period from 2 years to 5 years for the \$24 million net book value adjustment arising from the depreciation study;
 - vi. a decrease in forecast F2007 and F2008 operations, maintenance and general & administrative expenses of \$18 million and \$12 million, respectively; and
 - vii. deferral account recoveries of \$50.0 million in F2007 and \$55.8 million in F2008.

~~CONFIDENTIAL — WITHOUT PREJUDICE~~

8. The \$18 million dollar operating expense reduction for F2007 referred to above and in Appendix A is inclusive of a \$10 million dollar reduction in F2007 only, solely for the purposes of settlement.

F2007 AND F2008 RATES, REFUNDS AND REVENUE DEFICIENCY DEFERRAL ACCOUNT

9. The F2006 Rates are confirmed as permanent and final for the period from April 1, 2006 to June 30, 2006, inclusive. For illustrative and explanatory purposes only, the rate changes for F2007 and F2008, as per sections 10 to 14 below, are shown in Appendix B.
10. BC Hydro's rates in effect from July 1, 2006 to January 31, 2007, inclusive, shall be set 1.54% higher than its F2006 Rates, across-the-board, and on a permanent and final basis, as derived in Appendix C.
11. In March 2007 or as soon as practicable thereafter, BC Hydro shall issue a refund to customers, based on the difference between the interim 4.65% increase and final 1.54% rate increase in the period July 1, 2006 to January 31, 2007, including interest calculated at BC Hydro's most recent annual weighted average cost of debt.
12. BC Hydro's rates effective February 1, 2007 shall be 1.64% higher than its F2006 Rates, across-the-board, and on a permanent and final basis.
13. In addition to the February 1, 2007 1.64% rate increase referred to above, BC Hydro shall charge an additional rate rider (Rate Rider) on all customer bills after January 31, 2007. The Rate Rider will be the product of a fixed percent and the total charges before taxes and levies otherwise payable under the bill. Revenues received from the Rate Rider will be allocated against the sum of the closing balances of the Heritage Deferral Account, the Non-Heritage Deferral Account, the Trade Income Deferral Account and the BCTC Deferral Account. The fixed percent used to calculate the Rate Rider will be set out in a rate schedule to be filed with the Commission and included in BC Hydro's Electric Tariff. For the period February 1, 2007 to March 31, 2008 the fixed percent used to calculate the Rate Rider will be 2%.
14. In F2007, in addition to the revenues to be received from the Rate Rider during the period from February 1, 2007 to March 31, 2007 (which are forecast to be \$10.4 million), BC Hydro will apply a further \$39.6 million to the deferral account balances resulting in total forecast deferral account recoveries in F2007 of \$50.0 million. In F2008, the revenues to be received from the

~~CONFIDENTIAL – WITHOUT PREJUDICE~~

Rate Rider in place throughout F2008 are forecast to be \$55.8 million. A continuity schedule for the deferral accounts is provided in Appendix D.

15. There shall be no balance or amount carried forward for future recovery in the F2007 revenue deficiency regulatory asset (deferral account) established by Commission Order G-70-06.
16. The allowed return on equity (ROE) for BC Hydro for F2007 shall be 13.10%. After the Commission determines the allowed ROE of Terasen Gas Inc. for 2008, BC Hydro will apply to the Commission for a further adjustment to its F2008 revenue requirement to account for the effect of such determination on BC Hydro's F2008 ROE, calculated using the then-current corporate income tax rates.

CAPITAL EXPENDITURE PLANS

17. BC Hydro's F2007 planned capital expenditures as follows are "in the interests of persons within British Columbia who receive, or who may receive, service" from BC Hydro, pursuant to section 45(6.2)(b) of the UCA:

Capital Expenditures	F07/F08 RRA	F2007
(\$ million)	Reference	Plan
Corporate	Section 6.8, Table 6-22	51.0
Generation ¹	Section 7.14, Table 7-18	219.1
Distribution ²	Section 8.15, Table 8-22	400.6
Engineering	Evidentiary Update Attachment 6, Schedule 13	3.0
Field Services	Section 9.3.2, Table 9-4	27.7
DSM	Section 8.15.5, Table 8-28	55.4
Total		756.8

¹ Excludes costs related to Aberfeldie.

² Includes Contributions in Aid and excludes DSM expenditures.

~~CONFIDENTIAL – WITHOUT PREJUDICE~~

18. BC Hydro’s planned capital expenditures in the following amounts and in regard to the following projects are “in the interests of persons within British Columbia who receive, or who may receive, service” from BC Hydro, pursuant to section 45(6.2)(b) of the UCA:
- i. \$46 million, G3 & G4 stators at GM Shrum (Appendix I of the F07/F08 RRA);
 - ii. \$12 million, DC System at GM Shrum (Appendix I of the F07/F08 RRA);
 - iii. \$78 million, G1-G4 stators at Mica (Appendix H of the F07/F08 RRA).
 - iv. \$58 million, Coquitlam Dam seismic improvements (Appendix N of the F07/F08 RRA); and
 - v. \$67 million, G1-G4 stators at Peace Canyon (Appendix M of the F07/F08 RRA).

CAPITAL PLAN REVIEW PROCESS

19. BC Hydro will file its Capital Plan bi-annually. The Capital Plan will identify all capital expenditures and for the purposes of this provision the term “capital expenditures” will include those demand-side management expenditures that are amortized, in the then-current fiscal period and the following fiscal period, as well as total expenditure and in-service date forecasts for projects underway in those periods. In addition, the Capital Plans will specifically identify projects with gross project costs greater than \$2 million on an aggregated basis. These bi-annual filings will satisfy BC Hydro’s obligations under sections 45(6.1)(a) and (c) of the UCA. BC Hydro will notify stakeholders of these filings. For greater certainty, these filings and any filings made pursuant to paragraphs 20 and 21 will not preclude Parties from raising prudency issues under the UCA with respect to costs incurred or to be incurred.
20. BC Hydro will file Major Threshold Project applications for determinations under section 45(6.2)(b) of the UCA in regard to Major Threshold Projects that are ready to proceed, supported by detailed (“CPCN-like”) business cases. BC Hydro will notify stakeholders of these applications at the time they are filed. Major Threshold Projects are all capital projects with gross project costs, including without limitation contributions in aid of construction, transmission interconnection costs and upgrades and the amount of any First Nations costs attributable to the relevant project, greater than \$50 million, plus other projects which BC Hydro believes should

~~CONFIDENTIAL WITHOUT PREJUDICE~~

have Major Threshold Project application treatment. The Commission will determine whether or not to hold a hearing into such an application, and may designate any process to review Major Threshold Project applications as available under section 45 of the UCA. Equally for straightforward projects the Commission may choose not to hold a hearing.

21. Projects in Capital Plans or Major Threshold Project applications designated as requiring a CPCN by the Commission under section 45(5) of the UCA, or requested by BC Hydro, will be filed as CPCN applications. BC Hydro will notify stakeholders of these applications at the time they are filed. The Commission can request additional information regarding any project to decide if an order under section 45(5) is warranted.
22. The intent of sections 19-21, above, is that stakeholders will have adequate information to propose to the Commission the appropriate process for review of each capital project or expenditures.

DEFERRAL ACCOUNTS AND REGULATORY ASSETS

23. Costs incurred by BC Hydro in regard to load curtailment activities as described in page 7-19 of the F07/F08 RRA shall be included in the Heritage Payment Obligation and thus in the Heritage Deferral Account balances.
24. A regulatory asset shall be established in respect of the net book value adjustment arising from the depreciation study attached at Appendix F of the F07/F08 RRA. The \$24.0 million adjustment shall be amortized over a 5 year period, beginning in F2007.
25. A regulatory asset shall be established in respect of Site C expenditures. All Site C expenditures during F2007 and F2008 shall be included in the Site C regulatory asset. The creation of this regulatory asset will not preclude the Parties from raising prudency issues under the UCA with respect to Site C expenditures incurred or to be incurred. BC Hydro confirms that there is no impact from these expenditures on the revenue requirements for F2007 and F2008.
26. The BCTC Transition Deferral Account shall be renamed the BCTC Deferral Account. All net external variances as a result of timing differences arising from the Commission approval of the BCTC and BC Hydro revenue requirement applications shall be captured in this deferral account. The BCTC costs identified in the table in section 43 of this agreement shall be subject to this

~~CONFIDENTIAL – WITHOUT PREJUDICE~~

deferral account treatment. During the test period balances in the BCTC Transition Deferral Account arising from PTP and ancillary service expenses shall be excluded from amortization as these balances will be partially offset by the refund from BCTC.

27. Differences between forecast and actual cost of energy arising from differences between forecast and actual customer load shall continue to be excluded from the Heritage Deferral Account and Non-Heritage Deferral Account.

BC HYDRO COMMITMENTS

28. BC Hydro shall use its weighted average cost of debt, calculated for its most recent fiscal year, as the interest rate applicable to customer refunds arising from interim rates, deferral accounts balances, and interest during construction (“IDC”), as well as customer refunds arising from customer contributions and security deposits where interest applies to those refunds under BC Hydro’s current Electric Tariff.
29. BC Hydro shall not enter into any new hedging contracts in regard to natural gas purchases subsequent to the Commission’s approval of this Settlement Agreement. No Party may in any future proceeding allege, after the fact, that BC Hydro was imprudent in discontinuing its natural gas hedging activities, or submit that some portion of BC Hydro’s actual gas costs should not be recovered in rates because of a failure to engage in natural gas hedging activities. No Party is prohibited from submitting in a Commission proceeding that on a go-forward basis BC Hydro ought to engage in natural gas hedging activities.
30. BC Hydro shall hold workshops on the following topics:
- i. within 6 months of the Commission’s approval of this Settlement Agreement, hedging activities in regard to electricity purchases; and
 - ii. within 10 months of the Commission’s approval of this Settlement Agreement, regulatory reform, including without limitation issues such as form, filing times and interrelationships of BC Hydro applications, regulatory initiatives and undertakings, performance based ratemaking (PBR), information request processes, and pre-application technical workshops, all subject to any Commission determinations arising from the IEP/LTAP Hearing.

~~CONFIDENTIAL — WITHOUT PREJUDICE~~

31. BC Hydro shall maintain its current and any new customer satisfaction metrics for at least 4 years.

32. In its next revenue requirement application BC Hydro shall:
 - i. address the appropriateness of the use of COMA, as defined at page 8-12 of the F07/F08 RRA, as a financial metric;
 - ii. address the appropriate capitalization and amortization of demand side management (DSM) expenditures;
 - iii. present F2007 to F2010 financial information in a consistent, year-to-year comparable format;
 - iv. consider and address the appropriateness of an accounting policy change that would delay the recording of depreciation arising from some or all capital additions until the beginning of the fiscal period following the period in which the capital additions go into service;
 - v. present benchmarking information regarding the cost of conducting energy calls (and BC Hydro will also provide its costs of conducting its next energy call at its first workshop for that call);
 - vi. address whether PBR is appropriate for BC Hydro;
 - vii. address amortizing deferral account balances in a structured or formulaic approach; and
 - viii. file agreements and financial justification with regard to its Remote Community Electrification Program (if it does not do so sooner).

33. BC Hydro shall not seek to recover any expenditures regarding the Advanced Metering Infrastructure project beyond the \$0.5 million of operating expense and the \$5.1 million of capital as described in the F07/F08 RRA, in the absence of a determination by the Commission under section 45(6.2)(b) of the UCA that further expenditures are “in the interests of persons within British Columbia who receive, or who may receive, service” from BC Hydro. BC Hydro expects to bring an application for such a determination in F2008. At that time it will provide full project information and justification.

~~CONFIDENTIAL – WITHOUT PREJUDICE~~

34. BC Hydro will not object to the following issues being raised by Parties at the IEP/LTAP Hearing. This is not a comprehensive list of all possible issues, but does address those issues or questions raised by Parties at the F07/F08 RRA NSP.
- i. the appropriateness of the 2.5 cent utility cost threshold test for DSM programs;
 - ii. the appropriate level of DSM incentives, including those for BC Hydro’s stepped rate customers;
 - iii. the appropriateness of BC Hydro incurring development costs related to the Revelstoke 5, Revelstoke 6, Mica 5 and Mica 6 projects;
 - iv. the 2007 and 2009 Calls;
 - v. Resource Smart project evaluation, including the seismic upgrade issue; and
 - vi. the useful life of Burrard Generating Station;
35. BC Hydro will, in its first annual report regarding stepped rates (arising from the negotiated settlement of BC Hydro’s stepped rate application), address the level and impact of DSM incentives for BC Hydro’s stepped rate customers.
36. BC Hydro shall address DSM evaluation issues in any application by BC Hydro for a determination, pursuant to section 45(6.2)(b) of the UCA, regarding the DSM programs referred to in the F07/F08 RRA as “EE3, 4 and 5”.
37. BC Hydro shall include safety and reliability performance targets in the variable pay component of F2008 generation and field operation salaries, and executive salaries.
38. BC Hydro shall notify revenue requirement intervenors from time to time of any future applications by BC Hydro regarding the creation of regulatory assets and any applications regarding proposed changes in accounting policies.
39. BC Hydro confirms that:
- i. the current depreciation rates do not include any negative salvage values;
 - ii. the creation of regulatory assets does not affect “equity” as defined in Heritage Special Direction No. HC2;

~~CONFIDENTIAL — WITHOUT PREJUDICE~~

- iii. it is committed to building a mutually beneficial relationship with the Haisla First Nation and will discuss the development of a protocol agreement between Haisla First Nation and BC Hydro;
 - iv. it is considering the use of IEEE reliability standards for normalized reliability statistics;
 - v. no costs related to the Revelstoke 5, Revelstoke 6, Mica 5 or Mica 6 projects are included in the F2007 or F2008 revenue requirements as agreed to in this Settlement Agreement;
 - vi. third party work by BC Hydro's Engineering business unit should be confined to services requested and appropriate to the nature of the contract; and
 - vii. awarding of BC Hydro engineering work to contractors/consultants should be done on a competitive basis.
40. BC Hydro will work with Commission staff to develop an Annual Report to the Commission that:
- i. follows the BCUC Electric Utilities Annual Report form adapted for BC Hydro's unique circumstances;
 - ii. addresses reporting for plant and deferral accounts and how BC Hydro can report its OM&A in an informative and comparative format;
 - iii. will allow year-to-year comparisons of BC Hydro's actual and forecast financial information regardless of how BC Hydro is internally organized.
41. BC Hydro will issue a public report regarding the proposed new Annual Report, together with recommendations on implementation, to the Commission by December 31, 2007.
42. BC Hydro will either file an application regarding its procurement project, referred to on pages 6-16 and 6-17 of the F07/F08 RRA, prior to December 31, 2006, or will make any necessary accounting adjustments.

FORECASTS FOR DEFERRAL ACCOUNT PURPOSES

43. The following forecast amounts are accepted as the baseline amounts to be used for the purposes of setting rates and calculating closing F2007 and F2008 deferral account balances:

(\$ million)	F2007 Final	F2008 Final
Heritage Payment Obligation (variances captured in HDA)	463.7	388.1
Cost of Non-Heritage Energy (variances captured in NHDA)	569.9	632.3
Trade Income (variances captured in TIDA)	179.8	136.9
BCTC Costs (variances captured in BCTCDA)		
Transmission Asset Management Fee	87.3	87.3
GRTA Asset Management Fee	5.4	5.4
SDA Asset Management Fee	11.7	11.7
Total BCTC Charges for NITS and PTP	511.6	520.7
External PTP Revenues	(8.5)	(8.5)

OTHER RELIEF SOUGHT IN THE F07/F08 RRA

44. For greater certainty, the Parties agree that:
- i. \$94.7 million and \$95.2 million are the appropriate costs to be incurred by BC Hydro in providing service to BCTC in F2007 and F2008, respectively, pursuant to the Field Services Service Agreement;
 - ii. \$52.6 million and \$56.2 million are the appropriate costs to be incurred by BC Hydro in providing service to BCTC in F2007 and F2008, respectively, pursuant to the Engineering Service Agreement; and
 - iii. with the exception of the change in amortization period of assets referred to as Profile ID 99403 Distribution-Pre 1996 Contributions in Aid, all other changes to depreciation rates proposed in the F07/F08 RRA, including the proposed changes to depreciation rates to the Burrard Generating Station, are accepted.

~~CONFIDENTIAL - WITHOUT PREJUDICE~~

Appendix A

Revenue Requirements Summary (\$ million)

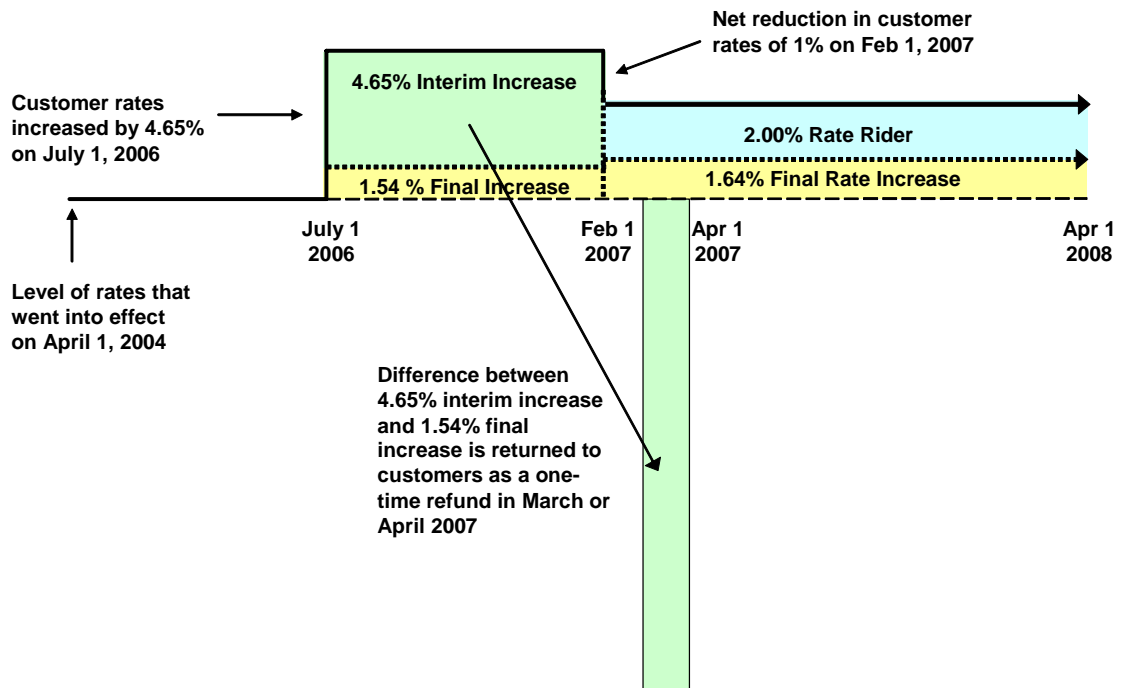
Line	Column	Reference	F2007			F2008		
			Evidentiary Update	NSP	Difference	Evidentiary Update	NSP	Difference
			1	2	3 = 2 - 1	4	5	6 = 5 - 4
1	Domestic Energy Costs	Note 1	1,123.7	1,123.7	0.0	1,184.2	1,207.5	23.3
2	Operating Costs	Note 2	572.4	554.4	(18.0)	575.0	563.0	(12.0)
3	Taxes		146.8	146.8	0.0	153.5	153.5	0.0
4	Depreciation & Amortization	Note 3	423.2	408.4	(14.8)	414.3	399.3	(15.0)
5	Finance Charges	Note 4	455.9	453.0	(2.9)	487.4	468.2	(19.2)
6	Return on Equity	Note 5	394.9	393.0	(1.9)	413.6	410.0	(3.6)
7	Non-Tariff Revenue		(34.9)	(34.9)	0.0	(43.4)	(43.4)	0.0
8	Inter-Segment Revenue		(59.1)	(59.1)	0.0	(145.9)	(145.9)	0.0
	Deferral Accounts							
9	Deferral Account Additions	Note 6	(77.5)	(55.8)	21.7	(23.9)	(23.9)	0.0
10	Deferral Account Recoveries	Note 7	89.0	50.0	(39.0)	62.1	60.6	(1.5)
11	Total		11.5	(5.8)	(17.3)	38.2	36.7	(1.5)
	Subsidiary Net Income							
12	Powerex Net Income		(179.8)	(179.8)	0.0	(136.9)	(136.9)	0.0
13	Powertech Net Income		(1.0)	(1.0)	0.0	(1.3)	(1.3)	0.0
14	Total		(180.8)	(180.8)	0.0	(138.2)	(138.2)	0.0
15	Less Other Utilities Revenue		(17.6)	(17.6)	0.0	(18.7)	(18.7)	0.0
16	Total Revenue Requirement		2,836.0	2,781.1	(54.9)	2,920.1	2,892.0	(28.1)
	Revenue at Current Rates							
17	Total Domestic Revenue	Note 1	2,755.2	2,755.2	0.0	2,791.6	2,809.2	17.6
18	Less Other Utilities Revenue		(17.6)	(17.6)	0.0	(18.7)	(18.7)	0.0
19	Total Before Interim Rate		2,737.6	2,737.6	0.0	2,772.9	2,790.5	17.6
20	Revenue from 4.65% Interim	Note 8	98.4	74.2	(24.2)	128.9	0.0	(128.9)
21	Revenue from 1.64% Increase	Note 9	0.0	8.5	8.5	0.0	45.7	45.7
22	Revenue from 2.00% Rider	Note 9	0.0	10.4	10.4	0.0	55.8	55.8
23	Refund		0.0	(49.6)	(49.6)	0.0	0.0	0.0
24	Revenue Subject to Increase		2,836.0	2,781.1	(54.9)	2,901.8	2,892.0	(9.8)
25	Revenue Shortfall		0.0	0.0	0.0	18.2	0.0	(18.2)

Notes:

- Increase in F2008 is due to increase in forecast of F2008 energy sales for light industrial and commercial.
- Decrease in F2007 includes one-time further reduction of \$10 million.
- Decrease in F2007 is \$0.8 million due to capital reduction plus \$14.0 million due to change in CIAC amortization; decrease in F2008 is \$2.3 million due to capital reduction plus \$12.7 million due to change in CIAC amortization.
- Decrease in F2007 is \$2.2 million due to capital reduction plus impacts of change in CIAC amortization and change in deferral account balances; decrease in F2008 is \$6.7 million due to capital reduction plus \$12 million due to lower interest rates plus impacts of change in CIAC amortization and change in deferral account balances.
- Decrease is due to change in CIAC amortization.
- Change in F2007 is due to \$28.9 million change in F2007 revenue deficiency deferral account offset by \$7.2 million impact of change in amortization of depreciation study NBV adjustment from 2 to 5 years.
- Change in F2008 includes \$7.2 million impact of change in amortization of depreciation study NBV adjustment from 2 to 5 years.
- Under NSP, 4.65% interim is discontinued January 31, 2007.
- In the absence of a rate increase in F2008, under the NSP there would be a shortfall of \$45.7 million. The required rate increase in F2008 of 1.64% is equal to the revenue shortfall of \$45.7 million divided by the revenue at current rates of \$2,790.5 million. Under NSP, the 1.64% increase is effective February 1, 2007, which increases the refund payable in F2007 by \$8.5 million.

Appendix B

Summary of F2007 and F2008 Rate Changes— for illustrative, explanatory purposes only



~~CONFIDENTIAL - WITHOUT PREJUDICE~~

Appendix C

**Final Rate Increase for July 1, 2006 to January 31, 2007
(\$ million)**

Monthly Revenue:

Month	Year	Revenue at F2006 Rates	Revenue from Interim Increase	
			%	\$
Apr	2007	218.8		
May	2007	205.4		
Jun	2007	198.0		
Jul	2007	200.2	4.65%	9.3
Aug	2007	201.6	4.65%	9.4
Sep	2007	204.7	4.65%	9.5
Oct	2007	222.6	4.65%	10.4
Nov	2007	245.3	4.65%	11.4
Dec	2007	261.1	4.65%	12.1
Jan	2008	260.3	4.65%	12.1
Feb	2008	254.1		
Mar	2008	265.3		
Total		<u>2,737.6</u>		<u>74.2</u>

Calculation of Final Rate Increase for July 1, 2006 to January 31, 2007:

Total Revenue from 4.65% Interim Increase	74.2
Less Total Refund before Interest	(49.6)
Required Revenue from Final Rate Increase	<u>24.6</u>
Total Revenue from July 1 to Jan 31, excluding 4.65% Interim	1,596.0
Final Rate Increase from July 1, 2006 to January 31, 2007	1.54%

~~CONFIDENTIAL - WITHOUT PREJUDICE~~

Appendix D

Deferral Account Continuity (\$ million)

End of Year Balance	F2005 Actual	F2006 Actual	Expected Refund	F2006 Adjusted	F2007 NSP	F2008 NSP
Heritage Deferral Account	137.9	240.7	0.0	240.7	205.0	160.6
Non-Heritage Deferral Account	130.9	204.5	0.0	204.5	174.2	136.5
Trade Income Deferral Account	(114.5)	(213.2)	0.0	(213.2)	(181.6)	(142.3)
BCTC Deferral Account	0.0	24.9	(17.3)	7.6	6.5	5.1
Total	<u>154.3</u>	<u>256.9</u>	<u>(17.3)</u>	<u>239.6</u>	<u>204.1</u>	<u>159.9</u>

Continuity Schedule	F2007 NSP	F2008 NSP
Opening Balance	239.6	204.1
Interest	14.5	11.6
Recovery - Principal	(35.5)	(44.2)
Recovery - Interest	<u>(14.5)</u>	<u>(11.6)</u>
Recovery - Total	<u>(50.0)</u>	<u>(55.8)</u>
Closing Balance	<u>204.1</u>	<u>159.9</u>
Interest Rate	6.75%	6.59%

Allocation of Principal Recovery	F2007 NSP	F2008 NSP
Heritage Deferral Account	(35.7)	(44.4)
Non-Heritage Deferral Account	(30.3)	(37.7)
Trade Income Deferral Account	31.6	39.3
BCTC Deferral Account	<u>(1.1)</u>	<u>(1.4)</u>
Total	<u>(35.5)</u>	<u>(44.2)</u>



Joanna Sofield
Chief Regulatory Officer
Phone: (604) 623-4046
Fax: (604) 623-4407
regulatory.group@bchydro.com

November 3, 2006

Mr. Robert J. Pellatt
British Columbia Utilities Commission
Sixth Floor – 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Mr. Pellatt:

**RE: British Columbia Utilities Commission (BCUC)
Project No. 3698416
British Columbia Hydro and Power Authority (BC Hydro)
F2007/F2008 Revenue Requirements Application (F07/F08 RRA)**

BC Hydro confirms its acceptance of the F07/F08 RRA final Negotiated Settlement Agreement (NSA), dated for reference November 2, 2006, circulated with Mr. Grant's letter of November 2, 2006.

In the August 3, 2006 cover letter to Order No. G-96-06, which established the negotiated settlement process (NSP) for the F07/F08 RRA, the Commission concluded on the basis of material before it at the time that the disposition of balances in BC Hydro's current deferral accounts should not be within the scope of the NSP.

Subsequently, BC Hydro filed its evidentiary update with respect to the F07/F08 RRA on August 31, 2006. The updated F2007 revenue requirement in the evidentiary update was \$89 million lower than in the application, which presented the possibility of significant recovery of deferral account balances in F2007 (see recital G of the NSA).

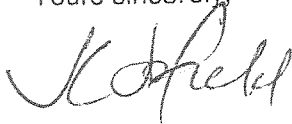
Eighteen parties and Commission staff participated in the three-day NSP. The participants were aware of the Commission's conclusion regarding the NSP scope; however, it became clear during the NSP that it would be impossible to reach any settlement of the F07/F08 RRA without addressing and agreeing on disposition of the current deferral account balances in F2007 and F2008 rates.

Thus, the NSA represents a comprehensive settlement of the issues arising from the F07/F08 RRA. The disposition of the current deferral account balances and the changes to the deferral accounts provided for in the NSA are integral to the agreement. BC Hydro notes in this regard that section 3 of the NSA states the provisions of the agreement are not severable. The only issue excluded from the NSA is the determination under section 45(6.2)(b) of the *Utilities Commission Act* sought by BC Hydro in respect of the Aberfeldie Project (see Exhibit B-5-1, section 4.2.3, and section 5 of the NSA).

- 2 -

In BC Hydro's view the NSA represents a reasonable compromise of the issues arising from the F07/F08 RRA, and BC Hydro respectfully submits that the Commission ought to approve it without modification.

Yours sincerely,

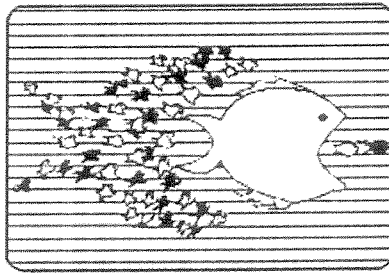
A handwritten signature in black ink, appearing to read 'J. Sofield', written in a cursive style.

Joanna Sofield
Chief Regulatory Officer

c. F07/F08 RRA NSP Participants

The
British Columbia
Public Interest
Advocacy Centre

208-1090 West Pender Street
Vancouver, BC V6E 2N7
Tel: (604) 687-3063 Fax: (604) 682-7896
email: bcpiac@bcpiac.com
<http://www.bcpiac.com>



Richard J. Gathercole 687-3006
Sarah Khan 687-4134
Patricia MacDonald 687-3017
James L. Quail 687-3034
Leigha Worth 687-3044
Ros Salvador 488-1315
Barristers & Solicitors
Articled Student

November 3, 2006

VIA E-MAIL

Robert J. Pellatt
Commission Secretary
BC Utilities Commission
Sixth Floor - 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Sirs/Mesdames:

**Re: BC Hydro and Power Authority – Revenue Requirement F2007 & F208
Negotiated Settlement Process**

We continue to represent BCOAPO in this matter.

On behalf of our clients, we endorse the Negotiated Settlement report containing the end result of the negotiations in this proceeding, and we submit that the Commission should issue a Consent Order adopting its contents.

We wish to stress that a resolution was only possible because the process was able to address all of the issues in the Revenue Requirements Application in a definitive and complete matter. While we note that the Commission had contemplated that issues related to the disposition of deferral accounts might be removed from the ambit of the negotiation, we are able to “sign on” to an outcome only on the footing that it is all-inclusive and provides a final determination of the rate impact of the proceeding.

We would also like to take this opportunity for commending the Commission’s staff for a really excellent job in facilitating the negotiations and assisting the participants to find a satisfactory “best-fit” result.

Yours truly

BC PUBLIC INTEREST ADVOCACY CENTRE

Original in file signed by:

Jim Quail
Executive Director

cc: Parties of Record



3 November 2006

Mr. Robert J. Pellatt
Commission Secretary
British Columbia Utilities Commission
Sixth Floor, 900 Howe Street
Box 250
Vancouver, BC V6Z 2N3

Dear Mr. Pellatt:

**Re: British Columbia Hydro and Power Authority ("BC Hydro")
F2007/F2008 Revenue Requirements Application
Negotiated Settlement Process
Project No. 3698416**

The British Columbia Transmission Corporation ("BCTC") participated in the Negotiated Settlement Process ("NSP") with respect to BC Hydro's F2007/2008 Revenue Requirements Application. BCTC accepts the final Negotiated Settlement Agreement ("NSA") circulated with Mr. Grant's letter dated November 2, 2006, and requests that the Commission approve the NSA as presented.

BCTC thank Mr. Bill Grant and Commission Staff for their facilitation of the NSP, and BC Hydro and other participants in the NSP for the efforts made to reach a successful conclusion.

Sincerely,

Original signed by:

A. Laurence Gray
Senior Regulatory Advisor
Regulatory Affairs



Catalyst Paper Corporation
16th Floor, 250 Howe Street
Vancouver, British Columbia
Canada V6C 3R8

Tel: 604 654 4000
Fax: 604 654 4048

November 3, 2006

VIA E-MAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: W. Grant

Re BC Hydro F2007 and F2008 Revenue Requirements Application

As a participant in the Negotiated Settlement Process, Catalyst Paper Corporation wishes to confirm its acceptance of the terms of the final Negotiated Settlement Agreement circulated with Mr. Grant's letter dated November 2, 2006.

We wish to thank BC Hydro and the other participants in the NSP process for the proactive and cooperative manner in which each party conducted themselves in this process, and particular thanks to Bill Grant and Commission staff who have efficiently brought all participants to this point.

Regards

D. Fitzgerald
Director of Energy

William E Ireland, QC
Douglas R Johnson*
Daniel W Burnett*
Paul J Brown*
Heather E Maconachie
Jonathan L Williams
Sherri A Robinson

D Barry Kirkham, QC*
James D Burns*
Harvey S Delaney*
Patrick J Haberl*
Harley J Harris*
Michael F Robson
Paul A Brackstone

Robin C MacFarlane*
Alan A Fryderlund*
James L Carpick*
Michael P Vaughan
Cheryl M Teron
James H McBeath

J David Dunn*
Allison R Kuchta*
Christopher P Weafer*
Gregory J Tucker*
Gary M Yaffe
Kate J Fischer

OWEN BIRD
LAW CORPORATION

PO Box 49130
Three Bentall Centre
2900-595 Burrard Street
Vancouver, BC
Canada V7X 1J5

Telephone 604 688-0401
Fax 604 688-2827
Website www.owenbird.com

Direct Line: 604 691-7557
Direct Fax: 604 632-4482
E-mail: cweafer@owenbird.com
Our File: 23841/0022

R Rees Brock, QC, Associate Counsel
Carl J Pines, Associate Counsel*
R Keith Thompson, Associate Counsel*
Susan E Lloyd, Associate Counsel

Hon Walter S Owen, QC, QC, LLD (1981)
John I Bird, QC (2005)

* Law Corporation
* Also of the Yukon Bar

November 3, 2006

VIA ELECTRONIC MAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, B.C. V6Z 2V3

Attention: **Robert J. Pellatt, Commission Secretary**

Dear Sirs/Mesdames:

Re: **British Columbia & Hydro Authority ("BC Hydro")
F2007-2008 Revenue Requirements Application, Project No. ~ 3698416**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the "CEC"). We have participated actively in the above-note proceeding and in the Negotiated Settlement Process which resulted in the Negotiated Settlement Agreement which was circulated with Mr. Grant's letter dated November 2, 2006 (the "NSA"). The CEC approves the terms of and supports the NSA in its entirety.

The CEC has reviewed the comments filed by Mr. Brian Wallace on behalf of the Joint Industries Electrical Steering Committee ("JIESC") today and supports Mr. Wallace's comments with regard to the assertion that the NSA is a complete and comprehensive settlement, portions of which are not severable.

The CEC wishes to express its appreciation for the work of the Commission staff, Mr. Bill Grant, BC Hydro and other participants in the Negotiated Settlement Process.

Yours truly,

OWEN BIRD LAW CORPORATION

Christopher P. Weafer

Christopher P. Weafer

CPW/jlb
cc: CEC
cc: BC Hydro
cc: Registered Intervenors



November 3, 2006

British Columbia Utilities Commission
Sixth Floor – 900 Howe Street
Vancouver, B.C. V6Z 2V3

Attention: Mr. Robert J. Pellatt
Commission Secretary

Dear Mr. Pellatt

**Re: British Columbia Hydro and Power Authority
Negotiated Settlement
F2007 / 2008 Revenue Requirement Application**

Chemtrade Pulp Chemicals representatives and consultant have reviewed the final Negotiated Settlement Agreement (the Agreement) circulated with Mr. Bill Grant's letter dated November 2, 2006. Chemtrade is pleased to confirm that it accepts the Agreement as circulated.

We understand that the Agreement will be forwarded to the British Columbia Utilities Commission (the BCUC) on November 6, 2006 and respectfully request that the Agreement, as circulated, be approved by the BCUC in the near future.

Yours truly,

Original signed by

A.K. MacMillan, P.Eng.
Consultant to Chemtrade Pulp Chemicals

cc: Werner J. Krampf
Jim Coles

-----Original Message-----

From: JD Newlands [mailto:dnewlands@telus.net]
Sent: November 3, 2006 6:58 AM
To: Pellatt, Rob BCUC:EX
Cc: Bill Foster; Sofield, Joanna; Wallace, Brian; Krامل, Werner BCUC:EX; Dan Potts;
'Lamarche, Pierre'
Subject: B C Hydro-Revenue Requirements Application-2006/07,2007/08

Dear Mr. Pellatt

Re: B C Hydro-Revenue Requirements-Negotiated Settlement

Elk Valley Coal Corporation ("EVCC") has reviewed the Negotiated Settlement Agreement ("NSP"), distributed to the participants, under cover of the British Utilities Commission letter dated November 2, 2006, which directs that a response be made by the close of business on November 3, 2006.

This Settlement Agreement represents a compromise reached on a "without prejudice" basis.

Despite the Commission conclusion, that the disposition of the current Deferral Account should not be within the scope of the NSP, it would have been impossible to reach any settlement of the F07/F08, Revenue Requirements, without addressing and agreeing on the amortization of the current deferral accounts and the resulting level of the rate increases.

The parties agreed that none of the provisions of the Settlement Agreement are severable. If the Commission does not accept and approve the B C Hydro-Revenue Requirements Settlement Agreement in its entirety, there is no agreement.

EVCC concurs and supports the Settlement Agreement as set forth in the attachment to the letter of the British Columbia Utilities Commission dated November 2, 2006.

Yours truly

J. David Newlands

Cc Bill Foster Senior Vice-President, Elk Valley Coal
Joanna Sofield-B C Hydro
Brian Wallace-Counsel to the JIESC
Werner Krامل- BCUC



November 3, 2006

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC
V6Z 2N3

Attention: Commission Secretary

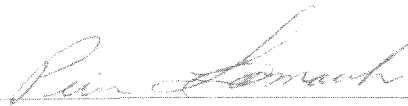
Dear Sir/Madam:

**Re: British Columbia Hydro and Power Authority, Negotiated Settlement – F2007 and
F2008 Revenue Requirements Application**

Howe Sound Pulp and Paper Limited Partnership (HSLP) has reviewed the final Negotiated Settlement Agreement circulated to the NSP participants with Mr. Grant's letter dated November 2, 2006. HSLP supports the final Negotiated Settlement Agreement as presented in the attachments to Mr. Grant's letter and encourages the Commission to accept that agreement in its entirety as soon as possible.

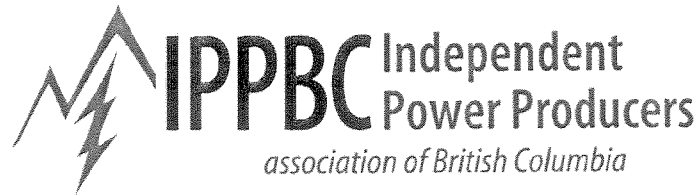
Yours truly,

Howe Sound Pulp and Paper Limited Partnership
By its General Partner, HSPP General Partner Ltd.

By: 
Pierre G. Lamarche
Manager, Energy

"The obligations of Howe Sound Pulp and Paper Limited Partnership (the "Partnership") hereunder shall not be binding upon nor shall resort hereunder be had to the property of the limited partners of the Partnership but shall only be binding upon and resort shall only be had to the property and assets of the Partnership and HSPP General Partner Ltd."

Mill Office 3838 Port Mellon Highway, Port Mellon, B.C., Canada V0N 2S0
Telephone (604) 884-5223 Facsimile (604) 884-2170 E-mail hspcomments@hsp.ca Web www.hsp.ca
Registered Office 100 - 1700 West 75th Avenue, Vancouver, B.C., Canada V6P 6G2
Telephone (604) 661-8241 Facsimile (604) 661-5232 E-mail info@canfor.ca Web www.canfor.ca



November 3, 2006

Robert J. Pellatt
Commission Secretary
B.C. Utilities Commission
6th Floor - 900 Howe Street
Vancouver, B.C.
V6Z 2V3

Dear Mr. Pellatt:

**Re: BC Hydro – 2007-2008 Revenue Requirements Application
Confidential Negotiated Settlement Agreement**

The final Negotiated Settlement Agreement (“NSA”) circulated with a forwarding letter dated November 2, 2006 accurately represents the agreement reached by the parties who actively participated in the Negotiated Settlement discussions and the IPPBC accepts it.

The IPPBC wishes to note the following:

1. There appears to be a drafting error in paragraph 20 of the NSA. It should probably read: “...including without limitation contributions in aid of construction, transmission interconnection costs and upgrades....”.
2. Although it has agreed to the amortization schedule for certain deferral accounts, the fundamental issue of how these accounts are to be self liquidating is going to have to be addressed in a timely manner.
3. The Capital Plan Review Process contained in the NSA is new and unproven and the IPPBC may in a future proceeding avail itself of the provisions of paragraph 2 of the NSA.

Yours truly,

"Original signed by David Austin"

David Austin on behalf of the IPPBC

Cc: All Parties. BC Hydro



**Bull, Houser
& Tupper LLP**

3000 Royal Centre, PO Box 11130
1055 West Georgia Street
Vancouver, BC, Canada, V6E 3R3
Phone 604.687.6575 Fax 604.641.4949
www.bht.com

Reply Attention of:	R. Brian Wallace
Direct Phone:	604.641.4852
Direct Fax:	604.646.22506
E-mail:	RBW@bht.com
Our File:	06-1771
Date:	November 3, 2006

BC Utilities Commission
6th Floor – 900 Howe Street
Vancouver, BC V6Z 2V3

Attention: Robert J. Pellatt
Commission Secretary

Dear Mr. Pellatt:

**Re: British Columbia Hydro and Power Authority (“BC Hydro”)
Negotiated Settlement
F2007/F2008 Revenue Requirements Application (“F2007/F2008 RRA”)**

The Joint Industry Electricity Steering Committee (“JIESC”) actively participated in the F2007/F2008 RRA negotiated settlement process and has reviewed the final Negotiated Settlement Agreement (“NSA”) circulated with Mr. Grant's letter dated November 2, 2006.

The JIESC accepts the NSA and requests that the Commission approve the NSA as presented, as soon as possible.

The JIESC wishes to emphasize strongly its agreement with the contents of paragraphs 3 of the NSA which states it “would have been impossible to reach any settlement of F07/F08 RRA without addressing and agreeing on amortization of the current deferral accounts as reflected in this Settlement Agreement. The parties agree that none of the provisions of this Settlement Agreement are severable. If the Commission does not accept and approve the Settlement Agreement in its entirety, there is no Agreement.”

The provisions of the NSA with respect to amortization of the current deferral accounts represent an essential part of the agreement to the customers, providing both certainty of rates and a reasonable amortization of the balances contained in the deferral accounts and cannot be severed from the balance of the NSA and still have an agreement. The NSA represents a



Bull, Housser
& Tupper LLP

consensus of key stakeholders, representing a wide variety of perspectives, on how to best deal with the many issues raised in BC Hydro's F2007/2008 RRA in the public interest. As such it should be given effect by the Commission as is, as quickly as possible.

The JIESC wishes to express its appreciation to Bill Grant, Commission Staff and BC Hydro for the efforts they made during the negotiations to bring this matter to a successful conclusion.

Yours truly,

Bull, Housser & Tupper LLP

A handwritten signature in cursive script that reads "R. Brian Wallace".

R. Brian Wallace
RBW/sg/1471693

**BC Hydro
F2007 & F2008 Revenue Requirements Application
Comments regarding
Negotiated Settlement Agreement (NSA)**

BCUC Project No.: 3698416

By: Ludo Bertsch, Horizon Technologies Inc.

For: ESVI Energy Solutions for Vancouver Island Society

Date: Nov 3, 2006

We would like to thank BCUC and BC Hydro for the time and effort to streamline the regulatory process, while at the same time giving the Intervenor the opportunity to contribute through the NSP.

Energy Solutions for Vancouver Island (ESVI) has significant issues with the final NSA package presented by BC Hydro. ESVI is concerned that the importance of environmental responsibility, long-term sustainability and climate change will be overshadowed by short-term considerations.

BC Hydro is in the fortunate position of having significant heritage generation capacity without the on-going negative environmental consequences such as air quality. But, as we are all well aware, there is a growing demand in BC for electrical consumption that is putting pressure on the existing electrical infrastructure.

BC Hydro has some tough decisions ahead - weighing the costs, plus environmental and Green House Gases impacts of new sources of generation and accommodating the transmission right-of-ways.

ESVI believes that BC Hydro should play a leadership role in putting more emphasis on energy conservation, PowerSmart programs, demand side management (DSM) programs and effective pricing structures (including time-of-use). After all, the least expensive power is the power we don't use.

In addition when new generation is required – ESVI believes it is paramount that it be environmentally, socially and economically sustainable.

The recent and influential Stern Review¹ emphasizes the value of acting now to save future world economic damage; *“there is still time to avoid the worst impacts of climate change, if we take strong action now.”*

The Stern Review states *“dealing with climate change will also involve fundamental changes worldwide, particularly to energy systems.”*

The Stern Review continues, *“energy efficiency is one way to meet climate change and energy security objectives at the same time. Policies to promote efficiency have an immediate impact on emissions. More efficient use of energy reduces energy demand and puts less pressure on generation and distribution networks and lowers the need to import energy or fuels.”*

On the specific items in the BC Hydro Negotiated Settlement Agreement itself, ESVI is concerned with the extended time period to pay down the on-going deferral accounts, the

¹ Sir Nicholas Stern was the Chief Economist and Senior Vice-President of the World Bank from 2000-2003. The Stern Review: The Economics of Climate Change was released on Oct 30, 2006. The Stern Review estimates potential damages of up to 20% of the world's Gross Domestic Product (GDP) each year due to climate change. The worst impacts of climate change could be avoided by investing 1% GDP and acting now.

decrease in Demand Side Management expenditures for F2007/F2008 and the cap of 2.5c/kwh for DSM programs. On the other hand, ESVI is pleased that these issues will be dealt with in future processes.

We are pleased that BC Hydro plans to move forward on the Advanced Metering Infrastructure business case. We wish to point out that the potential benefits of these technologies is recognized in the Stern Review. It notes that smart meters with time of use rates, real time displays and more effective energy bills "*have the potential to promote conservation among energy users and reduce the operating costs of utilities*".

After reviewing all factors and wishing to expedite the RRA process, ESVI is willing to support the NSA document as presented by Mr. Grant of BCUC dated November 2, 2006.

Background

ESVI Energy Solutions for Vancouver Island Society (www.esvi.ca), is a not-for-profit society whose purpose is "to pursue and promote solutions for meeting Vancouver Island's energy needs". One principal goal of ESVI, essential to meeting the above stated purpose, is "to support and promote energy conservation efforts on Vancouver Island."

The interests of ESVI are represented by Ludo Bertsch, President of Horizon Technologies Inc.

William J. Andrews

Barrister & Solicitor

1958 Parkside Lane, North Vancouver, BC, Canada, V7G 1X5
Phone: 604-924-0921, Fax: 604-924-0918, Email: wjandrews@shaw.ca

November 3, 2006

British Columbia Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, BC, V6Z 2N3
Attn: Mr. Robert Pellatt, Secretary
BY WEB FILING

Dear Sir:

Re: F2007-F2008 Revenue Requirements Application, Project No. 3698416

This is on behalf of the Sierra Club of Canada (B.C. Chapter), B.C. Sustainable Energy Association, and Peace Valley Environment Association (SCCBC, *et al*).

SCCBC, *et al* accept the final Negotiated Settlement Agreement circulated with Mr. Grant's letter dated November 2, 2006.

SCCBC, *et al* would like to take this opportunity to comment on the following topics on a going-forward basis.

1. Deferral account balance recovery. SCCBC, *et al* favour the creation of a structured procedure for recovering the balances in the deferral accounts. SCCBC, *et al* view any unnecessarily prolonged maintenance of large deferral account balances as a concern regarding both intergenerational equity and sending correct price signals. SCCBC, *et al* believe that the recovery of deferral account balances should be determined by policies and procedures established in advance. These should be applicable whether the balances are positive or negative (i.e., whether recovering funds from the deferral accounts would cause a rate increase or a rate decrease). Going forward, recovery of deferral account balances should not be influenced directly by consideration of the pros and cons of various sizes of rate increases or decreases, subject only to any overriding rate change shock principle. For reference, in s.32(vii) of the F07-F08 RRA NSA BC, Hydro commits to address in its next revenue requirements application "amortizing deferral account balances in a structured or formulaic approach."

2. Demand Side Management (DSM) spending in F2008. SCCBC, *et al* take the position that BC Hydro's proposed DSM spending in F2008 is too low, i.e., that it neglects available opportunities for cost-effective DSM. SCCBC, *et al* notes that incremental DSM spending during F2008 would not fall within the F2008 Revenue Requirement because such spending would be capitalized at the beginning of the following year and the associated amortization payments would enter Hydro's revenue requirement at that time. Therefore, F2008 DSM spending levels are not constrained by the F2007-F2008 RRA NSA and remain within the scope of the 2006 IEP-LTAP proceeding.

3. "2.5 cents per kWh" Utility Cost cap on DSM programs. SCCBC, *et al* take the position that BC Hydro's internal policy that DSM program cost-effectiveness must be demonstrated by, among other things, the portfolio levelized Utility Cost being less than \$0.025/kWh [RRA Exhibit B-5-3, Appendix P, p.1] is inappropriately restrictive. SCCBC, *et al* acknowledge BC

Project No. 3698416

November 3, 2006

Page 2 of 2

Hydro's commitment in s.34(i) of the F07-F08 RRA NSA not to object to the raising of this issue (among others) in the IEP-LTAP hearing.

4. DSM programs aimed at transmission-level customers. SCCBC, *et al* have filed evidence that BC Hydro could increase its cost-effective electricity savings by dropping the artificial restriction on DSM incentives aimed at transmission-level (Tariff 1823, or "stepped rate") customers. SCCBC, *et al* acknowledge BC Hydro's commitment in s.34(ii) of the F07-F08 RRA NSA not to object to the raising of this issue (among others) in the IEP-LTAP hearing.

5. Amortization of DSM expenditures. In s.32(ii) of the F07-F08 RRA NSA, BC Hydro commits to address in its next revenue requirements application the appropriate capitalization and amortization of DSM expenditures. To clarify and confirm, SCCBC, *et al* take the position that BC Hydro's DSM expenditures should not be expensed and that the current amortization period for DSM expenditures should not be shortened.

All the above is respectfully submitted.

Yours truly,

William J. Andrews



Barrister & Solicitor

cc. Werner Krampfl, werner.krampfl@bcuc.com,
other F07-F08 RRA NSP participants by email



Tom A. Loski
Director, Regulatory Affairs

16705 Fraser Highway
Surrey, B.C. V4N 0E8
Tel: (604) 592-7464
Cell: (604) 250-2722
Fax: (604) 592-7890
Email: tom.loski@terasengas.com
www.terasengas.com

Regulatory Affairs Correspondence
Email: regulatory.affairs@terasengas.com

CONFIDENTIAL

November 3, 2006

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC
V6Z 2N3

Attention: Mr. Werner J. Krampfl

Dear Sir:

**Re: British Columbia Hydro and Power Authority ("BC Hydro")
F2007 and F2008 Revenue Requirements Application ("F07/08 RRA")
Negotiated Settlement dated November 2, 2006**

Terasen Gas participated in the Negotiated Settlement Process ("NSP") with respect to BC Hydro's F07/08 RRA. Terasen Gas accepts, in its entirety, the final Negotiated Settlement Agreement circulated with Mr. Grant's letter dated November 2, 2006.

Terasen Gas believes the Negotiated Settlement Process is an effective and efficient way to resolve complex issues such as those dealt with in BC Hydro's F07/08 RRA and would like to commend Bill Grant and Commission Staff for their effective facilitation of the NSP. Terasen Gas would also like to commend BC Hydro for their efficiency in evaluating and responding to the positions put forward in the NSP.

Yours very truly,

TERASEN GAS INC.

Original signed:

Tom Loski

cc: Ms. Joanna Sofield, BC Hydro
F07/08 RRA NSP Participants

Alan Wait
Box 2663
Grand Forks, B.C.
V0H 1H0
Nov. 3, 2006

Mr. R.J. Pellatt
Commission Secretary
British Columbia Utilities Commission
Sixth Floor, 900 Howe St, Box 250
Vancouver, B.C.
V6Z 2N3

Re: BC Hydro Revenue Requirements Application F2007 & F2008
Project No. 3698416

Dear Mr. Pellatt:

In the interests of moving forward, I accept the final Negotiated Settlement Agreement circulated with Mr. Grant's letter dated Nov. 2, 2006.

However, I wish to express my great disappointment that neither BC Hydro officials nor BCUC staff were prepared to bring to the Provincial Government's attention the inconsistency with cost base regulation of Special Directive HC2, in that it specifies deferred revenue as owner's equity. This results in a cost to ratepayers of roughly \$36.7 mil. (13.1% of the \$261.8 mil Skagit Account balance) for return on equity, while BC Hydro books only \$18.5 mil. (Wait IR #2.8.0) in revenue from Seattle City Light under the Skagit Treaty. This leaves the ratepayers, during F2007, paying about \$18 mil. to BC Hydro, so that BC Hydro can give away 310 Gigawatts of power. This state of affairs is completely unfair to the BC Hydro ratepayers.

Further, I am disenchanted by the lack of interest by both BC Hydro officials and BCUC Staff regarding an intervener request, namely mine, that government be notified of intervener concern over the \$200 mil. cap on trade revenues. The cap was instituted by Special Directive #8 in 1992, and was expected to be seldom exceeded. The cap was reconfirmed in Special Directive HC2 in 2004. Since 1992, the wholesale price of electricity has roughly doubled, the amounts being traded for BC Hydro by Powerex have increased significantly and according to Statistics Canada the CPI has increased by 30%. The \$200 mil. trade income cap was exceeded in F2005 and appears on track to be

significantly exceeded in F2007. It is time for this trade income cap be at least revised upward or preferably eliminated altogether in the interests of all BC Hydro ratepayers.

Respectfully Submitted,

Alan Wait

From: KrAMPL, Werner BCUC:EX
Sent: Mon, November 6, 2006 9:55 AM
To: Smith, Constance BCUC:EX
Subject: FW: CONFIDENTIAL - BCH 2007-2008 RR Negotiated Settlement

-----Original Message-----

From: Dave.Humber@westfraser.com [mailto:Dave.Humber@westfraser.com]
Sent: Fri, November 3, 2006 2:07 PM
To: KrAMPL, Werner BCUC:EX
Subject: RE: CONFIDENTIAL - BCH 2007-2008 RR Negotiated Settlement

Dave Humber of West Fraser Mills supports the Negotiated Settlement as
attached Dave Humber

WEISBERG LAW
C O R P O R A T I O N

2730 Ailsa Crescent
North Vancouver, B.C.
V7K 2B2

Reply to: Fred J. Weisberg
Telephone: (604) 980 – 4069
Fax: (604) 980 – 6357
Email: weislaw@shaw.ca

BY E-MAIL and MAIL

November 6, 2006

Mr. Robert Pellatt
Commission Secretary
British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, B.C.
V6Z 2N3

Dear Sirs/Mesdames:

**Re: British Columbia Hydro and Power Authority (“BC Hydro”)
Negotiated Settlement
F2007/F2008 Revenue Requirements Application (“F2007/F2008 RRA”)**

Columbia Power Corporation (“CPC”) was an active participant in the negotiated settlement process for the F2007/F2008 RRA. CPC accepts the final Negotiated Settlement Agreement (“NSA”) distributed under cover of Mr. Grant’s letter dated November 2, 2006.

CPC supports Commission approval of the NSA.

CPC acknowledges and appreciates the efforts of all parties, BC Hydro, Mr. Grant and Commission staff that led to an efficient outcome.

Yours truly,
(original signed by)

Fred J. Weisberg
Barrister & Solicitor

Weisberg Law Corporation
Counsel for Columbia Power Corporation

Copies to: Parties of Record

DONOVAN & COMPANY

Barristers and Solicitors

6th Floor, 73 Water Street
Vancouver, B.C. V6B 1A1
Telephone (604) 688-4272
Telecopier (604) 688-4282
Website: www.aboriginal-law.com

Reply to:
jennifer_griffith@aboriginal-law.com

Allan Donovan*
Susan J. Alcott+*
Sophia Nishimoto
Jennifer Griffith
Courtney Macfarlane

Merrill W. Shepard†
Karim Ramji*
Myriam Brulot
Bram Rogachevsky
Niki Sharma

*Denotes Law Corporation
+also of the Yukon Bar
†also of the NWT Bar

November 3, 2006

VIA EMAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Robert J. Pellatt, Commission Secretary

Dear Mr. Pellatt:

Re: **BC Hydro & Power Authority Application for Revenue Requirements
BCH-F2007/08 RRA – Project No. 3698416**

In our October 31, 2006 letter we set out our comments on the draft Negotiated Settlement Agreement ("NSA"). The provisions of concern to us have not changed from the draft to the final NSA. We, therefore, ask that you submit our October 31, 2006 letter along with this one, as our comments on the final NSA.

The Haisla Nation respectfully submits that the Commission ought to modify the language in para 39.iii as suggested in our October 31, 2006 letter.

Yours truly,
DONOVAN & COMPANY


Jennifer Griffith

JG/lb

cc: Werner J. Krampf, BC Utilities Commission

Participants

DONOVAN & COMPANY

Barristers and Solicitors

6th Floor, 73 Water Street
Vancouver, B.C. V6B 1A1
Telephone (604) 688-4272
Telecopier (604) 688-4282
Website: www.aboriginal-law.com

Allan Donovan*
Susan J. Alcott+*
Sophia Nishimoto
Jennifer Griffith
Courtney Macfarlane

Merrill W. Shepard†
Karim Ramji*
Myriam Brulot
Bram Rogachevsky
Niki Sharma

Reply to
jennifer_griffith@aboriginal-law.com

*Denotes Law Corporation
+also of the Yukon Bar
†also of the NWT Bar

October 31, 2006

VIA EMAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Robert J. Pellatt, Commission Secretary

Dear Mr. Pellatt:

**Re: BC Hydro & Power Authority Application for Revenue Requirements
BCH-F2007/08 RRA – Project No. 3698416**

Please find attached a letter to William Grant and Werner Krampfl with respect to our comments on BC Hydro's F07/08 RRA Settlement Agreement. A copy of this letter has been forwarded to BC Hydro and the parties that attended the Negotiated Settlement Process by email.

If you have any questions with respect to this matter please do not hesitate to contact me.

Yours truly,
DONOVAN & COMPANY


Jennifer Griffith

JG/lb

Enclosure

DONOVAN & COMPANY

Barristers and Solicitors

6th Floor, 73 Water Street
Vancouver, B.C. V6B 1A1
Telephone (604) 688-4272
Telecopier (604) 688-4282
Website: www.aboriginal-law.com

Allan Donovan*
Susan J. Alcott+*
Sophia Nishimoto
Jennifer Griffith
Courtney Macfarlane

Merrill W. Shepard†
Karim Ramji*
Myriam Brulot
Bram Rogachevsky
Niki Sharma

Reply to
jennifer_griffith@aboriginal-law.com

*Denotes Law Corporation
+also of the Yukon Bar
†also of the NWT Bar

PRIVILEGED AND CONFIDENTIAL

October 31, 2006

VIA EMAIL

BC Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC

Attention: William Grant, Transition Advisor, and Mr. Werner J. Krampf

Dear Mr. Grant: and Mr. Krampf:

Re: BC Hydro F2007/2008 RRA Proposed Settlement Agreement

We are writing to provide our comments on BC Hydro's F07/08 RRA Settlement Agreement. As you know, we participated in the Negotiated Settlement Process (NSP) on behalf of our client, the Haisla Nation.

The Haisla Nation holds reserves in and around Kitimat, BC. In addition, the Haisla Nation has occupied territory in and around Kitimat since time immemorial, and asserts aboriginal title to and aboriginal rights throughout Haisla Nation Territory. The Haisla Nation has filed in these proceedings expert evidence providing a strong foundation for Haisla Nation aboriginal rights and title.

The Haisla Nation title to its Traditional Territory includes the right to exclusive Haisla occupation. It is the right of the Haisla Nation to use the land in accordance with its own choice, including the choice of modern commercial use. The adverse use of land within the Haisla Nation's Territory constitutes an unjustified infringement of the Haisla Nation's aboriginal title.

BC Hydro is an agent of the provincial government, established under the *BC Hydro and Power Authority Act*, R.S.B.C., c. 212. As an agent of the Crown, BC Hydro is bound by the honour of the Crown (*Musqueam Indian Band et al. v. City of Richmond et al.*, 2005 BCSC 1069). As an agent of the Crown, BC Hydro therefore has a duty to consult and, where appropriate, accommodate, First Nations when contemplating conduct that may infringe aboriginal title or aboriginal rights. We note that BC Hydro itself has emphasized its status as a

DONOVAN & COMPANY

- 2 -

Crown entity when seeking before the Supreme Court of British Columbia to avoid an obligation to pay taxes imposed by First Nations (*Westbank First Nation v. British Columbia Hydro & Power Authority*, [1997] 2 C.N.L.R. 229 (BCSC)).

BC Hydro has sought the approval of the BC Utilities Commission for a rate increase to address its revenue requirements. A portion of BC Hydro's revenue, generated through customer rates, is directed towards addressing First Nations issues. The Haisla Nation is concerned that BC Hydro is not going far enough in doing this.

BC Hydro owns a significant transmission line that runs through Haisla Nation Territory from Terrace to Kitimat. In addition, BC Hydro purchases electricity from Alcan. This electricity is generated at Kemano, which is also in Haisla Nation Territory, and is transported across transmission lines from Kemano to Kitimat. BC Hydro's operations in the Haisla Nation's Territory were established without any consultation with or accommodation of the Haisla Nation. As such, these operations constitute a continued and unjustified infringement of the Haisla Nation's aboriginal rights and title.

The importance to the Haisla Nation of protecting its aboriginal rights and title, and of preserving natural resources, cannot be overstated. The Haisla Nation is concerned that BC Hydro's approach to First Nation relationships does not go far enough with respect to past and ongoing infringement of aboriginal title and aboriginal rights by existing operations. While BC Hydro has recently made some commitments to consult with the Haisla Nation, the level of consultation has, to this date, been inadequate.

At the NSP, the Haisla Nation sought the inclusion of language that would have BC Hydro commit to engaging in dialogue with the Haisla Nation aimed at addressing past and ongoing infringements of Haisla Nation aboriginal title and aboriginal rights resulting from BC Hydro's existing operations in Haisla Nation Territory.

BC Hydro was unwilling to commit to such dialogue in the negotiated settlement document. Instead, BC Hydro has proposed the language set out at para. 39.iii, whereby it commits to build a mutually beneficial relationship with the Haisla Nation and to discuss the development of a protocol agreement between the Haisla Nation and BC Hydro.

As an agent of the Crown, and in keeping with the requirements of the case law, BC Hydro should be dealing proactively with First Nations issues. It is a commitment to doing this that the Haisla Nation sought through the NSP.

The language proposed by BC Hydro falls short, from our client's viewpoint, of type of commitment required to ensure that the honour of the Crown is upheld. This was communicated clearly at the NSP. We cannot therefore agree that the

DONOVAN & COMPANY

- 3 -

language set out in para. 39.iii represents language that has been agreed to by the Haisla Nation in the context of this NSP. The Haisla Nation is therefore not willing to endorse the settlement proposed by BC Hydro.

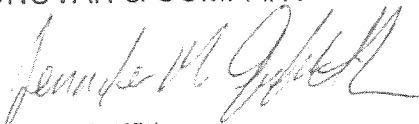
Language that would be acceptable to the Haisla Nation is:

"BC Hydro is committed to building a mutually beneficial relationship with the Haisla Nation and will discuss past and ongoing infringement and the development of a protocol agreement between the Haisla Nation and BC Hydro to address this and other issues".

We urge BC Hydro to reconsider its position and agree to the language suggested by the Haisla Nation and to move forward with the development of a meaningful relationship with the Haisla Nation.

Yours truly,

DONOVAN & COMPANY



Jennifer Griffith
JG/lb

cc: Chief Councilor Steve Wilson
Haisla Nation

Joanna Sofield, Chief Regulatory Officer
BC Hydro

Jeff Christian
Lawson Lundell LLP