



LETTER NO. L-73-06

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ROBERT J. PELLATT
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Log No. 16860

VIA E-MAIL

kholmsen@telus.net

November 27, 2006

Mr. Karsten Holmsen
540 Shannon Way
Delta, B.C. V4M 2W5

Dear Mr. Holmsen:

Re: British Columbia Transmission Corporation ("BCTC")
Certificate of Public Convenience and Necessity Application
Vancouver Island Transmission Reinforcement Project ("VITR")
Project No. 3698395/Order No. G-70-05
Application for Reconsideration of VITR Decision

This letter is in response to your November 12, 2006 Application for Reconsideration of the VITR Decision. In that submission you allege that by accepting BCTC's erroneous information and data regarding present and proposed electromagnetic field ("EMF") levels on and along the right of way ("ROW") in Tsawwassen the Commission made an error in fact. You further allege that new evidence disclosed subsequently, related to "the existence of RF from the power line carrier ("PLC") on the 1L17 lines through Tsawwassen", indicates a fundamental change in circumstances since the VITR Decision dated July 7, 2006. Finally, you submit that Mr. Barrett, one of the BCTC policy panel witnesses, should be declared an unreliable witness, and that his evidence and statements during the VITR proceeding should be dismissed in their entirety by the Commission.

The Commission notes that as a very active intervenor in the VITR proceeding you are aware of the BCUC reconsideration process and its two phases. In the first screening phase the applicant must establish a prima facie case sufficient to warrant full consideration by the Commission. The Commission usually invites submissions from the other participants in the proceeding or may consider that comments from the parties are not necessary. The Commission generally applies the following criteria to determine whether or not a reasonable basis exists for allowing reconsideration:

- the Commission has made an error in fact or law;
- there has been a fundamental change in circumstances or facts since the Decision;
- a basic principle had not been raised in the original proceeding; or
- a new principle has arisen as a result of the Decision.

Where an error is alleged to have been made, in order to advance to the second phase of the reconsideration process, the application must meet the following criteria:

- the claim of error is substantiated on a prima facie basis; and
- the error has significant material implications.

If the Commission determines that a reconsideration is warranted, the reconsideration then proceeds to the second phase where the Commission hears full arguments on the merits of the application.

In this instance, the Commission considers it unnecessary to invite comments from BCTC, registered intervenors or interested parties. The Commission already has a sufficient record on this matter and denies your Application for Reconsideration of the VITR Decision. In reaching this decision, the Commission notes the following:

1. You have been an active supporter of other applications for reconsideration of the VITR Decision which were denied by the Commission after the first phase. Your September 8, 2006 submission supported the Application by Ms. Pam Sutherland, Dr. Kyong Nam and Mr. Mark Warwarick for Reconsideration of the VITR Decision. By Order No. G-125-06 the Commission denied that Application on October 6, 2006 with Reasons for Decision attached. Your submission dated October 23, 2006 registered your support for the Application for Reconsideration of the VITR Decision as filed by Tsawwassen Residents Against Higher Voltage Overhead Lines ("TRAHVOL"). By Order No. G-141-06 the Commission denied the TRAHVOL Application on November 9, 2006 with Reasons for Decision attached.
2. You filed an extensive list of e-mail communications with the Commission, BCTC, intervenors and other interested parties addressing EMF measurements, existence of a PLC and a comparison test of EMF meters in Tsawwassen between October 15 and October 19, 2006. These communications were primarily between yourself, Mr. Bruce Barrett of BCTC and Mr. Brian Phillips of Radiation Protection Services.
3. The principal arguments raised by you in your November 12, 2006 submission are practically identical to those raised in your October 23, 2006 letter submitted in support of TRAHVOL's Reconsideration Application. On November 2, 2006 BCTC wrote to the Commission in response to your October 23, 2006 letter. BCTC first takes issue with your allegation of false evidence given by Mr. Barrett, thereby

rendering BCTC's EMF evidence invalid (p. 1). By way of explanation, BCTC provides a chronological explanation for how the confusion arose. BCTC also submits that the clarification regarding the existence of the PLC does not render BCTC's evidence regarding EMF from the existing 138 kV lines and the VITR Project invalid. Furthermore, BCTC points out that it expressly acknowledged there are different frequencies on the existing lines over and above the 60-cycle AC current, including in the radio frequency range (T28: 5396, lines 3-12). Second, BCTC submits that there is no basis for declaring Mr. Barrett to be an unreliable witness or to dismiss his other evidence and statements during the VITR proceedings (p. 2).

In the same letter BCTC also advises that it intends to install a wave trap on the 138 kV circuit while carrying out VITR so that any residual high frequency currents from the PLC will not travel from Salt Spring Island, across the Strait of Georgia, to Tsawwassen (p. 2).

The Commission concludes that the impact of the PLC on EMF readings would not have been material to the VITR Decision as it found that the EMF levels associated with the existing and proposed lines are well below the established exposure guidelines and also concluded that the science does not support the EMF-related health concerns (VITR Decision, pp. 70-71). Given the clarification provided by BCTC regarding the existence of the PLC, the Commission does not find the evidence of Mr. Barrett unreliable. Therefore, the Commission denies your Application for Reconsideration.

Yours truly,

Original signed by:

Robert J. Pellatt

LAH/cms

Enclosures

cc: Mr. Marcel Reghelini, Director, Regulatory Affairs
British Columbia Transmission Corporation
BCTC-VITR Registered Intervenors and Interested Parties (BCTC-VITR)

Karsten Holmsen
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November 12, 2006

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Box 250
Vancouver, B.C.
V6Z 2N3

By e-mail to: commission.secretary@bcuc.com

Attention: Robert J. Pellatt, Commission Secretary

Dear Sir:

**Re: British Columbia Transmission Corporation (BCTC)
Certificate of Public Convenience and Necessity (CPCN)
Vancouver Island Transmission Reinforcement Project (VITR)
Project No. 3698395 /Order No. G-70-05
Application for Reconsideration of VITR Decision**

The undersigned, Karsten Holmsen, Intervenor C-1 in BCTC's CPCN Application, hereby applies for a Reconsideration of the VITR Decision dated July 7, 2006 (the "Decision") and Order No. C-4-06 on the basis of evidence now disclosed which has confirmed that BCTC withheld material information during the Commission hearings.

It is respectfully submitted that BCUC erred in fact by not giving due consideration and weight to evidence presented in Holmsen's Evidentiary Submission (*BCUC Exhibit C1-13, Sect. 5*) and cross-examination of Mr. Wong during the public hearings (*BCUC TR 28, pg. 5346, line 9, to pg. 5375, line 12*).

It was pointed out during cross-examination that BCTC's evidence with respect to present and proposed EMF levels on and along the ROW was suspect. It was also suspected that evidence given by Mr. Bruce Barrett, BCTC's VITR Project

Manager and principal witness to the Commission, with respect to whether a power line carrier was being operated on the existing 138kV line between SAL and ARN through Delta and Tsawwassen, was false. (*BCUC TR 9, pg. 1305, line 15, to pg. 1306, line 6*). The existence of RF from the power line carrier on the 1L17 lines through Tsawwassen has now been confirmed by an e-mail from Mr. Barrett to Mr. Brian Phillips of the Radiation Protection Services, dated October 19, 2006, (*Copied by Holmsen to the Commission Secretary on October 22, 2006*).

If BCTC had desired to disclose the presence of the PLC through Tsawwassen and Saltspring Island, it had ample opportunities to do so during the public hearings, in its final argument, in conjunction with the magnetic meter testing and subsequent information requests to BC Hydro and BCTC (which were not responded to), or in response to Holmsen's EAO submission. It was only when it became obvious that this fact could no longer be concealed that BCTC disclosed this by the October 19, 2006, e-mail.

It is submitted that the presence of this RF power line communication carrier, which was neither disclosed during the VITR hearings, nor made known to BCTC's own consultant on EMF who prepared the calculations on EMF and appeared as a witness on BCTC's behalf, renders BCTC's entire evidence with respect to EMF exposure by the present 138kV lines and the VITR project, invalid.

Since the same misleading and false information has been provided to the BC Environmental Assessment Office in BCTC's EAC Application, it would be expected that any approval of BCTC's EAC Application is withheld until BCTC provides new, accurate, and reliable EMF calculations.

It is also respectfully submitted that Mr. Barrett, in giving false evidence under cross-examination during the Commission hearings, should be declared an unreliable witness, and his evidence and statements during the VITR hearings should be dismissed in their entirety by the Commission.

It is therefore respectfully submitted that this disclosure, with the lack of credibility on the part of BCTC's principal witness, places the Commission's Decision, Order No. C-4-06, in a difficult and highly questionable position, and supports a very strong reason for reconsideration of the Decision.

In accordance with the written comment process established by the Commission, the undersigned hereby requests a Reconsideration by the Commission of the VITR Decision.

It is respectfully submitted that by accepting BCTC's erroneous information and data, the Commission made an error in fact, and new evidence disclosed indicates a fundamental changes in circumstances since the Decision:

- by the disclosure of false evidence given to the Commission, related to the power line communication carrier RF on the existing 138kV power lines through Delta and Tsawwassen, circumstances are fundamentally changed with respect to present and projected electromagnetic field exposure along the ROW, and it is also respectfully suggested that the Commission makes an error in law and its credibility will be compromised unless action is taken in the case of the false evidence given by BCTC during the VITR hearings;
- by directing BCTC to construct an overhead line through the residential community of Tsawwassen, BCUC made its Decision on false evidence given by BCTC in its CPCN Application which underestimated the magnitude of the electromagnetic fields associated with the existing and new lines. The significantly higher EMF levels and exposure will affect a much larger part of the residents and businesses of the community; consequently the concerns and opposition to the project from residents and business have become fundamentally stronger.

Should there be a reconsideration by the Commission?

- It is the opinion of the Intervenor that the circumstances described above strongly identify the need for a reconsideration of the Commission Decision, and that Order No. C-4-06 should be rescinded.

If there is to be a reconsideration, should the Commission hear new evidence and should new parties be given the opportunity to present evidence?

- it is the opinion of the Intervenor that the EMF evidence presented by BCTC during the hearings should be dismissed and that the Commission should hear new evidence related to EMF, and direct BCTC to produce revised EMF calculations and measurements incorporating the effects of the RF from the power line carrier;

- it is the opinion of the Intervenor that evidence given by Mr. Barrett during the VITR hearings is compromised and should be dismissed, and new evidence, as required, should be heard from BCTC and BC Hydro witnesses;
- it is the opinion of the Intervenor that the Commission should hear new evidence limited to registered intervenors and participants in the BCUC VITR process.

If there is to be a reconsideration, should it focus on the items from the Reconsideration Application, a subset of these items, or additional items?

- It is the opinion of the Intervenor that if there is a Reconsideration, it should focus on the items in this Reconsideration Application, and specific issues of concern relevant to the higher EMF exposure associated with the material evidence withheld by BCTC;
- if there is a reconsideration, focus should also be on other issues prejudiced in the VITR hearings.

If there is to be a reconsideration, what process should be established for the reconsideration?

- If there is a Reconsideration of the BCUC VITR Decision, the process should be an open public hearing.

Thank you for your consideration.

Yours sincerely,

Original signed by:

Karsten Holmsen, R.P.F. (ret.)
VITR Intervenor C-1

cc. BCUC Distribution List