



LETTER NO. L-29-07

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VIA E-MAIL
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April 13, 2007

Mr. William J. Andrews
Barrister & Solicitor
1958 Parkside Lane
North Vancouver, B.C. V7G 1X5

Dear Mr. Andrews:

Re: British Columbia Hydro and Power Authority
F2007 and F2008 Revenue Requirements Application ("F07/08 RRA")
BCUC Order No. G-37-06/Project No. 3698419
Participant Assistance/Cost Award ("PACA") – Order No. G-15-04
Reconsideration of Participant Assistance/Cost Award Order No. F-3-07 for
Sierra Club of Canada (BC Chapter) et al. Request for Reconsideration, Phase One

On February 7, 2007, the Sierra Club of Canada (B.C. Chapter), B.C. Sustainable Energy Association, and Peace Valley Environment Association (collectively "SCCBC *et al.*") filed a request for Reconsideration of the reduction of a Participant Assistance Cost Award ("PACA") funding that was awarded under Commission Order No. F-3-07 issued January 24, 2007. SCCBC *et al.* requests that the Commission reconsider the cost award decision to disallow \$42,021.69 of SCCBC *et al.*'s \$49,501.41 PACA application regarding its participation in the F07/08 RRA ("the Reconsideration Application"). SCCBC *et al.* explains that this is the first phase of the reconsideration process, in which SCCBC *et al.* must establish that the claim of error is substantiated on a prima facie basis and that the error has significant material implications.

In Order No. F-3-07 the Commission Panel was of the view that SCCBC *et al.* should be awarded costs for attendance at only the first two Procedural Conferences. The Commission Panel also determined that the demand side management ("DSM") issues raised by SCCBC *et al.* did not represent substantial issues in the F07/08 RRA proceeding.

In support of its Reconsideration Application, SCCBC *et al.* filed two packages of documents. The first package is the non-confidential reconsideration application dated February 7, 2007. The second package consists of a confidential cover letter by SCCBC *et al.* dated February 7, 2007 and the Commission staff's confidential October 16, 2006 proposed agenda document. Mr. William Grant, on behalf of Commission staff, requested that

participants in the Negotiated Settlement Process (“NSP”) waive the confidentiality of the October 16, 2006 document. After reviewing the waiver responses from stakeholders Mr. Grant, on February 26, 2007, agreed to release the second package to the Commission Panel in confidence for the purposes of SCCBC *et al.*’s PACA Reconsideration Application.

In support of the Reconsideration Application, SCCBC *et al.* respectfully submits that the disclosure of the staff proposed agenda to the Commission Panel in confidence for the purpose of SCCBC *et al.*’s PACA application is a reasonable balance between SCCBC *et al.*’s interests in a fair hearing and any Commission staff interests in privacy.

SCCBC *et al.* submits that there is a prima facie case that the cost award decision is in error for the following three reasons. Firstly, SCCBC *et al.* contributed to the Commission’s better understanding of substantial DSM issues within the F07/08 RRA proceeding. Secondly, SCCBC *et al.* contributed to the Commission’s better understanding of substantial issues such as Site C, Deferral Account balances, and regulatory reform, in the F07/08 RRA proceeding. Lastly, SCCBC *et al.* submits that the Commission staff’s confidential agenda of the F07/08 RRA NSP entered as “new evidence” shows that substantial DSM issues addressed by SCCBC *et al.* were on the agenda for the NSP.

Also, SCCBC *et al.* submits that the alleged error has significant material implication of \$42,021.69 to SCCBC *et al.* and conversely to BC Hydro. SCCBC *et al.* submits that there is a significant material implication within the meaning of the Participant’s Guide. SCCBC *et al.* states that it does not have the financial means to bring a professional standard of participation to the F07/08 RRA proceeding without a PACA award.

The Commission Panel has reviewed the Reconsideration Application and the additional confidential information filed in support of the Application, and has considered the arguments raised by SCCBC *et al.* The Commission Panel concludes that, although the confidential package of information shows that DSM issues were on the agenda, the DSM issues raised by SCCBC *et al.* are incidental, rather than substantial, issues in the F07/08 RRA. In contrast, DSM issues are substantial issues in the 2006 IEP/LTAP proceeding and that proceeding should have been the focus of SCCBC *et al.*’s efforts. Therefore, the Commission Panel awarded full PACA funding to SCCBC *et al.* for its participation in the first two Procedural Conferences, which dealt jointly with the F07/08 RRA and the 2006 IEP/LTAP.

The Commission Panel finds that the claim of error in fact or law has not been substantiated on a prima facie basis. The Commission Panel also finds that the alleged error in the denial of the cost award does not have significant material implications. An Intervenor's participation in a proceeding should not be premised on the assumption that it is entitled to a discretionary cost award.

Therefore, the Commission Panel concludes that the Reconsideration Application does not provide sufficient grounds to warrant a reconsideration, and denies the application of SCCBC *et al.* for a reconsideration of the PACA decision in Order No. F-3-07.

Yours truly,

Original signed by

Robert J. Pellatt

cc: Ms. Joanna Sofield, Chief Regulatory Officer
BC Hydro and Power Authority