

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-122-08**

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**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
for Review of the F2009 and F2010 Revenue Requirements Application**

BEFORE: L. A. O'Hara, Panel Chair
R. J. Milbourne, Commissioner August 25, 2008
A. A. Rhodes, Commissioner

O R D E R

WHEREAS:

- A. British Columbia Hydro and Power Authority ("BC Hydro") filed on February 20, 2008, pursuant to sections 58 to 61 of the Utilities Commission Act ("the Act"), its F2009 and F2010 Revenue Requirements Application for, among other things, approval of across-the-board rate increases of 6.56 percent and 8.21 percent, effective April 1, 2008 and April 1, 2009, respectively, and approval of a reduction of the Deferral Account Rate Rider from 2.0 percent to 0.5 percent, effective April 1, 2008 (the "F09/F10 RRA" or "Application"); and
- B. The Application also sought refundable interim relief pursuant to sections 58 to 61 and section 90 of the Act to allow BC Hydro to increase its rates by 6.56 percent on an across-the-board basis and to decrease its Deferral Account Rate Rider from 2.0 percent to 0.5 percent, both effective April 1, 2008, pending a full hearing into the F09/F10 RRA and orders subsequent to that hearing, on the basis that on April 1, 2008 BC Hydro's current rates would otherwise no longer be fair, just, sufficient and not unduly discriminatory; and
- C. On February 22, 2008 the Commission issued Letter L-5-08 that included establishing the regulatory process and timetable for the F09/F10 RRA and the Transmission Service Rate Re-pricing Application ("TSR Re-pricing Application") and for parties to address, by written submission, the BC Hydro request to implement interim rates effective April 1, 2008; and
- D. On February 25, 2008 the Commission issued Order G-21-08 establishing the Regulatory Timetable for the F09/F10 RRA. The Regulatory Timetable included a Workshop on March 6, 2008, Commission and Intervenor Information Requests, Responses by BC Hydro, and a Procedural Conference on April 28, 2008. The Procedural Conference was to consider further process for the F09/F10 RRA, TSR Re-pricing Application, and Residential Inclining Block ("RIB") Application; and

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- E. On February 28, 2008 the Commission issued Order G-28-08 that included a requirement for the publication of a Notice of Applications; and
- F. On March 14, 2008 the Commission issued Order G-40-08 that approved interim refundable rate changes for the 6.56 percent across-the-board rate increase and the decrease in BC Hydro's Deferral Account Rate Rider from 2.0 percent to 0.5 percent, both effective April 1, 2008; and
- G. At the April 28, 2008 Procedural Conference BC Hydro presented a "Strawman Regulatory Timetable" that coordinated the three applications. For the F09/F10 RRA, BC Hydro proposed a regulatory timetable that included a Negotiated Settlement Process ("NSP"). BC Hydro also proposed an Oral Public Hearing commencing on Monday, October 6, 2008 for issues not resolved in the NSP. BC Hydro also proposed a Pre-hearing Conference one week before the commencement of the Oral Public Hearing; and
- H. At the Procedural Conference BC Hydro proposed that all issues arising from the F09/F10 RRA, except for Demand Side Management ("DSM") issues, should be included within the scope of the NSP. BC Hydro was of the view that DSM expenditures during the test period are more appropriately addressed in the context of the Long-Term Acquisition Plan ("LTAP") proceeding, and that the anticipated demand response to those expenditures should also be resolved in the LTAP proceeding. In addition, BC Hydro was of the view that the appropriate amortization period for DSM expenditures is also more appropriately addressed in the context of the LTAP proceeding; and
- I. All the Intervenor's in attendance were supportive of or did not take a position on the BC Hydro proposed regulatory timetable for the F09/F10 RRA except for the City of New Westminster; and
- J. The Commission considered the submissions received at the Procedural Conference and by Order G-78-08 dated April 30, 2008 established a Regulatory Timetable for review of the F09/F10 RRA through an Oral Public Hearing to commence on Monday, October 6, 2008 at 9:00 a.m., if the NSP scheduled to commence on August 18, 2008 did not conclude in an agreement; and
- K. On July 2, 2008 BC Hydro filed an Evidentiary Update to the F09/F10 RRA that included F2008 actual results and F2008 closing balances of all regulatory and deferral accounts, an update on the DSM energy savings and expenditures to be consistent with forecasts in BC Hydro's 2008 LTAP, as well as updated forecasts for energy sales, revenues and cost of energy. If all these changes are approved the final rates for F2009 and F2010 would reflect annualized rate increases of approximately 9 percent per year. BC Hydro proposes deferring forecast increases on those costs that are subject to deferral but flowing through into rates the forecast net reduction in those costs not subject to deferral. Based on this approach BC Hydro proposes final rate increases of 5.96 percent and 8.12 percent effective April 1, 2008 and 2009 respectively; and

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- L. On July 30, 2008 Mr. Stuart Meade issued a late Information Request to BC Hydro. The Regulatory Timetable attached to Order G-78-08 established the Information Request No. 2 deadline of May 21, 2008. On August 1, 2008 the Commission advised BC Hydro that it may provide a response to the late Information Request before the commencement of the NSP discussions if time and resources permit. On August 1, 2008 BC Hydro, in its letter to the Commission indicated that the late Information Request with 82 questions was unreasonable. However, BC Hydro indicated that it would be prepared to answer Mr. Meade's questions through the oral hearing should the NSP beginning on August 18, 2008 not be successful. On August 6, 2008 BC Hydro wrote to Mr. Meade advising that it was unable to respond to his Information Request prior to August 18, 2008; and
- M. On August 13, 2008, the Canadian Office and Professional Employees Union Local 378 ("COPE") filed a request for leave to submit evidence for the NSP/hearing since the Intervenor Evidence deadline of July 29, 2008 established by Order G-78-08 had passed. COPE, in its request, included a summary of its evidence. On August 13, 2008, BC Hydro objected to the late filing of the evidence because it would not allow Information Requests to be issued and responses received prior to the NSP. BC Hydro noted that participants to an NSP are free to bring any issues to the table in the NSP regardless of whether evidence has been filed or not. Depending on the outcome of the NSP, BC Hydro stated that it may not maintain its objection; and
- N. On August 13, 2008, the Joint Electricity Steering Committee ("JIESC") filed a letter requesting that the Commission cancel the NSP and proceed to the full public hearing on Monday, October 6, 2008. By letter dated August 14, 2008 the British Columbia Old Age Pensioner's Organization et al. ("BCOAPO") supported the JIESC's request. Also on August 14, 2008, the Rental Owners and Managers Society of BC ("ROMS BC") concurred with the August 13 and 14, 2008 submissions of the JIESC and BCOAPO respectively. The same day BC Hydro replied to the JIESC's and BCOAPO's letters of August 13 and 14, 2008 noting it would not be worthwhile to proceed with the NSP in the circumstances; and
- O. By Order G-119-08 the Commission cancelled the NSP. The Order also established a Pre-hearing Conference on August 21, 2008 to receive submissions from Intervenor and BC Hydro on a regulatory timetable and the scope of issues to be addressed in the review of the F09/F10 RRA; the late Information Request by Mr. Stuart Meade; the request by COPE to file Intervenor Evidence; and any other matters; and
- P. The Pre-hearing Conference was held on August 21, 2008 and attended by BC Hydro and the following Intervenor: BC Transmission Corporation, the Terasen Utilities, Independent Power Producers Association of BC, City of New Westminster, the JIESC, Elk Valley Coal Corporation, Commercial Energy Consumers of British Columbia, BCOAPO, BC Sustainable Energy Association and Sierra Club of Canada BC Chapter, COPE, and Mr. Alan Wait; and
- Q. The Commission has reviewed the submissions and concludes that a determination is required.

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NOW THEREFORE the Commission orders, for the Reasons contained in Appendix A (attached) that:

1. BC Hydro's proposal to amend the Regulatory Timetable as established by Order G-78-08 to review the Application through a written hearing process is denied. The Application will be dealt with by way of the previously agreed and scheduled Oral Public Hearing commencing on October 6, 2008 at 9:00 a.m. in the Commission Hearing Room on the Twelfth Floor at 1125 Howe Street, Vancouver, B.C.
2. The scope of the F09/F10 RRA proceeding will remain as defined in Order G-78-08.
3. BC Hydro is not required to respond in writing to the late Information Request filed by Mr. Meade on July 30, 2008.
4. Leave is granted to COPE to file its application for late evidence and the application together with the proposed evidence are to be filed by no later than Friday, September 5, 2008. BC Hydro and the Intervenors are to file their submissions, if any, on the COPE application and proposed evidence by Wednesday, September 10, 2008. The submissions should address whether the proposed COPE evidence is within the scope of the proceeding, its relevance to the proceeding, and whether the party to the proceeding would be prejudiced if the proposed evidence is accepted as evidence for the purposes of the record. COPE is to file its reply, if any, to the submissions of BC Hydro and the Intervenors by Friday, September 12, 2008.
5. If BC Hydro wishes to apply to the Commission for an order consolidating the F09/F10 RRA and the LTAP proceedings, it should make such application to the Commission in the ordinary course.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of August 2008.

BY ORDER

Original signed by:

L. A. O'Hara
Panel Chair

An Application by British Columbia Hydro and Power Authority
for Review of the F2009 and F2010 Revenue Requirements Application

REASONS FOR DECISION

1.0 BACKGROUND

British Columbia Hydro and Power Authority ("BC Hydro") filed, on February 20, 2008, pursuant to sections 58 to 61 of the Utilities Commission Act ("the Act"), its F2009 and F2010 Revenue Requirements Application for, among other things, approval of across-the-board rate increases of 6.56 percent and 8.21 percent, effective April 1, 2008 and April 1, 2009, respectively, and approval of a reduction of the Deferral Account Rate Rider from 2.0 percent to 0.5 percent, effective April 1, 2008 (the "F09/F10 RRA" or "Application"). The Application also sought refundable interim relief pursuant to sections 58 to 61 and section 90 of the Act to allow BC Hydro to increase its rates by 6.56 percent on an across-the-board basis and to decrease its Deferral Account Rate Rider from 2.0 percent to 0.5 percent, both effective April 1, 2008, pending a full hearing into the F09/F10 RRA and orders subsequent to that hearing, on the basis that on April 1, 2008 BC Hydro's current rates would otherwise no longer be fair, just, sufficient and not unduly discriminatory.

At the April 28, 2008 Procedural Conference BC Hydro presented a "Strawman Regulatory Timetable" for the Application. BC Hydro's proposed regulatory timetable included a Negotiated Settlement Process ("NSP") with an Oral Public Hearing commencing on Monday, October 6, 2008 for issues not resolved in the NSP. The Commission considered the submissions received at the Procedural Conference and by Order G-78-08 established a Regulatory Timetable for the review of F09/F10 RRA through an Oral Public Hearing to commence on Monday, October 6, 2008 at 9:00 a.m. in the event that the NSP scheduled to commence on August 18, 2008 did not conclude in an agreement.

On July 2, 2008 BC Hydro filed an Evidentiary Update to its F09/F10 RRA that included F2008 actual results and F2008 closing balances of all regulatory and deferral accounts, an update on the DSM energy savings and expenditures to be consistent with forecasts in BC Hydro's 2008 Long Term Acquisition Plan ("LTAP"), as well as updated forecasts for energy sales, revenues and cost of energy. If all these changes are approved the final rates for F2009 and F2010 would reflect annualized rate increases of approximately 9 percent per year. BC Hydro proposes deferring forecast increases on those costs that are subject to deferral but flowing through into rates the forecast net reduction in those costs not subject to deferral. Based on this approach BC Hydro proposes final rate increases of 5.96 percent and 8.12 percent effective April 1, 2008 and 2009 respectively.

On August 13, 2008, the Joint Industry Electricity Steering Committee ("JIESC") filed a letter stating that while it initially supported the holding of an NSP on the F09/F10 RRA it no longer did so. By letter dated August 14, 2008 the British Columbia Old Age Pensioner's Organization et al. ("BCOAPO") supported the JIESC's request that the NSP be cancelled and the matter proceeds to the Oral Public Hearing scheduled for October 6, 2008. Also on August 14, 2008, the Rental Owners and Managers Society of BC concurred with the submissions of the JIESC and BCOAPO. By letter also dated August 14, 2008 BC Hydro replied to the JIESC and BCOAPO stating that it regretted the additional burden that their positions will create but felt that without the willing participation of these two Intervenor's it was not worthwhile to proceed with the NSP.

By Order G-119-08 dated August 15, 2008 the Commission cancelled the NSP for the F09/F10 RRA scheduled to commence on Monday, August 18, 2008 and established a Pre-hearing Conference for August 21, 2008 to receive submissions from Intervenor and BC Hydro on a regulatory timetable and the scope of issues to be addressed in the review of the F09/F10 RRA; a late information request by Mr. Stuart Meade; a request by Canadian Office and Professional Employees Union Local 378 ("COPE") to file late Intervenor Evidence; and any other matters.

2.0 PRE-HEARING CONFERENCE

The Pre-hearing Conference on August 21, 2008 was attended by BC Hydro and the following Intervenor: BC Transmission Corporation, the Terasen Utilities, Independent Power Producers Association of BC ("IPBC"), City of New Westminster, JIESC, Elk Valley Coal Corporation, Commercial Energy Consumers of British Columbia ("CEC"), BCOAPO, BC Sustainable Energy Association and Sierra Club of Canada BC Chapter ("BCSEA et al."), COPE, and Mr. Alan Wait.

3.0 ISSUES

Issues discussed at the Pre-hearing Conference were:

- BC Hydro's Proposal to Amend Order G-78-08 to review the Application through a Written Hearing
- Scope of the F09/F10 RRA Proceeding
- Late Information Request from Mr. Meade
- COPE Letter of August 13, 2008 and COPE Request for Leave to File Evidence
- Consolidation of the F09/F10 RRA and LTAP Applications

The Commission Panel has reviewed the submissions on the issues. The issues are addressed below.

3.1 BC HYDRO'S PROPOSAL TO AMEND ORDER G-78-08 TO REVIEW THE APPLICATION THROUGH A WRITTEN HEARING

At the Pre-hearing Conference, Counsel for BC Hydro submitted that the review of the F09/F10 RRA should proceed by way of a written hearing process rather than the scheduled oral hearing. BC Hydro believes that there is a very extensive and sufficient evidentiary record that includes Information Requests and Intervenor Evidence. BC Hydro submits that a written process would take less time and resources of the utility. BC Hydro proposed a timetable for Final Argument, Intervenor Arguments, and Reply Argument for the written process.

Review of the F09/F10 RRA by way of a written hearing was addressed by the JIESC, Elk Valley Coal Corporation, the CEC, BCOAPO, BCSEA et al., COPE, and Mr. Wait, all of whom either objected strongly to the cancellation of the previously agreed and scheduled Oral Public Hearing or expressed a preference for it. The JIESC argued that the Information Requests contained in the written record have a role, but do not replace live cross-examination. This view was echoed by other Intervenor. The Terasen Utilities and the IPBC did not take a position on BC Hydro's request, other than to note that, if required, "contentious issues" could be referred to an oral phase.

The Commission Panel notes that the “Strawman Regulatory Timetable” submitted by BC Hydro at the April 28, 2008 Procedural Conference included both the NSP and the Oral Public Hearing (if required) and their dates and that it was subsequently approved by the Commission in the Regulatory Timetable set out in Order G-78-08. Having reviewed the submissions of BC Hydro and the Intervenor, the Commission Panel is not persuaded that a written hearing process would be more expeditious or involve less time and resources when considering all parties. The Commission Panel accepts the argument that Information Requests do not replace cross-examination in all circumstances and is therefore not persuaded that it is in the public interest that the Regulatory Timetable established in Order G-78-08 with an Oral Public Hearing commencing on October 6, 2008 be varied.

BC Hydro’s proposal to amend the Regulatory Timetable as established by Order G-78-08 to review the Application through a written hearing process is denied. The Application will be dealt with by way of the previously agreed and scheduled Oral Public Hearing commencing on October 6, 2008 at 9:00 a.m. in the Commission Hearing Room on the Twelfth Floor at 1125 Howe Street, Vancouver, B.C.

Order G-78-08 contemplated a Sign-off Date for the Negotiated Settlement of September 19, 2008 and, if necessary, a Pre-hearing Conference on September 29, 2008. The Sign-off Date is moot due to the cancellation of the NSP and the Pre-hearing Conference on September 29, 2008 is cancelled.

3.2 SCOPE OF THE F09/F10 RRA PROCEEDING

BC Hydro submitted that no scoping determinations are required except for its concern in respect of issues raised by COPE regarding the government’s energy policy and its validity and its cost.

Subsequently, a number of Intervenor provided their views on the scope of the F09/F10 RRA proceeding. IPPBC noted that COPE’s issues related to the law are out of scope for the proceeding. The JIESC considers that the current DSM expenditures and the Site C expenditures could be moved to the revenue requirements hearing. The CEC believes that questions which talk about energy policy initiatives should be within the scope of this proceeding as they relate to expenditures of BC Hydro. BCOAPO cited a number of issues that it is interested in exploring in the proceeding. BCSEA et al. also cited a number of issues that it is concerned with including a variety of initiatives such as Burrard Thermal Generation, expenditures for the legislated “smart meter” initiative, Site C, and First Nation expenditures. COPE expressed interest in a number of issues including smart meters, the Accenture contract, and self-sufficiency and its impact on revenue requirements and rates. Mr. Wait noted some issues that he considers of interest in the revenue requirements.

In response, Counsel for BC Hydro stated that what should be out of scope are those things that BC Hydro is obliged to do such as self-sufficiency. BC Hydro believes that the reason for implementing government policy is out of scope but the execution of government policy is within scope.

The Commission Panel notes that costs that impact rates in the test years are usually considered within scope in a revenue requirements application unless explicitly excluded. **The Commission Panel directs that the scope of the F09/F10 RRA proceeding will remain as defined in Order G-78-08.**

3.3 LATE INFORMATION REQUEST FROM MR. MEADE

BC Hydro contends that the late Information Request from Mr. Meade issued on July 30, 2008 should not be answered in writing. It had previously offered to answer the questions at the oral hearing if the NSP was not successful. The CEC did not take a position on the late Meade Information Request but noted that the Commission should have some reluctance to change its timelines absent strong reason for change. Other Intervenors noted that the Commission should be cautious about allowing late Information Requests.

Mr. Meade was not present at the Pre-hearing Conference. He did not make a written submission prior to the Pre-hearing Conference, did not indicate that he would not be in attendance and accordingly made no submissions in support of his request.

The Commission Panel confirms that BC Hydro is not required to respond in writing to the late Information Request filed by Mr. Meade on July 30, 2008.

3.4 COPE LETTER OF AUGUST 13, 2008 AND COPE REQUEST FOR LEAVE TO FILE EVIDENCE

At the Pre-hearing Conference BC Hydro confirmed that it did not object to the COPE two page letter of August 13, 2008, and BC Hydro's response to it of that date, being entered as evidence. However, BC Hydro objects to the filing of the documents attached to the COPE letter.

The Commission Panel directs that the two-page letter filed by COPE on August 13, 2008, without its attachments, be included as part of the F09/F10 RRA evidentiary record and that the BC Hydro letter of August 13, 2008 in response to the COPE letter also be entered into the evidentiary record.

At the Pre-hearing Conference COPE explained that it was unable to file its proposed evidence earlier due to a number of factors. COPE stated that its evidence would address a number of issues including operating costs, the Accenture contract, and impact of government policy and tax measures on revenue requirements. COPE explained that if granted leave it would provide a COPE Witness Panel to address the COPE evidence at the Oral Hearing. However, COPE indicated that it would not be able to file its application for a couple of weeks.

BC Hydro's position is that COPE should be obliged, in a timely manner with a fixed date, to file an application attaching the evidence. Counsel for BC Hydro stated that the evidence should not be placed on the record of the proceeding until the Commission concludes that it should be, based on the submissions that address the admissibility of the evidence.

The Commission Panel grants leave to COPE to file its application for late evidence and the application together with the proposed evidence are to be filed by no later than Friday, September 5, 2008. BC Hydro and the Intervenors are to file their submissions, if any, on the COPE application and proposed evidence by Wednesday, September 10, 2008. The submissions should address whether the COPE proposed evidence is within the scope of the proceeding, its relevance to the proceeding, and whether the party to the proceeding would be prejudiced if the proposed evidence is accepted as evidence for the purposes of the record. COPE is to file its reply, if any, to the submissions of BC Hydro and the Intervenors by Friday, September 12, 2008.

3.5 CONSOLIDATION OF THE F09/F10 RRA AND LTAP APPLICATIONS

B.C. Hydro made submissions concerning the possibility of its applying to consolidate the F09/F10 RRA proceeding with the LTAP proceeding into a single review process. BC Hydro also suggested that a procedural conference both for LTAP participants and F09/F10 RRA participants could be held during the week of September 2nd to address the consolidation.

If BC Hydro wishes to apply to the Commission for an order consolidating the Application and the LTAP proceeding, it should make such application to the Commission in the ordinary course.