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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-134-08

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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 September 18, 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"), for review of its Fiscal 2009 and Fiscal 2010 Revenue Requirements and certain resultant interim and permanent rate increases and adjustments to its rate rider (the "F09/F10 RRA" or "Application"); and
- B. On February 25, 2008, the Canadian Office and Professional Employees Union Local 378 ("COPE") registered as an Intervenor; and
- C. On April 30, 2008, by Order G-78-08, the Commission established, among other things, a Regulatory Timetable which established a deadline for the filing of Intervenor evidence of July 29, 2008; and
- D. On August 13th, 2008 COPE submitted a letter to the Commission requesting leave to file late evidence; and
- E. On August 15, 2008 the Commission issued Order G-119-08 cancelling the planned Negotiated Settlement Process scheduled to begin on August 18, 2008 and establishing a Pre-Hearing Conference for August 21, 2008 to deal with the conduct of the proceeding as well as COPE's request to file late evidence; and
- F. Following the August 21, 2008 Pre-Hearing Conference the Commission issued Order G-122-08 dated August 25, 2008, in part granting leave to COPE to file its application for late evidence by September 5, 2008 and requiring the submissions of BC Hydro and other Intervenors on the application and evidence, if any, to be filed by September 10, 2008. The Order also required COPE to file its reply, if any, by September 12, 2008; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-134-08

2

- G. On September 5, 2008 COPE filed its application for late evidence together with its proposed evidence. The evidence relates to BC Hydro's contract with Accenture Business Services for Utilities ("Accenture" or "ABSU"); and
- H. BC Hydro filed its submission on COPE's application and evidence on September 10, 2008 objecting to the admission of the evidence into the record. Submissions were also received on behalf of the British Columbia Old Age Pensioners' Organization et. al. ("BCOAPO") and the Joint Industry Electricity Steering Committee ("JIESC") in support of COPE's application. COPE replied by letter dated September 11, 2008; and
- I. In its reply submission, COPE stated that it was advised on Tuesday, September 9th, 2008 that:
- "BC Hydro is developing a new, centralized procurement organization to create more rigour and strategic function in how [BC Hydro] procure[s] goods and services. As such, Accenture will no longer be providing purchasing services under the AMSA with BC Hydro after November, 2008."
- and sought a direction from the Commission requiring BC Hydro to update its evidentiary record to address the impact of its recent decision to bring procurement services in-house; and
- J. By letter dated September 12, 2008 BC Hydro advised, in response to the COPE request for a direction that it update its evidentiary record, that it would be "willing to respond to those concerns through examination-in-chief of the BC Hydro witnesses that will have responsibility for testifying to ABSU and procurement issues at the oral phase of this proceeding."; and
- K. By letter dated September 12, 2008 the BCOAPO supported COPE's request for a direction from the Commission requiring BC Hydro to update its evidentiary record; and
- L. The Commission has reviewed the submissions and makes the following determinations.

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-134-08

3

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

1. The COPE evidence is to be accepted into the evidentiary record for this proceeding.
2. BC Hydro is to prepare an evidentiary update to reflect its current intentions in relation to the Accenture contract and future procurement policies and to file that update by Monday, September 29, 2008. The update should include, but not be limited to, the economic analysis relied on by BC Hydro in its decision to repatriate the procurement function from Accenture. In addition, the test year impact in each of F2009 and F2010 for both costs and savings, changes in the regulatory financial schedules and changes in labour (costs and FTEs), if any, should be included.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of September 2008.

BY ORDER

Original signed by:

L.A. O'Hara
Panel Chair

Attachment

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

REASONS FOR DECISION

1.0 COPE EVIDENCE

The Canadian Office and Professional Employees Union Local 378 (“COPE”), an Intervenor in this proceeding, applied to tender evidence in the British Columbia Hydro and Power Authority (“BC Hydro”) Fiscal 2009 and Fiscal 2010 Revenue Requirements Application (“F09/F10 RRA” or “the Application”) after the deadline for the submission of Intervenor evidence of July 29, 2008 had passed. COPE also seeks a direction that BC Hydro update its evidentiary record to reflect its recent decision to bring procurement services previously being performed by Accenture Business Services for Utilities (“Accenture” or “ABSU”) back in house.

COPE first requested leave to file its late evidence by letter dated August 13, 2008 to the Commission. By Order G-122-08 dated August 25, 2008 the Commission granted leave to COPE to make an application in respect of its request to file late evidence and invited submissions from BC Hydro and any other parties who wished to make submissions.

The Commission has now received and reviewed the proposed COPE evidence and considered the submissions of COPE, BC Hydro, the British Columbia Old Age Pensioners’ Organization et. al. (“BCOAPO”) and the Joint Industry Electricity Steering Committee (“JIESC”). No other parties have made submissions.

In its submission, COPE argues that the evidence which it tendered relates to BC Hydro’s contract with Accenture which is relevant to BC Hydro’s claim for expenditures pursuant to its Procurement Enhancement Initiative, and therefore falls squarely within the scope of the proceeding. COPE takes the position that the evidence was late as it was not developed until BC Hydro failed to provide satisfactory responses to its Information Requests (“IR”s) on this topic. COPE also submits that BC Hydro’s decision to change its procurement practices will have an impact on BC Hydro’s revenue requirements and that BC Hydro should therefore be directed to update its evidentiary record to reflect this change.

BC Hydro opposes the COPE application and takes the position that the evidence should not be accepted into the record on the basis that it is of limited probative value, would prejudice BC Hydro and the process due to its

lateness, and in any event that COPE could raise the issues on cross-examination of BC Hydro witnesses. BC Hydro accepted, for the purposes of its submission, that the COPE evidence satisfied “the threshold question of relevance”. BC Hydro also noted that COPE did not provide an adequate explanation for the delay in filing the evidence, and that it could have availed itself of other processes to obtain better answers to its IRs earlier on.

With respect to its claim of prejudice, BC Hydro argues that allowing the late evidence into the record at this point in time could affect its ability to prepare for the Oral Hearing, that there was no proposal for COPE to answer IRs on its evidence in its application and that IRs are not a “minor procedural right” but a very important process. BC Hydro further suggests that COPE’s evidence exceeds 60 pages and that its consideration will be time-consuming.

In response to COPE’s request for a direction that BC Hydro update its evidentiary record, BC Hydro indicated, by letter dated September 12, 2008, that it is prepared to respond to COPE’s concerns at the Oral Hearing through the examination-in-chief of its witnesses responsible to address issues relating to procurement and the Accenture contract.

With respect to the COPE application, the JIESC submits that, while it is regrettable that the proposed evidence was not filed in accordance with the schedule set out in the Regulatory Timetable, the evidence should nonetheless be admitted, as it “clearly raises serious issues relevant to the subject matter of this hearing.” The JIESC also notes that the core of the evidence is actually only 7 pages long, the bulk of it being agreements as between BC Hydro and Accenture with which BC Hydro should already be extremely familiar.

The BCOAPO argues that the COPE evidence should be admitted as it bears on matters in issue and is therefore relevant. It also submits that, as the evidence could be put to BC Hydro on cross examination during the Oral Hearing, admitting it into the record at this time might, in fact, eliminate potential prejudice and expedite the hearing process.

By letter dated September 12, 2008 the BCOAPO expressed its “profound dismay” with BC Hydro’s position on refusing to update its evidentiary record and supported COPE’s request for a direction from the Commission, noting that “(i)f BC Hydro can delay sharing its information until the hearing is underway, we expect that much of what can be gleaned from that point on will of necessity be provided in the form of written undertakings, which remove the evidence from the dynamic process of active cross examination and further limit participants’ ability to probe the issues.”

In reply to BC Hydro on the issue of the lateness of its evidence, COPE states that it will cooperate with any reasonable schedule for IRs should BC Hydro wish to avail itself of that process, but also notes that the issues raised in the evidence are wholly within the knowledge of BC Hydro.

COMMISSION DETERMINATION

The Commission Panel agrees with the comments of JIESC that it is regrettable that the proposed COPE evidence was not tendered in accordance with the schedule set out in the Regulatory Timetable. However, the Commission Panel is of the view that the evidence is relevant and falls squarely within the scope of the issues to be resolved in the proceeding as set out in Order G-78-08. The Commission Panel notes BC Hydro’s comments that COPE “will have the opportunity to explore through cross-examination of BC Hydro witnesses the issues raised by the evidence” but agrees with the comments of BCOAPO that admitting the evidence into the record at this time, as opposed to raising the issues on cross-examination might expedite the hearing process. The Commission Panel agrees that the COPE evidence is basically seven pages in length and that the attachments are documents with which BC Hydro should already be extremely familiar. The Commission Panel further notes that COPE has agreed to accommodate the IR process should BC Hydro wish to proceed with IRs. The Commission Panel is therefore of the view that any prejudice which may be suffered by BC Hydro is minimal, and is outweighed by the benefit of having the submitted material in evidence before the hearing for proper consideration by all parties to the process. **The Commission Panel therefore orders that the COPE evidence be accepted into the evidentiary record for this proceeding.**

The Commission Panel further agrees with the submission of the BCOAPO that waiting until the witnesses testify at the Oral Hearing to address any issues arising from BC Hydro's decision to change its procurement practices will limit the participants' ability to probe the issues arising. **Accordingly, the Commission Panel directs BC Hydro to prepare an evidentiary update to reflect its current intentions in relation to the Accenture contract and future procurement policies and to file that update by Monday, September 29, 2008. The update should include, but not be limited to, the economic analysis relied on by BC Hydro in its decision to repatriate the procurement function from Accenture. In addition, the test year impact in each of F2009 and F2010 for both costs and savings, changes in the regulatory financial schedules and changes in labour (costs and FTEs), if any, should be included.**