



LETTER NO. L-98-09

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. 31252

ERICA M. HAMILTON
COMMISSION SECRETARY
Commission.Secretary@bcuc.com
web site: <http://www.bcuc.com>

VIA E-MAIL

nancy@morganandassociates.ca
bruce@mandellpinder.com

October 30, 2009

**BC HYDRO
WANETA TRANSACTION**

EXHIBIT A-10

Mr. Bruce Stadfeld, Ph.D.
Barrister & Solicitor
422-1080 Mainland Street
Vancouver, BC V6B 2T4

Ms. Nancy A. Morgan
Barrister & Solicitor
Morgan & Associates
410 – 100 Park Royal
West Vancouver, BC V7T 1A2

Dear Ms. Morgan and Dr. Stadfeld:

Re: British Columbia Hydro and Power Authority
Project No. 3698565/Order G-97-09A
Acquisition from Teck Metals Ltd. of an Undivided One-Third Interest
in the Waneta Dam and Associated Assets

Applications for an Extension of Deadline to File Written Evidence

This is in response to two letters requesting an extension of the date for Intervenor to file written evidence. The letter from the Okanagan Nation Alliance ("ONA") dated October 26, 2009 requests that the British Columbia Utilities Commission (the "Commission") extend the date for the filing of written evidence from October 30, 2009 to December 30, 2009 (Exhibit C8-4). The ONA letter states that the ONA has identified material gaps in the record that must be filled in order for the Commission to have a proper evidentiary record on which to assess the adequacy of BC Hydro's consultation efforts. The ONA further indicates that it was unable to proceed with its evidence preparation until it received a response from the Commission regarding its Participant Assistance/Cost Award ("PACA") budget. The letter from the Ktunaxa Nation Council ("KNC") dated October 28, 2009 requests that the deadline for filing written evidence be extended to December 11, 2009, for reasons that are similar to those expressed by ONA (Exhibit C17-3).

The Commission requested comments on the applications for time extensions, and British Columbia Hydro and Power Authority ("BC Hydro") replied on October 30, 2009 (Exhibit B-15). BC Hydro outlines its consultation with ONA and KNC to date, and references its Aboriginal Relations and Negotiations Department Report and Record of Decision dated September 21, 2009 that it filed as Exhibit B-11-2. BC Hydro states that it provided capacity funding to each of ONA and KNC in August 2009, and indicates that both ONA and KNC have prepared traditional use studies in connection with the environmental assessment process related to the Waneta Expansion Project. BC Hydro considers the positions of the ONA and KNC that they were unable to file written evidence as required by the Regulatory Timetable established by Order G-97-09A dated August 25, 2009 and Letter L-61-09 dated August 28, 2009 are unsustainable. However, to ensure that the record before the Commission is as complete as possible, BC Hydro consents to an adjournment of up to two weeks for the ONA and KNC to file written evidence. Depending on whether or not parties submit Information Requests on the

ONA and KNC evidence, BC Hydro requests that the original schedule in the Regulatory Timetable be held to where possible.

By letter dated October 29, 2009, Teck Metals Ltd. ("Teck") clarified that the date for closing the Waneta purchase transaction is 10 days following satisfaction of conditions, and not later than March 31, 2010. Teck states that there is commercial pressure on it to complete the transaction as soon as reasonably possible. Teck notes that the ONA and KNC traditional use studies were filed confidentially in the environmental review of the Waneta Expansion Project, and have not been filed in this proceeding. Teck submits that any time extension granted to the ONA or KCN should be no longer than two weeks.

By letter dated October 29, 2009, the Joint Industry Electricity Steering Committee ("JIESC") states that it is concerned that any extension carries significant risk that the transaction will not complete, and that parties have a duty to carry out work in accordance with Commission timelines. The JIESC submits that the Commission should not grant an extension of the deadline to file evidence beyond the time that BC Hydro and Teck indicate can be accommodated without risk to the commercial transaction. The JIESC also points out that it is unacceptable for the applications for extension to come only three days before the deadline for filing of evidence and that the KNC and ONA would have known of the problem well before October 26, 2009.

By letters dated October 29, 2009, the British Columbia Old Age Pensioners' Association, et al states that they do not object to the time extension requested by the KNC, and the KNC state that they do not oppose the request of the ONA.

The Commission shares the concerns raised by the JIESC with regard to the late notice regarding the requests for extensions of time. It is incumbent upon participants to give as much notice as possible as to the difficulty in being able to meet established regulatory timelines. Counsel for the KNC and ONA are experienced and should have given the Commission earlier notice. Because of the late notice to the Commission, the Commission had to immediately attend to the requests and also had to require others to respond to them in short notice. This practice is not to be encouraged and is an inconvenience to the other participants.

The Commission has considered the requests and the comments it has received, and hereby grants an extension of the date for the ONA and KNC to file written evidence to 12:00 noon on Friday, November 13, 2009. The requests for longer extensions of the deadline to file written evidence are denied. Depending on whether or not ONA and KNC receive Information Requests on their written evidence, some subsequent filing dates may also change, as shown on the Revised Regulatory Timetable that is Appendix A to this Letter.

In determining that the date for filing evidence should be extended by two weeks, the Commission has had to balance the desire to provide the ONA and KNC further opportunity to file evidence that may be material to the proceeding, against the requirement for the review of the Waneta Transaction to proceed in an orderly and timely fashion that is consistent with the commercial realities of the transaction.

The Commission is not at all persuaded that ONA or KNC need to be granted an extension of six to eight weeks to assemble and submit their evidence. It appears that both ONA and KNC have been active in the environmental assessment process for the Waneta Expansion Project, and have prepared traditional use studies as part of that process. ONA registered as an Intervenor on August 4, 2009 and attended the Procedural Conference on August 17, 2009. KNC registered as an Intervenor on August 13, 2009 and also attended the Procedural Conference. BC Hydro and Teck made clear at the Procedural Conference that the review of the Waneta Transaction needed to proceed in a timely manner.

The Commission established the Regulatory Timetable for the proceeding in late August 2009, and it appears that both ONA and KNC received capacity funding from BC Hydro in August. At that time, ONA and KNC could have assessed the work to be done, and the capacity funding and other resources available to do the work. With respect to PACA funding from the Commission, there was no need for ONC or KNC to delay filing their PACA budget letters and applications for interim funding until the deadline of October 13, 2009. The Commission responded to the ONA October 13, 2009 budget letter and the KNC October 15, 2009 budget letter in a timely fashion. Commission staff provided review letters on October 20, 2009 and the Commission granted interim funding to the ONA by Order F-30-09 on October 27, 2009.

For the foregoing reasons, the Commission extends the date for the ONA and KNC to file evidence to November 13, 2009. However, it also wishes to strongly remind ONA and KNC and their counsel, together with other participants, of the need to comply with the established Revised Regulatory Timetable, and to copy all other participants with all submissions that they file.

In a separate matter related to the Waneta Transaction proceeding, the Commission advises that a sufficient number of parties have registered to make presentations at the November 5, 2009 Community Input Session in Trail, and so the Session will proceed as scheduled.

Yours truly,

Original signed by:

Constance M. Smith

for: Erica M. Hamilton

JBW/cms

Enclosure

cc: Ms. Joanna Sofield
Chief Regulatory Officer
British Columbia Hydro and Power Authority
(bchydroregulatorygroup@bchydro.com)
Registered Intervenors
(BCH-Waneta-RI)

An Application by British Columbia Hydro and Power Authority
for the Acquisition from Teck Metals Ltd. of an Undivided One-Third Interest
in the Waneta Dam and Associated Assets

REVISED REGULATORY TIMETABLE

ACTION	DATE (2009)
Commission Information Request No. 1	Thursday, July 23
Registration of Intervenor and Interested Parties with the Commission	Wednesday, August 5
BC Hydro Responses to Information Request No. 1	Tuesday, August 11
Procedural Conference	Monday, August 17
BC Hydro files Definitive Agreements, Reports and Updates	Tuesday, September 22
Workshop in Vancouver, commencing 9:00 a.m.	Thursday, September 24
Commission Information Request No. 2 and Intervenor Information Request No. 1	Monday, October 5
Participant Assistance Budgets	Tuesday, October 13
BC Hydro responses to Information Requests	Friday, October 23
Registrations for Presentations at Community Input Session	Thursday, October 29
Applications for an Oral Phase of the Hearing	Friday, October 30
Intervenor written Evidence	Friday, October 30
Information Requests to Intervenor	Thursday, November 5
Community Input Session in Trail, commencing 1:30 p.m.	Thursday, November 5
Replies to Applications for an Oral Phase	Friday, November 6
Okanagan Nation Alliance and Ktunaxa Nation Council written Evidence	12 noon, Friday, November 13
Intervenor Responses to IRs	Wednesday, November 18
Information Requests to ONA and KNC	Thursday, November 19
(If no IRs to ONA, KNC) BC Hydro written Final Submission	Wednesday, November 25
(If no IRs to ONA, KNC) Intervenor written Final Submissions	Friday, December 4
(If no IRs to ONA, KNC) BC Hydro written Reply	Friday, December 11
(If IRs to ONA, KNC) ONA, KNC Responses to IRs	Wednesday, December 2
(If IRs to ONA, KNC) BC Hydro written Final Submission	Wednesday, December 9
(If IRs to ONA, KNC) Intervenor written Final Submissions	Thursday, December 17
(If IRs to ONA, KNC) BC Hydro written Reply	Thursday, December 24