

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



LETTER No. L-91-10

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. 29486

VIA EMAIL

November 10, 2010

**BC HYDRO - RECONSIDERATION OF
2007 ALCAN EPA
3**

EXHIBIT A-

To: British Columbia Hydro and Power Authority
Registered Interveners (*BCH-Alcan-07EPA-RI*)

Re: British Columbia Hydro and Power Authority (BC Hydro)
Filing of Electricity Purchase Agreement with Rio Tinto Alcan Inc.
as an Energy Supply Contract Pursuant to Section 71

By Letter L-48-09 dated June 12, 2009, the Commission deferred the re-opening of the 2007 Rio Tinto Alcan Inc. (RTA) Electricity Purchase Agreement (EPA) proceedings until the Supreme Court of Canada released its decision on granting leave to RTA to appeal the British Columbia Court of Appeal's decision in *Carrier Sekani Tribal Council v. British Columbia (Utilities Commission)* 2009 BCCA 67.

The Court of Appeal had ordered:

THAT the proceeding identified as "Re: British Columbia Hydro and Power Authority Project No. 3698475/Order No. G-100-07 Filing of 2007 Electricity Purchase Agreement with RTA as an Energy Supply Contract Pursuant to section 71" be re-opened for the sole purpose of hearing evidence and argument on whether a duty to consult and, if necessary, accommodate the appellant exists and, if so, whether the duty has been met in respect of the filing of the 2007 EPA.

RTA's leave application was granted.

On October 28, 2010, the Supreme Court of Canada in *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, allowed the appeal of RTA and BC Hydro from the decision of the Court of Appeal and confirmed the Commission's decision approving the 2007 EPA.

Accordingly as it is no longer necessary for the Commission to re-open the proceeding, it will not be doing so.

Yours truly,

Erica M. Hamilton

cms