

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER E-25-11**

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**Filing by British Columbia Hydro and Power Authority
Amendments to BC Hydro Electricity Purchase Agreements
for the East Toba and Montrose Project and Raging River 2 Project**

BEFORE: L.F. Kelsey, Commissioner
N.E. MacMurchy, Commissioner
R.D. Revel, Commissioner
December 1, 2011

ORDER

WHEREAS:

- A. Pursuant to section 71 of the *Utilities Commission Act* (the Act), on October 7, 2011, British Columbia Hydro and Power Authority (BC Hydro) filed the following two amendments (the Amendments) and an addendum to existing energy supply contracts that were previously filed with, and accepted by, the British Columbia Utilities Commission (Commission):

Electricity Purchase Agreements (EPAs) Amendments

Project	Seller	Amendment Effective Date
1. East Toba and Montrose (Amending Agreement #2)	Toba Montrose General Partnership	July 22, 2011
2. Raging River 2 (Amending Agreement #1)	Raging River Power & Mining Inc.	July 22, 2011

- B. On October 14, 2011, BC Hydro filed un-redacted copies of the Amendments (the Filing). BC Hydro requested that the un-redacted copy of the East Toba and Montrose Amendment and the Filing be kept confidential due to the commercially sensitive nature of certain information;
- C. Included with the Application, BC Hydro submitted Attachment 4, Schedule B - Summary of EPA Contractual Developments, that sets out contractual developments related to EPAs that BC Hydro considers are not amendments to the agreements, and which are listed in Appendix B to this Order;

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** E-25-11

2

- D. The Commission has considered the Filing by BC Hydro and has determined that the two Amendments are in the public interest and that the redacted information should be kept confidential.

NOW THEREFORE the Commission orders as follows:

1. The Amendments, including the addendum described in paragraph A of this Order, are accepted for filing pursuant to section 71 of the Act.
2. The Commission will hold the un-redacted copy of the East Toba and Montrose Amendment and the Filing confidential.

DATED at the City of Vancouver, in the Province of British Columbia, this *First* day of December 2011.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment

SUMMARY OF EPA AMENDMENTS

	Project Name	Seller Company Name	Effective Date of Agreement	Document Type	Regulatory Acceptance Date	Description
1	East Toba and Montrose	Toba Montrose General Partnership	July 22, 2011	Amendment Agreement No. 2	On or before December 19, 2011	To reflect the increase in the annual total of Monthly Firm Energy amounts which does not result in a net change in the existing annual total of Monthly Firm Energy amounts that exceeds 10 per cent.
2	Raging River 2	Raging River Power & Mining Inc.	July 22, 2011	Amendment Agreement No. 1	On or before December 19, 2011	To limit Plant Capacity to 8 MW and limit amount of deliveries to 100 per cent of Plant Capacity. This is to permit Seller to use two 5 MVA generators without imposing further obligations on BC Hydro.

SUMMARY OF EPA CONTRACTUAL DEVELOPMENTS

	Project Name	Seller Company Name	Effective Date of Agreement	Document Type	Description
1	Raging River 2	Raging River Power & Mining Inc.	December 29, 2010	Consent Agreement	To permit the bank to assume the EPA in case of default.
2	Tamihi Creek	KMC Energy Corp.	March 1, 2011	Termination Agreement	In January 2009, a major storm significantly damaged the only access road to the project site. The road was never repaired and the Seller was hindered in developing the project in a financially viable manner. Accordingly, BC Hydro terminated the EPA and obtained a payment in accordance with the termination provisions of the contract.
3	Barr Creek	Barr Creek Limited Partnership	March 25, 2011	Consent Agreement	Pursuant to section 15.2 of the EPA (Assignment to Lender), BC Hydro agreed to enter into a Lender's Consent Agreement with the Seller and the Seller's lender. The Seller has entered into a loan agreement with its lender, and one of the purposes of the Lender's Consent Agreement is to allow the EPA to be assigned to the lender in the event that the Seller defaults on its loan agreement.
4	Big Silver-Shovel Creek	Cloudworks Energy Inc.	March 31, 2011	Consent Agreement	BC Hydro consent to the pre-COD deemed assignment of the Big Silver-Shovel Creek EPA pursuant to Innergex Renewable Energy Inc.'s acquisition of Cloudworks Energy Inc.
5	Tretheway Creek	Cloudworks Energy Inc.	March 31, 2011	Consent Agreement	BC Hydro consent to the pre-COD deemed assignment of the Tretheway Creek EPA pursuant to Innergex Renewable Energy Inc.'s acquisition of Cloudworks Energy Inc.
6	Northwest Stave River	Cloudworks Energy Inc.	March 31, 2011	Consent Assignment	BC Hydro consent to the pre-COD deemed assignment of the Northwest Stave River EPA pursuant to Innergex Renewable Energy Inc.'s acquisition of Cloudworks Energy Inc.
7	Dokie Wind	Dokie General Partnership	April 28, 2011	Consent Agreement	BC Hydro consent to the post-COD deemed assignment of the Dokie Wind EPA arising from a change in indirect control with the proposed acquisition of Plutonic Power Corporation's shares by Magma Energy Corp.
8	East Toba and Montrose	Toba Montrose General Partnership	April 28, 2011	Consent Agreement	BC Hydro consent to the post-COD deemed assignment of the East Toba and Montrose EPA arising from a change in indirect control with the proposed acquisition of Plutonic Power Corporation's shares by Magma Energy Corp.
9	Upper Toba Valley	Upper Toba General Partnership	May 10, 2011	Consent Agreement	BC Hydro consent to the pre-COD deemed assignment of the Upper Toba EPA arising from a change in indirect control with the proposed acquisition of Plutonic Power Corporation's shares by Magma Energy Corp.
10	Cape Scott	Sea Breeze Energy Inc.	June 7, 2011	Assignment Agreement	To assign the EPA to Cape Scott Wind Farm Inc., a subsidiary of International Power Canada, Inc.
11	Dokie Wind	Dokie General Partnership	June 29, 2011	Dispatch Agreement	To permit BC Hydro to curtail Dokie Wind generation in accordance with the turn-down right contained in section 7.11 of the EPA.
12	Long Lake Hydro	Long Lake Hydro Limited Partnership	July 20, 2011	Lender Consent Agreement	BC Hydro assigns certain rights under the EPA to the lender's agent, The Manufacturers Life Insurance Company.
13	Raging River 2	Raging River Power & Mining Inc.	July 26, 2011	Temporary Termination Waiver	Temporary waiver (until July 31, 2012) of BC Hydro's right to terminate EPA for failure to reach COD by March 2011
14	Gold River Power	Green Island Energy Ltd.	July 27, 2011	Condition Expiry Date Extension	Extend the Condition Expiry Date in Amendment Agreement No. 3 to October 31, 2011. (Note: the BCUC accepted Amendment Agreement No. 3 prior to the original Condition Expiry Date of July 31, 2011).