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VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-38-12**

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

**British Columbia Hydro and Power Authority
Exemption from section 71 of the *Utilities Commission Act*
for those Electricity Purchase Agreements entered into
under the 2008 Standing Offer Program**

BEFORE:

L.F. Kelsey, Commissioner
C.A. Brown, Commissioner
N.E. MacMurchy, Commissioner
D.M. Morton, Commissioner
R.D. Revel, Commissioner

March 22, 2012

O R D E R

WHEREAS:

- A. In April 2008, British Columbia Hydro and Power Authority (BC Hydro) implemented the 2008 Standing Offer Program (2008 SOP) approved by Order G-43-08, to encourage the development of small, clean energy projects from 0.5 MW up to 10 MW. Since its inception, BC Hydro has awarded six energy purchase agreements under the 2008 SOP (2008 SOP EPAs) as listed in Table 1, Appendix A, of this Order;
- B. On June 3, 2010, the *Clean Energy Act* (CEA) came into effect. Section 15(2) of the CEA directs BC Hydro to establish and maintain a standing offer program to acquire electricity from eligible facilities. Section 7(1)(h) of the CEA exempts BC Hydro and persons selling power to BC Hydro from section 71 of the *Utilities Commission Act* (the Act) for those energy supply contracts executed under the new standing offer program described in section 15(2) of the CEA. Sections 7 and 15 of the CEA do not apply to the six 2008 SOP EPAs and as a result, amendments to the six 2008 SOP EPAs must be filed with the British Columbia Utilities Commission (Commission) for acceptance pursuant to section 71 of the Act, resulting in different regulatory processes for contracts issued under the 2008 SOP and the CEA SOP;
- C. The 2008 SOP EPAs have been accepted pursuant to section 71 of the Act and are in the public interest. The 2008 SOP EPAs have a combined capacity of 37.5 MW and will provide about 189 GWh/year of energy, which represents about 0.3 percent of BC Hydro's annual domestic load. Exempting the 2008 SOP EPAs, and any amendments to those contracts, is unlikely to materially impact ratepayers while ensuring that the regulatory processes for SOP contracts are consistent and efficient;

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- D. By a submission dated December 9, 2010, BC Hydro applied to the Commission, pursuant to section 88(3) of the Act, for an order exempting it from section 71 of the Act with respect to the six EPAs awarded under the 2008 SOP as set out in Appendix A of this Order;
- E. Section 88(3) of the Act provides that the Commission may, on conditions it considers advisable, with the advance approval of the Lieutenant Governor in Council (LGIC), exempt a person, equipment or facilities from the application of all or any of the provisions of the Act;
- F. By Order in Council No. 619 dated December 13, 2011, and attached as Appendix B to this Order, the LGIC granted advance approval to the Commission to exempt BC Hydro from certain provisions of the Act for the purpose and subject to the terms set out in the draft Commission Order attached to the Order in Council;
- G. The Commission has determined that it is appropriate and in the public interest to exempt, under subsection 88(3) of the Act, the six 2008 SOP EPAs set out in Appendix A from the requirements of section 71 of the Act, including amendments and contractual developments to the EPAs.

NOW THEREFORE the Commission orders as follows:

- 1. The Commission exempts BC Hydro and the Sellers listed in Table 1, Appendix A, from section 71 of the Act in respect of the 2008 SOP EPAs, including any amendments and contractual developments pertaining to the 2008 SOP EPAs.
- 2. This exemption, granted pursuant to this Order, shall remain in effect until the Commission orders otherwise following the determination of any complaint it receives from a person whose interests are affected.
- 3. The exemption will be effective the date of this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of March 2012.

BY ORDER

Original signed by:

D. Morton
Commissioner

Attachments

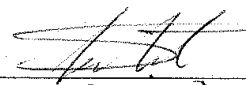
British Columbia Hydro and Power Authority
Exemption from section 71 of the *Utilities Commission Act*
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Table 1: Exempt 2008 Standing Offer Program EPAs

Seller	Project
Bear Hydro Limited Partnership	Lower Bear Hydro
Bear Hydro Limited Partnership	Upper Bear Hydro
Canoe Creek Hydro Limited Partnership	Canoe Creek Hydro
Cedar Road LFG Inc.	Cedar Road LFG
Fitzsimmons Creek Hydro LP (Innergex)	Fitzsimmons Creek Hydro
Synex Energy Resources Ltd.	Cypress Creek Hydro

PROVINCE OF BRITISH COLUMBIA
ORDER OF LIEUTENANT GOVERNOR IN COUNCIL

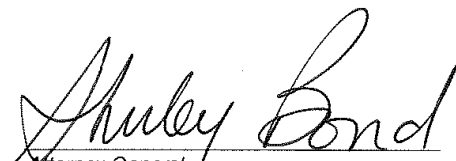
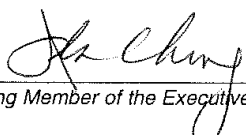
Order in Council No. 619, Approved and Ordered DEC 13 2011


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that approval is given to the British Columbia Utilities Commission to exempt the following from section 71 of the *Utilities Commission Act* for the purposes and subject to the terms substantially set out in the attached draft order of the British Columbia Utilities Commission:

- (a) British Columbia Hydro and Power Authority;
- (b) Bear Hydro Limited Partnership;
- (c) Canoe Creek Hydro Limited Partnership;
- (d) Cedar Road LFG Inc.;
- (e) Fitzsimmons Creek Hydro LP (Innergex);
- (f) Synex Energy Resources Ltd.


Attorney General
Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Utilities Commission Act, R.S.B.C. 1996, c. 473, s. 88 (3)

Other: _____

October 20, 2011

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O/38/2011/27

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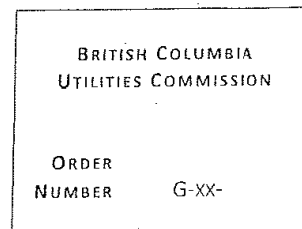
British Columbia Hydro and Power Authority
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under the 2008 Standing Offer Program

BEFORE: , Commissioner
, Commissioner {Date}

O R D E R

WHEREAS:

- A. In April 2008, British Columbia Hydro and Power Authority (BC Hydro) implemented the 2008 Standing Offer Program (2008 SOP) approved by Order G-43-08, to encourage the development of small, clean energy projects from 0.5 MW up to 10 MW. Since its inception, BC Hydro has awarded six energy purchase agreements under the 2008 SOP (2008 SOP EPAs), as listed in Table 1, Appendix A, of this Order;
- B. On June 3, 2010, the *Clean Energy Act* (CEA) came into effect. Section 15(2) of the CEA directs BC Hydro to establish and maintain a standing offer program to acquire electricity from eligible facilities. Section 7(1)(h) of the CEA exempts BC Hydro and persons selling power to BC Hydro from section 71 of the *Utilities Commission Act* (UCA) for those energy supply contracts executed under the new standing offer program described in section 15(2) of the CEA. Sections 7 and 15 of the CEA do not apply to the six 2008 SOP EPAs and as a result, amendments to the six 2008 SOP EPAs must be filed with the Commission for acceptance pursuant to section 71 of the Act, resulting in different regulatory processes for contracts issued under the 2008 SOP and the CEA SOP;
- C. The 2008 SOP EPAs have been accepted pursuant to section 71 of the Act and are in the public interest. The 2008 SOP EPAs have a combined capacity of 37.5 MW and will provide about 189 GWh/year of energy, which represents about 0.3 percent of BC Hydro's annual domestic load. Exempting the 2008 SOP EPAs, and any amendments to those contracts, is unlikely to materially impact ratepayers, while ensuring that the regulatory processes for SOP contracts are consistent and efficient;



- D. By a submission dated December 9, 2010, BC Hydro applied to the Commission, pursuant to section 88(3) of the Act, for an order exempting it from section 71 of the Act with respect to the six EPAs awarded under the 2008 SOP as set out in Appendix A of this Order;
- E. Section 88(3) of the Act provides that the Commission may, on conditions it considers advisable, with the advance approval of the Lieutenant Governor in Council (LGIC), exempt a person, equipment or facilities from the application of all or any of the provisions of the Act;
- F. By Order in Council No. ~~2011/001~~ dated ~~January 1, 2011~~, 2011 and attached as Appendix B to this Order, the LGIC granted advance approval to the Commission to exempt BC Hydro and the Sellers from certain provisions of the Act for the purpose and subject to the terms set out in the draft Commission Order attached to the Order in Council;
- G. The Commission has determined that it is appropriate and in the public interest to exempt, under subsection 88(3) of the Act, the six 2008 SOP EPAs set out in Appendix A from the requirements of section 71 of the Act, including amendments and contractual developments to the EPAs.

NOW THEREFORE the Commission orders as follows:

1. The Commission exempts BC Hydro and the Sellers listed in Table 1, Appendix A, from section 71 of the Act in respect of the 2008 SOP EPAs, including any amendments and contractual developments pertaining to the 2008 SOP EPAs.
2. This exemption, granted pursuant to this Order, shall remain in effect until the Commission orders otherwise following the determination of any complaint it receives from a person whose interests are affected.
3. The exemption will be effective the date of this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this _____ day of _____

BY ORDER

XXXXXXXXX
Commissioner

British Columbia Hydro and Power Authority
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