

ORDER NUMBER

G-7-17

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

British Columbia Hydro and Power Authority
F2017 to F2019 Revenue Requirements Application

BEFORE:

D. M. Morton, Commissioner / Panel Chair

D. J. Enns, Commissioner

K. A. Keilty, Commissioner

on January 20, 2017

ORDER

WHEREAS:

- A. On February 26, 2016, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (Commission), pursuant to section 9(1) of Direction No. 7 to the Commission (Direction No. 7) and sections 58 to 60, 89 and 90 of the *Utilities Commission Act* (UCA) for approval of an interim refundable rate increase of 4.0 percent, effective April 1, 2016;
- B. On March 22, 2016, the Commission issued Order G-40-16 approving a 4.0 percent interim refundable rate increase effective April 1, 2016;
- C. On July 28, 2016, BC Hydro filed its Fiscal 2017 to Fiscal 2019 Revenue Requirements Application (Application) pursuant to sections 58 to 61 of the UCA requesting, among other things, final approval to increase rates by an average of 4.0 percent effective April 1, 2016, 3.5 percent effective April 1, 2017 and 3.0 percent effective April 1, 2018 pursuant to Direction No. 7 and acceptance of the demand-side measurements expenditure schedules under section 44.2 of the UCA;
- D. On August 9, 2016, pursuant to Order G-130-16A, the Commission established a regulatory timetable for the initial review of the Application which included a procedural conference and one round of information requests;
- E. After the procedural conference, the Commission issued Order G-144-16 on September 7, 2016 establishing a second procedural conference, a second round of information requests and a provision for the filing of intervenor evidence and the written review thereof. The Regulatory Timetable also established two process alternatives to review the remainder of the Application: a written hearing and an oral hearing, to be determined after Procedural Conference No. 2;
- F. At Procedural Conference No. 2, many interveners submitted it was still premature to make a submission on further process. In response, the Commission determined it would accept written submissions on whether

some or all of the issues in the Application should be heard by way of an oral hearing. A submission schedule was established by letter dated December 2, 2016; and

- G. The Commission has considered the submissions made by the parties at the procedural conferences, including BC Hydro's pre-filed comments and the written submissions made by the parties in accordance with the Commission's December 2, 2016 letter, and finds that a final regulatory timetable should be established.

NOW THEREFORE, for the reasons to follow, the British Columbia Utilities Commission orders the review of the of British Columbia Hydro and Power Authority's Fiscal 2017 to Fiscal 2019 Revenue Requirements Application is to be heard through a written hearing process in accordance with the Regulatory Timetable attached as Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 20th day of January 2017.

BY ORDER

Original Signed By:

D. M. Morton
Commissioner

Attachment

British Columbia Hydro and Power Authority
F2017 to F2019 Revenue Requirements Application

REGULATORY TIMETABLE

ACTION	DATE (2017)
BC Hydro Responses to Information Request (IR) No. 2	Monday, January 23
Intervener Evidence (if any)	Friday, February 3
Commission, BC Hydro and Intervener IRs on Intervener Evidence (if any)	Friday, February 17
Intervener Responses to IRs on Intervener Evidence (if any)	Friday, March 3
BC Hydro Rebuttal Evidence (if any)	Friday, March 10
BC Hydro Final Argument	Monday, March 20
Intervener Final Argument	Monday, April 10
BC Hydro Reply Argument	Friday, April 28



IN THE MATTER OF

**British Columbia Hydro and Power Authority
F2017–F2019 Revenue Requirements Application**

**ORDER G-7-17
REASONS FOR DECISION**

January 27, 2017

Before:

D. M. Morton, Commissioner/Panel Chair

D. J. Enns, Commissioner

K. A. Keilty, Commissioner

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1.0 BACKGROUND AND SUBMISSIONS SUMMARY

For the reasons set out as follows, the British Columbia Utilities Commission (Commission or BCUC) determines that the review of the British Columbia Hydro and Power Authority's (BC Hydro) fiscal 2017 (F2017) to fiscal 2019 (F2019) revenue requirements application (RRA) will proceed by way of a written hearing in accordance with the written hearing dates set out in Order G-144-16 and recreated as attachment A to Order G-7-17.

1.1 Background

On July 28, 2016, BC Hydro filed its RRA for the F2017–F2019 three-year test period (Application). On August 9, 2016, pursuant to Order G-130-16A, the Commission established a regulatory timetable for the initial review of the Application which included, among other things, a procedural conference (PC No. 1), one round of information requests (IR No. 1) and a deadline for intervenor registration.

The following seventeen parties registered as interveners: BC Sustainable Energy Association and Sierra Club of British Columbia (BCSEA), Canadian Office and Professional Employees Union Local 378 (MoveUP), B.C. Old Age Pensioners' Organization *et al.* (BCOAPO), Clean Energy Association of BC (CEABC), Richard McCandless (Mr. McCandless), Peace River Regional District, FortisBC Energy Inc. (FortisBC), Association of Major Power Customers of BC (AMPC), Commercial Energy Consumers' Association of British Columbia (CEC), Non-Integrated Areas Ratepayers Group (NIARG), Skywind Foundation (SWF), Gwen Johansson, Save our Northern Seniors (SONS), Richard Landale (Mr. Landale), Margret and James Little (Mr. and Mrs. Little), and Zone II Rate Payers Group (Zone II).

1.1.1 Procedural Conference No. 1

PC No. 1 took place on September 1, 2016, and was attended by BC Hydro, BCSEA, MoveUP, BCOAPO, CEABC, Mr. McCandless, FortisBC, AMPC, CEC, SONS, Mr. Landale, Mr. and Mrs. Little, and Zone II. Parties attending PC No.1 were invited to make submissions on, among other things, whether the review of the Application should proceed by way of a written or an oral public hearing, or some other process. Prior to PC No. 1 BC Hydro filed a written submission (Pre-Filed Comments).

In the Pre-Filed Comments, BC Hydro submitted that it was satisfied with either a written or oral process or some combination of the two as the Commission sees fit, but noted that most Commission proceedings, including many significant proceedings, are addressed entirely in writing. BC Hydro further submitted that in proceedings involving an oral hearing it has been common for the Commission to limit the oral component to issues where the benefit of hearing oral evidence outweighs the considerable cost and effort of holding an oral hearing.¹

At the procedural conference, FortisBC submitted that it agreed with BC Hydro's position while, BCSEA, MoveUP, BCOAPO, CEABC, AMPC and CEC submitted that an oral component was necessary.² Of the interveners submitting in favour of an oral hearing, most submitted that it should focus on key issues; however, they argued

¹ Exhibit B-4, pp. 14–15.

² Procedural Conference, Transcript Volume 6, pp. 265,262,270,258,262,296,247.

that it was premature to identify those issues at this time and suggested the need for a second procedural conference. Mr. Landale did not take an official position but it appeared that his preference was for an oral component.³ The remaining interveners did not make submissions on process but most agreed that a second procedural conference was necessary.

After PC No. 1, the Commission issued Order G-144-16 on September 7, 2016 establishing, among other things, a second procedural conference (PC No.2), a second round of IRs (IR No. 2), and dates for two process alternatives to review the remainder of the Application: a written hearing and an oral hearing.

1.1.2 Procedural Conference No. 2

PC No. 2 took place on November 28, 2016, and was attended by BC Hydro, BCSEA, MoveUP, BCOAPO, CEABC, Mr. McCandless, FortisBC, AMPC, CEC, NIARG, SWF, Mr. Landale and Zone II. Parties attending PC No. 2 were once again invited to make submissions on, among other things, whether the review of the Application should proceed by a written or oral public hearing, or some other process.

BC Hydro submitted that its position had not changed and FortisBC continued to support BC Hydro's position.⁴ BCSEA, CEABC, AMPC, CEC, NIARG, Mr. Landale and Zone II submitted that they still considered an oral component to be necessary.⁵ Most of those interveners continued to agree that an oral component should focus on specific issues. BCSEA identified demand side management (DSM), while AMPC identified load forecast and resource balance as issues that required an oral hearing. CEC identified several matters that it considered could be suitable for an oral hearing including load forecast and DSM. The remaining interveners who made submissions on process were not able to articulate the specific areas that required an oral component. MoveUP submitted that a written or scoped oral hearing was appropriate and BCOAPO submitted that it had now decided it could address its issues through a written process.⁶ Mr. McCandless and SWF did not make submissions on process.

1.1.3 Summary of written submissions

On December 2, 2016, after PC No. 2, the Commission issued a letter inviting parties to make further written submissions on whether some or all of the issues in the Application should be heard by way of an oral hearing (written submissions). The letter instructed parties advocating for any matters to be addressed in an oral hearing to clearly identify what specific elements or issues require oral evidence and why those elements or issues could not have been dealt with through the written process.⁷

The following nine interveners filed written submissions which BC Hydro replied to: BCSEA, MoveUP, BCOAPO, CEABC, AMPC, CEC, NIARG, Mr. Landale and Zone II.

³ Ibid., p. 287.

⁴ Procedural Conference, Transcript Volume 7, p. 365.

⁵ Ibid., pp. 356, 353, 355, 345, 370, 362, 358.

⁶ Ibid., pp. 350, 351.

⁷ Exhibit A-13.

In its written submission, BCOAPO takes the same position as it did at PC No. 2, submitting that they have not identified any specific issues for which they require an oral hearing; however, it also submits that it is not opposed if other parties see the need for one.⁸

BCSEA submits it is now of the view that an oral hearing for cross-examination of BC Hydro's witnesses on DSM issues is no longer required but notes it still intends to file expert evidence on that matter. BCSEA takes no position on any other issues.⁹ Similarly, AMPC, who also intends to file intervenor evidence, submits that it expects issues relating to the load and rate forecast can be addressed through a written process subject to BC Hydro providing complete responses to IR No. 2.¹⁰

MoveUP submits that cross-examination is still required for DSM and that the evidentiary record would be significantly improved if there was a general policy panel to deal with issues such as Site C, the Northwest Transmission Line (NTL), Independent Power Producer (IPP) purchases and the Mining Customers Payment Plan (MCPP).¹¹

CEC submits that cost of energy (COE) requires further exploration through cross-examination to ensure a proper review and provide clarity going forward. CEC further submits that all other topics in this proceeding can be adequately addressed through a written hearing.¹²

Zone II submits that depending upon the response to IR No. 2, an oral hearing is potentially necessary in the following areas: rates, service, access to service and DSM programs in Non-Integrated Areas (NIA); BC Hydro's ability to serve these areas; and the cost and funding for Remote Community Electrification (RCE).

NIARG submits that it supports an oral hearing on: DSM; the COE issues identified by CEC; the general policy matters identified by MoveUP; and the RCE issues identified by Zone II.¹³

CEABC submits that at this point in the regulatory proceeding it is still too early to know exactly which areas will need further detailed probing but submits that the following general areas may potentially require cross-examination: load forecast; capital expenditures and the capital allocation process; the Clean Energy Act, BC's energy objectives, and BC's Climate Action Objectives; deferral and regulatory accounts; DSM programs; and electrification initiatives.¹⁴

Mr. Landale submits that an oral component is required for certain issues related to the Burrard Thermal Plant.

In reply, BC Hydro submits that its position on the appropriate hearing process remains unchanged and it is prepared to proceed by whatever hearing format the Commission considers appropriate. BC Hydro further submits that its efforts in preparing evidence and responding to information requests positions the Commission

⁸ Exhibit C3-5

⁹ Exhibit C1-4, pp. 1-2.

¹⁰ Exhibit C9-4, pp. 1-2.

¹¹ Exhibit C2-6, pp. 1-2.

¹² Exhibit C10-6, pp. 2 and

¹³ Exhibit C11-5, pp. 1-2.

¹⁴ Exhibit C4-4, pp. 2-3

well to address any matter arising from the Application based on a written record should it choose to do so.”¹⁵ BC Hydro also provides reply arguments to most of the intervener’s submissions.

2.0 COMMISSION’S DISCRETION TO DETERMINE THE NATURE OF THE PROCESS

In their written submissions, AMPC, CEABC and NIARG also comment on the Commission’s letter requesting written submissions, marked as Exhibit A-13, regarding the Commission’s request that parties advocating for an oral hearing “clearly identify what specific elements or issues require oral evidence and why those elements or issues could not have been dealt with through the written process.”

AMPC submits that the starting point for any BC Hydro RRA proceeding should be an oral hearing, except where BC Hydro can demonstrate that specific issues can be addressed through a written process. AMPC also submits that it continues to disagree with the “reverse onus” that the Commission has placed on interveners to justify an oral hearing.¹⁶ CEABC and NIARG take similar positions. Specifically, CEABC submits that the onus of proving the need for an oral hearing appears to have shifted to the interveners, which is a highly unusual circumstance.¹⁷ Further, NIARG submits that an oral hearing should be the presumption for a BC Hydro RRA unless BC Hydro demonstrates that a written process is more appropriate for some or all issues.¹⁸

In reply, BC Hydro submits that “We respectfully disagree with these submissions and submit that the Commission has acted appropriately.”¹⁹ BC Hydro explains that:

Under section 86.2(1) of the *Utilities Commission Act*, the Commission has discretion as to the process it adopts. The Act establishes neither a presumptive process, nor any onus. The Commission is tasked with making its procedural determinations based on the available information and submissions of the parties. The process must be fair, but it otherwise remains a matter of Commission discretion.²⁰

Panel discussion

The Panel agrees with BC Hydro that the Commission has discretion as to the process it adopts. Section 86.2(1) of the UCA specifically states “...in any circumstance in which...a hearing may or must be held, the commission may conduct a written hearing.” The UCA does not require the starting point to be an oral hearing nor does it require the applicant to demonstrate otherwise.

¹⁵ Exhibit B-1, p. 1.

¹⁶ C9-4, p. 1.

¹⁷ C4-4, p. 2.

¹⁸ C11-5, p. 1

¹⁹ Exhibit B-12, p. 8.

²⁰ Ibid.

3.0 BC HYDRO AND THE INTERVENER'S POSITIONS ON THE NEED FOR AN ORAL COMPONENT

Before the Panel addresses the specific issues identified by the interveners as topics for an oral hearing, the Panel considered some general positions put forward by BC Hydro and the interveners regarding when an oral hearing is appropriate.

At PC No. 2, BC Hydro submitted that there are two broad considerations that should inform the Commission's determination on whether or not there is sufficient value associated with going to an oral hearing: the first being the quality and breadth of evidence on the record and the second as being the legislative parameters.²¹ Several of the interveners made submissions that pointed out other relevant considerations. In the sections below the Panel first address the legislative parameters and second addresses the quality and breadth of evidence and the interveners' considerations.

3.1 Legislative parameters

At PC No. 2, BC Hydro submitted that when it comes to assessing the value associated with oral evidence one reaches the point of diminishing returns sooner in the context where there are legislative parameters. BC Hydro further explains that it is inefficient to spend a good deal of hearing time debating what has been determined by legislation.²² At PC No.2, NIARG agreed with BC Hydro noting that legislative parameters are important as did CEC and CEABC in their written submissions.²³ On the other hand, Zone II submits that even if the Commission has little jurisdiction on some matters an oral hearing assists in elevating and clarifying the issues.²⁴

In its written reply, BC Hydro submits that it believes that any oral hearing should be focused to ensure the additional time, resource and cost commitment will add material value for its customers and the Commission in making its decision.²⁵

Panel discussion

The review of this Application is focused on setting BC Hydro's rates for F2017 through F2019. In the Panel's view, an oral hearing component should be limited to matters that can assist the Commission in making its decision on issues that are within the scope of the Application. For this reason, the Panel is of the view that it would be not be useful to have an oral hearing on matters that have already been decided by legislation.

3.2 Oral hearing considerations

In addition, the Panel notes that BC Hydro and the interveners have put forward numerous arguments in relation to an oral hearing. The Panel will not endeavor to provide commentary on all the arguments but does make the following points related to the breadth of the evidence, the cost or burden on the utility, the volume and complexity of the evidence and the length of time since the last oral hearing. These points will be

²¹ Procedural Conference, Transcript Volume 7, p. 337, 339.

²² Ibid., p. 372.

²³ Ibid., p. 372; C10-6, p. 1; C4-4, p. 1.

²⁴ Exhibit C-17-5, p. 3.

²⁵ Exhibit B-12, p. 1.

considered by the Panel in its assessment of the potential oral hearing topics put forward by the interveners addressed in Section 3.0.

Panel discussion

First, the Panel agrees with BC Hydro that the quality and breadth of the evidence on the record is a significant consideration in deciding whether or not an oral hearing is required. To date in this proceeding, the Panel notes the high quality and depth of the evidence on the record. The Panel also notes there were approximately 2,100 IRs in the first round and a further 1,300 in the second round.

The Panel recognizes that BC Hydro has taken a pragmatic approach to answering IRs. Further, for the most part, the interveners have focused their IRs on the three year test period, and have generally proceeded consistently with the legislative parameters which, as pointed out by BC Hydro at PC No. 2, allowed it to focus its efforts on the matters that are important to the Application.²⁶

The Panel agrees with interveners that argue an oral hearing can, for certain matters, be an effective way to obtain evidence as certain observations can be made through oral cross-examination that cannot be disclosed through a written process. However, with regard to Zone II's submission that "[a]n oral hearing ensures that adequate evidence exists for argument and that interveners are not unduly prejudiced,"²⁷ the Panel understands that interveners require adequate evidence for argument but disagrees that an oral hearing is the only way to obtain that evidence and that interveners would be unduly prejudiced without one.

However, the Panel also agrees with BC Hydro that "[t]here is always going to be more information at a greater level of granularity that you can obtain."²⁸ The key question for the Panel is not whether you can obtain more information, but rather the benefit and necessity of the additional information and whether suitable evidence can be obtained from for written responses alone.

Second, the Panel does not completely agree with BC Hydro's argument that the Commission should give significant thought as to what issues truly do merit the expense of an oral hearing.²⁹ The Panel is inclined to agree with NIARG and AMPC who submit that cost should not be weighted too heavily. Specifically, NIARG submits that "[c]oncerns that cross-examination is too costly or onerous for an applicant should not be the paramount consideration"³⁰ In the Panel's view, the decision whether to hold an oral hearing should be based on the specific circumstances of a proceeding and agree that it should not be too heavily weighted on the basis of costs or burden to the utility.

Third, the Panel notes CEABC's submission that an oral hearing can assist the Commission's review when the matters raised in the application are so voluminous that it is not possible to probe and fully understand them through a written process and an exclusively written process is not effective when participants struggle to

²⁶ Procedural Conference, Transcript Volume 7, p. 338, 20-26.

²⁷ Exhibit B17-5, p. 3.

²⁸ Procedural Conference, Transcript Volume 6, p. 239.

²⁹ Ibid., p. 317.

³⁰ Exhibit C11-5, p. 1, Exhibit C9-4, p. 1..

precisely frame their question.³¹ In the Panel's view, applications that are complex and voluminous, under certain circumstances, can be better addressed through a written hearing process. CEABC's submission highlights that many of the interveners in this proceeding have participated in complex and voluminous application before the Commission.³² The Panel notes that many of these proceedings have been heard solely through a written process.

Lastly, the Panel notes CEC's submission at PC No. 2 that an oral hearing is warranted on the grounds that it has been some time since there has been a revenue requirement hearing for BC Hydro.³³ The Panel does not agree with CEC and considers that determining the need for an oral hearing should be based on the specific circumstances of the matters within a particular proceeding and not because there has been a lapse in time since the last one.

4.0 POTENTIAL ORAL HEARING TOPICS

In the written submissions the interveners put forward a variety of topics as candidates for oral cross-examination. The Panel first addresses CEABC and MoveUP's topics relating to broader policy issues followed by Zone II and NIARG's NIA and RCE topics and then Mr. Landale's issues relating to the Burrard Thermal Plant.

When considering the specific chapters within the Application, the Panel notes that no intervener submitted that an oral component is required for Operating Expenses (Chapter 5), Other Revenue Requirements Matters (Chapter 8) or the Open Access Transmission Tariff (Chapter 9). In the written submissions CEC and CEABC put forward load forecast as a candidate (Chapter 3), CEC put forward COE (Chapter 4), CEABC put forward Capital Expenditures and Regulatory and Deferral Accounts (Chapters 6 and 7), and MOVEUP, CEABC, ZONE II RPG, CEC and NIARG raised issues with DSM (Chapter 10). The Panel addresses those topics in a similar order.

4.1 *Clean Energy Act, BC's energy objectives and BC's climate action objectives*

CEABC submits that further probing through cross-examination related to how the Application addresses the goals of the *Clean Energy Act*, BC's energy objectives and BC's climate action objectives may potentially be required.³⁴

In reply, BC Hydro submits:

[t]he policy goals and objectives listed by CEABC are matters either of law or policy that are already captured under various other topics of the Application. As this proceeding is related to BC Hydro's rates and revenue requirements, we believe it is more helpful to define scope by reference to the topics within the Application, rather than broader policy goals and objectives that are much broader than the scope of this proceeding.³⁵

³¹ Exhibit C4-4, p. 1.

³² Procedural Conference, Transcript Volume 6, page 285.

³³ Procedural Conference, Transcript Volume 7, page 346.

³⁴ Exhibit C4-4, p. 2.

³⁵ Exhibit B-12, p. 7.

Panel discussion

The Panel agrees with BC Hydro that the policy goals and objectives listed by CEABC are a matter of either law or policy and is not persuaded by CEABC's limited rationale as to why an oral hearing for these very broad policy goals and objectives is necessary. CEABC has not convinced the Panel that an oral hearing on these topics would assist to the Panel in making its decision on issues that are within the scope of the Application.

4.2 General policy matters

MoveUP submits that it believes the evidentiary record will be significantly improved by the utility's presentation of a general policy panel to answer questions about how it is proposing to deal with a variety of issues, including strategies to deal with impacts of Site C, NTL, IPP Purchases and the Mining Customer Payment Plan (MCPP).³⁶ NIARG supports MoveUP's submission but did not provide any additional explanation or rationale for this position.³⁷

In reply, BC Hydro explains that each of the initiatives identified by MoveUP is the subject of legislation:

- The *Clean Energy Act* authorized the Site C Clean Energy Project and there are no forecast operating expenses associated with this project during the test period as all the costs that are being incurred during the test period are capitalized. Therefore, the revenue requirements in the current test period are unaffected by this project;
- Direction No. 7 requires the Commission to allow recovery of costs associated with the NTL;
- Direction No. 7 also requires the Commission to allow recovery of costs associated with past electricity purchase agreements (EPAs) while future EPAs are reviewed by the Commission outside of this Application; and
- The Direction to the British Columbia Utilities Commission Respecting Mining Customers mandates the recovery of BC Hydro's costs under the MCPP.³⁸

BC Hydro also submits that as part of its pragmatic approach to responding to information requests it has nevertheless answered a number of IRs on the Site C Project, EPAs, the MCPP and the NTL.³⁹

Panel discussion

The Panel's emphasis in reviewing this Application is focused on setting BC Hydro's rates for F2017 through F2019 and therefore any oral hearing component should be focused on matters that can assist the Panel in making its decision on issues that are within the scope of the Application. The Panel recognizes the extensive legislative parameters regarding MoveUP's topics and notes BC Hydro's pragmatic approach to responding to information requests in order to provide a better understanding of these matters in spite of the legislation. The Panel is not persuaded by MoveUP's arguments that oral cross-examination on these matters will benefit the Panel in making its decision on the test period under review.

³⁶ Exhibit C2-6, pp. 1-2.

³⁷ Exhibit C11-5, p.2.

³⁸ Exhibit B-12, p. 7; Procedural Conference, Transcript Volume 6, p. 232.

³⁹ Exhibit B-12, p. 7.

4.3 Non Integrated Areas and Remote Community Electrification

Zone II submits that it is seeking further clarification on the following matters and its final decision on whether they can adequately be dealt with in a written process will depend on BC Hydro's responses to IR No.2 :

- BC Hydro's forecasting process and supply planning regarding serving load in NIA communities which Zone II submits has adverse economic and social impacts, including a lack of housing;
- BC Hydro services, and access to BC Hydro services, in NIA and remote communities; and
- Costs and funding for RCE communities that will impact Module 2 of the Rate Design Application.⁴⁰

NIARG submits it supports Zone II with regard to RCE's and "...intends to cross-examine primarily on issues related specifically to Zone I B and Zone II, with particular focus on expenditures in or related to NIA and generation and service options in NIAs."⁴¹ BC Hydro did not reply to these submissions.⁴²

Panel discussion

The Panel is not persuaded oral examination of the topics proposed by Zone II and NIARG would assist the Panel in making its decision on the specific matters that are within the Application. The Panel is also not convinced that these issues could not have been dealt with adequately through a written process. Further, in the Panel's view any information needed due to its impact on Module 2 of the Rate Design Application should be obtained as part of that proceeding.

4.4 Burrard Thermal Plant

Mr. Landale submits that in his final argument he will be petitioning the Panel to recommend to the British Columbia Government the removal of the Burrard Thermal Plant and the Burrard Thermal Generating Plant and the new Burrard Synchronous Condense Facility from certain legislation and directions and submits that an oral hearing platform will give him and the Panel an opportunity to question BC Hydro in order to seek greater clarity to the pros and cons of the BSCF to serve the best interest of the public.⁴³

Mr. Landale also submits that the Panel does have jurisdiction, as provided for in Direction 7 section 15 (b), to set and approve the Burrard Thermal asset depreciation rates. Mr. Landale submits that the process of focussed cross-examination will divulge evidence not necessarily apparent from the written Q&A gathered from two rounds of information requests.⁴⁴

In reply, BC Hydro submits that the treatment of Burrard, and its re-purposing, is subject to extensive legislation which the Commission's jurisdiction is defined by and does not include advising Government on amendments to legislation in the manner desired by Mr. Landale. BC Hydro further explains that it has responded to

⁴⁰ Exhibit C-17-5, pp. 2-3.

⁴¹ Exhibit C-11-5, p. 2.

⁴² Exhibit B-12.

⁴³ Exhibit C-15-8, pp. 1-2.

⁴⁴ Exhibit C15-8, pp. 1-2.

Mr. Landale's information requests on Burrard, even where his questions strayed beyond the proceeding scope as defined by the Commission, and confirmed that it intend to answer Mr. Landale's IR No.2 questions as well.⁴⁵

With regard to the depreciation rates, BC Hydro submits that the Commission must set depreciation rates at Burrard Thermal as shown in the Appendix B to Direction No. 7 which essentially determines the rate of cost recovery.⁴⁶

Panel discussion

The Panel agrees with BC Hydro that the Commission's jurisdiction is defined by the existing legislation and it does not include advising Government on amendments to legislation in the manner desired by Mr. Landale.

With regard to the Burrard Thermal Plant depreciation rates the Panel disagrees with BC Hydro's reply submission. As confirmed in BCUC IR 1.152.8 - Direction No. 7, section 15 (b) sets the depreciation rates for F2015 and F2016 but not for the test period. Therefore they are within the scope of this proceeding. However, the Panel is of the view that the issue of depreciation rates is better dealt with in a written process rather than oral cross-examination. Parties have been given an opportunity to canvas their issues through the written process and the interveners, other than Mr. Landale, appear to consider the written record sufficient. The Panel further notes there are legislative parameters relating to the return on equity and the rate smoothing regulatory account, which considerably limit the impact of depreciation rates during the three year test period.

The Panel is not persuaded by Mr. Landale's arguments that oral cross-examination regarding the Burrard Thermal Plant will assist in making its decisions.

4.5 Load forecast and cost of energy

At PC No. 1, APMC submitted that its participation in this proceeding will be more limited than in the past due to the legislative constraints and the rate cap and expects to focus on a limited suite of issues relating to load forecasting methodologies and assumptions (Chapter 3) and it intended to file evidence related to those matters.⁴⁷ APMC submitted at both of the procedural conferences that it expected these topics to demand oral cross-examination; however in its written submission APMC states that "[s]ince then, [it] has had time to digest the first round of IR responses, and issue a second round to address incomplete and/or misunderstood responses. Assuming that BC Hydro now provides complete responses, APMC expects that it can satisfactorily address these issues through a written process."⁴⁸

In its written submission, CEABC submits that the details of the updated load forecast and the role that BC Hydro's electrification initiatives can play in addressing both the rising electricity rates and achievement of BC's Climate Action Objectives may potentially require further probing through cross-examination.⁴⁹ CEABC did not provide any specific explanation or rationale as to why these were topics that may require cross-examination.

⁴⁵ Exhibit B-12, pp. 6–7.

⁴⁶ Ibid., p. 7.

⁴⁷ Procedural Conference, Transcript Volume 6, p. 294.

⁴⁸ Exhibit C9-4, p. 2.

⁴⁹ Exhibit C4-4, p. 7.

CEC submits that the COE is influenced by many factors including DSM, load forecast, renewal of IPP power, Standing Offer Program (SOP) and surplus energy. CEC argues that based on the evidentiary record to date, the COE could potentially be reduced to the benefit of ratepayers now and in the future. CEC further submits that while there may be legislative restrictions on the Commission in terms of the breadth of its influence on some of these topics, and although the topic has been both directly and indirectly reviewed in the information requests, COE is of fundamental importance and requires further exploration through cross-examination to ensure proper review and clarity going forward.⁵⁰ NIARG supports CEC submission on COE as a candidate for an oral hearing topic but did not provide any additional explanation or rationale for its support.⁵¹

In reply, BC Hydro submits that it has set out in the Application how it has forecast load and resource requirements and that there were over 381 IRs related to the load forecast and a further 140 IRs related to COE.⁵² BC Hydro further explains the following legislative parameters relating to the load forecast and COE.

- Section 15 of the *Clean Energy Act* authorized the SOP and any EPAs associated with the SOP are not subject to BCUC approval or acceptance. Further, the SOP amounts were set out in the 2013 Integrated Resource Plan that was approved by the Province;
- Direction No. 7 provided for the recovery of costs associated with EPAs entered into before fiscal 2017. Any new or renewed EPAs will be filed with the Commission for review under section 71 of the *Utilities Commission Act* and are not the subject of review in this Application; and
- Variances in the COC forecast are captured in existing deferral accounts. The revenue requirements reflect the forecast COE but certain regulatory account ensures that customers only pay the actual costs.⁵³

At PC No. 2, BC Hydro also clarified that “...the load resource balance and the load forecasts beyond the test period are going to be the subject of the 2018 Integrated Resource Plan that gets submitted to the province, and following the Province’s review will be submitted to the Commission for review.”⁵⁴

In reply to CEABC’s concerns related to electrification initiatives, BC Hydro submits that it will provide further information in its responses to IR No.2 on our electrification initiatives as a result of BC Climate Action Objectives to the extent they are known.⁵⁵

Panel discussion

The review of this Application is focused on setting BC Hydro’s rates for F2017 through F2019. Therefore, any oral hearing component should be limited to matters that can assist the Commission in making its decision on issues that are within this scope.

⁵⁰ Exhibit B10-6, p. 2.

⁵¹ Exhibit C11-5, p. 2.

⁵² Exhibit B-12, pp. 4 and 5.

⁵³ Ibid., pp. 4-5., Exhibit B-4, p. 3.

⁵⁴ Procedural Conference, Transcript Volume 7, p. 226.

⁵⁵ Exhibit B-12, p. 5.

BC Hydro has clarified that the load forecasts beyond the test period will be the subject of the 2018 Integrated Resource Plan. The Panel further recognizes that the Heritage Deferral Account (HDA) and the Non-Heritage Deferral Account (NHDA) are legislated to capture variances related to COE and revenue forecasts, which is impacted by the load forecast. In addition, there are further legislative parameters relating to the SOP and EPAs.

In the Panel's view, none of the interveners have provided a convincing argument supporting the need for further oral evidence related to the load forecast or COE nor has any intervener explained why the breadth and quality of evidence on the record is not sufficient. The Panel also notes AMPC, which has identified the load forecast as a key issue and states that it plans to file intervener evidence, submits that it expects that it can satisfactorily address load forecast issues through a written process.

4.6 Capital expenditures and regulatory/deferral accounts

CEABC submits that the capital expenditures for growth, redevelopment, dam safety and sustainment and the capital allocation process may potentially require further probing through cross-examination.⁵⁶

CEABC also submits that further probing through cross-examination may be required for the role of deferral and regulatory accounts, including the Rate Smoothing account, in mitigating and exacerbating present and future electricity rate increases.⁵⁷

In reply, BC Hydro notes that CEABC did not identify why these issues are of particular concern or provide a rationale for addressing these wide topic areas in an oral hearing. BC Hydro further explains that the written evidence on capital projects includes Chapter 6 and the related appendices, the supplemental filing that was made to address Commission staff requests, and responses to 565 IRs. BC Hydro also submits that there is a significant evidentiary record relating to deferral and regulatory accounts and it has provided forecast balances out to F2024 for every regulatory account, including the Rate Smoothing account.⁵⁸

BC Hydro summarized the pertinent legislative parameters as follows:

- Direction No. 7, which allows for recovery of extensions to the authority's plant or system that come into service before F2017;
- The *Clean Energy Act* which exempts a number of projects from a Commission assessment of need and alternatives; and
- Most of the deferral and regulatory accounts discussed in the Application, including the Cost of Energy Deferral Accounts (HDA and the NHDA) and the Rate Smoothing account, were either previously approved by the Commission, or are required under Direction No. 7.⁵⁹

BC Hydro also submits that only capital additions, and not capital expenditures, have an impact on the test period and the effect of deferral and regulatory accounts on future rate increases is either a matter of

⁵⁶ Exhibit C4-4, p. 2.

⁵⁷ Exhibit C4-4, p. 2.

⁵⁸ Exhibit B-12, p. 4.

⁵⁹ Ibid., pp. 4–5.

arithmetic, or is unknown to the extent that future balances in the variance regulatory accounts cannot be forecast with certainty.⁶⁰

BC Hydro also points out that there is a pending Capital Expenditure and Projects Review proceeding which will determine what type of review processes capital projects will go through in the future.⁶¹

Panel discussion

The Panel notes that most of the interveners, other than CEABC, are satisfied with the written evidentiary record as it relates to capital projects and regulatory and deferral accounts. Furthermore, CEABC has not articulated its specific areas of concern.

The Panel recognizes the breadth and quality of the written evidence already on the record and the legislative parameters highlighted by BC Hydro and is not persuaded that an oral component will assist the Panel in making its determinations pertaining to capital additions or regulatory and deferral accounts for the three year test period.

With regard to the capital allocation process itself, the Panel also notes that the pending Capital Expenditure and Projects Review proceeding will address the general policy issues relating to capital and will provide CEABC with another opportunity to explore those concerns.

4.7 Demand side management

At PC No. 1, BCSEA submitted “at this point in time an oral hearing regarding the DSM expenditure schedule would be in order.”⁶² However, in its written submission BCSEA submits that now that it has had the opportunity to fully review BC Hydro’s responses to IR No. 1 and to prepare IR No.2, it no longer considers that an oral hearing for cross-examination of BC Hydro witnesses on the DSM issues is required.⁶³ Similarly, BCOAPO has not proposed oral cross-examination relating to DSM.⁶⁴

MoveUP submits that the significant downswing in DSM spending in this and the last test periods is of no small concern and wants to ensure that customers will not be left without adequate DSM while the utility is operating at a temporary surplus. MoveUP further submits that while BC Hydro has been forthcoming in its responses to IRs, these are issues and concerns that call for cross examination.⁶⁵

CEABC submits that the reshaping of DSM programs and their impact on rates may potentially require further probing through cross-examination,⁶⁶ while CEC is concerned with DSM as it relates to COE.⁶⁷ Similar to NIARG,

⁶⁰ Ibid., pp. 4–5.

⁶¹ Ibid., p. 4.

⁶² Procedural Conference, Transcript Volume 6, p. 262.

⁶³ Exhibit C1-4, p. 1.

⁶⁴ Exhibit C3-5, p. 1.

⁶⁵ Exhibit C2-6, p. 1.

⁶⁶ Exhibit C4-4, p. 2.

⁶⁷ Exhibit C10-6, p. 2.

Zone II is seeking clarification on BC Hydro's DSM programs in the NIA communities but is not sure if an oral component will be necessary until after it reviews the IR No.2 responses.⁶⁸

In reply, BC Hydro submits that there is a significant amount of high quality evidence on the record regarding DSM. BC Hydro argues that the Application included a chapter on demand side management, as well as five substantial appendices with program descriptions, data tables, and annual reports, and information on historical expenditures and results. BC Hydro further submits that it worked with both BCOAPO and Zone II to incorporate responses from the Rate Design Application into the record and has responded to a further 430 IRs in round one and another 306 in round two. BC Hydro concludes stating that "after round two, intervenor evidence and rebuttal evidence, the evidentiary record on demand-side management will be extensive and more robust than any other topic on the record in this proceeding."⁶⁹

Panel discussion

The Panel is not persuaded that additional oral evidence will assist in making its determination on the DSM matters before it.

The parties were provided with an opportunity to submit two rounds of information requests and for the most part agree that BC Hydro has been forthcoming in its responses to date. The evidentiary record appears to be robust and extensive and this Panel is of the view that detailed matters such as DSM lend themselves very well to a written hearing process. There have been 736 IRs in this proceeding related to DSM and a significant amount of those IRs relate to the envelope size and particular DSM programs. Furthermore, a substantial amount of DSM evidence was incorporated from the Rate Design Application.

The Panel also recognizes it is constrained under section 44.2 of the UCA and can either accept or reject an expenditure schedule but cannot direct BC Hydro to change the design of a particular program.⁷⁰ The Panel is further influenced by BCSEA and BCOAPO who identify DSM as a key concern but submit that oral cross-examination is not necessary given the extent of the written record.

5.0 COMMISSION DETERMINATION

Overall, the Panel is not persuaded that any of the topics proposed by the interveners are appropriate topics for an oral hearing component. In the Panel's view, the evidentiary record is sufficiently developed in specific topic areas and an oral hearing would not assist the Panel in making its determination on the matters before it as presented in the Application.

As such, the Panel orders the review of the of Application is to be heard through a written hearing process in accordance with the Regulatory Timetable attached as Appendix A to Order G-7-17.

⁶⁸ Exhibit C11-5, p. 2; Exhibit C17-5, p. 2.

⁶⁹ Exhibit B-12, p. 3.

⁷⁰ Exhibit B-9, BCUC IR 167.3.

With respect to CEC's submission that "if the Commission does not see value in an Oral Hearing Process to deal with the Cost of Energy then CEC respectfully submits that a right to a third round of information request should be provided to ensure a full exploration of the issues and follow up on the round two information requests,"⁷¹ the Panel finds that extending the Regulatory Timetable for a third round of information requests is not warranted given the extent of the evidentiary record. The Panel also notes the fact that no other parties have requested a third round of IRs.

In its written submission "BCSEA-SCBC respectfully reserve[d] the right to ask the Panel to allow an opportunity to test...rebuttal evidence, if any, filed by BC Hydro in response to BCSEA-SCBC's DSM evidence."⁷² BC Hydro replied stating that it will respond if and when BCSEA makes that request.⁷³ The Panel has not included a provision in the final Regulatory Timetable for interveners to test any BC Hydro rebuttal evidence give that there is no certainty that BC Hydro will file such evidence. The Panel is satisfied that this matter can be dealt with if and when it is raised.

Finally, the Regulatory Timetable does not include a deadline to file Participant Assistance / Cost Award (PACA) budgets because the Panel realizes that by the time the budgets are submitted, the staff response will have little value. Intervenors were invited to submit PACA budgets in advance of any deadline being established if they required staff comments. Final PACA applications should be filed within 30 days of the date BC Hydro files its reply argument pursuant to Order G-72-07.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of January 2016.

Original signed by:

D. M. MORTON
PANEL CHAIR / COMMISSIONER

Original signed by:

D. J. ENNS
COMMISSIONER

Original signed by:

K. A. KEILTY
COMMISSIONER

⁷¹ Exhibit C10-16, p. 4.

⁷² Exhibit C1-4, p. 3.

⁷³ Exhibit B-12, p. 3.