



ORDER NUMBER
G-130-18

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

British Columbia Hydro and Power Authority
Waneta 2017 Transaction Application

BEFORE:

D. M. Morton, Commissioner / Panel Chair
A. K. Fung, QC, Commissioner
R. I. Mason, Commissioner

on July 18, 2018

ORDER

WHEREAS:

- A. On October 30, 2017, the British Columbia Hydro and Power Authority (BC Hydro) filed an application for approval of BC Hydro's proposed purchase from Teck Metals Ltd. (Teck) of its two-thirds interest in the Waneta Dam along with Teck's transmission assets (Waneta 2017 Transaction) requesting the following orders from the British Columbia Utilities Commission (BCUC):
1. Pursuant to section 44.2(3) of the *Utilities Commission Act* (UCA), acceptance of the expenditure schedule in regard to the Waneta 2017 Transaction as shown in the filing;
 2. Pursuant to sections 58 to 61 of the UCA, approval of the Teck Wheeling Agreement and Waneta Interconnection Agreement; and
 3. Pursuant to section 49(a) of the UCA, approval of three adjustments to the Non-Heritage Deferral Account (NHDA) as described in the filing (Application);
- B. Since 2010, BC Hydro has been the owner of an undivided one-third interest in the Waneta dam and associated assets which it purchased from Teck for \$825 million (Waneta 2010 Transaction). Teck is the owner of the remaining two-thirds interest. The Waneta 2010 Transaction was approved by the BCUC pursuant to Order G-12-10 on February 23, 2010;
- C. As part of the Waneta 2010 Transaction, a right of first offer (ROFO) was established in regard to the subsequent sale by either party of its interest in Waneta, which granted the non-selling party the first right to acquire the seller's interest;
- D. In May 2017, following a competitive sales process, Teck informed BC Hydro that it had reached an agreement to sell its two-thirds interest in Waneta and related transmission assets to Fortis Inc. for \$1.2 billion;

- E. On June 1, 2017, Teck delivered a Sale Notice to BC Hydro which provided BC Hydro with the opportunity to match Fortis Inc.'s offer and purchase Teck's two-thirds interest in Waneta under substantially equivalent terms;
- F. On August 1, 2017, BC Hydro delivered a Reply Notice to Teck which, together with the Sale Notice, constituted BC Hydro's legally binding election to purchase Teck's two-thirds interest in the Waneta Dam and associated assets;
- G. Attached to the Reply Notice was an executed Waneta Purchase Agreement which sets out the sale by Teck and purchase by BC Hydro of Teck's two-thirds interest in Waneta for \$1.203 billion cash. The parties agreed that closing of the Waneta 2017 Transaction must occur by August 1, 2018;
- H. A key term of the Waneta 2017 Transaction is that the two-thirds interest in Waneta will be leased to Teck for a 20-year period (extendable to 30 years at Teck's option) in consideration of lease payments from Teck to BC Hydro;
- I. Upon expiration or earlier termination of the lease, BC Hydro will purchase Teck's transmission assets, including Line 71 (collectively, the Transmission Assets), for \$20 million;
- J. After the lease period has ended, and after BC Hydro has acquired the Transmission Assets, BC Hydro will provide a transmission wheeling service to Teck between the US border and Teck's smelter load, pursuant to the Teck Wheeling Agreement, as well as certain ancillary services, pursuant to the Waneta Interconnection Agreement;
- K. On January 31, 2018, BC Hydro filed the following agreements on the record: Waneta Transmission Agreement; Teck Wheeling Agreement; and Waneta Interconnection Agreement. Concurrently, BC Hydro withdrew its request for approval of the Waneta Interconnection Agreement on the basis that in accordance with its terms, the agreement does not require express BCUC approval;
- L. On receipt of the Application, the BCUC established a public hearing process. By Orders G-169-17, G-199-17, G-15-18, G-42-18 and G-70-18, the BCUC established and subsequently amended a regulatory timetable with a written hearing process for the review of the Application, which included two rounds of information requests (IRs) to BC Hydro, intervenor evidence and IRs on that evidence, Panel IRs, followed by oral and final arguments from all parties and a reply argument from BC Hydro;
- M. BC Hydro and interveners provided oral arguments on April 19, 2018, followed by BC Hydro and intervenor final arguments on May 3, 2018 and May 17, 2018 respectively. BC Hydro submitted its reply argument on May 24, 2018;
- N. The BCUC has considered the Application, evidence and submissions of BC Hydro and all interveners and makes the following determinations.

NOW THEREFORE pursuant to the *Utilities Commission Act* and for the reasons set out in the decision issued concurrently with this order, the BCUC orders as follows:

- 1. Pursuant to section 44.2(3)(a) of the UCA, the expenditure schedule contained in the Application, consisting of a \$1.203 billion payment to Teck to acquire a two-thirds interest in Waneta; a \$20 million payment to Teck to acquire the Transmission Assets; and transaction costs up to \$50 million, is in the public interest and is accepted.

2. Pursuant to sections 58 to 61 of the UCA, the Teck Wheeling Agreement is approved.
3. Pursuant to section 49(a) of the UCA, approval of three adjustments to the NHDA, all as more fully described in the Application, as follows:
 - a) BC Hydro may defer its fiscal 2019 incremental lease revenues arising from the Waneta Transaction to the NHDA;
 - b) BC Hydro may exclude the portion of year-to-year variances between forecast and actual water rentals arising from the Waneta Transaction from the water rental variances that are deferred to the NHDA; and
 - c) BC Hydro may defer the revenue it will be required to recognize from time to time in consequence of Teck's capital expenditures at Waneta to the NHDA until the end of the Lease Period.
4. Pursuant to section 43 of the UCA, BC Hydro is directed to file with the BCUC:
 - a) A report confirming the completion of the Waneta 2017 Transaction and providing the final actual Waneta 2017 Transaction costs, including a comparison with the estimated transaction costs, within 90 days of acquiring a two-third interest in the Waneta assets.
 - b) A report confirming purchase of Teck's Transmission Assets and provide the final actual transmission purchase price, including a breakdown of the actual costs under section 10.5 of the Waneta Transmission Agreement, within 90 days of acquiring Teck's Transmission Assets.
 - c) The NHDA balance that is related to the revenues approved for deferral in this decision in its Annual Deferral Accounts Report (filed within the BC Hydro Annual Report).
 - d) The revenue arising from the Waneta 2017 Transaction as line item(s) separate from its revenue from rate regulated activities in its financial schedules contained in its revenue requirement applications during the Lease Term.
 - e) An annual Waneta 2017 Transaction report (Report) which must include the following:
 - The operations, maintenance and capital expenditures including those major sustaining capital expenditures or operating and maintenance expenditures that BC Hydro was entitled to refer to a third party referee and the related referee determinations as well as any significant non-sustaining capital expenditures that BC Hydro had the right to veto;
 - Annual cash flow comparison of actual expenditures versus estimated expenditures and an explanation for any variance greater than ten percent from the estimated expenditures;
 - Organization chart showing the Operator and members of the Operating Committee;
 - The monthly energy sale volumes and revenues; and the annual average energy selling price (in \$/MWh);
 - Summary of the Resource Physical Major Risks and mitigation measures employed;
 - Statement of Delivery of Capacity and Energy to BC Hydro under the Waneta 2017 Transaction;
 - Statement of Entitlement Adjustments under the Canal Plant Agreement and amendments to the Canal Plant Agreement; and
 - Once BC Hydro has purchased Teck's Transmission Assets, the annual OATT revenues accrued from Line 71.

- f) The Report will be submitted as part of BC Hydro's annual report and as an appendix in its revenue requirements applications until 2058.

5. BC Hydro is directed to comply with all other directives in the decision accompanying this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of July 2018.

BY ORDER

Original Signed By:

D. M. Morton
Commissioner