



November 14, 2018

Sent via email

**Letter L-31-18**

Mr. Iain Cuthbert  
Barkley Project Group  
Unit B, 6451 Portsmouth Road  
Nanaimo, BC V9V 1A3  
cuthbert@barkley.ca

**Re: British Columbia Hydro and Power Authority – Tla-o-qui-aht First Nations’ Tofino and Tranquil Projects Status Complaint – BCUC Review**

Dear Mr. Cuthbert:

On September 20, 2018, the British Columbia Utilities Commission (BCUC) received your complaint relating to the status of the Tofino and Tranquil Projects and the Standing Offer Program (SOP) (Complaint) and your request seeking temporary relief for these projects in accordance with Order G-161-18.

The Complaint has been reviewed in accordance with the BCUC’s Customer Complaints Guide.

As you are aware, on August 14, 2018, the British Columbia Hydro and Power Authority (BC Hydro) filed an application with the BCUC pursuant to section 63 of the *Utilities Commission Act (UCA)*, seeking temporary relief to BC Hydro and certain SOP participants from the application of interconnection obligations contained in Attachment M-1 of the Standard Generation Interconnection Procedures (SGIP) under the Open Access Transmission Tariff (OATT) or BC Hydro’s distribution interconnection business practices. The SOP is being reviewed as part of the Government of B.C.’s Comprehensive Review of BC Hydro, which is expected to conclude in the fall of 2018.

On August 28, 2018, the BCUC issued Order G-161-18, approving the temporary suspension of the SGIP and the distribution generator interconnection process and associated agreements for SOP projects. The order provided temporary relief to SOP projects. The panel agreed that it was not in the interest of BC Hydro or SOP participants to incur additional expenses related to interconnection procedures while the SOP is under review. The BCUC considers SOP projects as those projects that have already been accepted by, or have pending applications, with BC Hydro.

Therefore, while the Tofino and Tranquil Projects have had studies undertaken in accordance with the SGIP under the OATT, a formal application has not been submitted to BC Hydro under the SOP. Given that these projects currently have no pending or approved applications under the SOP, Order G-161-18 is not applicable to the Tofino and Tranquil Projects.

Your complaint is now closed. However, if you have any further questions or comments, please respond to this letter.

**Other information**

If a party is unsatisfied with the resolution of a proceeding, the appropriate recourse is to seek reconsideration or appeal to the courts.

An application can be made to the BCUC to reconsider a decision under section 99 of the UCA. In the interests of both efficiency and fairness, the application undergoes an initial screening phase. To pass this initial screening phase, the BCUC will review the application for reconsideration and determine if the application has established a *prima facie* case sufficient to warrant full reconsideration by the BCUC. The BCUC generally applies the following criteria to determine whether an application has established a *prima facie* case sufficient to allow reconsideration:

- The BCUC has made an error in fact or law;
- There has been a fundamental change in circumstances or facts since the decision;
- A basic principle had not been raised in the original proceedings; or
- A new principle has arisen as a result of the decision.

More details on the BCUC's Reconsideration Criteria can be found on our [website](#) under the header, Resources, and in Rules and Guidelines.

BCUC decisions may also be appealed to the Court of Appeal for British Columbia. The Court of Appeal will only consider alleged errors of law or jurisdiction. An appeal to the court must be launched within 30 days after the BCUC has issued its decision. However, it is necessary first to seek the court's leave for the appeal. The court will normally grant leave only if other remedies have been exhausted. Therefore, the appellant should apply for reconsideration by the BCUC.

**Office of the Ombudsperson**

If you have concerns about how the BCUC handled your complaint, you may wish to contact the Office of the Ombudsperson. The Office of the Ombudsperson receives enquiries and complaints about the practices and services of public agencies within its jurisdiction. Their role is to impartially investigate complaints to determine whether public agencies have acted fairly and reasonably, and whether their actions and decisions were consistent with relevant legislation, policies and procedures.

If you decide to file a complaint with the Ombudsperson, they will review the BCUC's process to ensure it was fair. Though this may not result in a different outcome for you, the office could request that the BCUC reopen its investigation.

Provided is a link to the Office of the Ombudsperson's website: <https://www.bcombudsperson.ca/>. You can also call their office toll-free at: 1-800-567-3247. An employee at the office will be able to assist you and inform you of your options.

Thank you again for contacting the BCUC.

Sincerely,

*Original Signed By:*

Patrick Wruck  
Commission Secretary

AS/nd