



**ORDER NUMBER
G-218-19**

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

and

British Columbia Hydro and Power Authority
Fiscal 2020 to Fiscal 2021 Revenue Requirements Application

BEFORE:

D. M. Morton, Panel Chair
A. K. Fung, QC, Commissioner
E. B. Lockhart, Commissioner
R. I. Mason, Commissioner

on September 11, 2019

ORDER

WHEREAS:

- A. On February 25, 2019, the British Columbia Hydro and Power Authority (BC Hydro) filed its Fiscal 2020 to Fiscal 2021 (F2020–F2021) Revenue Requirements Application (Application) with the British Columbia Utilities Commission (BCUC) pursuant to sections 44.2, 58 to 61 and 99 of the *Utilities Commission Act* requesting, among other things:
 - 1. approval of a reduction of the Deferral Account Rate Rider from 5 percent to 0 percent effective April 1, 2019;
 - 2. approval of an increase in rates by 6.85 percent effective April 1, 2019;
 - 3. approval of an increase in rates by 0.72 percent effective April 1, 2020; and
 - 4. approval of the F2020–F2021 Open Access Transmission Tariff rates as set out in Table 9-8 of the Application effective April 1, 2019 and April 1, 2020, respectively;
- B. On March 1, 2019, by Order G-45-19, the BCUC established a Regulatory Timetable for the initial review of the Application;
- C. On June 28, 2019, by Order G-146-19, the BCUC established a further Regulatory Timetable for the review of the Application which provided for, among other items, BC Hydro to file an evidentiary update on September 3, 2019, interveners to file evidence on December 3, 2019 and a procedural conference on December 19, 2019;
- D. BC Hydro submitted a letter dated July 26, 2019 to the BCUC stating that it expects to file the evidentiary update by August 22, 2019 and requesting that the BCUC consider advancing the date of the procedural conference;

- E. On August 2, 2019, the BCUC invited BC Hydro and interveners to comment on whether they support advancing the date of the procedural conference. From August 15 to 19, 2019, parties submitted comments on this matter to the BCUC; and
- F. The BCUC has considered BC Hydro's July 26, 2019 letter and all of the parties' submissions and finds that an amendment to the Regulatory Timetable for the review of the Application is warranted.

NOW THEREFORE, for the reasons set out in Appendix A to this order, the BCUC amends the Regulatory Timetable established by Order G-146-19. The amended Regulatory Timetable is set out as attached as Appendix B to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this *11th* day of September 2019.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachments

British Columbia Hydro and Power Authority
Fiscal 2020 to Fiscal 2021 Revenue Requirements Application

REASONS FOR DECISION

On June 28, 2019, by Order G-146-19, the British Columbia Utilities Commission (BCUC) established a further Regulatory Timetable for the review of British Columbia Hydro and Power Authority's (BC Hydro) Fiscal 2020 to Fiscal 2021 Revenue Requirements Application (Application), which provided for, among other items, BC Hydro to file an evidentiary update on September 3, 2019, interveners to file evidence on December 3, 2019 and a procedural conference on December 19, 2019. The procedural conference is intended to address the scope of the oral component of the proceeding.

BC Hydro had previously stated that the timing of its evidentiary update is dependent on when the Government of B.C. releases its public accounts, which statutorily cannot be later than August 30, 2019.¹ In the reasons for decision attached as Appendix A to Order G-146-19, the BCUC directed BC Hydro to inform the BCUC when the Government of B.C.'s public accounts are released, if released prior to August 30, 2019, and to provide the BCUC with a date for the completion of the evidentiary update as the Panel may, at that time, issue a revised regulatory timetable reflecting the new dates.²

The BCUC received a letter dated July 26, 2019 from BC Hydro stating that it expects to file the evidentiary update by August 22, 2019 and requesting that the BCUC consider advancing the date of the procedural conference to the week of November 25, 2019.³

Due to scheduling conflicts and heavy workload at the BCUC, the only available dates for the procedural conference are November 22, 2019 and December 19, 2019. Based on BC Hydro's request and the schedules and workload at the BCUC, on August 2, 2019, the BCUC prepared a proposed Regulatory Timetable reflecting an evidentiary update filing on August 22, 2019 and a procedural conference on November 22, 2019. The BCUC invited interveners and BC Hydro to indicate whether they support moving the procedural conference to November 22, 2019 (afternoon) or maintaining the currently established date of December 19, 2019 (morning).⁴ Parties submitted their responses to the BCUC from August 15 to 19, 2019. The parties who responded were BC Hydro, Association of Major Power Customers of BC (AMPC), British Columbia Old Age Pensioners' Organization et al. (BCOAPO), BC Sustainable Energy Association (BCSEA), Clean Energy Association of B.C. (CEABC), Commercial Energy Consumers Association of British Columbia (CEC), FortisBC Energy Inc. and FortisBC Inc. (collectively, FortisBC) and Zone II Ratepayers Group (Zone II RPG).

Parties' Positions

BC Hydro supports advancing the procedural conference date to the afternoon of November 22, 2019. It submits that the current date of the procedural conference provides limited time between the BCUC's decision on the scope of the oral hearing and the start of the oral hearing on January 20, 2020, thus impacting BC Hydro's ability to finalize and prepare its witness panels. In contrast, an earlier procedural conference date would provide benefits to all parties because it would enable BC Hydro to focus its preparation for the oral component of the proceeding and provide better evidence to the BCUC.⁵ Recognizing that intervenor evidence would be filed after

¹ Exhibit B-8, BC Hydro Pre-filed Comments, pp. 12–13.

² Exhibit A-8, Order G-146-19 with reasons for decision dated June 28, 2019, pp. 6–7.

³ Exhibit B-9, pp. 1–2.

⁴ Exhibit A-10, p. 1.

⁵ Exhibit B-9, pp. 1–2; Exhibit B-10.

the proposed procedural conference date, BC Hydro submits that it is not opposed to an early determination by the BCUC that intervenor evidence be included within the scope of the oral component of the proceeding.⁶

All of the interveners, except AMPC, who responded to the Panel's request for comments either support or are amenable to moving the procedural conference date to November 22, 2019. However, a few interveners expressed concern that a detailed scoping of the oral component of the proceeding prior to the filing of intervenor evidence could result in certain items falling out of scope versus if the scoping occurred after the filing of intervenor evidence.⁷

CEC submits that "BC Hydro interests must be weighed against fairness to Interveners who will be assessing the appropriate topics for the oral hearing up to and after closing of the written evidentiary record. This assessment will include a review of issues which may be raised by Intervener written evidence." CEC further submits that the BCUC "should maintain a level of flexibility in the Procedural Conference process step such that Interveners are not forced to refine too detailed an approach to scope."⁸ BCOAPO shares CEC's view and submits that "if on November 22nd the Commission will establish 'a detailed issues list' for the oral hearing...it is possible that Intervener Evidence filed after the conference will fall outside of this 'detailed list'. At the same time, Interveners Evidence could potentially reveal additional information which would post-factum change the parties' position on the scope of oral hearing." BCOAPO submits that if the BCUC advances the procedural conference to November 22, 2019, then interveners should be provided more flexibility in identifying topics for the oral hearing.⁹ Zone II RPG submits that although it does not object to advancing the date of the procedural conference, "a final decision on whether specific intervenor evidence is in scope for the oral hearing should be left until after submission of that evidence to the Commission."¹⁰

AMPC, on the other hand, opposes advancing the procedural conference to a date prior to the filing of intervenor evidence because it "would be less efficient and prejudice any interveners filing evidence." AMPC submits that it would be more straightforward to address the scope of the oral component of the proceeding after the evidentiary record is largely in place. Furthermore, the proposed date would harm interveners because interveners would have to prepare for the procedural conference in parallel with finalizing intervenor evidence.¹¹ AMPC proposes the following, absent the BCUC's availability to facilitate an earlier procedural conference date in December: (1) maintaining the currently established date for the procedural conference and moving back the oral hearing date slightly to, for example, February 3, 2019; or (2) replacing the in-person procedural conference with a written process.¹²

AMPC further submits that it "expects that BC Hydro and interveners will ultimately agree on much of the appropriate oral hearing scope. But where there is disagreement, it is important that the structure of any scoping process does not place an undue burden on interveners to justify access to BC Hydro witnesses for cross-examination purposes." Furthermore, "requiring interveners to justify the need for cross-examination by describing their cross-examination plans in detail at a procedural hearing creates a serious strategic disadvantage, by alerting witnesses to the content of intended questions. Such justification should therefore not be required." Although AMPC agrees that the oral hearing should be scoped, the BCUC should "permit broad

⁶ Exhibit B-9, p. 2.

⁷ Exhibit C3-3; C5-6; C6-4, p. 1; C8-4; C9-5; C10-4; C11-6.

⁸ Exhibit C9-5, p. 1

⁹ Exhibit C6-4, pp. 1-2.

¹⁰ Exhibit C5-6.

¹¹ Exhibit C11-6, p. 1.

¹² Exhibit C11-6, p. 2.

opportunities to cross-examine on matters identified by interveners that are generally relevant to the proceeding.”¹³

BCUC Determination

With respect to AMPC’s submission that the proposed date would harm interveners because of the parallel task of preparing for the procedural conference and finalizing intervenor evidence, the Panel does not agree. We find that preparation of intervenor evidence should likely have commenced far in advance of the intervenor evidence filing date of December 3, 2019. Therefore, the change in the date for the procedural conference should not compromise the quality of the interveners’ evidence nor submissions at the proposed procedural conference date. Furthermore, intervenor evidence is normally prepared by subject specialists while submissions at procedural conferences are prepared by legal counsel. Thus, the Panel is not persuaded that there would be sufficient overlap in duties to suggest that the proposed procedural conference date would harm or prejudice interveners who plan to file evidence. The Panel also notes that Zone II RPG indicated at the procedural conference held on June 24, 2019 that it intends to file evidence in this proceeding¹⁴ and it did not suggest that the proposed procedural conference date would adversely impact its submissions to the BCUC. **Therefore, the Panel finds that the proposed procedural conference date of November 22, 2019 would not harm or prejudice interveners who plan to file evidence.**

The Panel appreciates AMPC’s suggestions of alternatives to the proposed and currently established procedural conference dates. However, the Panel is unable to accommodate an oral hearing commencing in early to mid-February due to scheduling conflicts and heavy workload at the BCUC. Therefore, the Panel finds that delaying the commencement date of the oral hearing by more than a month from the currently established date would be an unreasonable delay.

With respect to replacing an oral procedural conference with a written process, the Panel views a written process to hear parties’ views on the scoping of the oral hearing would limit the opportunity for the Panel to seek clarification from parties regarding their submissions; therefore, **the Panel finds that a written process to be less effective and efficient than an in-person procedural conference.**

The Panel agrees with BC Hydro that advancing the procedural conference date to November 22, 2019 would provide BC Hydro with more time to focus its preparation for the oral component of the proceeding and would enhance the quality of the evidence provided. However, the Panel also recognizes the concerns raised by the interveners that intervenor evidence may impact the scope of the oral hearing and appreciates that BC Hydro has indicated that it is not opposed to an early determination by the BCUC that intervenor evidence be included within the scope of the oral hearing. The Panel agrees with some of the interveners that the scope of the oral hearing identified at the proposed procedural conference date should not be too refined given that intervenor evidence would not have been filed yet. Further, the Panel recognizes AMPC’s position regarding the importance of structuring the scoping process to “not place an undue burden on interveners to justify access to BC Hydro witnesses for cross-examination purposes.” In the Panel’s view, the procedural conference could be structured to enable BC Hydro to focus its preparation for the oral hearing while mitigating the risk of refining the scope to such a degree that it restricts issues evolving from intervenor evidence from being included within the scope of the oral hearing. For example, if the procedural conference were advanced to November 22, 2019, the submissions at the procedural conference could identify items to remove from the scope of the oral hearing rather than identify items to add to the scope. **The Panel finds that the proposed procedural conference date of November 22, 2019 appropriately balances BC Hydro’s interests while maintaining fairness to interveners**

¹³ Exhibit C11-6, pp. 2–3.

¹⁴ Procedural Conference Transcript Volume 2, pp. 187–188.

who will be assessing the appropriate topics for the oral hearing. Further, this process does not place undue burden on interveners to justify access to BC Hydro's witnesses for cross-examination.

For these reasons, the Regulatory Timetable established by Order G-146-19 is amended by advancing the date of the procedural conference from the morning of December 19, 2019 to the afternoon of November 22, 2019. The amended Regulatory Timetable is attached as Appendix B to this order. The Panel directs BC Hydro and interveners to provide submissions at the November 22, 2019 procedural conference that identify items to remove from the scope of the oral hearing including the rationale for such removal.

British Columbia Hydro and Power Authority
Fiscal 2020 to Fiscal 2021 Revenue Requirements Application

REGULATORY TIMETABLE

Action	Date (2019)
BCUC and Intervener IRs on Evidentiary Update <i>(includes regulatory and deferral accounts and COE)</i>	Thursday, September 19
BC Hydro 20-Year Load Forecast	Thursday, October 3
BC Hydro responses to BCUC and Intervener IRs on Evidentiary Update	Thursday, October 10
Public Release of COE Evidentiary Update	Friday, October 18
BCUC and Intervener IRs on 20-Year Load Forecast	Wednesday, October 30
Intervener IRs on COE Evidentiary Update	Wednesday, October 30
BC Hydro responses to BCUC and Intervener IRs on 20-Year Load Forecast	Thursday, November 14
BC Hydro responses to Intervener IRs on COE Evidentiary Update	Thursday, November 14
Procedural Conference	Friday, November 22 commencing at 1 p.m.
Intervener Evidence	Tuesday, December 3
IRs on Intervener Evidence*	Tuesday, December 17

* All parties may ask IRs on the intervener evidence filed

Action	Date (2020)
Responses to IRs on Intervener Evidence	Friday, January 10
BC Hydro Rebuttal Evidence (if any)	Wednesday, January 15
Oral Hearing	Commencing Monday, January 20
BC Hydro Final Argument	Two weeks after the oral hearing concludes
Intervener Final Arguments	Two weeks after BC Hydro Final Argument
BC Hydro Reply Argument	Two weeks after Intervener Final Arguments