



**ORDER NUMBER
G-265-19**

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

and

Borex Ocean Falls Limited Partnership
Application for Approval of Rates and Terms and Conditions for
Service to British Columbia Hydro and Power Authority

BEFORE:

B. A. Magnan, Panel Chair
W. M. Everett, QC, Commissioner
R. I. Mason, Commissioner

on October 31, 2019

ORDER

WHEREAS:

- A. On September 30, 2019, Borex Ocean Falls Limited Partnership (Borex) applied to the British Columbia Utilities Commission (BCUC) for approval of interim and permanent rates for service to British Columbia Hydro and Power Authority (BC Hydro) for the period of July 1, 2019 to December 31, 2022, terms and conditions for service to BC Hydro and the First Nations relationship building deferral account (Application). The Application is made pursuant to Orders G-143-19 and G-202-19;
- B. Borex and BC Hydro had been unable to negotiate an Energy Purchase Agreement (EPA) renewal, and on August 29, 2017, BC Hydro filed an application with the BCUC requesting, amongst other things:
 - i. Approval to amend Order G-26-10 to have Borex subject to the rate regulation provisions of the *Utilities Commission Act* (UCA) with respect to its service to BC Hydro; and
 - ii. The BCUC determine and set a rate for Borex's service to BC Hydro, pursuant to sections 58 to 60 of the UCA;
- C. By Order G-143-19 dated June 27, 2019, the BCUC amended Order G-26-10 to exempt Borex from application of the UCA except for sections 2(1), 25, 38, 41, 42, 43, 49, 55, 58 to 63, 99, 117 and Part 6 with respect to Borex's service to BC Hydro, with Order G-26-10 remaining in effect with respect to Borex's service to its other customers. The BCUC also approved an interim and refundable/recoverable rate effective July 1, 2019 and interim terms and conditions for Borex's service to BC Hydro; and
- D. The BCUC has commenced its review of the Application and considers that establishing a regulatory timetable is warranted for the review of the Application.

NOW THEREFORE, pursuant to sections 58 to 61 of the UCA, the BCUC orders as follows:

1. The Regulatory Timetable for the review of the Application is established, as set out in Appendix A to this order. Parties who wish to actively participate in the proceeding are to register with the BCUC by completing a [Request to Intervene Form](#), available on the BCUC's website under Get Involved, by the date established in the Regulatory Timetable and in accordance with the BCUC's Rules of Practice and Procedure attached to Order G-15-19.
2. For the reasons outlined in Appendix C to this order, the request for approval of a revised interim rate is denied. The interim rates effective July 1, 2019 and approved by Order G-143-19 will remain in place and any differences between the interim and permanent rate will be refundable or recoverable with interest calculated at the average prime rate of Boralex's principal bank for its most recent year.
3. The Panel requests submissions on the regulatory process from Boralex and registered interveners, in accordance with the questions outlined in Appendix B by the dates established in the Regulatory Timetable attached as Appendix A to this order.
4. Boralex must provide a copy of this order within 10 business days of issuance to all its customers, the Heiltsuk Nation, the Nuxalk Nation, other potentially affected indigenous nations and all registered interveners in the following proceedings: BC Hydro Fiscal 2020 to Fiscal 2021 Revenue Requirements Application; and BC Hydro Application Requesting the Commission Set a Rate for Boralex LP's Electricity Service to BC Hydro.
5. Boralex must file a functional financial model in Excel format that calculates the applied-for rates for service provided to BC Hydro for the period of July 1, 2019 to December 31, 2022 by the date established in the Regulatory Timetable.
6. Boralex must make the Application and non-confidential supporting material available for inspection at its head office located at Front Street, Ocean Falls, British Columbia. Boralex must also make the Application available on its website at <http://www.boralex.com>.

DATED at the City of Vancouver, in the Province of British Columbia, this 31st day of October 2019.

BY ORDER

Original Signed By:

B. A. Magnan
Commissioner

Borex Ocean Falls Limited Partnership
Application for Approval of Rates and Terms and Conditions for
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REGULATORY TIMETABLE

Action	Date (2019)
Intervener Registration	Tuesday, November 19
Borex Financial Model	Monday, November 25
Intervener Submissions on Regulatory Process	Friday, November 29
Borex Reply Submission on Regulatory Process	Friday, December 13
Further process	To be determined

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SUBMISSIONS REGARDING REGULATORY PROCESS

Background

On September 30, 2019, Borex Ocean Falls Limited Partnership (Borex) applied to the British Columbia Utilities Commission (BCUC) for approval of interim and permanent rates for service to British Columbia Hydro and Power Authority (BC Hydro) for the period of July 1, 2019 to December 31, 2022, terms and conditions for service to BC Hydro and the First Nations relationship building deferral account (Application). On page three of the Application, Borex submits that “the most efficient and cost effective regulatory review process for this Application is a written hearing process.”

Request for Submissions

The Panel requests submissions from registered interveners and Borex on the regulatory process for the review of the Application, in accordance with the Regulatory Timetable attached as Appendix A to this Order. The Panel requests that the submissions address the following specific items:

1. Whether interveners intend to file intervener evidence and, if so, the subject matter of the evidence and proposed timing of this evidence in the regulatory process;
2. Whether any supplemental information in addition to the item requested in Directive 5 to Order G-265-19 is required at the beginning of the regulatory process. If so, please identify the specific supplemental information and provide a rationale as to why it is required; and
3. Whether the review of the Application should proceed by way of a written public hearing, or some other process. If some other process is proposed, please identify the specific process and the rationale.

Borex Ocean Falls Limited Partnership
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REASONS FOR DECISION

On September 30, 2019, Borex Ocean Falls Limited Partnership (Borex) applied to the British Columbia Utilities Commission (BCUC) for approval of, amongst other things, interim and permanent rates and terms and conditions for service to British Columbia Hydro and Power Authority (BC Hydro), for the period of July 1, 2019 to December 31, 2022 (Application). Specifically, on page two of the Application, Borex seeks:

Approval, **on an interim and final basis**, of the following rates for Borex LP's electric service to BC Hydro for the period July 1, 2019 to December 31, 2022 that have been determined in accordance with this Application:¹

	(\$/MWh)			
	2019*	2020	2021	2022
Tier 1 (up to 11.63 GWh/year)	\$289.94	\$295.74	\$301.65	\$307.68
Tier 2 (greater than 11.63 GWh/year)	\$50.00	\$51.00	\$52.02	\$53.06

*July 1 to December 31 for rate and energy amount.

The current interim rates for Borex's service to BC Hydro were approved by Directive 2 of Order G-143-19 dated June 27, 2019, which reads as follows:

An interim rate, equal to that of the existing EPA [Electricity Purchase Agreement], effective July 1, 2019 is approved. This interim rate will remain in place until a further interim and or permanent rate is established and any differences between interim and permanent rates would be refundable or recoverable.

BCUC Determination

The Panel notes that Borex's application for revised interim rates cannot be approved and made effective on a date earlier than the Application date of September 30, 2019, as such approval would constitute retroactive ratemaking. Further, any approval of the revised interim rates effective September 30, 2019 would result in two separate interim rates for Borex's service to BC Hydro: the interim rates approved by Order G-143-19, effective July 1, 2019; and the interim rates applied for in the Application, effective September 30, 2019.

As stated in Directive 2 of Order G-143-19, any differences between the current interim rates approved by Order G-143-19 and permanent rates are refundable or recoverable. The Panel also notes that interest is normally calculated on any differences between the interim and permanent rates that is refundable or recoverable. Considering this and given the added complexity of having two separate interim rates before permanent rates are established, **the request for revised interim rates effective July 1, 2019 is denied. The interim rates effective July 1, 2019 and approved by Order G-143-19 will remain in place and any differences between the interim and permanent rate will be refundable or recoverable with interest calculated at the average prime rate of Borex's principal bank for its most recent year.**

¹ Emphasis added.