



ORDER NUMBER
G-268-20

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

and

British Columbia Hydro and Power Authority
Walden North Hydro Forbearance Agreement

BEFORE:

R. I. Mason, Panel Chair
C. Brewer, Commissioner
B. A. Magnan, Commissioner

on October 26, 2020

ORDER

WHEREAS:

- A. On June 25, 2020, the British Columbia Hydro and Power Authority (BC Hydro) filed with the British Columbia Utilities Commission (BCUC) a forbearance agreement between BC Hydro and Cayoose Creek Limited Partnership, pursuant to section 71 of the *Utilities Commission Act* (UCA) and in compliance with Directive 1 of Order G-148-20 (altogether, the Filing);
- B. By Ministerial Order M-22-9801, dated August 28, 1998, any Electricity Purchase Agreement (EPA) agreed upon by BC Hydro or any persons selling electricity to BC Hydro on or before March 31, 2000, is exempt from section 71 of the UCA. The threshold date for this exemption was subsequently updated to September 30, 2001, by Amending Ministerial Order M-22-9801-A1;
- C. By Order G-61-12, dated May 17, 2012, the BCUC established the Rules for Energy Supply Contracts (ESCs) for Electricity (Rules). The Rules are intended to facilitate the BCUC's review of ESCs and proposed ESCs for electricity;
- D. In August 1990, BC Hydro entered into a 20-year EPA to purchase energy from the Walden North run-of-river hydroelectric project (Original EPA). The Original EPA contained a provision allowing the contract to continue from year-to-year unless terminated by either party after providing six months' notice;
- E. Effective April 1, 2014, BC Hydro entered into an agreement to forbear from exercising its right to terminate the Original EPA for a period of time (Forbearance Agreement);
- F. By Order G-148-20, dated June 10, 2020, the BCUC determined that the Forbearance Agreement is an amendment to the Original EPA and should have been filed with the BCUC pursuant to section 71 of the UCA. The BCUC issued the following directives to BC Hydro regarding the Forbearance Agreement:

Directive 1 – BC Hydro is directed to file the Forbearance Agreement with the BCUC pursuant to section 71 of the UCA by June 25, 2020; and

Directive 4 – The BCUC will hold confidential the un-redacted version of BC Hydro’s May 31, 2018 Application for Electricity Purchase Agreement Renewals for Sechelt Creek Hydro, Brown Lake Hydro, and Walden North Hydro, including the Forbearance Agreement, due to its commercially sensitive nature; and

G. The Panel has reviewed the Filing and determines that a public hearing process is warranted.

NOW THEREFORE the BCUC orders as follows:

1. A public hearing process is established for the review of the Filing in accordance with the regulatory timetable as set out in Appendix A of this order.
2. BC Hydro is directed to provide a copy of the Filing and this order to (i) all parties who participated in BC Hydro's Application for Electricity Purchase Agreement Renewals for Sechelt Creek Hydro, Brown Lake Hydro, and Walden North Hydro Energy, including the Sekw’el’was Cayoose Creek Band, and the Cayoose Creek Development Corporation; (ii) all interveners in the BC Hydro F2020 to F2021 Revenue Requirements Application proceeding; (iii) all parties who participated in the BCUC’s Indigenous Utilities Regulation Inquiry; and (iv) all independent power producers in British Columbia, by November 2, 2020.
3. In accordance with the BCUC’s Rules of Practice and Procedure, Parties who wish to actively participate in the proceeding must submit the [Request to Intervene Form](#) available on the BCUC’s website under the tab titled “Get Involved,” by the date established in the regulatory timetable..
4. The BCUC will hold confidential the un-redacted version of the Forbearance Agreement, pursuant to Directive 4 of Order G-148-20.

DATED at the City of Vancouver, in the Province of British Columbia, this 26th day of October 2020.

BY ORDER

Original signed by:

R. I. Mason
Commissioner

Attachment

British Columbia Hydro and Power Authority
Walden North Hydro Forbearance Agreement

REGULATORY TIMETABLE

Action	2020
BC Hydro to Provide Public Notice	Monday, November 2
Intervener Registration	Monday, November 16
BCUC Information Request (IR) No. 1 to BC Hydro	Thursday, November 19
Intervener IR No. 1	Thursday, November 26
BC Hydro responses to BCUC and Intervener IRs No. 1	Thursday, December 10
Further Process	To be determined