



**ORDER NUMBER
G-9-21**

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

and

British Columbia Hydro and Power Authority
Application for Reconsideration and Variance of Directives Regarding Powerex Net Income in the BC Hydro Fiscal
2020 to Fiscal 2021 Revenue Requirements Application Decision

BEFORE:

D. M. Morton, Panel Chair
R. I. Mason, Commissioner
T. A. Loski, Commissioner

on January 12, 2021

ORDER

WHEREAS:

- A. On February 25, 2019, the British Columbia Hydro and Power Authority (BC Hydro) filed its Fiscal 2020 to Fiscal 2021 Revenue Requirements Application (F2020–F2021 RRA) with the British Columbia Utilities Commission (BCUC) pursuant to sections 44.2, 58 to 61 and 99 of the *Utilities Commission Act* (UCA);
- B. On October 2, 2020, the BCUC issued Order G-246-20 and the accompanying decision in the matter of the F2020–F2021 RRA (RRA Decision). In the RRA Decision, the BCUC issued, among other things, the following Directives, which state:
 - 1. “Therefore, the Panel directs that no actual Powerex net income be captured in the Trade Income Deferral Account absent further review and approval by the BCUC” (Directive 17);
 - 2. “Therefore, in its next RRA, BC Hydro is required to file, in confidence if necessary, a summary of Powerex’s net income, in sufficient detail to enable the BCUC to determine whether any amount of actual Powerex net income is appropriate for inclusion in the Trade Income Deferral Account” (Directive 17A);
- C. On December 1, 2020, BC Hydro filed an application for reconsideration and variance of Directives 17 and 17A in the RRA Decision (Reconsideration Application). In the Reconsideration Application, BC Hydro requests that the BCUC rescind these Directives and vary them as follows:
 - 1. BC Hydro should file (in confidence if necessary), as part of the Fiscal 2023 RRA, a proposal, with supporting rationale, as to how to treat Powerex’s net income for regulatory purposes going forward. BC Hydro should include sufficient information to permit the BCUC to assess the extent to which the current regulatory approach based on the BCUC’s Heritage Contract Report (including an

allocation of risk associated with Powerex trade activity and the use of transfer pricing to “ring-fence” Powerex) remains valid or whether any adjustments are necessary; and

2. With respect to the Trade Income Deferral Account (TIDA):

- a) BC Hydro should continue to record variances between forecast and actual Trade Income in the TIDA;
 - b) BC Hydro should include a proposal in the Fiscal 2022 RRA for the disposition of any balance in the TIDA from the current test period; and
 - c) The outcome of the BCUC’s Fiscal 2023 RRA determinations regarding Powerex’s net income will be reflected in the TIDA for future disposition;
- D. Part V of the BCUC’s Rules of Practice and Procedure, which are attached to Order G-15-19, sets out the Rules for the reconsideration process (Reconsideration Rules);
- E. On December 17, 2020, by Order G-336-20, the BCUC established a public hearing process that includes web-based oral submissions regarding BC Hydro’s requests in its Reconsideration Application for the BCUC to rescind and vary Directives 17 and 17A in the RRA Decision and to have a review *de novo* in the Fiscal 2023 RRA of the issues and findings underlying these Directives;
- F. On January 11, 2021, the web-based oral submissions were held and BC Hydro, Association of Major Power Customers of British Columbia (AMPC), British Columbia Old Age Pensioners’ Organization et al. (BCOAPO), BC Sustainable Energy Association (BCSEA), Clean Energy Association of BC (CEABC), Commercial Energy Consumers Association of British Columbia (CEC) and Movement of United Professionals (MoveUP) participated; and
- G. The BCUC has reviewed the Reconsideration Application and parties’ submissions in accordance with the Reconsideration Rules and declines to grant the Reconsideration Application on the grounds of procedural fairness as therein outlined, but determines that there is just cause to rescind Directives 17 and 17A in the RRA Decision and hold a *de novo* hearing of the issues and findings underlying these Directives.

NOW THEREFORE, pursuant to section 99 of the UCA, the BCUC orders as follows:

- 1. Directives 17 and 17A on page 55 of the RRA Decision are rescinded.
- 2. A *de novo* hearing of the issues and findings underlying Directives 17 and 17A on page 55 of the RRA Decision is granted and is to be held separate from the Fiscal 2023 RRA proceeding.
- 3. The regulatory timetable for written submissions on the timing of the *de novo* hearing is established as set out in Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 12th day of January 2021.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachment

British Columbia Hydro and Power Authority
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REGULATORY TIMETABLE

Action	Date (2021)
BC Hydro's submission on the timing of the <i>de novo</i> hearing*	Friday, January 15
Interveners' submissions on the timing of the <i>de novo</i> hearing*	Tuesday, January 19
BC Hydro's reply submission	Thursday, January 21

* Given the concerns raised in the web-based oral submissions pertaining to the importance of these issues and that the current 2020 Transfer Pricing Agreement (TPA) proceeding is adjourned,¹ the Panel requests submissions to address whether the application to review *de novo* the issues and findings underlying Directives 17 and 17A in the RRA Decision should be filed by **no later than April 1, 2021**. This will allow sufficient time to review the application and review BC Hydro's 2020 TPA application prior to the end of BC Hydro's 2022 fiscal year (i.e. March 31, 2022).

¹ Transcript, Volume 1, pp. 16 (Chair), 45 (Mr. C. Weafer), 47 (Ms. Worth), 48–49, 54–55 (Mr. Austin), 62–63 (Mr. Ghikas), 76 (Chair).