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ORDER NUMBER
G-26-22

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

and

British Columbia Hydro and Power Authority
Application for Mandatory Reliability Standards Costs Regulatory Account for Fiscal 2022

BEFORE:
R. I. Mason, Panel Chair
D. M. Morton, Commissioner

on February 8, 2022

ORDER

WHEREAS:

A. On August 31, 2021, the British Columbia Hydro and Power Authority (BC Hydro) filed an application (Application) with the British Columbia Utilities Commission (BCUC) seeking approval, pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA), of the following:

   (i) To establish a new regulatory account referred to as the "Mandatory Reliability Standards Costs Regulatory Account" (MRS Costs Regulatory Account) to defer certain actual unplanned costs, forecast at $15.9 million, in fiscal 2022 (F2022) required to achieve and maintain compliance with MRS and to implement new MRS;

   (ii) To apply interest to the balance of the MRS Costs Regulatory Account based on BC Hydro's current weighted average cost of debt;

   (iii) To recover from the MRS Costs Regulatory Account each year the forecast interest charged to the account each year, attributable to F2022 costs deferred, starting in fiscal 2023; and

   (iv) To recover the forecast balance at the end of a test period over the next test period, until such time that the actual amounts deferred to the MRS Costs Regulatory Account for F2022 are recovered in rates, starting in fiscal 2023;

B. By Decision and Order G-187-21 dated June 17, 2021, the BCUC concluded BC Hydro's Fiscal 2022 Revenue Requirements proceeding (BC Hydro F2022 RRA Proceeding) and found, among other things, the increase of $21.7 million in BC Hydro's F2022 budget for MRS, including Critical Infrastructure Protection standards, was reasonable. The BCUC also agreed that certain sensitive cyber security information ought to remain confidential due to the risk of inadvertent disclosure and potential harm to BC Hydro, its ratepayers and the public;

C. In the Application, BC Hydro also requests that Appendix A to the Application, which contains information on various unplanned activities related to MRS, along with their related costs, is made available only to the BCUC in accordance with Part IV of the BCUC's Rules of Practice and Procedure. BC Hydro states that information related to the protection of cyber infrastructure is highly security-sensitive and the release of this information to the public could compromise the safety and reliability of the Bulk Electric System (BES). Additionally, BC Hydro states that under the BCUC MRS Rules of Procedure, including the Compliance Monitoring Program and Penalty Guidelines, there remains a presumption of confidentiality over certain information, especially where the subject matter relates to a cyber security incident or may otherwise jeopardize the security of the BES;

D. By Order G-287-21 dated October 1, 2021, the BCUC issued a regulatory timetable ordering a confidential and transcribed *in camera* session for the review of the confidentiality of Appendix A to the Application. On October 7, 2021, the *in camera* session was held with the BCUC Panel, BCUC staff and legal counsel, along with BC Hydro staff and legal counsel in attendance;

E. By Order G-299-21 dated October 15, 2021, the BCUC granted BC Hydro's request to keep Appendix A to the Application confidential and established a further regulatory timetable for the review of the Application which included one round of BCUC information requests (IR) and an opportunity for BC Hydro to file reply comments with respect to any letters of comments received;

F. On November 8, 2021, BC Hydro submitted an extension request to file its response to BCUC IR No. 1 from November 12, 2021, to November 26, 2021 (Extension Request);

G. By Order G-327-21 dated November 9, 2021, the BCUC granted the Extension Request and amended the regulatory timetable;

H. On December 17, 2021, BC Hydro filed a letter to confirm that it will not be filing any reply comments as no letters of comments were filed; and

I. The BCUC has considered the Application and the evidence and submissions filed in the proceeding and makes the following determinations.

NOW THEREFORE pursuant to sections 59 to 61 of the UCA, and for the reasons for decision attached as Appendix A to this Order, the BCUC orders as follows:

1. BC Hydro is approved to establish the MRS Costs Regulatory Account and to defer to this account the actual unplanned costs incurred in F2022 related to certain activities required to deliver the scope of work described in the Application.

2. BC Hydro is approved to apply interest to the balance of the MRS Costs Regulatory Account based on BC Hydro's current weighted average cost of debt.

3. BC Hydro is approved to recover the forecast cost of $15.9 million for the unplanned MRS activities in F2022 and the forecast interest to be applied to the balance in the MRS Costs Regulatory Account according to the following schedule:

    - $5.8 million in F2023;
    - $5.6 million in F2024; and
    - $5.5 million in F2025.

4. BC Hydro is denied its request to recover or refund amounts in the MRS Costs Regulatory Account beyond F2025.

5. BC Hydro's request to, starting in fiscal 2026, recover the forecast balance at the end of a test period over the next test period, until such time that the actual amounts deferred to the MRS Costs Regulatory Account for F2022 are recovered in rates is denied.

6. BC Hydro is directed to comply with all other directives contained in the reasons for decision attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 8th day of February 2022.

BY ORDER

Original signed by:

R. I. Mason
Commissioner

Attachment

British Columbia Hydro and Power Authority
Application for Mandatory Reliability Standards Costs Regulatory Account for Fiscal 2022

REASONS FOR DECISION

1.0 Introduction

1.1 The Application

On August 31, 2021, the British Columbia Hydro and Power Authority (BC Hydro) filed an application to the British Columbia Utilities Commission (BCUC) seeking approval to establish a new regulatory account referred to as the "Mandatory Reliability Standards Costs Regulatory Account" (MRS Costs Regulatory Account) to defer certain unplanned Mandatory Reliability Standards (MRS or Standards) costs incurred in fiscal 2022 (F2022) (Application). BC Hydro proposes that the MRS Costs Regulatory Account captures unplanned costs in specific categories associated with achieving and maintaining compliance with MRS and the implementation of new Standards. [1]

BC Hydro is seeking approval to recover the F2022 forecast ending balance of $15.9 million over the next test period (i.e., fiscal 2023 to fiscal 2025) and to refund or recover any differences between actual amounts deferred to the MRS Costs Regulatory Account in F2022 and forecast amount recovered in rates over fiscal 2023 to fiscal 2025 over the subsequent test period.[2]

BC Hydro also requests that Appendix A of the Application be held on a confidential basis and be available only to the BCUC for two reasons: [3]

1. Information related to the protection of cyber infrastructure is highly sensitive and its public release could compromise the safety and reliability of the bulk electric system; and
2. The BCUC's MRS Rules of Procedure, including the Compliance Monitoring Program Rules and Penalty Guidelines, make the framework and processes for reporting, auditing and oversight of MRS compliance confidential.

BC Hydro adds that while certain information about an entity's MRS violations, if confirmed, may become public after the fact, there remains a presumption of confidentiality.[4]

1.2 Regulatory Process Followed

On October 1, 2021, the BCUC established a proceeding to review the Application, which consisted of a confidential and transcribed *in camera* session with the BCUC and BC Hydro to review the confidential content included in the Application on October 7, 2021.[5]

[1] Exhibit B-1, p. 1.
[2] Exhibit B-1, p. 1.
[3] Exhibit B-1, p. 3.
[4] Exhibit B-1, p. 3.
[5] Order G-287-21.

On October 15, 2021, the BCUC granted BC Hydro's request to keep Appendix A of the Application confidential and established a further regulatory timetable for the review of the Application, which included BC Hydro's notice to interveners in the F2022 RRA proceeding, one round of Information Requests (IRs) from the BCUC, Letters of Comment and BC Hydro's response to Letters of Comment.[6]

On November 9, 2021, the BCUC amended the regulatory timetable to grant BC Hydro's extension request to file its response to the BCUC's IRs.[7]

On December 17, 2021, BC Hydro filed a letter to confirm that it will not be filing reply comments as there were no letters of comment filed.

2.0 Mandatory Reliability Standards Forecast Expenditures

BC Hydro states that it is incurring unplanned MRS costs in F2022, forecast at $15.9 million, driven by the need to achieve and maintain compliance with MRS and the implementation of Critical Infrastructure Protection (CIP) Version 7.[8]

BC Hydro states that the unplanned spending related to MRS sought in this Application is in addition to the $21.7 million of incremental planned MRS related costs that were approved in the BCUC's decision on the F2022 RRA.[9]

BC Hydro explains that the unplanned MRS costs in F2022 could not have been anticipated and forecast in the F2022 RRA because the underlying incremental activities that gave rise to these unplanned MRS costs all arose after the filing of the F2022 RRA. BC Hydro states that, had the costs sought in this Application been known at the time of the filing of the F2022 RRA application, BC Hydro would have added them to the $21.7 million and sought approval for them in the F2022 RRA.[10]

BC Hydro submits that, of the forecast expenditure of $15.9 million, $5.9 million is required for the implementation of CIP Version 7 (CIP Version 7 Activities) and $10 million is required to achieve and maintain compliance with MRS (MRS Compliance Activities). BC Hydro presents the forecast expenditures in the following table:[11]

Table 1 Fiscal 2022 Unplanned MRS Costs

Business Group	Achieve and Maintain Compliance ($ million)	Implement CIP Version 7 ($ million)	MRS Total ($ million)
Integrated Planning	5.9	5.0	**10.9**
Finance, Technology, Supply Chain	3.0	0.9	**3.9**
Safety and Compliance	1.1	-	**1.1**
Total	**10.0**	**5.9**	**15.9**

[6] Order G-299-21.
[7] Order G-327-21
[8] Exhibit B-1, p. 1.
[9] Exhibit B-1, p. 1.
[10] Exhibit B-4, IRs 1.4 and 1.7.
[11] Exhibit B-1, p. 6.

CIP Version 7 will become effective in British Columbia in October 2023 and BC Hydro has expanded its implementation approach, which resulted in additional activities to be performed beyond what was originally contemplated in the F2022 forecast. As a result, BC Hydro states that $5.9 million is required to complete CIP Version 7 Activities to enable it to be compliant with the Standard.[12]

[redacted]

- [redacted]
- [redacted]
- [redacted]

[redacted]

BC Hydro states that $10 million is required to complete the MRS Compliance Activities, the details of which are confidential.[15]

[redacted]

[redacted]

[redacted]

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[12] Exhibit B-1, pp. 6-7.
[13] Exhibit B-1-1, Appendix A, pp. 11-12.
[14] Exhibit B-4-1, IR 1.7.
[15] Exhibit B-1, p. 6.
[16] Exhibit B-1-1, Appendix A, p. 7.
[17] Exhibit B-1-1, Appendix A, pp. 8-9.
[18] Exhibit B-1-1, Appendix A, pp. 9-10.

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[19] Exhibit B-1-1, Appendix A, pp. 10-11.
[20] Exhibit B-1-1, Appendix A, pp. 11-12.
[21] Exhibit B-1-1, Appendix A, pp. 7-15.

2.1 Mandatory Reliability Standards Costs Regulatory Account Recovery Mechanism

BC Hydro considers its forecast of $15.9 million to be a reasonable estimate, but states that some level of uncertainty exists. Given BC Hydro's costs incurred to date and factors impacting the remaining expenditures, BC Hydro expects the total forecast expenditures to be incurred in F2022 to be within $2 million of the $15.9 million forecast.[22]

BC Hydro is proposing to recover the forecast F2022 ending balance in the account over the next test period (i.e., fiscal 2023 to fiscal 2025). BC Hydro proposes to recover over the subsequent test period (i.e., beginning in fiscal 2026) any difference between the actual amounts deferred to the account and the forecast amounts proposed for recovery over fiscal 2023 to fiscal 2025.[23]

BC Hydro states that it is forecasting amortization of the MRS Costs Regulatory Account of $5.8 million, $5.6 million and $5.5 million in fiscal 2023, fiscal 2024 and fiscal 2025, respectively. These amounts include the amortization of the estimated $15.9 million of unplanned MRS costs plus interest applied to the MRS Costs Regulatory Account in fiscal 2022 and during the test period of the F2023 to F2025 RRA.[24]

BC Hydro states that one benefit of recovering the forecast amount instead of the actual balance is rate certainty for ratepayers. However, the drawback is that ratepayers will not pay the actual costs, which would result in the shareholder bearing the risk of actual costs exceeding the forecast, despite the costs being of the same nature as the costs approved for recovery in the F2022 RRA. Conversely, ratepayers would bear the risk of actual costs being lower than the forecast. BC Hydro reiterates that in the BCUC's decision to the F2022 RRA, the BCUC characterized the MRS costs in the F2022 RRA as "…not only warranted but required to safeguard the BES [Bulk Electric System]."[25]

[22] Exhibit B-4, IR 1.5.
[23] Exhibit B-1, p. 7.
[24] Exhibit B-4, IR 1.2.
[25] Exhibit B-4, IR 1.5.1.

Panel Determination

BC Hydro is approved to establish the MRS Costs Regulatory Account and to defer to this account the actual costs of its unplanned MRS activities incurred in F2022 as identified in the Application. BC Hydro is approved to apply interest to the balance of the MRS Costs Regulatory Account based on its current weighted average cost of debt.

The Panel finds that the unplanned MRS activities are reasonable. The activities are intended to enable BC Hydro to achieve and maintain compliance with MRS and are required to protect the integrity of the bulk electric system. The Panel is satisfied that the activities support the safety and reliability of BC Hydro's services.

The Panel is persuaded that BC Hydro was not aware of the unplanned MRS activities at the time it filed its F2022 RRA. BC Hydro's forecast cost of $10 million to complete MRS Compliance Activities arises from events which took place after its F2022 RRA was filed. While BC Hydro was aware prior to the filing of the F2022 RRA that it would be required to implement CIP Version 7 by October 2023, the forecast cost of $5.9 million for the CIP Version 7 Activities in F2022 arises from a decision made by BC Hydro after the F2022 RRA was filed. The Panel finds that this decision was reasonable and could not reasonably have been foreseen when the F2022 RRA was filed.

BC Hydro is approved to recover the forecast cost of $15.9 million for the unplanned MRS activities in F2022 and the forecast interest to be applied to the balance in the MRS Costs Regulatory Account according to the following schedule:

- **$5.8 million in F2023;**
- **$5.6 million in F2024; and**
- **$5.5 million in F2025.**

The Panel is satisfied that BC Hydro's forecast cost of $15.9 million for the unplanned MRS activities is commensurate with the nature of the activities and finds that the forecast cost and applied interest should be recovered from its ratepayers.

The actual costs for the unplanned MRS activities will be known after the conclusion of the F2022 test period, and BC Hydro expects that the actual costs will be within $2 million of the forecast of $15.9 million. Regardless of the actual costs incurred for the unplanned MRS activities, BC Hydro will collect from ratepayers the forecast cost of $15.9 million in the F2023 to F2025 test period. Any differences between the forecast and actual costs incurred for the unplanned MRS activities in F2022 and between the forecast and actual interest applied to the balance in the MRS Costs Regulatory Account will remain in the MRS Costs Regulatory Account at the end of F2025.

While the Panel is satisfied that the nature of the unplanned MRS activities and the associated forecast cost of $15.9 million are reasonable, the Panel is not prepared to make a determination in advance that the actual cost BC Hydro incurs in F2022 for the unplanned MRS activities is reasonable. To make such a determination, the BCUC must examine the actual cost incurred in F2022 and the actual activities completed, and this examination may more efficiently be conducted in the RRA following the completion of the F2023 to F2025 test period. **For these reasons, BC Hydro's request to recover or refund amounts in the MRS Costs Regulatory Account beyond F2025 is denied.**