



ORDER NUMBER
G-280-22

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

and

British Columbia Hydro and Power Authority
2021 Integrated Resource Plan

BEFORE:

D. M. Morton, Panel Chair
C. M. Brewer, Commissioner
R. I. Mason, Commissioner

October 7, 2022

ORDER

WHEREAS:

- A. On December 21, 2021, British Columbia Hydro and Power Authority (BC Hydro) filed its 2021 Integrated Resource Plan (IRP) Application with the British Columbia Utilities Commission (BCUC), pursuant to section 44.1 of the *Utilities Commission Act* (UCA) and in accordance with Order G-28-21 dated January 27, 2021;
- B. By Order G-227-22 dated August 12, 2022, the BCUC established a further regulatory timetable, which included a process for intervenor and BC Hydro submissions on unanswered Information Requests (IRs);
- C. By letters dated August 19, 2022 and September 1, 2022, the BCUC determined that BC Hydro must file updated responses to certain intervenor IRs by September 29, 2022;
- D. On September 29, 2022, BC Hydro provided its supplemental responses to intervenor IRs. BC Hydro filed the following responses with the BCUC only on the basis that the public disclosure of the information would be harmful to BC Hydro's commercial interests in relation to the operation of its system:
 - i. Capital Power Corporation (Capital Power) IRs 1.2.1.1, 1.2.1.2, 1.2.1.3, and 1.2.2.1; and
 - ii. Commercial Energy Consumers of BC (CEC) IR 1.90.1.
- E. By letter dated October 3, 2022, Capital Power filed a request to access to Capital Power IRs 1.2.1.1, 1.2.1.2, 1.2.1.3, and 1.2.2.1;
- F. By letters dated October 3 and 4, 2022, the BCUC requested submissions from BC Hydro regarding the confidentiality of certain IR responses; and
- G. The BCUC considers a determination regarding confidentiality is warranted.

NOW THEREFORE for the reasons set out in Appendix A of this order, the BCUC orders as follows:

1. BC Hydro's responses to Capital Power IRs 1.2.1.1, 1.2.1.2, 1.2.1.3, and 1.2.2.1, and CEC IR 1.90.1 be held as confidential.
2. Under the terms outlined further in the reasons set out in Appendix A of this order, by no later than October 13, 2022, BC Hydro must provide the responses to those interveners who:
 - a. Request access to the confidential Capital Power IR responses and/or CEC IR 1.90.1;
 - b. Have executed the appropriate BCUC confidentiality declaration and undertakings; and
 - c. Do not have current or potential commercial interests which may conflict with BC Hydro.
3. The deadline for filing IR No. 2 is extended with respect to IRs pertaining to the confidential intervener IRs only.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of October 2022.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachment

British Columbia Hydro and Power Authority
2021 Integrated Resource Plan

REASONS FOR DECISION

1.0 Introduction

On December 21, 2021, British Columbia Hydro and Power Authority (BC Hydro) filed its 2021 Integrated Resource Plan (IRP) Application, pursuant to section 44.1 of the *Utilities Commission Act* (UCA) and in accordance with Order G-28-21 dated January 27, 2021. By Order G-227-22 dated August 12, 2022, the British Columbia Utilities Commission (BCUC) established a further regulatory timetable, which included a process for intervenor and BC Hydro submissions on unanswered Information Requests (IRs).

By letters dated August 19, 2022 and September 1, 2022, the BCUC determined that BC Hydro must file updated responses to certain intervenor IRs by September 29, 2022. On September 29, 2022, BC Hydro provided its supplemental responses to intervenor IRs. BC Hydro filed certain responses with the BCUC only on the basis that the public disclosure of the information would be harmful to BC Hydro's commercial interests in relation to the operation of its system. The IR responses filed confidentially with the BCUC only are:

- Capital Power Corporation (Capital Power) IRs 1.2.1.1, 1.2.1.2, 1.2.1.3, and 1.2.2.1; and
- Commercial Energy Consumers of BC (CEC) IR 1.90.1.

By letter dated October 3, 2022, the BCUC requested that BC Hydro clarify, with supporting rationale, whether it is amenable to providing the above noted IR responses to those intervenors that have executed the appropriate BCUC confidentiality declaration and undertakings, or to a subset of such intervenors.

Additionally, with respect to the response to CEC IR 1.90.1, the Panel requests BC Hydro provide further explanation of the reasons for the confidentiality of this information, specifically, with reference to the similarity (or otherwise) of information filed publicly in response to David Ince IR 1.7.9 in the BC Hydro Fiscal 2020 to Fiscal 2021 Revenue Requirements Application.¹

These reasons for decision outline submissions with respect to the confidentiality of intervenor IRs, and the Panel's determinations regarding confidentiality.

¹ Retrieved from: https://docs.bcuc.com/Documents/Proceedings/2019/DOC_54173_B-6-BCH-Response-toIntervenor-IR1.pdf

3.0 Submissions Regarding Confidentiality of Intervener IRs

3.1 Capital Power

By letter dated October 3, 2022, Capital Power requests access to BC Hydro's responses to Capital Power IRs 1.2.1.1, 1.2.1.2, 1.2.1.3, and 1.2.2.1. Capital Power is requesting access to this information to enable it to analyze considerations of regional reliability relevant to the BCUC's evaluation of the IRP and its assumptions regarding transmission and generation resources, including by allowing Capital Power and its expert witness to contribute evidence to the record that would provide a more thorough understanding of Island Generation's role in meeting Vancouver Island's reliability requirements.²

3.2 BC Hydro

By letter dated October 6, 2022, BC Hydro provided its response to the BCUC and Capital Power's letters.

BC Hydro submits the information requested in the confidential Capital Power IR responses is commercially sensitive to BC Hydro and is confidential because detailed hourly generation, hourly load, generation levels of each supply resource and hourly generation profiles used in the supply adequacy assessment would enable Capital Power and/or other third parties to model the Vancouver Island system needs and would provide insight with respect to BC Hydro's future opportunity costs. The information requested can be used to estimate future opportunity costs relative to other alternatives, and would allow a third-party to have an advantage in any future commercial negotiations which would result in higher costs to BC Hydro and higher rates to BC Hydro's ratepayers. BC Hydro submits that Capital Power may potentially compete with other independent power producers and be in future negotiations with BC Hydro in relation to the sale of electricity, and therefore its request to access the IR responses should be denied. In addition, individuals representing other interveners may also be associated with third parties who may potentially compete with other independent power producers and be in future negotiations with BC Hydro in relation to the sale of electricity. BC Hydro submits other interveners that request access to Confidential Capital Power IR Responses should also be denied.³

With respect to the confidential CEC IR response, in 2019, as part of the Fiscal 2020 to Fiscal 2021 Revenue Requirements Application proceeding, BC Hydro provided a data plot figure of inflow information as an aggregate chart with multiple time series overlapping. Since then, BC Hydro understands that technological advances in software recognition have sufficiently developed to the point where a third-party can reverse engineer a data plot figure easily, and therefore BC Hydro declined to provide the requested information to interveners. The ability to extract this data, combined with other information which may be publicly available, would provide a third party with insight in determining in detail the depth of BC Hydro's energy needs, and potential import and export requirements and opportunities. This would, in turn, harm BC Hydro's ratepayers because a third-party could use this information to plan for import and export opportunities for their benefit at the expense of BC Hydro's ratepayers or other participants in the electricity market that are seeking to sell their electricity to BC Hydro. As such, BC Hydro submits that the Confidential CEC IR Response should not be released to interveners.⁴

In BC Hydro's experience, electronic copies of information cannot be easily returned due to the nature of distribution, or destroyed, due to the automatic back-up protocols employed by many organizations. If the BCUC

² Exhibit C10-4.

³ Exhibit B-20, p. 2

⁴ Exhibit B-20, pp. 2 - 3

were to order the release of the Confidential Responses to interveners on undertakings, BC Hydro respectfully requests that the BCUC consider the following additional terms:

- Receipt of the Confidential Responses on a labelled, password-protected memory stick;
- Disabling of any automatic back-up function on the PC with regard to the information contained in the Confidential Responses; and
- Return of the memory stick (including any notes or memoranda based on the confidential information contained on the memory stick) to BC Hydro upon the conclusion of the proceeding.

BC Hydro expects it would be able to provide the confidential responses on the above terms to interveners who request it no later than October 13, 2022, and suggests that IRs related to the Confidential Responses could be submitted by October 20, 2022.⁵

Panel Determination

The Panel determines that BC Hydro's responses to Capital Power IRs 1.2.1.1, 1.2.1.2, 1.2.1.3, and 1.2.2.1, and CEC IR 1.90.1 remain confidential, and that by no later than October 13, 2022, BC Hydro must provide the responses to those interveners who:

- **Request access to the confidential Capital Power IR responses and/or CEC IR 1.90.1;**
- **Have executed the appropriate BCUC confidentiality declaration and undertakings; and**
- **Do not have current or potential commercial interests which may conflict with BC Hydro. For greater certainty, the Panel denies Capital Power's request to access BC Hydro's confidential responses to Capital Power IR .**

The Panel agrees with BC Hydro that the information contained in the confidential intervener IR responses would provide a potential advantage to parties who may undertake commercial negotiations with BC Hydro, and would therefore prejudice BC Hydro's negotiating position, which in turn may potentially harm ratepayers. However, the Panel does not consider that all interveners in this proceeding have commercial interests that would conflict with BC Hydro's commercial interests. In the interests of transparency, the Panel does not see a compelling reason to deny access to those interveners where there is no potential for commercial interests that are in competition with those of BC Hydro, provided the interveners meet the conditions required to protect the confidentiality of the information.

Where there are requests for access to confidential IR responses by an intervener whom BC Hydro considers to have a potential conflict with BC Hydro's commercial interests, the BCUC requests that BC Hydro inform the BCUC as soon as possible, providing reasons for its objections. With respect to Capital Power, the Panel finds that BC Hydro has sufficiently demonstrated that Capital Power has commercial interests that conflict with BC Hydro. Namely, that Capital Power may engage in future negotiations with BC Hydro with respect to the sale of electricity. Accordingly, Capital Power's request to access the Capital Power IR responses is denied.

⁵ Exhibit B-20, pp. 3 – 4.

The Panel has considered the submissions of BC Hydro and determines that in the interests of providing additional safeguards to protect the confidentiality of commercial sensitive information, that BC Hydro provide the confidential IR responses to interveners, as required, under the following additional terms:

- Receipt of the Confidential Responses on a labelled, password-protected memory stick;
- Disabling of any automatic back-up function on the PC with regard to the information contained in the Confidential Responses; and
- Return of the memory stick (including any notes or memoranda based on the confidential information contained on the memory stick) to BC Hydro upon the conclusion of the proceeding.

Finally, noting the time required to disclose the confidential IR responses, the Panel extends the deadline for the filing of IR No. 2, for IRs pertaining to the confidential intervener IR responses only, to October 20, 2022.