

IN THE MATTER OF the Utilities
Commission Act, S.B.C. 1980, c. 60

and

IN THE MATTER OF an Application by
the Corporation of the City of Nelson

DECISION
July 9, 1982

Before:
M. Taylor, Chairman; and
J.D.V. Newlands, Deputy Chairman

The Application of the Corporation of the City of Nelson dated August 24, 1981 was heard on June 8 and 9, 1982 in Nelson, British Columbia.

The Division of the Commission comprised M. Taylor, Chairman and J.D.V. Newlands, Deputy Chairman.

TABLE OF CONTENTS

	<u>Page No.</u>
Appearances	(i)
List of Exhibits.	(ii)
I. Introduction	1
II. Application.	2
III. Decision	3
IV. Order.	5

APPEARANCES

C.B. Johnson	Commission Counsel
K.E. Gustafson	for Applicant, City of Nelson
J.W.M. Wilson	for West Kootenay Power and Light Company, Limited
G. Suggitt	for Advisory Planning Commission - Area E
Hearing Secretary	R. Harper
Commission Staff	J. Hodson
Court Reporter	Allwest Reporting Ltd.

List of Exhibits

	<u>Exhibit No.</u>
Commission Order No. G-13-82	1
Commission Order No. G-28-82	2
Affidavit - Notice of Hearing	3
Supplemental Submission to the British Columbia Utilities Commission dated November 1981	4
Supplemental Submission to the British Columbia Utilities Commission Number Two	5
Copy of Pages 167-168-169-170-171-172 and 173 of the Municipal Act	6
Letter from Berg and Naqvi Accountants to Mr. Moseley, Treasurer of City of Nelson	7
Reporting form for utilities under department of Municipal Affairs	8
Utility capital fund balance sheet	9
Table I - Existing Residential Rates	10
B.C. Hydro Power Rates	11
West Kootenay Power Rates	12
Submission by West Kootenay Power and Light Company, Limited dated May 14, 1982	13

I. INTRODUCTION

The City of Nelson ("City"), located on the West Arm of Kootenay Lake, supplies electrical service to customers within the City and the rural areas adjacent thereto.

The Utilities Commission Act exempts from regulation a municipality providing service within its boundaries but does not exempt a municipality providing service outside its boundaries.

Presumably this situation exists due to the fact that the City residents are protected by the Municipal Act.

The City of Nelson commenced electrical service in 1898 and was able to generate sufficient electricity from its own resource until 1956 to meet the needs of both its residents and those in the adjacent rural area. Since 1956 it has been necessary to purchase increasing amounts of energy from West Kootenay Power and Light Company, Limited ("West Kootenay") to meet the expanding requirements of the service area. These purchases increased dramatically after 1977 and currently comprise in excess of 50% of the load. The dramatic increase after 1977 results from a restriction in the generating capability caused by the Canal Plant Agreement between B.C. Hydro, Cominco Ltd. and West Kootenay, which, although it deprived the City of Nelson of generating capability, increased the utilization of the stream flow. The City received from B.C. Hydro an arbitration award of \$425,000 plus interest calculated at 4%, resulting from land expropriation procedures.

The City currently supplies approximately 4,300 customers within its boundaries and 2,000 and 700 respectively, outside its boundaries, on the North and South shores. The North shore is located across Kootenay Lake from the City.

West Kootenay, and Mr. Suggitt representing Area E which includes the South shore, appeared as intervenors. West Kootenay did not totally oppose the City's Exemption Application but rather supported the granting of the exemption providing that as a condition the City was not exempted from Section 65 of the Act, which relates to discrimination in rates.

Area E initially supported the exemption but, when it was determined that a rate increase to South shore customers would result, changed their position and opposed it.

II. APPLICATION

By Application dated August 27, 1981, the City requested exemption under Section 103(3) of the Utilities Commission Act. By Order G-28-82 the Application was set down for public hearing commencing June 8, 1982 at the City of Nelson.

Order G-28-82 instructed the City of Nelson to publicize the Notice of Hearing in one issue of the newspaper circulated generally in its service area.

The Commission has considered the evidence given by the City and is of the opinion that although there may be merit in the concept of an exemption the scheme has not been developed to the point where the Commission is satisfied that the interests of the rural customers are adequately protected.

However, the Commission accepts the arguments put forward by the City that the accounting systems used by municipalities and private corporations are different and to attempt to maintain more than one set of statements is a costly and time-consuming process. The Commission also appreciates the City's concern that duplicate regulation, by both the Ministry of Municipal Affairs and this Commission, is not in the public interest.

III. DECISION

The Commission believes that the existing system, which has been in operation for many years is the most efficient and cost-effective and should only be modified to include the South shore outside the City boundaries.

The existing system in essence ties the rural rates to the City rates by applying a multiplier to the rates established within the City.

The Commission finds that the existing differential is reasonable at this time and, to ensure equitable treatment, must be applied to customers on the South shore.


If in the future this differential is determined to be either insufficient or excessive an Application should be made to the Commission to adjust the differential.

After due consideration of the evidence and arguments of the parties present the Application for Exemption is denied.

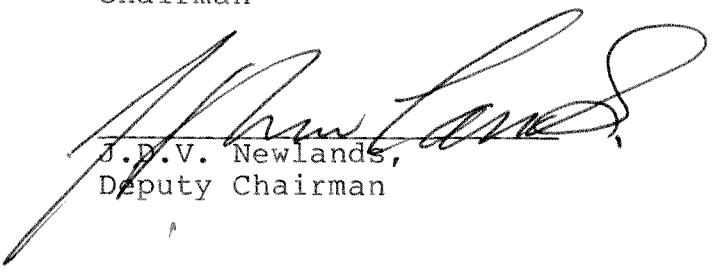
In conjunction with the above denial the Commission has considered the rates for both the North and South shore and finds the existing rates on the North shore to be just and reasonable and directs that the City, as soon as possible, file new Tariff Rate Schedules to reflect the same rate differential on the South shore.

Accordingly, with the exception of that portion which is represented by West Kootenay Power and Light Company, Limited interim rates, the existing interim rates are to be firm rates inclusive of the appropriate differential on the South Shore.

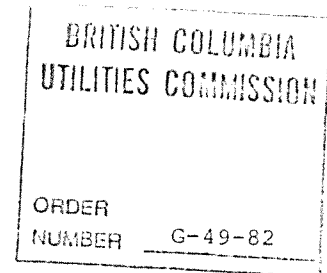
DATED at the City of Vancouver, in the Province of British Columbia this 9th day of July, 1982.



M. Taylor,
Chairman



J.D.V. Newlands,
Deputy Chairman



PROVINCE OF BRITISH COLUMBIA
BRITISH COLUMBIA UTILITIES COMMISSION

IN THE MATTER OF the Utilities Commission
Act, S.B.C. 1980, c. 60

and

IN THE MATTER OF an Application by the
Corporation of the City of Nelson

BEFORE: M. Taylor,)
Chairman; and) July 9, 1982
J.D.V. Newlands,)
Deputy Chairman)

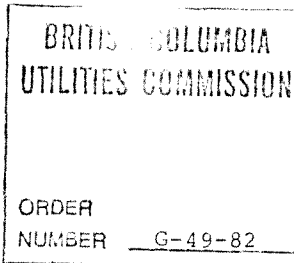
O R D E R

WHEREAS the Corporation of the City of Nelson
("City of Nelson") applied August 24, 1981, pursuant to
Section 103(3) of the Act, for an Order of the Commission
exempting from Part 3 of the Act the electric utility
operations of the City involved in the provision of electric
service to areas outside the City boundaries; and

WHEREAS Commission Order No. G-28-82 dated
March 19, 1982 established that a public hearing concerning
the Exemption Application by the City of Nelson, would
commence in that City on Tuesday, June 8, 1982 at 10:00 a.m.;
and

WHEREAS the Commission heard the Application in
public forum on June 8 and 9, 1982; and

. . . 2



WHEREAS the Commission had considered the Application and the evidence adduced thereon all as set forth in a Decision issued concurrently with this Order.

NOW THEREFORE the Commission hereby orders the City of Nelson as follows:

1. The Commission denies the Exemption Application and directs that the existing system pertaining to rate regulation of the City's electric utility continue in effect, modified only to include South Shore customers in the same relationship as North Shore customers effective September 1, 1982, from which time both North and South Shore customers' rates will embody the same differential over City customer rates.
2. In order to clarify the matter of interim rates declared effective from time to time in the past the Commission accepts as firm, effective immediately all such past interim rates, save and except those arising from pass-through of interim awards by West Kootenay Power.

Therefore the interim rates included in the following Commission Orders are declared firm effective immediately:

G-47-78; G-46-80; U-G-28-80; G-25-81;
G-13-82 (a 4% interim increase only);
G-71-81 and G-28-82.

The interim rates included in the following Commission Orders remain interim rates awaiting a Decision arising from a West Kootenay Power Hearing concluded on October 16, 1981:

G-17-79; G-48-80; U-G-24-80; and
G-13-82 (a 7.9% interim increase,
together with a 0.316¢/Kwh increase
only).

DATED at the City of Vancouver, in the Province
of British Columbia, this 9th day of July, 1982.

BY ORDER

N. Gauthier
Chairman

DOCUMENT SUMMARY

Document Id: 0161A
Document Name: DECISION - CITY OF NELSON
Operator: C. SMITH
Author:

Comments: Glossary 0005

STATISTICS

OPERATION	DATE	TIME	WORKTIME	KEYSTROKES
Created	06/17/82	11:05	:34	5168
Last Revised	07/13/82	12:37	:01	14
Last Printed	07/19/82	08:18		
Last Archived	07/09/82	17:02	onto Diskette	0044A

Total Pages:	9	Total Worktime:	2:33
Total Lines:	128	Total Keystrokes:	13785

Pages to be printed: 9