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BRITISH COLUMBIA
UTILITIES COMMISSION

ORDER
NUMBER G-7-96

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

and

An Application by Kanelk Transmission Company Limited
for Approval of Rates for Transmission and Other Services

BEFORE: K.L. Hall, Commissioner and)
Chairperson of the Division; and) January 25, 1996
F.C. Leighton, Commissioner)

O R D E R

WHEREAS:

- A. On September 18, 1995 a public hearing commenced into the Kanelk Transmission Company Limited ("Kanelk") April 28, 1995 application for approval of rates pursuant to Section 64 of the Utilities Commission Act ("the Act"), for transmission and other services provided by, or through, Kanelk to British Columbia Hydro and Power Authority ("B.C. Hydro") effective June 1, 1995, January 1, 1996 and January 1, 1997; and
- B. Commission Decision and Order No. G-76-95 concluded that the Kanelk service to B.C. Hydro is not an interprovincial undertaking and falls within the jurisdiction of the Commission; and
- C. Commission Decision and Order No. G-87-95 determined the rate base and rates to be collected from B.C. Hydro for the test years ending December 31, 1996 and December 31, 1997; and
- D. On November 14, 1995 Kanelk applied, pursuant to Section 114 of the Act that the Commission reconsider, vary and rescind the portion of the Decision determining the approved value of the plant for rate-making purposes; and
- E. The Commission has considered the Application, all as set forth in the Reasons issued concurrently with this Order.

NOW THEREFORE the Commission has determined that it will neither rescind nor vary its October 17, 1995 Decision and Order No. G-87-95.

DATED at the City of Vancouver, in the Province of British Columbia, this 26th day of January, 1996.

BY ORDER

Original signed by:

Kenneth L. Hall
Commissioner and
Chairperson of the Division

Attachment

Orders/Kanelk-Approval of Rates

**Kanelk Transmission Company Limited
1995 Revenue Requirements Application
Reconsideration Application
Reasons**

A. Background

Kanelk Transmission Company Limited ("Kanelk", "Utility") is a wholly-owned subsidiary of TransAlta Utilities Corporation ("TransAlta") owning and operating a 138 kV transmission line and associated facilities in British Columbia, with facilities connecting to TransAlta's grid in Alberta at Pocaterra and Coleman and to the grid of the British Columbia Hydro and Power Authority ("B.C. Hydro") at Natal, B.C.

The line was built originally to supply electricity from Pocaterra to the Coleman area of southern Alberta. In 1972, Kanelk undertook to transport electricity for B.C. Hydro in a counter-flow direction from Natal to B.C. Hydro customers in the Elk Valley region. Service charges to B.C. Hydro were established by Kanelk through a series of Letters of Agreement. Beginning in 1989, Kanelk, recognizing a diminishing economic value to TransAlta of the section of line between Pocaterra and Natal, attempted, without success, to negotiate an increased rate for the service provided to B.C. Hydro. On April 28, 1995 Kanelk applied to the British Columbia Utilities Commission ("the Commission") for approval of rates proposed for 1995, 1996 and 1997.

On October 17, 1995 the Commission issued Decision and Order No. G-87-95 establishing a rate base and the 1995, 1996 and 1997 revenue requirements for Kanelk.

On November 14, 1995 Kanelk applied, pursuant to Section 114 of the British Columbia Utilities Commission Act ("UCA"), that the Commission consider, vary and rescind the following aspect of the Decision:

". . . for the purpose of establishing rates which shall now be paid by B.C. Hydro, the Commission finds that, as at January 1, 1995, the beginning of the first test period of the Application, the approved value of the plant for rate making purposes is \$833,744, being the recorded plant additions from January 1, 1990." (Decision p.11)

Kanelk alleges that this aspect of the Decision was based on fundamental errors of fact and law and raises a basic principle that had not been raised in the original proceedings. Kanelk urges the Commission to restore some \$1.1 million of rate base which the Utility alleges was inappropriately disallowed. In the alternative, Kanelk requests that the Commission rehear the Revenue Requirement Application to receive evidence from the Utility with respect to why it would not have written down the value of its plant, and other evidence as to the appropriate value of the property to be included in rate base as at January 1, 1995. The Kanelk Reconsideration Application argues that the rate base established by the Commission will be

"insufficient to yield a fair and reasonable compensation for the service rendered by the utility, or a fair and reasonable return on the appraised value of its property, . . . " .

The Commission issued Order No. G-95-95 providing an opportunity for parties to comment on the Reconsideration Application and an opportunity for Kanelk to reply to those written submissions. B.C. Hydro provided a written submission on December 7, 1995 and Kanelk responded on December 14, 1995.

The B.C. Hydro submission assessed the Kanelk Reconsideration Application based on the Commission's criteria for reconsideration. The factors that the Commission has established for reconsideration include the following:

- The Decision must show an error of fact or law;
- There must have been a fundamental change in circumstances or facts since the Decision;
- A basic principle was not raised in the original proceedings, culminating in the Decision; or
- A new principle has arisen as a result of the Decision.

B.C. Hydro argued that the Commission had substantial evidence relating to net plant value and rate base presented at the hearing and that no new factors had been established by Kanelk to satisfy the reconsideration criteria.

The Kanelk reply stated that "Kanelk's request for reconsideration is based principally on the belief that the Commission erred in finding that Kanelk would, upon determining that the full facilities were not required for TransAlta, *"have written down the value of it's plant to reflect it's reduced earning power"*, a finding that Kanelk submits has no bases in the evidence or in normal utility practice".

B. Decision

Kanelk does not allege any fundamental change in circumstances or facts since the Decision.

Kanelk's request for reconsideration appears to concede that the Commission has the authority and, indeed, the responsibility to determine a fair and reasonable rate, of which the Commission is the sole judge under the UCA. The reconsideration request is essentially based on the allegation that the Commission erred in that it failed to set a rate which would yield a fair and reasonable return on the appraised value of Kanelk's property.

In view of the fact that Kanelk takes no specific issue with those portions of the Decision dealing with return on rate base, it is clear that the sole issue is the value of the rate base used by the Commission in setting the rate to be charged. In determining a rate, the Commission is required by Section 66(1)(a) of its UCA to "consider all matters that it considers proper and relevant". This is, in fact, exactly what the Commission did in this instance, although it is apparent from the text of the Reconsideration Application that Kanelk has interpreted the Decision in a more narrow way than the Commission intended.

As stated in the December 14, 1995 letter from its counsel, "Kanelk's request for reconsideration is based principally on the belief that the Commission erred in finding that Kanelk would, upon determining that the full facilities were not required for TransAlta, *"have written down the value of its plant to reflect its reduced earning power"*, a finding that Kanelk submits has no basis in the evidence or a normal utility practice". In the view of the Commission, this Submission is without merit. The Commission did not, as alleged on Page 8 of the Reconsideration Application, "remove these facilities from the rate base. . . ". There was no removal of items from the rate base because, in the case of Kanelk, there was no rate base prior to the issuance of the Decision. Kanelk was not actively regulated by the Commission in 1990. Kanelk did not even apply for approval of rates by the Commission until April 28, 1995. The Commission's Decision therefore reflects the best judgment of the Commission on what would be a fair rate base at January 1, 1995 and it was, in reality, the result of an amalgam of a wide range of considerations.

However, the Commission is sufficiently concerned by the statement, in the December 14, 1995 letter from counsel for Kanelk, that "the Decision is an important regulatory precedent, not just to Kanelk but to all regulated utilities in British Columbia" that it feels compelled to augment the explanations of the approved Decision by outlining the range of matters it considered in reaching its conclusion. This is important, insofar as the Kanelk situation is not typical of other utilities under Commission regulation. This was a utility coming under Commission jurisdiction for the first time after 40 years of operation, presenting conflicting evidence as to services rendered at any particular point in time and for which records, capital asset valuation and depreciation were uncertain and repeatedly amended right up to the hearing process itself.

The Kanelk interpretation that the use of the 1995 figure of \$883,774 implies a zero rate base at December 31, 1989 is misleading and not what the Commission intended. Kanelk's own financial statements showed that the Utility was receiving a 10.1 percent return on its plant right up to 1994 with revenues from TransAlta, for whom, by Kanelk's own admission, the company was providing little or no service since 1989. Evidence adduced at the hearing indicated that these circumstances may have begun to apply as early as 1978. Had the Commission accepted the view espoused by Kanelk's financial statements, it could equally well have allocated 50 percent, or some other intermediate percentage, of the

value of post-1989 new investment to TransAlta during this period and allocated only the balance to B.C. Hydro. Instead, based on a mosaic of considerations, unique to this utility, it chose a figure for the 1995 rate base which it deemed would yield a fair and just return to Kanelk from B.C. Hydro during 1995 and would provide a fair and just basis for subsequent rates. In determining the opening 1995 rate base, the bulk of the evidence indicated that the additions since 1990 had been incurred prudently and were for the benefit of B.C. Hydro because the facilities had little economic value to TransAlta. Evidence presented for the period prior to 1990 was conflicting regarding the accounts of plant additions and depreciation rates, the accounting policies that Kanelk might prudently have followed, the tax filings of Kanelk and TransAlta, the regulatory filings of TransAlta in Alberta and the implications for rate base of the contracts between Kanelk and B.C. Hydro.

Page 11 of the Decision provides an attempt to reflect some of the issues considered in reaching a conclusion. Insofar as they do not reflect the full range of considerations behind the Commission's Decision they appear to have led Kanelk to believe that they may have been the only issues considered. The Commission concedes that, in this respect, this aspect of the Decision may have been misleading and it provides these additional reasons to clarify the multiplicity of factors it assessed in establishing a fair rate base valuation as at January 1, 1995.

The Decision of the Commission, as reflected in Order No. G-87-95, set rates which allowed for the full recovery of all out-of-pocket expenses, plus a return of 12.5 percent on equity, on the total post-1989 investment made by Kanelk largely for the benefit of B.C. Hydro. This resulted in a 500 percent increase in the rate to be charged B.C. Hydro by Kanelk. This is an unusually large percentage increase in rates in any one year but is considered by the Commission to be fair, just and reasonable in light of the unique circumstances surrounding the situation.

The Commission also determined that a recovery of all operating costs plus a 12.5 percent return on equity to Kanelk for those capital expenditures made largely for the benefit of B.C. Hydro is also fair, just and reasonable within the terms of the Act for the transmission wheeling services provided.

The Commission is satisfied that, during the hearing, it was provided with sufficient evidence to understand clearly all circumstances related to the Kanelk Application to enable it to set appropriate rates for the test years. The Commission determines that it has committed no errors in fact or in law in the October 17, 1995 Decision, that the Kanelk Reconsideration Application does not meet the Commission's criteria for reconsideration and the Reconsideration Application is therefore denied.