



IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

An Application for Reconsideration of Commission Order No. G-50-01

BEFORE: P. Ostergaard, Chair)
B.L. Clemenhagen, Commissioner)
R.D. Deane, Commissioner) September 20, 2001
K.L. Hall, Commissioner)
N.F. Nicholls, Commissioner)

O R D E R

WHEREAS:

- A. On May 20, 1999, British Columbia Hydro and Power Authority ("B.C. Hydro") applied to the Commission to extend service to Meziadin Lake and to finance the customers' capital contribution by way of a surcharge estimated to be 15.6¢/kWh over existing rates, which would remain in place until such time as the community's share of the capital and financing charges are repaid; and
- B. By Order No. G-61-99 dated June 3, 1999, the Commission approved B.C. Hydro's application and the collection of the required customer contributions by way of a surcharge over existing Electric Tariff rates; and
- C. Order No. G-61-99 further required B.C. Hydro, upon completion of the project, to file in Tariff Supplement format, the calculation and amortization of the surcharge to be used to bill customers connecting for service; and
- D. On January 17, 2000, pursuant to Section 61(1) of the Utilities Commission Act ("the Act"), B.C. Hydro advised the Commission that the line to Meziadin Lake was completed and applied to the Commission for approval to charge customers an interim surcharge of 15.6¢/kWh based on the projected construction costs commencing with integrated service; and
- E. By Order No. G-10-00 dated January 27, 2000, the Commission approved the collection of an interim surcharge of 15.6¢/kWh effective from the date that the line was energized and service commenced until such time as the final surcharge calculation had been completed and consultations had been held with Meziadin Lake customers regarding the duration and amount of the final surcharge; and
- F. By letter dated February 15, 2001, B.C. Hydro advised the Commission that while the consultations required by Order No. G-10-00 had taken place, no resolution had been found. B.C. Hydro applied for approval of Tariff Supplement No. 47, which provided for a final surcharge of 15.6¢/kWh over a 12-year period; and
- G. By letter dated February 27, 2001, addressed to Ms. Rose Smith, Meziadin Residents' Association and copied to other Meziadin customers, the Commission requested comments from Ms. Smith and other Meziadin customers by March 15, 2001; and

- H. Upon reviewing the comments received and B.C. Hydro's response to these comments, the Commission issued its Decision and Order No. G-50-01 dated May 16, 2001 (the "Decision"). The Order established the parameters for the calculation of a surcharge (effectively 14.5¢/kWh), which is to remain in effect until the balance of the customers' share of the capital and financing charges are repaid; and
- I. On August 1, 2001, Ms. Smith applied for a reconsideration of the Decision pursuant to Section 99 of the Act; and
- J. B.C. Hydro delivered its response to the reconsideration application by letter dated September 6, 2001; and
- K. The Commission has considered the application for reconsideration and B.C. Hydro's response.

NOW THEREFORE the application for a reconsideration of the Decision and Order No. G-50-01 is denied pursuant to the Reasons for Decision attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of October 2001.

BY ORDER

Original signed by:

Peter Ostergaard
Chair

Attachment

AN APPLICATION FOR RECONSIDERATION
OF COMMISSION ORDER NO. G-50-01

REASONS FOR DECISION

Introduction

On May 16, 2001, the Commission issued its Decision and Order No. G-50-01 (the “Decision”) setting the parameters for the calculation of a surcharge, which is effectively 14.5¢/kWh. The Meziadin Lake extension was energized on January 12, 2000. The surcharge is to be collected to pay for the customers’ share of the capital and financing charges and is to remain in effect until these costs are repaid.

British Columbia Hydro and Power Authority (“B.C. Hydro”) had applied for a 15.6¢/kWh surcharge based on a 12-year amortization period. B.C. Hydro’s application was opposed by, among others, Ms. Rose Smith. Ms. Smith, on behalf of the residents and businesses of Meziadin Lake, applied for a reconsideration of the Decision pursuant to Section 99 of the Utilities Commission Act (the “Act”) by facsimile dated August 1, 2001. B.C. Hydro delivered its response on September 6, 2001.

Prima Facie Test on Applications for Reconsideration

Before accepting an application for reconsideration, an applicant must first establish a prima facie case sufficient to warrant full consideration by the Commission. The Commission generally applies the following criteria to determine whether or not a reasonable basis exists for allowing a reconsideration:

1. The Commission has made an error in fact or law;
2. There has been a fundamental change in circumstances since the Decision;
3. A basic principle was not raised at the original proceeding; or
4. A new principle has arisen as a result of the Decision.

The Application

The application for reconsideration alleges that the Commission made errors in fact and further alleges that basic principles, although raised, were not addressed by the Commission. The Commission will address the allegations in order and in the context of the two criteria which may apply.

Has the Commission made an error in law or fact?

There are six allegations made for which this criterion applies.

The first allegation, and that alleged as the most significant error in fact, was the B.C. Hydro assertion that customers made earlier agreements consenting to a surcharge of approximately 15.6¢/kWh. In its Decision of May 16, 2001, the Commission concluded that the original agreement between the parties, upon which the extension approvals were based, contemplated a surcharge of 15.6¢/kWh over a 10-year period.

B.C. Hydro's Meziadin Lake Extension and Surcharge Application, dated May 20, 1999, provided for a surcharge of 15.6¢/kWh. It contained a letter of support from the Meziadin Lake Fellowship Association, dated September 21, 1998, which states:

“Provided the “Customer Non-Refundable Contribution under the UEA Policy” is incorporated into the surcharge, we intend to sign up for electricity service once BC Hydro has completed its project and we intend to pay for the service based on the appropriate surcharge.”

Ms. Smith is one of the individuals who signed the Association's letter.

The Association's letter was sent under cover of a letter from the law firm of Bull Housser & Tupper, dated October 5, 1998, describing the Association's letter as “approving in principal (sic) the surcharge proposed by B.C. Hydro”. It indicated that the Association's letter is signed by 13 of the principal residents. It further states that the six other full time residents were away and unable to sign, but had signed when the Association was formed in 1996 for the purpose of applying for B.C. Hydro service.

A B.C. Hydro project bulletin, mailed to Meziadin residents in March 1999, makes explicit reference to a 15.6¢/kWh “surcharge estimate”, its rationale, and its final calculation, in a six paragraph section entitled “Making the project affordable for Meziadin customers”.

Based on this evidence, the Commission concluded that the residents had agreed to a surcharge of approximately 15.6¢/kWh prior to the construction of the extension. The Commission also notes that on the evidence before it, no complaints were made to the estimated surcharge until after B.C. Hydro had received approval from the Commission and constructed the extension.

The Commission determines that the first allegation does not constitute an error in fact and, therefore, fails as a ground for reconsideration.

The second allegation of an error in fact relates to the Commission's reference to an earlier application by the community of Winter Harbour, in which the Commission applied the existing extension tariffs to determine the customer contribution and then allowed those customer costs to be repaid in the form of a surcharge on the rates. The second allegation states that the surcharge for Meziadin Lake customers becomes inappropriate because it includes substation costs, which were not part of the Winter Harbour extension costs. The allegation also seeks to distinguish the Winter Harbour extension on the basis of the greater financial impact the surcharge has on the Meziadin Lake customers.

The Winter Harbour extension was a 23-km distribution line completed in 1990 from the existing Holberg Substation to Winter Harbour. The customer contribution was paid for by an 11.55¢/kWh surcharge.

Extension costs are based on the actual costs of installing the facilities needed to serve a customer or customers and the customer contribution to those costs are based on the approved extension tariffs and determined in accordance with the formulas of those tariffs. By granting its approval for the extension to Meziadin Lake, the Commission determined that B.C. Hydro had applied its tariffs correctly.

This ground for reconsideration must also fail.

The third allegation of an error is that the Province should absorb the costs of the extension, as it is the chief beneficiary of the extension by avoiding potential environmental costs from oil spills from its generator.

The principle of appropriate cost sharing of extension costs is incorporated as a basic principle for B.C. Hydro's extension tariffs and was approved at the time of the approval for the extension tariffs. The nature of the surcharge ensures that the largest users will pay the greatest amount. Therefore, this ground for reconsideration must also fail.

The fourth allegation in support of a reconsideration is that the tenants of the British Columbia Buildings Corporation ("BCBC") were never consulted and now are directly responsible for hydro costs due to a change in the terms of their tenancy.

The terms of the tenancy are an issue between BCBC and its tenants and would not be considered in setting the final surcharge. However if, as a result of the changed tenancy conditions tenants no longer elected to be customers and the estimated load used to calculate the surcharge was less than anticipated, then the length of time required to pay back the financing costs would increase. The possibility of load not materializing was considered when approval was given for the amount of the surcharge.

This ground for reconsideration also fails.

The fifth allegation of error in fact is that the Commission erred in considering BCBC's agreement to the surcharge. At the time of the Decision BCBC was no longer a customer of B.C. Hydro as it was now requiring its tenants to pay the costs of B.C. Hydro service. This argument was also before the Commission at the time of its Decision.

The calculation of the surcharge is dependent on the forecast load in the Meziadin area. If the load is transferred from one customer to another it does not affect the calculation of the surcharge or the determination of the appropriate charges. If a load leaves the area or load forecasts do not materialize, then the length of time the surcharge is in place will increase.

The Commission did not consider the fact that BCBC was no longer a customer to be relevant to the determination of the surcharge.

This ground for reconsideration, therefore, also fails.

The sixth and final allegation of an error in fact relates to the claim that the Meziadin Lake Fellowship Association has been defunct for two years.

This fact is not relevant as the Commission has consistently sought the views of the residents of Meziadin Lake, not just the Meziadin Lake Fellowship Association. Upon receiving B.C. Hydro's application for a final surcharge, the Commission sent a letter dated February 27, 2001 to Ms. Rose Smith, Meziadin Resident's Association, and copied to other Meziadin customers seeking comments on the application. In response to this letter the Commission received comments from Ms. Smith and a petition with approximately 52 signatures that apparently belong to Meziadin residents. Moreover, Ms. Smith is claiming to be acting on behalf of the residents and she has been informed on all correspondence. In any event, the Decision is not contingent upon the existence of the Meziadin Lake Fellowship Association.

This ground for reconsideration must also fail.

Was a basic principle not raised at the original proceeding?

Ms. Smith makes three allegations to support a reconsideration under this criterion. However, the Commission notes that Ms. Smith acknowledges that the principles were, in fact, raised prior to and during the original proceeding. The allegation must, therefore, fail on that acknowledgement alone since they were before the Commission when it made its decision.

The first allegation said to fall under this heading is that B.C. Hydro did not respond to various creative ways in dealing with the surcharge. The applicant identified a request from the regional district for a surcharge that did not include financing costs and would be recovered over several time periods (10, 15, 25 years). The Commission, in fact, responded to the issue of financing charges by setting a lower rate of financing than the rate B.C. Hydro requested. The basic principle of requiring financing charges to be collected as part of the surcharge was determined as part of the original Certificate of Public Convenience and Necessity Application by Order No. G-61-99. This ground for reconsideration must fail.

The second ground said to fall under this heading is the claim that Meziadin Lake customers are being discriminated against when compared to Rate Zone II (Non-Integrated Area) customers. This allegation was also before the Commission at the time of its Decision. The Commission determined it to be without merit as B.C. Hydro's extension policies are the same for all customers regardless of their rate zone. This allegation, therefore, must also fail as a ground for reconsideration.

The third and final ground said to fall under this heading is that the Commission continues to ignore the basic principle of affordable electricity. This point was central to all Commission decisions and therefore not ignored. The purpose of this extension is to deliver reliable electricity from the integrated system of B.C. Hydro to Meziadin Lake customers at a rate per kWh, inclusive of a surcharge, that is less than the kWh cost previously faced by those customers. After payment of the loan through the surcharge, the rates for electricity will be equivalent to those throughout the B.C. Hydro integrated service area. It is a fundamental premise in the approval of the application that the extension and surcharge represents an affordable and reliable solution to Meziadin Lake's electricity supply issues. This ground for reconsideration must also fail.

Commission Determination

Accordingly, the Commission determines that the applicant has not met the prima facie test for a reconsideration. The application is denied.