



LETTER NO. L-18-02

ROBERT J. PELLATT
COMMISSION SECRETARY
Commission.Secretary@bcuc.com
web site: <http://www.bcuc.com>

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. CANADA V6Z 2N3
TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

Log No. 476, 496, 653, 692, 819,
881, 889, 988, 1005, 1072

May 2, 2002

Mr. Alan Wait
Box 2663
Grand Forks, B.C. V0H 1H0

Dear Mr. Wait:

Re: UtiliCorp Networks Canada (British Columbia) Ltd. ("UNC") and
Columbia Power Corporation/CBT Energy Inc. ("CPC/CBT")
Complaint regarding the Brilliant Power Purchase Agreement

This letter responds to your complaint of January 10, 2002, which requested a reconsideration of the Commission decision to approve the 1996 Brilliant Power Purchase Agreement.

As stated in the Commission's letter of January 18, 2002 (copied to you), the Commission applies the following criteria to determine if there is a reasonable basis to allow a reconsideration of a Commission decision:

- The Commission has made an error in fact or law;
- There has been a fundamental change in circumstances or facts since the decision;
- A basic principle had not been raised in the original proceedings; or
- A new principle has arisen as a result of the Decision.

The Commission exercises its discretion to reconsider in other situations where it considers there to be just cause. The Commission's discretion to reconsider and vary a decision or order is applied with a view to ensuring there is consistency, predictability and certainty in the Commission's decision making.

The Commission has considered your submissions of January 10, March 7, and April 26, 2002 as well as the responses of UNC of February 8, and April 10, 2002 and CPC/CBT of February 18, and April 12, 2002. Although not a determining factor in this case, the Commission notes that the passage of time between the decision and the complaint is six years and must be considered when evaluating the impacts on regulatory certainty. The Commission must also weigh the arguments in the context of the circumstances that existed in 1996.

The Commission understands your complaint to be based on two principal issues. The first issue is whether the discount rate used in comparing the net present values (NPV) of all the options available to UNC was too high and thus favored the present contract. The discount rate used was 8%, applied to 1996 dollars. The second issue is whether the Commission erred by approving a model of payment, which deferred payment from the initial years of the contract in order to keep rate impacts low in the initial years. You suggest that this creates a larger than necessary total cost of the power purchases and creates inter-generational inequities, thus violating a basic rate-making principle. You further argue that the Commission did not understand the impact that a payment deferral would have on total charges to ratepayers when compounded at 12.5%.

Another issue you raise is that evidence was withheld during the original hearings because other financial models were not considered. You also note that the Capital Upgrade expenditures are larger than forecast and now actual rates will not be comparable to the rates shown in the NPV appendices (Appendix C). In any case, you argue that the larger Capital Upgrade expenditures would have lower costs for ratepayers if they were financed by a conventional Utility structure. You request that the Commission disallow this contract and set new conditions that model larger initial payments.

With respect to the first issue, the 8% discount rate was reviewed in the hearing and was accepted by the Commission as an appropriate rate at that time for evaluating power supply alternatives. Based on the information in your submission and other filings the Commission finds no reason to reconsider the discount rates. This issue, therefore, fails to meet any of the above criteria.

With respect to the second issue, the Commission was aware of the intergenerational impacts when it approved the contract which was back-end loaded. In fact, the Commission in allowing the contract recognized the importance of avoiding near term rate shock and therefore shifted some of the costs to the future. The Commission balanced several rate-making criteria in coming to this decision and therefore to argue the Commission did not take intergenerational impacts into account is incorrect. This issue, therefore, also fails to meet the above criteria.

In considering whether the Commission erred by not considering other financing structures in the original hearing, the Commission recognizes that it was the desire of UNC to avoid rate shock, which led to the negotiation of the present contract. There were no other models to examine because none had been negotiated which would have met the criteria of all the parties. The Commission does not consider this to be a material lack of evidence for the original decision and therefore this argument must also fail the necessary criteria.

Lastly you argue the forecast of the Capital Upgrades was incorrect and the rate shown in Appendix C will not be comparable to the actual. In approving the contract, the Commission recognized that Capital Upgrades were a forecast number and that inherent in any forecast is a degree of uncertainty. The risks of this uncertainty were considered acceptable and therefore it was implicitly understood that the rates might not be the equal to those in Appendix C. The issue of the appropriate financial structure for the charge by CPC/CBT has been addressed above.

In consideration of the above issues the Commission therefore denies your complaint and request for reconsideration.

Yours truly,

Original signed by:

Robert J. Pellatt

RWR/cms

cc: Mr. George Isherwood
Manager, Rates and Contracts Administration
UtiliCorp Networks Canada (British Columbia) Ltd.
Mr. David Bursey, Bull, Housser & Tupper
Mr. Ed Pietraszek, Corporate Secretary/Treasurer
Columbia Power Corporation