



LETTER NO. L-4-04

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VIA FACSIMILE / E-MAIL

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January 28, 2004

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«Title»
«Company»
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«Address2»
«City», «Province» «PostalCode»

Dear «Name2»:

Re: British Columbia Utilities Commission
Certificate of Public Convenience and Necessity ("CPCN") Application Guidelines

Please find enclosed draft CPCN Application Guidelines that have been prepared by the British Columbia Utilities Commission.

The current CPCN Application Requirements were established by Order No. G-133-99. The Commission intends to replace the Requirements with CPCN Application Guidelines that are developed in consultation with public utilities and other interested parties. Structuring the CPCN Application Guidelines as "guidelines" rather than "requirements" will provide applicants with flexibility to tailor their submissions for a wide range of situations and projects.

Recent amendments to the Utilities Commission Act provide for the filing of resource plans by utilities, and these resource plans are expected to provide support for and facilitate the review of CPCN applications. The Commission released its Resource Planning Guidelines on December 15, 2003.

The enclosed CPCN Application Guidelines include procedures for filing CPCN applications. They also discuss deemed CPCN's and the filing of statements regarding planned extensions to utility plant or systems.

Utilities and other interested parties are invited to provide written comments on the enclosed draft CPCN Application Guidelines by Friday, February 20, 2004.

Yours truly,

Original signed by:

Robert J. Pellatt

JBW/cms
Enclosure

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BRITISH COLUMBIA UTILITIES COMMISSION

DRAFT

Certificates of Public Convenience and Necessity

CPCN Application Guidelines

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PURPOSE AND SCOPE OF CPCN APPLICATION GUIDELINES

Section 45 (1) of the Utilities Commission Act ("UCA") states:

Except as otherwise provided, after September 11, 1980, a person must not begin the construction or operation of a public utility plant or system, or an extension of either, without first obtaining from the commission a certificate that public convenience and necessity require or will require the construction or operation.

Section 46 (1) of the UCA states:

An applicant for a certificate of public convenience and necessity must file with the commission information, material, evidence and documents that the commission prescribes.

The purpose of the CPCN Application Guidelines is to assist public utilities and other parties wishing to construct or operate utility facilities in their preparation of CPCN applications for such facilities so that the review of the applications can proceed as efficiently as possible. The Commission requires that CPCN applications be prepared in accordance with the CPCN Application Guidelines.

The scope of the information requirement for a specific application will depend on the nature of the project and the issues that it raises. Project proponents are encouraged to initiate discussions with appropriate government agencies and the public very early in the project planning stage in order to obtain an appreciation of the issues to be addressed prior to the filing of the application.

The Commission expects that, in most cases, future CPCN applications will be supported by an approved resource plan for the utility filed pursuant to Section 45(6.1) of the Utilities Commission Act. The resource plan is expected to deal with significant aspects of project justification, particularly the need for the project and the assessment of the costs and benefits of the project and alternatives.

The CPCN Applications Guidelines do not alter the fundamental regulatory relationship between utilities and the Commission. They provide general guidance regarding Commission expectations of the information that should be included in CPCN applications, while providing the flexibility for an application to reflect the specific circumstances of the utility and the size and nature of the project. The Commission may make further directions regarding information to be included in specific CPCN applications, and will generally require utilities to provide further information to supplement the material in filed applications.

DEEMED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Sections 45 (2), 45 (5) and 45 (6) of the UCA state:

(2) For the purposes of subsection (1), a public utility that is operating a public utility plant or system on September 11, 1980 is deemed to have received a certificate of public convenience and necessity, authorizing it

(a) to operate the plant or system, and

(b) subject to subsection (5), to construct and operate extensions to the plant or system.

(5) If it appears to the commission that a public utility should, before constructing or operating an extension to a utility plant or system, apply for a separate certificate of public convenience and necessity, the commission may, not later than 30 days after construction of the extension is begun, order that subsection (2) does not apply in respect of the construction or operation of the extension.

(6) A public utility must file with the commission at least once each year a statement in a form prescribed by the commission of the extensions to its facilities that it plans to construct.

In order that it can evaluate whether a public utility should apply for a CPCN for a specific extension to utility plant or systems, the Commission needs to be aware of planned extensions that are significant. This information is provided by the statement of planned extensions that a utility is required to file at least once a year.

As a guideline, the statement should be filed in a timely fashion, and should identify each discrete extension to utility plant or systems that may have a material impact on customer rates or that may raise some other significant issue. The statement should include all significant expansions or modifications to facilities or other assets that the utility is likely to initiate over the period until the filing of the next statement on extensions. A utility should inform the Commission in the event that it initiates a significant new extension that was not identified in its most recent statement on extensions. The Commission may provide more specific directions to a particular utility regarding its statements on extensions. In some cases, with the approval of the Commission, a plan of capital expenditures filed pursuant to subsection 45(6.1)(a) of the Utilities Commission Act may meet the requirements of Section 45(6).

CPCN APPLICATION PROCEDURES

An application for a CPCN, pursuant to Section 45 and 46 of the Utilities Commission Act, will be made to the Secretary, British Columbia Utilities Commission.

An electronic copy and twelve hard copies of the completed signed application should be submitted. Applications are normally considered public documents and will be made public, except where special circumstances require confidentiality.

The filed application is initially reviewed by the Commission for possible deficiencies, and this will normally generate an Information Request for response by the Applicant. Once the additional information is received, the application is reviewed by the Commission in the context of project justification, issues and concerns raised, as well as general project suitability. When necessary, the Commission may hold a pre-hearing conference on the application, and will set down a Regulatory Agenda if further review of the application is required. The Commission will make a determination on disposition that will generally be one of the following options.

- (a) Grant a CPCN without further input from the proponent or other interested parties.
- (b) Require further information from the proponent.
- (c) Set down an oral or written public hearing.
- (d) Deny the application.

Approval of a CPCN application will result in a Commission Order to the Applicant embodying the Certificate of Public Convenience and Necessity. This Order may contain terms and conditions which the Commission believes are necessary to protect the public interest.

For further information, contact:

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CPCN APPLICATION GUIDELINES

A CPCN application under Sections 45 and 46 of the UCA should contain the following information:

1. Applicant

- (i) the name, address and nature of business of the Applicant and all other persons having a direct interest in the ownership or management of the project;
- (ii) evidence of the financial and technical capacity of the Applicant and other persons involved, if any, to undertake and operate the project;
- (iii) the name, title and address of the person with whom communication should be made respecting the Application; and
- (iv) the name and address of legal counsel for the Applicant, if any.

2. Project Description

- (i) a description of the project, its purpose and cost, including engineering design, capacity, location options and preference, as well as all ancillary or related facilities that are proposed to be constructed, owned or operated by the Applicant;
- (ii) an outline of the anticipated timetable for construction and operation, together with dates by which critical events, including approvals required from other agencies, must take place to ensure continued economic viability;
- (iii) a description of any new or expanded public works, undertakings or infrastructure that will be entailed by the project, together with an estimate of the costs and necessary completion dates;
- (iv) identification and preliminary assessment of any impacts by the project on the physical, biological and social environments or on the public, including First Nations; proposals for reducing negative impacts and obtaining the maximum benefits from positive impacts; and the cost to the project of implementing the proposals; and
- (v) identification of the customers to be served by the project; and, where the project would expand the area served by the Applicant, a geographical description of the expanded service area.

3. Project Justification

- (i) reference to the Applicant's approved resource plan filed pursuant to Section 45(6.1) of the Utilities Commission Act or other studies or summary statements identifying the need for the project and confirming the technical, economic and financial feasibility of the project, identifying assumptions, sources of data, and alternatives considered (if applicable);
- (ii) reference to the Applicant's approved resource plan filed pursuant to Section 45(6.1) of the Utilities Commission Act or other study comparing the costs and benefits of the project and alternatives, which estimates the value of all of the costs and benefits of each option or, where not quantifiable, identifies the cost or benefit and states that it cannot be quantified;
- (iii) a statement identifying any significant risks to successful completion of the project; and
- (iv) a statement of the revenue requirement impact of the project and the resulting effect on the rates of customers.

4. Public Consultation

- (i) a description of the Applicant's public information and consultation program, including the names of groups, agencies or individuals consulted, as well as a summary of the issues and concerns discussed, mitigation proposals explored, decisions taken, and items to be resolved.

5. New Service Areas

- (i) the telephone number or other means by which customers will be able to contact the utility, particularly regarding an emergency;
- (ii) the facilities and trained personnel that will provide emergency response;
- (iii) the tariff including rate schedules that the Applicant proposes for customers in the new service area; and
- (iv) information confirming that the proposed rates will be competitive with other service options that are available to customers in the new service area.

6. Other Applications and Approvals

- (i) a list of all approvals, permits, licences or authorizations required under federal, provincial and municipal law; and
- (ii) a summary of the material conditions that are anticipated in the approvals and confirmation that the costs of complying with these conditions are included in the cost estimate in the Application.