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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-65-04

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

and

**Applications by FortisBC Inc., British Columbia Transmission Corporation
and British Columbia Hydro and Power Authority
for Approval of Agreements and Tariff Amendments
relating to the Kootenay 230 kV System Development Project**

BEFORE: L.F. Kelsey, Commissioner)
K.L. Hall, Commissioner) July 8, 2004
)

O R D E R

WHEREAS:

- A. In November 1999, West Kootenay Power Ltd., subsequently known as UtiliCorp Networks Canada (British Columbia) Ltd., then Aquila Networks Canada (British Columbia) Ltd. and now FortisBC Inc. ("FortisBC") applied to the Commission for a Certificate of Public Convenience and Necessity ("CPCN") for its Kootenay 230 kV System Development Project ("the Kootenay 230 kV Project") pursuant to Section 45(1) of the Utilities Commission Act; and
- B. Following a public hearing, the Commission's June 5, 2000 Decision and Order No. C-10-00 granted a CPCN for the Kootenay 230 kV Project. The Decision recognized that interconnection and cost-sharing agreements needed to be negotiated and Order No. C-10-00 directed FortisBC to submit for final approval all agreements and final cost estimates; and
- C. In January 2002, Aquila filed with the Commission its Final Project Routing, Schedule and Budget Estimates Report. Commission Order No. G-46-02 approved the final routing for the Kootenay 230 kV Project, and also approved the Brilliant Terminal Station Facilities Interconnection and Investment Agreement with Columbia Power Corporation, Columbia Basin Trust and affiliated companies dated January 31, 2002; and

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- D. On May 6, May 12, June 3 and June 8, 2004, FortisBC requested Commission approval of a total of 12 Agreements that are identified on Appendix A that is attached to this Order. FortisBC also provided a schematic diagram of facilities in the West Kootenay area that is attached as Appendix B to this Order; and
- E. The June 3, 2004 filing requested approval of the Interconnection Facilities Agreement for BC Hydro's Kootenay Canal Substation among FortisBC, British Columbia Hydro and Power Authority ("BC Hydro") and British Columbia Transmission Corporation ("BCTC"), and the Interconnection Agreement between FortisBC and BCTC (Agreements 7 and 8 on Appendix A); and
- F. In a separate June 3, 2004 filing FortisBC requested an exemption pursuant to Section 88(3) of the Utilities Commission Act (the "Act") with respect to the interconnection of its lines to the BC Hydro Kootenay Canal Substation, but recognized that the Commission requires the advance approval of the Lieutenant Governor in Council to grant such an exemption; and
- G. On May 31, 2004 the BCTC applied for Commission approval of amendments to the General Wheeling Agreement (BC Hydro Electric Tariff Supplement No. 2) and to BC Hydro Rate Schedule 3817; and
- H. On June 8, 2004 BC Hydro applied for Commission approval of an amendment to the Power Purchase Agreement with FortisBC (BC Hydro Electric Tariff Supplement No. 3); and
- I. By letter dated June 22, 2004, Teck Cominco Metals Ltd. ("Teck Cominco") supported the requests made by FortisBC in its June 3, 2004 filings; and
- J. By letter dated June 30, 2004, Columbia Power Corporation supported the request by FortisBC for an exemption; and

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- K. On June 30, 2004, FortisBC notified the Commission that it was continuing to work with other parties regarding the exemption from the BC Hydro Wholesale Transmission Services Tariff for power flowing between FortisBC lines interconnecting at the Kootenay Canal Substation, and requested that the Commission defer action on its June 3, 2004 applications; and
- L. The Commission has reviewed the filings and has concluded that, except for approvals requested in FortisBC's June 3, 2004 applications, the requested approvals should be granted for the Reasons for Decision that are attached as Appendix C to this Order.

NOW THEREFORE the Commission orders as follows:

1. The Commission approves for FortisBC the Agreements shown as Agreements 1 through 6 and Agreements 9 through 12 on Appendix A to this Order, effective the date of this Order.
2. The Commission approves for BCTC the General Wheeling Agreement Amending Agreement (2004) between BC Hydro and FortisBC, dated April 5, 2004, amending BC Hydro Electric Tariff Supplement No. 2, effective April 14, 2004.
3. The Commission approves for BCTC the amendment to Rate Schedule 3817, as the Tenth Revision of Page C-82 of the BC Hydro Electric Tariff, effective April 14, 2004.
4. The Commission approves for BC Hydro the Power Purchase Agreement Amending Agreement (2004) between BC Hydro and FortisBC, dated April 5, 2004, amending BC Hydro Electric Tariff Supplement No. 3, effective April 14, 2004.

DATED at the City of Vancouver, in the Province of British Columbia, this 12th day of July 2004.

BY ORDER

Original signed by:

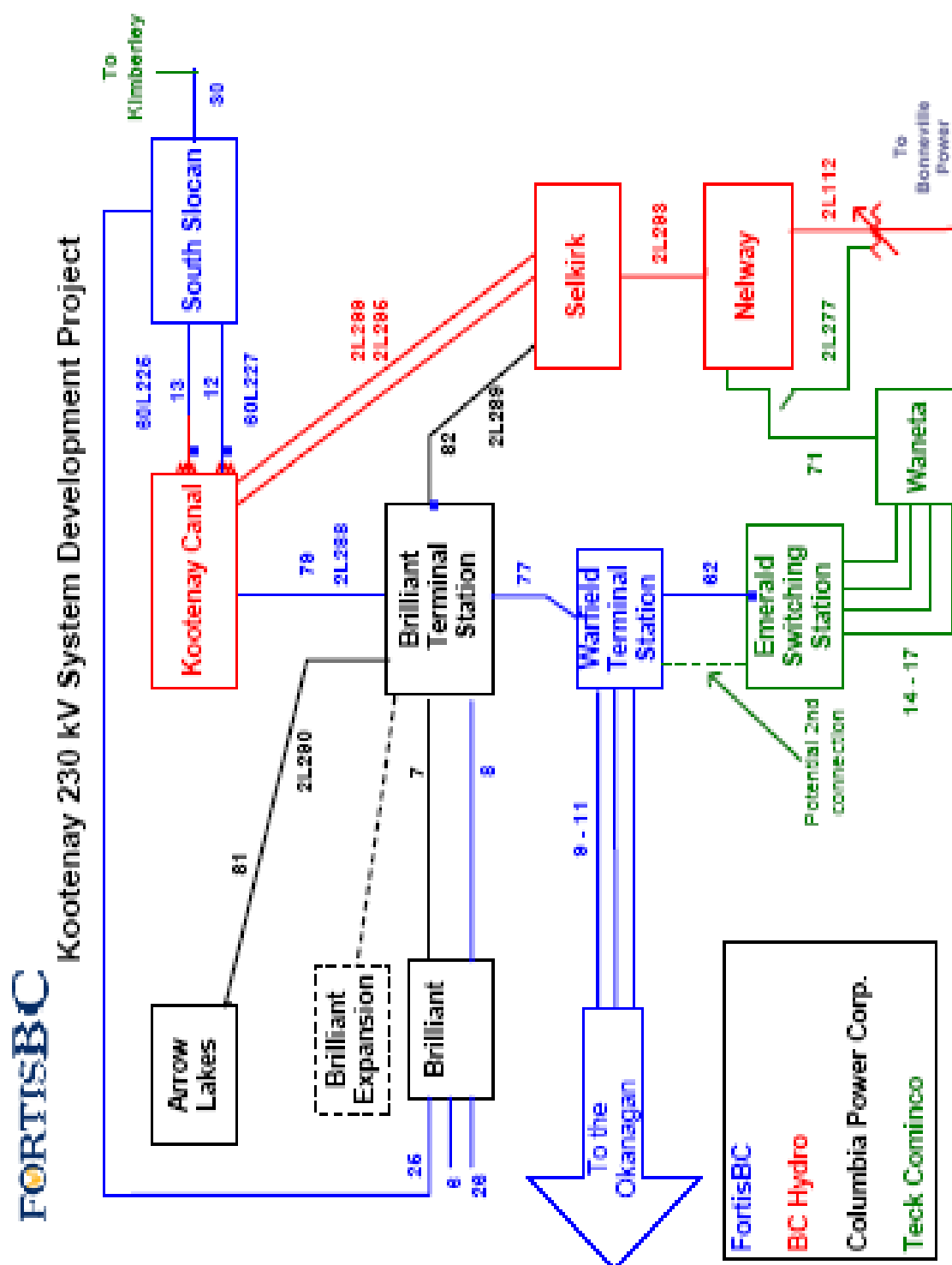
L.F. Kelsey
Commissioner

Attachments

**FORTISBC INC.
BRITISH COLUMBIA TRANSMISSION CORPORATION
BRITISH COLUMBIA AND POWER AUTHORITY**

**Agreements Filed by FortisBC Inc.
for Kootenay 230kV System Development Project**

1. Transmission Facilities Agreement between FortisBC Inc. (“FortisBC”) and Teck Cominco Metals Ltd. (“Teck Cominco”), dated July 18, 2003.
2. Interconnection Agreement between FortisBC and Teck Cominco, dated July 18, 2003.
3. Waneta Management Amending Agreement (No. 2) between FortisBC and Teck Cominco, dated July 18, 2003.
4. Interconnection Agreement between FortisBC and Arrow Lakes Power Corporation [wholly owned by Columbia Power Corporation and the Columbia Basis Trust (“CPC/CBT”), dated July 1, 2003.
5. Interconnection Agreement between FortisBC and Columbia Basin Power Company (doing business as the Brilliant Joint Venture and wholly owned by CPC/CBT), dated June 25, 2003.
6. Interconnection Agreement between FortisBC and Brilliant Expansion Power Corporation (wholly owned by CPC/CBT), dated July 1, 2003.
7. Interconnection Facilities Agreement for BC Hydro’s Kootenay Canal Substation among FortisBC, British Columbia Hydro and Power Authority (“BC Hydro”) and British Columbia Transmission Corporation (“BCTC”), dated April 5, 2004.
8. Interconnection Agreement between FortisBC and BCTC, dated July 5, 2004.
9. 1996 Facilities Sharing Agreement Amendment (Letter Agreement) among FortisBC, Brilliant Power Corporation (by assignment from CPC/CBT) and Teck Cominco, dated April 1, 2004.
10. First Amendment to Transmission Asset Transfer Agreement (“TATA”) among FortisBC, Brilliant Power Corporation and Teck Cominco, dated April 1, 2004.
11. Brilliant Power Purchase Fourth Amendment Agreement between FortisBC and Brilliant Power Corporation, dated April 1, 2004.
12. Brilliant Management Amendment Agreement between FortisBC and CPC/CBT, dated August 1, 2003.



FORTISBC INC.
BRITISH COLUMBIA TRANSMISSION CORPORATION
BRITISH COLUMBIA AND POWER AUTHORITY

Agreements and Tariff Amendments
For Kootenay 230kV System Development Project

REASONS FOR DECISION

1.0 BACKGROUND

The Commission's June 5, 2000 Decision and Order No. C-10-00 granted a Certificate of Public Convenience and Necessity ("CPCN") to West Kootenay Power Ltd. to replace the 63 kV system of transmission lines, substations, and switchyards between South Slocan and Trail with a 230 kV transmission system (the "Project"). West Kootenay Power Ltd. was subsequently renamed UtiliCorp Networks Canada (British Columbia) Ltd., then Aquila Networks Canada (British Columbia) Ltd. and now FortisBC Ltd., and is hereinafter referred to as "FortisBC". The Decision followed a public hearing, and stated:

"This Project is a necessary refurbishment of a transmission system that has reached the end of its physical life, and, therefore, approval cannot be delayed until final costs and cost sharing arrangements are complete."

FortisBC, British Columbia Hydro and Power Authority ("BC Hydro"), Teck Cominco Metals Ltd. ("Teck Cominco") and Columbia Power Corporation and Columbia Basin Trust ("CPC/CBT") were involved in the generation and transmission of electricity in the area, and there was general agreement that efficiencies would result from integrated planning and operation of the electrical grid. The Commission hoped that the parties would negotiate reasonable access and interconnections based on the determinations in the Decision. In several instances the Decision directed FortisBC to resume negotiations with the owners of interconnecting facilities on the design, construction and cost-sharing for new facilities that would meet their respective needs. Order No. C-10-00 directed FortisBC to submit for final approval all agreements and final cost estimates for the approved facilities.

Teck Cominco stated during the hearing that it was attempting to renegotiate the Canal Plant Agreement, and that it was uncertain whether it would require capacity on the Kootenay Canal to Warfield 230 kV system. Until its requirements were resolved, Teck Cominco proposed to contribute approximately \$2 million to the cost of the lines so that the system would have sufficient capacity to accommodate its needs, if required.

FortisBC filed its Final Project Routing, Schedule and Budget Estimates Report on the Project in January 2002. After a Workshop and a written submission process, the Commission issued Order No. G-46-02 and Reasons for Decision which approved the final routing for the Project. The Order also approved the Brilliant Terminal Station Facilities Interconnection and Investment Agreement (“BTS FIIA”) with the Brilliant Joint Venture, which is wholly owned by CPC/GBT. FortisBC stated in the Report that negotiations on interconnections with Teck Cominco and BC Hydro were moving forward, and the Commission determined that the Project should proceed.

2.0 APPLICATIONS FOR APPROVAL OF AGREEMENTS

2.1 FortisBC Applications

On May 6, May 12, June 3 and June 8, 2004 FortisBC filed a total of 12 Facility Agreements, Interconnection Agreements and amending agreements for Commission approval. These agreements are shown on Appendix A that is attached to the Order that accompanies these Reasons for Decision. FortisBC also provided a schematic diagram of facilities in the West Kootenay area that is attached as Appendix B to the Order.

The June 3rd filing requested approval of the Interconnection Facilities Agreement for BC Hydro’s Kootenay Canal Substation (the “Kootenay Canal IFA”) among FortisBC, British Columbia Hydro and Power Authority (“BC Hydro”) and British Columbia Transmission Corporation (“BCTC”), and the Interconnection Agreement between FortisBC and BCTC (these are Agreements 7 and 8 on Appendix A). Clause 2.6 of the Kootenay Canal IFA states that “BCTC has determined that there will be no administrative or transmission-related rates or tolls, for the use of the Interconnection Facilities and the use of Kootenay Canal Substation for power flowing between Line 23L288 (FortisBC Line 79) and Line 60L227 (FortisBC Line 12)...” provided that certain conditions are met. FortisBC understands Clause 2.6 to mean that the current BC Hydro Wholesale Transmission Services (“WTS”) Tariff does not apply to power flowing between Line 23L288 and Line 60L227, and requested specific Commission confirmation that approval of the agreement means that the BC Hydro WTS Tariff does not apply to flows of power between the lines. The June 3rd filing also included a copy of the Power Flow Settlement Mechanism that is referred to in the Kootenay Canal IFA, which the parties have agreed will be used to calculate power flows between the BC Hydro and FortisBC systems.

Under a separate letter also dated June 3, 2004, FortisBC applied to the Commission for an exemption for power flowing between Line 2L288 and Line 60L227 from any public utility rates or tolls under any tariff which is a successor or replacement tariff to the WTS Tariff.

On June 7, 2004, FortisBC and Teck Cominco wrote a letter to inform the Commission that FortisBC's portion of the decommissioning of the old 63 kV lines between South Slocan and Trail is to be completed by the end of August 2004, and that Commission approval of the Transmission Facilities Agreement with Teck Cominco is required prior to the decommissioning of Teck Cominco's three lines. Timely approval of the agreement would permit the decommissioning to be completed without additional mobilization costs.

On June 30, 2004, FortisBC notified the Commission that it is continuing to work with other parties regarding the exemption from the BC Hydro WTS Tariff for power flowing between the various FortisBC lines that interconnect at the Kootenay Canal Substation, and requested that the Commission defer action on its June 3, 2004 applications. As well as FortisBC Line 12, FortisBC Line 13 and BC Hydro Line 60L225 also connect South Slocan Substation to Kootenay Canal Substation. FortisBC confirmed that any changes resulting from the ongoing discussions would not impact the cost sharing arrangements, or the terms of the other agreements that it had filed.

2.2 BCTC and BC Hydro Applications

On May 31, 2004, BCTC filed for Commission approval amendments to the General Wheeling Agreement (BC Hydro Electric Tariff Supplement No. 2) between FortisBC and BC Hydro and to Rate Schedule 3817, which is Page C-82 of the BC Hydro Electric Tariff. BCTC states that the amendments to the General Wheeling Agreement and Rate Schedule 3817 are required solely as a result of the new interconnections to BC Hydro's Kootenay Canal Substation, and are needed to properly redefine the FortisBC Point of Supply to the BC Hydro system at Kootenay Canal. BCTC requests that the amendments take effect as of April 14, 2004, the date that the new FortisBC interconnections were energized.

On June 8, 2004, BC Hydro applied for Commission approval of an amendment to the Power Purchase Agreement with FortisBC (BC Hydro Electric Tariff Supplement No. 3). This amendment is also required solely as a result of the new FortisBC interconnections to the Kootenay Canal Substation and redefines the Point of Supply. BC Hydro requests that Commission approval of the amendment be effective April 4, 2004.

In its filing, BC Hydro clarified the internal accounting between BC Hydro and BCTC with respect to the Kootenay Canal IFA. All costs related to capital assets are costs to BC Hydro as the transmission owner, and all payments made by FortisBC related to capital assets shall be applied to BC Hydro.

3.0 THE FILED AGREEMENTS

The Agreements are of two main types; Facility Agreements and Interconnection Agreements. Facility Agreements generally set out the terms and conditions for the design, construction, ownership, operation and cost sharing of interconnection facilities. Interconnection Agreements set out the technical and operating parameters under which the parties agree to operate their respective interconnected system. There are also several amending agreements that make changes to other agreements as a result of the new facilities and interconnections.

3.1 Kootenay Canal Interconnection Facilities Agreement

The Kootenay Canal IFA sets out the terms and conditions for the new facilities that will be added to the BC Hydro transmission system for the interconnections at the Kootenay Canal Substation. FortisBC will pay all the costs of necessary facilities and BC Hydro will own the facilities. Clause 2.4 states that FortisBC will make a one-time payment of \$750,000 to BCTC for its use of the existing land and improvements inside the Kootenay Canal Substation. Normal operating and maintenance costs are covered by a one-time payment of \$59,000. Going forward, FortisBC will pay insurance and a pro-rata share of property taxes, which it estimates at \$115,000 per year. FortisBC will also pay for corrective maintenance, and is liable if its facilities damage BC Hydro facilities.

3.3 Teck Cominco Transmission Facilities Agreement

This agreement sets out the sharing of certain costs relating to the FortisBC and Teck Cominco transmission systems. Teck Cominco built the Emerald Switching Station (“Emerald”). FortisBC built the Warfield Terminal Station (“Warfield”) and Line 62 (between Emerald and Warfield), Line 77 (between Warfield and Brilliant Terminal Station) and Line 79 (between Brilliant Terminal Station and Kootenay Canal Substation). Teck Cominco is to pay a \$1.5 million contribution in respect of Warfield and Line 62, plus the installed cost of a second transformer at Warfield and \$2 million to increase the capacity of Lines 77 and 79 from 300 MW to 450 MW. Going forward, Teck Cominco will pay FortisBC a pro rata share of the operating and maintenance costs of Warfield and Line 62. The latter payments are estimated to be approximately \$160,000 per year.

The agreement gives Teck Cominco options to purchase transmission rights or an ownership interest in Line 77, Line 79 or both. The options range between one-ninth and one-third of the capacity of the lines. The option price is based on the net book value (“NBV”) at the time the option is exercised. Teck Cominco also has an option to purchase one-third of Line 12 between Kootenay Canal Substation and South Slocan Substation. After exercising an option, Teck Cominco becomes responsible for a portion of the ongoing operating and maintenance costs of the facility.

3.4 Interconnection Agreements

The form of the Interconnection Agreements was jointly developed by the parties, and therefore the agreements are structured in a similar manner. All require the formation of Operating Committees to deal with applying the principles of the agreements to the operation of the interconnected systems. The agreements deal with matters such as planned and emergency outages, site access, protection and control, metering parameters, and voltage and reactive power limits. The provisions of the agreements differ somewhat with respect to Western Electricity Coordinating Council obligations. Generally, these agreements have no direct cost impacts, but do contain indemnity provisions for direct losses and damages (but not for consequential damages).

3.5 Cost Impacts of the Agreements

FortisBC spent \$110.0 million on the Project to the end of March 2004 and the estimated final cost of the Project is \$120.3 million. The following is a summary of the sharing of the capital costs of the Project, including the cost impacts of the Brilliant Terminal Station Facilities Interconnection and Investment Agreement, which Commission Order No. G-46-02 approved. The FortisBC cost after contributions is \$87.8 million.

Sharing of Project Capital Costs
(Millions of Dollars)

FortisBC Cost			108.1
Add: Third Party Costs			
BC Hydro Costs			
Kootenay Canal Interconnection facilities	8.5		
RAS & Operating Study Costs	0.9		
		9.4	
CPC/CBT – Brilliant Costs	2.8	2.8	
Total Third Party Costs			12.2
Estimated Final Cost			120.3
Deduct: Third Party Contributions			
CPC/CBT – Brilliant Payments		25.8	
Teck Cominco Payments			
Warfield Transformer	3.2		
62 Line & Warfield	1.5		
77 & 79 Lines	2.0		
		6.7	
Total 3 rd Party Contributions			32.5
FortisBC Cost after Contributions			\$ 87.8

The Kootenay Canal IFA requires FortisBC to bear the capital cost of the Interconnection Facilities and other one-time charges. On the other hand, the agreement is expected to have minimal ongoing costs for FortisBC.

The Teck Cominco Transmission Facilities Agreement will result in a \$6.7 million capital contribution to FortisBC. In addition, Teck Cominco's ongoing payments for a share of operating and maintenance costs are estimated to have a NPV over 50 years of \$1.2 million. FortisBC estimates that the combined effect of the Teck Cominco contributions will be to reduce its rates by 0.36 percent on a levelized basis.

In the event Teck Cominco exercises its option to purchase capacity or an ownership position in the FortisBC transmission lines, the resulting payments will further reduce the revenue requirements of FortisBC. The amount of the payments will depend on the portion of the options that Teck Cominco exercises, and when it does so. For example, Teck Cominco might exercise its one-third option for Line 77 from Brilliant Terminal Station to Warfield. If this occurred immediately, the Option Price would be \$2.5 million and the NPV including ongoing operating and maintenance payments would be \$3.1 million. If Teck Cominco waited until year 20 to exercise this option, the NPV would be \$1.6 million. If Teck Cominco immediately exercises the maximum option, the Option Price would be \$7.2 million and the NPV value including ongoing operating and maintenance payments would be \$8.7 million.

3.6 Commission Determination

Including BCTC, five parties have an interest in electricity generation and transmission assets in the West Kootenay area, and the agreements between these parties are very complex. The Commission compliments the parties for their cooperative and diligent efforts to complete the agreements and amendments for the Kootenay 230 kV System Development Project. It is apparent that the parties have negotiated to preserve their respective interests, although the bargaining leverage of FortisBC may have been reduced somewhat because the Project was under construction. As the parties appear to have made concessions and accepted trade-offs, it is not reasonable to focus only on an individual provision of an agreement unless the individual provision is unacceptable in any circumstance. Rather, each agreement and the suite of agreements should be looked at in their entirety.

In response to FortisBC's June 30, 2004 submission, the Commission will defer action on the request for approval of the agreements and the request for an exemption that FortisBC filed on June 3rd. FortisBC may reactivate these applications when it wishes to do so.

The Commission approves the Agreements that FortisBC filed that are listed in Appendix A to the Order that accompanies these Reasons for Decision, except for the Kootenay Canal IFA and the Kootenay Canal Interconnection Agreement that FortisBC requested not be dealt with at this time. Approval of the Agreements is effective the date of this Order.

The Commission approves the Amendments to the General Wheeling Agreement (BC Hydro Electric Tariff Supplement No. 2), BC Hydro Rate Schedule 3817 and the Power Purchase Agreement (BC Hydro Electric Tariff Supplement No. 3) that BCTC and BC Hydro filed, effective April 14, 2004.