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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-124-06

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

**An Application by Sea Breeze Victoria Converter Corporation
for a Reconsideration of the July 7, 2006 Commission Decision and Order No. C-4-06
relating to the British Columbia Transmission Corporation
Application for a Certificate of Public Convenience and Necessity
for the Vancouver Island Transmission Reinforcement Project**

BEFORE: R.H. Hobbs, Chair
N.F. Nicholls, Commissioner
L.A. O'Hara, Commissioner
October 6, 2006

O R D E R

WHEREAS:

- A. By application dated July 7, 2005, the British Columbia Transmission Corporation ("BCTC") requested that the British Columbia Utilities Commission (the "Commission") grant a Certificate of Public Convenience and Necessity ("CPCN") pursuant to Sections 45 and 46 of the Utilities Commission Act (the "Act"), for the Vancouver Island Transmission Reinforcement Project (the "VITR") to reinforce the electricity transmission system serving Vancouver Island and the Southern Gulf Islands (the "VITR Application"); and
- B. The Public Hearing commenced on February 6, 2006 in Vancouver and the evidentiary phase of the proceeding closed on March 23, 2006. The Written Argument phase of the proceeding was completed when BCTC filed its Reply Submission on May 16, 2006, and the Oral Phase of Argument, including submissions regarding motions by a number of parties, was heard on May 30 and 31, 2006; and
- C. On July 7, 2006 the Commission issued its Decision ("VITR Decision") pursuant to Sections 45 and 46 of the Act granting a CPCN to BCTC for the VITR Project; and
- D. By letter dated September 15, 2006 ("Reconsideration Application"), Sea Breeze Victoria Converter Corporation ("Sea Breeze") requested a reconsideration of the VITR Decision; and

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E. By letter dated September 18, 2006, the Commission established a first phase process for the Reconsideration Application. The first phase process provided an opportunity for written comments from BCTC, Intervenor and Interested Parties on September 26, 2006 with written reply from Sea Breeze by October 4, 2006; and

F. The Commission has reviewed the submissions and has prepared its Reasons for Decision.

NOW THEREFORE the Commission denies the Reconsideration Application and issues its Reasons for Decision attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 6th day of October 2006.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair

Attachment

An Application by Sea Breeze Victoria Converter Corporation
for a Reconsideration of the July 7, 2006 Commission Decision and Order No. C-4-06
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Application for a Certificate of Public Convenience and Necessity
for the Vancouver Island Transmission Reinforcement Project

REASONS FOR DECISION

By letter dated September 15, 2006 (Reconsideration Application), Sea Breeze Victoria Converter Corporation (“Sea Breeze”) requested a reconsideration of the VITR Decision dated July 7, 2006 (“VITR Decision”). By letter dated September 18, 2006, the Commission established a first phase process for the Reconsideration Application. The first phase process provided an opportunity for written comments from BCTC, Intervenor and Interested Parties on September 26, 2006 with written reply from Sea Breeze by October 4, 2006. The Commission has reviewed the submissions, and provides the following reasons for denying the Reconsideration Application.

Sea Breeze submits that the Commission “erred in its assessment of the wheeling costs attributable to the JdF project in the amount of \$10.2 million per year, the present value of which, coupled with system losses, was calculated to be \$153.5 million over 40 years, as well as failing to properly take into account the revenues attributable to the JdF project, and which ought to have been considered as part of the Commission’s cost-benefit analysis for the purpose of the project comparison” (Reconsideration Application, p. 1).

Sea Breeze submits that the basis for its intervention in the VITR proceeding was that JdF would be less costly for BC ratepayers than the VITR project, and also would address many of the concerns of the opponents of VITR. Sea Breeze submits that by adding \$153.5 million to the projected cost of JdF the Commission erroneously concluded that JdF would be more costly than VITR.

Sea Breeze argues that the \$153.5 million amount does not reflect an accurate assessment of the wheeling charges and does not adequately address or consider much of Sea Breeze’s evidence regarding its proposed pricing and costing scenarios for JdF. Sea Breeze also submits that the Commission erred in determining that no revenues should be attributed to the JdF project for trade benefits. These three arguments by Sea Breeze will be considered in turn.

Is \$153.5 million an Accurate Assessment of the Wheeling Charges?

The \$153.5 million amount is found in the “Summary Comparison of Project Alternatives” at page 174 of the VITR Decision, and is described at page 161 of the VITR Decision as the incremental cost of wheeling and losses on the BPA system. As noted by BCTC, this amount does not include system losses. Sea Breeze is incorrect when it states that the \$153.5 million included system losses.

Based on the record, the Commission concluded that for cost comparison purposes, the costs for JdF should include firm transmission on the BPA system to meet reliability criteria for Vancouver Island (VITR Decision, pp. 167- 168). Sea Breeze submits that the \$153.5 million does not reflect an accurate assessment of the wheeling costs that would actually be incurred (Reconsideration Application, p. 2). Although Sea Breeze submits that this is an error, it does not identify whether it considers this error to be an error of fact or law as pointed out by BCTC. And as noted by BCTC, it also does not expressly identify how it says the Commission erred (BCTC Submission, p. 3).

The issue of wheeling costs and losses on the BPA system was an issue that was in dispute throughout the proceeding and was well canvassed during cross-examination and in argument. The VITR Decision reviews the evidence and positions of the parties in some detail from pages 160 to 171. Clearly, the Commission did not accept the evidence and submissions of Sea Breeze with respect to whether or not firm transmission service was required on the BPA system, or the cost of firm transmission service. In the Reconsideration Application, Sea Breeze does not offer any new arguments with respect to this issue, but does repeat many of the arguments previously advanced and then claims that an error was made by the Commission. The Commission did not, and does not now, accept Sea Breeze’s position with respect to whether or not firm transmission service is required to meet reliability criteria on Vancouver Island. On this ground for reconsideration, the Commission does not accept that a prima facie basis for an error has been established.

With respect to the calculation of the cost of firm transmission service and losses on the BPA system, the Commission acknowledges uncertainty over the magnitude of the costs; however, as noted by BCTC and stated in the VITR Decision at page 171, the “firm wheeling costs (or upgrade costs) would need to be reduced to below \$2 million per year to make the ratepayer impacts of JdF equal to VITR, and even then there are still other considerations that would need to be factored into the comparison (e.g. different schedule risks).” Furthermore, the Commission found no evidence on the record to conclude that estimated firm wheeling costs could reasonably be reduced by as much as \$8 million given BPA’s firm wheeling tariffs. Therefore, even if the

Commission erred in its calculation of the magnitude of the wheeling costs, it does not necessarily follow that the error would be material to the Decision.

Pricing and Costing Scenarios for JdF

In Reply, Sea Breeze submits that “at the end of negotiations, JdF **would always** be less expensive for ratepayers than the VITR Project” (emphasis in original). Sea Breeze further submits in Reply that “the only appropriate way to arrive at a price for JdF was through good faith negotiations between BC Hydro, BCTC and Sea Breeze, under the guidance of the Commission, in order to **ensure that under any circumstances** a savings to ratepayers over the cost of VITR would be realized” (emphasis in original). Sea Breeze then submits that the Commission erred in failing to properly consider this fundamental position and the evidence in support of this position was in error.

At page 198 of the VITR Decision, the Commission states:

“... the Commission Panel finds that the level and timing of the capacity shortfall on Vancouver Island suggests a high weight should be given to certainty for reliability planning purposes.”

And then on page 199 of the VITR Decision, the Commission states:

“With respect to financing risk for JdF, the Commission Panel notes that the PV of an annual nominal payment (@ a nominal discount of 8 per cent) of \$22.3 million over 20 years (the minimum guaranteed payment required by Sea Breeze to secure financing for JdF in Exhibit C31-57, Undertaking T36:6857-6858, 7037, 7091-7093) is equivalent to \$219 million in 2009/10 or \$201 million in constant \$2005. That exceeds the lump sum payment for JdF estimated by the Commission Panel in Section 7 of the Decision. ...”

In the VITR Decision, the Commission considered both the pricing and cost scenarios for JdF and the financing risk for JdF. The submissions by Sea Breeze quoted above do not consider the financing risk for JdF. The Commission in the VITR Decision further states at page 201:

“In conclusion, the Commission Panel finds that if, due to this Decision and direction, JdF were to get a long-term, regulated contract with BCTC, there is still uncertainty relative to VITR as to whether Sea Breeze would be able to secure financing in the time required to meet ratepayer needs. More importantly, the proposed pricing of JdF and minimum guaranteed payment required by Sea Breeze do not provide sufficient savings to ratepayers to

offset other costs associated with reliance on JdF to meet reliability planning criteria for Vancouver Island.”

The Commission found that even before taking into account indirect costs to ratepayers (e.g., wheeling costs), the present value of the minimum guaranteed payment required by Sea Breeze for financing would exceed the payment to Sea Breeze under its lump sum pricing formula based on the Commission determined costs of VITR. Sea Breeze provided no pricing formula or approach that could reconcile the minimum payment required for financing and the maximum price for JdF that would be in ratepayer interests given indirect costs to ratepayers.

Contrary to the claims of Sea Breeze, the Commission did properly consider the “fundamental position” of Sea Breeze and the evidence in support of this position, but also considered the financing risk for JdF. Considering Sea Breeze’s “fundamental position” with due consideration to the financing risk of JdF was not an error and was appropriate given the finding “that the level and timing of the capacity shortfall on Vancouver Island suggests a high weight should be given to certainty for reliability planning purposes.”

Assessment of Export Revenues Attributable to JdF

In the Reconsideration Application, Sea Breeze states at page 2:

“The Commission erred in determining that no revenues should be attributed to the JdF project for the purposes of project comparison, and should reconsider its determination on this issue.”

Unlike the evidence related to the wheeling charges, there was only limited evidence with respect to the amount of trade revenues that might be attributable to JdF. As stated in the Decision at page 170:

“... the Commission Panel finds no compelling evidence on the record regarding the likelihood or magnitude of these benefits. The Commission Panel shares BC Hydro’s concerns that the purported beneficiaries of these benefits have not been confirmed or corroborated such benefits.”

In a footnote to its Reply, Sea Breeze states:

“Sea Breeze stands by its position that wheeling charges in the amount assessed by the Commission will not be attributable to JdF and stands by its assessment of the export revenues that will be attributable to the JdF project, and believes that the Commission erred in both of these respects (as stated in the Application for Reconsideration).”

The Commission notes that Sea Breeze claims to have provided an assessment of the export revenue that will be attributable to the JdF project. However, Sea Breeze did not file an estimate of trade benefits with its pre-hearing evidence and did not provide an estimate of trade benefits until after the oral hearing had concluded. Furthermore, the estimate filed by Sea Breeze was a calculation of third party revenues under different levels of trade activity. Sea Breeze provided no compelling evidence to support the estimated trading activity used in its calculations. Sea Breeze now relies on the recent National Energy Board decision approving Sea Breeze's application to build the JdF project where:

“... the Board accepts Sea Breeze's evidence with respect to the potential ability of the Project to support increased transfer capacity across the Canada/U.S. border.”

The Commission does not find the reference by Sea Breeze to the National Energy Board decision helpful to a reconsideration on the record in this proceeding, particularly when Sea Breeze does not claim that there has been a fundamental change in circumstances or facts since the VITR Decision. Furthermore, the finding of the National Energy Board quoted above does not identify specific trade activity that would arise from JdF but merely confirms the project would increase transfer capability.

As stated by BCTC, even if trade benefits had been demonstrated, the Commission did not necessarily view incremental trade benefits to the province as a relevant consideration in the comparison of JdF and VITR (BCTC Submission, p. 5; VITR Decision, p. 170). The Commission does not find a *prima facie* basis for an error when it concluded that no trade benefits should be included in the comparison of JdF and VITR.

Chapter 4 of A Participants' Guide to the British Columbia Utilities Commission identifies the criteria that the Commission generally applies to determine whether a reasonable basis exists to allow a reconsideration. An application for reconsideration proceeds in two phases. In the initial screening phase, the applicant must establish a *prima facie* case sufficient to warrant full consideration by the Commission. For the reasons stated above, the grounds set forth in the Reconsideration Application do not meet the criteria for a reconsideration application to proceed to the second phase.