



LETTER NO. L-3-07

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Log No. 16629

VIA E-MAIL

silversmith@netidea.com

January 18, 2007

Ms. Veronika Pellowski
Silversmith Power and Light Corporation
Box 369
New Denver, BC V0G 1S0

Dear Ms. Pellowski:

Re: Silversmith Power and Light Corporation
Service Area Encroachment by British Columbia Hydro and Power Authority

On November 14, 2006 Silversmith Power and Light Corporation ("Silversmith") filed a complaint with the British Columbia Utilities Commission ("BCUC", "Commission") regarding British Columbia Hydro and Power Authority ("BC Hydro") servicing an industrial customer's mining operation within what Silversmith claims to be its service area. Silversmith stated that it is able to and is prepared to serve the industrial customer, Klondike Silver Corporation ("Klondike"), which BC Hydro contemplates to service and asked for a Commission Order for BC Hydro to cease its construction and connection to Klondike.

By letter dated November 16, 2006, the Commission asked that BC Hydro address why it would not be in the public interest for Silversmith to serve Klondike in accordance with its Electric Tariff. The Commission also requested that BC Hydro confirm whether it is offering service to Klondike in accordance with its approved Electric Tariff and its Terms and Conditions of Service including the service extension, security deposit requirements and credit provisions for service to a new customer.

By letter dated November 22, 2006, BC Hydro provided a response. The response provided a background to the BC Hydro distribution line running to the township of Sandon, B.C., BC Hydro service to predecessor operators of the mine, Silversmith connection to the BC Hydro system and previous issues it deemed to be relevant to the complaint. BC Hydro stated that in May 2006, Klondike contacted BC Hydro and requested that it be connected to BC Hydro as a new customer, that the connection point for Klondike was within 90 meters of BC Hydro's distribution system and BC Hydro believes it is obliged to supply service pursuant to Section 28 of the Utilities Commission Act. BC Hydro confirms that the connection (including the service extension, deposit requirements and credit provisions) is being made in accordance with its approved applicable tariff. With respect to the issue of whether it is in the public interest for Silversmith to serve Klondike, BC Hydro submitted that this is a determination to be made by the BCUC.

By letter dated November 27, 2006, the Commission sought written views and comments from both Silversmith and Klondike on the matter and provided an opportunity for Silversmith to then make a final reply.

There followed a series of written comments from all parties, some unsolicited by the Commission, including a submission from the Silver Ridge Community Club of Sandon, BC. By letter dated December 28, 2006 Counsel for Silversmith stated that it was imperative that Silversmith, as complainant in this matter, have a right of reply and requested that the Commission accept its letter as Silversmith's reply to the December 20, 2006 submissions.

The Commission accepted the Silversmith reply which closed the record. The Commission has considered the content of all submissions.

The history of the mine at Sandon and the prior operations and activities of Silversmith and its predecessor operations is extensive. It is not surprising therefore that many issues of a historical nature have been raised by each party; however, the issues of relevance to a decision on this complaint, in the view of the Commission are:

1. *Does either utility by virtue of their authorization by the Commission or some other authority have an exclusive right to serve Klondike?* The issuance of a CPCN by the Commission grants to a utility the authorization to operate a plant or system and to provide service to customers. The Commission is of the view that the granting of a CPCN does not confer an exclusive right to operate within a defined service area. Silversmith does not, as it claims, have an exclusive right to provide service within its defined service area.
2. *Does Silversmith have any rights to serve Klondike because it has served the mine in the past?* Where past practice in serving a customer might seem to Silversmith to bolster its argument for an expectation or perhaps the perception that it would have certain “rights” to serve a customer, in the absence of some right set out in a contract between the parties, the Commission does not agree. In any case, the Commission notes that both Silversmith and BC Hydro have, at one time or another, served predecessor operators of the mine.
3. *Is it in the public interest for Silversmith to serve Klondike?* The circumstance of two utilities capable of and required under Section 28 of the Utilities Commission Act to provide service to a specific customer, where the customer requests service, is an unusual situation and therefore it is not surprising that this complaint has been filed. Silversmith claims that the revenue from the customer may be material to its on-going viability, but has provided no evidence to support that position. The Commission notes that in addition to serving the local community of Sandon, Silversmith has an agreement in place to sell surplus power to Powerex. The Commission is of the view that the public interest must also consider the views and wellbeing of the customer. In this case the customer is in the rather unique position of being able to quite properly choose the utility it wishes to do business with. Klondike, in consideration of the issues it feels are important to the viability of its operations has selected BC Hydro to provide power requirements. In the circumstances, the Commission finds no reason to take action that would negate the decision of Klondike.

The complaint by Silversmith and the request that the Commission order BC Hydro to cease its construction and connection to Klondike is denied. BC Hydro should proceed to connect Klondike, within its applicable Electric Tariff provisions, without further delay.

Yours truly,

Original signed by:

Robert J. Pellatt

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cc: Mr. Hal Wright, Silversmith Power & Light Corp. (sandon@netidea.com)
 Mr. R. B. Wallace, Bull, Housser & Tupper (rbw@bht.com)
 Mr. Richard Hughes, Klondike Silver Corporation
 Mr. Michael Sweeny, Counsel, Silverridge Community Club (mjsweeny@xplornet.com)
 Ms. Joanna Sofield, Chief Regulatory Officer
 British Columbia Hydro and Power Authority (regulatory.group@bchydro.com)
 Mr. Stephen W. Pearce, Barrister & Solicitor - Klondike (spearce@gmail.net)