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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-138-06

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

and

**British Columbia Hydro and Power Authority
Transmission Service Rates Customer Baseline Load Application**

BEFORE: R.J. Milbourne, Commissioner November 7, 2006

O R D E R

WHEREAS:

- A. British Columbia Hydro and Power Authority ("BC Hydro") filed on March 1, 2006, pursuant to Sections 58 to 61 of the Utilities Commission Act ("the Act"), an application ("March Application") for approval of the Customer Baseline Load ("CBL") for each customer account to be served under BC Hydro's Stepped Rate, Rate Schedule ("RS") 1823; and
- B. Customer Baseline Load Determination Guidelines ("CBL Guidelines") were approved by Commission Order No. G-79-05; and
- C. In accordance with BC Hydro's Transmission Service Rate Application ("TSRA Application") and Order No. G-79-05, which approved the TSRA Application subject to any modifications in the related Negotiated Settlement Agreement, the Stepped Rate is to come into effect on the first day of the customer billing period closest to April 1, 2006; and
- D. BC Hydro stated in the March Application that it was still reviewing some customers' requests for adjustments to their CBLs and that it would complete those reviews and file all the proposed CBLs by May 31, 2006, including those requiring additional review or verification; and
- E. BC Hydro requested that the Commission approve, on an interim basis effective March 21, 2006, the CBLs in the column titled "CBL for Interim Approval" in Appendix B of the March Application; and
- F. In the March Application and in a letter dated March 21, 2006 BC Hydro requested that certain attachments containing individual customer information be kept confidential; and
- G. BC Hydro further stated that, when the Commission approves final CBLs, BC Hydro will make any necessary billing adjustments, as contemplated in Section 6.2.3 of the CBL Guidelines; and
- H. By Order No. G-27-06, the Commission approved the interim CBLs contained in Appendix B of the March Application and directed BC Hydro to file all CBLs by May 31, 2006 and to make any necessary billing adjustments after the Commission approved the final CBLs; and

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- I. In a letter dated May 29, 2006, BC Hydro advised that it required additional time to verify some CBL adjustments and requested Commission approval to file the CBLs on June 16, 2006; and
- J. By letter dated June 2, 2006, the Commission approved BC Hydro's request to delay filing CBLs to June 16, 2006; and
- K. BC Hydro filed a final CBL Application on June 16, 2006 ("June 16 Application"), but informed the Commission that it had been unable to finalize all CBLs by that date and requested Commission approval to file the remaining CBLs by June 30, 2006; and
- L. By letter dated June 22, 2006, the Commission approved an extension of the filing date for the remaining CBL adjustments to June 30, 2006, and by the same letter submitted an information request to BC Hydro; and
- M. BC Hydro filed its responses to the Commission information request by way of a letter dated June 29, 2006; and
- N. By letter dated June 30, 2006, BC Hydro filed the remaining finalized CBLs ("June 30 Application"). In the letter submitting the June 30 Application BC Hydro requested, as it had in the March Application and June 16 Application, that the attachments containing customer-specific information remain confidential; and
- O. In the June 30 Application, BC Hydro proposed a written process for resolving CBL disputes; and
- P. By letter dated July 7, 2006 the Commission requested comments by July 21, 2005 from BC Hydro RS 1823 customers on the following issues: (1) whether or not the customer disputes the CBL filed by BC Hydro; (2) BC Hydro's proposed process for resolving disputed CBLs; (3) the appropriate balance between the need for a transparent process and confidentiality of customer-specific information; and (4) BC Hydro's proposed CBL Adjustment Tariff Practices ("Tariff Practices") filed as Appendix A of the June 16 Application; and
- Q. The July 7, 2006 letter stated that if the Commission did not receive notice of a dispute between a customer and BC Hydro by July 21, 2006, the Commission would presume that the customer accepts the CBL proposed by BC Hydro; and
- R. By July 21, 2006 the Commission had received notice of CBL disputes by Highland Valley Copper, Canadian Forest Products Ltd. - Plateau Division Sawmill, Canadian Forest Products Ltd. - Taylor Pulp Mill, Ridley Terminals Inc., Federated Co-operatives Limited - Account 88001 and West Fraser - Cariboo Pulp & Paper Company ("Disputing Customers"); and
- S. Highland Valley Copper and the Joint Industry Electricity Steering Committee ("JIESC"), in letters dated July 19 and July 21, 2006, respectively, submitted comments on the process that the Commission should follow to resolve disputed CBLs and review the Tariff Practices; and
- T. The Commission Panel reviewed the submissions of all parties and determined that the most effective means to resolve the six customer disputes would be a written process, to begin with BC Hydro providing a complete, detailed explanation of its position on each dispute, followed by one concurrent round of

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information requests to BC Hydro and to Disputing Customers, and concluding with final submissions by BC Hydro and Disputing Customers; and

- U. By Order No. G-92-06, the Commission Panel established a written hearing process between August 11 and September 22, 2006, to review the customer disputes, each dispute to be treated as a separate process involving the customer, BC Hydro and the Commission. The regulatory schedule contemplated an oral phase of argument, as necessary, on any dispute for which BC Hydro and customer agreement was not reached and for which the Commission Panel wished to hear further submissions before rendering a decision; and
- V. The Commission stated in Order No. G-92-06 that as a result of its review of the customer disputes, it would determine the need, if any, for further process relating to BC Hydro's proposed Tariff Practices; and
- W. During the course of the written hearing process, the Commission was informed in writing of agreements reached on four of the six CBL disputes; namely, the disputes between BC Hydro and Canadian Forest Products Ltd. - Plateau Division Sawmill, Ridley Terminals Inc., Federated Co-operatives Limited - Account 88001 and West Fraser - Cariboo Pulp & Paper Company, respectively; and
- X. The Commission received a submission from the JIESC on September 21, 2006, outlining concerns with BC Hydro's proposed Tariff Practices, and expressing that the Commission's focus on disputed CBLs should not be to the detriment of an examination of those Tariff Practices; and
- Y. The written hearing process concluded on September 22, 2006, with Final Submissions by parties on the two remaining CBL disputes between BC Hydro and Highland Valley Copper and between BC Hydro and Canadian Forest Products Ltd. - Taylor Pulp Mill; and
- Z. By letter dated October 3, 2006, the Commission approved a request by BC Hydro to amend the Canfor Prince George Pulp and Paper CBL, an amendment fully supported by Canadian Forest Products Ltd. and the Canfor Pulp Limited Partnership.

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NOW THEREFORE the Commission orders as follows:

1. The Commission approves the final customer CBLs filed by BC Hydro on September 28, 2006 (Exhibit B-16).
2. The Commission approves a CBL adjustment of 3.75 GWh for Highland Valley Copper for the reasons set forth in Appendix A to this Order. Highland Valley Copper is to inform BC Hydro once the final project is complete and BC Hydro is to reassess the CBL pursuant to section 4.1.2.2 of the CBL Guidelines.
3. The Commission approves the CBL adjustment request of 466,708 kWh by Canadian Forest Products Ltd. - Taylor Pulp Mill for the reasons set forth in Appendix A to this Order.
4. Pursuant to Letter No. L-69-06 dated November 7, 2006 issued concurrently with this Order, the Commission will receive comments on the issues concerning the Tariff Practices raised in the July 19, 2006 letter from Highland Valley, and the July 21 and September 21, 2006 letters from the JIESC. Intervenors and Interested Parties in this proceeding are to file their submissions, if any, on those issues by Friday, November 17, 2006. BC Hydro is to file reply submissions, if any, by Friday, November 24, 2006.

DATED at the City of Vancouver, in the Province of British Columbia, this 8th day of November 2006.

BY ORDER

Original signed by:

R.J. Milbourne
Commissioner

Attachment

**British Columbia Hydro and Power Authority
Transmission Service Rates
2006 Customer Baseline Load (CBL) Application**

REASONS FOR DECISION

HIGHLAND VALLEY COPPER CBL DISPUTE

Highland Valley Copper (“Highland Valley”) is the largest copper mine in Canada and is located near Kamloops, B.C. It is currently undertaking a capital project to expand the mine and extend the mine life.

In a letter dated April 11, 2006 (Exhibit C2-1), Highland Valley notified the Commission that it disputed the initial CBL that British Columbia Hydro and Power Authority (“BC Hydro”) determined and included in its Application for Highland Valley. In a letter dated June 22, 2006 (Exhibit C2-2), Highland Valley stated that it had met with BC Hydro to discuss Highland Valley’s concerns, and reached agreement on all but two of Highland Valley’s adjustment requests. In its June 22 letter, Highland Valley stated that its dispute was limited to BC Hydro’s determination that the request identified as “Increased Stripping Ratio” should not be included in Highland Valley’s CBL. Highland Valley’s September 22, 2006 Final Submission notes BC Hydro included some of the energy consumption related to the mine expansion project in the initial CBL filed by BC Hydro, and that Highland Valley’s projected total increase in energy use related to the project is approximately twice the amount of the dispute.

The specific information about the Highland Valley operation is confidential. The essence of the dispute, however, arises out of the question of what constitutes an increase in plant capacity, and how to establish a CBL when the increase in plant capacity is not complete. Highland Valley has undertaken investments intended to extend the life of the mine, although the actual tonnage output of the mine in 2006 is expected to decline slightly. Highland Valley argues that the capital investment undertaken to increase the life of the mine will lead to an increase in the energy consumption of the mine and that this should be considered in determining the CBL. Highland Valley further submits that variations in electricity consumption do not perfectly track variations in mine throughput (Exhibit C2-5, Response to BCUC IR 1.1 and Attachment).

In situations where a customer’s investment in new equipment increases a plant’s capacity to the extent that estimating a new CBL is impractical, BC Hydro proposes to put such customers on Rate Schedule (“RS”) 1823 Energy Charge A for 12 billing periods (Exhibit B-5, p. 7). The consumption history in those 12 billing periods would be used to establish a new CBL. A similar process would be used for a new RS 1823 customer (Exhibit B-15, BC Hydro Response to Highland Valley IR 1.2.5).

BC Hydro defines an increase in plant capacity as an increase in product output from the Plant (Exhibit B-5, Appendix A). In BC Hydro’s view, capital investments that are required to extend the life or viability of a plant, but without an increase in capacity (such as replacement of aging equipment or a shift to a more energy intensive process), will not result in a CBL adjustment, even though the consumption may have increased by the lesser of 5 percent or 10 GWh (Exhibit B-15, BC Hydro Response to Highland Valley IR 1.2.1).

BC Hydro also argues that a fundamental principle of the tariff and the CBL Guidelines is that CBLs are established and adjusted based on actual verified electricity consumption rather than forecast consumption (Exhibit B-9). BC Hydro further submits that the disputed adjustment request does not meet the threshold test for an adjustment to the CBL in respect of a plant capacity increase (BC Hydro Final Submission dated September 22, 2006).

Commission Panel Determination

In principle, the Commission Panel accepts the BC Hydro argument that basing a CBL on a forecast of power use expected at the end of a plant expansion or life extension project is not appropriate. Moreover, neither party has proposed putting Highland Valley on Energy Charge A for the next 12 months as might be done in the situations described above and, given the magnitude of the disputed amount relative to the overall energy consumption of the mine, the Commission Panel agrees this is not an appropriate solution in this instance.

As noted above BC Hydro has defined a plant capacity increase as one where capital investments have resulted in a permanent increase in the product output of the plant. This definition, with its specificity on regular product output did not arise in the CBL Guidelines which were the result of the Negotiated Settlement, but rather in BC Hydro's later proposed CBL Adjustment Tariff Practices ("Tariff Practices"). The Commission Panel considers that this definition too narrowly limits the circumstances in which capital investments are defined as resulting in plant capacity increases, as the investment could equally be directed towards changing the form or the value of the product being produced. The Commission Panel notes that the Tariff Practices also state that the criterion of whether the capital investment has resulted in a permanent increase in plant capacity will be initially determined by an Impact Study at the time the capital investment is completed (Exhibit B-5, Appendix A).

BC Hydro has stated that the disputed adjustment request does not meet the threshold test for an adjustment to the CBL in respect of a plant capacity increase. However, the Commission Panel finds that the amount of the total project is the appropriate amount to consider with respect to whether or not it meets the threshold test for a CBL adjustment in respect of a plant capacity increase. If one considers the full project change, including the adjustments that have been made, as well as the final disputed amount, the total project change can reasonably be expected to be greater than the 10 GWh threshold for reassessment once the project is complete.

The Commission Panel recognizes that the overall mine extension project is underway and has met its forecast increase in consumption to date, an amount reflected in the CBL proposed by BC Hydro. The Commission Panel finds that BC Hydro should increase the CBL for Highland Valley to recognize the impact of the mine extension project, but that the full amount of Highland Valley's adjustment request is not appropriate at this time because some of the requested adjustment is based on projected energy consumption. Therefore, the Commission Panel determines that an upward adjustment of 3.75 GWh, or one-half the disputed amount is appropriate at this time. Highland Valley is to inform BC Hydro once the final project is complete. BC Hydro is to then reassess the CBL pursuant to section 4.1.2.2 of the CBL Guidelines, with the use of an Impact Study as necessary for determining an appropriate further revision to the CBL at that time. The Commission Panel does not anticipate that any change to the CBL Guidelines is necessary.

CANADIAN FOREST PRODUCTS LTD. - TAYLOR PULP MILL CBL DISPUTE

Canadian Forest Products Ltd. ("Canfor") disputes the CBL proposed by BC Hydro because it does not include incremental electricity used by the Taylor Pulp Mill in 2005 while conducting low freeness (higher energy use) special production runs under Special Condition 3(b) of RS 1880. Canfor requests that its CBL include 466,708 kWh billed under RS 1880 in 2005.

Special Condition 3(b) allowed for RS 1880 to be utilized for unanticipated short-term sales in the spot market for the Customer's product. Through its approval of BC Hydro's Transmission Service Outstanding Matters Application in Order No. G-19-06, the Commission approved the deletion of Special Condition 3(b).

Canfor states that the availability of RS 1880 under Special Condition 3(b) allowed the Taylor Pulp Mill to schedule low freeness special production runs to meet customer orders among regular production grade changes without incurring extra grade change costs, and with charges for the incremental demand much lower than RS 1821 demand charges. Canfor provides a record of the Taylor Pulp Mill's recent history of incremental electricity use since 2003 under Special Conditions 3(b) to argue that such use in 2005 was below average and therefore conservative.

Canfor states its concern that with RS 1880 no longer available for such special production runs, it will be faced with an effective average rate increase if the Taylor Pulp Mill uses the same electricity as it did in 2005. It believes it is therefore appropriate to add its 2005 incremental electricity use for special production runs to the Taylor Pulp Mill CBL.

BC Hydro highlights that section 3.1.1 of the CBL Guidelines makes explicit that consumption under RS 1880 is excluded for the purposes of determining an Energy CBL that is representative of normal historic annual energy consumption by the customer's plant. BC Hydro submits that the exclusion of consumption under RS 1880 is a complete response to Canfor's dispute.

In addition, BC Hydro notes that excluding Canfor's adjustment request of 0.467 GWh does not raise any fairness concerns because its proposed CBL is still greater than Canfor's annual consumption in 2003 and 2004 with inclusion of consumption under RS 1880. BC Hydro says that Canfor's concerns appear to be more about the availability of RS 1880, which BC Hydro believes should be addressed in its next rate design application and not as part of this proceeding.

Commission Panel Determination

The CBL Guidelines state that consumption under RS 1880 is excluded for the purposes of determining a CBL that is representative of normal historic annual energy consumption. The Commission Panel is mindful of the economic decisions inherent in Canfor's decision to access RS 1880 for special production runs, and accepts the evidence of Canfor that, since power under RS 1880 Special Condition 3(b) is no longer available, the power that would have been consumed by Canfor under RS 1880 will be consumed under RS 1823. The Commission Panel therefore believes that the historic annual energy consumption of the Taylor Pulp Mill is properly represented by including past consumption for production purposes that occurred under RS 1880. The Commission Panel accepts Canfor's adjustment request of 466,708 kWh and considers this a fair result given the relatively modest amount of the adjustment request and a reasonable deliberation that development of the CBL Guidelines may not have anticipated all circumstances regarding the use of RS 1880 for various purposes. Given that RS 1880 can no longer be utilized for purposes that were the subject of this dispute, the Commission Panel does not anticipate that this situation will reoccur, or that any change to the CBL Guidelines is necessary.