



LETTER NO. L-69-06

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VIA E-MAIL

regulatory.group@bchydro.com

November 7, 2006

BCH_CBL Exhibit A-19

Ms. Joanna Sofield
Chief Regulatory Officer
British Columbia Hydro and Power Authority
17th Floor, 333 Dunsmuir Street
Vancouver, B.C. V6B 5R4

Dear Ms. Sofield:

**Re: British Columbia Hydro and Power Authority ("BC Hydro")
Customer Baseline Load (CBL) Application**

BC Hydro proposed CBL Adjustment Tariff Practices ("Tariff Practices"), filed as Appendix A to its June 16 CBL Application. BC Hydro is seeking approval of the Tariff Practices pursuant to section 26(a) of the *Utilities Commission Act*. BC Hydro states that these tariff practices were developed by BC Hydro during the process of determining whether to include CBL adjustments that are not defined in the CBL Guidelines, as provided in sections 1.0 and 6.2.2 of the CBL Guidelines. BC Hydro states that if the Commission approves these Tariff Practices, BC Hydro will apply them to determine CBLs for new customers and to determine whether to adjust the CBLs of existing customers pursuant to section 4.0 or 5.2 of the CBL Guidelines, subject to final approval by the Commission.

BC Hydro responded on June 30, 2006 to an Information Request of the Commission on the proposed Tariff Practices. By letter dated July 7, 2006, the Commission requested comments by July 21, 2006 from Rate Schedule 1823 customers and interested parties on BC Hydro's proposed Tariff Practices and on the process required, if any, for approval of such Tariff Practices. The Commission received comments on the Tariff Practices from Highland Valley Copper ("Highland Valley") on July 19, 2006, and from the Joint Industry Electricity Steering Committee ("JIESC") on July 21, 2006. These responses identified two particular areas of concern with respect to the Tariff Practices: the definition of a plant capacity increase and how that would affect a mining operation and the treatment of Rate Schedule 1880 production-run electricity use. The Commission also received a number of letters of support for the concerns raised by Highland Valley and the JIESC.

Commission Order No. G-92-06 established a written public hearing process to review customer CBL disputes. 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.

In a September 21, 2006 submission to the Commission, the JIESC stated that it is concerned that the focus on disputed CBLs should not be to the detriment of an examination of the proposed Tariff Practices. The JIESC requested that the Tariff Practices, to the extent that they are approved, be approved with the proviso that they only be applicable where the CBL Guidelines are silent and shall never be applicable in a manner inconsistent

with a specific or general provisions of the CBL Guidelines. The JIESC also made specific recommendations in regard to the Tariff Practices on the issues of plant capacity increases versus product output, the time period for determining plant capacity increases for expanding plants, and customer funded DSM projects for expanding plants.

Notwithstanding its determinations in the Reasons for Decision attached as Appendix A to Commission Order No. G-138-06 concerning the CBLs for Highland Valley and Canadian Forest Products Ltd. – Taylor Pulp Mill, 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 (letters attached). 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.

Yours truly,

Original signed by:

Robert J. Pellatt

JWF/rt

Attachments

cc: Intervenors and Interested Parties (BCH_CBL)

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July 19, 2006

BY FAX

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Attention: Mr. Robert J. Pellatt

Dear Mr. Pellatt:

**Re: British Columbia Hydro and Power Authority ("BC Hydro") Transmission
Service Rates and Customer Baseline Load ("CBL") Application
(the "Application")**

In its letter dated July 7, 2006, the Commission directed customers to respond to several matters before determining how it would process the Application. Outlined below is the response of Highland Valley Copper ("Highland Valley") to the Commission's letter. The response below supplements and is in addition to Highland Valley's letter to the Commission dated June 22, 2006.

1. NOTICE OF DISPUTE

On March 17, 2006, BC Hydro applied to the Commission for interim approval of Customer Baseline Loads (CBLs) including Highland Valley. Highland Valley had several concerns regarding its initial CBL and submitted several Requests for Adjustments ("Adjustment Requests") to BC Hydro. In addition, Highland Valley provided BC Hydro with extensive information to support its Adjustment Requests and met with BC Hydro in an effort to resolve its CBL. In addition, Highland Valley also participated in the Stepped Rates Principles meeting on May 9, 2006, and again raised several issues with BC Hydro.

The Final Statement of Account of Highland Valley's CBL indicates that Highland Valley and BC Hydro reached agreement on all but two Adjustment Requests submitted to BC Hydro by Highland Valley. However, in its letter to the Commission dated June 22, 2006, Highland Valley notified the Commission that Highland Valley disputes BC Hydro's determination of Highland Valley's CBL. Highland Valley's dispute is limited to only BC Hydro's

determination that the Adjustment Request identified as "Increased Stripping Ratio" should not be included in the CBL for Highland Valley. Highland Valley submits that this Adjustment Request should be included in Highland Valley's CBL as it relates to a multi-million dollar expansion of the mine commenced in late 2004 early 2005 which will see the bulk of the stripping activities extending through to 2009.

Highland Valley submits that BC Hydro's application of the CBL Guidelines and its proposed Adjustment Tariff Practises as they relate to plant expansions is not appropriate when evaluating expansions or significant changes in or to mining operations. In addition, Highland Valley believes that BC Hydro's denial of the Adjustment Request will penalize not only Highland Valley, but could also adversely impact other mining operations in British Columbia undergoing similar expansions. Highland Valley is also concerned that BC Hydro's interpretation and application of the CBL Guidelines and Adjustment Tariff Practises could lead to existing mines receiving effective rates increases as a result of increased electricity costs as well as different CBLs as compared to a new mine (all other things being equal), all of which would adversely impact an existing mine's competitiveness vis-8-vis the new mine

2. PROCESS

A. Process Relating to Application and Proposed Adjustment Tariff Practises

Highland Valley suggests that the process adopted by the Commission to deal with the general matters, such as the Application generally, the CBL Guidelines and the proposed Adjustment Tariff Practises be addressed through a non-confidential transparent process that could start with a negotiated settlement process so that customers and BC Hydro can further address any concerns with the principles that have arisen since BC Hydro filed its latest materials. If a further negotiated process is deemed not suitable or unable to resolve all matters, then there ought to be a transparent and non-confidential written process with oral submissions to address questions from the Commission or permit customers to make final submissions to highlight and assist the Commission in its understanding of the customer's specific business characteristics. This process would be transparent and could follow the process set out below for dealing with customer disputes.

B. Process Relating to Customer Specific Disputes Regarding CBL Determination

Highland Valley suggests that as this "dispute resolution" process will likely involve the exchange of commercially sensitive information specific to individual customers, the process must be a confidential.

In order to expedite the resolution of specific customer disputes (and perhaps narrow the issues and the need for extensive written or oral submissions) Highland Valley reiterates and supplements the process it suggested in its letter of July 7, 2006. For convenience, we have summarized the process below.

1. Because the CBL dispute is based on BC Hydro's determinations, Highland Valley submits that BC Hydro, must as a first step, put on the record a comprehensive and detailed explanation of its determination of the disputed CBL and/or each Adjustment Request not included in the CBL that was submitted by the disputing customer. The summary provided by BC Hydro in submissions dated June 16th and June 30th do not provide adequate information for the Commission's consideration of the determination or to permit the disputing customer to properly prepare its submissions in response. BC Hydro's explanations must fully explain BC Hydro's application of the CBL Guidelines and the Adjustment Tariff Practise.

In partial response to the process suggested by Highland Valley in its letter of July 7, 2006, BC Hydro suggests its letter dated June 30, 2006, that there is sufficient information on the record. BC Hydro suggests that information has been provided through its discussions with its customers and the information BC Hydro has filed with the Commission since March 17, 2006. With respect, Highland Valley does not accept BC Hydro's submissions on this point. Highland Valley has also had numerous discussions with and provided commercially sensitive materials to BC Hydro in support of its Adjustment Request. Despite that dialogue and exchange of information, BC Hydro has not provided Highland Valley with a complete and detailed explanation of why BC Hydro determined the Adjustment Request should not be included in the CBL.

2. Highland Valley is extremely concerned that without a detailed explanation and justification from BC Hydro of its determination, it is likely that customers will be making their submissions to the Commission without a complete understanding of BC Hydro's reasoning.
3. Highland Valley is aware that some customers have expressed that there should be at least one round of Information Requests to BC Hydro. If BC Hydro is not required to provide the detailed explanations discussed in paragraph 1 above, then Highland Valley may wish to submit Information Requests to BC Hydro in order to obtain the information it considers necessary to properly prepare its submissions to the Commission with respect to its dispute.
4. Once BC Hydro has submitted its detailed explanations the disputing customer must then file with the Commission written submissions setting out the nature of its dispute and the reasons why that customer's CBL should be adjusted. The Commission might also wish to consider whether there should also be a brief oral presentation. It is suggested that the customer be given 3-4 weeks to review BC Hydro's explanations and file its submissions with the Commission.
5. At this point, both BC Hydro and the disputing customers will have established a sufficient record before the Commission to resolve the dispute. Accordingly, there should be no further replies needed unless directed by the Commission.

6. The Commission could then direct that the dispute be resolved through a private and confidential Negotiated Settlement Process between BC Hydro and the Customer, with oversight by the commission. If the dispute is not resolved through an NSP then it would be open to the Commission to receive supplemental oral submissions and render its decision on the dispute.

3. ADJUSTMENT TARIFF PRACTISES ("TARIFF PRACTISES")

Highland Valley appreciates BC Hydro filing the Tariff Practises and hopes that they will provide guidance to customers in the future with respect to CBL adjustment requests. However, Highland Valley has several concerns regarding the Tariff Practises and their application in the context of determining and adjusting the CBL of a mining operation.

With respect to the CBL Guideline and proposed Tariff Practise for Plant Capacity Increases and Restarts of Existing Equipment, Highland Valley is concerned that they are specifically impracticable and unacceptable to existing mining operations and their adoption will likely lead to further disputes between BC Hydro and its mining customers regarding their CBLs. BC Hydro now proposes that a plant capacity increase not be accepted in a CBL adjustment unless and until the increase in plant capacity results in:

- (1) a verified increase in annual energy consumption of at least 5% over the "pre-project" annual consumption or 10 GWh, which ever is less (original CBL Guideline); AND
- (2) there is also be a permanent increase in plant capacity (such increase will be satisfied by "increased output from the plant") (the proposed Tariff Practise).

Mines are electricity intensive operations and a mine's electricity consumption and output will vary significantly depending upon a number of factors, including the quantity and type of equipment used in the operation, stripping away waste materials to get to and recover the ore, increased dewatering or pumping activities, and the geological characteristics of the specific ore to be mined. While equipment consumption may be easily monitored and estimated, the impact of stripping waste materials (i.e.: stripping ratio) to get to and recover the ore and the geological characteristics of the ore are more difficult to quantify and are activities unique to a mining operation. The above Guideline and Adjustment Tariff Practise and the requirement that there be a "permanent increase in plant capacity" fail to recognize the unique business realities of a mining operation and as a result will adversely impact mining operations in British Columbia.

Stripping is an essential activity in any mine's operation and any expansions. Before the ore can be mined, the waste materials covering the ore must be stripped away and removed. Stripping is electricity intensive activity that is substantially independent of the actual output from a mine's milling plant facilities. Thus, it is quite common to see a mine's stripping electricity consumption increase with no visible change to the output from the milling plant.

Water related activities within the mine are also likely to increase when a mine is expanded or when equipment is restarted due to the need to dewater the area to be mined, as well as the need for make-up water to aid in the movement and milling of the ore. Mines generally recover water by dewatering the areas to be mined, collecting surface drainage and by pumping water from rivers and creeks, all of which are electricity intensive activities. Thus, again it is quite common to see a mine's electricity consumption for water related activities increase with no visible change to the output from the milling plant.

Similarly, the geological characteristics of the ore itself can impact electricity consumption and the milling plant's output. To put it simply, the "harder" the ore the more electricity consumed and the lower the capacity of the milling plant facilities. Thus, where an existing mine expands and the ore to be recovered is harder than the previously mined ore, electricity consumption might increase. However, throughput from the milling plant could actually decrease.

Based on the above discussion, Highland Valley is concerned that the above Guideline and proposed Tariff Practise and/or BC Hydro's application and interpretation of them:

- (a) do not provide a realistic framework to process CBL adjustments for existing mining operations or expansions thereto. As discussed, the above Guideline and Tariff Practise could lead to a situation where a mine's electricity consumption increases significantly as a result of a substantive expansion in the mine because of mining a "harder" ore, because of increased stripping activities to uncover and recover the ore and dewatering and makeup water pumping related activities. But, because of the requirement that there be increased production output from the mine, adjustment requests to the CBL for the existing mine will not be included and the CBL will not to reflect the increased consumption arising from the expansion. However, if a new mine were developed to mine a similar ore body its CBL would be based on expected electricity consumption, including its stripping ratios, dewatering and pumping activities and ore characteristics.
- (b) will lead to results that are inconsistent with the principles set out in the Energy Policy regarding Stepped Rates that there ought not to be a rate increase or a stifling of economic development. The example set out above implicitly illustrates that an existing mine could be faced with not only an effective rate increase by reason of increases in electricity being billed at the Tier 2 rates, but existing mines could be placed at a competitive disadvantage to a new mine with different a more inclusive CBL and effectively lower electricity costs (all other things being equal).
- (e) inappropriately exclude from the initial CBL determination investment decisions and expansion projects that were commenced after the Energy Policy was released, but prior to the establishment of 2005 as the Base Year and the specific

rules with respect to establishing CBLs. Highland Valley submits that in these particular situations, CBL adjustment requests for such projects:

- (i) be "grandfathered" and the initial CBL should include the expected increase in consumption arising from the expansion project; or, alternatively,
- (ii) be included in the initial CBL where a customer can demonstrate that the expected "total" increase in electricity consumption arising from such projects is greater than a 5% or 10GWh increase over the pre-project consumption, then that customers' initial CBL should be adjusted accordingly.

Highland Valley acknowledges and appreciates that BC Hydro recognized and accepted the need to adjust the CBL for Highland Valley to include increased electricity consumption arising from the expansion that was attributable to Highmont Pit dewatering activities and the restarting of Highland Valley's Spatsum Pumphouse to pump water to the mine from the Thompson River through a 27.9 km pipeline to the mine.

Highland Valley also discussed the foregoing matters of stripping ratio and ore hardness with BC Hydro, but is disappointed that BC Hydro does not appear to appreciate the unique and adverse implications of the Plant Capacity and Equipment Restart Guideline and Tariff Practise on Highland Valley or on other mining operations for that matter.

We await the Commission's directions with respect to the process it will use to deal with the Application and the proposed Adjustment Tariff Practises, as well as the process to be used to resolve individual customer disputes regarding their CBL determination by BC Hydro.

Yours truly

MILLER THOMSON LLP

Per:

Charles W. Bois
CWB/ht/jt

c: Highland Valley Copper, Attn: Dal Scott
c: BC Hydro, Attn: Joanna Sofield, Chief Regulatory Officer



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**BCH CUSTOMER BASELINE LOAD -
Exhibit C1-3**

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Our File:	03-2802
Date:	July 21, 2006

BC Utilities Commission
6th Floor – 900 Howe Street
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Attention: Robert J. Pellatt
Commission Secretary

Dear Mr. Pellatt:

**Re: British Columbia Hydro and Power Authority (BC Hydro) Transmission Service
Determination of Initial Customer Baseline Load**

We are writing on behalf of the Joint Industry Electricity Steering Committee (JIESC) in response to the Commission's letter of July 7, 2006 (BCH CBL Exhibit A-7). The JIESC is an informal association of British Columbia Hydro's largest customers and has itself, or through its predecessors, been involved in regulatory matters concerning BC Hydro for approximately 25 years.

The JIESC has represented its members in all of the proceedings that led up to the design and implementation of stepped rates (Rate Schedule 1823) in British Columbia. Most importantly, the JIESC was directly involved in the negotiated settlement that led to the approval of BC Hydro's Transmission Service Rates and Customer Baseline Loads (CBL) Determination Guidelines in Commission Order G-79-05.

Since Order G-79-05, the JIESC and its members have worked with BC Hydro in interpreting and refining the CBL Determination Principles approved in Order G-79-05. As indicated in BC Hydro's June 16 and June 30 application, this process has resulted in the resolution of a large number of the disputed items, an outcome that is a credit to the effort of all of those involved. At this point it appears to the JIESC that there is agreement in principle on how to handle all but two of the issues raised during the CBL determination process, and a few cases where there are disputes surrounding the calculation of individual CBLs.

The JIESC does not believe that there is any need for interested parties, or other stakeholders, to become involved in a calculation of individual CBLs, where the applicable principles are not in



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dispute and the only issue is the calculation of the CBL, a calculation that may involve confidential information. However, there is a very real public interest in allowing all stakeholders to understand and to be involved in the resolution of those few issues where there are matters of principle remaining in dispute.

The issues remaining in dispute are issues that were not foreseen or fully understood at the time the CBL Determination Guidelines were negotiated and approved. The likelihood that such issues would arise was explicitly recognized in the overview of the approved CBL Determination Guidelines which stated:

“BC Hydro recognizes that these CBL Determination Guidelines may not capture all the adjustments that may be justifiable within the principles of the tariff. Hence, in circumstances where customers propose adjustments that are not defined in the CBL Determination Guidelines and, where the Commission is in agreement, BC Hydro will amend the tariff practice to accommodate similar adjustment in the future. To the extent that the sum of the adjusted CBL’s exceed reasonably anticipated consumption of the non-exempt customers, CBLs may be prorated.”¹

Section 2.2.2 of the CBL Determination Guidelines also provides that:

“If the customer proposes adjustments that are not defined in these CBL Determination Guidelines, BC Hydro will discuss the proposed adjustments with the customer. In cases where BC Hydro agrees with the customer’s proposed adjustments and they are consistent with BC Hydro’s overall rate design principles, BC Hydro will file the proposed CBL with the Commission. In cases where BC Hydro does not agree with the proposed adjustments and they are not consistent with BC Hydro’s overall rate design principles, BC Hydro will file the CBL in accordance with the CBL Determination Guidelines. The customer can file its proposed CBL with the Commission and indicate that its CBL is under dispute. In these circumstances, BC Hydro will provide information where requested by the Commission. However, the Commission will determine the final CBL.

This process recognizes that BC Hydro cannot anticipate precisely all adjustments that may be justifiable within the principles of the tariff. Where the Commission accepts an adjustment not previously accommodated in the tariff, BC Hydro will amend the tariff practice to accommodate similar adjustments in the future. To the extent that the sum of the adjusted CBL’s exceed the

¹ Customer Baseline Load, CPL Determination Guidelines, page 2-1



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& Tupper LLP**

reasonably anticipated consumption of the non-exempt customers, CBLs may be prorated.”²

BC Hydro’s June 16, 2006 Application, Appendix A, CBL Adjustment Practices, contains 3 pages of adjustments, refinements and clarifications to the CBL Determination Guidelines. A few more are required at this time.

As mentioned earlier, at this time the JIESC is only aware of two disputed matters of principle. These are:

1. Treatment of increased electricity requirements for mines due to mine expansion or mine life extension; and
2. Treatment of Rate Schedule 1880 production run electricity use.

1. Treatment of Increased Electricity Used by Mines

Mines do not expand like manufacturing facilities, however, BC Hydro has unfortunately applied the general capital industrial expansion test (Section 3.1.4) to mines, resulting in it rejecting the CBL request of at least one mine at this time, and the likelihood of further inappropriate rejections in the future for other mines.

When a typical manufacturing plant expansion occurs one finds both capital expenditures and increased production, the situation clearly contemplated under Section 3.1.4 of the CBL Determination Guidelines. When a mine “expands” or extends its life the situation is similar but not identical. In the mining case one finds capital expenditures, which are frequently very substantial, and a new or previously uneconomic ore body being mined. However, often one does not find increases in current production, but instead an increased longevity of production life. The mine has usually made a decision to develop a new ore body not previously developed, which can require the removal of substantial overburden in order to have access to the ore body, or it has decided to develop lower grade ore in the existing mine. Both circumstances result in the consumption of additional electricity. BC Hydro has ruled that where there is no increase in immediate annual production, the requirements of Section 3.1.4, dealing with plan capacity additions, are not met and has been unwilling to apply Section 6.2.2 to the CBL determination.

This ruling by BC Hydro is clearly wrong. Capital has been spent, the plant’s ultimate capacity has been increased and electric consumption has increased. The additional electricity will be priced, under BC Hydro’s current proposed treatment, at the Tier 2 rate, not at a blended rate,

² Customer Baseline Load, CPL Determination Guidelines, page 2-13



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as it would if it were a new mine customer rather than expanded mine. This is contrary to the fundamental rule that old and new customers should be treated in the same manner.

Treatment of BC Hydro Rate Schedule 1880 Production Run Electricity Use

In 2005, Rate Schedule 1880 provided that it may be utilized for, among other things, the following purposes:

- “3. (a) to provide Electricity which the Customer would otherwise generate when all or part of the Customer’s electrical generating plant is curtailed. ...
- (b) to provide Electricity so that the Customer may make an unanticipated short-term sale in the spot market for the Customer’s product; or
- (c) to provide Electricity so that the Customer may make up production after an abnormal operating condition in the Customer’s Plant, a Force Majeure event or a discontinuance or reduction in the supply of Electricity by B.C. Hydro”

The largest use of RS 1880 has historically been pursuant to 3(a) to backup customer owned generation, a fact that was a paramount in the minds of the JIESC when the CBL Guidelines were accepted. All parties understood that RS 1880 would continue, albeit in a slightly modified form, to provide such backup in the future and accordingly these back-up volumes should not form part of the Customer’s CBL. This was formalized in section 3.1.1, which provided in part that “Consumption under RS 1880 is excluded” for purposes of determining normal historic energy consumption.

Unfortunately adequate consideration was not given in the CBL Guidelines to how RS 1880 might change in the future. Since stepped rates have been introduced, RS 1880 no longer allows for production runs of the sort allowed under 3(b) and (c) set out previously. These volumes must now be purchased under RS 1823, potentially at Tier 2 rates.

At least one customer, and possibly more, used RS 1880 in 2005 for special production runs, runs that continue today, but now under RS 1823. In spite of this, BC Hydro has not included the 2005 incremental electricity use associated with RS 1880 production runs in calculating the customers’ CBL. The result is that the customers will face an effective average rate increase, even where they are using the same amount of electricity as they used in 2005. This is contrary to the fundamental principle of stepped rate design that customers using the same amount of power going forward should not feel any impact of the stepped rate design.



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Procedural Steps

The Commission has requested that parties address the appropriate procedural steps for resolving CBL disputes. The JIESC is concerned that these disputes are technical, involving in some cases complex manufacturing processes, which are often not fully grasped quickly. Accordingly, the JIESC recommends the following interactive process be undertaken. Specifically, the JIESC supports a Negotiated Settlement Process (NSP) and suggests:

1. The Commission require BC Hydro to provide a full explanation of its position on every disputed CBL. The short one paragraph summaries contained in the June 16 and 30, 2006 Applications are not an adequate base for detailed Commission consideration;
2. The disputing customer be given an opportunity to respond to BC Hydro's submissions;
3. Neither party be given an additional right of reply before the NSP. Both parties are familiar with the issues and should be thorough enough in their initial submissions to go to an NSP;
4. That a NSP be undertaken in an attempt to resolve all remaining differences. The NSP should be public for those issues, such as the ones set out previously, that involve matters of principle which have broad interest and may over time affect additional customers. The NSP should be private for simple calculation differences which may involve detailed confidential information; and
5. If disputes cannot be resolved by NSP then there should be an oral hearing before the Commission. In this oral process every effort should be made to adopt mechanisms which will encourage dialog and interchange between the Commission and the witnesses, as the customers' operating processes and environment are ones that the Commission is less familiar with than it would be if utility issues were the only concern. If necessary, evidence could be pre-filed and an information request process could precede the oral hearing.

Thank you for your consideration.

Yours very truly,

Bull, Housser & Tupper LLP

A handwritten signature in cursive script, reading 'R. Brian Wallace'.

R. Brian Wallace

RBW/dnm/1436589.02



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Our File:	03-2802
Date:	September 21, 2006

BC Utilities Commission
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Attention: Robert J. Pellatt
Commission Secretary

Dear Mr. Pellatt:

**Re: British Columbia Power and Hydro Authority (BC Hydro) Transmission Service
Rates Customer Baseline Load (CBL) Application - Appendix A approval**

On June 16, 2006 BC Hydro advised the Commission that it would be filing the remaining CBLs for final approval on June 30, 2006 and that “at that time BC Hydro will seek the BCUC’s final approval of CBLs for each customer taking service on Rate Schedule RS1823 and of the Tariff Practices set out in Appendix A of this filing.” (Exhibit B-5-A). On June 30, 2006 BC Hydro filed Exhibit B-6 containing the remaining and finalized Customer Baseline Loads and revised summary of Customer Baseline Load information with attachments for final approval.

Since that time the efforts of the Commission and the intervenors have focused on the individual CBL determinations. On July 28, 2006 the Commission wrote to BC Hydro enclosing BCUC Order G-92-06 setting out the CBLs considered to be disputed. That letter and Order G-92-06 also clearly focused on the disputed CBLs.

The JIESC is concerned that the focus on disputed CBLs, which is perfectly natural in this process, should not be to the detriment of an examination of Attachment “A” BC Hydro’s proposed CBL Adjustment Tariff Practices. As BC Hydro acknowledges “the Tariff Practices in this Appendix only cover practices that are not already defined in the CBL Guidelines (which have already been approved by the BCUC by Order No. G-19-06).” They must be considered carefully, and applied in a manner consistent with the CBL Guidelines approved by the Commission and Provincial Policy. The JIESC requests that Appendix “A” to the extent that it is approved, be approved with the proviso that the Tariff Practices set out in Appendix “A” shall only be applicable where the CBL Guidelines are silent and shall never be applicable in a manner inconsistent with a specific or general provisions of the CBL Guidelines.



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Plant Capacity Increases v. Product Output

The JIESC is particularly concerned that the provisions dealing with plant capacity increases (Section 3.1.4.4) are being applied in some situations in a manner inconsistent with the CBL Guidelines which required that the capital investment have “resulted in a permanent increase in plant capacity”. BC Hydro has unilaterally made a decision that “a permanent increase in plant capacity is satisfied by increased product output from the plant”. Neither the negotiated settlement nor the Commission’s Order spoke in terms of “increased product output from the plant”. While an increase in plant capacity and in product output from the plant may in many cases be the same thing this is not always the case. As indicated in our letter to the Commission of July 21, 2006 under the heading: “Treatment of Increased Electricity Used by Mines” we state that:

“When a mine “expands” or extends its life the situation is similar but not identical. In the mining case one finds capital expenditures, which are frequently very substantial, and a new or previously uneconomic ore body being mined. However, often one does not find increases in current production, but instead an increased longevity of production life. The mine has usually made a decision to develop a new ore body not previously developed, which can require the removal of substantial overburden in order to have access to the ore body, or it has decided to develop lower grade ore in the existing mine. Both circumstances result in the consumption of additional electricity. BC Hydro has ruled that where there is no increase in immediate annual production, the requirements of Section 3.1.4, dealing with plant capacity additions, are not met and has been unwilling to apply Section 6.2.2 to the CBL determination.”

The JIESC is of the view that BC Hydro’s interpretation in Appendix “A” of the CBL Guidelines is incorrect and inconsistent with the spirit and intent of the Guidelines. It fails to recognize that plant capacity increases should not attract Tier 2 rates, putting an existing mine owner at a significant disadvantage in comparison to a new mine owner in a similar situation. Accordingly, we request that the BCUC strike the sentence in Appendix “A” “a permanent increase in plant capacity is satisfied by increased product output from the plant.” and indicate that a determination of a permanent increase in plant capacity should be viewed from a broad perspective consistent with the CBL Guidelines and provincial energy policy.

The time period for determining Plant Capacity Increases for Expanding Plants

On the second page of Appendix A (Page 13 of Exhibit B-5-A) BC Hydro recognizes that when customers expand a plant estimating a new CBL may not be practical due to the size of load increases and the complexity of operations. BC Hydro proposes to put the customer on RS 1823 for 12 Billing periods. In many cases this may be adequate, in others it definitely will not



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be as start-up for a large project can take two years or more. For this reason the JIESC recommends that the 12 Billing Period reference be changed to "12 Billing Periods or such longer period as may be reasonable in the circumstances".

Customer funded DSM projects for expanding Plants

There are two considerations for Customer funded DSM projects at new plant. First, customers will not get Tier 2 credit for DSM projects until the Plant is on Stepped rates. While this may seem logical where there is no CBL, it is not. The reason for not having a CBL is that there is no historical billing data available to develop a representative CBL. However, the amount of customer funded DSM has been estimated, and can be audited, and the Tier 2 rate is known. Accordingly, in order to ensure the customer gets a credit for proper credit for DSM, which BC Hydro and the Province are encouraging, the Customer should receive a credit to put it in the same place financially, with respect to Customer Funded DSM, as it would have been had the customer been billed at Tier 2 rates.

Second, when a customer applies for a customer funded DSM adjustment to its CBL in the case of an expanding plant, the amount of the adjustment is added to the Customer's base that is established, rather than be available to hold the CBL at a prior level, should the customer's consumption drop outside the 10% deadband. The result of this is that the customer only benefits to the extent of 90% of the addition rather than 100% in the normal case, due to the 90/10 Tier1/Tier2 split. There needs to be an adjustment to recognize and correct this.

Thank you for your consideration.

Yours truly,

Bull, Housser & Tupper LLP

A handwritten signature in cursive script, reading "R. Brian Wallace".

R. Brian Wallace
RBW/sg/1459662