



LETTER No. L-34-07

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May 11, 2007

Mr. Hal Wright
Ms. Veronika Pellowski
Silversmith Power and Light Corporation
Box 369
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Dear Sir and Madam:

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

By Letter No. L-3-07 dated January 17, 2007, the Commission denied the complaint and request of Silversmith Power and Light Corporation ("Silversmith") that the Commission order British Columbia Hydro and Power Authority ("BC Hydro") to cease its construction and connection to Klondike Silver Corp. ("Klondike"). The Commission stated that BC Hydro should proceed to connect Klondike, within its applicable Electric Tariff provisions, without further delay.

By letter dated February 23, 2007, counsel for Silversmith requested that the Commission review and reconsider its Decision contained in Letter No. L-3-07 (the "Reconsideration Application"). Silversmith stated that the Commission erred by not undertaking a detailed inquiry or holding an oral hearing on the complaint and request, and by failing to deal with important issues that are directly connected to the decision in Letter No. L-3-07. Silversmith recommended that the Commission institute an oral hearing and permit the introduction of new evidence. The letter stated that Silversmith does not object to BC Hydro connecting Klondike to the BC Hydro system, on an interim basis, while the Reconsideration Application is before the Commission.

In the Reconsideration Application, Silversmith did not specify the actions that it is requesting the Commission take as a result of reconsidering the decision in Letter No. L-03-07. The Commission anticipates that a reversal of the decision would result in an Order to BC Hydro that it not serve Klondike, so that if Klondike wanted utility electricity service it would need to obtain it from Silversmith.

By Letter No. L-16-07 dated March 7, 2007 the Commission established a written comment process on the Reconsideration Application to address the first phase issue of whether a reasonable basis exists to allow a reconsideration. The Commission typically applies the following criteria to determine whether or not a reasonable basis exists for allowing reconsideration:

- the Commission has made an error in fact or law;
- there has been a fundamental change in circumstances or facts since the Decision;
- a basic principle had not been raised in the original proceedings; or
- a new principle has arisen as a result of the Decision.

Where an error is alleged to have been made, in order to advance to the second phase of the reconsideration process, the application must meet the following criteria:

- the claim of error is substantiated on a prima facie basis; and
- the error has significant material implications.

The Commission received written submissions all dated March 19, 2007 from BC Hydro, Klondike and counsel for the Silver Ridge Community Club. The submissions stated that the Reconsideration Application does not meet any of the criteria for reconsideration, nor does it provide any basis upon which the Commission should vary from its usual practice for a reconsideration application. In the event the reconsideration proceeds to a second phase where the Commission hears full arguments on the merits of the application, none of the parties supported Silversmith's request for an oral hearing, based in part on the cost of an oral proceeding.

By letter dated March 30, 2007, counsel for Silversmith replied to the other submissions. Silversmith continues to maintain that the Commission erred in fact and law by not holding a more fulsome proceeding into the complaint and request, and by failing to properly consider relevant issues. Silversmith repeats its request for a reconsideration of the Decision in Letter No. L-3-07 by way of an oral hearing.

The Commission notes the comment of Klondike that Silversmith could have requested an oral hearing during the period when the written hearing process on its complaint and request was underway, and that it did not do so. In this regard, it should also be noted that the Commission is not required, but has a discretion, to hold an oral hearing pursuant to the *Utilities Commission Act*. The Commission also notes the submission of BC Hydro that the five issues that Silversmith raises amount to no more than a request for an opportunity to re-present its case, and for the Commission to come to a different conclusion.

With regard to the information that was before the Commission when it made its Decision, the Commission considers that it was the responsibility of Silversmith to present whatever evidence it cared to in support of its complaint and request. After reviewing the submissions and applying its reconsideration phase one criteria, the Commission is not persuaded that Silversmith has satisfied the requirements for the Reconsideration Application to proceed to phase two of the reconsideration process. **Therefore, the Commission denies the request of Silversmith for a reconsideration of the Decision in Letter No. L-3-07.**

Yours truly,

Original signed by

Robert J. Pellatt

JBW/cms

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