

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-92-07

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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 ("BC Hydro")
2007 Rate Design Application ("2007 RDA")
Complaints Entered by Heiltsuk Tribal Council/Shearwater Marine Limited

BEFORE: A.J. Pullman, Panel Chair
R.J. Milbourne, Commissioner August 13, 2007
L.A. O'Hara, Commissioner

O R D E R

WHEREAS:

- A. BC Hydro filed on March 15, 2007, pursuant to the Utilities Commission Act ("UCA") and Commission Order No. G-148-06, a rate design application ("Application") to update BC Hydro's rates and terms and conditions of service; and
- B. By Order No. G-50-07 dated May 8, 2007, the Commission established an oral public hearing process for the review of the 2007 RDA and proceeded with the Regulatory Timetable as attached in Appendix A to that Order; and
- C. At the hearing, the Commission determined that the 2007 RDA would be heard in three phases: Phase I to cover the issues in Sections 1 to 5 of Exhibit A-23; Phase II to consider the issues in Sections 6 and 7 of the Issues List in Appendix A-23 as well as a report on the ability of the three parties, namely: BC Hydro the Applicant, Central Coast Power Corporation ("CCPC") and the Heiltsuk Tribal Council and Shearwater Marine Limited ("Heiltsuk") to negotiate a response to certain questions and information request posed by Heiltsuk; and Phase III to consider the Special Contract Rate and other applications with respect to interruptible rates to the Independent Power Producers serving Zone II customers. The Commission also severed the complaints entered by Heiltsuk against CCPC and BC Hydro from Phase I and Phase II of the proceeding; and
- D. By Order No. G-40-86 dated July 4, 1986, the Commission approved the Transfer of Lands and Chattels from Ocean Falls Corporation to CCPC and exempted CCPC from the Utilities Commission Act (S.B.C. 1980 Chapter 60) except for Part 2 and Sections 30, 44, 47, and 133 which are now identified in the current Act as Part 2 and Sections 25, 38, 41 and 117; and
- E. By Order No. G-30-02 dated April 17, 2002, the Commission amended Order No. G-40-86 to permit CCPC to negotiate industrial rates with customers up to BC Hydro's rates for equivalent categories of service.

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Paragraph D of Order No. G-30-02 states that the Commission may review whether the exemption for CCPC continues to be in the public interest in the event of a complaint by an interested party; and

- F. On July 16, 2007, Heiltsuk filed with the Commission two complaints (“Heiltsuk Complaints”). The first complaint is filed on the basis that matters at issue in the 2007 RDA proceeding have given rise to reasonable, well-founded concerns that the limited exemption of CCPC from the UCA, by Order No. G-40-86 as amended by Order No. G-30-02, may not be in the public interest. The second complaint is in regards to CCPC and BC Hydro pursuant to Section 25 of the UCA, regarding unreasonable or unreasonably discriminatory service by CCPC to BC Hydro and by BC Hydro to its customers in the “Bella Bella NIA”. These letters of complaint were entered as exhibits at the oral public hearing of the 2007 RDA proceeding (Exhibits C23-14 and C23-15 respectively); and
- G. By letter dated July 23, 2007, the Commission confirmed with Heiltsuk that as a result of the procedural order during the oral public hearing, the Heiltsuk Complaints were severed from Phase II of the 2007 RDA proceeding because the Commission has determined that CCPC has not received adequate notice in the circumstance and that the Commission would be establishing a separate process; and
- H. By letter dated July 26, 2007, the Commission invited responses from BC Hydro and CCPC to the Heiltsuk Complaints, and submissions from all parties with regard to the type of process as the forum to examine the Complaints and the timing of the process; and
- I. By letter dated July 30, 2007, BC Hydro submitted that the Heiltsuk Complaints ought to be dismissed by the Commission without any further process; or in the alternative, they ought to be held in abeyance pending final Commission decisions regarding Phases II and III of the 2007 RDA proceeding; and
- J. By letter dated July 31, CCPC submitted that the Heiltsuk Complaints ought to be dismissed at this stage; and in the event that the Commission determines that a hearing or further inquiry is required, CCPC submitted that the inquiry should be in the form of written submissions only; and should a formal hearing be directed, CCPC submitted that it should not take place until after the conclusion of Phases II and III of the 2007 RDA proceeding. No other Participants to the 2007 RDA proceeding made any submissions on the Heiltsuk Complaints; and
- K. Heiltsuk filed its submissions and responded to the submissions from BC Hydro and CCPC by letter dated August 1, 2007. Heiltsuk submitted that the two Complaints should be examined together in a single process, with a public oral hearing being the appropriate process. Heiltsuk stated that it would not object to the hearing being held after the conclusion of the oral hearing for Phase II and Phase III of the 2007 RDA proceeding, but before the Argument or the Decision(s) with respect to Phases II and III and that holding the public oral hearing in late October or November 2007 would be acceptable; and
- L. The Commission Panel has considered the issue of adequate notice to the respondents of the Complaints and the submissions on the type of process and the timing.

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NOW THEREFORE the Commission orders that the Complaints will be held in abeyance until the completion of the oral phase of Phase II, at which time the Commission will hear submissions from the parties involved as to the format and timetable of the process to be followed.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of August 2007.

BY ORDER

Original signed by:

A.J. Pullman
Panel Chair