

**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-40-08

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

and

An Application by  
British Columbia Hydro and Power Authority ("BC Hydro")  
for the Review of F2009 and F2010 Revenue Requirements

**BEFORE:** L.F. Kelsey, Panel Chair  
L.A. O'Hara, Commissioner March 14, 2008  
A.A. Rhodes, Commissioner

**O R D E R**

**WHEREAS:**

- A. BC Hydro filed on February 20, 2008, pursuant to sections 58 to 61 of the Utilities Commission Act (the "Act"), its F2009 and F2010 Revenue Requirements application for, among other things, approval of across-the-board rate increases of 6.56 percent and 8.21 percent, effective April 1, 2008 and April 1, 2009, respectively, and approval of a reduction of the Deferral Account Rate Rider from 2.0 percent to 0.5 percent, effective April 1, 2008 ( the "F09/F10 RRA" or "Application"); and
- B. The Application also seeks refundable interim relief pursuant to sections 58 to 61 and section 90 of the Act to allow BC Hydro to increase its rates by 6.56 percent on an across-the-board basis and to decrease its Deferral Account Rate Rider from 2.0 percent to 0.5 percent, both effective April 1, 2008, pending a full hearing into the F09/F10 RRA and orders subsequent to that hearing, on the basis that on April 1, 2008 BC Hydro's current rates would otherwise no longer be fair, just, sufficient and not unduly discriminatory; and
- C. On February 22, 2008 the Commission issued Letter No. L-5-08 establishing, among other things, the regulatory timetable for parties to address, by written submission, BC Hydro's request to implement the interim rates described in the F09/F10 RRA effective April 1, 2008 and the BC Hydro Transmission Service Rate Re-pricing Application (the "TSR Re-pricing Application"); and
- D. By Order No. G-21-08 dated February 25, 2008, the Commission established the Regulatory Timetable for the F09/F10 RRA, which included a Workshop on the F09/F10 RRA for March 6, 2008 and also a Procedural Conference for April 28, 2008 to hear submissions on the regulatory process for the review of the F09/F10 RRA, the TSR Re-pricing Application, and the anticipated BC Hydro Residential Inclining Block Rate Application (the "RIB Rate Application"); and

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- E. By Order No. G-28-08 dated February 28, 2008, the Commission issued orders under the style of all three applications, which again related to the date of the Procedural Conference referred to in Order No. G-21-08, and also provided some details of the matters to be addressed at the Procedural Conference and further ordered BC Hydro to publish notice of the three applications and the Procedural Conference; and
- F. The Commission received Intervenor Submissions by March 7, 2008 from the Joint Industry Electricity Steering Committee (“JIESC”) and Mr. Alan Wait opposing, either wholly or in part, the proposed F09/F09 RRA interim rate changes; and
- G. BC Hydro filed its Reply Submission on March 11, 2008; and
- H. The Commission has reviewed the F09/F10 RRA and the submissions on BC Hydro’s requested interim rate changes and considers that approval is warranted.

**NOW THEREFORE** the Commission orders with Reasons attached, pursuant to section 89 of the Act, as follows:

1. The 6.56 percent across-the-board refundable interim increase in rates is approved for BC Hydro effective April 1, 2008 to be applied as described in Appendix R of the F09/F10 RRA.
2. The refundable interim decrease in BC Hydro’s Deferral Account Rate Rider, from 2.0 percent to 0.5 percent, is approved effective April 1, 2008.
3. The interim rate increase and interim decrease in BC Hydro’s Deferral Account Rate Rider are both subject to refund with interest at BC Hydro’s weighted average cost of debt for its most recent fiscal year.
4. BC Hydro is to provide customers with notification of the interim rate increase as soon as practicable.
5. The Commission will accept, subject to timely filing by BC Hydro, amended Electric Tariff Rate Schedules in accordance with the terms of this Order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 14<sup>th</sup> day of March 2008.

BY ORDER

*Original signed by:*

L.F. Kelsey,  
Panel Chair

Attachment

**British Columbia Hydro and Power Authority  
Application for the Review of F2009 and F2010 Revenue Requirements**

**REASONS FOR DECISION**

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**1.0 APPLICATION**

On February 20, 2008, British Columbia Hydro and Power Authority (“BC Hydro”) filed pursuant to sections 58 to 61 of the Utilities Commission Act (the “Act”), its F2009 and F2010 Revenue Requirements application for, among other things, approval of across-the-board rate increases of 6.56 percent and 8.21 percent, effective April 1, 2008 and April 1, 2009, respectively, and approval of a reduction of the Deferral Account Rate Rider from 2.0 percent to 0.5 percent, effective April 1, 2008 ( the “F09/F10 RRA” or “Application”).

The Application states that the proposed rate increases will recover the forecast revenue deficiencies of \$187.5 million in F2009 and \$444 million in F2010. The Application also seeks refundable interim relief pursuant to sections 58 to 61 and section 90 of the Act to allow BC Hydro to increase its rates by 6.56 percent on an across-the-board basis and to decrease its Deferral Account Rate Rider from 2.0 percent to 0.5 percent, both effective April 1, 2008, pending a full hearing into the F09/F10 RRA and orders subsequent to that hearing, on the basis that on April 1, 2008 BC Hydro’s current rates would otherwise no longer be fair, just, sufficient and not unduly discriminatory.

**2.0 BACKGROUND**

By Order in Council (“OIC”) 27-08, the Province of British Columbia (the “Province”) amended the definition of “equity” in Heritage Special Directive No. HC1 to BC Hydro (“HC1”) to equity calculated in accordance with generally accepted accounting principles. By OIC 28-08 the Province made a number of amendments to Heritage Special Direction No. HC2 to the Commission, which included the amended definition of “equity” and added the definition of “deemed equity” (“HC2”). Copies of OIC 27-08, OIC 28-08 and the amended HC1 and HC2 are included at Appendix M of the Application.

**3.0 REGULATORY PROCESS**

On February 22, 2008 the Commission issued Letter No. L-5-08 establishing, among other things, the regulatory timetable for parties to address, by written submission, BC Hydro’s request to implement the interim rates described in the BC Hydro Transmission Service Rate Re-pricing Application ( the “TSR Re-pricing Application”) and the F09/F10 RRA effective April 1, 2008. The deadline for Intervenor Submissions was set at Friday, March 7, 2008 and the deadline for BC Hydro Reply Submissions was set at Tuesday, March 11, 2008. These Reasons will address the submissions received with regards to the interim rates for the F09/F10 RRA.

By Order No. G-21-08 dated February 25, 2008, the Commission established the Regulatory Timetable for the F09/F10 RRA, which included a Workshop on the F09/F10 RRA for March 6, 2008 and also a Procedural Conference for April 28, 2008 to hear submissions on the regulatory process for the review of the F09/F10 RRA, the TSR Re-pricing Application, and the anticipated BC Hydro Residential Inclining Block Rate Application (the “RIB Rate Application”). By Order No. G-28-08 dated February 28, 2008, the Commission issued orders under the style of all three applications, which again related to the date of the Procedural Conference referred to in Order No. G-21-08, and also provided some details of the matters to be addressed at the Procedural Conference and further ordered BC Hydro to publish notice of the three applications and the Procedural Conference.

#### **4.0 INTERVENOR SUBMISSIONS**

The Commission received Intervenor Submissions dated February 7, 2008 from the Joint Industry Electricity Steering Committee (“JIESC”) and March 6, 2008 from Mr. Alan Wait (“Mr. Wait”) opposing, either wholly or in part, the proposed F09/F09 RRA interim rate changes. The JIESC is generally opposed to interim relief for utilities. In its view, utility applications should be filed in sufficient time for a proper examination to occur prior to new rates taking effect. The JIESC further states that the increases sought are not adequately justified and BC Hydro is requesting a return on capital that is comprised of roughly a 6 percent return for debt on 80 percent of its capital structure and roughly a 12 percent return on equity on 30 percent of its capital structure. In the JIESC’s view no private utility is allowed to earn a return on 110 percent of its capital structure and BC Hydro should not either. The JIESC considers that this double-charge represents a cost to ratepayers of between \$60 to \$70 million per year. If interim rate relief is granted, the JIESC requests that the relief be minimized and the hearing be expedited so that interim rates are in effect for the minimum time period.

Mr. Wait made reference to HC2 and stated that BC Hydro has not made a deduction for interest charges on the 10 percent of debt that is included in deemed equity. Mr. Wait calculates this overcharge to be \$73.4 million. Mr. Wait also considers that short-term debt costs and new long-term debt costs are overstated by \$4.6 million and \$2.4 million, respectively. Mr. Wait requested that the Commission recognize that his two concerns were legitimate and reduce BC Hydro’s requested interim rate increase on the basis of an \$80 million reduction to its revenue requirements.

#### **5.0 BC HYDRO’S REPLY SUBMISSION**

BC Hydro notes that the JIESC addressed the interim rate increase but did not address the interim reduction in the Deferral Account Rate Rider. BC Hydro states that a review of its Application could not readily be resolved with a written decision prior to the commencement of the fiscal period and that the Commission’s typical practice has been to grant interim refundable rates when prima facie evidence of a revenue deficiency has been provided. In BC Hydro’s view, interest rate forecasts should not be tested when setting interim rates. BC Hydro submits that the JIESC has ignored, and Mr. Wait has misinterpreted, the recent amendments to HC2 that require the Commission to set rates for BC Hydro that allow BC Hydro to collect sufficient revenue to enable it to meet all of its debt service costs and to achieve the prescribed annual rate of return on deemed equity. BC Hydro states that it has calculated the revenue requirements in the Application in accordance with the amendments to HC2.

#### **6.0 COMMISSION DETERMINATION**

The Commission Panel has considered the Application, the Intervenor Submissions and BC Hydro’s Reply Submission. The Commission Panel notes that BC Hydro filed its request for the interim increase in rates pursuant to section 90 and specifically section 90(2) of the Act and the Intervenor Submissions and BC Hydro Reply did not address the relevance of this section of the Act.

Section 90 states:

- 90 (1) In an order or regulation, the commission may direct that the order or regulation or part of it comes into operation
  - (a) at a future time,
  - (b) on the happening of an event specified in the order or regulation, or
  - (c) on the performance, to the satisfaction of the commission, by a person named by it of a term imposed by the order.

(2) The commission may, in the first instance, make an interim order, and reserve further direction for an adjourned hearing or further application.

In the Commission Panel's view, section 90(2) refers to an interim order in the context of an adjourned hearing or future application, which is not the current status of the review of the Application. The Commission Panel also considers that section 91 of the Act "Orders without Notice" does not apply due to Commission Letter No. L-5-08 providing Intervenors and BC Hydro with the opportunity to provide submissions on BC Hydro's request for interim rates.

The Commission Panel notes that by Order No. G-8-04 dated January 20, 2004, the Commission approved a BC Hydro F2005/F2006 revenue requirements request for an interim rate increase effective April 1, 2004 pursuant to section 89 of the Act. The Commission received a reconsideration request by the JIESC dated February 12, 2004 that implied the Commission had made an error in law by not using section 91(1) to determine whether interim relief was appropriate. By Letter No. L-13-04 the Commission responded to the JIESC's February 12, 2004 reconsideration request and determined that it continues to be appropriate, in that instance, for the Commission to follow its practice of granting the requested interim relief under section 89 without a process or further input from participants.

The Commission Panel considers for the reasons provided in Letter No. L-13-04 that section 89 is the appropriate section of the Act to review BC Hydro's request for interim rates in the Application. The Commission Panel also considers that the Intervenor Submissions do not adequately demonstrate that BC Hydro's request for interim rates is inconsistent with the amendments to HC2 and further, in the circumstances, it is not appropriate to finally determine the issue of the effect of HC2 at this stage of the proceeding. Accordingly, the Commission Panel approves BC Hydro's interim rates as filed effective April 1, 2008 subject to refund at the weighted average cost of debt for its most recent fiscal year. The Commission approves BC Hydro's requested interim refundable reduction in the Deferral Account Rate Rider. Refundable rates normally only apply to interim rate increases but in the event the final approved Deferral Account Rate Rider is lower than requested, a refundable feature has been approved on an interim basis. The effects of the amendments to HC2 in terms of rate setting remain as issues in the Commission's review of the Application and the establishment of permanent rates.

The Commission Panel acknowledges the JIESC's request for an expedited hearing in the event that interim rates are approved. By Order No. G-21-08 the Commission established a regulatory timetable for review of the Application leading to a Procedural Conference on April 28, 2008. By Order No. G-28-08 the Commission additionally provided some details of the matters to be addressed at the Procedural Conference. The JIESC may further address the issue of the need for an expedited hearing at the Procedural Conference.