



LETTER NO. L-10-08

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VIA E-MAIL
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March 28, 2008

TRAHVOL
c/o Mr. J. Cecil Dunn
1558 53 A Street
Delta, BC V4M 3G2

Dear Mr. Dunn:

Re: Application for Reconsideration of the
Vancouver Island Transmission Reinforcement Project ("VITR") Decision, Order No. C-4-06

This letter is in response to your letter of March 20, 2008, applying for reconsideration of the Commission's VITR Decision dated July 7, 2006, specifically with regard to the selection of South Delta Route Option 1.

An application for reconsideration by the Commission proceeds in two phases. In the interest of both regulatory efficiency and fairness, and before the Commission proceeds with a determination on the merits of an application for reconsideration, the application undergoes an initial screening phase. In this first phase, the applicant must establish a prima facie case sufficient to warrant full consideration by the Commission. The Commission may invite submissions from the other participants in the proceeding that led to the Decision that is subject to the reconsideration request, or may consider that comments from the parties are not necessary. The Commission generally 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.

If the Commission determines that a reconsideration is warranted, the reconsideration proceeds to the second phase where the Commission hears full arguments on the merits of the application.

In this instance, the Commission considers it unnecessary to invite comments from BCTC, registered intervenors or interested parties.

The Reconsideration Application

Although the criterion that TRAHVOL relies upon in its application is not specifically identified, TRAHVOL's application is based on "new evidence concerning the options available to complete the VITR". The Commission will therefore assume that TRAHVOL is submitting that there has been a fundamental change in circumstances or facts since the VITR Decision.

TRAHVOL engaged the services of an engineering consultant who prepared a report concerning the feasibility and cost of placing underground transmission lines beneath the existing right-of-way utilizing Horizontal Directional Drilling ("HDD"). TRAHVOL submits that the HDD option is the preferred option of the Municipality of Delta, the right-of-way homeowners, the school board and the community at large. The evidence presented by TRAHVOL purports to show that the HDD option may be a suitable solution, that its costs would be reasonable and that the impact on the VITR Project schedule would be manageable.

TRAHVOL submits that, although some may argue that it should have been put forward the HDD proposal much earlier, the onus to explore alternatives was on BCTC. TRAHVOL submits that BCTC was aware of HDD technology but filed no evidence that would have allowed the Commission to consider it as an option for the VITR project. TRAHVOL further submits that BCTC included other options that it considered infeasible or difficult in its CPCN application, and that it was not within BCTC's purview to disregard the HDD option.

The "new evidence" presented by TRAHVOL includes the HDD option analysis prepared by its consultant and comparisons of several cost estimates for the HDD option, as adjusted by TRAHVOL, as well as TRAHVOL's assessment of load growth on Vancouver Island and the need for a second line, TRAHVOL's opinion about the construction schedule for the HDD option, and the results of TRAHVOL's efforts to canvass property owners.

Recent evidence concerning the cost of the HDD option

TRAHVOL's application includes an excerpt from a letter from Ms. Peverett, dated January 31, 2008, which indicates that HDD was considered by BCTC prior to submitting its CPCN application, but that BCTC determined that HDD pipe-type cable was not a suitable solution. BCTC recently re-visited the HDD option and BC Hydro developed a cost estimate which is significantly higher than the estimate prepared by TRAHVOL's consultant and appears to confirm BCTC's decision to not pursue the HDD option in its CPCN application.

Other new information concerning the HDD option was recently released by the Provincial Ministry of Energy, Mines and Petroleum Resources (Information Bulletin dated March 5, 2008). The government commissioned two independent studies to review the various proposals for completion of the VITR Project, including TRAHVOL's proposal. The Ministry announced that both independent studies confirmed the results of the BCTC/BC Hydro cost estimates, and noted that the cost estimates did not include a number of potentially significant indirect costs. More recently, the government announced that the construction of overhead lines for the Tsawwassen segment of the VITR Project will proceed (Ministry of Energy, Mines and Petroleum Resources Information Bulletin dated March 17, 2008).

Recent evidence concerning the impact of HDD on the VITR Project Schedule

TRAHVOL's application also includes a number of arguments concerning the VITR Project schedule, but does not provide new evidence that would support a later target completion date or alleviate concerns about additional construction delays.

TRAHVOL provides its assessment of the need for additional transmission capacity to Vancouver Island, but does not supply sufficient evidence to support its argument for a delay in the VITR commissioning date. TRAHVOL submits that the HDD option could be completed by October 31, 2009 or sooner, but the recent studies commissioned by the government do not support TRAHVOL's submission and indicate that the HDD option would significantly extend the project schedule.

TRAHVOL's willingness to provide evidence that 110 or 135 residents have agreed that "they would be willing to entertain the HDD/Pipe Cable proposal, on the condition that a schedule for the eventual removal of the remaining overhead lines is agree upon" does not eliminate concerns about further delays related to right-of-way issues.

Commission Determination

The Commission notes the following comment found in the Reasons for Decision attached to Order G-141-06 dismissing TRAHVOL's first reconsideration application dated October 11, 2006:

"The Commission acknowledges TRAHVOL's significant efforts to develop an additional route option [Route Option 5B] with few resources. More significantly, however, the evidence by TRAHVOL could have been developed during the period following BCTC's filing of the VITR CPCN application and filed during the evidentiary phase of the VITR proceeding so that it could have been tested through Information Requests and cross-examination, as were the other options. In its letter dated October 12, 2006, the Commission described the criteria that it generally applies to determine whether or not a reasonable basis exists for allowing reconsideration. TRAHVOL has not established that any of those criteria have been met and therefore the Commission accepts BCTC's argument that TRAHVOL should not now be given the opportunity to bring forward alternatives." (p. 5)

This comment was made in consideration of an alternative not considered during the VITR proceeding, and presented and supported by TRAHVOL in its first reconsideration application.

Considering all the recent evidence referenced above, the Commission concludes that there has not been a fundamental change in circumstances or facts since the VITR Decision. The HDD option remains a costly alternative, with risks to the VITR Project schedule. Moreover, the Commission continues to believe that TRAHVOL was given a fair opportunity to participate in the VITR proceeding, and the time has now past for consideration of new alternatives.

For the reasons stated above, the grounds set forth in the Reconsideration Application do not meet the criteria for a reconsideration application to proceed to the second phase. The Reconsideration Application is denied.

Yours truly,

Original signed by:

Erica M. Hamilton

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