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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-11-08

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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
Amendment of Regulatory Asset Regarding First Nations Claim Provisions**

BEFORE: R.H. Hobbs, Chair January 21, 2008

O R D E R

WHEREAS:

- A. On April 18, 2006 the British Columbia Hydro and Power Authority ("BC Hydro") applied for the establishment, by a British Columbia Utilities Commission ("Commission") Order, of a regulatory asset in respect of a loss provision pertaining to two claims made against BC Hydro by First Nations; and
- B. BC Hydro advised that negotiations in respect of the two claims were advanced to the point in fiscal year 2006 that BC Hydro was obliged, under generally accepted accounting principles ("GAAP"), to record a loss provision in that period; and
- C. The Commission, by Order No. G-56-06 dated May 18, 2006, authorized BC Hydro to establish, in fiscal year 2006, a regulatory asset in the amount of the loss provision it recognizes in respect of the two claims made against it by First Nations (the "First Nations Loss Provision Regulatory Asset"); and
- D. The Commission, by Order No. G-56-06, authorized BC Hydro to carry forward the First Nations Loss Provision Regulatory Asset until the settlement with the First Nations is completed and the actual settlement amount is known, and the Commission determines the manner in which, if any, the final settlement amount may be recovered in rates; and
- E. On December 19, 2007 BC Hydro applied to the Commission for approval to amend the First Nations Loss Provision Regulatory Asset to allow BC Hydro to (i) record any loss provision or provisions BC Hydro is required under GAAP to recognize in respect of any claim made against it by First Nations, and (ii) periodically adjust the amount of the provisions as required under GAAP; and carry the provisions forward to future periods (the "Application"); and
- F. BC Hydro advised that it may be required under GAAP to accrue a contingent liability loss provision respecting settlement of a third claim against it by First Nations and any further provisions that may occur in the future; and

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- G. BC Hydro believes that the Application aligns with the Commission's approval of capitalization of BC Hydro's actual negotiation and litigation costs with First Nations and the costs of settlements arising from those negotiations by Order No. G-53-02, preserves confidentiality of the underlying negotiations, and minimizes administrative burden; and
- H. BC Hydro does not seek any pre-approval from the Commission with respect to the ultimate recovery in rates of the amount of any loss provision pertaining to claims made against it by First Nations. If and when actual costs occur and legally binding payment obligations are accepted by BC Hydro, it would seek recovery of the actual costs in future proceedings; and
- I. The Commission considers that the Application is in the public interest.

NOW THEREFORE the Commission orders as follows:

1. BC Hydro is authorized to amend the First Nations Loss Provision Regulatory Asset in Order No. G-56-06 so as to allow BC Hydro to:
 - (a) record any loss provision or provisions BC Hydro is required under GAAP to recognize in respect of any claim made against it by First Nations; and
 - (b) periodically adjust the amounts of any such loss provisions as required under GAAP; and
 - (c) carry forward the loss provisions, as adjusted from time to time, until the requirement for the loss provision related to settlement with First Nations is no longer required under GAAP.
2. With respect to the First Nations Loss Provision Regulatory Asset, BC Hydro is to file an application, when a settlement is completed, for the accounting treatment of the final amount for the aggregate loss provision in respect of any settled claim and the manner in which, if any, that amount may be recovered in rates.

DATED at the City of Vancouver, in the Province of British Columbia, this 21st day of January 2008.

BY ORDER

Original signed by:

Robert H. Hobbs
Chair