

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER E-37-10**

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

and

**Filing by British Columbia Hydro and Power Authority
for Acceptance of Amending Electricity Purchase Agreements
and Contractual Developments related to
Electricity Purchase Agreements filed for Information**

BEFORE: L.F. Kelsey, Commissioner
D.A. Cote, Commissioner
D. Morton, Commissioner

December 22, 2010

O R D E R

WHEREAS:

- A. Pursuant to section 71 of the *Utilities Commission Act* (the Act) on May 28, 2010, British Columbia Hydro and Power Authority (BC Hydro) filed with the British Columbia Utilities Commission (the Commission) agreements (the Amending Agreements) that amend Electricity Purchase Agreements period ending December 31, 2009 (the Filing). The Amending Agreements are listed in Appendix A to this Order and are more specifically identified in Attachment 1 of the Filing;
- B. The Commission considers it has jurisdiction under the Act to accept these amendments, since these existing Electric Purchase Agreements (EPAs) resulting from the British Columbia Hydro and Power Authority (BC Hydro) F2006 Open Call for Power and accepted by Order E-07-06 under sections 71 of the Act, are not exempt under the Clean Energy Act (the CEA) established in July 2010;
- C. The Commission notes that BC Hydro had previously filed an Amending Agreement for the Bear Mountain Wind Park Project and the Commission accepted the Amending Agreement by Order E-19-07;
- D. The Commission acknowledges receipt of Attachment 8 of the Filing, which BC Hydro included in the Filing, that sets out contractual developments related to EPAs that BC Hydro considers are not amendments to the agreements, and which are listed in Appendix B to this Order;
- E. BC Hydro requests the EPA amendment with the District of Lake Country (Attachment 2 of the Filing) be kept confidential due to the commercially sensitive nature as described in the Filing's cover letter;

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- F. The Commission has considered the Filing, and has determined the Amending Agreements are in the public interest.

NOW THEREFORE the Commission orders as follows:

1. The Amending Agreements set out in Appendix A to this Order are accepted for filing as amendments to existing energy supply contracts pursuant to section 71 of the Act.
2. The Commission will keep confidential the EPA amendment with the District of Lake Country (Attachment 2 of the Filing).

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of December 2010.

BY ORDER

Original signed by:

D. Morton
Commissioner

Attachments

**British Columbia Hydro and Power Authority
Amending Agreements to Electricity Purchase Agreements**

Project Name	Seller Company Name	Effective Date	Description
Eldorado Reservoir	District of Lake Country	May 14, 2009	Purpose is to increase Plant Capacity from 0.8 MW to 1.125 MW and to modify Seller's Plant. The capacity increase is greater than 10 per cent of the current Plant Capacity.
Bear Mountain Wind Park	Bear Mountain Wind Limited Partnership	September 16, 2009	<p>In order to reflect the unique characteristics of wind turbine technology, BC Hydro has agreed to:</p> <p>(i) modify its COD requirements for energy generation from a continuous 72-hour period to a period of not less than 54 hours whether or not continuous, during a period of 72 hours;</p> <p>(ii) reduce the notice period for BC Hydro's right to observe the testing required by subsection 5.2(b) from 10 days to one business day; and</p> <p>(iii) purchase Non-Test Pre-COD Energy in exchange for the Seller agreeing to comply with the Wind Data Collection System requirements set out in the Specimen EPA Adaptations Guide of the Clean Power Call RFP.</p>

**British Columbia Hydro and Power Authority
Electricity Purchase Agreements
Contractual Developments for Information**

Project Name	Seller Company Name	Effective Date	Document Type	Description
NWE Williams Lake WW	NW Energy (Williams Lake) Limited Partnership, by its General Partner NW Energy (Williams Lake) Corp.	April 17, 2009	Dispatch Agreement	Purpose of Dispatch Agreement is to grant BC Hydro certain dispatch rights relative to the operation of the NWE Plant and to supplement the terms of the EPA during the one-year term of the agreement. NWE shall be entitled to compensation for deemed energy made available during the Dispatch Period such that they are kept whole for energy and O&M costs. Curtailment enables BC Hydro to avoid paying excessive bio fuel costs (for which it bears the risk) and replace energy through more economic alternatives.
Kwalsa Energy	Harrison Hydro Limited Partnership	May 19, 2009	EPA Development	Amend EPA to reflect increase in Plant Capacity from 85.9 MW to 90.0 MW, which is an increase of less than 10 per cent of existing Plant Capacity, and to reflect modifications to the Seller's Plant.
Raging River 2	Raging River Power & Mining	May 25, 2009	Waiver Letter	Waiver avoids EPA terminating automatically on May 31, 2009. Due to project delays, the waived conditions will be done later. Increased Performance Security will be provided by July 31, 2009 or if Project is sold, by September 30, 2009. Interconnection studies will be put on hold until about 12 months before Estimated COD.
Zeballos Lake	Zeballos Lake Hydro LP	June 1, 2009	Waiver of Buyer Termination Rights	To waive Buyer Termination Rights under subsection 15.1(b) until July 31, 2009 to provide Seller with additional two months to reach COD. Zeballos Lake has commenced commissioning process and has achieved Declarations of Compatibility-First Synchronization and Load.
Brown Lake Hydro	EPCOR Power Development Corporation	July 3, 2009	Assignment and Assumption Agreement	To assign project from EPCOR Power Development Corporation to EPCOR Power Development (British Columbia) Limited Partnership
Miller Creek Power	EPCOR Power Development (British Columbia) LP	July 3, 2009	Assignment Assumption & Novation Agreement	To transfer right of first refusal obligation and benefits from EPCOR to Capital Power.

Miller Creek Power	EPCOR Power Development (British Columbia) LP	July 3, 2009	Consent Letter	BC Hydro agrees to change of control to Capital Power
Miller Creek Power	EPCOR Power Development (British Columbia) LP	July 9, 2009	Parental guarantee	Replacement of EPCOR parental guarantee with Capital Power guarantee
Miller Creek Power	EPCOR Power Development (British Columbia) LP	July 9, 2009	Release of parental guarantee	Release of parental guarantee provided by EPCOR to be replaced by parental guarantee of Capital Power
Brown Lake Hydro	EPCOR Power Development Corporation	July 9, 2009	Release of Guarantee	Releases EPCOR from parental guaranteed dated April 3, 2004. New guarantee will be provided by Capital Power LP
Brown Lake Hydro	EPCOR Power Development Corporation	July 9, 2009	Parental Guarantee	Parental guarantee by Capital Power replacing April 4, 2007 guarantee
Songhees Creek Hydro	Songhees Creek Joint Venture	July 29, 2009	Termination Agreement	Seller was unable to attain all material permits, thereby terminating the EPA
Cypress Creek	Synex Energy Resources Ltd.	August 18, 2009	Lender consent agreement	Lender consent agreement
PGP Bio Energy Project	Canfor Pulp Limited Partnership	September 14, 2009	Change in COD	Guaranteed COD date is changed from August 11, 2009 to September 15, 2009. Section 7.14 is amended by changing all references to August 10 and August 11 to September 14 and September 15 respectively.
Akolkolex	Canadian Hydro Developers	October 20, 2009	Consent Agreement	Consent to Canadian Hydro Developers change of control
Bone Creek Hydro	Canadian Hydro Developers, Inc.	October 20, 2009	Consent Agreement	TransAlta Corp. and Canadian Hydro Developers (CHD) have entered into a definitive pre-acquisition agreement pursuant to which a wholly owned subsidiary of TransAlta – 1478860 Alberta Ltd. shall acquire all the issued and outstanding common shares of CHD. The offer has been approved by the Board of Directors for both companies.

Pingston Creek	Canadian Hydro Developers	October 20, 2009	Buyer's Consent	Buyer's consent agreement to allow TransAlta's subsidiary 1478860 Alberta Ltd. to acquire all issued and outstanding common shares of Canadian Hydro Developers – change of control
Upper Mamquam Hydro	Canadian Hydro Developers	October 20, 2009	Buyer's Consent	Buyer's consent agreement to allow TransAlta's subsidiary 1478860 Alberta Ltd. to acquire all issued and outstanding common shares of Canadian Hydro Developers – change of control
Cedar Road Landfill Gas	Cedar Road LFG Inc.	November 25, 2009	Lender Consent Agreement	Lender consent agreement
Glacier & Howser Creek	Purcell Green Power Inc.	December 11, 2009	Section 15 Waiver	BC Hydro agreed to waive its right to terminate the EPA for failure to obtain material permits per subsection 15.1(a) until July 2010
Glacier & Howser Creek	Purcell Green Power Inc.	December 11, 2009	Termination	BC Hydro and Seller agreed to terminate Amendment number 1 which was signed on April 17, 2009. A new amendment will be executed later in 2010, if required, following the completion of the Environmental Assessment for the project
Upper Stave Energy	Harrison Hydro Limited Partnership	December 16, 2009	EPA Development	Amend EPA to increase Plant Capacity from 54.7 MW to 60.0 MW which is less than 10 per cent of Plant Capacity.