

**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-110-10

SIXTH FLOOR, 900 HOWE STREET, BOX 250  
VANCOUVER, BC V6Z 2N3 CANADA  
web site: <http://www.bcuc.com>

TELEPHONE: (604) 660-4700  
BC TOLL FREE: 1-800-663-1385  
FACSIMILE: (604) 660-1102



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

and

British Columbia Hydro and Power Authority  
Large General Service Rate Application

**BEFORE:** A. A. Rhodes, Commissioner  
M. R. Harle, Commissioner June 29, 2010  
R. J. Milbourne, Commissioner

**O R D E R**

**WHEREAS:**

- A. On October 16, 2009 British Columbia Hydro and Power Authority (BC Hydro) filed its Large General Service Rate Application (Application) under sections 58-61 of the *Utilities Commission Act* seeking orders establishing new energy rates for customers who take or would take service under Rate Schedules (RS) 1200, 1201, 1210, 1211 – General Service (35 kW and Over). These customers are referred to in the Application as BC Hydro's Existing Large General Service (ELGS) customers; and
- B. On October 19, 2009, the Commission issued Order G-125-09 to establish a preliminary regulatory timetable to review the Application (Exhibit A-1). The preliminary regulatory timetable included dates for a Workshop, a Procedural Conference, two rounds of Information Requests (IR) to the applicant BC Hydro and one round of IR on Intervener Evidence; and
- C. Following the Procedural Conference held on December 8, 2009, the Commission issued Order G-156-09 (Exhibit A-5) and determined that the regulatory review of the Application should proceed as an Oral Public Hearing to commence on March 29, 2010; and
- D. By letter dated February 15, 2010 (Exhibit B-13), BC Hydro filed an application for a reconsideration of Commission Order G-156-09 (Reconsideration Application). In the Reconsideration Application, BC Hydro sought an order varying Order G-156-09 to allow for a Negotiated Settlement Process (NSP). BC Hydro further requested that the Commission accept the Reconsideration Application on the merits of the request and avoid the usual two-step reconsideration process; and
- E. By letter L-13-10 dated February 17, 2010, the Commission allowed the Reconsideration Application to proceed as a single stage process (Exhibit A-9); and
- F. Five letters supporting BC Hydro's Reconsideration Application were received by the Commission and no letters opposing the Reconsideration Application were submitted. By Order G-31-10 dated February 25, 2010, the Commission varied Order G-156-09 to allow the regulatory review of the Application to proceed as an NSP to commence on March 29, 2010 (Exhibit A-10); and

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- G. By letter dated March 19, 2010 to BC Hydro and Interveners, the Commission Panel identified certain issues of concern that it considered parties should be aware of during the negotiations (Exhibit A-11); and
- H. An NSP was held on March 29, March 30, March 31, April 7, April 13, April 16 and April 19, 2010. A Negotiated Settlement Agreement (NSA) was reached among the participants except for one party, the British Columbia Sustainable Energy Association and the Sierra Club of British Columbia *et al.*; and
- I. The NSA was made public on May 14, 2010 and circulated to all Registered Interveners and the Commission. No comments were received from Interveners who had not participated in the negotiated settlement process; and
- J. The Commission Panel has reviewed the NSA and letters of comments from the participants and, after due consideration, considers that approval is warranted.

**NOW THEREFORE** for reasons stated in the Decision and attached as Appendix A, the Commission orders as follows:

- 1. The NSA dated May 10, 2010 and attached as Appendix B to this Order, is approved.
- 2. The tariff sheets as contained in Appendix T in the Application will be revised. BC Hydro is to file, within 30 days from the date of this Order, revised tariff sheets related to the Terms and Conditions for the approved Exempt General Service, Medium General Service, Large General Service and control group rates.
- 3. BC Hydro is to file, within 36 months of the Implementation Date of January 1, 2011, a report which addresses the issues as outlined in Paragraph 16 of the NSA.
- 4. BC Hydro is directed to demonstrate its compliance with section 58.1(6) and clarify its position on overall class revenue neutrality in its annual Cost of Service report to the Commission.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 29<sup>th</sup> day of June 2010.

BY ORDER

*Original signed by:*

A. A. Rhodes  
Panel Chair/Commissioner



**IN THE MATTER OF**

**BRITISH COLUMBIA HYDRO AND POWER AUTHORITY**

**APPLICATION FOR LARGE GENERAL SERVICE RATE**

**REASONS FOR DECISION**

**June 29, 2010**

**BEFORE:**

A.A. Rhodes, Panel Chair/Commissioner  
M.R. Harle, Commissioner  
R.J. Milbourne, Commissioner

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## **1.0 INTRODUCTION**

On May 14, 2010, a proposed settlement package for British Columbia Hydro and Power Authority's (BC Hydro) Application to amend the rate structure for its Large General Service class of customers was circulated to the British Columbia Utilities Commission (Commission) and all parties who intervened in the process. The package included the Negotiated Settlement Agreement itself, along with a number of letters in support and one letter opposing the settlement.

After due consideration of the Agreement, and the positions of the Applicant and Interveners, the Commission Panel approves the Negotiated Settlement Agreement.

## **2.0 BACKGROUND**

BC Hydro applied to amend the rates for customers taking service under Rate Schedules 1200, 1201, 1210 and 1211, which customers make up what it describes as its Existing Large General Service (ELGS) class of customers, on October 16, 2009. In the Application, BC Hydro proposed to split the Existing Large General Service class into two classes, being the Large General Service class and the Medium General Service class. There are approximately 23,000 accounts in the Existing Large General Service class, although many customers have more than one account. BC Hydro proposed to include those accounts with monthly peak demand of 150 kW or more in the new Large General Service class and those with monthly peak demand between 35 kW and 150 kW in the new Medium General Service class. This proposal would result in there being about 5,000 Large General Service accounts and 18,000 Medium General Service accounts. (Exhibit B-1, p. 1-1)

The current rate design for the ELGS class involves a declining block energy rate where consumption above a certain amount (14,800 kWh) is charged at the lower "tier 2" rate of 3.70 cents/kWh. Consumption below this level is charged the higher "tier 1" rate of 7.69 cents/kWh. (Exhibit B-1, p. 1-5)

The purpose of the Application to amend the rate design is to encourage energy conservation.

Following a Procedural Conference on December 8, 2009, the Commission issued Order G-156-09, which provided for an Oral Public Hearing process to review the Application. The Oral Public Hearing was scheduled to commence on March 29, 2010.

By letter dated February 15, 2010, BC Hydro applied to the Commission for a Reconsideration of Order G-156-09 to allow for a Negotiated Settlement Process (NSP) to replace the Oral Public Hearing. In the event that the Negotiated Settlement Process did not result in a settlement, BC Hydro proposed to reserve the last two weeks in May to proceed with the Oral Public Hearing.

On February 25, 2010, the Commission issued Order G-31-10 whereby it replaced the dates for an Oral Hearing with a Negotiated Settlement Process. The Commission Panel noted in its Reasons that the NSP proposal had received the support of all Interveners who made submissions, including those who had initially expressed reservations as to the process at the December Procedural Conference.

On March 19, 2010, the Commission Panel issued a letter to BC Hydro and Registered Interveners whereby it identified certain "issues of concern" which it asked to be addressed. Those issues related to: (a) the requirement imposed by section 58.1(6) of the Utilities Commission Act that the commission not set rates for BC Hydro such that the revenue-cost

ratio, expressed as a percentage, for any class of customers increases by more than 2 percentage points per year when compared to the revenue-cost ratio for that class of customers immediately before the increase; and (b) the three rate design objectives of: Fair, Efficient, and Simple. (Exhibit A-11)

The Application proceeded by way of a Negotiated Settlement Process, which was held in Vancouver on: March 29, March 30, March 31, April 7, April 13, April 16, and April 19, 2010. In excess of thirty people attended, representing around a dozen parties.

The Commission Panel is not privy to the events of the Negotiated Settlement Process, other than as set out in the Negotiated Settlement Agreement and the letters of comment received from the parties.

### **3.0 NEGOTIATED SETTLEMENT AGREEMENT**

The Negotiated Settlement Agreement (NSA) notes at the outset that the general intent of the NSA “is to maximize cost-effective customer efficiency and conservation incentives while minimizing unintended consequences to ELGS customers.” It also notes that both the new Medium General Service and Large General Service classes of customers will have two-part rate structures to signal the long-run marginal cost of new electricity supply, among other things.

Other highlights of the NSA include: an inverted rate structure such that consumption above a certain amount will be charged at a higher rate (up to the upper band limit), the calculation of historical baselines based on a three year rolling average with a provision for growth adjustment in situations involving a large increase in consumption of 30 percent or more in a given year and the ability of a customer to apply to the Commission to seek an increase in its historical baseline in circumstances where it expects a significant, permanent increase in energy consumption due to a significant capital investment in plant. (Negotiated Settlement Agreement, Section II, pp. 7-10)

It is also expressly acknowledged by the Parties to the NSA that they have “considered the Commission Panel issues articulated in Exhibit A-11; the requirements of the [Utilities Commission Act] including section 58.1(6); rate design principles as they would apply to the ELGS customer class, namely, the eight Bonbright rate design principles; and the nature of the very large and diverse ELGS customer base currently paying a steeply declining energy rate structure.” (Negotiated Settlement Agreement, Section I, para. 1, p. 4)

BC Hydro estimates that the settlement will achieve increased conservation of 300 GWh/year beyond that contemplated in the Application, which will translate into an additional avoided cost of a approximately \$22 million per year. (Negotiated Settlement Agreement, Section III, para. 18 (a), (b), p. 12)

#### **3.1 Commission Panel Issues of Concern – Exhibit A-11**

##### **A. Utilities Commission Act Section 58.1(6)**

Section 58.1(1) of the Utilities Commission Act defines “revenue-cost ratio” as “the amount determined by dividing the authority’s revenues from a class of customers during a period of time by the authority’s costs to serve that class of customers during the same period of time.”

Section 58.1(3) states:

“The following decision and orders of the commission are of no force or effect to the extent that they require the authority to do anything for the purpose of changing revenue-cost ratios:

(a) 2007 RDA Phase 1 Decision, issued October 26, 2007;

(b) order G-111-07, issued September 7, 2007;

(c) order G-130-07, issued October 26, 2007

(d) order G-10-08, issued January 21, 2008,

and the rates of the authority that applied immediately before this section comes into force continue to apply and are deemed to be just, reasonable and not unduly discriminatory.”

Section 58.1(4), which prohibited the commission from setting rates for the authority for the purpose of changing the revenue-cost ratio for a class of customers, was repealed on March 31, 2010, by virtue of section 58.1(5).

Section 58.1(6) states:

“Nothing in subsection (3) prevents the commission from setting rates for the authority, but the commission, after March 31, 2010, may not set rates for the authority such that the revenue-cost ratio, expressed as a percentage, for any class of customers increases by more than 2 percentage points per year compared to the revenue-cost ratio for that class immediately before the increase.”

BC Hydro provides the following estimated current revenue-cost ratios for the ELGS class and the two proposed new classes as follows:

(i)	ELGS:	<b>1.11</b>
(ii)	MGS:	<b>1.18</b>
(iii)	LGS:	<b>1.07</b>

(Negotiated Settlement Agreement, Section III, para. (d), p. 12)

The parties to the NSA prepared a common response to the Commission Panel’s concerns.

With regard to the concern that the NSA not violate section 58.1(6) of the Utilities Commission Act, the parties to the NSA specifically acknowledged “that the denominators in the calculation of the revenue-cost ratios will increase as a result of the additional implementation costs and on-going administration costs of the new rate structures. Any other variations in the denominator or numerator are not expected to be material to the calculation of revenue to cost ratios.” They concluded that “overall, the effect of the new rate structures ... on revenue-cost ratios, regardless of the class... is to decrease them.” The Parties also noted the requirement that BC Hydro is obliged to file an updated “Fully Allocated Cost of Service” at the end of each fiscal year. (Negotiated Settlement Agreement, Section IV A, p. 13)

## Commission Determination

The Commission Panel is concerned with the response of the parties to its issue of concern in respect of section 58.1 (6). The statement that “overall, the effect of the new rate structures described in this LGS NSA on revenue-cost ratios, regardless of the class to whom the costs are allocated, is to decrease them” would seem to violate one of the fundamental premises to the Application, being “class revenue neutrality”. This result follows because to accomplish an increase in the costs (denominator), without a corresponding increase in the revenues (numerator) to offset the cost increase would then require BC Hydro’s costs to be recovered through revenues from another class, not a party to the NSA.

However, the Commission Panel further notes that BC Hydro will be filing a Fully Allocated Cost of Service analysis at the end of each fiscal year. The Panel also notes that the Application contemplates class revenue neutrality for the new LGS class through the use of annual adjustments to the Part 1 Energy Rates to ensure class revenue neutrality. (Evidence of Lisa Coltart, p. 2-18) Further, the NSA contemplates ensuring class revenue neutrality for the new MGS class through annual adjustments to the higher Tier 1 rate (net of Class Average Rate Changes) in the same manner, and also contemplates bill impacts within the MGS class. (Negotiated Settlement Agreement, Section I, p. 8)

Therefore, notwithstanding the above concern, the Commission Panel approves the NSA. BC Hydro is directed to demonstrate its compliance with section 58.1(6) and clarify its position on overall class revenue neutrality in its annual Cost of Service report to the Commission.

### B. Rate Design Objectives: Fair, Efficient and Simple

The parties to the NSA take the position that all eight Bonbright rate design criteria are relevant to any rate design application and that the three noted by the Commission Panel as of concern were merely paraphrased by BC Hydro in its 2007 Rate Design Application as being the focus of that particular application. The parties note that the particular focus of the Large General Service Rate Application is the efficiency criterion. However, the NSA states that the parties “have endeavoured to create two new rate structures that are more efficient than the ELGS rate structure, and thereby incent conservation without unduly harming or benefitting customers, while balancing all eight Bonbright rate design criteria.” The parties further take the position that the rate proposals contained in the NSA, in their entirety, do a better job of satisfying the eight Bonbright criteria than does the ELGS rate structure. (Negotiated Settlement Agreement, Section IV B, pp. 13-14)

The eight Bonbright criteria as accepted by the Commission for BC Hydro are set out in Appendix G to the NSA, essentially as follows:

1. Recovery of the revenue requirement
2. Fair apportionment of costs among customers
3. Price signals which encourage efficient and discourage inefficient use
4. Customer understanding and acceptance
5. Practical and cost-effective to implement
6. Rate stability
7. Revenue stability
8. Avoidance of undue discrimination

Appendix G of the NSA explains in further detail how each of the above criteria is addressed.



For instance, the fact that the proposed rate structures agreed to by the parties to the NSA “are revenue neutral and will likely decrease the current revenue-cost ratio of the ELGS customers in aggregate” is said to address items (1) and (2) above.

The two-part rate structure for the new Large General Service class will expose those customers to the long run marginal cost of new energy supply, while the inversion of the declining block rate and the move towards a two-part rate in phases will achieve bill neutrality for the Medium General Service class. These elements of the rate design are said to address items (3) and (8) above.

The three-year rolling average historical baseline and the Price Limit Band elements of the NSA are said to mitigate bill volatility and provide rate stability, and hence accord with items (4) and (6) above.

It is thought that the rate structures from the NSA will increase conservation savings and implementation costs. The avoided cost of energy estimates indicate that the rate structures agreed to are cost-effective, in accordance with item (5) above.

Finally, as marginal cost pricing is thought to have the potential to cause revenue instability, there is an acknowledgment in the NSA that BC Hydro may need to seek a regulatory account mechanism. This is said to accord with item (7) above.

### **Commission Determination**

The Commission Panel accepts that all eight Bonbright criteria are relevant and have been addressed in the NSA.

### **3.2 BCSEA-SCBC Dissent**

The only parties involved in the NSP to object to the settlement are the BC Sustainable Energy Association and Sierra Club of British Columbia, which are represented together and considered as one (BCSEA-SCBC). BCSEA-SCBC has recorded its dissent as contemplated by the Commission’s NSP Guidelines.

Part IV, section 6 of the Guidelines provides:

“The right of parties to dissent from a proposed agreement is explicitly recognized by the Commission. If a party dissents, it can submit a written argument to the Commission panel. If the Commission panel is of the view that the dissent is reasonable and material, it may request written rebuttal argument or, where the settlement review process is to occur at an oral hearing, request argument at the oral hearing. If the dissent is determined to be reasonable and material, the dissenting party retains the right to present evidence and to cross-examine or to rebut the evidence of others if there is a written hearing.”

The BCSEA-SCBC dissent is contained in a letter to the Commission dated May 13, 2010. In its summary, BCSEA-SCBC states that while the NSA does improve upon the relief sought in the original Application by applying a two-part rate to the Medium General Service class and modifying the Part 1/Part 2 ratio for new accounts in the first year from 90%/10% (tier 1/tier 2) to 85%/15% (tier 1/tier 2), it diminishes the conservation price signal, as compared to the Application, by increasing the number of eligible applications of the “Anomaly Rule”, adding a Growth Relief provision and including a provision which

would allow for a customer to apply to the Commission to alter its historical baseline. (BCSEA-SCBC Reasons for Dissent, p. 1)

BCSEA-SCBC argues that BC Hydro's rate design must pursue "all cost-effective DSM" and that the NSA falls short of this objective. (BCSEA-SCBC Reasons for Dissent p. 4) BCSEA-SCBC states that "[t]his follows because the government's energy objectives require public utilities such as BC Hydro to pursue all cost-effective DSM..." (BCSEA-SCBC Reasons for Dissent, p. 4)

BCSEA-SCBC points to the following problems or missed opportunities to improve the conservation price signal in the NSA:

The rolling average HBL [historical baseline] uses too short of a time period – ideally it should not change, but BCSEA-SCBC would support a ten-year average determination (as opposed to the three years proposed in the NSA) and notes that even a five-year period would substantially increase the conservation effect.

Any consumption above the upper price limit should not serve to increase the HBL, as the customer may have incentive to consume beyond the upper price limit to accomplish an increase in its HBL, particularly as consumption above the upper price limit reverts to the tier one rate (in order to prevent unacceptably large bill increases).

New accounts have advantageous treatment in that they receive an HBL based on their consumption in the previous year, whereas an existing account with an increase in consumption would only benefit by one third of the amount, due to the three-year rolling average HBL determination. BCSEA-SCBC suggests that a better treatment of new accounts would be to:

charge energy in the first year at a 75%/25% Part 2 split, and

start the HBL in the second year at 75% of the previous year's consumption, phasing in the HBL to the current consumption level over the number of years normally used for the rolling average HBL determination.

The two-tier structure should be imposed immediately rather than phased in over a three year period, as this treatment "severely blunts the conservation price signal."

(BCSEA-SCBC Reasons for Dissent, pp. 10-12)

### **Commission Panel Discussion**

The Commission Panel acknowledges the position of BCSEA-SCBC as being consistent with economic theory. However, the Commission Panel notes that the rate design proposed in the NSA is, in fact, a marked variation from the existing design and does result in an estimated conservation of 1,798 GWh per year in F2015; 306 GWh per year more than that which would have resulted had the Application been approved as filed. (Negotiated Settlement Agreement, Appendix D, p. 2)

The Commission Panel accepts the comments of the Joint Industry Electricity Steering Committee that: “[t]he changes to the application contained within the NSA result in a reasonable rate structure which provides strong conservation rate signals, while still not punishing companies whose businesses are growing and expanding the economy of British Columbia.”

The Commission Panel also accepts that, although new customers may receive somewhat preferential treatment in rates in the early years, this treatment will not continue, as the new customer becomes an existing customer, with more years of consumption from which to develop a more accurate historical baseline. The Commission Panel accepts that there may need to be a trade off between ease of implementation and pure conservation, and that the rate design proposed, although a compromise, represents a practical solution.

The Commission Panel notes that the “government’s energy objectives,” which were in effect at the time of the NSP include the objective “to encourage public utilities to take demand side measures.” The new Clean Energy Act, the relevant provisions of which came into force on June 3, 2010, replaces the definition of government’s energy objectives with “British Columbia’s energy objectives”. (Clean Energy Act, ss.1 (1), 2, 58,)

British Columbia’s energy objectives include the similar objective: “2 (b) to take demand-side measures and to conserve energy, including the objective of the authority reducing its expected increase in demand for electricity by the year 2020 by at least 66%.”

Objective (k) is also relevant. It states: “(k) to encourage economic development and the creation and retention of jobs.”

The Commission Panel notes that the provisions of the NSA are not severable. The Commission Panel is of the view that the NSA is compliant with the government’s energy objectives, as they existed, and British Columbia’s energy objectives as set out in the Clean Energy Act. The Commission Panel further agrees with the parties to the NSA that an acceptable compromise has been reached, notwithstanding that more, in theory, perhaps could be accomplished using a different structure which was not, however, agreed to by the parties to the NSA. In practice, in the Panel’s view, it is noteworthy that this compromise involved all the customer interests who chose to participate as well as the British Columbia Old Age Pensioners’ Organization *et al.*, representing the interests of BC Hydro’s residential ratepayers. In the Panel’s view the “buy in” of the participants is an important aspect of an NSP. Clearly the parties worked long and hard (7 days over a 3 week period) to achieve this result. The Commission Panel respects the time and effort invested by all the participants in coming to what it considers to be a reasonable and practical solution.

### **Commission Panel Determination**

Pursuant to the above discussion, the Commission Panel does not consider the dissent put forward by the BCSEA-SCBC to be “reasonable and material” within the meaning of the NSP Guidelines and denies the BCSEA-SCBC the relief it seeks.

Accordingly, the Commission Panel approves the Negotiated Settlement Agreement as filed.



See G-110-10 Appendix B