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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-192-10

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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
Open Access Transmission Tariff Amendments**

BEFORE: L.F. Kelsey, Commissioner
D.A. Cote, Commissioner December 9, 2010
D. Morton, Commissioner
N.E. MacMurchy

ORDER

WHEREAS:

- A. On September 16, 2010, British Columbia Hydro and Power Authority (BC Hydro), pursuant to sections 59 to 61 of the *Utilities Commission Act* (Act), submitted to the British Columbia Utilities Commission (Commission) an application to amend the Open Access Transmission Tariff (OATT) (Application) to reflect the integration of BC Hydro and British Columbia Transmission Corporation (BCTC) pursuant to the *Clean Energy Act*, S.B.C. 2010, c. 16 (CEA). The proposed amendments include changes to reflect BC Hydro as the Transmission Provider, the addition of U.S. Federal Energy Regulatory Commission (FERC) 890 pro forma language required as a result of the Transmission Provider being an integrated utility; amendments to and cancellation of related rate schedules, amendments to BCTC Tariff Supplements 1, 2, and 3, and additional housekeeping items;
- B. In the Application, BC Hydro also seeks an order from the Commission granting BC Hydro relief from compliance with the terms of Attachment K (Transmission Planning Process) to BC Hydro's OATT until January 1, 2012. Such relief will allow BC Hydro to fully assess its transmission planning process and determine how it will proceed with compliance with the CEA in conjunction with the Act and the OATT;
- C. On November 9, 2010, BC Hydro submitted to the Commission revisions to its Application (Amended Application). The revisions include the addition of a legal disclaimer to the pro-forma OATT service contracts, the reconsideration of three housekeeping amendments first proposed in the initial Application, and a correction regarding the date upon which the draft tariff pages of the initial Application would become effective;
- D. On November 4, 2010, the Commission issued Order G-166-10 establishing a regulatory process to review the Application materials, whereby BC Hydro's OATT customers and other stakeholders could provide a letter of comment on the Application to the Commission Secretary, with a copy to BC Hydro, until November 22, 2010;
- E. On November 22, 2010, the Commission received a letter of comment from Morgan Stanley Capital Group Inc. (MSCG), an OATT customer. The MSCG letter was the only one submitted to the Commission during the comment period;

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- F. On November 26, 2010, BC Hydro submitted to the Commission, with a copy to its OATT customers and other stakeholders, its response to the MSCG letter. BC Hydro submits that MSCG's issues are not directly related to the amendments put forward by BC Hydro in the Amended Application and are therefore outside of its scope;
- G. Between November 29, 2010 and December 1, 2010, in response to the MSCG letter and the related BC Hydro response, the Commission received four late letters of comment from the following OATT customers: TransCanada Energy Ltd., TransAlta Corporation, Capital Power Corporation, and ENMAX Energy Marketing Inc.;
- H. On December 3, 2010, BC Hydro posted a Bulletin on the Open Access Same-Time Information System website announcing it will conduct a stakeholder workshop in early 2011 to engage in a discussion on the broader issues raised by stakeholders regarding the integration of BCTC and BC Hydro and its impact on a non-discriminatory open access transmission market;
- I. The Commission has considered the Amended Application, the MSCG letter, BC Hydro's response to the MSCG letter, and the late letters of comment.

NOW THEREFORE the Commission orders, for the Reasons for Decision that is Appendix A to this Order, that:

- 1. BC Hydro's proposed amendments to the OATT and its Attachments, Rate Schedules 00 to 10, and Tariff Supplements 78, 79 and 80 (formerly known as Tariff Supplements 1, 2 and 3) are approved and are effective December 9, 2010.
- 2. Rate Schedules 100 to 110 (of the Transmission Provider) and Rate Schedules 3000 to 3002 (of the Transmission Owner) are cancelled.
- 3. BC Hydro Rate Schedules 3011 to 3016 and BC Hydro Tariff Supplement 69 are cancelled.
- 4. The Commission approves BC Hydro's request of a relief from its obligations under Attachment K (Transmission Planning Process) of the OATT until January 1, 2012.

DATED at the City of Vancouver, in the Province of British Columbia, this 9th day of December 2010.

BY ORDER

Original signed by:

D.A. Cote
Commissioner

Attachment



IN THE MATTER OF

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

**Open Access Transmission Tariff
Amendments**

REASONS FOR DECISION

December 9, 2010

BEFORE:

L.F. Kelsey, Commissioner
D.A. Cote, Commissioner
D. Morton, Commissioner
N.E. MacMurchy, Commissioner

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1.0 INTRODUCTION

This Reasons for Decision records the Commission's findings and determinations with regards to BC Hydro's application on the Open Access Transmission Tariff (OATT).

The British Columbia Hydro Power and Authority (BC Hydro) submitted to the British Columbia Utilities Commission (Commission) on September 16, 2010, an application for approval to amend the OATT (Application) to reflect the integration of BC Hydro and British Columbia Transmission Corporation (BCTC) pursuant to the Clean Energy Act, S.B.C. 2010, c. 16 (CEA). Subsequent to this filing, on November 9, 2010, BC Hydro submitted revisions to its Application (Amended Application). In this Reasons for Decision, the review process for this application is detailed in Section 2.0 and the background to the OATT is provided in Section 3.0.

The proposed amendments include:

- 1) changes to reflect BC Hydro as the Transmission Provider and additional United States Federal Energy Regulatory Commission (FERC) pro forma language required as a result of the Transmission Provider being an integrated utility;
- 2) amendments to and cancellation of related rate schedules;
- 3) amendments to BCTC Tariff Supplements 1, 2, and 3;
- 4) additional housekeeping items; and
- 5) the addition of a legal disclaimer to the pro-forma OATT service contracts.

Section 4.0 provides further explanation on these five proposed amendments.

As part of the Amended Application, BC Hydro also seeks relief from compliance with the terms of Attachment K (Transmission Planning Process) to BC Hydro's OATT until January 1, 2012. Section 7.0 addresses the relief sought.

BC Hydro submits that its proposed OATT amendments are entirely consistent with the FERC pro forma tariff established by its Order No. 890, do not introduce substantive changes to the existing OATT terms and conditions, attachments, rate schedules and related tariff supplements, and do not impact the existing service level or the existing rights of OATT customers.

For the reasons described below, the Commission approves the Amended Application's proposed OATT amendments, the cancellation of certain OATT rate schedules, and the request for relief regarding the obligations under Attachment K.

2.0 REVIEW PROCESS

Upon filing the Application with the Commission on September 16, 2010, BC Hydro also sent a copy of the Application to its OATT customers and other stakeholders, who consisted of: British Columbia Old Age Pensioners Organization, Capital Power Corporation (Capital Power), Cargill, Clean Energy BC, ENMAX Energy Marketing Inc. (ENMAX), the Joint Industry Electricity Steering Committee, Morgan Stanley Capital Group Inc. (MSCG), NorthPoint Energy, Powerex, Tech Metals Ltd., TransAlta Corporation (TransAlta) and TransCanada Energy Ltd. (TransCanada). On September 17, 2010, BC Hydro posted a Bulletin on the Open Access Same-Time Information System website where the application materials could be found.

On November 4, 2010, the Commission issued Order G-166-10 establishing a regulatory process to review the Application, whereby BC Hydro's OATT customers and other stakeholders could provide a letter of comment with respect to the application to the Commission Secretary, with a copy to BC Hydro, until November 22, 2010.

On November 10, 2010, pursuant to Order G-166-10, BC Hydro advised its OATT customers and other stakeholders that the Commission was providing an opportunity for letters of comment to be submitted in relation to the Application by no later than November 22, 2010. In its letter, BC Hydro also provided the link to its website where the Application materials could be found. This material was also available on the Commission's website.

The Commission received one letter of comment from MSCG, an OATT customer, on November 22, 2010, to which BC Hydro responded on November 26, 2010. Between November 29, 2010 and December 1, 2010, the Commission received four late letters of comment from the following OATT customers: TransCanada, TransAlta, Capital Power, and ENMAX.

3.0 OPEN ACCESS TRANSMISSION TARIFF BACKGROUND

BC Hydro implemented a Wholesale Transmission Services (WTS) Tariff in 1997 pursuant to the Commission Orders G-31-97 and G-43-98. The WTS Tariff was based on the pro forma open access transmission tariff established by the FERC for utilities under its jurisdiction by its landmark Order No. 888 dated April 24, 1996.

After the responsibility for offering transmission and generator interconnection services shifted to BCTC in 2003 pursuant to the Transmission Corporation Act, S.B.C. 2003 and certain agreements between BC Hydro and BCTC, BCTC obtained the Commission approval of its own OATT, effective April 1, 2005. The BCTC OATT distinguished between BCTC as the Transmission Provider and BC Hydro as the Transmission Owner, as defined in the existing OATT.

On June 3, 2010, the CEA received Royal Assent and on July 5, 2010, sections 21 to 33 regarding the integration of BC Hydro and BCTC came into force in accordance with the commencement provisions in section 77 of the CEA. By sections 22 and 23 of the CEA, BCTC's obligations and liabilities under the previous BCTC OATT became BC Hydro's on July 5, 2010 and BC Hydro is now the only entity responsible for the OATT. Consequently, BC Hydro is now seeking the Commission's approval to amend the existing OATT, and related tariff supplements and rate schedules, to reflect the integrated company.

4.0 PROPOSED OATT AMENDMENTS

BC Hydro proposes the following amendments to the OATT and related rate schedules and tariff supplements:

1. Changes to reflect BC Hydro as the Transmission Provider and the addition of FERC 890 pro forma tariff language required as a result of the Transmission Provider now being a vertically integrated utility.
2. Amendments to and cancellation of related rate schedules to reflect the integration of BCTC and BC Hydro, as BC Hydro no longer needs to keep separate rate schedules for the Transmission Provider and the Transmission Owner.
3. Amendments to BCTC Tariff Supplements 1, 2 and 3 as a result of BCTC and BC Hydro being integrated. First, BC Hydro proposes to maintain the provisions of Section 7.1 (on wheeling rates on the BC Hydro system) of the no-longer-in-force Canal Plant Agreement Support Agreement (Tariff Supplement 1) in an amended BC Hydro Tariff Supplement 78. Second, BC Hydro proposes to keep certain provisions of the Generating Plant and Operational Obligations Agreement (Tariff Supplement 2), on interconnection issues, in the proposed Tariff Supplement 79. Third, BC Hydro amends Tariff Supplement 3 (Network Economy Services) to reflect BC Hydro as an integrated utility and proposes to rename it Tariff Supplement 80.
4. Amendments to certain provisions of the OATT to reflect other housekeeping items. Those housekeeping changes are to update provisions dealing with exchange rate, insurance, credit requirements, and the adoption of Mandatory Reliability Standards and the Harmonized Sales Tax in BC.
5. The addition of a legal disclaimer to the pro-forma OATT service contracts to meet the contractual requirement of the CME Group Index Services LLC (the source of the Mid-C pricing used by BC Hydro) whereby such disclaimer is to be included in all BC Hydro contracts where the Mid-C pricing is used.

5.0 Letters of Comments from OATT Customers and BC Hydro Response

5.1 MSCG's Letter of Comment

On November 22, 2010, MSCG submitted a letter of comment to the Commission (MSCG letter). In its letter, MSCG had raised issues in three broad areas. With the exception of one comment directly related to a section of the OATT, *i.e.*, section 12.2 Internal Dispute Resolution Procedures (Non RTG Members), the other issues raised in the MSCG letter do not reference any of the proposed amendments put forward by BC Hydro in the Amended Application.

The Commission notes that the Amended Application proposes no changes to the wording of section 12.2 Internal Dispute Resolution Procedures (Non RTG Members) from the existing OATT Terms and Conditions.

5.2 BC Hydro Response's to the MSCG Letter

On November 26, 2010, BC Hydro responded to the Commission, with a copy to its OATT customers and other stakeholders, its response to the MSCG letter. BC Hydro submits that MSCG raised issues that are not related to the amendments proposed by BC Hydro in the Amended Application and are therefore outside of its scope.

5.3 Other Late Letters of Comment

Between November 29, 2010 and December 1, 2010, the Commission received four late letters of comment from the following OATT customers: TransCanada, TransAlta, Capital Power, and ENMAX. These letters were provided in response to the MSCG letter and the related BC Hydro response and the letters make no specific reference to the issues contained in the Amended Application.

6.0 COMMISSION DETERMINATION ON THE PROPOSED OATT AMENDMENTS

The Commission has reviewed the MSCG letter and finds that the issues raised by MSCG are not relevant to the Amended Application. In Order G-166-10, the Commission established a regulatory process to provide OATT customers and other stakeholders an opportunity to provide comments on the Application materials, as provided on the BC Hydro website. The Commission is of the view that the MSCG letter should have focused on the approvals requested by BC Hydro in the Amended Application instead of on matters outside of its scope. Nonetheless, the Commission encourages BC Hydro to hold open stakeholder meetings with its OATT customers and other interested parties to discuss the issues raised by stakeholders.

The Commission notes that the majority of the proposed OATT amendments reflect the integration of BCTC and BC Hydro and that some additional amendments are of a housekeeping nature. The Commission has reviewed the proposed amendments and concludes that they are compliant with the CEA, are entirely consistent with the pro forma tariff and standards established by FERC and do not introduce substantive changes to the existing OATT and its related rate schedules and tariff supplements.

Therefore, the Commission determines as follows:

BC Hydro's proposed amendments to the OATT and its Attachments, Rate Schedules 00 to 10, and Tariff Supplements 78, 79 and 80 (formerly known as Tariff Supplements 1, 2 and 3) are approved and are effective December 9, 2010.

Rate Schedules 100 to 110 (of the Transmission Provider) and Rate Schedules 3000 to 3002 (of the Transmission Owner) are cancelled.

BC Hydro Rate Schedules 3011 to 3016 and BC Hydro Tariff Supplement 69 are cancelled.

7.0 RELIEF FROM COMPLIANCE WITH ATTACHMENT K (TRANSMISSION PLANNING PROCESS)

7.1 The Proposal

BC Hydro is requesting relief from the obligations under Attachment K (Transmission Planning Process) to BC Hydro's OATT until January 1, 2012, at which time BC Hydro will have submitted its first integrated resource plan (IRP) in compliance with section 3(6)(a) of the CEA. BC Hydro states it will then have a better understanding of its planning processes going forward and will seek approval, as required, for any changes to Attachment K that may be necessary.

7.2 Background

In an application submitted to the Commission on November 21, 2008, BCTC had proposed the inclusion of a new Attachment K (Transmission Planning Process) to its OATT to maintain comparability with the FERC pro forma tariff, which pursuant to FERC Order 890 was amended to ensure "coordinated, open, and transparent transmission planning on both a local and regional level" (FERC Order 890, para. 435). Attachment K describes a four phase biennial planning process for capital projects with a ten-year planning horizon.

In Order G-102-09 and the related September 10, 2009 Decision, the Commission approved BCTC's proposed Attachment K, as well as the implementation schedule for the proposed amendments. The estimated implementation date for the new Attachment K was six months after September 10, 2009.

With the integration of BCTC and BC Hydro, BC Hydro has taken over BCTC's responsibilities, including the Attachment K transmission planning obligations. At the same time, the CEA requires BC Hydro to prepare an IRP that includes, among other things, plans respecting the construction or extension of facilities. As a result of the CEA and new requirements, BC Hydro is assessing its planning process and determining how it will proceed with compliance with the CEA in conjunction with the Utilities Commission Act and the OATT.

8.0 COMMISSION DETERMINATION ON RELIEF FROM ATTACHMENT K

The Commission recognizes the changed circumstances caused by the integration of BCTC and BC Hydro and the resulting inability of BC Hydro to follow the Attachment K planning process. The Commission also notes that the CEA requires BC Hydro to undertake stakeholders' consultations to build its long-term IRP, which includes transmission planning. The Commission is satisfied that once BC Hydro will have crafted its first IRP, it will be able to tie its transmission planning process to it, document a proper Attachment K process and, if required, file for approval of any necessary changes to the existing Attachment K.

The Commission did not receive comments from any OATT customers or other interested stakeholders on Attachment K (Transmission Planning Process) to the OATT.

The Commission approves BC Hydro's request of a relief from its obligations under Attachment K (Transmission Planning Process) of the OATT until January 1, 2012.