



LETTER NO. L-38-10

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VIA EMAIL

April 23, 2010

BC HYDRO - WANETA TRANSACTION

DECISION RECONSIDERATION

EXHIBIT A-1

Ms. Joanna Sofield
Chief Regulatory Officer
British Columbia Hydro and Power Authority
17th Floor, 333 Dunsmuir Street
Vancouver, B.C. V6B 5R3
(bchydroregulatorygroup@bchydro.com)

BCH-Waneta – Registered Interveners
and Interested Parties
(*BCH-Waneta-RI, BCH-Waneta-IP*)

Dear Mesdames and Messieurs:

Re: British Columbia Hydro and Power Authority
Project No. 3698565/Order G-97-09A
Acquisition from Teck Metals Ltd. Of an Undivided On-Third Interest
In the Waneta Dam and Associated Assets
Application for Reconsideration of Waneta Transaction Decision

By the enclosed letter dated April 13, 2010 Mr. David M. Aaron applied (Reconsideration Application) on behalf of the Sinixt Nation, otherwise known as the Arrow Lakes or Lakes Indians (Sinixt) for a reconsideration of Order G-12-10 issued by the British Columbia Utilities Commission (Commission) on February 3, 2010 with Reasons released on March 12, 2010, regarding the Waneta Transaction. The Sinixt assert that the Commission made errors of fact and/or law in determining that consultation undertaken by British Columbia Hydro and Power Authority (BC Hydro) has been adequate to uphold the honour of the Crown with regard to the Sinixt, respecting the Waneta Transaction.

A copy of the Reconsideration and Appeals section of the Commission's Participant Guide, which identifies the criteria that the Commission generally applies to determine whether a reasonable basis exists to allow a reconsideration, is enclosed.

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 usually invites submissions from the other participants in the proceeding that led to the Decision that is the subject of 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.

The Commission hereby establishes a written comment process on the Sinixt Reconsideration Application to address the first phase issue of whether a reasonable basis exists to allow a reconsideration. The first phase will be a preliminary examination to assess the application in light of the following questions:

- Should there be a reconsideration by the Commission?
- If there is to be a reconsideration, should the Commission hear new evidence and should new parties be given the opportunity to present evidence?
- If there is to be a reconsideration, should it focus on the items from the Reconsideration Application, a subset of these items or additional items?
- If there is to be a reconsideration, what process should be established for the reconsideration?

The first phase assessment process for the Reconsideration Application will be as follows:

- BC Hydro, Interveners and Interested Parties submit written comments, if any, to the Commission by Tuesday, May 11, 2010, with a copy to the Sinixt and Mr. David M. Aaron.
- The Sinixt submit a written reply, if any, to the Commission by Thursday, May 27, 2010.

Written comments in the first phase should address whether the threshold for reconsideration has been met, rather than the substance of the issues. Following the completion of this written comment process, the Commission will decide whether or not a reconsideration should proceed. If the reconsideration proceeds to the second phase, the parties will be allowed subsequently to address the substance of the issues that the Commission approves for reconsideration.

Yours truly,

Original signed by:

Erica M. Hamilton

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Enclosures

cc: Mr. David M. Aaron
Barrister & Solicitor
for Sinixt Nation
(david@legalmind.ca)