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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-61-11**

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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
F2012 to F2014 Revenue Requirements Application**

BEFORE: L.A. O'Hara, Panel Chair/Commissioner
D. Morton, Commissioner March 28, 2011
A.A. Rhodes, Commissioner

O R D E R

WHEREAS:

- A. On March 1, 2011, British Columbia Hydro and Power Authority (BC Hydro) filed its F2012 to F2014 Revenue Requirements Application (the Application) with the British Columbia Utilities Commission (Commission) pursuant to sections 56 and 58 to 61 of the *Utilities Commission Act* (the Act) seeking, among other things, the determination of just, reasonable and sufficient rates for its fiscal years 2012, 2013 and 2014 (F2012, F2013 and F2014), including:
- final approval to increase rates by an average of 9.73 percent per year effective each of April 1, 2011 and April 1, 2012, to be applied as set out in Appendix X of the Application;
 - a final determination that rates are to be increased by an average of 9.73 percent effective April 1, 2013, to be applied as set out in Appendix X of the Application, subject only to the Commission's future review of an expenditure schedule reflecting demand side measures (DSM) BC Hydro has made or anticipates making during the F2014 period;
 - final approval to set the Deferral Account Rate Rider (DARR) at 2.5 percent effective April 1, 2011; and
 - final approval to set Open Access Transmission Tariff (OATT) rates as set out in Appendix X of the Application;
- B. The Application also seeks an interim order to allow BC Hydro to increase its rates by an average of 9.73 percent, to be applied as set out in Appendix X of the Application, and a continuation of the DARR at 2.5 percent, both effective April 1, 2011, on an interim and refundable basis, pending determination of the Application, pursuant to sections 58 to 61, 89 and 90 of the Act, and section 15 of the *Administrative Tribunals Act*;

- C. On March 8, 2011, the Commission issued Order G-40-11 establishing the Initial Regulatory Timetable;
- D. On March 16, 2011, the Commission conducted a Workshop;
- E. On March 14, 2011, by Order G-41-11, the Commission approved the applied-for across-the-board rate increase of 9.73 percent, effective April 1, 2011, subject to the decision on the Residential Inclining Block Rate Re-Pricing Application, on an interim and refundable basis pending the determination of the Application;
- F. Order G-41-11 also approved the continuation of the Deferral Account Rate Rider (DARR) at 2.5 percent effective April 1, 2011 and the applied-for increase in the Open Access Transmission Tariff (OATT), on an interim and refundable basis pending the determination of the Application;
- G. On March 18, 2011, the Commission extended the deadline for registration for Interveners and Interested Parties to March 24, 2011;
- H. On March 25, 2011 a Procedural Conference took place at which: BC Hydro sought an adjournment of the Procedural Conference to April 8, 2011 and an extension of the Initial Regulatory Timetable dates for Information Requests on the basis that the Government would be reviewing the requested rate increases and that some form of downward adjustment would be made; and the Canadian Office and Professional Employees Union (Local 378) (COPE) sought production of BC Hydro's Long Term Sourcing Strategy.

NOW THEREFORE for the Reasons attached as Appendix B to this Order the Commission orders as follows :

- 1. The Procedural Conference is adjourned to April 8, 2011, 9:00 a.m.
- 2. Commission Order G-41-11 regarding interim rates is suspended subject to further Order of the Commission following the April 8, 2011 Procedural Conference.
- 3. The Initial Regulatory Timetable is amended, as shown in Appendix A to this Order, to extend the dates for Information Requests as follows:

Commission Information Request No. 1	April 13, 2011
Intervener Information Request No. 1	April 20, 2011
BC Hydro Responses to Information Request No. 1	May 24, 2011

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4. The Initial Regulatory Timetable is further amended to provide for submissions, including submissions on future process and interim rate increases as follows:

BC Hydro submissions	April 1, 2011
Intervener submissions	April 6, 2011

5. COPE's application for production of BC Hydro's Long Term Sourcing Strategy is adjourned to the Procedural Conference on April 8, 2011.

DATED at the City of Vancouver, in the Province of British Columbia, this 28th day of March 2011.

BY ORDER

Original signed by:

L.A. O'Hara
Panel Chair/Commissioner

Attachments

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AMENDED REGULATORY TIMETABLE

ACTION	DATE (2011)
BC Hydro files its Submission on future process, interim rates and any further information or clarification it can provide on the Government review	Friday, April 1
Intervenors file their Submissions in response to the BC Hydro April 1 Submission	Wednesday, April 6
Procedural Conference	Friday, April 8
Commission Information Request (IR) No. 1 to BC Hydro	Wednesday, April 13
Intervenor Information Request No. 1 to BC Hydro	Wednesday, April 20
Filing of Participant Assistance/Cost Award Budgets	Monday, May 16
BC Hydro responds to Commission and Intervenor IR No. 1	Tuesday, May 24
SUBJECT TO FURTHER REGULATORY ORDER	
Commission and Intervenors issue IR No. 2	Monday, June 6
BC Hydro responds to IR No. 2	Wednesday, June 29
BC Hydro files Evidentiary Update	Friday, July 15
Commission and Intervenors issue IR No. 3	Wednesday, August 3
BC Hydro responds to IR No. 3	Friday, August 26
Intervenors present evidence	Friday, September 9
Commission and Participants file IR No. 1 on Intervenor evidence	Friday, September 23
Intervenors respond to Commission and Participant IR No. 1	Friday, October 7
BC Hydro issues rebuttal evidence	Friday, October 14
Oral public hearing begins	Thursday, October 20

British Columbia Hydro and Power Authority
F2012 to F2014 Revenue Requirements Application

REASONS FOR DECISION

1.0 BACKGROUND

BC Hydro filed its Revenue Requirements Application for the three year period for Fiscal years ending March 31, 2012, 2013 and 2014 on March 1, 2011 (Application). Following receipt of the Application, the Commission issued Order G-40-11 dated March 8, 2011, whereby it established an Initial Regulatory Timetable, including a Procedural Conference for the review of the Application.

On March 14, 2011, the Commission issued Order G-41-11 whereby it approved, *inter alia*, across-the-board rate increases in the amount of 9.73 percent on an interim and refundable basis, effective April 1, 2011, as requested by BC Hydro. These interim increases were based on the revenue requirements outlined in the Application, smoothed for each of the three test years.

The first Procedural Conference in BC Hydro's F2012-F2014 Revenue Requirements Application took place on March 25, 2011.

2.0 ADJOURNMENT APPLICATION

At the commencement of the Procedural Conference, BC Hydro applied for an adjournment until April 8, 2011, and requested an amendment of the Initial Regulatory Timetable to postpone the schedule for the issuance of and reply to Information Requests by one week, with the exception of BC Hydro's responses which would have an additional day due to the fact that May 23, 2011 is a holiday. The adjournment application was made on the basis of the Provincial Government's (BC Hydro's shareholders) stated intention to conduct a review of the Application. Counsel for BC Hydro advised that the outcome of that review would affect the Application before the Commission and that "for at least one or more of the years in the test period" the revenue requirements and resulting applied-for rate increases would be reduced. (T1:9) Still unknown were: the scope, timing, mechanism and actual outcome of the review. Counsel for BC Hydro proposed that additional submissions to address the status of the outstanding unknowns and further process in light of the pending Government review in advance of the re-scheduled Procedural Conference take place in accordance with the following schedule:

BC Hydro submissions
Intervener submissions

Friday, April 01, 2011
Wednesday, April 06, 2011

No Intervener present opposed the adjournment application, although one Intervener took no position.

The Commission Panel granted the adjournment with the requested amendments to the Initial Regulatory Timetable as placeholder dates.

3.0 COPE REQUEST FOR DOCUMENT PRODUCTION

The Canadian Office and Professional Employees Union Local 378 (COPE), while taking no objection to the timetable proposed by BC Hydro, asked that the Commission Panel rule on its March 17, 2011 request (Exhibit C2-2) to have the Commission direct BC Hydro to produce a copy of its Long Term Sourcing Strategy (LTSS) document together with any related financial analysis or business case and provide it to the parties as soon as possible.

BC Hydro opposed COPE's request for production of the LTSS outside of the IR process as amounting to an "extraordinary process" with no legitimate purpose. BC Hydro also submitted that any decision of BC Hydro on whether to continue to negotiate with Accenture, the current provider of back office services, to extend its contract to provide these services beyond March, 2013 or to seek other proposals, being the only decision expected to be made in the near future, was beyond the mandate of the Commission. BC Hydro did not, however, take issue with the relevance of the material requested by COPE to the Application.

In Reply, COPE submitted that it was not attempting to seek an "extraordinary remedy" but rather highlighting a deficiency in the Application at an early stage in the process when it could be meaningfully addressed.

Counsel for the British Columbia Old Age Pensioners' *et al.* (BCOAPO) submitted that COPE's request should not be considered "extraordinary" but that, in any event, the information may be available in a timely fashion through the regular IR process.

The Commission Panel decided to revisit COPE's request at the April 8, 2011 Procedural Conference when the parties should have a better idea as to the potentially revised form of the Application and the timetable for IRs and additional evidence going forward.

4.0 INTERIM REFUNDABLE RATE INCREASE

A further issue arose as to whether BC Hydro's rate increase of 9.73 percent effective April 1, 2011, which was approved by Order G-41-11 on an interim and refundable basis, should be modified in light of BC Hydro's advice that the Government's review would result in a reduced revenue requirement and lower than currently applied-for rate increase.

Submissions were received to the effect that, given BC Hydro's admission that its revenue requirements were going to be reviewed and would, as a result, be reduced, the interim rate increase, as ordered, must therefore be too high.

Counsel for the BCOAPO suggested that a reduction in the interim rate increase of a modest amount such as two percent would be appropriate.

Counsel for the BC Sustainable Energy Association and the Sierra Club of BC took the position that the Commission would need additional information on how BC Hydro's Application was expected to change, beyond simply the notion of a downward direction being put forward, to come to a decision, but that his

clients would not support any reduction based on pushing revenue requirements into future years, all else equal.

Counsel for the Clean Energy Association of BC submitted that the Panel should wait until the re-scheduled Procedural Conference on April 8, 2011, when BC Hydro will have had an opportunity to provide any additional information it may have, to make a decision on whether or not to reduce the interim rate.

Ms. Lies, intervening on her own behalf, recommended that the Commission reserve its decision on the interim rate increase until it has additional information from the Government and BC Hydro.

Counsel for the Commercial Energy Consumers Association of British Columbia submitted that the evidence in support of the interim rate was “questionable” and any decision on an appropriate interim rate and its implementation should be deferred until BC Hydro’s application had been subject to the Government review, or until those in opposition to the interim rate had an opportunity to gather evidence and file submissions.

Counsel for the Association of Major Power Customers of British Columbia (formerly the Joint Industry Electricity Steering Committee) submitted that, given the uncertainty surrounding the appropriateness of the interim rate increase, the increase should be suspended until April 15, 2011 and the issue dealt with at the April 8, 2011 Procedural Conference when more information should be available.

BC Hydro took the position that the rate increase should come into effect, as ordered, on April 1, 2011. BC Hydro noted that the rate increase was granted on an interim basis and provides for a refund to ratepayers if the final approved increase is lower, thus protecting their interests. BC Hydro submitted that the Application remained the best evidence in support of the interim rate increase notwithstanding the fact it was going to be reviewed and the revenue requirement “for at least one or more of the years in the test period” would be adjusted downward. BC Hydro noted that it was the smoothing of the requested three year rate increase which caused the rate increase to be as low as the 9.73 percent ordered, and that it otherwise would have been in the 13 percent range. BC Hydro also argued that as the Government’s review would encompass a three year period, the reduction in the applied-for rate increase would not necessarily be for the F2012 test year.

However, counsel for BC Hydro did note that BC Hydro would have a proposal going forward and that it would be making a submission concerning the timing and scope of the Government review at the re-scheduled Procedural Conference on April 8, 2011 (assuming the Commission granted the adjournment application), and that hopefully that submission would be informed by more clarity on areas of uncertainty that he had already mentioned. (T1:15) He suggested that it would be more appropriate to consider the issue of interim rate increases at that time, with the benefit of at least some additional information on the Government’s proposed course of action. (T1:44)

5.0 COMMISSION DETERMINATION

The Commission Panel accepts that the applied-for interim rate increases approved in Order G-41-11 to take effect on April 1, 2011 may well be too high, given BC Hydro's admission that the Government review will certainly result in a lower revenue requirement increase, in at least one or more of the three test years, and a resulting rate decrease in F2012. Although the approved rate increase is on an interim and refundable basis, the Commission Panel does not believe that this fact justifies ordering a rate increase which is likely to be wrong, and which is not based on the best information available. The Commission Panel also notes that even if the Government's review resulted in a revenue requirement reduction in a later test year, the smoothing of the three year rate increase that is proposed in BC Hydro's Application would still result in a downward adjustment in F2012, providing the Panel were to approve the smoothing principle in its final Decision.

The Commission Panel agrees that to the extent that an interim rate increase is necessary, it should be put into effect in a timely fashion to avoid an additional burden on ratepayers at a later date. However, the Commission Panel is not convinced that the interim rate increases approved in Order G-41-11 are now based on the best information available. Accordingly, the Commission Panel suspends the rate increases approved in Order G-41-11, pending submissions from BC Hydro and Interveners. BC Hydro is directed to address the issue of the interim rate increases in its written submissions to be filed on or before April 1, 2011. Interveners are directed to provide their submissions on or before April 6, 2011. The Panel will also consider any further submissions the Parties may wish to make at the Procedural Conference on April 8, 2011.