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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-4-11**

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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
Application for Reconsideration of
British Columbia Utilities Commission Order G-139-10**

BEFORE: L.F. Kelsey, Commissioner
A.A. Rhodes, Commissioner

January 13, 2011

ORDER

WHEREAS:

- A. On September 7, 2010, the British Columbia Utilities Commission (Commission) issued Confidential Order G-139-10 with the accompanying decision in British Columbia Hydro and Power Authority's (BC Hydro) Customer Baseline Load (CBL) F2009 and F2010 Dispute with Buckeye Canada (Buckeye). The Order and Decision were kept confidential because they contain Buckeye's business information;
- B. On October 15, 2010, BC Hydro applied for a Reconsideration of Order G-139-10 on the basis that it alleged the Commission made three errors of law in its Reasons for Decision to that Order. BC Hydro requested the Commission rescind Order G-139-10 and confirm that BC Hydro correctly applied its tariff to determine Buckeye's Interim F2010 CBL. As part of its application process, BC Hydro requested and received Buckeye's acceptance to remove the confidentiality condition of Order G-139-10 and the subsequent submissions;
- C. On October 29, 2010, the Commission wrote to Buckeye requesting its comments on BC Hydro's application for Reconsideration;
- D. On November 12, 2010, Buckeye responded stating its opposition to BC Hydro's

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Reconsideration request;

- E. On December 2, 2010, BC Hydro filed its response to Buckeye's submission;
- F. The Commission Panel reviewed Order G-139-10, the attached Reasons for Decision, and the submissions of BC Hydro and Buckeye and determined that the Commission did not make the three errors of law alleged by BC Hydro.

NOW THEREFORE the Commission orders as follows:

- 1. BC Hydro's Application for Reconsideration of Order G-139-10 is denied.
- 2. The Reasons for Decision are attached as Appendix A.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of January 2011.

BY ORDER

Original signed by:

L.F. Kelsey
Commissioner

Attachment



IN THE MATTER OF

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

Reconsideration of Order G-139-10

REASONS FOR DECISION

January 13, 2011

BEFORE:

L.F. Kelsey, Commissioner
A.A. Rhodes, Commissioner

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1.0 INTRODUCTION

By letter dated October 15, 2010, the British Columbia Hydro and Power Authority (BC Hydro) applied to the British Columbia Utilities Commission (BCUC, the Commission) for a Reconsideration and variance of its Order G-139-10 dated September 7, 2010. In that Order, the Commission granted a portion of the relief sought by Buckeye Canada (Buckeye), a Transmission Service Rate (TSR) customer of BC Hydro's, by way of directing an upward adjustment to its Customer Baseline Load (CBL), which was the subject of a dispute between the parties.

BC Hydro and Buckeye each filed submissions on the Reconsideration Application and after review of the submissions, the Commission Panel denies BC Hydro's request for a Reconsideration for the Reasons that follow.

2.0 BACKGROUND

Rate Schedule 1823 (RS 1823) is the rate schedule applicable to BC Hydro's TSR Customers. The transmission service customer class is largely made up of forestry, mining, electrochemical, and oil/gas processing facilities. These large industrial customers accept electricity at transmission voltage (voltage exceeding 60,000 volts).

RS 1823 is a two-step (inclining block) rate which is intended to encourage self generation, energy efficiency and conservation. Transmission Service customers may be charged for their energy consumption at two different price levels, depending on their consumption in relation to their CBL. The second tier price level is significantly higher than the tier one level (approximately 300%), as it reflects the cost of long term new supply to BC Hydro.

The CBL determines the level of energy use at which a customer pays the higher Tier 2 rate for electricity. The CBL can be adjusted annually for certain changes in energy use. The adjustments are governed by two documents: Electric Tariff Supplement No. 74 – CBL Determination Guidelines (CBL Determination Guidelines); and CBL Adjustment Tariff Practices (Tariff Practices). The Tariff Practices “only cover practices that are not already defined in the CBL Determination Guidelines.” (Tariff Practices, p. 1)

Sections 1.0 and 6.2 of the CBL Determination Guidelines are reproduced in Appendix B as they are referred to frequently in these Reasons for Decision.

By letter dated August 6, 2009, BC Hydro filed its TSR CBL F2009/ F2010 Application. The Application was filed pursuant to sections 58 to 61, 89 and 90 of the *Utilities Commission Act*. BC Hydro sought approval of, *inter alia*, Permanent Adjusted F2009 CBLs, effective April 1, 2008 and Interim F2010 CBLs, effective April 1, 2009.

On September 3, 2009, by Letter L-68-09 issued concurrently with Order G-100-09, the Commission directed BC Hydro to advise its TSR customers as to their proposed CBL adjustments and sought notice of any disputes from customers by October 14, 2009.

Buckeye responded on October 14, 2009 indicating, *inter alia*, that it disagreed with BC Hydro’s determination of its Interim F2010 CBL. In particular, Buckeye objected to BC Hydro’s strict application of the Tariff Practices’ facility Shutdown / Restart threshold during the economic slowdown on the basis that it posed a particular hardship to smaller operations, such as itself.

The specific section of the Tariff Practices at the centre of the dispute is “Shutdown / Restart of Existing Equipment in an Operating Plant” which applies to section 4.1.2 of the CBL Determination Guidelines. The section states:

The shutdown or removal of existing equipment must result in a verified decrease in the annual energy consumption by the customer’s plant of at least 5 per cent of the Energy CBL or 10 GWh, whichever is less...Each discrete event of equipment shutdown must result in a verified decrease in annual energy consumption by the customer’s plant of at least 5 per cent of the Energy CBL or 10 GWh, whichever is less.

On December 18, 2010, Buckeye advised the Commission that it was unable to agree with BC Hydro that a plant shutdown has to be 10 GWh per event or 5% of the CBL to be eligible for consideration for a CBL adjustment.

On February 16, 2010, Buckeye wrote to the Commission advising that, despite numerous meetings with BC Hydro, the parties had been unable to resolve their differences in respect of the F2010 CBL adjustment.

On April 15, 2010, by Order G-73-10, the Commission established a written hearing process and regulatory timetable for its review of the dispute, and sought submissions from BC Hydro and Buckeye. The Commission also ordered that, to protect commercially sensitive information, all detailed information about the operations of the customer would be kept confidential.

2.1 CBL Dispute Written Hearing Process

2.1.1 Buckeye’s Position

Buckeye took the position that, as a small operator of a specialty business, it was unable to organize plant shutdowns of a sufficient duration to qualify under the Tariff Practices as a “discrete

event” and was therefore unable to obtain the relief available to other larger operations which could. It provided details of 22 days of shutdowns over 1 year that resulted in 1,695,840 kWh of reduced energy consumption. It also advised that it reduced the number of shifts it ran from 6 shifts to 5 shifts out of a total possible 8 shifts, resulting in 3,304,961 kWh of reduced energy consumption, for a total of 5,000,801 kWh reduced energy consumption over one year.

This reduction would, aside from the discrete event requirement found in the Tariff Practices, otherwise meet the 5% of CBL threshold.

Buckeye took the position that the circumstances of the recession affected it differently than other TSR customers and that it needed to schedule shutdowns and shift reductions in small increments in order to satisfy its customers and to retain its workforce. It noted the specialty nature of its business and its inability to stockpile product on a cost-effective basis.

2.1.2 BC Hydro’s Position

BC Hydro took the position that it calculated Buckeye’s Interim F2010 correctly, in accordance with the CBL Determination Guidelines and the Tariff Practices. BC Hydro stated that it applied the tariff correctly in disallowing Buckeye’s request for a CBL adjustment because Buckeye’s energy consumption decrease did not meet the Tariff Practice criteria of being 5% of CBL as one discrete event.

2.1.3 Commission Decision in Order G-139-10

On September 7, 2010, the Commission issued Order G-139-10 with Reasons granting Buckeye some, but not all, of the relief it sought. The Commission Panel accepted Buckeye’s evidence that it was unable to comply with the discrete event provisions of the Tariff Practices due to its unique circumstances.

Order G-139-10 contains two Directives:

- Directive 1 is for BC Hydro to review its CBL Determination Guidelines and Tariff Practices and propose amendment(s) to address the issues identified in the Reasons for Decision. The issues identified are: production stoppages which accumulate to the lesser of 5 percent of CBL or 10 GWh but do not occur as discrete events; and outside market events which cause businesses to reduce energy use involuntarily.
- Directive 2 approves an increase of 4,000,000 kWh to Buckeye's F2010 interim CBL.

3.0 BC HYDRO'S RECONSIDERATION REQUEST

By letter dated October 15, 2010, BC Hydro applied to the Commission for a Reconsideration of Order G-139-10.

As noted by BC Hydro in its Reconsideration Application, such an application will normally proceed in two phases. The first phase is an initial screening phase where the applicant must provide a *prima facie* case for consideration.

BC Hydro alleges that the Commission made three errors in law, with significant material implications, sufficient to establish a *prima facie* case and that the Commission should proceed directly to phase 2 of the Reconsideration process.

In response to BC Hydro's letter, the Commission requested comments from Buckeye and a reply submission from BC Hydro.

By letter dated November 12, 2010, Buckeye opposed BC Hydro's Reconsideration request.

BC Hydro replied by letter dated December 2, 2010, and reiterated its position that the Commission made three errors in law and that a Reconsideration is warranted.

The Commission Panel asked BC Hydro to comment specifically on Sections 6.2.2 and 6.2.3 of the CBL Determination Guidelines. In response, BC Hydro submits:

Sections 6.2.2 and 6.2.3 are provisions of BC Hydro's tariff. They do not confer jurisdiction on the BCUC, nor do they change the jurisdiction of the BCUC under the UCA.

Sections 6.2.2 and 6.2.3 outline a process for a TSR customer to propose adjustments that are not defined in the CBL Guidelines. The process was included in the tariff in recognition that BC Hydro could not anticipate precisely all adjustments that may be justifiable within the principles of the tariff. After the CBL Guidelines were approved by the BCUC and filed as BC Hydro Electric Tariff Supplement No. 74, the BCUC made the following decision regarding the permissible scope of practices that may be developed pursuant to sections 6.2.2 and 6.2.3:

“the Tariff Practices shall only be applicable where the CBL Guidelines are silent and shall never be applicable in a manner inconsistent with the specific or general provisions of the CBL Guidelines.”

Thus, the process outlined in Sections 6.2.2 and 6.2.3 may only be used to develop practices that fill gaps in the CBL Guidelines, and may not be used to develop practices that are inconsistent with the CBL Guidelines. The above BCUC directive also accords with the UCA requirement that the BCUC may only change a utility's rates after an appropriate hearing.

Buckeye has referred to the Shutdown / Restart of Existing Equipment in an Operating Plant tariff practice. That tariff practice was developed by BC Hydro and the Joint Industry Electricity Steering Committee, provided to all TSR customers for their comments, and approved by the BCUC. The tariff practice unequivocally does not apply to Buckeye's situation.

Cumulative production curtailments and operating hour changes were specifically considered in the course of developing that tariff practice. These types of events were not included in the tariff practice because they would introduce the potential for customer gaming, create reporting/audit

challenges, and avoid appropriate application of the 90/110 annual dead-band mechanism for CBL resets. CBL adjustments for cumulative production curtailments and operating hour changes were considered to be unjustifiable within the principles of the tariff because they are inconsistent with Sections 1.0 and 4.1.1 of the CBL Guidelines.

(BC Hydro Reply Submission, December 2, 2010, p. 5)

3.1 BC Hydro's Alleged Errors

3.1.1 Error One

In its Reconsideration Application, BC Hydro repeats its position that it applied its CBL Determination Guidelines and Tariff Practices correctly, and was therefore unable to provide any relief to Buckeye. It interprets the Commission Panel's silence on this issue in its Reasons for Decision as agreeing with this proposition but nevertheless finding that Buckeye should be granted some measure of relief. BC Hydro takes the position that the Panel's comment to the effect that it viewed the situation faced by Buckeye as incongruous with the overall objective of the CBL to act as an appropriate baseline to encourage conservation and efficient use while not discouraging economic growth was an error in law.

BC Hydro notes that CBLs are not permanent, but rather, subject to adjustment. BC Hydro notes that s. 4.1.1 of the CBL Guidelines provides for a 10% deadband for annual energy consumption. When a customer's annual consumption falls outside of this deadband, its CBL will be adjusted. BC Hydro submits that the deadband and the CBL resetting mechanism "ensures that economic growth and/or production recovery are appropriately captured within a reset CBL." (BC Hydro Application for Reconsideration, p. 5)

BC Hydro further submits that the Tier 2 rate was designed to provide a clear price signal to customers as an incentive for conservation and any characterization of this rate as resulting in a “financial penalty” is incorrect.

BC Hydro submits that the Commission’s decision to grant relief to Buckeye goes against the objectives of the tariff and does not encourage electricity conservation and efficiency of use.

Commission Determination

The Commission Panel disagrees that it made the error in law alleged by BC Hydro. The Commission Panel maintains that the intent of the CBL is to act as an appropriate baseline to encourage conservation and efficiency of use while not discouraging economic growth, as stated in Section 1.0 of the CBL Determination Guidelines. By granting Buckeye exceptional relief for its CBL, as the Commission has done, the CBL maintains its function to encourage conservation while not discouraging Buckeye from growth or recovery following the recession.

The Commission Panel accepts that BC Hydro arguably applied its tariff correctly in disallowing Buckeye’s request for CBL adjustment because its production stoppages did not meet the discrete event threshold of 5% of CBL or 10 GWh, whichever is less. However, the Commission Panel also applies the tariff correctly in determining Buckeye’s CBL in the case of a dispute under Section 6.2.2, which states:

6.2.2 If the customer proposes adjustments that are not defined in these CBL Determination Guidelines, BC Hydro will discuss the proposed adjustments with the customer. In cases where BC Hydro agrees with the customer's proposed adjustments and they are consistent with BC Hydro's overall rate design principles, BC Hydro will file the proposed CBL with the Commission. In cases where BC Hydro does not agree with the proposed adjustments and they are not consistent with BC Hydro's overall rate design principles, BC Hydro will file the CBL in accordance with the CBL Determination Guidelines. The customer can file its proposed CBL with the

Commission and indicate that its CBL is under dispute. In these circumstances, BC Hydro will provide information where requested by the Commission. **However, the Commission will determine the final CBL.** (emphasis added)

In its Reply Submission, BC Hydro makes the argument that, because the Tariff Practices state they are only applicable where the CBL Guidelines are silent, “the process outlined in section 6.2.2 and 6.2.3 may only be used to fill gaps in the CBL Guidelines, and may not be used to develop practices that are inconsistent with the CBL Guidelines.” (BC Hydro Reply Submission, p. 5)

BC Hydro further submits that production curtailments were considered and the Tariff Practices amended to include the current “Shutdown / Restart of Existing Equipment in an Operating Plant” tariff practice with its criteria of a qualifying energy decrease being a discrete event equalling 5% of CBL or 10 GWh, whichever is less.

The Tariff Practices were approved by the Commission by Order G-156-06 dated December 7, 2006. In approving the Tariff Practices, the Commission Panel stated that it regarded “...the Tariff Practices as appropriate for providing guidance to the parties in applying the CBL Guidelines in respect of future CBL adjustment requests.” It also noted that it did “**not expect that the Tariff Practices will diminish the flexibility of BC Hydro to consider adjustment requests filed under Section 6.2 of the CBL Guidelines, which recognizes that BC Hydro cannot anticipate precisely all adjustments that may be justifiable within the principles of the tariff.**” (emphasis added)

The Commission Panel notes that Buckeye’s stated reduced annual consumption of over 5,000,000 kWh (and the 4,000,000 kWh ordered by the Commission Panel) would bring the 5% of Energy CBL or 10 GWh, whichever is less, requirement into play from the “Shutdown / Restart of Existing Equipment in an Operating Plant” provision of the Tariff Practices, and, absent the requirement for a “discrete event”, Buckeye would have been eligible for an adjusted CBL.

The CBL adjustment would allow Buckeye's CBL to reflect its historic annual consumption, but for the effects of the recession. The Commission Panel views its decision as being consistent with the stated intent of the CBL Guidelines: "[to act] as an appropriate baseline to encourage electricity conservation and efficiency of use while not discouraging economic growth." The Commission Panel further notes the comments of the Panel when the Tariff Practices Guidelines were first introduced, as noted above, that it considered the Tariff Practices as appropriate for providing guidance to the parties but that they should not diminish the flexibility of BC Hydro to consider appropriate adjustment requests which it may not have anticipated.

In offering Buckeye the exceptional relief it did, the Commission Panel considered Buckeye's unique circumstances and accepted Buckeye's evidence that it was affected by the recession and could not organize its operations to meet the discrete event threshold set out in the tariff. To be clear, the Commission Panel considers this an exceptional granting of relief in the unique circumstances of this case and does not consider this determination to set a precedent for other customers.

3.1.2 Error Two

BC Hydro submits that the Commission erred in suggesting that it was relevant whether the customer's shutdowns were due to the economic recession or simply an ordinary operational management decision. BC Hydro suggests that the 90% and 110% thresholds for CBL resets do not have regard for the reasons why a customer's energy consumption has changed.

BC Hydro submits that the Commission erred in law by establishing a new principle, that CBL reviews should consider whether a customer's change in energy consumption is due to economic recession without conducting a hearing on the specific issue, with the opportunity for all potentially affected parties to be heard.

BC Hydro cites sections 58(1) and 100 of the *UCA* which state:

58 (1) The commission may,

(a) on its own motion, or

(b) on complaint by a public utility or other interested person that the existing rates in effect and collected or any rates charged or attempted to be charged for service by a public utility are unjust, unreasonable, insufficient, unduly discriminatory or in contravention of this Act, the regulations or any other law,

after a hearing, determine the just, reasonable and sufficient rates to be observed and in force...

100 If a hearing is held or required under this Act before a rule or regulation is made, the rule or regulation must not be altered, suspended or revoked without a hearing.

BC Hydro submits that the CBL is a fundamental component of RS 1823 and the Commission must hold a hearing to establish a new principle for adjusting the CBL.

Commission Determination

The Commission Panel disagrees that it made an error in law or that it attempted to establish a new principle without a hearing. The Commission Panel notes that Buckeye's energy consumption was reduced by more than 5% of Energy CBL which, absent the "discrete event" requirement of the Tariff Practices, would entitle it to an adjustment to its CBL. The Commission Panel also notes BC Hydro's comments in its April 23, 2010 submission to the Commission in respect of the issues raised by Buckeye. BC Hydro stated (at p. 4) of its submission:

The issue of CBL adjustments for plant shutdowns during economic downturns was first raised by the Joint Industry Electricity Steering Committee (JIESC). ...The JIESC was seeking relief for customers from the CBL treatments that could apply to customers anticipating extended plant shutdowns during the economic downturn. ...BC Hydro supported the JIESC's request for the **new tariff practice as appropriate in recognition of the major economic downturn and because BC Hydro considered it to be consistent with the CBL Guidelines.** (emphasis added)

The Commission Panel does not consider that it attempted to introduce a new principle of reviewing CBLs based on whether the customer's change in energy consumption is due to economic recession. The Commission Panel considers that the economic downturn has already been recognized as an appropriate justification for a CBL adjustment, as reflected above. The Commission Panel accepted Buckeye's evidence that it was affected by the economic downturn and has applied Sections 1 and 6.2 of the CBL Determination Guidelines appropriately to grant Buckeye exceptional relief for its CBL.

3.1.3 Error Three

BC Hydro argues that the Commission Panel made its Decision in the face of its conclusion that it had insufficient evidence before it to make pertinent findings of fact.

Commission Determination

The Commission Panel disagrees that it concluded it had insufficient information to make pertinent findings of fact. The Commission Panel could not determine conclusively whether **all** the production stoppages and shift reductions were due **solely** to the recession. The Commission Panel considered the evidence and found it was likely that the recession caused a the decrease in some but not all of Buckeye's energy use and therefore granted some measure of relief. The Commission Panel accepted Buckeye's evidence that it had reduced its energy consumption by over 5,000,000 kWh. The Commission Panel also accepted Buckeye's evidence that it was in a unique

position, unlike other TSR customers, in that it could not shutdown its operations in discrete intervals during the recession without risking the survival of its business. The Commission Panel chose to reduce the amount claimed by Buckeye to an amount that it considered would be reflective of reduced operations due to economic circumstances, but, in the interest of regulatory efficiency, chose not to seek the additional evidence necessary for a detailed calculation.

3.1.4 BC Hydro's View of Implication of Decision

BC Hydro submits that the Commission's decision to increase Buckeye's CBL will have implications for virtually all its TSR customers, as they will all have experienced some form of production curtailment, plant shutdown or operating shift change. BC Hydro submits that if the tariff were to be amended to allow for all customers to qualify for CBL adjustments on those bases, then CBL management would become unworkable and the system would be subject to gaming, possibly resulting in no customers taking Tier 2 energy.

Commission Determination

The Commission Panel disagrees that its Decision has far-reaching implications.

Directive 1 of Order G-139-10 does not predetermine that an amendment will be made to the CBL Determination Guidelines or Tariff Practices. The Directive is to review and propose amendments. The Commission Panel recognizes that the circumstances of the TSR customer class may preclude amendments of this nature from being feasible.

Directive 2 of Order G-139-10 grants a specific, exceptional measure of relief to Buckeye Canada only. The Commission Panel considered that Buckeye was the only customer to come before the Commission to resolve a CBL dispute on this matter and made its decision based on the evidence provided by Buckeye that it was in a unique position.

BC Hydro's request for a reconsideration and variation is, accordingly denied.

**Excerpts of Tariff Supplement No. 74 - CBL Determination Guidelines
and CBL Adjustment Tariff Practices:**

CBL Determination Guidelines:

1.0 Overview

The purpose of these Customer Baseline Load (CBL) Determination Guidelines is to describe the criteria and procedures that will guide BC Hydro in the determination of the CBL for each customer plant taking electricity service under Rate Schedule 1823 (Stepped Rate) or Rate Schedule 1825 (Transmission Time-of-Use (TOU) Service).

In general, the intent will be to determine an initial CBL that will be representative of the customer's historic annual consumption prior to the customer commencing service under the applicable rate schedule. The CBL will then be subject to revision annually, and at other times to reflect long term changes affecting the customer's plant, in order to ensure that the CBL continues as an appropriate baseline to encourage electricity conservation and efficiency of use while not discouraging economic growth.

All CBLs will be subject to final approval by the British Columbia Utilities Commission (the "Commission"). In the event of disagreement between BC Hydro and the customer as to the appropriate CBL, the customer can raise the disagreement with respect to its CBL with the Commission.

BC Hydro recognises that these CBL Determination Guidelines may not capture all adjustments that may be justifiable within the principles of the tariff. Hence, in circumstances where customers propose adjustments that are not defined in these CBL Determination Guidelines, and where the Commission is in agreement, BC Hydro will amend the tariff practice to accommodate similar adjustments in the future. To the extent that the sum of the adjusted CBL's exceed reasonably anticipated consumption of the non-exempt customers, CBLs may be prorated.

6.2 Filing of CBL Determinations for Approval / Disputes

- 6.2.1 BC Hydro will submit all CBL determinations to the customer for review and comment prior to filing the CBL determinations with the Commission for approval.
- 6.2.2 If the customer proposes adjustments that are not defined in these CBL Determination Guidelines, BC Hydro will discuss the proposed adjustments with the customer. In cases where BC Hydro agrees with the customer's proposed adjustments and they are consistent with BC Hydro's overall rate design principles, BC Hydro will file the proposed CBL with the

Commission. In cases where BC Hydro does not agree with the proposed adjustments and they are not consistent with BC Hydro's overall rate design principles, BC Hydro will file the CBL in accordance with the CBL Determination Guidelines. The customer can file its proposed CBL with the Commission and indicate that its CBL is under dispute. In these circumstances, BC Hydro will provide information where requested by the Commission. However, the Commission will determine the final CBL.

This process recognises that BC Hydro cannot anticipate precisely all adjustments that may be justifiable within the principles of the tariff. Where the Commission accepts an adjustment not previously accommodated in the tariff, BC Hydro will amend the tariff practice to accommodate similar adjustments in the future. To the extent that the sum of the adjusted CBL's exceed the reasonably anticipated consumption of the non-exempt customers, CBLs may be prorated.

- 6.2.3 If the customer disagrees with the CBLs as determined by BC Hydro, the customer can raise its dispute with the CBLs to the Commission. In that event, BC Hydro will file its CBL determination(s) with the Commission for approval, and the customer can notify the Commission that the determination(s) are under dispute. For billing purposes, BC Hydro will use the filed CBL determinations until such time as the CBL values have been finally determined and approved by the Commission, whereupon BC Hydro will make any necessary retroactive billing adjustments.

Shutdown / Restart of Existing Equipment in an Operating Plant

Similar to the criteria for plant capacity increases set out in the section above, BC Hydro will apply the following criteria to the verified restart of existing equipment in an operating plant. The restart of existing equipment must result in a verified increase in the annual energy consumption by the customer's plant of at least 5 per cent of the Energy CBL or 10 GWh, whichever is less.

For symmetry, BC Hydro will apply the following criteria to the verified shutdown or removal of existing equipment in an operating plant. The shutdown or removal of existing equipment must result in a verified decrease in the annual energy consumption by the customer's plant of at least 5 percent of the Energy CBL or 10 GWh, whichever is less.

Unlike the criteria for plant capacity increases set out in the section above, capital investment is not required.

The customer must provide timely written notice to BC Hydro of the equipment restart, shutdown or removal, and an engineering estimate of the increase (reduction) in load that has been signed by a Professional Engineer (P.Eng), Certified Measurement and Verification Professional, or Officer of the company. BC Hydro will review the request, in consultation with the customer, to verify the estimated energy impact.

For equipment restart or removal, the current year's Energy CBL will be increased (decreased) effective as of the start of the first Billing Period following the date of the equipment restart or removal, in proportion to the estimated energy increase (reduction) that will be realized from the equipment restart or removal between the date of the equipment restart or removal and the end of the Billing Year. At the start of the next Billing Year, the Energy CBL will be further increased (decreased) to reflect any further estimated annual energy increase (reduction) that will be realized from the equipment restart or removal and that was not reflected in the adjustment made in the

previous sentence.

For equipment shutdown, the current year's Energy CBL will be decreased by the estimated energy reduction between the date of the equipment shutdown and subsequent restart, or the end of the Billing Year, whichever comes first. If the equipment shutdown continues into the next Billing Year, at the start of the next Billing Year the Energy CBL will be further adjusted to reflect any further estimated annual energy impact that will be realized from the equipment shutdown and that was not reflected in the adjustment made in the previous sentence.

Each discrete event of equipment shutdown must result in a verified decrease in annual energy consumption by the customer's plant of at least 5 per cent of the Energy CBL or 10 GWh, which is less.

If a customer shuts down multiple pieces of operating equipment, the energy reductions associated with each shutdown piece of equipment may only be consolidated if the pieces of equipment are directly related to the same production process and they are shutdown as part of a discrete event of equipment shutdown. If a customer shuts down operating equipment at various times during the Billing Year and such shutdowns are not part of a discrete event of equipment shutdown, the energy reduction associated with each shutdown will be treated as a discrete request for CBL adjustment and will not be consolidated. BC Hydro will determine the effective start and end dates of each discrete event of equipment shutdown in consultation with the customer.

The Energy CBL adjustment will remain subject to verification of the actual impact of the restart, shutdown or removal of existing equipment on consumption pursuant to the engineering review principles set out above for plant capacity increase.