



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

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-39-12**

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
Application to Suspend the Retail Access Program

BEFORE: L.F. Kelsey, Commissioner
D.M. Morton, Commissioner
R.D. Revel, Commissioner
March 15, 2012

ORDER

WHEREAS:

- A. British Columbia Hydro and Power Authority (BC Hydro) filed an application in March 2005 regarding, among other things, its Retail Access Program;
- B. The Retail Access Program was approved by British Columbia Utilities Commission (Commission) Order G-79-05 and is reflected in the following BC Hydro tariff documents:
 - Tariff Supplement No. 71;
 - Rate Schedule 1890; and
 - Certain Retail Access Program provisions in:
 - Rate Schedule 1823;
 - Rate Schedule 1825;
 - Tariff Supplement No. 74;collectively referred to as the Retail Access Tariff;
- C. On December 23, 2011, BC Hydro filed an application seeking to suspend the Retail Access Tariff (the Application); the Application was copied to BC Hydro's transmission service rate customers: British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO), Association of Major Power Customers of British Columbia (AMPC), Commercial Energy Consumers Association of British Columbia (CEC), BC Sustainable Energy Association and Sierra Club British Columbia (BCSEA), Clean Energy Association of British Columbia (CEBC), Canadian Office and Professional Employees Union Local 378 (COPE), Morgan Stanley Capital Group (Morgan Stanley), TransCanada Energy Ltd. (TransCanada) and FortisBC Inc. (FortisBC);
- D. The Application states, among other things, that the Retail Access Program is fundamentally flawed. The Application encloses a letter from the Minister of Energy and Mines indicating support to suspend the Program and that the provincial government expects to review BC Hydro's industrial tariff over the next two years;

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-39-12**

2

- E. On January 13, 2012, the Commission issued a letter to all parties copied on the Application requesting comments on the Application, in the context of the Minister of Energy's letter, and on any further review process necessary;
- F. By January 27, 2012, the Commission received comment from BCSEA, CEBC, Shell Energy North America (Canada) Inc. (Shell), TransCanada, and Morgan Stanley. BCSEA and Shell support suspension of the Program. CEBC does not believe the Program is flawed, but sees no further review process necessary. TransCanada supports the Program in principle, but does not oppose a temporary suspension of the Program. Morgan Stanley does not agree the Program is fundamentally flawed and supports implementation of a pilot program for retail access as stakeholders have suggested to BC Hydro in the past. Morgan Stanley also submits that it is positioned to take on the third party supplier role contemplated in the Retail Access Program;
- G. The Commission has reviewed the materials filed and considers the letter from the Minister of Energy and Mines to be a government policy direction.

NOW THEREFORE the Commission orders as follows:

- 1. The Retail Access Tariff is suspended for a maximum of two years, until March 23, 2014, because of the government's policy direction from the Minister of Energy and Mines.
- 2. BC Hydro shall, in due course, file with the Commission copies of Rate Schedule 1823, Rate Schedule 1825 and Tariff Supplement No. 74 reflecting paragraph 1 above.
- 3. BC Hydro shall, on or before December 31, 2012, file a report with the Commission, copied to participants in this proceeding, which addresses any provincial energy policy developments that bear on retail access.
- 4. The Commission's Reasons for Decision are attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of March 2012.

BY ORDER

Original signed by:

D. Morton
Commissioner

Attachment

British Columbia Hydro and Power Authority
Application to Suspend the Retail Access Program

REASONS FOR DECISION

BACKGROUND

On December 23, 2011, British Columbia Hydro and Power Authority (BC Hydro) filed its Application to Suspend the Retail Access Program (Application). The Retail Access Program is part of the BC Hydro suite of stepped rates for its transmission service customers. This suite of rates is collectively known as BC Hydro's Transmission Service Rate (TSR) and includes the following tariffs that govern the Retail Access Program: Rate Schedule 1890 and Tariff Supplement No. 71, and certain provisions in Rates Schedules 1823 and 1825 and Tariff Supplement No. 7 (collectively referred to as the Retail Access Tariff).

The concept of retail access arose from the 2002 BC Energy Plan, which anticipated stepped rates and an opportunity for BC Hydro customers to purchase energy from alternative suppliers to BC Hydro. The TSR was implemented in April 2006 and, to date, no transmission service customer has participated in the Retail Access Program.

On February 1, 2011, BC Hydro sent a letter to its TSR customers informing them that BC Hydro is concerned about the risk of cost shifting that may occur under the current terms of the Retail Access Program. BC Hydro informed customers that it was reviewing the program and that during the review it would not process any requests for retail access. (Appendix B to the Application)

On May 20, 2011, BC Hydro sent the British Columbia Utilities Commission (Commission) a letter informing it of the contents of BC Hydro's February letter to customers and of BC Hydro's plans to consult with customers and stakeholders to have the Retail Access Program available by April 1, 2012. (Appendix C to the Application)

On August 25, 2011, BC Hydro held its planned consultation workshop with stakeholders.

THE APPLICATION

In the Application BC Hydro submits that the program is fundamentally flawed because the Retail Access Tariff does not affect the program as it is described in the 2005 TSR Application, which contained the description and principles of retail access that were approved by negotiated settlement. (Application, p. 11) BC Hydro submits that it does not want to simply amend the Retail Access Tariff to meet the 2005 TSR Application description for four reasons:

- The wording of the Tariff does not require the customer or the third-party to deliver energy to BC Hydro. BC Hydro submits that making the necessary changes to the Tariff could not be done simply by changing the wording but would require a complete set of new tariff documents;
- The Tariff does not align with the Open Access Transmission Tariff;
- The Minister of Energy has expressed a desire to suspend the Retail Access Program; and
- The Program itself has issues of how costs, benefits and risks are allocated between Program participants and non-participants.

The Minister of Energy's opinion on the Retail Access Program is a November 21, 2011, letter to the Chair of the BC Hydro Board of Directors. The letter is attached as Appendix D to the Application. In it, Minister Coleman states:

“The provincial government expects to review the TSR and the industrial tariff over the next two years, given their age, the BCUC report and the Province’s economic development priorities. This may include policy direction on the Program. The Province prefers to take an integrated approach to policy development, rather than address issues on a ‘one-off’ basis. To this end, I am directing BC Hydro to extend the suspension of the Program until a comprehensive review of industrial electricity policy is complete.” [emphasis added]

In the Application BC Hydro proposed to file a status report on retail access with the Commission, which would outline any provincial policy developments that could impact the Program, by no later than the end of 2012. BC Hydro also proposed that parties copied on the Application (TSR Customers and potential Retail Access customers who attended the August 2011 Workshop) be invited to provide comments on the Application and on any further process necessary.

On January 13, 2012, the Commission issued a letter inviting submissions on BC Hydro’s Application. The Commission’s letter specifically asked customers and stakeholders to comment in the context of the Minister’s letter.

CUSTOMER AND STAKEHOLDER RESPONSES

The following responses were received:

- BC Sustainable Energy Association – supports BC Hydro’s Application and considers no further review process necessary;
- Shell Energy North America (Canada) Inc. – agrees that BC Hydro’s program is fundamentally flawed, and recognizes the prudence of suspending the program given the Minister’s comments;
- Clean Energy BC – sees it as premature for BC Hydro to apply for formal suspension of the program because of the informal suspension instituted by BC Hydro, does not believe the program is fundamentally flawed, and states that no further review process is necessary;
- TransCanada Energy Ltd. – supports the program in principle to promote competition in the electricity market, and does not oppose a temporary suspension while the government reviews BC Hydro’s industrial electricity policy; and
- Morgan Stanley Capital Group Inc. – states it is well positioned to take on a third-party supplier role and it saw general support for the program at the August 2011 workshop, it does not agree that the program is fundamentally flawed, is aware of other utilities in the United States that have active retail access programs, and supports implementation of a pilot program as suggested at the Workshop.

COMMISSION DETERMINATION

In the Commission’s view, it is the letter from Minister Coleman that has the most bearing on the Commission’s decision as it is a direct statement of government policy. The Commission is guided by government policy in its decision making. However, the Commission does see merit in a full exploration of the concept of retail access and notes the support of at least three stakeholders for the Program.

Given that the government’s desire is to suspend the Retail Access Program pending an overall review of BC Hydro’s industrial service over the next two years, **the Commission suspends the Retail Access Program for a maximum of two years. The Commission directs BC Hydro to provide the results of its proposed review of the Retail Access Program by the end of 2012, and, by the end of two years from the date of this Decision, to bring forward a proposal on a Retail Access Program going forward.**