



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-186-13**

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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 Approval of Changes
Related to Meter Choices Program**

BEFORE: L.F. Kelsey, Panel Chair
D.M. Morton, Commissioner
N.E. MacMurchy, Commissioner
November 18, 2013

O R D E R

WHEREAS:

- A. British Columbia Hydro and Power Authority (BC Hydro) filed on October 7, 2013, pursuant to sections 58 to 61 of the *Utilities Commission Act* (Act) and Direction No. 4 to the British Columbia Utilities Commission (BCUC, Commission) (BC Reg. 203/2013), an application for approval of new standard charges, new Electric Tariff Terms and Conditions, and regulatory accounting treatment related to its Meter Choices Program (Application);
- B. The Lieutenant Governor in Council issued Direction No. 4 on September 25, 2013. Direction No. 4 provides direction to the BCUC with respect to implementation of the Government of British Columbia policy that BC Hydro offer alternative meter options and related services to eligible customers who choose not to have a smart meter at their premises, and that eligible customers choosing an alternative meter option will have to pay additional charges designed to recover the costs attributable to their chosen option. Direction No. 4 also provides for the recovery of failed installation costs from customers at premises where a failed installation of a legacy meter, radio-off meter or smart meter occurs;
- C. The Commission issued Order G-166-13 dated October 9, 2013 approving: (a) the failed installation charge of \$65, on an interim and refundable basis, effective as of October 25, 2013; (b) the amended Electric Tariff as set out in the Appendix to Direction No. 4; and (c) the use of its existing SMI Regulatory Account to include its program costs, investigation costs and infrastructure costs that are not recovered from eligible customers at premises where a legacy meter or radio-off meter is installed and the costs related to smart meters, incurred during the period January 1, 2013 to March 31, 2014, in accordance with section 3(2) of Direction No. 4;

- D. On October 11, 2013, the Commission issued Order G-167-13 which set out, among other matters:
- (a) BC Hydro's proposed charges to be applied to customers that have a legacy meter installed at their premises on an interim and refundable basis, to be effective December 2, 2013;
 - (b) BC Hydro's proposed charges to be applied to customers that have a radio-off meter installed at their premises on an interim and refundable basis, to be effective April 1, 2014; and
 - (c) a written hearing process and a Regulatory Timetable for the review of the remainder of the Application. The Regulatory Timetable provided for, among other matters, the delivery of Information Request (IR) No. 1 by the BCUC and Interveners by November 6, 2013 and for BC Hydro's Responses to those IRs by November 19, 2013;
- E. The remaining items to be approved in the Application are:
- (a) the failed installation charge on a final basis effective as of October 25, 2013;
 - (b) charges to be applied to customers in relation to their choice of a legacy meter on a final basis to be effective December 2, 2013; and
 - (c) the charges to be applied to customers in relation to their choice of a radio-off meter on a final basis to be effective April 1, 2014;
- F. By email dated November 3, 2013, two Interveners, the Citizens for Safe Technology Society (CSTS) and Nomi Davis (ND), requested an extension of time for the filing of their first round IRs until November 8, 2013. The Commission granted the CSTS/ND request by letter dated November 5, 2013 and extended the time for BC Hydro to deliver its Responses to those IRs until November 21, 2013;
- G. By email dated November 6, 2013, a third Intervener, Graydon Tyskerud requested an extension in time to issue his first round IRs until November 11, 2013. The Commission granted Mr. Tyskerud the same extension it had previously granted CSTS/ND and similarly extended the time for BC Hydro to deliver its Responses to Mr. Tyskerud's IRs until November 21, 2013;
- H. By letter dated November 14, 2013, BC Hydro requests an extension to the November 19 and 21, 2013 filing dates for its Responses to IRs No. 1 on the grounds that it does not believe it will be able to meet the filing dates given the short period of time allotted to comprehensively respond to the over 800 IRs it received. BC Hydro requests that the filing date be extended to November 29, 2013 for all first round IRs (BC Hydro Request). The letter also includes a revised timetable which incorporates a longer timeline for the proceeding to take into account the reduced working days at the end of December due to statutory holidays;

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- I. The Commission has received submissions from the following nine Interveners on the BC Hydro Request: Commercial Energy Consumers of British Columbia (CEC), Mr. David Wong, CSTS/ND, Regional District Central Kootenay Area D (RDCK), Mr. Jim Stachow, Mr. John Hurd, Ms. Judy Skogstad and Mr. Ron Warder; and
- J. The Commission has reviewed and considered BC Hydro's Request and the submissions it has received from the Interveners.

NOW THEREFORE for the reasons set out in the Reasons for Decision attached as Appendix A to this Order the Commission orders that:

1. The British Columbia Hydro and Power Authority (BC Hydro) Request is granted in part. BC Hydro is to deliver its Responses to Information Requests No. 1 from the BCUC and Ms. Skogstad on or before Friday, November 22, 2013. The filing date for the remainder of BC Hydro's Responses to Information Requests No.1 is extended to Friday, November 29, 2013.
2. The Regulatory Timetable established by Order G-167-13 is amended by the Amended Regulatory Timetable attached as Appendix B to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of November 2013.

BY ORDER

Original signed by:

L.F. Kelsey
Panel Chair

Attachments

British Columbia Hydro and Power Authority
Application for Approval of Changes
Related to Meter Choices Program

REASONS FOR DECISION

BACKGROUND

On October 7, 2013, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the Commission for approval of new standard charges, new Electric Tariff Terms and Conditions, and regulatory accounting treatment related to its Meter Choices Program (Application).

The Application was filed in accordance with Direction No. 4 to the British Columbia Utilities Commission (BCUC, Commission) on September 25, 2013. Direction No. 4 provides direction to the Commission with respect to implementation of the Government of British Columbia's policy that BC Hydro offer alternative meter choices to eligible customers who choose not to have a smart meter at their premises and that eligible customers choosing an alternative meter option will have to pay additional charges designed to recover the costs attributable to their chosen option. Direction No. 4 also provides for the recovery of failed installation costs from customers at premises where a failed installation of a legacy meter, radio-off meter or smart meter occurs.

On October 9, 2013, the Commission issued Order G-166-13 approving the failed installation charge on an interim and refundable (with interest) basis, and the new terms and conditions in sections 4 and 6 of the Electric Tariff as set out in the Appendix to Direction No. 4. On October 11, 2013, the Commission issued Order G-167-13 setting out, among other matters:

- (a) BC Hydro's proposed charges to be applied to customers that have a legacy meter installed at their premises on an interim and refundable basis, to be effective December 2, 2013;
- (b) BC Hydro's proposed charges to be applied to customers that have a radio-off meter installed at their premises on an interim and refundable basis, to be effective April 1, 2014; and
- (c) the review format and timetable for the review of the remainder of the Application.

The Regulatory Timetable, attached as Appendix B to Order G-167-13 provides for, among other matters, registration of Interveners and Interested Parties by October 24, 2013, two rounds of Information Requests (IRs) from the BCUC and Interveners and a written public hearing process. The BCUC and Interveners were to deliver their first round IRs to BC Hydro by November 6, 2013 and BC Hydro is to respond to those IRs by November 19, 2013.

A total of 35 parties have registered as Interveners. Three Interveners, the Citizens for Safe Technology Society and Nomi Davis (CSTS/ND) and Mr. Tyskerud, requested extensions for the filing of their IRs. CSTS/ND requested an extension to November 8 and Mr. Tyskerud to November 11. By letter dated November 5, 2013, the Commission granted the extension sought by CSTS/ND and allowed BC Hydro until November 21 to deliver its Responses to the CSTS/ND IRs. By letter dated November 6, 2013, the Commission granted Mr. Tyskerud the same extension it had granted CSTS/ND and allowed BC Hydro the same additional time to deliver its Responses to his IRs.

BC Hydro's Request

By letter dated November 14, 2013, BC Hydro requests an extension to the November 19 and 21, 2013 filing dates for its Responses to IR No. 1 on the grounds that it does not believe it will be able to meet the filing dates given the short period of time allotted to comprehensively respond to the over 800 IRs it received. BC Hydro requests that the filing date be extended to November 29, 2013 for all first round IRs (BC Hydro Request). The letter also includes a revised timetable which incorporates a longer timeline for the proceeding to take into account the reduced working days at the end of December due to statutory holidays.

BC Hydro's revised timetable is set out below:

BC Hydro Response to IR No. 1	Friday, November 29
BCUC and Intervener IRs No. 2	Friday, December 20
BC Hydro Response to IRs No. 2	Friday, January 17
BC Hydro Final Written Submission	Friday, January 24
Intervener Final Submission	Friday, February 7
BC Hydro Reply Submission	Friday, February 14

Intervener Responses

The following nine Interveners made submissions on the BC Hydro Request: Commercial Energy Consumers of British Columbia (CEC), Mr. David Wong, CSTS/ND, Regional District Central Kootenay Area D (RDCK), Mr. Jim Stachow, Mr. John Hurd, Ms. Judy Skogstad and Mr. Ron Warder. Only CEC provides unqualified support for the BC Hydro Request.

Mr. Wong supports the BC Hydro Request and BC Hydro's proposed adjustments to the Regulatory Timetable "if this will allow BC Hydro to provide complete and comprehensive responses to the Intervener's 800 questions." However, he also requests that the BCUC amend its interim approval of BC Hydro's requested charge for a legacy meter. He submits that any delay in the regulatory timetable extends the cost risk to customers who elect to keep their legacy meters in the hope that the BCUC will lower the fees requested by BC Hydro. He requests that the BCUC amend its interim approval and apply only a nominal fee to customers who retain their legacy meters in the period after December 1, 2013 until April 1, 2014. He does acknowledge, however, that section 4.2.2 (c) of the Appendix to Special Direction No. 4 likely does not provide the Commission with the discretion to order an extension to the December 1st deadline.

CSTS/ND request the suspension of the interim approval of any opt-out fee pending the Commission's final determination of the Application on its merits. They submit that there is a public perception of the absence of due process when BC Hydro starts charging opt-out fees prior to a final determination and "[t]he proposed delay only exacerbates this concern."

RDCK only supports the BC Hydro Request if the Commission agrees to the requests of Mr. Wong and CSTS/ND "by lowering or eliminating the interim \$35 monthly legacy fee until the Commission has rendered its decision as to how legacy meters could be read and/or self read." RDCK argues that the \$35 charge will be especially onerous on low income customers when it remains unclear on how the meters may be read and what the subsequent charges may be.

Mr. Stachow submits that “many people with legacy meters lack the money to pay [the \$35 monthly proposed fee]” scheduled to become effective December 2. He argues that BC Hydro’s ability to charge interim fees “necessarily works in Hydro’s favour be [sic] lessening the number of people able to afford continued resistance to meters they do not want in their homes. The fact that BC Hydro is are [sic] requesting that [the Commission’s] date of decision be further delayed serves to compound this problem.” [emphasis in original] He asks that the imposition of the proposed fees be delayed by at least two months from December 2, 2013.

Mr. Hurd requests an extension in the date for the commencement of the interim charges on legacy and radio-off meters. Essentially he suggests that such an extension would allow for a fair and unbiased hearing on the appropriate charges if any.

Ms. Skogstad filed two submissions, both dated November 15, 2013. She “strenuously” objects to the BC Hydro Request. In her first submission she says that she has been waiting until after November 19th to make her decision on her option, “in order to be as well informed as possible in making [her] choice” and that “November 29th does not leave enough time to review the information and advise BC Hydro of [her] decision prior to December 1, 2013. She submits if the Commission’s process is to be meaningful, the Commission should either refuse the BC Hydro Request or extend the December 1 deadline. In her second submission, she reiterates her position that she was relying upon BC Hydro’s first round of responses to arrive at her decision and repeats her request for a change in the interim order to delay the deadline for the response of customers.

Mr. Ron Warder submits that he does not disagree with BC Hydro’s request for an extension; however, he submits that it is patently unfair and unreasonable to allow BC Hydro to apply the current smart meter “option” fees in advance of a Commission determination. He therefore “respectfully requests that the Commission suspend its Order providing for these interim penalties.”

Commission Panel Decision

According to BC Hydro, it has received in excess of 800 first round IRs. The Regulatory Timetable presently requires all those IRs with the exception of those relating to CSTS/ND and Mr. Tyskerud to be responded to by November 19, with those of CSTS/ND and Mr. Tyskerud by November 21. This is a significant, although not impossible, task to accomplish within the time frame set by the existing Regulatory Timetable. BC Hydro seeks a 10 day delay in total for its Responses (8 days in the case of its Response to in responding to CSTS/ND and Mr. Tyskerud).

With the exception of CEC, all the Interveners who have filed submissions will only agree to the BC Hydro Request with conditions. Those conditions, for the most part, involve the imposition of the interim opt-out fee effective December 2, 2013. Ms. Skogstad requests that the date for the decision to opt-out of December 1, 2013, be extended. She also says that she was awaiting BC Hydro’s Responses to IR No. 1 before making her decision on whether to opt-out.

Direction No. 4 was issued pursuant to section 3 of the *Utilities Commission Act* (Act). Sections 3(2) and (3) of the Act provide:

- (2) The commission must comply with a direction issued under subsection (1), despite
 - (a) any other provision of
 - (i) this Act, except subsection (3) of this section, or
 - (ii) the regulations,

- (a.1) any provision of the *Clean Energy Act* or the regulations under that Act, or
- (b) any previous decision of the commission.

- (3) The Lieutenant Governor in Council may not under subsection (1) specifically and expressly
 - (a) declare an order or decision of the commission to be of no force or effect, or
 - (b) require the commission to rescind an order or a decision.

Thus, the Commission must comply with Special Direction 4 unless the section 3(3) exceptions apply.

Section 3(3) of Direction No. 4 provides:

- (3) Within 30 days of the date this direction comes into force, the commission must issue an order so that the Electric Tariff of [BC Hydro] is amended by adding the provisions set out in the Appendix to this direction.

Section 4.2.2 of the Appendix states:

4.2.2. Conditions for Retention or Installation of Legacy Meters and Radio-off Meters

The conditions that must be satisfied in order for BC Hydro to permit to remain in operation, install, replace, maintain and service Legacy Meters or Radio-off Meters at a Residential Service Customer's Premises are:

- (a) the Customer is, as of the date of the Customer's election in accordance with clause (c) or deemed election in accordance with clause (d), taking Residential Service at the Customer's Premises;
- (b) BC Hydro had not, before the date of the Customer's election in accordance with clause (c) or deemed election in accordance with clause (d), installed a Smart Meter at the Customer's Premises, but rather a Legacy Meter remained in place at those Premises as of the date of the Customer's election or deemed election; and
- (c) the Customer, during the period beginning September 1, 2013 and ending December 1, 2013, by notice to BC Hydro, elects to retain the Legacy Meter then in place at the Customer's Premises, or to have Radio-off Meter installed in place of the Legacy Meter; or
- (d) the Customer, despite satisfaction of the conditions set out in clauses (a) and (b) has failed to provide notice of election to BC Hydro in accordance with clause (c), in which case the customer shall be deemed to have elected effective December 1, 2013, to retain the existing Legacy Meter at the Customer's Premises and the Customer shall thereafter pay the charges for having a Legacy Meter installed at the Customer's Premises as set out in the Schedule of Standard Charges.

Mr. Wong acknowledges that it is "likely" that the Commission has no power to extend the December 1 deadline. By reason of section 3(2) of the Act, the Commission cannot alter the December 1, 2013 election end date as Ms. Skogstad requests.

The Commission Panel is not prepared to vary the amount of the interim opt-out fee at this time. The Commission Panel does not have any evidence on hand on which it could base its decision on the amount of the opt-out fee other than evidence provided by BC Hydro. The Commission Panel is of the view that fulsome and comprehensive responses from BC Hydro to relevant IRs will provide the best evidence to the Panel for the purposes of making its final decision on the Application. The interim opt-out fee remains refundable, either wholly or in part, depending on the view that the Panel ultimately takes of all the evidence relating to the imposition of such a fee.

The Commission Panel, however, has some sympathy for Ms. Skogstad's submission that she was awaiting BC Hydro's first round IR responses before making her decision on the option she would choose. While the Commission cannot change the December 1, 2013 date, it will order BC Hydro to provide the answers to the IRs of the BCUC and Ms. Skogstad on or before November 22, 2013. Those Responses should at least provide her with enough information for her to make her decision.

The Commission Panel, therefore, only grants BC Hydro's Request in part. BC Hydro is to respond to the first round IRs of the Commission and Ms. Skogstad on or before Friday, November 22, 2013 and to the remaining IRs on or before Friday, November 29, 2013.

The Commission Panel amends the Regulatory Timetable as set out in the Amended Regulatory Timetable is attached as Appendix B to Order G-186-13.

British Columbia Hydro and Power Authority
Application for Approval of Changes Related to Meter Choices Program

AMENDED REGULATORY TIMETABLE

ACTION	DATE (2013)
BCUC and Intervener Information Request (IR) No. 1	Wednesday, November 6
BC Hydro Response to BCUC IR No. 1 and Ms. Skogstad IR No. 1	Friday, November 22
BC Hydro Response to Interveners' IR No. 1	Friday, November 29
BCUC and Intervener IR No. 2	Friday, December 20
ACTION	DATE (2014)
BC Hydro Response to IR No. 2	Friday, January 17
BC Hydro Final Written Submission	Friday, January 24
Intervener Final Submission	Friday, February 7
BC Hydro Reply Submission	Friday, February 14

Note: Commission Letters included in Exhibits A-4 and A-5 granted extension requests to Interveners CSTS/ND and Mr. Tyskerud by two days to November 8, 2013. BC Hydro was also granted an extra two days to November 21, 2013, to respond to these Interveners.