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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER R-10-13**

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**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**An Inquiry into potential adjustments for the
British Columbia Mandatory Reliability Standards Program,
to consider (a) changes to the *BC Rules of Procedure* for a possible exception process,
and (b) processes for assessing severity and risk for violations**

BEFORE: D.M. Morton, Commissioner

February 27, 2013

O R D E R

WHEREAS:

- A. The Government of British Columbia's 2007 "BC Energy Plan: A Vision for Clean Energy Leadership" included Policy Action No. 14, to "ensure that the province remains consistent with North American transmission reliability standards";
- B. The North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) are recognized as standard-making bodies for purposes of the reliability standards and pursuant to subsection 125.2(1) of the *Utilities Commission Act* (the Act),

"reliability standard" means a reliability standard, rule or code established by a standard-making body for the purpose of being a mandatory reliability standard for planning and operating the North American bulk power system, and includes any substantial change to any of those standards, rule or codes";

- C. Pursuant to subsection 125.2(2) of the Act, the British Columbia Utilities Commission (Commission) has exclusive jurisdiction to determine whether a reliability standard is in the public interest and should be adopted in British Columbia;
- D. The Commission determined that an Inquiry into potential adjustments for the BC MRS Program is warranted to consider (a) changes to the *BC Rules of Procedure* to provide for a possible exception process, and (b) a process for assessing severity and risk for violations;

- E. On October 9, 2012 the Commission issued Order R-72-12 establishing an Inquiry into potential adjustments for the British Columbia Mandatory Reliability Standards Program, which specified a Regulatory Timetable as Appendix A to Order R-72-12;
- F. In accordance with the Regulatory Timetable, “Straw-Dog” drafts of proposed changes to the BC Rules of Procedure prepared by Commission staff were issued to Registered Parties with a request for Registered Interveners to submit comments on the “Straw-Dog” drafts by January 31, 2013;
- G. Comments on the Commission staff “Straw Dogs” were received from seven Registered Interveners (Teck Metals Ltd. (Teck), British Columbia Municipal Electrical Utilities (BCMEU), Association of Major Power Consumers (AMPC), Clean Energy Association of B.C. (CEA), British Columbia Hydro and Power Authority (BCH), FortisBC Inc. (FBC) and Columbia Power Corporation (CPC));
- H. The January 31, 2013 “Straw Dog” comments received from AMPC requested a change to the Inquiry’s regulatory process and Regulatory Timetable by separating the current Inquiry process into two separate streams where, (1) the first stream would immediately move to consider recommendations to Cabinet to adopt a new Bulk Electric System (BES) definition and empower the BCUC to incorporate a B.C.-specific exception process into the BCUC’s *Rules of Procedure*, which would be performed via the BCUC’s Streamlined Review Process, and (2) the second stream would consider the remaining issues such as penalties, details of the exception process, and the nature and make-up of a Technical Advisory Committee. Under AMPC’s proposal, this second stream would occur in parallel to the first stream and remain -under the current Inquiry process;
- I. The January 31, 2013 “Straw Dog” comments received from FBC contained a statement advising that FBC understood that it would be able to issue Information Requests to the Commission as part of the Inquiry’s Information Request process, and a request to change the Inquiry’s regulatory process and the Regulatory Timetable to accommodate the provision of revised Commission staff “Straw Dogs” and a second round of Information Requests;
- J. On February 12, 2013 the Commission issued a letter (Exhibit A-10) requesting comments from Registered Interveners regarding the Inquiry regulatory process change requests and clarifying that Information Requests are to be from Registered Interveners and Commission staff on the January 31, 2013 written submissions and the requested comments were to be submitted by February 20, 2013 with AMPC and FBC having the right of reply by February 22, 2013;
- K. In response to the Commission’s request for input (Exhibit A-10) BCH submitted its comments regarding the Inquiry regulatory process change recommendations from AMPC and FBC in a letter dated February 20, 2013 (Exhibit C17-4), BCH opposed the requested change and submitted that there is no need to make any amendments to the Inquiry’s Regulatory Timetable or process and that the BCUC should retain the schedule and process, as outlined in BCUC Order R-72-12, so that the Inquiry will be conducted and completed in a timely manner. BC Hydro also requested that the BCUC provide an opportunity for registered parties to seek further information and/or clarity from the BCUC staff on the “Straw-Dogs” as part of the IR process;

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- L. In reply on February 22, 2013 (Exhibit C14-4), AMPC reiterated its request for a bifurcated process;
- M. In reply on February 22, 2013 FBC (Exhibit C18-4), FBC opposed AMPC's request to bifurcate the Inquiry's regulatory process.

NOW THEREFORE the Commission Panel determines as follows:

1. AMPC's request to bifurcate the Inquiry's regulatory process is denied for the reasons outlined and attached as Appendix A to this Order.
2. Commission staff will schedule an informational teleconference call with participants at a time to be determined to address some clarifying questions on the "Straw-Dogs." A revised regulatory timetable is attached as Appendix B to this Order that indicates questions can be submitted to Commission staff in writing by no later than Friday, March 8, 2013. The informational teleconference call will not be transcribed and neither the questions nor answers will form part of the evidentiary record nor be binding upon the Commission Panel in its decision making. Upon reviewing the clarifying questions provided, Commission staff may elect not to respond to certain questions.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of February 2013.

BY ORDER

Original signed by:

D.M. Morton
Commissioner

Attachments

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REASONS FOR DECISION

1.0 BACKGROUND

On October 9, 2012, the Commission issued Order R-72-12 establishing an Inquiry into potential adjustments for the British Columbia Mandatory Reliability Standards Program, which included a Regulatory Timetable as an Appendix to the Order.

In accordance with the Regulatory Timetable, “Straw-Dog” drafts of proposed changes to the BC Rules of Procedure prepared by Commission staff were issued to Registered Parties with a request for Registered Interveners to submit comments on the “Straw-Dog” drafts by January 31, 2013. Comments were received from seven Registered Interveners (Teck Metals Ltd. (Teck), British Columbia Municipal Electrical Utilities (BCMEU), Association of Major Power Consumers (AMPC), Clean Energy Association of B.C. (CEA), British Columbia Hydro and Power Authority (BCH), FortisBC Inc. (FBC) and Columbia Power Corporation (CPC)).

The comments received from AMPC (Exhibit C14-3) contained a recommendation to change the Inquiry’s regulatory process and Regulatory Timetable by separating the current Inquiry process into two separate streams where:

- (i) The first stream would immediately move to consider recommendations to Cabinet to adopt a new Bulk Electric System (BES) definition and empower the BCUC to incorporate a BC-specific exception process into the BCUC’s *Rules of Procedure*, which would be performed via the BCUC’s Streamlined Review Process, and
- (ii) The second stream would consider the remaining issues such as penalties, details of the exception process, and the nature and make-up of a Technical Advisory Committee. Under AMPC’s proposal, this second stream would occur in parallel to the first stream and remain under the current Inquiry process.

The comments received from FBC (Exhibit C18-3) contained a statement advising that FBC understood that it would be able to issue Information Requests to the Commission as part of the Inquiry’s Information Request process, and a request to change the Inquiry’s regulatory process and the Regulatory Timetable to accommodate the provision of revised Commission staff “Straw-Dogs” and a second round of Information Requests.

On February 12, 2013, the Commission issued a letter (Exhibit A-10) requesting comments from Registered Interveners regarding the Inquiry regulatory process change requests. The letter clarified that Information Requests are to be from Registered Interveners and Commission staff on the January 31, 2013 written submissions. The requested comments were to be submitted by February 20, 2013, with AMPC and FBC having the right of reply by February 22, 2013.

2.0 COMMENTS FROM REGISTERED INTERVENERS ON REGULATORY PROCESS

In response to the Commission's request for comments on the recommendations related to the Inquiry's regulatory process, BCH submitted a letter on February 20, 2013 (Exhibit C17-4), no other comments were received.

BCH summarized its comments by stating "BC Hydro respectfully submits that there is no need to make any amendments to the Inquiry's Regulatory Timetable or process and that the BCUC should retain the schedule and process, as outlined in BCUC Order No. R-72-12, so that the Inquiry will be conducted and completed in a timely manner. In addition, BC Hydro respectfully requests that the BCUC provide an opportunity for registered parties to seek further information and/or clarity from the BCUC staff on the Straw-Dogs as part of the IR process."

In regard to AMPC's recommendation to bifurcate the Inquiry's regulatory process, BCH observed that "It is not clear to BC Hydro that a bifurcated Inquiry process, as proposed by AMPC, will result in a more efficient and straight-forward process. In fact, BC Hydro submits that the opposite is likely true, as it will be unnecessarily cumbersome and therefore inefficient for the parties to participate in parallel proceedings when the issues contained in the BCUC Straw-Dogs are related and, in some cases, dependent on each other. Were the BCUC to separate the proceeding into two streams, there is a real possibility of a disconnect between comments and issues."

3.0 REPLY SUBMISSIONS FROM REGISTERED INTERVENERS ON REGULATORY PROCESS

Reply submissions on the comments submitted by BCH on the Inquiry's regulatory process (Exhibit C17-4), were received from AMPC (Exhibit C14-4) and FBC (Exhibit C18-4).

AMPC disagreed strongly that its proposal would "create a disconnect" and stated "By implementing a streamlined review process these two important key decisions upon which there appears to be no controversy – can be moved forward legislatively. The Exception Process procedural issues, which the Commission will need to address, can be discussed in the current process. The advantage of the earlier completion of the legislative umbrella (the BES approval and authority to create the Exception Process) is that the Commission will be able to take action quickly once the details of the Exception [P]rocess has been completed."

In FBC's reply they, like BCH also disagreed with AMPC's recommendation to bifurcate the Inquiry's regulatory process stating that "From the Company's perspective, this would be a less efficient process than the one now underway. We also agree with the assessment by BC Hydro that the issues proposed to be separated into the two processes are related and in some cases interdependent, and should be considered in a single process."

FBC also commented upon the numerous requests for clarification and/or rehearing of FERC Order 773 (which is intended to approve the new BES definition in the United States) and how it is unclear as to how this situation will affect the implementation of the FERC Order.

FBC also withdrew its recommendation that Commission staff prepare and issue a revised set of "Straw-Dogs" following the completion of the Information Requests stating "FortisBC is prepared to make its final submissions without the need for a revised set of Straw Dogs. Accordingly, we withdraw the request for a revision."

COMMISSION DETERMINATION

The Commission Panel has considered the request to bifurcate the Inquiry's regulatory process and determines that bifurcation would not result in a more efficient and straight forward Inquiry process. The Panel is of the view that splitting the process as suggested is not appropriate as the matters to be considered are related and in some cases interdependent. The Inquiry's regulatory process will proceed as originally contemplated in Order R-72-12.

Concerning the requests to allow for Registered Interveners to seek clarity regarding the Commission staff "Straw-Dogs," the Panel considers that such clarification could be helpful to Interveners in terms of the efficacy of the planned Information Requests on the written submissions and will adjust the Regulatory Timetable to provide for a scheduled, informal conference call between Registered Interveners and Commission staff. Participating Interveners will submit their written questions to the Commission Secretary in advance of the scheduled conference call as specified on the Revised Regulatory Timetable (attached as Appendix B). The questions and conference call will be for information purposes only and will not be recorded or transcribed, and will not become part of the evidentiary record.

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REVISED REGULATORY TIMETABLE

Action	Date (2012/2013)
Commission posting and distribution of Order R-72-12 with Notice of Inquiry and Invitation to Information Workshop and Regulatory Timetable	Tuesday, October 9
BC Hydro and FortisBC to distribute Order R-72-12 with Notice of Inquiry and Invitation to Information Workshop and Regulatory Timetable	Tuesday, October 16
Registration of Interested Parties	Tuesday, November 13
Information Workshop	Wednesday, November 21
"Straw-Dog" drafts of proposed changes to BC Rules of Procedure, with Commission Staff questions and request for comment to be distributed to Registered Parties	Friday, December 21
Written Submissions from Registered Parties	Thursday, January 31
Written Informal Questions to Commission staff on "Straw-Dogs"	Friday, March 8
Informal Conference Call with Commission staff	TO BE DETERMINED
Information Requests from Registered Parties and Commission staff on written submissions	Thursday, March 28
Response to Information Request 1	Friday, April 26
Final Written Submissions from Registered Parties	Thursday, May 30