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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-42-15**

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**IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473**

and

**British Columbia Hydro and Power Authority
Application for Approval of Contracted Generator Baseline Guidelines
and Reconsideration and Variance of Order G-19-14**

BEFORE: L. A. O'Hara, Panel Chair/Commissioner
R. D. Revel, Commissioner
B. A. Magnan, Commissioner

March 27, 2015

O R D E R

WHEREAS:

- A. On November 2, 2012, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (Commission) for Approval to Amend Tariff Supplement No. 74 Customer Baseline Load Determination Guidelines for Rate Schedule 1823 Customers with Self-Generation Facilities (TS 74 Application);
- B. The proposed amendments to TS 74 impacted GBLs for customers with contracted generating units (Contracted GBLs); however, the principles for setting Contracted GBLs were not addressed as part of the TS 74 Application. In that proceeding, BC Hydro stated that BC Hydro and the customer negotiate Contracted GBLs in accordance with the principles set out in the 2012 GBL Information Report;
- C. On February 17, 2014, by Order G-19-14, the Commission made its final determination on the TS 74 Application and, pursuant to Directive 2, directed BC Hydro to file an application with the Commission for approval of updated GBL Guidelines to be incorporated into TS 74;
- D. On May 21, 2014, BC Hydro applied to the Commission for a reconsideration and variance of Order G-19-14 requesting that the Commission rescind Directive 2 (Phase 1 Reconsideration Application). By Order G-106-14, dated July 25, 2014, the Commission denied BC Hydro's application to rescind Directive 2 as it related to BC Hydro's requirement to file an application with the Commission for approval of updated Contracted GBL Guidelines. However, the Commission accepted that there may be alternatives to filing the Contracted GBL Guidelines other than incorporating them into TS 74 and established Phase Two to

reconsider Order G-106-14 as it relates to where the Contracted GBL Guidelines should reside (Phase 2 Reconsideration);

- E. On December 12, 2014, BC Hydro filed its application for approval of Contracted GBL Guidelines in compliance with Order G-19-14 and the Phase 2 Reconsideration and Variance established by Order G-106-14 (the Application);
- F. In the cover letter to the Application, BC Hydro proposes a regulatory process and timetable consisting of one round of information requests (IRs) followed by a streamline review process. On December 16, 2014, the Commission issued Order G-199-14, establishing an initial regulatory timetable for the review of the Application which included, among other things, one round IRs and submissions from the parties on further regulatory process;
- G. The British Columbia Old Age Pensioners' Organization *et al.*, B.C. Sustainable Energy Association and Sierra Club of British Columbia, Commercial Energy Consumers Association of British Columbia, FortisBC Inc., Zellstoff Celgar Limited Partnership, the Association of Major Power Customers and West Fraser Mills registered as interveners;
- H. By Order G-12-15, the Commission established that a procedural conference would take place on Thursday, February 5, 2015, and also suspended the Regulatory Timetable established by Order G-199-14;
- I. On February 12, 2015, by Order G-18-15, after considering submission made at the procedural conference, the Commission, among other things, found that the establishment of an issues list to guide the parties in preparing their information requests (IRs) would be an efficient step and sought submission on a Panel General Issues List; and
- J. The Commission has considered the submissions and finds the Panel General Issues List should be finalized and the Order G-199-14 suspension should be lifted.

NOW THEREFORE, the Commission orders as follows:

- 1. For the reasons stated in Appendix A to this order, the final Panel General Issues List is as set out in Appendix B to this order.
- 2. The suspension of Order G-199-14 is lifted and the Regulatory Timetable therein is amended as set out in Appendix C to this order.

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3. A deadline for submitting Participant Cost Award Budgets will be established once a determination on further process has been made.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of March 2015.

BY ORDER

Original signed by:

L. A. O'Hara
Panel Chair/Commissioner

Attachments

British Columbia Hydro and Power Authority
Application for Approval of Contracted Generator Baseline Guidelines
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REASONS FOR DECISION

1.0 INTRODUCTION

On December 12, 2014, the British Columbia Hydro and Power Authority (BC Hydro) filed its application for approval of Contracted GBL Guidelines in compliance with Order G-19-14 and the Phase 2 Reconsideration and Variance established by Order G-106-14 (Application).

By Order G-12-15, the British Columbia Utilities Commission (Commission) established that a procedural conference would take place on Thursday, February 5, 2015.

As determined by Order G-18-15 and attached reasons emanating from the procedural conference, the Commission explained and determined that the hearing of the Application would follow a process whereby the Panel put forth a general list of issues (Panel General Issues List) it considers important and circulated that list for comment from all parties. The Panel also found merit in the suggestion that the Panel General Issues List would identify issues of importance to the Panel but the detailed scoping process will be determined through the information request (IR) process. Thus, in providing a final Panel General Issues List, in these reasons, the Panel affirms that this list is directive of its interests at the outset of the hearing but not determinative of the final scope, relevance and weight of issues. The Panel is grateful for the thoughtful comments received from parties and their willingness to find common ground upon which to assist the Panel in finalising the list.

2.0 CONSIDERATION OF SUBMISSIONS ON THE ISSUES LIST

All parties support the draft Panel General Issues List amended by the proposed clarifications and additions submitted by BC Hydro in its submission dated February 23, 2015,¹ other than the Commercial Energy Consumers Association of British Columbia (CEC) who provided some comments regarding Issue #7. Although supporting the list, certain parties suggested that further issues be added. These reasons will address the non-contentious issues first, and then proposed changes to Issue #7 and finally, the suggested alterations and additions.

2.1 Non-Contentious issues

The following is a list of the non-contentious issues as revised and expanded by BC Hydro in its submission and subsequently agreed to by all parties in their respective submissions.

- 1) Is the substantial purpose of the Contracted Generator Base Line (GBL) Guidelines to incent self-generation by removing barriers while at the same time mitigating arbitrage?
- 2) Should the Contracted GBL Guidelines apply to both Distribution and Transmission self-generation customers?

¹ Exhibit B-3.

- 4) What is the appropriate operational definition of arbitrage in the context of the Contracted GBL Guidelines?
- 5) Where should the Contracted GBL Guidelines reside? Answers to this question should include both legal and rate regulation considerations.
- 6) Does Order G-38- apply to BC Hydro? If so, should Order G-38-01 continue to apply to BC Hydro?
- 8) What is the context within which the Contracted GBL Guidelines will be used, and how will Contracted GBLs determined in accordance with these guidelines be used?
- 9) What are the merits of the Contracted GBL approach for a utility to incentivize incremental self-generation at a customer's site?
- 10) Do the Contracted GBL Guidelines provide an appropriate framework within which the Commission will be able to assess whether future EPAs and LDAs between BC Hydro and its self-generating customers are in the public interest?

2.2 Issue #7

In its submission, CEC notes that BC Hydro proposes to amend Issue #7 to specify that the deemed energy and demand purchases being considered are with regard to the Electricity Purchase Agreement (EPA) and are not relevant to Load Displacement Agreement (LDA). CEC submits that the clarification is not necessary and could serve to potentially limit the scope of the proceeding; however, to the extent that the Application applies only to those customers with either an EPA, or an LDA, and would not be expected to have further implications beyond these two situations, the CEC does not object to the amendment.²

In its Reply, BC Hydro confirms that the Contracted GBL Guidelines will only be used in connection with a prospective EPA or LDA between BC Hydro and a self-generating customer.³

Panel determination

The Panel observes that BC Hydro, while confirming the intended application of the Contracted GBL Guidelines, has not objected to the CEC's submission to leave Issue #7 as originally proposed by the Panel. **The Panel finds that in order to ensure that the scope of the issue is not limited in any way, Issue #7 will not be restricted to applying to EPAs as suggested by BC Hydro; however, the Panel will amend Issue #7 to reflect BC Hydro's recommendation that it apply to energy as well as to demand.**

2.3 BCOAPO's proposed additions

British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO) submits that an additional issue be added to the list. Specifically, BCOAPO queries whether the proposed Contracted GBL Guidelines provide an appropriate and adequate framework for BC Hydro and its self-generating customers and potential self-generating customers to assess their own respective interests with respect to entering into an EPA or LDA.⁴

² Exhibit C1-2.

³ Exhibit B-4.

⁴ Exhibit C5-2.

In its Reply, BC Hydro submits that it does not understand the additional issue suggested by BCOAPO and therefore is not able to comment.

Panel determination

The Panel finds that BCOAPO's proposed additional issue in fact falls under the broader Panel General Issue #3. However, the Panel appreciates that Issues #3 could be further clarified to ensure BCOAPO's is addressed. Therefore, the Panel has amended Issue #3 as follows:

- 3) Are the Contracted GBL Guidelines adequate and appropriate? Are they transparent and do they effectively mitigate arbitrage?**

2.4 CEC's proposed additions

In its submission the CEC proposes the following amendments to Issues #1, #3 and #4, as underlined below:

1. Is the substantial purpose of the Contracted Generator Base Line (GBL) Guidelines to incent self-generation by removing barriers while at the same time mitigating arbitrage?
If not, what other purposes or ancillary benefits are served by the GBL?
3. Are the Contracted GBL Guidelines transparent and do they effectively mitigate arbitrage in the best way possible? If not, what alternatives exist for improving transparency and mitigating arbitrage?
4. What is the appropriate operational definition of arbitrage in the context of the Contracted GBL Guidelines and is there a need for such arbitrage to be mitigated?⁵

In reply to CEC, BC Hydro submits that it does not object to the proposed amendments and suggests the test concerning their conclusion should be whether they are of interest to the Commission Panel.⁶

Panel determination

The Panel finds that the amendments to Issues #1 and #3 as proposed by the CEC do not necessarily expand the scope of the issues that are covered by the Panel's more general issue, but do provide some additional helpful detail that the Panel considers of interest. **On that basis, and considering that BC Hydro does not oppose the amendments, the Panel has reflected them in the Final Panel General Issues List.**

However, in regards to the suggested amendments to Issue #4 the Panel finds that the language proposed by CEC would further expand the scope of the issues and is not of particular interest to the Panel. **Therefore, the Panel has not amended the final Panel General Issues List for Item #4 as proposed by CEC.**

⁵ Exhibit C1-2.

⁶ Exhibit B-4.

2.5 Celgar's Submission

2.5.1 Relevant Filings and Determinations – proposed historical review

Celgar states, and requests, that a review of select examples of BC Hydro's past GBL practices and determinations is essential to an understanding of how the Contracted GBL Guidelines will actually work in practice, and whether modifications are necessary to ensure transparency, consistency, and their non-discriminatory application⁷.

Celgar submits under the heading "Relevant Filings and Determinations" that the Commission must bear in mind its most recent decisions relating to GBLs when establishing the Panel General Issues List. Celgar first points out that in the Decision accompanying Order G-19-14 the Commission determined that "both Contracted and Non-Contracted GBLs meet the definition of a 'rate' in the context of [Tariff Supplement] TS 74" and stated that "the Commission considers that, although Contracted GBL guidelines would be restricted to TS 74, there is merit to the transparency and consistency in their application which is likely to result."⁸ [Emphasis added]

In making its second point Celgar submits that the Commission must also bear in mind that the Contracted GBL Guidelines, while new, appear to reflect past practices. Celgar quotes BC Hydro as stating that "the Attachment B guidelines incorporate business practices developed and applied by BC Hydro since RS 1823 came in effect in April 2006, and generally do not represent any new or changed practices."⁹

Celgar goes on to submit that:

Given that BC Hydro's Contracted GBLs are a "rate", subject to non-discrimination (consistency) and transparency requirements, and given that BC Hydro's GBL practices apparently have not changed since at least 2006, Celgar submits that a review of select examples of past practices and determinations is essential to an understanding of how the guidelines will actually work in practice, and whether modifications are necessary to ensure transparency, consistency, and their non-discriminatory application. According to BC Hydro, these guidelines are not new but instead reflect long-established practice. Therefore, they can be understood and properly evaluated only in terms of that past practice. These are NOT new guidelines to be implemented only prospectively. That is, an examination of a few examples of BC Hydro's past GBL practices will be relevant in determining whether BC Hydro's GBL Guidelines, as filed, will result in consistency and transparency going forward. Again, Celgar is NOT proposing that this proceeding review all prior GBL determinations.¹⁰

In response to Celgar's proposal to allow the review of BC Hydro's past GBL practices in considering the Application, BC Hydro states in its Reply: "the Contracted GBL Guidelines...did not exist when BC Hydro determined Contracted GBLs in the past, and the Guidelines included with the Application will be applied only prospectively if and when BC Hydro negotiates a new Electricity Purchase Agreement (EPA) or Load Displacement Agreement (LOA) with a self-generating customer."

⁷ Exhibit C3-2, p. 2.

⁸ Exhibit C3-2, p. 2.

⁹ BCH TS 74 GBL proceeding, Exhibit B-1, cover letter.

¹⁰ Exhibit C3-2, p. 2.

BC Hydro further argues that Celgar's portrayal of the Commission's Order G-19-14 Decision is not accurate. BC Hydro submits that the business practices Celgar refers to are those that were codified in the TS 74 Attachment B guidelines and apply to the determination, adjustment and reset of a customer baseline load (CBL) for RS 1823 stepped rate energy billing. BC Hydro submits that the TS 74 Attachment B guidelines are not used to determine a Contracted GBL.

Panel determination

As stated by BC Hydro, the Attachment B guidelines approved by the Commission and included in TS 74 were not new and reflected long-established practice. While the Attachment B Guidelines do establish the determination of Non-Contracted GBLs they do not currently codify how Contracted GBLs are established, and this is precisely why the Commission directed BC Hydro to file such guidelines. Therefore, the Panel finds that the Attachment B guidelines do not reflected past business practices relating to the setting of Contracted GBLs as submitted by Celgar.

Furthermore, although the Decision accompanying Order G-19-14 did state that there was merit in the Contracted GBL Guidelines being consistently applied there was nothing specifically in those reasons stating that such consistency would not be on a go forward basis once the GBL Guidelines were approved.

Therefore, the Panel has decided not to add this issue to the Panel General Issues List. The purpose of the Panel General Issues List is not to be determinative but rather to offer guidance to the parties regarding the issues the Panel sees as important to make the required determinations. It may well be that Celgar is able to align the historical practices and determinations to an issue of interest to the Panel; however, the issue of historical practices and determinations, in isolation, is not of sufficient interest to the Panel to be included on the Panel General Issues List. As Celgar itself noted during the procedural conference, the ultimate scope of the hearing can be addressed by BC Hydro objecting to respond to a specific information requests and the Panel making a ruling if necessary.

2.5.2 Additional Issues

Celgar also proposes a large number of questions (issues) be added to the final Panel General Issues List. These questions were presented under the following three broad headings:

- Transparency and Non-discrimination (Consistency), Past Business Practices and GBL Determinations
- Obligation to Serve
- Economic Efficiency, GBL Determinations and Incentives

Celgar submits that "some of the additional issues [questions] would likely be encompassed by one or more of the broader issues proposed by the Commission, but, for the sake of clarity, are included."¹¹

In its Reply, BC Hydro states:

With respect to additional issues, Celgar suggests 20 detailed issues be added to the issues list. Many of Celgar's issues may be relevant to the FortisBC self-generation policy application for the FortisBC service area, but they are not relevant to BC Hydro's Application. Moreover, BC Hydro believes that Celgar's approach to suggesting additional issues stems from a misunderstanding of

¹¹ Exhibit C3-2.

the purpose of the Panel's general issues list. As discussed above, the test for including an issue in the final list should be whether the issue is of interest to the Panel and not whether the issue is of interest to a particular party. BC Hydro submits that including all of Celgar's issues in the final issues list would defeat the purpose and potential benefits of having a Panel issues list.¹²

Panel determination

In considering the numerous questions posited by Celgar, the Panel is of the view that most of these questions, other than those specifically addressed below, are somewhat of interest to the Panel. However, the Panel finds that they could be examined to a greater or lesser degree under the general issues already proposed by the Panel and subsequently altered by these reasons. The Panel also notes that many of these questions are too specific to offer general guidance to parties and instead, if incorporated in the final list, would make the definition of the scope too rigid. The Panel shares BC Hydro's view that including all of the Celgar issues in the final issues list would defeat the benefits of having an issues list. **The Panel therefore finds that the entire twenty questions as posited by Celgar should not be incorporated into the final Panel General Issues List.**

The Panel, however, does find that BC Hydro's obligation to serve which was posited by Celgar as one of the three broad groups of questions to be of particular interest to the Panel and has included the following question on the final Panel General Issues List:

8) What is the relationship, if any, between Contracted GBLs and BC Hydro's obligation to serve?

Further, under Transparency and Non-discrimination (Consistency), Past Business Practices and GBL Determinations, Celgar question #4, the Panel does not consider that contemplating other mechanisms outside of the GBL methodology to be of particular interest. In regards to questions #7 and #8 under the same heading the Panel has addressed those in Section 2.5.1 above and has indicated that they are also not of particular interest to the Panel.

3.0 FINAL PANEL GENERAL ISSUES LIST

After due consideration of the submissions, the final Panel General Issues List as set out in Appendix B represents those matters the Panel finds of broad interest. Further, the Panel remains mindful that the list is directive rather than determinative and that details relating to both the scope and weight of each matter will be determined during the information request process.

¹² Exhibit B-4.

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Final Panel General Issues List

- 1) Is the substantial purpose of the Contracted Generator Base Line (GBL) Guidelines to incent self-generation by removing barriers while at the same time mitigating arbitrage? If not, what other purposes or ancillary benefits are served by the GBL?**
- 2) Should the Contracted GBL Guidelines apply to both Distribution and Transmission self-generation customers?**
- 3) Are the Contracted GBL Guidelines adequate and appropriate? Are they transparent and do they effectively mitigate arbitrage? If not, what alternatives exist for improving transparency and mitigating arbitrage?**
- 4) What is the appropriate operational definition of arbitrage in the context of the Contracted GBL Guidelines?**
- 5) Where should the Contracted GBL Guidelines reside? Answers to this question should include both legal and rate regulation considerations.**
- 6) Should Order G-38-01 continue to apply to BC Hydro?**
- 7) What is the relationship between Deemed Energy and Demand for BC Hydro self-generating customers and their use for billing purposes?**
- 8) What is the context within which the Contracted GBL Guidelines will be used, and how will Contracted GBLs determined in accordance with these guidelines be used?**
- 9) What are the merits of the Contracted GBL approach for a utility to incentivize incremental self-generation at a customer's site?**
- 10) Do the Contracted GBL Guidelines provide an appropriate framework within which the Commission will be able to assess whether future EPAs and LDAs between BC Hydro and its self-generating customers are in the public interest?**
- 11) What is the relationship, if any, between Contracted GBLs and BC Hydro's obligation to serve?**

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REGULATORY TIMETABLE

ACTION	DATE (2015)
Commission and Intervener Information Request No. 1	Tuesday, April 7
BC Hydro Responses to Information Request No. 1	Friday, April 24
Intervener Submissions on Further Process	Friday, May 1
BC Hydro Reply to Intervener Submissions of Further Process	Friday, May 8