

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



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER E-11-15**

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
Filing of the Transfer Pricing Agreement Amending Agreement

BEFORE: D.M. Morton, Panel Chair/Commissioner
I. F. MacPhail, Commissioner April 27, 2015
K. A. Keilty, Commissioner

O R D E R

WHEREAS:

- A. The Transfer Pricing Agreement (TPA) for Electricity and Gas between British Columbia Hydro and Power Authority (BC Hydro) and Powerex Corp. (Powerex) (2003 TPA) was entered into in 2003;
- B. During the 2003 oral hearing of the British Columbia Utilities Commission (Commission) Inquiry into BC Hydro's Heritage Contract proposal, BC Hydro submitted that, provided BC Hydro's Revenue Requirement model for the Heritage Contract is accepted by the Government, the 2003 TPA is an energy supply agreement under section 71 of the *Utilities Commission Act* (UCA);
- C. On November 27, 2003, Heritage Special Direction No. HC2 was issued which established the Heritage Contract and required that the Commission treat it as a legally binding agreement between two arms-length parties. BC Hydro subsequently filed the 2003 TPA as Appendix K to the F2005/2006 Revenue Requirement Application;
- D. Ministerial Order No. M407 issued December 3, 2004 pursuant to section 22 of the UCA, exempts from section 71 of the UCA, persons, their successors and assigns, who enter into an energy supply contract with Powerex Corp. (Powerex) for the delivery of power services to Powerex, and Powerex, in respect of such contracts;
- E. By Order G-61-12 dated May 17, 2012, the Commission approved Rules for Energy Supply Contracts for Electricity (Rules). The Rules are intended to facilitate the Commission's review of energy supply contracts for electricity and proposed energy supply contracts for electricity under section 71 of the UCA;
- F. On March 6, 2015, FortisBC Inc. (FortisBC) filed with the Commission for acceptance as an energy supply contract under section 71 of the UCA, to the extent within the Commission's jurisdiction, of a Capacity and

Energy Purchase and Sale Agreement (CEPSA) dated February 17, 2015, for purchase of power between FBC and Powerex;

- G. On March 10, 2015, BC Hydro and Powerex jointly filed a section 71 filing with the Commission for acceptance of the TPA Amending Agreement dated March 9, 2015 between BC Hydro and Powerex (TPAA Agreement) with the Commission under section 71(1) of the UCA. BC Hydro submits that, in the absence of any amendments to the 2003 TPA, Powerex would bear all of the costs of the CEPSA but not get all of the benefits. BC Hydro submits that TPAA Agreement supports the 2003 TPA principle of incenting economically rational decision-making by Powerex by aligning costs and benefits;
- H. BC Hydro submits that under the Heritage Contract framework Powerex's net income benefits BC Hydro's ratepayers through a reduction in BC Hydro's revenue requirement. BC Hydro further submits that the TPAA Agreement does not amend any of the pricing provisions of the 2003 TPA, affect BC Hydro's load-resource balance or by itself affect the reliability of service provided to customers of BC Hydro;
- I. BC Hydro and Powerex sent copies of the TPAA Agreement to the parties who regularly intervene in Commission proceedings regarding the revenue requirements or resource planning of BC Hydro and to those who were copied on the CEPSA Filing; and
- J. The Commission reviewed the TPAA Agreement and determines that it is in the public interest.

NOW THEREFORE pursuant to section 71 of the *Utilities Commission Act*, and the British Columbia Utilities Commission's Rules for Energy Supply Contracts for Electricity, the Commission accepts for filing the TPAA Agreement between British Columbia Hydro and Power Authority and Powerex Corporation.

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

BY ORDER

Originally Signed By:

D. M. Morton
Commissioner