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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER G-96-15**

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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 June 4, 2015  
B. A. Magnan, Commissioner

**O R D E R**

**WHEREAS:**

- A. On December 12, 2014, British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (Commission) for approval of Contracted Generator Baseline (GBL) Guidelines in compliance with Orders G-19-14 and G-106-14 (Application);
- B. In the cover letter to the Application, BC Hydro proposes a regulatory process and timetable with one round of information requests (IRs) and a streamline review process;
- C. On December 16, 2014, by Order G-199-14, the Commission established an initial regulatory timetable for the review of the Application which included, among other things, one round of IRs, submissions from the parties on further regulatory process;
- D. 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 (Celgar), the Association of Major Power Customers (AMPC) and West Fraser Mills (WFM) registered as interveners;
- E. In response to the January 20, 2015 BC Hydro letter, the Commission by Order G-12-15 established a procedural conference that took place on Thursday, February 5, 2015, and also suspended the Regulatory Timetable established by Order G-199-14;

- F. 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 for preparing IRs would be an efficient step and sought submission on a Panel General Issues List;
- G. By Order G-42-15, the Commission considered the submissions and established a Panel General Issues List, lifted the suspension of Order G-199-14 and established the Regulatory Timetable one round of IRs followed by and submissions on further process.
- H. On May 19, 2015, all the registered interveners with the exception of FortisBC and WFM, made submissions regarding further process for the remaining review of the Application;
- I. Celgar, in its submission on further process, also sought a direction from the Commission requiring BC Hydro to provide responsive answers to certain of Celgar's IRs that BC Hydro declined to respond to;
- J. On May 25, 2015, BC Hydro filed its reply submission on further process and responded to Celgar's IR request; and
- K. On May 25, 2015, AMPC also responded to Celgar's IR request.

**NOW THEREFORE**, for the reasons stated in Appendix A to this order, the Commission orders as follows:

- 1. The remaining of the review of the Application will be heard by way of a written hearing as set out in the final Regulatory Timetable attached as Appendix B to this order.
- 2. Celgar's request that the Commission direct British Columbia Hydro and Power Authority to respond to certain unanswered Information Requests is denied.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 4<sup>th</sup> day of June 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**

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**1.0 INTRODUCTION**

**1.1 Context**

On December 12, 2014, the British Columbia Hydro and Power Authority (BC Hydro) filed its application for approval of Contracted Generator Baseline (GBL) Guidelines in compliance with Order G-19-14 and the Phase 2 of Reconsideration and Variance established by Order G-106-14 (Application or Proceeding). BC Hydro recommended one round of Information Requests (IRs) followed by a streamlined review process to address the filing.<sup>1</sup>

The British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO), B.C. Sustainable Energy Association and Sierra Club of British Columbia (BCSEA), Commercial Energy Consumers Association of British Columbia (CEC), Zellstoff Celgar Limited Partnership (Celgar), FortisBC Inc. (FortisBC) and Association of Major Power Customers of British Columbia (AMPC) registered as interveners. West Fraser Mills Ltd. (WFM) was granted late intervener status.

The following sequential procedural steps have been taken since the Application was filed:

- By Order G-199-14, dated December 16, 2014, the Panel set an initial Regulatory Timetable for the review of the Application with one round of IRs and responses and submissions on further process;
- In response to the January 20, 2015 BC Hydro letter, a Procedural Conference (PC) was convened for February 5, 2015, to hear submissions from parties regarding concerns raised by BC Hydro relating to the extent of the anticipated involvement of Celgar and FortisBC in the Proceeding, and the nature of the issues they intended to pursue;
- By Order G-18-15, dated February 12, 2015, the Panel determined that Celgar and FortisBC were entitled to continue to intervene in the Proceeding. The Panel issued a General Issues List and sought submissions from parties concerning the List;
- By Order G-42-15, dated March 27, 2015, the Panel, after considering the submissions, issued the Final Panel General Issues List and determined that any scope beyond that set by the List would arise from challenges during the IR process. Order G-42-15 also amended the initial Regulatory Timetable;
- BC Hydro filed its responses to IRs No. 1 on May 11, 2015, after receiving an extension on the filing date for due to the large number of IRs covering a broad range of issues; and
- Interveners and BC Hydro made submissions regarding further process as outlined in recitals H to K of the Order and addressed below.

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<sup>1</sup> Exhibit B-1, cover letter, page 3 of 4.

## 1.2 Submissions received by the Commission

The Commission received submissions regarding further process from all interveners with the exception of FortisBC and WFM. In addition, AMPC and BC Hydro commented on Celgar's request for a direction from the Panel to provide answers to certain IRs.

The Panel has considered all submissions and made determinations regarding the further process and Celgar's specific request. The reasons for the Panel's decision are provided in the following.

## 2.0 FURTHER PROCESS

Submissions received focused on the need for the second round of IRs, a requirement to include an opportunity for interveners to file evidence and the nature of the final hearing phase. Each of the three submission topics is addressed below.

### 2.1 Need for Information Request No. 2

BC Hydro observes that the nature of IRs submitted in the first round suggests there continues to be a misunderstanding in relation to how BC Hydro does and does not use Contracted GBLs, the basis of BC Hydro's obligation to serve its self-generating customers and how BC Hydro will apply the proposed Contracted GBL Guidelines in the future.<sup>2</sup> BC Hydro states it prefers to address the misunderstandings rather than allow them to persist. Therefore, BC Hydro further states it is "not opposed to a second round of IRs limited to questions which seek clarification of BC Hydro's responses to first round IRs."<sup>3</sup>

Similarly, BCOAPO requests a second round of IRs "limited to questions which seek clarification of BC Hydro's responses" to IR No. 1.<sup>4</sup> Celgar also requests a second round of IRs because "many of the responses by BC Hydro require further examination through information requests."<sup>5</sup> AMPC and BCSEA do not seek a second round of IRs.<sup>6</sup> CEC states the record is reasonably well-established but notes that should the Commission direct IR No. 2, CEC would participate.<sup>7</sup>

### Commission determination

The Panel acknowledges BC Hydro's willingness to set the record straight by preparing responses to the second round of IRs. At the same time the Panel considers the evidentiary record established to date rather comprehensive and, therefore, in the spirit of regulatory efficiency prefers to limit the IR No. 2 to questions seeking clarification to answers provided by BC Hydro to IR No. 1. **The Panel determines that the further process is to include Information Request No. 2 limited to questions seeking clarification of BC Hydro's prior responses in Information Request No. 1.**

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<sup>2</sup> Exhibit B-8, p. 2.

<sup>3</sup> Ibid, p. 3.

<sup>4</sup> Exhibit C5-4.

<sup>5</sup> Exhibit C3-4, p. 4.

<sup>6</sup> Exhibit C2-4, Exhibit C6-3.

<sup>7</sup> Exhibit C1-4.

## 2.2 Opportunity for interveners to file evidence

Celgar requests that interveners should be provided an opportunity to file evidence. Specifically, Celgar states “Evidence from self-generation customers may be especially helpful given BC Hydro’s refusal to disclose information relating to incentives and to consider the economic efficiency of such incentives.”<sup>8</sup> No other intervener made such a request. AMPC submits a potential provision for intervener evidence should be subject to “interveners demonstrating a need for and intent to file relevant intervener evidence.”<sup>9</sup>

BC Hydro notes that no intervener representing the interests of BC Hydro’s customers requests that the process include an opportunity for intervener evidence. BC Hydro further notes that Celgar did not in its submission state whether it would actually file evidence should the opportunity be given. BC Hydro states that Celgar failed to explain what its potential evidence would cover or its relevance to understanding issues arising from the Application. Furthermore, BC Hydro wonders how evidence from a FortisBC’s customer could be relevant to the Contracted GBL Guidelines that BC Hydro will use for negotiating agreements with its own self-generating customers. In summary, BC Hydro submits there is no need for the further process to include an opportunity for interveners to file evidence.<sup>10</sup>

### Commission determination

The Panel observes that no intervener representing the interests of BC Hydro’s customers has requested the inclusion of the opportunity to file intervener evidence in this proceeding. Furthermore, the Panel is persuaded by arguments made by BC Hydro and AMPC. First, Celgar did not clarify whether it actually would file any evidence. Second, Celgar did not outline the nature of its potential evidence nor justify its value or relevance to this proceeding. **For these reasons, the Panel determines that the further process will not include a provision for filing of intervener evidence.**

## 2.3 Nature of the final hearing phase

In summary, BC Hydro states the interveners that represent the interests of BC Hydro customers unanimously prefer that the proceeding be resolved by way of a written hearing process. Regardless of its initial proposal for a Streamlined Review Process (SRP) BC Hydro now acknowledges this strong preference to a written hearing and recommends a written process to conclude the proceeding.<sup>11</sup>

Celgar on the other hand believes that an oral hearing is required to provide for a fair and full process. Celgar states that many of the issues are of a policy nature and will therefore need to be tested in an oral proceeding.<sup>12</sup> In reply, BC Hydro submits Celgar’s request is based on erroneous assumptions that this proceeding is an inquiry into BC Hydro’s approach to self-generation customers and that the proceeding is about establishing a fair and non-discriminatory policy in the BC Hydro service area. BC Hydro states in its cover letter to the Application: “This application does not purport to establish policies for self-generators in the BC Hydro service area, nor does it recommend self-generation policies for the FortisBC service area.” BC Hydro further states that whether or not the Commission considers that the current proceeding should include an oral hearing component, it would not have the broad scope Celgar assumes that it would.<sup>13</sup>

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<sup>8</sup> Exhibit C3 -4, p. 4.

<sup>9</sup> Exhibit C6-3.

<sup>10</sup> Exhibit B-8, p. 4.

<sup>11</sup> Ibid, p. 6.

<sup>12</sup> Exhibit C 3-4, p. 4.

<sup>13</sup> Exhibit B-8, pp. 5–6.

## Commission determination

The Panel refers to Order G-18-15 issued following the Procedural Conference on February 5, 2015, and Order G-42-15 that includes Final Panel General Issues List as Appendix B. That List directionally outlines matters that are of interest to the Panel. The questions posted inquire about the purpose, adequacy, applicability and transparency of the Contracted GBL Guidelines as well as the context within which the Contracted GBLs will be used. Furthermore, one question asks where the Contracted GBL Guidelines should reside in view of the legal and regulatory considerations. Another question inquires whether 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.

Based on the above, the Panel sees no reason for holding an oral hearing. The Panel considers that a written hearing process, which is preferred by BC Hydro and its customers, provides for an efficient process to conclude the review of this Application. **Therefore, the Panel determines that the final steps in the Proceeding will also be heard through a written hearing process. Final submissions are to be made in accordance with the Regulatory Timetable attached as Appendix B.**

### 3.0 CELGAR'S REQUEST FOR RESPONSIVE ANSWERS TO SOME IR 1 QUESTIONS

Celgar submits a list of IR No. 1 questions, each of which received the following answer from BC Hydro:

BC Hydro will not discuss its past incentives or past EPAs and LDAs in this proceeding, or provide these agreement to interveners. The information is confidential and contains confidential customer information. It has no bearing on the Application or on the development of self-generation policy for the FortisBC service area.

Celgar seeks a direction from the Commission that BC Hydro provide responsive answers to the IRs it declined to provide on May 11, 2015. Celgar states it contemplated that most of the responses would be filed on a confidential basis. Celgar explains its principal purpose in filing those IRs was to ensure that the record would include the evidence necessary for the Commission to consider section 59(4)(b) of the *Utilities Commission Act*. Celgar further states the information is relevant to establishing a fair and non-discriminatory policy in the BC Hydro service area.<sup>14</sup>

In reply, BC Hydro requests that the Commission deny Celgar's request. BC Hydro submits that Celgar seeks access to commercially sensitive customer-specific information on Celgar's competitors and that this information will do nothing to inform an understanding of the Contracted GBL Guidelines or how BC Hydro will use them.<sup>15</sup>

AMPC opposes Celgar's request "on the grounds that the information sought is neither relevant nor necessary to the proceeding and, most importantly, comprises sensitive commercial information." AMPC points out that Celgar is seeking information that is very company competitor specific with respect to energy purchase costs, opportunities to develop alternative sources of electricity, operation levels and revenue opportunities. AMPC further states that in most cases this information was provided to BC Hydro by its customers on the explicit or

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<sup>14</sup> Exhibit C3-4, p. 9.

<sup>15</sup> Exhibit B-8, p. 9.

implicit understanding that it would be treated confidentially, and BC Hydro has treated it in a confidential manner to this point.<sup>16</sup>

### **Commission determination**

In its reasons accompanying Order G-18-15, the Panel determined not to make a finite ruling on scope at such an early stage as it might be unnecessarily limiting. Instead, the Panel ruled that an efficient review of this Proceeding would be guided through a General Panel List of Issues. In the reasons accompanying Order G-42-15, the Panel ruled out number of questions posited by Celgar in its comment as they were too specific to offer general guidance to parties and would make the definition of scope too rigid.

The Panel shares the concerns raised by AMPC. The Panel also agrees with BC Hydro that the specific information sought by Celgar will not sufficiently assist Panel in finding answers to the questions posed in the Final General Issues List. On balance, the potential risks related to the provision of customer-specific confidential information requested by Celgar far outweigh the potential benefits to the Panel the responses might provide. As such, the Panel considers that Celgar has failed to provide a sufficient justification for its request.

**Accordingly, Celgar's request is denied and BC Hydro therefore need not provide further responses to the questions for which Celgar is seeking elaboration.**

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<sup>16</sup> Exhibit C6-4, pp. 1, 3–4.

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**REGULATORY TIMETABLE**

ACTION	DATE (2015)
Information Request No. 2	Monday, June 22
BC Hydro Responses to Information Request No. 2	Thursday, July 9
BC Hydro Final Submission	Thursday, July 23
Intervener Final Submissions	Friday, August 7
BC Hydro Reply Submission	Friday, August 21