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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER G-183-15**

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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  
A Complaint filed by Overwaitea Food Group LP**

**BEFORE:** L. F. Kelsey, Commissioner  
H. G. Harowitz, Commissioner  
K. A. Keilty, Commissioner  
D. M. Morton, Commissioner  
November 26, 2015

**O R D E R**

**WHEREAS:**

- A. On November 2, 2015, Overwaitea Food Group LP (OFG), a Large General Service (LGS) customer of the British Columbia Hydro and Power Authority (BC Hydro), filed a complaint with the British Columbia Utilities Commission (Commission) concerning the treatment of new customers under the BC Hydro Electric Tariff (Tariff) and LGS rate schedule;
- B. OFG submits that its electricity consumption at nine recently acquired Safeway stores did not substantially change after acquisition and by treating OFG as a new customer it is billed approximately \$130,000 more than if it were not treated as a new customer;
- C. OFG requests a waiver of charges as Sobeys was provided pursuant to Order G-136-15 (Complaint);
- D. On November 18, 2015, BC Hydro provided a response to the OFG Complaint confirming a waiver for OFG is appropriate; and
- E. The Commission has considered the submissions by BC Hydro and OFG and finds that based on the circumstances in this case, it is warranted to waive the approximately \$130,000 at issue in this matter.

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**NOW THEREFORE** pursuant to sections 63 and 83 of the *Utilities Commission Act* and for the Reasons attached to this order as Appendix A, the relief sought by Overwaitea Food Group LP (OFG) is granted and British Columbia Hydro and Power Authority must waive the difference in the amount OFG is to be billed under the Large General Service (LGS) 85/15 rate for the first 12 months following OFG's acquisition of Safeway, as compared to the billing under the LGS rate using the Safeway LGS baselines (approximately \$130,000).

**DATED** at the City of Vancouver, in the Province of British Columbia, this 26<sup>th</sup> day of November 2015.

BY ORDER

*Original signed by:*

D. M. Morton  
Commissioner

Attachment

British Columbia Hydro and Power Authority  
A Complaint filed by Overwaitea Food Group LP.

**REASONS FOR DECISION**

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**1.0 COMPLAINT OVERVIEW**

On November 2, 2015, the British Columbia Utilities Commission (Commission) received a complaint from Overwaitea Food Group LP (OFG), a Large General Service (LGS) customer of the British Columbia Hydro and Power Authority (BC Hydro), concerning the treatment of new customers under the BC Hydro Electric Tariff (Tariff) and LGS rate schedule. OFG submits that its circumstances are similar to those of Sobeys West Inc. (Sobeys)<sup>1</sup> and requests the same treatment Sobeys was provided pursuant to Order G-136-15 (Complaint);

In the Complaint, OFG states the following:

“...the circumstances of OFG operating the OFG Acquired Stores in the first year after acquisition is materially identical to the situation faced by Sobeys’ with their acquired Safeway stores. The OFG Acquired Stores have operated since their acquisition with no substantial change in consumption.”<sup>2</sup>

Accordingly, OFG requests:

“...similar treatment from the Commission as Sobeys’ West Inc. received under substantially similar circumstances and facts. Our submission is that a waiving of \$131,718, by way of an Order by the Commission provided for under section 63 of the Utilities Commission Act, would be just and appropriate in all the circumstances.”<sup>3</sup>

BC Hydro responded to the Complaint on November 18, 2015, and provided the following:

“BC Hydro believes the OFG situation is similar to that of Sobeys, and that a similar waiver for OFG would be appropriate...BC Hydro confirms that OFG paid approximately \$130,000 more than it would have had the Safeway baselines been kept... consumption has not materially changed since OFG acquisition of the nine Safeway stores... [and] this new account pricing has created unintended bill impacts to customers”<sup>4</sup>

**1.1 Large General Service New Account Rule**

The rules set out in the Tariff and the LGS Rate Schedule,<sup>5</sup> require that OFG be treated as a new customer at each store location, and hence OFG no longer has the benefit of the historical baseline of the Safeway stores.

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<sup>1</sup> For more information please refer to Order G-136-15 available at:

<http://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/126274/index.do?r=AAAAQAIZy0xMzYtMTUB>

<sup>2</sup> Overwaitea Food Group letter dated October 28, 2015, 2015

<sup>3</sup> Ibid.

<sup>4</sup> BC Hydro letter dated November 18, 2015.

<sup>5</sup> BC Hydro Rate Schedule 1600, 1601, 1610, 1611 – Large General Service (150 KW and Over).

Further, OFG must be billed according to the “85/15” rate. This means that for the first 12 months, OFG must pay the following energy charges:

- For the first 85% of energy consumption in the billing period the following rates are applied:
  - The first 14,800 kW.h of energy consumption in the billing period @ Tier 1 rate;
  - All additional kW.h of energy consumption in the billing period @ Tier 2 rate; and
- The remaining 15% of energy consumption in the billing period @ the marginal cost based energy rate.

As a result, after OFG’s acquisition of the Safeway stores, aggregate billings are approximately \$130,000 more in the first 12 months than they would have been if each store was not treated as a new customer.<sup>6</sup>

## **2.0 LEGAL FRAMEWORK AND PAST DECISIONS**

### **2.1 Utilities Commission Act**

Section 63: A public utility must not, without the consent of the Commission, directly or indirectly, in any way charge, demand, collect or receive from any person for a regulated service provided by it, or to be provided by it, compensation that is greater than, less than or other than that specified in the subsisting schedules of the utility applicable to that service and filed under this Act.

Section 83: If a complaint is made to the Commission, the Commission has powers to determine whether a hearing or inquiry is to be had, and generally whether any action on its part is or is not to be taken.

### **2.2 Sobeys West Inc. Decision (Order G-136-15)**

Sobeys, an LGS and Medium General Service (MGS) customer of BC Hydro recently file a complaint regarding the same matter raised by OFG in this complaint. The complaint filed by Sobeys was based on the facts that after acquiring several Safeway stores through an asset purchase, Sobeys was treated as a new customer under the LGS and MGS rates. This caused Sobeys to be billed approximately \$900,000 more than if they were not treated as a new customer.

It was determined that the electricity consumption did not change at the stores after acquisition, the additional billing as a result of the 85/15 rule was an unintended consequence of the rate and BC Hydro stated that the waiver does not have a revenue requirement impact, therefore, waiving the charges does not affect forecast net income and does not impact BC Hydro rate payers.<sup>7</sup> Accordingly, the Commission determined that it was appropriate to waive the approximately \$900,000 at issue.

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<sup>6</sup> BC Hydro letter dated November 18, 2015 and Overwaitea Food Group letter dated October 28, 2015.

<sup>7</sup> BCUC Order G-136-15

### **3.0 COMMISSION DETERMINATION**

The Commission has considered the submissions by BC Hydro and OFG and finds that based on the facts in this case, it is warranted to waive the approximately \$130,000 at issue in this matter because:

- this billing is an unintended consequence of the 85/15 LGS rate for new customers;
- BC Hydro agrees a waiver of approximately \$130,000 is appropriate;
- OFG requested it;
- the electricity consumption has not materially changed since acquisition of the stores; and
- BC Hydro ratepayers will not be impacted.

**Accordingly, BC Hydro must waive the difference in the amount OFG is to be billed under the LGS 85/15 rate for the first 12 months following OFG's acquisition of Safeway as compared to the billing under the LGS rate using the Safeway LGS baselines (approximately \$130,000).**