



**ORDER NUMBER
G-25-16**

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

and

British Columbia Hydro and Power Authority
Application for Indirect Interconnection Services for
Transmission-Voltage Load Customers

BEFORE:

N. E. MacMurchy, Panel Chair/Commissioner
I. F. MacPhail, Commissioner

on March 3, 2016

ORDER

WHEREAS:

- A. British Columbia Hydro and Power Authority (BC Hydro) Tariff Supplement No. 5 (TS 5) prescribes the terms and conditions of service for transmission-voltage load customers. Tariff Supplement No. 6 (TS 6) prescribes the allocation of incremental costs between BC Hydro and new transmission-voltage customers that request service. Both TS 5 and TS 6 are in regard to service to customers that are connected directly to the BC Hydro system;
- B. BC Hydro has received service requests from Cutbank Ridge Partnership, Pretium Resources Inc. and Progress Energy Canada Ltd. for transmission-voltage service via the transmission facilities owned and operated by third parties (Indirect Interconnection Service);
- C. On September 14, 2015, pursuant to section 61(1) of the *Utilities Commission Act* (Act), BC Hydro filed an application with the British Columbia Utilities Commission (Commission) for approval of Tariff Supplements 87 (TS 87) and 88 (TS 88) to enable the provision of Indirect Interconnection Service. BC Hydro also applied for approval of corollary amendments to its Electric Tariff (Application);
- D. On September 30, 2015, the Commission established a written hearing process and a regulatory timetable for the review of the Application, attached as Appendix A to Order G-157-15. The timetable provided for one round of Information Requests (IRs) and invited submissions from BC Hydro and Interveners on further process, specifically a second round of information requests, by Tuesday, November 17, 2015;
- E. Commercial Energy Consumers Association of British Columbia (CEC), British Columbia Old Age Pensioners' Organization et al. (BCOAPO), BC Sustainable Energy Association and the Sierra Club of BC (BCSEA), Canadian Office and Professional Employees' Union, Local 378 (COPE) [which subsequently changed its name to Movement of United Professionals (MoveUp)], Progress Energy Canada Ltd. (PEC) and the Association of Major Power Customers of BC (AMPC) all registered as Interveners;

- F. On November 10, 2015, BC Hydro filed its responses to Commission and Intervener IRs and on November 17, 2015, the Commission received submissions on further process from BC Hydro and Interveners;
- G. On December 1, 2015 the Commission issued Order G-185-15, and directed BC Hydro to provide responses to several outstanding Information Requests (IRs) from the CEC and established an amended regulatory timetable. In accordance with the amended regulatory timetable, BC Hydro responded to the CEC IRs on December 11, 2015, and the Commission received Arguments from BCSEA, BCOAPO, CEC, COPE and AMPC on December 22, 2015, and a Reply Argument from BC Hydro on January 8, 2016. BC Hydro requested that the Commission hold its responses to CEC IR 1.1.7 and 1.1.9 as confidential because they contained commercially sensitive information;
- H. The Commission has reviewed the evidence and submissions and determines that approval of the Application is warranted.

NOW THEREFORE pursuant to section 61(1) of the *Utilities Commission Act* and for the reasons attached as Appendix A to this Order, the British Columbia Utilities Commission orders as follows:

1. British Columbia Hydro and Power Authority Tariff Supplements 87 and 88 and the corollary amendments to the Electric Tariff are approved as filed, effective the date of this order to enable the provision of transmission-voltage service to customers via the transmission facilities owned and operated by third parties.
2. British Columbia Hydro and Power Authority must provide to the British Columbia Utilities Commission the name and contact information of all third party owners and operators (as applicable) of Shared Facilities that it enters into commercial and regulatory arrangements with under subsection 3(e) of Tariff Supplement 88 prior to commencing service.
3. British Columbia Hydro and Power Authority must file Tariff Supplements 87 and 88 and the corollary amendments to its Electric Tariff with the British Columbia Utilities Commission within 15 days of this Order.
4. The Commission will hold the British Columbia Hydro and Power Authority responses to the Commercial Energy Consumers Association of British Columbia Information Requests 1.1.7 and 1.1.9 as confidential due to the commercially sensitive nature of the information.

DATED at the City of Vancouver, in the Province of British Columbia, this 3rd day of March 2016.

BY ORDER

Original signed by:

N. E. MacMurchy
Panel Chair/Commissioner

Attachment



British Columbia
Utilities Commission

IN THE MATTER OF

**BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
APPLICATION FOR INDIRECT INTERCONNECTION SERVICES FOR
TRANSMISSION-VOLTAGE LOAD CUSTOMERS**

**REASONS FOR
DECISION**

March 3, 2016

Before:

**N. E. MacMurchy, Panel Chair/Commissioner
I. F. MacPhail, Commissioner**

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1.0 INTRODUCTION

1.1 Application and orders sought

On September 14, 2015, pursuant to section 61(1) of the *Utilities Commission Act* (Act), British Columbia Hydro and Power Authority (BC Hydro) filed an application with the British Columbia Utilities Commission (Commission) for approval of Tariff Supplements 87 (TS 87) and 88 (TS 88) and corollary revisions to its Electric Tariff (Application).

TS 87 and TS 88 allow for an optional service to transmission voltage load (TVL) customers whereby the customer connects to the BC Hydro system through transmission facilities owned and operated by a third party (Indirect Interconnection Service).¹ TS 87 sets the terms and conditions of service and TS 88 provides for the allocation of incremental costs.

In the Indirect Interconnection Context, BC Hydro does not have responsibilities with regard to the operation or use of third party transmission facilities, nor any responsibility for costs associated with those facilities.² In addition, the provision of service is conditional on the third party owner of the transmission facilities having received all relevant regulatory approvals.³

The third party owner of the transmission facilities can be any of the following in the Indirect Interconnection Service context:

1. An existing BC Hydro customer receiving service under Tariff Supplements 5 (TS 5) and 6 (TS 6);
2. An existing independent power producer (IPP);
3. A “merchant transmission-line owner” that is neither a customer of BC Hydro nor an IPP supplier to BC Hydro.⁴

BC Hydro is currently seeking to serve the following three customers under TS 87 and TS 88:

1. Cutbank Ridge Partnership (Cutbank)

Service to three Cutbank facilities is expected through an existing 138 kV transmission line owned by QCS BCS 0927 Development Ltd. (Quanta), a merchant transmission line owner. Quanta is exempt from regulation under Part 3 of the Act in accordance with Ministerial Order M167 (BC Regulation 239/2012).⁵

2. Pretium Resources Inc. (Pretium)

Service to one Pretium facility is expected through an existing 138 kV transmission line owned by Long Lake Hydro Limited Partnership, an IPP.

¹ Exhibit B-1, p. 1-1.

² Ibid, p. 2-2.

³ Ibid, Attachment B, p. 5.

⁴ Ibid, p. 1-2.

⁵ Ibid, p. 2-7.

3. Progress Energy Canada Ltd. (Progress)

Service to several Progress facilities is expected through transmission facilities owned by an entity within the ATCO corporate group (ATCO), a merchant transmission line owner. The ATCO facilities are referred to in the Application as the Northeast British Columbia (NEBC) Electrification Project and include a 230 kV transmission line, a 144 kV transmission line and two substations with 25 kV distribution facilities.⁶ The NEBC is the same as the North Montney Power Supply Project (NMPS) that has been the subject of an application before the Ministry of Energy and Mines for an exemption similar to that received by Quanta.⁷

Each of the above-noted parties filed a letter of support for the establishment of TS 87 and TS 88.⁸

The key principles of TS 87 and TS 88 are summarized below in section 1.4 of these Reasons.

1.2 Legislative framework

Existing TS 5 and TS 6 allow for BC Hydro service to TVL customers whose facilities are connected directly with BC Hydro facilities. The Commission has not approved amendments to TS 5 and TS 6 since 2003, due to directions from the Lieutenant Governor in Council, specifically Heritage Special Direction No. HC2 and Direction No. 7.

Section 2(a) of Direction No. 7 to the Commission states the following with respect to BC Hydro transmission rate customers:

... the commission must ensure the following:

- (a) the rates for the authority's transmission rate customers are subject to
- (i) the terms and conditions found in Supplements 5 and 6 to the authority's tariff, and
- (ii) any other terms and conditions the commission considers appropriate for those rates;

BC Hydro submits in its Application that nothing in its existing Electric Tariff or tariff supplements, including TS 5 and TS 6, allow for Indirect Interconnection Service for TVL customers. Accordingly, BC Hydro has put forward TS 87 and TS 88 and notes that they are parallel to TS 5 and TS 6, differing mainly to account for items specific to Indirect Interconnection Service.⁹

BC Hydro submits that the Commission has the lawful authority to approve TS 87 and TS 88 given that "Direction No. 7 does not prohibit the establishment of terms and conditions for new optional (as opposed to default) transmission-voltage load services."¹⁰ BC Hydro describes service under TS 87 and TS 88 as allowing for a third option to customers that require service at transmission voltage. These customers currently have the following two options available to them:

1. Direct service as a BC Hydro customer under existing TS 5 and TS 6;
2. Connect behind the meter of an existing BC Hydro TS 5 and TS 6 customer and take service pursuant to Section 24 of TS 6. Under this option, the customer is not a customer of BC Hydro.¹¹

⁶ Exhibit B-1, p. 1-5.

⁷ Ibid, p. 2-7; Exhibit B-2, BCSEA IR 1.6.1.

⁸ Ibid, Attachment H.

⁹ Ibid, pp. 1-1, 1-6.

¹⁰ Ibid, p. 1-6.

¹¹ Exhibit B-2, BCUC IR 1.1.1.

CEC agrees that TS 87 and TS 88 allow for optional service, which the Commission has the authority to approve.¹²

The Panel interprets Section 2(a) (ii) to allow for consideration of “other terms and conditions” in instances when TS 5 and TS 6 are insufficient or not applicable. TS 5 and TS 6 do not allow for indirect interconnections for TVL customers, and accordingly the Panel considers it appropriate to consider TS 87 and TS 88 for this type of service.

The Panel notes that TS 5 and TS 6 are not under consideration in this proceeding and remain the default terms and conditions for BC Hydro transmission rate customers that connect directly to the BC Hydro system. TS 87 and TS 88, in the context of Module 2 of BC Hydro’s Rate Design Application, are discussed in Section 2.4 of these Reasons.

1.3 Regulatory process

On September 30, 2015, the Commission established a written hearing process and a regulatory timetable for the review of the Application, attached as Appendix A to Order G-157-15. The timetable provided for one round of Information Requests (IRs) and invited submissions from BC Hydro and Interveners on further process by Tuesday, November 17, 2015.

The following parties registered as Interveners in the proceeding:

- British Columbia Old Age Pensioners’ Organization et al. (BCOAPO);
- BC Sustainable Energy Association and the Sierra Club BC (BCSEA);
- Canadian Office and Professional Employees’ Union, Local 378 (COPE). The union subsequently changed its name to the Movement of United Professionals (MoveUp);
- Progress Energy Canada Ltd. (PEC);
- Association of Major Power Customers of BC (AMPC).

BC Hydro filed its responses to Commission and Intervener IRs on November 10, 2015 and November 17, 2015, the Commission received submissions on further process from BC Hydro and Interveners (November 17 Submissions). The November 17 Submissions included a request from CEC and several other Interveners that BC Hydro provide responses to several CEC IRs that were not answered by BC Hydro due to confidentiality reasons.

On December 1, 2015, the Commission established an amended regulatory timetable, attached as Appendix A to Order G-185-15, and directed BC Hydro to provide responses to CEC IRs 1.1.2, 1.1.3, 1.1.4, 1.1.7 and 1.1.9. BC Hydro provided the responses as directed on December 11, 2015.

Interveners submitted Final Arguments on December 22, 2015, and BC Hydro submitted its Reply Argument on January 8, 2016. BCSEA, MoveUp, CEC and AMPC support approval of TS 87 and TS 88, as filed. BCOAPO requests that the Commission Panel not approve the Application until the issues identified in its Final Argument are addressed. These issues are addressed in the following relevant sections of these Reasons.

¹² CEC Final Argument, p. 8.

Prior to filing its Application, BC Hydro consulted with the three parties it expects to serve as customers under TS 87 and TS 88. All three parties filed letters of support for TS 87 and TS 88, included in Attachment H to the Application. BC Hydro also provided letters of support from AMPC and the Canadian Association of Petroleum Producers (CAPP) in its Application. Aside from an amendment to TS 87 proposed by Progress in its letter of support, which is addressed in Section 2.2.1 of these Reasons, all of the parties expressed support for TS 87 and TS 88.

1.4 Key principles of tariff supplement nos. 87 and 88

BC Hydro proposes TS 87 and TS 88 that are parallel to existing TS 5 and TS 6, except for differences that are required to account for Indirect Interconnection Service. Accordingly, the sections below summarize the key principles found in TS 87 and TS 88 that reflect variances as compared to TS 5 and TS 6 to allow for the provision of Indirect Interconnection Service.

1.4.1 Point of delivery and facilities definitions

TS 87 and TS 88 both define the Point of Delivery as the point of connection between the Transmission Facilities and the BC Hydro Facilities. Transmission Facilities are defined as the Shared Facilities and the Customer's Facilities while Shared Facilities are defined as the transmission, distribution and substation equipment owned and operated by a party or parties other than BC Hydro.¹³

BC Hydro submits that the definition of Point of Delivery is necessary in order for BC Hydro to "...leave it solely in the hands of the customer and the third-party to determine between them how their respective facilities are to be operated, and to allocate between them the costs, risks and benefits of doing so."¹⁴

1.4.2 Suspension of supply and limitation of liability

Sections 17 and 23 of TS 87 include amendments as compared to TS 5 to reflect the fact that any suspension of service to the customer in the indirect interconnection context may also affect the third party. The amendments oblige the customer to make "reasonable efforts" to coordinate with the third party and explicitly recognize that all parties connected to the Shared Facilities may be concurrently disconnected. In addition, the amendments limit BC Hydro's liability to the customer and third party in the event of suspension of supply.¹⁵

BC Hydro submits that the provisions are necessary in order to ensure that BC Hydro does not take on additional risk as compared to service provided under TS 5 and TS 6.¹⁶

1.4.3 Metering and billing

Under existing TS 5, metering is required at the customer's plant. In order to provide Indirect Interconnection Service, BC Hydro submits that metering is necessary in at least three locations, specifically the Point of Delivery, the point of connection between the customers and third parties facilities and the customer plant.¹⁷

Accordingly, TS 87 includes amendments as compared to TS 5 to include a specific definition of Points of Metering in subsection 1(r), and an explanation that energy and demand charges are calculated based on readings at the Points of Metering in subsection 6(d).

¹³ Exhibit B-1, Attachment A, Electric Tariff Supplement No. 87, pp. 6, 7; Attachment B, Electric Tariff Supplement No. 88, pp. 4, 5.

¹⁴ Ibid, p. 2-2.

¹⁵ Ibid, p. 2-3.

¹⁶ Ibid.

¹⁷ Ibid, pp. 2-3 and 2-4.

In an Indirect Interconnection Service context, allocating transformer and line losses is necessary when there is more than one entity on the customer side of the Point of Delivery.¹⁸ The transformer and line losses referenced here are specific to the Shared Facilities and customer owned facilities on the customer side of the Point of Delivery.¹⁹ BC Hydro submits that its intention is to determine the appropriate metering scheme that calculates losses to ensure other ratepayers do not cover transformer and/or line losses on the private system and that losses are properly allocated.²⁰

1.4.4 BC Hydro relationship with the third party

TS 87 and TS 88 govern the relationship between BC Hydro and the customer, rather than the third party owner of the Shared Facilities. However, TS 87 and TS 88 contain several provisions related to the third party.

Section 3(e) of TS 88 states the following:

The Customer acknowledges and agrees that BC Hydro will have no obligation to enter into an Electricity Supply Agreement or to deliver Electricity to the Customer for the Customer's Plant until:

- (i) Commercial and regulatory arrangements among BC Hydro and all owners and operators (as applicable) of the Shared Facilities have been finalized to BC Hydro's reasonable satisfaction; and
- (ii) All relevant regulatory approvals, including without limitation any specific regulatory approvals listed in Appendix 2, have been received,²¹

In the Application, BC Hydro maintains that it should not be involved in the agreements between the customers and the third party owners and operators of the Shared Facilities, but also accepts that the third party actions have the ability to harm BC Hydro and its customers. Accordingly, BC Hydro reserves the right to not provide service under TS 87 until applicable contracts between BC Hydro and the third-party owners and operators of the Shared Facilities are in place and the third-party verifies that appropriate regulatory approvals have been obtained.²²

Section 3(f) of TS 88 clarifies that the customer's obligation to pay for certain costs and expenses under TS 88 is not conditional on the arrangements between BC Hydro and the third party, and between the customer and the third party being finalized.²³ BC Hydro submits that this ensures that it assumes no more risk in providing Indirect Interconnection Service than with a direct connection service.²⁴

BC Hydro submits in its response to Commission IR 1.4.1 that "[a] fundamental principle underlying TS 87 is that the owner of the Shared Facilities needs to provide appropriate contractual protections to BC Hydro to ensure BC Hydro and its ratepayers are not impacted by the provision of Indirect Interconnection Service."²⁵ Further, BC Hydro states that it will apply for approval of these contracts "...as required under the *Utilities Commission Act*."²⁶

¹⁸ Exhibit B-1, p. 2-4.

¹⁹ Exhibit B-2, BCUC IR 1.12.4.

²⁰ Exhibit B-1, BCUC IR 1.12.2.

²¹ Ibid, Attachment B, p. 5.

²² Ibid, pp. 2-4 to 2-5.

²³ Ibid, Attachment H, pp. 5-6.

²⁴ Ibid, pp. 2-4, 2-5.

²⁵ Exhibit B-2, BCUC IR 1.4.1.

²⁶ Ibid, BCUC IR 1.10.1.

Section 17(f), 26(b) and (c) of TS 87 relate to the transfer of ownership or assignment of interest in the shared facilities and the timeline for the customer to provide notice to BC Hydro. Ultimately, BC Hydro has the right to terminate the TS 87 agreement with the customer if “commercial arrangements satisfactory to BC Hydro” are not in place. BC Hydro submits that these provisions are in place “...to ensure it has the right contractual arrangements in place with the right parties to protect BC Hydro and its ratepayers.”²⁷ These provisions are discussed in Section 2.2.1 of these Reasons as they relate to a proposed amendment from Progress in its letter of support.

The public utility status of the third party shared facilities owners is discussed in Sections 2.2 of these Reasons.

1.4.5 Applicable rate schedule

TS 87 and TS 88 identify the rate schedule applicable to customers taking Indirect Interconnection Service as being one of Schedule 1823, Transmission Service–Stepped Rate, Schedule 1825, Transmission Service–Time-Of-Use (TOU) Rate, or Schedule 1827, Transmission Service –Rate for Exempt Customers. In its response to Commission IR 1.15.1 BC Hydro submits that customers taking Indirect Interconnection Service may also request service under Schedule 1880 – Standby and Maintenance Supply, Schedule 1852 – Modified Transmission Demand.²⁸

2.0 ISSUES ARISING FROM THE APPLICATION

2.1 Incremental costs and benefits

To implement Indirect Interconnection Service, BC Hydro will typically need to install a new revenue meter connected on the primary side of the customer transformer. Assuming each new load customer site has a unique Electricity Supply Agreement and a single new revenue meter connected on the primary side of the customer transformer at 138 kV, BC Hydro estimates its incremental costs to serve Indirect Interconnection Service customers over the next 10 year period would be about \$1.4 million.²⁹ BC Hydro estimates that the incremental energy consumption from the same set of customers used to generate its incremental cost estimate would result in incremental revenues of \$84 million per year.³⁰

BCOAPO in argument states that from a revenue perspective it is not clear whether the benefits of the service outweigh the risks.³¹ This concern stems from the evidence provided by BC Hydro on the potential revenue implications if an entity that is not a BC Hydro customer, but is currently taking energy from “behind the meter” from an existing TS 5 TS 6 customer (as is allowed under the tariff structure), should elect to become a BC Hydro customer under TS 87 and TS 88. BC Hydro agrees that such a customer would result in an incremental metering cost, and the revenue impact would depend on a number of factors including potential differences in the Tier 1 and Tier 2 energy mix that arise from any difference between billing annual energy consumption on a site - specific basis, (where each site has its own Energy Customer Baseline) rather than on a consolidated basis (using a single Energy Customer Baseline). There may be further billing differences stemming from unique non-coincident demand peaks at each plant compared to a single coincident demand peak from the consolidated plant.³²

²⁷ Exhibit B-2, p. 2-5.

²⁸ Ibid, BCUC IR 1.15.1.

²⁹ Exhibit B-2-1, CEC IR 1.1.3.

³⁰ Ibid, CEC IR 1.1.2.1.

³¹ BCOAPO Final Argument, p. 4.

³² Exhibit B-2, BCUC IR 1.12.1.

CEC argues that BC Hydro has adequately confirmed that there are no significant incremental costs to BC Hydro arising from the Indirect Interconnection Service that would not otherwise arise in a direct connection under TS 5 and TS 6, although there are potentially some incremental costs relative to a re-sale situation such as the change in revenues, and the installation of a single metering point that would otherwise be paid for by the customer.³³ CEC also addresses whether there could be an issue of customers “gaming” the system to avoid costs by the use of multiple accounts. CEC concludes that gaming is unlikely, but recommends that the Commission require BC Hydro to ensure appropriate conditions and/or monitoring is in place to identify and manage any gaming that could occur.³⁴

BC Hydro in its Reply Argument, while acknowledging the revenue uncertainty from “behind the meter” entities who become BC Hydro Indirect Interconnection Service customers, points out that none of the companies requesting this service fall into the “behind the meter” category. Further while BC Hydro considers that while the estimated incremental costs and benefits it has provided is useful information, analysis of incremental costs and benefits should not be the determinative factor in deciding whether to allow this service. BC Hydro states:

Generally, utility service obligations to a class of customers should not be founded solely on the basis of whether incremental revenues exceed incremental costs.³⁵

BC Hydro further states it is unaware of any entities that are currently connected behind the meter of existing customers who are planning to take Indirect Interconnection Service.³⁶

With respect to CEC’s proposal that the Commission require BC Hydro to ensure appropriate conditions and/or monitoring is in place to identify and deal with any gaming, BC Hydro believes that this proposal should not be accepted by the Commission. BC Hydro does not see an entity “behind the meter” electing to become a customer under TS 87 and TS 88 as constituting gaming. BC Hydro notes that a degree of service optionality is a common feature in utility tariffs, including BC Hydro tariffs. Exercising a tariff option is not, in BC Hydro’s view, synonymous with “gaming.”³⁷

The Panel finds that while assessment of the potential incremental costs and benefits is useful in determining if the service is in the public interest, it is not the sole determinant of such a finding. The Panel also took into consideration factors such as the impact of the service on maintaining a smaller environmental footprint for transmission lines and the avoidance of costs relating to the construction of duplicate facilities.³⁸

The Panel finds that the magnitude of project incremental costs and revenues (incremental costs of \$1.4 million over 10 years versus annual revenues of \$84 million/year), is a persuasive factor in favour of introducing the service. With respect to the potential negative revenue impact that could occur if entities “behind the meter” were to become Indirect Interconnection Service customers, the Panel notes that (a) the same negative impact could occur if the same entities were to elect under TS 5/TS 6 to become direct service customers, and (b) even if there is a revenue impact of “behind the meter” parties electing to take Indirect Interconnection Service, there is no evidence to suggest that it would be of such a substantive nature as to eliminate the large incremental benefits as estimated by BC Hydro. BC Hydro indicates it is unaware of any “behind the meter” entities that are looking to subscribe to this new service.³⁹

³³ CEC Final Argument, p. 19.

³⁴ Ibid, p. 23.

³⁵ BC Hydro Reply Argument pp. 2, 3.

³⁶ Ibid, p. 3.

³⁷ Ibid, p. 5.

³⁸ Exhibit B-2, CEC IR 1.2.2.

³⁹ BC Hydro Reply Argument, p. 3.

BC Hydro has interpreted BCOAPO's concerns as suggesting entities "behind the meter" that elect to take Indirect Interconnection Service should be charged for BC Hydro's incremental billing and metering costs.⁴⁰ The Panel finds that this would not be appropriate. Under section 59(1) of the Act, a public utility must not make, demand or receive unduly discriminatory rates. Accordingly, in establishing classes of customers, regulatory practice is to treat all members of a class in a similar manner. This equal treatment does not mean that each and every customer has the same revenue or cost impact on the utility. However, allocation to individual customers is based on a methodology that takes into account a number of factors and does not necessarily track all costs down to an individual customer basis.

The Panel finds that BC Hydro's proposal to treat all prospective customers of Indirect Interconnection Service in a similar manner is consistent with regulatory practice. To require parties currently taking service "behind the meter" to pay additional costs when electing to take Indirect Interconnection Service relative to other new customers would not be appropriate. These same entities if electing to take service under TS 5 and TS 6 would have BC Hydro pay the same metering and other incremental costs that existing TS 5 and TS 6 customers pay. The Panel finds that should these entities elect to take service under TS 87 and TS 88, BC Hydro should pay for the same incremental metering and other incremental costs that BC Hydro pays for in connecting other new TS 87 and TS 88 customers.

The Panel is not persuaded that the "gaming" issue raised by CEC (which it agrees is unlikely)⁴¹ warrants requiring BC Hydro to ensure appropriate conditions and/or monitoring is in place to identify and manage any gaming that could occur. BC Hydro when asked stated it did consider that a gaming concern would arise in the manner described.⁴² No evidence was offered that refutes this statement.

2.2 Public utility status of the third party shared facilities owner

An issue that was raised in the proceeding was whether the third party transmission facility was a "regulated utility" under the Act and, if so, had received all the necessary regulatory approvals.

The Act defines "public utility" as "a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for

- (a) the production, generation, storage, transmission, sale, delivery or provision of electricity, natural gas, steam or any other agent for the production of light, heat, cold or power to or for the public or a corporation for compensation,"⁴³

Most, if not all, third party transmission facilities would fall within the ambit of this definition. A regulated shared facility may require a Certificate of Public Convenience and Necessity to operate what may be "public utility plant or system," and may be obligated to file its customer agreement with the Commission under section 61 of the Act in order to ensure it is enforceable. Alternatively the shared facility may have been granted an exemption by the Lieutenant Governor in Council from all or part of the Act and may not require such approvals or reporting requirements. Because each indirect interconnection may face different regulatory requirements, neither TS 87 nor TS 88 have been drafted in contemplation of specific approvals. Instead, service to the customer under TS 87 is made conditional on all relevant approvals having been received.⁴⁴

⁴⁰ BC Hydro Reply Argument, p. 3.

⁴¹ CEC Final Argument, p. 23.

⁴² Exhibit B-2, BCUC IR 1.12.5.1.

⁴³ *Utilities Commission Act*, section 1.

⁴⁴ Exhibit B-1, pp. 2-6, 2-7.

Intervener submissions

BCOAPO submits that a “process or mechanism needs to be established by which BC Hydro can readily be assured that the third party is or is not considered a ‘public utility’.”⁴⁵

The CEC recommends that the Commission consider the nature of the third party owners or operators of the Shared Facilities and determine which of those may be considered public utilities.⁴⁶

BC Hydro reply

In response to BCOAPO’s Final Argument, BC Hydro submits that “BC Hydro has to make the determination at first instance – and it has done so in regard to the three third parties it is currently aware of - but it can’t make that determination conclusively in the event of a dispute between the third party and either BC Hydro or the customer. In either of those cases the Commission is there to resolve such disputes as they arise, and there is no benefit in creating a process for such disputes unless and until they arise.”⁴⁷ In response to CEC’s Final Argument, BC Hydro submits that it has no objection to the Commission reminding the Third Party Shared Facilities owners or operators of their statutory obligations, to the extent that they are a public utility under the Act.⁴⁸

Commission determination

While the Panel recognizes that BC Hydro may have to make an assessment of the public utility status and regulatory obligations of the owners or operators of third party transmission facilities in order to ensure that all necessary regulatory approvals have been obtained before BC Hydro commences service under TS 87, BC Hydro is not the final arbiter as to the regulatory obligations facing the owner of the Shared Facilities. In the event that BC Hydro or any other interested party disputes the regulatory obligations that the Shared Facilities owner recognizes (or fails to recognize) the Commission is the proper forum to resolve these disputes. To establish a formal process or mechanism by which BC Hydro would determine the public utility status of third parties is, in the Panel’s view, unnecessary given the ability of any concerned interested party to pursue this issue through the Commission.

The Commission on its own volition could raise the issue of the regulatory responsibilities of the Shared Facilities owners or operators if it identified concerns. Accordingly, the Panel finds it would be beneficial that the Commission is made aware of the name and contact information of all third party owners and operators (as applicable), of Shared Facilities that BC Hydro enters into commercial and regulatory arrangements with under subsection 3(e) of Tariff Supplement 88. **Therefore, the Panel directs BC Hydro to provide to the British Columbia Utilities Commission the name and contact information of all third party owners and operators (as applicable) of Shared Facilities that it enters into commercial and regulatory arrangements with under subsection 3(e) of Tariff Supplement 88 prior to commencing such service.**

2.2.1 Transfer of ownership or assignment of interest in shared facilities

TS 87 includes provisions related to the transfer of ownership and assignment of interest in the shared facilities. Progress suggests that these provisions should be amended to explicitly exclude an assessment by BC Hydro of the future owner’s competence.⁴⁹

⁴⁵ BCOAPO Final Argument, para 23.

⁴⁶ CEC Final Argument, paras 5, 66, 100.

⁴⁷ BC Hydro Reply Argument, p. 3, 4.

⁴⁸ Ibid, p. 5.

⁴⁹ Exhibit B-1, Attachment H, Progress Letter of Support.

In its responses to Commission IR 1.41, BC Hydro submits that the provisions are in place in order to provide for contractual continuity and it "... does not want to narrow the scope of what it may consider so that it can ensure ratepayers will always be afforded the best protection."⁵⁰

CEC supports BC Hydro's position and submits that the provisions related to the transfer of ownership or assignment of interest "...are necessary and appropriately worded, and provide adequate protection to the BC Hydro system."⁵¹

The Panel is in agreement with BC Hydro that narrowing the scope of what it may consider in the event of a transfer of ownership or assignment of interest in shared facilities, may limit its ability to provide the best protection to its existing ratepayers. The Panel is not persuaded that specifically excluding an assessment of the future owner's competence is warranted and considers that the proposed language included in TS 87 provides the appropriate protection for BC Hydro ratepayers.

2.3 Mandatory reliability standards obligations of third party shared facilities owners

In its responses to Commission IRs, BC Hydro confirmed that its obligations under the BC Mandatory Reliability Standards Obligations (MRS) program will not be impacted as a result of providing Indirect Interconnection Service to a load customer and its MRS obligations end at the Point of Delivery, unless BC Hydro has contractually agreed to take an assignment of MRS compliance obligations from the entity in question. BC Hydro explains it only has MRS responsibility for those Bulk Electric System (BES) assets that it owns and operates.⁵²

BC Hydro further explains that it has not discussed with any current or potential owner of Shared Facilities their MRS compliance obligations. BC Hydro does not believe it is appropriate for it to advise any entities with respect to their MRS obligations.⁵³ In addition, BC Hydro explains that it has not considered how the MRS compliance obligations of an owner or potential owner of the Shared Facilities, would be impacted by Indirect Interconnection Service as it argues each entity in BC is responsible for assessing its own obligations.⁵⁴ BC Hydro also states that it has not considered whether it would take an assignment of MRS compliance responsibility from an owner of Shared Facilities. It believes this is a separate commercial issue and outside of the scope of this application.⁵⁵ Further, BC Hydro states that neither TS 87 nor TS 88 need to reference MRS, as MRS compliance obligations are created pursuant to the Act, and are binding on each entity in BC that owns assets that form part of the BES.⁵⁶

Views of interveners

In BCOAPO's Final Argument it agrees with BC Hydro that the question of future assignment of MRS compliance responsibility is outside the scope of this Application but disagrees with the view that it is simply a commercial issue. BCOAPO argues that such an assignment could impact the costs borne by BC Hydro ratepayers and the assignment should be subject to public review and Commission approval.⁵⁷

⁵⁰ Exhibit B-2, BCUC IR 1.4.1.

⁵¹ CEC Final Argument, p. 15.

⁵² Exhibit B-2, BCUC IR 1.6.1.

⁵³ Ibid, BCUC IR 1.6.2.

⁵⁴ Ibid, BCUC IR 1.6.3.

⁵⁵ Ibid, BCUC IR 1.6.4.

⁵⁶ Ibid, BCUC IR 1.6.5.

⁵⁷ BCOAPO Final Argument, p. 6.

Similarly, MoveUp agrees with BCOAPO's suggestion that a decision by BC Hydro regarding the assignment of MRS compliance responsibility could impact ratepayer costs, so any such assignment by BC Hydro should be subject to a public review process before the Commission but explains that its concern does not prevent the Commission from approving this Application. MoveUp asks the Commission to address this issue in its decision to ensure BC Hydro is put on notice that this would require a public application to the Commission.⁵⁸

In CEC's Final Argument it submits that since BC Hydro's responsibility ends at the Point of Delivery, there is no significant impact on BC Hydro's ability to meet its MRS compliance responsibilities. However, CEC is concerned that Shared Facilities owners also need to be compliant with their MRS obligations, and as such recommends that the Commission provide notice in this proceeding that the Shared Facilities owners are required to meet their obligations under MRS.⁵⁹

In its Reply, BC Hydro contends that MoveUp and BCOAPO are both arguing that any assignment by entities of its MRS obligations to BC Hydro ought to be subject to a Commission approval. However, BC Hydro argues that neither MoveUp nor BCOAPO offer a statutory basis for a Commission pre-approval of any such assignment. BC Hydro explains that the MRS Rules of Procedure approved by the Commission pursuant to Order No. R-34-15, already expressly contemplate assignments of MRS compliance responsibility and the obligation on the entities involved to provide notice to the Commission and its administrator as to such an assignment. BC Hydro claims this issue is a red herring.⁶⁰

The Commission agrees with BCOAPO and BC Hydro that the question of assignment of MRS compliance responsibility is outside the scope of this Application. Obligations under the MRS program will not be impacted as a result of providing Indirect Interconnection Service. MRS obligations flow from the requirements outlined in section 125.2 of the Act and the MRS Regulation. Furthermore, as BC Hydro explains, the MRS Rules of Procedure were approved by the Commission pursuant to Order No. R-34-15, and they already expressly contemplate assignments of MRS compliance responsibility.

However, the Commission agrees with BCOAPO and MoveUp that assignment agreements could impact ratepayer costs. As BC Hydro explains, these are commercial agreements. One would expect these types of agreements to include terms regarding compensation, work and allocation of risks. However, the Commission finds that these items are better explored in the context of a revenue requirement proceeding.

In terms of CEC's request, the Commission understands its concern that Shared Facilities owners also need to be compliant with their MRS obligations. However, because MRS obligations are set out in the Act and the MRS Regulation and are not impacted from this Application or the provision of Indirect Interconnection Service, the Commission finds no reason to provide notice in this proceeding that the Shared Facilities owners are required to meet their obligations under MRS.

Accordingly, the Commission finds that it does not need to make a determination in this proceeding regarding MRS compliance responsibilities nor assignments of such responsibilities.

⁵⁸ MoveUp Final Argument, p. 3.

⁵⁹ CEC Final Argument, pp. 20-22.

⁶⁰ BC Hydro Reply Argument, p. 4.

2.4 Implications for BC Hydro rate design application

BC Hydro's transmission extension policy, including TS 5 and TS 6, will be reviewed as Module 2 of the Rate Design Application (RDA). BC Hydro expects to file Module 2 "...sometime after receiving Commission Module 1-related order(s); a review period to consider such order(s); and additional stakeholder engagement."⁶¹ Subsequent to the RDA process, BC Hydro proposes to file an application seeking amendments to TS 87 and TS 88 to account for any changes to TS 5 and TS 6 that result from Module 2 of the RDA.⁶² BC Hydro also notes in its Application that it "...expects to review and report to the Commission on Indirect Interconnection Service in the 2015 RDA module in which TS 5 and TS 6 are reviewed, and to make such proposals in regard to the service as it believes are warranted in light of its actual use and any applicable policy developments."⁶³

The Panel notes that it may be appropriate to review and approve any changes to TS 87 and TS 88 as part of the review of the transmission extension policy in Module 2 of the RDA, rather than follow BC Hydro's proposal of filing an application for any changes to TS 87 and TS 88 subsequent to the RDA process.

2.5 Application for service from distribution voltage customers

The BC Hydro Application presents TS 87 and TS 88, which allow for Indirect Interconnection Service to TVL customers, and does not examine indirect service at voltages other than transmission voltage. With respect to distribution voltage customers, BC Hydro submits the following in response to BCSEA IR 1.8.5:

If there is sufficient interest in a distribution service that is similar to the Indirect Interconnection Service offered to transmission load customers, BC Hydro will consider amendments to its Electric Tariff as may be required. Otherwise, this issue can be explored in Module 2 of the RDA.⁶⁴

Intervenors issued IRs on this issue of indirect service at voltages other than transmission voltage but did not raise the issue in Final Argument. The Panel considers this issue to be outside of the scope of the Application.

⁶¹ British Columbia Hydro and Power Authority 2015 Rate Design Application, Exhibit B-1.

⁶² Exhibit B-1, p. 1-7.

⁶³ Ibid, p. 1-6 and 1-7.

⁶⁴ Exhibit B-2, BCSEA IR 1.8.5.