



LETTER L-28-16

VIA EMAIL

October 7, 2016

TO: Registered interveners in BC Hydro F2017–F2019 RRA
British Columbia Hydro and Power Authority

Re: The British Columbia Hydro and Power Authority
Filing of Electricity Purchase Agreements (EPA) – Akolkolex and Soo River

On September 15, 2016, pursuant to section 71 of the *Utilities Commission Act* (UCA), British Columbia Hydro and Power Authority (BC Hydro) filed with the British Columbia Utilities Commission (Commission) two Electricity Purchase Agreements (EPA) (Filing). In the Filing, BC Hydro seeks an order from the Commission that the following EPAs are in the public interest and are accepted for section 71 filing:

1. EPA between BC Hydro and Canadian Hydro Developers, Inc. dated July 1, 2016 (Akolkolex EPA); and
2. EPA between BC Hydro and Executive House Power Corporation, Whistler Hydro Inc., Blakely Energy Resources Inc. and Magrath Energy Limited Partnership (Joint Venture) dated October 1, 2016 (Soo River EPA).

The Commission wishes to provide stakeholders the opportunity to provide written submissions regarding if the two EPAs are in the public interest and if there is a need for a hearing.

By Commission Order G-61-12, dated May 17, 2012, the Commission established Rules for Energy Supply Contracts for Electricity (Rules) to facilitate the Commission review of energy supply contracts (ESC) for electricity. A copy of the Commission's Rules for Energy Supply Contracts for Electricity can be found at www.bcuc.com/Documents/Guidelines/2012/DOC_4237_G-61-12_BCUC%202012_Energy_Supply_Contract_Rules_for_Electricity.pdf

As stated in the Rules, the Commission will rely on all information it considers necessary to determine whether an energy supply contract is in the public interest. In doing so, it will consider the factors referred to in subsection 71(2.21) of the UCA given the two EPAs are energy supply contracts filed by BC Hydro.

The relevant subsections of section 71 of the UCA are attached to this Letter. As set out in subsection 71(2.21), the factors the Commission is to consider are as follows:

In determining under subsection (2) whether an energy supply contract filed by the authority is in the public interest, the commission, in addition to considering the interests of persons in British Columbia who receive or may receive service from the authority, must consider

- (a) British Columbia's energy objectives,
- (b) an applicable integrated resource plan approved under section 4 of the *Clean Energy Act*,
- (c) the extent to which the energy supply contract is consistent with the requirements under section 19 of the *Clean Energy Act*,
- (d) the quantity of the energy to be supplied under the contract,

- (e) the availability of supplies of the energy referred to in paragraph (d),
- (f) the price and availability of any other form of energy that could be used instead of the energy referred to in paragraph (d), and
- (g) in the case only of an energy supply contract that is entered into by a public utility, the price of the energy referred to in paragraph (d)

In regard to the need for a hearing Rule No. 1.3 of the Commission Rules states:

Generally, the Commission will decide within 60 days of the filing of an ESC as to whether a public hearing is required, and if not, will issue an Order determining the ESC is in the public interest and accepting the ESC for filing. If the Commission determines a public hearing is required, it will take place where:

- (a) the Commission is unable to determine on the basis of the information filed under these General Rules that the ESC is in the public interest; or
- (b) it appears to the Commission on the basis of the information filed under these General Rules that the ESC may not be in the public interest.

The Commission may also hold a hearing where it receives a third party complaint about the ESC.

Stakeholders may make submissions to the Commission in writing specifically in regard to the acceptance under section 71 of the UCA of the Akolkolex EPA and Soo River EPA. When preparing submissions stakeholders are to consider the Commission's jurisdiction with respect to section 71 filings and limit submissions to issues that are within the Commission's jurisdiction. Parties making submissions are to state the nature of their interest as a stakeholder and the manner in which they may be impacted by the EPA(s).

Submissions, if any, from stakeholders are due by **Thursday, November 3, 2016** and should be addressed to the Commission Secretary with a copy to BC Hydro. BC Hydro is to file any reply submission by **Thursday, November 17, 2016**. The Commission will make a determination on the need for a hearing after receiving the requested submissions.

In the Filing, BC Hydro advised the Commission that it provided a redacted copy of the Filing to interveners in the BC Hydro F2017 to F2019 Revenue Requirement proceeding. Other stakeholders who require a redacted copy of the Filing should request a copy from BC Hydro.

BC Hydro is requested to provide a copy of this letter to Canadian Hydro Developers, Inc., the Joint Venture and the First Nations that BC Hydro has identified on pages 16 to 18 of the Filing by **Thursday, October 13, 2016**.

BC Hydro requests that the un-redacted version of the Filing be held confidential as it contains information that is commercially sensitive, the release of which may harm BC Hydro's negotiating position with respect to further EPA renewals. Additionally BC Hydro has redacted certain information considered commercially sensitive to the counterparties to the Akolkolex EPA and the Soo River EPA. The Commission will hold the un-redacted version of the Filing confidential at this time.

Yours truly,

Original signed by:

Laurel Ross
CM/kbb

**Utilities Commission Act:
Section 71 Excerpt**

Energy supply contracts

71 (1) Subject to subsection (1.1), a person who, after this section comes into force, enters into an energy supply contract must

- (a) file a copy of the contract with the commission under rules and within the time it specifies, and
- (b) provide to the commission any information it considers necessary to determine whether the contract is in the public interest.

(1.1) Subsection (1) does not apply to an energy supply contract for the sale of natural gas unless the sale is to a public utility.

(2) The commission may make an order under subsection (3) if the commission, after a hearing, determines that an energy supply contract to which subsection (1) applies is not in the public interest.

(2.1) In determining under subsection (2) whether an energy supply contract filed by a public utility other than the authority is in the public interest, the commission must consider

- (a) the applicable of British Columbia's energy objectives,
- (b) the most recent long-term resource plan filed by the public utility under section 44.1, if any,
- (c) the extent to which the energy supply contract is consistent with the applicable requirements under sections 6 and 19 of the [Clean Energy Act](#),
- (d) the interests of persons in British Columbia who receive or may receive service from the public utility,
- (e) the quantity of the energy to be supplied under the contract,
- (f) the availability of supplies of the energy referred to in paragraph (e),
- (g) the price and availability of any other form of energy that could be used instead of the energy referred to in paragraph (e), and
- (h) in the case only of an energy supply contract that is entered into by a public utility, the price of the energy referred to in paragraph (e).

(2.2) Subsection (2.1) (a) to (c) does not apply if the commission considers that the matters addressed in the energy supply contract filed under subsection (1) were determined to be in the public interest in the course of considering a long-term resource plan under section 44.1.

(2.21) In determining under subsection (2) whether an energy supply contract filed by the authority is in the public interest, the commission, in addition to considering the interests of persons in British Columbia who receive or may receive service from the authority, must consider

- (a) British Columbia's energy objectives,
- (b) an applicable integrated resource plan approved under section 4 of the [Clean Energy Act](#),
- (c) the extent to which the energy supply contract is consistent with the requirements under section 19 of the [Clean Energy Act](#),
- (d) the quantity of the energy to be supplied under the contract,
- (e) the availability of supplies of the energy referred to in paragraph (d),

(f) the price and availability of any other form of energy that could be used instead of the energy referred to in paragraph (d), and

(g) in the case only of an energy supply contract that is entered into by a public utility, the price of the energy referred to in paragraph (d).

(2.3) A public utility may submit to the commission a proposed energy supply contract setting out the terms and conditions of the contract and a process the public utility intends to use to acquire power from other persons in accordance with those terms and conditions.

(2.4) If satisfied that it is in the public interest to do so, the commission, by order, may approve a proposed contract submitted under subsection (2.3) and a process referred to in that subsection.

(2.5) In considering the public interest under subsection (2.4) with respect to a submission by a public utility other than the authority, the commission must consider

- (a) the applicable of British Columbia's energy objectives,
- (b) the most recent long-term resource plan filed by the public utility under section 44.1,
- (c) the extent to which the application for the proposed contract is consistent with the applicable requirements under sections 6 and 19 of the [Clean Energy Act](#), and
- (d) the interests of persons in British Columbia who receive or may receive service from the public utility.

(2.51) In considering the public interest under subsection (2.4) with respect to a submission by the authority, the commission, in addition to considering the interests of persons in British Columbia who receive or may receive service from the authority, must consider

- (a) British Columbia's energy objectives,
- (b) an applicable integrated resource plan approved under section 4 of the [Clean Energy Act](#), and
- (c) the extent to which the application for the proposed contract is consistent with the requirements under section 19 of the [Clean Energy Act](#).

(2.6) If the commission issues an order under subsection (2.4), the commission may not issue an order under subsection (3) with respect to a contract

- (a) entered into exclusively on the terms and conditions, and
- (b) as a result of the process

referred to in subsection (2.3).

(3) If subsection (2) applies, the commission may

- (a) by order, declare the contract unenforceable, either wholly or to the extent the commission considers proper, and the contract is then unenforceable to the extent specified, or
- (b) make any other order it considers advisable in the circumstances.

(4) If an energy supply contract is, under subsection (3) (a), declared unenforceable either wholly or in part, the commission may order that rights accrued before the date of the order under that subsection be preserved, and those rights may then be enforced as fully as if no proceedings had been taken under this section.

(5) An energy supply contract or other information filed with the commission under this section must be made available to the public unless the commission considers that disclosure is not in the public interest.