

ORDER NUMBER
E-1-17

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

and

British Columbia Hydro and Power Authority
Section 71 Filing of the Electricity Purchase Agreements
Akolkolex and Soo River

BEFORE:

R. D. Revel, Panel Chair/Commissioner
M. Kresivo, QC, Commissioner

on January 6, 2017

ORDER

WHEREAS:

- A. On September 15, 2016, the British Columbia Hydro and Power Authority (BC Hydro), pursuant to section 71 of the *Utilities Commission Act* (UCA), filed with the British Columbia Utilities Commission (Commission) two Energy Purchase Agreements (EPAs) (Filing). In the Filing, BC Hydro seeks an order from the Commission that the following two 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 the joint venture comprised of Executive House Power Corporation, Whistler Hydro Inc., Blakely Energy Resources Inc. and Magrath Energy Limited Partnership dated October 1, 2016 (Soo River EPA);
- B. On September 15, 2016, BC Hydro filed both redacted and un-redacted copies of the Filing and advised the Commission that it provided a redacted copy of the Filing to interveners in the BC Hydro Fiscal 2017 to Fiscal 2019 Revenue Requirements proceeding. 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 prejudice BC Hydro's position in alternate negotiations;
- C. The Commission issued Letter L-28-16 dated October 7, 2016, inviting submissions from stakeholders regarding whether the two EPAs are in the public interest and if there is a need for a hearing;
- D. By Order G-61-12 dated May 17, 2012, the Commission established "Rules for Energy Supply Contracts for Electricity" to facilitate the Commission review of energy supply contracts for electricity. 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;
- E. Over the period from October 11, 2016 through November 2, 2016, the BC Sustainable Energy Association and the Sierra Club of BC, British Columbia Old Age Pensioners' Organization *et al.*, and Mr. Richard T. Landale filed submissions;

- F. On November 17, 2016, BC Hydro submitted its reply submission which addressed issues raised in each submission and further submitted that the Commission has sufficient information before it to accept the Akolkolex EPA and Soo River EPA as being in the public interest without the need for a public hearing;
- G. On November 24, 2016, BC Hydro filed its responses to the non-confidential and confidential Commission staff questions and provided a redacted copy of its responses to the non-confidential questions to each of the three stakeholders who made submissions regarding the Filing. The redactions were made to protect commercially sensitive and contractor specific information the disclosure of which could impact supplier interests and ongoing negotiations of other EPAs;
- H. On December 20, 2016 BC Hydro filed an amendment to the Akolkolex EPA dated December 19, 2016 which changes the Regulatory Condition Expiry Date set out in the Akolkolex EPA to March 31, 2017; and
- I. The Commission reviewed the Filing and submissions by BC Hydro and the stakeholders and considers that the Akolkolex EPA and the Soo River EPAs are each in the public interest and that a public hearing is not necessary for acceptance of either EPA.

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, excerpts of which are provided in Appendix B to this order, and for the Reasons for Decision attached as Appendix A to this order, the Commission orders as follows:

1. The Electricity Purchase Agreement dated July 12, 2016 (Akolkolex EPA) between the British Columbia Hydro and Power Authority and Canadian Hydro Developers, Inc., together with the amendment to the Akolkolex EPA dated December 19, 2016, are in the public interest and are accepted for filing under section 71 of the *Utilities Commission Act*.
2. The Electricity Purchase Agreement dated October 1, 2016 (Soo River EPA) between the British Columbia Hydro and Power Authority and the joint venture comprised of Executive House Power Corporation, Whistler Hydro Inc., Blakely Energy Resources Inc. and Magrath Energy Limited Partnership is in the public interest and is accepted for filing under section 71 of the *Utilities Commission Act*.
3. The Commission will hold confidential the un-redacted version of the Akolkolex and Soo River Electricity Purchase Agreements and the un-redacted additional information provided in confidence to the Commission in regard to the Akolkolex and Soo River Electricity Purchase Agreements on the basis that disclosure of commercially sensitive information may impair BC Hydro's ability to negotiate favourable EPAs on behalf of its customers in future.

DATED at the City of Vancouver, in the Province of British Columbia, this 6th day of January 2017.

BY ORDER

Original signed by:

R. D. Revel
Commissioner

Attachment

British Columbia Hydro and Power Authority
Section 71 Filing of the Electricity Purchase Agreements
Akolkolex and Soo River

REASONS FOR DECISION

1.0 INTRODUCTION

On September 15, 2016, pursuant to section 71 of the *Utilities Commission Act* (UCA), the 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).

Additionally, BC Hydro requests that the Commission hold the un-redacted version of the EPA Filing confidential.

The original Akolkolex and Soo River EPAs were awarded under BC Hydro's 1989 Call. Each EPA had an initial 20-year term with an evergreen provision allowing the contracts to continue from year-to-year unless terminated by either party after providing six months' notice. BC Hydro elected to exercise its termination rights under the original Akolkolex and Soo River EPAs and replace them with EPAs at lower energy prices and to reflect current contracting standards, including more robust terms and conditions.¹

The Akolkolex project is a run-of-river hydroelectric facility with a 10 megawatt (MW) installed capacity located on the Akolkolex River south of Revelstoke, British Columbia. The facility utilizes two horizontal Francis turbines and a single generator and is owned by Canadian Hydro Developers, Inc. (Canadian Hydro). It achieved commercial operation in April 1995. The original 20-year EPA term expired on March 31, 2015 and continued on a year-to-year basis under the evergreen provision in the EPA. BC Hydro terminated the original Akolkolex EPA on June 30, 2016.²

The Soo River project is also a run-of-river hydroelectric facility with a 13 MW installed capacity located on the Soo River just north of Whistler, British Columbia. The facility includes a 960-metre tunnel and powerhouse with two horizontal Francis turbines each with synchronous generators. The project is owned by a joint venture comprised of Executive House Power Corporation, Whistler Hydro Inc., Blakely Energy Resources Inc. and Magrath Energy Limited Partnership. The project began commercial operation in May 1994. The original 20-year EPA term expired in May 2014 and continued on a year-to-year basis under the evergreen provision in the EPA. BC Hydro terminated the original EPA on September 30, 2016.³

BC Hydro advises that during the EPA renewal process, it updated the EPAs to be consistent with current drafting standards which include more robust contractual provisions. BC Hydro submits that all of these changes are to BC Hydro's benefit, and therefore, to the benefit of BC Hydro ratepayers.⁴

¹ Redacted Version of BC Hydro Filing of Electricity Purchase Agreements Akolkolex and Soo River (Redacted Filing), p. 4.

² Ibid.

³ Redacted Filing, pp. 4–5.

⁴ Ibid, p. 5.

BC Hydro indicates that it is in the process of negotiating the renewal of a number of EPAs which are at, or approaching, the end of their initial contract terms. The Akolkolex and Soo River hydro projects are the first two of these EPA renewals.

2.0 REGULATORY REVIEW PROCESS

The review of an EPA filed by BC Hydro is conducted pursuant to section 71 of the UCA and the Rules for Energy Supply Contracts for Electricity (ESC Rules) that were established by the Commission under Order G-61-12. Under subsection 71(2), the Commission can accept an EPA for filing without a public hearing but can only make an order determining that an EPA is not in the public interest after a public hearing.⁵

In order to provide stakeholders the opportunity to provide written submissions to the Commission concerning whether the filings are in the public interest and if a hearing is necessary, the Commission issued letter L-28-16 on October 7, 2016.

Letter L-28-16 specifically requested that BC Hydro provide, by October 13, 2016, a copy of the Filing and letter L-28-16 to the following:

- registered interveners for BC Hydro's Fiscal 2017 - Fiscal 2019 Revenue Requirements Application (F2017–F2019 RRA) proceeding;
- Canadian Hydro Developers and the Joint Venture; and
- the First Nations identified on pages 16 to 18 of the Filing.

Submissions, if any, from stakeholders were due by November 3, 2016 and BC Hydro was to file a reply submission, if any, by November 17, 2016. The BC Sustainable Energy Association and Sierra Club of BC (BCSEA-SCBC), the British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO) and Mr. Richard T. Landale (Mr. Landale) provided submissions.

On November 1, 2016, Commission staff issued both public and confidential questions to BC Hydro and on November 24, 2016, BC Hydro submitted its responses. BC Hydro provided stakeholders with a copy of the non-confidential responses on November 24, 2016.

On December 20, 2016, BC Hydro filed an amendment to the Akolkolex EPA dated December 19, 2016 which changes the Regulatory Condition Expiry Date set out in the Akolkolex EPA to March 31, 2017.

3.0 DUTY TO CONSULT FIRST NATIONS

In addition to the section 71 review, for EPAs entered into by BC Hydro, the Commission must consider whether entering into these EPAs triggered a duty to consult First Nations on the part of BC Hydro. BC Hydro submits that no duty to consult has been triggered since executing both the Akolkolex and Soo River EPAs will have no impact on the physical footprint of the plants or the operations and energy output of the facilities.⁶

⁵ Subsection 71(2) of the UCA.

⁶ Redacted Filing, pp. 17–18.

Panel discussion

Upon review of the evidence submitted, the Panel agrees with BC Hydro's assessment and therefore finds that the duty to consult First Nations is not triggered by entering into the Akolkolex and Soo River EPAs because there are no anticipated adverse impacts on First Nations' rights that arise from these EPAs. However, as noted above, the Commission requested BC Hydro to notify 16 First Nations and 2 tribal councils with interests in the area of the projects of the EPAs. No First Nation or tribal council responded to the notifications from BC Hydro nor did they file any submissions.

4.0 COMPLIANCE WITH SECTION 71 OF THE UCA

Under section 71 of the UCA, the Commission must determine whether an energy supply contract is in the public interest. Subsection 71(2.21) sets out the considerations in determining the public interest for EPAs with BC Hydro. The criteria include: the Province's energy objectives, the approved integrated resource plan (IRP), the extent to which the energy supply contract is consistent with sections 6 and 19 of the *Clean Energy Act*, the need for the energy, and the quantity and price of the energy. Appendix B to this order provides the section 71 criteria that the Commission must consider when determining that an EPA filed by BC Hydro is in the public interest and the relevant sections of the *Clean Energy Act* (including the British Columbia energy objectives). Also included in Appendix B are a number of relevant ESC Rules.

BC Hydro submits that the Akolkolex and Soo River EPAs are in the public interest and meet the criteria of public interest set out in section 71 of the UCA. BC Hydro also submits that the renewals have a number of important benefits: they allow for the continued use of existing assets which defers the need to develop new resources with associated environmental impacts, allow BC Hydro to negotiate lower energy prices given that the initial Independent Power Producer (IPP) capital investment has likely been fully or largely recovered during the term of the original EPAs, and allow existing projects to continue providing reliable generation with benefits to the province of BC, regional districts and local communities.⁷

4.1 Alignment with BC's energy objectives

With regard to the British Columbia energy objectives set out in section 2 of the *Clean Energy Act*, BC Hydro addresses how the Akolkolex and Soo River EPA renewals support each of the British Columbia energy objectives as follows:

- *To achieve electricity self-sufficiency [objective 2(a)].* BC Hydro has exclusive rights to the electricity from the Akolkolex and Soo River facilities (electricity generated in BC) to satisfy domestic need.
- *To generate at least 93 per cent of the electricity in B.C. from clean or renewable resources [objective 2(c)].* Electricity purchased under the Akolkolex and Soo River EPAs helps BC Hydro meet the 93 percent clean or renewable generation target.
- *To use and foster the development in B.C. of innovative technologies that support energy conservation and efficiency and the use of clean or renewable resources [objective 2(d)].* The Akolkolex and Soo River hydro facilities use proven technologies that utilize clean or renewable hydro resources.
- *To ensure the authority's rates remain among the most competitive of rates charged by public utilities in North America [objective 2(f)].* The levelized energy prices for Akolkolex and Soo River EPAs are [substantially]⁸ lower than the prices in the original EPAs.

⁷ Ibid., pp. 1–2.

⁸ The actual percent numbers have been redacted and the word 'substantially' inserted by the Panel.

- *To encourage economic development and the creation and retention of jobs [objective 2(k)].* Renewal of the Akolkolex and Soo River EPAs provides for the continued operation of the generation facilities, job retention and economic benefits associated with ongoing operating and capital expenditures.
- *To foster the development of First Nation and rural communities through the use and development of clean or renewable resources [objective 2(l)].* The local communities in the Revelstoke and Whistler regions will continue to obtain economic benefits from the ongoing generation of clean/renewable electricity from the Akolkolex and Soo River facilities.
- *To maximize the value, including the incremental value of the resources being clean or renewable resources, of British Columbia's generation and transmission assets for the benefit of British Columbia [objective 2(m)].* The continued generation of clean or renewable electricity from the Akolkolex and Soo River facilities will facilitate the optimization of existing assets.⁹

4.2 Alignment with 2013 IRP

BC Hydro submits that the government-approved 2013 IRP (2013 IRP) and BC Hydro's most recent Load Resource Balance (LRB) demonstrate the need for resource acquisitions such as demand-side management (DSM) savings, the Standing Offer Program (SOP) and IPP contract renewals.

With respect to consideration of the applicable IRP approved under section 4 of the *Clean Energy Act*, BC Hydro notes that in negotiating the terms of the Akolkolex and Soo River EPA renewals that it adhered to Recommended Action 4 of the 2013 IRP. Recommended Action 4 in BC Hydro's 2013 IRP states that BC Hydro will "[o]ptimize its current portfolio of IPP resources according to the key principle of reducing near-term costs while maintaining cost-effective options for long-term need."¹⁰ Renewal of EPAs for IPPs was identified as one of the components of Recommended Action 4. Section 4.2.5.1 of the 2013 IRP notes that in pursuing EPA renewals, BC Hydro is targeting those IPP projects that have the lowest cost, greatest certainty of continued operation, and best system support characteristics.¹¹

The 2013 IRP includes aggregate energy and capacity contributions for EPA renewals, assuming the renewal of 50 percent of the energy and capacity contributions from biomass EPAs and 75 percent from run-of-river hydro EPAs.¹²

BC Hydro submits that BC Hydro's F2017–F2019 RRA, which reflects the most recent LRB, indicates that BC Hydro plans to continue pursuing EPA renewals consistent with Recommended Action 4 of the 2013 IRP. The updated LRB demonstrates the need for additional energy resources, absent the 2013 IRP's Recommended Actions, in fiscal 2022. With the implementation of the 2013 IRP Recommended Actions (i.e., including DSM, SOP and EPA renewals), additional greenfield energy resources are not expected to be needed until fiscal 2034.¹³

4.3 Quantity and availability of energy to be supplied under the EPA

With regard to the quantity of energy to be supplied, BC Hydro indicates that the expected energy generation under the Akolkolex and Soo River EPAs is 40.5 GWh/year and 78.1 GWh/year respectively.¹⁴ BC Hydro indicates

⁹ Redacted Filing, pp. 11–13.

¹⁰ Ibid, Appendix E, p. 7.

¹¹ Ibid., p. 5.

¹² Ibid., p. 8.

¹³ Redacted Filing, p. 8.

¹⁴ Ibid., p. 7.

that the Akolkolex (10 MW) and Soo River (13 MW) run-of-river hydro facilities have reliably provided similar energy volumes for over 20 years.¹⁵ The plants are expected to be capable of continued reliable operation over the term of the EPA renewals based on BC Hydro's risk assessment which included BC Hydro's review of project financial information an independent review of permits required, and condition assessments conducted by engineering consultants contracted by the project owners that concluded that both installations are in good condition and capable of operating reliably for the term of the contract.¹⁶

4.4 Price and availability of alternate forms of energy

BC Hydro considers that the negotiated energy prices are cost-effective given that the levelized prices over the term of the new EPAs are lower than the original EPA prices, lower than BC Hydro's opportunity cost and also give consideration to the IPPs' cost of service.¹⁷ BC Hydro indicates that BC Hydro's opportunity cost represents the upper benchmark for cost-effectiveness and is based on the price and availability of alternative forms of energy.

4.5 Price of the energy

Although the redacted versions of the EPAs filed do not indicate the actual price of the energy, BC Hydro has indicated that the levelized energy prices for Akolkolex and Soo River EPAs are lower than the prices in the original EPAs. The energy prices for the Akolkolex and Soo River EPA renewals are stepped with the initial years at lower cost than later years. BC Hydro describes the information considered in negotiating the price of EPA renewals as including an estimate of the IPP's cost of service (including a rate of return), as well as, BC Hydro's opportunity cost, the IPP's opportunity cost, the impact to BC Hydro's rates plan, and system benefits and support characteristics (if applicable).¹⁸

5.0 STAKEHOLDER CONCERNS AND RESPONSES

Mr. Landale states that he has no concerns with the Akolkolex and Soo River EPAs. However, he did express concerns related to the definition of public interest in the broader context of the shutting down of some generation and the construction of the Site C hydro electric generation project. Mr. Landale also indicates that it is BC Hydro's responsibility to convince the Commission that their acceptance of the two EPAs is in the 'Public Interest'.¹⁹

BC Hydro agrees with Mr. Landale's position that the onus is on BC Hydro to prove to the Commission why the two EPAs in the Filing should be accepted by the Commission with reference to a definition of 'public interest', the context of surplus power, the construction of Site C and the difference between the EPA price and market prices. BC Hydro maintains that the Filing demonstrates why the Akolkolex and Soo River EPAs are in the public interest pursuant to the factors and criteria the Commission considers in making such a determination pursuant to section 71(2.21) of the UCA, including British Columbia's energy objectives, the 2013 IRP, the Load Resource Balance, the interests of ratepayers, and the price and availability of other forms of energy that could be used instead of the energy to be purchased under the Akolkolex and Soo River EPAs.²⁰

¹⁵ Ibid., p. 13.

¹⁶ Ibid., pp. 15–16.

¹⁷ Ibid., p. 14.

¹⁸ BC Hydro redacted response on November 24, 2016 to non-confidential Commission staff questions, Question 1.2.3.

¹⁹ Mr. Landale submission dated October 11, 2016, p. 2.

²⁰ BC Hydro reply submission, p. 4.

BCSEA-SCBC is of the view that if the Commission finds that the confidentially filed information confirms the publicly filed information then the Commission should find that the renewed EPAs are in the public interest and accept them for filing under section 71. BCSEA-SCBC does not see a need for a public hearing in this matter.²¹

BCOAPO submits that a hearing is necessary as these first two EPAs will effectively set a template for the filing of further EPAs and, as such, should be subjected to a thorough review which includes a hearing. With respect to whether these EPAs are in the public interest, BCOAPO submits that it is not in a position to weigh in without the opportunity to access a copy of the redacted confidential filing and have an opportunity for a round of information requests.

BC Hydro agrees that it would be most efficient for the Commission to verify the publicly filed information rather than having a hearing for stakeholders to do so, particularly in a case like this one where no stakeholder objects to the EPAs.²²

BC Hydro answers the three questions raised in BCOAPO's submission,²³:

- The question regarding the need for the energy is answered by the information provided in Appendix F to the Filing;
- The question regarding the nature of the technologies used in the Akolkolex and Soo River projects and the alignment with the BC energy objectives is answered by the information provided in sections 4.1, 4.2 and 9(d) of the Filing. The Akolkolex and Soo River projects are run-of-river hydroelectric facilities each with two horizontal Francis turbines. Both projects have been in commercial operation and providing reliable electricity to BC Hydro for more than 20 years. Engineering consultants have concluded that these facilities are in good condition and capable of operating reliably during the terms of the respective EPA renewals; and
- The third question regarding how the specimen EPA provided by BC Hydro has been adapted to apply to a joint venture is answered by the Soo River EPA provided to the Commission on a confidential basis as Appendix C to the Filing. The Soo River EPA is based on the Specimen EPA and has been adapted for the Joint Venture.²⁴

Commission determination

In reviewing the material filed, the Panel determines that the EPAs are in the public interest in accordance with the criteria set out in section 71 of the UCA and that there is no need for a hearing. Specifically, the Panel accepts that the EPAs support BC's energy objectives, are aligned with the approved IRP and are consistent with the relevant sections of the *Clean Energy Act*. In addition, the energy meets the criteria set out with respect to quantity, availability and price.

With regard to the need for the energy, the Panel notes that the government approved 2013 IRP, notably Recommended Action 4 includes EPA renewals of up to 75 percent of expiring run-of-the-river EPAs as one of the IPP portfolio optimization measures to reduce near-term costs while maintaining cost-effective options for long-term need. BC Hydro clarified that this is measured in terms of the aggregate energy and capacity rather than the number of EPAs.²⁵ The combined quantity of energy in these renewals is well within the 75 percent run-

²¹ BCSEA-SCBC submission dated October 17, 2016, p. 1.

²² BC Hydro reply submission, p. 5.

²³ BCOAPO submission dated November 2, 2016.

²⁴ BC Hydro reply submission, pp. 4–5.

²⁵ BC Hydro response on November 24, 2016 to non-confidential Commission staff questions, Question 1.1.6.

of-river quantity in BC Hydro negotiations with IPPs as illustrated by the tables provided by BC Hydro on November 24, 2016 in response to non-confidential Commission staff question 1.1.5 and reproduced below. BC Hydro notes the numbers in the tables are based on firm energy load carrying capability and effective load carrying capability, respectively, as defined in the 2013 IRP.²⁶

<i>Energy (GWh)</i>	F2017	F2018	F2019	F2020	F2021	F2022	F2023	F2028	F2033
Akolkolex EPA	■	■	■	■	■	■	■	■	■
Soo River EPA	■	■	■	■	■	■	■	■	■
Total energy contribution from executed EPA renewals [A]	42	100	100	100	100	100	100	100	100
Total run-of-river hydro EPA Renewals from the 2013 IRP [B]	164	208	209	209	209	209	209	969	1,178
Remaining contribution to be met from future renewals [B-A]	121	108	109	109	109	109	109	869	1,079

* Numbers may not add due to rounding.

<i>Capacity (MW)</i>	F2017	F2018	F2019	F2020	F2021	F2022	F2023	F2028	F2033
Akolkolex EPA	■	■	■	■	■	■	■	■	■
Soo River EPA	■	■	■	■	■	■	■	■	■
Total energy contribution from executed EPA renewals [A]	4	4	4	4	4	4	4	4	4
Total run-of-river hydro EPA Renewals from the 2013 IRP [B]	8	11	11	11	11	11	11	32	33
Remaining contribution to be met from future renewals [B-A]	4	8	8	8	8	8	8	29	30

* Numbers may not add due to rounding.

²⁶ Ibid, Question 1.1.5.

The Panel finds that these two run-of-river EPA renewals are well within the quantity contemplated in the 2013 IRP.

With regard to cost-effectiveness, BC Hydro has indicated that in pursuing EPA renewals it is targeting those IPP projects that have the lowest cost, greatest certainty of continued operation and best system support characteristics. BC Hydro states that BC Hydro's 10-Year Rates Plan provides the financial framework for implementing the recommended actions of the 2013 IRP. Further, BC Hydro also states that its negotiations with individual IPPs are focussed on achieving a cost-effective renewal contract, in the context of Recommended Action 4, by staying within the total cost forecast from the 10-Year Rates Plan and the current LRB.²⁷ BC Hydro filed confidential information in response to Commission staff questions which provides details regarding the factors BC Hydro considered and evaluated when negotiating the pricing terms for the two EPAs in order to ensure the EPAs were cost-effective.

Further, the Panel notes that the price of energy from both projects is staged to match the timing and needs of BC Hydro such that the price is lower when the BC Hydro needs are lower and higher when the LRB indicates a deficiency of resources. Thus the timing and the pricing of energy and capacity are attractive features of these contracts and adequately consider the public interest. Moreover, the EPA renewals allow existing projects to continue providing reliable generation with benefits to the Province of BC, regional districts and local communities.

The Panel finds that the energy pricing for each of the two EPAs is cost-effective.

Based on the analysis and assessment of the issues contained in these Reasons for Decision:

- **The Panel determines that the EPA dated July 12, 2016 between BC Hydro and Canadian Hydro Developers, Inc. (Akolkolex EPA), together with the amendment to the Akolkolex EPA dated December 19, 2016, are in the public interest and are accepted for filing pursuant to section 71 of the UCA.**
- **The Panel determines that the EPA dated October 1, 2016 between BC Hydro and the joint venture comprised of Executive House Power Corporation, Whistler Hydro Inc., Blakely Energy Resources Inc. and Magrath Energy Limited Partnership (Soo River EPA) is in the public interest and is accepted for filing pursuant to section 71 of the UCA.**

Accordingly, no further process is required, and a public hearing is not necessary.

In addition to its request to hold the un-redacted version of the Filing confidential, BC Hydro also requests that the un-redacted responses to the confidential and public Commission staff questions also be held confidential. **The Commission will hold confidential the un-redacted version of the Akolkolex and Soo River Electricity Purchase Agreements and the un-redacted additional information provided in confidence to the Commission in regard to the Akolkolex and Soo River Electricity Purchase Agreements.** The Panel is satisfied that the un-redacted material contains information that is commercially sensitive and may prejudice BC Hydro's position in other negotiations.

²⁷ Ibid., Question 1.1.1.

British Columbia Hydro and Power Authority
Section 71 Filing of the Electricity Purchase Agreements
Akolkolex and Soo River

LEGISLATION AND ENERGY SUPPLY CONTRACTS RULES

The review of an Electricity Purchase Agreement filed by BC Hydro is conducted pursuant to section 71 of the *Utilities Commission Act* (UCA) and the “Rules for Energy Supply Contracts for Electricity” (ESC Rules) that were established by the Commission under Order G-61-12.

Section 71 of the UCA

Subsection 71(1) of the UCA requires that a person who 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.

Under subsection 71(2) the Commission may make an order determining that an energy supply contract is not in the public interest but can only do so after a hearing.

Under subsection 71(2.21), in determining under subsection 71(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 and be guided by:

- (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).

Section 19 of the *Clean Energy Act* sets out that BC Hydro must pursue actions to meet the prescribed targets in relation to clean or renewable resources in order to achieve the energy objective of generating 93 percent of the electricity in British Columbia from clean or renewable resources as specified below.

British Columbia's energy objectives are set out in section 2 of the *Clean Energy Act*, which details the objectives from (a) to (p) as follows:

- (a) to achieve electricity self-sufficiency;
- (b) to take demand-side measures and to conserve energy, including the objective of the authority reducing its expected increase in demand for electricity by the year 2020 by at least 66%;

- (c) to generate at least 93% of the electricity in British Columbia from clean or renewable resources and to build the infrastructure necessary to transmit that electricity;
- (d) to use and foster the development in British Columbia of innovative technologies that support energy conservation and efficiency and the use of clean or renewable resources;
- (e) to ensure the authority's ratepayers receive the benefits of the heritage assets and to ensure the benefits of the heritage contract under the *BC Hydro Public Power Legacy and Heritage Contract Act* continue to accrue to the authority's ratepayers;
- (f) to ensure the authority's rates remain among the most competitive of rates charged by public utilities in North America;
- (g) to reduce BC greenhouse gas emissions
 - i. by 2012 and for each subsequent calendar year to at least 6% less than the level of those emissions in 2007,
 - ii. by 2016 and for each subsequent calendar year to at least 18% less than the level of those emissions in 2007,
 - iii. by 2020 and for each subsequent calendar year to at least 33% less than the level of those emissions in 2007,
 - iv. by 2050 and for each subsequent calendar year to at least 80% less than the level of those emissions in 2007, and
 - v. by such other amounts as determined under the *Greenhouse Gas Reduction Targets Act*;
- (h) to encourage the switching from one kind of energy source or use to another that decreases greenhouse gas emissions in British Columbia;
- (i) to encourage communities to reduce greenhouse gas emissions and use energy efficiently;
- (j) to reduce waste by encouraging the use of waste heat, biogas and biomass;
- (k) to encourage economic development and the creation and retention of jobs;
- (l) to foster the development of first nation and rural communities through the use and development of clean or renewable resources;
- (m) to maximize the value, including the incremental value of the resources being clean or renewable resources, of British Columbia's generation and transmission assets for the benefit of British Columbia;
- (n) to be a net exporter of electricity from clean or renewable resources with the intention of benefiting all British Columbians and reducing greenhouse gas emissions in regions in which British Columbia trades electricity while protecting the interests of persons who receive or may receive service in British Columbia;
- (o) to achieve British Columbia's energy objectives without the use of nuclear power; and
- (p) to ensure the commission, under the *Utilities Commission Act*, continues to regulate the authority with respect to domestic rates but not with respect to expenditures for export, except as provided by this Act.

Commission Rules for Energy Supply Contracts for Electricity

Appendix A of Commission Order G-61-12 provides the Commission's Rules for Energy Supply Contracts for Electricity.

Rule 1.2 states:

The Commission will rely on all information it considers necessary to determine whether an ESC is in the public interest. In doing so it will consider the factors referred to in section 71(2.1) and (2.2) of the Act where the ESC is filed by a public utility other than BC Hydro and the Commission will consider and be guided by the factors in section 71(2.21) of the Act where the ESC is filed by BC Hydro.

Rule 1.3 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."

Rule 1.6 states:

Where applicable, an ESC filing pursuant to section 71(1) of the Act ... must at a minimum include the following information: duration, rights of renewal and other special provisions, reliability considerations, price and price escalation and alternate sources of supply of the ESC or Proposed ESC and, where a person seeks Commission acceptance of an amendment to an ESC, that notice has been provided to all parties that intervened in any Commission proceeding concerning the filing of the original ESC under section 71 of the Act."