



**ORDER NUMBER**  
**G-26-17**

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

and

British Columbia Hydro and Power Authority  
Inquiry of Expenditures related to the adoption of the SAP Platform  
British Columbia Utilities Commission Action on Complaint

**BEFORE:**

D. M. Morton, Commissioner/Panel Chair  
H. G. Harowitz, Commissioner  
R. I. Mason, Commissioner

on February 28, 2017

**ORDER**

**WHEREAS:**

- A. On December 10, 2015, the British Columbia Utilities Commission (Commission) received a letter dated December 8, 2015 from Mr. Adrian Dix, MLA (Mr. Dix), which makes a number of statements and allegations against British Columbia Hydro and Power Authority (BC Hydro) pertaining to its conversion to SAP as its Information Technology platform;
- B. On May 3, 2016, the Commission issued Order G-58-16 establishing an inquiry to review BC Hydro's expenditures related to the adoption of the SAP platform (SAP Inquiry);
- C. On May 9, 2016, the Commission issued Order G-62-16, which set out a proposed scope of inquiry and a preliminary regulatory timetable, including written submissions on scope and procedure followed by a procedural conference to be held on June 1, 2016;
- D. The following interveners registered in the proceeding:
  - British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Together Against Poverty Society, and The Tenant Resource and Advisory Centre (BCOAPO);
  - Commercial Energy Consumers Association of British Columbia (CEC);
  - Mr. Dix;
  - Movement of United Professionals (MoveUP);
  - James Laurence Group Inc.; and
  - Ms. Ilse Leis;

- E. Subsequent to the procedural conference held on June 1, 2016, the Commission issued Order G-81-16 which, among other things, established a regulatory timetable for the SAP Inquiry. The regulatory timetable included BC Hydro's filing of consolidated information, one round of Commission and intervener information requests, submissions on further process, and a second procedural conference;
- F. The second procedural conference was held on October 28, 2016;
- G. By Order G-168-16 dated November 23, 2016 with accompanying reasons for decision, the Commission, among other things, established a further regulatory timetable which included a date for BC Hydro to file a witness list and witness statements and a date for BC Hydro and interveners to file submissions on further process;
- H. On January 26, 2017, BC Hydro submitted witness statements from six of its current employees;
- I. On February 9, 2017, BC Hydro, BCOAPO, CEC, Mr. Dix, and MoveUP filed submissions on further process; and
- J. The Commission has reviewed the evidence and submissions and considers that one round of information requests on the witness statements filed by BC Hydro is warranted.

**NOW THEREFORE** for the reasons attached as Appendix B to this order, the British Columbia Utilities Commission establishes a regulatory timetable attached as Appendix A to this order, which provides for one round of information requests on the witness statements filed by British Columbia Hydro and Power Authority.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 28<sup>th</sup> day of February 2017.

BY ORDER

*Original signed by:*

D. M. Morton  
Commissioner

Attachments

British Columbia Hydro and Power Authority  
Inquiry of Expenditures related to the adoption of the SAP Platform  
British Columbia Utilities Commission Action on Complaint

**REGULATORY TIMETABLE**

ACTION	DATE (2017)
Information Requests on BC Hydro Witness Statements	Tuesday, April 4
BC Hydro Response to Information Requests	Tuesday, May 16
Further process to be determined	TBD

British Columbia Hydro and Power Authority  
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**REASONS FOR DECISION**

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**1.0 BACKGROUND**

On December 10, 2015, the British Columbia Utilities Commission (Commission) received a letter of complaint dated December 8, 2015 from Mr. Adrian Dix, MLA, (Mr. Dix), which makes a number of statements and allegations against British Columbia Hydro and Power Authority (BC Hydro) pertaining to its conversion to SAP as its information technology platform. The Commission, by letter dated December 11, 2015, requested BC Hydro to review the letter of complaint from Mr. Dix and provide a response to the Commission by January 8, 2016. On March 9, 2016, the Commission issued a series of questions to BC Hydro related to the information filed in Mr. Dix's December 8, 2015 letter of complaint and the information filed in BC Hydro's January 8, 2016 response document.

By Order G-58-16 dated May 3, 2016, the Commission established an inquiry to review BC Hydro's expenditures related to the adoption of the SAP platform (SAP Inquiry). The regulatory process to-date, established by Orders G-62-16, G-81-16 and G-146-16, has included intervener registration, submissions by interveners on the scope of the SAP Inquiry, a procedural conference held on June 1, 2016, BC Hydro's filing of consolidated information, one round of Commission and intervener information requests, and a second procedural conference held on October 28, 2016. Subsequent to the procedural conference held on October 28, 2016, the Commission issued Order G-168-16 and accompanying reasons for decision dated November 23, 2016 which, among other things, established a further regulatory timetable including deadlines for BC Hydro to file a witness list and witness statements followed by submissions from BC Hydro and interveners on further process.

On January 26, 2017, BC Hydro filed witness statements obtained from six current employees of BC Hydro.

On February 9, 2017, BC Hydro and the following interveners filed submissions on further process:

- British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Council of Senior Citizens' Organizations of BC, Disability Alliance BC, Together Against Poverty Society, and The Tenant Resource and Advisory Centre (BCOAPO);
- Commercial Energy Consumers Association of British Columbia (CEC);
- Mr. Dix; and
- Movement of United Professionals (MoveUP).

**2.0 SUBMISSIONS ON FURTHER PROCESS**

**2.1 BC Hydro**

BC Hydro submits that the witness statements provided by its counsel on January 26, 2017 address the questions posed by the Commission in Order G-168-16 "to the extent possible by current BC Hydro employees most directly involved in the underlying events during the 2008-2009 time period." BC Hydro submits that overall the scope of the SAP Inquiry has been "satisfied to the extent possible" by BC Hydro and that there is a "substantial record for the Commission to consider as it makes findings of fact with respect to the five scope items of the Inquiry and on whether further process is warranted."

## **2.2 BCOAPO**

BCOAPO submits that it “remains of the view that the process must be one that can adequately address the serious concerns raised in Mr. Dix’s complaint and, if required, identify issues that need to be resolved in order to ensure transparency and accountability in future regulatory proceedings.” BCOAPO further submits that it “continues to view credibility as a central issue in resolving the issues Mr. Dix has raised in this proceeding, and submit that credibility on [scope] Items 2 and 5 can only be fully addressed through cross-examination in an oral hearing.” BCOAPO, however, “does not anticipate taking the lead” in an oral hearing process.

## **2.3 CEC**

CEC considers a written process to be appropriate to conclude the SAP Inquiry and submits the following:

It is apparent to CEC as a ratepayer representative there is little else that BC Hydro representatives can add to the record. The CEC sees little probative value in conducting a costly oral hearing process to conclude the Inquiry. It is evident the present day Executive and Management of BC Hydro has been forthright in acknowledging that errors were made in representations to the Commission around the SAP Platform, and further BC Hydro has issued an apology for its conduct.

## **2.4 Mr. Dix**

Counsel for Mr. Dix submits that the final process for the SAP Inquiry “cannot be fairly and reasonably determined unless and until certain former employees and directors of BC Hydro have been asked to provide witness statements.” Specifically, Mr. Dix’s counsel points to former BC Hydro employees Don Stuckert, Charles Reid and George Koyanagi, stating that these individuals were “deeply involved in (i) the SAP program, and (ii) BC Hydro’s representations to the Commission in 2008.”

Mr. Dix’s counsel also states that based on BC Hydro’s witness statements and counsel’s review of the documents and information produced to date, “it appears that two of the former [BC Hydro] employees may have evidence relevant to items within the Scope of Inquiry” – Raymond Tang and David Wong.

Finally, Mr. Dix’s counsel requests that the Commission direct BC Hydro to obtain a witness statement from a Board of Directors member who was on the Audit and Risk Management Committee in 2008 and 2009. Mr. Dix’s counsel submits that there is “nothing preventing BC Hydro from seeking a statement from a former Board and Committee member” because “BC Hydro’s relationship with former directors is not analogous to its relationship with former employees.” Thus, “it would not be inappropriate or prejudicial to request a statement from a former director in these circumstances.”

## **2.5 MoveUP**

MoveUP submits that there is “sufficient evidence now on the record and indication of the concerns of and processes preferred by the Interveners for this Commission Panel to determine the appropriate process to ensure a full and fair hearing of the issues raised by this complaint.”

### **Commission determination**

**The Panel orders that the regulatory timetable set out in Appendix A be established to provide interveners with an opportunity to submit one round of information requests on the witness statements filed by BC Hydro on January 26, 2017.** The witness statements are new evidence in this proceeding and thus, for reasons of procedural fairness, it is appropriate for parties to have the opportunity to test this new evidence. **With regard to Mr. Dix's request that the Panel direct further witness statements be obtained from five former BC Hydro employees and from a former Board and Committee member, the Panel does not require any further witness statements.**

In the Panel's reasons for decision accompanying Order G-168-16, we noted that while there is a large volume of information on the record, an attempt to fill any remaining gaps in the record, particularly with regard to the 2008-2009 time period, by soliciting further evidence from current and former BC Hydro employees was warranted. As noted above, BC Hydro has provided additional evidence through the gathering of witness statements from its current employees who were directly or indirectly involved in the events and decisions in the 2008-2009 time period regarding the SAP strategy. As BC Hydro has declined to obtain witness statements from the three former employees identified by the Panel in Order G-168-16, there are certain individuals directly involved in the events surrounding the 2008-2009 time period who have not provided their recollection of these events.

Counsel for Mr. Dix asserts that the final process for the SAP Inquiry cannot be "fairly and reasonably determined unless and until certain former employees and directors of BC Hydro have been asked to provide witness statements" and that "if two witness statements provide conflicting recollections of key events, then the Commission may need to hear from both witnesses before deciding whose recollection is more reliable."

The Panel disagrees. The purpose of the SAP Inquiry is a "fact-finding exercise", as outlined in Order G-58-16, and the Panel considers the breadth of information gathered during this inquiry to be more than adequate to fairly and reasonably address the five scope items. While there may be gaps remaining in the evidentiary record, the Panel considers the regulatory burden imposed by the expenditure of time and resources to fill these remaining gaps to outweigh the benefit of any incremental information which may be provided from further witness statements.

As stated by Mr. Dix's counsel in its February 9, 2017 submission, the witness statements represent individuals' "recollection of events", events which took place many years ago. The Panel finds individuals' recollections of past events, even when provided as formal witness statements, to possess a greater degree of subjectivity compared to written records of events, such as emails, memos, and other documents.

Therefore, for these reasons, the Panel does not require and will not direct that witness statements be obtained from the individuals listed by Mr. Dix's counsel in its February 9, 2017 submission.