



**ORDER NUMBER
G-84-18**

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

and

E-Plus Homeowners Group
Application for Reconsideration and Variance of Directive 2 of Order G-5-17 and Order G-194-17

BEFORE:
D. A. Cote, Panel Chair/Commissioner

on May 1, 2018

ORDER

WHEREAS:

- A. On January 20, 2017, the British Columbia Utilities Commission (BCUC) issued Order G-5-17 and the accompanying reasons for decision in the matter of the British Columbia Hydro and Power Authority (BC Hydro) 2015 Rate Design Application. Directive 2 of Order G-5-17 states:

BC Hydro is directed to phase out the Residential E-Plus rate program over five years, commencing April 1, 2017. BC Hydro is directed to submit a compliance filing within 30 days of the date of this decision which outlines a proposal for achieving the five-year phase-out period of the E-Plus program and which results in rates being charged to E-Plus customers at the end of the five-year phase-out period that equate to other British Columbia residential customers at that time. BC Hydro is directed to waive the requirement of having an alternative heating system in working order and to eliminate the possibility of service being interrupted over the five-year transition period;

- B. On February 19, 2017, the E-Plus Homeowners Group (EPHG) filed an application with the BCUC for reconsideration and variance of parts of Directive 2 of Order G-5-17 dealing with the residential E-Plus rate, pursuant to section 99 of the *Utilities Commission Act* (UCA) (2017 EPHG Reconsideration Application);
- C. The 2017 EPHG Reconsideration Application proceeded to phase one and phase two of the BCUC's reconsideration process and by Order G-194-17 dated December 19, 2017, the BCUC varied Directive 2 of Order G-5-17 to read as follows:

BC Hydro is directed to phase out the Residential E-Plus rate program over ten years, commencing April 1, 2018, in accordance with Design B as outlined in Exhibit A-3. BC Hydro is directed to waive the requirement of having an alternative heating system in working order and to eliminate the possibility of service being interrupted over the ten-year transition period;

- D. On April 2, 2017, EPHG filed a separate application with the BCUC for reconsideration and variance of Order G-194-17, pursuant to section 99 of the UCA (2018 Reconsideration Application); and

E. The BCUC has reviewed the 2018 Reconsideration Application.

NOW THEREFORE for the reasons attached as Appendix A to this order, the BCUC finds that a *prima facie* case for reconsideration has not been made and rejects EPHG's 2018 Reconsideration Application.

DATED at the City of Vancouver, in the Province of British Columbia, this 1st day of May 2018.

BY ORDER

Original Signed By:

D. A. Cote
Commissioner

Attachment

E-Plus Homeowners Group
Application for Reconsideration and Variance of Directive 2 of Order G-5-17 and Order G-194-17

REASONS FOR DECISION

1.0 Background

The E-Plus Homeowners Group (EPHG) was a registered intervener in the British Columbia Hydro Authority's (BC Hydro) 2015 Rate Design Application proceeding (2015 RDA proceeding). A decision on this proceeding was issued along with Order G-5-17 by the British Columbia Utilities Commission (BCUC) on January 20, 2017 (2015 RDA Decision).

On February 19, 2017, EPHG applied for reconsideration and variance of parts of Directive 2 of Order G-5-17 dealing with the residential E-Plus rate. EPHG sought to extend the duration of the phase-out period for the residential E-Plus rate from five to ten years with the majority of the increase to take effect at the end of the phase-out period. This application was amended during the proceeding by EPHG with a request for BCUC to consider instead setting a termination date of 10 years in the future and maintaining the existing E-Plus rate until that time with only general rate adjustments. By Order G-194-17 issued on December 19, 2017, the BCUC granted the EPHG request for an increase in the duration of the phase-out period from five to ten years. However, it did not grant its request for setting a termination date 10 years in the future subject only to general rate increases during that time. Instead, the BCUC found that a flat rate structure for the 10-year period was most appropriate as was the shape of rate increases outlined in BC Hydro's Design B included in BC Hydro's evidence. Accordingly, Order G-194-17 directed BC Hydro to phase out the E-Plus rate over a 10-year period commencing April 1, 2018, in accordance with the provisions outlined in BC Hydro's Design B.

2.0 EPHG Application and remedies sought

On April 2, 2018, EPHG applied for reconsideration and variance of Order G-194-17 (2018 EPHG Reconsideration Application) with specific reference to the following determination in Order G-194-17:

BC Hydro is directed to phase out the Residential E-Plus rate program over 10 years commencing April 1, 2018, in accordance with Design B as outlined in Exhibit A-3.

It is EPHG's position that the BCUC erred in making its decision in Order G-194-17 and in the 2015 RDA proceeding and Order G-5-17, in that it considered the Residential E-Plus rate (Rate Schedule [RS] 1105) without also considering Commercial and Industrial E-Plus rates (RS 1205, RS 1206 and RS 1207). EPHG states that this "compromised the ability of the EPHG and other parties to make effective arguments regarding the residential rate" which resulted "in an unfair outcome that was prejudicial to E-Plus customers."¹

With reference to sections 59(1) and (2) of the *Utilities Commission Act* (UCA), EPHG submits that Order G-194-17 as well as the earlier Order G-5-17 directing a phase out of only the residential rate is "unjust and discriminatory placing residential homeowners at a disadvantage against commercial/industrial customers receiving electricity under "substantially similar circumstances and conditions." EPHG further states that if

¹ E-Plus Homeowners Group Application for Reconsideration and Variance of Order G-197-17 (EPHG 2018 Reconsideration Application), p. 1.

changes were to be made to the E-Plus program, “they should have been ‘regularly and uniformly extended’ in a manner that was consistent and fair across all E-Plus Rate Schedules.”²

EPHG further submits that an appropriate response to its Application would be to hold in abeyance Order G-194-17 and the phase out of the Residential E-Plus rate until all E-Plus rates are considered as a group and a decision rendered.³

3.0 Reconsideration process

The BCUC Reconsideration Criteria outlines a two-phase process for dealing with reconsideration applications. The first phase is an initial screening process where the applicant must establish a *prima facie* case sufficient to warrant a full reconsideration process to be undertaken. In this first phase, the BCUC generally relies upon the following criteria in determining whether there is a reasonable basis for reconsideration:

- The Commission has made an error in fact or law;
- There has been a fundamental change in circumstances or facts since the Decision;
- A basic principle has not been raised in the original proceedings; or
- A new principle has arisen as a result of the Decision.

Where there are alleged errors of fact or law the application must meet the following criteria before moving to the second, more comprehensive review of the application:

- The claim of error is substantiated on a *prima facie* basis; and
- The error has material implications.

When these criteria have been met the reconsideration moves to the second phase and the Panel determines an appropriate regulatory process.

4.0 BCUC determination

The Panel notes that BC Hydro’s Module 1 2015 RDA did not address Commercial and Industrial E-Plus Rates. The Panel also notes that over the course of the 2015 RDA proceeding, no issues with RS 1205, RS 1206 and RS 1207 were raised by BC Hydro or any of the interveners including EPHG. Therefore, there was no evidence before the Panel and no basis upon which to review these Commercial or Industrial E-Plus Rate Schedules. With respect to the Residential E-Plus Rate Schedule, there was an ample body of evidence between the 2015 RDA proceeding and the subsequent 2017 EPHG Reconsideration proceeding upon which to render a decision.

That said, there are two issues the Panel must consider. The first is whether the fact that all E-Plus rate groups were not considered at one time constitutes an error in fact or law. The second is whether EPHG’s claim that ignoring Commercial and Industrial E-Plus Rates is unjust and unduly discriminatory, with reference to section 59 of the UCA, and that residential E-Plus customers are at a disadvantage against commercial E-Plus customers.

With respect to these issues, the Panel finds the direction provided by the UCA to be particularly helpful. Section 60 of the UCA states the following:

² EPHG 2018 Reconsideration Application, pp. 3–4.

³ EPHG 2018 Reconsideration Application, p. 5.

- (c) if the public utility provides more than one class of service, the commission must
 - (i) segregate the various kinds of service into distinct classes of service,
 - (ii) in setting a rate to be charged for the particular service provided, consider each distinct class of service as a self contained unit ...

BC Hydro has a number of different classes of service including residential, small commercial, large commercial and industrial. Each of these is separate and distinct from one another. Section 60 of the UCA is specific and states that each class of service is to be considered as a self-contained unit. Therefore, regardless of whether there is a similar purpose or approach to the rate schedules, as submitted by EPHG, there is no requirement that changes to one class be considered in the context of other rate classes as they are each self contained. Accordingly, the Panel finds that no error in fact or law has been made because the commercial and industrial rate classes are each self contained units. In a similar vein, the Panel finds there is no merit to EPHG's claim that not dealing with commercial and industrial rates coincidentally with residential rates is unjust and discriminatory. Any such discrimination would need to have occurred within the rate class as interclass comparisons of this nature have no application under the UCA. **Given these circumstances, the Panel finds that a *prima facie* case for reconsideration has not been made and rejects EPHG's 2018 Reconsideration Application.**

While having no weight in these determinations, the Panel notes that BC Hydro stated in its application in the 2015 RDA proceeding (Exhibit B-1) that the Module 2 Rate Design Application will address Commercial and Industrial E-Plus Rate Schedules.⁴

⁴ British Columbia Hydro and Power Authority 2015 Rate Design Application, Exhibit B-1, p. 5-2.