



**ORDER NUMBER**  
**G-153-18**

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

and

British Columbia Hydro and Power Authority  
Application for Electricity Purchase Agreement Renewals for  
Sechelt Creek Hydro, Brown Lake Hydro and Walden North Hydro

**BEFORE:**

D. M. Morton, Commissioner/Panel Chair  
B. A. Magnan, Commissioner  
R. I. Mason, Commissioner

on August 16, 2018

**ORDER**

**WHEREAS:**

- A. On May 31, 2018, British Columbia Hydro and Power Authority (BC Hydro) filed with the British Columbia Utilities Commission (BCUC) an application, pursuant to section 71 of the *Utilities Commission Act* (UCA), to accept for filing the following Electricity Purchase Agreements (EPA) (collectively, the Application):
  1. An EPA effective March 1, 2018 between BC Hydro and MPT Hydro LP for the Sechelt Creek run-of-river hydroelectric project (Sechelt Creek EPA Renewal);
  2. An EPA effective April 1, 2018 between BC Hydro and Brown Miller Power Limited Partnership for the Brown Lake Storage hydroelectric project; and
  3. An EPA effective April 1, 2018 between BC Hydro and Cayoose Creek Power Limited Partnership for the Walden North run-of-river hydroelectric project.
- B. By Ministerial Order M-22-9801, dated August 28, 1998, any EPAs agreed upon by BC Hydro or any persons selling electricity to BC Hydro on or before March 31, 2000, were exempted from section 71 of the UCA. The threshold date for this exemption was subsequently updated to September 30, 2001, by Amending Ministerial Order M-22-9801-A1;
- C. By Order G-61-12, dated May 17, 2012, the BCUC approved the Rules for Energy Supply Contracts for Electricity (Rules). Appendix A of Order G-61-12 contains the Rules, which are intended to facilitate the BCUC's review of energy supply contracts for electricity, pursuant to section 71 of the UCA;
- D. On April 17, 2018, BC Hydro requested an extension from the 60 days filing rule for the Sechelt Creek EPA Renewal, as set out in the Rules. BC Hydro's filing extension request was granted by letter dated April 24, 2018; and

E. The BCUC considers that a regulatory timetable should be established for the review of the Application.

**NOW THEREFORE** pursuant to section 71 of the UCA and for the reasons attached as Appendix B, the BCUC orders as follows:

1. A written hearing process is established for the review of the Application in accordance with the regulatory timetable as set out in Appendix A to this order.
2. BC Hydro is directed to provide further elaboration on why the confidentially filed information should be held confidential by the deadline, as set out in the regulatory timetable contained in Appendix A to this order.
3. As soon as reasonably possible, BC Hydro is to publish the public version of the Application, this order and the regulatory timetable on its website and to provide a copy of the public version of the Application and this order to all registered interveners in its BC Hydro F2017-2019 Revenue Requirement Application proceeding, and the First Nations communities identified in the Application that are within the consultative boundaries of the three EPAs.
4. Intervenors who wish to participate in the regulatory proceeding are to register with the BCUC by completing a Request to Intervene Form, available on the BCUC's website at <http://www.bcuc.com/Registration-Intervener-1.aspx>, by the date established in the regulatory timetable attached as Appendix A to this order, and in accordance with the BCUC's Rules of Practice and Procedure attached to Order G-1-16. In accordance with the BCUC's Rules of Practice and Procedure, parties requesting access to confidential information must submit a request electronically to the BCUC, with a copy to BC Hydro explaining the reason(s) for the request and a statement describing how access to the information pertains to their participation in the proceeding. The requestor must sign and file with BC Hydro and the BCUC a Declaration and Undertaking form in respect of the use of the confidential information before receiving a copy of the confidential information from BC Hydro.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 16<sup>th</sup> day of August 2018.

BY ORDER

*Original signed by*

D. M. Morton  
Commissioner

Attachment

British Columbia Hydro and Power Authority  
Application for Electricity Purchase Agreement Renewals for  
Sechelt Creek Hydro, Brown Lake Hydro and Walden North Hydro

**REGULATORY TIMETABLE**

---

Action	Date 2018
BC Hydro response on confidentiality	Friday, August 24
Intervener registration	Thursday, August 30
BCUC Information Request (IR) No. 1	Thursday, September 13
Intervener IR No. 1	Thursday, September 20
BC Hydro response to BCUC and Intervener IRs	Thursday, October 4
Further process	To be determined

British Columbia Hydro and Power Authority  
Application for Electricity Purchase Agreement Renewals for  
Sechelt Creek Hydro, Brown Lake Hydro and Walden North Hydro

---

REASONS FOR DECISION

---

**1.0 Background**

On May 31, 2018, British Columbia Hydro and Power Authority (BC Hydro) filed with the British Columbia Utilities Commission (BCUC) an application, pursuant to section 71 of the *Utilities Commission Act* (UCA), to seek an order from the BCUC that the renewed Electricity Purchase Agreements (EPA) with Sechelt Creek, Brown Lake, and Walden North Independent Power Producers are in the public interest and are accepted for filing (collectively, the Application).

**1.1 Legislative framework**

Subsection 71(2) of the UCA states that “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.”

Further, Subsection 71(2.21) of the UCA states:

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).

If the BCUC, following a hearing, determines an energy supply contract (ESC) is not in the public interest, it may pursuant to section 71(3) of the UCA:

- (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.

By BCUC Order G-61-12 dated May 17, 2012, BCUC established the Rules for Energy Supply Contracts for Electricity (Rules) to facilitate the review of ESC for electricity. Regarding the need for a hearing, section 1.3 of BCUC's 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.

## 2.0 Application

### *EPA renewal process*

In the Application, BC Hydro states it is committed to the 2013 Integrated Resource Plan (2013 IRP) in continuing to pursue EPA renewals with Independent Power Producers (IPP).<sup>1</sup> BC Hydro also states that the 2013 IRP includes EPA renewal assumptions, however those assumptions do not set targets or threshold amounts for the energy and capacity volumes for EPA renewals but were estimates of what BC Hydro assumed at that time would be available for renewal at a cost effective price.<sup>2</sup> Instead, EPAs with each individual IPP project are assessed as they approach the end of their respective contract terms and the total cost forecast from the 10-Year Rates Plan provides a financial framework and budget within which the costs for all EPA renewals are being managed by BC Hydro.<sup>3</sup>

### *Sechelt Creek EPA renewal*

The Sechelt Creek EPA renewal with MPT Hydro LP, effective March 1, 2018, replaces the original EPA signed in 1990. The original EPA had an evergreen provision allowing the contract to continue from year-to-year after March 2017 unless terminated by either party after providing six months' notice. BC Hydro terminated the original EPA effective March 1, 2018 immediately prior to the effective date of the Sechelt Creek EPA renewal.

BC Hydro states that the Sechelt Creek facility is located close to BC Hydro's load centre and delivers a relatively high proportion of its annual energy during BC Hydro's peak load months.<sup>4</sup> BC Hydro notes some provincial permits and agreements will require renewal before the end of the new EPA term, but also notes that BC Hydro

---

<sup>1</sup> Exhibit B-1, p. 2.

<sup>2</sup> Ibid, p. 2.

<sup>3</sup> Ibid, pp. 2–3.

<sup>4</sup> Ibid, p. 6.

is expected to incur network upgrade costs as it relates to the required Sechelt Creek upgrades pursuant to its Standard Generation Interconnection Agreement.<sup>5</sup>

### *Brown Lake EPA renewal*

The Brown Lake EPA Renewal with Innergex Renewable Energy Inc., effective April 1, 2018, replaces the original EPA signed in 1994. The original EPA had an evergreen provision allowing the contract to continue from year-to-year after December 2016 unless terminated by either party after providing six months' notice. BC Hydro terminated the original EPA effective April 1, 2018 immediately prior to the effective date of the Brown Lake EPA renewal.

BC Hydro states the storage capability at the Brown Lake facility allows BC Hydro to support local reliability in the Prince Rupert area, acting as standby resource in case of an outage for BC Hydro's transmission line. BC Hydro notes the Brown Lake facility will not be decommissioned or decommissioned prior to its end-of-life if the EPA is not renewed. In the absence of an EPA renewal with BC Hydro, the Brown Lake IPP's intention and preferred course of action is to sell energy to another party.<sup>6</sup>

### *Walden North EPA renewal*

The Walden North EPA Renewal with Cayoose Creek Power Limited Partnership is effective April 1, 2018. The original EPA signed in 1990 had an initial 20 year term with an evergreen provision allowing the contract to continue from year-to-year unless terminated by either party after providing six months' notice. The original Walden North EPA Diversion Agreement dated November 14, 1990 and the related Forbearance Agreement effective April 1, 2014 remains in effect, and will continue in accordance unless the Walden North EPA Renewal is accepted by the BCUC.

BC Hydro states the Walden North project provides support to BC Hydro facilities in relation to generation and water flow and facilitates salmon migration to spawning areas in the Bridge River system during the sockeye salmon migration period. BC Hydro notes the Walden North IPP is planning to undertake certain refurbishments of the Walden North facilities once the Walden North EPA renewal has received BCUC acceptance. The refurbishment includes a new sluice gate, penstock/manifold recoating, civil upgrades for the powerhouse and tailrace area and the decommissioning of an old penstock. The purpose of the refurbishment is to restore the facility to its original condition, and bring other aspects of the facility to current standards. BC Hydro also notes that in the absence of an EPA renewal with BC Hydro, the Walden North facility will not be decommissioned or decommissioned prior to its end-of-life if the EPA is not renewed.<sup>7</sup>

### *BCUC determination*

In determining whether the filed EPAs are in the public interest under section 71 of the UCA, the Panel must consider British Columbia's energy objectives, an applicable IRP, whether the EPAs are consistent with section 19 of the Clean Energy Act, the quantity, price, and availability of the energy to be supplied under the EPAs, and the price and availability of alternatives. The Panel considers that additional information is required to fully consider the Application against each of the factors listed under section 71 (2.21) of the UCA, and that it is unable to determine whether the new EPAs are in the public interest at this time given the information provided.

---

<sup>5</sup> Ibid, pp. 15, 16.

<sup>6</sup> Ibid, pp. 15, 17, 23.

<sup>7</sup> Ibid, pp. 24, 28, 35.

Therefore, pursuant to section 71 of the UCA and consistent with section 1.3 of the Rules, the Panel considers that a public hearing is required to determine whether the EPA renewals are in the public interest, and hereby establishes a public hearing process and the regulatory timetable contained in Appendix A to this order to review the Application.

### 3.0 Confidentiality

BC Hydro states that it has redacted commercially sensitive information from the public version of the Application, the three EPA renewals in their entirety (Appendix E), as well as the original Walden North EPA, Forbearance Agreement and Diversion Agreement in their entirety (Appendix H, I, and J respectively). As provided by the General Rules 1.10 of the Rules for Energy Supply Contracts for Electricity, Part IV of the BCUC's Rules of Practice and Procedure, and section 42 of the *Administrative Tribunals Act*, BC Hydro requests that the BCUC keep this information confidential.<sup>8</sup> BC Hydro explains that it is of the view that specific commercial terms and conditions relating to the three EPA renewals, such as the pricing information and cost-effectiveness benchmarks, are commercially sensitive and the public disclosure of such information will harm BC Hydro's negotiating position with respect to further EPA renewals.<sup>9</sup>

#### *BCUC determination*

Pursuant to section 20.01 of the BCUC's Rules of Practice and Procedure, the Panel seeks further elaboration from BC Hydro as to why the redacted information in its entirety, including that which does not relate to pricing and cost effectiveness benchmarks, including but not limited to the term of EPAs and quantity of energy supplied, should be held confidential. **BC Hydro is directed to provide further elaboration on why the confidentially filed information should be held confidential by the deadline as set out in the regulatory timetable contained in Appendix A to this order.**

---

<sup>8</sup> Exhibit B-1, cover letter, p. 2.

<sup>9</sup> Ibid.