



**ORDER NUMBER**  
**G-311-19**

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

and

British Columbia Hydro and Power Authority  
Fiscal 2020 to Fiscal 2021 Revenue Requirements Application

**BEFORE:**

D. M. Morton, Panel Chair  
A. K. Fung, QC, Commissioner  
R. I. Mason, Commissioner

on November 29, 2019

**ORDER**

**WHEREAS:**

- A. On February 25, 2019, the British Columbia Hydro and Power Authority (BC Hydro) filed its Fiscal 2020 to Fiscal 2021 (F2020–F2021) Revenue Requirements Application (Application) with the British Columbia Utilities Commission (BCUC) pursuant to sections 44.2, 58 to 61 and 99 of the *Utilities Commission Act* requesting, among other things:
1. approval of a reduction of the Deferral Account Rate Rider from 5 percent to 0 percent effective April 1, 2019;
  2. approval of an increase in rates by 6.85 percent effective April 1, 2019;
  3. approval of an increase in rates by 0.72 percent effective April 1, 2020; and
  4. approval of the F2020–F2021 Open Access Transmission Tariff rates as set out in Table 9-8 of the Application effective April 1, 2019 and April 1, 2020, respectively;
- B. By Orders G-45-19, G-146-19, G-218-19, G-268-19 and G-279-19, the Panel established and later amended the Regulatory Timetable for the review of the Application which provided for, among other things, a procedural conference on November 22, 2019 and an oral hearing to commence on January 20, 2020;
- C. By letter dated November 14, 2019, the BCUC issued a letter identifying several procedural matters to be addressed by the parties at the procedural conference;
- D. On November 18, 2019, BC Hydro filed comments on the procedural matters set out in the BCUC's letter (Pre-filed Comments);
- E. In accordance with the Regulatory Timetable, the procedural conference took place on November 22, 2019, and was attended by: BC Hydro; Association of Major Power Customers of BC; British Columbia Old Age

Pensioners' Organization et al.; BC Sustainable Energy Association; Clean Energy Association of B.C.; Commercial Energy Consumers Association of British Columbia; FortisBC Energy Inc. and FortisBC Inc.; Movement of United Professionals; Zone II Ratepayers Group; E. Gjoshe; and D. Ince; and

- F. The BCUC has considered BC Hydro's Pre-filed Comments and the submissions made by the parties at the procedural conference and finds that establishing the scope of the oral hearing for the review of the Application is warranted.

**NOW THEREFORE**, for the reasons attached as Appendix A to this order, the BCUC orders that the scope of the oral hearing for the review of the Application includes the entire Application with the exception of the topics specifically excluded as indicated in Appendix A to this order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this        *29th*        day of November 2019.

BY ORDER

*Original Signed By:*

D. M. Morton  
Commissioner

Attachment

British Columbia Hydro and Power Authority  
Fiscal 2020 to Fiscal 2021 Revenue Requirements Application

## REASONS FOR DECISION

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By Orders G-45-19, G-146-19, G-218-19, G-268-19 and G-279-19, the British Columbia Utilities Commission (BCUC) established and later amended the Regulatory Timetable for the review of British Columbia Hydro and Power Authority's (BC Hydro) Fiscal 2020 to Fiscal 2021 (F2020–F2021) Revenue Requirements Application (Application), which provided for, among other items, a procedural conference on November 22, 2019 and an oral hearing to commence on January 20, 2020. On November 14, 2019, the BCUC issued a letter that identified the following procedural matters for the parties to address at the procedural conference:

1. Any items to be removed from the scope of the oral hearing and the rationale for such removal. If no such items are identified, the scope of the oral hearing will be the entire application.
2. Any other relevant procedural matters that parties wish to bring to the attention of the Panel that will assist in the efficient review of the Application.

On November 18, 2019, BC Hydro filed its comments on the procedural matters set out in the BCUC's letter (Pre-filed Comments). The Pre-filed Comments included a document reflecting the intervenor feedback received by BC Hydro as at November 18, 2019 regarding the topics to include in the scope of the oral hearing (Draft Scoping Document).<sup>1</sup> During the procedural conference, the Commercial Energy Consumers Association of British Columbia (CEC) provided an update to the Draft Scoping Document, which included CEC's position on whether the topics should or should not be excluded from the oral hearing (CEC Scoping Document).<sup>2</sup>

The procedural conference took place on November 22, 2019, and was attended by: BC Hydro; Association of Major Power Customers of BC (AMPC); British Columbia Old Age Pensioners' Organization et al. (BCOAPO); BC Sustainable Energy Association (BCSEA); Clean Energy Association of B.C. (CEABC); CEC; FortisBC Energy Inc. and FortisBC Inc. (collectively, FortisBC); Movement of United Professionals (MoveUP); Zone II Ratepayers Group (Zone II RPG); E. Gjoshe (Gjoshe); and D. Ince (Ince).

### 1.0 Scope of the oral hearing

The Draft Scoping Document divided the Application into approximately 50 topics, and included BC Hydro's view on whether the topic should be included or excluded from the oral hearing; its rationale for exclusion, where applicable; and its interpretation of the intervenor feedback received. The Draft Scoping Document and the CEC Scoping Document show that, for the majority of the topics, BC Hydro and the intervenors agree on whether the topic should be included or excluded from the oral hearing. For those topics where there was disagreement, BC Hydro provided explanation for its view that these topics can be reviewed fairly and effectively based on the written record.

#### *Parties' Positions*

BC Hydro stresses the importance of carefully scoping the oral hearing "to target the areas where oral examination promises the greatest value and to ensure that an oral hearing can be conducted in an efficient

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<sup>1</sup> Exhibit B-24, Attachment A.

<sup>2</sup> Exhibit C9-10.

manner,” given the amount of information that is already on the written record, the number of witnesses necessary to speak in depth to all the topics in the Applications and the number of interveners.<sup>3</sup>

BC Hydro submits there is an opportunity cost with respect to the preparation needed to speak to matters that do not end up being canvassed at the oral hearing. Scoping the oral hearing as proposed by BC Hydro would allow BC Hydro to put forward the right witnesses to speak to the matters in scope, which would provide the BCUC with better evidence, avoid undertakings, reduce the cost of the proceeding and allow those at BC Hydro who are not directly involved in the specific issues to re-focus their efforts on running the business.<sup>4</sup> In particular, BC Hydro would like interveners to identify in advance the capital projects, including IT capital projects, on which interveners would like to cross-examine at the oral hearing, so that it could put forward the right witnesses and avoid undertakings.<sup>5</sup>

BC Hydro submits that where there are topics that are relevant in this proceeding, that are or will be addressed more comprehensively in other proceedings, then those topics should be excluded from the oral hearing.<sup>6</sup> BC Hydro also states the BCUC should consider whether the issues are material to the determination of BC Hydro’s rates in the current Test Period. BC Hydro submits that while there could be a number of issues that can affect the rates, the focus should be on the issues that have a material impact, so that more value can be derived from dealing with those issues at the oral hearing.<sup>7</sup>

Furthermore, in BC Hydro’s view, it would be a poor use of ratepayer funds and time invested to cross-examine on matters where the outcome is determined by legislation. BC Hydro submits there may be items that are dictated by government policy that have an impact on the Test Period, which have already been explored through information requests (IRs). BC Hydro submits the only reason to explore the implications of government policy at an oral hearing is “to challenge the underlying value or merit of the government policy.” Thus, there is less value in exploring these items in cross-examination.<sup>8</sup>

BC Hydro also submits that for topics that have already been canvassed extensively through the IR process, in BC Hydro’s view, there is sufficient evidence on the written record to allow for final argument and BCUC determination on those topics.<sup>9</sup>

BCSEA and Zone II RPG do not take issue with the proposals that BC Hydro has made in the Draft Scoping Document.<sup>10</sup>

Overall, interveners do not take issue with scoping out the topics that parties agree should be scoped out and allowing topics where there is disagreement about scope to be included in the oral hearing.<sup>11</sup> Ince supports a broadly scoped hearing.<sup>12</sup> BCOAPO submits it is currently not in a position to exhaustively identify the issues that it wishes to include in the oral hearing, however it had done its “due diligence” with respect to issues it had identified to be excluded.<sup>13</sup> BCOAPO and Gjoshe indicate there are several topics that BC Hydro had proposed to

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<sup>3</sup> Exhibit B-24, p. 5.

<sup>4</sup> Exhibit B-24, p. 2; Procedural Conference Transcript Volume 4, p. 248.

<sup>5</sup> Procedural Conference Transcript Volume 4, pp. 248, 254–255.

<sup>6</sup> Ibid., pp. 249–252.

<sup>7</sup> Ibid., p. 252.

<sup>8</sup> Ibid., p. 253.

<sup>9</sup> Ibid., p. 254.

<sup>10</sup> Ibid., pp. 267–268, 277.

<sup>11</sup> Ibid., p. 259 (CEC), p. 270 (BCOAPO), p. 288 (AMPC), p. 296 (CEABC).

<sup>12</sup> Ibid., p. 307 (Ince).

<sup>13</sup> Ibid., p. 270.

be excluded from the oral hearing that may have particular aspects that impact the Application.<sup>14</sup> In AMPC's view, it is "premature to start scoping out significant areas, particularly where parties have interest in addressing those areas." CEABC points out that an answer during cross-examination could potentially open up a new area of questioning, which would be difficult to explore if that new area had been scoped out.<sup>15</sup> Furthermore, many interveners agree that issues of topic relevance and materiality can be dealt with during the oral hearing rather than in advance.<sup>16</sup> In AMPC's and CEABC's view, cross-examination questions that are irrelevant could be dealt with by counsel objections at the oral hearing rather than the Panel making that decision now.<sup>17</sup> In CEC's view, an oral hearing is a tool for the BCUC to provide "strong oversight" with BC Hydro. For monopolies, "the hearing process and regulation is the proxy for competition." Thus, CEC submits that where there is a disagreement in whether a topic should be included or excluded from the oral hearing, the Panel should lean towards bringing matters in scope.<sup>18</sup> In MoveUP's view, utilities incur regulatory costs in lieu of the costs of competition, and regulatory costs are "cheaper" than the cost of competition. Therefore, regulatory costs should not be given "excessive weight" when measured against the extent of the total revenue requirement over the Test Period.<sup>19</sup>

With respect to BC Hydro's request that interveners identify in advance the capital projects, including IT capital projects, on which interveners would like to cross-examine at the oral hearing, CEC and BCOAPO submit that they are currently not in a position to identify specific projects.<sup>20</sup> CEC also submits it would like the opportunity to use undertakings to obtain information on specific projects.<sup>21</sup> AMPC submits it currently has a preliminary list of the projects it would like to see included in the scope of the oral hearing. AMPC suggests, given that some parties are not in a position to identify specific projects, that it may be appropriate for parties to identify these projects at a later date for inclusion for cross-examination.<sup>22</sup> CEABC submits it may ask cross-examination questions on specific projects that are part of a broader context, such as electrifying the northeast gas fields or how money was spent, therefore it suggests scoping out questions on specific projects as necessary during the oral hearing rather than in advance.<sup>23</sup> In Ince's view, there is no issue with BC Hydro deferring questions related to specific capital projects during the oral hearing if its witness does not have the answer at that time.<sup>24</sup>

Many of the interveners agree there is value in BC Hydro investing its time to prepare for a broadly scoped oral hearing and to prepare for questions that may not arise at the oral hearing.<sup>25</sup> BCOAPO agrees with CEC that there is "significant ratepayer and regulatory value to be found in the preparation process and in the internal rigor that it encourages within the utility."<sup>26</sup> In Ince's view, extra time spent at the oral hearing could potentially uncover "significant savings and efficiencies." Furthermore, from Ince's personal experience, he submits the resources spent preparing for the oral hearing could help BC Hydro realize significant efficiencies in the load forecast department and improve the forecasts and planning process.<sup>27</sup>

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<sup>14</sup> Procedural Conference Transcript Volume 4, pp. 271–276 (BCOAPO), pp. 305–306 (Gjoshe).

<sup>15</sup> Ibid., p. 295.

<sup>16</sup> Ibid., p. 314 (BCSEA).

<sup>17</sup> Ibid., pp. 281–282 (AMPC), pp. 295–296 (CEABC).

<sup>18</sup> Ibid., p. 259.

<sup>19</sup> Ibid., pp. 289–290.

<sup>20</sup> Ibid., p. 264 (CEC), p. 275 (BCOAPO).

<sup>21</sup> Ibid., p. 264.

<sup>22</sup> Ibid., pp. 286–287.

<sup>23</sup> Ibid., pp. 300–301.

<sup>24</sup> Ibid., p. 309.

<sup>25</sup> Ibid., p. 259 (CEC), p. 270 (BCOAPO), p. 296 (CEABC), pp. 307–308 (Ince).

<sup>26</sup> Ibid., p. 270.

<sup>27</sup> Ibid., pp. 307–308 (Ince).

Many of the interveners agree that BC Hydro could have senior representatives cross-examined at the oral hearing and BC Hydro could either defer its responses or provide undertakings for the more detailed information for which senior representatives may not have immediate answers.<sup>28</sup> CEC submits that Chapters 5(a) to 5(f) are a significant component of the Application as they represent more than a billion dollars and over 1,000 full-time equivalents in F2020. Thus, in CEC's view, it should (at a minimum) be able to pursue undertakings on the issues in these chapters, which would avoid the need for BC Hydro's witnesses to deal with the details during the oral hearing while ensuring that the information can be obtained.<sup>29</sup>

AMPC reiterates BC Hydro's previous statement accepting that intervenor evidence would be in scope of the oral hearing. AMPC further suggests that where topics are touched upon in intervenor evidence, then those issues should be available for cross-examination.<sup>30</sup>

In reply, BC Hydro agrees there is value in regulatory oversight. However, it notes there is a point at which that value starts to diminish. BC Hydro also notes that at this point in the proceeding, there have already been a lot of engagement and a lot of information on the written record.<sup>31</sup> With respect to undertakings, BC Hydro clarifies it is not opposed to using them. It further clarifies that the reason BC Hydro proposes that interveners identify the topics that they are interested in is to enable BC Hydro to bring the right people to the oral hearing to provide the answers orally rather than in writing in the form of undertakings.<sup>32</sup> With respect to topics that may be "grey areas," or topics that could arguably be better dealt with in another proceeding, BC Hydro emphasizes the importance of regulatory efficiency and value. In particular, BC Hydro states that at this stage of the proceeding, there should be a material connection to the approvals sought in the Application in order for these topics to be addressed in the oral hearing.<sup>33</sup> With respect to intervenor evidence, BC Hydro clarifies it is committed to addressing any issues that may come out of intervenor evidence at the oral hearing.<sup>34</sup>

With respect to AMPC's suggestion for parties to identify capital projects at a later date for inclusion for cross-examination, BC Hydro states this would be "much more preferable to walking into an oral hearing without that additional information" and thinks that this would be helpful information to have even if filed at the same time as filing intervenor evidence.<sup>35</sup>

### *BCUC Determination*

The Panel appreciates BC Hydro's efforts in preparing the Draft Scoping Document and its intent to help conduct an efficient oral hearing by targeting the areas where oral examination would provide the greatest value. The Panel also appreciates BC Hydro's commitment to addressing any issues arising from intervenor evidence at the oral hearing.

With respect to the topics where all parties have agreed should be excluded from the oral hearing, the Panel takes no issue with their exclusion.

With respect to BC Hydro's suggestion to scope out topics from the oral hearing because: (1) they are or will be addressed more comprehensively in other proceedings; (2) they do not have a material impact in determining

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<sup>28</sup> Procedural Conference Transcript Volume 4, p. 297 (CEABC), p. 309 (Ince), p. 314 (BCSEA).

<sup>29</sup> Exhibit C9-10, p. 5.

<sup>30</sup> Procedural Conference Transcript Volume 4, p. 287.

<sup>31</sup> Ibid., p. 315.

<sup>32</sup> Ibid., p. 316.

<sup>33</sup> Ibid., pp. 316–317.

<sup>34</sup> Ibid., p. 321.

<sup>35</sup> Ibid., p. 324.

the rates in the Test Period; or (3) they are dictated by legislation, the Panel agrees with interveners that the scoping of these items is best dealt with during the oral hearing, rather than in advance. With respect to BC Hydro's suggestion to scope out topics that have been canvassed extensively through the IR process, in the Panel's view, the canvassing of topics in IRs does not mean that parties do not need to seek further clarification in an oral setting.

The Panel does recognize the volume of information already on the written record and the organizational cost to prepare for oral examination. However, the Panel is persuaded by interveners' argument that regulatory costs should not be given excessive weight when determining the scope of the oral hearing because the Panel agrees with BCSEA that regulation is a cost-effective proxy for competition. The Panel is also persuaded by interveners' argument that there is value in the time spent by BC Hydro preparing for questions that may not be asked at the oral hearing.

With respect to individual capital projects, BC Hydro had requested that interveners identify in advance the capital projects, including IT capital projects, on which interveners would like to cross-examine BC Hydro's witnesses at the oral hearing. The Panel is cognizant of the large number of capital projects that BC Hydro has and the challenges that BC Hydro has in preparing witnesses to speak to each of them, if theoretically, they were all in scope of the oral hearing and subject to cross-examination. In the Panel's view, it is reasonable to expect interveners to put some effort into reviewing the evidence and IRs to date relating to capital projects so that they can properly identify which ones are potentially of concern and worthy of cross-examination, preferably before the oral hearing, as part of the interveners' preparation for the oral hearing. This would also reduce the number of undertakings required should BC Hydro's witnesses at the oral hearing be unable to answer specific questions posed to them during cross-examination. However, the Panel is also aware that many of the interveners are not currently in a position to identify specific capital projects on which they would like to cross-examine. Therefore, the Panel is appreciative of AMPC's suggestion for parties to identify capital projects at a later date for inclusion for cross-examination at the oral hearing. Furthermore, given that BC Hydro is in favour of having this information, even if filed at the same time as the filing of intervenor evidence, **the Panel views this as a reasonable approach to balance the interests of BC Hydro and interveners. Therefore, the Panel invites interveners to identify any specific capital projects, including IT projects, on which they wish to cross-examine BC Hydro at the oral hearing and to file that list with the BCUC on the same date that interveners are to file their evidence. Any capital projects not so identified by interveners will be excluded from cross-examination at the oral hearing.**

Similarly, the Panel finds that a broadly scoped oral hearing appropriately balances BC Hydro's and interveners' interests. Therefore, the Panel directs that the entirety of the Application be in scope for cross-examination at the oral hearing with the exception of the topics agreed by all parties for exclusion. For clarity, the topics excluded from cross-examination consist of the following items set out in the General Scoping Document:

- General: Safety performance metrics;
- General: Net metering;
- Operating costs (Chapter 5): Accenture repatriation;
- Operating costs (Chapter 5): Benchmarking – The Brattle Group (Appendix T);
- Capital expenditures (Chapter 6, Appendices F, H, K, M, N, W): Capital expenditures – dam safety (general);
- Capital expenditures (Chapter 6, Appendices F, H, K, M, N, W): Electric vehicle charging infrastructure;

- Capital expenditures (Chapter 6, Appendices F, H, K, M, N, W): Individual projects (Appendices I, J), except for the capital projects, including IT capital projects, that interveners have identified for cross-examination;
- Other revenue requirements (Chapter 8): Accounting policy, implementation of IFRS;
- Other revenue requirements (Chapter 8): Depreciation;
- Transmission revenue requirement (Chapter 9); and
- Performance based regulation (Chapter 11, Appendices FF, GG).

Given that the oral hearing is broadly scoped, the Panel agrees with the suggested approach of having BC Hydro's senior representatives cross-examined at the oral hearing to enable them to speak to a range of topics, while utilizing undertakings for the more detailed responses. In the Panel's view, this approach could help reduce the organizational investment and the number of BC Hydro's employees required to be present at the oral hearing, while still allowing parties to pursue a range of important issues.

## 2.0 Other procedural matters

During the procedural conference, the Panel noted February 24, 25, 28 and March 2, 3, and 4, 2020 as potential additional oral hearing dates that the Panel has available, if necessary. However, no parties have come forward expressing the need for additional dates at this time. **Given that parties have not expressed the need for additional hearing dates, the Panel finds it is not necessary to amend the Regulatory Timetable at this time.** However, the Panel leaves these dates available to utilize if, at a later time, it finds that additional oral hearing dates are necessary.