



**ORDER NUMBER**  
**G-326-19**

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

and

British Columbia Utilities Commission  
Review of British Columbia Hydro and Power Authority's Performance Based Regulation Report

**BEFORE:**

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

on December 12, 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 (RRA) with the British Columbia Utilities Commission (BCUC);
- B. Directive 28 of the BCUC's decision on the F2017–F2019 RRA directed BC Hydro to provide a report to the BCUC that discusses, among other things, the opportunities and challenges associated with the adoption of Performance Based Regulation (PBR) at BC Hydro and a possible approach to adopting PBR (PBR Report);
- C. BC Hydro provided the PBR Report as part of its F2020–F2021 RRA along with two expert reports regarding the matter attached as Appendices FF and GG to the F2020–F2021 RRA;
- D. On October 11, 2019, by Order G-244-19, the BCUC directed that the PBR Report will not be reviewed as part of the review of the F2020–F2021 RRA and by Order G-245-19, dated October 11, 2019, the BCUC established a proceeding for the review of the PBR Report and related materials;
- E. On October 11, 2019, by Order G-246-19, the BCUC established a regulatory timetable for the review of the PBR Report and related materials;
- F. On November 14, 2019, the BCUC issued a letter identifying several procedural matters to be addressed at the procedural conference;
- G. By letter dated November 18, 2019, BC Hydro provided initial comments on the procedural matters set out in the BCUC's letter (Pre-filed Comments);

H. In accordance with the Regulatory Timetable established by Order G-246-19, the procedural conference took place on November 22, 2019, and was attended by BC Hydro and the following interveners:

- Commercial Energy Consumers Association of British Columbia;
- British Columbia Sustainable Energy Association;
- British Columbia Old Age Pensioners' Organization et al.;
- Association of Major Power Customers of BC;
- Movement of United Professionals;
- Clean Energy Association of B.C.;
- FortisBC Energy Inc. and FortisBC Inc.;
- Zone II Ratepayers Group; and
- E. Gjoshe; and

I. 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 a further regulatory timetable is warranted.

**NOW THEREFORE** for the reasons attached as Appendix B to this order, the BCUC establishes a further Regulatory Timetable for the review of the PBR Report, as set out in Appendix A to this order.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 12th day of December 2019.

BY ORDER

*Original Signed By:*

D. M. Morton  
Commissioner

Attachments

British Columbia Utilities Commission  
Review of British Columbia Hydro and Power Authority's Performance Based Regulation Report

**REGULATORY TIMETABLE**

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Action	Date (2020)
BCUC Staff Consultant Report	Friday, February 28
Parties submit written clarifying questions or high level topics to BCUC Staff Consultant	Tuesday, March 17
BCUC-Facilitated PBR Workshop	Tuesday, March 31
Further process	To be determined

British Columbia Utilities Commission  
Review of British Columbia Hydro and Power Authority's Performance Based Regulation Report

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**REASONS FOR DECISION**

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**1.0 Background and Introduction**

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 (RRA) with the British Columbia Utilities Commission (BCUC).

Directive 28 of the BCUC's decision on the F2017–F2019 RRA directed BC Hydro to provide a report that discusses, among other things, the opportunities and challenges associated with the adoption of Performance Based Regulation (PBR) at BC Hydro and a possible approach to adopting PBR (PBR Report). BC Hydro provided the PBR Report, along with two expert reports, as part of its F2020–F2021 RRA.

On October 11, 2019, by Order G-244-19, the BCUC directed that the PBR report will not be reviewed as part of the review of the F2020–F2021 RRA, and by Order G-245-19 established a proceeding for the review of the PBR Report and related materials. By Order G-246-19, also dated October 11, 2019, the BCUC established a regulatory timetable for the review of the PBR Report and related materials, which included a procedural conference scheduled for November 22, 2019.

On November 14, 2019, the BCUC issued a letter identifying the following procedural matters for parties to address at the procedural conference:

1. Whether any interveners intend to file intervenor evidence and, if so, the intended use of experts and the subject matter of that evidence.
2. Whether the review of the [PBR Report and related materials] should proceed by way of a written or oral public hearing, or some other process. Please identify the recommended steps and if an oral hearing is proposed, please identify the specific matter(s) that should be addressed through that process and the rationale.
3. Any significant time constraints and/or periods of unavailability which should be taken into consideration when establishing the Regulatory Timetable.
4. Any other procedural matters that parties want to bring to the attention of the Panel that will assist in the efficient review of the PBR Report and related materials.<sup>1</sup>

By letter dated November 18, 2019, BC Hydro provided initial comments on the procedural matters set out in the BCUC's letter, including a proposed regulatory timetable (Pre-filed Comments).<sup>2</sup>

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<sup>1</sup> Exhibit A-3, p. 2.

<sup>2</sup> Exhibit B-2.

In accordance with the Regulatory Timetable established by Order G-246-19, the procedural conference took place on November 22, 2019, and was attended by BC Hydro and the following interveners:

- Commercial Energy Consumers Association of British Columbia (CEC);
- British Columbia Sustainable Energy Association (BCSEA);
- British Columbia Old Age Pensioners' Organization et al. (BCOAPO);
- Association of Major Power Customers of BC (AMPC);
- Movement of United Professionals (MoveUP);
- Clean Energy Association of B.C. (CEABC);
- FortisBC Energy Inc. and FortisBC Inc. (collectively, FortisBC);
- Zone II Ratepayers Group; and
- E. Gjoshe.

## **2.0 Submissions on Procedural Matters**

### *Intervener Intention to File Evidence*

All of the interveners stated at the procedural conference they do not intend to file evidence with regard to BC Hydro's PBR Report and related materials at this time. Several interveners expressed it is too early in the process to be able to determine if they may require filing evidence at a later date.

### *Further Process – Oral vs. Written*

In its Pre-filed Comments, BC Hydro submits that matters raised in the PBR Report and related materials can be broadly grouped into the following four issues, to be addressed in two phases.<sup>3</sup>

#### Phase 1 ("threshold issues")

1. What are the objectives of adopting PBR?
2. Considering the objectives identified, if PBR is adopted for BC Hydro, what are the key principles that should inform a future PBR application and what are the design issues that should be addressed by BC Hydro, in that application?
3. Should PBR be adopted for BC Hydro? If yes, when and how should it be implemented?

#### Phase 2 (if required)

4. If PBR is adopted for BC Hydro, what are the specific details of BC Hydro's PBR plan?

BC Hydro submits it is appropriate for the BCUC to first decide the Phase 1 issues as part of this process to review the PBR Report and related materials. BC Hydro further submits the proposed process and timeline discussed in its submission are designed to resolve the three threshold issues in time to inform BC Hydro's next revenue requirements application. The next revenue requirements application could then address issue (4), with BC Hydro filing cost of service evidence for a F2022 base year, plus the PBR Plan that would be used to set rates in the remaining years of a PBR term.<sup>4</sup>

BC Hydro believes this phased approach is the correct approach because it:

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<sup>3</sup> Exhibit B-2, p. 2.

<sup>4</sup> Ibid.

- a. Recognizes the importance of the threshold issues;
- b. Provides an opportunity for stakeholder input;
- c. Promotes regulatory efficiency; and
- d. Identifies principles and design issues for consideration in Phase 1.

In its Pre-filed Comments, BC Hydro set out a proposed timetable, modeled on the approach used in the context of BC Hydro's 2015 Rate Design Application. The proposed timetable commences with a BC Hydro-led Introduction to PBR presentation at the end of March 2020, and ends in a streamlined review process (SRP) in June 2020, with the BCUC issuing a decision on threshold issues by the end of August 2020. BC Hydro stated this will result in a decision on the threshold issues to inform BC Hydro's next revenue requirements application.<sup>5</sup> BC Hydro also stated it is impractical to begin the next steps in this proceeding any sooner given the significant time commitment required to prepare for and participate in the oral hearing and argument phases of the F2020–F2021 RRA.<sup>6</sup> BC Hydro also filed illustrated timelines for April 1, 2021 under a BCUC approved cost of service rate setting mechanism or a BCUC approved PBR mechanism.<sup>7</sup>

In general, all interveners support the proposed process and timeline as submitted by BC Hydro. AMPC and FortisBC only intend to monitor the proceeding at this time. CEC suggests issue (3) (*Should PBR be implemented?*) be examined prior to issue (2) (*key principles and design issues*).<sup>8</sup>

BCOAP0 submits Phase 1 should go into more detail than suggested:<sup>9</sup>

We are making a submission today that while those precise determinations of X factor need not be established, Phase 1 should conclude whether it is actually possible or not possible to establish that. And similarly, Phase 1 could be an opportunity to draw a conclusion as to the types of costs that would require Y factor treatment and go as far as addressing how much of the revenue requirement would actually be subject to those incentives provided by PBR.

[...] Phase 1 could also draw conclusions as to whether those are areas where the cost increases noted by the BCUC should be included in Y-factor or X-factor treatment as well.

MoveUP expresses concern about the compression of timelines, citing concern about the complexity of issues and submitting the process be designed in a way that gives a proper opportunity for examination of all issues. MoveUP also submits it would be appropriate that expert evidence that's been filed before the BCUC regarding the principles of PBR or Multi-Year Rate Plan (MRP) proceedings for the FortisBC utilities be admissible in this proceeding.<sup>10</sup>

CEABC states it has serious reservation regarding the adoption of PBR for BC Hydro, and would like to see the Introduction to PBR presentation replaced by a one-day workshop facilitated by the BCUC. CEABC would like the workshop to address how PBR would deal with the issue of deferral accounts, how PBR deals with the issue of the government as a shareholder, and how PBR would deal with BC Hydro's projected capital spending, as well as the CleanBC plan and the impact it has on BC Hydro and greenhouse gas reductions.<sup>11</sup>

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<sup>5</sup> Exhibit B-2, p. 4.

<sup>6</sup> Exhibit B-2, p. 9.

<sup>7</sup> Exhibit B-3.

<sup>8</sup> Procedural Conference Transcript Volume 1, para. 19, p. 19.

<sup>9</sup> Ibid., para. 16, p. 22.

<sup>10</sup> Ibid., p. 25–27.

<sup>11</sup> Ibid., p. 28–29.

MoveUP, BCOAPO and CEC state they endorse the idea of a workshop in place of a BC Hydro presentation.

In reply, BC Hydro states it appreciates the timeline is tight, but it is having to work backwards from a date that is effectively August 2020 and that is a drop dead date for a PBR plan starting in F2022. BC Hydro also states it is premature to figure out if FortisBC's evidence needs to be considered. With regards to the Introduction to PBR presentation, BC Hydro states its intent is to conduct an informational session, not a positional session, and that BC Hydro has every intention of walking through the details, as a level setting exercise. BC Hydro also states it has no strong views on whether the workshop is led by BC Hydro, or the BCUC.<sup>12</sup>

### *BCUC Determination*

Based on BC Hydro's Pre-filed Comments and the submissions from parties at the procedural conference, there appears to be strong support for the workshop process proposed by BC Hydro. The Panel notes all parties agree that the approach used for the BC Hydro 2015 Rate Design Application was effective, and the proposed process for the PBR Report and related materials are modelled after that approach.

With regards to specific steps, the Panel agrees with CEC's submission that issue (3) (*Should PBR be implemented?*) should be examined prior to issue (2) (*key principles and design issues*). The Panel notes this approach is preferred in the interest of regulatory efficiency. Should the Panel decide that PBR is not warranted or would not be effective for BC Hydro, then there would be no need to examine issue (2). With regards to the Introduction to PBR presentation, the Panel agrees with CEABC that a workshop facilitated by the BCUC may be more effective as a level setting exercise. The Panel is also concerned about the compressed timelines in BC Hydro's proposed schedule and finds it is more important to design a thorough review process than a rushed process. Accordingly, **the Panel establishes a preliminary regulatory timetable for the initial review of the PBR Report and related materials as set out in Appendix A to this order.** The Panel recognizes that this review process may result in a delay of implementing a potential PBR plan beyond the proposed date of April 1, 2021, as illustrated by BC Hydro.

With regards to MoveUP's submission that evidence filed before the BCUC regarding the principles of PBR or MRP for the FortisBC utilities also be filed in this proceeding, the Panel agrees that to do so at this point would be premature. The circumstances of BC Hydro (Crown Corporation) and FortisBC (investor-owned) may be different, and therefore it is unclear as to the relevance of that evidence at this early stage. As a result, the Panel believes it is important to first receive an independent report of PBR and how it may apply to Crown Corporations. **Therefore, BCUC staff will commission a consultant report to be filed as an exhibit in this proceeding, as set out in the regulatory timetable in Appendix A to this order.**

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<sup>12</sup> Ibid., p. 40–44.