



ORDER NUMBER
G-212-20

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

and

Pentti O. Sjoman
Application for Reconsideration of Decision and Order G-168-20
in the matter of the British Columbia Hydro and Power Authority
Application to Amend Net Metering under Rate Schedule 1289

BEFORE:
D. M. Morton, Commissioner

on August 11, 2020

ORDER

WHEREAS:

- A. On April 29, 2019, pursuant to section 59 to 61 of the *Utilities Commission Act* (UCA), British Columbia Hydro and Power Authority (BC Hydro) filed an application to seek approval from the British Columbia Utilities Commission (BCUC) to, among other things, amend the availability, billing and rate provisions in Rate Schedule (RS) 1289 (Net Metering Application);
- B. On June 23, 2020, the BCUC issued its Decision and accompanying Order G-168-20 (Net Metering Decision) with, among other things, the following final determinations:
 - The proposed amendment to the Energy Price from 9.99 cents per kilowatt hour to an amount that would be updated every January 1 based on the daily average Mid-Columbia prices for the previous calendar year is approved;
 - All Net Metering customers accepted into the Net Metering Program as of April 28, 2019 shall be eligible to receive the Transitional Energy Price of 9.99 cents per kilowatt hour for any surplus energy payments made from April 29, 2019 until April 30, 2024;
 - The proposal to limit the output of a Net Metering Generating Facility to not exceed 110 percent of the customer's annual load is rejected; and
 - The proposal to assign all Net Metering customers a March 1 default Anniversary Date with one opportunity to choose an alternative date thereafter is approved;
- C. On July 16, 2020, Pentti O. Sjoman (Sjoman), a registered intervener in the proceeding to review the Net Metering Application, filed a reconsideration of the Net Metering Decision (Reconsideration Application);
- D. In the Reconsideration Application, Sjoman alleges the BCUC made an error of law and jurisdiction, and requests the BCUC to rescind the Net Metering Decision until, the Right Honourable Justin Trudeau, P.C.,

M.P., Prime Minister of Canada, the leaders of the other 193 countries that signed the Paris Climate Agreement and Greta Thunberg approved the decision;

- E. On July 22, 2020, the BCUC issued a letter explaining that the UCA only provides jurisdiction to the BCUC to reconsider the Net Metering Decision. The UCA has no provision for reconsideration of the Decision, nor for the approval of any BCUC decisions, by Mr. Trudeau, the signatories to the Paris Climate Agreement or Miss Thunberg. The letter provides further information regarding Part V (Reconsideration) of the BCUC Rules of Practice and Procedure included in Appendix A to Order G-15-19 dated December 17, 2018;
- F. By letter dated July 31, 2020, Sjoman submits his Reconsideration Application, dated July 16, 2020, includes the required information for an application for reconsideration in accordance with the BCUC Rules of Practice and Procedure; and
- G. The Panel has reviewed the Reconsideration Application and considers a summary dismissal is warranted.

NOW THEREFORE, pursuant to section 99 of the UCA, the BCUC Rules of Practice and Procedure, and for the reasons attached as Appendix A to this order, the BCUC dismisses the Reconsideration Application.

DATED at the City of Vancouver, in the Province of British Columbia, this 11th day of August 2020.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachment

Pentti O. Sjoman
Application for Reconsideration of Decision and Order G-168-20
in the matter of the British Columbia Hydro and Power Authority
Application to Amend Net Metering under Rate Schedule 1289

REASONS FOR DECISION

1.0 Introduction

1.1 Background

On April 29, 2019, British Columbia Hydro and Power Authority (BC Hydro) filed an Application to Amend the Net Metering Program under Rate Schedule 1289 (Net Metering Application) with the British Columbia Utilities Commission (BCUC) with the following proposed amendments:

- Update the Energy Price from 9.99 cents per kilowatt hour (kWh) to an amount that would be updated every January 1st based on the daily average Mid-Columbia (Mid-C) prices for the previous calendar year, converted to Canadian dollars using the average annual exchange rate from the Bank of Canada for that year. The Mid-C price for 2018 is 3.99 cents per kWh;
- Maintain the current Energy Price of 9.99 cents per kWh until April 30, 2024 for all Net Metering customers with accepted applications as of April 20, 2018;
- For Generating Facilities with nameplate rating of greater than five kW, the Generating Facility's Annual Energy Output must not exceed 110 percent of the customer's Annual Load; and
- Make various minor amendments to improve the clarity, simplicity and safety of the Net Metering Program and to reflect existing program practices.¹

On June 23, 2020, the BCUC issued its Decision and accompanying Order G-168-20 regarding the Net Metering Application (Net Metering Decision). The BCUC determined, among other things:

- The proposed amendment to the Energy Price from 9.99 cents per kWh to an amount that would be updated every January 1 based on the daily average Mid-C prices for the previous calendar year is approved;
- All Net Metering customers accepted into the Net Metering Program as of April 28, 2019 shall be eligible to receive the Transitional Energy Price of 9.99 cents per kWh for any surplus energy payments made from April 29, 2019 until April 30, 2024;
- The proposal to limit the output of a Net Metering Generating Facility to not exceed 110 percent of the customer's Annual Load is rejected; and
- The proposal to assign all Net Metering customers a March 1 default Anniversary Date with one opportunity to choose an alternative date thereafter is approved.

¹ British Columbia Hydro and Power Authority Application to Amend Net Metering Service under Rate Schedule 1289 proceeding, Exhibit B-1, pp. 4 and 22.

1.2 Application

On July 16, 2020, Pentti O. Sjoman (Sjoman) filed a reconsideration on the Net Metering Decision, stating that the Panel has made an error of law and jurisdiction (Reconsideration Application). Specifically, Sjoman states:

The PANEL equated the greenest of green electricity (that being net metering renewable green energy) with energy for Mid-C, which includes electricity from coal, oil, natural gas and nuclear power plants. This equating of green electricity with hydrocarbon electricity violates Canada's commitment to the 2015 Paris Climate Agreement on Climate Action. [Italicized in original reference]

Sjoman submits the BCUC needs to immediately rescind the Net Metering Decision until the following approve the Decision:

1. The Right Honorable Justin Trudeau, P.C., M.P., Prime Minister of Canada;
2. The leaders of the other 193 countries that signed the Paris Climate Agreement; and
3. Greta Thunberg, the worldwide spokesperson for the global youth-led climate movement.²

1.2.1 Review Process

On July 22, 2020, the BCUC issued a letter to Sjoman explaining that the *Utilities Commission Act* (UCA) provides jurisdiction to the BCUC to reconsider the Net Metering Decision. The UCA has no provision for reconsideration of the decision, nor for the approval of any BCUC decisions, by Mr. Trudeau, the signatories to the Paris Climate Agreement or Miss Thunberg. The letter provides further information regarding Part V (Reconsideration) of the BCUC Rules of Practice and Procedure (Rules) included in Appendix A to Order G-15-19 dated December 17, 2018.³

By letter dated July 31, 2020, Sjoman submitted that his Reconsideration Application includes the required information for an application for reconsideration in accordance with rule 26.04 of the Rules.

1.2.2 Legislative Framework

Section 99 of the UCA states:

The commission, on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation.

Section V of the Rules, included in Appendix A to Order G-15-19, establishes the rules regarding a reconsideration. Specifically, section 26.04 states:

An application for reconsideration must be filed in accordance with the rules pertaining to document filing and must:

- a) be in writing and, unless prior permission of the BCUC is obtained, not longer than 30 pages (excluding appendices and/or attachments);
- b) identify the decision affected;

² Exhibit B-1, p. 5 (pdf).

³ Exhibit B-1, pp. 3-4 (pdf).

- c) state the applicant's name and the representative's name (if applicable);
- d) describe the impact of the decision and how it is material;
- e) set out the grounds for reconsideration in accordance with Rule 26.05; and
- f) set out the remedy the applicant is seeking.

Section 26.05 of the Rules states an application for reconsideration of a decision must contain a concise statement of the grounds for reconsideration, which must include one or more of the following:

- a) the BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision;
- b) facts material to the decision that existed prior to the issuance of the decision were not placed in evidence in the original proceeding and could not have been discovered by reasonable diligence at the time of the original proceeding
- c) new fact(s) have arisen since the issuance of the decision which have material bearing on the decision;
- d) a change in circumstances material to the decision has occurred since the issuance of the decision; or
- e) where there is otherwise just cause.

Further, section 28 of the Rules provides for a summary dismissal of a reconsideration application:

28.01 Upon the filing of an application for reconsideration of a decision, the BCUC may, without further process, summarily dismiss the application, in whole or in part, on the basis that it fails to establish, on its face, any reasonable grounds for reconsideration of the decision.

28.02 In the event the BCUC summarily dismisses an application for reconsideration of a decision in whole, the BCUC will make publicly available both the application and the final order with reasons

2.0 Panel Determination

The Reconsideration Application is dismissed. There is provision in rule 26.05 of the Rules for a reconsideration application to be heard by the BCUC for any of the following reasons:

- a) the BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision;
- b) facts material to the decision that existed prior to the issuance of the decision were not placed in evidence in the original proceeding and could not have been discovered by reasonable diligence at the time of the original proceeding;
- c) new fact(s) have arisen since the issuance of the decision which have material bearing on the decision;
- d) a change in circumstances material to the decision has occurred since the issuance of the decision; or

e) where there is otherwise just cause.

In this case, none of the circumstances in a) through d) above apply and Sjoman has failed to address e). There is no evidence or argument present in the Reconsideration Application that “*equating of green electricity with hydrocarbon electricity violates Canada’s commitment to the 2015 Paris Climate Agreement on Climate Action*” [italicized in original reference].⁴ The Reconsideration Application fails to establish on its face any reasonable grounds for reconsideration of the Net Metering Decision and the Panel therefore dismisses the application.

Further, under the UCA, the BCUC is solely responsible for approving applications and reconsidering decisions. Accordingly, it is not possible to “rescind DECISION Order G-168-20 until the following (Prime Minister Trudeau, the leaders of the 193 nations that approved the Paris Agreement and Greta Thunberg) approve the decision” as there is no requirement, or jurisdiction, for those persons or agencies to review or approve the decision. This was explained in a letter issued by the BCUC on July 22, 2020, and for this Reconsideration Application to be pursued by Sjoman, in spite of that explanation in the letter and absent the presentation of any evidence or argument, is frivolous and a misuse of the BCUC’s resources and regulatory process.

⁴ Exhibit B-1, p. 5 (pdf).