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ORDER NUMBER
G-320-20

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

and

Net Metering Ratepayers Group and British Columbia Community Solar Coalition Application for Reconsideration of BCUC June 23, 2020 Decision and Order G-168-20

BEFORE:
T. A. Loski, Panel Chair
D. A. Cote, Commissioner
M. Kresivo, QC, Commissioner

on December 8, 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 August 24, 2020, Net Metering Ratepayers Group (NMRG) and British Columbia Community Solar Coalition (BCCSC) filed an Application for Reconsideration of BCUC June 23, 2020 Decision and Order G-168-20 (Reconsideration Application). In the Reconsideration Application, NMRG/BCCSC allege the BCUC made errors in fact and law in Decision and Order G-168-20;

D. 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 (XX) day of December 2020.

BY ORDER

Original Signed By:

T. A. Loski
Commissioner

Attachment

Net Metering Ratepayers Group and British Columbia Community Solar Coalition Application for Reconsideration of BCUC June 23, 2020 Decision and Order G-168-20

REASONS FOR DECISION

Executive Summary

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). On June 23, 2020, the BCUC issued its Decision and accompanying Order G-168-20 regarding the Net Metering Application (Net Metering Decision). Net Metering Ratepayers Group (NMRG) and British Columbia Community Solar Coalition (BCCSC) were registered interveners in the proceeding for the Net Metering Application (Original Proceeding). On August 24, 2020, NMRG and BCCSC filed an Application for Reconsideration of the Net Metering Decision (Reconsideration Application). In the Reconsideration Application, NMRG/BCCSC allege that:

i. The BCUC made an error of fact by determining that BC Hydro's figure regarding residential "Net Generation Outflow Pattern" can be relied upon;

ii. The BCUC made an error of law by permitting BC Hydro to improperly change key evidence in its reply argument; and

iii. The BCUC made an error of law by improperly placing the onus of proof on NMRG and BCCSC rather than on the applicant BC Hydro.

In the Original Proceeding, NMRG/BCCSC made their final arguments on the basis that the term "net generation outflow" (as presented in a BC Hydro figure provided in an information request response) meant net metering customers' electricity outflow less inflow.

Having reviewed evidence on the record of the Original Proceeding related to the term "net generation outflow", the Panel finds there was sufficient evidence to interpret the meaning of the term, and that it does not mean outflows net of inflows. The Panel notes that BC Hydro provided graphs that show that residential customers net consumption inflows are greater than net generation outflows in all seasons. BC Hydro also explained that net generation outflow occurs at a point in time when a customer generates more electricity than they need.

In its reply argument, BC Hydro responded to NMRG/BCCSC's interpretation of the term net generation outflow provided in final argument. The Panel finds that BC Hydro did not attempt to change evidence related to net generation outflow in its reply argument. The material BC Hydro presented in reply was a reasonable clarification of NMRG/BCCSC's interpretation, appropriate as part of a reply argument, and not a change or new evidence.

Finally, the Panel finds the BCUC did not improperly shift the onus or burden of proof on to the intervenors in the Original Proceeding, rather than the applicant. In the Net Metering Decision, the BCUC placed little weight on the arguments of NMRG/BCCSC, noting NMRG/BCCSC had the opportunity to pursue issues in the information request phase or file evidence to support their interpretation.

Accordingly, the Panel dismisses the three alleged errors of fact and law made by NMRG/BCCSC, and summarily dismisses the Reconsideration Application.

1.0 Introduction

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). The Net Metering Program is designed for Residential Service and General Service customers who install a Generating Facility with a nameplate rating of up to 100 kilowatts to generate electricity to serve all or part of their electricity requirements on the customers' premises. When Net Metering customers generate more electricity than is needed, the surplus electricity is banked in the customers' generation account and then applied as a credit to offset electricity consumption later when customers do not generate enough electricity to meet their needs. In addition, once every 12 months, customers with any credits remaining receive payment from BC Hydro for those remaining credits.

On June 23, 2020, the BCUC issued its Decision and accompanying Order G-168-20 regarding the Net Metering Application (Net Metering Decision). Net Metering Ratepayers Group (NMRG) and British Columbia Community Solar Coalition (BCCSC) were registered interveners in the proceeding for the Net Metering Application (Original Proceeding). On August 24, 2020, NMRG and BCCSC filed an Application for Reconsideration of the Net Metering Decision (Reconsideration Application). In the Reconsideration Application, NMRG/BCCSC allege the BCUC made errors of fact and law in the Net Metering Decision which created an unfair and inappropriate advantage for BC Hydro,[1] as discussed further in section 3 of these Reasons for Decision.

1.1 Legislative Framework

Pursuant to section 99 of the *Utilities Commission Act* (UCA), the BCUC 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.

Part 5 of the BCUC Rules of Practice and Procedure[2] establishes the process for requests for reconsideration of a decision, an order, a rule or regulation of the BCUC. Pursuant to section 26.04 of the Rules of Practice and Procedure, 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;

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 of Practice and Procedure outlines that an application for reconsideration of a decision must contain a concise statement of the grounds for reconsideration, which include: "the BCUC has made an error of fact, law, or jurisdiction which has a material bearing on the decision," which is the grounds outlined in the Reconsideration Application.

[1] Reconsideration Application, p. 3.
[2] https://www.bcuc.com/Documents/Participant-Info/G-15-19_BCUC_Rules_of_Practice_and_Procedure.pdf.

The BCUC may summarily dismiss an application for reconsideration without further process, as specified in section 28 of the Rules of Practice and Procedure. **The Panel, after review of this Reconsideration Application, has determined that NMRG/BCCSC have presented insufficient grounds for reconsideration and summarily dismisses their application.** These Reasons for Decision outline the reasons for the Panel's Decision to summarily dismiss the NMRG/BCCSC Reconsideration Application.

2.0 Net Metering Application and Decision

In the Net Metering Application, BC Hydro proposed the following 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.[3]

The regulatory process for review of the Net Metering Application included two rounds of information requests to BC Hydro, intervener evidence, BC Hydro rebuttal evidence and written final arguments. As noted in section 1.0, on June 23, 2020, the BCUC issued the Net Metering Decision and accompanying Order G-168-20.[4] The BCUC determined, among other things the following:

- 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.

3.0 NMRG/BCCSC Reconsideration Application

NMRG/BCCSC submit the Reconsideration Application on the basis that certain determinations made by the BCUC in the Decision were incorrect and based on multiple errors of law and fact. It states that the BCUC's

[3] British Columbia Hydro and Power Authority Application to Amend Net Metering Service under Rate Schedule 1289 proceeding, Exhibit B-1, pp. 4 and 22.
[4] https://www.ordersdecisions.bcuc.com/bcuc/decisions/en/481549/1/document.do.

impugned determinations go to the very heart of the concept of net metering – what component makes it "net."[5] NMRG/BCCSC allege three errors of fact and law, summarized below.

Firstly, NMRG/BCCSC submit that the BCUC made an error of fact by determining that Figure 3 in the Net Metering Decision titled "Residential (RS 1101) Net Generation Outflow Pattern" can be relied upon. NMRG/BCCSC say the only possible plain and ordinary meaning of "Net Generation Outflow Pattern" is that it reflects a measure of generation outflow after something else is accounted for.[6] In the Original Proceeding, NMRG/BCCSC made arguments on the basis that net generation outflow was "net outflows," or the sum of all outflows after all inflows have been deducted.[7]

NMRG/BCCSC submit that the BCUC improperly accepted BC Hydro's explanation of the meaning of "net generation outflow" provided in reply argument,[8] with the BCUC stating in the Decision:[9]

> Moreover, NMRG/BCCSC in making its argument does so on the basis that Figure 3 was net outflow. BC Hydro has confirmed this is not the case as Figure 3 shows only generation outflow.[10]

NMRG/BCCSC submit that BC Hydro's confirmation "is in fact purporting to change key evidence" by changing the meaning of the word "net," noting that BC Hydro's reply argument was not evidence by definition. NMRG/BCCSC submit that BC Hydro's evidence does not contain any explanation of what makes Figure 3 in the Net Metering Decision reflect net generation. The absence of such an explanation in evidence results in that aspect of BC Hydro's evidence being unreliable.[11]

Secondly, NMRG/BCCSC state that the BCUC made an error of law by permitting BC Hydro to change its evidence in reply argument, which prevented interveners from testing the new evidence and addressing this evidence in final argument. NMRG/BCCSC allege this resulted in substantial prejudice to themselves and other interveners.[12]

Thirdly, NMRG/BCCSC submit that the BCUC made an error of law by improperly placing the onus of proof on NMRG and BCCSC rather than on the applicant, BC Hydro.[13] NMRG/BCCSC cite the Net Metering Decision where the BCUC found that consumption data provided from BC Hydro can be relied upon, and noted that NMRG/BCCSC reasoned in their final argument that consumption levels for Net Metering customers should be at or lower than those of non-participants. The BCUC stated:

> [NMRG/BCCSC] have provided no evidence of this and have based their arguments on logic they have applied. The Panel notes the NMRG/BCCSC had the opportunity to raise this in the [information request] IR phase and doing so may have provided more detailed evidence with respect to consumption patterns thereby explaining the difference. They also had the opportunity to file evidence on behalf of alternative data. However, they did not do so. The fact that the NMRG/BCCSC did not raise this issue until Final Argument makes the matter even more

[5] Reconsideration Application, p. 1.
[6] Reconsideration Application, p. 2.
[7] Reconsideration Application, p. 3; Original Proceeding, NMRG/BCCSC Final Argument, p. 18.
[8] BC Hydro Reply Argument, p. 5.
[9] Reconsideration Application, p. 3.
[10] Decision and Order G-168-20, p. 25.
[11] Reconsideration Application, pp. 5-6.
[12] Reconsideration Application, p. 6.
[13] Reconsideration Application, p. 7.

> difficult as neither BC Hydro nor the other participants have been afforded the opportunity to test this position.[14]

NMRG/BCCSC submit that the onus of proof is on the applicant, BC Hydro, not on NMRG/BCCSC. NMRG/BCCSC note that in the Net Metering Decision the BCUC comments on NMRG/BCCSC's opportunity to file evidence, but was silent on BC Hydro changing the meaning of a figure in reply argument. NMRG/BCCSC allege that such uneven treatment of parties is inappropriate, particularly when it was done in a manner that shifts the onus away from the Applicant to select Interveners.[15]

3.1 Approach to the Panel's Review of the Reconsideration Application

To determine whether NMRG/BCCSC have grounds for reconsideration, the Panel examines three issues:

- Whether the BCUC made an error of fact by determining that BC Hydro's "Figure 3: Residential (RS 1101) Net Generation Outflow Pattern" can be relied upon (see section 4 of these reasons). Central to this issue is the meaning of the term "net generation outflow" and the use of the term in the evidence of the Original Proceeding;
- Whether the BCUC made an error of law by permitting BC Hydro to improperly change key evidence in its reply argument (section 5); and
- Whether the BCUC made an error of law by improperly placing the onus of proof on NMRG and BCCSC rather than on the applicant BC Hydro (section 6).

4.0 Did the BCUC make an error of fact by relying upon BC Hydro's evidence ?

NMRG/BCCSC's first basis for reconsideration is that the BCUC made an error of fact in relying upon BC Hydro's evidence. The basis for this argument relates to Figure 3 in the Net Metering Decision, which shows the Net Generation Outflow Pattern for Residential net metering customers on Rate Schedule 1101.[16] Figure 3 is sourced from BC Hydro's response to BCUC IR 1.5.2, where it is labelled Figure 1.[17] For clarity, the Panel primarily refers to the original Figure 1 in these Reasons for Decision. As discussed further in section 5, NMRG/BCCSC submitted their final argument in the Original Proceeding on the understanding that the term "net generation outflow," as illustrated in Figure 1, means net metering customers' electricity outflow less inflow. Therefore, the meaning of the term "net generation outflow" is central to NMRG/BCCSC's basis for reconsideration of the Decision and accompanying Order G-168-20.

In order to address whether the information in Figure 1 was reliable, the Panel must examine the body of evidence in the Original Proceeding to evaluate whether there was sufficient information to explain or interpret the meaning of the term "net generation outflow."

4.1 Source of the Figure Illustrating Net Generation Outflow Pattern in Evidence

In BCUC IR 1.5.2,[18] the BCUC requested BC Hydro to produce bill estimates and cost shifting analysis with respect to two hypothetical net metering customers as follows:

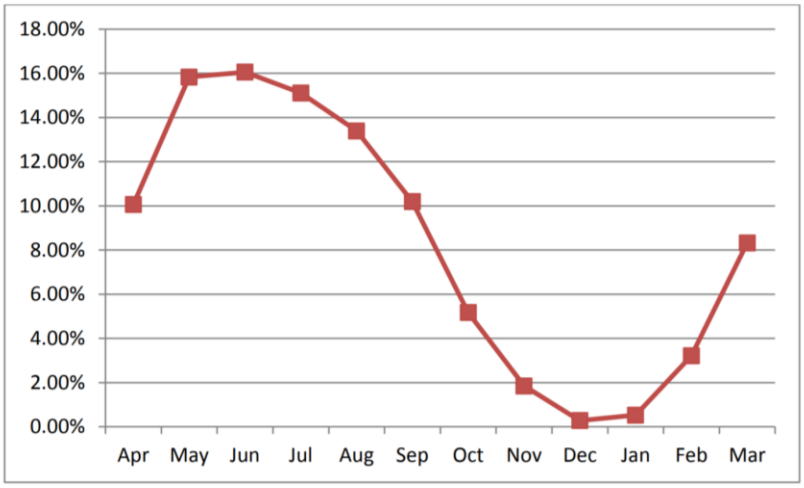
[14] Decision and Order G-168-20, p. 25.
[15] Reconsideration Application, pp. 7-8.
[16] Decision and Order G-168-20, p. 24.
[17] Exhibit B-3, Response to BCUC IR 1.5.2.
[18] Exhibit B-3, Response to BCUC IR 1.5.2.

> Please quantify the "cost-shifting" to non-participants by illustrating the cost recovery from the following hypothetical customers, including a breakdown and an illustrative example of the bill that the customer would pay in each billing cycle: i) an average SGS customer non-NM customer; ii) a hypothetical average SGS customer who offsets 50% of his/her own consumption with NM generation within each billing cycle; iii) a hypothetical average SGS customer who offsets 100% of his/her consumption within each billing cycle.

In its response, BC Hydro explained that due to the seasonal variation of outflows - as illustrated by Figure 1 - analysis of a customer offsetting either 50% or 100% of load within each billing cycle would not be meaningful:

> Figure 1 below shows the actual net generation (outflow) pattern of 409 Residential (RS 1101) Net Metering customers in fiscal 2016. As shown, these outflows have high seasonal variability, peaking in summer and approaching zero in winter. Therefore, it would not be meaningful to estimate bills for scenarios where a Net Metering customer offsets either 50 per cent or 100 per cent of their consumption, in each billing cycle, as suggested in the question.

Figure 1 Residential (RS 1101) Net Generation Outflow Pattern



[19]

BC Hydro applies the values in Figure 1 to the calculation of the estimated bills for the hypothetical customers in Tables 2 and 3 of the IR response. Table 2 is reproduced below as an example. The values in column B are derived from Figure 1, which are then used to calculate monthly generation values in column D:

[19] Exhibit B-3, Response to BCUC IR 1.5.2.

Table 2 Energy Usage and Bills for an Average Consumption RS 1101 Customer who Offsets 50 per cent of their Annual Consumption

(A) Month	(B) Percentage of Total Annual Generation (%) (Refer to Figure 1)	(C) Consumption (kWh) (Table 1 Column B)	(D) Generation (kWh) D = 4,870 * B[4]	(E) Monthly Net Energy (kWh) E = C-D	(F) Billing Period Net Energy (kWh)[5]	(G) Billed Energy (kWh)[6]	(H) Total Bill [7] ($)
April	10	885	490	395	433	433	54
May	16	809	771	38			
June	16	636	782	(145)	(277)	0	13
July	15	604	736	(131)			
August	13	610	652	(42)	85	0	13
September	10	623	496	127			
October	5	645	252	393	1,067	875	95
November	2	763	90	673			
December	0	913	14	900	2,044	2,044	239
January	1	1,170	26	1,145			
February	3	1,094	156	938	1,518	1,518	164
March	8	985	405	580			
Total	100	9,739	4,870	4,870	4,870	4,870	577

[20]

BC Hydro used information derived from Table 2 and Table 3 to provide cost shifting analysis for the hypothetical customers.[21] In the same IR response, BC Hydro provided actual customer data to perform a separate analysis of actual cost shifting from net metering customers to non-participants, primarily using data derived from the BC Hydro Fiscal 2016 Fully Allocated Cost of Service Study.[22]

Panel Discussion

Although the response to BCUC IR 1.5.2 does not explicitly define net generation outflow or explicitly indicate whether Figure 1 was net of inflows, the Panel is not persuaded that a plain and ordinary reading of this IR response in isolation suggests that net generation outflow should be interpreted to mean outflows less inflows. More importantly, as addressed in the next subsection, the Panel notes that Figure 1 is not the only reference to net generation outflow in the Original Proceeding, and the evidentiary record must be considered as a whole.

4.2 Other Evidence Related to Net Generation Outflow

As noted in section 3.1, the basis for the Reconsideration Application is clearly centered upon the meaning of the term "net generation outflow." In the following, the Panel provides examples from the Original Proceeding it considers relevant to understanding this term.

4.2.1 Net generation outflow and net consumption inflow

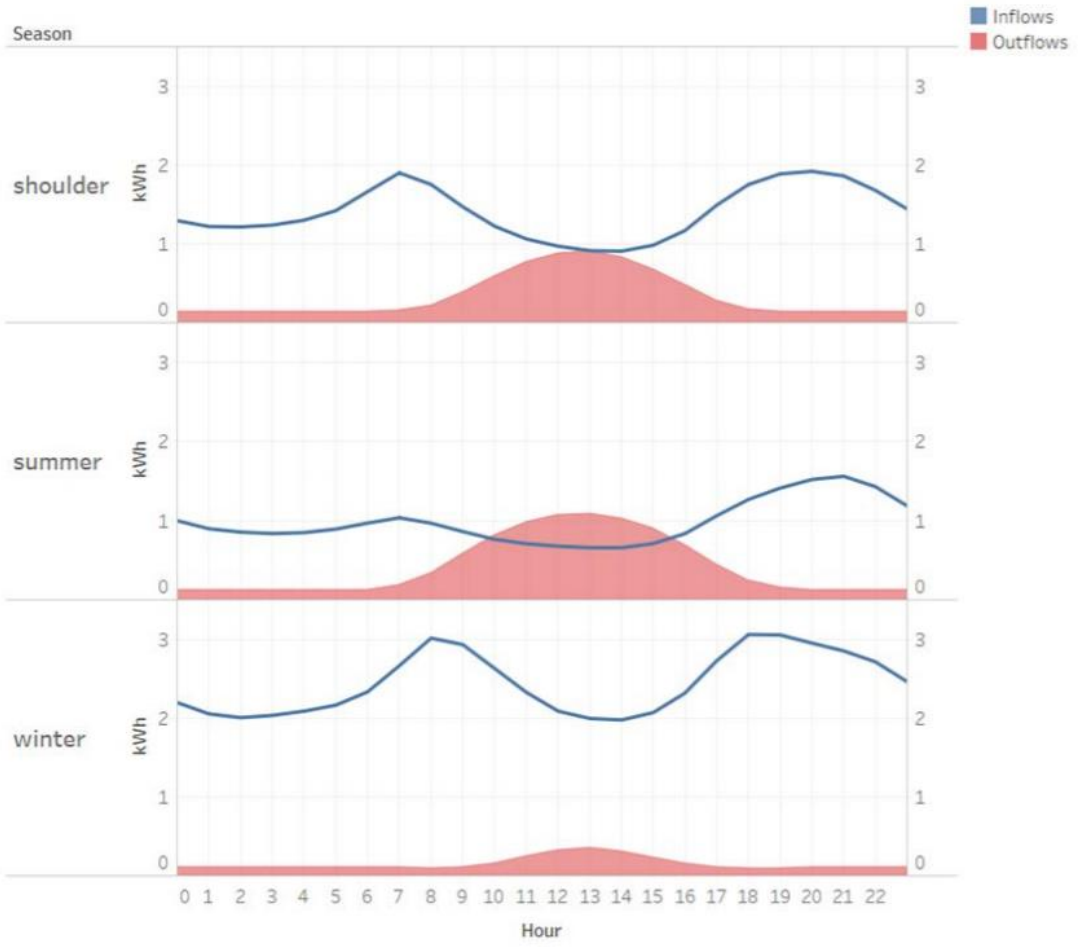
BCUC IR 1.14.2 asked BC Hydro to provide information regarding generation and consumption patterns of net metering customers as follows:

> Please compare NM customers' generation and consumption patterns as observed by BC Hydro. Please include data by rate class and by generation source, respectively.

[20] Exhibit B-3, Response to BCUC IR 1.5.2.
[21] Exhibit B-3, Response to BCUC IR 1.5.2, p. 12.
[22] Exhibit B-3, Response to BCUC IR 1.5.2, pp. 9–12.

In its response, BC Hydro explains that that it does not have access to customer generation and consumption data, but rather measures inflows and outflows at the net metering customer's meter. BC Hydro states:

> The Program does not require a customer's Generating Facility be separately metered. Current revenue metering measures a customer's net consumption and net generation. The following graphs provide net consumption (inflow) and net generation (outflow) patterns, by season, for residential customers in the Program, based on fiscal 2016 data (98 per cent of customers in the Program have a solar PV Generating Facility).



[23]

The response illustrates that net consumption (inflow) and net generation (outflow) are two separate concepts. Inflows are the amount of electricity provided by BC Hydro to net metering customers on a seasonal basis. Outflows are the net amount of customer generation that is sent to BC Hydro (customer total generation less any amounts that were utilized). The graphs show two key trends:

- In all seasons, inflows measured at net metering customers' meters exceed the outflows measured at their meters over a daily period.
- The winter season is characterized by particularly high inflows throughout the day, indicating a high consumption of and reliance upon BC Hydro electricity by net metering customers, and low outflows.

[23] Exhibit B-3, Response to BCUC IR 1.14.2.

Note that additional graphs were provided in the response for Small General Service (SGS) customers, however as Figure 1 relates to residential customers only, the graphs for SGS customers are not reproduced.

4.2.2 Other instances using the term "net generation outflow" in evidence

The term net generation outflow appears in several BC Hydro responses to BCUC and intervener IRs. Although a definition of net generation outflow is not sought in any of the IRs, BC Hydro explains:

> …The primary reason this would be expected to occur is because customers in the Program are able to accumulate a Generation Account Balance and use it to reduce subsequent bills. When a customer generates more electricity than they need at a point in time, that net generation (outflow) is recorded in the customer's Generation Account. The Generation Account Balance is then applied as a credit to reduce bills payable for electrical service under the rate schedule that the customer takes service… [emphasis added][24]

Additionally, in response to NMRG IR 2.19.4, BC Hydro explains that net generation outflow is not the same as energy for which customers receive Surplus Energy Payment:

> In 2018, significantly more net generation (outflows) was delivered to BC Hydro from customers in the Program with solar generation than from customers in the Program with hydro generation... This reflects the fact that customers in the Program are able to apply their Generation Account Balance against subsequent bill(s) and receive a Surplus Energy Payment for any remaining balance that exists on their Anniversary Date. Net generation (outflow) is not equivalent to the energy for which a customer receives a Surplus Energy Payment. [emphasis added][25]

BC Hydro provides the following explanation of Surplus Energy Payment in the Application:

> When customers generate more electricity than they need at a point in time, that surplus electricity is banked in the Customer's Generation Account. The Generation Account Balance is then applied as a credit to offset electricity consumption later, when customers do not generate enough electricity to meet their needs and require electricity from BC Hydro. Once every 12 months, if customers have credits remaining at their Anniversary Date, they receive a payment from BC Hydro for those remaining credits (Surplus Energy Payment) at the Energy Price.[26]

Panel Determination

The Panel finds that there was sufficient evidence on the record of the Original Proceeding to interpret the meaning of the term net generation outflow, and that it does not mean outflows net of inflows. Therefore, the Panel finds there was no error of fact made by the BCUC in relying upon BC Hydro's evidence respecting net generation outflow.

BC Hydro's response to BCUC IR 1.14.2 demonstrates to the Panel that net generation outflow cannot mean outflows less inflows, as NMRG/BCCSC suggested in their final argument. The graphs in this IR response show net consumption inflows alongside net generation outflows for residential customers for each season. This illustrates that net consumption inflows and net generation outflows are separate concepts, irrespective of the use of the word "net." These graphs also illustrate that in all seasons, net consumption inflows are greater than

[24] Exhibit B-7, Response to BCUC IR 2.26.5.
[25] Exhibit B-8, Response to NMRG IR 2.19.4.
[26] Exhibit B-1, p. 2.

net consumption outflows, and the only instance where outflows exceed inflows is during an approximately five-hour period in summer. This evidence refutes the assertion made by NMRG/BCCSC in the Original Proceeding that Figure 1 "[s]hows net outflow is never less than zero - never negative. Therefore, even throughout peak demand time in the evenings and in winter BC Hydro does not need to supply any net power to the Net Metering customers."[27] It is clear from these graphs that over the winter period there is significant inflow of BC Hydro power while the outflow or net generation is minimal.

BC Hydro has explained in a separate IR response that net generation outflow occurs at a point in time when a customer generates more electricity than they need, which in the Panel's view is sufficient to define the term. This also demonstrates to the Panel that the use of the word "net" is appropriate – net generation outflow is the positive difference between the "gross generation" by the customer's Generating Facility and the customer's own electricity requirements at a point in time. This point in time could be as little as an hour or cover a substantially larger period.

On the record of the Original Proceeding, the Panel observes there are a variety of other terms used by participants to describe concepts that appear similar or related to net generation outflow, such as net outflow, surplus energy, excess power, output energy, and energy delivered to the grid. The Panel acknowledges that there is potential for confusion between such terms that may appear on plain reading to have similar meanings. However, this underlines the importance of carefully considering the context in which the terms are used in, and consideration of the evidence as a whole. Any alleged ambiguity around terminology should not obscure the fact that the evidence in the Original Proceeding shows that net generation outflow cannot reasonably be interpreted to mean outflows less inflows.

In summary, the Panel concludes that the evidence filed in the proceeding clearly demonstrates that: (i) net generation outflow occurs at a point in time when a customer generates more electricity than they need to consume, and (ii) with respect to Figure 1, net generation outflow does not represent outflows less inflows.

5.0 Did the BCUC make an error of law by permitting BC Hydro to improperly change key evidence in its reply argument?

In the Reconsideration Application, NMRG/BCCSC allege that the BCUC erred in law by allowing BC Hydro to "change" its evidence with respect to Figure 1 in its reply argument. To determine whether there are grounds for reconsideration on this basis, the Panel must examine the relevant aspects of the NMRG/BCCSC and BC Hydro arguments from the Original Proceeding, and compare this to the evidence from the Original Proceeding which was discussed in the previous section. In particular, the Panel must consider whether the meaning ascribed to the term net generation outflow by BC Hydro in its reply argument is consistent with and supported by the evidence.

Figure 1 was referenced in part 4 (Extent and Direction of Cost Shifting Between NM and Non-Participating Customers) of NMRG's Final Argument. As indicated in the underlined passages below, NMRG made the following arguments on the basis that net generation outflow as depicted in Figure 1 represents outflows less inflows:

> **J. All 2016 NM Groups Peak Demand Was Fully Offset By NM Outflow**
> BC Hydro's Figure 1 shows Residential (RS 1101) Net Generation Outflow Pattern, which are then used in Tables 2 and 3 under (NM total) generation. However, use of BC Hydro's Figure 1 is incorrect because:

[27] NMRG/BCCSC Final Argument, p. 18.

- It only shows net outflows, meaning the sum of all outflows for 409 NM clients after all inflows have been deducted.

  …
- Before any outflow can be recorded all the customer loads are fulfilled.

  …
- The net is always positive never negative.
- Should be increased by the number of fulfilled loads that BC Hydro can't meter. BC Hydro's Figure 1 discussed above is not a net generation graph. Rather, it is a net outflow graph that does not include customer's own satisfied loads and must be treated as such. Basing Tables 2 and 3 on Figure 1 misses out a huge portion of the generated energy.

K. NM-Hydro Shares Outflow Amongst 409 Sample Group To Give Zero DEMAND
In considering BC Hydro's Figure 1 "outflow actual net generation pattern of 409 Residential (RS 1101) Net Metering customers in fiscal 2016" it must be noted:

- "Net outflow generation" shown is the outflow after inflow has been deducted and after all 409 client's loads have been satisfied.
- Shows net outflow is never less than zero - never negative. Therefore, even throughout peak demand time in the evenings and in winter BC Hydro does not need to supply any net power to the Net Metering customers. [emphasis added][28]

The response to the above points provided in BC Hydro's reply argument is reproduced in full below:

> In section K of part 4, at page 18, the NMRG/BCCSC states that even throughout peak demand time in the evenings and in winter, BC Hydro does not need to supply any power to the Net Metering customers. However, data presented in a BC Hydro IR response clearly shows that net metering customers delivered minimal electricity to BC Hydro during system peak months (i.e., November through February) and therefore, did rely on electricity delivered by BC Hydro in these months.13
>
> [Footnote 13] Refer to Figure 1 of BC Hydro's response to BCUC IR 1.5.2 which provides electricity delivered by net metering customers to BC Hydro's system. For clarity, this figure only shows generation outflow and not outflow after inflow has been deducted or after all 409 customer loads have been satisfied, as NMRG/BCCSC appears to be assuming.[29]

Panel Determination

The Panel finds that BC Hydro did not attempt to change its evidence pertaining to Figure 1 and the meaning of net generation outflow in its reply argument and thus there was no error of law.

A key purpose of a reply argument is for an applicant to address intervener positions or comments it could not have reasonably anticipated when filing final argument. In this regard, BC Hydro could not have reasonably anticipated how NMRG/BCCSC would interpret the meaning of Figure 1 and the term net generation outflow. A review of the evidentiary record reveals no information requests or evidence filed by NMRG/BCCSC prior to the argument phase indicate that NMRG/BCCSC would contest the meaning of Figure 1 based on an alternative interpretation of the evidence. BC Hydro was, therefore, entitled to address NMRG/BCCSC's interpretation in reply argument. The Panel has already found that there was sufficient evidence on the record to demonstrate

[28] NMRG Final Argument, p. 18.
[29] BC Hydro Reply Argument, p. 5.

that Figure 1 did not represent outflows less inflows, contrary to the submission of NMRG/BCCSC in final argument. **Therefore, the Panel dismisses the NMRG/BCCSC assertion that the BCUC made an error of law in allowing BC Hydro to change evidence in reply argument.** The material BC Hydro presented in reply was a reasonable clarification and appropriate as part of a reply argument and not a change or new evidence.

NMRG/BCCSC also take issue with the fact that BC Hydro's reply argument refers to "generation outflow" and not "net generation outflow."[30] The Panel considers NMRG/BCCSC's argument to be without merit. By stating that Figure 1 is "not outflow after inflow has been deducted," BC Hydro's reply argument directly responds to the submission made by NMRG/BCCSC that "[Figure 1] only shows net outflows, meaning the sum of all outflows for 409 NM clients after all inflows have been deducted." It is noteworthy that NMRG/BCCSC's final argument provided no justification for how it had reached such a conclusion. The Panel concludes that there is nothing in BC Hydro's reply argument that was improper, or inconsistent with evidence in the proceeding. **Therefore, the Panel finds that BC Hydro's reply argument does not constitute a changing of the evidence and the Panel's acceptance of the reply does not constitute an error of law**.

6.0 Did the BCUC make an error of law by improperly placing the onus of proof on NMRG and BCCSC rather than on the applicant, BC Hydro?

NMRG/BCCSC state that the onus of proof in this proceeding is on BC Hydro, the applicant, and not on NMRG/BCCSC. As outlined in section 3, NMRG/BCCSC in its Reconsideration Application cites the Net Metering Decision[31] where the BCUC states that NMRG/BCCSC had the opportunity in the Original Proceeding to file evidence on behalf of alternative data to support their arguments regarding consumption levels. However, NMRG/BCCSC point out that the BCUC was silent on BC Hydro changing the meaning of a figure in reply argument, which NMRG/BCCSC submit was an inappropriate and uneven treatment of the parties. In these reasons, the Panel has already found that BC Hydro did not change evidence respecting net generation outflow in its reply argument.

Panel Determination

The Panel finds that the BCUC did not make an error of law and did not improperly shift the onus or burden of proof on to the interveners, rather than the applicant.

The Panel agrees that the onus was on BC Hydro to present evidence during the hearing to substantiate its case. It is apparent that in the Original Proceeding the Panel was satisfied that BC Hydro did present sufficient evidence and found that it could be relied upon during the course of the hearing. In final argument, NMRG/BCCSC challenged the evidence presented by BC Hydro and presented their own interpretation of the evidence. The arguments of NMRG/BCCSC were challenged and ultimately the BCUC placed little weight on them noting that the intervener had the opportunity to pursue this in the IR phase or file evidence to support their interpretation. From the extract of the Net Metering Decision provided in section 3 of these reasons, it is clear that the panel in the Original Proceeding was not persuaded by NMRG/BCCSC's position provided in final argument, and it was insufficient to successfully challenge the evidence of BC Hydro, which was ultimately accepted.

[30] Reconsideration Application, p. 6.
[31] Decision and Order G-168-20, p. 25.

7.0 Summary

For the reasons outlined above, the Panel dismisses the reconsideration application and determines there were no errors of fact and law as raised by NMRG/BCCSC in the Reconsideration Application. Specifically, the BCUC did not make:

i. An error of fact by expressly determining that BC Hydro's "Figure 3: Residential (RS 1101) Net Generation Outflow Pattern" can be relied upon;

ii. An error of law by permitting BC Hydro to improperly change key evidence in its reply argument; and

iii. An error of law by improperly placing the onus of proof on NMRG and BCCSC rather than on the applicant, BC Hydro.

On this basis, the Panel summarily dismisses the NMRG/BCCSC Reconsideration Application.