



**ORDER NUMBER  
G-269-22**

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  
Independent Power Producer Agreements

**BEFORE:**

A. K. Fung, KC, Panel Chair  
W. M. Everett, KC, Commissioner  
M. Kresivo, KC, Commissioner

on September 26, 2022

**ORDER**

**WHEREAS:**

- A. On June 10, 2020, by way of Directive 2 of Order G-148-20, the British Columbia Utilities Commission (BCUC) directed British Columbia Hydro and Power Authority (BC Hydro) to file with the BCUC all existing, but unfiled, agreements entered after and including October 1, 2001, that are associated with and materially affect existing Energy Supply Contracts (ESCs), within 30 days of the date of that order (Directive 2);
- B. On July 10, 2020, by Order G-185-20, the BCUC approved BC Hydro's requested extension to vary the filing deadline set out in Directive 2 from July 10, 2020 to August 10, 2020;
- C. On August 6, 2020, BC Hydro submitted to the BCUC a request to reconsider and vary Directive 3 of Order G-148-20 and also requested the BCUC:
  - 1. Confirm the intended scope of Directive 2; and
  - 2. Further vary and extend the filing deadline for Directive 2 to 60 days after the date of the BCUC's decision on the Reconsideration Application or 60 days after the date of a BCUC letter clarifying the intended scope of Directive 2.
- D. By letter dated August 28, 2020, the BCUC confirmed that because Directive 2 did not refer to section 71 of the *Utilities Commission Act* (UCA), the corresponding compliance filing would be for informational purpose only. The BCUC also approved BC Hydro's request for a further extension to the filing deadline in Directive 2 to October 27, 2020;
- E. On October 27, 2020, BC Hydro submitted the compliance filing per Directive 2;
- F. By Order G-279-20 dated November 2, 2020, the BCUC varied Directive 3 of Order G-148-20 to require BC Hydro to file with the BCUC all future agreements that are associated with and materially affect existing ESCs;

- G. Pursuant to section 71 of the UCA, the BCUC Rules for Energy Supply Contracts for Electricity in effect from July 20, 1993 to May 16, 2012 (Previous Rules) and the BCUC Rules for Energy Supply Contracts as approved by Order G-61-12 on May 17, 2012 (the Rules), energy supply contracts are to be filed with the BCUC in order to determine whether the contract is in the public interest;
- H. Pursuant to section 7 of the *Clean Energy Act* (CEA), BC Hydro is exempt from sections 45 to 47 and 71 of the UCA with respect to projects, programs, contracts, and expenditures described or as they may be further described by regulation;
- I. By letter dated June 8, 2022, the BCUC requested, amongst other things, that BC Hydro file explanations of the material changes affected by 11 of the agreements contained in the compliance filing and explanations as to whether filing and review under section 71 of the UCA are required;
- J. On July 22, 2022, BC Hydro filed the 11 agreements, including the original relevant ESCs and explanations as to the material changes to the ESCs as effected by these 11 agreements (Filing);
- K. BC Hydro requests portions of the Filing and all agreements listed in the Filing, be kept confidential pursuant to section 42 of the *Administrative Tribunals Act* and Part 4 of the BCUC's Rules of Practice and Procedure;
- L. The ESCs for Fort St. James Green Energy, Castle Creek, Culliton Creek, Dasque – Middle, Hunter Creek Run-of-River Hydroelectric Project, Moose Lake Wind Project, Pennask Wind Farm, Shinish Creek Wind Farm, and Sukunka Wind Energy Project are exempt from BCUC review in accordance with sections 7(1)(e), 7(1)(g), and 7(1)(h) of the CEA;
- M. The original ESCs for the Ashlu Creek Water Power and Hauer Creek (aka Tete) projects were filed with the BCUC pursuant to section 71 of the UCA and accepted by Order E-2-04. The previously unfiled waivers associated with these ESCs were entered into on August 6, 2008 and May 16, 2007, respectively, and the term for each waiver has since expired;
- N. The BCUC has reviewed the Filing and determines that: No further review of the agreements that are the subject of the Filing is warranted; and
- O. The unredacted version of the Filing and all agreements included in the Filing will be held confidential by the BCUC as they contain certain information, which is commercially sensitive and, if disclosed, may be harmful to BC Hydro and/or the sellers.

**NOW THEREFORE** the BCUC orders the following:

- 1. The unredacted version of the Filing and all agreements included in the Filing will be held confidential by the BCUC; and
- 2. Pursuant to section 71 of the UCA and the BCUC Rules for Energy Supply Contracts as approved by Order G-61-12, and as directed by Orders G-148-20 and G-185-20 as varied by G-279-20, BC Hydro is required to file all amendments to ESCs with the BCUC by April 30<sup>th</sup> of each year including all contractual developments with their relevant details.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 26<sup>th</sup> day of September 2022.

BY ORDER

*Original signed by:*

A. K. Fung, KC  
Commissioner