



ORDER NUMBER
G-350-22

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

and

British Columbia Hydro and Power Authority
Complaint filed by Gitga'at First Nation regarding Remote Community Electrification Program Fees

BEFORE:

C. M. Brewer, Panel Chair
A. K. Fung, KC, Commissioner
T. A. Loski, Commissioner

on December 5, 2022

ORDER

WHEREAS:

- A. On April 5, 2022, Gitga'at First Nation (GFN) filed a complaint with the British Columbia Utilities Commission (BCUC) concerning charges billed by British Columbia Hydro and Power Authority (BC Hydro) (Complaint);
- B. In the Complaint, GFN details that it is a remote community to which BC Hydro extended electrical service under the Province of British Columbia's Remote Community Electrification (RCE) Program, and that in addition to paying Zone II rates as set out in BC Hydro's Electric Tariff, GFN has been charged an annual charge of approximately \$85,000 in relation to an Electricity Service Agreement with BC Hydro, dated 2014 (Electricity Servicing Charge). GFN submits that the Electricity Servicing Charge violates section 63 of the *Utilities Commission Act* (UCA), as it is a term or condition of service that was not reviewed and approved by the BCUC;
- C. On August 30, 2022, the BCUC directed BC Hydro to file additional documents, including the signed Memorandum of Understanding between Canada, the Government of British Columbia and BC Hydro (Canada MOU), the signed Memorandum of Understanding between GFN and BC Hydro, all correspondence with GFN prior to the filing of the Complaint, and any other documents considered relevant to the Complaint (Additional Information);
- D. BC Hydro submitted the Additional Information on September 13, 2022;
- E. By Order G-272-22 dated September 29, 2022, the BCUC established a regulatory timetable, which included public notice, intervener registration, and BCUC and Intervener information requests;
- F. By letter dated November 4, 2022, BC Hydro informed the BCUC that the Electricity Service Agreement with GFN is one of five such agreements with First Nations communities and that it intends to terminate these agreements pending the outcome of this proceeding;

- G. Also in its letter dated November 4, 2022, BC Hydro requests that the BCUC's review of the Complaint be scoped such that the BCUC would first determine whether the Electricity Service Agreement with GFN falls within the rate provisions of the UCA prior to examining other aspects of the Complaint (Scoping Request). BC Hydro submits that granting its Scoping Request would further regulatory efficiency;
- H. By letter dated November 7, 2022, the BCUC adjourned the regulatory timetable and requested submissions regarding the Scoping Request;
- I. By letter dated November 8, 2022, GFN submitted that it has no objection to the BCUC considering first whether the Electricity Service Agreement falls within the rate provisions of the UCA;
- J. On November 21, 2022, BC Hydro filed a reply submission;
- K. The Panel has reviewed the submissions received and considers that narrowing the initial scope of the proceeding would not further an efficient regulatory review of the Complaint at this time since a determination of jurisdiction cannot be made without a fulsome understanding of the nature of the payments made in relation to the Electricity Servicing Agreement and BC Hydro's provision of service to GFN, which is the basis of the Complaint; and
- L. The Panel considers that given the introduction of new evidence regarding the number of Electricity Service Agreements BC Hydro has in place with First Nations communities, issuance of an amended regulatory timetable that provides a further opportunity for the filing of intervention requests is warranted.

NOW THEREFORE the BCUC orders as follows:

- 1. BC Hydro's Scoping Request is denied.
- 2. An amended regulatory timetable for the review of the Complaint is established as set out in Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 5th day of December 2022.

BY ORDER

Original signed by:

C. M. Brewer
Commissioner

Attachment

British Columbia Hydro and Power Authority
Complaint filed by Gitga'at First Nation regarding Remote Community Electrification Program Fees

REGULATORY TIMETABLE

Action	Date (2022)
BCUC Information Request (IR) No. 1 to BC Hydro	Friday, December 9
Intervener registration	Thursday, December 29

Action	Date (2023)
BC Hydro response to BCUC IR No. 1	Tuesday, January 3
GFN and Intervener IR No. 1 to BC Hydro	Thursday, January 12
BC Hydro responses to GFN and Intervener IR No. 1	Thursday, January 26
BCUC IR No. 1 to GFN	Thursday, February 2
GFN responses to BCUC IR No. 1	Thursday, February 16
Letters of Comment	To be determined
Further Process	To be determined