



ORDER NUMBER
G-175-23

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

and

Nelson Hydro
Application for Reconsideration and Variance of Order G-196-22

BEFORE:
C.M. Brewer, Panel Chair
R.I. Mason, Commissioner

on July 6, 2023

ORDER

WHEREAS:

- A. On December 2, 2022, Nelson Hydro filed an application for reconsideration and variance of Decision and Order G-196-22 pursuant to section 99 of the *Utilities Commission Act* with the British Columbia Utilities Commission (BCUC) in accordance with Part V of the BCUC's Rules of Practice and Procedure (Reconsideration Application);
- B. By Order G-196-22 and accompanying reasons for decision dated July 19, 2022, the BCUC issued its decision regarding Nelson Hydro's Cost of Service Analysis (COSA) and Rate Design (RD) application. The BCUC ordered, among other matters, the following:
 - i. Nelson Hydro to recalculate its COSA with generation assets and costs assigned 100 percent to common assets and costs;
 - ii. Nelson Hydro to recalculate its COSA with power purchase costs assigned 100 percent to common costs; and
 - iii. Nelson Hydro's return on equity is set at a 50-basis point premium above the benchmark as established by Order G-75-13 on a deemed equity component of 50 percent;
- C. Nelson Hydro requests that the BCUC reconsider and vary Order G-196-22 on the grounds that the BCUC made material errors of law and fact in the following respects:
 - i. Nelson Hydro be directed to assign its generation assets and costs 100 percent to its Urban customers in the COSA;

- ii. Nelson Hydro be directed to assign power purchases of 33.5 percent to Urban customers and 66.5 percent to Rural customers; and
 - iii. A debt-to-equity ratio reflecting the utility's actual debt-to-equity be used for the estimated rate base of Nelson Hydro's Rural operations and Nelson Hydro be directed to increase its debt in advance of any future COSA filing;
- D. By Order G-392-22 and G-73-23 dated December 30, 2022 and April 3, 2023, respectively, the BCUC established the regulatory timetable for the review of the Reconsideration Application, which included intervener registration and one round of BCUC and intervener information requests (IRs), along with submissions on further process;
- E. By April 25, 2023, Nelson Hydro and Residential Consumer Intervener Association (RCIA) submitted that written final argument would be appropriate for further process while another intervener, Mr. Daniel Gatto (Mr. Gatto), was opposed;
- F. By letter received on April 26, 2023, Mr. Gatto filed a letter with the BCUC submitting that Nelson Hydro's responses to Mr. Gatto IR No. 1 dated March 16, 2023, were incomplete and insufficient;
- G. By letter dated May 2, 2023, the BCUC requested Nelson Hydro to provide a written response to the submission made by Mr. Gatto;
- H. On May 23, 2023, Nelson Hydro filed a response on the disputed IRs. Nelson Hydro objects to the introduction of additional IRs. However, to avoid further delays in the proceeding, Nelson Hydro responded to Mr. Gatto's questions;
- I. On May 30, 2023, Mr. Gatto filed a reply to Nelson Hydro's submission; and
- J. The Panel has reviewed Nelson Hydro's responses to IR No. 1, the submissions on further process, and Nelson Hydro and Mr. Gatto's submissions and considers that amending the regulatory timetable is warranted.

NOW THEREFORE for reasons set out in Appendix A, the BCUC amends the regulatory timetable as set out in Appendix B to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 6th day of July 2023.

BY ORDER

Original signed by:

R.I. Mason
Commissioner

Attachment

Nelson Hydro
Application for Reconsideration and Variance of Order G-196-22

REASONS FOR DECISION

1.0 Background

On December 2, 2022, Nelson Hydro filed an application for reconsideration and variance of Decision and Order G-196-22 pursuant to section 99 of the *Utilities Commission Act* with the British Columbia Utilities Commission (BCUC) in accordance with Part V of the BCUC's Rules of Practice and Procedure (Reconsideration Application). Nelson Hydro requests, among other matters, the BCUC reconsider and vary Order G-196-22 on the grounds that the BCUC made material errors of law and fact in directing Nelson Hydro to assign its generation assets and costs and power purchase costs 100 percent to common in the Cost of Service Analysis (COSA).

By Order G-392-22 and G-73-23 dated December 30, 2022 and April 3, 2023, respectively, the BCUC established the regulatory timetable for the review of the Reconsideration Application, which included intervenor registration and one round of BCUC and intervenor information requests (IRs), along with submissions on further process.

By letter received on April 26, 2023, Mr. Daniel Gatto (Mr. Gatto) filed a letter with the BCUC submitting that Nelson Hydro's responses to IR 3.1, 3.2, and 5.1 from Mr. Gatto IR No. 1 dated March 16, 2023, were incomplete and insufficient.¹

By letter dated May 2, 2023, the BCUC, pursuant to Rule 13.05 of the BCUC's Rules of Practice and Procedure, requested Nelson Hydro to provide a written response to the submission made by Mr. Gatto and for Mr. Gatto to respond to Nelson Hydro's submission. The Panel stated it would consider further process after the IR matter has been settled and would amend the regulatory timetable in due course.²

Nelson Hydro filed a response on the disputed IRs on May 23, 2023 and objected to the introduction of additional IRs in Mr. Gatto's letter. However, to avoid further delays in the proceeding, Nelson Hydro responded to Mr. Gatto's questions.³

By letter dated May 30, 2023, Mr. Gatto submitted his reply to Nelson Hydro's submission and requested further responses to establish a clearer understanding of the issues.⁴

2.0 Issues Arising

In consideration of the submissions of the parties, the Panel has determined the following items need to be addressed:

1. Whether Nelson Hydro's responses to Mr. Gatto IR 3.1, 3.2 and 5.1 are complete and sufficient; and
2. Whether to compel Nelson Hydro to provide answers to Mr. Gatto's additional IRs.

¹ Exhibit C2-4, p. 1.

² Exhibit A-6, p. 1.

³ Exhibit B-10.

⁴ Exhibit C2-5, p. 2.

2.1 Disputed IRs from IR No.1

Nelson Hydro's responses to Intervener IR No.1 were received on March 16, 2023. Nelson Hydro provided the following responses to Mr. Gatto IR 3.1, 3.2, and 5.1:

Mr. Gatto Original IR No. 1 (Exhibit C2-2)		Nelson Hydro Original IR 1 Response (Exhibit B-6)
3.1	Nelson Hydro states that if the BCUC continues to allocate 100% of generation to Common then an appropriate amount of Capital Reserve Transfer should be allocated to Common. Should the Modified COSA be approved please explain the methodology that will be employed to allow for Capital Reserve transfers from Rural customers. ⁵	The capital reserve transfer allocation methodology will be determined if the BCUC approves Nelson Hydro's request for reconsideration. Please see the response to BCUC IR No. 7.1 which discusses the impact to the Rural revenue to cost coverage ratios assuming contributions to capital reserves are allocated 100 percent to Common. ⁶
3.2	Please provide a breakdown of the components used in financing Capital expenditures including the Capital Reserve, contributions from operations, debt and positive or negative variances from budget to actuals from 2020-2022. ⁷	<p>In regards to the 2020-2022 period indicated in the question, there were no Nelson Hydro Capital purchases made with debt.</p> <p>When not funded by debt, capital expenditures are funded by the following components in this order: a) amortization b) contributions from operations c) capital reserve. For instance, if the amortization in a given year is greater than the capital expenditures, the only component funding the capital expenditure is amortization and any net surplus from operations would be added to the capital reserve. If in a given year, the capital expenditures are greater than the amortization, then the funding source for the expenditures is the full amortization amount plus any surplus from operations. Finally, if the capital expenditures for a given year are greater than both the amortization and any surplus from operations, the capital reserve is used to fund the balance. For the reference period in the question, 2020-2022, Nelson Hydro used the following components to fund capital expenditures:</p> <ul style="list-style-type: none"> • 2020: Amortization and surplus from operations (i.e. budgeted contributions to capital reserves) • 2021: Amortization and surplus from operations (i.e. budgeted contributions to capital reserves) • 2022: Amortization, surplus from operations (i.e. budgeted contributions to capital reserves)

⁵ Exhibit C2-2, p. 2.

⁶ Exhibit B-6, p. 2.

⁷ Exhibit C2-2, p. 2.

		and the Capital Reserve draw down previous years. ⁸
5.1	<p>Nelson Hydro gave a presentation to a Townhall meeting on January 14, 2023, in Balfour hosted by RDCK Area E. The presentation focused on the 2023 RRA and the proposed Rural 9.87% increase. I asked Scott Spenser (Nelson Hydro GM) what the rate impact of a successful Reconsideration and Variance application would be to Rural customers. Scott replied “up to 18%. An outcome that is very similar to that requested in the original COSA submitted in November 2020. In the presentation there was no mention of the content or impact of the Reconsideration application, only that it was filed on December 2, 2022. Please confirm the “up to 18% increase” and how Nelson Hydro would implement such an increase?⁹</p>	<p>The up to 18% rate increase reference was based on the original COSA submitted in November 2020 as noted in the preamble to this question. The estimated rate increase for Rural customers based on the 2023 COSA would be about 26% if the BCUC approves Nelson Hydro’s application for reconsideration and variance of Order G-196-22. Please also see the response to BCOAPO IR- No. 4, dated March 6, 2023 (Exhibit B-6) from the 2023 Revenue Requirement application proceeding. Nelson Hydro further notes that it has, as part of its 2023 Revenue Requirement Application, proposed the use of a deferral account to collect variances which may result, which would allow for flexibility in implementing increases arising from this Reconsideration Application.¹⁰</p>

Mr. Gatto IR 3.1

In his letter, Mr. Gatto submits that Nelson Hydro’s response should also come with an explanation of how such a protocol would be implemented or at a minimum provide the methodology of how common capital reserve contributions would be allocated to Rural and Urban rate payers. Mr. Gatto also requests a breakdown of actual costs that were used to calculate the derived percentages referenced in the response to BCUC IR 7.1 and confirmation that Coffee Creek was already assigned 100 percent to Rural in the 2019 COSA model and has already been accounted for in the COSA calculation.¹¹

In Nelson Hydro’s submission, it states that its approach would be for the capital reserves contribution allocation to be 100 percent common. Nelson Hydro states that the 2019 capital reserve amount was \$2.877 million. In the COS (Common) tab of the COSA model, the \$2.877 million was functionalized to generation and classified as 20 percent demand and 80 percent energy related, consistent with the generation function classification approved in Order G-196-22. The resulting allocation of capital reserve to Rural was \$1.212 million, approximately 42 percent of the total capital reserve amount of \$2.877 million. The associated Revenue-Cost-Coverage (RCC) ratios were 82.1 percent for residential; 120.2 percent for commercial; 86.8 percent for streetlights; and 86.0 percent for Rural total.¹²

In response, Mr. Gatto acknowledges that Nelson Hydro did provide a dollar amount for Rural’s share of the 2019 Capital reserve and the associated impact on residential, commercial and streetlights, as well as a re-

⁸ Exhibit B-6, p. 2.

⁹ Exhibit C2-2, p. 5.

¹⁰ Exhibit B-6, p. 6.

¹¹ Exhibit C2-4, p. 2.

¹² Exhibit B-10, Appendix A, pp. 1–2.

quotation of the associated RCC ratios.¹³ However, he submits, as Nelson Hydro referred to the Coffee Creek Substation in its response to BCUC IR 7.1, the station should now be included in the IR response and requests Nelson Hydro explain how the dollar amount of the Rural’s allocation of power purchases from the Coffee Creek substation is determined.¹⁴

Mr. Gatto IR 3.2

In his letter, Mr. Gatto submits that Nelson Hydro’s response does not fully address the original question. Mr. Gatto poses the following question in his letter, “Please provide a dollar breakdown for each of the years for the period 2020, 2021 & 2022 for Capital Expenditures and the respective contributions from Amortization, surplus and or funds from Capital Reserve with respect to Rural customers.” He also requests the actual power purchase allocation costs for 2020, 2021 and 2022 for the Rural rate payer.¹⁵

Nelson Hydro submits that its response to Mr. Gatto IR 3.2 is complete and adequate. Nelson Hydro states that the response clearly provides “a breakdown of the components” used to fund capital expenditures as requested and Mr. Gatto’s original IR 3.2 did not request that the breakdown be provided in dollar amounts. Despite this objection, Nelson Hydro provides the dollar breakdown of financing for Nelson Hydro’s capital expenditure as a whole utility from 2020 to 2022 as shown in Table 1 below.¹⁶

Table 1: Nelson Hydro’s Capital Expenditures and Financing from 2020 to 2022¹⁷

Asset Category	2020	2021	2022 Forecast
Poles_Trans	\$ 112,000	\$ 28,000	\$ 91,402
Poles_Primary	\$ 1,455,259	\$ 922,500	\$ 972,770
Poles_Secondary	\$ 144,000	\$ 176,900	\$ -
Transformers_Polemount	\$ 102,000	\$ 189,000	\$ 514,071
Transformers_Padmout	\$ 35,000	\$ 254,785	\$ -
Underground Primary Cable	\$ 50,280	\$ 292,597	\$ -
UG Primary Vaults	\$ 27,500	\$ 70,000	\$ -
UG Secondary Cable	\$ 45,480	\$ 29,438	\$ -
UG Secondary Vaults	\$ 29,446	\$ 11,900	\$ -
UG Fibre Conduit	\$ 3,780	\$ -	\$ -
Generating Stations	\$ 795,931	\$ 220,212	\$ 699,092
Sub Stations	\$ -	\$ -	\$ 1,051,700
Hydro Misc	\$ 379,805	\$ 78,355	\$ 447,056
Totals	\$ 3,183,000	\$ 2,276,000	\$ 3,776,000
Funding Component			
Amortization	\$ 1,326,000	\$ 1,368,000	\$ 1,384,000
Operating Surplus	\$ 1,857,000	\$ 908,000	\$ 1,715,738
Reserves	\$ -	\$ -	\$ 676,262
Debt	\$ -	\$ -	\$ -
Total	\$ 3,183,000	\$ 2,276,000	\$ 3,776,000

In response, Mr. Gatto submits, if he requested a breakdown in his original IR, it is implied that the actual cost breakdown should be provided. Mr. Gatto states that he requested the Rural costs associated for the three-year period in his letter received on April 26, 2023 and that reaffirms he is seeking this information along with when Nelson Hydro began tracking costs between the Rural and Urban service areas. Mr. Gatto also submits that

¹³ Exhibit C2-5, p. 2.

¹⁴ Exhibit C2-5, pp. 1–2.

¹⁵ Exhibit C2-4.

¹⁶ Exhibit B-10, Appendix A, pp. 3–4.

¹⁷ Exhibit B-10, Appendix A, Table A, p. 4.

power purchases are germane to the process and requests the Rural portion of power purchase costs for Energy, Demand and Basic charges from FortisBC Inc. for 2020 and 2021.¹⁸

Mr. Gatto IR 5.1

In his letter, Mr. Gatto submits that Nelson Hydro's response and the referenced IR in the response make contradicting statements on Nelson Hydro's intent for use of a deferral account. He requests clarity on which is the correct statement and, if the deferral account has been proposed, to detail how it will be implemented for Rural ratepayers, including how deficiencies and surpluses accumulated will be recovered and refunded.¹⁹

Nelson Hydro states that its response to Mr. Gatto IR 5.1 contained a typographical error and should have been "BCOAP0 IR No. 1.4 dated March 6, 2023 (Exhibit B-6) from the 2023 Revenue Requirement Application." With this correction, Nelson Hydro submits that its response fully answers Mr. Gatto IR 5.1. Nelson Hydro objects to the additional question included in Mr. Gatto's letter, as Nelson Hydro submits it would constitute new IRs, rather than a clarification regarding Mr. Gatto's original IR No. 1.²⁰

Mr. Gatto did not respond to Nelson Hydro for this disputed IR.

2.2 Additional IRs

Nelson Hydro states that in reviewing Mr. Gatto's submission, it appears he is using the opportunity to submit additional IRs that go beyond the scope of his initial IR No. 1, and that go beyond the scope of the issues raised in the Reconsideration Application.²¹ These IRs include:

- "Please provide the breakdown & actual costs that were used to calculate the derived percentages in the responses referenced [in BCUC IR 7.1]. In b) [of the response to BCUC IR 7.1], please confirm that Coffee Creek was already assigned 100% to Rural in the 2019 COSA model and that these additional cost impacts have already been accounted for in the COSA calculation."²²
- "Power Purchases are an integral portion of the Reconsideration and Variance application. Please provide the actual Power Purchases allocation costs for 2020, 2021 & 2022 for the Rural rate payer, it is understood that 2022 may not have actual costs available but forecasts will suffice if actuals are not available."²³
- "If the deferral account has indeed been proposed, please detail how this will be implemented/executed as well as how deficiencies and surpluses accumulated in this account will be dealt with for Rural rate payers."²⁴

In response, Mr. Gatto states that the answers to IR questions provided by Nelson Hydro often refer to other IRs from other intervenors, which often do not address or only partially address the question, making it challenging to find the referenced response. Mr. Gatto submits that the limited, selective, or partial answering of IRs is not

¹⁸ Exhibit C2-5, p. 2.

¹⁹ Exhibit C2-4, p. 4.

²⁰ Exhibit B-10, Appendix A, pp. 5–6.

²¹ Exhibit B-10, p. 3.

²² Exhibit C2-4, p. 2.

²³ Exhibit C2-4, p. 3.

²⁴ Exhibit C2-4, p. 4.

an uncommon occurrence. He argues that this is an opportunity for transparency and establishing a clear understanding of the issues for all parties.²⁵

3.0 Overall Panel Determination

The Panel finds that Nelson Hydro has fully responded to Mr. Gatto's IRs. Mr. Gatto asked Nelson Hydro to explain the methodology that it would employ to allow for Capital Reserve transfers from Rural customers should the Modified COSA be approved. Nelson Hydro referenced its response to BCUC IR 7.1 and offered further details in its letter dated May 23, 2023. Additionally, Nelson Hydro details its capital additions with respect to Mr. Gatto IR 3.2 and corrected the information contained in its response to Mr. Gatto IR 5.1.

Mr. Gatto's further requests regarding Coffee Creek, Power Purchases in 2022, and the use of a deferral account go beyond his original request. While recognizing that Mr. Gatto may be less familiar with how to word IRs in a manner that extracts the exact information sought, the Panel is satisfied that Nelson Hydro has sufficiently responded to Mr. Gatto's questions as asked. Further details on the matters Mr. Gatto raises are not of such probative value as to justify imposing additional regulatory burden and procedural delays on Nelson Hydro, particularly as they are unlikely to further assist the Panel in its final determination. The questions Mr. Gatto asks appear to the Panel to relate to Nelson Hydro's revenue requirement rather than to the matter of this reconsideration. We suggest that Mr. Gatto considers participating in a future Nelson Hydro revenue requirements proceeding.

With respect to further process, the Panel agrees with Nelson Hydro and RCIA that the evidentiary record is sufficient and therefore determines that the proceeding shall now move to final arguments.

²⁵ Exhibit C2-5, p. 1.

Nelson Hydro
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REGULATORY TIMETABLE

Action	Date (2023)
Nelson Hydro written Final Argument	Tuesday, July 25
Intervener written Final Argument	Wednesday, August 9
Nelson Hydro written Reply Argument	Thursday, August 17