



ORDER NUMBER
G-247-23

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 September 18, 2023

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 Program, and that in addition to paying Zone II rates as set out in BC Hydro's Electric Tariff, GFN has had to pay to BC Hydro an annual charge of approximately \$85,000 in relation to an Electricity Service Agreement with BC Hydro dated February 3, 2014 (Annual Charge). GFN submits that the Annual 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. By Order G-272-22 dated September 29, 2022, the BCUC established a regulatory timetable for the review of the Complaint. The regulatory timetable was subsequently amended by Orders G-350-22, G-376-22, G-3-23, G-56-23 and G-78-23;
- D. On April 24, 2023, the BCUC received GFN's final argument, followed by BC Hydro's final argument on May 17, 2023, and GFN's reply argument on May 25, 2023;
- E. By Order G-162-23 dated June 26, 2023, the BCUC reopened the evidentiary record for the proceeding and issued a Panel Information Request to GFN seeking confirmation of the amounts paid by GFN to BC Hydro pursuant to the Electricity Service Agreement. GFN's response followed that same day;
- F. The BCUC has considered the Complaint, evidence and submissions in this proceeding and finds, for the reasons set out in the decision issued concurrently with this order, that the Annual Charge, set out in the

Electricity Service Agreement between BC Hydro and GFN, is a rate tied to the provision of electricity service for which BC Hydro did not file a rate schedule or obtain BCUC consent, and is also unjust, unreasonable and unduly discriminatory;

- G. The BCUC also finds that the Electricity Service Agreement provisions relating to the Annual Charge, in particular section 6 and Schedule E, are contrary to section 59(2)(b) of the UCA, as they amount to an agreement that was not regularly and uniformly extended to all persons under substantially similar circumstances and conditions for service of the same description;
- H. In billing GFN for electricity service, BC Hydro is required to adhere to the charges as outlined in its Electric Tariff, which it failed to do in the case of the Annual Charge; and
- I. The BCUC finds that the following determinations are warranted.

NOW THEREFORE for the reasons provided in the decision, pursuant to sections 59, 61, 63, 64 and 83 of the UCA the BCUC orders as follows:

1. Section 6.2 and Schedule E of the Electricity Service Agreement are not enforceable.
2. BC Hydro is directed to refund GFN, within 6 months of the date of this order, the entirety of the Annual Charge paid from the inception of the Electricity Service Agreement to the present, amounting to \$693,000, plus interest at a rate equal to BC Hydro's weighted average cost of debt, calculated for BC Hydro's most recent fiscal year.
3. The Electricity Service Agreement, excluding the portions included in the public versions of the exhibits in this proceeding and the information requests and responses filed confidentially, are to be held confidential as they contain commercially sensitive information and names of individuals protected for privacy.

DATED at the City of Vancouver, in the Province of British Columbia, this 18th day of September 2023.

BY ORDER

Original signed by:

C. M. Brewer
Commissioner