



**ORDER NUMBER
G-145-24**

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

and

British Columbia Hydro and Power Authority
Request to Depart from the 2018 Capital Filing Guidelines
for the Surrey Langley SkyTrain Electrical Servicing Project

BEFORE:

A. K. Fung, KC, Panel Chair
A. C. Dennier, Commissioner

on May 22, 2024

ORDER

WHEREAS:

- A. On April 5, 2024, British Columbia Hydro and Power Authority (BC Hydro) filed an application (Application) with the British Columbia Utilities Commission (BCUC) requesting a departure from the 2018 Capital Filing Guidelines (2018 Capital Filing Guidelines) for the Surrey Langley SkyTrain Electrical Servicing Project (Project);
- B. On December 2, 2019, by Order G-313-19, the BCUC approved the 2018 Capital Filing Guidelines, including BC Hydro's commitment to submit applications for approval to the BCUC for major capital projects with authorized cost estimates above the following expenditure thresholds:
 - 1. \$100 million for Power System projects;
 - 2. \$50 million for Buildings projects; and
 - 3. \$20 million for Information Technology projects;
- C. In the Application, BC Hydro seeks approval to not file an application for a Certificate of Public Convenience and Necessity (CPCN) for the Project. BC Hydro states that the expected and authorized costs for the Project exceed the \$100 million expenditure threshold and that the Project is an extension. BC Hydro states it is willing to file a capital expenditures application under section 44.2 of the *Utilities Commission Act* with the BCUC;
- D. On April 15, 2024, by Order G-111-24, the BCUC established a regulatory timetable for review of the Application, which included public notice of the Application, one round of BCUC information requests to BC Hydro, letters of comment, and BC Hydro's reply to letters of comment; and
- E. The BCUC has reviewed the Application, evidence and submissions and makes the following determinations.

NOW THEREFORE, in accordance with sections 43, 45 and 72 of the *Utilities Commission Act*, and for the reasons outlined in the decision accompanying this order, the BCUC orders as follows:

1. BC Hydro's request to depart from the 2018 Capital Filing Guidelines for the Project is approved, such that BC Hydro is not required to apply for a CPCN for the Project.
2. BC Hydro is directed to submit a preliminary design estimate report on the Project to the BCUC, as detailed in Appendix A of the decision accompanying this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of May 2024.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

British Columbia Hydro and Power Authority
Request to Depart from the 2018 Capital Filing Guidelines
for the Surrey Langley SkyTrain Electrical Servicing Project

DECISION

1.0 Background and Regulatory Process

On February 20, 2015, by Order G-20-15, the British Columbia Utilities Commission (BCUC) issued the 2015 Certificate of Public Convenience and Necessity (CPCN) Application Guidelines (CPCN Guidelines). The purpose of the CPCN Guidelines is to assist public utilities wishing to construct or operate facilities in preparing CPCN applications so that the BCUC's review of these applications can proceed efficiently.¹

On December 2, 2019, by Order G-313-19, the BCUC approved the British Columbia Hydro and Power Authority's (BC Hydro) 2018 Major Capital Project Filing Guidelines (2018 Capital Filing Guidelines). The purpose of the 2018 Capital Filing Guidelines is to provide guidance to BC Hydro, specifically, in preparing and filing applications and compliance reports for major capital projects.² The 2018 Capital Filing Guidelines include BC Hydro's commitment to submit applications to the BCUC for major capital projects with authorized cost estimates that exceed certain monetary expenditure thresholds. The 2018 Capital Filing Guidelines state, among other things, that BC Hydro will, prior to constructing and operating extensions to its power system, file an application for, and obtain, a CPCN for power system projects where the authorized cost (Authorized Cost) is \$100 million or greater.

On February 23, 2024, in a separate but related BCUC proceeding, BC Hydro filed, among other requests, an amended request to increase the expenditure threshold to \$250 million for power system projects.³ The proceeding to review that application is ongoing.

On April 5, 2024, BC Hydro filed this application (Application) seeking BCUC approval to depart from the 2018 Capital Filing Guidelines and not file an application for a CPCN for the Surrey Langley SkyTrain Electrical Servicing Project (Project). The Project is an extension to the BC Hydro power system, whose estimated costs exceed the \$100 million expenditure threshold.⁴ In the Application, BC Hydro states that if the BCUC grants its request, then it is prepared to file an application to the BCUC for acceptance of the Project expenditure schedule pursuant to section 44.2 of the *Utilities Commission Act* (UCA) (section 44.2 expenditure schedule application), if the BCUC considers that such regulatory review would have value.⁵

The British Columbia Ministry of Transportation and Infrastructure and the Transportation Investment Corporation (collectively, the Province) plan to construct a new Surrey Langley SkyTrain Line to extend the existing SkyTrain Expo line. The Province has requested new service from BC Hydro to support the extension of the line.⁶

The BC Hydro Project consists of:⁷

¹ Order G-20-15, Appendix A, p. 1.

² BC Hydro Request to Amend Major Capital Projects Filing Guidelines proceeding, Exhibit B-14, Appendix A, p. 1.

³ *Ibid.*, Exhibit B-14.

⁴ Exhibit B-1, p. 1.

⁵ *Ibid.*, p. 2.

⁶ *Ibid.*, pp. 1-2.

⁷ *Ibid.*, pp. 3-4.

- Two dedicated distribution circuits from Fleetwood substation;
- One dedicated distribution circuit from McLellan substation;
- An underground duct bank and ducts along the Fraser Highway;
- High voltage switchgear at each of the SkyTrain propulsion power stations and at the operations and maintenance facility; and
- Additional ducts, and an extension of the duct bank, to reinforce the distribution system to support load growth along the new SkyTrain line.

BC Hydro states that “[t]he Province has informed BC Hydro that it needs to start its construction work on the new Surrey Langley SkyTrain Line by July 2024 to avoid schedule delays and increased project costs.”⁸

BC Hydro requested that the BCUC render its decision on this Application by no later than May 31, 2024, to avoid impacting the planned construction timeline of the new Surrey Langley Skytrain line.⁹

On April 15, 2024, by Order G-111-24, the BCUC established a regulatory timetable for the review of the Application. The regulatory timetable included public notice of the Application, one round of BCUC information requests, letters of comment, and BC Hydro’s reply to letters of comment.

The BCUC did not receive any letters of comment. On May 3, 2024, BC Hydro submitted its reply, noting that no letters of comment were received.¹⁰

2.0 Request to Depart from the 2018 Capital Filing Guidelines

As already noted, BC Hydro requests to depart from the 2018 Capital Filing Guidelines and not file an application for a CPCN for the Project. The Project is an extension to the BC Hydro power system. BC Hydro states that until recently the expected cost (Expected Cost) of the Project was estimated to be below the \$100 million expenditure threshold. Therefore, BC Hydro did not contemplate the filing of a CPCN application for the Project. However, both the Expected Cost and the Authorized Cost now exceed the \$100 million expenditure threshold. BC Hydro states that it must begin construction as early as July 2024 (three months from the filing of this Application), and is requesting to depart from the 2018 Capital Filing Guidelines so that construction on the Project can begin on schedule.¹¹

BC Hydro explains that it determines the Authorized Cost of a project when it prepares an AACEI Class 3 cost estimate at the end of the preliminary design stage (Preliminary Design Estimate), towards the end of the project’s definition phase. The Authorized Cost is the sum of the Expected Cost (P50 estimate) and the project reserve (the difference between the P50 and P90 estimates, plus special reserves).¹²

⁸ Exhibit B-1, p. 2.

⁹ Ibid., p. 10.

¹⁰ Exhibit B-4.

¹¹ Exhibit B-1, pp. 1-2.

¹² BC Hydro Westbank Stations Upgrade Reconsideration of G-47-18 proceeding, Exhibit B-3, BCUC IR 1.5.1; Exhibit B-4, BCUC IR 1.6.5.

The 2018 Capital Filing Guidelines state that:¹³

There may be circumstances in which a different approach from what is set out in this Guidelines is appropriate. These Guidelines do not bind the BCUC in the exercise of its jurisdiction. BC Hydro may propose changes to these Guidelines. BC Hydro will identify and explain in any applicable filings any departures from the Guidelines.

In this decision, we consider whether BC Hydro could and should have anticipated the need to file a CPCN application for this Project and avoided the current circumstances. We then discuss if BC Hydro’s request warrants a departure from the 2018 Capital Filing Guidelines. Finally, we comment on the value of BC Hydro filing a section 44.2 expenditure schedule application for the Project.

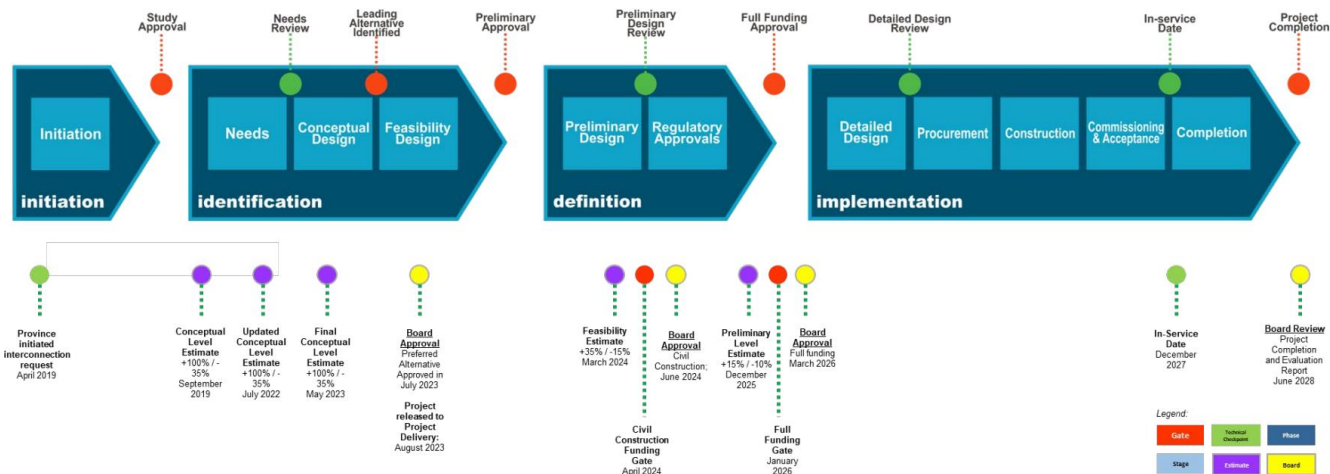
2.1 Could BC Hydro have Avoided these Circumstances?

In this section, the Panel considers the timeline of the Project and BC Hydro’s process for planning for the regulatory review of capital projects, in order to determine if BC Hydro could and should reasonably have avoided the current circumstances.

2.1.1 Timeline of Project Cost Estimates

BC Hydro submits a figure of its Project and Portfolio Management (PPM) project lifecycle for the Project:¹⁴

Figure 1: Project PPM Lifecycle



BC Hydro indicates the Province initiated the interconnection request in April 2019.¹⁵ BC Hydro states the conceptual design (Conceptual Design) stage of the Project ran from April 2019 to July 2023 as the Province’s SkyTrain design progressed.¹⁶

¹³ Exhibit B-1, p. 1; 2018 Capital Filing Guidelines, filed in accordance with Directive 2 to Order G-313-19, p. 1.

¹⁴ Exhibit B-3, BCUC IR 1.1.3.

¹⁵ Ibid.

¹⁶ Ibid., BCUC IR 1.2.3.

BC Hydro explains that the Project was initiated (released from the integrated planning business unit to the project delivery business unit¹⁷) in July 2023 with a conceptual-level cost estimate of \$76.5 million and accuracy range of -35 percent/+100 percent.¹⁸

BC Hydro submits a history of the Project cost estimates to-date, including the Association for the Advancement of Cost Engineering International (AACEI) estimate class, reproduced in Table 1 below. The AACEI cost estimate class designations range from Class 5 (lowest level of project definition) to Class 1 (closest to full project definition and maturity).¹⁹

Table 1: History of the Project Cost Estimates²⁰

Description	Date of Estimate	Cost and range (\$ millions)	AACEI Estimate Class*	Expected Cost (\$ millions)	Authorized Cost (\$ millions)
Conceptual Estimate	September 2019	42.2 (27.4 to 84.4)	5	42.2	Not calculated at this stage
Conceptual Estimate	July 2022	54.9 (35.7 to 109.8)	5	54.9	Not calculated at this stage
Conceptual Estimate	May 2023	76.5 (49.7 to 153.0)	5	76.5	Not calculated at this stage
Feasibility Estimate	March 2024	118.9 (101.1 to 160.5)	4	118.9	140.2

* Closest equivalent to the AACEI Estimate Class

In March 2024, the Project's cost estimate was updated to an Expected Cost of \$118.9 million with an accuracy range of -15 percent / +35 percent, an increase of approximately \$42.4 million from the previous conceptual estimate (Conceptual Estimate) of \$76.5 million.²¹ The Authorized Cost at that time was \$140.2 million.²² BC Hydro explains that a significant proportion of the increase in cost was a change in the road restoration requirements, which differ from BC Hydro's standard approach.²³

BC Hydro explains that, in accordance with section 8 of the Electric Tariff, the costs of extending the distribution network to serve the SkyTrain will be funded by the Province, and the costs of distribution reinforcement work will be funded by all BC Hydro ratepayers. BC Hydro provides a preliminary breakdown of the \$118.9 million Project cost, with \$37.2 million to be borne by BC Hydro and \$81.7 million to be borne by the Province.²⁴

2.1.2 BC Hydro Decision Not to File an Application for a CPCN

BC Hydro explains that it initially determines whether a CPCN application may be required for a capital project by comparing the planning allowance (when the project is initiated) to the expenditure thresholds in the 2018 Capital Filing Guidelines. As a project advances the appropriate regulatory approach is developed.²⁵ BC Hydro states that it closely monitors the cost estimates of its projects.²⁶

¹⁷ Exhibit B-3, BCUC IR 1.2.3.

¹⁸ Exhibit B-1, Section 2.1, p. 4.

¹⁹ AACE International Recommended Practice 10S-90: Cost Engineering Terminology, Cost Estimate Classification System.

²⁰ Exhibit B-3, BCUC IR 1.2.1.

²¹ Exhibit B-1, Section 2.1, pp. 4-5.

²² Exhibit B-3, BCUC IR 1.2.1.

²³ Ibid., BCUC IR 1.4.3.

²⁴ Exhibit B-1, pp. 5-6.

²⁵ BC Hydro Amend Major Capital Project Filings Guidelines proceeding, Exhibit B-9, BCUC IR 1.2.15.

²⁶ Exhibit B-3, BCUC IR 1.4.1.

If a Conceptual Design Estimate or Feasibility Design Estimate is below the 2018 Capital Guidelines Filing Threshold (\$100 million) but is considered probable that the Preliminary Design Estimate (i.e., Authorized Cost) will exceed \$100 million, BC Hydro will assess whether to begin preparing a Major Project application, considering the unique circumstances of the Project including project schedule.

As shown in Table 1 above, the conceptual-level cost estimate range was \$49.7 million to \$153 million in May 2023. BC Hydro states that, while the upper range of the conceptual-level cost estimate exceeded the \$100 million threshold when the Project was initiated, BC Hydro did not expect the Project's future Authorized Cost to exceed \$100 million.²⁷ Therefore, the original Project schedule did not include a regulatory review process because the Conceptual Estimate was below the \$100 million expenditure threshold.²⁸

BC Hydro explains that it did not consider it appropriate to submit a CPCN application following completion of the conceptual-level, AACEI Class 5 estimate with an Expected Cost below the \$100 million expenditure threshold. BC Hydro refers to the previous BCUC Decision and Order C-6-22 regarding the Bridge River transmission project, in which the BCUC stated that an AACEI Class 3 cost estimate is the level of accuracy required for a CPCN application "to enable the BCUC to evaluate the utility's proposed investment with a reasonable degree of confidence as to the costs that would be incurred by ratepayers if the investment were approved."²⁹ BC Hydro's understanding is that it would not be able to submit an application until after the AACEI Class 3 cost estimate was finalized in December 2025, which would not meet the Province's timeline for construction of the Surrey Langley SkyTrain project.³⁰

BC Hydro states that it did consider applying for a CPCN after completing the feasibility estimate (Feasibility Estimate) in March 2024 with an Expected Cost of \$118.9 million at an AACEI Class 4 estimate and an Authorized Cost of \$140.2 million.³¹ However, BC Hydro determined that, given the time required to prepare and review a CPCN application, the Province's schedule for the SkyTrain project would be placed at risk if it were to apply for a CPCN. BC Hydro anticipates that, if required, a CPCN application would cause a schedule delay of approximately 34 months. Assuming that the AACEI Class 3 cost estimate cannot be completed until December 2025, BC Hydro would require another four months to develop the CPCN application and a further 12 months for the BCUC to review that application and issue its decision.³²

Panel Discussion

The Panel finds BC Hydro could have avoided the circumstances leading up to this Application had it taken a more proactive regulatory approach in the planning and management of this Project.

The Panel is not persuaded by BC Hydro's explanation that it did not expect the Project's future Authorized Cost to exceed the \$100 million expenditure threshold prior to March 2024. Further, the Panel notes that BC Hydro is the original proponent of the expenditure thresholds reflected in the 2018 Capital Filing Guidelines.³³ The Panel notes that as early as July 2022, the upper end of the cost estimate range for the Project exceeded the \$100 million expenditure threshold. If BC Hydro closely monitors³⁴ the cost estimates of its projects, then it could and

²⁷ Ibid., BCUC IR 1.4.3.

²⁸ Ibid., BCUC IR 1.4.4.

²⁹ BC Hydro Application for a Certificate of Public Convenience and Necessity for the Bridge River Projects: Bridge River 1 Units 1 to 4 Generator Replacement Project Order C-6-22 and Decision dated October 11, 2022, p. 79.

³⁰ Exhibit B-3, BCUC IR 1.4.5.

³¹ Ibid., BCUC IR 1.2.1.

³² Ibid., BCUC IR 1.4.6.

³³ BC Hydro Review of the Regulatory Oversight of Capital Expenditures and Projects proceeding, BC Hydro Final Argument, pp. 6-7, 38.

³⁴ Exhibit B-3, BCUC IR 1.4.1.

should have reasonably foreseen that the future Authorized Cost of the Project might exceed the \$100 million expenditure threshold given that:

- The upper end of the Conceptual Estimate cost ranges exceeded the expenditure threshold; and
- The Authorized Cost would be greater than the Expected Cost because it includes reserves.

It is not clear to the Panel how the Authorized Cost was developed in the absence of a Preliminary Design Estimate.

Further, BC Hydro states the Authorized Cost as of March 2024 is currently \$140.2 million,³⁵ which the Panel notes is not marginally more than the \$100 million threshold but significantly more. While a project whose cost increases slightly above the \$100 million threshold may not be foreseeable, the Authorized Cost based on BC Hydro's current estimate for the Project is 40 percent above the threshold. The Panel considers this detracts from BC Hydro's assertion that exceeding the threshold was unexpected.

The Panel notes that BC Hydro did not submit evidence to show that it recognized or mitigated the risk that the Authorized Cost might exceed the \$100 million threshold which, in accordance with the 2018 Capital Filing Guidelines, would trigger the need to obtain a CPCN for the Project. BC Hydro did not include time in the Project schedule for a regulatory process and, therefore, assumed the schedule risk associated with increases in the Authorized Cost. At Project initiation, BC Hydro could have included time in the schedule for regulatory review, regardless of the assumed Authorized Cost, to mitigate the schedule uncertainty and ensure that it would meet the Province's construction date. The Panel notes that the UCA does not prescribe any minimum cost threshold for a CPCN application, and parties are not precluded from filing CPCN applications for any projects that they see fit.

Further, the Panel is not convinced by BC Hydro's explanation that it could not have submitted a CPCN application before now because the CPCN Guidelines refer to an AACEI Class 3 estimate, which will not be completed for the Project until December 2025. BC Hydro could have prepared and submitted a CPCN application following either the May 2023 Conceptual Estimate or the March 2024 Feasibility Estimate, along with an explanation for a departure from the AACEI Class 3 cost estimate specified in the CPCN Guidelines. The Panel notes that the CPCN Guidelines state:³⁶

The guidelines do not alter the fundamental regulatory relationship between utilities and the Commission. They provides [sic] general guidance regarding the Commission's expectations of the information that should be included in CPCN applications while providing the flexibility for an application to reflect the specific circumstances of the applicant, the size and nature of the project, and the issues raised by the application. An applicant is expected to apply the guidelines in a flexible and reasonable manner that reflects the spirit and intent of the guidelines. The Commission may issue further directions relating to the information to be included in specific CPCN applications and may require applicants to provide further information to supplement material in filed applications.

The evidence in this Application already contains information related to the Project need and lack of alternatives. That information, if supplemented with details on the Project scope and current cost estimates, could have provided the BCUC with sufficient information to review the matter as a CPCN application. The Panel notes that, pursuant to section 46(2) of the UCA, the BCUC retains the discretion whether or not to hold a

³⁵ Exhibit B-3, BCUC IR 1.2.1.

³⁶ Order G-20-15, Appendix A, p. 1.

hearing on a CPCN application. However, CPCN applicants are at liberty to suggest a suitable regulatory review process in their applications, which may or may not entail a hearing.

The Panel also notes that BC Hydro initiated this Project in April 2019 upon receipt of the Province's interconnection request.³⁷ Notwithstanding, BC Hydro waited until April 2024, three months prior to the start of construction, before filing any notice or application to the BCUC regarding the Project. On April 5, 2024, BC Hydro filed this Application requesting a BCUC decision in less than two months (by May 31). In doing so, BC Hydro has placed the BCUC in the unenviable position of either accepting BC Hydro's last-minute request for relief from the 2018 Capital Filing Guidelines for the Project or denying that request and thereby jeopardizing the timely execution of a major public infrastructure project in the Province.

The Panel views BC Hydro's regulatory approach for this Project as seeking relief from the schedule challenges that arose from apparent deficiencies in its project planning process in this instance. BC Hydro is an experienced participant in the BCUC's regulatory process, and the BCUC expects BC Hydro to plan its project schedules with appropriate time for regulatory reviews, as needed.

The 2018 Capital Filing Guidelines were proposed by BC Hydro to enable the efficient and effective oversight by the BCUC over BC Hydro's capital expenditures.³⁸ The benefits of the 2018 Capital Filing Guidelines are the certainty and clarity provided to all parties.³⁹ In requesting to depart from the 2018 Capital Filing Guidelines upon short notice for this Project, BC Hydro undermines the value of the 2018 Capital Filing Guidelines. The Panel recommends that BC Hydro review all projects with an Expected Cost below the expenditure threshold and a cost estimate with an upper range above the expenditure threshold to assess the likelihood that a major project application to the BCUC may be required, so as to ensure that the project schedule can accommodate any required regulatory review process.

This Application demonstrates that the use of the Authorized Cost as the measure to compare to the expenditure thresholds under the 2018 Capital Filing Guidelines can introduce regulatory uncertainty and suboptimal outcomes for both BC Hydro and the BCUC. Following BC Hydro's PPM system, the Authorized Cost is typically developed near the end of the project definition phase,⁴⁰ which is the last phase prior to the implementation phase.⁴¹ If BC Hydro does not plan for a regulatory review for a given project, and the Authorized Cost then exceeds the expenditure threshold, the BCUC may not have sufficient time to conduct an adequate review without negatively impacting the project schedule.

The challenges associated with this Application show that there is merit in BC Hydro reconsidering how it compares the expenditure thresholds against its cost estimates as projects move through the planning phases and estimates become more defined. The Panel further recommends that the BC Hydro Amend Major Capital Projects Filing Guidelines proceeding consider whether BC Hydro should continue to use Authorized Cost as the measure for comparison to the expenditure thresholds in the 2018 Capital Filing Guidelines.

³⁷ Exhibit B-3, BCUC IR 1.2.3.1.

³⁸ BC Hydro Review of the Regulatory Oversight of Capital Expenditures and Projects proceeding, BC Hydro Final Argument, pp. 6-8.

³⁹ BC Hydro Review of the Regulatory Oversight of Capital Expenditures and Project Order G-313-19 and Decision dated December 2, 2019, Section 2.3, Panel Determination, p. 13.

⁴⁰ BC Hydro Westbank Stations Upgrade Reconsideration of G-47-18 proceeding, Exhibit B-3, BCUC IR 1.5.1.

⁴¹ BC Hydro Amend Major Capital Project Filings Guidelines proceeding, Exhibit B-9, BCUC IR 1.2.18.

2.2 Do the Project Circumstances Warrant a Departure from the 2018 Capital Filing Guidelines?

BC Hydro submits that a departure from the 2018 Capital Filing Guidelines is warranted. BC Hydro states that it is a reasonable solution to the practical challenge created from an increased cost estimate and the need to maintain the Project schedule so that the Province's Surrey Langley SkyTrain construction schedule is not put at risk.⁴²

BC Hydro explains that, while it is not a unique circumstance, the challenge created by an increased cost estimate and the need to maintain the project schedule is not common. BC Hydro further states that the challenge for the Project is unique in that it is a customer interconnection project, and that BC Hydro is endeavouring to meet the project schedule of the customer (the Province).⁴³ BC Hydro states that it is required to make reasonable efforts to meet customer request timelines, and that the Province has requested that civil construction on the Project start in July 2024 to meet the SkyTrain project timelines.⁴⁴

BC Hydro confirms that the Project is following the PPM project lifecycle, with certain stages or phases being combined because there is only one feasible alternative to meet the Province's schedule.⁴⁵ A portion of the Project, limited to the civil construction of the Fraser Highway duct bank, is starting prior to BC Hydro obtaining full implementation phase funding. BC Hydro states that it is not unusual to begin early works or critical path civil construction prior to receiving Board of Directors' approval of full funding where there are efficiencies to be gained or obligations to be met.⁴⁶ BC Hydro reiterates that if the BCUC determines that a CPCN filing is required for the Project, this could cause a Project schedule delay of approximately 34 months.⁴⁷

BC Hydro explains the benefits of starting construction of the duct bank as part of the Province's road work and SkyTrain guideway construction, including cost savings, schedule benefits, and lowering construction impacts to the public.⁴⁸ BC Hydro maintains that it is not feasible for the Province to delay the start of construction of the duct bank, or for BC Hydro to construct the duct bank after the Province's civil works are complete, and still meet the Province's requested connection date.⁴⁹

BC Hydro states that the Project is a customer project that it is obligated to support under the Electric Tariff, the SkyTrain project has strong public support, most of the Project costs will be funded by the Province, and the anticipated impacts to First Nations and the environment are low.⁵⁰

BC Hydro submits that the absence of letters of comments submitted during the proceeding suggests that parties do not have concerns with BC Hydro's request to depart from the 2018 Capital Filing Guidelines.⁵¹

Panel Determination

The Panel declines to speculate as to what, if any, inference should be drawn from the absence of letters of comment in this proceeding.

⁴² Exhibit B-1, p. 2.

⁴³ Exhibit B-3, BCUC IR 1.4.1.

⁴⁴ Ibid., BCUC IR 1.2.5.

⁴⁵ Ibid., BCUC IR 1.1.2.

⁴⁶ Ibid., BCUC IR 1.2.6.

⁴⁷ Ibid., BCUC IR 1.4.7.

⁴⁸ Ibid., BCUC IR 1.2.7.

⁴⁹ Ibid., BCUC IR 1.2.8.

⁵⁰ Ibid., BCUC IR 1.4.8.

⁵¹ Exhibit B-4, p. 1.

That said, the Panel finds that the current circumstances surrounding this Project warrant a departure from the 2018 Capital Filing Guidelines for the following reasons:

- The Project schedule is being driven by the Province's needs in respect of the Surrey Langley Skytrain construction schedule;
- BC Hydro is obligated to provide service to the customer project under its Electric Tariff;
- There are significant public interest benefits to beginning the critical path duct bank construction prior to the implementation phase of the Project;
- Requiring a CPCN, at this time, would result in a schedule delay of a major Provincial public infrastructure project designed to address congestion and reduce road traffic in the Lower Mainland;
- The proportion of Project costs funded by BC Hydro, currently estimated at \$37.2 million plus contingency and reserves, is expected to be less than the \$100 million expenditure threshold, with the remainder of the total Project costs to be paid by the Province, although the total Project costs are now estimated to exceed that threshold by more than \$40 million; and
- No significant public interest concerns have arisen in the course of this proceeding.

In light of the above factors, **the Panel approves BC Hydro's request to depart from the 2018 Capital Filing Guidelines for the Project, such that BC Hydro is not required to apply to the BCUC for a CPCN for the Project.**

However, the Panel finds that uncertainty still remains in the final portion of the Project costs to be funded by BC Hydro's ratepayers given the large uncertainty band of the cost estimate currently available, and notes that the AACEI Class 3, Preliminary Design Estimate, is not scheduled to be completed until December 2025.⁵²

The Panel directs BC Hydro to submit a Preliminary Design Estimate report on the Project to the BCUC, as detailed in Appendix A of this Decision.

Notwithstanding our approval of this Application, we disagree with BC Hydro that the risk arising from an increased cost estimate and the need to maintain the Project schedule amount to circumstances warranting variance from treatment under the 2018 Capital Filing Guidelines. Rather, the risk of increasing cost estimates and the need to maintain a customer interconnection schedule could apply to many major capital projects and may, in some instances, increase the public interest component in the regulatory review of a given capital project.

Furthermore, we are skeptical about BC Hydro's estimate of the 34 month delay that would result from requiring a CPCN application, although we acknowledge that the Project schedule would be extended from BC Hydro's current plan in that instance.

The Panel urges BC Hydro to take a more proactive approach to planning for possible regulatory process in future projects. Although this Panel has found that the relief sought by BC Hydro in departing from the 2018 Capital Filing Guidelines is warranted for this Project, the BCUC may find any future similar applications or requests are not justified. That said, the Panel finds comfort in BC Hydro's assurance that a repeat of the circumstances of this particular project is not likely.⁵³

⁵² Exhibit B-3, BCUC IR 1.4.5.

⁵³ Exhibit B-3, BCUC IR 1.4.1

2.3 Does the Project Warrant a Section 44.2 Expenditure Schedule Application?

BC Hydro states that if the BCUC grants its request to depart from the 2018 Capital Filing Guidelines and not require a CPCN prior to construction, then BC Hydro is prepared file a section 44.2 expenditure schedule application for acceptance of the Project expenditures.⁵⁴ BC Hydro states that while the BCUC cannot direct BC Hydro to file a section 44.2 expenditure schedule application for the Project, it seeks feedback on whether such an application is warranted.⁵⁵

BC Hydro submits that, due to the nature of the Project and considering opportunities for regulatory efficiency, the BCUC and interested parties may not see sufficient value in a regulatory process to review a section 44.2 expenditure schedule application for the Project. If BC Hydro does not advance such an application, the costs of the Project would be subject to review through future BC Hydro revenue requirements applications.⁵⁶

BC Hydro states that it may not be necessary or efficient for the BCUC to review the Project in both a section 44.2 expenditure schedule application and the upcoming revenue requirements applications. BC Hydro reiterates that the Project is a customer project that BC Hydro is obligated to support under the Electric Tariff, BC Hydro's proportion of the cost estimate is \$37.2 million, and the impacts to First Nations and the environment are anticipated to be low.⁵⁷

BC Hydro submits that the absence of letters of comments submitted during the proceeding suggests that the level of public interest in a regulatory review of the Project, through a section 44.2 expenditure schedule application, may be low and that such an application may not be warranted.⁵⁸

Panel Discussion

As already noted, the Panel declines to speculate as to what, if any, inference should be drawn from the absence of letters of comment in this proceeding.

The Panel agrees with BC Hydro's assessment that it may not be necessary or regulatorily efficient for the BCUC to review this Project in both a section 44.2 expenditure schedule application and the upcoming revenue requirements applications.

In any event, the Panel observes that BC Hydro's decision whether to file a section 44.2 expenditure schedule application may ultimately depend on the timing of filing of its next revenue requirements application.

⁵⁴ Exhibit B-1, p. 2.

⁵⁵ Ibid., p. 10.

⁵⁶ Ibid., p. 2; Exhibit B-3, BCUC IR 1.4.10.

⁵⁷ Exhibit B-3, BCUC IR 1.4.8.

⁵⁸ Exhibit B-4, p. 1.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of May 2024.

Original signed by:

A. K. Fung, KC
Panel Chair / Commissioner

Original signed by:

A. C. Dennier
Commissioner

British Columbia Hydro and Power Authority
Request to Depart from the 2018 Capital Filing Guidelines
for the Surrey Langley SkyTrain Electrical Servicing Project

COMPLIANCE REPORTING

The scope of Project reporting will comprise the following:

1. Preliminary Design Estimate Report

BC Hydro must file a Preliminary Design Estimate report on the Project to the BCUC within four months of completing the AACEI Class 3 Preliminary Design Estimate, or within one month of the BC Hydro Board of Directors' approval of the full funding request, whichever is sooner.

The Preliminary Design Estimate report is required to include:

- The Preliminary Design Estimate used for the BC Hydro Full Funding Approval;
- A breakdown of funding by source (BC Hydro or the Province).

A material change (Material Change) is a change in BC Hydro's plan for the Project that would reasonably be expected to have a significant impact on the schedule, cost or scope, such that:

- Schedule – There is a delay in the forecast Project in-service date of December 2027 provided in Exhibit B-3, BCUC IR 1.1.3;
- Cost – The Authorized Cost of the Project is forecast to exceed the Authorized Cost of \$140.2 million provided in Exhibit B-3, BCUC IR 1.2.1; or
- Scope – There are one or more changes to the Project deliverables and the work required to create those deliverables or the main components of the Project scope detailed in section 2 of the Application.

The Preliminary Design Estimate report must include a detailed explanation of any Material Changes, including the reasons for the Material Change, BC Hydro's consideration of the Project risk and the options available, and actions BC Hydro is taking to address the Material Change.