



CONFIDENTIAL
ORDER NUMBER
G-250-24

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

and

British Columbia Hydro and Power Authority
TransAlta Energy Marketing Corp. Complaint Under BC Hydro OATT

BEFORE:

M. Jaccard, Commissioner

on September 24, 2024

ORDER

WHEREAS:

- A. On January 31, 2024, pursuant to section 83 of the *Utilities Commission Act* (UCA), TransAlta Energy Marketing Corp (TEMCO) filed a complaint with the British Columbia Utilities Commission (BCUC) regarding a possible non-compliance with British Columbia Hydro and Power Authority's (BC Hydro) Open Access Transmission Tariff (OATT) (Complaint);
- B. The Complaint states that on January 23, 2024, BC Hydro rescinded two monthly firm transmission service requests (TSRs) which it had accepted and confirmed the prior day, one being unconditional, allowing its subsidiary Powerex Corp. to submit competing applications in possible violation of the OATT and BC Hydro's Standards of Conduct;
- C. Between February 9, 2024, and on February 26, 2024, the BCUC Staff received information from both BC Hydro and TEMCO through the BCUC complaints process;
- D. By ~~Confidential~~ Order G-72-24 dated March 15, 2024, the BCUC established a timetable to review the Complaint, which included a submission from BC Hydro regarding the Complaint, TEMCO's response to BC Hydro's submission, and further process to be determined;
- E. On April 4, 2024, BC Hydro submitted its response to TEMCO's previous submission as well as the record of its Standards of Conduct investigation, which included documentation of relevant communication between BC Hydro and Powerex;
- F. Also on April 4, 2024, BC Hydro submitted a self-report regarding compliance with the OATT Standards of Conduct (SOC);
- G. By ~~Confidential~~ Order G-143-24 dated May 21, 2024, the BCUC amended the regulatory timetable to allow TEMCO and BC Hydro to submit proposals for amendments to BC Hydro's business practices that will mitigate

the risk of erroneous TSR approvals in future and prescribe what actions BC Hydro should take in cases where TSRs may be erroneously approved;

- H. Between June 4, 2024 and June 18, 2024, TEMC and BC Hydro submitted their proposed amendments pursuant to ~~Confidential~~ Order G-143-24;
- I. On June 27, 2024, TEMC submitted confirmation by email that it would not be filing a reply submission; and
- J. The BCUC has considered the Complaint, evidence, and submissions from all parties filed in the proceeding, and makes the following determinations.

NOW THEREFORE for the reasons outlined in the decision accompanying this Order, the BCUC:

- 1. Determines that BC Hydro committed the following violations:
 - a. Contravention of section 13.2(a) of the OATT; and
 - b. Contravention of section 5(b) of the OATT SOC.
- 2. Directs BC Hydro to file, no later than Monday, March 24, 2025, a copy of its current business practices including blacklined indications for changes made since the version in force on January 23, 2024;
- 3. Directs that this Confidential Order with Reasons for Decision and all related materials filed in this proceeding be held confidential, subject to directive 4 below, until the BCUC determines otherwise.
- 4. Directs BC Hydro and TEMC to file written submissions, with supporting reasons, within 30 days of the issuance of this Decision, with respect to the confidentiality of all submissions made during this Proceeding, including the Decision attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 24th day of September 2024.

BY ORDER

Original signed by:

M. Jaccard
Commissioner

DECISION

1.0 Background and Context

1.1 Filing

On January 31, 2024, the British Columbia Utilities Commission (BCUC) received a complaint from TransAlta Energy Marketing Corp. (TEMCO), a transmission customer of BC Hydro under the Open Access Transmission Tariff (OATT) based in Alberta (Complaint). TEMCO states that on January 22, 2024, it submitted two monthly firm transmission service requests (TSRs) and that these purchases were later confirmed and then subsequently rescinded, returning the TSRs to their original queued state. TEMCO contends that Powerex Corp. (Powerex) then submitted a series of competing TSRs designed to acquire this previously confirmed transmission capacity.¹

By ~~Confidential~~ Order G-72-24 dated March 15, 2024, the BCUC initiated a proceeding with a regulatory timetable calling for a submission from both BC Hydro and a reply submission from TEMCO.²

1.2 Legislative Authority

As outlined in section 83 of the *Utilities Commission Act* (UCA):³

If a complaint is made to the commission, the commission has powers to determine whether a hearing or inquiry is to be had, and generally whether any action on its part is or is not to be taken.

1.3 Background

At the time of the Complaint, TEMCO states that it was seeking short term point-to-point transmission service on BC Hydro's Transmission System to wheel energy generated in Alberta to the United States. TEMCO states that on January 22, 2024, it submitted the following two monthly firm TSRs through BC Hydro's online TSR submission and tracking platform referred to as the Open Access Same-time Information System (OASIS):⁴

1. TSR #101929117: February 2024 to December 2024 (TEMCO TSR 1)
2. TSR #101929338: March 2024 to January 2025 (TEMCO TSR 2)

TEMCO states that on January 23, 2024, the status of both TSRs moved to "confirmed" on OASIS. TEMCO TSR 1 was declared unconditional at the time⁵ pursuant to section 3.3. of BC Hydro's Open Access Transmission Tariff - Business Practice, which contains BC Hydro's policies and procedures for the implementation of the OATT and dictates that monthly firm TSRs remain conditional until 30 calendar days before start of service.⁶

¹ ~~Confidential~~ Exhibit B1-1, p. 1.

² ~~Confidential~~ Exhibit A-2, ~~Confidential~~ Order G-72-24, Appendix A, p. 1.

³ *Utilities Commission Act*, Action on complaints, Section 83.

⁴ ~~Confidential~~ Exhibit B1-1, p. 1.

⁵ ~~Confidential~~ Exhibit B1-1, p. 3.

⁶ BC Hydro Open Access Transmission Tariff - Business Practice: Submitting a Short-Term Transmission Service Request (June 8, 2023): https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/suppliers/transmissionscheduling/business_practices/Submitting%20a%20ST%20TSR.pdf

Later on the same morning, January 23, 2024, BC Hydro issued a transmission bulletin stating that “due to operator error... multiple [TSRs] were prematurely and erroneously approved” and that it would be reverting all monthly TSRs erroneously accepted “back to their original Queued state.”⁷ TEMC states that shortly thereafter, its TSRs were requeued and effectively made available for purchase again.⁸

Between January 24, 2024 and January 30, 2024, TEMC and BC Hydro exchanged emails discussing the cause of the error and the impact that re-queueing would have on TEMC’s requeued TSRs.⁹ TEMC also formally requested dispute resolution and states that it intended to follow the provisions for dispute resolution and external arbitration under sections 12.2 and 12.3 of the OATT respectively “in due course.”¹⁰ In its Complaint, TEMC stated that its attempts to resolve the matter with BC Hydro were not adequately responded to.¹¹

2.0 Complaint

In its Complaint, TEMC raises the following concerns:

- i. The approvals resulted in the automatic approval of a TSR submitted by BC Hydro Power Supply (BCPS) TSR 101938909 (Powerex TSR 1).¹²
- ii. After the TSRs were requeued, BC Hydro’s transmission consumer affiliate, Powerex, submitted two TSRs with longer durations, captured as BCPS TSR 101939777 (Powerex TSR 2) and 101939778 (Powerex TSR 3) which posed a threat to the confirmation of TEMC TSRs.¹³

TEMC requested that the BCUC investigate and resolve the matter.

On February 9, 2024, prior to the initiation of a BCUC proceeding, BC Hydro submitted a letter responding to TEMC’s Complaint.¹⁴ The letter states that the erroneous approval of the monthly firm TSRs caused them to move ahead of two long-term firm TSRs submitted by [REDACTED] on January 12, 2024, which contravened section 13.2(a) of the OATT and BC Hydro’s Standards of Conduct (SOC) as approved by the BCUC.¹⁵ BC Hydro states that it acted quickly to remedy the error by returning the erroneously approved TSRs, including Powerex TSR 1, to their queued state in the order established prior to the error after informing its customers via a transmission bulletin.¹⁶

Powerex subsequently submitted Powerex TSR 2 which the Complaint claims to compete with TEMC’s TSRs, but which BC Hydro states to be incorrect as it cannot compete with TSRs ahead of it in the queue. BC Hydro does, however, state that it was in communication with Powerex prior to posting the transmission bulletin and had initiated an SOC investigation to review all communication between BC Hydro and other parties.¹⁷

In response, TEMC reiterated its view that despite the approvals being erroneous, BC Hydro’s resolution of the error was improper due to the unconditional status of those approved TSRs which by its interpretation implies that the approval is irrevocable. TEMC argued that the appropriate resolution to such an error is to honour the

⁷ Confidential-Exhibit B1-1, p. 4.

⁸ Ibid.

⁹ Confidential-Exhibit B1-1, p. 7.

¹⁰ Confidential-Exhibit B1-1, p. 2.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Confidential-Exhibit B1-1, pp. 13–25.

¹⁵ Confidential-Exhibit B1-1, pp. 12–13.

¹⁶ Confidential-Exhibit B1-1, pp. 14–15.

¹⁷ Ibid.

approved TSRs and curtail the necessary transmission capacity granted to Powerex and the applicable other transmission customers equitably as per section 13.6 of the OATT to remedy capacity constraints.¹⁸

TEMC also questioned how Powerex TSR 1 was approved on February 1, 2024, despite TEMC TSR 1 and TSR 2 still being in a queued state, which seems to contradict BC Hydro's previous statement that the requeued TSRs would be processed on a first-come, first-served basis.

3.0 Review of the Complaint

On March 15, 2024, the BCUC initiated a proceeding and established a regulatory timetable for submissions from both BC Hydro and TEMC. BC Hydro was directed to include in its submission the transcripts of its communications with Powerex on the subject of the erroneous approvals and their resolution, as well as the findings of its internal investigations.¹⁹

BC Hydro response

In its submission pursuant to ~~Confidential~~ Order G-72-24, BC Hydro reiterates that it acted appropriately to remedy the erroneous TSR approvals and disagrees with TEMC's position on curtailment as an appropriate remedy as this would constitute a violation of the OATT.²⁰ BC Hydro offers a detailed description of the nature and impact of the operator error and the effect that the re-queueing resolution had on TSRs impacted by the error as well as those TSRs submitted by Powerex subsequent to the erroneous approvals, emphasising that no undue benefit was granted to any TSR, including those submitted by Powerex, which TEMC mistakenly claimed were able to compete with TEMC's requeued TSRs.²¹

While Powerex TSR 2 and 3 remain queued behind TEMC's TSRs, BC Hydro confirms that Powerex TSR 1 was approved ahead of TEMC's TSRs, but denies TEMC's assertion that it "jumped" the queue. Instead, BC Hydro states that there was sufficient capacity on the Alberta to British Columbia line segment after re-queueing to accommodate all queued TSRs which allowed Powerex TSR 1 to be automatically approved with no impact on TEMC's re-queued TSRs, which were held as pending due to capacity constraints on the British Columbia to United States cross-border segment.²²

BC Hydro also submitted its SOC investigation self-report and transcripts of its correspondence with its transmission customers regarding the erroneous approval and the resolution thereof.²³ In addition to the OATT violation which occurred when the TSRs were erroneously approved, this investigation also found a possible violation of the OATT when BC Hydro disclosed to Powerex that a possible issue was being investigated with some TSR confirmations. Since this was communicated to Powerex roughly one hour prior to issuing the transmission bulletin, BC Hydro notes that this amounts to a disclosure of non-public transmission function information (NPTFI) violating section 5(b) of the OATT standards of conduct (OATT SOC).²⁴ BC Hydro explained that the evidence of its investigation found no willful intent in this respect, and no evidence of any harm caused by the disclosure of NPTFI.²⁵

¹⁸ ~~Confidential~~ Exhibit B1-1, pp. 26–27.

¹⁹ Exhibit A-2, BCUC ~~Confidential~~ Order G-72-24, Appendix A.

²⁰ ~~Confidential~~ Exhibit B2-1, pp. 1–2.

²¹ Ibid.

²² ~~Confidential~~ Exhibit B2-1, p. 2.

²³ Confidential Exhibit B2-2, pp. 2–16.

²⁴ Confidential Exhibit B2-2, p. 12.

²⁵ Confidential Exhibit B2-2, pp. 22–14.

TEMC response

TEMC submitted its response on April 18, 2024, stating that its position outlined in its original Complaint remains unchanged. TEMC also made the argument that by accepting its TSRs, even if by operator error, BC Hydro had crystallised the contract between the two parties which makes the reversal of those accepted TSRs a breach of contract.²⁶ On the other hand, TEMC accepted that Powerex TSR 2 and 3 were submitted prior to the reversal of the accepted TSRs and were not able to compete with its re-queued TSRs as per BC Hydro's April 4, 2024 submission.²⁷

3.1 BC Hydro OATT SOC Amendment Proposals

Having reviewed the submissions made during the Complaints process, the BCUC determined that a further process was warranted wherein it directed BC Hydro and TEMC to submit proposals for amendments to BC Hydro's business practices that would:²⁸

1. mitigate the risk of similar erroneous TSR approvals in future; and
2. prescribe appropriate actions BC Hydro should take to remedy an erroneous TSR approval in future.

3.1.1 Mitigate Erroneous Approval Risk

TEMC proposes a change to the wording of the Short-Term TSR scheduling window specifically to Note 1 of section 3.3 under BC Hydro's OATT – Business Practice titled *Submitting a Short-Term Transmission Service Request*,²⁹ adding wording to prevent approval prior to the conclusion of the “conditional” window unless confirmed in writing by two BC Hydro representatives.³⁰ TEMC proposes that in such cases, BC Hydro should also post a written explanation on OASIS. TEMC states that this would substantially eliminate the potential for human error.

BC Hydro responds that the change is unnecessary because following the violation, it has removed the ability for Interchange Plant Operators (IPOs) to manually override TSR statuses, and this can now only be done by a manager. BC Hydro states that this effectively implements a two-person requirement since the IPO needs to make a request for a manager to approve such an action.³¹

3.1.2 Corrective Actions After Erroneous Approval

TEMC proposed changes to BC Hydro's business practices regarding curtailment that, in the case where an erroneous approval occurs, BC Hydro should follow its existing curtailment processes. TEMC noted, however, that the implementation of its first proposal should “completely obviate” the need for curtailment.³²

BC Hydro responded in disagreement with TEMC's proposal, stating that its curtailment provisions aimed to address reliability impacts, and are not intended as corrective measures for erroneous approvals. This would also fail to address conflicts with the provisions of the OATT, such as reservation priorities, which would make this new provision ineffective as the provisions of the OATT take precedence over BC Hydro's business practices. Further, BC Hydro stated that it would be difficult to identify language sufficiently prescriptive to be effective

²⁶ Confidential Exhibit B1-2, pp. 3–7.

²⁷ Confidential Exhibit B1-2, p. 2.

²⁸ Exhibit A-3, BCUC Confidential Order G-143-24.

²⁹ [Submitting A Short-Term Transmission Request](#), Section 3.3, p. 4.

³⁰ Exhibit B1-3, pp. 2–3.

³¹ Exhibit B2-3, pp. 1–2.

³² Exhibit B1-3, p. 3.

while still being broad enough to address a variety of possible issues that could arise.³³ Rather, BC Hydro submitted that the appropriate response to an erroneous TSR approval is to correct the error.³⁴

BC Hydro also noted that it does have a process in place to amend its business practices upon customer request and includes:³⁵

- an internal analysis with consideration for the OATT and North American Energy Standards Board (NAESB);
- solicitation of comments from customers (2 weeks minimum);
- posting those comments verbatim as a bulletin to all customers;
- BC Hydro's response to feedback; and
- a decision on whether to make requested change(s).

4.0 Panel Determination

The Panel finds that on January 22, 2024, BC Hydro violated section 13.2(a) of the OATT by accepting TEMC TSR 1 and 2, as well as Powerex TSR 1 and [REDACTED] TSR 101929343 prior to accepting other TSRs queued ahead of them in the chronological sequence in which the reservations were made.

Section 13.2(a) of the OATT, titled *Reservation Priority*, prescribes the manner in which long-term firm point-to-point transmission service, which constitutes the type of transmission service applied for under the above-mentioned TSRs, is awarded. According to section 13.2(a), reservation priority must be given to TSRs in the chronological order in which each Transmission Customer reserves service. Noting that by BC Hydro's admission, the acceptance of TEMC TSR 1 and 2, as well as Powerex TSR 1 and [REDACTED] TSR 101929343 took place while [REDACTED] two TSRs for long-term firm point-to-point transmission service were still being processed, the Panel finds that the manual acceptance of TEMC TSR 1 and 2, as well as Powerex TSR 1 and [REDACTED] TSR 101929343 violated section 13.2(a) of the OATT.

The Panel is satisfied that there is no evidence of willful intent to violate the OATT on the part of BC Hydro's real-time operator who issued the erroneous approvals, and that this was an isolated incident without any similar prior violation on record. Furthermore, the Panel is satisfied that BC Hydro has shown appropriate transparency and willingness to adopt measures to mitigate the risk of future violations of this nature.

The Panel is satisfied that, in the absence of any procedures prescribed by the OATT or OATT SOC, BC Hydro acted in a timely and appropriate manner to rectify its error by returning the TSR queue to its most recent compliant state. The Panel finds that since no prescriptive actions for the resolution of this error existed under the OATT, BC Hydro's approach to remedy its error effectively minimized the detrimental impacts thereof without unduly benefiting or discriminating against any particular transmission customer. The Panel highlights as a mitigating factor that BC Hydro acted promptly after identifying the error to implement its remedy and supplied appropriate notification to its transmission customers of the error and the actions being taken to remedy it. As a result, while the Panel takes note of the violation, it does not consider that this violation warrants the initiation of a penalty proceeding.

³³ Confidential Exhibit B2-3, pp. 2–3.

³⁴ Ibid., p. 3.

³⁵ Ibid.

BC Hydro OATT SOC Amendment Proposals

Upon review of both BC Hydro's and TEMC's submissions recommending amendments to BC Hydro's OATT SOC to mitigate the risk of erroneous TSR approvals in future and prescribe appropriate actions BC Hydro should take to remedy an erroneous TSR approval in future, the Panel strongly supports the following:

- i. The changes that BC Hydro has implemented to its business practices requiring a manager's signature for all manual TSR approvals as described under section 4.1;
- ii. BC Hydro's proposed amendments to its business practices to correct an erroneous TSR approval by returning the erroneously approved TSR to its queued state in the order established at the most recent time of compliance;
- iii. TEMC's recommendation for BC Hydro to amend its business practices to require that BC Hydro notify all affected transmission customers via a transmission bulletin whenever a TSR is manually approved, including a written explanation thereof.

For the purposes of regulatory oversight and to ensure that the BCUC is appropriately apprised of BC Hydro's administration of its obligations under the OATT, **the BCUC orders, no later than Monday, March 24, 2025, pursuant to directive 2 of the attached Order, that BC Hydro file with the BCUC a copy of its current business practices including blacklined indications for changes made since the version in force on January 23, 2024.**

Powerex TSRs 2 & 3 Could Not Compete with TEMC's TSRs

The Panel does not agree with TEMC's original Complaint that BC Hydro's re-queueing allowed Powerex to submit competing TSRs. TEMC accepts in its April 18, 2024 submission that Powerex TSRs 2 and 3 were submitted prior to the reversal of the accepted TSRs and were not able to compete with its requeued TSRs as per BC Hydro's April 4, 2024 submission.³⁶ As a result, the Panel is satisfied that the re-queueing did not unduly benefit Powerex by enabling it to submit competing TSRs as Powerex's TSRs were already queued prior to the requeueing of all erroneously approved TSRs. Therefore, the BCUC considers this issue to be resolved in the course of the proceeding. Furthermore, due to the fact that the OATT does not prescribe any explicit actions for the correction of this type of error and the unconditional status of TEMC TSR 1 was preserved after the re-queueing such that TEMC did not suffer any prejudice from the re-queueing, **the Panel finds no violation in the re-queueing of any TSR mentioned in the Complaint regardless of its confirmed unconditional status.**

BC Hydro's Communication with Powerex Violated the OATT SOC

Pursuant to BC Hydro's self-report dated April 4, 2024, **the Panel finds that BC Hydro violated section 5(b) of the OATT SOC by disclosing to Powerex a possible error pending investigation and prior to the issuance of a public transmission bulletin, which constitutes a disclosure of non-public transmission function information.** The Panel recognises the serious nature of this violation and emphasises that as a public utility, BC Hydro is obligated to abide by all provisions of the OATT including the OATT SOC in the administration of its duty as Transmission Provider. However, after reviewing the transcripts of the relevant communications between BC Hydro and Powerex, the Panel is satisfied that there was no evidence of willful intent on the part of either party to violate the provisions of the OATT SOC, nor did the violation have any detrimental impact on other transmission customers. As a result, while the Panel takes note of the violation, it does not consider that this violation warrants the initiation of a penalty proceeding.

³⁶ Confidential Exhibit B1-2, p. 2.

DATED at the City of Vancouver, in the Province of British Columbia, this 24th day of September 2024.

Original signed by:

M. Jaccard
Commissioner