



ORDER NUMBER
G-259-24

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

and

Nelson Hydro
Terms and Conditions of Service

BEFORE:

M. Jaccard, Panel Chair
E. B. Lockhart, Commissioner

on October 15, 2024

ORDER

WHEREAS:

- A. On July 25, 2024, pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA), Nelson Hydro filed an application (Application) with the British Columbia Utilities Commission (BCUC) seeking approval of the updated terms and conditions in City of Nelson's Nelson Hydro Services Bylaw No. 3608 (Hydro Services Bylaw No. 3608) for electric service as it relates to the utility's regulated ratepayers that, among other things:
 1. Clarify and modernize the current terms and conditions in Hydro Services Bylaw No. 3196 by adopting some industry best practices; and
 2. Incorporate and update the utility's fees and charges that were historically part of Fees and Charges Bylaw No. 3092, Schedule G, Nelson Hydro Connection Fees and Other Charges.
- B. By Order G-220-24, the BCUC established a regulatory timetable for the review of the Application, which included, among other things, one round of BCUC information requests (IRs), letters of comment, and Nelson Hydro final argument and reply to letters of comment;
- C. On August 30, 2024, Nelson Hydro filed its response to BCUC IR No. 1;
- D. Two letters of comment were filed by September 12, 2024, which included, among other things, a request from Joe Lojpur to extend the letter of comment deadline by two months to November 29, 2024;
- E. On September 26, 2024, Nelson Hydro filed final argument and reply to letters of comment;
- F. On October 3, 2024, by letter, the Panel denied Lojpur's request for an extension of the letter of comment deadline; and
- G. The Panel has reviewed the Application and finds that the following determinations are warranted.

NOW THEREFORE pursuant to sections 59 to 61 of the UCA and for the reasons outlined in the decision accompanying this order, the BCUC orders as follows:

1. The Hydro Services Bylaw No. 3608 for electric service is approved as it relates to the Nelson Hydro's regulated ratepayers.
2. The Hydro Services Bylaw No. 3608 is accepted for filing.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of October 2024.

BY ORDER

Original signed by:

M. Jaccard
Commissioner

Nelson Hydro
Terms and Conditions of Service

DECISION

1.0 Background

On July 25, 2024, pursuant to sections 59 to 61 of the *Utilities Commission Act (UCA)*, Nelson Hydro filed an application (Application) with the British Columbia Utilities Commission (BCUC) seeking approval of updated terms and conditions in City of Nelson's Nelson Hydro Services Bylaw No. 3608 (Hydro Services Bylaw No. 3608) for electric service as it relates to the utility's regulated ratepayers.

On August 15, 2024, by Order G-220-24, the BCUC established a regulatory timetable for the review of the Application, which included, among other things, one round of BCUC information requests (IRs), letters of comment, and Nelson Hydro's final argument and reply to letters of comment.

Two letters of comment were filed by September 12, 2024, which included, among other things, a request from J. Lojpur (Lojpur) to extend the letter of comment deadline by two months to November 29, 2024. On September 26, 2024, Nelson Hydro filed final argument and reply to letters of comment. By letter dated October 3, 2024, the Panel denied Lojpur's request for a 2 month extension of the letter of comment deadline.

2.0 Issues Raised in Letters of Comment

In his letter of comment dated September 6, 2024, M. Yanke (Yanke) identified himself as someone with good working knowledge of remote off grid solar powered communications and data collection sites, power calculations, generation and the electric grid.¹ The primary issues raised by Yanke were as follows:

- Yanke submitted that he attended the Bylaw and Conditions public meeting in city hall but received no notice of this proceeding;²
- Yanke questioned why Nelson Hydro is purchasing power from a small hydro power producer, submitting that Nelson Hydro is paying full rural commercial retail to a small hydro producer at 15.25 cents/kWh when it can purchase this from Fortis for 4 cents/kWh;³ and
- Yanke questioned why Nelson Hydro's community solar garden continues to receive full retail rate for its power instead of Nelson Hydro's wholesale cost of power.

¹ Exhibit D-1, p. 1.

² Ibid., p. 2.

³ Ibid., p. 3.

In his letter of comment dated September 12, 2024, Lojpur identified himself as a property owner of several rental properties located in both the urban and rural regions of the Nelson Hydro service area. The primary issues raised by Lojpur were as follows:

- Lojpur questioned why Nelson Hydro held no security deposit to pay off his tenant's default in payment in September 2019.⁴
- Lojpur questions whether the Hydro Services Bylaw No. 3608 provides Nelson Hydro the lawful authority to transfer as arrears a Nelson Hydro account balance or default in payment created by a tenant or renter to the property owner to be collected in the same manner as unpaid property taxes;⁵ and
- Lojpur submitted that the use of the *Community Charter* section 258 alone is not lawfully adequate by itself to invoke automatic tenant caused default transfers onto property owners' property taxes.⁶

Position of Nelson Hydro

Nelson Hydro submits that it complied with the BCUC's directives for public notice as set out in Order G-220-24. Further, Nelson Hydro noted that there were opportunities for stakeholder engagement in advance of the filing of the Application and that both Yanke and Lojpur attended one or more sessions in person, and provided input on the proposed bylaw update.⁷

In reply to Yanke, Nelson Hydro submits that no changes have been made in the proposed Hydro Services Bylaw No. 3608 to the rate that Nelson Hydro pays independent power producers (IPPs) and that any energy supply contracts are submitted to the BCUC for approval.⁸ Nelson Hydro observes that Yanke appears to question the merit of the community solar garden from a ratepayer perspective and that Yanke's issues raised do not relate directly to the changes in the proposed Hydro Services Bylaw No. 3608 regarding the Solar Garden as those changes simply provide clarity on how associated generation credits are handled. Nelson Hydro further notes that it responded to a number of detailed information requests from the BCUC regarding the Solar Garden financials in its 2023 Revenue Requirement Application.⁹

In reply to Lojpur, Nelson Hydro submits that in direct response to the concerns raised by various landlords, the proposed Hydro Services Bylaw No. 3608 has been modified with regard to the collection of security deposits for tenant accounts. Section 4.3.3 now requires security deposits from tenants and this requirement can no longer be waived by the utility without express written consent by the property owner.¹⁰ On the matter of the use of the *Community Charter*, Nelson Hydro submits that the City of Nelson has clear lawful authority under section 258 to collect unpaid electricity charges from tenants by transferring the charges to a property tax bill. Nelson Hydro cites the BC Supreme Court decision in *BC Apartment Owners and Manager Assn v. New Westminster (City)*.¹¹ Nelson Hydro submits that the current and proposed updated terms and conditions both specifically put ratepayers on notice that this mechanism can be used to collect outstanding balances for service at a property.¹²

⁴ Exhibit D-2, pp. 2–3.

⁵ *Ibid.*, p. 1.

⁶ *Ibid.*, p. 1.

⁷ Nelson Hydro Final Argument and Reply, p. 3-2, 3-3.

⁸ *Ibid.*, p. 3-2, 3-3.

⁹ *Ibid.*, p. 3-3.

¹⁰ *Ibid.*, p. 3-5.

¹¹ *Ibid.*, p. 4-6; 2001 BCSC 684 (CanLII).

¹² *Ibid.*, p. 4-6.

3.0 The Panel's Determination

The Panel acknowledges the time and attention that Yanke and Lojpur have given to participating in and providing input into Nelson Hydro's public process for the updating of its terms and conditions of electricity service.

With respect to the issues raised by Yanke regarding public notice, the Panel notes that Nelson Hydro confirmed that, in accordance with the requirements of Order G-220-24, Nelson Hydro made its Application and Order G-220-24 available on its website on August 20, 2024, and provided notice of the Application and Order G-220-24 on its Facebook and Instagram pages on August 21, 2024. The Panel finds that this public notice was sufficient, under the circumstances—including Nelson Hydro's stakeholder engagement prior to the filing of the Application—to provide adequate notice to parties whose rights or interests may be affected by the outcome of this proceeding. In particular, the Panel notes that, with the level of public notice that was provided, both Yanke and Lojpur clearly became aware of the present proceeding, given the fact that they both filed letters of comment.

Regarding the other issues raised by Yanke in his letter of comment, the Panel finds that, as noted by Nelson Hydro, Nelson Hydro is not, in this Application, changing rates paid to IPPs or the rate for power from the community Solar Garden. As such, the Panel considers that the issues raised by Yanke are not within the scope of the present proceeding.

Finally, regarding the issues raised by Lojpur in his letter of comment, the Panel also finds that Nelson Hydro has made reasonable amendments in the proposed Hydro Services Bylaw No. 3608 with respect to concerns expressed by landlords over the waiver of security deposits. The Panel also finds that sections 4.3.11 and 7.9.5 of Hydro Services Bylaw No. 3608, provide adequate clarity regarding the treatment of a default in payment to Nelson Hydro by any customer including a property owner's tenant or renter. Regarding Nelson Hydro's authority to transfer outstanding payments as arrears to be collected in the same manner as unpaid property taxes, the Panel is persuaded that the proposed terms of Hydro Services Bylaw No. 3608, in conjunction with the decision in *BC Apartment Owners and Manager Assn v. New Westminster (City)*¹³ cited by Nelson Hydro,¹⁴ confirms Nelson Hydro's authority to do so.

The Panel approves the Hydro Services Bylaw No. 3608 as a necessary and reasonable update to replace the BCUC approved Hydro Services Bylaw No. 3196 of 2012. The Panel is satisfied that Nelson Hydro's public consultation process gave rural ratepayers opportunity for input and that the resulting updates are appropriate for Nelson Hydro's current and near future operations.

¹³ 2001 BCSC 684.

¹⁴ Nelson Hydro Final Argument and Reply, p. 4-6.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of October 2024.

Original signed by:

M. Jaccard
Panel Chair

Original signed by:

E. B. Lockhart
Commissioner