

Chris Sandve
Chief Regulatory Officer
bchydroregulatorygroup@bchydro.com

February 6, 2024

Patrick Wruck
Commission Secretary and Manager
Regulatory Services
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Patrick Wruck:

**RE: British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
Electricity Purchase Agreement (EPA) Extensions – Moresby Lake
Fifth and Sixth Extension Agreements**

BC Hydro, pursuant to section 71 of the *Utilities Commission Act (UCA)*, applies for acceptance by the BCUC of two consecutive, one-month extension agreements, filed together for regulatory efficiency. The extension agreements are dated December 31, 2023, and January 31, 2024, respectively, (**Fifth and Sixth Extension Agreement**) for the EPA originally executed by the Queen Charlotte Power Corporation, dated December 9, 1988, as amended and restated by a series of agreements, and ultimately assigned to Atlantic Power Preferred Equity Ltd. (**Atlantic Power or the Seller**) on November 2, 2011 (**Moresby Lake EPA**).¹

In this filing (**Filing**), BC Hydro requests an order from the BCUC under section 71 of the UCA that the Fifth and Sixth Extension Agreements are accepted. A draft of the requested Order is attached as Appendix A.

Background

As discussed in prior submissions to the Commission, BC Hydro and Atlantic Power are negotiating a long-term renewal EPA for the Moresby Lake facility. To support negotiations and, at the same time, ensure continuous supply from the Moresby Lake facility to BC Hydro to serve BC Hydro's customers in the Sandspit Non-Integrated Area, the Moresby Lake EPA has been extended several times since its original expiration date of August 31, 2022. Each of these extension agreements has been filed with the BCUC under section 71 of the UCA.

¹ The Fifth and Sixth Extension Agreements are executed as between BC Hydro and Atlantic Power (Coastal Rivers) Corporation, an affiliate of Atlantic Power Preferred Equity Ltd. At all material times, Atlantic Power (Coastal Rivers) Corporation has retained legal title to the Moresby Lake EPA and Atlantic Power Preferred Equity Ltd. has retained beneficial interest in the Moresby Lake EPA.

The first four extension agreements were accepted under section 71 of the UCA per Commission Orders E-24-22, E-9-23, E-23-23, and E-3-24, respectively. Copies of the four Orders, as well as the public version of the cover letter accompanying BC Hydro's first extension agreement, are provided in Appendix B.²

Although discussions between BC Hydro and Atlantic Power have progressed, further extension agreements were required. BC Hydro is uncertain whether the period of time provided by the most recent extension agreements will be sufficient to complete First Nations consultation in relation to a long-term EPA for the Moresby Lake facility and to conclude negotiations with Atlantic Power. However, BC Hydro and Atlantic Power continue to work towards a new long-term EPA.

Fifth and Sixth Extension Agreements

Consistent with the first four extension agreements, the Fifth and Sixth Extension Agreements allow additional time for negotiations and First Nations consultation and only amends the term length of the Moresby Lake EPA. The Fifth Extension extends the EPA to January 31, 2024, and the Sixth Extension further extends the EPA to February 29, 2024. A copy of the Fifth and Sixth Extension Agreements are provided in Appendix C and Appendix D, respectively.

The Fifth and Sixth Extension Agreements are each an "energy supply contract" under Part 5 of the UCA. Section 71(2.21) of the UCA describes the factors that the BCUC must consider when deciding whether to accept an energy supply contract. Both extension agreements continue to meet the applicable numerated factors under section 71(2.21) of the UCA, as discussed in our first extension agreement filing on October 28, 2022 (see Appendix B).

In the absence of an EPA with the Moresby Lake facility, which is a clean or renewable supply resource, BC Hydro's only other alternative in the Sandspit Non-Integrated Area is to run its stand-by diesel generators, which would increase environmental impacts and be more costly as compared to continuing to receive supply from the Moresby Lake facility.³

In addition, Directive 2 of BCUC Order No. E-9-23 provided that "[a]ny further application(s) for acceptance of an EPA or EPA Extension Agreement within the territory of the Haida Nation will address or otherwise describe the implications, if any, of the *Haida Nation Recognition Act* on that agreement". BC Hydro understands that the

² BCUC Order No. E-24-22 also determined that "[t]he BCUC will hold the un-redacted version of the [October 28, 2022] filing, including the entirety of the Moresby Lake EPA, confidential as it contains commercially sensitive information". Accordingly, the BCUC has already considered the redaction in Appendix B. The redacted information in Appendix B continues to be commercially sensitive information.

³ For additional detail regarding the cost of using BC Hydro's diesel generating station at Sandspit, as compared to the existing pricing of the Moresby Lake EPA, please refer to BC Hydro's response to BCUC STAFF CONF IR 1.1.4, which was submitted in relation to BC Hydro's October 28, 2022, filing.

Haida Nation Recognition Act (HNRA) is primarily aimed at establishing a government-to-government relationship, which will facilitate the negotiation of legally binding agreements with the provincial and federal government relating to jurisdiction and authority in Haida Gwaii. As it applies to the Fifth and Sixth Extension Agreements, the HNRA designates that the Council of the Haida Nation (**Council**) is the government and legal entity representing the Haida Nation. Together with the Council's constitution, the HNRA provides clarity to third-parties who are operating in Haida Gwaii and wishing to engage with the Haida Nation that the Council is the appropriate governmental body to engage with.

In this regard, the Council and BC Hydro have a long-standing relationship and have regular meetings to discuss issues of interest. In recent meetings and communications with Council representatives, we have discussed the extension agreements between BC Hydro and Atlantic Power and updated them on ongoing discussions towards a long-term EPA agreement for the Moresby Lake facility. Council has not identified any concerns with extension agreements. BC Hydro will keep the Council informed as discussions proceed with Atlantic Power, including with respect to the long-term EPA agreement.

Under section 71 of the UCA, the BCUC may accept the Fifth and Sixth Extension Agreements and grant the requested Order without a hearing. BC Hydro submits that the requested Order can be granted without a hearing as they continue the previously accepted extension agreements to allow the parties to undertake further discussions and negotiations for an EPA renewal.

BC Hydro will provide notice of this filing to the registered interveners in BC Hydro's most recent revenue requirements application (i.e., the Fiscal 2023 to Fiscal 2025 Revenue Requirements Application) in accordance with section 1.1.2 of the Rules for Energy Supply Contracts for Electricity, and to Council, Old Masset Village Council and Skidegate Band Council.

For further information, please contact Alicia Henderson at bchydroregulatorygroup@bchydro.com.

Yours sincerely,



Chris Sandve
Chief Regulatory Officer

ah/kl

Enclosure

**BC Hydro Electricity Purchase Agreement (EPA) -
Moresby Lake Extensions**

Appendix A

Draft Order



ORDER NUMBER

G-xx-xx

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

British Columbia Hydro and Power Authority (BC Hydro)

Name of Application

BEFORE:

Commissioner
Commissioner
Commissioner

on Date

ORDER

WHEREAS:

- A. On February 6, 2024, pursuant to section 71 of the *Utilities Commission Act (UCA)*, BC Hydro filed with the British Columbia Utilities Commission (**BCUC**) two consecutive, one-month extension agreements (Moresby Lake Fifth Extension Agreement and Moresby Lake Sixth Extension Agreement), which extend the electricity purchase agreement between BC Hydro and Atlantic Power (Coastal Rivers) Corporation with Atlantic Power Preferred Equity Ltd. (as assignee), for the Moresby Lake Hydro Project (Moresby Lake EPA) to January 31, 2024 and February 29, 2024 respectively (Filing);
- B. The BCUC approved the original EPA for the Moresby Lake Hydro Project by Order E-1-89 dated March 23, 1989, and approved a subsequent amended EPA by Order E-16-93 dated September 10, 1993;
- C. The further amended Moresby Lake EPA was exempted from section 71 of the UCA in accordance with Ministerial Order M-22-9801 and was to expire on August 31, 2022;
- D. By Order E-24-22, dated December 15, 2022, the BCUC granted BC Hydro's request to extend the expiry date of the Moresby Lake EPA to February 28, 2023;
- E. By Order E-9-23, dated June 1, 2023, the BCUC granted BC Hydro's request to further extend the expiry date of the Moresby Lake EPA to August 31, 2023;
- F. By Order E-23-23, dated November 23, 2023, the BCUC granted BC Hydro's request to further extend the expiry date of the Moresby Lake EPA to November 30, 2023;
- G. By Order E-3-24, dated January 25, 2024, the BCUC granted BC Hydro's request to further extend the expiry date of the Moresby Lake EPA to December 31, 2023;

- H. By Order G-61-12, dated May 17, 2012, the BCUC approved the Rules for Energy Supply Contracts for Electricity (Rules). Appendix A of Order G-61-12 contains the Rules, which are intended to facilitate the BCUC's review of energy supply contracts for electricity, pursuant to section 71 of the UCA; and
- I. The Panel has reviewed the Filing and considers acceptance of the Moresby Lake Fifth and Sixth Extension Agreements is warranted.

NOW THEREFORE the Commission orders as follows:

1. The Moresby Lake Fifth Extension Agreement is accepted for filing.
2. The Moresby Lake Sixth Extension Agreement is accepted for filing.

DATED at the City of Vancouver, in the Province of British Columbia, this (XX) day of (Month Year).

BY ORDER

(X. X. last name)
Commissioner

Attachment Options

**BC Hydro Electricity Purchase Agreement (EPA) -
Moresby Lake Extensions**

Appendix B

**Extension Agreement No. 1 – Cover Letter and
BCUC Orders E-24-22, E-9-23, E-23-23, and E-3-24**

**Chris Sandve**

Chief Regulatory Officer

Phone: 604-623-3726

Fax: 604-623-4407

bchydroregulatorygroup@bchydro.com

October 28, 2022

Sara Hardgrave
Acting Commission Secretary and Manager
Regulatory Services
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Sara Hardgrave:

**RE: British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
Electricity Purchase Agreement (EPA) Extension – Moresby Lake**

BC Hydro, pursuant to section 71 of the *Utilities Commission Act (UCA)*, applies for acceptance by the Commission of a six-month extension agreement, dated August 31, 2022, for the EPA originally executed by the Queen Charlotte Power Corporation, dated December 9, 1988, and ultimately assigned to Atlantic Power Preferred Equity Ltd. (**Atlantic Power**).

In this filing (**Filing**), BC Hydro requests an order from the Commission under section 71 of the UCA that the six-month extension agreement is accepted for filing. A copy of the draft form of the order is attached as Appendix A.

Project Background

The Moresby Lake Hydro Project (**Project**) is a storage hydro project serving one of the Non-Integrated Areas located in Haida Gwaii off the north coast of British Columbia. The Project serves the southern grid¹ of Haida Gwaii, which includes the communities of Skidegate, Queen Charlotte City, Tlell and Sandspit (**Sandspit Non-Integrated Area**). The Project has a plant capacity of 6 MW and is backed up by BC Hydro's diesel generating station in Sandspit, B.C. A 49 km, 69 kV transmission line interconnects the facility to the point of interconnection at BC Hydro's Sandspit substation.

The Sandspit Non-Integrated Area has peak loads of approximately 6.4 MW and the annual average load of the communities served is approximately 27 GWh/yr. The

¹ Haida Gwaii also has a northern grid, the Masset Non-Integrated Area, which includes the communities of Old Masset, Masset, and Port Clements. The northern grid and southern grid are not connected and have separate generation-distribution systems.

Project provides approximately 75% of the energy supply for the Sandspit Non-Integrated Area, with BC Hydro's diesel generating station providing the remainder of the supply. BC Hydro owns and operates the diesel generating station in Sandspit for backup and reliability purposes and as a supplemental resource when the Project's generation is not sufficient to meet the communities' electricity needs.

Total annual energy supplied by the Project to BC Hydro has averaged approximately [REDACTED] GWh/yr and BC Hydro generally has the exclusive rights to the energy output of the Project.

Moresby Lake EPA Background

The original EPA for the Project was executed with the Queen Charlotte Power Corporation (**QCPC**) on December 9, 1988 (**1988 EPA**), and the Project reached commercial operations on September 1, 1990. The Project has changed owners several times during the contract term and its agreement has been amended twice, with the term of the existing EPA reflected in the further amended agreement dated June 13, 1996 (**Moresby Lake EPA**).

The 1988 EPA was filed with the BCUC on January 18, 1989, and on March 23, 1989, was accepted pursuant to Order No. E-1-89 (order included in Appendix B). The 1988 EPA provided that the generating facility was to have an installed capacity of 6 MW and its term was for 20 years commencing from the date that the Project reached commercial operations. This 1988 EPA was subsequently amended, and replaced in its entirety, on September 1, 1992, primarily to: i) increase the amount of electricity purchased, ii) provide clearer responsibilities in the operation and dispatch of the Moresby Lake generating facility, and iii) amend the term of the agreement from 20 years to 27 years. This amended EPA (**Amended 1992 EPA**) and an associated letter agreement between BC Hydro and QCPC with respect to minimum reservoir levels to be maintained at Moresby Lake were filed with the BCUC on July 28, 1993, and on September 10, 1993, both agreements were accepted pursuant to Order No E-16-93 (order also included in Appendix B).

In 1996, the Amended 1992 EPA was amended, and replaced in its entirety a second time primarily to: i) [REDACTED], and ii) extend the term for an additional five years, so as to expire on August 31, 2022. The associated July 28, 1993, letter agreement was also

October 28, 2022
 Sara Hardgrave
 Acting Commission Secretary and Manager
 Regulatory Services
 British Columbia Utilities Commission
 Electricity Purchase Agreement (EPA) Extension – Moresby Lake

incorporated in the further amended EPA. This further amended agreement, dated June 13, 1996, is the existing Moresby Lake EPA and is exempted from section 71 of the UCA in accordance with Ministerial Order M-22-9801 (order also included within Appendix B). A confidential copy of the Moresby Lake EPA is attached as Appendix C.³

The Moresby Lake EPA does not contain any provisions for an extension of the existing term. Under the EPA, the current energy price is approximately [REDACTED], and is comprised of [REDACTED]

[REDACTED]. The estimated energy price for the Sandspit diesel generating facility is approximately [REDACTED].

The annual payment to Atlantic Power for the Moresby Lake EPA is currently approximately [REDACTED] per year.

Moresby Lake EPA Extension Agreement

The Moresby Lake EPA was to expire on August 31, 2022 and a six-month extension was agreed upon (**Extension Agreement**) in order to continue negotiations on an EPA renewal. The Extension Agreement does not amend or change any aspect of the Moresby Lake EPA except for the term, and is attached as Appendix D. The EPA renewal process for the Project is underway and negotiations are ongoing between BC Hydro and Atlantic Power. The extension of the Moresby Lake EPA allows for the continuous supply of power from the Project to BC Hydro to serve BC Hydro's customers in the Sandspit Non-Integrated Area. As BC Hydro's only alternative resource option for the southern grid of Haida Gwaii is running our stand-by diesel generators, if the Extension Agreement is not accepted by the Commission there will be increased environmental impacts and higher costs compared to continuing to receive supply from the Project.

Energy Supply Contract Considerations

The Extension Agreement is an "energy supply contract" under Part 5 of the UCA. Section 71(2.21) of the UCA describes the factors the BCUC must consider when

³ On July 23, 2004, QCPC assigned the Moresby Lake EPA to Coastal Rivers Power Limited Partnership. On November 2, 2011, Coastal Rivers Power Limited Partnership assigned the Moresby Lake EPA to CPI Preferred Equity Ltd. who in February 2012 changed their name to Atlantic Power Preferred Equity Ltd. and is a wholly owned subsidiary of Atlantic Power Corporation.

assessing whether or not an energy supply contract filed by BC Hydro is in the public interest. Specifically:

- Section 71(2.21) of the UCA requires the Commission to consider the interests of persons in British Columbia who receive or may receive service from BC Hydro;
- The Commission must consider: the quantity of energy to be supplied under the EPA, the availability of supplies of the energy, the price and availability of alternative sources of energy, and the price of the energy being supplied under the EPA;
- The Commission must consider British Columbia's energy objectives, including the extent to which an EPA is consistent with the 93% target for clean or renewable electricity generation; and
- The Commission must consider the most recent long-term resource plan filed by BC Hydro under section 44.1 of the UCA.

BC Hydro notes that the 2021 Integrated Resource Plan applies to BC Hydro's integrated system and does not generally address Non-Integrated Areas. The local generation from the Project serves customers located in the Sandspit Non-Integrated Area and accordingly, the 2021 Integrated Resource Plan is not applicable to this Filing.

Interests of BC Hydro Ratepayers/Price, Quantity and Availability

The Extension Agreement provides for the continued use of an existing, clean or renewable resource at cost effective pricing. The only alternative to the Extension Agreement would be more costly and environmentally undesirable diesel generation at BC Hydro's diesel generating station at Sandspit. There are no other alternatives.

The price, quantity and availability of the Project's generation is discussed above in the section that provides a brief overview of the Moresby Lake EPA.

British Columbia's Energy Objectives

The Commission must also consider "British Columbia's energy objectives" as defined in section 2 of the *Clean Energy Act*. In BC Hydro's submission, the Extension Agreement supports the following British Columbia energy objectives as it enables the continuation of supply from an existing clean or renewable resource that contributes to the local community, continues the displacement of diesel generation (which reduces

environmental impacts, such as greenhouse gas emissions), and is less costly than the alternative diesel generation:⁴

- To generate at least 93% of the electricity in B.C. from clean or renewable resources (objective 2[c]);
- To use and foster the development in B.C. of innovative technologies that support energy conservation and efficiency and the use of clean or renewable resources (objective 2[d]);
- To ensure that BC Hydro's rates remain among the most competitive of rates charged by public utilities in North America (objective 2[f]);
- Reduction of greenhouse gas emissions (objectives 2[g], [h] and [i]);
- To encourage economic development and the creation and retention of jobs (objective 2[k]);
- To foster the development of First Nation and rural communities through the use and development of clean or renewable resources (objective 2[l]);
- To maximize the value, including the incremental value of the resources being clean or renewable resources, of British Columbia's generation and transmission assets for the benefit of British Columbia (objective 2[m]); and
- No use of nuclear (objective 2[o]).

First Nations

A review of the consultative boundary maps by BC Hydro identifies the Project as being within the traditional territories, per the Government of British Columbia's Consultative Areas Database, of the following First Nations:

- Old Masset Village Council; and
- Skidegate Band Council.

Old Masset Village Council and Skidegate Band Council are part of the Council of the Haida Nation.

BC Hydro is of the view that, since the Extension Agreement will not result in any changes to the physical footprint, energy output or operation of the Project and that no new or amended Crown authorizations are required, the Extension Agreement will not

⁴ For those objectives where the extension neither advances nor conflicts with that objective, BC Hydro is of the view it is in alignment with such objective and thus has not included it in the objectives identified in this Filing.

result in potential incremental impacts to Aboriginal rights and title and, therefore, the duty to consult is not triggered.

Regulatory Review and Notice of Filing

The Commission's Rules for Energy Supply Contracts for Electricity state that the Commission intends to review energy supply contracts expeditiously and without a hearing. Further, the scheme of the relevant provisions of the UCA is that energy supply contracts are presumptively in the public interest unless the Commission declares otherwise, after a hearing. BC Hydro submits that the BCUC may accept the Extension Agreement for filing and grant the requested Order without a hearing for the following reasons:

- The Extension Agreement allows for the continuous supply of power from Atlantic Power to BC Hydro to serve BC Hydro's customers in the Sandspit Non-Integrated Area;
- As BC Hydro does not have other resource options in the Sandspit Non-Integrated Area other than running our standby diesel generators, without the Extension Agreement there would be an increase in environmental impacts and it would be more costly as compared to continuing to receive supply from the Moresby Lake Project; and
- The Extension Agreement does not amend or change any aspect of the Moresby Lake EPA except for the term, which is extended for a period of six months.

In the case of this Filing and for the reasons set out below, if additional information is required for the Commission to determine whether it requires a hearing, BC Hydro proposes a single round of Commission Information Requests followed by a process step to allow for letters of comment from interested parties so that they may express their views prior to any further determinations on process being made.

For clarity, this proposed process would not be the "hearing" contemplated by the UCA, but a preliminary enquiry into the question of whether: i) the Extension Agreement can be accepted for filing, or ii) a hearing is required to determine whether the Extension Agreement for the Moresby Lake EPA is in the public interest.

Concurrent with this Filing, BC Hydro will provide notice to the registered interveners in BC Hydro's most recent revenue requirements application in accordance with section 1.1.2 of the Rules for Energy Supply Contracts for Electricity. BC Hydro will also provide notice of this Filing to the Old Masset Village Council and the Skidegate Band Council.

October 28, 2022
Sara Hardgrave
Acting Commission Secretary and Manager
Regulatory Services
British Columbia Utilities Commission
Electricity Purchase Agreement (EPA) Extension – Moresby Lake

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Requested Order

BC Hydro seeks an order that the Extension Agreement is accepted for filing under section 71 of the UCA. As noted above, a draft order is attached as Appendix A.

Confidentiality

BC Hydro is of the view that key or specific commercial terms and conditions relating to the Moresby Lake EPA are commercially sensitive and the public disclosure of such information will harm BC Hydro's negotiating position with respect to further EPAs. Certain information in the Moresby Lake EPA is also considered commercially sensitive to the facility owner. BC Hydro has thus redacted certain information in this Filing and the Moresby Lake EPA in its entirety (Appendix C) from the public version of the Filing. For clarity, BC Hydro notes that the Extension Agreement (Appendix D) is not filed on a confidential basis.

As provided by the General Rules 1.10 of the Rules for Energy Supply Contracts for Electricity, Part IV of the Commission's Rules of Practice and Procedure, and section 42 of the *Administrative Tribunals Act*, BC Hydro requests that the Commission keep this information confidential.

For further information, please contact Alicia Henderson at 604-623-4381 or by email at bchydroregulatorygroup@bchydro.com.

Yours sincerely,



Chris Sandve
Chief Regulatory Officer

fv/kl

Enclosure



ORDER NUMBER
E-24-22

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

and

British Columbia Hydro and Power Authority
Electricity Purchase Agreement Extension for Moresby Lake Hydro Project

BEFORE:

B. A. Magnan, Panel Chair
C. M. Brewer, Commissioner
E. B. Lockhart, Commissioner
T. A. Loski, Commissioner

on December 15, 2022

ORDER

WHEREAS:

- A. On October 28, 2022, pursuant to section 71 of the *Utilities Commission Act (UCA)*, British Columbia Hydro and Power Authority (BC Hydro) filed with the British Columbia Utilities Commission (BCUC) a six-month extension agreement (Moresby Lake Extension Agreement) extending the electricity purchase agreement (EPA) between BC Hydro and Atlantic Power Preferred Equity Ltd. (as assignee) for the Moresby Lake Hydro Project (Moresby Lake EPA) to February 28, 2023 (Filing);
- B. The BCUC approved the original EPA for the Moresby Lake Hydro Project by Order E-1-89 dated March 23, 1989, and approved a subsequent amended EPA by Order E-16-93 dated September 10, 1993;
- C. The further amended Moresby Lake EPA was exempted from section 71 of the UCA in accordance with Ministerial Order M-22-9801 and was to expire on August 31, 2022;
- D. By Order G-61-12, dated May 17, 2012, the BCUC approved the Rules for Energy Supply Contracts for Electricity (Rules). Appendix A of Order G-61-12 contains the Rules, which are intended to facilitate the BCUC's review of energy supply contracts for electricity, pursuant to section 71 of the UCA;
- E. On December 7, 2022, BC Hydro submitted its response to BCUC staff questions, clarifying energy costs contained in the Filing and stating that the filing intends to allow for continued use of an existing, clean or renewable resource at cost effective pricing;
- F. BC Hydro requests the unredacted version of the Filing, including the entirety of the Moresby Lake EPA, be held confidential as it contains information that is commercially sensitive, and the public disclosure of such information will harm BC Hydro's negotiating position with respect to further EPAs; and

G. The Panel has reviewed the Filing and considers acceptance of the Moresby Lake Extension Agreement is warranted.

NOW THEREFORE pursuant to section 71 of the UCA and the Rules, the BCUC orders as follows:

1. The Moresby Lake Extension Agreement is accepted for filing.
2. The BCUC will hold the un-redacted version of the Filing, including the entirety of the Moresby Lake EPA, confidential as it contains commercially sensitive information.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of December 2022.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner

ORDER NUMBER

E-9-23

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

British Columbia Hydro and Power Authority
Electricity Purchase Agreement Extension for Moresby Lake

BEFORE:

B. A. Magnan, Panel Chair
E. B. Lockhart, Commissioner
T. A. Loski, Commissioner
A. Pape-Salmon, Commissioner

on June 1, 2023

ORDER

WHEREAS:

- A. On April 27, 2023, pursuant to section 71 of the *Utilities Commission Act* (UCA), British Columbia Hydro and Power Authority (BC Hydro) filed for acceptance with the British Columbia Utilities Commission (BCUC) a six-month extension agreement (Moresby Lake Second Extension Agreement) extending the electricity purchase agreement (EPA) between BC Hydro and Atlantic Power Preferred Equity Ltd. (as assignee) for the Moresby Lake Hydro Project (Moresby Lake EPA) to August 31, 2023 (Filing);
- B. The BCUC approved the original EPA for the Moresby Lake Hydro Project by Order E-1-89 dated March 23, 1989, and approved a subsequent amended EPA by Order E-16-93 dated September 10, 1993;
- C. The further amended Moresby Lake EPA was exempted from section 71 of the UCA in accordance with Ministerial Order M-22-9801 and was to expire on August 31, 2022;
- D. By Order G-61-12, dated May 17, 2012, the BCUC approved the Rules for Energy Supply Contracts for Electricity (Rules). Appendix A of Order G-61-12 contains the Rules, which are intended to facilitate the BCUC's review of energy supply contracts for electricity, pursuant to section 71 of the UCA;
- E. On December 16, 2022, the BCUC approved a six-month extension to the Moresby Lake EPA (Moresby Lake Extension Agreement) ending on February 28, 2023, pursuant to Order E-24-22;
- F. On May 9, 2023, at the 4th Session, 42nd Parliament (2023), the Legislative Assembly of the Province of British Columbia passed the *Haida Nation Recognition Act* pursuant to BILL 18 – 2023, which recognises the Haida Nation's inherent rights of governance and self-determination and recognises the Council of the Haida Nation is the government of the Haida Nation; and

G. The Panel has reviewed the Filing and considers acceptance of the Moresby Lake Second Extension Agreement is warranted.

NOW THEREFORE pursuant to section 71 of the *Utilities Commission Act* and the Rules, the BCUC orders as follows:

1. The Moresby Lake Second Extension Agreement is accepted for filing;
2. Any further application(s) for the acceptance of an EPA or EPA Extension Agreement within the territory of the Haida Nation will address or otherwise describe the implications, if any, of the *Haida Nation Recognition Act* on that agreement.

DATED at the City of Vancouver, in the Province of British Columbia, this 1st day of June 2023.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner

**ORDER NUMBER
E-23-23**

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

and

British Columbia Hydro and Power Authority
Electricity Purchase Agreement Extension for Moresby Lake Hydro Project

BEFORE:

B. A. Magnan, Panel Chair
E. B. Lockhart, Commissioner
E. A. Brown, Commissioner

on November 23, 2023

ORDER

WHEREAS:

- A. On October 27, 2023, pursuant to section 71 of the *Utilities Commission Act* (UCA), British Columbia Hydro and Power Authority (BC Hydro) filed for acceptance with the British Columbia Utilities Commission (BCUC) a three-month extension agreement (Third Extension Agreement) extending the electricity purchase agreement (EPA) between BC Hydro and Atlantic Power Preferred Equity Ltd. (as assignee) for the Moresby Lake Hydro Project (Moresby Lake EPA) to November 30, 2023 (Filing);
- B. The BCUC approved the original EPA for the Moresby Lake Hydro Project by Order E-1-89 dated March 23, 1989, and approved a subsequent amended EPA by Order E-16-93 dated September 10, 1993;
- C. The further amended Moresby Lake EPA was exempted from section 71 of the UCA in accordance with Ministerial Order M-22-9801 and was to expire on August 31, 2022;
- D. By Order G-61-12, dated May 17, 2012, the BCUC approved the Rules for Energy Supply Contracts for Electricity (Rules). Appendix A of Order G-61-12 contains the Rules, which are intended to facilitate the BCUC's review of energy supply contracts for electricity, pursuant to section 71 of the UCA;
- E. By Order E-24-22, dated December 15, 2022, the BCUC approved a six-month extension to the Moresby Lake EPA (Moresby Lake Extension Agreement) ending on February 28, 2023;
- F. On May 9, 2023, at the 4th Session, 42nd Parliament (2023), the Legislative Assembly of the Province of British Columbia passed the Haida Nation Recognition Act pursuant to BILL 18 – 2023, which recognizes the Haida Nation's inherent rights of governance and self-determination and recognizes the Council of the Haida Nation is the government of the Haida Nation;

- G. By Order E-9-23, dated June 1, 2023, the BCUC approved a further six-month extension to the Moresby Lake EPA to August 31, 2023; and
- H. The Panel has reviewed the Filing and considers acceptance of the Third Extension Agreement is warranted.

NOW THEREFORE pursuant to section 71 of the UCA and the Rules, the BCUC orders as follows:

- 1. The Moresby Lake EPA Third Extension Agreement ending November 30, 2023, is accepted for filing.

DATED at the City of Vancouver, in the Province of British Columbia, this 23rd day of November 2023.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner

ORDER NUMBER

E-3-24

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

and

British Columbia Hydro and Power Authority
Electricity Purchase Agreement Extension for Moresby Lake Hydro Project

BEFORE:

B. A. Magnan, Panel Chair
E.A. Brown, Commissioner
E. B. Lockhart, Commissioner
W. E. Royle, Commissioner

on January 25, 2024

ORDER

WHEREAS:

- A. On December 22, 2023, pursuant to section 71 of the *Utilities Commission Act* (UCA), British Columbia Hydro and Power Authority (BC Hydro) filed for acceptance with the British Columbia Utilities Commission (BCUC) a one-month extension agreement (Fourth Extension Agreement) extending the electricity purchase agreement (EPA) between BC Hydro and Atlantic Power Preferred Equity Ltd. (as assignee) for the Moresby Lake Hydro Project (Moresby Lake EPA) to December 31, 2023 (Filing);
- B. The BCUC approved the original EPA for the Moresby Lake Hydro Project by Order E-1-89 dated March 23, 1989, and approved a subsequent amended EPA by Order E-16-93 dated September 10, 1993;
- C. The further amended Moresby Lake EPA was exempted from section 71 of the UCA in accordance with Ministerial Order M-22-9801 and was to expire on August 31, 2022;
- D. By Order G-61-12 dated May 17, 2012, the BCUC approved the Rules for Energy Supply Contracts for Electricity (Rules). Appendix A of Order G-61-12 contains the Rules, which are intended to facilitate the BCUC's review of energy supply contracts for electricity, pursuant to section 71 of the UCA;
- E. By Order E-24-22 dated December 15, 2022, the BCUC approved a six-month extension to the Moresby Lake EPA ending on February 28, 2023;
- F. By Order E-9-23 dated June 1, 2023, the BCUC approved a further six-month extension to the Moresby Lake EPA to August 31, 2023;
- G. By Order E-23-23 dated November 23, 2023, the BCUC granted BC Hydro's request to further extend the expiry date of the Moresby Lake EPA to November 30, 2023; and

H. The Panel has reviewed the Filing and considers acceptance of the Fourth Extension Agreement is warranted.

NOW THEREFORE pursuant to section 71 of the UCA and the Rules, the BCUC accepts for filing the Moresby Lake EPA Fourth Extension Agreement ending December 31, 2023.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of January 2024.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner

**BC Hydro Electricity Purchase Agreement
(EPA) - Moresby Lake Extensions**

Appendix C

Extension Agreement No. 5

**EPA Extension Agreement #5
Moresby Lake Hydro Project**

THIS EXTENSION AGREEMENT (“Agreement”) is made as of the 31th day of December, 2023 (the “Extension Date”)

BETWEEN:

ATLANTIC POWER (COASTAL RIVERS) CORPORATION, a British Columbia company having a head office at 666 Burrard Street, Suite 1700 Park Place, Vancouver, BC V6C 2X8

(“AP”)

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation continued under the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212, with its head office at 333 Dunsmuir Street, Vancouver, BC, V6B 5R3

(“BC Hydro”)

WHEREAS:

- A. Queen Charlotte Power Corporation (as seller) (“**QCPC**”) and BC Hydro (as buyer) are parties to an electricity purchase agreement dated December 9, 1988 in respect of the purchase and sale of electricity generated at Moresby Lake hydroelectric station, as amended and restated by an electricity purchase agreement dated September 1, 1992, as further amended by a letter agreement dated July 7, 1993, and as further amended and restated by an electricity purchase agreement dated June 13, 1996 (collectively, the “**QCPC EPA**”);
- B. Pursuant to an Acknowledgement of Assumption made as of July 23, 2004, QCPC assigned its beneficial interest in the QCPC EPA to Coastal Rivers Power Limited Partnership (“**CRRLP**”) (the “**2004 Assignment**”);
- C. QCPC, through a series of amalgamations and a name change, continued by operation of law as AP’s current name, Atlantic Power (Coastal Rivers) Corporation;
- D. Pursuant to an Assignment and Assumption Agreement made as of November 2, 2011, CRRLP assigned its beneficial interest in the QCPC EPA to CPI Preferred Equity Ltd. now known as Atlantic Power Preferred Equity Ltd. (the “**2011 Assignment**”);
- E. The Term of the QCPC EPA was extended by an EPA Extension Agreement dated August 31, 2022 entered into between Atlantic Power Preferred Equity Ltd. and BC Hydro (the “**Extension #1**”);
- F. The Term of the QCPC EPA was extended by an EPA Extension Agreement dated February 28, 2023 entered into between AP and BC Hydro (the “**Extension #2**”);
- G. The Term of the QCPC EPA was extended by an EPA Extension Agreement dated August 31, 2023 entered into between AP and BC Hydro (the “**Extension #3**”);
- H. The Term of the QCPC EPA was extended by an EPA Extension Agreement #4 dated November 30, 2023 entered into between AP and BC Hydro (together with the QCPC EPA, the 2004 Assignment,

the 2011 Assignment, the Extension #1, the Extension #2 and the Extension #3, the "EPA");

- I. At all material times, AP had retained legal title to the EPA;
- J. AP and BC Hydro have been and are in the process of negotiating a potentially new electricity purchase agreement;
- K. The EPA is due to expire on December 31, 2023 at 24:00 hours and AP and BC Hydro require additional time to complete negotiations on the terms of a new electricity purchase agreement prior to that date; and
- L. To facilitate negotiations, BC Hydro and AP wish to further extend the Term of the EPA for one month period and BC Hydro and AP have agreed to such additional extension on the terms and subject to the conditions of this Agreement.

THIS AGREEMENT WITNESSES that for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged by AP and BC Hydro, AP and BC Hydro (together, the "Parties" and each, a "Party") hereby agree as follows:

1. BCUC Acceptance

If required, as determined by BC Hydro in consultation with AP, BC Hydro will file this Agreement with the British Columbia Utilities Commission (the "BCUC") under section 71 of the *Utilities Commission Act* (British Columbia) (the "UCA"), for BCUC Acceptance, as an energy supply contract in accordance with BC Hydro's usual filing practices within a reasonable period of time following the Extension Date. "BCUC Acceptance" means that the BCUC has issued an order accepting for filing, or approving, this Agreement under section 71 of the UCA as an energy supply contract either without conditions or subject to conditions that do not: (i) require as a condition of acceptance for filing or approval a material alteration to any material term or condition of this Agreement, or (ii) otherwise have an adverse effect on one or both of the Parties. If the Agreement is filed with the BCUC, BC Hydro will take all reasonable steps to secure BCUC Acceptance. AP will provide any assistance reasonably requested by BC Hydro to secure BCUC Acceptance.

2. Termination

(a) If the Agreement is filed with the BCUC and BCUC Acceptance has not been issued for this Agreement on or before the date that is 60 days after the Extension Date, or such later date as BC Hydro, in its sole discretion, may from time to time elect by notice to AP, then at any time following such date either Party may terminate this Agreement by delivering notice of termination to the other Party, and such termination will be effective on the date that is 30 days after the date of delivery of such notice of termination, provided that a Party may not terminate this Agreement under this section if BCUC Acceptance is issued before the notice of termination is delivered to the other Party.

(b) If this Agreement is terminated by either Party in accordance with section 2(a), the Parties will have no further liabilities or obligations under, or in relation to, this Agreement.

3. EPA Amendment - Term

Section 3.1 of the EPA is hereby deleted in its entirety and replaced with the following:

“QCPC will supply Electricity generated by the QCPC Plant to BCH at the Point of Connection for a term (the “Term”) commencing on the 1st day of September, 1990 and ending on the earlier of i) the 31st day of January, 2024 at 24:00 hours, or ii) the effective date of a new electricity purchase agreement as may be agreed to by the Parties.”

4. General:

(a) Effectiveness; Continuation of Terms and Conditions

This Agreement will become effective as of the Extension Date. The Parties acknowledge and agree that except as specifically amended by this Agreement, all of the terms and conditions of the EPA continue in full force and effect and are hereby ratified and confirmed by the Parties.

Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the EPA or as a waiver of or consent to any further or future action on the part of either Party that would require the waiver or consent of the other Party.

(b) Interpretation

Capitalized terms not otherwise defined in this Agreement have their meanings ascribed to them in the EPA.

(c) Duly Authorized

Each of the Parties represent and warrant to the other that: (a) this Agreement has been duly authorized, executed and delivered, and (b) this Agreement constitutes a valid and binding obligation, enforceable against it in accordance with its terms.

5. Governing Law

This Agreement is governed by the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

6. Further Assurances

The Parties will, upon the reasonable request of the other Party, do, sign or cause to be done or signed all further acts, deeds, documents and assurances required for the performance of this Agreement.

7. Enurement

This Agreement enures to the benefit of, and is binding upon, the Parties and their respective successors and permitted assigns.

8. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed and delivered by electronic transmission or otherwise, will be deemed to be an original, and all of which together will constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF this Agreement has been executed by a duly authorized representative of each of the Parties as of the Extension Date.

**ATLANTIC POWER (COASTAL RIVERS)
CORPORATION**

By: 
Authorized Signatory

Name: Nicholas Galotti

Title: Chief Operating Officer

**BRITISH COLUMBIA HYDRO AND POWER
AUTHORITY**

By: 
Authorized Signatory

Name: Chris O'Riley

Title: President and CEO

**BC Hydro Electricity Purchase Agreement
(EPA) - Moresby Lake Extensions**

Appendix D

Extension Agreement No. 6

**EPA Extension Agreement #6
Moresby Lake Hydro Project**

THIS EXTENSION AGREEMENT (“Agreement”) is made as of the 31th day of January, 2024 (the “Extension Date”)

BETWEEN:

ATLANTIC POWER (COASTAL RIVERS) CORPORATION, a British Columbia company having a head office at 666 Burrard Street, Suite 1700 Park Place, Vancouver, BC V6C 2X8

(“AP”)

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation continued under the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212, with its head office at 333 Dunsmuir Street, Vancouver, BC, V6B 5R3

(“BC Hydro”)

WHEREAS:

- A. Queen Charlotte Power Corporation (as seller) (“**QCPC**”) and BC Hydro (as buyer) are parties to an electricity purchase agreement dated December 9, 1988 in respect of the purchase and sale of electricity generated at Moresby Lake hydroelectric station, as amended and restated by an electricity purchase agreement dated September 1, 1992, as further amended by a letter agreement dated July 7, 1993, and as further amended and restated by an electricity purchase agreement dated June 13, 1996 (collectively, the “**QCPC EPA**”);
- B. Pursuant to an Acknowledgement of Assumption made as of July 23, 2004, QCPC assigned its beneficial interest in the QCPC EPA to Coastal Rivers Power Limited Partnership (“**CRRLP**”) (the “**2004 Assignment**”);
- C. QCPC, through a series of amalgamations and a name change, continued by operation of law as AP’s current name, Atlantic Power (Coastal Rivers) Corporation;
- D. Pursuant to an Assignment and Assumption Agreement made as of November 2, 2011, CRRLP assigned its beneficial interest in the QCPC EPA to CPI Preferred Equity Ltd. now known as Atlantic Power Preferred Equity Ltd. (the “**2011 Assignment**”);
- E. The Term of the QCPC EPA was extended by an EPA Extension Agreement dated August 31, 2022 entered into between Atlantic Power Preferred Equity Ltd. and BC Hydro (the “**Extension #1**”);
- F. The Term of the QCPC EPA was extended by an EPA Extension Agreement dated February 28, 2023 entered into between AP and BC Hydro (the “**Extension #2**”);
- G. The Term of the QCPC EPA was extended by an EPA Extension Agreement dated August 31, 2023 entered into between AP and BC Hydro (the “**Extension #3**”);
- H. The Term of the QCPC EPA was extended by an EPA Extension Agreement dated November 30, 2023 entered into between AP and BC Hydro (the “**Extension #4**”);

- I. The Term of the QCPC EPA was extended by an EPA Extension Agreement #5 dated December 31, 2023 entered into between AP and BC Hydro (together with the QCPC EPA, the 2004 Assignment, the 2011 Assignment, the Extension #1, the Extension #2, the Extension #3 and the Extension #4, the "EPA");
- J. At all material times, AP had retained legal title to the EPA;
- K. AP and BC Hydro have been and are in the process of negotiating a potentially new electricity purchase agreement;
- L. The EPA is due to expire on January 31, 2024 at 24:00 hours and AP and BC Hydro require additional time to complete negotiations on the terms of a new electricity purchase agreement prior to that date; and
- M. To facilitate negotiations, BC Hydro and AP wish to further extend the Term of the EPA for a one month period and BC Hydro and AP have agreed to such additional extension on the terms and subject to the conditions of this Agreement.

THIS AGREEMENT WITNESSES that for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged by AP and BC Hydro, AP and BC Hydro (together, the "Parties" and each, a "Party") hereby agree as follows:

1. BCUC Acceptance

If required, as determined by BC Hydro in consultation with AP, BC Hydro will file this Agreement with the British Columbia Utilities Commission (the "BCUC") under section 71 of the *Utilities Commission Act* (British Columbia) (the "UCA"), for BCUC Acceptance, as an energy supply contract in accordance with BC Hydro's usual filing practices within a reasonable period of time following the Extension Date. "BCUC Acceptance" means that the BCUC has issued an order accepting for filing, or approving, this Agreement under section 71 of the UCA as an energy supply contract either without conditions or subject to conditions that do not: (i) require as a condition of acceptance for filing or approval a material alteration to any material term or condition of this Agreement, or (ii) otherwise have an adverse effect on one or both of the Parties. If the Agreement is filed with the BCUC, BC Hydro will take all reasonable steps to secure BCUC Acceptance. AP will provide any assistance reasonably requested by BC Hydro to secure BCUC Acceptance.

2. Termination

(a) If the Agreement is filed with the BCUC and BCUC Acceptance has not been issued for this Agreement on or before the date that is 60 days after the Extension Date, or such later date as BC Hydro, in its sole discretion, may from time to time elect by notice to AP, then at any time following such date either Party may terminate this Agreement by delivering notice of termination to the other Party, and such termination will be effective on the date that is 30 days after the date of delivery of such notice of termination, provided that a Party may not terminate this Agreement under this section if BCUC Acceptance is issued before the notice of termination is delivered to the other Party.

(b) If this Agreement is terminated by either Party in accordance with section 2(a), the Parties will have no further liabilities or obligations under, or in relation to, this Agreement.

3. EPA Amendment - Term

Section 3.1 of the EPA is hereby deleted in its entirety and replaced with the following:

“QCPC will supply Electricity generated by the QCPC Plant to BCH at the Point of Connection for a term (the “Term”) commencing on the 1st day of September, 1990 and ending on the earlier of i) the 29th day of February, 2024 at 24:00 hours, or ii) the effective date of a new electricity purchase agreement as may be agreed to by the Parties.”

4. General:

(a) Effectiveness; Continuation of Terms and Conditions

This Agreement will become effective as of the Extension Date. The Parties acknowledge and agree that except as specifically amended by this Agreement, all of the terms and conditions of the EPA continue in full force and effect and are hereby ratified and confirmed by the Parties.

Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the EPA or as a waiver of or consent to any further or future action on the part of either Party that would require the waiver or consent of the other Party.

(b) Interpretation

Capitalized terms not otherwise defined in this Agreement have their meanings ascribed to them in the EPA.

(c) Duly Authorized

Each of the Parties represent and warrant to the other that: (a) this Agreement has been duly authorized, executed and delivered, and (b) this Agreement constitutes a valid and binding obligation, enforceable against it in accordance with its terms.

5. Governing Law

This Agreement is governed by the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

6. Further Assurances

The Parties will, upon the reasonable request of the other Party, do, sign or cause to be done or signed all further acts, deeds, documents and assurances required for the performance of this Agreement.

7. Enurement

This Agreement enures to the benefit of, and is binding upon, the Parties and their respective successors and permitted assigns.

8. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed and delivered by electronic transmission or otherwise, will be deemed to be an original, and all of which together will constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF this Agreement has been executed by a duly authorized representative of each of the Parties as of the Extension Date.

**ATLANTIC POWER (COASTAL RIVERS)
CORPORATION**

**BRITISH COLUMBIA HYDRO AND POWER
AUTHORITY**

By: 
Authorized Signatory

By: 
Authorized Signatory

Name: Nicholas Galotti

Name: Chris O'Riley

Title: Chief Operating Officer

Title: President & CEO