

IN THE MATTER OF

The *Utilities Commission Act* (the Act)

and

A Request of the Lieutenant Governor in Council  
of the Province of British Columbia  
pursuant to Section 5(1) of the Act to the  
British Columbia Utilities Commission (the Commission)  
to Inquire into and Advise on a  
Heritage Contract for BC Hydro's Existing Generation Resources,  
Stepped Rates and Transmission Access

and

Terms of Reference Issued March 25, 2003 Pursuant to Order in Council 0253 and  
Section 5(2) of the Act (Terms of Reference)

and

Order G-23-03 of the Commission Directing BC Hydro to File a Proposal  
Regarding a Heritage Contract,  
Stepped Rates and Transmission Access

**REPLY ARGUMENT OF**  
**BRITISH COLUMBIA HYDRO AND POWER AUTHORITY**  
**TO THE SUBMISSIONS OF INTERVENORS**

**SEPTEMBER 3, 2003**

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## **1 Introduction**

In this Reply Argument BC Hydro responds to the significant issues raised in arguments by interveners that were not addressed in BC Hydro's Final Argument of August 20, 2003.

## **2 Heritage Contract**

The most significant observation to be taken from the intervener Final Arguments is the near-unanimous support of BC Hydro's revenue requirements model for the Heritage Contract. While interveners took issue in some cases with certain points of the detail and proposed implementation of BC Hydro's proposal, and in some cases objected to the proposal insofar as it conforms with the provincial government's policy of BC Hydro no longer being the developer of new energy supply in British Columbia, they were all otherwise enthusiastic about the way in which BC Hydro proposes to implement the Heritage Contract component of the Energy Plan, and all soundly and clearly rejected the alternative proposal of CBTE. BC Hydro respectfully submits that the Commission has an obligation to advise government of this very high level of support for the revenue requirement model and ought to further advise government that in this proceeding there was no viable alternative approach presented, let alone an alternative that should be imposed on customers against their will.

In the following sections BC Hydro addresses the issues raised by CBTE, and in addition a number of other issues raised by intervenors.

### **2.1 CBTE**

At page 2 of its Argument CBTE indicates that in its view:

“the Energy Plan was intended to be a fundamental shift in how the electricity market, and the electricity industry in British Columbia will evolve in the future”.

CBTE's Argument with respect to the Heritage Contract implicitly or explicitly relies on this assertion to found their criticisms of BC Hydro's proposal and support the merits of its own.

CBTE's assertion oversimplifies by seeking to reduce a complex and comprehensive government policy into a sound bite. In fact, B.C.'s new Energy Plan calls for fundamental change in some areas, fine tuning in some, and maintenance of the *status quo* in others.

Most prominent amongst those in the last category, maintenance of the *status quo*, is the role of the Heritage Resources in providing benefits to domestic ratepayers from low cost generation and trade. Policy Action #1 proposes “A legislated heritage contract [that] will preserve the benefits of BC Hydro’s existing generation” (emphasis added).<sup>1</sup> Far from being a clarion call for change in this area, the Energy Plan could not more clearly express its intent that, in this particular respect, the *status quo* be maintained. As the evidence and argument in this proceeding have demonstrated, BC Hydro’s proposal accomplishes this objective, whereas CBTE’s does not. BC Hydro does not say that the Energy Plan precludes change. It simply says that the overriding theme of change for change’s sake which can be found in CBTE’s Argument is not only not contemplated by the Energy Plan but, indeed, is inconsistent with it.

The caution implicit in the Energy Plan is to be contrasted with the much more ambitious and radical proposals contained in the interim task force report. As acknowledged by CBTE in section C on page 4, the task force review process that preceded the Energy Plan did recommend fundamental change to the electricity industry in British Columbia. However, the Energy Plan did not adopt many of the changes that the task force advocated and instead adopted a more cautious and incremental approach to the evolution of the industry. Again, the approach proposed by BC Hydro is much more consistent with that cautious approach than is CBTE’s proposal.

Essentially, the approach taken by CBTE and BC Hydro fundamentally differs in that BC Hydro sees the Heritage Contract as a part of a much larger whole, but a part which the government clearly has in mind will not significantly alter the *status quo*.<sup>2</sup> Other aspects of the Energy Plan clearly harbour fundamental change for the B.C. electricity sector, not the least of which is that the primary builder of new generation in this province over the last 40 years will no longer perform that role. Thus, the government has not shied away from change but, rather, focussed it. In BC Hydro’s respectful submission CBTE’s proposal fails to acknowledge the difference.

At page 6 of its Argument CBTE makes reference to the Energy Plan’s discussion of the Hydro-Quebec model. BC Hydro accepts that the Hydro-Quebec model was one of those that the

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<sup>1</sup> Energy Plan, p.26

<sup>2</sup> For a further elaboration of BC Hydro’s views on the role of the Heritage Contract envisioned in the Energy Plan, see BC Hydro’s Final Argument, at pp.2-3, section 2.

government had in mind as a possible means of accomplishing its objectives. However, there is nothing in the Energy Plan or, more importantly, the Terms of Reference to suggest that it was the only means in the government's mind. Thus, BC Hydro's first point in reply is that it was obliged only to determine which approach best served the objectives of the Energy Plan regarding the Heritage Contract, which it did in developing its revenue requirement model.

Second, the Terms of Reference for this hearing make it clear that BC Hydro's responsibility was to develop "a proposal that identifies the detailed Recommendations and reasons that BC Hydro believes should be contained in the Commission's report to the Lieutenant Governor in Council" (emphasis added).<sup>3</sup> This observation responds to CBTE's oft-repeated criticism that BC Hydro somehow failed in its responsibilities by failing to calculate the variables that might be associated with CBTE's proposal. The clear language of the Terms of Reference require BC Hydro to develop its own proposal and leave other parties the obligation of developing theirs.<sup>4</sup>

On page 7, CBTE suggests that "it appears that BC Hydro has not sought specific direction from government in bringing forward its proposal". Neither the response of Mr. Morris referred to in the CBTE Argument nor the response of Mr. Elton<sup>5</sup> supports that submission.

Also at page 7 CBTE asserts that an informed, constructive debate on the fixed price/fixed quantity model is desirable. BC Hydro takes no issue with that. It shared its thoughts fully with CBTE in connection with that issue and put its concerns with respect to the model directly to the CBTE witnesses. CBTE's complaint is only that BC Hydro rejected the approach as inappropriate too quickly. It seems to say that more study should have been undertaken by BC Hydro before reaching a conclusion.

The examination of CBTE's model during the course of the hearing permits, indeed demands, precisely the opposite conclusion. That is, the more that the CBTE model was considered, the more complicated and problematic it became.<sup>6</sup> BC Hydro ought not to be taken to task for

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<sup>3</sup> Terms of Reference, para. 6.

<sup>4</sup> This position is also fully articulated by the BCOAPO at pages 5-6 of its Final Argument.

<sup>5</sup> Transcript vol. 4, p.753, lines 6 to 11.

<sup>6</sup> See, for example, the evidence of the CBTE panel regarding disputes between BC Hydro's generation and distribution lines of business that might arise over possible *force majeure* events at Transcript vol. 10, p.2122, line 14 to p.2125, line 18.

having anticipated these difficulties and focussed its attention on developing a model which better served the requirements of the Energy Plan and the Terms of Reference.<sup>7</sup>

At page 8 the suggestion is made that the JIESC rejected the fixed price/fixed quantity model because it does not trust government. The JIESC has spoken for itself, and no doubt will in reply, but it is simply a mischaracterization of the JIESC evidence to suggest that mistrust in government was the dominant reason for its position and, indeed, Mr. Potts expressly denied that suggestion when it was put to him.<sup>8</sup>

At page 10 CBTE characterizes as “very misleading” BC Hydro’s suggestion that a large majority of its customers oppose the CBTE model. The submissions and arguments presented in this hearing can speak for themselves but it is undeniable that there is simply no support for CBTE’s proposal from any customer of BC Hydro. BC Hydro simply rejects the notion that CBTE itself is either a customer of BC Hydro or has a mandate to speak on behalf of BC Hydro customers. CBTE, as its own evidence and argument makes clear, is a competitor to BC Hydro generation. It cannot claim to speak for the BC Hydro ratepayers within its region.<sup>9</sup> Moreover, while no process will ever be complete in capturing all the interests of BC Hydro’s million plus customers, the combined positions of JIESC, CEC, BCOAPO, IPPBC, Aquila, BC Citizens for Public Power and individuals such as Mr. Wait, are as close to being representative as the process is ever likely to get. It is telling that not one of those groups or individuals expressed the slightest support for CBTE’s position and it is very far from misleading to suggest that BC Hydro’s customers are opposed on this basis.

At page 14 of its Argument, CBTE suggests it is “very unfortunate (and completely inappropriate)” for BC Hydro to suggest that CBTE’s model evolved in response to ratepayer concerns with respect to the cost of providing a significant risk premium to BC Hydro.

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<sup>7</sup> Although it focussed its efforts on developing the revenue requirement model, BC Hydro rejects the submission of CBTE that it did no substantive analysis of the cost of fixed price/fixed quantity models (at p.18, section IV.A. of CBTE Argument). BC Hydro’s responses to BCUC IR #3.114.0, Tables A-C, and to BCUC IR #2.110.1, for example, were more than adequate responses to the questions posed, and were more than adequate to demonstrate the point that the risk premium cost of fixed price/fixed quantity models would be very significant from a ratepayer perspective.

<sup>8</sup> Transcript vol. 8A, p.1748, lines 8 to 21.

<sup>9</sup> Section 4 of the *Columbia Basin Trust Act* sets out its purposes. There is nothing in there to suggest that it is charged with the responsibility of representing ratepayers.

CBTE seems to be suggesting that fairness dictates that proposition should have been put to CBTE's witnesses. It is startling to hear that CBTE is so completely indifferent to ratepayer concerns as its Argument now implies. BC Hydro had not thought it necessary to confirm that CBTE was motivated in its proposal by a desire to meet the interests of BC Hydro's ratepayers. Thus, it saw no need to test that proposition with CBTE's witnesses.

At pages 20 and 21 CBTE takes issue with BC Hydro's submissions relating to the credibility of Dr. El-Ramly when it comes to the inefficiencies that would be introduced by CBTE's model. However, CBTE does not dispute that it would benefit directly financially from the behaviour of the BC Hydro distribution line of business that its model would likely produce. It also fails to respond to BC Hydro's suggestion that BC Hydro is fundamentally disinterested and, indeed, might be anticipated to actually favour a fixed price/fixed quantity contract were it not for the direction of the Energy Plan.

Nor does CBTE effectively respond to the suggestion that BC Hydro's distribution line of business will change its load shape so as to schedule deliveries of Heritage Energy at the economically most efficient time. It is true that under CBTE's model BCH Distribution would have a take-or-pay obligation with respect to the heritage volumes. However, it has no obligation to take the power when it is at its least valuable and every incentive to take it when it is at its most valuable. BCH Distribution would be free to and should optimize its scheduling of the Heritage Energy in light of the alternatives available to it in the marketplace. Moreover, as its load grows, it will ensure that it continues to use the Heritage Energy when it expects prices to be high and buy its incremental energy when prices are low. This point seems so straightforward as to be beyond argument. It also seems beyond argument that the potential ramifications of providing BCH Distribution with an incentive to take energy without any regard to its impact on the value of electricity trade would introduce substantial inefficiencies to system operation.

In the following paragraphs BC Hydro replies to some of the more specific responses CBTE had to BC Hydro's Final Argument.

a. Terms of Reference Do Not Contemplate a Declining Supply Obligation

At page 1 of Appendix A of its Argument, 4<sup>th</sup> bullet under section 1, CBTE refers to paragraph 3(f) of the Terms of Reference in support of its use of a declining supply obligation. As is readily apparent, paragraph 3(f) is not about the basic supply obligation but rather about contract

re-opens, which the CBTE itself makes clear not 2 pages later in the Appendix: "The Terms of Reference contemplated such contract re-opens in paragraph 3(f)."<sup>10</sup>

b. CBTE Proposal Does Not Adequately Account for Outage, OMA, and "Aging" Risk

At pages 3-5 of Appendix A to its Argument CBTE refers to its response to BCUC IR #3.2, and the data contained therein, in response to BC Hydro's submissions that Outage, OMA and Aging risk are not adequately dealt with in the CBTE model. The question, and the answers, are in regard to the impact on trade revenues, not on the overall financial impact to BC Hydro. Moreover, the answers do not appear to contemplate any serial correlation of adverse outcomes from one year to the next which, in BC Hydro's respectful submission, it plainly ought to do.

c. BC Hydro's Proposal Does Not Incent Forecast Bias

At page 6 of Appendix A, item 8, CBTE alleges that BC Hydro will have an incentive to overestimate its costs, on the premise that the Commission and interveners will be unable to distinguish between after-the-fact efficiency gains and before-the-fact conservative forecasts. Because of the Heritage Deferral Account, BC Hydro will be far less subject to this type of pressure than other utilities under the Commission's jurisdiction.

**2.2 Definition of Equity in Special Direction No. 8**

Both the JIESC and the BCOAPO argue that the Commission should make recommendations to the Commission regarding the definition of "equity" in Special Direction No. 8 (pages 11-13 and page 9 of their Final Arguments, respectively). The BCOAPO says that BC Hydro is putting form before substance in arguing that the Terms of Reference do not ask for recommendations on BC Hydro's capital structure. This submission ignores the fact that the Commission's jurisdiction is delineated in the Terms of Reference, and nowhere do the Terms of Reference (nor the Energy Plan) contemplate that definition being the subject of a recommendation.

The JIESC quotes an exchange between Mr. Wallace and Mr. Elton to support the proposition that the definition of equity in Special Direction No. 8 is unusual. BC Hydro does not dispute that but says that is not the point.

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<sup>10</sup> Page 3 of Appendix A of CBTE's Argument, second bullet under number 4.

The government is quite entitled to enact valid subordinate legislation to define the way in which its crown corporations may earn a return. In the quoted portion of the exchange between Mr. Wallace and Mr. Elton, JIESC includes a statement by Mr. Elton that BC Hydro would have no objection to looking at the whole picture of the appropriate ROE for BC Hydro at the next revenue requirement proceeding. JIESC fails to point out that this position was clarified in subsequent testimony with the observation that at the revenue requirement hearing, the Commission will be obliged to set BC Hydro's rates based on the Special Direction as it then is.<sup>11</sup> It would simply be unworkable to attempt to resolve what the governing legislation should be at the hearing itself.

### **2.3 Cost of Treaty Projects**

The JIESC, at pages 14-15 of its Argument, complains that under BC Hydro's proposal ratepayers assume the full costs of the storage dams on the Columbia River, including ongoing operating and maintenance expenses. In BC Hydro's view this is entirely appropriate because those projects provide significant system benefits to BC Hydro ratepayers.<sup>12</sup> All these benefits are brought home to ratepayers,<sup>13</sup> through the supply of low cost energy, the crediting of Trade Income to the revenue requirement and the crediting of revenues from sales of surplus hydro directly to the Heritage Payment Obligation.

### **2.4 Renewal Provisions**

The CEC proposes that the Heritage Contract automatically renew for 10 years each year after the initial ten-year term (page 46 of the CEC Final Argument). BC Hydro has recommended a four-year notice period prior to expiry of the Heritage Contract, but does not object to the CEC's proposal.

The JIESC however calls for a rolling 20-year renewal term for the Heritage Contract (page 9 of JIESC Final Argument). BC Hydro believes that the limitation of the initial term to 10 years as

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<sup>11</sup> Transcript vol. 3, p.507, line 23 to p.508, line 17.

<sup>12</sup> See, for example, Transcript vol. 5, p.966, line 8 to p.967, line 11 and p.971, line 21 to p.972, line 23 (Spafford).

<sup>13</sup> Transcript vol. 4, p.788, lines 1 to 7 (Spafford).

required by the Terms of Reference suggests that government does not wish to be bound for periods in excess of 10 years.

## **2.5 Form of Implementation**

Most of the interveners made submissions regarding the form of implementation, some suggesting that the Heritage Contract ought to be enshrined in legislation (JIESC, page 15 of its Final Argument) and some suggesting changes to Special Direction No. 8 and Special Directive No.4 (for example, CEC). None however argued that BC Hydro's proposed changes to Special Direction No. 8 and Special Directive No.4 would not or could not effect BC Hydro's Heritage Contract proposal. Accordingly, BC Hydro respectfully submits that the Commission (assuming it recommends BC Hydro's revenue requirement model) may recommend the changes to those pieces of subordinate legislation that are described in Appendices B and C of BC Hydro's Final Argument. However, BC Hydro has no objection to the Commission recommending that its proposal be implemented by changes to statute or by alternate changes to the subordinate legislation (subject to its position that the Commission is constrained from recommending changes other than as directed by the Terms of Reference).

## **2.6 Corporate Trust and Other CEC Proposals**

In the CEC's Final Argument it urges the Commission to recommend the creation of a corporate trust for the purpose of ensuring that the "benefits of the Heritage Contract accrue to the Heritage beneficiaries" (at pages 18-20 of the CEC Final Argument). BC Hydro welcomes the participation of CEC in these proceedings. The CEC seeks to represent a significant group of BC Hydro's customers and BC Hydro is pleased to see that this effort is being made. However, BC Hydro emphatically rejects this proposal. No evidence was led by the CEC in the hearing on how such a vehicle would or could operate, or how it would serve the interests of the Heritage Beneficiaries any better than the Commission would under BC Hydro's proposal. Even as described in its Final Argument, CBTE's model, based on the Columbia Basin Trust, is simply insufficiently developed to permit reasonable reply. Unlike CBTE which presented an alternative structure in all the detail that its proponents were capable of, CEC's model simply lacks the clarity and specificity to permit a useful assessment of it to be made. BC Hydro respectfully submits that the Commission decline to make any recommendation relating to the corporate trust proposal.

CEC's also makes proposals regarding such diverse topics as aggregator buying pools and stepped rate experiments with commercial customers. Again, these proposals were not put forward in evidence by the CEC, and many of their details would bear close examination before they could make a useful contribution to the Commission's deliberations.

### **2.7 Adjustment to Trade Income**

A number of intervenors have submitted that the \$200 million dollar ceiling on Trade Income be adjusted for inflation (for example, the BCOAPO) or adjusted upward by 10% subsequent to it being reached (Mr. Wait). BC Hydro believes these proposals are inconsistent with the Terms of Reference, which make no provision for any adjustment.

## **3 Stepped Rates and Retail Access**

### **3.1 Tier 2 Rate**

At page 25 of its Argument the JIESC asserts that the one-year Mid-C price is not BC Hydro's cost of new supply as that phrase is used in the Energy Plan. The evidence in this proceeding clearly supports BC Hydro's conclusion that the appropriate indicator of the cost of new supply for a one-year period is the expected cost of purchasing electric energy from the market on behalf of stepped rate customers for that one-year period.<sup>14</sup> BC Hydro's cost of new supply for a longer period could be based on other factors such as LRIC, and BC Hydro has discussed the corresponding customer commitments that would be required if a longer-term Tier 2 price were offered.<sup>15</sup>

At page 10 of its Argument the IPPBC asserts that its design, which is in essence the same as the JIESC design,<sup>16</sup> simply and clearly relays to customers the cost of the Heritage and non-Heritage Resources. Nowhere in the Energy Plan does it say that the Stepped Rate should

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<sup>14</sup> Exhibit 8-2, Section 2.1, p. 4; Exhibit 38; Transcript vol. 6, p.1147, lines 9 to 26 (Fussell); Transcript vol. 9, p.1932, lines 17-24 (El-Ramly).

<sup>15</sup> BC Hydro Final Argument, Section 6.2, p.27.

<sup>16</sup> The only difference being that the IPPBC would base Tier 1 on all Heritage Assets, including Burrard Thermal (Transcript vol. 7, p.1499, line 9 to p.1500, line 1 (Campbell)).

relay to customers the cost of Heritage and non-Heritage Resources. Rather, the Tier 2 rate is to be based on the cost of new supply.

The JIESC asserts at page 26 of its Argument that the one-year Mid-C market is not transparent and should not be forming the basis for a rate as important as 1821. BC Hydro submits that its proposed approach for determining the Tier 2 price would be objective, verifiable and transparent. Moreover, BC Hydro's revenue requirement would form the basis for the stepped rate, as it currently does for the 1821 rate.

At page 25 of its Argument the JIESC appears to concede that the Mid-C price represents BC Hydro's opportunity cost. BC Hydro relies on the pre-filed evidence and the testimony of Mr. Fussell and Mr. Lusztig as to why an opportunity cost approach is the appropriate means to set the Tier 2 price.<sup>17</sup>

At page 2 of Leader Mining International's Argument, it suggests that BC Hydro has not ruled out the possibility of developing long-term contracts with industrial customers that would contain long-term prices for 10 to 20 years. BC Hydro has stated that it will consider offering longer-term Tier 2 pricing options in the future, however, BC Hydro wishes to clarify that the average rate for energy would not be fixed in the long term and would be subject to change from time to time, as approved by the Commission.

### **3.2 Cost Shifting**

At page 6 of its Argument the IPPBC asserts that its stepped rate design is inherently revenue neutral because it is based on the same costs of Heritage and non-Heritage Assets as other designs and, at page 10, because its design does not affect the underlying costs of the system. BC Hydro submits that the IPPBC misinterprets the term "revenue neutral". Revenue neutral means that at existing consumption the customer's bill and BC Hydro's revenue are unchanged compared to the existing Schedule 1821 rate.<sup>18</sup> However, the IPPBC, like the JIESC, advocates a stepped rate design that assumes a method for allocation of BC Hydro's revenue requirement to the industrial class that is different from the existing allocation under Schedule 1821 and,

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<sup>17</sup> Exhibit 38; and Transcript vol. 6, p.1151, lines 13-18 (Fussell), p.1193, line 23 to p.1194, line 14 (Lusztig), p.1234, line 22 to p.1235, line 23 (Lusztig); vol. 7, p.1421, lines 17-25 (Fussell).

<sup>18</sup> Energy Plan, p. 33.

thus, is not revenue neutral. The JIESC has accepted that its stepped rate design, which is essentially the same as the IPPBC's, is not revenue neutral.<sup>19</sup>

IPPBC asserts at page 11 of its Argument that with a one-year notice period, arbitrage would not be possible and there would be no cost shifting. Similarly, at pages 32 and 33 of its Argument the JIESC asserts that cost shifting would be limited if the Tier 2 rate is structured properly, there are appropriate access principles, and there is a reasonable notice requirement. BC Hydro discusses two key cost shifting risks in Exhibit 29 and in its Argument: (1) cost shifting resulting from alternate suppliers failing to meet scheduled deliveries; and (2) cost shifting resulting from arbitrage of a long-term, fixed Tier 2 rate. BC Hydro has proposed an appropriate imbalance charge to deal with underdeliveries,<sup>20</sup> and that the basis for determining the Tier 2 price be matched to the term of commitment made by the customer to deal with the risks associated with a long-term, fixed Tier 2 price.<sup>21</sup> BC Hydro submits that a one-year notice period would not be sufficient if the Tier 2 rate is fixed for a longer period because customers would still be able to pick the lower of market and Tier 2 on an annual basis, potentially shifting costs to other customers.

### **3.3 Assessment of Potential Impacts of the Stepped Rate**

At page 20 of its Argument the JIESC expresses surprise that BC Hydro did not provide a study or estimate of what the impacts of implementing a stepped rate will be on itself or its Rate Schedule 1821 customers. The OPEIU/BCCPP raises a similar issue at page 7 of their Argument. BC Hydro addressed this issue during the hearing. BC Hydro made its stepped rate proposal in response to the requirements of the Energy Plan and Terms of Reference.<sup>22</sup> A study on the impact of the stepped rate, assuming no arbitrage, would simply be an estimate of the price response by industrial customers to this government directed initiative. The actual response will depend on a combination of numerous factors, including the Tier 2 price, ability to

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<sup>19</sup> JIESC Final Argument, p. 22, paragraph (iii); p.25; and Transcript vol. 8A, p.1701, lines 12 to 16 (Potts).

<sup>20</sup> BC Hydro Final Argument, Section 7.2.

<sup>21</sup> BC Hydro Final Argument, Sections 6.1 and 6.2.

<sup>22</sup> Transcript vol. 3, p.664, line 16 to p.665, line 7 (Elton).

take advantage of CBG and PowerSmart programs, commodity forecasts, etc.<sup>23</sup> BC Hydro did provide extensive evidence on the impact of potential arbitrage if a stepped rate were introduced in a way that permitted arbitrage. Thus, BC Hydro does not believe that it failed to provide a study required by the Commission.

### **3.4 Benefits of Stepped Rates for other BC Hydro Customers**

At point 2 on page 20 of its Argument the JIESC opposes BC Hydro's position that net revenue reductions should be isolated to the industrial class on the basis that all BC Hydro customers benefit from the load reductions that would occur in response to the stepped rate. IPPBC also asserts at page 11 of its Argument that other customer classes will benefit from the stepped rate and an industrial market. BC Hydro submits that the JIESC and IPPBC have failed to recognize that all of the financial benefit from load reduction would go to the individual customer because the customer is credited for reduced Tier 2 consumption at the cost of new supply. The reduction in the customer's average per unit cost of energy, as its consumption declines within Tier 2, would be fully realized by them. With an appropriately set Tier 2 rate, there are no financial benefits left for other customers and, thus, there should be no costs shifted to them.

### **3.5 Tier 1 Rate and Tier 1/Tier 2 Split**

Regarding the Tier1/Tier 2 split, the JIESC's Argument fails to respond to BC Hydro's central observation that there is simply no basis for distinguishing between the Hydro and non-Hydro heritage resources in designing Tier 1 and Tier 2.

At page 28 of its Argument the JIESC makes clear that its thinking on this issue is circular. In response to BC Hydro's suggestion that, if there is a desire to link the Tier 1 costs to the heritage assets then all heritage asset fixed costs should be included in the Tier 1 calculation, the JIESC asserts that this would somehow shifts Tier 2 costs to Tier 1. This is tautological if Tier 2 costs are defined as including BC Hydro's thermal facilities, as the JIESC has proposed. However, the JIESC has given no basis for defining Tier 1 costs to include some heritage assets but not others. The JIESC fails to meet BC Hydro's central point in this regard, which is that it should not be at risk of losing the current contribution being made to the fixed costs of the thermal heritage assets.

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<sup>23</sup> Transcript vol. 7, p.1432, line 23 to p.1434, line 25 (Fussell).

At page 26 of its Argument the JIESC raises the threat of countervail allegations and political unacceptability. There is no evidence on the record to support the notion that this unsubstantiated threat is any basis for preferring one rate design over another.

At page 23 of the JIESC's Argument, in its submissions with respect to the Tier 1/Tier 2 split, it discusses positions taken by the parties during the negotiations leading up to the hearing. Those negotiations were on a 'Without Prejudice' basis and, while the JIESC is free to disclose the evolution of its own positions if it wishes, it is inappropriate for it to make reference to the positions of others. BC Hydro raises this point not because it is concerned with the specific positions in issue; rather it is simply concerned for the integrity of the Commission's negotiated settlement processes.

### **3.6 Imbalance Charge**

At page 27 of its Argument CBTE disagrees with BC Hydro's "asymmetrical" treatment of imbalance charges, and the JIESC similarly asserts at page 31 of its Argument that the imbalance charge should be the same for both negative and positive imbalances. BC Hydro's final argument explains why the imbalance charge for energy not actually supplied within a deadband should be the higher of market and Tier 2, and that BC Hydro would not compensate the alternate supplier for positive imbalances outside the deadband.<sup>24</sup> Positive imbalances outside the deadband are currently forfeit for wholesale transactions under WTS and BC Hydro believes this would also be appropriate for positive imbalances in the context of retail access. If BC Hydro were required to pay for positive imbalances, there would be an incentive to provide it with large amounts of unneeded overgeneration, and there would be reliability concerns associated with the unexpected and unscheduled deliveries into the system.<sup>25</sup>

### **3.7 CEC Argument**

As discussed above, the CEC presents numerous proposals in its Argument in respect of stepped rates for the first time. The CEC's proposals were not tested in the hearing and have not been described with sufficient clarity or detail for them to be usefully assessed at his time. BC Hydro notes that many of the CEC's proposals are similar to aspects of BC Hydro's original

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<sup>24</sup> BC Hydro Final Argument, Section 7.2.

<sup>25</sup> Transcript vol. 3, p.472, line 18 to p.473, line 5 (Little).

proposal for a stepped rate with a shopping credit. The shopping credit was not supported by customers during consultations and was dropped from BC Hydro's proposal. While some of the CEC's ideas may have merit, they will require extensive development and close examination before they can make a useful contribution.

## 4 Scheduling

### 4.1 *Stepped Rate Implementation*

JIESC proposes that BC Hydro should file stepped rate and time of use proposals by December 1, 2003 for implementation on or before April 1, 2004. BC Hydro cannot file a finalised stepped rate proposal before the government responds to the Commission's recommendations. BC Hydro has said that if its proposal with respect to delaying retail access was to be accepted it could file a finalised stepped rate proposal within 30 days of the government's direction being received. If retail access is not delayed, then the introduction of stepped rates would not be possible until late 2004. There is no evidence in this proceeding that delay from April 1, 2004 (a date that is not likely to be achieved in any event) to later in the year will materially prejudice any of BC Hydro's stakeholders.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Date: September 3, 2003

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