

APPENDIX A: TERMS OF REFERENCE

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. **0253**, Approved and Ordered **MAR 25 2003**




Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that pursuant to section 5 of the *Utilities Commission Act*, the Lieutenant Governor in Council requests the British Columbia Utilities Commission to provide recommendations relating to the matter of a heritage contract and other electricity policy matters as specified in the Terms of Reference attached as Schedule A to this Order.



Minister of Energy and Mines



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- *Utilities Commission Act, s. 5*

Other (specify):-

March 11, 2003

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SCHEDULE A

TERMS OF REFERENCE

IN THE MATTER OF the Utilities Commission Act ("the Act")

and

IN THE MATTER OF Recommendations Relating to a Heritage Contract for BC Hydro's Existing Generation Resources, and to Stepped Rates and Transmission Access

WHEREAS, under Section 5(1) of the Act, the Lieutenant Governor in Council ("LGIC") may request the BC Utilities Commission ("BCUC" or "Commission") to provide advice on any matter the LGIC specifies; and

WHEREAS on November 25, 2002, the Province of British Columbia announced its new Energy Plan, the four cornerstones of which are: low electricity rates and public ownership of BC Hydro; secure and reliable energy supply; more private sector opportunities; and environmental responsibility and no nuclear power sources; and

WHEREAS the Energy Plan outlines several Policy Actions designed to ensure British Columbians have continued access to sufficient supplies of dependable low-cost electricity; and

WHEREAS the Energy Plan provides in Policy Action #5 that the Commission will once again regulate the rates charged by BC Hydro; and

WHEREAS the Energy Plan contemplates that the Commission should conduct an inquiry to develop and refine certain policy areas relating to regulation of BC Hydro prior to the commencement of its review of BC Hydro's rates and should submit a report to government describing changes to legislation and regulations that it believes are desirable in that connection; and

WHEREAS the Energy Plan contemplates a full review of BC Hydro's rate levels based on an application to be filed before March 31, 2004; and

WHEREAS the Energy Plan provides in Policy Action #1 that a legislated heritage contract will be created between BC Hydro's generation line of business and its distribution line of business for a term of ten years initially; and

WHEREAS the Energy Plan provides in Policy Action #2 that an appropriate level of trade revenues, net of incremental costs properly allocated by BC Hydro for internal management purposes, will continue to be assigned for rate-setting purposes to help maintain low and stable rates for BC consumers; and

- 1 WHEREAS trade revenues, net of incremental costs properly allocated by BC Hydro for internal
 2 management purposes, above \$200 Million in any year will flow to the government for the
 3 benefit of all British Columbians; and
- 4 WHEREAS the Energy Plan contemplates large industrial or transmission rate customers and
 5 energy suppliers having access to transmission for the purpose of acquiring and providing energy
 6 for all or a portion of their needs based on principles to be established; and
- 7 WHEREAS the Energy Plan provides in Policy Direction #21 that new rate structures should be
 8 developed to send better price signals to large electricity consumers.
- 9 NOW THEREFORE the Commission shall conduct an inquiry pursuant to Section 5 of the Act in
 10 compliance with the following Terms of Reference:
- 11 1. The general purpose of the inquiry is to obtain the Commission's Recommendations on
 12 what changes, if any, should be made to legislation, regulations, special directions or
 13 special directives affecting BC Hydro and/or the Commission in order to implement the
 14 Energy Plan in connection with the issues identified in paragraphs 3 and 4 of these Terms
 15 of Reference.
- 16 For greater certainty, the Commission shall provide Recommendations on whether the
 17 current rate stabilization account provided for in Special Direction 8 and Special
 18 Directive 4 should be eliminated and, if so, whether any alternative form of deferral
 19 account mechanism should be considered to implement the Commission's
 20 Recommendations with respect to paragraph 3 of the Terms of Reference, and on whether
 21 there is a need for revisions to paragraph 3 of Special Direction 8 to implement the
 22 Commission's Recommendations with respect to paragraph 4 of the Terms of Reference.
- 23
- 24 2. With respect to Policy Action #1 from the Energy Plan, the Commission shall make
 25 Recommendations concerning the terms and conditions which should be contained in a
 26 Heritage Contract based on the following assumptions:
- 27 (a) The resources and obligations to which the Heritage Contract shall relate are those
 28 set out in Schedule A;
- 29 (b) The classes of customers that are eligible to benefit from the Heritage Contract
 30 are those set out in Schedule B, as may be amended from time to time to reflect
 31 the introduction of new rate structures or options;
- 32 (c) Except as expressly provided herein, the determination of rates for customers
 33 identified in Schedule B will not be considered until after the Commission's
 34 Recommendations have been provided to the Lieutenant Governor in Council
 35 pursuant to these Terms of Reference; and
- 36 (d) The quantity of energy producible from the resources shall be determined
 37 assuming average water conditions for the duration of the Heritage Contract.

- 1 3. The Commission shall make specific Recommendations relating to the following matters
2 concerning the Heritage Contract:
- 3 (a) The quantity of energy which will be available under the Heritage Contract;
- 4 (b) The cost of supplying the energy identified in subparagraph (a), including:
- 5 (i) All costs properly allocated to that activity by BC Hydro for internal
6 management purposes;
- 7 (ii) An allowance for return on BC Hydro's equity invested in the assets
8 identified in Schedule A; and
- 9 (iii) The portion, if any, of transmission assets that should be deemed to be
10 "generation related" and which should be included in the heritage contract
11 for costing purposes, and ultimately to be recovered in electricity rates of
12 BC Hydro's distribution line of business;
- 13 (c) The price that BC Hydro's distribution line of business should be deemed to pay
14 for the quantity of energy identified in subparagraph (a);
- 15 (d) Having regard for the considerations referred to in 3(h) below, the provisions that
16 should be included in the Heritage Contract relating to capacity, shape, and
17 scheduling flexibility to fairly allocate the benefits arising from the resources
18 listed in Schedule A under average water arising from the resources listed in
19 Schedule under average water conditions between the customers listed in
20 Schedule B and BC Hydro;
- 21 (e) The principles and impacts of providing ancillary services requirements to
22 BC Transmission Corporation;
- 23 (f) The extent to which the quantity, price or other terms or conditions relating to the
24 acquisition of the heritage energy by the distribution line of business should vary
25 during the initial ten-year term of the Heritage Contract:
- 26 (i) by reason of changed circumstance;
- 27 (ii) by reason of a determination that the allocation identified in subparagraph
28 (b) is not appropriate;
- 29 (iii) by reason of capital maintenance or similar investments not intended to
30 materially affect the productive capacity of the assets listed in Schedule A;
31 and;
- 32 (iv) by reason of any other factor the Commission believes is important;
- 33 (g) The renewal provisions which should apply to the continuation of the Heritage
34 Contract after the expiry of an initial ten-year term;

- 1 (h) The appropriate regulatory framework:
- 2 (i) which provides incentives to, and allows, BC Hydro and its affiliates and
3 subsidiaries to make timely decisions to maximize trade revenues net of
4 costs properly allocated by BC Hydro for internal management purposes
5 in light of the determinations made pursuant to subparagraph (d); and
- 6 (ii) to allocate amounts of trade revenue, net of incremental costs properly
7 allocated by BC Hydro for internal management purposes, up to a
8 maximum of \$200 million per year, between BC Hydro and customers
9 listed in Schedule B in a manner that provides rewards to the party that
10 takes the risk associated with realizing those rewards while minimizing the
11 expenses and delays associated with regulatory oversight of activities
12 relating to trade;
- 13 (i) The determination of the state date of the Heritage Contract including potential
14 adjustments at the start of the Heritage Contract relating to capacity, shape and
15 scheduling flexibility.
- 16 4. The Commission shall make specific Recommendations relating to any changes it
17 believes are desirable in the rates of transmission voltage customers to accomplish the
18 objectives set out in the Energy Plan, including:
- 19 (a) The terms and conditions that should govern existing and new large industrial or
20 transmission rate customers' access to transmission for the purpose of acquiring
21 power from other energy suppliers' generation;
- 22 (b) The detailed provisions of new stepped rate schedules as more fully described in
23 the Energy Plan, including load aggregation by a customer with facilities at more
24 than one location; and
- 25 (c) The principles which should govern the terms and conditions under which large
26 industrial or transmission rate customers wishing to obtain generation from
27 alternate suppliers may decline to obtain service from BC Hydro or may apply to
28 obtain service from BC Hydro thereafter.
- 29 5. For the purpose of conducting this inquiry and obtaining stakeholder input, the
30 Commission may seek and employ expert advice on various subjects and shall employ
31 any or all of the powers provided to it under the Act and, in particular, may, in its sole
32 discretion, employ diverse procedures to resolve specific issues within the Terms of
33 Reference, including, as appropriate, workshops, mediation, dispute resolution
34 mechanisms, pre-hearing conferences, and oral and written public hearings.
- 35 6. The Commission shall require BC Hydro to file by April 30, 2003 a proposal that
36 identifies the detailed Recommendations and reasons that BC Hydro believes should be
37 contained in the Commission's report to the Lieutenant Governor in Council.

- 1 7. The Commission shall invite comment on BC Hydro's proposal from all affected
2 stakeholders and identify appropriate processes to consider it in compliance with
3 paragraph 5.
- 4 8. The Commission shall submit a report to the Lieutenant Governor in Council by no later
5 than October 17, 2003, listing its Recommendations and the reasons for the
6 Recommendations, including proposed legislation, regulations, special directions to the
7 Commission or special directives to BC Hydro, as it thinks fit.
- 8 9. The Commission shall consider any other matters that may be specified in supplementary
9 Terms of Reference issued by the Lieutenant Governor in Council pursuant to Section 5
10 of the *Act*.
- 11 March 7, 2003

1 **SCHEDULE A**
 2 **BC Hydro's Existing Facilities**

3 **Resources**

(a) **Electric Facilities**

Aberfeldie	Revelstoke
Alouette	Ruskin
Ash River	Seton
Bridge River	Seven Mile
Buntzen/Coquitlam	Shuswap
Cheakamus	Spillimacheen
Clowhom	Stave Falls
Duncan	Strathcona
Elko	Wahleach
Falls River	Walter Hardman
G.M. Shrum	Whatshan
Hugh Keenleyside Dam (Arrow Reservoir)	
John Hart	
Jordan	
Kootenay Canal	
Ladore	(b) Thermal Facilities
La Joie	
Mica	Burrard Thermal
Peace Canyon	Fort Nelson
Puntledge	Prince Rupert

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5 **Other Rights and Obligations**

6 Columbia River Treaty and Entity Agreements made thereunder
 7 Skagit Valley Treaty
 8 Canal Plant Agreement
 9 Keenleyside Entitlement Agreement
 10 Replacement Electricity Supply Agreement between the Province and Alcan
 11 Power for Jobs
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SCHEDULE B

Residential Service	General Service	Irrigation Service	Street Lighting Service	Transmission Service
1101	1200	1401	1701	1821
1103	1201		1702	1848
1105	1205		1703	1852
1107	1206		1704	3808
1111	1207		1755	TS #1
1113	1210		1761	
1117	1211		1770	
1121	1220			
1123	1222			
1127	1223			
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