

<b>Haisla Nation</b> Information Request No. <b>2.1.0</b> Dated: <b>August 22, 2006</b> British Columbia Hydro & Power Authority Response issued <b>September 18, 2006</b>	Page 1
British Columbia Hydro & Power Authority <b>F07/F08 Revenue Requirements Application</b>	<b>Exhibit:  B-16</b>

**1.0 Reference: BC Hydro Response to Haisla I.R. 1.14.0 Attachment 1**

This Attachment consists of BC Hydro's response to BCUC I.R. 1.19.3 from the F05/06 RRA and reads:

BC Hydro does not have a specific policy related to settling grievances with First Nations. However, BC Hydro's current Risk Management Policy, which is attached, supports the mitigation of significant financial losses or business disruptions, where it is economic to do so. The decision to pursue these expenditures is driven by business interests related to the potential costs of settling such claims weighed against the risk of a court-ordered settlement, in addition to the long-term business need for mutually beneficial relationships with specific First Nations. BC Hydro's interactions are guided by the 'Statement of Principles for Relations with Aboriginal People', which is attached.

When grievance claims of this nature arise, BC Hydro undergoes an analysis of the claims' merits. Once the merits of a claim are established, a risk analysis of the potential settlement costs relative to the legal risk of going through the courts is undertaken. In addition, dialogue usually continues through various stages of the negotiation. Where the likelihood of merit exists and the legal risk has been identified, BC Hydro will enter into a grievance negotiation process that may ultimately lead to settlement. Much of the process is about determining the specifics of harm in the claim and to what extent the corporation can be held responsible for some, or all, of it. ...

The attached "Statement of Principles for Relations with Aboriginal People" read:

10. BC Hydro will move in a timely and orderly fashion to correct permit deficiencies and resolve grievances.

BC Hydro is an agent of government (Hydro and Power Authority Act, R.S.B.C. 1996, c. 212, s. 3). The Provincial Policy for Consultation with First Nations applies to Crown agencies, and the courts have recognized that Crown agencies and Crown corporations have a fiduciary duty to consult with First Nations and seek accommodation, where appropriate. How does BC Hydro reconcile its Risk Management policy, which focuses on BC Hydro's business interests, with BC Hydro's duty to consult with First Nations?

**RESPONSE:**

**The legal duty of consultation rests with the Crown and arises when the Crown is considering a decision which may adversely affect potential aboriginal rights or title. This legal duty and the Provincial Policy for Consultation with First Nations do not apply to BC Hydro when BC Hydro actions remain subject to the review**

<b>Haisla Nation</b> Information Request No. <b>2.1.0</b> Dated: <b>August 22, 2006</b> British Columbia Hydro & Power Authority Response issued <b>September 18, 2006</b>	Page 2
British Columbia Hydro & Power Authority <b>F07/F08 Revenue Requirements Application</b>	<b>Exhibit: B-16</b>

and approval by a Provincial agency. In such a case, it is the Provincial agency which makes the decision and therefore, the Provincial agency which holds the legal duty to consult potentially affected First Nations.

Nevertheless, on new works, BC Hydro does consult with First Nations as part of its application to a Provincial agency for approval of the new works. The Provincial agency then assesses BC Hydro's consultation record in order to discharge its legal obligation to consult before coming to a decision. Consulting with First Nations is also advantageous to BC Hydro as dealing directly with a First Nation (rather than through a Provincial agency, or waiting for consultation by the Provincial agency) can expedite the approval process and help BC Hydro build positive working relationships with First Nations.

Where BC Hydro is not seeking regulatory approval for a project, and in situations where it is not clear whether or the extent to which the Province has breached its legal obligations to a First Nation and which could affect BC Hydro's interests, BC Hydro follows its Risk Management Policy, as described above.

<b>Haisla Nation</b> Information Request No. <b>2.2.0</b> Dated: <b>August 22, 2006</b> British Columbia Hydro & Power Authority Response issued <b>September 18, 2006</b>	Page 1
British Columbia Hydro & Power Authority <b>BC Hydro F07/F08 Revenue Requirements Application</b>	<b>Exhibit: B-16</b>

**2.0 Reference: BCTC Response to Haisla I.R. No. 1.5.1**

The Haisla Nation submitted the following I.R. in the BCTC F2007 Transmission Revenue Requirement Application, referring to the BC Hydro – BCTC First Nation’s Protocol Agreement:

5.1 Please indicate which party is responsible for discharging the Crown’s duty to consult with First Nations in relation to potential impacts of decisions on aboriginal rights, including title.

BCTC responded:

As per the First Nations protocol agreement, BC Hydro leads the consultation processes with respect to Transmission issues. The duty to consult with First Nations rests with the Crown.

Does BC Hydro accept that it, as an agent of the Crown, has a duty to consult with, and where appropriate accommodate, First Nations?

**RESPONSE:**

**Please refer to the response to Haisla IR No. 2.1.0.**

<b>Haisla Nation</b> Information Request No. <b>2.3.0</b> Dated: <b>August 22, 2006</b> British Columbia Hydro & Power Authority Response issued <b>September 18, 2006</b>	Page 1
British Columbia Hydro & Power Authority <b>BC Hydro F07/F08 Revenue Requirements Application</b>	<b>Exhibit:  B-16</b>

**3.0 Reference: BCTC Response to Haisla Nation I.R. No. 1.1.1**

The Haisla Nation submitted the following I.R. in the BCTC the F2007 Transmission Revenue Requirement Application:

This Section discusses the relationship between BC Hydro and BCTC, as set out in the Master Agreement, and refers to BCTC's Revenue Requirement as including costs of BCTC carrying out its responsibilities under the Master Agreement and other Key Agreements. This Section also refers to the Asset Management/Maintenance Revenue Requirement consisting of the "amount BCTC obtains the approval of the Commission to permit BC Hydro to recover in rates to pay to BCTC under the Asset Management and Maintenance Agreement for costs incurred or to be incurred by BCTC for the purpose of providing the Asset Maintenance and Management Services".

The Asset Management and Maintenance Agreement provides at s. 5.6(d) that "BCTC will consult with BC Hydro regarding appropriate costs of complying with First Nations Policies and will include such costs as recommended by BC Hydro in forecasts for purposes of establishing the Asset Management/Maintenance Revenue Requirement and capital expenditure plans, as applicable".

1.1 Please provide an explanation of where a breakdown of the Asset Management / Maintenance Revenue Requirement that shows the costs of complying with First Nations Policies may be found in the RRA. If this information is not set out in the RRA, please provide it.

BCTC responded:

The costs of complying with BC Hydro's First Nations Policies are not specifically segregated in the Asset Maintenance/Management budget and therefore BCTC is unable to provide the requested cost.

Please disclose the cost that BC Hydro recommended, pursuant to the above identified consultation between BCTC and BC Hydro regarding appropriate costs of complying with First Nations Policies, for the purposes of establishing the Asset Management / Maintenance Revenue Requirement for F2007.

**RESPONSE:**

**BC Hydro did not specifically segregate out the First Nation Policy compliance component of costs forecast on First Nations issues relative to the Asset Management and Maintenance Agreement and the BCTC capital plan.**

<b>Haisla Nation</b> Information Request No. <b>2.4.0</b> Dated: <b>August 22, 2006</b> British Columbia Hydro & Power Authority Response issued <b>September 18, 2006</b>	Page 1
British Columbia Hydro & Power Authority <b>BC Hydro F07/F08 Revenue Requirements Application</b>	<b>Exhibit: B-16</b>

**4.0 Reference: Response to Haisla Nation I.R. No. 1.10.0**

Please set out how the results of the discussions listed in response to Haisla I.R. No. 1.10.0 have helped BC Hydro build a better relationship with the Haisla Nation.

**RESPONSE:**

**BC Hydro is committed to building better relationships with First Nations. BC Hydro's willingness to meet as outlined in Haisla IR No. 1.9.0 and discuss the topics listed in Haisla IR No. 1.10.0 demonstrates that BC Hydro is committed to establishing a relationship with Haisla Nation.**

<b>Haisla Nation</b> Information Request No. <b>2.5.0</b> Dated: <b>August 22, 2006</b> British Columbia Hydro & Power Authority Response issued <b>September 18, 2006</b>	Page 1
British Columbia Hydro & Power Authority <b>BC Hydro F07/F08 Revenue Requirements Application</b>	<b>Exhibit:  B-16</b>

**5.0 Reference: Response to Haisla Nation I.R. No. 1.18.0 and BCOAPO I.R. No. 1.26.1**

BC Hydro's response to Haisla Nation I.R. No. 1.18.0 includes a table that indicates the ARN costs allocated to Generation are \$2.1 Million for F2007 and \$2.5 Million for F2008. BC Hydro's response to BCOAPO I.R. No. 1.26.1 includes a table that sets out the ARN costs allocated to Generation are \$2.2 Million for F2007 and \$2.5 Million for F2008.

Please explain the discrepancy between the two F2007 amounts.

**RESPONSE:**

**The discrepancy between the two F2007 amounts is due to rounding of \$0.1 million within the labour resource category.**