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21 July 2004

Mr. Joe Parker  
Partner  
PricewaterhouseCoopers LLP  
Suite 700, 250 Howe Street  
Vancouver, B.C.  
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Dear Mr. Parker:

**Re: Issue Report of the Independent Reviewer**

We have reviewed your Issue Report dated July 13, 2004 regarding correspondence sent to pre-qualified bidders at the request of the British Columbia Utilities Commission (“BCUC”). BC Hydro’s response to the points raised in your Issue Report is noted below.

**CFT Principles and Protocols**

The Call for Tenders (“CFT”) for dependable capacity on Vancouver Island has been designed on the principles of openness, fairness and transparency. The process includes the principle of “bidder blindness” as indicated in your report.

**CFT-Related Letters to BCUC**

In May and early June, BC Hydro received copies of letters sent to the BCUC by two disqualified bidders and JIESC. This correspondence had no bearing or influence on the CFT since the 3 parties in question did not constitute pre-qualified bidders. You indicated in your report that these letters cause you no specific concern.

The letters sent by two pre-qualified bidders to the BCUC in mid-June were not received by BC Hydro until June 28. Thus, as correctly inferred in your Issue Report, these communications from pre-qualified bidders had no bearing on the development of the Final Form Agreements, which were issued on June 23, 2004.

### **Breach of No-Lobbying Provision**

The “no lobbying” provision of the CFT (section 18.20) prohibits direct communications by bidders with any member of the Government of British Columbia. It does not prohibit direct communication from bidders to the BCUC. In designing the CFT, BC Hydro concluded that it would be improper and unnecessary to attempt to prevent bidders to communicate with any regulatory agency on matters related to the CFT. In response to a question regarding communications with the BCUC, BC Hydro stated that “bidders are free to communicate with BCUC at their discretion” (see Q&A 269 dated May 28, 2004). While section 15 of the CFT regulates bidder communication with BC Hydro, we have no evidence that the bidders in question requested or intended that their communications to the BCUC be sent on to BC Hydro. It appears that the decision to do that was made by the BCUC.

Based on the preceding observations, the submission of letters to the BCUC by pre-qualified bidders was not a breach by any bidder of the communications or no-lobbying provision of the CFT.

### **BCUC Request to Forward Letters to Pre-Qualified Bidders**

As a regulated utility, BC Hydro carefully reviews all written requests by the BCUC to determine if they carry the same weight and standing as Commission directives and orders. In the case of the five CFT-related letters to the BCUC, BC Hydro chose to abide by the BCUC’s request given that such full disclosure is consistent with the underlying principles of the Vancouver Island CFT, namely, openness, fairness and transparency and that disclosure could not affect, or be seen to affect, decisions made with respect to the Final Form Agreements. We believe that appropriate and sufficient internal due diligence was undertaken to support our decision.

### **Conclusions**

Having carefully considered your report, BC Hydro is satisfied that the sending of the CFT-related letters to the BCUC and the subsequent forwarding of this correspondence to pre-qualified bidders did not result in a breach of the terms of the CFT or any impairment in the administration of the CFT in an objective and unbiased manner. Accordingly, we do not believe any remedial action to be necessary.

Yours truly,



Mary Hemmingsen  
Manager, Power Planning & Portfolio Management