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February 16, 2004

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Attention: Robert J. Pellatt, Commission Secretary

Dear Mr. Pellatt:

**Re: Project No. 3698360 BC Hydro 2004-6 Revenue Requirements Application
Request for Review and Variance of Commission Order No. G-8-04**

We are in receipt of the letter from the Joint Industry Electricity Steering Committee dated February 12, 2004 requesting that the Commission review or vary Order G-8-04. This letter on behalf of BC Hydro is to confirm that BC Hydro will have an opportunity to respond to that application.

Yours truly,

LAWSON LUNDELL


Jeff Christian

JC/sal

cc. Client
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Our File:	03-3899
Date:	February 12, 2004

BY COURIER AND E-MAIL

British Columbia Utilities Commission
Box 250
600 - 900 Howe Street
Vancouver BC V6Z 2N3

Attention: Robert Pellatt, Commission Secretary

Dear Sirs/Mesdames:

**Re: Project No. 3698360 BC Hydro 2004-6 Revenue Requirements Application
Request for Review and Variance of Commission Order No. G-8-04**

At the pre-hearing conference on January 14, 2004, we requested, on behalf of the Joint Industry Electricity Steering Committee ("JIESC"), that Intervenor be given an opportunity to make submissions on the merits of granting BC Hydro the interim relief it was seeking at that time. A substantial number of other Intervenor supported our request that such an opportunity be granted. At the specific direction of the Commission, we did not address at that time the merits of whether interim relief should be granted or not.

On January 23, 2004 we received a copy of Order G-8-04 approving BC Hydro's request for interim rates. This Order was granted without providing an opportunity for Intervenor's comments on the merits of the interim application, and without any mention of the requests to address the Commission on this important matter. The interim relief granted amounts to 7.23% on current rates and approximately \$177 million in F2005. Approximately \$36 million of this will come from large industrial customers.

We hereby request that the Commission review and vary Order G-8-04 to reduce the interim rate increase that has been granted to BC Hydro. The grounds for this request are:

1. The BC Utilities Commission did not provide an opportunity for interested parties to comment on the Interim Application, in spite of the fact that interested parties had requested an opportunity to do so, and time permitted such comments since the interim rates do not take effect until April 1, 2004.



2. The application is far reaching and contains at least one request for relief in circumstances in which Commission has not granted interim relief in the past.

The normal practice of the BCUC has been to refuse to grant interim relief where the increase is due to changes in return on equity or novel changes in accounting treatment before hearing evidence. In this Application, BC Hydro has requested that \$233 million be transferred from its Future Removal and Site Restoration (FRSR) account to Retained Earnings. This amount represents money that was collected from customers for the specific purpose of meeting future FRSR obligations, not for the purpose of increasing BC Hydro's equity. This amount is in effect "Negative Salvage" or cost of retirement that should be treated as accumulated depreciation, if not refunded to customers. The effect of the transfer to equity rather than to accumulated depreciation or applying the amount to present and future rate increases will increase BC Hydro's revenue requirement by \$32 million per year or roughly 18% of the increase BC Hydro is seeking for F2005 (1.3% of the 7.2% increase applied for).

The increased revenue is not required to meet cost increases experienced by BC Hydro. It is simply a negative side-effect of an accounting change. Furthermore, BC Hydro has proposed to recover FRSR costs from customers in future rates, in effect recovering the costs twice.

It is our submission that good regulatory practice and the Commission's own past practices indicate this amount should not be collected on an interim basis prior to the hearing of any evidence.

3. Prior to filing of the revenue requirements application, BC Hydro had been telling ratepayers that they would likely face multiple increases in the range of 3% to 6% over a two to three year period. As a result, customers budgeted for F2005 on this basis. The increase from 6% to 7.23% represents a substantial unbudgeted increase, particularly for industrial customers, who continue to face competitive markets from the disadvantage of a strengthening Canadian dollar.

Jurisdiction to award Interim Relief

Order G-8-04 relies on Section 89 of the BCUC Act in granting BC Hydro its Interim Rate increase. Section 89 provides that the Commission may "make an order granting the whole or part of the relief applied for or may grant further or other relief, as the Commission considers advisable." This appears to be a very broad power, however, in our submission, this general provision should not be read to override the specific requirements of Section 58(1) and Section 91(1).

Section 58(1) of the *Utilities Commission Act* provides the Commission with its basic authority to set rates. The section states that the Commission may... "determine the just, reasonable and



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sufficient rates to be observed and in force" but requires such determination to be made "after a hearing". It is our submission that the Commission's decision to ignore the requests of interested parties for an opportunity for input into the rates is contrary to the clear requirements of Section 58(1).

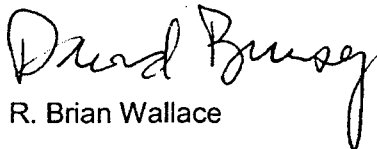
The only other provision of the Act that may authorize an order for interim rates is Section 91. Section 91(1) provides "If the special circumstances of the case so requires, the commission may, without notice, make an interim order authorizing, requiring or forbidding anything to be done that the commission is empowered to authorize, require or forbid on application, notice or hearing."

In our submission, there are no special circumstances here warranting an interim rate increase without notice. BC Hydro filed its Application well in advance of the interim relief taking affect and the Commission clearly had, and still has, sufficient time to seek interested party input with respect to the interim relief requested prior to implementing the increased rates.

All of which is respectfully submitted on behalf of the JIESC.

Yours truly,

Bull, Housser & Tupper


for / R. Brian Wallace

RBW/nsu/1173976

cc. BC Hydro
Intervenors