

Fred James

Chief Regulatory Officer

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bchydroregulatorygroup@bchydro.com

February 21, 2020

Mr. Patrick Wruck
Commission Secretary and Manager
Regulatory Support
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Dear Mr. Wruck:

RE: Project No. 1598969
British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
Electricity Purchase Agreement (EPA) Renewals – Sechelt Creek Hydro,
Brown Lake Hydro, and Walden North Hydro

BC Hydro writes further to BCUC Order No. G-278-19 (**Order**) whereby the Commission adjourned the proceeding in relation to the EPA Renewals for Sechelt Creek Hydro, Brown Lake Hydro and Walden North Hydro Independent Power Producer (**IPP**) facilities for 60 days to allow BC Hydro and the counterparties, should they so choose, to restructure and resubmit to the Commission EPA renewals that address the Commission's concerns related to the terms of the EPAs. On December 16, 2019, BC Hydro submitted an extension request to the BCUC which was subsequently granted, pursuant to BCUC Order No. G-337-19, extending the filing date to February 21, 2020.

BC Hydro and the IPPs have had the opportunity to meet to discuss the Commission's decision, the implications of potentially amending each of the EPA Renewals to shorter terms (as suggested by the Commission) should BC Hydro and the counterparties agree to do so, and potential next steps in relation to each of their respective EPA Renewals.

We have reached agreement with MPT Hydro LP (**MPT**) for the Sechelt Creek Hydro project and Brown Miller Power Limited Partnership (**Brown Lake**) for the Brown Lake Hydro project to amend their respective EPA Renewals such that they each expire on October 31, 2022. BC Hydro and the Cayoose Creek Power Limited Partnership (**Cayoose LP**) have agreed not to amend the Walden North EPA Renewal, as suggested by the BCUC, and as such BC Hydro has delivered a termination notice to Cayoose LP with respect to the Walden North EPA Renewal.

Sechelt Creek Hydro

The attached EPA Amending Agreement #1 for Sechelt Creek Hydro (**Attachment 1**) amends the electricity purchase agreement made as of March 1, 2018 between BC Hydro and MPT and reflects the suggested reduced term as recommended on page 14 of the Commission's Decision accompanying the Order.

Please refer to section 2.1 of Appendix 1 of Attachment 1 whereby the EPA Renewal expiry date has been revised to October 31, 2022. No further EPA terms or conditions have been amended.

Brown Lake Hydro

The attached EPA Amending Agreement #1 for Brown Lake Hydro (**Attachment 2**), amends the electricity purchase agreement made as of April 1, 2018 between BC Hydro and Brown Lake and reflects the suggested reduced term as recommended on page 14 of the Commission's Decision accompanying the Order.

Please refer to section 2.1 of Appendix 1 of Attachment 2 whereby the EPA Renewal expiry date has been revised to October 31, 2022. Revisions were also made to section 6.1(a), 6.1(b) and 10.5(a) of Appendix 1 as consequential amendments resulting from the change in the expiration date. No further EPA terms or conditions have been amended (other than updating the address for the IPP's corporate office).

Walden North Hydro

As noted above, BC Hydro and Cayoose LP have agreed not to amend the electricity purchase agreement made as of April 1, 2018 between BC Hydro and Cayoose LP, as recommended on page 14 of the Commission's Decision accompanying the Order. Since BCUC Acceptance (as defined in the EPA Renewal) has not been issued on or before the Regulatory Condition Expiry Date (as defined in the EPA Renewal), in accordance with section 3.2 of the EPA Renewal, BC Hydro has provided its notice of termination. As provided under the terms of the EPA Renewal, the termination date is effective 30 days after the date of delivery of such notice of termination and, as such, the EPA Renewal will be terminated as of March 22, 2020. Please refer to Attachment 3.

As a result, BC Hydro and Cayoose LP will continue to operate under the original Walden North EPA, and its related Forbearance Agreement, following termination of the EPA Renewal as has been the case since the effective date of the EPA Renewal. BC Hydro confirms that the EPA Renewal was signed and effective as of April 1, 2018 but as set out in section 2.2 of the EPA Renewal only certain sections of that agreement were effective prior to BCUC Acceptance of the agreement being given. Therefore, termination of the EPA Renewal will not impact the ongoing energy transactions between the parties.

Accordingly, BC Hydro does not require any further orders from the Commission with respect to the EPA Renewal.

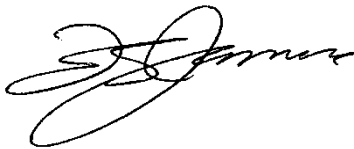
With respect to the Sechelt Creek Hydro EPA Renewal, as amended, and the Brown Lake Hydro EPA Renewal, as amended, BC Hydro respectfully requests the BCUC accept these EPA Renewals as filed without further process.

Confidentiality

BC Hydro is of the view that specific commercial terms and conditions relating to the three EPA renewals, such as the pricing information and cost-effectiveness benchmarks, are commercially sensitive and the public disclosure of such information will harm BC Hydro's negotiating position with respect to further EPA renewals. The Appendix 1 – Blacklined EPA of the Sechelt Creek Hydro and Brown Lake hydro EPA Amending Agreements are considered commercially sensitive to the respective Independent Power Producers. Therefore, BC Hydro has redacted Appendix 1 of the two EPA Amending Agreements. As provided by the General Rules 1.10 of the Rules for Energy Supply Contracts for Electricity, Part IV of the Commission's Rules of Practice and Procedure, and section 42 of the *Administrative Tribunals Act*, BC Hydro requests that the Commission keep this information confidential. BC Hydro also continues to maintain that confidential information filed in relation to each of the EPA Renewals, including the terminated Walden EPA Renewal, are confidential.

For further information, please contact Fred James at 604-623-4121 or by email at bchydroregulatorygroup@bchydro.com.

Yours sincerely,



Fred James
Chief Regulatory Officer

st/tl

Enclosure

**BC Hydro EPA Renewals
Sechelt Creek Hydro Brown Lake Hydro,
and Walden North Hydro**

Attachment 1

**Electricity Purchase Agreement Amending
Agreement #1
Sechelt Creek Hydro Project**

PUBLIC

**ELECTRICITY PURCHASE AGREEMENT
AMENDING AGREEMENT #1
Sechelt Creek Hydro Project**

THIS AGREEMENT is made as of the 20 day of February, 2020

BETWEEN: BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation continued under the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212, having an office at 333 Dunsmuir Street, Vancouver, British Columbia

(“BC Hydro”)

AND: MPT Hydro LP, a limited partnership formed under the laws of Ontario, represented by its general partner, **CPOT TITLE CORP.**, a corporation incorporated under the laws of Ontario and extra-provincially registered in British Columbia, with its head office at 155 Wellington Street West, Suite 2930, Toronto, ON, M5V 3H1

(the “Seller”)

WHEREAS:

- A. BC Hydro and the Seller entered into an Electricity Purchase Agreement made as of March 1, 2018 (the “EPA”);
- B. BC Hydro filed the EPA for acceptance with the British Columbia Utilities Commission (“BCUC”) on May 31, 2018. On November 8, 2019, the BCUC issued an order adjourning the proceeding to allow BC Hydro and the Seller time to consider whether they would be willing to amend the EPA to reflect a term of no greater than three years from the date of that order for the reasons specified in the Reasons for Decision attached to that order; and
- C. As a result, BC Hydro and the Seller wish to amend the EPA to amend the Term (as defined in the EPA) and those other terms directly impacted by this change, as more specifically contemplated below.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party), the parties covenant and agree that:

1. **Amendments:** Effective as of the date hereof, the Seller and BC Hydro agree that the EPA is amended as shown in the blackline attached as Appendix 1 hereto.
2. **General:** The Seller and BC Hydro acknowledge and agree that except as specifically amended by this Agreement, the EPA continues in full force and effect. Each party shall, upon the reasonable request of the other party, do, sign or cause to be done or

signed all further acts, deeds, things, documents and assurances required for the performance of this Agreement. This Agreement enures to the benefit of, and is binding upon, the parties hereto, and their respective successors and permitted assigns. If any dispute arises under or in relation to this Agreement, that dispute will be handled in accordance with section 8.5 of the EPA. This Agreement shall in all respects be subject to the laws of the Province of British Columbia and the laws of Canada applicable therein. This Agreement may be executed in any number of counterparts, each of which when executed and delivered (by facsimile, pdf or otherwise) will be deemed to be an original, and all of which together will constitute one and the same document.

IN WITNESS WHEREOF this Agreement has been executed by each of the parties as of the day and year first above written.

MPT HYDRO LP, by its general partner,
CPOT Title Corp.

By: _____
(Signature)

Name: _____

Title: _____

By: _____
(Signature)

Name: _____

Title: _____

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____
(Signature)

Name: _____

Title: _____

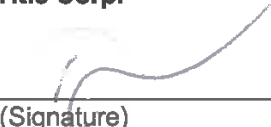
APPENDIX 1 – BLACKLINED EPA

Please see the attached.

signed all further acts, deeds, things, documents and assurances required for the performance of this Agreement. This Agreement enures to the benefit of, and is binding upon, the parties hereto, and their respective successors and permitted assigns. If any dispute arises under or in relation to this Agreement, that dispute will be handled in accordance with section 8.5 of the EPA. This Agreement shall in all respects be subject to the laws of the Province of British Columbia and the laws of Canada applicable therein. This Agreement may be executed in any number of counterparts, each of which when executed and delivered (by facsimile, pdf or otherwise) will be deemed to be an original, and all of which together will constitute one and the same document.

IN WITNESS WHEREOF this Agreement has been executed by each of the parties as of the day and year first above written.

**MPT HYDRO LP, by its general partner,
CPOT Title Corp.**

By: 

(Signature)

Name: DAVID EVA

Title: CHIEF EXECUTIVE OFFICER

By: 

(Signature)

Name: Aileen Giam

Title: General Counsel

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____
(Signature)

Name: _____

Title: _____

signed all further acts, deeds, things, documents and assurances required for the performance of this Agreement. This Agreement enures to the benefit of, and is binding upon, the parties hereto, and their respective successors and permitted assigns. If any dispute arises under or in relation to this Agreement, that dispute will be handled in accordance with section 8.5 of the EPA. This Agreement shall in all respects be subject to the laws of the Province of British Columbia and the laws of Canada applicable therein. This Agreement may be executed in any number of counterparts, each of which when executed and delivered (by facsimile, pdf or otherwise) will be deemed to be an original, and all of which together will constitute one and the same document.

IN WITNESS WHEREOF this Agreement has been executed by each of the parties as of the day and year first above written.

**MPT HYDRO LP, by its general partner,
CPOT Title Corp.**

By: _____
(Signature)

Name: _____


Title: _____

By: _____
(Signature)

Name: _____

Title: _____

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:  _____
(Signature)

Name: CHRIS ORILEY

Title: PRESIDENT & CEO

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**BC Hydro EPA Renewals
Sechelt Creek Hydro Brown Lake Hydro,
and Walden North Hydro**

Attachment 2

**Electricity Purchase Amending Agreement #1
Brown Lake Hydro**

PUBLIC

AMENDING AGREEMENT #1

THIS AGREEMENT is made as of the 21 day of February, 2020.

BETWEEN: **BRITISH COLUMBIA HYDRO AND POWER AUTHORITY**, a corporation continued under the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212, having an office at 333 Dunsmuir Street, Vancouver, British Columbia

("BC Hydro")

AND: **BROWN MILLER POWER LIMITED PARTNERSHIP**, a limited partnership formed under the Laws of British Columbia, represented by its general partner, **BROWN MILLER POWER GP INC.**, a corporation incorporated under the laws of Canada, and extra-provincially registered under the laws of British Columbia, with an office at 888 Dunsmuir Street, Suite 1100, Vancouver, BC V6C 3K4

(the "Seller")

WHEREAS:

- A. BC Hydro and the Seller entered into an Electricity Purchase Agreement made as of April 1, 2018 (the "EPA");
- B. On May 31, 2018, BC Hydro filed the EPA for acceptance with the British Columbia Utilities Commission ("BCUC") pursuant to section 71 of the *Utilities Commission Act* (British Columbia).
- C. On November 8, 2019, the BCUC issued order #G-278-19 (the "Order") adjourning the proceeding to allow BC Hydro and the Seller time to consider whether they would be willing to amend the EPA to reflect a term of no greater than three years from the date of the Order for the reasons specified in the Reasons for Decision attached to that order; and
- D. As a result, BC Hydro and the Seller wish to amend the EPA to change the Term (as defined in the EPA) and those other terms directly impacted by this change, as more specifically contemplated below.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party), the parties covenant and agree that:

1. **Amendments:** Effective as of the date hereof, the Seller and BC Hydro agree that the EPA is amended as shown in the blackline attached as Appendix 1 hereto.
2. **General:** This Agreement will become effective as of the date first written above. The Seller and BC Hydro acknowledge and agree that except as specifically amended by this

Agreement, all of the terms and conditions of the EPA continue in full force and effect and are hereby ratified and confirmed by the parties. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the EPA or as a waiver of or consent to any further or future action on the part of either party that would require the waiver or consent of the other party. On and after the date hereof, each reference in the EPA to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the EPA in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the EPA, will mean and be a reference to the EPA as amended by this Amendment. Each party shall, upon the reasonable request of the other party, do, sign or cause to be done or signed all further acts, deeds, things, documents and assurances required for the performance of this Agreement. This Agreement enures to the benefit of, and is binding upon, the parties hereto, and their respective successors and permitted assigns. If any dispute arises under or in relation to this Agreement, that dispute will be handled in accordance with section 8.5 of the EPA. This Agreement shall in all respects be subject to the laws of the Province of British Columbia and the laws of Canada applicable therein. This Agreement may be executed in any number of counterparts, each of which when executed and delivered (by facsimile, pdf or otherwise) will be deemed to be an original, and all of which together will constitute one and the same document.

[signature page follows]

IN WITNESS WHEREOF this Agreement has been executed by each of the parties as of the day and year first above written.

**BROWN MILLER POWER LIMITED
PARTNERSHIP** by its general partner,
BROWN MILLER POWER GP INC.

By: 
(Signature)

Name: Yves Baribeault

Title: VP Legal Affairs
Operations and Projects

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By: _____
(Signature)

Name: _____

Title: _____

IN WITNESS WHEREOF this Agreement has been executed by each of the parties as of the day and year first above written.

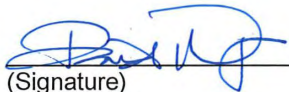
**BROWN MILLER POWER LIMITED
PARTNERSHIP** by its general partner,
BROWN MILLER POWER GP INC.

By: _____
(Signature)

Name: _____

Title: _____

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:  _____
(Signature)

Name: DAVID WANG

Title: CFO

APPENDIX 1 – BLACKLINED EPA

Please see the attached.

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**BC Hydro EPA Renewals
Sechelt Creek Hydro Brown Lake Hydro,
and Walden North Hydro**

Attachment 3

Walden North Hydro Termination Letter

Bruce Chow,
Manager, IPP Portfolio Management
British Columbia Hydro & Power Authority
333 Dunsmuir Street, 17th floor
Vancouver, BC V6B 5R3

BY COURIER AND EMAIL
(WRussell@innergex.com)

File: 605.WDN2

February 21, 2020

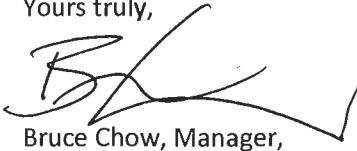
Cayoose Creek Power Inc., as general partner of
Cayoose Creek Power Limited Partnership
900-1185 West Georgia Street,
Vancouver, B.C.
V6E 4E6
Attention: Wayne Russell, Director, Operations and Maintenance West

Dear Mr. Russell,

Re: Electricity Purchase Agreement (the "EPA") dated April 1, 2018 between British Columbia Hydro and Power Authority ("BC Hydro") and Cayoose Creek Power Limited Partnership for the Walden North Hydro Project

Pursuant to Section 3.2 of the EPA, since BCUC Acceptance (as defined in the EPA) has not been issued on or before the Regulatory Condition Expiry Date (as defined in the EPA), BC Hydro hereby provides its notice of termination of the above-referenced EPA, effective on the date that is 30 days after the date of delivery of such notice of termination.

Yours truly,


Bruce Chow, Manager,

IPP Portfolio Management