

Fred James

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April 1, 2021

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. 1599164
British Columbia Utilities Commission (BCUC or Commission)
British Columbia Hydro and Power Authority (BC Hydro)
Fiscal 2020 to Fiscal 2021 Revenue Requirements Application (the
Application)**

BC Hydro writes further to BCUC Order No. G-32-21 which directed BC Hydro to file an application no later than May 31, 2021 to review *de novo*, the issues and findings underlying Directives 17 and 17A of the BCUC's Decision on BC Hydro's Fiscal 2020 to Fiscal 2021 Revenue Requirements Application.

Attached to this letter is a copy of B.C. Reg 88/2021 (Order in Council No. 172), deposited March 22, 2021 which amends Direction No. 8 to the British Columbia Utilities Commission.

The amendments to Direction No. 8 provide direction to the BCUC which resolves the issues and findings underlying Directives 17 and 17A. Specifically, as a result of the amendments to Direction No. 8:

- In setting rates for BC Hydro, the BCUC must subtract from the costs to be recovered in rates, an amount equal to the net incomes, for the fiscal year, of Powerex Corp. and Powertech Labs Inc., as forecast by BC Hydro for that fiscal year;
- In regulating and setting rates for BC Hydro, the BCUC must allow BC Hydro to continue to defer to the trade income deferral account the variances between actual and forecast trade income; and
- The BCUC may not exercise its powers under section 71 (1) (b) and (3) of the *Utilities Commission Act* in respect of the 2020 Transfer Pricing Agreement.

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In effect, these changes to the regulatory framework largely restore the treatment of Powerex's net income that had been in place since the 2003 Heritage Contract proceeding.

As these amendments resolve the issues and findings underlying Directives 17 and 17A by providing specific direction with regard to the treatment of Powerex's net income for regulatory purposes, BC Hydro requests an Order from the BCUC confirming that the application contemplated by BCUC Order No. G-32-21 is no longer required.

BC Hydro recognizes that these issues may continue to be of interest to the BCUC and interveners and will continue to evaluate opportunities to engage in dialogue on the objectives and principles that have informed the long-standing approach to the regulatory treatment of Powerex's net income.

For further information, please contact Chris Sandve at 604-974-4641 or by email at bchydroregulatorygroup@bchydro.com.

Yours sincerely,



Fred James
Chief Regulatory Officer

cs/rh

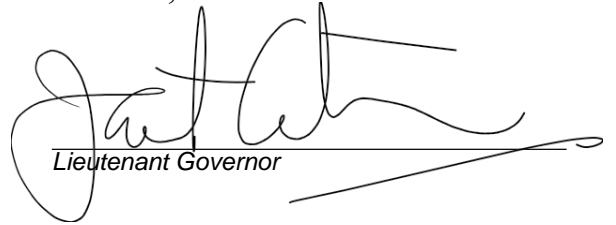
Enclosure

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 172

, Approved and Ordered March 22, 2021


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 Direction No. 8 to the British Columbia Utilities Commission, B.C. Reg. 24/2019, is amended as set out in the attached Schedule.

DEPOSITED
March 22, 2021
B.C. REG. **88/2021**


Minister of Energy, Mines and Low Carbon Innovation


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*, R.S.B.C. 1996, c. 473, s. 3

Other: OIC 51/2019

R10467937

SCHEDULE

1 Section 1 of Direction No. 8 to the British Columbia Utilities Commission, B.C. Reg. 24/2019, is amended by adding the following definitions:

“**F2022**” means the authority’s fiscal year commencing April 1, 2021 and ending March 31, 2022;

“**F2023**” means the authority’s fiscal year commencing April 1, 2022 and ending March 31, 2023;

“**trade income**” has the meaning given to it in section 1.1;

“**trade income deferral account**” means the regulatory account established under commission order G-96-04 and the approval in section 4.6 of the reasons that accompany that order;

“**transfer pricing agreement**” means the energy supply contract effective April 1, 2020 between the authority and Powerex Corp., as amended from time to time.

2 The following section is added:

Meaning of “trade income”

1.1 (1) Trade income for a fiscal year is the greater of the following:

- (a) the amount equal to the authority’s consolidated net income for the fiscal year after adjusting that income in accordance with subsection (2);
- (b) zero.

(2) For the purposes of subsection (1) (a), the authority’s consolidated net income must be adjusted as follows:

- (a) by subtracting the authority’s net income for the fiscal year;
- (b) by subtracting the net income for the fiscal year of every subsidiary of the authority other than Powerex Corp.;
- (c) by subtracting any foreign currency translation gains in the fiscal year on intercompany balances between the authority and Powerex Corp.;
- (d) by adding any foreign currency translation losses in the fiscal year on intercompany balances between the authority and Powerex Corp.

3 Section 3 is amended by striking out “for F2020 and F2021,” and substituting “for F2020, F2021, F2022 and F2023,”.

4 Section 4 is amended by adding the following subsections:

(3) In setting rates for the authority for a fiscal year, the commission must subtract from the costs to be recovered in rates an amount equal to the net incomes, for the fiscal year, of Powerex Corp. and Powertech Labs Inc.

(4) For the purposes of subsection (3),

- (a) the net income of Powerex Corp. for the fiscal year is the amount equal to the trade income forecast by the authority for that fiscal year, and

(b) the net income of Powertech Labs Inc. for the fiscal year is the amount forecast by the authority.

5 *The following sections are added:*

Regulatory account

- 9** In regulating and setting rates for the authority, the commission must allow the authority to continue to defer to the trade income deferral account the variances between actual and forecast trade income.

Transfer pricing agreement

- 10** The commission may not exercise its powers under section 71 (1) (b) and (3) of the Act in respect of the transfer pricing agreement.