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Duke Point approval will be appealed ~ Patrick Brown

An appeal of BCUC's February 17 approval of BC Hydro's Duke Point plans for fossil-fuel generated energy for Vancouver Island is underway. Both the GSX Concerned Citizens' Committee (GSXCCC), and the Joint Industry Electricity Steering Committee (industrial power users, or JIESC) have indicated that they will pursue court action on the basis of an 'apprehension of bias' on the part of the Commission.

900,000 Tonnes of New GHG Emissions

Ironically, BCUC's approval of the gas-fired generating plant came the day after the Kyoto Protocol came into effect, and the decision is a clear indication of why Canada is going to have difficulty reaching its greenhouse gas reduction targets. It is estimated that the plant will produce up to 900,000 tonnes of CO₂ per year. GSXCCC's Tom Hackney points out that if all the residents of Vancouver Island met the federal government's 'One Tonne Challenge' to reduce their GHG emissions, this single project would offset all their efforts.

In addition to environmental concerns, critics of the proposal noted that the project breaks Hydro's own pledge to obtain 50% of its new energy from 'green' sources, and the electricity that is produced will come at a very high cost and raise rates to consumers. The risk of rising gas prices will be assumed by BC Hydro (and its customers), not DPP.

Evidence given at the hearings questioned the projection of 'brownouts' in the winter of 2007-08, the reason given by BC Hydro for the need for accelerated approval of the scheme. The BC Transmission Corporation (formerly the electrical transmission part of BC Hydro) has published plans to replace existing transmission lines to the Island in 2008.

Apprehension of Bias

Several intervenors at the hearings had asked for the BCUC Panel to stand down because, it was claimed, the Panel had clearly indicated its bias in favour of approving the EPA before dissenting evidence was heard. The key indication of this, they said, was an 'in-camera' meeting involving only the panel and BC Hydro, in the middle of the hearings, at which they discussed modifications to the Electricity Purchase Agreement as presented for approval. Other procedural decisions, said to favour BC Hydro, were also raised by GSXCCC, JIESC, and the Commercial Energy Consumers (CEC).

In its defence, the BCUC Panel noted in its decision that it

had prior to the Hearing accepted Hydro's prediction of a shortfall at the start of this set of hearings, and also that on-island generation was the 'appropriate' solution.

Timing

Apprehension of bias will form the basis of appeals to the BC Appeal Court. Appeals will be filed likely this week because BC Hydro has been instructed by BCUC to file a letter of committal to the Electricity Purchase Agreement within ten days. However, complicating the matter, BCUC will not be issuing its Reasons for Decision until 'early March.'

The Fifty Million Dollars

Last year, Hydro announced its intention to write off \$120 million, which it said it had spent on engineering, regulatory processes, and equipment for the original VIGP proposal, including the GSX pipeline and the Duke Point Generation plant. This year, bidders on the CFT were offered preparatory work and generation equipment for Duke Point if they would make that the basis of their bid. They would be required to pay BC Hydro \$50 million for this; in BC Hydro's analysis of bids this would make their costs \$50 million cheaper. (This was also cited as an issue of bias.) Hydro had planned to offset their payment against the Hydro's contracted payments for plant operation and electricity, thus apparently reducing Hydro's costs (or inflating its revenue, depending on how you look at it).

Not so fast, said BCUC. The Commission had originally ordered that the \$120 million write-off should be deferred, probably until Hydro next came before the Commission for a rate hike. The Commission has now ordered that the \$50 million should be treated similarly, and deferred.

The question that BCUC will have to decide is whether the \$120 million, and the \$50 million they got back, should be charged as costs, in which case it would be eventually recovered from Hydro's customers, or as a deduction from profit, in which case it would have to be swallowed by Hydro's shareholder, the BC Government. That will make an interesting argument when it comes up.

Three Conditions

Although it has not published its Reasons for Decision, BCUC did attach the following conditions to the approval:

- BC Hydro and Terasen Gas Vancouver Island (TGVI) must

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reach an agreement within 45 days on gas supply to the Duke Point generating plant and the Elk Falls co-generation plant (this would put the final nail in the coffin of the controversial Georgia Strait Crossing gas pipeline). TGVI, who had applied to BCUC for permission to construct an LNG storage facility on Vancouver Island, were also given the same marching orders.

- within ten days, BC Hydro is to provide BCUC of a letter confirming its intention to proceed with the Electricity

Purchase Agreement.

- the \$50 million to be paid by DPP to Hydro for the residual value of Hydro's work and equipment on the predecessor Vancouver Island Generation Project is to be placed in a separate deferred account, with its ultimate disposition to be the subject of a future BCUC decision.



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