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## Sea Breeze sideswiped at BCUC Hearing ~ Patrick Brown

Sea Breeze Victoria Converter Corporation has unexpectedly withdrawn its application for a Certificate of Public Convenience and Necessity for its Vancouver Island Cable (VIC) project. Sea Breeze announced its decision after unexpected major changes in the financial structure of the competing proposal, BC Transmission Corporation's Vancouver Island Transmission Reinforcement (VITR) project, were permitted by the BC Utilities Commission (BCUC).

However, Sea Breeze intends to continue its involvement in the Hearing as an intervener, as a proponent of HVDC light technology, and as the potential operator of a link from Victoria to Port Angeles, Washington. This last project is not the subject of the current BCUC hearings, but is clearly relevant to the future supply of electricity to Vancouver Island.

In order to enable the BCUC to compare the two proposals, both had used a capital financing assumption of 71% debt, 28% equity; this assumption had been set out by BC Hydro, who are also responsible for financing BC Transmission Company (which used to be part of BC Hydro).

On February 27, well after the deadline for the submission of such evidence, BCTC requested that they be allowed to introduce revised figures assuming 100% debt financing of the project. Sea Breeze's lawyer, John Landry, immediately raised outraged objections, and BCUC Chair Robert Hobbs said that he would rule on the admissibility of the new figures on Wednesday, March 1.

The change in capital cost financing structure has significant effects on the transmission charges to be paid by Hydro, as owner of the electricity to be carried. Since any change in financing assumptions for the VITR project would have to be matched by Sea Breeze, this move had the potential to undermine the economic viability of Sea Breeze's alternative.

### Ambushed!

On Wednesday, March 1, BCUC Chair Hobbs allowed the new evidence, but not without severely chastising BCTC for introducing it at this point in the proceedings. He quoted Mr Landry: 'If Sea Breeze knew that this was going to be looked at from the perspective of 100% debt, would it have brought forward a competing proposal in this proceeding?' Commented Hobbs, 'The answer to that, obviously, has got to be 'No.'

He went on: 'And in that regard, I think BC Hydro had a responsibility to raise this earlier than they did. They ought to

have known that it was significant to Sea Breeze ... I think they had a responsibility beyond just consideration of their strategy in this proceeding with respect to a customer-funded project, that their obligation to ensure that Sea Breeze ... wasn't in a sense ambushed, as they currently claim that they have been.'

Hobbs went on to make it clear that in his opinion the responsibility for this change lay mainly, but not completely, with BC Hydro. He also criticized Sea Breeze for blindly following BCTC's assumptions: '...it concerns me that Sea Breeze didn't take further steps than they did.'

### What Could Sea Breeze Do?

After accepting the new financials, Hobbs outlined alternatives open to Sea Breeze: 'I think Sea Breeze now, given the comments made by Mr Landry, may very well withdraw their Certificate of Public Convenience and Necessity (CPCN) application. I'm going to add to that option the possibility, of Sea Breeze, seeking an Order for costs ... perhaps costs that go beyond those established by the Commission in the Intervenor Funding Guidelines.

'The second option that comes to mind for Sea Breeze would be to continue with their CPCN application. At that point they will have accepted the challenge, and I think that will then speak to the issue of costs.

'The third option that I can identify, and I'm not suggesting that this is a comprehensive list, is for them to continue to participate as an intervener with interests regarding the Juan de Fuca project, and withdraw the CPCN application. And in that context they may be entitled to intervener costs.'

### Confusion Reigned, Hearing Adjourned

Sea Breeze counsel Landry asked for time to make a decision. Hobbs gave him till 1:30pm and then a little longer, but eventually Sea Breeze chose the third option and withdrew their application. Landry commented, 'Sea Breeze and its financial backers are, however, very disappointed by this turn of events, and have asked me to express their concern that this could have a very negative effect on the climate for private investments in the electricity industry in British Columbia.' But, he said, Sea Breeze would continue to participate fully in the Hearing, and would present its technical panels.

Much discussion followed on how this would affect the scheduling of the next few weeks of the Hearing, and eventually it was adjourned until the morning of Friday, March 3 for motions, and to Monday, March 6 for evidence.

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Island Tides, Box 55, Pender Island, BC, Canada.

Phone: 250-629-3660. Fax: 250-629-3838.

Email: [islandtides@islandtides.com](mailto:islandtides@islandtides.com).

Website: <http://www.islandtides.com>

So far as the many other intervenors in the hearings are concerned, this comes perilously close to wasting their time. But some saw opportunities here too. Island Residents Against High Voltage Overhead Lines' (IRAHVOL) counsel David Austin: 'Mr. Chairman, from IRAHVOL's perspective, I think it's imperative that we hear from Sea Breeze's panel on the system benefits that their Juan de Fuca project can bring .... The reality is, a DC link with a converter station on Vancouver Island can bring system benefits, and we want to hear about that, and it's got nothing to do with just the DC link between White Rock and Vancouver Island. There will be a converter station on Vancouver Island with respect to Juan de Fuca, and that brings in the whole area of system benefits and system planning, and we definitely want to hear about that, and we definitely want to cross-examine to that respect. Thank you.'

### **Scope of Current Hearing**

BCUC's hearing structure, and list of issues was, and still is, ambitious, taking into account factors which BCUC had not considered in previous proposals, such as socioeconomic impacts of the various project options 'including safety, reliability, health, aesthetic, recreation, habitat, First Nations, and construction impacts'. This comes close to considering some of the items which would normally be included in an environmental review of the projects. Yet, despite these expanded terms of reference, this hearing process has been questioned because of BCUC's limited mandate to consider environmental factors.

### **Commentary**

BC Hydro has treated both BCUC and the numerous

intervenors with some degree of contempt. It is difficult to escape the impression that BC Hydro changed the financial ground rules for the project at this late date deliberately to put Sea Breeze at a disadvantage. Hydro's traditional capital structure has been in the neighbourhood of 71% debt, 28% equity. Why would this particular project warrant 100% debt financing? This late change has not so far been adequately explained. Such tactics suggest that either the provincial government has failed to achieve control of BC Hydro or, more alarmingly, that it has. BCUC, the meat in the regulatory sandwich, is clearly trying hard to achieve both procedural fairness and a good ratepayer outcome. But in the final analysis, the commission had little choice but to accept the change in VITR's financing.

With provincial government policy clearly encouraging privatization of electricity infrastructure, BCUC had taken the unprecedented step of setting up a head-to-head competition between two alternative proposals with the same purpose: supply additional electricity to Vancouver Island. The proposals differed financially, technically, in route, in environmental impacts, and socio-economically. BCTC's plans must be characterized as more traditional than innovative.

Sea Breeze, for its part, has no track record in carrying out any project similar to those for which it has so far sought approval—be they wind power generation or power transmission schemes. It has, however, made a number of innovative and ambitious proposals.

It may be significant that the only apparent alternative to BCTC was the untried but entrepreneurial Sea Breeze. 