

BC UTILITIES COMMISSION BANKROLLS NEW RESIDENTIAL INTERVENER GROUP WHILE INCREASING ITS OWN STAFF

Earlier this month the BC Utilities Commission announced that it had chosen Midgard Consulting develop a residential consumer intervenor group to “represent the interests” of residential ratepayers in the Commission’s hearings respecting energy utilities.¹ This unusual arrangement is funded through a three-year contract for \$655,000, which is being funded from the levies charged to the regulated energy utilities.

In its media announcement the BCUC did not provide a specific reason for the decision to create another intervenor interest group. In its application to intervene in the current review of BC Hydro’s 2022 rate increase, Midgard Consulting said the BCUC considered it to be in the public interest to “vigilantly” protect residential ratepayer interests in BCUC matters.² The specific areas of interest include:

1. Economic considerations with a view to minimizing costs while seeking commercially reasonable and safe performance,
2. Technological innovation opportunities but striving to avoid stranded costs,
3. Evidence-based decision making with measurable targets, and
4. Seeking to avoid potential overlaps with other intervenor groups that share similar interests and mandate as ourselves.

What is not explained is how the new BCUC-funded intervenor group will avoid overlap with the Commission’s own staff in seeking to balance the applicant’s interest with the interest of the ratepayer groups, and with public interest.

Many Interveners Represent Special Interests: What About the Public Interest?

The BCUC generally assesses requests for rate changes or other requests in a public forum where approved interveners participate by seeking information or presenting evidence. Most interveners make final arguments in support or in opposition to the request (and receive reimbursement for some of their costs from the BCUC³).

Many of the interveners represent consumer groups, or special interests. For example, the current BC Hydro request for a 1.16% rate increase for the coming year has 13 interveners registered, including the BCUC-sponsored residential consumer group. Five

¹ <https://www.bcuc.com/documents/newsrelease/2021-01-14-News-Release-BCUC-Residential-Ratepayer-Group.pdf>

² https://www.bcuc.com/Documents/Proceedings/2021/DOC_60537_C8-1-RCIG-Request-to-Intervene.pdf

³ <https://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/179994/index.do>

of the interveners represent consumer groups, including the commercial business group and the large industrial (forestry, mining, and oil/gas) users. Five of the interveners represent special interest groups, such as a major employee union, clean energy producers and a group representing the aged and the poor. The balance of the interveners were unaligned.

The BCUC seems to believe that an intervener representing the residential ratepayers would add value in the competition among the various interests. This philosophical approach seems to assume that the public interest will emerge from the competition between the special interests.

With the large reliance on regulatory/deferral accounting, which tends to increase BC Hydro's debt, perhaps the BCUC should have funded an intervener to represent future generations of ratepayers.⁴

The Role of the BC Utilities Commission

The BCUC is an agency of the provincial government which regulates and approves pricing changes for public and investor-owned energy utilities, and for the compulsory Basic auto insurance provided by ICBC. It is the BCUC's role to balance the interests of customers with the interests of the businesses it regulates. The BCUC states that its mission is to "ensure that ratepayers receive safe, reliable and non-discriminatory energy services at fair rates ..., and that shareholders of those utilities are afforded a reasonable opportunity to earn a fair return on their invested capital."⁵

The BCUC carries out "fair and transparent reviews of matters within its jurisdiction and considers public input where public interest is impacted."⁶ A fundamental role of the regulator is to protect the public by ensuring that monopoly pricing power is not abused.

While the BCUC has independence in regulating most of the energy utilities, this has not been the case with BC Hydro. From 2012 to 2019, the provincial government exercised detailed direction over the Commission with respect to BC Hydro's finances and annual rate changes. For the 2020 and 2021 rate years the NDP government restored most of the BCUC's authority to regulate BC Hydro. However, the government ordered the BCUC to approve a specific net income (the return on equity) for 2020 and 2021, and disallowed the Commission from initiating changes to the relative share of the costs

⁴ For the last decade BC Hydro's net regulatory assets balance has represented most (or all) of its equity. The ratio is far higher than other regulated power utilities North America; see p. 2 in https://www.bcpolicyperspectives.com/media/attachments/view/doc/commentary_bc_hydro_q2_report_28_december_r_2020/pdf/commentary_bc_hydro_q2_report_28_december_2020.pdf

⁵ <https://www.bcuc.com/Documents/ServicePlans/2019/2019-07-15-Business-Plan-2019-2022-External-Signed.pdf> p. 1.

⁶ <https://www.bcuc.com/documents/newsrelease/2021-01-14-News-Release-BCUC-Residential-Ratepayer-Group.pdf>

between the three main consumer classes (Residential, Business and Light Industrial and Heavy Industrial).

BCUC Prohibited from Rebalancing Revenue Ratios between Major Consumer Classes

The BCUC has funded an intervener to represent the residential consumers, but it can only adjust BC Hydro rates generally. The current government has legislatively prohibited the regulator from initiating adjustments between the major consumer classes to better align the revenue to the actual costs of service.⁷

The BCUC was aware that it was legislatively prohibited from rebalancing the revenue to cost ratio between the customer classes before it initiated the three year contract, yet it chose to proceed to create another special interest intervener. One might fairly ask how the Residential class of ratepayers has been disadvantaged to date while lacking a specific intervener champion. The data shows that the Residential class is paying less than the cost, while the Commercial and Light Industrial class is may more.⁸

Also, how will the BCUC-funded intervener add value to the process when the in-house analytical capability of the Commission has grown significantly in recent years.

BCUC has Significantly Increased its Spending and Staffing

Most of BCUC's costs are recovered by way of a levy assessed on each regulated utility, based on the amount of energy the utility sold in the previous calendar year. Entities that do not sell power, such as ICBC, are billed according to a set rate. Recoveries are also collected from common carriers, purchasers, and processors. In 2016/17, which was the last year that the BCUC reported the numbers, approximately 79% of the BCUC revenue came from BC Hydro (34%), FortisBC electric and gas (36%) and ICBC (9%).

In the two years from 2016/17 to 2018/19, the Commission's actual expenditures rose by 39%, and the number of staff increased by 44%, as shown below (\$=million). The 2019/20 planned expenditure of \$14.6 million are from the BCUC's 2019/20 to 2021/22 business plan. Major inquiries, such as the 2017 Site C review, are funded separately.

⁷ https://www.bcuc.com/Documents/Proceedings/2020/DOC_60299_B-2-BCH-F22-RRA-Application.pdf p. 2-5. Currently, Residential customers are paying less than their fair share while Commercial and Light Industrial are paying significantly more. A realignment would increase the price of electricity for 1.86 million Residential accounts, which would likely cause political problems for the government.

⁸ Residential customers are covering approximately 90.8% of the cost of serving them. Commercial customers are paying as much as 123.5% of their cost of service and industrial customers are just over or under 100%; see https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/electricity-alternative-energy/electricity/bc-hydro-review/final_report_desktop_bc_hydro_review_v04_feb12_237pm-r2.pdf p. 19.

BCUC THREE YEAR GROWTH IN EXPENDITURES and 2019/20 PLAN

	A2016/17	A2018/19	Difference	Per Cent	P2019/20
Salaries & Benefits	4,744.9	6,749.4	2,004.5	42.2	--
Operating Costs	2,215.4	3,027.7	812.3	36.7	--
Professional Services	1,068.1	1,371.9	303.8	28.4	--
TOTAL	8,028.5	11,149.1	3,120.6	38.9	14,169.3
FTE staff	43	62	19	44.0	--

Source: BCUC annual reports and the 2019/20 to 2021/22 business plan.

Has the workload increased to justify such a growth in the Commission's spending and organizational capacity?

The rate review applications for BC Hydro, FortisBC and ICBC can consume a good deal of BCUC's staff time (as well as the staff of the applicant), as the Commission generally approaches each application as requiring an in depth review of most aspects the entity's operations. But the time and degree of effort can be lessened if the rate period (the test period) is greater than one year. Also, until recently the provincial government has severely limited the BCUC's discretion in approving rate increases for BC Hydro and the monopoly program of ICBC.

Since 2014, FortisBC electricity and gas utilities have been operating under a five-year formula system (performance-based ratemaking), where a target return on equity is established and additional gains are shared with the customers. This lessens the workload of the BCUC and the regulated entity. The BCUC has been exploring the possibility of a formula approach to setting rates for BC Hydro and lengthening the test period to perhaps three or more years. A formulistic approach may not be suitable for an entity where the government is the shareholder, as there is a possibility that the private sector incentives to increase the return on equity do not apply (or could be seen as a backdoor tax).

For the ICBC reviews, the government has ordered the Commission to make a quick decision as to the redesign of the Basic rates in 2018, and to conclude the 2019 rate review after only one round of questions. In February 2020, cabinet ordered the Commission to approve the 2020 Basic rates without any hearing process.⁹ More recently, cabinet ordered the Commission to approve the new no-fault premium infrastructure which takes effect on 1 May 2021.

It appears that while the BCUC has been allowed to increase its staffing and expenditures, it has experienced a lessening in its workload for reviewing rate changes for the major power utilities and for ICBC, or is reviewing how to make the BC Hydro rate review process more efficient.

⁹ OIC 47/20 of February 6, 2020.

Less Accountability

A major benefit of the BCUC is its ability to hold major power utilities (and part of ICBC) to account through a public process. This is important where the Commission and the interveners can delve more deeply into various aspects of the operation of these regulated entities, except when the government orders a specific outcome (as occurred last year with ICBC's 2020 rate request).

Given this role to enhance accountability of the regulated entities to the public, it is surprising to discover that despite the large increase in staff and expenditures in recent years the Commission has become less accountable. For example, the last annual report posted to its web site was for 2018/19, while the last three-year business plan was posted for 2019/20 to 2021/22. The BCUC has not provided a summary of its revenue from each regulated entity since 2016/17.¹⁰ This is a poor track record for the BCUC.

Who is responsible for holding the BCUC accountable? With the recent rapid growth in its expenditures, it is important that it been seen to provide value for money.

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¹⁰ <https://www.bcuc.com/about/annual-reports-business-plans-performance-measures.html> BC Hydro reported that for 2019/20 it paid the BCUC \$5.17 million; see <https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/accountability-reports/financial-reports/annual-reports/BCHydro-FIA-F20.pdf> p. 158.

