

BC CABINET AGAIN RESTRICTS INDEPENDENCE OF REGULATOR: Will AUDITOR GENERAL REACT?

In the summer of 2017, former BC Auditor General Carol Bellringer cited the lack of an independent regulator to oversee BC Hydro's regulatory accounting to qualify the province's public accounts for 2016/17.¹ She noted that prescriptive cabinet orders effectively transferred authority to set electricity rates to the government, rather than the regulator as required by Generally Accepted Accounting Principles (GAAP).

Bellringer's actions highlighted the fact that the Liberal government had been directing BC Hydro's finances for many years, including specifying the annual price change and the annual net income. The implication of her opinion was the loss of BC Hydro's deferral (regulatory) accounts which would have resulted in higher rates or the elimination of practically all of BC Hydro's equity.

Ms Bellringer repeated the qualification of the accounting practices at BC Hydro for the 2017/18 fiscal year.

NDP Effects Some Reforms

In the fall of 2018, the new NDP government rescinded the regulation that allowed BC Hydro to avoid using national public sector accounting principles, and wound up the highly suspect Rate Smoothing Regulatory Account.

On 14 February 2019, the government released the results of the review of senior officials into the finances of B.C. Hydro.² The report promised enhanced regulatory oversight over BC Hydro by the BC Utilities Commission (BCUC), the government rescinded the highly prescriptive Direction 7 to the BCUC and reduced the restrictions on the BCUC's rate setting authority.

While the government relaxed many of the prescriptive aspects of the former control model, it still required the BCUC to set the 2019/20 and 2020/21 rates to generate an annual net income of \$712 million. It stated that this requirement will be removed starting in 2021. The auditor general has accepted this pledge to fully restore the rate-

¹ <https://vancouversun.com/opinion/columnists/vaughn-palmer-bellringer-anxious-to-plug-into-b-c-hydros-accounts>

² 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

setting independence of the BCUC and lifted the qualification of the government's 2019/20 financial statements.

In her explanation of her opinion on the 2018/19 statements Ms Bellringer stated that her withdrawal of the qualification was based on the promised independent “framework” for the BCUC; “Government’s plans provide for an appropriate regulatory framework, and allow BCUC to provide the scrutiny and authority required by the accounting standards.”³ Later in the document she again referred to the planned independence of the regulator: “With these changes in government regulation and direction, the removal of the RSRA, and government’s commitment to restore the authority of the BCUC, we agree with government’s assessment that BC Hydro’s use of rate-regulated accounting is now appropriately reflected in the SFS [summary financial statements], and have therefore removed our qualification for this year.”⁴

The Slide Back

In March 2021, the government began to renege on its understanding with the now former auditor general (Bellringer resigned in September 2019). By OIC 172/21 it extended the requirement that the BCUC set rates in order to generate a net income of \$712 million for an additional two years until fiscal year 2022/23. It was assumed that the BCUC would then re-assume the discretion to set the net income target for BC Hydro.

BC Hydro’s rate request submission (31 August 2021) for the three-year period 2022/23 to 2024/25 asked the BCUC to hold in abeyance any decision on the net income for the last two years pending a review of an appropriate return on equity (ROE). Given that the large variety of deferral accounts results in a low-risk operation, it was quite possible that the BCUC would have lowered the ROE/net income for the future years.

This option was precluded on 7 March 2022 when OIC 123/22 extended the \$712 million net income target for two additional years until 2024/25. So, while the government appeared to accept the recommendation of the first phase of the Comprehensive Review of BC Hydro that the determination of the net income target be restored to the BCUC commencing in fiscal year 2022/23, in fact it has ignored this earlier undertaking.

BCUC Ordered to Approve New Deferral Accounts

Another example of the government reverting to the prescriptive management approach to the finances of BC Hydro is the recent order (OIC 355/22 of June 27, 2022) which requires the BCUC to approve a new low carbon electrification and load attraction

³ https://www.bcauditor.com/sites/default/files/publications/reports/OAGBC_ROT0-2018-19_RPT.pdf

⁴ Ibid., p 11.

regulatory account.⁵ BC Hydro anticipates that these new programs will result in increased electricity sales, but this remains speculative. By approving the regulatory account BC Hydro can defer the difference between the planned and actual sales to achieve the planned net income and keep rates low.

This latest incursion into the discretionary authority of the BCUC is a further example of how the current government has adopted many of the traits of its predecessor in bypassing the nominally independent third-party regulator.

Will This Re-Assertion of Cabinet Control Result in Another Audit Qualification?

To date, the new Auditor General, Michael Pickup, has not shown any willingness to challenge the government over its reversal of the implied promise to restore to the BCUC its discretion to set rates for BC Hydro, including the appropriate return on equity/net income.

It is difficult to assert that the BCUC is an independent third-party regulator, as required by the principles of rate-regulated accounting, when it cannot determine the appropriate net income target for a fiscal period.

The latest directive to the BCUC just reinforces the fact that the government continues to exercise detailed control over BC Hydro's finances. Perhaps this latest example will be enough for Mr. Pickup to provide a qualification on the government's financial statements?

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⁵ https://docs.bcuc.com/Documents/Proceedings/2022/DOC_67050_B-25-BCH-OIC355-Direction.pdf