

February 12, 2008

Mr. Bob Elton
President and Chief Executive Officer
BC Hydro
333 Dunsmuir Street
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RE: TENDER EVALUATION PROCESS FOR 2008 CLEAN ENERGY CALL

We understand from the BC Hydro website that you are in the process of determining the terms of the procurement process for a 2008 Clean Energy Call, and are writing to provide you with input with respect to the Draft Procurement Process Term Sheet.

Our organizations represent thousands of citizens of British Columbia who are concerned about the land use, fish, wildlife and other environmental impacts of energy developments. There is a growing surge of private energy proposals in British Columbia, and we recognize that there are some potentially significant environmental impacts associated with some of the proposed projects that detract from what otherwise might seem to be 'clean' or 'green' power. For example, some proposed projects affect threatened and endangered species, prime fisheries watersheds, and some even propose to dismantle portions of BC's protected areas and provincial parks.

We recognize that other regulatory agencies are primarily responsible for these issues. However, we believe they are also directly relevant to BC Hydro's decision-making process when evaluating tenders received in response to the upcoming Clean Power Call. These issues have been considered by BC Hydro to some degree in the past, as evident in the Call for Tenders for the 2006 Open Call for Power. In particular, the evaluation of regulatory and performance risk factors in the tender assessment and evaluation process under that Call considered the status of proposed projects as follows:

Project Status: The status of other matters impacting Development Risk and Performance Risk, including information concerning:

- Project development schedule;
- Site acquisition/control;
- Permits;
- Community consultation;
- First Nations consultation;
- Site services;
- Fuel (energy source) supply;
- GHG mitigation strategy (for Projects using fossil fuel);
- Pending litigation;
- Labour disputes;
- Such other matters pertaining to the Bidder or the Project as may, in BC Hydro's opinion, impact the *Development Risk* or the *Performance Risk*.¹

¹ BC Hydro F2006 Open Call for Power, Call For Tenders, 8 December 2005, pages 31-32.

We encourage BC Hydro to maintain this list of factors, and to develop it further in recognition of known issues. In particular, we would encourage you to consider the following when evaluating tenders in the upcoming Clean Energy Call:

- **Site acquisition/control:** Given the large number of proposals which depend upon public Crown land in BC, consideration of site acquisition and control factors should include a scale of factors: at the most secure end of the scale are projects where Land Act tenures are in place; next in line might be situations in which a Land Act tenure has been approved in principle, and an application to the Integrated Land Management Bureau is being processed. By contrast, there is much higher risk for energy projects that are in the early application stages and do not even have an environmental assessment certificate (for those that require them) or where there is no approval in principle for site tenures. At the highest end of the risk spectrum are projects that are illegal under current land use designations (such as a project that requires land in a legally protected provincial park or protected area, or are otherwise not legally permissible under existing land use plans and designations (e.g. old growth management areas, conservancies, wildlife habitat areas, etc.). At the very least, tenders that require changes to laws, regulations or ministerial orders in order to be legal should not pass the evaluation process.
- **Permits:** There are a host of permits and approvals required for energy projects, and projects over 50 MW require a provincial environmental assessment certificate. Our review of environmental assessment certificates shows that in some cases, major issues such as minimum instream flows and key wildlife impacts are not always resolved at the certificate issuance stage, but are deferred to future monitoring and licensing decisions. At the most secure end of the risk scale are projects which have the key permits in place, and if required, an environmental assessment certificate provincially and federal approvals. At the least secure end of the risk spectrum are projects that have no approvals in place and do not have a provincial environmental assessment certificate or the required federal approvals. Highest risk among these would be projects without approvals which face well-known, significant hurdles: for example, projects affecting major fish streams, critical wildlife habitat, or protected areas that are in the early phase of application and for which government agency concerns are demonstrable. At a minimum, projects that do not have an environmental assessment certificate should not pass the evaluation process.
- **Community Consultation:** We are pleased to see this as a factor that BC Hydro considers in evaluating tenders. While there may be situations in which there has been no community consultation whatsoever, these will probably be rare. The key risk factor here is the community response and support for the project. Low risk would be situations in which there is little to no reasonable opposition to a project. Medium risk would be projects that face some controversy, but mixed response from the community. High risk would be those projects that face significant opposition from interested community groups and local government representatives.
- **First Nations Consultation:** We would not purport to speak for First Nations on this issue, but clearly, given the significance of unresolved Aboriginal rights and title issues in British Columbia, and the numerous legal cases defining those rights and duties of consultation and accommodation, First Nations opposition to a project in areas without treaty that are grounded in Aboriginal rights or lack of meaningful consultation are high risk. Some of these factors may be outside the control of the tender bidder, as the courts have held that consultation obligations reside with the provincial and federal Crown.

Nevertheless, these are real risks to ultimate approval of an energy project, and BC Hydro should recognize First Nations opposition as an important factor in risk assessment.

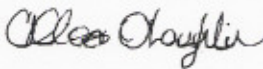
- **Cumulative Risk:** While each of the above factors represents risk to the viability of a proposed project or the probability that it will be able to deliver power within contractual time limits, the cumulative effect of each of them also requires evaluation. For example, a medium risk rating on numerous factors may really mean that a project represents high risk. It could have a low likelihood of being completed at all, let alone within a meaningful time frame. For example, a project that is inconsistent with current land use designations, that does not have an environmental assessment certificate, that faces numerous environmental challenges due to location and regulatory agency evaluation, that cannot clearly demonstrate community, local government and First Nations support, all of which are likely to take considerable time to resolve, should not pass the tender evaluation process. It would not be prudent to require a 'high risk' rating on every risk factor in order to reject a tender. It would be better for BC Hydro to consider projects facing cumulative risks in a future call.

We encourage BC Hydro take a broad view of what is considered clean and green energy. British Columbians strongly endorse a breadth of environmental values, including fish, wildlife, endangered species, and they cherish their hard won parks and protected areas. They also expect enlightened corporate governance from Crown corporations such as BC Hydro. It would be incorrect and overly simplistic to suggest that when it comes to energy development, British Columbians are solely concerned with the important question of greenhouse gas emissions. We are beginning to see that just as there may be very good opportunities for clean power, there are also some very poor proposals that pose high risk to environmental values.

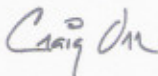
By encouraging the involvement of community stewards in the development of a number of Water Use Plans, BC Hydro has acquired an enviable record as a Crown Corporation that listens to community partners and responds to environmental and social concerns. We feel it is important for BC Hydro to carry this record into power acquisition decisions also.

Thank you for considering our input. We would appreciate a written response to these comments and to be advised when your Call For Tenders for 2008 is finalized and publicly available. We would also appreciate it if you could advise what opportunities for public input there will be in the tender evaluation process.

Yours truly,



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