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Reply Attention of:	R. Brian Wallace
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Our File:	03-3899
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BY COURIER AND E-MAIL

British Columbia Utilities Commission
Box 250
600 - 900 Howe Street
Vancouver BC V6Z 2N3

Attention: Robert Pellatt, Commission Secretary

Dear Sirs/Mesdames:

Re: BC Hydro and Power Authority Call for Tenders for Capacity and Associated Energy on Vancouver Island

We refer to the letter of Mr. Richard Stout on behalf of BC Hydro dated January 7, 2004.

We take strong exception to the statement by Mr. Stout that BC Hydro's process "addresses the issues of natural justice raised by Mr. Wallace, and in particular the need to provide interested parties with meaningful opportunities to be heard". It is our view that natural justice requires something more than the opportunity to address comments to those with opposing views. Natural justice requires an opportunity to address the decision maker directly in a fair and open process. That opportunity does not exist in BC Hydro's process.

What BC Hydro has implemented is a carefully controlled process in which comments are directed to BC Hydro, in many ways an adverse party, in a form and in a manner dictated solely by BC Hydro. The comments are then replied to by BC Hydro, and passed on to the Utilities Commission for a decision to be rendered prior to a "deadline", again set by BC Hydro. None of the safeguards associated with a fair hearing and the provision of natural justice that would normally be implemented prior to approval of an application of this magnitude are in place.

- There has not been an application;
- There have not been information requests by the staff or non-Bidder stakeholders (who will ultimately pay for the power);
- There has not been an opportunity to test BC Hydro's proposals under oath and in the presence of the decision maker, or to call evidence to express contrary points of view; and



- There has not been an opportunity for Bidders to make submissions directly to the decision maker or for any stakeholders to respond to questions from the decision maker.

The end result of these failures is that if BC Hydro's proposed procedures are followed and approval granted on January 23, 2004 as requested, there will not be a decision by this Commission based on full exploration of the issues on their merits.

The approval that BC Hydro is apparently seeking will ultimately lead to approval for the construction of facilities valued in the hundreds of millions of dollars and/or purchase agreements that are likely to amount to the billions of dollars over their life. The approval process undertaken by this Commission should reflect the importance of the decision it is being asked to make.

On two occasions Mr. Stout suggests that the Commission has approved BC Hydro's process. We are not aware of any decision by the Commission approving the processes implemented by BC Hydro, and indeed, would be very concerned if such approval has been given without consultation with any party other than BC Hydro. To the best of our knowledge all that has happened to this point is that BC Hydro has unilaterally set out its desired process but has not applied to the Commission for approval of that process. However, in light of BC Hydro's statement that the Commission has approved its process, we request the Commission clarify what applications it has received from BC Hydro in this matter and what approvals it has given as soon as possible.

Yours truly,

Bull, Housser & Tupper

Original signed by

R. Brian Wallace

RBW/sg/1169671