



LETTER NO. L-18-04

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VIA FACSIMILE / E-MAIL

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March 31, 2004

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Dear «Name2»:

Re: British Columbia Utilities Commission
Certificate of Public Convenience and Necessity ("CPCN") Application Guidelines

Please find enclosed the British Columbia Utilities Commission's CPCN Application Guidelines, and Order No. G-28-04 which cancels Commission Order No. G-133-99 and the CPCN Application Requirements that previously were in effect.

Draft CPCN Application Guidelines were distributed to public utilities and other interested parties for comment by Letter No. L-4-04 dated January 28, 2004. The Commission appreciates the helpful comments that were provided by a number of parties, and has revised the CPCN Application Guidelines in response to these comments.

The purpose of the CPCN Application Guidelines is to assist public utilities and other parties wishing to construct utility facilities in their preparation of CPCN applications so that the review of the applications can proceed as efficiently as possible. Future CPCN applications should be prepared in accordance with the Guidelines.

Yours truly,

Original signed by:

Robert J. Pellatt

JBW/cms
Enclosure

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British Columbia Utilities Commission

Certificates of Public Convenience and Necessity CPCN Application Guidelines

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PURPOSE AND SCOPE OF CPCN APPLICATION GUIDELINES

Section 45 (1) of the Utilities Commission Act (“UCA”) states:

Except as otherwise provided, after September 11, 1980, a person must not begin the construction or operation of a public utility plant or system, or an extension of either, without first obtaining from the commission a certificate that public convenience and necessity require or will require the construction or operation.

Section 46 (1) of the UCA states:

An applicant for a certificate of public convenience and necessity must file with the commission information, material, evidence and documents that the commission prescribes.

The purpose of the CPCN Application Guidelines is to assist public utilities and other parties wishing to construct or operate utility facilities in their preparation of CPCN applications for such facilities so that the review of the applications can proceed as efficiently as possible. The Commission expects that CPCN applications will be prepared in accordance with the CPCN Application Guidelines.

The scope of the information requirement for a specific application will depend on the nature of the project and the issues that it raises. Project proponents are encouraged to initiate discussions with appropriate government agencies and the public very early in the project planning stage in order to obtain an appreciation of the issues to be addressed prior to the filing of the application.

CPCN Applications may be supported by resource plans and/or action plans prepared pursuant to the Resource Planning Guidelines issued in December 2003. The resource plan and/or action plans may deal with significant aspects of project justification, particularly the need for the project and the assessment of the costs and benefits of the project and alternatives.

The CPCN Applications Guidelines do not alter the fundamental regulatory relationship between utilities and the Commission. They provide general guidance regarding Commission expectations of the information that should be included in CPCN applications, while providing the flexibility for an application to reflect the specific circumstances of the utility and the size and nature of the project. The Commission may make further directions regarding information to be included in specific CPCN

applications, and will generally require utilities to provide further information to supplement the material in filed applications.

DEEMED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Sections 45 (2), 45 (5) and 45 (6) of the UCA state:

(2) For the purposes of subsection (1), a public utility that is operating a public utility plant or system on September 11, 1980 is deemed to have received a certificate of public convenience and necessity, authorizing it

(a) to operate the plant or system, and

(b) subject to subsection (5), to construct and operate extensions to the plant or system.

(5) If it appears to the commission that a public utility should, before constructing or operating an extension to a utility plant or system, apply for a separate certificate of public convenience and necessity, the commission may, not later than 30 days after construction of the extension is begun, order that subsection (2) does not apply in respect of the construction or operation of the extension.

(6) A public utility must file with the commission at least once each year a statement in a form prescribed by the commission of the extensions to its facilities that it plans to construct.

In order that it can evaluate whether a public utility should apply for a CPCN for a specific extension to utility plant or systems, the Commission needs to be aware of planned extensions that are significant. This information is provided in the statement of planned extensions that a utility is required to file at least once a year.

The statement should be filed in a timely fashion and should identify each discrete extension to utility plant or systems that may have a material impact on customer rates or that may raise some other significant issue. The statement should include all significant expansions or modifications to facilities or other assets that the utility is likely to initiate over the period until the filing of the next statement on extensions. A utility should inform the Commission in the event that it plans to initiate a significant new project that was not identified in its most recent statement on extensions.

The Commission may provide specific directions to a utility regarding its statement on extensions. In some cases, with the approval of the Commission, a resource plan and related capital expenditures action plan filed pursuant to Subsection 45(6.1)(a) of the UCA may meet the requirements of Section 45(6) providing it is filed prior to the start of construction of the extensions or modifications. Also, the Commission may establish criteria for projects that a utility needs to identify in its statement of extensions, including factors such as the amount of capital expenditure and the potential impact on the public. The Commission may also establish project thresholds that may relate to size, production capacity or type that will determine CPCN application requirements for each utility. Projects that fall outside the scope of the specified criteria would generally not require a CPCN application, although the expenditure may require Commission approval pursuant to Subsection 45(6.2)(b) or in a revenue requirements decision or settlement.

CPCN APPLICATION PROCEDURES

An application for a CPCN, pursuant to Sections 45 and 46 of the Utilities Commission Act, will be made to the Secretary, British Columbia Utilities Commission.

Applications are to be filed in accordance with the Commission's Document Filing Protocols. An electronic copy and 20 hard copies of the completed signed application should be submitted.

Applications are normally considered public documents and will be made public, except where special circumstances require confidentiality.

The filed application is initially reviewed by the Commission for possible deficiencies, and this will normally generate an Information Request for response by the Applicant. Once the additional information is received, the application is reviewed by the Commission in the context of project justification, issues and concerns raised, as well as general project suitability. When necessary, the Commission may establish a Regulatory Agenda if further review of the application is required. The Commission will make a determination on disposition that will generally be one of the following options.

- (a) Grant a CPCN without further input from the Applicant or other interested parties.

- (b) Require further information from the Applicant.
- (c) Set down an oral or written public hearing.
- (d) Deny the application.

Approval of a CPCN application will result in a Commission Order to the Applicant embodying the Certificate of Public Convenience and Necessity. This Order may contain terms and conditions which the Commission believes are necessary to protect the public interest.

For further information, contact:

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CPCN APPLICATION GUIDELINES

A CPCN application under Sections 45 and 46 of the UCA should contain the following information:

1. **Applicant**

- (i) the name, address and nature of business of the Applicant and all other persons having a direct interest in the ownership or management of the project;
- (ii) evidence of the financial and technical capacity of the Applicant and other persons involved, if any, to undertake and operate the project;
- (iii) the name, title and address of the person with whom communication should be made respecting the Application; and
- (iv) the name and address of legal counsel for the Applicant, if any.

2. **Project Description**

- (i) a description of the project, its purpose and cost, including engineering design, capacity, location options and preference, as well as all ancillary or related facilities that are proposed to be constructed, owned or operated by the Applicant;
- (ii) an outline of the anticipated timetable for construction and operation, together with dates by which critical events, including approvals required from other agencies, must take place to ensure continued economic viability;
- (iii) a description of any new or expanded public works, undertakings or infrastructure that will be entailed by the project, together with an estimate of the costs and necessary completion dates;

- (iv) identification and preliminary assessment of any impacts by the project on the physical, biological and social environments or on the public, including First Nations; proposals for reducing negative impacts and obtaining the maximum benefits from positive impacts; and the cost to the project of implementing the proposals; and
- (v) identification of the customers to be served by the project; and, where the project would expand the area served by the Applicant, a geographical description of the expanded service area.

3. Project Justification

- (i) studies or summary statements identifying the need for the project and confirming the technical, economic and financial feasibility of the project, identifying assumptions, sources of data, and alternatives considered (if applicable);
- (ii) a study comparing the costs, benefits and associated risks of the project and alternatives, which estimates the value of all of the costs and benefits of each option or, where not quantifiable, identifies the cost or benefit and states that it cannot be quantified;
- (iii) a statement identifying any significant risks to successful completion of the project; and
- (iv) a statement of the revenue requirement impact of the project and the resulting effect on the rates of customers; and
- (v) information relating the project to the Applicant's approved resource plan and action plan filed pursuant to Section 45(6.1) of the UCA, which may address some or all of the Project Justification requirements.

4. Public Consultation

- (i) a description of the Applicant's public information and consultation program, including the names of groups, agencies or individuals consulted, as well as a summary of the issues and concerns discussed, mitigation proposals explored, decisions taken, and items to be resolved.

5. Additional Requirements for New Service Areas

- (i) the telephone number or other means by which customers will be able to contact the utility, particularly regarding an emergency;
- (ii) the facilities and trained personnel that will provide emergency response;
- (iii) the tariff including terms and conditions of service, rate schedules and initial rates that the Applicant proposes for customers in the new service area; and
- (iv) information confirming that the proposed rates will be competitive with other service options that are available to customers in the new service area.

6. Other Applications and Approvals

- (i) a list of all approvals, permits, licences or authorizations required under federal, provincial and municipal law; and
- (ii) a summary of the material conditions that are anticipated in the approvals and confirmation that the costs of complying with these conditions are included in the cost estimate in the Application.