



ORDER NUMBER
G-153-21

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Hemlock Utility Services Ltd.
Application to Change the Terms and Conditions
of Electric Tariff BCUC No. 1

BEFORE:

B. A. Magnan, Panel Chair

on May 21, 2021

ORDER

WHEREAS:

- A. On December 14, 2020, Hemlock Utility Services Ltd. (Hemlock) filed with the British Columbia Utilities Commission (BCUC) an application to revise Section 19 (Liability of the Company re: Service) of its Electric Tariff Terms and Conditions. Hemlock proposes to include further liability provisions with respect to its supply of electricity to customers (Application);
- B. By Order G-142-12 dated October 4, 2012, the BCUC approved Hemlock's Electric Tariff effective May 24, 2012;
- C. In the Application, Hemlock states the requested changes will provide improved legal protection against claims that may be detrimental to its ability to provide electricity to the Hemlock Valley Area;
- D. By Order G-20-21 dated January 20, 2021, the BCUC issued a regulatory timetable for review of the Application and established a public written comment submission process;
- E. By February 10, 2021, the BCUC received seven interested party registrations and fifteen letters of comment;
- F. By letter dated February 17, 2021, Hemlock filed its response to the letters of comment and submitted that the proposed revisions to Section 19 of Hemlock's Electric Tariff are intended to update the language and terms to align with those found within the British Columbia Hydro and Power Authority's Electric Tariff. Hemlock further provided a table of its annual reporting metrics to the BCUC, identifying various reasons for the unplanned outages for the period of May 2019 to April 2020;
- G. By Order G-56-21 dated March 1, 2021, the BCUC issued a further regulatory timetable, which included one round of information requests (IR);

- H. On April 7, 2021, Hemlock submitted public and confidential responses to BCUC IR No. 1; and
- I. The BCUC has reviewed the evidence and submissions and determines that approval of the Application is warranted.

NOW THEREFORE for the reasons attached as Appendix A to this order, the BCUC orders as follows:

1. Hemlock's revision to Section 19 of its Electric Tariff to include further liability provisions with respect to its supply of electricity to customers is approved.
2. Hemlock is directed to file with the BCUC the updated tariff pages reflecting the revision to Section 19 of its Electric Tariff within 30 days of the date of this order.
3. Hemlock is directed to file a renewed insurance policy reflecting the updated coverages for Hemlock's resort and utility operations within 30 days of the date of this order.
4. Hemlock is directed to implement, as soon as possible, a complaint logging process. Hemlock is also directed to develop a customer complaints guideline, which documents the complaint logging process, to ensure all customer complaints are addressed and resolved in a timely manner. All submitted complaints, including any actions taken, must be filed on a continued basis as part of Hemlock's regular annual reporting to the BCUC.
5. Hemlock is directed to file the customer complaints guideline within 60 days of the date of this order.
6. A copy of this order must be provided, electronically where possible, to all Hemlock residential customers.

DATED at the City of Vancouver, in the Province of British Columbia, this 21st day of May 2021.

BY ORDER



B. A. Magnan
Commissioner

Attachment

Hemlock Utility Services Ltd.
Application to Change the Terms and Conditions of Electric Tariff BCUC No. 1

REASONS FOR DECISION

Executive Summary

On December 14, 2020, Hemlock Utility Services Ltd. (Hemlock) filed with the British Columbia Utilities Commission (BCUC) an application to revise Section 19 (Liability of the Company re: Service) of its Electric Tariff Terms and Conditions (Application). In the Application, Hemlock seeks approval to include additional liability provisions relating to its supply of electricity to customers.

The Panel recognizes that the proposed changes to the Electric Tariff would allow Hemlock to secure adequate liability coverage, which is critical for the day to day operation of a public utility. Given the critical role of insurance for public utility operations, the Panel approves the proposed wording changes to Section 19 of Hemlock's Electric Tariff.

Through the review of the Application and evidence, the Panel identified a number of operational concerns. These concerns include the safety and reliability of Hemlock's electrical distribution system and system assets; Hemlock's alleged customer service-related issues; and Hemlock's request to modify the payment terms and other associated changes to its Electric Tariff. Accordingly, the Panel recommends that the BCUC initiate a separate proceeding to further investigate and address the above-noted issues.

1.0 Introduction

1.1 Application and Approvals Sought

On December 14, 2020, Hemlock Utility Services Ltd. (Hemlock) filed with the British Columbia Utilities Commission (BCUC) an application to revise Section 19 (Liability of the Company re: Service) of its Electric Tariff Terms and Conditions (Application).

As provided in the revised tariff pages of the Application, Hemlock proposes to include additional liability provisions to the Electric Tariff. Specifically, Hemlock is seeking approval of the requested changes to provide improved legal protection against insurance claims that may impact Hemlock's ability to supply electricity to its customers.¹

1.2 Regulatory Framework and Process

The BCUC reviewed the Application pursuant to sections 59 to 61 of the *Utilities Commission Act* (UCA).

Section 59 of the UCA requires that a public utility must not make, demand or receive an unjust, unreasonable, unduly discriminatory or unduly preferential rate for a service provided by it in British Columbia.²

¹ Exhibit B-1, p. 1.

² *Utilities Commission Act*, RSBC 1996, c 473, section 59.

Section 61(4) of the UCA provides that “a public utility may file with the commission a new schedule of rates that the utility considers to be made necessary by a change in the price, over which the utility has no effective control, required to be paid by the public utility for its gas supplies, other energy supplied to it, or expenses and taxes, and the new schedule may be put into effect by the public utility on receiving the approval of the commission.”³

By Order G-20-21 dated January 20, 2021, the BCUC issued a regulatory timetable for review of the Application. After a period of public written comment submissions, the BCUC issued a further regulatory timetable, which included one round of information requests.

The BCUC received seven interested party registrations and fifteen letters of comments from Hemlock customers.

2.0 Proposed Changes to Section 19 of Hemlock’s Electric Tariff

The following language has been proposed for the terms and conditions of Section 19 under Hemlock’s Electric Tariff:

[...]

The Company will endeavour to provide a regular and uninterrupted supply of Electricity but does not guarantee a constant supply of Electricity or the maintenance of unvaried frequency or voltage and will not be responsible or liable for any loss, injury, damage or expense caused by or resulting from any interruption, termination, failure or defect in the provision of Electricity, whether caused by the negligence of the Company, or its representatives or agents or otherwise, except to the extent that the loss, injury, damage or expense results directly from the wilful misconduct of the Company or its representatives or agents, provided, however, that neither the Company, nor any of its representatives or agents is responsible for any loss of profit, loss of revenue or other economic loss, even if the loss arises directly from the wilful misconduct of the Company or its representatives or agents.

The Company reserves the right to Terminate Service (including by Disconnection) at any time to prevent fraudulent use of Electricity, to protect its property, or to protect Service to other Customers, or if the Customer fails to comply with the terms of the tariff, or if the Company is ordered by a competent government authority to Terminate such Service. The Company may also temporarily Disconnect a Premises to make repairs or improvements to its electrical system or in the event of fire, flood or other sudden emergency. The Company will, whenever practicable, give notice of such Disconnection to the Customer and will restore Service as soon as reasonably possible. Neither the Company nor any of its representatives or agents will be liable for any loss, injury, damage or expense caused by or arising out of any such Disconnection.

Liability of Other Utilities

Service under the Electric Tariff is sometimes provided by the Company through the use of property and services provided by or shared with other utilities. It is a condition of Service that any loss or damages, direct or indirect, that the Customer may suffer by reason of any defect in Service under the Electric Tariff or any interruption in or failure to provide Service, whether or not caused by negligence, will not be recoverable from such other utilities, and that the

³ Ibid., section 61(4).

Customer will not take proceedings of any kind against any such utilities by reason of any defect in the Service or any interruption in or failure to provide Service to the Customer by the Company.⁴

The Panel notes that the proposed changes do not amend any previous language established under the Electric Tariff. Rather, the wording changes sought by Hemlock are direct additions to the liability terms and conditions under Section 19. As filed in the Application, Hemlock states that the liability provisions provide Hemlock with improved legal protection against insurance claims relating to the supply of electricity to customers.

3.0 BCUC Determination

In review of the regulatory process to date, the Panel notes that no parties requested to intervene in this proceeding. Letters of comment were submitted from parties opposing the proposed changes to the Electric Tariff stating that if approved, the changes to Hemlock's liability coverage would negatively impact Hemlock's responsibility in providing regular uninterrupted service. While the Panel does not dispute the points raised in the letters of comment, evidence brought forward in letters of comment are by their very nature untested, and therefore the Panel must weigh this evidence accordingly.

The Panel acknowledges Hemlock's position that the requested changes are intended to update its liability terms and conditions to better align with those found within the electric tariffs of British Columbia Hydro and Power Authority and other public utilities.^{5 6} The Panel also recognizes that the proposed changes to the Electric Tariff would allow Hemlock to secure adequate liability coverage, which is critical for the day to day operation of a public utility. Considering the critical role of adequate insurance for public utility operations, **the Panel approves the proposed additions to Section 19 of Hemlock's Electric Tariff. The Panel directs Hemlock to file with the BCUC, the updated tariff pages, within 30 days of the date of this order.**

In addition to the proposed changes to update its liability terms and conditions, Hemlock incorrectly included a proposed increase to its general service rates. The Panel notes that Hemlock subsequently filed a correction to the tariff pages, stating that the Application does not contemplate or propose an increase to the currently approved energy charge.⁷

With regards to customer complaints, Hemlock acknowledged that it had not historically logged complaints in the past. A public utility ought to log and respond to customer complaints in a timely manner. **The Panel therefore directs Hemlock to implement, as soon as possible, a complaint logging process to record all submitted complaints from customers. Hemlock is also directed to develop a customer complaints guideline, which documents the complaint logging process, to ensure that complaints are addressed and resolved in a timely manner. Hemlock is directed to file all submitted complaints on a continued basis, including any actions taken, as part of its annual reporting to the BCUC. Further, the Panel directs Hemlock to file with the BCUC a copy of the customer complaints guideline within 60 days of the date of this order.**

⁴ Exhibit B-2, Section 19, pdf pp. 9-11.

⁵ British Columbia Hydro and Power Authority, Electric Tariff, sections 9.5–9.6, pdf pp. 60–61. Retrieved from <https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/tariff-filings/electric-tariff/bchydro-electric-tariff.pdf>.

⁶ FortisBC Inc., Electric Tariff, Section 10.1, pdf p. 36. Retrieved from <https://fbcdotcomprod.blob.core.windows.net/libraries/docs/default-source/about-us-documents/regulatory-affairs-documents/electric-utility/fortisbcelectrictariff.pdf>.

⁷ Exhibit B-1-2, p. 1.

4.0 Operational Concerns

In review of the Application and evidence, the Panel identified a number of issues that warrant further investigation:

1. A number of customers have alleged frequent outages and service interruptions without sufficient notice. At this time, it is unclear how often routine maintenance is conducted on Hemlock's electric distribution system or its system assets. Given the concerns raised, a further evaluation of Hemlock's electric distribution system will be beneficial;
2. The absence of redundant power supply or backup generation assets presents increased risks to Hemlock's residential customers in the event of any service interruptions or outages;
3. Several customer service related issues appear to impact Hemlock's obligations as a service provider and public utility. Firstly, Hemlock have acknowledged the lack of a complaint logging process as a significant issue. Secondly, as noted in the letters of comment, customers are allegedly experiencing delayed receipt of invoices and issues with their billing; and
4. Hemlock has submitted that staffing challenges have resulted in billing delays and issues and has proposed further changes to its Terms and Conditions to address these issues identified through the letters of comments. Review of Hemlock's proposed changes will be subject to further application by Hemlock to the BCUC.

While the scope and purpose of the current proceeding are limited, the issues identified in the letters of comment could benefit from a more fulsome review. In particular the Panel recommends that the BCUC initiate a separate proceeding to (i) assess the safety and reliability of Hemlock's electrical distribution system and system assets; (ii) address Hemlock's alleged customer service related issues; and (iii) review Hemlock's proposal to modify the payment terms and other associated changes to its Electric Tariff.