



**ORDER NUMBER**  
**G-46-18**

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

and

O. Sigvaldason Application for Reconsideration and Variance of Order F-6-18  
in the matter of British Columbia Utilities Commission Inquiry Respecting Site C  
Application for Participant Assistance/Cost Awards

**BEFORE:**

D. M. Morton, Panel Chair/Commissioner  
D. A. Cote, Commissioner  
K. A. Keilty, Commissioner  
R. I. Mason, Commissioner

on February 28, 2018

**ORDER**

**WHEREAS:**

- A. On February 11, 2018, Mr. Oskar Sigvaldason filed a request with the British Columbia Utilities Commission (Commission) for re-assessment of the Commission's decision to deny Mr. Sigvaldason's application for a Participant Assistance/Cost Award (PACA) for his participation in the Site C Inquiry on the basis that the three arguments put forth by the Commission for not approving the requested payment are invalid (Reconsideration Application);
- B. On August 2, 2017, the Lieutenant Governor in Council (LGIC), by Order in Council (OIC) No. 244, requested the Commission, pursuant to section 5(1) of the *Utilities Commission Act*, to advise the LGIC respecting British Columbia Hydro and Power Authority's (BC Hydro) Site C project in accordance with the terms of reference set out in section 3 of OIC No. 244 (Site C Inquiry);
- C. On November 1, 2017, in accordance with section 3(g) of the terms of reference of OIC No. 244, the Commission submitted to the minister charged with the administration of the *Hydro and Power Authority Act* its final report on the Site C Inquiry;
- D. On January 19, 2018, the Commission issued Order F-6-18 and accompanying reasons for decision regarding the PACA applications submitted by various parties for their participation in the Site C Inquiry. The Commission, among other things, rejected Mr. Sigvaldason's PACA request of \$31,357.50; and
- E. The Commission has reviewed the Reconsideration Application and does not consider it to have established a *prima facie* case sufficient to warrant further consideration.

**NOW THEREFORE** pursuant to section 99 of the *Utilities Commission Act*, for the reasons attached as Appendix A to this order, the Commission orders that the Reconsideration Application fails to establish a *prima facie* case that an error has occurred and is dismissed.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 28<sup>th</sup> day of February 2018.

BY ORDER

*Original signed by:*

D. M. Morton  
Commissioner

Attachment

O. Sigvaldason Application for Reconsideration and Variance of Order F-6-18  
in the matter of British Columbia Utilities Commission Inquiry Respecting Site C  
Application for Participant Assistance/Cost Awards

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REASONS FOR DECISION

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**1.0 Background**

On August 2, 2017, the Lieutenant Governor in Council (LGIC), by Order in Council (OIC) No. 244, requested the British Columbia Utilities Commission (Commission), pursuant to section 5(1) of the *Utilities Commission Act* (UCA), to advise the LGIC respecting British Columbia Hydro and Power Authority's (BC Hydro) Site C project in accordance with the terms of reference set out in section 3 of OIC No. 244 (Site C Inquiry).

By Order G-120-17 dated August 9, 2017, the Commission established the regulatory timetable for the Site C Inquiry. The Commission directed that the Site C Inquiry would not include registered interveners, but members of the public were invited to make submissions of data and analysis and to provide comments, either in writing or orally during the Commission's public consultation process. The Commission further stated that Participant Assistance/Cost Awards (PACA) would be available to support parties for their participation in the Site C Inquiry, subject to the participant's eligibility under the current PACA guidelines set out in Order G-97-17.

On August 11, 2017, the Commission issued a letter establishing the process for PACA funding in the Site C Inquiry. Attached to the Commission's letter were PACA guidelines for the Site C Inquiry which were a modification of the Commission's existing PACA guidelines established by Order G-97-17 (Site C PACA Guidelines).

The Commission, in accordance with section 3(g) of the terms of reference of OIC No. 244, submitted to the minister charged with the administration of the *Hydro and Power Authority Act* its Final Report on November 1, 2017.

On January 19, 2018, the Commission issued Order F-6-18 and accompanying reasons for decision regarding the PACA applications submitted by various parties for their participation in the Site C Inquiry. The Commission, among other things, rejected Mr. Oskar Sigvaldason's PACA request of \$31,357.50. With regard to Mr. Sigvaldason's PACA application, the Commission stated the following:

The Panel finds that Mr. Sigvaldason did not contribute to a better understanding of the questions raised in the terms of reference of OIC No. 244 and the submissions did not assist the Panel in its findings in the Final Report. In the Panel's view, Mr. Sigvaldason's submissions were focused on planning considerations in the context of governmental policy both provincially and federally. These issues were outside the scope of the Site C Inquiry. Further, the presentation and explanatory notes submitted in Mr. Sigvaldason's October 10, 2017 submission were primarily related to the Trottier Energy Futures Project which the Panel did not find relevant when making its findings in the Final Report. **Accordingly, the Panel does not approve Mr. Sigvaldason's PACA application and directs that zero funding be awarded to this applicant.**<sup>1</sup>

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<sup>1</sup> Order F-6-18, Attachment A, pp. 7-8.

On February 11, 2018, Mr. Sigvaldason filed a request that the Commission's decision to deny Mr. Sigvaldason's PACA application for his participation in the Site C Inquiry be re-assessed on the basis that the three arguments put forth by the Commission for not approving the requested payment are invalid (Reconsideration Application).

Mr. Sigvaldason states the following:

We disagree with results of the assessment of the application for reimbursement for payment for Professional Services for Oskar Sigvaldason. We summarize the basis for this rejection on three arguments presented by the Panel of Commissioners, all of which we consider as being not valid.

Based on this, we are requesting that our application be re-assessed. We are also requesting that this re-assessment be carried out by appropriately qualified independent authorities, as the Panel of Commissioners is in a conflict of interest situation, real or perceived, with respect to rendering a fair and equitable judgement on our Application. In this regard, we are requesting that BC Hydro intervene directly in this process, to ensure that the process for re-assessment is fair, equitable and respectful, and free from actual or perceived bias.

## 2.0 Applicable law and Commission guidelines

Section 99 of the UCA provides:

The commission, on application or on its own motion, may reconsider a decision, an order, a rule or a regulation of the commission and may confirm, vary or rescind the decision, order, rule or regulation.

The Commission guidelines for reconsideration include the following:

If the utility or an intervenor believes the Commission made a significant error, they may raise the issue again for further scrutiny by way of a reconsideration or an appeal. It is important to realize, however, that an intervenor cannot have a decision reconsidered or appealed merely because he or she is unhappy with the result of the decision. Rather, the intervenor must be able to identify a specific error which the Commission made in arriving at its decision.

An application for reconsideration by the Commission proceeds in two phases. In the interests of both efficiency and fairness, and before the Commission proceeds with a determination on the merits of an application for reconsideration, the application undergoes an initial screening phase. In this phase, the applicant must establish a *prima facie* case sufficient to warrant full consideration by the Commission. The first phase, therefore, is a preliminary examination in which the application is assessed in light of some or all of the following questions:

- Should there be a reconsideration by the Commission?
- If there is to be a reconsideration, should the Commission hear new evidence and should parties be given the opportunity to present evidence?
- If there is to be a reconsideration, should it focus on the items from the application for reconsideration, a subset of these items or additional items?

The Commission generally applies the following criteria to determine whether or not a reasonable basis exists for allowing a reconsideration:

- The Commission has made an error in fact or law;

- There has been a fundamental change in circumstances or facts since the Decision;
- A basic principle had not been raised in the original proceedings; or
- A new principle has arisen as a result of the Decision.

Where an error is alleged to have been made, in order to advance to the second phase of the reconsideration process, the application must meet the following criteria:

- The claim of error is substantiated on a *prima facie* basis; and
- The error has significant material implications.

### 3.0 Panel determination

For the reasons set out below, the Panel finds that Mr. Sigvaldason's claims of error have not been substantiated on a *prima facie* basis; therefore, there is no basis to proceed to phase two of the reconsideration process. **Mr. Sigvaldason's request for reconsideration is denied.**

Mr. Sigvaldason asserts that the Commission erred in stating his submissions did not contribute to a better understanding of the questions raised in the Terms of Reference of OIC No. 244 and the submissions did not assist in the findings of the Final Report. Mr. Sigvaldason further states that he and his colleagues "did provide information which was authoritative and well-considered, and should have served as valuable input, for defining load projections and for assessing relative merits of competing alternatives to the Site C Hydro Project."

The Site C Inquiry Panel was tasked with providing responses to specific questions in the Terms of Reference of OIC No. 244, including: (i) whether or not the Site C project is currently on time and on budget; (ii) what the costs to ratepayers are of suspending and of terminating the project; and (iii) given the energy objectives set out in the *Clean Energy Act*, what, if any, other portfolio of commercially feasible generating projects and demand-side management initiatives could provide similar benefits to ratepayers at similar or lower unit energy costs as the Site C project.

While Mr. Sigvaldason's submissions may have generally touched on one or more of the questions posed in the terms of reference, none of the information provided was at a level of detail or specificity to assist the Panel in responding to the OIC questions. For instance, Mr. Sigvaldason in the Reconsideration Application states that his submissions provided specific information on the increasing demand for electricity and the importance of "ensuring that the planning for renewable generation supply is with full consideration of meeting energy demand, provision of dependable capacity, and overcoming operational constraints." However, none of the information in these submissions addressed how such developments would specifically impact BC Hydro's load forecast, how the considerations around Greenhouse Gas (GHG) mitigation measures are consistent/inconsistent with the energy objectives in the *Clean Energy Act* or the cost impacts of these considerations/developments on BC Hydro's ratepayers. Further, Mr. Sigvaldason's submissions provided no analysis of specific portfolios of alternative generating projects or their associated unit energy costs.

In the absence of such information, the Panel did not find Mr. Sigvaldason's submissions to contribute to a better understanding of the questions posed in the OIC; thus, the submissions did not assist the Panel in making its findings and accordingly were not referenced in the Final Report.

The Panel further disagrees with Mr. Sigvaldason's assertions that it fundamentally misunderstood the essence and the relevance of the submissions. The Panel reviewed Mr. Sigvaldason's submissions as it did all submissions in the Site C Inquiry, and considered the submissions not to be relevant in the context of responding to the

specific questions posed in OIC No. 244. While Mr. Sigvaldason may have attempted to further make the case for relevance in the Reconsideration Application, this does not have any bearing on the submissions which were provided by Mr. Sigvaldason at the time of the Site C Inquiry nor does it have bearing on whether the Site C Inquiry Panel, at the time of preparing the Final Report, found Mr. Sigvaldason's submissions to contribute to the Panel's understanding of the questions posed in the OIC.

Mr. Sigvaldason also asserts that the reconsideration be carried out by "appropriately qualified independent authorities, as the Panel of Commissioners is in a conflict of interest situation, real or perceived, with respect to rendering a fair and equitable judgement on our Application." Mr. Sigvaldason has further requested that BC Hydro "intervene directly in this process, to ensure that the process for re-assessment is fair, equitable and respectful, and free from actual or perceived bias."

The Panel disagrees with Mr. Sigvaldason's assertion that the Reconsideration Application be carried out by independent authorities. The Commission's Reconsideration Guidelines do not require a different Panel of Commissioners to review a reconsideration application, and it is common practice for the same Panel of Commissioners to be appointed to both the original application and the reconsideration application. It is particularly appropriate for the same Panel of Commissioners to preside over this Reconsideration Application, as no other individuals are in a position to assess whether Mr. Sigvaldason's submissions during the Site C Inquiry contributed to the Site C Panel's better understanding of the questions posed in OIC No. 244.

With regard to Mr. Sigvaldason's request for BC Hydro to intervene directly, the Panel notes that BC Hydro responded to Mr. Sigvaldason by letter dated February 20, 2018. BC Hydro reiterated its comments made in its December 18, 2017 letter providing comments on the PACA applications, stating it is supportive of the funding request and that BC Hydro believes Mr. Sigvaldason made a contribution to the Site C Inquiry and the PACA application was fair and reasonable. However, BC Hydro states that given a reconsideration process has not yet been initiated, it would be premature to intervene at this time.

While the Panel acknowledges BC Hydro's comments, given the Panel's denial of the Reconsideration Application, there will be no further process undertaken by the Commission. The Panel also points out that in the December 18, 2017 letter of comment on the Site C PACA applications, BC Hydro stated its support of Mr. Sigvaldason's PACA application but did not provide reasons to support why it considered the contribution to be significant or why the application was fair and reasonable. With regard to the Reconsideration Application, similar to the Panel's statements above regarding independent authorities, in the Panel's view BC Hydro is not in a position to provide evidence or argument on whether Mr. Sigvaldason's submissions contributed to the Panel's better understanding of the questions posed in OIC No. 244.

The Panel also notes the statement made on page 8 of the Reconsideration Application in which Mr. Sigvaldason claims that the Panel requested he "prepare and forward a more comprehensive Submission for their consideration." Mr. Sigvaldason requested an opportunity to present at the Technical Presentation sessions hosted by the Commission as part of the Site C Inquiry consultation process. Unlike the Community Input Sessions which were open to all members of the public to make oral submissions, the oral submissions at the Technical Presentation Sessions were limited to those parties invited by the Panel. As referenced by Mr. Sigvaldason in the Reconsideration Application, the Panel declined to invite Mr. Sigvaldason to make a technical presentation. Mr. Sigvaldason was advised of his ability to make an additional written submission; however, this was not a "request" for an additional written submission but was simply the Commission advising Mr. Sigvaldason of the fact that he, as well as any other member of the public, had the opportunity to make multiple written submissions in accordance with the regulatory timetable established by Order G-120-17.