



IN THE MATTER OF

**A COMPLAINT BY TRANSCANADA ENERGY LTD.  
REGARDING THE SERVICE AGREEMENT WITH  
BRITISH COLUMBIA TRANSMISSION CORPORATION  
FOR LONG TERM FIRM POINT TO POINT  
TRANSMISSION SERVICE**

Régie de l'énergie
DOSSIER: R-3669-2008
DÉPOSÉE EN AUDIENCE Phase 2
Date: 21/04/2011
Pièces n°: B-216

**DECISION**

September 10, 2009

Before:

A.A. Rhodes, Panel Chair/Commissioner  
L.A. O'Hara, Commissioner  
P.E. Vivian, Commissioner

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COMMISSION ORDER G-103-09

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## 1.0 INTRODUCTION

This proceeding concerns the sale of long term firm point-to-point transmission service by British Columbia Transmission Corporation to users including its affiliates British Columbia Hydro and Power Authority and Powerex Corporation as well as the Complainant, TransCanada Energy Ltd. and NorthPoint Energy Solutions Inc. on the BC to Alberta path. TransAlta Energy Marketing Corp. is a potential customer, seeking transmission service on the path.

TransCanada and NorthPoint take the position that the transmission capacity has been oversold as conditions in Alberta frequently limit the use of the path in BC, with the result that these customers are often unable to make use of the transmission capacity which they purchased. TransCanada has filed a formal Complaint with the British Columbia Utilities Commission which NorthPoint supports. They submit that the appropriate level of transmission capacity which should be offered for sale is 480 MW, which was the limit in place prior to December 1, 2007, when BCTC made the decision to increase it to 785 MW, following a System Impact Study. TransAlta, on the other hand, submits that BCTC should offer more capacity for sale, up to the Western Electricity Coordinating Council path rating of 1,200 MW, to allow it access to the system. BCTC takes the position that its Open Access Transmission Tariff and published Business Practices require it to release Firm capacity on its transmission system on a first-come, first-served basis or to construct Network Upgrades to provide Long Term Firm Point-to-Point transmission service but that in this case a “pragmatic approach” favours using the existing capacity figure of 785 MW. BCTC therefore seeks an amendment to its tariff to limit capacity on the BC>AB path to 785 MW until such time as Alberta upgrades its system to accept the additional transmission which can flow over the BC system. BC Hydro and Powerex support BCTC’s approach. The Joint Industry Electricity Steering Committee favours selling as much capacity as possible, but does not argue for a particular figure.

The procedural background and context are set out in Appendix A.

## **2.0 HISTORICAL CONTEXT AND REGULATORY FRAMEWORK**

The British Columbia Transmission Corporation (“BCTC”) is a provincial crown corporation which was created in 2003 to manage the transmission assets owned and previously operated by the British Columbia Hydro and Power Authority (“BC Hydro”).

BCTC first applied for an Open Access Transmission Tariff (“OATT”) in August, 2004, to replace BC Hydro’s Wholesale Transmission Services (“WTS”) Tariff, which was the tariff applicable to the provision of open access transmission service on BC Hydro’s transmission system prior to the OATT. The OATT application was approved by the Commission on June 20, 2005.

Transmission services are scheduled by registered users through BCTC’s Open Access Same-Time Information System (“OASIS”). OASIS was developed to comply with requirements in the U.S. imposed by the Federal Energy Regulatory Commission.

### **2.1 Regulatory Bodies**

There are a number of relevant regulatory agencies in North America. BCTC voluntarily complies with many regulations and guidelines of US regulatory agencies, but is itself regulated by the British Columbia Utilities Commission (“BCUC”, “Commission”).

#### **2.1.1 FERC**

The Federal Energy Regulatory Commission (“FERC”) is the agency responsible to regulate interstate transmission of natural gas, oil and electricity in the United States. The OATT itself, like the WTS before it, is modelled on the FERC pro forma tariff, which was established by FERC Order 888. The FERC pro forma tariff was implemented in the U.S. in 1996 to remedy a perceived problem of “undue discrimination” and was designed to “prohibit public utilities from using their monopoly power over transmission to unduly discriminate against others.” (Exhibit B1-17, BCUC 2.20.1, Attachment-FERC Notice of Proposed Rulemaking, March 19, 2009, p. 4) Examples of areas

where undue discrimination might occur relate to situations where there is lack of clarity in assumptions, calculations, models etc. which could allow for the transmission provider to vary a calculation, model or assumption etc. depending upon the particular customer. (Exhibit B1-17, BCUC 2.29.1 Attachment-FERC Notice of Proposed Rulemaking, March 19, 2009, pp. 55, 57, 60)

In order to remedy what were viewed in the U.S. as continuing “opportunities for undue discrimination” under the Order 888 pro forma OATT, FERC issued Order 890 in February, 2007 to amend the tariff. The stated purposes of Order 890 involved “...(1) strengthening the pro forma tariff to remedy opportunities for undue discrimination, (2) providing greater specificity to facilitate FERC’s enforcement and monitoring; and (3) increasing the transparency of the rules for planning and use of the transmission system.” (Exhibit B1-1, p. 14, referencing Order No. 890 cover page summary)

FERC reviewed the historical background to reforms in the U.S., including Order 888, in Order 890. The over-riding concern behind the reforms related to the change in the industry structure in the U.S. in the 1970s which saw increased sources of different types of small generation with lower cost going up against the market power of existing vertically-integrated utilities with their ability to limit access to their transmission facilities, thereby favouring their own, more expensive generation. “The major concern of the Commission was whether the seller or its affiliates could limit competition and thereby drive up prices.” (FERC Order 890, p. 9)

### 2.1.2 NERC

BCTC also plans and operates the transmission system in accordance with its obligations as a member of the North American Electric Reliability Corporation (“NERC”) and its regional reliability organization, the Western Electricity Coordinating Council (“WECC”).

NERC is the body responsible for setting reliability standards for the electricity industry in North America. NERC is not concerned with commercial terms and conditions of transmission service, which is FERC’s domain. NERC has been approved by FERC as the electricity reliability organization

in the U.S. However, NERC's recommended standards are subject to approval by FERC before they become mandatory in the U.S. Similarly, NERC's proposed reliability standards are subject to approval by the BCUC in British Columbia.

### 2.1.3 WECC

The Western Electricity Coordinating Council ("WECC") is a regional organization, responsible for coordinating and promoting electrical system reliability in the Western Interconnection. BCTC is a member of WECC and participates, with the Alberta Electric System Operator ("AESO"), in joint studies to determine, for example, path ratings between the two jurisdictions. (BCTC Evidence, T3: 340) WECC path ratings are "Maximum Transfer Capabilities" and do not define the Firm Total Transfer Capability of the path. (Exhibit B1-1, p. 129)

### 2.1.4 BCUC

The British Columbia Utilities Commission is the regulatory body in British Columbia which regulates BCTC. BCUC has the mandate to approve the OATT and any proposed amendments and to monitor BCTC's compliance with its tariff. It is agreed by the parties that BCUC also has the jurisdiction to hear the TCE Complaint.

## **2.2 Reciprocity**

BCTC's use of its OATT and compliance with FERC principles and NERC and WECC enable it to participate in U.S. market-dominated transactions. BCTC expressed the view that if it "fails to meet [FERC's] comparability standard Powerex's ability to maintain its authority to trade energy in the United States at market-based rates could be affected." (Exhibit B1-7, BCUC 1.34.1)

In fact, section 4.5(b) of the Master Agreement dated November 12, 2003 between BC Hydro and BCTC provides:

“BCTC will at all times seek to ensure that the terms and conditions of the OATT, BCTC’s business practices and governance (for example, independence from generation owners), or any of them:

(b) subject to the approval of the Commission, meet the requirements of FERC, other regulators and other transmission operators to the extent necessary to permit continued access at market-based rates by electricity market participants in British Columbia to the United States and other Canadian electricity markets outside of British Columbia, including by BC Hydro and Powerex.” (Exhibit B2-1, p.3, FN 1; Exhibit B1-7, BCUC 1.34.1)

BCTC is not otherwise obliged to comply with FERC as BCTC is not a transmission provider within FERC’s jurisdiction. (Exhibit B1-7, BCUC 1.16.2)

This reciprocity requirement was summarized by the U.S. Court of Appeals for the District of Columbia Circuit in *Consumers Energy Company v. FERC*, No. 03-1162 (D.C. Cir. May, 2004) at page 2 where Roberts, Circuit Judge stated, for the Court:

“FERC does not presume to tell foreign transmission-owning utilities what tariffs they must file. If a marketing affiliate of such a utility wants to sell power at market-based rates in the United States, however, the utility must offer transmission service *comparable* to that required of a utility in the United States. Just as a domestic transmission-owning utility must allow competitors of its marketing affiliate to use its transmission services on a non-discriminatory basis to compete with the marketing affiliate, so too a foreign transmission-owning utility must allow companies that would compete with its marketing affiliate to use its transmission services to reach the United States market and compete on a level playing field with its marketing affiliate.” (emphasis in original)

Roberts, Circuit Judge further stated, at p. 15:

“We think it reasonable for the Commission to acknowledge the reality of an international border in deciding whether to insist on compliance with the minutiae of its regulatory requirements; it was certainly open to FERC to decide that a flexible approach requiring comparability on a case-by-case basis rather than letter-for-letter compliance across-the-board better accommodates jurisdictional limits and promotion of competitive markets for United States loads.”

FERC itself explained, in its Order dated January 15, 1997 Rejecting Market Based Rates Without Prejudice for Powerex:

“[t]he Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. In order to demonstrate the absence or mitigation of market power, a transmission-owning public utility must have on file with the Commission an open access transmission tariff for the provision of comparable services. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.

FERC further explained:

“...our concerns are more limited for foreign transmission-owning entities than for transmission-owning entities in the United States. As originally stated in Energy Alliance, “The Commission’s concern is not transmission service to serve Canadian loads – it is transmission to serve United States loads.” (73 FERC at 61,030). In TransAlta, the Commission expanded its concerns to include access for United States competitors into Canadian markets on a reciprocal basis (75 FERC at 61,875). Thus, the Commission seeks to assure reciprocal service into and out of Canada when Canadian entities seek access to United States markets, [“This would include wheeling-through service needed to accommodate service for United States or Canadian companies into and out of Canada] but the Commission is not seeking to open intra-Canada electric markets through the imposition of open access tariffs for transactions wholly within Canada.” (78 FERC 61,024 at pp. 3, 6)

FERC denied Powerex’s market-based rate application in that case as it had not demonstrated adequate mitigation of its transmission market power. (This case was decided prior to the creation of BCTC.)

BCTC has stated, however, that, in its view, “FERC authority relating to reciprocity would allow BCTC’s OATT to include a limit on Firm sales on the BC>AB path on a prospective basis...because it would not prevent customers from reaching the United States market on a comparable basis”.

(BCTC Argument, p. 64) In fact, as noted above, BCTC is seeking an order amending Attachment C of its tariff to limit sales of transmission service to a specific MW amount (785). (Exhibit B1-1, p. 122)

BCTC also testified that the principal reason that BCTC adopted a tariff that follows FERC was not for reciprocity reasons but to be part of the Western Electricity Coordinated system. (Evidence of BCTC, T3: 349)

### **Commission Panel Discussion**

Notwithstanding BCTC's evidence that reciprocity is not the principal reason that it adopted the FERC pro forma tariff, the Commission Panel acknowledges the importance of reciprocity to BCTC and its affiliates and has made every effort to respect FERC principles and guidance as provided in FERC's decisions where they are relevant to circumstances in this jurisdiction. However, the Commission is of the view that this jurisdiction is unique in many respects and that some FERC principles may or may not be properly applicable. The Commission Panel is of the view that the evil that FERC was and is continuing to try to eliminate with the use of the OATT and the subsequent amendments to it was a transmission provider keeping available capacity for itself or a related entity, to the exclusion of its competitors, in an effort to exercise market power. This situation has resulted in under-utilization of the transmission system, price discrimination, lack of transparency and the potential for monopoly pricing of electricity in the United States. In contrast, in this case the allegations relate to BCTC's potential overselling of the transmission system on the BC>AB path, arguably to its own benefit. There is no allegation that BCTC inappropriately favoured its affiliate. (Trans Canada Reply, p. 24) One result of the release of additional LTF PTP capacity is an effective increase in the tariff – with the result that pricing becomes less transparent. This is addressed further in Section 4.2.

### 3.0 BACKGROUND TO COMPLAINT

TransCanada Energy Ltd. ("TCE" or "TransCanada") has a Service Agreement with BCTC dated December 18, 2006 for Long Term Firm Point-to-Point ("LTF PTP") Transmission Service over the BC to Alberta ("BC>AB") path. The Service Agreement is for a period of five years and two months, commencing on January 1, 2007 and terminating on March 1, 2012. It contemplates a maximum of 100 MW of capacity and 2400 MWh of energy to be transmitted per day. The Service Agreement is contained as an attachment to BCTC's OATT, which contains additional standard form terms and conditions governing the relationship between the parties. (TCE Complaint, Exhibit B2-1, p. 1)

The BC>Alberta path is made up of a single 500kV transmission line between Cranbrook, BC and Langdon, Alberta, and two 138kV lines between Natal, BC and Coleman, Alberta and between Fording Coal at Elk River, BC and Pocaterra, Alberta. (Exhibit B1-11, Attachment 3, BCTC Report No. SPA 2007-85 November 2007, p. 8)

TCE has been a customer of BCTC and, prior to that, BC Hydro, since 1996. (TCE Evidence, T2: 165) Its current Service Agreement is the result of its having exercised a rollover right contained in an earlier service agreement which was executed on July 13, 2004, in December of 2006. (TCE Argument, p. 1)

In May of 2004 BCTC announced that, effective August 01, 2004, new Firm Total Transfer Capability ("TTC") limits would be in effect and that the Firm TTC limit on the BC>AB path would increase from 210 MW to 545 MW. (Exhibit B2-6, BCUC 1.16.1)

On June 28, 2004 BCTC posted a System Impact Study on its website which concluded that Long-Term Firm Point-to-Point Transmission Service was available on the BC>AB path. (Exhibit B2-6, BCUC 1.16.1)

Also on June 28, 2004 BCTC posted a bulletin entitled "TTC on the BC-Alberta Intertie". The bulletin was issued in response to a customer enquiry and indicated that BCTC had performed an analysis

of historical hourly TTC on the BC >AB path during the January 1, 1999 to June 1, 2004 period which indicated that “[a]lthough Real-time TTC on the BC>AB path may be less than 480 MW (545 MW – 65 MW TRM [Transmission Reliability Margin]) at times due to system conditions, BCTC found that 93% of the hours had hourly TTC, after accounting for TRM, greater than 480 MW. This data supports BCTC’s 545 MW Firm TTC based on the methodology in Section 2.2.4 of the Business Practices.” (Exhibit B2-6, BCUC 1.16.1; Evidence of BCTC T3: 374-375)

In April 2007 BCTC conducted a further System Impact Study in part to determine what, if any, Network Upgrades would be required to increase Firm PTP ATC from BC to Alberta. The study did not look at contingencies in the Alberta system but rather assumed that the Alberta system was capable of importing the transferred amounts with no resultant problems. The study found that the 138 kV ties to Alberta would be overloaded with an increase in transfer levels but that if the ties were opened to force all exports to flow on the Cranbrook – Langdon (“CBK-LGN”) 500 kV line, and therefore operated in an “open loop configuration” during periods of heavy transfer, the overloading conditions could be avoided. The study concluded that, as long as the 138 kV ties were operated, as noted above, in an open loop configuration, the system could support an increase from 545 MW FTTC to 850 MW FTTC with no Network Upgrades. An increase from 850 MW to the WECC path rating of 1200 MW would require the system to be reinforced. (Exhibit B1-11, Attachment 3, BCTC Report No. SPA 2007-88 April 3, 2007, pp. 2-3) The study therefore concluded, “Not considering the limitations within the Alberta system, the BCTC system is capable of delivering 1200 MW to the BC Alberta border when adequate reactive reinforcement is provided.” (Exhibit B1-11, Attachment 3 – BCTC Report No. SPA 2007-88 April 3, 2007, p. 4)

BCTC held an “Open Season” in July, 2007, which invited bids for transmission service over the BC>AB path. The purpose of an Open Season is to allow BCTC to study a group of transmission requests together to improve efficiency and share cost responsibility for any associated network upgrades among participants. TCE asked BCTC whether there was any downside to it not participating given that its current requests were in “received” status and was advised that requests in the queue ahead of the commencement of the Open Season Period would be

processed in that queue priority, ahead of the Open Season. TCE decided not to participate in the Open Season. (Exhibit B2-6, BCUC 1.16.1)

A further System Impact Study conducted by BCTC and published in November 2007, which again specifically assumed Alberta to be capable of importing 1200 MW from BC, confirmed the above conclusions. The study noted that the open loop configuration required to avoid overloading the 138 kV ties at transfers above 550 MW would reduce the reliability for Elk Valley Coal, Elkford, Cranbrook Regional Hospital and Fording Coal as opposed to when the ties were operated in a looped configuration. (Exhibit B1-11, Attachment 3 – BCTC Report No. SPA 2007-85, pp. 7, 10) BCTC takes the position, however, that although the reliability of supply is slightly lower with the open ties, this configuration is nothing out of the ordinary and is “not an unacceptable practice”. (T3: 435-436)

Commencing in December, 2007, BCTC sold an additional 125 MW of LTF PTP transmission service on the BC>AB path, bringing the total to 605 MW. It then sold a further 180 MW of LTF PTP transmission service commencing in January, 2008 to bring the total to 785 MW. As at January 01, 2008, 785 MW of LTF PTP transmission service had been sold under ten contracts for LTF PTP transmission service to four customers: BC Hydro, TCE, NorthPoint Energy Solutions Inc. (“NorthPoint”) and Cargill Power Markets LLC. (“Cargill”). The increased transmission capacity of 305 MW was taken by BC Hydro (280 MW) and Cargill (25 MW). Cargill was the only new customer to purchase transmission service following the December, 2007 increase. Its contract has an end date of July 31, 2009 and it has no rollover right but is indicated as having “Partial Service under Study”. (Exhibit B1-1, pp. 129-130; Exhibit B1-7, BCUC 1.42.1)

The following table shows the LTF PTP Service Agreements on the BC>AB path as of the date of the Application, November 21, 2008.

**Table 1**  
**Current LTF PTP Service Agreements on BC>AB Path**

	Customer	Firm Capacity (MW)	First Service Start Date on BC>AB Path (Under Initial Service Agreement)	Contract Date of Current Service Agreement	Service Start Date Under Current Service Agreement	Service End Date <sup>197</sup> Under Current Service Agreement	Rollover Right
1	BC Hydro	50	1 Jan 2000	24 May 2007	1 July 2007	31 Dec 2008	Yes
2	BC Hydro	160	1 July 2001	27 May 2008	1 July 2008	31 July 2012	Yes
3	BC Hydro	120	1 Dec 2006	17 Oct 2007	1 Dec 2007	31 Dec 2008	Yes
4	BC Hydro	50	1 Dec 2007	30 Nov 2007	1 Dec 2007	31 Dec 2011	Yes
5	BC Hydro	50	1 Dec 2007	30 Nov 2007	1 Dec 2007	31 Dec 2011	Yes
6	BC Hydro	180	1 Jan 2008	28 Dec 2007	1 Jan 2008	31 Dec 2008	No
7	TCE	100	1 Sep 2004	18 Dec 2006	1 Jan 2007	29 Feb 2012	Yes
8	NorthPoint	25	1 Jan 2006	21 Dec 2006	1 Jan 2007	31 Dec 2008 <sup>198</sup>	Yes
9	NorthPoint	25	1 Jan 2006	21 Dec 2006	1 Jan 2007	31 Dec 2008 <sup>199</sup>	Yes
10	Cargill	25	1 Dec 2007	30 Nov 2007	1 Dec 2007	31 July 2009	Partial Service under Study
11	<b>Total</b>	<b>785</b>					

Source: Exhibit B1-1, Table 6-1, p. 130

On June 3, 2008 BCTC applied to the BCUC for approval to temporarily suspend the release of Firm Available Transfer Capacity on the BC>AB path and to suspend the Facilities Study related to that path until its next OATT Application. That Application was approved by BCUC Order G-110-08 issued on July 3, 2008.

TCE filed its Complaint on October 9, 2008.

As part of the instant OATT amendment application dated November 21, 2008, and in recognition of the fact that some customers might argue that the 785 MW limit in place is too high, BCTC sought an interim order allowing it to include a condition on rollover requests for BC Hydro Service Agreements dated May 24, 2007 and October 17, 2007 (both due to expire on December 31, 2008 for amounts of 50 MW and 120 MW respectively) and any queued requests for Firm ATC coming available on the BC>AB Path on January 1, 2009 (180 MW from BC Hydro's contract due to expire on December 31, 2008 with no rollover rights) stating:

“This Service Agreement is subject to a further order of the British Columbia Utilities Commission in the matter of the ‘British Columbia Transmission Corporation Application to Amend the Open Access Transmission Tariff’ filed on 21 November 2008”. (Exhibit B1-1 pp. 122-124; 149-153)

Commission Order G-175-08 approved the inclusion of the condition, as requested. Thus, as of January 1, 2009 there are contracts for 350 MW of transmission service bearing the above subject condition.

Parties in the queue currently awaiting the release of additional LTF PTP capacity include TransAlta. Table 2 shows the positions of the various parties in respect of the queue.

**Table 2**  
**Queue Requests on US – AESO and BC – AESO**

OASIS	Customer	Path	Status	Capacity	Time Stamp	Start Time	Stop Time	Term (years)	Comments
70974668	Cargill	BPAT - AESO	PARTIAL	25.00	28-Aug-06	01-Jan-07	01-Jan-11	4	Partial to 1-Aug-09. Study suspended per BCUC ruling 8-July-08 (note 1)
71086993	NorthPoint	BPAT - AESO	STUDY	25.00	09-Nov-06	01-Jan-09	01-Jan-11	2	Study suspended per BCUC ruling 8-July-08
71086996	NorthPoint	BPAT - AESO	STUDY	25.00	09-Nov-06	01-Jan-09	01-Jan-11	2	Study suspended per BCUC ruling 8-July-08
71087026	BC Hydro	BPAT - AESO	STUDY	200.00	09-Nov-06	01-Jan-09	01-Jan-19	10	Study suspended per BCUC ruling 8-July-08
71087057	BC Hydro	BCTC - AESO	STUDY	200.00	09-Nov-06	01-Jan-11	01-Jan-21	10	Study suspended per BCUC ruling 8-July-08
71088297	BC Hydro	BCTC - AESO	PARTIAL	200.00	10-Nov-06	01-Jan-08	01-Jan-11	3	Partial to 1-Jan-09, 180 MW. Study suspended 8-July-08 (note 2)
71133341	Cargill	BPAT - AESO	STUDY	50.00	07-Dec-06	01-Jan-09	01-Jan-10	1	Study suspended per BCUC ruling 8-July-08
71133343	Cargill	BPAT - AESO	STUDY	50.00	07-Dec-06	01-Jan-09	01-Jan-10	1	Study suspended per BCUC ruling 8-July-08
71133348	Cargill	BPAT - AESO	STUDY	50.00	07-Dec-06	01-Jan-10	01-Jan-11	1	Study suspended per BCUC ruling 8-July-08
71133351	Cargill	BPAT - AESO	STUDY	50.00	07-Dec-06	01-Jan-10	01-Jan-11	1	Study suspended per BCUC ruling 8-July-08
71145601	TCE	BPAT - AESO	RECEIVED	100.00	15-Dec-06	01-Mar-12	01-Mar-13	1	N/A
71145604	TCE	BPAT - AESO	RECEIVED	100.00	15-Dec-06	01-Mar-12	01-Mar-14	2	N/A
71145605	TCE	BPAT - AESO	RECEIVED	100.00	15-Dec-06	01-Mar-12	01-Mar-17	5	N/A
71145606	TCE	BPAT - AESO	RECEIVED	100.00	15-Dec-06	01-Mar-12	01-Mar-15	3	N/A
71150644	Cargill	BPAT - AESO	STUDY	50.00	19-Dec-06	01-Jan-11	01-Jan-12	1	Study suspended per BCUC ruling 8-July-08
71150650	Cargill	BPAT - AESO	STUDY	50.00	19-Dec-06	01-Oct-11	01-Oct-17	6	Study suspended per BCUC ruling 8-July-08

OASIS	Customer	Path	Status	Capacity	Time Stamp	Start Time	Stop Time	Term (years)	Comments
71505520	NorthPoint	BPAT - AESO	STUDY	25.00	18-Jul-07	01-Jan-09	01-Jan-16	7	Study suspended per BCUC ruling 8-July-08
71505525	NorthPoint	BPAT - AESO	STUDY	25.00	18-Jul-07	01-Jan-09	01-Jan-16	7	Study suspended per BCUC ruling 8-July-08
71512624	Candela	BPAT - AESO	STUDY	25.00	23-Jul-07	01-Jan-08	01-Jan-10	2	Study suspended per BCUC ruling 8-July-08
71657256	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jul-08	01-Jul-13	5	Study suspended per BCUC ruling 8-July-08
71657257	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jul-08	01-Jul-13	5	Study suspended per BCUC ruling 8-July-08
71657258	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jul-08	01-Jul-13	5	Study suspended per BCUC ruling 8-July-08
71657259	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-09	01-Jan-14	5	Study suspended per BCUC ruling 8-July-08
71657260	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-09	01-Jan-14	5	Study suspended per BCUC ruling 8-July-08
71657261	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-09	01-Jan-14	5	Study suspended per BCUC ruling 8-July-08
71657262	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-10	01-Jan-15	5	Study suspended per BCUC ruling 8-July-08
71657263	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-10	01-Jan-15	5	Study suspended per BCUC ruling 8-July-08
71657264	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-10	01-Jan-15	5	Study suspended per BCUC ruling 8-July-08
71657265	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-11	01-Jan-16	5	Study suspended per BCUC ruling 8-July-08
71657266	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-11	01-Jan-16	5	Study suspended per BCUC ruling 8-July-08
71657267	TransAlta	BPAT - AESO	STUDY	100.00	12-Oct-07	01-Jan-11	01-Jan-16	5	Study suspended per BCUC ruling 8-July-08
			Total:	2650.00					

1

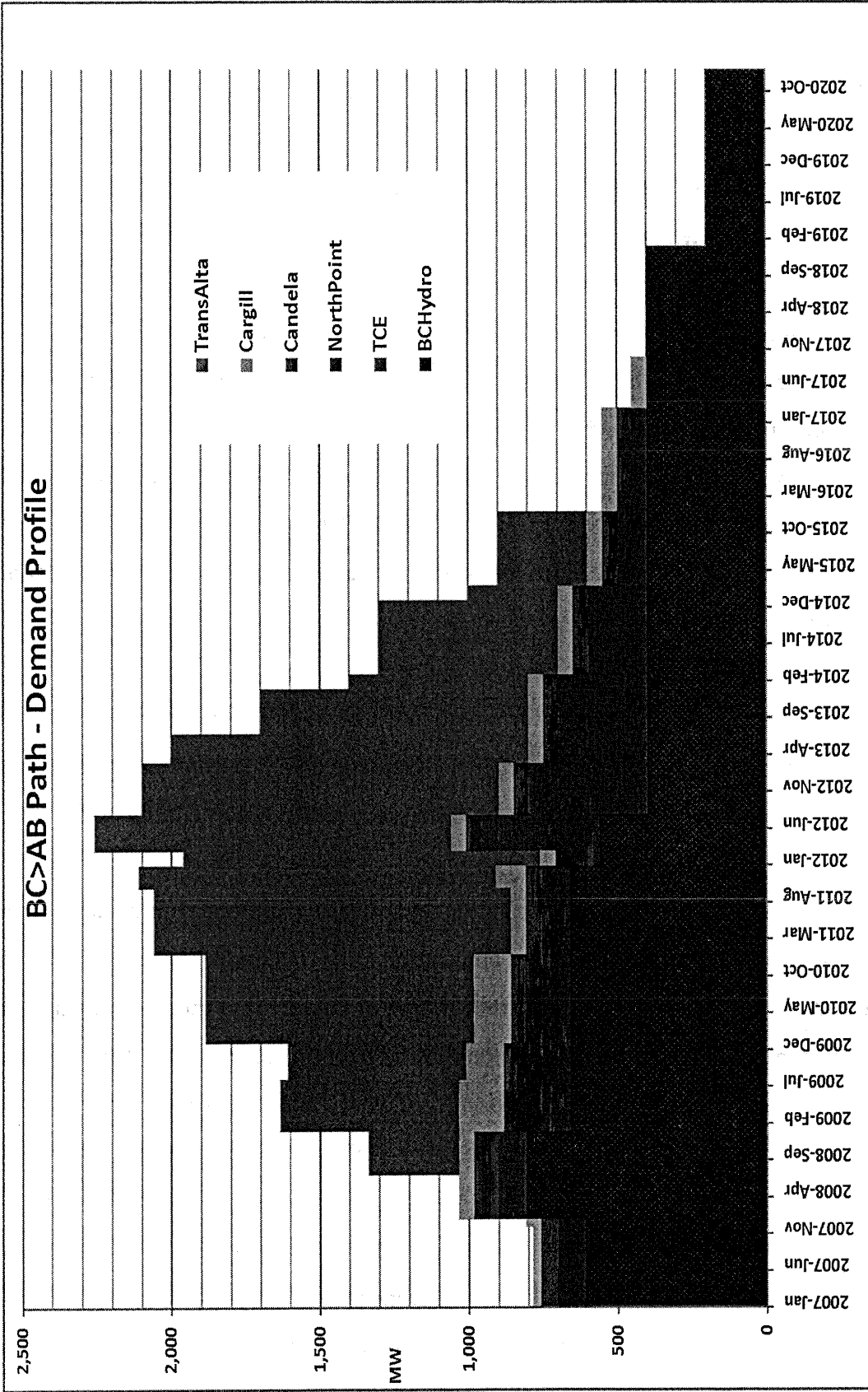
2 Note 1: Same as request on line 10 of Table 6-1.

3 Note 2: Same as request on line 6 of Table 6-1.

Source: Exhibit B1-1, Attachment 6-1, pp. 152-153

The queue shows that the parties with contracts dated January 1, 2009 and later containing the subject condition include: NorthPoint (50 MW) and BC Hydro (300 MW). NorthPoint's witness testified that it purchased an additional 50 MW of transmission capacity as a "hedge" to protect the value of the 50 MW of capacity which it already owned prior to December 01, 2007. (T3: 284-285, 288) (See also Exhibit B1-7, TCE 1.6.2)

The following graph depicts the demand for transmission service (MW), by customer, by requested start and end dates.



(Source: Compiled from Exhibit B1-1, Table 6-1, p. 130, Attachment 6-1, pp. 152-153. This graph is provided for illustrative purposes only.)

#### 4.0 TCE COMPLAINT

In essence, TCE's Complaint is that BCTC does not take into account the amount of energy that can actually flow over its system when determining how much LTF PTP capacity it can offer for sale. TCE submits that BCTC ought not to have released additional LTF PTP capacity on its system on the BC>AB path in December 2007/January 2008 (from 480 MW to 785 MW) when it knew that its existing LTF PTP customers would be subjected to increased curtailment and thus, loss of market share to subsequent, new customers, due to the inability of the Alberta system to accept the increased transmission during peak transfer periods. In NorthPoint's words, "[t]his is a case about overselling." (NorthPoint Argument, para. 1.01) TCE describes its complaint as focussing "on the means by which BCTC determines how much long-term firm point-to-point transmission service it can sell." (TCE Reply, p. 9)

BCTC argues that the Complaint must be determined on the basis of whether it followed its OATT in making 785 MW of capacity available to customers in its queue on a first-come, first-served basis. If it did, BCTC submits that the Complaint must be dismissed. (BCTC Argument, pp. 1-2)

BCTC takes the position that its actions in calculating and releasing additional Firm capacity on the BC>AB path were a transparent and consistent application of its OATT and its published Business Practices. (BCTC Argument, p. 3) However, in recognition of the fact that the current situation in Alberta is a limiting factor in terms of transmission flowing over the BC>AB path, BCTC seeks, as part of its OATT Amendment Application, to depart from what it believes is the letter of its existing tariff and to restrict the amount of transmission capacity available for sale over the path, pending upgrades in Alberta.

BCTC also raises the issue of the amount to which the transmission capacity for sale on the BC>AB path should be limited, assuming that a limit is determined to be a reasonable temporary solution to the problem.

TCE takes the position that the manner in which BCTC determines whether LFT PTP transmission service is available does not accord with FERC principles. TCE agrees that, to the extent that BCTC followed the provisions of its OATT in determining the amount of LTF PTP transmission service available for sale, its OATT must be amended to accord with FERC principles. (TCE Reply, p. 2)

#### **4.1 Issues**

In determining whether BCTC did, in fact, follow its OATT, there are a number of issues which have been brought forward and require consideration. These issues include: what is the product which TCE bought and alleges is being compromised due to overselling? In other words, what is “firm transmission service”? Secondly, as additional firm transmission service is only released when there is “Available Transfer Capability” or “ATC” (which is, by definition, above and beyond already committed uses), how is it calculated and should the calculation consider constraints in a neighbouring jurisdiction? If the calculation itself need not consider such constraints, should they be considered in any event as part of the overall planning process and/or relevant FERC principles? These issues must all be addressed in the context of the industry structure as a whole.

##### 4.1.1 Industry Structure

###### 4.1.1.1 British Columbia and Other OATT Jurisdictions

BCTC’s OATT and Business Practices contain a number of provisions which either influence or determine how the electricity transmission industry operates in BC.

BCTC argues that these provisions expressly obligate BCTC: (1) to release Firm capacity on its Transmission system to customers on a first-come, first-served basis, where it has ATC, or to construct Network Upgrades to provide LTF PTP transmission service; and (2) to calculate Firm ATC based on prescribed requirements. BCTC also notes that its OATT minimizes its ability to exercise discretion, to accord with FERC’s overriding objective of preventing undue discrimination. (BCTC Argument, pp. 3-4)

BCTC testified that the calculation of ATC takes the capacity rights of existing customers into account such that if the system is taken up fully by existing customers, assuming they exercise their rollover rights, no new customer is able to access the transmission system without entering a queue, having a study done, paying for the study and potentially paying for the required upgrades, such that the system is basically a “closed shop” for existing customers in terms of LTF PTP transmission service. (T3: 449-450)

LTF PTP customers also have the continued right to roll over their contracts, assuming this right was granted in the initial service contract. (see Constellation Power Source, discussed later, in Section 4.1.2.2.1)

Existing firm service customers with contract terms of a year or longer currently also have a right of first refusal to continue to take their capacity, provided that they agree to match the contract term offered by a competing request and agree to pay the Commission-approved rate. (Exhibit B2-1, Attachment A, BCTC OATT s. 2.2) BCTC proposes to amend this section to increase the contract term required for the reservation priority to five years, consistent with the FERC Order 890 pro forma tariff amendments. This amendment is approved in the Commission’s companion Decision relating to other OATT amendments.

#### 4.1.1.2 Alberta

The Alberta electricity market has a different structure than BC and is operated by the Alberta Energy System Operator (“AESO”). Alberta does not have an Open Access Transmission Tariff. It has no firm path reservation system, either internal or external. (T2: 203) Rather, Alberta has a “pool system” whereby a vendor of electricity must bid into the Alberta pool at zero price at the border and is paid the going price at the time. Alberta determines the import levels that it can accept, based on its own system usage, and posts these numbers in real time and also six months out. (AESO Evidence, T2: 254)

There is also no ability for a potential customer to trigger an upgrade on the Alberta system, although anyone could construct a merchant tie line. (T2: 248, 253)

#### 4.1.1.3 Curtailment Practices

In the event that the Alberta system will not be able to accept all of the energy scheduled to flow into the pool over the BC>AB intertie, in the hour before delivery, AESO will allow BCTC to make the necessary curtailments of its customers' schedules, which BCTC does on a pro rata basis in accordance with the curtailment provisions contained in its OATT, to ensure that the Alberta ATC is not exceeded. If, in the last 20 minutes before the hour, BCTC has not made sufficient curtailments, the AESO will take steps to curtail transmission using its own curtailment model, which is on a "last-in / first-out" basis. (AESO Evidence, T2: 259-260) The AESO determines the order based on its receipt of "E-tags".

As noted above, the firm transmission sold on the BC system was 785 MW in 2008, whereas the maximum Alberta hourly import that year was 625 MW. As a result, scheduled imports into Alberta from BC were curtailed in approximately 26 percent of hours in 2008, 24.5 percent of the hours curtailed were due to Alberta constraints and 1.5 percent due to constraints in BC. (Exhibit B1-17, TCE 2.9.2)

LTF PTP capacity over the BC>AB path is most used in peak hours (from 0800 hrs. to 2200 hrs.) and super-peak hours (from 1600 hrs. to 2200 hrs.) (Exhibit B1-17, TCE 2.9.3)

Table 3 below shows the percentage of transmission curtailments, by period ( i.e. peak, super peak and off peak) in 2007 (when the long term firm transmission capacity was 480 MW for 11 months and 605 MW for 1 month) as compared to 2008 (when the capacity was increased to 785 MW for the entire year). Table 3 indicates an approximate ten-fold increase in constraints originating in Alberta in peak and super peak hours in 2008 over 2007.

**Table 3**

Year		Peak Hours	Super Peak Hours	Off Peak Hours
2007	BC Constraints	2.4%	1.7%	0.7%
	Alberta Constraints	2.8%	3.1%	11.3%
2008	BC Constraints	1.5%	1.2%	1.0%
	Alberta Constraints	29.1%	30.4%	16.3%

(Source: Exhibit B1-17, TCE 2.9.4)

#### 4.1.2 BCTC's OATT

##### 4.1.2.1 Firm Transmission Service

During the course of the hearing, a number of different definitions were suggested to describe the product being purchased and sold, i.e. "firm transmission service". This term is not defined in the OATT.

BCTC defines "firm transmission service" as "the last service to be curtailed when curtailments occur". (T3: 390)

TCE's expert witness, Dr. Craig Roach, defines "firm transmission service" as "the highest priority service" but adds that "[i]n general, firm service is curtailed only for forced outages or scheduled maintenance." (Exhibit B2-16, BCUC 1.1.1) He also suggested that it would be a matter of judgment on the performance level expected for firm service but that firm service would not be routinely curtailed, and a curtailment level of 20 percent or more would catch his attention. (T2: 125)

BCTC disagrees with the second component of Dr. Roach's definition (i.e. curtailment only for forced outages or scheduled maintenance), taking the position that he "is extending the definition of firm service to include a reliability consideration, which in the context of commercial firm service doesn't exist." (T3: 391)

TCE argues that "commercially firm" is not a term that appears either in BCTC's tariff or in any of the relevant FERC Orders" and describes it as a "novel" term. (TCE Argument, p. 11)

In its June 3, 2008 Application to Temporarily Suspend the Release of Firm Available Transfer Capacity on the BC to Alberta Path (Exhibit B2-1 Tab E) BCTC explains that "[c]ustomers purchasing LTF PTP transmission service from BCTC under the OATT are, in effect, purchasing a priority right relative to Non-Firm PTP transmission services. LTF PTP transmission service is "Firm" service in the sense that it has priority over Non-Firm Point-to-Point (NF PTP) transmission service, *and is not subject to curtailments for economic reasons*. LTF PTP transmission service is expressly subject to curtailment for reliability reasons. [OATT Section 13.5] Purchasing LTF PTP transmission service on the BC>AB Path does not guarantee access to transmission service under all conditions, but secures priority to scarce transmission over holders of lower value services" [emphasis added].

NorthPoint notes that the term "firm" as used in s. 13 of BCTC's OATT is not defined precisely either in the OATT or in BCTC's Business Practices. (NorthPoint Argument, para. 2.08) NorthPoint argues that "whatever else may be said about it, the service that it and the other original LTF customers have received since December, 2007 is not true "firm" service, at least as that term is conventionally understood in plain English or even in the technical parlance of the electricity market, as enunciated, for example, by NERC." (NorthPoint Argument, para. 1.11) NorthPoint quotes the Oxford English Dictionary definition of the word "firm" as, "...among other things: securely fixed, not easily moved, stable... fixed, settled, established; immutable; secure; sure...constant, steadfast; unwavering...", and also cites the NERC definition of "Firm Transmission Service" as "[t]he highest quality (priority) service offered to customers under a filed rate schedule *that anticipates no planned interruption*." (NorthPoint Argument, para 2.08, emphasis as per NorthPoint; TCE Reply, p. 10) NorthPoint also notes the definition of "Firm Transmission Service" in

BCTC's Business Practices' glossary is "*Service which cannot be interrupted by British Columbia Transmission Corporation but which is subject to curtailment for specified conditions (e.g., emergencies and equipment outages) [emphasis added].*" (NorthPoint Argument, para. 2.08)

BCTC states that it takes no issue with the inclusion of the phrase "no planned interruption" in the NERC and WECC definitions of "Firm Transmission Service" and agrees that the NERC definition is essentially echoed in BCTC's Business Practices. BCTC does take issue, however, with the idea that the phrase "no planned interruption" implies that its LTF PTP transmission service includes a performance requirement based on the capability and reliability of a neighbouring transmission system as opposed to its own. (BCTC Argument, pp. 42-43)

BCTC also rejects any suggestion that the definition of "Long Term Firm Point-to-Point Transmission Service" in its OATT should be amended to accord with the NERC/WECC definition to the extent that the definitions in the OATT or otherwise used by BCTC are inconsistent. BCTC argues that it is unnecessary to amend the OATT because BCTC already addresses the concept of reliability in its System Impact Studies and its calculation of Firm Total Transfer Capability, the starting point for any calculation of additional transfer capability. BCTC also notes that the definition of "Long-Term Firm Point-to-Point Transmission Service" and the terms and conditions of that service as contained in Part II of its OATT track the language of FERC's pro forma tariff and cites the FERC decision in El Paso Electric Company (84 FERC P 63,008) in support of the proposition that "firm" has different meanings in the reliability context as compared to the commercial context, which are service duration, reservation and curtailment priorities and scheduling restrictions. BCTC further notes the comments of its expert witness, Dr. Ren Orans, who suggested that if BCTC were to "redefine firm, contingent upon availability of import limits in Alberta...there are implications that could ripple through the western interconnect..." which he suggested could result in transmission providers asking the purpose of the request for transmission service prior to providing it. BCTC also argues that changing the definition of LTF PTP service could offend the reciprocity principle under which Powerex is able to access the US electricity markets at market-based rates. (BCTC Argument, pp. 43-45; BCTC Evidence, T3: 418-420)

## Commission Panel Discussion

The Commission Panel accepts the credentials of both Dr. Roach and Dr. Orans as expert witnesses qualified to provide opinion evidence in this proceeding.

The Commission Panel accepts the evidence of Dr. Roach and finds that there is a reasonable expectation on the part of purchasers of firm transmission service that that service will generally only be curtailed for outages or scheduled maintenance, in other words, for reliability purposes. This interpretation is consistent with the difference in the descriptions of curtailment provisions for “firm” and “non firm” transmission service in BCTC’s current OATT where firm service is contemplated as being curtailed to maintain reliable operation of the system or in the event of an emergency or other unforeseen condition which impairs or degrades the reliability of the system (s. 13.6) and non firm service is contemplated as being curtailed for reliability reasons as well as “interrupted” for economic reasons (s. 14.7) This analysis was also provided by BCTC in its June 3, 2008 application to temporarily suspend the release of ATC on the BC>AB path, as noted above. This interpretation is also consistent with the common language usage of the term “firm” and BCTC’s Business Practices Glossary definition of “Firm Transmission Service”. It is also consistent with the definition of “curtailment” in the OATT Definitions section which is: “[a] reduction in firm or non-firm transmission service in response to a transmission capacity shortage *as a result of system reliability conditions*”. (emphasis added)

The Commission Panel acknowledges BCTC’s position that it can only sell transmission capacity on its own system and it is common ground that the capacity constraints on the BC>AB path generally originate from reliability considerations in Alberta. However, regardless of where the constraints originate, in reality the “curtailment” occurs on the BCTC system and the fact is that additional sales of “firm capacity” on BCTC’s system have resulted in increased curtailment of the transmission capacity of existing long term firm customers on BCTC’s system. At some point, as curtailment increases, irrespective of the definition of “firm” transmission service, even the notion of transmission service itself disappears, firm or otherwise.

The Commission Panel does not, however, see any need to amend the OATT to include any particular definition of the term “firm”. The Commission Panel acknowledges BCTC’s position that its OATT is consistent with the wording of the FERC pro forma tariff in terms of its definition of Long Term Firm Point-to-Point Transmission service and related terms and conditions. The Commission Panel is of the view that there is ample support for the proposition advanced by Dr. Roach that “firm service” should not be “routinely curtailed”, unless for reliability purposes, based on the wording of the tariff as it stands, absent an actual definition. The Commission Panel notes that this interpretation of “firm service” may involve some degree of judgment as to what is an unacceptable level of curtailment or, conversely, an acceptable level of service, as no specific number was advocated by any party, but the Commission Panel is of the view that this challenge is not insurmountable and should not invoke an excessive use of discretion.

In other words, even if one cannot precisely define exactly what firm transmission service is, this does not mean that it cannot be recognized for what it is not. At some point, the product being purchased and sold is not firm transmission service in any realistic sense. The Commission Panel is of the view that no specific number need be associated with the concept of what is an acceptable level of curtailment for firm capacity and that this issue is better reviewed on a case by case basis.

The Commission Panel also notes that, to the extent that the reliability concerns originate in Alberta, BCTC’s customers are not actually being “curtailed” by BCTC (given the definition of curtailment to involve reliability considerations), but by AESO, although the curtailment is administered by BCTC pursuant to agreement. However, on the flip side, the fact that BCTC sells the capacity on its system to its customers in the first instance, and by doing so, creates the need for the additional curtailment on its system, (albeit on direction from AESO) is tantamount, in the Panel’s view, to BCTC indirectly “interrupting” its customers’ ability to transmit, for economic reasons, which is a phenomenon associated only with non firm transmission. This is necessarily the case because it has been clearly established that there is no “sink” on the BC side of the BC > AB Intertie and any party purchasing capacity on the BC > AB path cannot use it unless the energy can actually flow through the BC system and over the Intertie into Alberta. (TransAlta Evidence, T3: 302-303; BCTC Evidence, T3: 346-347; TCE Evidence, T2: 102-103)

The Commission Panel, further, does not agree that the FERC decision in El Paso referred to by BCTC is relevant to the circumstances of this case. The El Paso case involved a transmission provider's attempt to classify its entire transmission capacity as "capacity benefit margin" and therefore offer no firm capacity whatsoever on its system on the basis that the "Eddy County Tie" was a single circuit facility such that it could not meet "N minus 1" criteria for reliability. FERC noted that all parties had conceded that the OATT defined firm transmission service according to service durations, reservation and curtailment priorities, and scheduling restrictions such that any conclusion that "firm" service under the OATT included a guarantee that the loss of any single element in the service provider's system would not cause an interruption did not follow. FERC held that the ability to offer "firm" service in accordance with the tariff was independent of the reliability of the service such that "firm" transmission service was capable of being offered and is required to be offered over any single circuit high voltage direct current ("HVDC") interconnection, so long as the interconnection has the capacity available to provide the service.

FERC went on to explain that because of the physical limitations of single circuit HVDC interconnections, any customer seeking firm transmission service over such interconnection "implicitly acknowledges that the service cannot be provided in accordance with "N minus 1" reliability criteria...and assumes a risk that the service may be interrupted...*in an emergency*". (El Paso Electric Company 84 FERC P 63,008 at pp. 4-5 (emphasis added))

The Commission Panel notes that the risk which FERC placed on customers seeking firm transmission service in El Paso was the risk of curtailment due to reliability issues on the transmission system, a risk made greater due to the Eddy County Tie in the El Paso system not being able to meet "N minus 1" reliability criteria. The risk of curtailment for reliability reasons on the BCTC system is a risk that all parties acknowledge and accept in this case. (See, for example TCE Evidence, T2: 218; NorthPoint Evidence, T3: 269) What is not accepted by TCE and NorthPoint and what is in issue in this case is the increased risk of curtailment due to reliability issues on another system brought about by the sale of additional capacity on the BCTC system.

#### 4.1.2.2 Available Transfer Capability/Available Transmission Capacity

The acronym “ATC” was used throughout the proceeding. Its precise meaning and the words for which it stands tend to vary, depending on the context. As noted below, Attachment C to BCTC’s current OATT describes “Available Transmission Capability”, and this has been also described as “ATC”. Attachment C is proposed to be amended to describe “Available Transfer Capability” or “ATC”. “ATC” has also been described as “Available Transmission Capacity” ( Exhibit B1-7, BCUC 1.71.1). The term, by definition, assesses the capability of a transmission system to accept new requests, after accounting for, among other items, the capacity taken by existing customers. At times, however, the term has also been used to describe the entire transmission capacity available for sale, based on the Total Transfer Capability of the system minus amounts needed to address reliability considerations, such as the Transmission Reliability Margin (“TRM”). Nothing in particular turns on the words making up the acronym and the Commission Panel has made every effort to minimize its use. However, to the extent that it is used, it is important for the reader to note the context.

NorthPoint argues that BCTC has oversold the LTF transmission rights on the BC to Alberta path due to a “misapprehension” on how ATC should be calculated, in that BCTC has determined that it ought not to consider constraints originating in Alberta in its calculation of ATC. (NorthPoint Argument, para. 3.01)

Attachment C to BCTC’s current OATT sets out the methodology to be used by BCTC in assessing Available Transmission Capacity.

Attachment C states that:

“[i]n determining the level of transmission capacity that is available to meet new Transmission Service requests, BCTC will exclude from the total transfer capability of the Transmission System that capacity needed to reliably meet:

1. the current and reasonably forecasted load of Network Customers;

2. existing firm Point-To-Point Transmission Services;
3. previously received pending Applications for firm Point-To-Point Transmission Service; and
4. existing contractual obligations under other Tariffs, rate schedules and contracts.” (Exhibit B2-1, Tab A, Attachment C)

BCTC states that: “[m]athematically, the Available Transmission Capacity (ATC) is defined as the Total Transfer Capability (TTC) less the Transmission Reliability Margin, less the Capacity Benefit Margin and less the sum of existing transmission commitments (which includes BC Hydro domestic load)...TRM on the BC>AB path is 65 MW and...the Capacity Benefit Margin is always zero.” (Exhibit B1-7, BCUC 1.71.1)

#### 4.1.2.2.1 Consideration of Markets in Neighbouring Jurisdictions – FERC Principles

The central issue in this proceeding is whether the capacity of the transmission system in a neighbouring jurisdiction needs to be taken into account by a transmission provider when determining its own capacity available for sale.

At the request of this Commission, BCTC conducted a study of selected systems in North America to determine how other system operators deal with the issue of cross-jurisdictional capacity. BCTC looked at ten different transmission providers in Canada and the U.S. The survey concentrated on jurisdictions where a transmission provider with an OATT (such as BCTC) interfaced with a pool-based system (such as AESO). The results of the study were not conclusive in that there were jurisdictions identified which did consider neighbouring system conditions in determining Total Transfer Capability or Long Term Firm ATC and others which did not. (Exhibit B1-1, pp. 142-148; Evidence of BCTC, T3: 320-321)

BCTC, however, takes the position that FERC decisions dictate that it “is precluded by its OATT from conditioning the release of Firm capacity on its own Transmission System based on whether

there is transmission capacity available on a third party system.” (BCTC Argument, p. 8) BCTC cites three FERC decisions in support of this proposition: Commonwealth Edison Company 96 FERC 61,158 (2001); Exelon Generation Company, LLC v. Southwest Power Pool, Inc. 101 FERC 61,226 and Constellation Power Source, Inc. 102 FERC 61,142.

TransCanada argues that the above decisions are not applicable to the current situation as they deal with FERC’s policy as it relates to the rollover rights of existing customers where transmission capacity has diminished over time. (TCE Reply, p. 42)

BCTC takes the position that the principles are the same in either context. (BCTC Argument, p. 22)

### **Commission Panel Discussion**

The Commission Panel agrees with TCE that each of the FERC decisions upon which BCTC relies for the proposition that it cannot condition the release of Firm capacity on its own system based on whether there is capacity on a third party system deals with the rollover rights of existing customers, not potential new customers, and thus, in the Panel’s view, the decisions provide little guidance for the current situation. The Panel does not agree with BCTC’s assertion that the principle is the same in either context.

For example, in Commonwealth Edison, although FERC stated the applicant was “not authorized by the pro forma tariff or by its own OATT to condition a transmission customer’s right to transmission service on whether there is transmission capacity on a third party’s transmission system”, FERC proceeded to confirm that “[a]ll long-term firm transmission customers have the right to roll over their service...” (p. 4) and that “rollover rights facilitate orderly planning.” (p. 5) The decision was concerned only with roll over rights and, in the Panel’s view, should not be extended beyond that context.

Similarly, in Exelon Generation Company FERC re-iterated that “[a]ll long-term firm transmission customers have the right to roll over their service...” (at para. 19) and further commented on the

right of first refusal enjoyed by existing transmission customers over other potential customers seeking their capacity. FERC explained that by its statement in another case (Idaho Power Rehearing Order, 95 FERC at 61,759) “the right of first refusal provision applies to existing capacity and does not require a transmission provider to build additional capacity in response to a request to rollover a transmission service”, it “did not intend... that a transmission provider could deny a customer’s rollover request to the extent that the transmission provider did not have sufficient available capacity to meet the request and could only grant the request if it were to build additional capacity. Implicit in this statement was the expectation that the transmission provider had already studied the impacts on its existing system of providing the transmission service and determined that it could provide that service (including any rollover if requested) using its existing system.” In other words, “[b]ecause a determination to grant the initial service request carried with it the obligation to assume that the customer would continue to take service, the Commission expected that the transmission provider would have sufficient existing capacity to serve a rollover request and not then need to build additional capacity to serve that rollover request.” (p. 8)

Constellation Power Source also dealt with rollover rights, reiterating much of the same language as in the Exelon Generation case discussed above. FERC confirmed that “[r]egardless of the length of the contract term, a transmission provider will grant a request for long-term firm transmission service only if it determines that it has sufficient available transmission capacity to provide the service. In making this determination, the transmission provider is obligated to plan its system to meet all of its firm loads, including any prospective rollovers of the transmission services used to meet those loads.” (p. 11) FERC went on to note that, provided it is handled in the initial transmission contract, the transmission provider can limit a prospective customer’s rollover rights. The rights of existing long term customers, however, include the right to continue to take service. (p. 8)

The Commission Panel therefore finds that the FERC principles contained in the decisions referred to do not preclude BCTC from considering the capacity of an adjoining jurisdiction when determining its own available transfer capability.

TransCanada, on the other hand, argues that FERC principles require BCTC to consider conditions on neighbouring systems when determining how much LTF PTP transmission service it can make available for sale. (TCE Reply, p. 2) TransCanada refers to comments contained in FERC Orders 890, 890-A, 890-B and 890-C in support.

In FERC Order 890 the Commission confirmed its intention to provide further guidance on the subject of ATC to improve transparency and consistency in its calculation and in the process of data exchange as between transmission providers. (FERC Order 890, pp. 57-58) FERC stated:

“[w]e also require transmission providers to document their processes for coordinating ATC calculations with their neighboring systems. This requirement is particularly important with respect to seams between market and non-market areas, ..., and with respect to the request of other commenters to increase regional coordination regarding ATC calculation. While this Final Rule does not address all seams issues between market and non-market areas, it does take important steps towards that end by improving data exchange between transmission providers and providing increased transparency with respect to ATC calculation.” (FERC Order 890, p. 196)

TransCanada quotes FERC Order 890-A where the Commission clarified “that adjacent transmission providers must coordinate and exchange data and assumptions to achieve consistent ATC values on either side of a single interface.” (TransCanada Argument, p. 14)

In Order 890-B FERC clarified that “consistent” should be interpreted as “identical”. (TransCanada Argument, p. 15 quoting FERC Order 890-B at para 15)

Then, in Order 890-C FERC backed off its interpretation of “consistent” as “identical” stating:

“[t]he requirement then is, instead, to achieve consistency in such values through the development of ATC calculation methodologies that produce sufficiently accurate, consistent, equivalent, and replicable results. In some instances, it may be possible for transmission providers under these methodologies to achieve identical ATC values on either side of an interface. In others, such as when there are differences in reservation status or when there

are multiple interfaces between the transmission providers, it may not be possible or even practical to achieve identical values.” (TransCanada Argument, p. 16 quoting FERC Order 890-C at para. 9)

BCTC takes the position that the FERC authorities cited above “do not demonstrate an implicit tariff obligation on BCTC to condition LTF PTP transmission service on the availability of capacity on the Alberta system” and that there are no explicit OATT provisions requiring it to do so. It suggests that it achieves consistency in ATC values through the WECC Path rating process and that to use Alberta hourly import limits to determine a long term import limit would involve increased discretion, which is contrary to the FERC guidance in Order 890.

### **Commission Determination**

The Commission Panel is of the view that FERC principles do support allowing a transmission provider to consider constraints in adjoining areas when calculating ATC. The distinction as between achieving “consistent” and “identical” ATC values on either side of an interface does not, in the Panel’s view, support the proposition that the value on the other side of an interface need not be considered at all in determining ATC for long term firm capacity. Rather, the Commission Panel acknowledges that in real time the ATC values must necessarily be identical, (see, for example evidence of BCTC T3: 342) for reliability purposes, but is of the view that consistency is a sufficient goal for the longer term. In the event that the Commission Panel is found to be incorrect, and it is determined that FERC principles are inconsistent with such an approach, the Panel is still of the view that, in the particular circumstances of this case, in this jurisdiction, it is incumbent upon BCTC to take the constraints on the Alberta system into account when determining long term firm ATC on its system. As noted above, BCTC must consider and abide by the import limits into Alberta in real time. The Commission Panel accepts the evidence of Dr. Roach that short term reality should be reflected in long term calculations, rather than ignored.

#### 4.1.2.2.2 BCTC's System

BCTC also argues that it only sells transmission capacity on its own system within British Columbia, to the knowledge of all parties. Its tariff specifically denotes a point of receipt ("POR") and point of delivery ("POD") within the provincial boundaries. It therefore concludes that it need not consider conditions in Alberta, and further states that it has never done so in the past. TCE agrees that BCTC provides transmission service only on its own system but argues that the determination of how much long-term point-to-point transmission service BCTC can sell is "not an academic exercise that is carried out without regard to real world conditions" and that the value of long term firm point-to-point transmission service to customers lies in actually being able to use the service they purchase to physically flow power (in this case, for the most part, from Washington into Alberta). (TCE Reply Argument, p. 9)

#### **Commission Panel Discussion**

It is clear from the evidence that, notwithstanding the POD within British Columbia, in reality, there is no destination for the energy within B.C. and that any energy which flows must be able to go into Alberta or it cannot flow at all. (TransAlta Evidence, T3: 302-303; BCTC Evidence, T3: 346-347; TCE Evidence, T2: 102-103) The Commission Panel accepts that BCTC may never have taken conditions in Alberta into account when determining the transmission capacity available for sale in British Columbia in the past, but the evidence indicates that conditions in Alberta did not become a particularly limiting factor until January of 2008, when BCTC increased the long term firm capacity available for sale to 785 MW. The Commission Panel is also of the view that BCTC did actually "consider" conditions in Alberta in its 2007 System Impact Studies, albeit by way of making an assumption that Alberta could accept all the energy which BCTC could transmit to the border. This assumption was false, to the knowledge of BCTC.

## 4.2 Did BCTC violate its OATT?

In determining whether to allow the TransCanada Complaint, the Commission Panel must determine whether BCTC, in fact, breached the provisions of its OATT.

BCTC takes the position that it has acted at all times in accordance with its OATT and that the TCE complaint must therefore be dismissed. (BCTC Argument, p. 2)

As noted above, it is BCTC's position that it "has consistently and transparently applied its OATT and published Business Practices in calculating and releasing Firm capacity on the BC>AB Path" and that these provisions "expressly obligate BCTC: (1) to release Firm capacity on its Transmission System to customers on a first-come, first-served basis or to construct Network Upgrades to provide LTF PTP transmission service; and (2) to calculate Firm ATC based on prescribed requirements." (BCTC Argument, p. 3) BCTC also submits that "[t]here is no express provision of the OATT that would have authorized BCTC to withhold Firm transmission capacity on BCTC's Transmission System". (BCTC Argument, pp. 3-4)

BCTC testified that, at the end of 2007, when it made the decision to sell increased incremental long term firm capacity up to 785 megawatts, it knew that its existing long term firm customers would experience increased curtailment. (T3: 377) It also testified it did not feel any need to inform its existing customers (of which there were 3) of the risk. (T3: 378, 449) BCTC further testified it did not consider seeking guidance from the BCUC prior to selling the incremental capacity as it believed that it was acting "wholly in accordance with [its] tariff" and that it "was and is the right thing to do". (T3: 378) It also testified that the consequences to existing customers in terms of additional curtailments were "not something that's of concern to BCTC in terms of what those impacts or implications are." (T3: 379)

### Commission Panel Determination

The Commission Panel notes the OATT itself does not specifically define “firm transmission capacity” (as discussed above) and that Attachment C sets out what is basically an arithmetic calculation of Available Transmission Capacity (Available Transfer Capability) which BCTC has followed. No party was able to point to any specific provision in the OATT which requires BCTC to consider constraints in a neighbouring jurisdiction when calculating its long term firm point-to-point transmission capacity available for sale. Therefore, although this approach may have been open to BCTC on the basis of the FERC principles as set out in FERC Orders 890, 890-A, 890-B and 890-C it was not necessarily required by BCTC’s OATT. **Accordingly, the Commission Panel finds that BCTC was in technical compliance with its tariff when it offered 785 MW of transmission capacity for sale. It follows that the TransCanada complaint must be dismissed.**

However, the Commission Panel is of the view that, while BCTC’s actions were arguably consistent with the letter of its OATT, and with its interpretation of its OATT, as well as with certain FERC guidelines, there are a number of negative consequences flowing from BCTC’s decisions which do not, in the Panel’s view, accord with the spirit of the FERC guidelines, in terms of open access to transmission, transparency, and the rights of existing customers over potential new customers as outlined in the decisions relating to rollover rights referred to above. As noted, the Commission Panel is of the view that the situation on the BC>AB path is not comparable to any of the FERC cases referred to by BCTC. The BC >AB path is a single destination path. If Alberta cannot accept the energy, customers have no interest in using or ability to use the BCTC transmission capacity. The sale of additional LTF PTP capacity on the BC>AB path only serves to further degrade the service of existing customers.

The Commission Panel finds the fact that a transmission customer may need to purchase more capacity than it requires to ensure that it can flow the amount of energy it contracted to flow (as is the case with NorthPoint) means that the effective price of transmission is above the stated price and not transparent. BCTC also confirmed that it does not reduce the charges to its customers when their capacity is curtailed if the curtailment is the result of a problem on another system, i.e.

Alberta, so the customer is paying the full charge for reduced transmission. (Evidence of BCTC, T3: 398) Similarly, both Trans Canada and NorthPoint gave evidence that they often do not schedule the full amount of power that they could sell for transmission because they know that their transmission capacity will be curtailed and to schedule the full amount of capacity which they purchased would result in their basically having to rescind portions of their contracts with their energy suppliers. (NorthPoint Evidence, T3: 274, 286; TCE Evidence, T2: 224-225)

Further, the evidence suggests that other parties may be forming a queue which bears no resemblance to the amount of energy they could reasonably contract to transmit, in order to prompt a system upgrade. For example, TransAlta testified that it has 12 reservations in the queue, each for 100 MW, but its witness was unable to advise as to the magnitude of the annual cost should it be granted the capacity sought, other than to acknowledge that it would be “a large number”. (T3: 308-309) To paraphrase a Powerex submission (albeit made in another proceeding in a different context) as noted by FERC, the queue becomes clogged with duplicative requests which reflect customers’ attempts to secure service, rather than the actual quantity of service needed. (FERC Order 890, p. 24)

Similar concerns were also raised by Powerex in November and December of 2007 when BCTC made the decision to increase the long term firm capacity available for sale on the BC>AB path. Powerex noted in an e-mail to BCTC:

“BCTC is selling as [sic] additional 305 MW firm over what they have done historically. In the study BCTC has stated that they assume the adjacent control areas can accommodate these increases. I am not suggesting that BCTC is prohibited from making that assumption but I would like to make sure that you fully understand the consequences of this change.... Once BCTC coordinates TTC with AESO all of the new 305 MW will be cut on average. The way this happens is via pro-rata reduction. So if you use 560 MW as the average number then somebody like TCPC who owns 100 MW will only receive  $100 \text{ mw} * (495/785)$  or 63 MW on average of their transmission but still have to pay for all 100 MW. This will leave both existing and new customers quite unhappy from a change that doesn’t create any new space. Basically existing customers get less transmission and pay the same and new customers get less MWs then [sic] they

thought they were going to get but pay for the full amount.” (Exhibit B1-27, e-mail #8)

In its response to Powerex, BCTC reiterated the position it takes in this Complaint, that it is not authorized under the OATT to condition a transmission customer’s right to transmission service on whether there is transmission service capacity on a third party, citing the same cases noted above which the Commission Panel has found relate to rollover rights. (Exhibit B1-27, e-mail #11)

In the Commission Panel’s view, none of these results accords with FERC principles. Pricing of transmission becomes non-transparent and the queue is unlikely to represent an accurate estimate of demand. The sale of additional capacity to new customers at the expense of the degradation of the transmission capacity of existing customers is, in the Panel’s view, an example of undue discrimination in these circumstances.

In Order 890-B FERC discussed its decision to lift the price cap in the secondary market for transmission service for a trial period to “foster the development of a more robust secondary market for transmission capacity.” It confirmed the positive obligation on transmission providers to offer all available capacity to customers on a non-discriminatory basis and to expand their systems as necessary to accommodate additional requests for service. FERC also stated that “[t]ransmission providers must continue to make primary capacity available at the rates specified in their individual OATTs. Customers that do not wish to participate in the secondary market may continue to take service from the transmission provider directly, just as if the price cap had not been lifted. For those customers participating in the secondary market, however, lifting the price cap will create additional incentives for others to make service available, increasing the ability to obtain transmission capacity.” (FERC Order 890-B, pp. 45-47)

The existence of a secondary market and the comments of FERC that the transmission provider is to make primary capacity available at the rate specified in its OATT reinforces the Commission Panel’s view that the increased curtailment of existing customers resulting from the sale of

additional long term firm capacity without a reduction in the price represents an effective increase in the tariff for primary capacity which is not transparent.

The Commission Panel accepts that BCTC should attempt to maximize its revenues and the utilization of the transmission system but notes that selling additional LTF PTP service which simply results in curtailment of existing customers is not increasing the use of the system. The Commission Panel agrees with TCE's argument (at p. 45) that FERC requirements relating to making all available transmission capacity available to customers on a non-discriminatory basis do not require that such capacity necessarily be sold as firm capacity.

As the Panel finds that BCTC was in technical compliance with its OATT, it follows that the OATT needs to be amended to address the negative consequences noted and to provide full transparency.

#### **4.3 What is a Reasonable Figure for Transmission Capacity for Sale?**

As noted above, one of the issues which require consideration and determination by the Commission Panel is the amount of transmission capacity which BCTC should offer for sale. In Part 6 of its OATT Amendment Application, which deals with Firm Transmission Sales to Alberta and the TransCanada Complaint, BCTC proposes to amend Attachment C to its tariff, which deals with the methodology for calculating Available Transmission Capacity/Available Transfer Capability, by adding the following sentence:

“Notwithstanding any other provision in this Tariff, the transmission provider shall limit sales of Firm Point-to-Point Transmission Service on the BC>AB path to 785 MW.”,

the current limit, “to address the unique circumstances faced on the BC>AB path” and to improve transparency. (Exhibit B1-1, p. 148)

As also noted above, other parties argue for different limits, as set out below.

#### 4.3.1 WECC Path Rating 1200 MW

TransAlta argues that BCTC should upgrade its transmission system, which involves an estimated cost in the order of \$36 million to \$54 million, to increase the transmission capacity available for sale to the WECC path rating of 1200 MW (1160 MW Operating Transfer Capability). It is common ground that such an upgrade would not serve to solve any problems on the Alberta side, such that all existing customers would experience further curtailments. TransAlta would be required to pay the cost of the upgrade.

TransAlta takes the position that this option is preferable as it is consistent with FERC principles regarding consistency in ATC calculations, it does not involve withholding of available transmission capacity and/or giving preferential treatment to existing customers and therefore supports reciprocity. (TransAlta Argument, paras. 4-6) TransAlta recognizes the “seams issue” with Alberta but suggests that this does not provide justification to withhold available ATC in British Columbia to the benefit of existing transmission customers, which include BCTC’s affiliates, and that such withholding is “clearly contrary to FERC requirements”. (TransAlta Argument, paras. 13-14) TransAlta also argues that, if ATC were based on the Alberta system limitations, BCTC would be required to exercise discretion to determine when and if it should approach its regulator to seek to increase its sales of long term firm transmission capacity. (TransAlta Argument, paras. 20-22) TransAlta further suggests that any approach which limits ATC on BC’s system based on capacity on an adjacent system could create problems on the BC-US seam due to precedent, and finally, that reciprocity requires that “comparable” services be offered in non-FERC jurisdictions, and that limiting firm transmission service to the existing level and offering a lower priority service to new customers than that given to existing customers, as suggested by BCTC, would offend this notion. (TransAlta Argument, paras. 24-29)

The Joint Industry Electricity Steering Committee (“JIESC”) argues in favour of the sale of all available capacity on the BC system without consideration of Alberta’s ability to accept the power as being in the interest of ratepayers, making economic sense and being in the public interest while

sending the right signals to Alberta. The JIESC argues that there is strong demand for capacity for transmission within BC. (JIESC Argument, p. 2)

TCE takes the position in response to TransAlta that no additional capacity is properly available in BC and that selling additional capacity that is not properly available to the detriment of existing customers is unreasonable, unfair and unreasonably discriminatory and gives preferential treatment to new customers, who gain financially by having access to capacity that should not have been made available to them in the first place. (TCE Reply, pp. 25-26)

### **Commission Panel Discussion**

It is clear that the North American electrical energy industry is a first come, first served industry where existing customers have priority over potential new customers. There is no suggestion in any of the evidence that FERC principles or the pro forma tariff consider that existing customers are to have their transmission service curtailed, interrupted or otherwise degraded in order to accommodate potential new customers. Rather, potential new customers may be able to take transmission capacity given up by an existing customer, or may be able to trigger an upgrade to the transmission system, for which they must pay.

This, in the Commission Panel's opinion, answers TransAlta's claim that it will be subject to undue discrimination if BCTC does not increase its transmission capacity to the full WECC path rating. Clearly, in this industry, existing customers are entitled to what may amount to "preferential treatment" over potential new customers – this may be discriminatory in a sense, but, in the Panel's view, does not amount to *undue* discrimination within the meaning of FERC principles, or in this jurisdiction.

The Commission Panel disagrees with the JIESC. The Commission Panel accepts the evidence of NorthPoint that having transmission to the border is of no value to a customer if the energy cannot flow across the border. (NorthPoint Evidence, T3: 287) The Commission Panel finds as a fact that there is no actual demand for point-to-point transmission service strictly within BC on the BC > AB

path and that the power must be able to flow over the intertie into Alberta for the transmission service to be useful or valuable in any practical, realistic sense. The Commission Panel also notes that, notwithstanding the formal contract documents which denote a POD and POR within BC, the transmission capacity is marketed by BCTC for “wheeling to Alberta” and, as noted above, is purchased solely for that purpose. (See, for example, BCTC’s November, 2007 System Impact Study—Exhibit B1-11, Attachment 3 at p. 6)

The Commission Panel is also not persuaded that limiting the sale of transmission capacity in BC on the BC>AB path until such time as Alberta is in a position to accept increased energy imports will result in excessive discretion on the part of BCTC. AESO publishes its energy import limits on its website in real time and on a forecast basis up to six months out. (AESO Evidence, T2: 254; Exhibit B2-7, BCTC 1.16.0) TransAlta is therefore in a position to monitor the situation on the intertie to the extent that it sees fit. Further, BCTC increases its revenues by selling transmission capacity. In this case, it is accused of overselling. BCTC has no incentive to withhold available capacity to benefit the more expensive generation of its affiliate, to the detriment of electricity customers in the US, the wrong which FERC is seeking to right. In the Commission Panel’s view, the capacity is not properly “available” if the energy cannot flow to its intended destination. Nor is the Commission Panel concerned that there is any risk of a negative precedent given that, in the Panel’s view, the unique circumstances of this case, which involve a single destination for the energy transmitted, support the restriction of transmission capacity. The Commission Panel does not agree that limiting the transmission capacity to what can reasonably flow will result in transmission service which is not comparable to that in the US under the jurisdiction of FERC.

#### 4.3.2 Current 785 MW

BCTC argues that limiting Firm sales to the current level of 785 MW represents a “principled and practical solution to the problem presented by the current system conditions in Alberta”. (BCTC Argument, p. 6) BCTC states that this approach has a “principled outcome because it preserves the existing level of Firm transmission capacity that has been identified through BCTC’s System Impact Studies undertaken consistently with the existing OATT. It also honours all Transmission Service

Agreements entered by customers in good faith based on the existing terms of service.” (BCTC Argument, p. 64) BC Hydro/Powerex support BCTC’s “compromise position”. (BC Hydro/Powerex Argument, p. 2)

### **Commission Panel Discussion**

BCTC’s argument supporting the use of a level of Firm transmission capacity which was identified through its most recent System Impact Studies, presupposes that the System Impact Studies were properly undertaken in the first place. This premise, in the Commission Panel’s view, is suspect. BCTC testified that, at the end of 2007, when it made the decision to sell increased incremental long term firm capacity up to 785 megawatts, it knew that its existing long term firm customers would experience increased curtailment (T3: 377) and that that was “not something that’s of concern to BCTC in terms of what those impacts or implications are.” (T3: 379) The Commission Panel notes that the assumption in the 2007 studies that Alberta was capable of accepting all the energy which BCTC could transmit was false, to the knowledge of BCTC. Further, the Commission Panel finds that the increase in the sale of long term firm transmission capacity to this level has resulted in significant curtailment to the transmission service of existing customers and, in fact, triggered the TCE Complaint.

#### 4.3.3 Earlier 480 MW

TCE and NorthPoint argue that the appropriate limit for LTF PTP transmission service on the BC>AB path is the previously-determined 480 MW. TCE submits this level “is appropriate, as it is the last level of long-term firm point-to-point transmission service determined by BCTC that was consistent with the amount of power that could actually flow over the Intertie on a firm basis.” TCE further submits that BCTC’s 2004 determination of 480 MW “was effectively correct, even though BCTC indicates it was calculated without regard to Alberta conditions.” (TCE Reply, p. 7)

## Commission Panel Discussion

As noted earlier in this Decision, the sale of additional Long Term Firm Point-to-Point transmission capacity on the BC>AB path to 785 MW was expected to and did result in significant curtailment to the usable transmission capacity of BCTC's existing customers. The earlier limit of 480 MW (545 MW TTC less 65 MW TRM) which was in effect from August 01, 2004 until December 01, 2007 was, according to a 2004 BCTC Bulletin actually available 93 percent of the time from 1999 to 2004. The increase to 785 MW was also only able to be accomplished theoretically through the use of an open loop configuration for the 138 kV ties, at the expense of some amount (albeit small) of reliability to certain areas in eastern British Columbia.

### 4.4 Remedy

As mentioned earlier, all parties are agreed that BCUC has jurisdiction to amend the OATT. BC Hydro/Powerex take the position that BCTC's OATT is filed as a "rate" pursuant to s. 61 of the Utilities Commission Act RSBC 1996, c. 473 as that is the only lawful basis upon which BCTC can charge for transmission service, pursuant to s. 61(3), and that it is that section which affords the Commission the jurisdiction to amend the OATT. TransCanada argues that a number of other sections serve to provide jurisdiction. The Commission Panel agrees it has the jurisdiction to amend the OATT under s.61 but does not agree that this section provides the jurisdiction exclusively. The Commission Panel does not consider it necessary to make a finding on which particular sections do and do not provide jurisdiction, given that it is common ground that the jurisdiction exists.

In its Complaint, TCE indicated that it was not seeking compensation, but argued for a retroactive adjustment to the Firm transmission capacity available for sale to 480 MW until conditions in Alberta change. TCE asked the Commission Panel to annul or set aside the LTF PTP service agreements entered into in December, 2007 and January, 2008 or alternatively, convert them to a different form of service. (TCE Argument, p. 3; TCE Reply, p. 4)

As noted above, the Commission Panel has determined that BCTC complied with the letter of its existing OATT and dismissed the Complaint. TCE acknowledges, however, that “[t]o the extent that BCTC has followed the provisions of its tariff, those provisions must be amended ... to bring them into compliance with FERC principles.” (TCE Reply, p. 2)

It is clear from its argument that TCE supports a reduction in Firm transmission capacity on the BC>AB path to 480 MW. TCE argues that such a result would not be unfair to customers who purchased capacity after December 1, 2007 as they purchased capacity which was not properly available for sale, at the expense of existing customers.

NorthPoint also argues for a reduction in the Firm capacity for sale on the BC>AB path to 480 MW, but does so on a “going forward” basis. NorthPoint submits that as “no new LTF capacity will actually be available until the requisite upgrades in Alberta are completed, ...there is no real justification for prolonging or exacerbating the hardship already borne by the original LTF customers, which would be the inevitable result of maintaining the status quo or, worse, releasing even more non-existing LTF service to the market.” NorthPoint suggests that all capacity awarded over 480 MW should be treated as “Conditional Firm Service” and any further capacity above 785 MW be offered on a basis akin to non firm. (NorthPoint Argument, p. 11)

BCTC argues that [i]f the concerns expressed by TCE and NorthPoint are to be addressed, they must be addressed prospectively.” (BCTC Argument, p. 61) BCTC argues that “[r]educing the Firm TTC on BCTC’s Transmission System below 785 MW [sic]...is not appropriate” and considers that the “...result of that approach would be unfair and discriminatory to customers whose confirmed contracts for LTF PTP transmission service would have to be annulled or modified.” (BCTC Argument, p. 62)

The JIESC argues that giving effect to the TCE complaint (i.e. reducing capacity to 480 MW would be unfair to subsequent purchasers who relied upon the existing tariff. (JIESC Argument, p. 3) BC Hydro/Powerex also argue that the parties who received the incremental capacity (following the increase in capacity for sale from 480 MW to 785 MW) would bear all the burden of the reduction

when pre-existing holders would bear none, which would be “manifestly unfair” when all the capacity holders are “equally blameless” and “equally worthy of the transmission capacity rights.” (BC Hydro/Powerex Argument, p. 4)

### **Commission Determination**

**The Commission Panel determines, on the basis of the totality of the evidence presented, that a reasonable limit for long term firm point-to-point transmission capacity on the BC>AB path at this time is the previously-determined 480 MW.** This amount is consistent with the last amount determined by BCTC’s engineers (in 2004) to be the appropriate amount prior to the increase to 785 MW in issue. BCTC has admitted that the recent increase in issue was accomplished by using an open loop configuration for the two 138 kV ties and that that configuration did result in reduced reliability to certain areas in Eastern British Columbia. The 480 MW number, although arguably too high, is acceptable to both TransCanada and to NorthPoint, two parties who have had their existing firm transmission service curtailed.

**The Commission Panel determines that 480 MW will be the limit on a prospective basis until such time as AESO is able to accept additional energy from British Columbia.** To accomplish this, it is suggested that a sufficient number of contracts which contain the subject condition concerning “a further order of the British Columbia Utilities Commission”, (which total 350 MW), be cancelled and/or changed to a form of conditional period - conditional firm or non-firm service, up to 305 MW, which is the reduction required to bring the total MW of firm transmission service available for sale back to 480 MW. The Commission Panel is of the view that this is not an unfair result in the particular circumstances of this case, as the affected parties, of which there are two, (namely NorthPoint and BC Hydro) not only already have conditional contracts in respect of the additional 350 MW of capacity and so have not been misled in terms of this result, but are also pre-existing customers who continue to have earlier, unencumbered contracts in place and thus they will also benefit from the reduction in curtailment of those contracts.

The Commission Panel will leave it up to BCTC and its affected customers to determine how the 305 MW capacity reduction is to be allocated to those customers with conditional contracts.

The customers whose conditional long term firm contracts are affected shall have the right to be placed at the top of the existing queue in an order so as to maintain the pre-existing priorities.

BCTC has confirmed that it will continue to continue to co-ordinate with AESO at both planning and operational levels to increase the imports into Alberta over time. (Exhibit B1-1, p. 120) BCTC has also suggested that it will continue to monitor the situation in Alberta and evaluate whether it makes sense to increase the sale of transmission capacity on the BC>AB path and will report to the Commission on any material changes in the interim. (BCTC Evidence, T3: 334) The Commission Panel supports this plan. **The Commission Panel directs BCTC to continue the temporary suspension of the facilities study on the BC>AB path in the interim.**

**BCTC is directed to amend Attachment C to its OATT to include the following:**

**“Notwithstanding any other provision in this tariff, the Transmission Provider shall limit sales of Firm Point-to-Point Transmission Service on the BC>AB path to 480 MW.”**

DATED at the City of Vancouver, in the Province of British Columbia, this 10th day of September 2009.

*Original signed by:* \_\_\_\_\_

ALISON A. RHODES  
PANEL CHAIR/COMMISSIONER

*Original signed by:* \_\_\_\_\_

LIISA A. O'HARA  
COMMISSIONER

*Original signed by:* \_\_\_\_\_

PETER E. VIVIAN  
COMMISSIONER





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<b>BRITISH COLUMBIA UTILITIES COMMISSION</b>	
<b>ORDER NUMBER</b>	<b>G-103-09</b>

TELEPHONE: (604) 660-4700  
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IN THE MATTER OF  
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

An Application by the British Columbia Transmission Corporation  
to Amend the BCTC Open Access Transmission Tariff

and

A Complaint by TransCanada Energy Ltd.  
Re BCTC Firm Transmission Sales to Alberta

**BEFORE:** A.A. Rhodes, Panel Chair  
L.A. O'Hara, Commissioner  
P.E. Vivian, Commissioner

September 10, 2009

## O R D E R

### WHEREAS:

- A. On June 3, 2008, the British Columbia Transmission Corporation ("BCTC") applied to the British Columbia Utilities Commission ("BCUC", "the Commission") to suspend the release for sale of additional Firm Available Transfer Capacity ("Firm ATC") on the British Columbia to Alberta path (the "BC>AB Path") and to suspend the Facilities Study relating to requests for additional service on the BC>AB Path; and
- B. On July 3, 2008, the Commission issued Order G-110-08 (the "Suspension Order"), granting BCTC's June 3, 2008 application. In granting the Suspension Order, the Commission directed BCTC to address certain issues raised in that application in the context of BCTC's next Open Access Transmission Tariff ("OATT") Application or Rate Design review, and to provide a Tariff provision to address the issues; and
- C. The OATT includes the rates, terms, and conditions (including tariff supplements) of the non-discriminatory, open access transmission service offered by BCTC. OATT is modeled on a pro forma tariff established by Federal Energy Regulatory Commission ("FERC") Order No. 888 (the pro forma tariff), which was recently amended by FERC Order No. 890; and
- D. On July 14, 2008, BCTC held a consultation session concerning the implementation of FERC Order No. 890. The consultation included discussion of: the potential impact of incremental sales of firm transmission on existing firm transmission service on the BC>AB Path, the simultaneous submission window, and performance metrics and operational penalties; and
- E. On October 9, 2008, TransCanada Energy Ltd. ("TCE") filed a complaint (the "Complaint") with the Commission with respect to BCTC's decision to release additional Long-Term Firm Point to Point transmission capacity for sale on the BC>AB Path in December of 2007; and

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- F. By letter dated October 17, 2008, the Commission requested comment from BCTC on its views on a process to review the Complaint; and
- G. By letter of October 31, 2008, BCTC responded to the Commission, stating that BCTC anticipated filing its OATT amendment application by November 21, 2008, and that the application would address the issues raised by TCE; and
- H. On November 13, 2008, the Commission issued Letter L-53-08, advising TCE that the Commission would, after receipt of the OATT amendment application, issue a procedural letter or order to solicit submissions on the appropriate process or processes for reviewing the Complaint and the application, including the appropriate degree of separation between the reviews of each; and
- I. On November 21, 2008, BCTC filed its application to amend the OATT (the "OATT Amendment Application"), pursuant to subsections 58, 59, and 60 of the Utilities Commission Act ("UCA", the "Act"); and
- J. BCTC indicated that the OATT Amendment Application included its response to the Complaint; and
- K. As part of the OATT Amendment Application, BCTC sought an interim order, pursuant to section 89 of the Act, and section 15 of the Administrative Tribunals Act, requiring that specified new Service Agreements indicate that they are subject to a further Commission order on the OATT Amendment Application. The requirement would apply to transmission service rollover requests by British Columbia Hydro and Power Authority ("BC Hydro") on the BC>AB Path and any queued requests for Firm ATC coming available on the BC>AB Path on January 1, 2009; and
- L. Commission Order G-175-08, dated November 27, 2008, required BCTC to indicate on two specified BC Hydro rollovers, and any contracts for Firm Available Transfer Capacity coming available on the BC>AB Path on January 1, 2009, that:
- "This Service Agreement is subject to a further order of British Columbia Utilities Commission in the matter of the British Columbia Transmission Corporation Application to Amend the Open Access Transmission Tariff"; and
- M. By Order G-195-08, the Commission established a Procedural Conference for January 8, 2009 to address procedural matters; and
- N. At the Procedural Conference, the Commission Panel heard submissions on the scope of the regulatory review, the review format for the principal issues, and whether the OATT Amendment Application and the Complaint could be properly dealt with in a combined proceeding or if separate proceedings were required; and
- O. Following the Procedural Conference, the Commission issued Order G-3-09 whereby it ordered that BCTC's OATT Amendment Application, other than the parts of Part 6 thereof dealing with TCE's Complaint, would be reviewed through a Written Hearing Process, to be termed the "OATT Amendment Hearing"; the Complaint and those parts of Part 6 of the OATT Amendment Application in response, would be reviewed through an Oral Hearing Process termed the "TCE Complaint Hearing"; there would be a common evidentiary record for both the OATT Amendment Application and the Complaint; and established a Regulatory Timetable; and
- P. The TCE Complaint Hearing Proceeded for two days commencing April 29, 2009; and
- Q. The Commission Panel has now considered the evidence and the written submissions of BCTC and TCE and Registered Intervenors for both the OATT Amendment Application and the Complaint.

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**NOW THEREFORE** the Commission, for the reasons stated in its Decision on the TCE Complaint Hearing, orders as follows:

1. The TCE Complaint is dismissed.
2. Long Term Firm Point-to-Point Transmission Capacity for sale on the BC>AB path shall be limited to 480 MW (545 MW Total Transfer Capability less 65 MW Transmission Reliability Margin) on a prospective basis until such time as the Alberta Electric System Operator is able to accept additional energy flowing from British Columbia.
3. Contracts for Firm Service on the BC>AB path bearing the subject condition concerning a further order of the British Columbia Utilities Commission, up to the 305 MW necessary to reduce the capacity offered for sale to 480 MW, shall be cancelled or amended to a form of conditional period-conditional firm or non-firm service. BCTC and its affected customers may determine the allocation of the 305 MW to be removed. Affected customers shall have the right to be placed at the top of the existing queue in an order which is consistent with their pre-existing priority rights.
4. The temporary suspension of the Facilities Study for the BC>AB path granted in Order G-110-08 is continued.
5. BCTC is directed to amend Attachment C to its OATT to include the following clause:

“Notwithstanding any other provision in this tariff, the Transmission Provider shall limit sales of Firm Point-to-Point Transmission Service on the BC>AB path to 480 MW.”

**DATED** at the City of Vancouver, in the Province of British Columbia, this 10<sup>th</sup> day of September 2009.

BY ORDER

*Original signed by:*

Alison A. Rhodes  
Panel Chair/Commissioner



British Columbia Transmission Corporation  
An Application to Amend the BCTC Open Access Transmission Tariff

and

A Complaint by TransCanada Energy Ltd.  
Re Service Agreement between TCE and BCTC  
for Long Term Firm Point-to-Point Transmission Service

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**Procedural Background and Context**

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The British Columbia Transmission Corporation (“BCTC”) is charged with operating, managing, planning, and maintaining the transmission system in British Columbia which is owned by British Columbia Hydro and Power Authority (“BC Hydro”).

BCTC offers wholesale transmission service to its customers, including BC Hydro and its sister company, Powerex Corporation, by means of a standard form Open Access Transmission Tariff (“OATT”), which is modelled after the Federal Energy Regulatory Commission’s pro forma tariff in the U.S.

On February 16, 2007 the Federal Energy Regulatory Commission (“FERC”) issued Order 890 amending the pro forma tariff.

In late 2007, BCTC made the decision to increase the amount of long term firm capacity it had available for sale on the British Columbia to Alberta transmission path (“BC>AB path”) by 305 MW. This decision was fully implemented by January, 2008. The increase in transmission capacity sold to new customers resulted in other existing customers having their service curtailed, due to constraints originating in Alberta.

One of these customers was TransCanada Energy Ltd (“TCE” or “TransCanada”). TransCanada objected to the sale of the increased capacity.

On June 3, 2008, BCTC applied to the British Columbia Utilities Commission (“BCUC” or “Commission”) for an Order allowing it to suspend the release of any further capacity on the BC>AB path and to suspend a Facilities Study relating to requests for additional capacity on the path, pending further discussion with its existing and potential customers on whether BCTC should further increase the transmission capacity for sale on the path. BCTC proposed to address this issue in the context of its next tariff update application, in the fall of 2008.

BCUC issued Order G-110-08 dated July 3, 2008 approving the temporary suspension of the sale of additional capacity on the BC>AB path as well as the Facilities Study related to that capacity. BCUC also directed BCTC to submit a report on stakeholder submissions concerning the sale of additional capacity on the BC>AB path and a new product, Conditional Firm Service, including BCTC's commentary in response, from its OATT consultation session which was scheduled for July 14, 2008, by August 8, 2008.

On August 8, 2008, BCTC submitted its Report on Firm Sales to Alberta and Conditional Firm Service.

TransCanada filed a formal Complaint ("Complaint") with the BCUC on October 9, 2008 requesting the Commission to prioritize its firm transmission capacity on the BC>AB path, retroactive to December 01, 2007, pending upgrades to the system in Alberta to accommodate all users.

By letter dated October 31, 2008 BCTC advised that it intended to file its next OATT update application by November 21, 2008 and submitted that, as that application would address issues on the BC>AB path, the application should be considered its response to the TCE Complaint and that the two matters should be heard at the same time. BCTC also requested a joint procedural conference, following the filing of its application.

By letter dated November 06, 2008 TransCanada argued that its Complaint should be heard separately as the Complaint sought retroactive relief which, in its view, would not be fully addressed as part of BCTC's forward-looking tariff update application.

By letter L-53-08 dated November 13, 2008, the Commission advised that it would defer its decision on the appropriate process to be used for determining the TransCanada Complaint until it had received BCTC's tariff update application.

BCTC filed its tariff update application, the OATT Amendment Application ("the Application"), on November 21, 2008. BCTC advised that Part 6 of the Application addressed issues relating to the sale of firm transmission capacity on the BC>AB path and represented its response to the Complaint.

As part of the Application, BCTC also sought a further interim Order allowing it to indicate on any new Service Agreements arising from the rollover/expiry of certain BC Hydro Service Agreements on the BC>AB path on December 31, 2008 that:

“This Service Agreement is subject to a further order of the British Columbia Utilities Commission in the matter of the ‘British Columbia Transmission Corporation Application to Amend the Open Access Transmission Tariff’ filed on 21 November 2008.”

by December 11, 2008, to allow it sufficient time to process the Service Agreement prior to January 01, 2009. BCTC’s stated rationale was:

“[t]he interim order sought will permit BCTC to proceed in the ordinary course with processing the 50 MW and 120 MW rollover requests, allow the Commission to consider the above issues in the context of the Application and require BCTC to highlight on the rolled-over Service Agreements and any new Service Agreements on the BC>AB Path that the Commission may make further orders with respect to the Service Agreements as part of its final disposition of this Application. BCTC...believes that the order requested will assist in making the potential for that outcome as transparent as possible.”

By Order G-175-08 dated November 27, 2008, the Commission approved BCTC’s request to include the condition relating to a possible further order of the Commission following its consideration of the Application on new Service Agreements for the BC>AB path commencing January, 01, 2009.

By letter dated November 28, 2008, TransCanada re-iterated its position that its Complaint should be heard separately, and objected to the proposed sale of any capacity arising from the expiration of a BC Hydro Service Agreement with no rollover rights on December 31, 2008. TransCanada argued that such sale would perpetuate the very situation on the BC>AB path about which it complained. TransCanada asked that the Commission deny BCTC’s request for the interim order relating to the sale of the BC Hydro capacity and that any further sales or rollovers of Service Agreements initially executed after December 01, 2007 be suspended pending a resolution of the issues raised in its Complaint.

On December 17, 2008, by Order G-195-08, the Commission established a preliminary Regulatory Timetable, which included a Procedural Conference scheduled for January 8, 2009 to consider issues including: the identification of issues arising from or related to the OATT Amendment Application, the appropriate process for the Commission’s review of the TransCanada Complaint, the timetable for Information Requests and Responses and Intervenor evidence and any additional process steps and associated dates.

The Procedural Conference took place, as scheduled, on Thursday, January 8, 2009. Following its consideration of the submissions of the participants, the Commission Panel, by Order G-3-09 dated January 15, 2009, directed that: the BCTC OATT Amendment Application, other than any portions of Part 6 dealing with the TransCanada Complaint, would be dealt with by way of a Written Hearing Process wherein BCTC would be the “applicant”, with the corresponding right of reply; the TransCanada Complaint and relevant portions of Part 6 of the OATT Amendment Application would be dealt with by way of an Oral Hearing Process, wherein TransCanada would be the “applicant”, with the corresponding right of reply; and the two matters would share a common evidentiary record. The Commission Panel also set a Regulatory Timetable for the two matters going forward. The Oral Hearing was scheduled to commence on April 29, 2009.

On April 6, 2009, by Commission Letter L-24-09 the Commission solicited comments from the parties on the potential attendance of the Alberta Electric System Operator (“AESO”) at the Oral Hearing to act as amicus to provide limited evidence on matters surrounding documents in the evidentiary record with which it had the most familiarity as well as planning and operations coordination as between AESO and BCTC.

TransCanada welcomed the participation of AESO and suggested that its witness panel appear first to set the context for the oral hearing of the Complaint.

TransAlta Corporation, a Registered Intervenor in the BCTC OATT Amendment Application, objected to the attendance of AESO on the basis that its attendance was unnecessary as irrelevant to the issues and also unusual. TransAlta expressed concern that the lateness of the proposal to invite AESO to attend the Oral Hearing combined with the fact that AESO was not expected to file evidence in advance would make the process unfair.

BCTC also expressed concern and asked that, if AESO were to testify, its written evidence be provided to the parties as soon as possible and that considerable latitude be granted on cross examination of its witness panel.

BC Hydro/Powerex and NorthPoint Energy Solutions Inc. did not object to the attendance of AESO to testify on the matters as outlined in Commission Letter L-24-09.

By letter dated April 23, 2009 (Exhibit A-24), the Commission Panel confirmed the attendance of AESO in the role of amicus at the Oral Hearing for the purpose of providing context for both the TCE Complaint and OATT Amendment Application. The Commission Panel expressed the view that AESO was particularly well-suited to provide this evidence given its neutral status and first hand knowledge of the issues. In order to attempt to address the concerns expressed by TransAlta and BCTC and to assist the parties in their preparation for any cross-examination of AESO's witness panel, the Commission prepared Information Requests to AESO which were provided to the parties.

AESO provided responses to the Commission Panel's Information Requests under cover of a letter dated April 24, 2009.

The Oral Hearing proceeded for two days commencing April 29th, 2009. TransCanada's witness panel appeared first, followed by the AESO panel. Witness panels from NorthPoint, TransAlta and BCTC appeared, in that order, on the second day of the Oral Hearing. Subject to the filing of responses to outstanding undertakings, the evidentiary portion of the proceedings was declared closed at 4:59 p.m. on Thursday, April 30, 2009.

Written arguments were filed in general accordance with the Regulatory Timetable, concluding with BCTC's reply submission on its OATT Amendment Application on June 25, 2009.



LIST OF APPEARANCES

G. FULTON, Q.C.	Commission Counsel
P. FELDBERG C. BYSTROM	British Columbia Transmission Corporation
I. WEBB	British Columbia Hydro and Power Corporation and Powerex Corporation
D. WOOD C. BEST F. KARABETSOS	TransCanada Energy Limited
W. MILMAN	NorthPoint Energy Solutions Inc.
J. LANDRY	TransAlta Energy Marketing Corporation
J. QUAIL	B.C. Branch, B.C. Old Age Pensioners' Organization, Council Of Senior Citizens' Organizations, Federated Anti-Poverty Groups of B.C., West End Seniors' Network (collectively "BCOAPO")
R.B. WALLACE	Joint Industry Electricity Steering Committee (JIESC)
<hr/>	
T. ROBERTS J. FRASER	Commission Staff
E. SWITLISHOFF G. ISHERWOOD	Contract Staff
ALLWEST REPORTING LTD.	Court Reporters

IN THE MATTER OF  
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

British Columbia Transmission Corporation  
An Application to Amend the BCTC Open Access Transmission Tariff

and

A Complaint by TransCanada Energy Ltd.  
Regarding the Service Agreement between TCE and BCTC  
for Long Term Firm Point-to-Point Transmission Service

**EXHIBIT LIST**

<b>Exhibit No.</b>	<b>Description</b>
<i>COMMISSION DOCUMENTS</i>	
A-1	Letter dated December 5, 2008 appointing the Commission Panel for the review of the BCTC Application to Amend the Open Access Transmission Tariff
A-2	Letter dated December 16, 2008 with Commission Order G-195-08 establishing a Procedural Conference and Regulatory Timetable
A-2-1	<b>Submitted at Hearing</b> dated April 29, 2009 Staff Witness Aid Spreadsheet
A-2-2	<b>Submitted at Hearing</b> dated April 30, 2009 System Operating Limit Policy 1.0
A-3	Letter dated December 16, 2008 to TransCanada Energy Ltd. with Commission Order G-195-08 establishing a Procedural Conference and Regulatory Timetable
A-4	Letter dated January 15, 2009 issuing Commission Order G-3-09 establishing a Regulatory Timetable
A-5	Commission letter dated October 17, 2008 to BCTC requesting Comments on the TransCanada Energy Ltd. October 9, 2008 Complaint
A-6	Commission Letter L-53-08 dated November 13, 2008 to TCE summarizing possible process and participants

Exhibit No.	Description
A-7	Commission Letter dated December 1, 2008 to BCTC and TCE issuing Order G-175-08 regarding processing of rollover requests on BCH Service Agreements dated November 27, 2008
A-8	Letter dated January 22, 2009 issuing the Reasons for Decision as Appendix B to Order G-3-09
A-9	Letter Dated February 6, 2009 and Commission Information Request No. 1
A-10	Letter Dated February 9, 2009, Approval of Application by BCOAPO to add co-counsel, Leigh Worth
A-11	Letter dated February 11, 2009 and Commission Information Request No. 1 to TransCanada Energy
A-12	Letter dated March 2, 2009 requesting comments from the Applicant and Intervenor regarding TransCanada Energy's request to amend the hearing date in the Regulatory Timetable
A-13	Letter dated March 16, 2009 and Order G-26-09 amending the Regulatory Timetable for the Oral Hearing
A-14	Letter dated March 24, 2009 requesting BCTC to file the (U.S.) Federal Energy Regulatory Commission ("FERC") Order 890-C
A-15	Letter dated March 27, 2009 and Commission Information Request on Intervenor Evidence No. 1 to TransAlta
A-16	Letter dated March 27, 2009 and Commission Information Request on Intervenor Evidence No. 1 to NorthPoint
A-17	Letter dated March 27, 2009 and Commission Information Request on Intervenor Evidence No. 1 to TransCanada Energy
A-18	Letter No. L-22-09 dated March 30, 2009 request submissions regarding Pre-Hearing Conference
A-19	Letter dated April 06, 2009 Further to Order G-195-08 Regulatory Timetable - IR No. 2
A-20	Letter L-24-09 dated April 6, 2009 re: Alberta Electric System Operator ("AESO") participation
A-21	Letter dated April 6, 2009 issuing Information Request No. 2 to NorthPoint

<b>Exhibit No.</b>	<b>Description</b>
A-22	Letter dated April 8, 2009 cancelling 2nd Procedural Conference and requesting submissions from BCTC, TCE, and Registered Intervenors re process details
A-23	Letter dated April 23, 2009 and Commission Panel Information Request to the Alberta Electric System Operator
A-24	Letter dated April 23, 2009 providing Reasons on the attendance and timing of the Alberta Electric System Operator at the Oral Hearing, order of all witness panels and written argument
A-25	Letter dated April 23, 2009 providing Participants with Procedural Information for the Oral Public Hearing

*BRITISH COLUMBIA TRANSMISSION CORPORATION DOCUMENTS*

B1-1	Letter dated November 21, 2008 filing Application to Amend the Open Access Transmission Tariff
B1-2	Letter dated December 15, 2008 issuing Errata to the Application to Amend the Open Access Transmission Tariff
B1-3	Letter dated November 25, 2008 filing Corrections to Application
B1-4	BCTC Response dated October 31, 2008 to Commission letter dated October 17, 2008 (Exhibit A-4) requesting comments on TCE Complaint (Exhibit B2-1)
B1-5	Email dated January 9, 2009 confirming filing by BCTC of FERC Orders 890 (Exhibit B1-5-1), 890-A (Exhibit B1-5-2) and 890-B (Exhibit B1-5-3)
B1-5-1	BCTC filed on January 8, 2009 FERC Order 890
B1-5-2	BCTC filed on January 8, 2009 FERC Order 890-A
B1-5-3	BCTC filed on January 8, 2009 FERC Order 890-B
B1-6	Letter dated February 19, 2009 BCTC IR No 1 to TCE
B1-7	Letter dated February 27, 2009 BCTC responses to BCUC IR-1, BC Hydro IR-1, BCOAPO IR-1, TransAlta IR-1, and TransCanada Energy IR-1, with the exception of TransCanada Energy IR 1.6.3. TransCanada Energy IR 1.6.3
B1-7-1	Letter dated March 19, 2009 BCTC Errata filing to Exhibit B1-7

Exhibit No.	Description
B1-8	Letter dated March 05, 2009 via Email BCTC response to IR No. 1
B1-9	Letter dated March 05, 2009 BCTC Response to L-15-09
B1-10	Letter dated March 05, 2009 BCTC Updated Schedule 09
B1-11	Letter dated March 13, 2009 BCTC Supplemental Evidence TCE-Complaint
B1-12	Letter dated March 23, 2009 BCTC enclosed for filing FERC Order 890-C
B1-13	Letter dated April 03, 2009 BCTC response to L-22-09, whether a second procedural conference is required.
B1-14	Letter dated April 06, 2009 BCTC's Information Request No. 1 to Trans Alta Energy
B1-15	Letter dated April 06, 2009 BCTC's Information Request No. 1 to NorthPoint
B1-16	Letter dated April 14, 2009 BCTC writes in response to BCUC Letter L-24-09 and Letter L-26-09, issued April 8, 2009
B1-17	Letter dated April 15, 2009 BCTC writes in response to BCUC IR No. 2, NorthPoint IR No.2 and TransCanada Energy IR No. 2
B1-17-1	Letter dated April 27, 2009 BCTC filing Errata to Exhibit B1-17, April 15, 2009 responses to IR-2
B1-18	Letter dated April 22, 2009 BCTC Rebuttal Evidence in the OATT Hearing component
B1-19	Letter dated April 27, 2009 BCTC filing of direct evidence of the BCTC panel
B1-20	<b>Submitted at Hearing</b> dated April 29, 2009 Table on TCE Transmission capacity 2007 2008 2009 (Jan)
B1-21	<b>Submitted at Hearing</b> dated April 29, 2009 FERC PDF (Unofficial) 12/19/2008
B1-22	<b>Submitted at Hearing</b> dated April 29, 2009 Bulletin Index 2004 Amended Business Practices
B1-23	<b>Submitted at Hearing</b> dated April 29, 2009 Methodology for Assessing Available Transmission Capability
B1-24	<b>Submitted at Hearing</b> April 30, 2009 Table Data
B1-25	<b>Submitted at Hearing</b> April 30, 2009 BCTC Opening Statement

<b>Exhibit No.</b>	<b>Description</b>
B1-26	Letter dated May 08, 2009 BCTC responses to undertakings received during the Oral Public Hearing in the TCE Complaint Hearing
B1-27	Letter dated May 13, 2009 BCTC response to Mr. Wood's letter
<i>TRANSCANADA ENERGY LTD. DOCUMENTS</i>	
B2-1	<b>TRANSCANADA ENERGY LTD. (TCE)</b> - TCE Complaint dated October 9, 2008
B2-2	TCE November 6, 2008 Response to BCTC October 31, 2008 response to Commission request for Comments dated October 17, 2008
B2-3	TCE letter dated November 28, 2008 commenting on BCTC's filing of its OATT Amendment Application (includes response to TCE Complaint) and requests BCTC's application for interim order be denied
B2-4	TCE Letter dated February 19, 2009 Request to Amend Proceeding Schedule
B2-5	Letter dated February 13, 2009 TCE IR No.1
B2-6	Letter dated March 05, 2009 TCE Responses to BCUC IR No.1
B2-7	Letter dated March 05, 2009 TCE Responses to BCTC IR No.1
B2-8	Letter dated March 05, 2009 TCE Responses to TransAlta IR No.1
B2-9	Letter dated March 06, 2009 TCE Responses to BCUC IR No.1
B2-10	Letter dated March 06, 2009 TCE Responses to BCTC IR No.1
B2-11	Letter dated March 13, 2009 Direct Testimony Craig-Roach
B2-12	Letter dated March 27, 2009 TCE's Information Requests on Intervenor Evidence directed to TransAlta Energy Marketing Corp.
B2-13	Letter dated April 3, 2009 issuing TCE's comments regarding second procedural conference.
B2-14	Letter dated April 06, 2009 TCE's IR's to BCTC on its evidence in Part 6 and its Supplementary Evidence submitted on March 13, 2009
B2-15	Letter dated April 09, 2009 TCE response to BCUC L-24-09 Exhibit A-20
B2-16	Letter dated April 15, 2009 TCE response to BCUC IR No. 1 Exhibit A-27

<b>Exhibit No.</b>	<b>Description</b>
B2-17	Letter dated April 22, 2009 testimony of Dr. Craig R. Roach submitted as rebuttal evidence on behalf of TCE for its Complaint
B2-18	Letter dated April 27, 2009 via email TCE opening statement on witness evidence
B2-19	Letter dated May 12, 2009 via email Oral hearing excerpt of witness undertaking
B2-20	Letter dated May 15, 2009 TCE's Undertakings U-1, U-2, U-3 and U-4

*INTERVENOR DOCUMENTS*

C1-1	<b>BRITISH COLUMBIA HYDRO AND POWER AUTHORITY</b> – Filing dated December 18, 2008 request for Registered Intervenor Status
C1-2	Web filing dated January 28, 2009 by Mr. Jeff Christian, Lawson Lundell LLP as counsel for BC Hydro
C1-3	Letter dated February 18, 2009 BC Hydro response to IR No.1 to BCTC
C1-4	Letter dated March 05, 2009 BC Hydro response to L-15-09
C1-5	Letter dated April 02, 2009 BC Hydro Response to BCUC letter L-22-09 (Exhibit A-18) re: Second Procedural Conference
C1-6	Letter dated April 14, 2009 BC Hydro Response to BCUC letter L-24-09 and L-26-09 re: procedural matters
C1-7	Letter dated May 29, 2009 submissions of BC Hydro and Powerex Corp re TCE complaint
C2-1	<b>TRANSCANADA ENERGY LTD. (TCE)</b> – Filing dated December 19, 2008 request for Registered Intervenor Status
C3-1	<b>NORTHPOINT ENERGY SOLUTIONS INC.</b> – Filing dated December 22, 2008 request for Registered Intervenor Status
C3-2	SaskPower/NorthPoint Energy Solutions letter dated October 24, 2008 requesting intervenor status and commenting on the TCE Complaint
C3-3	Letter dated March 13, 2009 received via email - NorthPoint statement of evidence
C3-4	Letter dated March 31, 2009 Re: second procedural conference, this is to advise that NorthPoint knows of no reason for such a conference.

<b>Exhibit No.</b>	<b>Description</b>
C3-5	Letter dated April 02, 2009 NorthPoint filing IR No. 1 to BCTC as Respondent in the TCE Complaint proceeding
C3-6	Letter dated April 14, 2009 received via email – NorthPoint response to BCUC letter L-24-09 and L-26-09
C3-7	Letter dated April 15, 2009 received via email - NorthPoint response to BCTC IR No 1
C3-8	Letter dated April 15, 2009 received via email - NorthPoint response to BCUC IR No 1
C3-9	Letter dated April 15, 2009 received via email - NorthPoint response to BCUC IR No 2
C3-10	<b>Submitted at Hearing</b> April 30, 2009 Direct evidence of NorthPoint Energy Solutions Panel
C4-1	<b>CARGILL LIMITED</b> – Letter dated December 30, 2008 request for non-active Intervenor Status from Philip Pauls
C4-2	Cargill Limited letter dated November 4, 2008 requesting notification of further process on the TCE Complaint
C5-1	<b>BCOAPO ET AL</b> – Letter dated January 6, 2009 request for Intervenor Status from Mr. Jim Quail, BC Public Interest Advocacy Centre (BCPIAC)
C5-2	Letter dated January 26, 2009 request addition of co-counsel, Ms. Leigha Worth, BC Public Interest Advocacy Centre
C6-1	<b>POWEREX CORP (POWEREX)</b> – Letter dated January 6, 2009 request for Intervenor Status
C7-1	<b>TRANSALTA CORPORATION (TRANSALTA)</b> – Letter dated January 6, 2009 request for Registered Intervenor status
C7-2	TransAlta Letter dated February 13, 2009 filing Information Request No. 1 to BCTC Re: OATT
C7-3	Letter dated February 19, 2009 Information Requests from TransAlta to TCE

<b>Exhibit No.</b>	<b>Description</b>
C7-4	Letter dated March 13, 2009 TransAlta Corporation Evidence
C7-5	Letter dated April 6, 2009 TransAlta's response to second procedural conference
C7-6	Letter dated April 14, 2009 TransAlta's Response on whether the AESO should attend the oral hearing to provide evidence
C7-7	Letter dated April 15, 2009 TransAlta's Response to BCTC IR No. 1
C7-8	Letter dated April 15, 2009 TransAlta Letter to TCE re responses to IR No. 1
C7-9	Letter dated April 15, 2009 TransAlta Letter to BCUC re responses to IR No. 1
C7-10	Letter dated April 24, 2009 filing the Curriculum Vitae of Mr. Darren Gogol
C8-1	<b>JOINT INDUSTRY ELECTRICITY STEERING COMMITTEE (JIESC)</b> – Letter dated January 8, 2009 request for Registered Intervenor status
C9-1	<b>ALBERTA ELECTRIC SYSTEM OPERATOR (AESO)</b> – Letter dated April 17, 2009 response to Letter No. L-26-09
C9-2	Letter dated April 24, 2009 filing responses to Commission Information Request (Exhibit A-23)
C9-3	Letter dated April 27, 2009 via email filing AESO witness panel