



GSX Concerned Citizens Coalition

The Georgia Strait Crossing Concerned Citizens Coalition

302 - 733 Johnson Street, Victoria, BC, V8W 3C7

Telephone 250-381-4463, Fax 250-381-4407

Email: thackney@island.net Website: www.sqwalk.com

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Appeal of BCUC Decision on Duke Point Power Electricity Purchase Agreement

Victoria – On Monday, Bill Andrews, counsel for the GSX Concerned Citizens Coalition; the BC Sustainable Energy Association; and the Society Promoting Environmental Conservation, filed a notice for leave to appeal with the Court of Appeal for British Columbia.

GSXCCC, *et al* are challenging a 17 February decision of the BC Utilities Commission, which approved the electricity purchase agreement signed between BC Hydro and Duke Point Power Limited Partnership. Under the agreement, Duke Point Power undertakes to sell BC Hydro the electricity output from a 252 megawatt gas-fired power plant that Duke Point Power intends to build at Duke Point, near Nanaimo.

“We have strong grounds for overturning the decision that allows the electricity purchase agreement,” said Tom Hackney, President of the GSXCCC. “On top of that, the Duke Point Power deal is not in the best interests of the public. Gas power is not the smart way to go in the post-Kyoto era.”

GSXCCC, *et al* contend that the decision of the Utilities Commission should be set aside because, during the hearing on the Duke Point Power electricity purchase agreement, the Commission Panel -- Robert Hobbs and Lori Boychuk -- acted in a manner to create a reasonable apprehension of bias. Specifically, the Commission Panel held discussions with BC Hydro witnesses that gave rise to the impression that the Panel had made up its mind about the outcome of the review before all the parties had brought their evidence and argued their cases.

GSXCCC, *et al* also contend that the Commission erred by denying procedural fairness and natural justice to the appellants by: unduly restricting the scope of issues considered in the hearing; limiting the time parties were allowed to cross-examine BC Hydro witnesses; unreasonably limiting access to confidential information; and improperly conducting itself during an *in camera* session.

The Utilities Commission review of the electricity purchase agreement took place between November 2004 and January 2005, with a decision published on 17 February. The agreement follows from a Call for Tenders for electricity on Vancouver Island that BC Hydro carried out between 2003 and November 2004.

Under the EPA, Duke Point Power LP would charge BC Hydro \$35 million per year over twenty-five years. To run the plant, BC Hydro would have to pay for and supply the gas fuel and pay for operating costs.

For further information:

Tom Hackney (250) 381-4463