



And further take notice that the Court of Appeal will be moved at the hearing of the application for an order that:

1. Leave to appeal be granted to seek an order setting aside the decision of the British Columbia Utilities Commission dated July 7, 2006;
2. Leave to appeal be granted to seek a further order that the application of the British Columbia Transmission Corporation for a Certificate of Public Convenience and Necessity for the Vancouver Island Transmission Reinforcement Project ("VITR") be remitted back to the British Columbia Utilities Commission ("BCUC") for full and proper consideration; and
3. Costs be awarded to the Appellant in any event of the cause.

The grounds of appeal are that the BCUC erred in law in:

1. Holding that the incremental benefits to the province from increased trading activity by third parties using the competing Juan de Fuca ("JdF") transmission project between Victoria, British Columbia and Port Angeles, Washington are a matter of compelling evidence on the record and that these benefits have not been confirmed or corroborated by the purported beneficiaries.
2. Holding that the cost of securing 550 megawatts of Point-to-Point transmission service on the Bonneville Power Administration system in the United States would be approximately \$10.2 million per year.
3. Accepting BC Hydro's submission that neither it nor Powerex are forecasting any substantial trade benefits from increased transmission transfer capabilities between Canada and the United States. Powerex was not a party in the proceedings and BC Hydro filed and/or called very witnesses in the proceedings and none in relation to these trade benefits.
4. Concluding that the evidence of the impacts of VITR on property values in the Gulf Islands supports a finding that the approved VITR will have no significant incremental impact on average property values over the long-term and that if there are any short-term impacts, that they will decline over time and should be offered little or no weight in the decision.
5. Holding that the public convenience and necessity in section 45 of the *Utilities Commission Act* is to be determined by the most "cost effective" option and not what is in the public interest;
6. Failing to consider the actual impact on rates in determining public convenience and necessity under section 45 of the *Utilities Commission Act*; and

7. Holding that the existing right of way agreements permitted the construction of the new overhead transmission lines in the Gulf Islands.

The hearing of the proceeding occupied 42 days.

Dated at Vancouver, British Columbia, this 8<sup>th</sup> day August, 2006.



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David Austin  
Solicitor for the Appellant

TO THE RESPONDENT: British Columbia Utilities Commission  
c/o Robert J. Pellatt, Commission Secretary

AND TO ITS SOLICITOR: Gordon A. Fulton,  
Boughton Law Corporation  
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AND TO THE RESPONDENT: British Columbia Transmission Corporation

AND TO ITS SOLICITOR: Sandy W. Carpenter,  
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THE NOTICE OF LEAVE TO APPEAL is given by David Austin.

Whose address for service is 1710 – 1177 West Hasting Street, Vancouver, BC V6E 2L3.

TO THE RESPONDENTS:

IF YOU INTEND TO PARTICIPATE in this proceeding, YOU MUST GIVE NOTICE of your intention by filing a form entitled “Notice of Appearance” (Form 2 of the Court of Appeal Rules) in a Court of Appeal registry and serve the notice of appearance on the appellant WITHIN 10 DAYS of receiving this Notice of Application for Leave to Appeal.

IF YOU FAIL TO FILE A NOTICE OF APPEARANCE

- (a) you are deemed to take no position on the application, and
- (b) the parties are not obliged to serve you with any further documents related to the application.

The filing Registries for the British Columbia Court of Appeal are as follows:

Central Registry:

B.C. Court of Appeal  
The Law Courts  
800 Smithe Street  
Vancouver, B.C. V6Z 2E1

Other Registries:

B.C. Court of Appeal  
The Law Courts  
P.O. Box 9248 Stn. Prov. Govt.  
850 Burdett Avenue  
Victoria, B.C. V8W 1B4

B.C. Court of Appeal  
223 – 455 Columbia Street  
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468

Fax filings: (604) 660-1951