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Public Submission to the Green Energy Advisory Task Force Groups 1 - 4

INTRODUCTION

We've decided to make a general, single submission to all the four groups and members with the BC provincial government's Green Energy Advisory Task Force. We don't pretend to understand what all the complex issues are, but recent reading of Task Force member Backgrounder reports (some 200 pages) released on the Save Our Rivers website (www.action.saveourrivers.ca, direct link from the main SOR website) gives us some significant pause for concern. These backgrounders are, therefore, part of our submission, and are attached as an appendix (as email attachments).

Others involved in environmental and social justice advocacy and research are, understandably, refusing to make submissions, for various reasons. These reasons, which are rooted in what may be generally defined as a fundamental lack of public transparency and accountability by the BC Liberal administration, include:

- an extremely short time frame for submissions (and during the winter/Christmas holidays!!), November 30 - December 31st, some five weeks, and a quick turnover for Cabinet decision making;
- no available or carefully prepared background reports and reference material for each Task Force group theme, and time to consider the information;
- no information on who or how task force members were nominated or assigned to each Task Force group, and a lack of public sector representation on each of the four groups;
- no public scrutiny of task force proceedings and meetings (confidentiality agreements?);
- perceptions of bias and an assumption that outcomes have already been designed and may be prepared and written under such bias.

Due to a number of restraints, mentioned above, we will not comment on the mandates issued to the four Task Force groups by the provincial government. However, public accountability is both critical and necessary, and seems to a common theme as to its sorry absence since, and leading up to, the government's new Energy Plan in 2002, and its unauthorized and controversial revised instructions to BC Hydro regarding the undertaking of new energy projects. That is why, given the

inherent limitations of your Task Force groups, it is nevertheless important that all submissions to the four groups be made public.

A SHORT HISTORY OF HYDRO-RELATED TASK FORCES AND CONCERN ABOUT DEMOCRATIC DEFICIT

Our concerns about public accountability in advisory forums related to the establishment of provincial government policy, provided below, were conducted over the last 22 years, not including the significant and legitimate public forums and review processes in the 1970s about off-shore oil and oil tanker proposals that led to the controversial proposals being set aside.

We note in the appendix email attachment Backgrounder for Task Force Group #3, the last representative and the story about Atlin's new off-grid hydro development. What is important, to us, about this story is its embracing theme, in contrast to the operations of this Task Force established by Cabinet (and many other processes mandated by Cabinet since 2001): the manner in which the Atlin community was canvassed and the apparently careful and lengthy processes for public involvement and mandate that led to the decision to eventually build the micro hydro-electric site for the needs of the community, and the seemingly rigorous environmental processes that were undertaken for its certification.

1. The 1987 Private Sector Task Force on Privatization (No public inclusion)

About three years after the BC Social Credit government extinguished provincial public resource committee planning forums (the Inter Agency Management Committees formed since the 1970s), in early 1987 Transportation Minister Stephen Rogers influenced the initiation (without public acceptance and input) of a new agency for privatization, and set up a Private Sector Task Force under his own responsibility.

In a April 28, 1987 report, authored by David Emerson, *BC Hydro and Power Authority: Preliminary Analysis of Business Units for Privatization*, the Private Sector Task Force's advisor recommended BC Hydro and BC Rail be privatized. (Coincidentally, Emerson is now - "ex-officio", executive chair and ceo of the BC Transmission Corporation - one of this Task Force groups' peers on the Premier's overriding Green Energy Task Force Executive Committee.):

Use of this report should be restricted to the Private Sector Task Force on Privatization to assist in achieving their mandate. Information contained herein has not been audited or verified and thus should not be relied upon for information to be placed in an offering for sale or otherwise published.

We should note that, while the sale of B.C. Hydro in its entirety to the public is probably feasible, the complexity and diversity of the conglomerate whole would make this a questionable and controversial endeavour -- not to mention the long timeframe for proper execution of the sale. Because some parts of Hydro are more amenable to privatization than others, and because different forms of privatization make more sense for different units, the report addresses only the privatization potential of individual parts of the corporation rather than the entire corporation.

The public had no knowledge of Emerson's report,¹ no representation on the 1987 Task Force. Two years later came the first concessions, a number of private power bids and the formation of the BC Independent Power Producers Association, and the removal of BC Gas from BC Hydro.

2. The 1990s and a Return to Public Resource and Policy Planning Involvement: The 1997 Stakeholders Task Force on Electricity Market Reform and the Kemano II Hearings

In 1991, after deep ongoing public concerns about the fundamental lack of public involvement and accountability by the Social Credit government in land resource planning, the new NDP administration slowly began to implement forms of resource planning that involved the public, reflecting, in part, the multiple initiatives and objectives that were originally implemented through the powerful 1971 *Environment and Land Use Act*, and the widespread public planning initiatives that followed and were later controversially removed and ignored by the Social Credit administration (the BC Liberal Party's predecessor).

2.a. In late March, 1997, the BC government "appointed a stakeholders task force to study and develop electricity market reforms in British Columbia,"² chaired by Mark Jaccard. ("The BCUC has been without a Chair since the resignation in April 1997 of Dr. Mark Jaccard to head the BC Task Force on Electricity Market Reform."³) The provincial government's Terms of Reference for the Task Force stipulated "consensus" from the stakeholder members, which never came to fruition. The important consideration in this process was a wide mix of task force membership, as stated in the 1997 and 1998 BC PIAC newsletters:

In our first newsletter we talked about the development of competition in electricity and, in particular, a hearing into the issue of "retail access" scheduled by the BC Utilities Commission, commencing April 1, 1997. Retail access allows end users to have the choice of purchasing power from the existing utility, or elsewhere, and then using the utility's transmission and distribution systems to deliver it. Aside from potential competitors to BC Hydro and West Kootenay Power, the largest proponents of retail access are large industrial customers who believe they can achieve lower rates as a result. As BC already has the second lowest electricity rates in Canada, after Manitoba, residential customers are generally satisfied with the existing system and are not pushing for change.

The April 1, 1997 hearing did not go ahead as planned. Dick Gathercole of BC PIAC is a member of the task force.

The task force will be releasing an interim report on June 1, 1997, and is aiming to produce a final report by the end of the year. Its mandate is to bring forward measures that will help ensure, among other things, job creation and economic development, greater choice for electricity customers, continued public ownership of BC Hydro, high reliability standards, and continued incorporation of environmental and social considerations, with no adverse

¹ Emerson, a former government bureaucrat, left government in 1986 for the position of President and Chief Executive Officer of the Western and Pacific Bank of Canada.

² Public Interest Advocacy Centre newsletter, May 1997, Volume 1.2.

³ Public Interest Advocacy Centre newsletter, January 1998, Volume 2.1.

impacts on customer classes or regions.

Some concern has been expressed about the need to open up the BC market in order to ensure that BC Hydro and its marketing subsidiary, Powerex, will continue to have access to American markets for the sale of surplus electricity. The requirements established by the Federal Energy Regulatory Commission in the United States are actually fairly minimal and easy to achieve without any major restructuring.⁴

The Task Force has been meeting on a regular basis since May. It produced an interim report setting out its proposed process and is preparing a second interim report which is due October 31, 1997. This report will contain basic recommendations for any reforms. The Task Force is endeavouring to make decisions by consensus. The Chair of the Task Force developed a proposal for discussion which was rejected by a number of Task Force members, including consumer, environmental, and union groups. These groups prepared a new proposal as a basis for negotiation. At the time of writing, it was not clear how this proposal was going to be received.⁵

The government had hoped that the Task Force could reach some consensus on what reforms should be considered in the electricity market. However, the make-up of the task Force and the process it followed doomed it to failure. Some members pressed for a major restructuring of the market and the break-up of BC Hydro. Others, including BC PIAC, unions, and environmentalists, considered that only minor reforms, including a strengthening of BC Hydro, were necessary given that British Columbia has the second lowest rates in Canada and arguably the most reliable service.

Consensus could not be reached, and it was finally agreed in the late Fall of 1997 that the Chair of the Task Force, Dr. Mark Jaccard, would prepare his own report. He filed an interim report in December 1997, with a final report to be presented after public input in February 1998. All indications are that the final report will be essentially the same as the interim report.

The interim report recommends giving direct access to large industrial customers only - that is, they would be the only customers allowed to buy from suppliers other than BC Hydro. It also recommends as a second step the establishment of a separate entity to run BC Hydro's and West Kootenay Power's transmission facilities.

The report is unacceptable to the coalition of BC PIAC, environmentalists and unions, and we will be preparing and presenting a separate proposal to the Minister of Employment and Investment shortly. Besides critiquing Dr. Jaccard's report, it will present an alternative and more moderate action plan to the government.⁶

Energy Matters - Electricity Restructuring in Canada

The move to competition and restructuring of monopolies which has taken place in the transportation, airline, natural gas and telephone industries has most recently come to the

⁴ Public Interest Advocacy Centre newsletter, May 1997, Volume 1.2.

⁵ Public Interest Advocacy Centre newsletter, September 1997, Volume 1.3.

⁶ Public Interest Advocacy Centre newsletter, January 1998, Volume 2.1.

electricity industry. As in these other industries, there are many factors leading to change and, most importantly for consumers, they produce an environment of potential gains and potential risks for utility customers.

The first electricity restructuring took place outside North America in the United Kingdom, Australia, New Zealand, and Scandinavia. In 1994, California began the process of restructuring its electricity industry and other states, primarily in the North-eastern United States, followed. Developments in Canada have been more tentative, but will be impacted by what happens in the United States.

Richard Gathercole has produced a 27-page paper on the present state of electricity restructuring, with particular emphasis on Canadian developments. It describes the major players and their positions, identifies a number of important consumer issues, and suggests how consumer groups should approach electricity restructuring.⁷

Under the circumstances for “consensus” mandated by the provincial government on March 26, 1997, it is interesting to note that Dr. Jaccard, who wrote a report in late 2008 for the Independent Power Producers of BC to specifically peer-refute public power authors Marvin Shaffer and John Calvert, nevertheless wrote a separate lengthy report, *Reforming British Columbia’s Electricity Market: A Way Forward*, stating that it was a “final report” not “in keeping with the Terms of Reference” for “consensus among the Stakeholder Group.” In section 2.6 of his report, *Key Elements of Electricity Market Reform*, was consideration of “whether or not any publicly-owned assets should be privatized”, and “achievement of competitive electricity commodity prices in an effectively functioning de-regulated market”.

In Jaccard’s January 30, 1998 report, he wrote:

The work of the Task Force was informed by citizens, local governments and representatives of organizations who wrote, telephoned or spoke to Technical Staff or Stakeholder Group members, or who made presentations at the public forums held in various communities in the province.

Appendix D of Jaccard’s report, *Public Participation*, stated:

As described in the background chapter, the Task Force explored various mechanisms to expand the opportunities for broad input into its analyses and deliberations, including the following: consideration of independent written submissions to the Task Force as well as of the submissions to the postponed BCUC hearing on Retail Access and Unbundled Tariffs; organization of public forums in various communities throughout the province where individuals and organizations could become more informed about the activities of the Task Force and make oral submissions; scheduling of interactive radio interviews with the Advisor on a number of stations throughout the province; and public review and comment on the Advisor’s two interim reports.

Below is a list of individuals and organizations that provided valuable input and feedback to the Task Force, either by attending a public forum or by sending in a written submission.

⁷ Public Interest Advocacy Centre newsletter, October 1998, Volume 2.3.

Also included in this appendix are the schedules of public forums and radio interviews held throughout September and October 1997.

In Appendix C of Jaccard's report, *Stakeholder Group and Technical Sub-Committee Activities*, "The Stakeholder Group held a total of 16 meetings throughout the Task Force process in an effort to reach consensus on an electricity market reform package for the province." The meetings were conducted over a seven-month period (April 25 to November 5), with four technical sub-committees active over a five month period (June to October).

Members on Jaccard's Task Force: The Council of Forest Industries, West Kootenay Power Ltd., International Brotherhood of Electrical Workers, Independent Power Association of BC, BC Hydro, Inland Pacific Energy Corporation, Association for the Advancement of Sustainable Energy Policy (2 members), BC Public Interest Advocacy Centre, Union of BC Municipalities, Mining Association of BC, BC Health Services Ltd., Powerex, Columbia Power Corporation, Columbia Basin Trust, Office & Professional Employees' International Union Local 378, Industrial Customers (Council of Forest Industries, Mining Association of BC, Electrochemical Producers).

Despite the outcome of Jaccard's 1997 Task Force that remained "without consensus", the critical issue here was the lengthy public involvement process and public stakeholder representation that transpired under the previous provincial administration, in stark contrast to the BC Liberal's present Green Energy Advisory Task Force.

2.b. Similar democratic provisions and representations were made during the Kemano 2 hearings, albeit under the BC Utilities Commission, which is not a task force, but an independent decision-making committee. What is important about the Kemano hearings, about a large private company, Alcan, with significant water license diversion rights proposing more access to those rights and environmental consequences to fish habitat and water flows, etc., is that they were held over a long period of time with much public involvement and scrutiny.

3. Premier Campbell's Task Force on Energy Policy

Three and half years after Jaccard's report, and three months after the BC Liberal Party came to 'power', "the Premier of British Columbia, the Honourable Gordon Campbell, established a Task Force to draft an energy policy framework for British Columbia."⁸ In the Task Force on Energy Policy's November 30, 2001, 89-page, Interim Report, *Strategic Considerations for a New British Columbia Energy Policy*, it stated that "this Interim Report presents the preliminary findings and conclusions of the Task Force and is presented for public consideration and comment prior to the Task Force finalizing its recommendations to government."

The recommendations in this Interim Report are consistent with the Terms of Reference provided to the Task Force. Some recommendations and policy options will lead to vigorous and lively public debate. This is as it should be. The recommendations should be examined, however, not only individually but as components of a comprehensive policy. It is the comprehensive policy that is necessary if British Columbians are to enjoy a reliable, secure and environmentally sound supply of energy.

⁸ *Strategic Considerations for a New British Columbia Energy Policy*, November 30, 2001, Task Force on Energy Policy, Interim Report.

The Task Force considers that the strategic directions in the Interim Report and the policy recommendations that follow from them establish a solid foundation for a new provincial energy policy. The vision reflected in this Interim Report is for an energy policy that will position the province to take full advantage of its energy potential and sustain economic development in the province for several years. If the past can serve as a guide, a comprehensive energy policy should be the early-21st-century equivalent of the two-river policy of the late 20th century.

In contrast to the 1997 Task Force, Appendix 2 of the Interim Report stated that the 22-member 2001 Task Force were all government ministry representatives, divided into five separate “Working Groups” under the guidance of five separate chairs. The Terms of Reference stated that “The Energy Policy Development Task Force will be chaired by Jack Ebbels, Deputy Minister of Energy and Mines, and will include:”

- Peter Meekison, former Deputy Minister, Federal and Intergovernmental Affairs, Alberta;
- John Bechtold, former senior executive with Petro Canada having extensive knowledge in natural gas;
- Erik Westergaard, an expert on electricity issues with extensive experience in Australia and New Zealand and now a Vancouver-based management consultant on energy;
- Brenda Eaton, Deputy Minister to the Premier and a former Deputy Minister of Energy.

The Task Force will be advised by a work program directed by Doug Allen, a former provincial Deputy Minister who has worked on energy issues for the last five years and who will be supported by a number of energy experts inside and outside government.

The 22 members were from the Crown Agencies Secretariat (1), BC Hydro (2), Ministry of Energy and Mines (17), the Oil and Gas Commission (1), and the Attorney General’s office (1). Appendix 2 states that the membership was “supported by a number of experts inside and outside government with particular assistance from officials at the Ministry of Water, Land and Air Protection”, but fails to identify the names of the contributors.

Appendix 4 states that the Task Force received a total of 59 submissions (50 from associations and companies, 9 private).

From the beginning of the formation of the Task Force in August 2001, the time period for its operations was originally scheduled to extend a period of six months, until February 28, 2002, when the government would announce the final energy policy. This schedule included a single appointed day, January 15, 2002, for “consultation with selected parties.”

However, as energy critic University of Victoria Professor Pierre-Olivier Pineau stated in a March 20, 2002, two-page critique, *Why is the provincial government hiding the Energy Task Force final report?*, the final report was being delayed and withheld:

“Transparency” is one of the core values mentioned in the February service plan of the Ministry of Energy and Mines. However, after the Energy Task Force handed in its final report to Minister Richard Neufeld, on Friday, March 15, he decided to keep it confidential until the new British Columbia energy policy is announced sometimes in the future. With

such a unanimous disagreement on the Interim Report of the same Task Force (released December 15, 2001), political wisdom was probably suggesting a very limited release of the document, rather than a huge diffusion of it. If the government simply wanted to avoid more “union” or “social” opposition, we could have imagined that this digression from one core value is indeed a good move, to let the Ministry concentrate on the implementation of its high-quality and well-thought reform. However, everything points to another direction: that the government is trying to overshadow (1) its lack of compelling energy policy, (2) the unworkable “competitive” electricity market they propose and (3) the short-run agenda to develop the BC hydrocarbon business to restore the public finance.

Summary

What we find, in the comparative review analysis of various Task Force groups over the years, is that the Premier’s Green Energy Advisory Task Force has serious shortcomings regarding public accountability and involvement.

Will Koop,
Coordinator.