

**MINISTRY OF FINANCE
FINANCIAL IMPACT ASSESSMENT
ADVICE TO THE MINISTER**

Subject: BC Hydro/Powerex California Settlement

Submission Date: June 28, 2013 (P&P)

Cabinet Message:

s13, s17, s12

s13, s17, s12

Issue Summary:

- Powerex is involved in an on-going legal dispute related to the 2000-2001 California energy crisis. Total claims are approximately \$3.5B (including accrued interest).

s13, s17, s12

Key Points:

s13, s17

s12

s13, s17

s13, s17

s13, s17

s13, s17, s12

Prepared by:

Analyst: Marion Bernard, Treasury Board Staff

Phone: 250-952-6200

Date: July 15, 2013

Page 1
FIN-2013-00244

Pages 2 through 17 redacted for the following reasons:

s12

Bernard, Marion M FIN:EX

From: Bernard, Marion M FIN:EX
Sent: Thursday, July 11, 2013 1:33 PM
To: Wieringa, Paul EMNG:EX
Subject: RE: Powerex

Hi Paul,

I managed to talk to Teresa Conway at Powerex and she confirmed my logic and math. Apparently some of the numbers have been refined from what is given in the presentation though... so perhaps you will be changing the Cabinet material? Please let me know! She also mentioned sending me more background material – probably through you or Les.

Thanks,
Marion

From: Bernard, Marlon M FIN:EX
Sent: Thursday, July 11, 2013 11:53 AM
To: Wieringa, Paul EMNG:EX
Subject: RE: Powerex

Hi Paul,

s13, s17, s12, s16

Thanks for any clarifications/corrections you can provide!

Marion

From: Wieringa, Paul EMNG:EX
Sent: Friday, July 5, 2013 3:50 PM
To: Bernard, Marlon M FIN:EX
Subject: FW: Powerex

Paul Wieringa
Executive Director
Electricity and Energy Efficiency Policy
Ministry of Energy and Mines
Telephone: 250-952-0651
Facsimile: 250-952-0258

From: Conway, Teresa [<mailto:Teresa.Conway@powerex.com>]
Sent: Thursday, July 4, 2013 2:16 PM
To: Wieringa, Paul EMNG:EX; Nikolejsin, Dave EMNG:EX; MacLaren, Les EMNG:EX
Cc: Cochrane, Marlene MEM:EX; Irving, John K.
Subject: RE: Powerex

Hi Paul,

We have a briefing note in process which will provides more context and the most recent numbers. See my answers below. We should have that to you early next week. Im also updating the slides Les sent and will include the answers to your regulatory questions as well.

Best regards

Teresa

From: Wieringa, Paul EMNG:EX [<mailto:Paul.Wieringa@gov.bc.ca>]
Sent: Thursday, July 04, 2013 12:34 PM
To: Nikolejsin, Dave EMNG:EX; Conway, Teresa; MacLaren, Les EMNG:EX
Cc: Cochrane, Marlene MEM:EX
Subject: RE: Powerex

s13, s17, s12, s14, s16

Teresa: you may be receiving a request for a briefing on this issue next week.

Paul Wieringa
Executive Director
Electricity and Energy Efficiency Policy
Ministry of Energy and Mines
Telephone: 250-952-0651
Facsimile: 250-952-0258

From: Wieringa, Paul EMNG:EX
Sent: Thursday, July 4, 2013 9:36 AM
To: Nikolejsin, Dave EMNG:EX; Conway, Teresa; MacLaren, Les EMNG:EX
Cc: Cochrane, Marlene MEM:EX
Subject: RE: Powerex

In the presentation, there are two items that you should be included:

s13, s17, s12

Paul Wieringa
Executive Director
Electricity and Energy Efficiency Policy
Ministry of Energy and Mines
Telephone: 250-952-0651
Facsimile: 250-952-0258

From: Nikolejsin, Dave EMNG:EX
Sent: Wednesday, July 3, 2013 2:49 PM
To: Conway, Teresa; MacLaren, Les EMNG:EX; Wieringa, Paul EMNG:EX
Cc: XT:Reid, Charles FIN:IN; Cochrane, Marlene MEM:EX
Subject: RE: Powerex

We are meeting today to discuss pre-briefs, so will be back to you on that.
I would like to have a one-on-one call next week just to introduce myself and have a private chat about this issue.
Thanks.

From: Conway, Teresa [<mailto:Teresa.Conway@powerex.com>]
Sent: Wednesday, July 03, 2013 2:15 PM
To: Nikolejsin, Dave EMNG:EX; MacLaren, Les EMNG:EX; Wieringa, Paul EMNG:EX
Cc: XT:Reid, Charles FIN:IN
Subject: Powerex

Hi Dave,
Congratulations on your new role and I look forward to meeting you.
I hear I missed your visit to Powerex. If you have any questions on Powerex or want an overview of what we do,
I would be happy to do that.

s12, s14, s16

We will be set to go to the Planning and Priorities meeting on
July 16th.

s12, s13 We are available for individual pre-meetings with Ministers of Energy,
Minister of Finance, Deputy Minister of Finance
and Dan Doyle or anyone else that should be informed on this prior to the meeting on July 16th.

I will be at the July 16th meeting with Charles Reid,

s14

Best regards
Teresa Conway

Teresa Conway,
President and Chief Executive Officer - *Powerex Corp.*

Telephone: (604) 891-5065;
Fax: (604) 891-5015
www.powerex.com



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Bernard, Marion M FIN:EX

From: Freeman, Lisa FIN:EX
Sent: Wednesday, June 26, 2013 1:46 PM
To: Bernard, Marion M FIN:EX
Cc: Ty, Marie FIN:EX; Feulgen, Sabine FIN:EX
Subject: RE: Meeting - BC Hydro

This is great, thank you.
both meetings.

s12, s14, s16

so I will pass this on to Peter for

Lisa Freeman
Office of the Deputy Minister, Ministry of Finance

T: 250.387.3184

From: Bernard, Marion M FIN:EX
Sent: Wednesday, June 26, 2013 1:42 PM
To: Freeman, Lisa FIN:EX
Cc: Ty, Marie FIN:EX; Feulgen, Sabine FIN:EX; Chipper, Tammy L FIN:EX; Ringma, Shalegh FIN:EX
Subject: FW: Meeting - BC Hydro

Hi Lisa,

s12, s14, s16

s12, s14, s16

attached Briefing Note

s12

Apparently Peter has been provided with the

<< File: powerex litigation.docx >>

Not Responsive

Please let me know if Peter wants more information on any of this or would like to discuss at the weekly meeting on Friday.

Thanks,
Marion

From: Chipper, Tammy L FIN:EX
Sent: Tuesday, June 25, 2013 1:38 PM
To: Bernard, Marion M FIN:EX
Cc: Ringma, Shalegh FIN:EX
Subject: FW: Meeting - BC Hydro

Please see below....

Tammy Chipper

Administrative Assistant Ministry of Finance ; 250 387-9053
Treasury Board Staff

From: Freeman, Lisa FIN:EX
Sent: Tuesday, June 25, 2013 12:46 PM
To: Chipper, Tammy L FIN:EX
Cc: Ringma, Shalegh FIN:EX
Subject: Meeting - BC Hydro

Hello,

Peter is meeting with John Dyble, Dan Doyle, Dave Nikolejsin and Charles Reid next week to discuss BC Hydro. Is there anything new than needs to be brought to Peter's attention?

Lisa Freeman
Office of the Deputy Minister, Ministry of Finance

T: 250.387.3184

Ringma, Shalegh FIN:EX

From: Feulgen, Sabine FIN:EX
Sent: Thursday, August 8, 2013 2:59 PM
To: Teresa.Conway@powerex.com
Cc: MacLaren, Les MEM:EX; charles.reid@bchydro.com; John.Irving@powerex.com; MacLean, Shelley FIN:EX; Milburn, Peter R FIN:EX
Subject: California Litigation - Powerex

s12

Acting on behalf of the Deputy Minister, Ministry of Finance

Sabine Feulgen

Assistant Deputy Minister and Deputy Secretary to Treasury Board
Ministry of Finance

phone: 250.356.5427

email: Sabine.Feulgen@gov.bc.ca

Ringma, Shalegh FIN:EX

From: Feulgen, Sabine FIN:EX
Sent: Friday, August 16, 2013 4:01 PM
To: Ty, Marie FIN:EX; Epp, Don FIN:EX; Cairns, Holly FIN:EX
Subject: FW: TRANSCRIPT: Bennett - Powerex settlement

Sabine

phone: 250.356.5427
email: Sabine.Feulgen@gov.bc.ca

From: Stewart, Janet GCPE:EX
Sent: Friday, August 16, 2013 12:23 PM
To: Feulgen, Sabine FIN:EX
Cc: MacLean, Shelley FIN:EX; Stewart, Janet GCPE:EX; Plummer, Glen GCPE:EX
Subject: TRANSCRIPT: Bennett - Powerex settlement

Transcript below of today's Powerex settlement news conference.

- Media coverage has been balanced with MEM's key messages getting wide coverage. No media calls to our shop so far.

TRANSCRIPT

Media Availability
Bennett/Conway confcall Powerex settlement
16-Aug-2013 09:02

Copyright

Page 11 to/à Page 17

Withheld pursuant to/removed as

Copyright

Ringma, Shalegh FIN:EX

From: MacLaren, Les MEM:EX
Sent: Tuesday, August 6, 2013 9:03 AM
To: Feulgen, Sabine FIN:EX
Cc: Nikolejsin, Dave MEM:EX; Cochrane, Marlene MEM:EX; MacLean, Shelley FIN:EX; 'Teresa Conway '
Subject: FW: Powerex-CA

Good morning Sabine:

Apparently Peter has delegated this to you s22 Teresa Conway's office will be in touch to set something up after the Chairs of BC Hydro and Powerex approve later this week.

s12

Give me a shout if you want to discuss this further.

Les

From: MacLaren, Les MEM:EX
Sent: Thursday, August 1, 2013 10:09 AM
To: Milburn, Peter R FIN:EX
Cc: Nikolejsin, Dave MEM:EX; Cochrane, Marlene MEM:EX; MacLean, Shelley FIN:EX; 'Conway, Teresa'
Subject: Powerex-CA

Good morning Peter:

Teresa Conway's office will be setting up a meeting at the end of the week to go over the final California settlement. The Chairs of BC Hydro and Powerex Chairs are being briefed Thursday morning.

The parties to the settlement have agreed that it will be made public on August 16 when there is procedural conference for the FERC hearing scheduled later in August. We are continuing to work with GCPE and the Premier's office on communications.

Les MacLaren

Assistant Deputy Minister
Electricity and Alternative Energy Division
Ministry of Energy and Mines
Office: 250 952-0204
Fax: 250 952-0258

Ringma, Shalegh FIN:EX

From: Kader, Barbara <Barbara.Kader@powerex.com>
Sent: Thursday, August 8, 2013 9:22 AM
To: MacLaren, Les MEM:EX; Feulgen, Sabine FIN:EX
Subject: Powerex Briefing Note
Attachments: California Litigation Update August 7, 2013 Final.pdf

Hi Les, as per your request please refer to the attached document, also the meeting invite with call in details had been sent to all – you were the only participant that didn't accept the invite.... I've resent to everyone.

Barbara Kader,
Powerex Corp.
Suite 1300 - 666 Burrard Street
Vancouver, BC V6C 2X8

Telephone: (604) 891-6013
Fax: (604) 891-5015
www.powerex.com



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Ringma, Shalegh FIN:EX

From: McLachlin, Jessica GCPE:EX
Sent: Wednesday, August 14, 2013 1:15 PM
To: Feulgen, Sabine FIN:EX
Cc: MacLean, Shelley FIN:EX; Harrison, Kerri FIN:EX; Knight, Colin FIN:EX; Ty, Marie FIN:EX; Cairns, Holly FIN:EX; Stewart, Janet GCPE:EX
Subject: RE: Powerex settlement announcement Friday

Categories: Printed

Thanks Sabine. They are still in the process of drafting their materials including the Q&As. We'll share them as soon as we get them, likely late tomorrow or early Friday.

From: Feulgen, Sabine FIN:EX
Sent: Wednesday, August 14, 2013 1:02 PM
To: McLachlin, Jessica GCPE:EX
Cc: MacLean, Shelley FIN:EX; Harrison, Kerri FIN:EX; Knight, Colin FIN:EX; Ty, Marie FIN:EX; Cairns, Holly FIN:EX
Subject: RE: Powerex settlement announcement Friday

Thanks Jessica.

s12, s13

s12, s13

While FIN was part of the discussions on the settlement, I would expect that BC Hydro/Powerex/Energy and Mines will take the questions on management of the additional pressures. Perhaps you can get the Q&As from David?

Sabine

phone: 250.356.5427

email: Sabine.Feulgen@gov.bc.ca

From: McLachlin, Jessica GCPE:EX
Sent: Wednesday, August 14, 2013 12:51 PM
To: Harrison, Kerri FIN:EX; Knight, Colin FIN:EX; Ty, Marie FIN:EX; Cairns, Holly FIN:EX
Cc: Feulgen, Sabine FIN:EX
Subject: Powerex settlement announcement Friday
Importance: High

Hi all – wasn't sure exactly who this falls under, but flagging it for you. Will we (FIN) be asked how government is able to "legislate away" this \$750M (USD) settlement – or is this a question JAG will answer? And is it accurate that this won't impact the budget?

Thanks
Jessica

From: Haslam, David GCPE:EX
Sent: Wednesday, August 14, 2013 12:18 PM
To: Haslam, David GCPE:EX; Edwardson, Jamie GCPE:EX

Cc: Stewart, Janet GCPE:EX; Gordon, Matt GCPE:EX; Joyce, Tonja GCPE:EX
Subject: RE: Settlement Question

Not Responsive

From: Haslam, David GCPE:EX
Sent: Wednesday, August 14, 2013 12:16 PM
To: Edwardson, Jamie GCPE:EX
Cc: Stewart, Janet GCPE:EX; Gordon, Matt GCPE:EX; Joyce, Tonja GCPE:EX
Subject: Settlement Question

Hi Jamie – left you a message about this. On Friday Powerex will be announcing a \$750 million settlement and NR

NR
Summary below:

VICTORIA – Powerex has reached an out-of-court settlement to protect British Columbia from a potential \$3.2 billion legal liability. The settlement with California utilities, the California Attorney General and other California parties (California Parties) resolves claims from the 2000 – 2001 California power crisis that resulted in rolling blackouts and record-high electricity prices. Powerex was one of over 60 electricity sellers in the California market during the crisis.

The settlement, which is subject to approval by FERC, includes a payment by Powerex to the California Parties of \$273 million (US dollars). The balance of the \$750 million (US dollars) settlement is credit for money still owed to Powerex from 2000 - 2001, plus interest, totalling \$477 million (US dollars). As a result of the settlement, Powerex will incur a net loss of about \$101 million (Canadian dollars) this year.

Following the power crisis, numerous lawsuits and regulatory proceedings were launched by the California Parties, demanding refunds and penalties. To date, the US Federal Energy Regulatory Commission (FERC) ordered refunds from all of the electricity sellers, and about 50 sellers have settled separately with the California Parties.

Although Powerex has won some lawsuits filed by the California Parties, a recent advisory decision by a FERC judge issued in February 2013 went against Powerex and the 15 other sellers who have not yet settled.

With another FERC hearing scheduled for Aug. 27, 2013, court appointed mediators approached Powerex regarding a potential settlement. By settling now, this agreement protects British Columbians from a potential \$3.2 billion liability and an estimated \$50 million in future legal costs.

David Haslam
Communications Manager
Ministry of Energy and Mines
Phone: 250-952-0509
Cell: s17
david.haslam@gov.bc.ca

NEWS RELEASE

For Immediate Release
2013MEM0008-001254
Aug. 16, 2013

Ministry of Energy and Mines
and Responsible for Core Review

Powerex settlement reached

VICTORIA – Powerex has reached an out-of-court settlement to protect British Columbia from a potential \$3.2 billion legal liability.

The settlement with California utilities, the California Attorney General and other California parties (California Parties) resolves claims related to the 2000 – 2001 California power crisis that resulted in rolling blackouts and record-high electricity prices. Powerex was one of over 60 electricity sellers in the California market during the crisis.

Following the power crisis, numerous lawsuits and regulatory proceedings were launched by the California Parties, demanding refunds and penalties. In 2003, the US Federal Energy Regulatory Commission (FERC) concluded the California market was dysfunctional and ordered refunds from all sellers who sold electricity during the crisis. The majority of the settlement provides refunds to the California Parties as previously mandated by that order.

To-date, 47 sellers have settled separately with the California Parties. Although Powerex has won some lawsuits filed by the California Parties, a recent advisory decision by a FERC judge issued in February 2013 went against Powerex and the 15 other sellers who have not yet settled. With another FERC hearing scheduled for Aug. 27, 2013, court appointed mediators approached Powerex regarding a potential settlement.

In addition to protecting British Columbia from a potential \$3.2 billion legal liability, the settlement allows Powerex to avoid future legal costs estimated at over \$50 million as well as over \$125 million per year in interest costs on the claims made by the California Parties.

The settlement also provides an opportunity for Powerex to move forward and enhance its relationship with California, which continues to generate significant income to the benefit of ratepayers in British Columbia. Since 2003, Powerex has sold over \$3.5 billion worth of electricity to California.

The settlement, which is subject to approval by the FERC will be achieved by a payment from Powerex to the California Parties of \$273 million (US dollars) and a credit for monies owed by the California Parties to Powerex valued at \$477 million (US dollars). As a result of the settlement, Powerex will incur a net loss of about \$101 million (Canadian dollars) this year.

A 2003 review of Powerex by the FERC concluded that there was no evidence that Powerex engaged in any illegal practices and that Powerex was a valuable and reliable supplier of energy to the California Parties throughout the crisis. Accordingly, this agreement expressly recognizes that Powerex admits to no wrongdoing.

Quotes:

Minister of Energy and Mines Bill Bennett and Minister Responsible for Core Review –

“This was a tough but necessary decision to protect taxpayers. We have learned that the U.S. court system can be unpredictable. When you weigh this settlement versus a potential \$3.2 billion legal liability, we determined it was in the best interest of taxpayers to settle and put this long standing dispute behind us.”

“Since 2003 we’ve sold over \$3.5 billion worth of electricity to California. This settlement allows us to move forward on a very productive commercial relationship.”

Powerex president and CEO Teresa Conway –

“By reaching this settlement with California, Powerex is now in a better position to solely focus on our mandate which is to effectively market our electricity in British Columbia to our customers and to create value for BC Hydro through our broader marketing activities.”

“This agreement expressly recognizes that Powerex admits to no wrongdoing. The settlement represents an opportunity to move forward and enhance our relationship with California which will continue to produce benefits for ratepayers in British Columbia.”

Learn More:

To find more about Powerex, visit <http://www2.powerex.com/AboutUs.aspx>

A Powerex backgrounder follows.

Contact: Jake Jacobs
Media Relations
Ministry of Energy and Mines and Responsible for Core Review
250 952-0628

Connect with the Province of B.C. at: www.gov.bc.ca/connect

BACKGROUND

For Immediate Release

Powerex

Aug. 16, 2013

Powerex settlement reached

What caused the California power crisis?

- The 2000/2001 California power crisis was a result of:
 - Electricity market deregulation in 1998.
 - Fewer power plants being built in California in the years leading up to the crisis.
 - Drought conditions resulting in lower than expected water runoff for power generation.
 - Rupture and capacity constraints on natural gas pipelines to the California market.
 - Increased demand for electricity.
 - Unusually high temperatures and heat waves.
- It was a broken market that led to numerous regulatory and court proceedings alleging unfair practices and claims for damages.

Most power suppliers have settled

- Southern California Edison, Pacific Gas and Electric, San Diego Gas and Electric, the California Attorney General (for the California Department of Water Resources) and the California Public Utilities Commission (California Parties) have now settled with 47 entities.
- Prior to today, Powerex was one of the 16 companies which have not settled.
- In 2003, US Federal Energy Regulatory Commission (FERC) concluded electricity and gas markets were dysfunctional and ordered refunds from all suppliers. The refunds make up the majority of the settlement.
- Powerex today filed a settlement with FERC for the balance of the claims plus interest.

Why Powerex settled

- Chose legal and financial certainty. Agreement removes the risk of adverse decision with the US regulatory and legal system, avoiding US \$3.2 billion in potential costs.
- Based on legal advice and financial analysis settling \$2.8 billion in claims for 12 cents on the dollar made commercial sense and was at the lower end of similar settlements. Court proceedings would have gone on for another 5 years resulting in
 - Legal expenses of US \$50 million
 - Annual interest costs of US \$125 million
- To avoid lengthy regulatory hearing set to commence August 27.
- To focus on our business objectives to create value for BC Hydro ratepayers.

Ongoing Business

- California is an important market for B.C.'s clean energy and for Powerex's broader marketing and trading activities
- Powerex has generated \$3.5 billion in revenues with sales to California over the last decade.
- This agreement will provide long-term certainty, enabling Powerex to focus on its business and fulfil its mandate of creating value for BC Hydro ratepayers.

The settlement with the California Parties

- The settlement provides long-term certainty for Powerex.
- The majority of the settlement is refunds to California ordered by the US Federal Energy Regulatory Commission, or FERC, a decade ago, which are offset by amounts still owing to Powerex from California.
- The balance settles \$2.8 billion in claims plus interest for 12 cents of the dollar.
- The settlement agreement expressly recognizes that Powerex admits to no wrongdoing.
- This settlement, filed on Aug. 16, 2013, is subject to the approval of FERC, which is expected within the next six months.

Settlement breakdown

- The California parties were seeking \$3.2 billion (US dollars) from Powerex.
- Powerex's settlement with the California parties is for \$750 million (US dollars).
- Included in this amount is \$406 million (US dollars), which relates to market-wide refunds as part of a previously mandated refund order by FERC in 2003.

US \$ millions	Original claims against Powerex (including interest)	Powerex settlement offer	Cents per dollar
FERC calculated market-wide refunds	\$406 M	\$406 M	\$1.00
Total of all other proceedings	\$2,764 M	\$344 M	\$0.12
Total	\$3,170 M	\$750 M	—

Payment to California parties

- Powerex's settlement with the California parties is for \$750 (US dollars) million.
- However, Powerex was still owed \$477 million (US dollars) (\$265 million principal plus interest) by the California parties for power sold during the energy crisis.

	US \$ millions
Powerex settlement with California Parties	\$750 M
Amount owed (US \$265 M to Powerex by California Parties for 2000-2001 (with interest))	\$477 M
Total payment to California parties (Financial impact: fiscal year 2014)	\$273 M

Financial impact to Powerex fiscal 2014

- Powerex previously expensed \$68 million (US dollars) for future legal costs and other amounts in prior years. The balance owing for fiscal 2014, is about US \$205 million.
- Converted into Canadian funds, US \$205 million is just under CDN \$214 million. This is the fiscal 2014 expense that Powerex will face as a result of the settlement.
- The \$214 million (Canadian dollars) settlement expense is greater than Powerex's fiscal 2014 estimated annual net income of \$113 (Canadian dollars). The \$113 million (Canadian dollars) less the \$214 million (Canadian dollars) settlement expense results in an estimated net loss for fiscal 2014 of \$101 million (Canadian dollars).

Powerex will pay California parties	\$273 M USD
Powerex expensed future legal and other costs in prior years	\$68 M USD
Settlement expense for fiscal 2014	\$205 M USD OR \$214 M CDN
Powerex estimated annual net income F2014	\$113 M CDN
Powerex net loss fiscal 2014	\$101 M CDN

Contact: Jake Jacobs
Media Relations
Ministry of Energy and Mines and Responsible for Core Review
250 952-0628

Ringma, Shalegh FIN:EX

From: Stewart, Janet GCPE:EX
Sent: Friday, August 16, 2013 9:13 AM
To: Feulgen, Sabine FIN:EX
Cc: MacLean, Shelley FIN:EX
Subject: MEM: IN_Powerex Settlement_Aug 16 13
Attachments: IN_Powerex Settlement_Aug 16 13.docx

FYI - attached is an IN on today's announced Powerex settlement.

ADVICE TO MINISTER

CONFIDENTIAL ISSUES NOTE Ministry: Energy, Mines and Natural Gas Date: Aug. 16, 2013 Minister Responsible: Hon. Bill Bennett	Powerex Settlement
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ADVICE AND RECOMMENDED RESPONSE:

- Powerex has reached an out of court settlement to protect British Columbia from the spectre of a \$3.2 billion legal liability with California utilities, the California Attorney General and other California parties.
- This was a very tough but necessary decision that protects the B.C. taxpayer from an unpredictable result in the US Court system and allows Powerex to move forward with its positive commercial relationship with California.
- The settlement is for \$750 million in US dollars and resolves claims from the 2000 – 2001 California power crisis that resulted in rolling blackouts and record-high electricity prices.
- The settlement is constituted by: (1) a payment from Powerex to the California Parties of \$273 million in US dollars; and (2) a credit for money still owed to Powerex by California from 2000 – 2001, plus interest, which totals \$477 million US dollars.
- By settling now, this agreement protects British Columbians from a potential \$3.2 billion liability that is growing by \$125 million per year in interest costs, and an estimated \$50 million in future legal costs.
- It also preserves our constructive trading relationship with California which continues to generate significant income to the benefit of ratepayers in British Columbia. In fact, since 2003, Powerex has sold over \$3.5 billion worth of electricity to California.

Background

The Province announced Aug. 16, 2013 that Powerex has reached an out-of-court settlement to protect British Columbia from a potential \$3.2 billion legal liability.

The settlement, which is subject to approval by the FERC will be achieved by a payment from Powerex to the California Parties of \$273 million (US dollars) and a credit for monies owed by

the California Parties to Powerex valued at \$477 million (US dollars), totaling \$750 million (US dollars). As a result of the settlement, Powerex will incur a net loss of about \$101 million (Canadian dollars) this year.

The settlement with California utilities, the California Attorney General and other California parties (California Parties) resolves claims related to the 2000 – 2001 California power crisis that resulted in rolling blackouts and record-high electricity prices. Powerex was one of over 60 electricity sellers in the California market during the crisis.

Following the power crisis, numerous lawsuits and regulatory proceedings were launched by the California Parties, demanding refunds and penalties. In 2003, the US Federal Energy Regulatory Commission (FERC) concluded the California market was dysfunctional and ordered refunds from all sellers who sold electricity during the crisis. The majority of the settlement provides refunds to the California Parties as previously mandated by that order.

To-date, 47 sellers have settled separately with the California Parties. Although Powerex has won some lawsuits filed by the California Parties, a recent advisory decision by a FERC judge issued in February 2013 went against Powerex and the 15 other sellers who have not yet settled. With another FERC hearing scheduled for Aug. 27, 2013, court appointed mediators approached Powerex regarding a potential settlement.

In addition to protecting British Columbia from a potential \$3.2 billion legal liability, the settlement allows Powerex to avoid future legal costs estimated at over \$50 million as well as over \$125 million per year in interest costs on the claims made by the California Parties.

The settlement also provides an opportunity for Powerex to move forward and enhance its relationship with California, which continues to generate significant income to the benefit of ratepayers in British Columbia. Since 2003, Powerex has sold over \$3.5 billion worth of electricity to California.

A 2003 review of Powerex by the FERC concluded that there was no evidence that Powerex engaged in any illegal practices and that Powerex was a valuable and reliable supplier of energy to the California Parties throughout the crisis. Accordingly, this agreement expressly recognizes that Powerex admits to no wrongdoing.

Communications Contact:	Tonja Joyce	250-952-0559
Program Area Contact:		
File Created:	Aug. 16, 2013	
File Updated:		
File Location:		

Minister's Office	Program Area ADM	Deputy	Comm. Dir

Ringma, Shalegh FIN:EX

From: Stewart, Janet GCPE:EX
Sent: Friday, August 16, 2013 9:29 AM
To: Feulgen, Sabine FIN:EX
Cc: MacLean, Shelley FIN:EX; Plummer, Glen GCPE:EX; Dickson, Greg GCPE:EX
Subject: Highlights: Powerex press conference (so far)

FYI -

From: Dickson, Greg GCPE:EX
Sent: Friday, August 16, 2013 9:25 AM
To: Stewart, Janet GCPE:EX
Cc: Youngs, Kirsten R GCPE:EX
Subject: Powerex newser so far

Going fairly well. Bennett using softwood dispute as an indication of how unreliable U-S court system is. Would have been irresponsible not to settle. Protecting future power deals with California.

Bennett leads off:

Filed an out of court settlement this morning to protect us from \$3.2 billion liability
Protects taxpayers from risk
Settlement for \$750 million
Protects our relationship with California for future power deals
Most already been booked as a liability
During the power crisis – many court actions
Powerex was cleared of wrongdoing at the time
Although Powerex has won some lawsuits over the years, a recent decision went against us
Another hearing was scheduled in a week
A settlement was offered
Legal costs would have driven this beyond \$3.2 billion
\$477 million credit from California plus interest
Canada and BC have not always had a positive relationship with US court system
Were not confident this would be good – so we decided to settle

Hands over to CEO Teresa Conway of Powerex

A significant day for Powerex
Allows us to move forward
Protects us from risk and allows us to continue to deal in U-S market
No admission of wrongdoing on our part
We are a reliable supplier to California
We see this continuing
Overview of why we settled
Deregulation worked for a few years in California
Market created a crisis – few power plants built in California, drought
Increased demand for electricity – long heat waves
The perfect storm – a broken market, allegations of unfair practices
47 companies have settled with California including Powerex
Now we have settled – subject to six month approval process (FERC)
Forest industry trade dispute situation similar – we have chosen certainty

Long term certainty for us as a result of this agreement

Bennett:

Am I happy with this decision? can't say that

But we are making the right decision

Some say "If we didn't do anything wrong, we should fight it out"

That wouldn't be prudent, a huge risk

Why did we wait until Friday, we were not allowed to talk about this by legal agreement until now

Matt Gordon MC

Q. How will Powerext do things differently

A. Bennett: We have not been found to have done anything wrong, so we don't need to change practices

A. Conway: We did nothing wrong, but the California energy market has changed since

Q. How will you pay this back?

A. Bennett: What leverage do we have? Largest legal action in U-S history. Used up so much court time. Judicial system wanted this removed from the system. Bulk of \$750 million already booked. The cash is already on the books. We're paying 273 million. Powerex will pay that.

Q. Horgan calls this knuckling under?

A. Bennett. Not surprised. We could duke this out. We could spend another \$50 million on legal fees. I'm a lawyer. It is irresponsible not to settle. We're paying 12 cents (?) on the dollar. Powerex has spent \$105 million in legal fees so far. Risk in the U-S court system as we learned in the U-S softwood dispute is you can't take anything for granted even without wrongdoing on our part.

Ringma, Shalegh FIN:EX

From: Feulgen, Sabine FIN:EX
Sent: Friday, August 16, 2013 11:13 AM
To: Epp, Don FIN:EX
Subject: RE: Powerex announcement this morning

s13

Sabine

phone: 250.356.5427
email: Sabine.Feulgen@gov.bc.ca

From: Epp, Don FIN:EX
Sent: Friday, August 16, 2013 9:34 AM
To: Feulgen, Sabine FIN:EX; Ty, Marie FIN:EX
Subject: RE: Powerex announcement this morning

s13

From: Feulgen, Sabine FIN:EX
Sent: Friday, August 16, 2013 09:30
To: Ty, Marie FIN:EX; Epp, Don FIN:EX
Subject: FW: Powerex announcement this morning

Sabine

phone: 250.356.5427
email: Sabine.Feulgen@gov.bc.ca

From: Feulgen, Sabine FIN:EX
Sent: Friday, August 16, 2013 9:29 AM
To: Stewart, Janet GCPE:EX
Cc: MacLean, Shelley FIN:EX
Subject: RE: Powerex announcement this morning

Sounds good.

Sabine

phone: 250.356.5427
email: Sabine.Feulgen@gov.bc.ca

From: Stewart, Janet GCPE:EX
Sent: Friday, August 16, 2013 9:22 AM
To: Feulgen, Sabine FIN:EX
Cc: Plummer, Glen GCPE:EX
Subject: RE: Powerex announcement this morning

s13

From: Feulgen, Sabine FIN:EX
Sent: Friday, August 16, 2013 9:09 AM
To: Stewart, Janet GCPE:EX
Subject: RE: Powerex announcement this morning

Thanks Janet.

Sabine

phone: 250.356.5427
email: Sabine.Feulgen@gov.bc.ca

From: Stewart, Janet GCPE:EX
Sent: Friday, August 16, 2013 9:04 AM
To: Feulgen, Sabine FIN:EX
Cc: Stewart, Janet GCPE:EX; Plummer, Glen GCPE:EX; Dickson, Greg GCPE:EX; McLachlin, Jessica GCPE:EX; MacLean, Shelley FIN:EX
Subject: Powerex announcement this morning
Importance: High

Sabine,

s22 , so it is me sharing the Powerex announcement comms collateral with you.

The media conference began at 9 a.m. this morning.

<< File: nr_bg_Powerex announcement_final_aug 16 13.docx >> << File: QA_Powerex Announcement_Powerex_final_Aug 16 13.docx >>
Janet

Ringma, Shalegh FIN:EX

From: Michell, Jennifer FIN:EX
Sent: Friday, August 16, 2013 12:49 PM
To: Feulgen, Sabine FIN:EX
Subject: FW: More: No impact on BC budget

Perhaps you've seen this, but if not.....

Jennifer Michell
Manager, TB Operations

From: Epp, Don FIN:EX
Sent: Friday, August 16, 2013 10:35 AM
To: Michell, Jennifer FIN:EX; Ty, Marie FIN:EX
Subject: RE: More: No impact on BC budget

I am waiting for a call from Hydro, but here is an excerpt from the deferral account note in their financial statements.

"The difference between the Trade Income forecast and actual Trade Income is deferred **except for amounts arising from a net loss in Trade Income**. . . . Any losses incurred by Powerex will not impact rates." (emphasis added)

s13, s17

From: Michell, Jennifer FIN:EX
Sent: Friday, August 16, 2013 09:55
To: Ty, Marie FIN:EX; Epp, Don FIN:EX
Subject: FW: More: No impact on BC budget

FYI

Jennifer Michell
Manager, TB Operations

From: Stewart, Janet GCPE:EX
Sent: Friday, August 16, 2013 9:48 AM
To: Feulgen, Sabine FIN:EX

Cc: MacLean, Shelley FIN:EX; Stewart, Janet GCPE:EX

Subject: More: No impact on BC budget

MEM Q&A is explicit..

1. Will this impact the Province's ability to balance the budget?

No, it won't impact B.C.'s balanced budget.

FROM PRESS CONFERENCE (now concluded)

Minister Bennett

- Minister reiterating that most of the expense of the settlement has already been booked.
- Taxpayers don't pay for this settlement. This will not increase rates. They (California) owe us \$477 million credit.
- Powerex needs to come up with about \$101 million (I think it will actually end up being lower)
- No impact on BC power rates.
- No immediate impact on taxpayers from this.
- This settlement will not increase rates.
- It looks like Powerex net income will actually be higher than the current forecast.
- Comes out of a regulatory account. 5% rate rider. Oversight from BC Utilities Commission. Also have oversight on how this is paid back.
- **Q. What if people don't trust what you're saying?**
- If they don't trust us or BC Hydro – they should trust Utilities Commission.
- Paid from the rate rider that already exists.
- Can't say how long that will take us to repay this.

POWEREX SPOKESPERSON – Teresa Conway:

- Our loss is about \$101 million.
- Goes to a trade income deferral account.