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Backgrounder

Capital Power seeks to renege on commitment

Has legal obligation to reduce greenhouse gas emissions

by Chris Severson-Baker

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Environmental groups and landowners alongside major corporations in the power generation sector in Alberta (Atco Power Canada Limited and Encana Corporation) are attending an Alberta Utilities Commission hearing to oppose Capital Power's bid to remove a legal requirement that it offset 50 per cent of the greenhouse gas emissions that are released from the Genesee 3 coal power plant.

When Capital Power's Genesee Power plant was approved in 1999, the company agreed to reduce greenhouse gas (GHG) emissions in its proposed plant by 50 per cent. Now, at a time in history when it is even more important to cut emissions to prevent dangerous climate change, Capital Power is trying to renege on the legal commitment it made 11 years ago.

If Capital Power's amendment application were accepted by the Alberta Utilities Commission (AUC), the company would cease to offset the equivalent of 1.34 Megatonnes (MT) of GHGs annually. That's the equivalent of putting 245,000 cars on the road each year.¹ Between 2010 and 2050 this amounts to cumulative total of 56 MT of GHGs².

Approving the change would also seriously damage the credibility of the Alberta Utilities Commission's public hearing process. It would send a clear message that promises made by corporations to Albertans to secure public support for new industrial developments can be broken at any time when those promises become inconvenient.

¹ Based on the U.S. Environmental Protection Agency's standard assumption of 5.48 metric tonnes of CO₂e pollution for an average passenger vehicle.

² Encana Corporation Motion regarding Application No. 1605976

Facts about Capital Power's Amendment Application

In 2001, Capital Power's predecessor, EPCOR, applied to the Alberta Energy and Utilities Board (now the AUC) and Alberta Environment for approval to construct and operate a new 490 Megawatt coal-fired unit (known as GP3) at its existing coal-fired Genesee Power Plant west of Edmonton.

GP3 was approved in 2002 after a public hearing in 2001. It began commercial operation in March 2005.

The company voluntarily committed that its new unit would not emit more than an equivalent natural gas combined cycle unit. It would achieve this by offsetting approximately 53 percent of the GHGs emitted by the coal plant.

The regulator recognized the new proposal represented a significant source of greenhouse gas emissions and chose to require the company to fulfill its commitment as a legal condition of approval.

Coal-fired power generation and climate change

Facts about coal-fired power generation in Alberta

Alberta has the most polluting electricity generation system in Canada.

In 2008 in Alberta:³

- 48,400 GWh of electricity were generated from coal
- Approximately 1000 tonnes of GHGs are produced per GWh generated from coal
- Coal-fired power produced 48.4 Mt of GHGs
- Total emissions from all sources was 244 Mt of GHGs

Therefore, in 2008 about 20 per cent of Alberta's total GHG emissions were from coal-fired electricity generation.

Coal generated more than 82 per cent of Alberta's electricity in 2008.

Facts about climate change⁴

Scientists describe the warming of the climate system as "unequivocal" and point to the evidence of rising air and ocean temperatures, widespread melting of snow and ice, and rising sea levels.

Average global surface temperature has risen more than 0.7°C above pre-industrial levels, due mainly the buildup in the atmosphere of greenhouse gases from human activities.

³ Data from Canada's National Inventory Report, 2010 – part III.

⁴ *Climate Change Science and Impacts*, The Pembina Institute, 2009.

Every new GHG molecule adds to the problem. If all emissions ceased today, global surface temperatures are expected to roughly double as a result of the delayed effect of emissions already in the atmosphere.

The threat of climate change has only worsened in the last decade. Global emissions of GHG have risen faster than predicted. Arctic ice is melting faster than predicted. Sea levels are rising faster than predicted.

GHGs affect all areas of the globe, including Alberta. The pine beetle epidemic in Western Canada is one example of a current effect. Rising global surface temperatures place Alberta at risk of increased severity of storms, flooding, stresses on water supply and droughts.

Climate change was already a well-known issue when Capital Power committed to respond to the threat of climate change by ensuring the GHG emissions from its new facility were no worse than those from a gas-powered facility — which meant going beyond regulations.

Its predecessor company made this comment in its Opening Statement:

“Our commitment to reduced emissions does not end with regulated emissions. ... It is incumbent upon anyone who uses hydrocarbon as fuel source to address the global issue of greenhouse gas in a responsible way...”

And

“For GP3, EPCOR has committed to offset carbon dioxide emissions to the equivalent of a natural gas, combined-cycle generating facility of the same capacity, on a corporate basis.

“This represents a 53 per cent reduction in GHGs attributable to GP3.”

Removal of Capital Power’s requirement to offset its GHG emission by approximately 50 per cent would result directly in further loading of the atmosphere with GHGs and proportionate contribution to the impacts already being felt.

AUC credibility on the line

A decision to approve this amendment would seriously undermine integrity of the AUC hearing process.

Should the AUC choose to overturn its own decision in this case, it will prompt citizens to seriously question the value of their good faith participation in AUC regulatory proceedings if inconvenient approval conditions can simply be deleted after the plant is constructed and operating.

Breaking a commitment

Capital Power made its 2001 commitment in response to public concern about the high environmental cost of burning coal to make electricity.

From its Opening Statement:

“In the initial planning stage, and prior to announcing its intention to proceed with the development in its public disclosure document issued December 15th, 2001 [sic], EPCOR believed that any proposed coal-fired power generation unit would have to be markedly better than existing units. The status quo was not good enough.

“We still believe that, and our stakeholder consultation has confirmed that belief to be widely held. It is incumbent upon any proponent to push the envelope.”

The company understood the consequences that arise from breaking commitments to the public. Terry Bachynski, Senior Vice President, Corporate and Regulatory Affairs, said under cross-examination (taken directly from the hearing transcripts):

05 Q The 1999 voluntary challenge registry that EPCOR put
06 out, it committed to a 100 percent reduction or
07 offset of emissions from new generation projects.
08 That no longer is EPCOR's commitment, I take it,
09 reading the EIA for this project?

10 A MR. BACHYNSKI: Yes. That's correct.

11 Q Given that you, since 1999 and now, have already
12 changed or dropped one of your commitments with
13 respect to greenhouse gases, what comfort can we have
14 that EPCOR will meet its other environmental
15 commitments?

16 A MR. BACHYNSKI: EPCOR has a very strong
17 commitment to its environmental performance and its
18 environmental commitments. We also take greenhouse
19 gas management very seriously as a part of our
20 complete approach to environmental management.

21 *In 2000, EPCOR evaluated its*
22 *process on greenhouse gas reduction in light of the*
23 *actions required of new projects that are in*
24 *development and of the offset obligations being made*
25 *by other competing power projects.*

26. *Clearly natural gas combined*

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01 *cycle projects are proceeding in Canada without*
02 *offset commitments, and based on this analysis, EPCOR*
03 *decided that natural gas combined cycle equivalents*
04 *as a minimum should form the basis of the GP-3 offset*
05 *program.*

06 Q So, you looked at what other companies were doing.

07 Did I understand that correctly?

08 A MR. BACHYNSKI: We looked at what was going on
09 in the greenhouse gas management world in general.
10 We looked at the progress and the confusion of the
11 Kyoto protocol and its progress internationally.

12 We looked at the challenges
13 that were being seen in the implementation of Kyoto
14 and the challenges in determining what are
15 appropriate trade mechanisms, offset mechanisms,
16 greenhouse gas credit recognition mechanisms and
17 *realized that corporately we had a responsibility to*
18 *continue to manage greenhouse gas emissions in a*
19 *responsible way.*

20 And we re-evaluated that in the
21 context of the Kyoto world, if I can put in that
22 sense, and *decided that a responsible approach to*
23 *continue with greenhouse gas management in a prudent*
24 *way is to make a natural gas combined cycle*
25 *equivalency commitment for a GP-3, which is, of*
26 *course, something that we are going to achieve* when

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01 GP-3 comes on stream, which is still several years
02 prior to the end of the 2012 period for the first
03 Kyoto reporting period. [Emphasis added]

And

Q ... but what is

10 your view, Mr. Bachynski, as far as accountability
11 when a company like EPCOR in circumstances like this
12 makes these commitments as opposed to conditions?

13 How would EPCOR be

14 accountable? How would the Board, the public know
15 whether these commitments were being undertaken and
16 fulfilled, and what would the consequences be if they
17 weren't?

18 A MR. BACHYNSKI: Well, there are a number of
19 questions in the one question. I will try to deal
20 with them one at a time. *Regarding matters that are*
21 *commitments made by the corporation, we would view*
22 *that as, in many ways, more significant from a*
23 *stakeholder confidence point of view than a condition*
24 *in an approval.*

25 *With a condition in an*
26 *approval, it is, sort of, black and white. You must*

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01 *do this; you do not this. If you fail to do it, you*
02 *have got a breach of an approval, and there are*
03 *remedies that are available under legislation or*
04 *whatever it may be.*

05 *When it is a corporate*
06 *commitment to your stakeholders, if you fail to*
07 *deliver on those commitments to your stakeholders,*
08 *you lose the confidence of your stakeholders, you*
09 *lose trust, you lose all of that corporate integrity*
10 *with your external audiences.*

11 And that public licence to
12 operate, I would call it in quotes, that allows us to
13 do what we do can become a very difficult situation
14 for the corporation especially if you are looking at
15 future opportunities, and you are trying to convince
16 new stakeholders to get on side with new corporate
17 initiatives to expand your businesses or to go back
18 to those same stakeholders who feel that they have
19 been deceived in some way because you have not
20 delivered on your promise.

21 *So, a commitment is very much a*
22 *corporate promise. If you break your promise, you*
23 *are going to have to live with that for a long time,*

24 *and that can be a difficult thing.*

25 Q So, there is, essentially, a moral suasion that
26 exerts an influence on the corporation as opposed to

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01 the regulatory arm?

02 A MR. BACHYNSKI: Yes, and that is a very

03 important part of how you go about doing your

04 business. And if we did not have that corporate

05 ethic, when you get into processes like this for any

06 new project, you could be looking at a very difficult

07 road to hoe. [Emphasis added]

And

04 Q Let me move on to the sulphur dioxide amendment that

05 EPCOR made at the outset. And that, of course, is

06 with respect to the reduction of SO₂ from GP-3 to the

07 78 nanograms per joule threshold.

08 And I know there has been some

09 testimony with respect to this, but let me ask, Is it

10 EPCOR's position that this would be a commitment as

11 opposed to a condition of any approval?

12 A MR. BACHYNSKI: It is our position that this

13 would be a voluntary target.

14 Q All right. And similar to my earlier question with

15 respect to accountability and monitoring and

16 enforcement, would it be EPCOR's position that you

17 would meet these targets because of this moral

18 suasion in the community and the public in general

19 for you to meet it.

20 A MR. BACHYNSKI: Yes. That's correct. We have

21 stated previously that we believe the correct or the

22 appropriate regulated emission level applicable to

23 Genesee Phase 3 would be that as set out in the

24 Alberta standards released in June of this year.

25 Q Did I understand you correctly that this type of

26 approach and this type of influence that you have

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01 described in keeping EPCOR's to its commitment is at
02 the end of the day more effective than Board putting
03 a condition to that effect on your approval?
04 A MR. BACHYNSKI: No. That would be not quite
05 the correct characterization. ***But certainly a moral***
06 ***commitment, if you want to characterize it like that,***
07 ***can be as effective, and in some cases, in some ways,***
08 ***more compelling for a corporation.*** [Emphasis added]