

Vancouver Island Call for Tenders

VI CFT Bidders' Tender Workshop 7 July 2004

- Responses to Questions from Pre-Qualified Bidders -

At the Bidders' Tender Workshop held by BC Hydro on 7 July 2004 Pre-Qualified bidders were provided an opportunity to ask questions. This document is a record of BC Hydro's responses to those questions.

In this regard, please note:

1. All capitalised terms used in these questions and answers shall have the meaning given to them in the BC Hydro Call for Tenders for Capacity and Associated Energy Supply on Vancouver Island, issued 31 October 2003 (the "CFT").
2. All questions and answers, including both those included in this document and those previously posted to the website identified in the CFT, are numbered sequentially. For this reason, questions listed in this document commence at number 301.
3. BC Hydro has consolidated multiple questions on similar issues and, in some cases, has edited questions for clarity.
4. Bidders are reminded of the provisions of section 15.5 of the CFT which provide for the posting of any further questions and answers on <http://www.bchydro.com/vicft>.

The material provided in these questions and answers is intended only as a summary description of certain provisions of the CFT, and is not intended as legal advice. Where there is any conflict between the material herein and the CFT, the latter shall govern and bidders should carefully review those documents. These materials shall in no way be deemed to amend or supplement the CFT.

Category	Q&A#	Question:	BC Hydro Response:
CFT Process	301	Is it necessary to complete equipment manufacturer, model and key technical parameters when Appendix 5 is submitted according to the pre-Tender Project-Specific Revisions process?	No. This has been confirmed by an advisory to bidders and an Addendum.
CFT Process	302	Why is Appendix 5 required pre-Tender?	The purpose is to reduce the risk of Tender rejection for non-compliance with the CFT.
CFT Process	303	If one Tender is submitted in respect of multiple projects, how is the required amount of Tender Security calculated?	The Tender Security must be based on the sum of the individual Bid Capacities of each project.
CFT Process	304	If multiple Tenders are submitted, each for different projects, what Tender Securities are required and how are they calculated?	If Tenders are not mutually exclusive, then one Tender Security is required for each Tender, based on the sum of the Bid Capacities for all projects included in that Tender.
CFT Process	305	If multiple, but mutually exclusive Tenders are submitted, what Tenders Security is required and how is the amount calculated?	If Tenders are mutually exclusive, then only one Tender Security is required, based on the Tender containing the greatest Bid Capacity.
CFT Process	306	Is it necessary to resubmit a complete Bidder and Project Information (Mandatory Criteria/Development Risk Information, Part 1), or can I submit only updates to my Pre-Qualification Submission?	The bidder can choose either approach. However, if the changes are substantial it is recommended that the bidder resubmit a complete package.
VIGP	307	Are there any pending claims or litigation relative to VIGP, and if so, will BC Hydro disclose that information?	BC Hydro has no knowledge of any pending claims or litigation relative to VIGP.
CFT Process	308	What quarterly financial statements are required to be filed as part of my Tender?	In accordance with s. 6 of Tender General Instructions issued 30 June 2004, each bidder must submit in a sealed envelope to the extent not provided in the Pre-Qualification Submission, the following in respect of each bidder and Project Owner on whom it relies to establish Financial Capacity and Creditworthiness: 1. Annual audited financial statements for the most

Category	Q&A#	Question:	BC Hydro Response:
			recently completed fiscal year, and 2. Audited, if available, or unaudited financial statements for the most recently completed fiscal quarter.
Evaluation Issues	309	In order to pass the Development Risk Assessment, is it essential that the bidder own, or otherwise have leasehold or other long term tenure on, the site, or have an enforceable legal right to acquire the such ownership o long term tenure, at the Tender Closing Time?	Yes.
Gas Issues	310	Under tolling EPAs, who is responsible for arranging and paying for the physical interconnection, including gate, meter station and any lateral, to the Terasen (TGVI) system?	In general, the interconnection and pipeline extension costs are the responsibility of the bidder, the meter station costs are the responsibility of BC Hydro.
Gas Issues	311	Under tolling EPAs, who is responsible for providing gas transportation and commodity before COD?	For tolling projects, the bidder is responsible before COD, BC Hydro is responsible after COD. See EPA Appendix 8, Part B.
Gas Issues	312	What contractual relief is available to the Seller if Terasen system capacity constraints prevent adequate deliveries of gas to complete plant pre-COD commissioning and testing?	Under tolling EPAs, if Terasen system capacity constraints prevent deliveries of gas to complete pre-COD commissioning and testing, COD will be deemed to occur and fixed payments will commence on terms substantially similar to those applicable to delay in completion of Network Upgrades under the Final Form EPA, Appendix 17, Part F, Section 2. A revised Final Form EPA will clarify and confirm these provisions.
Evaluation Issues	313	Will the possibility of pre- Guaranteed COD Date Terasen system capacity constraints prevent a gas-fired tolling project passing the Development Risk Assessment, or otherwise be considered in that assessment?	No.
Gas Issues	314	Will BC Hydro obtain from Terasen for the benefit of bidders an assurance of adequate pipeline system capacity to meet pre-COD	No.

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		commissioning and testing?	
VIGP	315	Does BC Hydro guarantee that the required permits listed in the VIGP Environmental Assessment (“EA”) application are all the permits required by a bidder in respect of a project for which it has made the VIGP Election?	No, BC Hydro does not guarantee, or otherwise assure bidders, that the list is exhaustive of all permits required by a successful bidder. Each bidder that made the VIGP Election is responsible for determining the permits it requires.
Inter-connection Inquiries	316	Who is responsible for arranging, and paying for, the electrical interconnection to the BCTC Transmission System?	Under the EPA, the Seller is responsible for arranging, and paying for, the electrical interconnection to the transmission system. See section 4.2 of the Final Form EPA.
Inter-connection Inquiries	317	What is the contractual consequence of that interconnection being delayed?	Delay in completion of the required electrical interconnection does not excuse the Seller under the EPA, unless the delay is caused by Force Majeure under the EPA.
VIGP	318	Who is responsible for paying the \$2,363,356 of “Preparatory Work” cited in BCTC’s “Preliminary Study Report for Interconnection of the VIGP Power Project”, dated June 2004?	A successful bidder that made the VIGP Election is responsible for payment of those costs.
Inter-connection Inquiries	319	Who is responsible for arranging any required Network Upgrades? Is the bidder responsible for the costs of those upgrades?	BC Hydro will request that BCTC proceed with any required Network Upgrades (Interconnection and Transmission), as defined in the EPA. The Seller under the EPA is not responsible for the cost of those upgrades, unless the EPA is terminated in certain circumstances or the Seller’s Plant differs from that forming the basis of BCTC’s estimate of Network Upgrade Costs (Interconnection and Transmission), in which case the Seller may be exposed to some liability in respect of those costs. See the Final Form EPA, Appendix 17, Part F, sections 1, 3 and 4 for more detail.
Inter-connection Inquiries	320	What is the contractual consequence of Network Upgrades being delayed?	Under the EPA, if on or after the Guaranteed COD Date, the Seller’s Plant has satisfied all requirements for COD, other than those dependent upon completion of Network Upgrades (Interconnection

Category	Q&A#	Question:	BC Hydro Response:
			and Transmission), as defined in the EPA, and the Seller therefore cannot achieve COD, then COD will be deemed to have occurred, and payment of fixed charges under the EPA will commence. See the Final Form EPA, Appendix 17, Part F, section 2 for further detail.
Gas Issues	321	For a gas-fired tolling plant, who is responsible for supplying any required “domestic gas” – i.e. gas that is not used in the combustion turbines? Is that gas used in calculating the actual heat rate under the EPA?	Any gas supplied by BC Hydro must be used in accordance with Appendix 8, Part B, section 2 and, whether burned in the gas turbine or not, will be included in the calculation of the Seller’s actual heat rate.
Gas Issues	322	Please provide a brief update on the status of GSX.	The GSX project is currently inactive, but may be re-activated depending on the outcome of the CFT.
Evaluation Issues	323	In assessing Fuel Supply Certainty, will BC Hydro be considering certainty over the entire EPA Initial Term?	Yes.
Evaluation Issues	324	Is there any information available that would assist a bidder tendering a gas-fired tolling plant in determining whether it is worthwhile to submit a bid that includes a dual fuel capability?	The potential impact of dual fuel capability on the outcome of the QEM is described in section 3.4.4 of the QEM. As outlined in section 4.3.5 of the QEM, a bidder may tender a project both with and without dual fuel capability within the same Tender.
EPA Terms and Conditions	325	Will BC Hydro revise the EPA and/or the QEM to recognize and value three, rather than just two (Major and Non-Major) types of maintenance?	No.
EPA Terms and Conditions	326	What contractual remedies are available for a Seller’s failure to meet Milestones?	The Buyer can terminate the EPA, subject to cure periods, or exercise step-in rights, and, in the case of termination, the Seller is obligated to pay a Termination Payment to the Buyer as further described in section 17.4(a) and (b) of the Final Form EPA. The Seller may also incur liabilities in respect of Gas Transportation Costs and/or Network Upgrade Costs (Interconnection and Transmission) in the case of termination.

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Pricing Issues	327	Is it BC Hydro's expectation that all operating and maintenance costs, whether fixed or variable, will be reflected in the OMC, which is only a fixed charge. If not, how can variable costs be recovered?	Variable operating and maintenance costs can be reflected in the tendered Energy Charge (EC).
CFT Process	328	Given that BC Hydro has been pursuing certain permits for VIGP, will it be necessary for a bidder who has made the VIGP Election to detail in its submission the permit status, conditions, etc. for those permits obtained by BC Hydro?	A VIGP bidder is required to submit a full Tender submission, including Project Information, Development Risk Information and Fuel Supply Certainty Information. VIGP bidders may however refer to specific VIGP Data Room documents (e.g. a specific issued permit) in their submission rather than providing copies of such information in their Tender submission. All such references must clearly indicate the particular document or provision thereof relied upon.
EPA Terms and Conditions	329	Will the EPA provide for any verification of GHG offset ownership rights sufficient to meet any existing or future legislative standards?	No. The EPA contains a further assurances clause (Section 22.11) under which either party may be required to take further action required for the performance of the EPA. This would include additional reasonable documentation required to evidence ownership of the Emission Reduction Rights as contemplated in the EPA should such documentation be legally required in future.
VIGP	330	If a bidder who has made the VIGP Election is successful, is it responsible for all the obligations arising under the EA certificate, with the exception only of the offset obligation assumed by BC Hydro and described in section 8.3 of the VTA?	Yes.
VIGP	331	With regard to VIGP, is a bidder obliged to undertake any First Nations consultations beyond what has been done by BC Hydro/VIEC, as reflected in the Benefits Agreement?	The bidder is responsible for identifying and carrying out all activities, including First Nations consultations, if any, which may be required to enable the bidder to perform its obligations under an EPA, if awarded to that bidder.
EPA Terms and	332	How are the burdens of GHG emissions allocated under the EPA?	Under the EPA, the Seller is fully responsible for the burdens of all emissions including GHG emissions

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Conditions		How are the benefits of GHG offsets allocated under the EPA?	from the Seller's Plant. Under the EPA, Offsite Emission Reduction Rights are retained by BC Hydro. Emission Reduction Rights arising at the Seller's Plant are retained by the Seller except to the extent that those Emission Reduction Rights cannot be lawfully allocated separately from the Off-Site Emission Reduction Rights, in which case all Emission Reduction Rights are retained by BC Hydro. Green Rights are retained by the Seller.
VIGP	333	Can a bidder who has made the VIGP Election rely on the Benefits Agreement to preclude any further First Nations consultation and accommodation, despite any change in the EA conditions and/or the project?	A bidder that has made the VIGP Election is responsible for determining the scope and legal effect of the Benefits Agreement and all agreements to be assigned under the VTA, including taking legal and other professional advice that may be necessary for that purpose.
Pricing Issues	334	Are there any corrections/refinements required in the calculation of A_{Monthly} under the EPA? (e.g. is it clear that there is no penalty imposed during a Planned Outage?) If so, what are they?	The Term EAF_j in Appendix 3 is a mechanism that is intended to allow the Buyer to reconcile the difference, if any, between the "true" availability of the Seller's Plant (i.e. as demonstrated by the Buyer with clear and convincing evidence, or by the actual delivery profile) and the availability as reported by the Seller. This adjustment is not intended to penalize the Seller for those events that are otherwise treated as "deemed available" events in the EPA. These events which are listed in subsection a) of the definition AC_j in Appendix 3, include Scheduled Planned Outage Hours. A revised Final Form EPA will clarify and confirm the foregoing.
Pricing Issues	335	Who pays for Demonstration Tests?	For each Demonstration Test, the Seller will receive a Start-Up Payment for one Start, if applicable, and the escalated Energy Charge for Eligible Energy generated during the test. These payments are intended to reimburse Seller for costs incurred during the test.

Category	Q&A#	Question:	BC Hydro Response:
Evaluation Issues	336	In the QEM, why doesn't the model allow a Dispatchable/Non Peaking Capacity plant to operate at MTD in both HLH and LLH?	The Tender Spreadsheet is a simplified generation dispatch model that simulates plant operation in specific modes. Dispatchable/Non-Peaking Capacity Plants are simulated in 3 possible modes, which BC Hydro deems to appropriately calculate the Energy Margin for such plants.
Evaluation Issues	337	Does the QEM model use the correct units in reporting interruptible gas transportation cost (i.e. \$/GJ)?	See the answer to Question 293. The label in Cell I37 of Scorecard sheet of the Tendersheet has been amended to show "\$/GJ", not "\$/MWh".
EPA Terms and Conditions	338	Will BC Hydro revise the EPA to include an overall inclusive cap on all liabilities in the aggregate?	No.
EPA Terms and Conditions	339	Will BC Hydro revise the EPA to delete the requirement to replenish security after a draw?	No.
EPA Terms and Conditions	340	Will BC Hydro revise the EPA to reduce LD amounts?	No.
EPA Terms and Conditions	341	Will BC Hydro revise the EPA to provide for reimbursement of bidder costs or sharing of those costs in the event that BCUC "approval" is not obtained?	No.
EPA Terms and Conditions	342	Will BC Hydro revise the EPA to provide that if a claim for a liquidated amount is disputed, no set-off can be applied until the dispute is resolved?	No.
EPA Terms and Conditions	343	Will BC Hydro revise the EPA to include a provision for price adjustment if the Seller becomes regulated as a public utility?	No.
EPA Terms and Conditions	344	Will BC Hydro revise the EPA to provide that BC Hydro will assume financial responsibility for emissions liability?	No.

Category	Q&A#	Question:	BC Hydro Response:
VIGP	345.	Has BC Hydro and/or VIEC made any contracts or commitments with labour unions or associations relative to VIGP that would be binding upon a successful bidder who has made the VIGP election (Ref: EA Application, Vol. 1, Ch.16)?	VIEC has made no contracts or commitments with labor unions or associations with regard to labor supply, other than employment-related provisions of the Benefits Agreement. The application for an EA Certificate indicates assumptions regarding typical conditions for project employment to allow estimating certain project costs and socioeconomic benefits. Section 16.2.3.1 of the Application for an EAC sets out commitments by VIEC with regard to providing information on opportunities and requirements to prepare for potential employment and to recruit to facilitate participation by qualified local residents. These commitments are set out in Schedule B to the EA Certificate. Bidders that made the VIGP Election must review carefully all data room documents to ensure that they have a full understanding of all labour and employment-related matters.
VIGP	346	With regard to the VIGP EA Certificate condition 4, what constitutes a “material” change?	A bidder that has made the VIGP Election is responsible for determining the scope and legal effect of the EA Certificate, including taking legal and other professional advice that may be necessary for that purpose.
VIGP	347	With regard to the VIGP EA Certificate section 10, is any governmental consent required to complete the VTA insofar as the certificate is concerned?	Under the VTA, all outstanding shares in the capital of VIEC will be transferred to the bidder, and the EA Certificate, which is held by VIEC, will not be assigned. BC Hydro has been advised by the EA Office that in these circumstances no governmental consent is required to complete that transaction.
EPA Terms and Conditions	348	Will a successful bidder who has made the VIGP election be entitled to any contractual relief under the EPA in the event that the P&T agreements are terminated in accordance with their terms?	No.
VIGP	349	Is the bidder responsible for delivering on the GE \$14 million investment commitment referenced in the EA application?	A bidder that has made the VIGP Election is responsible for determining the scope and legal

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			effect of the EA Certificate, including taking legal and other professional advice that may be necessary for that purpose.
EPA Terms and Conditions	350	If a plant is shut down and must be started to run Demonstration Tests, how are costs allocated under the EPA?	See answer to Question 335.
EPA Terms and Conditions	351	Under the EPA, if there occurs a Force Majeure, is it required that a Demonstration Test be performed immediately upon the removal of the Force Majeure to reset Demonstrated Capacity, or will the DC in force immediately before the Force Majeure be applicable until the next regular Demonstration Test, regardless of the length of the Force Majeure?	Under the EPA, a Demonstration Test must be conducted on the first day of each quarter, or if an Outage, whether due to Force Majeure or otherwise, occurs, on the first day following the Outage. See section 6.7 of the Final Form EPA for further details.
EPA Terms and Conditions	352	Does the EPA provide that the Major Maintenance Interval resets each time the Major Maintenance time occurs, whether as a result of operating hours or effluxion of time?	Yes. A revised Final Form EPA will clarify and confirm this point, if necessary.
EPA Terms and Conditions	353	If the EPA is terminated in circumstances where the Seller must make a Termination Payment, is that payment always the same amount, regardless of the circumstances or timing of the termination?	Under the EPA, the Termination Payment is calculated as \$20,000/MW multiplied by the Bid Capacity if the Buyer terminates as a result of the Seller's failure to achieve the Receipt of Material Permits Milestone by the specified date or if the Seller terminates as a result of an inability to obtain, after using commercially reasonable efforts, Material Permits by 180 days after the EPA is filed with the BCUC. The Termination Payment in other circumstances is equal to the LD Factor multiplied by the Bid Capacity. The LD Factor varies during the Term (see Appendix 10). However, bidders should note that other termination liabilities may arise in relation to gas-fired tolling plants (Final Form EPA, Appendix 17, Part B, section 16) and in respect of Network Upgrade Costs (Transmission and Interconnection) (Final Form EPA, Appendix 17, Part F, section 3).