

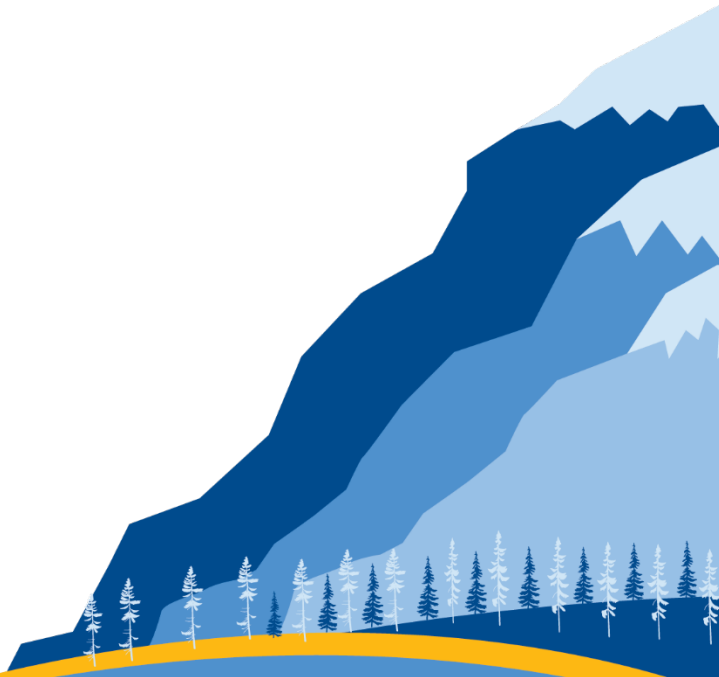


The EAO's Assessment of an Application for Certificate Amendment

MCMAHON COGENERATION PROJECT

REQUESTED BY:
HEARTLAND GENERATION LTD.

FEBRUARY 10, 2022



EAO

Environmental
Assessment Office

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OVERVIEW OF PROPOSED AMENDMENT

Project Background

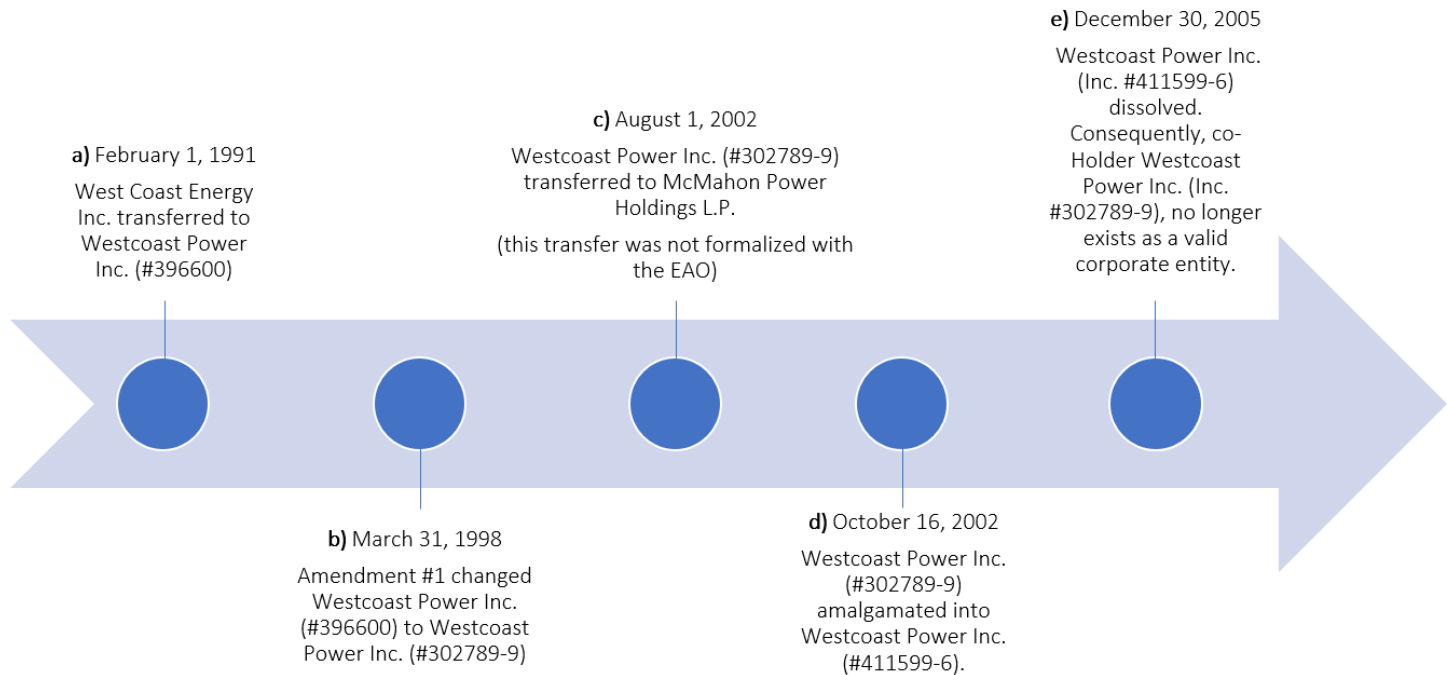
On May 29, 1991, the Minister of Energy, Mines and Petroleum Resources and the Minister of Environment issued an Energy Project Certificate under the *Utilities Commission Act* (1980) to West Coast Energy Inc. and CU Power to allow for the construction and operation of the McMahon Cogeneration Project¹. The McMahon Cogeneration Project is presently an operational 120-megawatt natural gas-fired power plant located near Taylor, British Columbia (B.C.). The McMahon Cogeneration Project provides power to the B.C. electric grid as well as steam to a nearby gas processing plant. The two co-holders each own a 50% ownership interest in the McMahon Cogeneration Project. On June 30, 1995, the former *Environmental Assessment Act* (1996) came into force, and Section 93(8) deemed that the Energy Project Certificate was issued under the *Environmental Assessment Act* and continued into force as Project Approval Certificate #E98-01 (Certificate). Under transition provisions in the *Environmental Assessment Act* (2018) (the Act) and predecessor Acts, the Certificate is deemed to be an Environmental Assessment Certificate under the Act.

On August 19, 2021, the Environmental Assessment Office (EAO) received an application to amend the Certificate from Heartland Generation Ltd. (Application) following an internal organizational review of the company. During the organizational review, as described in the following sections, the two current legal owners of the McMahon Cogeneration Project discovered that despite a series of subsequent legal ownership changes, the Certificate had not been updated to reflect the current co-holders. The Application seeks an amendment to update the Environmental Assessment Certificate to reflect the correct legal owners of the McMahon Cogeneration Project, Heartland Generation Ltd. and McMahon Power Holdings Inc.

Corporate History

This section outlines the histories of the two co-holders of the Certificate as the McMahon Cogeneration Project has changed ownership through several corporate transactions.

¹ Ministers' Order to allow the construction and operation of the McMahon Cogeneration Project (May 29, 1991)
https://projects.eao.gov.bc.ca/api/public/document/5fa0a64ab55bcc0023db3470/download/McMahonCogeneration_Certificate_27May1991.pdf

Westcoast Power Inc. Corporate History**Figure 1. Summary timeline of Westcoast Power Inc.'s corporate history.****Timeline of Westcoast Power Inc.'s corporate history:**

- a) On February 1, 1991, West Coast Energy Inc. assigned and transferred its right, title, and interest in the McMahon Cogeneration Project to Westcoast Power Inc. (Inc. #396600).
- b) On September 23, 1997, Westcoast Power Inc. (Inc. #396600) notified the Minister of Environment, Lands and Parks that it was changing its name to Westcoast Power Holdings Inc., effective October 1, 1997, and proposed to assign, transfer, and set over to its wholly owned subsidiary, Westcoast Power Inc. (Inc. #302789-9), its right, title, and interest in the McMahon Cogeneration Project. On March 31, 1998, the Minister of Environment, Lands, and Parks issued an amendment to change the Environmental Assessment Certificate Holders from Westcoast Power Inc. (Inc. #396600) and CU Power Canada Limited to Westcoast Power Inc. (Inc. #302789-9) and CU Power Canada Limited².
- c) On August 1, 2002, per Utilities Commission Order Number G-58-02, Westcoast Power Inc. (Inc. #302789-9) transferred its ownership in the McMahon Cogeneration Project to a wholly owned subsidiary, McMahon Power Holdings L.P. Westcoast Power Inc. (Inc. #302789-9), McMahon Power Holdings L.P., and the EAO have no documentation that an application or written notice was submitted to the EAO to request an amendment to the Certificate reflecting this corporate name change. Therefore, Westcoast Power Inc. (Inc. #302789-9) remained an Environmental Assessment Certificate co-holder.

² Amendment to change certificate holders from Westcoast Power Inc. (Inc. #396600) and CU Power Canada Limited to Westcoast Power Inc. (Inc. #302789-9) and CU Power Canada Limited (March 31, 1998)

<https://www.projects.eao.gov.bc.ca/api/document/5886c242eed3c0016f856a49/fetch/Amendment%20%231to%20Project%20Approval%20Certificate%20E98-01.pdf>

- d) On October 16, 2002, Westcoast Power Inc. (Inc. #302789-9) was amalgamated into Westcoast Power Inc. (Inc. #411599-6).
- e) On December 30, 2005, Westcoast Power Inc. (Inc. #411599-6) was dissolved. Consequently, the current co-holder Westcoast Power Inc. (Inc. #302789-9), no longer exists as a valid corporate entity.

CU Power Corporate History

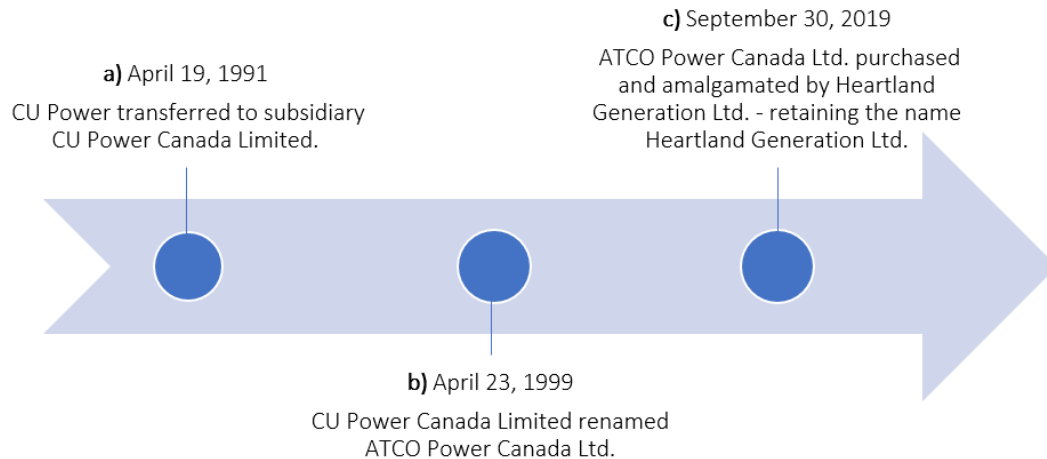


Figure 2. Summary timeline of CU Power's corporate history.

Timeline of CU Power's corporate history:

- a) On April 19, 1991, CU Power (a division of Canadian Utilities Ltd.) assigned and transferred its right, title, and interest in the McMahon Cogeneration Project to CU Power Canada Limited, a wholly owned subsidiary of Canadian Utilities Ltd.
- b) On April 23, 1999, CU Power Canada Limited was renamed ATCO Power Canada Ltd.
- c) On September 30, 2019, ATCO Power Canada Ltd. was purchased by Heartland Generation Ltd. ATCO Power Canada Ltd. was amalgamated with Heartland Generation Ltd. and continued under the name Heartland Generation Ltd. Therefore, Heartland Generation currently holds a 50% ownership interest in the McMahon Cogeneration Project and is the only existing legal holder of the Certificate.

Amendment Application

On August 19, 2021, the EAO received the Application from Heartland Generation Ltd. On December 3, 2021, the EAO accepted the Application for review. The Application seeks an amendment to remove the current co-holder of the Certificate, Westcoast Power Holdings Inc., as it no longer exists as a valid corporate entity, and replace it with the legal co-owner of the McMahon Cogeneration Project, McMahon Power Holdings Inc. Concurrently, the Application seeks to amend the Certificate to reflect a corporate name change from ATCO Power Canada Ltd. to Heartland Generation Ltd., through which ATCO Power Canada Ltd. still exists as a corporate entity through amalgamation.

AMENDMENT REVIEW PROCESS AND INDIGENOUS ENGAGEMENT

The EAO deemed the proposed amendment a simple amendment because it does not result in any new physical activities and is administrative in nature. A formal technical advisory committee was not convened to assist in the review of the

Application. However, on December 3, 2021 the EAO notified the following provincial, federal and local government agencies of the Application:

- Ministry of Environment and Climate Change Strategy
- Ministry of Energy, Mines and Low Carbon Innovation
- Ministry of Transportation & Infrastructure
- B.C. Oil and Gas Commission
- Environment and Climate Change Canada
- Transport Canada
- District of Taylor
- City of Fort St. John
- Peace River Regional District
- Northern Health

The EAO's notification noted that the amendment was believed to be simple in nature and provided the opportunity for comments until January 7, 2022. The EAO received no comments from these agencies.

Prior to submitting the Application, Heartland Generation Ltd., notified Doig River First Nation, West Moberly First Nations, Blueberry River First Nations, Dene Tha' First Nation, Halfway River First Nation, and Horse Lake First Nation of the proposed amendment and offered the opportunity for comment. The Application states that no objections or concerns were received by Heartland Generation Ltd. regarding the Application.

On December 3, 2021 the EAO notified the following Indigenous nations of the Application:

- Doig River First Nation
- Blueberry River First Nations
- West Moberly First Nations
- Dene Tha' First Nation
- Halfway River First Nation
- Horse Lake First Nation
- Fort Nelson First Nation
- McLeod Lake Indian Band
- Prophet River First Nation
- Saulteau First Nations

The EAO's notification noted that the amendment was believed to be simple in nature and provided the opportunity for comments until January 7, 2022, should there be interest. On January 6, 2022, the EAO received a response from Halfway River First Nation indicating it had no issues noted on the proposed amendment. The EAO received no other comments from Indigenous nations.

The EAO considered impacts to the matters under Section 25 of the Act in its review of the Application. The proposed simple amendment is entirely administrative in nature and is not anticipated to result in any changes to the:

- Effects of the McMahon Cogeneration Project on Indigenous nations and rights recognized and affirmed by section 35 of the *Constitution Act (1982)*;
- McMahon Cogeneration Project's positive and negative direct and indirect environmental, economic, social, cultural and health effects and adverse cumulative effects;
- Risks and uncertainties associated with those effects, including the results of any interaction between effects;
- Risks of malfunctions or accidents;
- Disproportionate effects on distinct human populations, including populations identified by gender;
- Effects on biophysical factors that support ecosystem function;
- Effects on current and future generations;

- Consistency with any land-use plan of the government or an Indigenous nation if the plan is relevant to the assessment and to any assessment conducted under section 35 or 73;
- Greenhouse gas emissions, including the potential effects on the province being able to meet its targets under the *Greenhouse Gas Reduction Targets Act*;
- Potential changes to the McMahon Cogeneration Project that may be caused by the environment; and
- Other prescribed matters.

Based on feedback received from Indigenous nations and no outstanding issues or concerns being raised during the assessment by Indigenous nations or the agencies identified above, the EAO is of the view that matters under Section 25 of the Act would not be impacted by the proposed amendment.

CONCLUSIONS

Based on:

- The information contained in Heartland Generation Ltd.'s Application; and
- The EAO's and Heartland Generation Ltd.'s engagement with Indigenous nations.

The EAO is satisfied that:

- Given the amendment request is simple in nature, the changes proposed in the Application would not change any physical aspects of the McMahon Cogeneration Project;
- The effects of the amendment on Indigenous nations as described Section 25(1) of the Act have been appropriately assessed and have been addressed to the satisfaction of the EAO and Indigenous nations;
- The matters described in Section 25(2) of the Act have been considered and there would be no effects of the amendment on these matters; and,
- Efforts to seek consensus on any concern that Indigenous nations raised with the Application and these conclusions were undertaken, with consideration given to the purpose of the EAO to support reconciliation with Indigenous peoples in British Columbia as set out in Section 2(2)(b)(ii) of the Act.

The EAO recommends that the Deputy Chief Executive Assessment Officer of the EAO, upon consideration of the Application and conclusions in this report and any other relevant factors, issues an Amended Certificate under Section 32 of the *Environmental Assessment Act*, and to amend the names of the co-holders of the McMahon Cogeneration Project.