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Small power projects 'blackmailed' by local districts

By Scott Simpson

B.C.'s new anti-red tape legislation is expected to end what some stakeholders in the province's growing independent power sector regard as "blackmail" zoning practices by local governments.

The Squamish Lillooet regional district in particular has been successful at leveraging substantial, long-term payouts from independent power producers -- in exchange for granting routine land zoning amendments to project developers.

The district's own records show that "community benefits agreements" with several IPPs will put millions of dollars into district coffers -- and regional documents advocate the withholding of zoning changes as leverage toward the agreements.

A spokesman in the construction industry on Thursday called it "banana republic" politics and said it was a disincentive to development that was scaring away potential investors.

Miller Creek Power, a 26-megawatt project that was one of the first successful modern private-sector power developments in B.C., had to agree to a \$175,000 one-time payment, plus payments of \$40,000 per year for 40 years in order to gain the zoning it needed to proceed.

Operators of the 32-megawatt Rutherford Creek project paid \$200,000 to a "community benefits fund," plus \$50,000 to an administrative fund, plus \$40,000 per year for the life of their project.

Furry Creek Power, a 10-megawatt run-of-river project, is paying \$70,000 up front plus \$16,000 a year for an unspecified time.

These payments are in addition to annual property tax levies that the district's own documents acknowledge as "significant."

"One of the barriers to growth, particularly in non-urban areas, is that you had some districts essentially holding projects up for blackmail," said Mike Geoghegan, president of the B.C. Construction Association.

"When it comes to IPPs in the Sea-to-Sky corridor you've got half a billion dollars worth of construction. Then you have situations where someone says, 'Provide funding for our rec centre and we will green-light your project'."

With legislation called the Significant Projects Streamlining Act introduced this week by Minister of State for Deregulation Kevin Falcon, the B.C. government hopes to put a halt to the extra-payment practice.

The act empowers cabinet to "impose discipline" on local governments or provincial ministries in cases where, for example, a delay in granting local zoning would be deemed subordinate to the interests of the provincial economy at large.

The Ministry of Competition, Science and Enterprise lists independent power projects as eligible candidates for designation under the Streamlining Act.

The Squamish Lillooet district elected Thursday to address the issue through the Union of B.C. Municipalities, which expects to release today a formal statement on the province's action.

UBCM president Frank Leonard said local governments had no input into the act, which he described as reaching far beyond a constraint on zoning delays for IPPs.

"If these agreements were an issue, we would have been happy to meet with [Falcon] or the minister responsible to discuss them, and remedies," Leonard said.

"Instead, we've been delivered this extremely broad, all-encompassing legislation that overrides local government rights -- indeed citizens' rights -- to having a public process in their communities."

Steve Davis, president of the Independent Power Producers of B.C., wasn't as blunt as Geoghegan, but agreed that the zoning payments were a disincentive to investment.

He said IPPs were worried that the practice, which politicians from the Squamish Lillooet were touting at the recent UBCM annual convention, was going to spread to other areas of the province.

"I'm not uncomfortable with you mentioning that the focused area that was of concern to us was the Squamish Lillooet regional district.

"It was the run of river projects in the Sea-to-Sky corridor that were having these amenities agreements imposed upon them."

District documents acknowledge that independent power projects "tend to be low impact and are often located outside the main population areas."

Moreover, the district says the biggest controversy is associated with an issue outside of its mandate -- unsightly power lines carrying electricity from small private power stations to B.C. Hydro's grid.

The district acknowledges that it "can benefit significantly" from IPPs "through increased property tax revenue."

It notes that while Miller Creek will pay property taxes of \$15,000 to \$20,000 per year, the B.C. government will be collecting \$400,000 in property taxes and crown land rentals, plus a share of a projected \$1.2 million in income tax payments.

It says there are few tangible local benefits to IPPs and that "there is little incentive for local government to support a rezoning application unless there are tangible local benefits associated with it."

"I don't think anyone has a problem with reasonable development cost charges that may benefit a local community or region," Geoghegan said.

"What they have problems with is, basically, capriciousness, where people are being charged in an ad hoc manner, which is reminiscent of what you'd expect in a banana republic in the Third World."

Last month's annual convention of the Independent Power Producers of B.C. drew a record number of delegates, and Davis said members are pleased that the province is recognizing the private sector's interest in investing in small-scale power projects.

"We're pleased with the new legislation. It's a comforting signal to investors that when they are pursuing projects in our sector that they will be less exposed to arbitrary surprises from other government agencies and other levels of government," Davis said.

"Despite the positive signals in the energy plan and in the IPP sector, many of our members were concerned at being surprised and held up by unnecessary delays and costs being imposed upon them, which resulted in them being more worried their investment in developing a project -- and so, it was a deterrent."

Falcon, who introduced the act on Monday, was unavailable for comment.