



ORDER NUMBER

G-38-17

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Class Exemption for BC Hydro Customers that Resell Electricity
Under Certain Lease Arrangements

BEFORE:

R.D. Revel, Panel Chair/Commissioner

R. I. Mason, Commissioner

D.J. Enns, Commissioner

On March 16, 2017

ORDER

WHEREAS:

- A. On September 27, 2016, Shape Property Management Corp. (Shape Property Management) filed an application with the British Columbia Utilities Commission (Commission) for an exemption from Part 3 of the *Utilities Commission Act* (UCA) with respect to the resale of metered electricity to tenants with leases longer than five years, for three developments, all located at 3122 Mt. Lehman Road, Abbotsford;
- B. Under the UCA, certain entities that lease out commercial properties for more than five years (Lessors) to commercial tenants (Lessees) are, by definition of the UCA, a public utility;
- C. On October 26, 2007, by Order G-130-07, the Commission approved the British Columbia Hydro and Power Authority (BC Hydro) Electric Tariff Terms and Conditions for the Resale of Electricity. Subsection 9.2 of the BC Hydro Electric Tariff Terms and Conditions states:

If a Customer wishes to sell Electricity which the Customer has purchased from BC Hydro to a tenant of that Customer on the same Premises on a metered basis, then the Customer shall agree that the selling price for such Electricity shall not exceed the price which BC Hydro would have charged had that tenant been a Customer of BC Hydro. This requirement shall be included in an agreement for resale between BC Hydro and the Customer;

- D. On December 15, 2016, by way of Order G-191-16, the Commission initiated a proceeding to consider a class exemption pursuant to section 88(1) and 88(3) of the UCA for all BC Hydro customers with lease arrangements, where the Lessor, not otherwise a public utility, provides electricity only to the Lessee where the lease period is greater than five years, if the service or commodity is not resold to or used by others and meets the criteria of the BC Hydro Electric Tariff Terms and Conditions for the Resale of Electricity and where all other requirements of the UCA are met;
- E. A regulatory timetable was established by Order G-191-16, requesting written submissions from registered interveners. In the submissions, interveners were asked to provide comments on a draft exemption order and to address three questions regarding the proposed exemption. On January 20, 2017, the Commission received submissions from Templeton DOC Limited Partnership (Templeton LP), British Columbia Hydro and Power Authority, The Commercial Energy Consumers Association of British Columbia (CEC) and Onni Group (Onni);
- F. Templeton LP, BC Hydro and Onni are in favour of the proposed exemption, noting a number of suggestions regarding the proceeding and final content of the proposed exemption order. CEC raised a number of considerations for the Panel to consider in relation to the proposed exemption; and
- G. The Commission has considered the submissions received in relation to whether a class exemption is appropriate, and finds that a further round of comments is warranted.

NOW THEREFORE the British Columbia Utilities Commission, pursuant to section 82 and 88(1) of the *Utilities Commission Act*, orders as follows:

- 1. A further round of intervener submissions is established, to consider a class exemption pursuant to sections 88(1) and 88(3) of the *Utilities Commission Act* for all British Columbia Hydro and Power Authority (BC Hydro) customers with lease arrangements, where the Lessor, not otherwise a public utility, provides electricity only to the Lessee where the lease period is greater than five years, if the service or commodity is not resold to or used by others and meets the criteria of the BC Hydro Electric Tariff Terms and Conditions for the Resale of Electricity and where all other requirements of the *Utilities Commission Act* are met.

This second round of intervener submissions is intended to allow all registered interveners an opportunity to make any further comments in response to those made by any of the other registered interveners during the first comment stage. It is also to allow parties an opportunity to comment on any of the proposed changes to the draft exemption order attached, in black line format, as Appendix B.

- 2. In making their second round of intervener submissions, parties are invited to provide responses to the following questions:
 - 1) Do you believe that the revised draft exemption order, as attached as Appendix B, provides adequate conditions to ensure that any variance between what a Lessor pays BC Hydro for electricity and the charges Lessors make to their Lessees is reasonable?
 - 2) Do you believe that the proposed exemption would have any significant negative impacts on BC Hydro or its ratepayers? If so, please elaborate.

3) Do you believe that the proposed exemption would have any significant impact on the efficacy of demand-side measures?

3. The regulatory timetable is revised, as set out in Appendix A to this order, to allow for further comments from the registered interveners. Registered interveners may submit further comments by email to commission.secretary@bcuc.com or by mail, courier or personal delivery to the British Columbia Utilities Commission, Sixth Floor, 900 Howe Street, Vancouver, BC, V6Z 2N3.

DATED at the City of Vancouver, in the Province of British Columbia, this 16th day of March, 2017.

BY ORDER

Original signed by:

R.D. Revel
Commissioner

Attachments

Class Exemption for BC Hydro Customers that Resell Electricity
Under Certain Lease Arrangements

REGULATORY TIMETABLE

ACTION	DATE (2017)
Intervener response submissions and any comments on revisions to the draft exemption order	Friday, March 31
Further process, if any	To be determined

ORDER NUMBER**G-xx-xx****IN THE MATTER OF**the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Class Exemption for BC Hydro Customers that Resell Electricity
Under Certain Lease Arrangements**BEFORE:**

Commissioner

Commissioner

Commissioner

XXX

DRAFT ORDER**WHEREAS:**

- A. On September 27, 2016, Shape Property Management Corp. (Shape Property Management) filed an application with the British Columbia Utilities Commission (Commission) for an from Part 3 of the *Utilities Commission Act* (UCA) with respect to the resale of metered electricity to tenants with leases longer than five years, for three developments, all located at 3122 Mt Lehman Road, Abbotsford;
- B. Under the UCA, certain entities that lease out commercial properties for more than five years (Lessors) to commercial tenants (Lessees) can be, by definition of the UCA, a public utility;
- C. On October 26, 2007, by Order G-130-07, the Commission approved the British Columbia Hydro and Power Authority (BC Hydro) Electric Tariff Terms and Conditions for the Resale of Electricity. Subsection 9.2. of the BC Hydro Electric Tariff Terms and Conditions states:

If a Customer wishes to sell Electricity which the Customer has purchased from BC Hydro to a tenant of that Customer on the same Premises on a metered basis, then the Customer shall agree that the selling price for such Electricity shall not exceed the price which BC Hydro would have charged had that tenant been a Customer of BC Hydro. This requirement shall be included in an agreement for resale between BC Hydro and the Customer;

- D. On August 4, 2015, By Order G-131-15, the Commission, with advanced approval from the Lieutenant Governor in Council, ordered that Templeton Designer Outlet Centre Limited Partnership (Templeton LP) be exempt from Part 3 of the UCA except for sections 25, 38, 41 and 42, for the purpose of resale of electricity to its lessees, with a term of exceeding five years, at the Regional Designer Outlet Centre located at Vancouver International Airport in Richmond, British Columbia. Also, the Commission Order exempted ,

both Templeton LP and its tenant lessees provided that the lessees are not reselling electricity, from section 71 of the UCA (collectively, Templeton LP Exemption). These exemptions were conditional on Templeton LP's compliance with the BC Hydro Electric Tariff Terms and Conditions for the Resale of Electricity. The Templeton LP Exemption remains in effect until the Commission, after conducting a hearing, orders the exemption no longer applies;

- E. On December 15, 2016, by way of Order G-191-16, the Commission initiated a proceeding to consider a class exemption pursuant to section 88(1) and 88(3) of the UCA for all BC Hydro customers with lease arrangements, where the Lessor, not otherwise a public utility, provides electricity only to the Lessee, where the lease period is greater than five years, if the service or commodity is not resold to or used by others and meets the criteria of BC Hydro Electric Tariff Terms and Condition for the Resale of Electricity and where all other requirements of the UCA are met;
- F. On XX, by Order XX, the Commission sought additional comments from the registered interveners on the proposed exemption;
- G. By Ministerial Order XXX dated XXX and the attached Appendix XX to this order, the Minister responsible for the administration of the *Hydro and Power Authority Act* granted advance approval to the Commission for the proposed exemption;
- H. The Commission has considered the information and finds that a class exemption is warranted and in the public interest.

NOW THEREFORE, the British Columbia Utilities Commission orders as follows:

- 1. Pursuant to sections 88(1) and 88(3) of the *Utilities Commission Act* (UCA), the Commission, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*, effective the date of this order:
 - 1. Exempts from section 71 and Part 3 of the UCA except for sections 25, 38, 41 and 42, all BC Hydro customers with lease arrangements, where the lessor, not otherwise a public utility, provides electricity only to the lessee where the lease period is greater than five years, if the service or commodity is not resold to or used by others and meets the criteria of the BC Hydro Electric Tariff and Terms and Condition, as amended from time to time, for the Resale of Electricity and where all other requirements of the UCA are met.
 - 2. Exempts from section 71 of the UCA, all lessees of lessors exempted in directive 1(a) if they do not resell electricity
 - 3. The exemptions are subject to the conditions contained in Directive 2 of this order.
- 2. The exemption referred to in Directive 1 of this order remains in effect until the Commission, after conducting a hearing orders that the exemption no longer applies
- 3. The exemption referred to in Directive 1 of this order only applies if the lessor registers as an exempt public utility by submitting a letter to the Commission indicating the exempt public utility's name, physical location

of the exempt public utility's operations and the approximate number of tenants of the exempt public utility.

DATED at the City of Vancouver, in the Province of British Columbia, this (XX) day of (Month Year).

BY ORDER

(X. X. last name)

Commissioner