



**ORDER NUMBER
G-23-22**

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

Vancouver Airport Authority
Application for Exemption Pursuant to
Section 88 of the *Utilities Commission Act*

BEFORE:

R. I. Mason, Panel Chair
W. M. Everett, QC, Commissioner
T. A. Loski, Commissioner

on February 2, 2022

WHEREAS:

- A. On December 11, 2020, pursuant to section 88(3) of the *Utilities Commission Act* (UCA), Vancouver Airport Authority (YVR) applied to the British Columbia Utilities Commission (BCUC) seeking approval for exemption from section 71 and certain sections of Part 3 of the UCA, in relation to YVR's resale of natural gas at the Vancouver International Airport (Airport) (Application);
- B. In the Application, YVR states that it currently purchases the natural gas it resells from the gas marketer, Direct Energy Marketing Limited, which is transported to the Airport by FortisBC Energy Inc. (FEI) and is distributed to YVR tenants;
- C. YVR acknowledges in the Application that since YVR resells natural gas to tenants with lease terms of more than five years, it is captured by the definition of a public utility, as it is defined in the UCA;
- D. In the UCA, a public utility is defined in section 1, in part, as:

A person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for the (a) production, generation, storage, transmission, sale, delivery or provision of electricity, natural gas, steam or any other agent for the production of light, heat, cold or power to or for the public or a corporation for compensation;
- E. By Order G-30-21 dated January 28, 2021, the BCUC established a regulatory timetable, which included, public notification, one round of BCUC information requests (IRs) and a letter of comment period;
- F. By Order G-61-21, dated March 2, 2021, the BCUC amended the regulatory timetable in response to YVR's request for additional time to file responses to IR No. 1;

- G. By letter dated March 12, 2021, YVR filed a further request to suspend the proceeding for three months to understand the implications of potentially providing low carbon fuels to its tenants (Suspension Request). In the Suspension Request, YVR proposed providing an update to the BCUC regarding any necessary amendments to the Application by June 11, 2021;
- H. By Order G-85-21 dated March 18, 2021, the BCUC temporarily adjourned the proceeding and directed YVR to file an application for interim rates for the resale of natural gas to its tenants. The BCUC directed YVR, by no later than June 11, 2021, to submit either any necessary amendments to the Application or an application seeking the required regulatory approvals for a Certificate of Public Convenience and Necessity and its permanent rates, tariff and general terms and conditions;
- I. By Order G-99-21 dated March 30, 2021, the BCUC approved the proposed rates set out in YVR's interim rates application, on an interim, collectable and refundable basis. By Order G-330-21 dated November 10, 2021, the BCUC approved the YVR's proposed rates on a permanent basis;
- J. On June 11, 2021, YVR submitted an amended application (Amended Application). In the Amended Application, YVR is seeking approval for exemption from section 71 and Part 3 of the UCA, except sections 24, 25, 38, 39, 41 and 42, in relation to YVR's resale of natural gas at the Airport. The Amended Application included information regarding YVR's intention to transition to renewable natural gas by 2030;
- K. By Order G-190-21 dated June 21, 2021, the BCUC established a further regulatory timetable, which included public notification of the Amended Application, one round of BCUC IRs and a letter of comment period;
- L. On August 11, 2021, the BC Sustainable Energy Association filed a letter of comment (BESEA Letter of Comment);
- M. By Order G-245-21 dated August 17, 2021, the BCUC issued a further regulatory timetable for YVR to file a final written submission including a response to the BCSEA Letter of Comment. On September 8, 2021, YVR filed its final submission;
- N. By Ministerial Order No. M23 dated January 31, 2022, and as attached as Appendix B to this order, the Minister responsible for the administration of the *Hydro and Power Authority Act* granted advance approval to the BCUC to exempt YVR from section 71 and certain sections of Part 3 of the UCA; and
- O. The BCUC has reviewed the Amended Application, evidence, and submissions in this proceeding and considers that YVR's request for exemption is warranted.

NOW THEREFORE the BCUC orders as follows:

1. Pursuant to section 88(3) of the UCA, the BCUC, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*:
 - a. Exempts YVR from the requirements of Part 3 of the UCA, except for sections 24, 25, 38, 39, 41, 42, 43 and 44 with respect to the resale of natural gas to YVR tenants at the Airport.
 - b. Exempts YVR and the tenants described in Directive 1a from section 71 of the UCA with respect to the resale of natural gas to YVR tenants at the Airport, provided that the YVR tenant is not re-selling natural gas to third parties.
2. Pursuant to section 43 of the UCA, YVR is directed to file an annual report within 90 days after fiscal year-end containing the information set out in Appendix A or as the BCUC may otherwise order.
3. The exemption referred to in Directive 1 of this order remains in effect until the BCUC, after conducting a hearing, orders that the exemption no longer applies.

DATED at the City of Vancouver, in the Province of British Columbia, this 2nd day of February 2022.

BY ORDER

Original signed by:

R. I. Mason
Commissioner

Attachment

APPENDIX A
ANNUAL REPORTING REQUIREMENTS

A Report is required for the Vancouver Airport Authority
Resale of Natural Gas

(Reports are to be filed within 90 days after fiscal year-end)

Annual Submissions

- Public utility contact information;
- Number of tenants served;
- Summary of annual maintenance work, including who performed the maintenance work;
- Any safety incidents in the preceding fiscal year; and
- Any customer complaints regarding the distribution and resale of natural gas in the preceding fiscal year.

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE MINISTER OF ENERGY, MINES
AND LOW CARBON INNOVATION

Utilities Commission Act

Ministerial Order No. M23

I, Bruce Ralston, Minister of Energy, Mines and Low Carbon Innovation, order that pursuant to section 88(3) of the *Utilities Commission Act*, approval is given to the British Columbia Utilities Commission to make the exemptions from the indicated provisions of the *Utilities Commission Act* (related to the Vancouver Airport Authority-YVR) as set out in the attached draft order of the British Columbia Utilities Commission.

January 31, 2022
Date


Minister of Energy, Mines and
Low Carbon Innovation

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Utilities Commission Act*, R.S.B.C. 1996, s. 88(3)

Other: _____



**ORDER NUMBER
G-XX-XX**

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and

Vancouver Airport Authority
Application for Exemption Pursuant to
Section 88 of the *Utilities Commission Act*

BEFORE:

R. I. Mason, Panel Chair
W. M. Everett, QC, Commissioner
T. A. Loski, Commissioner

on [Date]

DRAFT ORDER

WHEREAS:

- A. On December 11, 2020, pursuant to section 88(3) of the *Utilities Commission Act* (UCA), Vancouver Airport Authority (YVR) applied to the British Columbia Utilities Commission (BCUC) seeking approval for exemption from section 71 and certain sections of Part 3 of the UCA, in relation to YVR's resale of natural gas at the Vancouver International Airport (Airport) (Application);
- B. In the Application, YVR states that it currently purchases the natural gas it resells from the gas marketer, Direct Energy Marketing Limited, which is transported to the Airport by FortisBC Energy Inc. (FEI) and is distributed to YVR tenants;
- C. YVR acknowledges in the Application that since YVR resells natural gas to tenants with lease terms of more than five years, it is captured by the definition of a public utility, as it is defined in the UCA;
- D. In the UCA, a public utility is defined in section 1, in part, as:

A person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for the (a) production, generation, storage, transmission, sale, delivery or provision of electricity, natural gas, steam or any other agent for the production of light, heat, cold or power to or for the public or a corporation for compensation;

- E. By Order G-30-21 dated January 28, 2021, the BCUC established a regulatory timetable, which included, public notification, one round of BCUC information requests (IRs) and a letter of comment period;
- F. By Order G-61-21, dated March 2, 2021, the BCUC amended the regulatory timetable in response to YVR's request for additional time to file responses to IR No. 1;

- G. By letter dated March 12, 2021, YVR filed a further request to suspend the proceeding for three months to understand the implications of potentially providing low carbon fuels to its tenants (Suspension Request). In the Suspension Request, YVR proposed providing an update to the BCUC regarding any necessary amendments to the Application by June 11, 2021;
- H. By Order G-85-21 dated March 18, 2021, the BCUC temporarily adjourned the proceeding, and directed YVR to file an application for interim rates for the resale of natural gas to its tenants. The BCUC directed YVR, by no later than June 11, 2021, to submit either any necessary amendments to the Application or an application seeking the required regulatory approvals for a Certificate of Public Convenience and Necessity and its permanent rates, tariff and general terms and conditions;
- I. By Order G-99-21 dated March 30, 2021, the BCUC approved the proposed rates set out in YVR's interim rates application, on an interim, collectable and refundable basis. By Order G-xxx-21 dated [date], the BCUC approved the YVR's proposed rates on a permanent basis;
- J. On June 11, 2021, YVR submitted an amended application (Amended Application). In the Amended Application, YVR is seeking approval for exemption from section 71 and Part 3 of the UCA except sections 24, 25, 38, 39, 41 and 42, in relation to YVR's resale of natural gas at the Airport. The Amended Application included information regarding YVR's intention to transition to renewable natural gas by 2030;
- K. By Order G-190-21 dated June 21, 2021, the BCUC established a further regulatory timetable, which included, public notification of the Amended Application, one round of BCUC IRs and a letter of comment period;
- L. On August 11, 2021, the BC Sustainable Energy Association filed a letter of comment (BESEA Letter of Comment);
- M. By Order G-245-21 dated August 17, 2021, the BCUC issued a further regulatory timetable for YVR to file a final written submission including a response to the BCSEA Letter of Comment. On September 8, 2021, YVR filed its final submission;
- N. By Ministerial Order XXX dated [date] and as attached as Appendix B to this order, the Minister responsible for the administration of the *Hydro and Power Authority Act* granted advance approval to the BCUC to partially exempt YVR from section 71 and certain requirements of Part 3 of the UCA; and
- O. The BCUC has reviewed the Amended Application, evidence, and submissions in this proceeding and considers that YVR's request for exemption is warranted.

NOW THEREFORE the BCUC orders as follows:

- 1. Pursuant to section 88(3) of the UCA, the BCUC, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*:
 - a. Exempts YVR from the requirements of Part 3 of the UCA except for sections 24, 25, 38, 39, 41, 42, 43 and 44 with respect to the resale of natural gas to YVR tenants at the Airport.
 - b. Exempts YVR and the tenants described in Directive 1a from section 71 of the UCA with respect to the resale of natural gas to YVR tenants at the Airport, provided that the YVR tenant is not re-selling natural gas to third parties.

2. Pursuant to section 43 of the UCA, YVR is directed to file an annual report within 90 days after fiscal year-end containing the information set out in Appendix B or as the BCUC may otherwise order.
3. The exemption referred to in Directive 1 of this order remains in effect until the BCUC, after conducting a hearing, orders that the exemption no longer applies.

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

BY ORDER

R. I. Mason
Commissioner

Attachment

DRAFT

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- Any safety incidents in the preceding fiscal year; and
- Any customer complaints regarding the distribution and resale of natural gas in the preceding fiscal year.