



ORDER NUMBER
G-28-22

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

and

British Columbia Utilities Commission
An Inquiry into the Regulation of Municipal Energy Utilities

BEFORE:

T. A. Loski, Panel Chair
C. M. Brewer, Commissioner
W. M. Everett, QC, Commissioner
B. A. Magnan, Commissioner

on February 10, 2022

ORDER

WHEREAS:

- A. By Order G-177-19, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the regulation of energy utilities affiliated with municipalities and regional districts in British Columbia (Inquiry) and established a regulatory timetable;
- B. On October 24, 2019, intervenor written submissions and letters of comment were received by the BCUC, addressing whether a utility affiliated, in some way, with a municipality or regional district is considered a public utility as defined by section 1 of the UCA;
- C. By Order G-316-19, and as amended by Order G-14-20, the BCUC amended the regulatory timetable, which included one round of information requests;
- D. By Order G-56-20, the BCUC adjourned the Inquiry in recognition of the COVID-19 pandemic and suspended the regulatory timetable as set out in Order G-14-20 until further notice. Following a request for submissions, the BCUC, by letters dated July 16, 2020 and February 5, 2021, confirmed the adjournment would continue until the lifting of the state of emergency in BC. The BC state of emergency relating to the COVID-19 pandemic was lifted on June 30, 2021;
- E. By Order G-241-21, the BCUC resumed the Inquiry and established a further regulatory timetable;
- F. By Letter dated September 9, 2021, the City of Richmond applied for the disqualification of the Chair of the Panel for the Inquiry, Commissioner Tom Loski, on the grounds of a reasonable apprehension of bias (Richmond Application);

- G. By Order G-280-21 the BCUC adjourned the regulatory timetable, as set out in Order G-241-21, pending the hearing of the Richmond Application and by letter dated September 24, 2021 requested submissions regarding the Richmond Application;
- H. By letter dated December 13, 2021, and following consideration of intervener submissions, Richmond's Application was denied;
- I. By Order G-381-21 the BCUC established a further regulatory timetable, and requested registered interveners to provide written submissions to address matters related to the first Stage of the Inquiry as described in Appendix B to the order;
- J. On January 27, 2022, intervener written submissions were received by the BCUC addressing matters relating to the first Stage of the Inquiry as described in Order G-381-21; and
- K. The BCUC has reviewed the submissions and considers the following determinations are warranted.

NOW THEREFORE the BCUC orders as follows:

- 1. An amended regulatory timetable is established, attached as Appendix A to this order.
- 2. Registered interveners may reply to submissions on matters related to the first Stage of the Inquiry as described in Appendix B to Order G-381-21.

DATED at the City of Vancouver, in the Province of British Columbia, this 10th day of February 2022.

BY ORDER

Original signed by:

T. A. Loski
Commissioner

Attachment

British Columbia Utilities Commission
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REGULATORY TIMETABLE

Phase 1 - Action	Date (2022)
Comments on intervener submissions and updated intervener submissions (if any)	Thursday, March 31
Further process	To be determined

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KEY THEMES

Within the existing submissions, Interveners have raised a number of key themes. Interveners are invited to provide evidence or submissions on these themes to the extent to which they wish to do so.

1. Municipal Regulation

Any similarities and differences between a utility that operates as a business unit of a municipal department vs a utility that operates within a local government corporation (LGC) as experienced by both:

- i. utility customers and
- ii. by local government decision makers.

2. Statutory Framework for Local Government Corporations

The purpose of creating an LGC and the applicability of existing statutory frameworks and safeguards on LGCs.

3. Financial Framework

Any material differences of the financial framework of an LGC vs that of a wholly owned business unit of a municipal department, including matters such as ringfencing requirements, treatment of net gains/losses from operations, and/or lending restrictions.

4. Partnering or Franchise Agreements

Whether the provision of services by an LGC requires:

- i. a partnering agreement between a local government and an LGC;
- ii. a franchise agreement between a local government and an LGC and, if so, why should section 45 of the *Utilities Commission Act* (UCA) not apply in the eventuality the British Columbia Utilities Commission (BCUC) determines that LGCs are public utilities?

5. Exemption from BCUC Regulation

If LGCs are determined to be a public utility as defined in section 1 of the UCA, should they be regulated under the UCA? Specifically:

- What relevant factors should the BCUC look at to determine whether LGCs should be exempt from regulation (e.g., who retains decision-making authority over the LGC in respect of the core aspects of service, complaint process, rate-setting process, etc.)?
- What framework could be used by the BCUC to determine whether to make an exemption on a case-by-case basis, or a recommendation to the Government of BC for a class of cases exemption, or to review the UCA's public utility definition to expand the municipal exclusion from the UCA to include LGCs?