



ORDER NUMBER
G-38-23

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

and

Powell River Energy Inc.
Status as a Public Utility

BEFORE:

T. A. Loski, Panel Chair
C. M. Brewer, Commissioner
A. Pape-Salmon, Commissioner

on February 24, 2023

ORDER

WHEREAS:

- A. Powell River Energy Inc. (PREI), a wholly owned subsidiary of Brookfield Renewable Partners L.P. (Brookfield), own and operate two hydroelectric generating stations constructed in the early 1900's, with an aggregate nameplate capacity of approximately 85 megawatts, and transmission and distribution facilities (Power Facilities) located on Powell Lake and Lois Lake in Powell River;
- B. PREI purchased the Power Facilities in 2001 from the then owner, Pacifica Power Co. Ltd., a wholly owned subsidiary of Pacifica Papers Inc. (Pacifica). PREI sold power from the Power Facilities to Pacifica, later Catalyst Paper Corporation (Catalyst) and was therefore a public utility pursuant to section 1 of the *Utilities Commission Act* (UCA) and subject to British Columbia Utilities Commission (BCUC) regulation;
- C. By Ministerial Order M-22-0101, deposited January 30, 2001, the Minister of Employment and Investment granted PREI an exemption, pursuant to section 22 of the UCA, from regulation as a public utility under Part 3 and section 71 of the UCA with respect to electricity generated at the Power Facilities and sold to Catalyst, under a Power Purchase Agreement (PPA), for use at its Powell River pulp and paper mill;
- D. Order M-22-0101 also allowed PREI to sell any electricity not purchased by Catalyst to participants in the wholesale electricity market (Surplus Electricity);
- E. The PPA between PREI and Catalyst was subsequently renewed in 2011 and 2016;
- F. By Ministerial Order M039 (BC Reg. 26/2017) (M039), deposited on February 7, 2017, the Minister of Energy, Mines, and Low Carbon Innovation (Minister), pursuant to section 22 of the UCA, granted PREI a partial exemption from Part 3 and section 71 of the UCA (Ministerial Exemption) on the condition that the electricity generated at the Power Facilities was provided to Catalyst per the terms of the PPA, with any Surplus Electricity available to PREI;

- G. By Order G-17-17 dated February 7, 2017, pursuant to section 88(3) of the UCA, the BCUC, having been granted advance approval by the Minister, exempted PREI from section 71 and Part 3 of the UCA, except for sections 25, 38, 42, and 43, for the duration of M039;
- H. PREI and Catalyst agreed to terminate the PPA effective May 31, 2021 (PPA Termination);
- I. In anticipation of the Ministerial Exemption being repealed, on September 29, 2021, PREI filed an application with the BCUC for an exemption from Part 3 of the UCA, except for sections 25, 38, 42, and 43, and section 71 of the UCA (2021 Exemption Application);
- J. Following the PPA Termination, the Minister, by Ministerial Order M5 (BC Reg. 3/2022) deposited on January 12, 2022, repealed M039, thereby rescinding PREI's partial exemption from the UCA;
- K. PREI withdrew its 2021 Exemption Application on February 22, 2022;
- L. By letter dated December 28, 2022, in response to a BCUC letter requesting an update on PREI's operations, PREI states that since the PPA Termination, PREI has been exporting all its power production to the United States, with the assistance of PREI's affiliated companies – Powell River Energy Limited Partnership (PRELP) and Evolugen Trading and Marketing LP (Evolugen). PREI, PRELP and Evolugen are all subsidiaries of Brookfield;
- M. PREI states that it sells power only to its subsidiaries and does not sell to any other person or any end-use consumers in BC and therefore PREI is no longer a public utility as it now falls within the exclusion set out in section 1 (d) of the UCA; and
- N. Upon further review, the BCUC determines that a public hearing process to review PREI's status as a public utility is warranted.

NOW THEREFORE the BCUC orders as follows:

1. A public hearing process is established for the review of PREI's status as a public utility in accordance with the regulatory timetable as set out in Appendix A to this order.
2. PREI is directed, as soon as reasonably possible, but no later than Monday, March 13, 2023, to provide public notice of the proceeding, attached as Appendix B, and a copy of this order, electronically where possible, to:
 - a. All affected or potentially affected parties, including the Ministry of Energy, Mines and Low Carbon Innovation, the Ministry of Environment and Climate Change Strategy, British Columbia Hydro and Power Authority, Catalyst, the qathet Regional District, the City of Powell River, the Tla'amin, shíshálh, Klahoose and K'ómoks First Nations and all band offices for First Nations communities located fully or partially within the Powell and Lois Dam reservoir areas and downstream watersheds;
 - b. All registered parties, including interested parties and individuals that submitted letters of comments, participating in the [2021 Exemption Application](#); and
3. PREI is directed to publish the public notice and a copy of this order in a clearly visible location on the homepage of its website and its Twitter, Facebook, and LinkedIn social media platforms, as applicable.

4. PREI is directed to provide to the BCUC, by Tuesday, March 14, 2023:
 - a. A list of all parties notified of the proceeding, as directed in Directive 2 of this order;
 - b. Evidence of confirmation that all of the potentially affected parties noted in Directive 2(a) have received notice of the proceeding. Such evidence may be in the form of a phone log, reply email, or similar record; and
 - c. Evidence of confirmation that PREI has provided notice of the proceeding on its website and social media platforms, as directed in Directive 3 of this order. Such evidence may be in the form of a web address or similar record.
5. Parties wishing to provide comments are invited to submit letters of comment by the date established in the attached regulatory timetable. Letters of comment must be in the Letter of Comment form available on the BCUC's website at: <https://www.bcuc.com/Forms/LetterOfComment> or by mail to the BCUC, Suite 410, 900 Howe Street, Vancouver, BC, V6Z 2N3.

DATED at the City of Vancouver, in the Province of British Columbia, this 24th day of February 2023.

BY ORDER

Original signed by:

T. A. Loski
Commissioner

Attachment

Powell River Energy Inc.
Status as a Public Utility

REGULATORY TIMETABLE

Action	Date (2023)
PREI to provide notice of the proceeding	Monday, March 13
BCUC Information Request (IR) No. 1 to PREI	Monday, March 13
PREI to provide to the BCUC a list of all parties notified of the proceeding and confirmation of notice on PREI's website and social media platforms	Tuesday, March 14
PREI response to BCUC IR No. 1	Monday, March 27
Deadline to submit Letters of Comment	Friday, April 7
PREI to file responses to Letters of Comment	Monday, April 17
Further Process	To be determined



We want to hear from you

Powell River Energy Inc. Status as a Public Utility

On November 28, 2022, the British Columbia Utilities Commission (BCUC) issued a letter to Powell River Energy Inc. (PREI) requesting an update on PREI's operations with respect to its two hydroelectric generating stations and transmission and distribution facilities located on Powell Lake and Lois Lake in Powell River, following Ministerial Order No. M5, deposited January 12, 2022 (BC Reg. 5/2022), which repealed PREI's exemption from certain sections of the *Utilities Commission Act* (UCA).

By letter dated December 28, 2022, PREI stated that it has been exporting all its power production to the United States and does not sell to any other person or any end-use consumers in BC. PREI submits that it is not a public utility as it falls within the exclusion set out in section 1 (d) of the UCA. The BCUC has therefore initiated an investigation into PREI's status as a public utility.

HOW TO PARTICIPATE

- [Submit a letter of comment](#)
- [Register as an interested party](#)

For more information about the proceeding, please visit the [Proceeding Webpage](#) on bcuc.com under "Our Work – Proceedings". To learn more about getting involved, please visit our website at www.bcuc.com/get-involved or contact us at the information below.

IMPORTANT DATES

1. **Friday, April 7, 2023** – Deadline to submit a letter of comment

GET MORE INFORMATION

Powell River Energy Inc.



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