



ORDER NUMBER
G-123-24

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

and
111 E 5th Partnership and 111 E 5th Property Inc.
Exemption under Section 88(3) of the UCA

BEFORE:

E. B. Lockhart, Panel Chair
W. E. Royle, Commissioner

on April 30, 2024

ORDER

WHEREAS:

- A. On September 25, 2023, 111 E 5th Partnership and 111 E 5th Property Inc. (the M3 Owner), filed an application with the British Columbia Utilities Commission (BCUC) pursuant to section 88(3) of the *Utilities Commission Act* (UCA) seeking approval for exemption from section 71 and Part 3 of the UCA, in respect of the sale of electricity to Creative Energy Mount Pleasant Limited Partnership (CEMP) for use in the Mount Pleasant District Cooling System (Mount Pleasant DCS) (Application);
- B. Under 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...
- C. The M3 Owner is the registered owner of lands and premises located at 111 E 5th Avenue (Building M3) and 111 E 5th Partnership is the beneficial owner of Building M3. Building M3 is part of a five-building development located at Main Street and East 5th Avenue in Vancouver, BC (Main Alley Development);
- D. In the Application, the M3 Owner states that in order to operate the Mount Pleasant DCS, CEMP relies on the electricity and water supplied through Building M3's existing service connections to British Columbia Hydro and Power Authority (BC Hydro) and the City of Vancouver, respectively;
- E. The developers and owners of the Main Alley Development have partnered with CEMP to upgrade and expand the Mount Pleasant DCS, located in Building M3. Following this, CEMP will sell its centralized cooling energy to the owners of the Main Alley Development under 25-year Customer Service Agreements. The M3 Owner will charge CEMP for the electricity used at the Mount Pleasant DCS without markup over the rates the M3 Owner is charged by BC Hydro;

- F. By Order G-293-23 dated October 27, 2023, the BCUC established a written comment process and regulatory timetable for review of the Application, which included public notice of the Application, one round of BCUC information requests, and a letter of comment submission period;
- G. Section 88(3) of the UCA provides that the BCUC may grant an exemption from the UCA with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*;
- H. By letter dated April 25, 2024, attached as Appendix A to this order, the Minister responsible for the administration of the *Hydro and Power Authority Act* granted advance approval to the BCUC to exempt the M3 Owner from section 71 and certain requirements of Part 3 of the UCA and CEMP from section 71 of the UCA; and
- I. The BCUC has reviewed the Application and determines that the grant of a partial exemption to the M3 Owner and CEMP from the operation of the UCA 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 the M3 Owner from the requirements of Part 3 of the UCA, except for sections 42 and 43, for the Main Alley Development electrical infrastructure used to supply electric service to CEMP, and
 - b. Exempts the M3 Owner and CEMP from the requirements of section 71 of the UCA with respect to the resale of electricity provided that CEMP is not reselling electricity to third parties.
- 2. The exemptions referred to in Directive 1 of this order remain in effect until the BCUC orders that the exemptions no longer apply.

DATED at the City of Vancouver, in the Province of British Columbia, this 30th day of April 2024.

BY ORDER

Original signed by:

E. B. Lockhart
Commissioner

Attachment



April 25, 2024

Ref: 120305

Patrick Wruck
Commission Secretary
Suite 410, 900 Howe Street
Vancouver, BC
Canada V6Z 2N3

email: Patrick.Wruck@bcuc.com, Commission.Secretary@bcuc.com

**RE: Advance approval for exemption from *Utilities Commission Act* provisions for
111 E 5th Partnership and 111 E 5th Property Inc.**

Dear Patrick Wruck:

Thank you for your letter of February 12, 2024, regarding the Inquiry into the Regulation of 111 E 5th Partnership and 111 E 5th Property Inc. Your letter requested advance approval to issue orders under section 88 of the UCA to exempt these parties from provisions of the *Utilities Commission Act*.

I, Josie Osborne, Minister of Energy Mines and Low Carbon Innovation, confirm 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 Part 3 of the *Utilities Commission Act* (except sections 42 and 43) and section 71 of the *Utilities Commission Act*) as set out in the attached draft order of the British Columbia Utilities Commission.

Furthermore, as set out in the attached draft order, I also approve exempting Creative Energy Mount Pleasant Limited Partnership from section 71 of the *Utilities Commission Act*.

Sincerely,

Josie Osborne
Minister

Attachment: BCUC Draft Order related to 111 E 5th Partnership and 111 E 5th Property Inc.

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G-XX-XX**

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Exemption under Section 88(3) of the UCA

BEFORE:
E. B. Lockhart, Panel Chair W. E. Royle, Commissioner

on [date]

ORDER

WHEREAS:

- A. On September 25, 2023, 111 E 5th Partnership and 111 E 5th Property Inc. (the M3 Owner), filed an application with the British Columbia Utilities Commission (BCUC) pursuant to section 88(3) of the *Utilities Commission Act* (UCA) seeking approval for exemption from section 71 and Part 3 of the UCA, in respect of the sale of electricity to Creative Energy Mount Pleasant Limited Partnership (CEMP) for use in the Mount Pleasant District Cooling System (Mount Pleasant DCS) (Application);
- B. Under 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...
- C. The M3 Owner is the registered owner of lands and premises located at 111 E 5th Avenue (Building M3) and 111 E 5th Partnership is the beneficial owner of Building M3. Building M3 is part of a five-building development located at Main Street and East 5th Avenue in Vancouver, BC (Main Alley Development);
- D. In the Application, the M3 Owner states that in order to operate the Mount Pleasant DCS, CEMP relies on the electricity and water supplied through Building M3's existing service connections to British Columbia Hydro and Power Authority (BC Hydro) and the City of Vancouver, respectively;
- E. The developers and owners of the Main Alley Development have partnered with CEMP to upgrade and expand the Mount Pleasant DCS, located in Building M3. Following this, CEMP will sell its centralized cooling energy to the owners of the Main Alley Development under 25-year Customer Service Agreements. The M3 Owner will begin charging CEMP for the electricity used at the Mount Pleasant DCS without markup over the rates the M3 Owner is charged by BC Hydro;
- F. By Order G-293-23 dated October 27, 2023, the BCUC established a written comment process and regulatory timetable for review of the Application, which included public notice of the Application, one round of BCUC information requests, and a letter of comment submission period;

- G. Section 88(3) of the UCA provides that the BCUC may grant an exemption from the UCA with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*;
- H. By letter [•] dated [•] , attached as Appendix x to this order, the Minister responsible for the administration of the *Hydro and Power Authority Act* granted advance approval to the BCUC to exempt the M3 Owner from section 71 and certain requirements of Part 3 of the UCA; and
- I. The BCUC has reviewed the Application and determines that the grant of a partial exemption to the M3 Owner from the operation of the UCA 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 the M3 Owner from the requirements of Part 3 of the UCA, except for sections 42 and 43, for the Main Alley Development electrical infrastructure used to supply electric service to CEMP, and
 - b. Exempts the M3 Owner and CEMP from the requirements of section 71 of the UCA with respect to the resale of electricity provided that CEMP is not reselling electricity to third parties.
- 2. The exemptions referred to in Directive 1 of this order remain in effect until the BCUC orders that the exemptions no longer apply.

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

BY ORDER

E. B. Lockhart
Commissioner