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British Columbia Utilities Commission
An Inquiry into the Regulation of Safety

Stage 1

Decision
and Order G-381-22

December 22, 2022

Before:

D. M. Morton, Panel Chair
C. M. Brewer, Commissioner
R. I. Mason, Commissioner

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Executive Summary

In September 2020, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry). Stage 1 of the Inquiry focuses on:

1. The nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the *Utilities Commission Act* (UCA);
2. The conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and
3. Setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.

In Stage 2, the BCUC will explore the application of these principles to its regulation of public utilities.

On August 12, 2022, the BCUC issued a draft report with its preliminary findings in Stage 1 of the Inquiry (Draft Report). Parties were provided an opportunity to comment on the Draft Report.¹ In this decision, the Panel considers the comments received and issues the final Stage 1 report.

In the final Stage 1 report, the Panel considers that sections 23, 25, and 38 of the UCA together set out the basis of the regulatory scheme for the BCUC's oversight of the safety of public utilities. These sections of the UCA provide that:

- The BCUC is responsible for general supervision of all public utilities;
- Public utilities are required to provide and maintain their property and equipment in a manner that the BCUC considers "is in all respects... safe"; and
- If, after a hearing, the BCUC determines that the service of a public utility is unsafe, it must make a determination of what constitutes safe service and order the utility to provide it.

There is nothing in the UCA that prescribes or expressly constrains the scope of the BCUC's safety jurisdiction with respect to public utilities. Therefore, in light of the provisions in sections 23, 25, and 38 of the UCA, the Panel finds that the BCUC has jurisdiction over all aspects of public utility safety.

Further, the Panel recognizes that the safe operation of British Columbia's public utilities is a shared responsibility amongst multiple provincial and federal regulatory bodies. As the UCA is not prescriptive about whether the BCUC must explicitly set out what it considers is necessary for a service to be safe, nor how safety compliance is achieved, the Panel finds that what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators.

Respecting forbearance, the Panel finds that the BCUC does not have the power to forbear its jurisdiction over public utility safety. The UCA contains no express provision for the BCUC to forbear from exercising its powers and the BCUC may only exempt utilities from aspects of regulation with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*, pursuant to section 88 of the UCA.

Finally, the Panel sets out the following key principles to guide the BCUC in carrying out its safety oversight role:

- Regulatory Overlaps – the BCUC should (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and (ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.

¹ Order G-221-22.

- Operational Gaps – the BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.
- Exemptions from the UCA – the BCUC should not recommend an exemption for a public utility from its safety oversight without explicitly considering whether an exemption from safety regulation is in the public interest.
- Keeping Informed – the BCUC should take active steps to keep itself informed regarding the safety of public utilities.
- Safety Considerations when Adjudicating – the BCUC should continue to consider relevant aspects of public utility safety in all its adjudications, including when determining whether an application is in the public interest and whether rates are just and reasonable. The Panel recommends that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information relevant to safety that may need to be filed.

1.0 Introduction

The British Columbia Utilities Commission (BCUC) is an independent regulatory agency of the British Columbia (BC) government, operating under and administering the *Utilities Commission Act* (UCA). The BCUC is responsible for ensuring safe and reliable energy supply at fair rates for energy users across the province. The BCUC balances this responsibility with the need to ensure public utilities² under its jurisdiction are afforded a reasonable opportunity to earn a fair return on their investments.

The BCUC determined that greater clarity around the nature and extent of the BCUC's jurisdiction over public utility safety was required and established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry).

Stage 1 of the Inquiry focuses on:

1. The nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the UCA;
2. The conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and
3. Setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.

2.0 Regulatory Process

By Order G-241-20, dated September 23, 2020, the BCUC established an initial regulatory timetable for the Inquiry. The regulatory timetable was subsequently furthered and amended by Orders G-342-20, G-34-21, G-209-21, G-296-21, and G-356-21, respectively.

The following parties registered as interveners in the Inquiry:

- Don Flintoff (Flintoff)
- Borealis Geopower Inc. (Borealis)
- Chargepoint BC
- FortisBC Energy Inc. and FortisBC Inc.
(Collectively, FortisBC)
- Movement of United Professionals (MoveUP)
- TE Burns Engineering Ltd.
- Commercial Energy Consumers Association of
British Columbia (CEC)
- Corix Multi-Utility Services Inc.
- Pacific Northern Gas Ltd. (PNG)
- Kyuquot Power Ltd.
- British Columbia Old Age Pensioners'
Organization et al. (BCOAPO)
- Technical Safety BC (TSBC)
- British Columbia Hydro and Power Authority
(BC Hydro)
- Surplus Energy Match
- IRSRGC³
- River District Energy
- Residential Consumer Intervener Group (RCIA)

² In the UCA, a "public utility" is defined as a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in BC, equipment or facilities for the 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. There are a number of exclusions from the definition of a public utility, including municipalities or regional districts that provide services within their own boundaries, and a person that provides services to employees or tenants.

³ IRSRGC includes the following interveners: (i) British Columbia Solar Coalition; (ii) Irrigation Ratepayers Group; (iii) Net Metering Ratepayers Group; (iv) Vancouver Electric Vehicle Association; and (v) Zone 1B Ratepayer Group.

By November 12, 2020, the BCUC received written submissions from interveners and interested parties regarding the BCUC's jurisdiction with respect to the regulation of safety, legislative gaps or overlaps, and whether a workshop in support of the Inquiry would be beneficial.

By Order G-342-20, dated December 18, 2020, the BCUC proposed a two-staged approach to the Inquiry, with Stage 1 focusing on:

1. The nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the UCA;
2. The conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and
3. Setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.

Following Stage 1, the BCUC would initiate the second stage of the Inquiry (Stage 2) to explore the application of the key principles to its regulation of public utilities and to establish how the BCUC will implement its mandate with regards to safety.

On January 27, 2021, the BCUC held a procedural conference in which interveners were invited to comment on the BCUC's proposed approach to the Inquiry. Intervenors were generally supportive and suggested that there would be value in the BCUC issuing a set of "sub issues" to help guide intervener submissions in Stage 1.

By Order G-34-21, dated January 29, 2021, the BCUC confirmed that the Inquiry would be undertaken in two stages and established a further regulatory timetable. The regulatory timetable included, among other things, the issuance of proposed Stage 1 sub issues, an opportunity for intervener submissions and reply submissions, and the issuance of final Stage 1 sub issues by July 8, 2021.

Following issuance of the final Stage 1 sub issues, interveners were provided an opportunity to file evidence addressing Stage 1 of the Inquiry. Information requests on intervener evidence followed.

Intervenors filed final and reply arguments addressing Stage 1 of the Inquiry by January 12, 2022 and January 26, 2022, respectively.

On August 12, 2022, the BCUC issued a draft report with its preliminary findings in Stage 1 of the Inquiry (Draft Report). By Order G-221-22, the BCUC sought written submissions on the Draft Report.

Flintoff, Borealis, FortisBC, the CEC, BCOAPO, BC Hydro and RCIA filed submissions by October 3, 2022. FortisBC and the CEC filed reply submissions on October 18, 2022.

3.0 Final Stage 1 Report

Having considered intervener submissions on the Draft Report, the Panel will now finalize the Safety Inquiry Stage 1 Report. With the exception of the areas noted below, parties were supportive of, or provided no comments on, the language proposed in the Draft Report and we adopt the proposed language as final.

A copy of the final Stage 1 report is attached as Appendix A to this decision. A blacklined copy showing the changes from the Draft Report is attached as Appendix B.⁴

⁴ The Panel notes that in addition to the revisions discussed in Sections 3.1 to 3.3.3, below, the language in the final report has also been updated to reflect issuance of the Draft Report and the receipt of submissions thereon, and to correct errata. All changes are marked in the blacklined copy of the final report provided in Appendix B.

3.1 Public Utility Safety Regulation in BC

Positions of the Parties

Section 3.0 of the Draft Report provided an overview of public utility safety regulation in the province. Flintoff indicates support for the discussion in Section 3.0, with the exception of references made to the governance of professional engineers by Engineers and Geoscientists B.C. (EGBC), pursuant to the *Professional Governance Act* (PGA). Flintoff submits that while section 57 (standards of conduct and competence) and section 58 (duty to report) of the PGA address safety “most events that may pose a risk of significant harm to the environment or the health or safety of the public or a group of people occur after the events have occurred.” As such, Flintoff argues that EGBC’s safety regulation is more likely to be reactive rather than proactive.⁵

FortisBC and the CEC disagree with Flintoff’s characterization of EGBC’s regulation of professional engineers.⁶ FortisBC submits that a fundamental principle of the PGA is to ensure that only qualified individuals perform engineering work, and that this is a measure that proactively ensures public safety. FortisBC states that:

the Draft Report should not be revised to remove the statement in section 3 that reads: “Another way in which the safety of public utilities in BC is managed is through employment or retention of professional engineers, which are governed by Engineers and Geoscientists B.C., pursuant to the *Professional Governance Act* (PGA)” as that statement is accurate.⁷

BC Hydro notes that Section 3.0 of the Draft Report recognizes that WorkSafeBC and the Comptroller of Water Rights both have exclusive jurisdiction over certain public utility safety matters. BC Hydro submits that the draft would be improved if specific language to this effect, such as “The Comptroller of Water Rights also has exclusive jurisdiction over aspects of public utility safety”, was added to the description of the role of the comptroller.⁸ The CEC supports this clarification.⁹

Panel Determination

The Panel is not persuaded by Flintoff’s submission that changes to the description of EGBC’s role in public utility safety are necessary. As noted by FortisBC, the description of EGBC’s governance of professional engineers in the Draft Report is accurate and nothing on the record suggests that EGBC’s safety regulation is “reactive” rather than proactive in nature. Accordingly, the Panel finds that revisions to the Draft Report in this respect are not warranted.

The Panel is, however, persuaded by BC Hydro’s submission that the clarity of the Draft Report language would be improved through the inclusion of specific wording respecting the exclusive jurisdiction of the Comptroller of Water Rights.

Therefore, the Panel adopts Section 3.0 of the Draft Report as final, subject to the following modification:

The Comptroller of Water Rights also has exclusive jurisdiction over aspects of public utility safety. Dam safety in BC is regulated under the *Water Sustainability Act*, through the *Dam Safety Regulation*, which is overseen by the Comptroller of Water Rights. The comptroller oversees the Provincial Dam Safety Program, which, under the *Dam Safety Regulation*, sets requirements for design, construction, operation, maintenance, surveillance, and removal and decommissioning of dams in BC.¹⁰ Section 120 of the *Water Sustainability Act* sets out restrictions respecting

⁵ Exhibit C1-9, p. 2.

⁶ Exhibit C4-10, p. 3; Exhibit C7-10, p. 2.

⁷ Exhibit C4-10, p. 3.

⁸ Exhibit C13-8, pp. 1–2.

⁹ Exhibit C7-10, p. 3.

¹⁰ Exhibit C13-2, p. 10; Exhibit C-13-6, p. 6.

decisions made under the Act and provides, among other things, that a hearing, investigation or proceeding of the comptroller, a water manager, an engineer, an officer or a water bailiff may not be questioned, reviewed or restrained by any process or proceeding in any court.

(addition underlined)

3.2 Forbearance

Positions of the Parties

Section 5.0 of the Draft Report addresses the BCUC's ability to forbear on its safety jurisdiction. Flintoff, BCOAPO, and the CEC support the Panel's findings in the Draft Report that the BCUC does not have the power to forbear its jurisdiction over public utility safety.¹¹

FortisBC does not suggest any revisions to this section of the Draft Report, however, provides clarification with respect to its position on forbearance. FortisBC identifies that the Draft Report states that the BCUC should "refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight." In FortisBC's view, to "refrain from actively regulating" is akin to its statement regarding forbearance, which was that the UCA permits the BCUC to forbear from exercising its regulatory jurisdiction where it is satisfied that a sufficient alternative exists.¹²

No other interveners provided comments on this section of the Draft Report.

Panel Determination

The Panel notes intervener support for the proposed findings respecting the BCUC's ability to forbear its safety jurisdiction. The Panel considers that no changes to the language in the Draft Report are necessary in response to Fortis' clarification of its position and adopts the language in Section 5.0 of the Draft Report as final.

3.3 Guiding Principles for the BCUC's Regulation of the Safety of Public Utilities

In the Draft Report, the Panel proposed the following key principles to guide the BCUC's regulation of public utility safety:

- Regulatory Overlaps – the BCUC should (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and (ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.
- Operational Gaps – the BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.
- Exemptions from the UCA – the BCUC should not recommend exemptions from its safety oversight to government without explicitly considering whether an exemption from safety regulation is in the public interest.
- Keeping Informed – the BCUC should take active steps to keep itself informed regarding the safety of public utilities.
- Safety Considerations when Adjudicating Applications – the BCUC should continue to consider relevant aspects of public utility safety in all its adjudications, including when determining whether an application is in the public interest and whether rates are just and reasonable. The Panel recommends that the

¹¹ Exhibit C1-9, p. 1; Exhibit C11-6, p. 2; Exhibit C7-9, p. 2.

¹² Exhibit C4-9, pp. 3–4.

BCUC review its filing guidelines to ensure they contain specific guidance regarding information, relevant to safety, that may need to be filed.

No party suggested changes be made to the proposed principles respecting exemptions from the UCA or keeping informed. Upon review, the Panel considers that modification of the language used in the proposed exemptions principle is warranted to clarify that it applies generally to all public utility exemptions made on the recommendation of the BCUC. The revised principle is as follows:

the BCUC should not recommend an exemption for a public utility from its safety oversight without explicitly considering whether an exemption from safety regulation is in the public interest.

With this change, the Panel adopts these proposed principles as final. The Panel addresses party submissions on each of the remaining principles, in turn, below.

3.3.1 Regulatory Overlaps

Positions of the Parties

Flintoff recommends replacing the phrase “refrain from actively regulating” in the proposed regulatory overlaps principle with “passively regulate”. In Flintoff’s view, the wording “refrain from actively regulating” is too strong and may be interpreted as not being involved or maintaining awareness. Flintoff also suggests replacing “should” with “could” since this is an action to be determined by the BCUC.¹³

In response to Flintoff, the CEC states that it is satisfied with Flintoff’s suggestion to replace “refrain from actively regulating” with “passively regulate”, since it implies ongoing regulation at a passive level, rather than the absence of regulation altogether. However, the CEC does not support the change from the word “should” to “could”.¹⁴

Further, the CEC agrees that it is appropriate for the BCUC to rely on the expertise of other regulatory bodies, and to reasonably defer to other regulators with greater specific expertise and jurisdiction. The CEC considers the phrase “where it is satisfied that another regulatory body is providing adequate safety oversight” to be a vitally important caveat that supports the BCUC in fulfilling its safety-related mandate. The CEC also supports BCUC collaborating with other regulators to leverage information, knowledge and expertise to ensure a qualified and consistent approach to safety management.¹⁵

BCOAPo also agrees with BCUC’s position with respect to refraining from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight. However, BCOAPo submits that there should be more clarity on what is “adequate safety oversight”, and whether the BCUC will consider it in the next phase of the Inquiry or if it will be decided on an *ad hoc* basis. BCOAPo recommends that the BCUC establish formal protocols with other regulators.¹⁶

Borealis considers that, since safety comes at a cost, the BCUC should focus most of its attention on determining what level of safety is in the public interest, rather than setting the technical standards as they relate to various safety protocols or on specific safety concerns that are under the jurisdiction of another regulatory body.¹⁷

¹³ Exhibit C1-9, p. 2.

¹⁴ Exhibit C7-10, p. 2.

¹⁵ Exhibit C7-9, p. 2

¹⁶ Exhibit C11-6, pp. 2–3.

¹⁷ Exhibit C2-10, p. 1.

FortisBC states that its position regarding existing oversight and reporting of public utilities was not accurately summarized in this portion of the Draft Report. FortisBC submits that it is not in a position to comment whether additional reporting requirements may be necessary for other public utilities in order to keep the BCUC informed of safety-related matters, and rather its submissions on this matter were with respect to FortisBC only.¹⁸

Finally, BC Hydro highlights the following statements from the Draft Report:¹⁹

- There is nothing in the UCA that prescribes or expressly constrains the scope of the BCUC’s safety jurisdiction with respect to public utilities;
- The BCUC acknowledges the jurisdiction and experience of other safety regulators in BC and finds that what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators;
- How the BCUC ensures ongoing compliance with safety standards and requirements, particularly those imposed by other agencies, may vary with specific circumstances;
- The UCA contains no express provision for the BCUC to forbear from exercising its powers and is also silent on how or whether the BCUC should ensure and monitor compliance with any specific safety standard that might apply to a public utility;
- The BCUC should refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight and avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate;
- While the BCUC has general oversight responsibility for the safety of public utilities, where the BCUC considers that the oversight of other regulators is sufficient to ensure that public utility service is safe with respect to that oversight, it should avoid taking on the operational role of another regulator to avoid unnecessary duplication; and
- Where the BCUC refrains from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight, formal protocols with other regulators should be put in place (e.g., how complaints should be handled and sharing of information). [citations omitted]

BC Hydro submits that, taken together, these statements imply that in areas where another regulator has exclusive jurisdiction over certain public utility safety matters the BCUC would not perform a safety compliance function. In BC Hydro’s view, the final Stage 1 report would benefit from a clear statement to this effect.²⁰

The CEC submits that the language in the Draft Report is “sufficiently indicative of the Commission’s desire to avoid actively regulating where other bodies are sufficiently serving the function” and, as such, does not support BC Hydro’s proposed addition that, in areas where another regulator has exclusive jurisdiction over certain public utility safety matters, the BCUC would not perform a safety compliance function.²¹

¹⁸ Exhibit C4-9, p. 5.

¹⁹ Exhibit C13-8, pp. 1–2.

²⁰ Exhibit C13-8, pp. 3–4.

²¹ Exhibit C7-10, p. 3.

Panel Determination

For the reason set out below, the Panel is not persuaded that the language in the proposed regulatory overlaps principle should be revised in the manner Flintoff suggests. Replacing the word “should” with the term “could”, does not clearly express the BCUC’s intent in instances of regulatory overlap. Further, the term “passively regulate” may be construed as ambiguous by readers, as this is not a defined term. However, as a similar concern exists for the proposed language in the Draft Report that the BCUC should “refrain from actively regulating...”, the Panel considers that revisions are necessary in the final report to clarify that it is the BCUC’s intention to calibrate the degree and nature of its safety regulation when there is overlapping safety jurisdiction.

With respect to the phrase “adequate safety oversight” the Panel agrees that further definition may also be beneficial. However, examination of how the BCUC will determine what constitutes adequate safety oversight is best suited to Stage 2 of the Inquiry, where application of the guiding principles will be explored.

The Panel notes FortisBC’s statement on the accuracy of how its position was summarized in the Draft Report and will include a footnote in the final Stage 1 report clarifying the applicability of FortisBC’s submissions; however, no changes to the Panel discussion in Section 6.1 of the Draft Report are required as a consequence of this clarification.

Finally, the Panel does not share BC Hydro’s view that, taken together, statements in the Draft Report imply that the BCUC is precluded from performing a “safety compliance function” in “areas where another regulator has exclusive jurisdiction over certain public utility safety matters”. As discussed in the Draft Report, the BCUC has general supervision of public utilities and jurisdiction over all aspects of public utility safety. There may be circumstances where this accountability requires the BCUC to undertake a safety compliance or other role in areas of a public utility’s operations where another regulator has exclusive jurisdiction over specific aspects of safety.

As noted in Section 6.1 of the Draft Report, Phase 2 of the Inquiry will further examine how the BCUC will regulate public utility safety in instances of regulatory overlap with WorkSafeBC and the Comptroller of Water Rights. Nevertheless, the Panel considers that the clarity of the language in the Draft Report would be improved by expressly noting the potential for the BCUC to assume a role in instances of regulatory overlap.

Accordingly, we adopt the Panel discussion in Section 6.1 of the Draft Report as final subject to the following modifications:

Two distinct cases of regulatory overlap to consider are:

1. There have been two examples cited where other regulators have exclusive statutory jurisdiction over certain public utility safety matters: WorkSafeBC and the Comptroller of Water Rights. In the next phase we will further consider these areas of overlap.
2. When other regulators have non-exclusive but over-lapping jurisdiction over aspects of public utility safety, the BCUC should ensure that its safety oversight is harmonious with the jurisdiction of other regulators. We will further consider this in the next phase of the Inquiry.

In both of the above cases of overlap, the BCUC’s general supervisory responsibility over the safety of public utilities is not negated. At times, it may be necessary for the BCUC to assume a role in areas where another regulator has overlapping exclusive, or non-exclusive, jurisdiction over specific aspects of public utility safety. How the BCUC will address such instances will be explored in Stage 2 of the Inquiry.

...

In finding the right balance of regulatory efficiency in its regulation of safety, **the BCUC should:**

- (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and**
- (ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.**

For clarity, in establishing the above principle, the Panel intends that the BCUC would calibrate the degree and nature of its safety regulation based on the level of risk and the actions of other regulators with overlapping jurisdiction. What constitutes adequate safety oversight and how the BCUC will calibrate its safety regulation will be examined in Stage 2 of the Inquiry.

(addition underlined)

3.3.2 Operational Gaps

Positions of the Parties

The CEC, BCOAPO, and RCIA generally agree that the BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.²²

RCIA submits that the BCUC should allow sufficient latitude so that utilities can establish standard practices and operational regimes before triggering a materiality threshold, notably as new technologies are deployed at a large scale. RCIA suggests that “any operational gaps” be modified to include a materiality threshold.²³

In response to RCIA, the CEC states that it does not find the use of the word “material” to be necessary in confining BCUC regulation and submits it could be difficult to determine what may or may not be material where there are changing circumstances.²⁴

BC Hydro submits that the final Stage 1 report would benefit from a clear statement that the BCUC may perform a safety compliance function to fill an operational gap and a description of the circumstances under which the BCUC may perform such a function.²⁵

The CEC is amenable to including a statement that the BCUC may perform a safety compliance function to fill an operational gap. However, the CEC submits that a discussion regarding the relevant circumstances would be appropriately reviewed in Stage 2 of the Inquiry.²⁶

Panel Determination

The Panel recognizes RCIA’s submission. However, we do not consider the addition of the word “material” to the proposed operational gaps principle to be warranted. As noted by the CEC, with the proposed language the BCUC retains the ability to determine the appropriate means of filling any operational gaps that may emerge in the regulation of public utility safety. Including an explicit materiality threshold within the guiding principle could result in a loss of needed flexibility and inappropriately bind the decision-making abilities of future BCUC panels.

²² Exhibit C7-9, p. 2; Exhibit C11-6, p. 3; Exhibit C21-3, p. 1.

²³ Exhibit C21-3, p. 1.

²⁴ Exhibit C7-10, p. 4.

²⁵ Exhibit C13-8, p. 4.

²⁶ Exhibit C7-10, p. 4.

Further, the Panel agrees with BC Hydro that the language in the Draft Report would be improved through the addition of a statement that the BCUC may perform a safety compliance function to fill an operational gap. Accordingly, we adopt the Panel discussion in Section 6.2 of the Draft Report as final, subject to the following modification:

The BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled. The BCUC has a responsibility to ensure the safety of public utilities where it deems operational gaps in public utility safety regulation have emerged. This may necessitate performance of a safety compliance function or other role by the BCUC.

(addition underlined)

3.3.3 Safety Considerations when Adjudicating

Positions of the Parties

Flintoff submits that the reasonableness and appropriateness of a public utility's safety-related expenditures are appropriate criteria in the BCUC's determination of whether a public utility's rates are just and reasonable. Further, Flintoff supports the Panel's recommendation that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information, relevant to safety, that may need to be filed.²⁷

As a preface to comments on this principle, Flintoff refers to, among other things, WorkSafeBC premiums; a report respecting Site C; and BC Hydro's serious injury rate. FortisBC submits that in this, and other parts of his submission,²⁸ Flintoff appears to rely on evidence that is not part of the evidentiary record of this proceeding. FortisBC submits that "the BCUC should not revise the Draft Stage 1 report to incorporate evidence that was not on the record and for which no opportunity has been accorded to provide information requests."²⁹

Regarding the principle itself, FortisBC states that it "does not disagree with the Draft Report's recommendation that 'the BCUC review its filing guidelines to ensure they contain specific guidance regarding information, relevant to safety, that may need to be filed'".³⁰

The CEC agrees with the Panel's position that BCUC should continue to consider relevant aspects of public utility safety in all its adjudications, including when determining whether an application is in the public interest and whether rates are just and reasonable.³¹

The CEC and BCOAPO also indicate their support for the Panel's recommendation to review the filing guidelines to ensure comprehensive safety management. The CEC indicates its willingness to participate in such a review, while BCOAPO recommends that the Draft Report be revised to provide more details on a timeline and process for this work.³²

Panel Determination

The Panel recognizes FortisBC's submission that the Draft Report should not be revised to incorporate evidence that was not part of the evidentiary record of the Inquiry. The Panel's determinations on Stage 1 of the Inquiry do not consider any new evidence introduced through intervenor comments on the Draft Report.

²⁷ Exhibit C1-9, pp. 5–6.

²⁸ FortisBC cites sections 4.1, 6.1, and 6.2 of Exhibit C1-9 as examples.

²⁹ Exhibit C4-10, p. 4.

³⁰ Exhibit C4-10, p. 4.

³¹ Exhibit C7-9, p. 4.

³² Exhibit C7-9, pp. 3–4; Exhibit C11-6, p. 1.

The Panel also recognizes BCOAPO's recommendation that the Draft Report include further details on the timeline and process for a BCUC review of the filing guidelines. However, as such a review is the responsibility of the BCUC, rather than this Panel, we do not consider the proposed revision to the Panel discussion in Section 6.5 of the Draft Report to be appropriate.

As the BCUC's adjudications are not limited solely to applications, the Panel considers that the language in the Draft Report would be improved by revising the title of this principle from "Safety Considerations when Adjudicating Applications" to simply "Safety Considerations when Adjudicating".

Given the broad intervener support for the proposed principle respecting safety considerations in BCUC adjudications and finding no contrary positions, we adopt Section 6.5 of the Draft Report as final, subject to the above revision.

3.4 Stage 2 of the Inquiry

Positions of the Parties

Several parties indicate their support for, and willingness to participate in, Stage 2 of the Inquiry.³³

With regards to the scope of Stage 2, BCOAPO seeks "a more comprehensive list of issues and questions once Stage 2 is initiated." BC Hydro requests that the BCUC clarify any outstanding issues it seeks to address with respect to the BCUC's role in "safety compliance" in areas where another regulator has exclusive jurisdiction if the BCUC intends to explore this issue in Stage 2.³⁴ The CEC supports such a clarification, so long as it does not limit the scope of discussion in Stage 2.³⁵ The CEC also supports a discussion of the circumstances under which the BCUC would perform a safety compliance function to fill an operational gap in Stage 2 of the Inquiry.³⁶

Panel Determination

The Panel notes the support of interveners for participation in Stage 2 of the Inquiry. Further information on the specific regulatory process and timetable for Stage 2 will be provided in due course. We adopt Section 7.0 of the Draft Report as final and look forward to participant submissions in Stage 2.

4.0 Participant Assistance / Cost Award (PACA) Provisions

The Panel appreciates the active participation of all parties in Stage 1 of the Inquiry and encourages further participation in Stage 2. The Panel invites parties to file final PACA or to file any revised PACA applications if further costs have been incurred and are sought to be awarded for Stage 1 of the Inquiry, prior to commencement of Stage 2. Alternatively, parties may wish to file any PACA applications upon completion of Stage 2 for the total PACA amounts sought in both stages of the Inquiry.

Given this Inquiry was initiated prior to June 30, 2022, the Panel reminds participants that PACA for Stages 1 and 2 of the Inquiry will be awarded pursuant to the PACA guidelines as found in Appendix A attached to BCUC Order G-97-17.

³³ Exhibit C1-9, p. 6; Exhibit C4-9 p. 6; Exhibit C7-9, p. 4; Exhibit C13-8, p. 4; Exhibit C11-6, pp. 4–5.

³⁴ Exhibit C13-8, p. 3.

³⁵ Exhibit C7-10, p. 3.

³⁶ Exhibit C7-10, p. 4.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of December 2022.

Original signed by:

D. M. Morton
Panel Chair / Commissioner

Original signed by:

C. M. Brewer
Commissioner

Original signed by:

R. I. Mason
Commissioner



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ORDER NUMBER
G-381-22

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

and

British Columbia Utilities Commission Inquiry into the Regulation of Safety

BEFORE:

D. M. Morton, Panel Chair
C. M. Brewer, Commissioner
R. I. Mason, Commissioner

on December 22, 2022

ORDER

WHEREAS:

- A. By Order G-241-20 dated September 23, 2020, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry);
- B. By Order G-34-21 dated January 29, 2021, the BCUC established that the Inquiry would be undertaken in two stages. Stage 1 will establish a general framework of key principles for the BCUC's regulation of safety. Stage 2 will explore the application of these principles to the BCUC's regulation of public utilities;
- C. On August 12, 2022, the BCUC issued the draft Stage 1 report (Draft Report) and by Order G-221-22 amended the regulatory timetable for the Inquiry to allow submissions and reply submissions on the Draft Report;
- D. By October 3, 2022, the BCUC received submissions on the Draft Report from Don Flintoff, Borealis Geopower Inc., FortisBC Energy Inc. and FortisBC Inc. (collectively, FortisBC), Commercial Energy Consumers Association of British Columbia (CEC), British Columbia Old Age Pensioners' Organization et al., British Columbia Hydro and Power Authority, and the Residential Consumer Intervenor Association;
- E. By October 18, 2022, the BCUC received reply submissions from FortisBC and the CEC; and
- F. The BCUC has reviewed the submissions received and considers the following determination is warranted.

NOW THEREFORE for the reasons provided in the Decision issued concurrently with this Order, the BCUC orders that the final Stage 1 report is issued and Stage 1 of the Inquiry is complete.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of December 2022.

BY ORDER

Original signed by:

D. M. Morton
Commissioner



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British Columbia Utilities Commission An Inquiry into the Regulation of Safety

Final Stage 1 Report

December 22, 2022

Before:

D. M. Morton, Panel Chair
C. M. Brewer, Commissioner
R. I. Mason, Commissioner

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Executive Summary

In September 2020, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry). Stage 1 of the Inquiry focuses on:

1. The nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the *Utilities Commission Act* (UCA);
2. The conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and
3. Setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.

In Stage 2, the BCUC will explore the application of these principles to its regulation of public utilities.

On August 12, 2022, the BCUC issued a draft report with its preliminary findings in Stage 1 of the Inquiry (Draft Report). Parties were provided an opportunity to comment on the Draft Report.¹ The Panel considered these comments and responded in Decision and Order G-381-22, where the final language of the Stage 1 report was determined.

With regard to the nature and extent of the BCUC's jurisdiction, in the final Stage 1 report, the Panel considers that sections 23, 25, and 38 of the UCA together set out the basis of the regulatory scheme for the BCUC's oversight of the safety of public utilities. These sections of the UCA provide that:

- The BCUC is responsible for general supervision of all public utilities;
- Public utilities are required to provide and maintain their property and equipment in a manner that the BCUC considers "is in all respects... safe"; and
- If, after a hearing, the BCUC determines that the service of a public utility is unsafe, it must make a determination of what constitutes safe service and order the utility to provide it.

There is nothing in the UCA that prescribes or expressly constrains the scope of the BCUC's safety jurisdiction with respect to public utilities. Therefore, in light of the provisions in sections 23, 25, and 38 of the UCA, the Panel finds that the BCUC has jurisdiction over all aspects of public utility safety.

Further, the Panel recognizes that the safe operation of British Columbia's public utilities is a shared responsibility amongst multiple provincial and federal regulatory bodies. As the UCA is not prescriptive about whether the BCUC must explicitly set out what it considers is necessary for a service to be safe, nor how safety compliance is achieved, the Panel finds that what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators.

Respecting forbearance, the Panel finds that the BCUC does not have the power to forbear from exercising its jurisdiction over public utility safety. The UCA contains no express provision for the BCUC to forbear its powers and the BCUC may only exempt utilities from aspects of regulation with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*, pursuant to section 88 of the UCA.

Finally, the Panel sets out the following key principles to guide the BCUC in carrying out its safety oversight role:

- Regulatory Overlaps – the BCUC should (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and (ii) avoid

¹ Order G-221-22.

duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.

- Operational Gaps – the BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.
- Exemptions from the UCA – the BCUC should not recommend an exemption for a public utility from its safety oversight without explicitly considering whether an exemption from safety regulation is in the public interest.
- Keeping Informed – the BCUC should take active steps to keep itself informed regarding the safety of public utilities.
- Safety Considerations when Adjudicating – the BCUC should continue to consider relevant aspects of public utility safety in all its adjudications, including when determining whether an application is in the public interest and whether rates are just and reasonable. The Panel recommends that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information relevant to safety that may need to be filed.

1.0 Introduction

The British Columbia Utilities Commission (BCUC) is an independent regulatory agency of the British Columbia (BC) government, operating under and administering the *Utilities Commission Act* (UCA). The BCUC is responsible for ensuring safe and reliable energy supply at fair rates for energy users across the province. The BCUC balances this responsibility with the need to ensure public utilities² under its jurisdiction are afforded a reasonable opportunity to earn a fair return on their investments.

By Order G-241-20, dated September 23, 2020, the BCUC determined that greater clarity around the nature and extent of the BCUC's jurisdiction over public utility safety was required and established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry).

In the sections below, this Stage 1 final report:

1. Describes the regulatory process undertaken in support of the first stage of the Inquiry (section 2.0);
2. Provides a brief overview of some of the principal safety regulators in BC (section 3.0); and
3. Sets out a framework for the BCUC's regulation of the safety of public utilities, including:
 - a. The BCUC's jurisdiction to regulate the safety of public utilities under the UCA and any ability to forbear therefrom (sections 4.0 and 5.0); and
 - b. A set of key principles to guide the BCUC in carrying out its safety-related duties (section 6.0).

2.0 Regulatory Process

By Order G-241-20, dated September 23, 2020, the BCUC established an initial regulatory timetable for the Inquiry. The regulatory timetable was subsequently furthered and amended by Orders G-342-20, G-34-21, G-209-21, G-296-21, and G-356-21, respectively.

The following parties registered as interveners in the Inquiry:

- | | |
|---|---|
| • Don Flintoff (Flintoff) | • Kyuquot Power Ltd. |
| • Borealis Geopower Inc. (Borealis) | • British Columbia Old Age Pensioners' Organization et al. (BCOAPO) |
| • Chargepoint BC | • Technical Safety BC (TSBC) |
| • FortisBC Energy Inc. and FortisBC Inc. (Collectively, FortisBC) | • British Columbia Hydro and Power Authority (BC Hydro) |
| • Movement of United Professionals (MoveUP) | • Surplus Energy Match |
| • TE Burns Engineering Ltd. | • IRSRGC ³ |
| • Commercial Energy Consumers Association of British Columbia (CEC) | • River District Energy |
| • Corix Multi-Utility Services Inc. | • Residential Consumer Intervener Group (RCIA) |
| • Pacific Northern Gas Ltd. (PNG) | |

² In the UCA, a "public utility" is defined as a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in BC, equipment or facilities for the 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. There are a number of exclusions from the definition of a public utility, including municipalities or regional districts that provide services within their own boundaries, and a person that provides services to employees or tenants.

³ IRSRGC includes the following interveners: (i) British Columbia Solar Coalition; (ii) Irrigation Ratepayers Group; (iii) Net Metering Ratepayers Group; (iv) Vancouver Electric Vehicle Association; and (v) Zone 1B Ratepayer Group.

By November 12, 2020, the BCUC received written submissions from interveners and interested parties regarding the BCUC's jurisdiction with respect to the regulation of safety, legislative gaps or overlaps, and whether a workshop in support of the Inquiry would be beneficial.

By Order G-342-20, dated December 18, 2020, the BCUC proposed a two-staged approach to the Inquiry, with Stage 1 focusing on:

1. The nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the UCA;
2. The conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and
3. Setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.

Following Stage 1, the BCUC will initiate the second stage of the Inquiry (Stage 2) to explore the application of the key principles to its regulation of public utilities and to establish how the BCUC will implement its mandate with regards to safety.

On January 27, 2021, the BCUC held a procedural conference in which interveners were invited to comment on the BCUC's proposed approach to the Inquiry. Intervenors were generally supportive and suggested that there would be value in the BCUC issuing a set of "sub issues" to help guide intervener submissions in Stage 1.

By Order G-34-21, dated January 29, 2021, the BCUC confirmed that the Inquiry would be undertaken in two stages and established a further regulatory timetable. The regulatory timetable included, among other things, the issuance of proposed Stage 1 sub issues, an opportunity for intervener submissions and reply submissions, and the issuance of final Stage 1 sub issues by July 8, 2021.

Following issuance of the final Stage 1 sub issues, interveners were provided an opportunity to file evidence addressing Stage 1 of the Inquiry. Information requests on intervener evidence followed.

Intervenors filed final and reply arguments addressing Stage 1 of the Inquiry by January 12, 2022 and January 26, 2022, respectively.

On August 12, 2022, the BCUC issued a draft report with its preliminary findings in Stage 1 of the Inquiry. By Order G-221-22, the BCUC sought written submissions on the draft.

Flintoff, Borealis, FortisBC, the CEC, BCOAPO, BC Hydro and RCIA filed submissions by October 3, 2022. FortisBC and the CEC filed reply submissions on October 18, 2022.

The Panel considered these comments and responded in Order G-381-22 and accompanying Reasons for Decision, where the final language of the Stage 1 report was determined.

3.0 Public Utility Safety Regulation in BC

The safe operation of BC's public utilities is a shared responsibility amongst multiple provincial and federal regulatory bodies. In addition to the UCA, which sets out the BCUC's responsibilities, participants in the Inquiry identified several safety-related statutes applicable to public utilities in the province.⁴ A brief overview of some of the principal safety regulators operating alongside the BCUC is provided in this section.

⁴ Exhibit C4-5, pp. 9–10; Exhibit C9-5, Response to IR 1.1; BC Hydro Final Argument, Appendix A.

The British Columbia Energy Regulator⁵ (BC Energy Regulator) has a legislated mandate under the *Oil and Gas Activities Act* and the *Geothermal Resources Act*. The *Oil and Gas Activities Act* is provincial legislation that enables regulation of oil and gas and related activities in BC throughout their entire life cycle, from exploration to construction, operation, transportation, decommissioning and restoration. The *Oil and Gas Activities Act* gives the BC Energy Regulator powers to make technical regulations for oil and gas infrastructure including wells, facilities, pipelines and oil and gas roads, LNG facilities, geothermal activities, as well as fees, levies, securities, consultation and notification, and emergency management.⁶

Many of the BC Energy Regulator's regulations and standards are designed specifically to ensure safe practices, and permit holders are required to safeguard operations, check equipment, train employees and report to the BC Energy Regulator at various stages. The BC Energy Regulator may also adopt by reference a code or standard, such as those published by the Canadian Standards Association (CSA). For example, the Pipeline Regulation requires a pipeline permit holder to design, construct, operate and maintain its pipeline in accordance with CSA Z662, Oil and Gas Pipeline Systems.⁷

The BC Energy Regulator is also the regulator responsible for overseeing environmental and public safety risks from geothermal operations in BC under the *Geothermal Resources Act*.⁸

TSBC oversees the safe installation and operation of technical systems and equipment across the province. TSBC is delegated authority, under the *Safety Authority Act*, *Safety Standards Act*, and *Railway Safety Act* and associated regulations for safety oversight of various technologies, including:⁹

- Electrical equipment and systems;
- Boilers, pressure vessels and refrigeration systems; and
- Natural gas and propane appliances and systems, including hydrogen.

The *Safety Standards Act* and associated regulations establish the boundaries for TSBC's oversight of public utilities. For example, under the Gas Safety Regulation, TSBC provides safety oversight for gas utilities from the city gate onwards to customers.¹⁰ Also, TSBC provides safety oversight for public utilities under the Electrical Safety Regulation; however, the transmission, generation and distribution activities of public utilities are exempt from this regulation.¹¹ In accordance with the *Hydro and Power Authority Act*, the majority of the *Safety Standards Act* is not applicable to BC Hydro.¹²

WorkSafeBC is the provincial regulator for occupational health and safety, whose mission is to prevent workplace injury, illness, and death, and to support injured workers through fair compensation and effective rehabilitation. Among other things, WorkSafeBC enforces the Occupational Health and Safety Regulation, which defines requirements for managing and controlling occupational health and safety risks.¹³ WorkSafeBC has the

⁵ Formerly, the BC Oil and Gas Commission.

⁶ Exhibit E-5, p. 1.

⁷ Ibid.

⁸ Ibid.

⁹ Exhibit C12-2, p. 1.

¹⁰ A "city gate" is the plant or premises where natural gas is received from a pipeline and is metered, reduced in pressure and then prepared for distribution to individual users. Technical Safety BC's jurisdiction applies at pressures below 100 PSI (700 kPa). Exhibit C12-2, footnote 1, p. 1.

¹¹ Exhibit C12-2, p. 1.

¹² Section 32 (7) (w.1 and w.2) of the *Hydro and Power Authority Act* provide the specific sections of the *Safety Standards Act* that are applicable to BC Hydro. These sections of the *Safety Standards Act* relate to when BC Hydro is using electricity as a consumer and to being required to submit residential electricity information to an authority, respectively. (Exhibit C12-2, p. 4)

¹³ Exhibit C13-6, pp. 2–3.

authority to issue orders on non-compliance through the *Workers Compensation Act* and/or Occupational Health and Safety Regulation, to administer financial penalties for non-compliance, and may recommend prosecution under the *Workers Compensation Act* for contravening the *Workers Compensation Act* or Occupational Health and Safety Regulation. WorkSafeBC also inspects BC workplaces in accordance with the *Workers Compensation Act* and Occupational Health and Safety Regulation.¹⁴

WorkSafeBC has exclusive jurisdiction over aspects of public utility safety. Specifically, section 19(1) of the *Workers Compensation Act* provides WorkSafeBC with exclusive jurisdiction to inquire into, hear and determine all matters and questions of fact and law arising under Part 1 of the *Workers Compensation Act*, and the action or decision of the board is not open to question or review in any court.

The Comptroller of Water Rights also has exclusive jurisdiction over aspects of public utility safety. Dam safety in BC is regulated under the *Water Sustainability Act*, through the *Dam Safety Regulation*, which is overseen by the Comptroller of Water Rights. The comptroller oversees the Provincial Dam Safety Program, which, under the *Dam Safety Regulation*, sets requirements for design, construction, operation, maintenance, surveillance, and removal and decommissioning of dams in BC.¹⁵ Section 120 of the *Water Sustainability Act* sets out restrictions respecting decisions made under the Act and provides, among other things, that a hearing, investigation or proceeding of the comptroller, a water manager, an engineer, an officer or a water bailiff may not be questioned, reviewed or restrained by any process or proceeding in any court.

Another way in which the safety of public utilities in BC is managed is through employment or retention of professional engineers, which are governed by Engineers and Geoscientists B.C., pursuant to the *Professional Governance Act* (PGA).¹⁶ Under the PGA, all firms that engage in the practice of professional engineering and professional geoscience are required to have a Permit to Practice. In this Inquiry, BC Hydro noted that, in addition to requiring its professional engineers to be registered with Engineers and Geoscientists B.C. (and therefore required to follow all applicable standards, guidelines and procedures), BC Hydro was also in the midst of registering as an engineering firm and developing a Professional Practice Management Plan to document the processes and procedures it will use to ensure compliance with all applicable requirements.¹⁷

Together with the BCUC, these regulators work to ensure the safety of BC's public utilities and critical energy infrastructure.

4.0 BCUC's Safety Jurisdiction

The UCA is the statute that empowers the BCUC. Sections in the UCA related directly or indirectly to public utility safety include the following.

Section 23 of the UCA grants the BCUC general supervisory responsibility and oversight over all public utilities and empowers the BCUC to issue orders covering a broad range of areas, including safety devices (section 23(c)) and any other matters that the BCUC considers necessary or advisable for ensuring the safety, convenience, or service of the public (section 23 (g)(i)). Further, section 23(2) authorizes the BCUC to make regulations requiring a public utility to conduct its operations in a manner that does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public.

Section 24 requires the BCUC, in executing its supervisory role, to make examinations and conduct inquiries necessary to keep itself informed about: (i) the conduct of the utility's business; (ii) the utility's compliance with

¹⁴ Exhibit C13-6, pp. 2–4.

¹⁵ Exhibit C13-2, p. 10; Exhibit C-13-6, p. 6.

¹⁶ BC Hydro Final Argument, pp. 3–4; Exhibit C4-5, p. 9; Exhibit C13-6, p. 12.

¹⁷ Exhibit C13-6, p. 12.

the UCA and other laws and regulations; and (iii) any other matter in the BCUC's jurisdiction. While much of the language in the UCA is permissive, section 24 provides an imperative to the BCUC that it remains informed about the activities of the utilities it regulates.

Section 38 of the UCA speaks to the service standard public utilities are to be held to by the BCUC as regulated entities. Pursuant to section 38, a public utility must provide and maintain its property and equipment in a condition that enables it to provide service to the public that the BCUC considers is "in all respects adequate, safe, efficient, just and reasonable."

Section 25 provides that if, after holding a hearing on its own motion or as the result of a complaint, the BCUC finds that the service of a public utility is unreasonable, unsafe, inadequate or unreasonably discriminatory, then the BCUC must take action to address the inadequacies. This includes determining what constitutes safe service and ordering the public utility to provide it.

Section 26 of the UCA provides the BCUC the authority, after a hearing held on its own motion or on complaint, to set standards, rules, or regulations with respect to safety. Specifically, section 26(a) provides the BCUC the authority to set just and reasonable standards, classifications, rules, practices or service to be used by a public utility, and section 26(b) provides that the BCUC may "determine and set adequate and reasonable standards for measuring quantity, quality, pressure, initial voltage or other conditions of supplying service".

Section 27 of the UCA sets out the BCUC's authority with respect to joint use facilities. Under section 27(2) if, after a hearing, the BCUC finds that certain actions relating to the electric lines of one public utility (i.e., the placement, the construction, or the installation of safety devices) are necessary to protect the safety of individuals using or operating another public utility's system, then the BCUC can order those actions to be taken.

Under section 37 of the UCA, the BCUC has the authority to appoint supervisors and/or inspectors to carry out measures for the safety of the public and the users of a public utility's service. The BCUC may appoint a supervisor or inspector on a continuous or non-continuous basis, specify their duties and compensation, and determine who will bear the costs. The BCUC may also, under section 8 of the UCA, appoint or engage technical consultants to assist the BCUC in carrying out its functions.

Pursuant to section 49 of the UCA, the BCUC is empowered to establish certain safety reporting requirements for public utilities. Section 49 states that the BCUC may require public utilities to file "at the times and in the form and manner the commission specifies, a report of every accident occurring to or on the plant, equipment or other property of the utility, if the accident is of such nature as to endanger the safety, health or property of any person."

4.1 Intervener Positions

Interveners in the Inquiry agree that the UCA provides the BCUC with jurisdiction over the regulation of public utility safety, although they differ on the extent of that jurisdiction.

Several interveners argue that the UCA provides the BCUC with a broad mandate with respect to safety.¹⁸ For example, MoveUP submits that "ensuring safety is one of the cornerstones of the 'regulatory compact' that underlies the Commission's statutory mandate"¹⁹, while FortisBC submits that the role of the BCUC is an overarching role with respect to the safe operation of public utilities, and that:

¹⁸ Exhibit C7-2, p. 3; CEC Final Argument, pp. 7, 14–15; Exhibit C1-2, p. 2; Exhibit C5-2, p. 1; Exhibit C-11, pp. 1–4. BCOAPO Final Argument, p. 7; Exhibit C1-2, p. 3; Flintoff Final Argument, p. 6; Exhibit C20-1, p. 1.

¹⁹ Exhibit C5-2, p. 1.

The BCUC's supervisory jurisdiction over public utilities... is a key component of public utility regulation, including with respect to ensuring that a public utility has adequate funding to provide service to the public that is safe. While other regulatory schemes and regulators address safety-related matters, the BCUC's jurisdiction is an important backstop to ensure that regulatory gaps, if and when identified, are appropriately addressed.²⁰

Similarly, BCOAPO submits that the UCA bestows upon the BCUC broad authority to inquire into and regulate issues of safety engaged by all aspects of public utilities' activities when providing service to the public.²¹ In its submissions, BCOAPO observes that there are 31 uses of the phrase "public interest" in the UCA. BCOAPO argues that it is through the lens of the public interest that the BCUC's safety-related mandate ought to be interpreted.²² BCOAPO also notes that pursuant to section 110 of the UCA, while other regulatory bodies may also have important safety mandates, the BCUC's powers with respect to the regulation of safety are not restricted by other legislation.²³

The CEC submits that asset safety, worker safety, public safety, environmental safety, and potentially emergency preparedness and response, all rightfully fall within the BCUC's jurisdiction. The CEC considers that asset safety should include all physical assets of the utility, including data management and cybersecurity; that worker safety would encompass all items related to employees' safety and training; and that public safety would encompass all aspects of safety related to things not owned by the utility, including non-utility physical and virtual assets, and impacts on living beings. Cybersecurity concerns related to personal data would be considered under both asset safety and public safety. The CEC notes that the UCA specifically provides broad jurisdiction to the BCUC in section 84 and argues that there is nothing in the UCA to suggest that the issue of safety would be excluded from the BCUC's jurisdiction.²⁴

TSBC submits sections 23, 24, 25, 37, and 38 of the UCA are the sections relevant to the BCUC's safety jurisdiction.²⁵ TSBC considers safety oversight to be a shared responsibility amongst the regulated entities and regulators and that, among regulators, that shared responsibility is not hierarchical in nature.²⁶

Flintoff submits that section 26 of the UCA (Commission may set standards) is relevant to the BCUC's jurisdiction over public utility safety. In addition, Flintoff identifies section 1 (definitions); section 8 (technical consultants); section 42 (obey orders); and section 32 (provide information) as applying to the BCUC's regulation of safety.²⁷

RCIA submits that the categories of asset safety; worker safety; and public safety represent the extent of the BCUC's mandate with respect to public utility safety and indicates that consideration of the safety of energy supply and environmental safety are encompassed in these categories.^{28,29}

BC Hydro takes a narrower view with regard to the BCUC's jurisdiction over the regulation of public utility safety and argues that the BCUC's jurisdiction is not so broad as to capture any safety issue that may arise.³⁰ BC Hydro submits that the British Columbia Court of Appeal and the Supreme Court of Canada have both found that the

²⁰ FortisBC Final Argument, pp. 1, 20.

²¹ Exhibit C11-2, p. 1.

²² BCOAPO Final Argument, pp. 6–7.

²³ Exhibit C11-2, p. 4.

²⁴ CEC Final Argument, pp. 7, 14–16; Exhibit C5-2, p. 1; Exhibit C7-2, p. 3.

²⁵ Borealis also agrees that these are the relevant sections of the UCA. Exhibit C2-2, p. 2.

²⁶ Exhibit C12-2, p. 2; Exhibit C12-3, p. 2.

²⁷ Exhibit C1-2, p. 3.

²⁸ RCIA Final Argument, p. 6.

²⁹ MoveUP consider that, in addition to the elements listed by RCIA, safety of customers is also an aspect of public safety that is properly of concern to the BCUC. Exhibit C5-4, p. 2.

³⁰ BC Hydro Final Argument, p. 5.

jurisdiction of administrative tribunals, such as the BCUC, is limited to what is expressly stated in its enabling legislation or, in certain cases, by necessary implication.³¹ In particular, BC Hydro argues that, with respect to safety-related matters, the UCA grants the BCUC jurisdiction to:

- Make orders it considers necessary for “the safety ... of the public”;
- Make examinations and conduct inquiries necessary to keep itself informed about the conduct of public utility business, compliance by public utilities with the UCA or any other law, and any other matter in the BCUC’s jurisdiction;
- Make regulations requiring a public utility to conduct operations in a way that “does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public”;
- If the BCUC finds that the service of a public utility is unsafe, determine what is safe service and order the public utility to provide it;
- Appoint a supervisor or inspector to supervise or inspect the system, works, plant, equipment or service of a public utility with a view to establishing and carrying out measures for the safety of the public and of the users of the utility’s service; and
- Require public utilities to file reports about accidents that endanger the safety, health or property of any person.³²

BC Hydro takes the position that the UCA does not provide the BCUC with jurisdiction over worker safety. It argues that the words “the public” in sections 23(1)(g)(i) and 23(2) include members of the public who are affected by public utilities’ operations, but do not include public utilities’ workers and contractors.³³ BC Hydro argues that the safety of public utility workers in BC is regulated extensively and comprehensively under the *Workers Compensation Act* and its regulations.³⁴ BC Hydro notes that the UCA expressly provides that the powers granted to the BCUC under the UCA apply even if the subject matter about which these powers are exercised is the subject of another statute. However, BC Hydro is of the view that if a regulator has specific expertise over a safety matter and is regulating that area, then the BCUC should decline to exercise any jurisdiction it may have to the extent of the overlap and defer to the other regulator.³⁵

BC Hydro also argues that the BCUC does not have jurisdiction to regulate or set standards for the environment, because the UCA does not expressly provide the BCUC with such jurisdiction.³⁶

Finally, BC Hydro submits that the BCUC should respect the Legislature’s decision to provide exemptions from safety regulation by certain safety regulators and should not purport to fill in perceived regulatory gaps itself and, further, that the BCUC should decline to exercise its jurisdiction over safety to the extent it overlaps with the jurisdiction of another regulator with specific expertise.³⁷

³¹ BC Hydro Final Argument, p. 4.

³² BC Hydro Final Argument, pp. 5–6.

³³ BC Hydro Final Argument, pp. 6, 10.

³⁴ BC Hydro Final Argument, pp. 8, 10.

³⁵ BC Hydro Final Argument, p. 14.

³⁶ BC Hydro Final Argument, p. 10.

³⁷ BC Hydro Final Argument, p. 19.

4.2 Panel Discussion

For the reasons set out below, **the Panel finds that: (i) the BCUC has jurisdiction over all aspects of public utility safety; and (ii) what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators.**

We agree with BC Hydro that “the jurisdiction of the BCUC is limited to what is expressly stated in the UCA or, in certain cases, by necessary implication”. The UCA expressly sets out the jurisdiction of the BCUC with regard to safety in sections 23, 25 and 38. Together, these three sections establish the basis of the regulatory scheme for the BCUC’s oversight of the safety of public utilities:

- Section 23 provides that “the Commission has general supervision of all public utilities” and section 23 (1)(g)(i) specifically permits the BCUC “to make orders about the safety, convenience or service of the public”.
- Section 38 requires a public utility to “provide, and maintain its property and equipment in a condition to provide, a service to the public that the commission considers is in all respects adequate, safe, efficient, just and reasonable”.
- Section 25 requires the BCUC, “after a hearing held on its own motion or on a complaint” and a finding that “the service of a public utility is unreasonable, unsafe, inadequate or unreasonably discriminatory”, to “determine what is reasonable, safe, adequate and fair service, and order the utility to provide it”.

Thus, from section 38, the BCUC must consider all aspects of the safety of a public utility. There is nothing in the UCA that prescribes or expressly constrains the scope of the BCUC’s safety jurisdiction with respect to public utilities. On the contrary, the UCA states that public utilities must provide a service to the public that “the commission considers is in all respects safe.” Contrary to BC Hydro’s position, the BCUC’s safety jurisdiction is not limited to a subset of a utility’s operations, nor to a set of categories such as worker or asset safety. As a consequence, we find that there are no gaps in the regulation of the safety of public utilities.

The UCA is not prescriptive about whether the BCUC must explicitly set out what it considers is necessary for a service to be safe nor how safety compliance is achieved. However, section 25 of the UCA is explicit when setting out the BCUC’s role in investigating potential non-compliance by a public utility. If, after a hearing, the BCUC determines that the service is unsafe, it is compelled by section 25 to make a determination of what is safe service and order the utility to provide it. Further, section 25 does not allow the BCUC to forbear, or be in any way selective about how it approaches safety. It must make orders to ensure public utility service is “in all respects” safe.

However, the BCUC’s determination of what it considers is safe is not made in a vacuum. As discussed in this report, there are many other safety regulators with jurisdiction over certain aspects of public utility safety and we acknowledge the jurisdiction and experience of other safety regulators in BC. Because the UCA is not prescriptive, we find that what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators.

We further find that how the BCUC ensures ongoing compliance with safety standards and requirements, particularly those imposed by other agencies, may vary with specific circumstances.

We will further examine these issues, in section 6.0, below.

5.0 Forbearance

5.1 Intervener Positions

FortisBC and BC Hydro submit that, at times, the BCUC ought to forbear on its safety mandate. FortisBC argues that given the permissive nature of the UCA provisions related to the BCUC's public utility safety jurisdiction, the UCA permits the BCUC to forbear from exercising its jurisdiction whenever the BCUC is satisfied that the public utility safety is adequately regulated by another legislative scheme.³⁸ Similarly, BC Hydro states that if a regulator has specific expertise over a safety matter and is regulating the area, then the BCUC should decline to exercise any jurisdiction it may have under the UCA to the extent of the overlap, and defer to the other regulator.³⁹

Conversely, BCOAPO submits that the BCUC cannot “wash its hands” of any aspect of its duty to make decisions based on a consideration of what is necessary for the utilities to provide safe, reliable, fair, and adequate service.⁴⁰

5.2 Panel Discussion

The Panel finds that the BCUC does not have the power to forbear its jurisdiction over public utility safety.

As discussed in the previous section, the UCA expressly provides that:

- Public utilities must provide service that the BCUC considers to be, in all aspects, safe; and
- The BCUC, after a hearing on its own motion or as a result of a complaint and determining that a public utility's service is unsafe, must order that utility to provide safe service.

The UCA contains no express provision for the BCUC to forbear from exercising its powers, and the BCUC may only exempt utilities from aspects of regulation with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act* (Minister), pursuant to section 88 of the UCA.

However, the UCA is not prescriptive about what the BCUC should consider to be safe service or how it would determine what it considers to be safe service. Section 38 is not prescriptive on whether the BCUC needs to establish an explicit “safety standard or requirement” or whether that should be done on an as needed basis pursuant to section 25.

The UCA is also silent on how or whether the BCUC should ensure and monitor compliance with any specific safety standard that might apply to a public utility. Section 6.0 of this final Stage 1 report and Stage 2 of this Inquiry will address how the BCUC should consider the safety requirements for public utilities and how it should ensure ongoing compliance with those requirements.

³⁸ FortisBC Final Argument p. 11.

³⁹ BC Hydro Final Argument, pp. 14–15.

⁴⁰ FortisBC Final Argument, p. 11; BCOAPO Final Argument, pp. 6–7.

6.0 Guiding Principles for the BCUC's Regulation of the Safety of Public Utilities

Having considered the BCUC's jurisdiction of the regulation of the safety of public utilities, it is important to establish a set of key principles that will guide the BCUC in carrying out its regulation of public utility safety.

The Panel sets out the following principles, each of which is discussed in further detail below.

- **Regulatory Overlaps** – the BCUC should (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and (ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.
- **Operational Gaps** – the BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.
- **Exemptions from the UCA** – the BCUC should not recommend an exemption for a public utility from its safety oversight without explicitly considering whether an exemption from safety regulation is in the public interest.
- **Keeping Informed** – the BCUC should take active steps to keep itself informed regarding the safety of public utilities.
- **Safety Considerations when Adjudicating** – the BCUC should continue to consider relevant aspects of public utility safety in all its adjudications, including when determining whether an application is in the public interest and whether rates are just and reasonable. The Panel recommends that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information relevant to safety that may need to be filed.

6.1 Regulatory Overlaps

6.1.1 Intervener Positions

BC Hydro, FortisBC⁴¹, and PNG argue that there is adequate safety oversight of and reporting by public utilities in BC. These utilities submit that, while the BCUC has general oversight responsibility on safety, the BCUC should avoid entering areas already effectively managed by other regulatory schemes where regulators have specific expertise related to their jurisdiction. BC Hydro and FortisBC caution the BCUC against imposing additional reporting requirements in light of the fact that a number of parallel regulatory schemes exist with respect to safety for public utilities.⁴² PNG encourages the BCUC to “avoid duplication, additional costs and the creation of regulatory burden that may arise with additional reporting requirements...”⁴³

Likewise, BCOAPO, CEC and RCIA state that while it is appropriate for the BCUC to provide general oversight of public utility safety, it is important that the BCUC does not unduly burden the utilities with unnecessary duplication of reporting and costs.⁴⁴

⁴¹ FortisBC's submissions were made with respect to FortisBC only. Exhibit C4-9, p. 5.

⁴² FortisBC Final Argument, pp. 4, 7–8; BC Hydro Reply Argument, pp. 8–9.

⁴³ PNG Reply Argument, p. 5.

⁴⁴ BCOAPO Final Argument, p. 3; CEC Final Argument p. 23; RCIA Final Argument p. 2.

TSBC submits that a guiding principle for interpretation of safety references under the UCA should be “to avoid duplication of other existing legislative mandates related to safety that already exist.”⁴⁵ Further, TSBC suggests safety oversight is a shared responsibility and a collaborative approach amongst regulators and is not hierarchal in nature.⁴⁶

6.1.2 Panel Discussion

The current regulatory landscape with respect to safety of public utilities in BC is described in section 3.0, above, and includes numerous provincial and federal regulators with differing safety mandates. The Panel agrees with TSBC that safety oversight of public utilities is a shared responsibility amongst regulators. We also recognize that while the BCUC has general oversight responsibility for the safety of public utilities, where the BCUC considers that the oversight of other regulators is sufficient to ensure that public utility service is safe with respect to that oversight, it should avoid taking on the operational role of another regulator to avoid unnecessary duplication.

Two distinct cases of regulatory overlap to consider are:

1. There have been two examples cited where other regulators have exclusive statutory jurisdiction over certain public utility safety matters: WorkSafeBC and the Comptroller of Water Rights. In the next phase we will further consider these areas of overlap.
2. When other regulators have non-exclusive but over-lapping jurisdiction over aspects of public utility safety, the BCUC should ensure that its safety oversight is harmonious with the jurisdiction of other regulators. We will further consider this in the next phase of the Inquiry.

In both of the above cases of overlap, the BCUC’s general supervisory responsibility over the safety of public utilities is not negated. At times, it may be necessary for the BCUC to assume a role in areas where another regulator has overlapping exclusive, or non-exclusive, jurisdiction over specific aspects of public utility safety. How the BCUC will address such instances will be explored in Stage 2 of the Inquiry.

In the AES Inquiry,⁴⁷ the BCUC discussed the need for economic regulation and concluded that the BCUC should “only regulate where required.”⁴⁸ Such an approach recognizes the costs and benefits of regulation and seeks to maintain an appropriate balance. This balance is particularly relevant in instances of regulatory overlaps and has been specifically explored in the context of public utility safety in the Inquiry into the Regulation of Electric Vehicle (EV) Charging Service (EV Inquiry). In the EV Inquiry, the BCUC concluded TSBC’s application of the Electrical Safety Regulation and physical inspection program for EV charging infrastructure was adequate such that duplication of the regulation of safety by the BCUC would be unwarranted and counterproductive.⁴⁹ In that instance, the BCUC relied on the expertise of another regulator to satisfy itself that safe service was being provided, while maintaining its supervisory role over public utility safety.

In finding the right balance of regulatory efficiency in its regulation of safety, **the BCUC should:**

- (i) **refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and**

⁴⁵ Exhibit C12-3, p. 1.

⁴⁶ Exhibit C12-3, p. 2.

⁴⁷ More fully, the BCUC Inquiry into the Offering of Products and services by FortisBC Energy Inc. Alternative Energy Solutions and Other New Initiatives.

⁴⁸ FortisBC Energy Inc. Inquiry Into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives dated December 27, 2012, pp. 6–7.

⁴⁹ Inquiry into the Regulation of Electric Vehicle Charging Service Phase 2 (Phase 2) Report dated June 24, 2019, p. 50; TSBC, Phase 2, Letter of comment.

(ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.

For clarity, in establishing the above principle, the Panel intends that the BCUC would calibrate the degree and nature of its safety regulation based on the level of risk and the actions of other regulators with overlapping jurisdiction. What constitutes adequate safety oversight and how the BCUC will calibrate its safety regulation will be examined in Stage 2 of the Inquiry.

Further, in case (i) above, where the BCUC refrains from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight, we recommend formal protocols with other regulators be put in place. These protocols should include:

- How complaints from the public should be handled;
- Sharing of information between the BCUC and other safety agencies regarding changes to safety standards; and
- Sharing of information between the BCUC and other safety agencies regarding ongoing safety issues and challenges.

A related issue is whether the BCUC should develop a formal safety framework that, pursuant to section 38, reflects what the BCUC considers to be a service that is in all respects safe – i.e., a “safety framework”. In the alternative, should the BCUC make determinations about what is safe service, pursuant to section 25, on an *ad hoc* basis? If the latter, should the BCUC develop a framework for making such determinations? The Panel invites submissions on this issue in Phase 2 of this Inquiry.

6.2 Operational Gaps

6.2.1 Intervener Positions

In its submissions, TSBC categorized regulatory gaps as either legislative in nature or as occurring in-practice. It further stated that both legislative and in-practice safety gaps can result in regulatory confusion and subsequent risks to people and property.⁵⁰

BC Hydro, FortisBC, and PNG state that, as of the date of their submissions, they have not identified any legislative gaps within their operations. All three utilities, however, submit that the potential for regulatory gaps exists.⁵¹

BC Hydro argued that although a gap may exist, a regulatory body may only “fill the gap” if “enabling legislation affords it to do so.” Furthermore, BC Hydro argued that in the case where an exemption is provided by legislation, although the UCA provides the BCUC with supervisory jurisdiction, its intention is not to fill the gap. And finally, in the case where a true regulatory gap is identified, BC Hydro argues that it is Legislature’s responsibility to fill such a gap.⁵²

FortisBC, PNG, CEC, BCOAPO, and RCIA acknowledged that the BCUC may have a role to play with respect to emerging gaps, and specifically gaps resulting from novel technologies. These interveners argued that section 23 of the UCA may have a role to play in affording the BCUC with supervisory jurisdiction over the safe operation of

⁵⁰ Exhibit C12-2 p. 2.

⁵¹ BC Hydro Final Argument, p. 13, FortisBC Final Argument, p. 15, PNG Final Argument, p. 5.

⁵² BC Hydro Final Argument, pp. 13–14.

public utilities.⁵³ BCOAPO further argued that the BCUC should take steps to actively manage regulatory gaps in order to ensure the public interest is served, citing as an example, Borealis' lack of clarity over technical regulation concerning its operations.⁵⁴ Both FortisBC and BCOAPO also submit that creation of gaps resulting from exemption to the UCA should be avoided in order to preserve regulatory harmony.⁵⁵

6.2.2 Panel Discussion

Given the BCUC's jurisdiction with respect to public utility safety, the Panel considers that there are no legislative gaps in the regulation of public utility safety in BC. To the extent that a purported gap in public utility safety might emerge and no other regulator is empowered to regulate the area, the nature of the BCUC's jurisdiction is such that the BCUC may oversee public utility safety in that area.

Notwithstanding the lack of legislative gaps, there is the potential for operational gaps to emerge in the regulation of public utility safety. For example, gaps in the operation of safety regulation may occur as a result of the emergence of novel technologies or the use of existing technologies in novel ways. New and emerging technologies, some of which public utilities may wish to use in order to provide utility services in a more efficient and effective manner, may not have been contemplated when specialized safety-related legislation, regulations, or standards were established. When such operational gaps arise, the BCUC may use its general supervisory power to gain assurance of safe operation. For instance, where, in the BCUC's judgement, a public utility is operating a novel technology in an unsafe manner the BCUC, pursuant to section 25 of the UCA, may issue an order for improved service. Furthermore, pursuant to section 26 and 37 of the UCA, the BCUC may set standards to be used by a public utility and appoint inspectors and supervisors.

The BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled. The BCUC has a responsibility to ensure the safety of public utilities where it deems operational gaps in public utility safety regulation have emerged. This may necessitate performance of a safety compliance function or other role by the BCUC.

6.3 Exemptions from the UCA

6.3.1 Panel Discussion

Pursuant to section 88(3) of the UCA, the BCUC may, with advance approval from the Minister, exempt public utilities from all or part of the UCA. For example, exemptions from the UCA are sometimes granted on the basis that economic regulation is not necessary in a competitive market. The existence of competition alone, however, may not be sufficient to ensure the safety of public utilities operating in that market.

Exemptions previously granted by the BCUC may have unintentionally limited the BCUC's powers to implement its jurisdiction over public utility safety, for example by exempting public utilities from sections 23, 24, 25, or 38.

Given the importance of public utility safety and the BCUC's express powers to oversee this area, **the BCUC should not recommend an exemption for a public utility from its safety oversight without explicitly considering whether an exemption from safety regulation is in the public interest.**

The BC government may also grant public utilities exemptions from the UCA through ministerial order, pursuant to section 22 of the Act. For example, Ministerial Order No. M-22-0205 dated June 6, 2002 exempts persons who are not otherwise a public utility, and their equipment, facilities, plant, projects or systems, from Part 3 of

⁵³ FortisBC Final Argument, p. 15, PNG Final Argument, p. 5, CEC Final Argument, pp. 18-19, BCOAPO Final Argument pp. 10-11.

⁵⁴ BCOAPO Final Argument pp. 11.

⁵⁵ FortisBC Final Argument, p. 16, BCOAPO Final Argument p. 11.

the UCA with respect to the production and sale of electricity to BC Hydro or Powerex.⁵⁶ The BCUC considers it advisable that, when contemplating such exemptions, the BC government recognizes the potential for the creation of gaps in the regulation of the safety of public utilities. The BCUC recommends that exemptions to the safety-related clauses of the UCA not be granted by the BC government unless satisfactory safety oversight is present. Consultation with the BCUC may assist in informing the government's decision regarding prospective public utility exemptions from the UCA.

6.4 Keeping Informed

6.4.1 Intervener Positions

As discussed above, the BCUC has an obligation under section 24 of the UCA to keep itself informed about matters within its jurisdiction. At present, the BCUC receives safety related information from public utilities primarily through regulatory filings, such as revenue requirement applications (RRAs), annual reports, and through ad hoc reporting. For example, BC Hydro notes that it provides information on its safety performance to the BCUC through its RRAs, which includes tracking and reporting on performance metrics related to safety and through ad hoc reporting.⁵⁷ Similarly, FortisBC states that it provides reporting on its safety performance in its annual reviews under the Multi-Year Rate Plan and provides ad hoc reporting to the BCUC including notification of significant incidents, and PNG notes it provides safety related information in its annual reports to the BCUC and in its RRAs, and has provided other safety related information such as its Integrity Management Plan and its Emergency Response plans through ad hoc reporting.⁵⁸

FortisBC submits that the requirement that the BCUC keep itself informed of matters related to safety is grounded in section 24 of the UCA, as well as the BCUC's general supervisory jurisdiction with respect to public utilities contained elsewhere in the statute, particularly sections 23, 25, and 38. FortisBC submits that the legislation does not set minimum standards for type, amount, or currency of information required for the BCUC to "keep itself informed" and that the BCUC may determine the reporting requirements it views as sufficient to satisfy its supervisory jurisdiction.⁵⁹

FortisBC argues that there currently exists sufficient regulation with respect to safety, through both regulatory schemes (other than the UCA) and non-legislated standards, such as CSA Standards and professional standards. FortisBC submits that this should lead the BCUC to conclude that additional reporting from FortisBC is not required and likewise may not be required from some other public utilities.⁶⁰

Similarly, PNG submits that the minimum requirements the BCUC must have in place to ensure the BCUC is informed of matters relating to public utility safety should take into consideration the information being provided by the utilities to other regulatory agencies with jurisdiction over safety-related matters.⁶¹

BC Hydro, FortisBC, and PNG all submit that the UCA's requirement that the BCUC keep itself informed will be context-specific and will depend upon the specific public utility in question.⁶² BC Hydro, FortisBC, and PNG also consider the current levels of safety related reporting to be adequate for the BCUC to keep itself informed.⁶³ BC Hydro adds that if certain circumstances require further information, the BCUC has tools under the UCA that it can use to help keep itself informed as required, such as the jurisdiction to conduct inquiries, to hear

⁵⁶ Minister's Order No. M-22-0205 dated June 6, 2002.

⁵⁷ Exhibit C13-6, p. 14.

⁵⁸ Exhibit C4-5, pp. 2, 5; Exhibit C9-4, p. 1.

⁵⁹ FortisBC Final Argument, p. 7.

⁶⁰ FortisBC Final Argument, p. 5.

⁶¹ PNG Final Argument, p. 2.

⁶² BC Hydro Final Argument, p. 9; FortisBC Final Argument, pp. 4–5; PNG Final Argument, p. 2.

⁶³ BC Hydro Final Argument, pp. 7–8; FortisBC Final Argument, p. 6.

complaints, obtain reports, and to appoint supervisors or inspectors.⁶⁴ Further, BC Hydro submits that the way in which the BCUC should use those tools depends on the circumstances.⁶⁵

The CEC submits that the requirement for the BCUC to keep itself informed with respect to the conduct of public utility business and public utility compliance with regulations and other laws is a substantial responsibility and comprises a broad obligation to ensure that public utilities are operating safely in the public sphere and internally within the company.⁶⁶ Similarly, BCOAPO submits that it is important for the BCUC to take an active role in the regulation of safety and not become a passive player by over-relying on utilities to manage their own safety practices without meaningful oversight.⁶⁷

Some interveners provide specifics about how the BCUC should keep itself informed, such as establishing guidelines and reporting models, engaging with other safety-related regulatory bodies, and establishing a specific BCUC staff member to keep abreast of ongoing reporting, etc.⁶⁸

6.4.2 Panel Discussion

The Panel considers that a guiding principle for the BCUC's regulation of the safety of public utilities is that the **BCUC should take active steps to keep itself informed regarding the safety of public utilities.**

Section 24 of the UCA clearly provides that the BCUC must keep itself informed of matters within its jurisdiction and keeping informed about safety is an essential component of this process. In this context, safety includes both the development and application of relevant safety standards and requirements and also the state of compliance of public utilities with the regulations of other safety bodies.

Active steps that the BCUC may take may include the establishment of safety guidelines and reporting models and/or the other items suggested by interveners in Stage 1 of the Inquiry; however, the specifics of how the BCUC will take active steps to keep itself informed are best addressed in Stage 2 of the Inquiry with further input from interveners.

6.5 Safety Considerations when Adjudicating

6.5.1 Intervener Positions

Pursuant to the UCA, public utilities come before or interact with the BCUC for several reasons, including expenditure schedule applications (section 44.2), RRAs (sections 59 to 61), long-term resource and conservation planning applications (section 44.1), and CPCN applications (section 45 and 46). At present, however, there are no express requirements for addressing safety in regulatory processes, except for BCUC's 2015 CPCN Guidelines, which provide that a utility should include safety and reliability considerations in its project description when an application is submitted under sections 45 and 46 of the UCA.⁶⁹

Generally, interveners provided submissions on whether minimizing worker, asset, and/or public safety risks should be a criterion in the BCUC's determination of the public interest; whether the reasonableness and appropriateness of a public utility's safety-related expenditures should be a criterion in the BCUC's determination of whether a public utility's rates are just and reasonable; and whether safety should be considered in any other matters adjudicated by the BCUC.

⁶⁴ BC Hydro sites the UCA, sections 43, 25, 26, 83, 49c, and 37, respectively.

⁶⁵ BC Hydro Final Argument, pp. 8–9.

⁶⁶ CEC Final Argument, p. 3.

⁶⁷ BCOAPO Final Argument, p. 6.

⁶⁸ CEC Final Argument, pp. 3–4, 6; BCOAPO Final Argument, p. 2; Exhibit C1-4, p. 4.

⁶⁹ BCUC's 2015 CPCN Guidelines, Section 4(i).

With regard to the BCUC's determination of the public interest, interveners generally agree that the BCUC has the jurisdiction to consider safety risks in determining the public interest as summarized below.

BC Hydro submits that the BCUC has the jurisdiction, where applicable, to consider safety risks in determining the public interest and it has already done so in certain cases.⁷⁰ BC Hydro submits that the BCUC may consider numerous factors when determining the public interest, including the need for a project, projects costs, alternatives for a project, various stakeholder interests, as well as safety and that the BCUC should consider these factors holistically in order to strike a balance of what are often competing interests. BC Hydro adds that sometimes safety will play a larger role in the determination of the public interest and sometimes it will play a smaller one.⁷¹

FortisBC submits that the consideration of asset, worker, and public safety currently forms a part of the public interest determination with respect to rate setting and project approvals before the BCUC.⁷²

The CEC submits the BCUC is obligated to consider safety as part of the public interest test, which would include minimizing environmental risks as an important aspect of the public interest.⁷³ Similarly, BCOAPO states that the minimization of worker, asset and/or public safety risks should be a criterion in the BCUC's determination of the public interest, as should the minimization of environmental safety risks and any other safety-related issues that the BCUC may find fall within the scope of the public interest in the future.⁷⁴

Intervenors also generally agreed that the BCUC has the jurisdiction to consider the reasonableness and appropriateness of safety-related expenditures in its determination of whether a public utility's rates are just and reasonable as summarized below.

BC Hydro submits that the BCUC has the jurisdiction to consider the reasonableness and appropriateness of costs to implement safety programs and to meet regulatory requirements in determining whether a public utility's rates are just and reasonable.⁷⁵

FortisBC submits that it is within the BCUC's jurisdiction to determine what is adequate funding for a public utility to provide service to the public that is, in all respects adequate, safe, efficient, just and reasonable.⁷⁶

The CEC submits that the BCUC has a broad responsibility in its rate setting to incorporate public interest issues into its determination, and safety would naturally be a set of concerns to be incorporated with high priority.⁷⁷ Similarly, BCOAPO submits that the BCUC is clearly obligated under the UCA to ensure that utility safety related measures and expenditures proposed or undertaken are not only sufficient but prudent, just, reasonable, and cost-effective.⁷⁸ Flintoff agrees that the reasonableness and appropriateness of a public utility's safety-related expenditures should be a criterion in the BCUC's determination of whether a public utility's rates are just and reasonable.⁷⁹

⁷⁰ BC Hydro Final Argument, p. 12. BC Hydro cited as examples the proceedings identified by the BCUC at pages 3 and 4 of Appendix B to Order G-241-20, which established this Inquiry (Exhibit A-1).

⁷¹ BC Hydro Final Argument, p. 12.

⁷² FortisBC Final Argument, p. 13.

⁷³ CEC Final Argument, p. 17.

⁷⁴ BCOAPO Final Argument, p. 9.

⁷⁵ BC Hydro Final Argument, p. 12.

⁷⁶ FortisBC Final Argument, p. 13.

⁷⁷ CEC Final Argument, p. 17.

⁷⁸ BCOAPO Final Argument, p. 10.

⁷⁹ Exhibit C1-4, p. 10.

Generally, all interveners submit that safety does not need to be considered in other matters adjudicated by the BCUC at this time.⁸⁰

MoveUp expressed a slightly different view than those listed above and submits that if safety-related information is reported annually, then there is no specific need for additional safety considerations in expenditure schedule applications, RRAs, LTRP applications, or CPCN applications. Further, MoveUp submits that it always remains open to the applicant, the BCUC, or an intervener to raise safety issues where these are pertinent but, in MoveUp's view, it is unnecessary to build these into these proceedings in all circumstances.⁸¹

6.5.2 Panel Discussion

As discussed above, public utilities make applications to the BCUC for a myriad of reasons. In reaching a decision on these applications, the BCUC must consider all relevant matters. **The BCUC should continue to consider relevant aspects of public utility safety in its adjudications, including when determining whether an application is in the public interest or whether rates are just and reasonable.**

The Panel recommends that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information relevant to safety that may need to be filed.

7.0 Stage 2 of the Inquiry

Following finalization of the Stage 1 report, the BCUC will initiate Stage 2 of the Inquiry. Stage 2 will explore the application of the principles guiding the BCUC's regulation of public utilities and will set out actions for the BCUC to undertake in implementing its safety mandate.

The BCUC recognizes that, at times, interveners in Stage 1 of the Inquiry have provided submissions addressing how the BCUC ought to action its safety responsibilities. The BCUC appreciates these submissions and believes they will provide a helpful starting point for Stage 2.

⁸⁰ BC Hydro Final Argument, p. 13; FortisBC Final Argument, p. 14; CEC Final Argument, p. 18; BCOAPO Final Argument, p. 10.

⁸¹ Exhibit C5-4, p. 2.



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British Columbia Utilities Commission An Inquiry into the Regulation of Safety

Final Stage 1 Report **~~DRAFT~~**

~~August 12~~ December 22, 2022

Before:

D. M. Morton, Panel Chair
C. M. Brewer, Commissioner
R. I. Mason, Commissioner

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Executive Summary

In September 2020, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry). Stage 1 of the Inquiry focuses on:

1. The nature and extent of the BCUC’s jurisdiction to regulate the safety of public utilities under the *Utilities Commission Act* (UCA);
2. The conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and
3. Setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.

In Stage 2, the BCUC will explore the application of these principles to its regulation of public utilities.

On August 12, 2022, the BCUC issued a draft report with its preliminary findings in Stage 1 of the Inquiry (Draft Report). Parties were provided an opportunity to comment on the Draft Report.¹ The Panel considered these comments and responded in Decision and Order G-381-22, where the final language of the Stage 1 report was determined.

With regard to the nature and extent of the BCUC’s jurisdiction, in the ~~draft~~final Stage 1 report, the Panel considers that sections 23, 25, and 38 of the UCA together set out the basis of the regulatory scheme for the BCUC’s oversight of the safety of public utilities. These sections of the UCA provide that:

- The BCUC is responsible for general supervision of all public utilities;
- Public utilities are required to provide and maintain their property and equipment in a manner that the BCUC considers “is in all respects... safe”; and
- If, after a hearing, the BCUC determines that the service of a public utility is unsafe, it must make a determination of what constitutes safe service and order the utility to provide it.

There is nothing in the UCA that prescribes or expressly constrains the scope of the BCUC’s safety jurisdiction with respect to public utilities. Therefore, in light of the provisions in sections 23, 25, and 38 of the UCA, the Panel finds that the BCUC has jurisdiction over all aspects of public utility safety.

Further, the Panel recognizes that the safe operation of British Columbia’s public utilities is a shared responsibility amongst multiple provincial and federal regulatory bodies. As the UCA is not prescriptive about whether the BCUC must explicitly set out what it considers is necessary for a service to be safe, nor how safety compliance is achieved, the Panel finds that what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators.

Respecting forbearance, the Panel finds that the BCUC does not have the power to forbear from exercising its jurisdiction over public utility safety. The UCA contains no express provision for the BCUC to forbear its powers and the BCUC may only exempt utilities from aspects of regulation with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act*, pursuant to section 88 of the UCA.

¹ Order G-221-22.

Finally, the Panel ~~proposes~~sets out the following key principles to guide the BCUC in carrying out its safety oversight role:

- Regulatory Overlaps – the BCUC should (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and (ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.
- Operational Gaps – the BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.
- Exemptions from the UCA – the BCUC should not recommend ~~exemptions~~an exemption for a public utility from its safety oversight ~~to government~~ without explicitly considering whether an exemption from safety regulation is in the public interest.
- Keeping Informed – the BCUC should take active steps to keep itself informed regarding the safety of public utilities.
- Safety Considerations when Adjudicating ~~Applications~~ – the BCUC should continue to consider relevant aspects of public utility safety in all its adjudications, including when determining whether an application is in the public interest and whether rates are just and reasonable. The Panel recommends that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information, relevant to safety, that may need to be filed.

~~We seek further submissions by participants on this draft, prior to issuing it as a Final Stage 1 Report.~~

1.0 Introduction

The British Columbia Utilities Commission (BCUC) is an independent regulatory agency of the British Columbia (BC) government, operating under and administering the *Utilities Commission Act* (UCA). The BCUC is responsible for ensuring safe and reliable energy supply at fair rates for energy users across the province. The BCUC balances this responsibility with the need to ensure public utilities² under its jurisdiction are afforded a reasonable opportunity to earn a fair return on their investments.

By Order G-241-20, dated September 23, 2020, the BCUC determined that greater clarity around the nature and extent of the BCUC's jurisdiction over public utility safety was required and established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry).

In the sections below, this Stage 1 ~~draft~~final report (~~Draft~~):

1. Describes the regulatory process undertaken in support of the first stage of the Inquiry (section 2.0);
2. Provides a brief overview of some of the principal safety regulators in BC (section 3.0); and
3. Sets out a ~~proposed~~ framework for the BCUC's regulation of the safety of public utilities, including:
 - a. The BCUC's jurisdiction to regulate the safety of public utilities under the UCA and any ability to forbear therefrom (sections 4.0 and 5.0); and
 - b. A set of key principles to guide the BCUC in carrying out its safety-related duties (section 6.0).

~~We seek further submissions by participants on the Draft, prior to issuing it as a Final Stage 1 Report.~~

2.0 Regulatory Process

By Order G-241-20, dated September 23, 2020, the BCUC established an initial regulatory timetable for the Inquiry. The regulatory timetable was subsequently furthered and amended by Orders G-342-20, G-34-21, G-209-21, G-296-21, and G-356-21, respectively.

The following parties registered as interveners in the Inquiry:

- | | |
|---|---|
| • Don Flintoff (Flintoff) | • Kyuquot Power Ltd. |
| • Borealis Geopower Inc. (Borealis) | • British Columbia Old Age Pensioners' Organization et al. (BCOAPO) |
| • Chargepoint BC | • Technical Safety BC (TSBC) |
| • FortisBC Energy Inc. (FEI) and FortisBC Inc. (FBC) (Collectively, FortisBC) | • British Columbia Hydro and Power Authority (BC Hydro) |
| • Movement of United Professionals (MoveUP) | • Surplus Energy Match |
| • TE Burns Engineering Ltd. | • IRSRGC ³ |
| • Commercial Energy Consumers Association of British Columbia (CEC) | • River District Energy |

² In the UCA, a "public utility" is defined as a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in BC, equipment or facilities for the 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. There are a number of exclusions from the definition of a public utility, including municipalities or regional districts that provide services within their own boundaries, and a person that provides services to employees or tenants.

³ IRSRGC includes the following interveners: (i) British Columbia Solar Coalition; (ii) Irrigation Ratepayers Group; (iii) Net Metering Ratepayers Group; (iv) Vancouver Electric Vehicle Association; and (v) Zone 1B Ratepayer Group.

- Corix Multi-Utility Services Inc.
- Pacific Northern Gas Ltd. (PNG)
- Residential Consumer Intervener Group (RCIA)

By November 12, 2020, the BCUC received written submissions from interveners and interested parties regarding the BCUC's jurisdiction with respect to the regulation of safety, legislative gaps or overlaps, and whether a workshop in support of the Inquiry would be beneficial.

By Order G-342-20, dated December 18, 2020, the BCUC proposed a two-staged approach to the Inquiry, with Stage 1 focusing on:

1. The nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the UCA;
2. The conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA; and
3. Setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.

Following Stage 1, the BCUC will initiate the second stage of the Inquiry (Stage 2) to explore the application of the key principles to its regulation of public utilities and to establish how the BCUC will implement its mandate with regards to safety.

On January 27, 2021, the BCUC held a procedural conference in which interveners were invited to comment on the BCUC's proposed approach to the Inquiry. Intervenors were generally supportive and suggested that there would be value in the BCUC issuing a set of "sub issues" to help guide intervener submissions in Stage 1.

By Order G-34-21, dated January 29, 2021, the BCUC confirmed that the Inquiry would be undertaken in two stages and established a further regulatory timetable. The regulatory timetable included, among other things, the issuance of proposed Stage 1 sub issues, an opportunity for intervener submissions and reply submissions, and the issuance of final Stage 1 sub issues by July 8, 2021.

Following issuance of the final Stage 1 sub issues, interveners were provided an opportunity to file evidence addressing Stage 1 of the Inquiry. Information requests on intervener evidence followed.

Intervenors filed final and reply arguments addressing Stage 1 of the Inquiry by January 12, 2022 and January 26, 2022, respectively.

On August 12, 2022, the BCUC issued a draft report with its preliminary findings in Stage 1 of the Inquiry. By Order G-221-22, the BCUC sought written submissions on the draft.

Flintoff, Borealis, FortisBC, the CEC, BCOAPO, BC Hydro and RCIA filed submissions by October 3, 2022. FortisBC and the CEC filed reply submissions on October 18, 2022.

The Panel considered these comments and responded in Order G-381-22 and accompanying Reasons for Decision, where the final language of the Stage 1 report was determined.

3.0 Public Utility Safety Regulation in BC

The safe operation of BC's public utilities is a shared responsibility amongst multiple provincial and federal regulatory bodies. In addition to the UCA, which sets out the BCUC's responsibilities, participants in the Inquiry identified several safety-related statutes applicable to public utilities in the province.⁴ A brief overview of some of the principal safety regulators operating alongside the BCUC is provided in this section.

⁴ Exhibit C4-5, pp. 9–10; Exhibit C9-5, Response to IR 1.1; BC Hydro Final Argument, Appendix A.

The BC Oil and Gas Commission (BCOGC)The British Columbia Energy Regulator⁵ (BC Energy Regulator) has a legislated mandate under the *Oil and Gas Activities Act* and the *Geothermal Resources Act*. The *Oil and Gas Activities Act* is provincial legislation that enables regulation of oil and gas and related activities in BC throughout their entire life cycle, from exploration to construction, operation, transportation, decommissioning and restoration. The *Oil and Gas Activities Act* gives the BCOGCBC Energy Regulator powers to make technical regulations for oil and gas infrastructure including wells, facilities, pipelines and oil and gas roads, LNG facilities, geothermal activities, as well as fees, levies, securities, consultation and notification, and emergency management.⁶

Many of the BCOGC'sBC Energy Regulator's regulations and standards are designed specifically to ensure safe practices, and permit holders are required to safeguard operations, check equipment, train employees and report to the BCOGCBC Energy Regulator at various stages. The BCOGCBC Energy Regulator may also adopt by reference a code or standard, such as those published by the Canadian Standards Association (CSA). For example, the Pipeline Regulation requires a pipeline permit holder to design, construct, operate and maintain its pipeline in accordance with CSA Z662, Oil and Gas Pipeline Systems.⁷

The BCOGCBC Energy Regulator is also the regulator responsible for overseeing environmental and public safety risks from geothermal operations in BC under the *Geothermal Resources Act*.⁸

TSBC oversees the safe installation and operation of technical systems and equipment across the province. TSBC is delegated authority, under the *Safety Authority Act*, *Safety Standards Act*, and *Railway Safety Act* and associated regulations for safety oversight of various technologies, including:⁹

- Electrical equipment and systems;
- Boilers, pressure vessels and refrigeration systems; and
- Natural gas and propane appliances and systems, including hydrogen.

The *Safety Standards Act* and associated regulations establish the boundaries for TSBC's oversight of public utilities. For example, under the Gas Safety Regulation, TSBC provides safety oversight for gas utilities from the city gate onwards to customers.¹⁰ Also, TSBC provides safety oversight for public utilities under the Electrical Safety Regulation; however, the transmission, generation and distribution activities of public utilities are exempt from this regulation.¹¹ In accordance with the *Hydro and Power Authority Act*, the majority of the *Safety Standards Act* is not applicable to BC Hydro.¹²

WorkSafeBC is the provincial regulator for occupational health and safety, whose mission is to prevent workplace injury, illness, and death, and to support injured workers through fair compensation and effective rehabilitation. Among other things, WorkSafeBC enforces the Occupational Health and Safety Regulation, which

⁵ Formerly, the BC Oil and Gas Commission.

⁶ Exhibit E-5, p. 1.

⁷ Exhibit E-5, p. 1 *ibid*.

⁸ Exhibit E-5, p. 1 *ibid*.

⁹ Exhibit C12-2, p. 1.

¹⁰ A "city gate" is the plant or premises where natural gas is received from a pipeline and is metered, reduced in pressure and then prepared for distribution to individual users. Technical Safety BC's jurisdiction applies at pressures below 100 PSI (700 kPa). Exhibit C12-2, footnote 1, p. 1.

¹¹ Exhibit C12-2, p. 1.

¹² Section 32 (7) (w.1 and w.2) of the *Hydro and Power Authority Act* provide the specific sections of the *Safety Standards Act* that are applicable to BC Hydro. These sections of the *Safety Standards Act* relate to when BC Hydro is using electricity as a consumer and to being required to submit residential electricity information to an authority, respectively. (Exhibit C12-2, p. 4)

defines requirements for managing and controlling occupational health and safety risks.¹³ WorkSafeBC has the authority to issue orders on non-compliance through the *Workers Compensation Act* and/or Occupational Health and Safety Regulation, to administer financial penalties for non-compliance, and may recommend prosecution under the *Workers Compensation Act* for contravening the *Workers Compensation Act* or Occupational Health and Safety Regulation. WorkSafeBC also inspects BC workplaces in accordance with the *Workers Compensation Act* and Occupational Health and Safety Regulation.¹⁴

WorkSafeBC has exclusive jurisdiction over aspects of public utility safety. Specifically, section 19(1) of the *Workers Compensation Act* provides WorkSafeBC with exclusive jurisdiction to inquire into, hear and determine all matters and questions of fact and law arising under Part 1 of the *Workers Compensation Act*, and the action or decision of the board is not open to question or review in any court.

The Comptroller of Water Rights also has exclusive jurisdiction over aspects of public utility safety. Dam safety in BC is regulated under the *Water Sustainability Act*, through the *Dam Safety Regulation*, which is overseen by the Comptroller of Water Rights. The comptroller oversees the Provincial Dam Safety Program, which, under the *Dam Safety Regulation*, sets requirements for design, construction, operation, maintenance, surveillance, and removal and decommissioning of dams in BC.¹⁵ Section 120 of the *Water Sustainability Act* sets out restrictions respecting decisions made under the Act and provides, among other things, that a hearing, investigation or proceeding of the comptroller, a water manager, an engineer, an officer or a water bailiff may not be questioned, reviewed or restrained by any process or proceeding in any court.

Another way in which the safety of public utilities in BC is managed is through employment or retention of professional engineers, which are governed by Engineers and Geoscientists B.C., pursuant to the *Professional Governance Act* (PGA).¹⁶ Under the PGA, all firms that engage in the practice of professional engineering and professional geoscience are required to have a Permit to Practice. In this Inquiry, BC Hydro noted that, in addition to requiring its professional engineers to be registered with Engineers and Geoscientists B.C. (and therefore required to follow all applicable standards, guidelines and procedures), BC Hydro was also in the midst of registering as an engineering firm and developing a Professional Practice Management Plan to document the processes and procedures it will use to ensure compliance with all applicable requirements.¹⁷

Together with the BCUC, these regulators work to ensure the safety of BC's public utilities and critical energy infrastructure.

4.0 BCUC's Safety Jurisdiction

The UCA is the statute that empowers the BCUC. Sections in the UCA related directly or indirectly to public utility safety include the following.

Section 23 of the UCA grants the BCUC general supervisory responsibility and oversight over all public utilities and empowers the BCUC to issue orders covering a broad range of areas, including safety devices (section 23(c)) and any other matters that the BCUC considers necessary or advisable for ensuring the safety, convenience, or service of the public (section 23 (g)(i)). Further, section 23(2) authorizes the BCUC to make regulations requiring a public utility to conduct its operations in a manner that does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public.

¹³ Exhibit C13-6, pp. 2–3.

¹⁴ Exhibit C13-6, pp. 2–4.

¹⁵ Exhibit C13-2, p. 10; Exhibit C-13-6, p. 6.

¹⁶ BC Hydro Final Argument, pp. 3–4; Exhibit C4-5, p. 9; Exhibit C13-6, p. 12.

¹⁷ Exhibit C13-6, p. 12.

Section 24 requires the BCUC, in executing its supervisory role, to make examinations and conduct inquiries necessary to keep itself informed about: (i) the conduct of the utility's business; (ii) the utility's compliance with the UCA and other laws and regulations; and (iii) any other matter in the BCUC's jurisdiction. While much of the language in the UCA is permissive, section 24 provides an imperative to the BCUC that it remains informed about the activities of the utilities it regulates.

Section 38 of the UCA speaks to the service standard public utilities are to be held to by the BCUC as regulated entities. Pursuant to section 38, a public utility must provide and maintain its property and equipment in a condition that enables it to provide service to the public that the BCUC considers is "in all respects adequate, safe, efficient, just and reasonable."

Section 25 provides that if, after holding a hearing on its own motion or as the result of a complaint, the BCUC finds that the service of a public utility is unreasonable, unsafe, inadequate or unreasonably discriminatory, then the BCUC must take action to address the inadequacies. This includes determining what constitutes safe service and ordering the public utility to provide it.

Section 26 of the UCA provides the BCUC the authority, after a hearing held on its own motion or on complaint, to set standards, rules, or regulations with respect to safety. Specifically, section 26(a) provides the BCUC the authority to set just and reasonable standards, classifications, rules, practices or service to be used by a public utility, and section 26(b) provides that the BCUC may "determine and set adequate and reasonable standards for measuring quantity, quality, pressure, initial voltage or other conditions of supplying service".

Section 27 of the UCA sets out the BCUC's authority with respect to joint use facilities. Under section 27(2) if, after a hearing, the BCUC finds that certain actions relating to the electric lines of one public utility (i.e., the placement, the construction, or the installation of safety devices) are necessary to protect the safety of individuals using or operating another public utility's system, then the BCUC can order those actions to be taken.

Under section 37 of the UCA, the BCUC has the authority to appoint supervisors and/or inspectors to carry out measures for the safety of the public and the users of a public utility's service. The BCUC may appoint a supervisor or inspector on a continuous or non-continuous basis, specify their duties and compensation, and determine who will bear the costs. The BCUC may also, under section 8 of the UCA, appoint or engage technical consultants to assist the BCUC in carrying out its functions.

Pursuant to section 49 of the UCA, the BCUC is empowered to establish certain safety reporting requirements for public utilities. Section 49 states that the BCUC may require public utilities to file "at the times and in the form and manner the commission specifies, a report of every accident occurring to or on the plant, equipment or other property of the utility, if the accident is of such nature as to endanger the safety, health or property of any person."

4.1 Intervener Positions

Interveners in the Inquiry agree that the UCA provides the BCUC with jurisdiction over the regulation of public utility safety, although they differ on the extent of that jurisdiction.

Several interveners argue that the UCA provides the BCUC with a broad mandate with respect to ~~the~~ safety.¹⁸ For example, MoveUP submits that "ensuring safety is one of the cornerstones of the 'regulatory compact' that underlies the Commission's statutory mandate"¹⁹, while FortisBC submits that the role of the BCUC is an overarching role with respect to the safe operation of public utilities, and that:

¹⁸ Exhibit C7-2, p. 3; CEC Final Argument, pp. 7, 14–15; Exhibit C1-2, p. 2; Exhibit C5-2, p. 1; Exhibit C-11, pp. 1–4. BCOAPO Final Argument, p. 7; Exhibit C1-2, p. 3; Flintoff Final Argument, p. 6; Exhibit C20-1, p. 1.

¹⁹ Exhibit C5-2, p. 1.

The BCUC's supervisory jurisdiction over public utilities... is a key component of public utility regulation, including with respect to ensuring that a public utility has adequate funding to provide service to the public that is safe. While other regulatory schemes and regulators address safety-related matters, the BCUC's jurisdiction is an important backstop to ensure that regulatory gaps, if and when identified, are appropriately addressed.²⁰

Similarly, BCOAPO submits that the UCA bestows upon the BCUC broad authority to inquire into and regulate issues of safety engaged by all aspects of public utilities' activities when providing service to the public.²¹ In its submissions, BCOAPO observes that there are 31 uses of the phrase "public interest" in the UCA. BCOAPO argues that it is through the lens of the public interest that the BCUC's safety-related mandate ought to be interpreted.²² BCOAPO also notes that pursuant to section 110 of the UCA, while other regulatory bodies may also have important safety mandates, the BCUC's powers with respect to the regulation of safety are not restricted by other legislation.²³

The CEC submits that asset safety, worker safety, public safety, environmental safety, and potentially emergency preparedness and response, all rightfully fall within the BCUC's jurisdiction. The CEC considers that asset safety should include all physical assets of the utility, including data management and cybersecurity; that worker safety would encompass all items related to employees' safety and training; and that public safety would encompass all aspects of safety related to things not owned by the utility, including non-utility physical and virtual assets, and impacts on living beings. Cybersecurity concerns related to personal data would be considered under both asset safety and public safety. The CEC notes that the UCA specifically provides broad jurisdiction to the BCUC in section 84 and argues that there is nothing in the UCA to suggest that the issue of safety would be excluded from the BCUC's jurisdiction.²⁴

TSBC submits sections 23, 24, 25, 37, and 38 of the UCA are the sections relevant to the BCUC's safety jurisdiction.²⁵ TSBC considers safety oversight to be a shared responsibility amongst the regulated entities and regulators and that, among regulators, that shared responsibility is not hierarchical in nature.²⁶

Flintoff submits that section 26 of the UCA (Commission may set standards) is relevant to the BCUC's jurisdiction over public utility safety. In addition, Flintoff identifies section 1 (definitions); section 8 (technical consultants); section 42 (obey orders); and section 32 (provide information) as applying to the BCUC's regulation of safety.²⁷

RCIA submits that the categories of asset safety; worker safety; and public safety represent the extent of the BCUC's mandate with respect to public utility safety and indicates that consideration of the safety of energy supply and environmental safety are encompassed in these categories.^{28,29}

BC Hydro takes a narrower view with regard to the BCUC's jurisdiction over the regulation of public utility safety and argues that the BCUC's jurisdiction is not so broad as to capture any safety issue that may arise.³⁰ BC Hydro submits that the British Columbia Court of Appeal and the Supreme Court of Canada have both found that the jurisdiction of administrative tribunals, such as the BCUC, is limited to what is expressly stated in its enabling

²⁰ FortisBC Final Argument, pp. 1, 20.

²¹ Exhibit C11-2, p. 1.

²² BCOAPO Final Argument, pp. 6–7.

²³ Exhibit C11-2, p. 4.

²⁴ CEC Final Argument, pp. 7, 14–16; Exhibit C5-2, p. 1; Exhibit C7-2, p. 3.

²⁵ Borealis also agrees that these are the relevant sections of the UCA. Exhibit C2-2, p. 2.

²⁶ Exhibit C12-2, p. 2; Exhibit C12-3, p. 2.

²⁷ Exhibit C1-2, p. 3.

²⁸ RCIA Final Argument, p. 6.

²⁹ MoveUP consider that, in addition to the elements listed by RCIA, safety of customers is also an aspect of public safety that is properly of concern to the BCUC. Exhibit C5-4, p. 2.

³⁰ BC Hydro Final Argument, p. 5.

legislation or, in certain cases, by necessary implication.³¹ In particular, BC Hydro argues that, with respect to safety-related matters, the UCA grants the BCUC jurisdiction to:

- Make orders it considers necessary for “the safety ... of the public”;
- Make examinations and conduct inquiries necessary to keep itself informed about the conduct of public utility business, compliance by public utilities with the UCA or any other law, and any other matter in the BCUC’s jurisdiction;
- Make regulations requiring a public utility to conduct operations in a way that “does not unnecessarily interfere with, or cause unnecessary damage or inconvenience to, the public”;
- If the BCUC finds that the service of a public utility is unsafe, determine what is safe service and order the public utility to provide it;
- Appoint a supervisor or inspector to supervise or inspect the system, works, plant, equipment or service of a public utility with a view to establishing and carrying out measures for the safety of the public and of the users of the utility’s service; and
- Require public utilities to file reports about accidents that endanger the safety, health or property of any person.³²

BC Hydro takes the position that the UCA does not provide the BCUC with jurisdiction over worker safety. It argues that the words “the public” in sections 23(1)(g)(i) and 23(2) include members of the public who are affected by public utilities’ operations, but do not include public utilities’ workers and contractors.³³ BC Hydro argues that the safety of public utility workers in BC is regulated extensively and comprehensively under the *Workers Compensation Act* and its regulations.³⁴ BC Hydro notes that the UCA expressly provides that the powers granted to the BCUC under the UCA apply even if the subject matter about which these powers are exercised is the subject of another statute. However, BC Hydro is of the view that if a regulator has specific expertise over a safety matter and is regulating that area, then the BCUC should decline to exercise any jurisdiction it may have to the extent of the overlap and defer to the other regulator.³⁵

BC Hydro also argues that the BCUC does not have jurisdiction to regulate or set standards for the environment, because the UCA does not expressly provide the BCUC with such jurisdiction.³⁶

Finally, BC Hydro submits that the BCUC should respect the Legislature’s decision to provide exemptions from safety regulation by certain safety regulators and should not purport to fill in perceived regulatory gaps itself and, further, that the BCUC should decline to exercise its jurisdiction over safety to the extent it overlaps with the jurisdiction of another regulator with specific expertise.³⁷

³¹ BC Hydro Final Argument, p. 4.

³² BC Hydro Final Argument, pp. 5–6.

³³ BC Hydro Final Argument, pp. 6, 10.

³⁴ BC Hydro Final Argument, pp. 8, 10.

³⁵ BC Hydro Final Argument, p. 14.

³⁶ BC Hydro Final Argument, p. 10.

³⁷ BC Hydro Final Argument, p. 19.

4.2 Panel Discussion

For the reasons set out below, **the Panel finds that: (i) the BCUC has jurisdiction over all aspects of public utility safety; and (ii) what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators.**

We agree with BC Hydro that “the jurisdiction of the BCUC is limited to what is expressly stated in the UCA or, in certain cases, by necessary implication”. The UCA expressly sets out the jurisdiction of the BCUC with regard to safety in sections 23, 25 and 38. Together, these three sections establish the basis of the regulatory scheme for the BCUC’s oversight of the safety of public utilities:

- Section 23 provides that “the Commission has general supervision of all public utilities” and section 23 (1)(g)(i) specifically permits the BCUC “to make orders about the safety, convenience or service of the public”.
- Section 38 requires a public utility to “provide, and maintain its property and equipment in a condition to provide, a service to the public that the commission considers is in all respects adequate, safe, efficient, just and reasonable”.
- Section 25 requires the ~~commission~~BCUC, “after a hearing held on its own motion or on a complaint” and a finding that “the service of a public utility is unreasonable, unsafe, inadequate or unreasonably discriminatory”, to “determine what is reasonable, safe, adequate and fair service, and order the utility to provide it”.

Thus, from section 38, the BCUC must consider all aspects of the safety of a public utility. There is nothing in the UCA that prescribes or expressly constrains the scope of the BCUC’s safety jurisdiction with respect to public utilities. On the contrary, the UCA states that public utilities must provide a service to the public that “the commission considers is in all respects safe.” Contrary to BC Hydro’s position, the BCUC’s safety jurisdiction is not limited to a subset of a utility’s operations, nor to a set of categories such as worker or asset safety. As a consequence, we find that there are no gaps in the regulation of the safety of public utilities.

The UCA is not prescriptive about whether the BCUC must explicitly set out what it considers is necessary for a service to be safe nor how safety compliance is achieved. However, section 25 of the UCA is explicit when setting out the BCUC’s role in investigating potential non-compliance by a public utility. If, after a hearing, the BCUC determines that the service is unsafe, it is compelled by section 25 to make a determination of what is safe service and order the utility to provide it. Further, section 25 does not allow the BCUC to forbear, or be in any way selective about how it approaches safety. It must make orders to ensure public utility service is “in all respects” safe.

However, the BCUC’s determination of what it considers is safe is not made in a vacuum. As discussed in this report, there are many other safety regulators with jurisdiction over certain aspects of public utility safety and we acknowledge the jurisdiction and experience of other safety regulators in BC. Because the UCA is not prescriptive, we find that what the BCUC considers to be safe service should be informed by the statutory regime of and standards set by other regulators.

We further find that how the BCUC ensures ongoing compliance with safety standards and requirements, particularly those imposed by other agencies, may vary with specific circumstances.

We will further examine these issues, in section 6.0 ~~of this Draft~~, below.

5.0 Forbearance

5.1 Intervener Positions

FortisBC and BC Hydro submit that, at times, the BCUC ought to forbear on its safety mandate. FortisBC argues that given the permissive nature of the UCA provisions related to the BCUC's public utility safety jurisdiction, the UCA permits the BCUC to forbear from exercising its jurisdiction whenever the BCUC is satisfied that the public utility safety is adequately regulated by another legislative scheme.³⁸ Similarly, BC Hydro states that if a regulator has specific expertise over a safety matter and is regulating the area, then the BCUC should decline to exercise any jurisdiction it may have under the UCA to the extent of the overlap, and defer to the other regulator.³⁹

Conversely, BCOAPO submits that the BCUC cannot “wash its hands” of any aspect of its duty to make decisions based on a consideration of what is necessary for the utilities to provide safe, reliable, fair, and adequate service.⁴⁰

5.2 Panel Discussion

The Panel finds that the BCUC does not have the power to forbear its jurisdiction over public utility safety.

As discussed in the previous section, the UCA expressly provides that:

- Public utilities must provide service that the BCUC considers to be, in all aspects, safe; and
- The BCUC, after a hearing on its own motion or as a result of a complaint and determining that a public utility's service is unsafe, must order that utility to provide safe service.

The UCA contains no express provision for the BCUC to forbear from exercising its powers, and the BCUC may only exempt utilities from aspects of regulation with the advance approval of the minister responsible for the administration of the *Hydro and Power Authority Act* (Minister), pursuant to section 88 of the UCA.

However, the UCA is not prescriptive about what the BCUC should consider to be safe service or how it would determine what it considers to be safe service. Section 38 is not prescriptive on whether the BCUC needs to establish an explicit “safety standard or requirement” or whether that should be done on an as needed basis pursuant to section 25.

The UCA is also silent on how or whether the BCUC should ensure and monitor compliance with any specific safety standard that might apply to a public utility. Section 6.0 of this [Draft Final Stage 1 report](#) and Stage 2 of this Inquiry will address how the BCUC should consider the safety requirements for public utilities and how it should ensure ongoing compliance with those requirements.

³⁸ FortisBC Final Argument p. 11.

³⁹ BC Hydro Final Argument, pp. 14–15.

⁴⁰ FortisBC Final Argument, p. 11; BCOAPO Final Argument, pp. 6–7.

6.0 Guiding Principles for the BCUC's Regulation of the Safety of Public Utilities

Having considered the BCUC's jurisdiction of the regulation of the safety of public utilities, it is important to establish a set of key principles that will guide the BCUC in carrying out its regulation of public utility safety.

The Panel ~~proposes~~sets out the following principles, each of which is discussed in further detail below.

- Regulatory Overlaps – the BCUC should (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and (ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.
- Operational Gaps – the BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.
- Exemptions from the UCA – the BCUC should not recommend ~~exemptions~~an exemption for a public utility from its safety oversight ~~to government~~ without explicitly considering whether an exemption from safety regulation is in the public interest.
- Keeping Informed – the BCUC should take active steps to keep itself informed regarding the safety of public utilities.
- Safety Considerations when Adjudicating ~~Applications~~ – the BCUC should continue to consider relevant aspects of public utility safety in all its adjudications, including when determining whether an application is in the public interest and whether rates are just and reasonable. The Panel recommends that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information, relevant to safety, that may need to be filed.

6.1 Regulatory Overlaps

6.1.1 Intervener Positions

BC Hydro, FortisBC⁴¹, and PNG argue that there is adequate safety oversight of and reporting by public utilities in BC. These utilities submit that, while the BCUC has general oversight responsibility on safety, the BCUC should avoid entering areas already effectively managed by other regulatory schemes where regulators have specific expertise related to their jurisdiction. BC Hydro and FortisBC caution the BCUC against imposing additional reporting requirements in light of the fact that a number of parallel regulatory schemes exist with respect to safety for public utilities.⁴² PNG encourages the BCUC to “avoid duplication, additional costs and the creation of regulatory burden that may arise with additional reporting requirements...”⁴³

Likewise, BCOAPO, CEC and RCIA state that while it is appropriate for the BCUC to provide general oversight of public utility safety, it is important that the BCUC does not unduly burden the utilities with unnecessary duplication of reporting and costs.⁴⁴

⁴¹ FortisBC's submissions were made with respect to FortisBC only. Exhibit C4-9, p. 5.

⁴² FortisBC Final Argument, pp. 4, 7–8; BC Hydro Reply Argument, pp. 8–9.

⁴³ PNG Reply Argument, p. 5.

⁴⁴ BCOAPO Final Argument, p. 3; CEC Final Argument p. 23; RCIA Final Argument p. 2.

TSBC submits that a guiding principle for interpretation of safety references under the UCA should be “to avoid duplication of other existing legislative mandates related to safety that already exist.”⁴⁵ Further, TSBC suggests safety oversight is a shared responsibility and a collaborative approach amongst regulators and is not hierarchal in nature.⁴⁶

6.1.2 Panel Discussion

The current regulatory landscape with respect to safety of public utilities in BC is described in section 3.0, above, and includes numerous provincial and federal regulators with differing safety mandates. The Panel agrees with TSBC that safety oversight of public utilities is a shared responsibility amongst regulators. We also recognize that while the BCUC has general oversight responsibility for the safety of public utilities, where the BCUC considers that the oversight of other regulators is sufficient to ensure that public utility service is safe with respect to that oversight, it should avoid taking on the operational role of another regulator to avoid unnecessary duplication.

Two distinct cases of regulatory overlap to consider are:

1. There have been two examples cited where other regulators have exclusive statutory jurisdiction over certain public utility safety matters: ~~Worksafe BC~~ WorkSafeBC and the Comptroller of Water Rights. In the next phase we will further consider these areas of overlap.
2. When other regulators have non-exclusive but over-lapping jurisdiction over aspects of public utility safety, the BCUC should ensure that its safety oversight is harmonious with the jurisdiction of other regulators. We will further consider this in the next phase of the Inquiry.

In both of the above cases of overlap, the BCUC’s general supervisory responsibility over the safety of public utilities is not negated. At times, it may be necessary for the BCUC to assume a role in areas where another regulator has overlapping exclusive, or non-exclusive, jurisdiction over specific aspects of public utility safety. How the BCUC will address such instances will be explored in Stage 2 of the Inquiry.

In the AES Inquiry,⁴⁷ the BCUC discussed the need for economic regulation and concluded that the BCUC should “only regulate where required.”⁴⁸ Such an approach recognizes the costs and benefits of regulation and seeks to maintain an appropriate balance. This balance is particularly relevant in instances of regulatory overlaps and has been specifically explored in the context of public utility safety in the Inquiry into the Regulation of Electric Vehicle (EV) Charging Service (EV Inquiry). In the EV Inquiry, the BCUC concluded TSBC’s application of the Electrical Safety Regulation and physical inspection program for EV charging infrastructure was adequate such that duplication of the regulation of safety by the BCUC would be unwarranted and counterproductive.⁴⁹ In that instance, the BCUC relied on the expertise of another regulator to satisfy itself that safe service was being provided, while maintaining its supervisory role over public utility safety.

In finding the right balance of regulatory efficiency in its regulation of safety, **the BCUC should:**

- (i) refrain from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight; and**
- (ii) avoid duplication by collaborating with other regulators to leverage information, knowledge, and expertise when carrying out its safety-related mandate.**

⁴⁵ Exhibit C12-3, p. 1.

⁴⁶ Exhibit C12-3, p. 2.

⁴⁷ More fully, the BCUC Inquiry into the Offering of Products and services by FortisBC Energy Inc. Alternative Energy Solutions and Other New Initiatives.

⁴⁸ FortisBC Energy Inc. ~~(FEI)~~ Inquiry Into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives dated December 27, 2012, pp. 6–7.

⁴⁹ Inquiry into the Regulation of Electric Vehicle Charging Service Phase 2 (Phase 2) Report dated June 24, 2019, p. 50; TSBC, Phase 2, Letter of comment.

For clarity, in establishing the above principle, the Panel intends that the BCUC would calibrate the degree and nature of its safety regulation based on the level of risk and the actions of other regulators with overlapping jurisdiction. What constitutes adequate safety oversight and how the BCUC will calibrate its safety regulation will be examined in Stage 2 of the Inquiry.

Further, in case (i) above, where the BCUC refrains from actively regulating public utility safety in areas where it is satisfied that another regulatory body is providing adequate safety oversight, we recommend formal protocols with other regulators be put in place. These protocols should include:

- How complaints from the public should be handled;
- Sharing of information between the BCUC and other safety agencies regarding changes to safety standards; and
- Sharing of information between the BCUC and other safety agencies regarding ongoing safety issues and challenges.

A related issue is whether the BCUC should develop a formal safety framework that, pursuant to section 38, reflects what the BCUC considers to be a service that is in all respects safe – i.e., a “safety framework”. In the alternative, should the BCUC make determinations about what is safe service, pursuant to section 25, on an *ad hoc* basis? If the latter, should the BCUC develop a framework for making such determinations? The Panel invites submissions on this issue in Phase 2 of this Inquiry.

6.2 Operational Gaps

6.2.1 Intervener Positions

In its submissions, TSBC categorized regulatory gaps as either legislative in nature or as occurring in-practice. It further stated that both legislative and in-practice safety gaps can result in regulatory confusion and subsequent risks to people and property.⁵⁰

BC Hydro, FortisBC, and PNG state that, as of the date of their submissions, they have not identified any legislative gaps within their operations. All three utilities, however, submit that the potential for regulatory gaps exists.⁵¹

BC Hydro argued that although a gap may exist, a regulatory body may only “fill the gap” if “enabling legislation affords it to do so.” Furthermore, BC Hydro argued that in the case where an exemption is provided by legislation, although the UCA provides the BCUC with supervisory jurisdiction, its intention is not to fill the gap. And finally, in the case where a true regulatory gap is identified, BC Hydro argues that it is Legislature’s responsibility to fill such a gap.⁵²

FortisBC, PNG, CEC, BCOAPO, and RCIA acknowledged that the BCUC may have a role to play with respect to emerging gaps, and specifically gaps resulting from novel technologies. These interveners argued that section 23 of the UCA may have a role to play in affording the BCUC with supervisory jurisdiction over the safe operation of public utilities.⁵³ BCOAPO further argued that the BCUC should take steps to actively manage regulatory gaps in order to ensure the public interest is served, citing as an example, Borealis’ lack of clarity over technical

⁵⁰ Exhibit C12-2 p. 2.

⁵¹ BC Hydro Final Argument, p. 13, FortisBC Final Argument, p. 15, PNG Final Argument, p. 5.

⁵² BC Hydro Final Argument, pp. 13–14.

⁵³ FortisBC Final Argument, p. 15, PNG Final Argument, p. 5, CEC Final Argument, pp. 18–19, BCOAPO Final Argument pp. 10–11.

regulation concerning its operations.⁵⁴ Both FortisBC and BCOAPO also submit that creation of gaps resulting from exemption to the UCA should be avoided in order to preserve regulatory harmony.⁵⁵

6.2.2 Panel Discussion

Given the BCUC's jurisdiction with respect to public utility safety, the Panel considers that there are no legislative gaps in the regulation of public utility safety in BC. To the extent that a purported gap in public utility safety might emerge and no other regulator is empowered to regulate the area, the nature of the BCUC's jurisdiction is such that the BCUC may oversee public utility safety in that area.

Notwithstanding the lack of legislative gaps, there is the potential for operational gaps to emerge in the regulation of public utility safety. For example, gaps in the operation of safety regulation may occur as a result of the emergence of novel technologies or the use of existing technologies in novel ways. New and emerging technologies, some of which public utilities may wish to use in order to provide utility services in a more efficient and effective manner, may not have been contemplated when specialized safety-related legislation, regulations, or standards were established. When such operational gaps arise, the BCUC may use its general supervisory power to gain assurance of safe operation. For instance, where, in the BCUC's judgement, a public utility is operating a novel technology in an unsafe manner the BCUC, pursuant to section 25 of the UCA, may issue an order for improved service. Furthermore, pursuant to section 26 and 37 of the UCA, the BCUC may set standards to be used by a public utility and appoint inspectors and supervisors.

The BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled. The BCUC has a responsibility to ensure the safety of public utilities where it deems operational gaps in public utility safety regulation have emerged. This may necessitate performance of a safety compliance function or other role by the BCUC. ~~The BCUC should ensure that any operational gaps that emerge in the regulation of public utility safety are filled.~~

6.3 Exemptions from the UCA

6.3.1 Panel Discussion

Pursuant to section 88(3) of the UCA, the BCUC may, with advance approval from the Minister, exempt public utilities from all or part of the UCA. For example, exemptions from the UCA are sometimes granted on the basis that economic regulation is not necessary in a competitive market. The existence of competition alone, however, may not be sufficient to ensure the safety of public utilities operating in that market.

Exemptions previously granted by the BCUC may have unintentionally limited the BCUC's powers to implement its jurisdiction over public utility safety, for example by exempting public utilities from sections 23, 24, 25, or 38.

Given the importance of public utility safety and the BCUC's express powers to oversee this area, **the BCUC should not recommend exemptionsan exemption for a public utility from its safety oversight to government without explicitly considering whether an exemption from safety regulation is in the public interest.**

The BC government may also grant public utilities exemptions from the UCA through ministerial order, pursuant to section 22 of the Act. For example, Ministerial Order No. M-22-0205 dated June 6, 2002 exempts persons who are not otherwise a public utility, and their equipment, facilities, plant, projects or systems, from Part 3 of the UCA with respect to the production and sale of electricity to BC Hydro or Powerex.⁵⁶ The BCUC considers it advisable that, when contemplating such exemptions, the BC government recognizes the potential for the

⁵⁴ BCOAPO Final Argument pp. 11.

⁵⁵ FortisBC Final Argument, p. 16, BCOAPO Final Argument p. 11.

⁵⁶ Minister's Order No. M-22-0205 dated June 6, 2002.

creation of gaps in the regulation of the safety of public utilities. The BCUC recommends that exemptions to the safety-related clauses of the UCA not be granted by the BC government unless satisfactory safety oversight is present. Consultation with the BCUC may assist in informing the government's decision regarding prospective public utility exemptions from the UCA.

6.4 Keeping Informed

6.4.1 Intervener Positions

As discussed above, the BCUC has an obligation under section 24 of the UCA to keep itself informed about matters within its jurisdiction. At present, the BCUC receives safety related information from public utilities primarily through regulatory filings, such as revenue requirement applications (RRAs), annual reports, and through ad hoc reporting. For example, BC Hydro notes that it provides information on its safety performance to the BCUC through its RRAs, which includes tracking and reporting on performance metrics related to safety and through ad hoc reporting.⁵⁷ Similarly, FortisBC states that it provides reporting on its safety performance in its annual reviews under the Multi-Year Rate Plan and provides ad hoc reporting to the BCUC including notification of significant incidents, and PNG notes it provides safety related information in its annual reports to the BCUC and in its RRAs, and has provided other safety related information such as its Integrity Management Plan and its Emergency Response plans through ad hoc reporting.⁵⁸

FortisBC submits that the requirement that the BCUC keep itself informed of matters related to safety is grounded in section 24 of the UCA, as well as the BCUC's general supervisory jurisdiction with respect to public utilities contained elsewhere in the statute, particularly sections 23, 25, and 38. FortisBC submits that the legislation does not set minimum standards for type, amount, or currency of information required for the BCUC to "keep itself informed" and that the BCUC may determine the reporting requirements it views as sufficient to satisfy its supervisory jurisdiction.⁵⁹

FortisBC argues that there currently exists sufficient regulation with respect to safety, through both regulatory schemes (other than the UCA) and non-legislated standards, such as CSA Standards and professional standards. FortisBC submits that this should lead the BCUC to conclude that additional reporting from FortisBC is not required and likewise may not be required from some other public utilities.⁶⁰

Similarly, PNG submits that the minimum requirements the BCUC must have in place to ensure the BCUC is informed of matters relating to public utility safety should take into consideration the information being provided by the utilities to other regulatory agencies with jurisdiction over safety-related matters.⁶¹

BC Hydro, FortisBC, and PNG all submit that the UCA's requirement that the BCUC keep itself informed will be context-specific and will depend upon the specific public utility in question.⁶² BC Hydro, FortisBC, and PNG also consider the current levels of safety related reporting to be adequate for the BCUC to keep itself informed.⁶³ BC Hydro adds that if certain circumstances require further information, the BCUC has tools under the UCA that it can use to help keep itself informed as required, such as the jurisdiction to conduct inquiries, to hear complaints, obtain reports, and to appoint supervisors or inspectors.⁶⁴ Further, BC Hydro submits that the way in which the BCUC should use those tools depends on the circumstances.⁶⁵

⁵⁷ Exhibit C13-6, p. 14.

⁵⁸ Exhibit C4-5, pp. 2, 5; Exhibit C9-4, p. 1.

⁵⁹ FortisBC Final Argument, p. 7.

⁶⁰ FortisBC Final Argument, p. 5.

⁶¹ PNG Final Argument, p. 2.

⁶² BC Hydro Final Argument, p. 9; FortisBC Final Argument, pp. 4–5; PNG Final Argument, p. 2.

⁶³ BC Hydro Final Argument, pp. 7–8; FortisBC Final Argument, p. 6.

⁶⁴ BC Hydro sites the UCA, sections 43, 25, 26, 83, 49c, and 37, respectively.

⁶⁵ BC Hydro Final Argument, pp. 8–9.

The CEC submits that the requirement for the BCUC to keep itself informed with respect to the conduct of public utility business and public utility compliance with regulations and other laws is a substantial responsibility and comprises a broad obligation to ensure that public utilities are operating safely in the public sphere and internally within the company.⁶⁶ Similarly, BCOAPO submits that it is important for the BCUC to take an active role in the regulation of safety and not become a passive player by over-relying on utilities to manage their own safety practices without meaningful oversight.⁶⁷

Some interveners provide specifics about how the BCUC should keep itself informed, such as establishing guidelines and reporting models, engaging with other safety-related regulatory bodies, and establishing a specific BCUC staff member to keep abreast of ongoing reporting, etc.⁶⁸

6.4.2 Panel Discussion

The Panel considers that a guiding principle for the BCUC's regulation of the safety of public utilities is that the **BCUC should take active steps to keep itself informed regarding the safety of public utilities.**

Section 24 of the UCA clearly provides that the BCUC must keep itself informed of matters within its jurisdiction and keeping informed about safety is an essential component of this process. In this context, safety includes both the development and application of relevant safety standards and requirements and also the state of compliance of public utilities with the regulations of other safety bodies.

Active steps that the BCUC may take may include the establishment of safety guidelines and reporting models and/or the other items suggested by interveners in Stage 1 of the Inquiry; however, the specifics of how the BCUC will take active steps to keep itself informed are best addressed in Stage 2 of the Inquiry with further input from interveners.

6.5 Safety Considerations when Adjudicating ~~Applications~~

6.5.1 Intervener Positions

Pursuant to the UCA, public utilities come before or interact with the BCUC for several reasons, including expenditure schedule applications (section 44.2), RRAs (sections 59 to 61), long-term resource and conservation planning applications (section 44.1), and CPCN applications (section 45 and 46). At present, however, there are no express requirements for addressing safety in regulatory processes, except for BCUC's 2015 CPCN Guidelines, which provide that a utility should include safety and reliability considerations in its project description when an application is submitted under sections 45 and 46 of the UCA.⁶⁹

Generally, interveners provided submissions on whether minimizing worker, asset, and/or public safety risks should be a criterion in the BCUC's determination of the public interest; whether the reasonableness and appropriateness of a public utility's safety-related expenditures should be a criterion in the BCUC's determination of whether a public utility's rates are just and reasonable; and whether safety should be considered in any other matters adjudicated by the BCUC.

With regard to the BCUC's determination of the public interest, interveners generally agree that the BCUC has the jurisdiction to consider safety risks in determining the public interest as summarized below.

⁶⁶ CEC Final Argument, p. 3.

⁶⁷ BCOAPO Final Argument, p. 6.

⁶⁸ CEC Final Argument, pp. 3–4, 6; BCOAPO Final Argument, p. 2; Exhibit C1-4, p. 4.

⁶⁹ BCUC's 2015 CPCN Guidelines, Section 4(i).

BC Hydro submits that the BCUC has the jurisdiction, where applicable, to consider safety risks in determining the public interest and it has already done so in certain cases.⁷⁰ BC Hydro submits that the BCUC may consider numerous factors when determining the public interest, including the need for a project, projects costs, alternatives for a project, various stakeholder interests, as well as safety and that the BCUC should consider these factors holistically in order to strike a balance of what are often competing interests. BC Hydro adds that sometimes safety will play a larger role in the determination of the public interest and sometimes it will play a smaller one.⁷¹

FortisBC submits that the consideration of asset, worker, and public safety currently forms a part of the public interest determination with respect to rate setting and project approvals before the BCUC.⁷²

The CEC submits the BCUC is obligated to consider safety as part of the public interest test, which would include minimizing environmental risks as an important aspect of the public interest.⁷³ Similarly, BCOAPO states that the minimization of worker, asset and/or public safety risks should be a criterion in the BCUC's determination of the public interest, as should the minimization of environmental safety risks and any other safety-related issues that the BCUC may find fall within the scope of the public interest in the future.⁷⁴

Interveners also generally agreed that the BCUC has the jurisdiction to consider the reasonableness and appropriateness of safety-related expenditures in its determination of whether a public utility's rates are just and reasonable as summarized below.

BC Hydro submits that the BCUC has the jurisdiction to consider the reasonableness and appropriateness of costs to implement safety programs and to meet regulatory requirements in determining whether a public utility's rates are just and reasonable.⁷⁵

FortisBC submits that it is within the BCUC's jurisdiction to determine what is adequate funding for a public utility to provide service to the public that is, in all respects adequate, safe, efficient, just and reasonable.⁷⁶

The CEC submits that the BCUC has a broad responsibility in its rate setting to incorporate public interest issues into its determination, and safety would naturally be a set of concerns to be incorporated with high priority.⁷⁷ Similarly, BCOAPO submits that the BCUC is clearly obligated under the UCA to ensure that utility safety related measures and expenditures proposed or undertaken are not only sufficient but prudent, just, reasonable, and cost-effective.⁷⁸ Flintoff agrees that the reasonableness and appropriateness of a public utility's safety-related expenditures should be a criterion in the BCUC's determination of whether a public utility's rates are just and reasonable.⁷⁹

Generally, all interveners submit that safety does not need to be considered in other matters adjudicated by the BCUC at this time.⁸⁰

⁷⁰ BC Hydro Final Argument, p. 12. BC Hydro cited as examples the proceedings identified by the BCUC at pages 3 and 4 of Appendix B to Order G-241-20, which established this Inquiry (Exhibit A-1).

⁷¹ BC Hydro Final Argument, p. 12.

⁷² FortisBC Final Argument, p. 13.

⁷³ CEC Final Argument, p. 17.

⁷⁴ BCOAPO Final Argument, p. 9.

⁷⁵ BC Hydro Final Argument, p. 12.

⁷⁶ FortisBC Final Argument, p. 13.

⁷⁷ CEC Final Argument, p. 17.

⁷⁸ BCOAPO Final Argument, p. 10.

⁷⁹ Exhibit C1-4, p. 10.

⁸⁰ BC Hydro Final Argument, p. 13; FortisBC Final Argument, p. 14; CEC Final Argument, p. 18; BCOAPO Final Argument, p. 10.

MoveUp expressed a slightly different view than those listed above and submits that if safety-related information is reported annually, then there is no specific need for additional safety considerations in expenditure schedule applications, RRAs, LTRP applications, or CPCN applications. Further, MoveUp submits that it always remains open to the applicant, the BCUC, or an intervener to raise safety issues where these are pertinent but, in MoveUP's view, it is unnecessary to build these into these proceedings in all circumstances.⁸¹

6.5.2 Panel Discussion

As discussed above, public utilities make applications to the BCUC for a myriad of reasons. In reaching a decision on these applications, the BCUC must consider all relevant matters. **The BCUC should continue to consider relevant aspects of public utility safety in its adjudications, including when determining whether an application is in the public interest or whether rates are just and reasonable.**

The Panel recommends that the BCUC review its filing guidelines to ensure they contain specific guidance regarding information, relevant to safety, that may need to be filed.

7.0 Stage 2 of the Inquiry

Following ~~intervener submission on the Draft~~ and finalization of the Stage 1 report, the BCUC will initiate Stage 2 of the Inquiry. Stage 2 will explore the application of the principles guiding the BCUC's regulation of public utilities and will set out actions for the BCUC to undertake in implementing its safety mandate.

The BCUC recognizes that, at times, interveners in Stage 1 of the Inquiry have provided submissions addressing how the BCUC ought to action its safety responsibilities. The BCUC appreciates these submissions and believes they will provide a helpful starting point for Stage 2.

⁸¹ Exhibit C5-4, p. 2.

List of Acronyms

Acronym	Description
BC	British Columbia
BC Hydro	British Columbia Hydro and Power Authority
BCOAPO	British Columbia Old Age Pensioners' Organization et al.
BCUC	British Columbia Utilities Commission
Borealis	Borealis Geopower Inc.
CEC	Commercial Energy Consumers Association of British Columbia
Draft Report	Draft report with preliminary findings in Stage 1 of the Inquiry
EGBC	Engineers and Geoscientists B.C.
Flintoff	Don Flintoff
FortisBC	FortisBC Energy Inc. and FortisBC Inc., collectively
Inquiry	Inquiry to examine the role of the BCUC in the regulation of safety
MoveUP	Movement of United Professionals
PACA	Participant Assistance/Cost Award
PGA	<i>Professional Governance Act</i>
PNG	Pacific Northern Gas Ltd.
RCIA	Residential Consumer Intervener Group
Stage 1	First stage of the Inquiry
Stage 2	Second stage of the Inquiry
TSBC	Technical Safety BC
UCA	<i>Utilities Commission Act</i>

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

and

British Columbia Utilities Commission
Inquiry into the Regulation of Safety

EXHIBIT LIST

Exhibit No.	Description
<i>COMMISSION DOCUMENTS</i>	
A-1	Letter dated September 23, 2020 – BCUC Order G-241-20 establishing the inquiry and regulatory timetable
A-2	Letter dated October 1, 2020 – BCUC Letter establishing the panel for review of the Inquiry into the Regulation of Safety
A-3	Letter dated December 17, 2020 – BCUC requesting submissions on scope of Inquiry concerning the Insurance Corporation of British Columbia
A-4	Letter dated December 18, 2020 – BCUC Order G-342-20 issuing a further regulatory timetable and establishing a procedural conference
A-5	Letter dated January 14, 2021 – BCUC Order G-15-21 excluding ICBC from the Inquiry
A-6	Letter dated January 29, 2021 – BCUC Order G-34-21 establishing a further regulatory timetable
A-7	Letter dated March 25, 2021 – BCUC issuing proposed sub issues for Stage 1 of the Inquiry
A-8	Letter dated July 8, 2021 – BCUC Order G-209-21 confirming the regulatory timetable with Final Stage 1 Sub Issues
A-9	Letter dated October 7, 2021 – BCUC Information Request No. 1 to BC Hydro
A-10	Letter dated October 7, 2021 – BCUC Information Request No. 1 to FortisBC
A-11	Letter dated October 7, 2021 – BCUC Information Request No. 1 to Borealis GeoPower Inc.
A-12	Letter dated October 7, 2021 – BCUC Information Request No. 1 to Pacific Northern Gas Ltd.
A-13	Letter dated October 7, 2021 – BCUC Information Request No. 1 to Technical Safety BC
A-14	Letter dated October 14, 2021 – BCUC Order G-296-21 amending the regulatory timetable
A-15	Letter dated November 3, 2021 – BCUC response regarding BGP extension request
A-16	Letter dated December 3, 2021 – BCUC Order G-356-21 amending the regulatory timetable

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Exhibit No.	Description
A-17	Letter dated January 6, 2022 – BCUC Response to BCOAPO extension request to file Final Argument
A-18	Letter dated August 12, 2022 – BCUC submitting the Draft Report for the Inquiry
A-19	Letter dated August 12, 2022– BCUC Order G-221-22 amending the regulatory timetable

COMMISSION STAFF DOCUMENTS

A2-1	Letter dated January 26, 2021 – BCUC Staff submitting proposed regulatory timetable dates for Stage 1 of Inquiry for discussion at Procedural Conference
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APPLICANT DOCUMENTS

B-1

INTERVENER DOCUMENTS

C1-1	FLINTOFF, DON (FLINTOFF) - Letter dated September 25 Request to Intervene
C1-2	Letter dated November 12, 2020 – Flintoff submitting written submissions
C1-3	Letter dated December 28, 2020 – Flintoff submitting written submission on scope regarding ICBC
C1-4	Letter dated April 29, 2021 – Flintoff submitting response on proposed sub issues for Stage 1 of the Inquiry
C1-5	Letter dated June 3, 2021 – Flintoff submitting additional response on proposed sub issues for Stage 1 of the Inquiry
C1-6	Letter dated October 21, 2021 - Flintoff submitting Information Request No. 1 to FBC
C1-7	Letter dated October 21, 2021 - Flintoff submitting Information Request No. 1 to BC Hydro
C1-8	Letter dated October 21, 2021 - Flintoff submitting Information Request No. 1 to TSBC

EXHIBIT LIST

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Exhibit No.	Description
C1-9	Letter dated October 3, 2022 – Flintoff submission on Draft Stage 1 Report of the Inquiry
C2-1	BOREALIS GEOPower INC. (BGP) - Letter dated October 5, 2020 Request to Intervene by Alison Thompson
C2-2	Letter dated November 12, 2020 – BGP submitting written submissions
C2-3	Letter dated April 16, 2021 – BGP submitting response to Exhibit E-5
C2-4	Letter dated April 19, 2021 – BGP submitting response on proposed sub issues for Stage 1 of the Inquiry
C2-5	Letter dated June 3, 2021 – BGP submitting response on proposed sub issues for Stage 1 of the Inquiry
C2-6	Letter dated September 16, 2021 – BGP submitting Intervener Evidence addressing Stage 1
C2-7	Letter dated October 28, 2021 – BGP submitting extension request to file Information Request responses
C2-8	Letter dated November 26, 2021 – BGP submitting response to BCUC Information Request No. 1
C2-9	Letter dated November 26, 2021 – BGP submitting response to CEC Information Request No. 1
C2-10	Letter dated September 9, 2022 – BGP submission on Draft Stage 1 Report of the Inquiry
C3-1	CHARGEPOINT BC (CHARGEPOINT) - Letter dated October 13, 2020 Request to Intervene by Anne Smart
C3-2	Letter dated November 12, 2020 – ChargePoint submitting written submission
C3-3	Letter dated April 29, 2021 – ChargePoint submitting response on proposed sub issues for Stage 1 of the Inquiry
C4-1	FORTISBC ENERGY INC AND FORTISBC INC. (FORTISBC) - Letter dated October 13, 2020 Request to Intervene by Diane Roy
C4-2	Letter dated November 12, 2020 – FortisBC submitting written submissions
C4-3	Letter dated April 29, 2021 – FortisBC submitting response on proposed sub issues for Stage 1 of the Inquiry
C4-4	Letter dated June 3, 2021 – FortisBC submitting response on proposed sub issues for Stage 1 of the Inquiry

EXHIBIT LIST

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Exhibit No.	Description
C4-5	Letter dated September 16, 2021 – FortisBC submitting Intervener Evidence addressing Stage 1
C4-6	Letter dated November 17, 2021 – FortisBC submitting response to BCUC Information Request No. 1
C4-7	Letter dated November 17, 2021 – FortisBC submitting response to CEC Information Request No. 1
C4-8	Letter dated November 17, 2021 – FortisBC submitting response to Flintoff Information Request No. 1
C4-9	Letter dated October 3, 2022 – FortisBC submission on Draft Stage 1 Report of the Inquiry
C4-10	Letter dated October 18, 2022 – FortisBC reply submission on Draft Stage 1 Report of the Inquiry
C5-1	MOVEUP (MOVEUP) - Letter dated October 13, 2020 Request to Intervene by Susanna Quail, Allevato Quail & Roy
C5-2	Letter dated November 12, 2020 – MoveUP submitting written submissions
C5-3	Letter dated January 6, 2021 – MoveUP submitting written submissions on scope regarding ICBC
C5-4	Letter dated April 27, 2021 – MoveUP submitting response on proposed sub issues for Stage 1 of the Inquiry
C6-1	TE BURNS ENGINEERING LTD. (TE-BURNS) – Letter dated October 13, 2020 Request to Intervene on behalf of Ka:yu:'k't'h' / Che:k'tles7et'h' First Nations by Tom Burns
C7-1	COMMERCIAL ENERGY CONSUMERS ASSOCIATION OF BC (CEC) - Letter dated October 14, 2020 Request to Intervene by David Craig and Janet Rhodes
C7-2	Letter dated November 12, 2020 – CEC submitting written submissions and comments
C7-3	Letter dated April 29, 2021 – CEC submitting response on proposed sub issues for Stage 1 of the Inquiry
C7-4	Letter dated October 8, 2021 - CEC submitting extension request to file Information Requests on Intervener Evidence
C7-5	Letter dated October 21, 2021 - CEC submitting Information Request No. 1 to FBC
C7-6	Letter dated October 21, 2021 - CEC submitting Information Request No. 1 to BC Hydro

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Exhibit No.	Description
C7-7	Letter dated October 21, 2021 - CEC submitting Information Request No. 1 to PNG
C7-8	Letter dated October 21, 2021 - CEC submitting Information Request No. 1 to Borealis Geo
C7-9	Letter dated October 3, 2022 – CEC submission on Draft Stage 1 Report of the Inquiry
C7-10	Letter dated October 18, 2022 – CEC reply submission on Draft Stage 1 Report of the Inquiry
C8-1	CORIX MULTI-UTILITY SERVICES INC. (CORIX) - Letter dated October 14, 2020 Request to Intervene by Errol South
C8-2	Letter dated November 12, 2020 – Corix submitting written submission
C9-1	PACIFIC NORTHERN GAS LTD. (PNG) - Letter dated October 14, 2020 Request to Intervene by Verlon Otto
C9-2	Letter dated November 12, 2020 – PNG submitting written submissions
C9-3	Letter dated April 29, 2021 – PNG submitting response on proposed sub issues for Stage 1 of the Inquiry
C9-4	Letter dated September 16, 2021 – PNG submitting Intervener Evidence addressing Stage 1
C9-5	Letter dated November 17, 2021 – PNG submitting response to BCUC Information Request No. 1
C9-6	Letter dated November 17, 2021 – PNG submitting response to CEC Information Request No. 1
C10-1	KYUQUOT POWER LTD. (KPL) - Letter dated October 8, 2020 Request to Intervene by David Austin, Stirling LLP
C11-1	BC OLD AGE PENSIONERS' ORGANIZATION, ACTIVE SUPPORT AGAINST POVERTY, COUNCIL OF SENIOR CITIZENS' ORGANIZATIONS OF BC, DISABILITY ALLIANCE BC, TENANTS RESOURCE AND ADVISORY CENTRE, AND TOGETHER AGAINST POVERTY SOCIETY, KNOWN COLLECTIVELY IN REGULATORY PROCESSES AS "BCOAPO ET AL." (BCOAPO ET AL) - Letter dated October 9, 2020 - Request for Intervener Status by Leigha Worth and Irina Mis
C11-2	Letter dated November 12, 2020 – BCOAPO submitting written submissions
C11-3	Letter dated January 6, 2021 – BCOAPO submitting written submission on scope regarding ICBC
C11-4	Letter dated April 29, 2021 – BCOAPO submitting response on proposed sub issues for Stage 1 of the Inquiry

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Exhibit No.	Description
C11-5	CONFIDENTIAL - Letter dated January 4, 2022 – BCOAPO submitting a confidential extension request to file Final Argument
C11-5-1	Letter dated January 4, 2022 – BCOAPO submitting a public extension request to file Final Argument
C11-6	Letter dated October 3, 2022 – BCOAPO submission on Draft Stage 1 Report of the Inquiry
C12-1	TECHNICAL SAFETY BC (TSBC) – Letter dated October 14, 2020 Request to Intervene by Clint Abbott
C12-2	Letter dated November 12, 2020 – TSBC submitting written submission
C12-3	Letter dated August 30, 2021 – TSBC submitting response regarding Final Stage 1 Sub Issues
C12-4	Letter dated November 9, 2021 – TSBC submitting response to BCUC Information Request No. 1
C12-5	Letter dated December 1, 2021 – TSBC submitting response to Flintoff Information Request No. 1
C12-6	Letter dated January 12, 2022 - TSBC will not be submitting Final Argument
C13-1	BRITISH COLUMBIA HYDRO AND POWER AUTHORITY (BC HYDRO) – Letter dated September 25, 2020 Request to Intervene by Fred James
C13-2	Letter dated November 12, 2020 – BC Hydro submitting written submission
C13-3	Letter dated December 23, 2020 – BC Hydro submitting written submission on scope regarding ICBC
C13-4	Letter dated April 29, 2021 – BC Hydro submitting response on proposed sub issues for Stage 1 of the Inquiry
C13-5	Letter dated June 3, 2021 – BC Hydro submitting response on proposed sub issues for Stage 1 of the Inquiry
C13-6	Letter dated September 16, 2021 – BC Hydro submitting Intervener Evidence addressing Stage 1
C13-7	Letter dated November 17, 2021 – BC Hydro submitting response to BCUC Information Request No. 1
C13-8	Letter dated October 3, 2022 – BC Hydro submission on Draft Stage 1 Report of the Inquiry

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Exhibit No.	Description
C14-1	SURPLUS ENERGY MATCH (SURPLUSENERGYMATCH) - Letter dated October 15, 2020 Request to Intervene by Paul Willis
C14-2	Letter dated November 12, 2020 – SurplusEnergyMatch submitting written submissions
C15-1	IRRIGATION RATEPAYERS GROUP (IRG) – Letter dated October 15, 2020 Request to Intervene by Fred Weisberg, Weisberg Law Corporation
C16-1	NET METERING RATEPAYERS GROUP (NMRG) AND BRITISH COLUMBIA COMMUNITY SOLAR COALITION (BCCSC) - Letter dated October 15, 2020 Request to Intervene by Fred Weisberg, Weisberg Law Corporation
C17-1	VANCOUVER ELECTRIC VEHICLE ASSOCIATION (VEVA) - Letter dated October 15, 2020 Request to Intervene by Fred Weisberg, Weisberg Law Corporation
C18-1	ZONE 1B RATEPAYERS GROUP (Z1BRG) - Letter dated October 15, 2020 Request to Intervene by Fred Weisberg, Weisberg Law Corporation
C19-1	RIVER DISTRICT ENERGY (RDE) - Letter dated October 21, 2020 Request to Intervene by Rajaa Badaoui
C19-2	Letter dated October 19, 2020 - RDE previously submitted letter of comment
C20-1	BCCSC-IRG-NMRG-VEVA-Z1BRG (collectively IRSREGC) - Letter dated November 12, 2020 – IRSREGC submitting written submissions
C21-1	RESIDENTIAL CONSUMER INTERVENOR GROUP (RCIG) - Letter dated January 25, 2021 – Request to Intervene by Sam Mason
C21-2	Letter dated October 21, 2021 - RCIA will not be submitting Information Requests
C21-3	Letter dated October 3, 2022 – RCIA submission on Draft Stage 1 Report of the Inquiry

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Exhibit No.	Description
<i>INTERESTED PARTY DOCUMENTS</i>	
D-1	UPDATE _ MINISTRY OF ENERGY MINES AND PETROLEUM RESOURCES (MEMPR) - NAME UPDATED JANUARY 21, 2021 TO MINISTRY OF ENERGY MINES AND LOW CARBON INNOVATION (MEMLCI) – Request for Interested Party Status dated October 13, 2020 by Duane Chapman
D-2	UPDATE _ MINISTRY OF ENERGY MINES AND PETROLEUM RESOURCES (MEMPR) - NAME UPDATED JANUARY 21, 2021 TO MINISTRY OF ENERGY MINES AND LOW CARBON INNOVATION (MEMLCI) – Request for Interested Party Status dated October 13, 2020 by Jennifer Davison
D-3	NAME UPDATE - MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING (MMAH) – Request for Interested Party Status dated October 13, 2020 by Andrew Pape-Salmon
D-3-1	Letter dated November 12, 2020 – MMAH submitting a Letter of Comment
D-3-2	UPDATE _ MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING (MMAH) – NAME UPDATED JANUARY 14, 2021 TO MINISTRY OF ATTORNEY GENERAL AND MINISTER RESPONSIBLE FOR HOUSING (MAG-MRH) – Request for Interested Party Status dated October 13, 2020 by Andrew Pape-Salmon
D-3-3	Letter dated November 24, 2020 – MAG-MRH submitting participant update
D-4	ADDENERGIE TECHNOLOGIES INC. (ADDENERGIE) - Request for Interested Party Status dated October 13, 2020 by Elizabeth France
D-5	SPARKS, ROBERT (SPARKS) - Request for Interested Party Status dated October 13, 2020
D-6	OIL AND GAS COMMISSION (OGC) - Request for Interested Party Status dated October 21, 2020 by Lauren Krakau
D-7	TOTH, SHELLY (TOTH) - Request for Interested Party Status dated December 22, 2020
D-8	BC ONE CALL LIMITED (BC-ONE) - Request for Interested Party Status dated January 6, 2021 by Chris Hyland
D-8-1	Letter dated January 7, 2021 – BC One Call submitting a Letter of Comment
D-9	MINISTRY OF ENERGY MINES AND LOW CARBON INNOVATION (MEMLCI) – Request for Interested Party Status dated January 20, 2021 by Scott Cutler
D-10	GRASSLE, SAMANTHA (GRASSLE) - Request for Interested Party Status dated January 29, 2021

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Exhibit No.	Description
<i>LETTERS OF COMMENT</i>	
E-1	Updated to Exhibit C19-2
E-2	Armstrong, C. – Letter of Comment dated November 12, 2020
E-3	Insurance Corporation of British Columbia (ICBC) - Letter of Comment dated November 17, 2020
E-3-1	ICBC – Additional Letter of Comment dated January 13, 2021
E-4	Towards Responsible Educated Attentive Driving (TREAD) - Letter of Comment dated January 8, 2021
E-5	Christensen, J. – Letter of Comment dated February 11, 2021
E-6	BC Oil and Gas Commission (OGC) – Letter of Comment dated February 11, 2022