

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, BC V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-143-13

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**A Proposed Regulatory Framework including an Exemption
for certain Thermal Energy Service Utilities**

BEFORE: D.M. Morton, Commissioner
L.A. O'Hara, Commissioner
R.D. Revel, Commissioner
September 13, 2013

O R D E R

WHEREAS:

- A. On August 28, 2013, the British Columbia Utilities Commission (Commission) issued Order G-132-13 establishing a written public hearing and preliminary Regulatory Timetable for review of a Proposed Regulatory Framework including an Exemption for certain Thermal Energy Service (TES) Utilities. Participants were asked to register and provide comments on the following two suggested review process options by Friday, September 6, 2013:
- a. Split the review process into two parts; one part dealing with the section 88(3) exemption from regulation order(s) for certain TES Utilities and a second part dealing with the Stream A and Stream B portions of the Framework, with two rounds of Intervener submission on each; or
 - b. Proceed with a single review process of the complete TES Regulatory Framework with two rounds of Intervener submissions;
- B. By September 6, 2013, the Commission received Intervener registrations along with submissions on the Commission review process, which included comments on whether or not the review process should be split into two parts and if so, which of the two parts should proceed first;
- C. The Panel has considered the submissions from Interveners.

NOW THEREFORE the Commission requests that by October 11, 2013, Interveners provide submissions on the following:

- a. Who (what types of TES Utilities or Customers) should or should not be exempt and the implications of exempting/not exempting them;
- b. Impact of any exemption on BC's Energy Objectives (as set out in BC's *Clean Energy Act*);
- c. Recommendations, if any, for changes to the proposed framework;

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- d. Any recommended alternative approach to the regulation of TES; and
- e. Any evidence that may be required to support their proposals and recommendations.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of September, 2013.

BY ORDER

Original Signed By:

D.M. Morton
Commissioner

Attachment

A Proposed Regulatory Framework including an Exemption
for certain Thermal Energy Service Utilities

REASONS FOR DECISION

1.0 INTRODUCTION

Order G-132-13, issued August 28, 2013, established a written public hearing and preliminary Regulatory Timetable for review of the Proposed Regulatory Framework and Guide for Thermal Energy Service (TES) Utilities, including an Exemption for certain TES Utilities. Interveners were directed to register and provide comments on the following two suggested review process options by Friday, September 6, 2013:

- a. Split the review process into two parts; one part dealing with the section 88(3) exemption from regulation order(s) for certain TES Utilities and a second part dealing with the Stream A and Stream B portions of the Framework, with two rounds of Intervener submission on each; or
- b. Proceed with a single review process of the complete TES Regulatory Framework with two rounds of Intervener submissions;

The Commission received submissions from the following Interveners by the September 6 deadline:

1. Ameresco Canada Inc. (Ameresco)
2. BC Pensioners' and Seniors' Organization in cooperation with others (BCPSO et al)
3. BC Sustainable Energy Association and the Sierra Club of British Columbia (BCSEA)
4. City of New Westminster (NewWest)
5. Corix Utilities Inc. (Corix)
6. FortisBC Alternative energy Service Inc. (FAES)
7. River District Energy (RDE)

1.1 Splitting the Process

NewWest did not provide comments on the review process. Of the remaining six, all but one (RDE) supported splitting the review process into two parts. BCPSO stated that it agreed with FAES "that the issues and evidence required to review the exemption from regulation versus light handed regulation are sufficiently distinct to warrant a two-part process." (Exhibit C5-1, p. 2) FAES further stated that a two-part review would be more expedient and efficient. (Exhibit C2-1, p.1)

1.2 Sequence of Review

Two Interveners supporting a two part review took no position on the sequencing of the two parts (BCPSO and Corix). FAES recommends that the Stream A and Stream B review process be initiated first. BCSEA supports this approach stating that the submissions about the exemption could be informed from submissions of the Stream A Framework. (Exhibit C4-1, p. 3) FAES submit that there is greater overall consensus among participants on the Stream A and B portions of the Framework and suggest that it would be more efficient to deal with the less-contentious review first. This, in turn, "may help to facilitate the timely review of upcoming TES Utility Stream A applications" that TES Utilities may have in development (Exhibit C2-1, p. 2).

Ameresco recommends dealing with the matter of the exemption first, stating that "it has been over 8 months since the Commission issues its AES Inquiry Report recommending the use of the section 88(3) exemption." (Exhibit C6-1, p.4) Ameresco takes the position that if Stream A and B are implemented before the exemption matter is decided, there is a risk that potentially-exempt projects may race to "beat the clock" to file applications before any exemption is in place, thereby undermining any future exemption regulation, if one is put in place. (Exhibit C6-1, p.3)

2.0 COMMISSION DETERMINATION

After considering the views expressed by the Interveners, upon further reflection, the Panel has determined that, at this time, it will be better informed by further submissions on recommendations for changes to the draft framework, or, alternatively, a different approach to the regulation of TES.

On page 71 of the AES Inquiry, the Commission recommended that: “until such time as the UCA is amended, an exemption from regulation pursuant to subsection 88(3) of the UCA be considered for Discrete Energy Systems with no natural monopoly characteristics or need for consumer protection.”

The Panel requests that Interveners address the AES recommendation in their submissions, in particular:

- a. Who (what types of TES Utilities or Customers) should or should not be exempt and the implications of exempting/not exempting them; and
- b. Impact of any exemption on BC’s Energy Objectives (as set out in BC’s *Clean Energy Act*).

Further, the Panel requests that Interveners provide:

- a. Recommendations, if any, for changes to the proposed framework;
- b. Any recommended alternative approach to the regulation of TES; and
- c. Any evidence that may be required to support their proposals and recommendations.