



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-121-14**

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

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

An Application by the British Columbia Utilities Commission
on behalf of Certain Thermal Energy Systems
for an Exemption from Section 44.1, Section 45 and
Sections 59-61 of the *Utilities Commission Act*

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

August 27, 2014

O R D E R

WHEREAS:

- A. On December 27, 2012, the British Columbia Utilities Commission (Commission) issued its Report on the Inquiry into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives (AES Inquiry Report). In that Report, the Commission set principles and guidelines on appropriate forms of regulation. These principles and guidelines are:
- i. Where regulation is required use the least amount of regulation needed to protect the ratepayer.
 - ii. The benefits of regulation should outweigh the costs.
 - iii. The form of regulation should:
 - a) provide adequate customer protection in a cost effective manner;
 - b) consider administrative efficiency;
 - c) consider the level of expenditure, the number of customers, the sophistication of the parties involved and the track record of the utility in undertaking similar projects; and
 - d) require the provision of sufficient information to allow the Commission to assess the new business activity, and any rates to be set, against BC's Energy Objectives and the requirements of the *Utilities Commission Act (UCA)* and the *Clean Energy Act*;
- B. In the AES Inquiry Report, the Commission recommends the use of exemptions, which are contemplated under the *Utilities Commission Act (UCA)*, where the Commission finds regulation is not warranted;

- C. On May 9, 2013, Commission staff proposed a framework for exemption of certain classes of cases where a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for the production, generation, storage, transmission, sale, delivery or provision of any agent for the production of heat or cold (Thermal Energy Systems, TES) from various provisions of the UCA (TES Framework). The Commission initiated a public comment process on the TES Framework which included two working sessions and the opportunity for stakeholders for comments;
- D. The draft TES Framework proposes certain characteristics for Thermal Energy Systems that classify them to be a "Stream A" Thermal Energy System;
- E. On August 28, 2013, the Commission initiated a public hearing to review the proposed TES Framework including an exemption for certain Thermal Energy Systems;
- F. On December 31, 2013, the Commission released its Reasons for Decision on the TES Framework recommending an exemption from sections 44.1, 45 and 59-61 of the UCA, with respect to a Thermal Energy System meeting certain characteristics including having a capital cost less than a maximum threshold and greater than a minimum threshold, as established by the Commission from time to time, after a hearing (Stream A TES). On January 2, 2014, the Commission requested that the Lieutenant Governor in Council (LGIC) grant advance approval for the exemptions;
- G. By Order in Council No. 400, dated June 20, 2014, and attached as Appendix A to this Order, the LGIC grants advance approval to the Commission to exempt, from sections 44.1, 45 and 59-61 of the UCA, the class of cases where a TES is determined, by the Commission, to be a Stream A TES; and
- H. The Commission has determined that this exemption from certain sections of the UCA properly conserves the public interest.

NOW THEREFORE pursuant to subsections 88(1) and 88(3) of the *Utilities Commission Act*, the Commission orders as follows:

1. Subject to Directives 2 and 3 of this Order, a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia a Stream A Thermal Energy System for the production, generation, storage, transmission, sale, delivery or provision of any agent for the production of heat or cold for compensation, with a capital cost less than a maximum threshold and greater than a minimum threshold, as established by the Commission from time to time after a hearing, is exempt from sections 44.1, 45 and 59-61 of the *Utilities Commission Act* for that specific Thermal Energy System.
2. The exemption of a person for a specific Thermal Energy System referred to in Directive 1 of this Order remains in effect for that person until the Commission, after a hearing on its own motion or after a hearing

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-121-14

3

on a complaint by an interested person for which sufficient notice has been given to the person the Commission believes may be affected, orders that the exemption no longer applies to the person referred to in Directive 1 of this Order.

3. The exemption referred to in Directive 1 of this Order only applies if:
- i. The person files information that allows the Commission to determine that this Order applies to the person's specific Thermal Energy System; and
 - ii. The Commission determines that this Order applies to the person's specific Thermal Energy System.

DATED at the City of Vancouver, in the Province of British Columbia, this 27th day of August 2014.

BY ORDER

Original signed by:

D.M. Morton
Commissioner

Attachment

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 400 , Approved and Ordered June 20, 2014


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that approval is given to the British Columbia Utilities Commission to make the exemptions from the indicated provisions of the *Utilities Commission Act* as set out in the attached draft order of the British Columbia Utilities Commission.



Attorney General and Minister of Justice



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

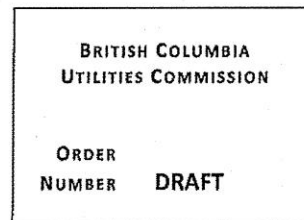
Authority under which Order is made:

Act and section: Utilities Commission Act, RSBC 1996, c. 473, s. 88 (3)

Other: _____

April 10, 2014

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



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

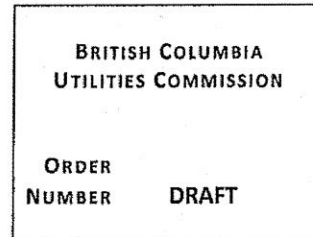
An Application by the British Columbia Utilities Commission
on behalf of Certain Thermal Energy Systems
for an Exemption from s. 44.1, s. 45 and ss. 59-61 of the *Utilities Commission Act*

BEFORE: [], Commissioner [Date]

O R D E R

WHEREAS:

- A. On December 27, 2012, the British Columbia Utilities Commission (Commission) issued its Report on the Inquiry into the Offering of Products and Services in Alternative Energy Solutions and Other New Initiatives (AES Inquiry Report). In that Report the Commission set principles and guidelines on appropriate forms of regulation. These principles and guidelines are:
- i. Where regulation is required use the least amount of regulation needed to protect the ratepayer.
 - ii. The benefits of regulation should outweigh the costs.
 - iii. The form of regulation should:
 - a. provide adequate customer protection in a cost effective manner;
 - b. consider administrative efficiency;
 - c. consider the level of expenditure, the number of customers, the sophistication of the parties involved and the track record of the utility in undertaking similar projects; and
 - d. require the provision of sufficient information to allow the Commission to assess the new business activity, and any rates to be set, against BC's Energy Objectives and the requirements of the *Utilities Commission Act* (UCA) and the *Clean Energy Act*;
- B. On May 9, 2013, Commission staff proposed an exemption to the Thermal Energy System Framework stakeholders for comment and held two working sessions;



2

- C. The draft Thermal Energy Service Scaled Regulatory Framework and Guide (TES Framework) proposes certain characteristics of public utilities Thermal Energy Systems that classify them to be a "Stream A" Thermal Energy System;
- D. On August 28, 2013, the Commission initiated a hearing to review the TES Framework including an exemption for certain Thermal Energy Systems;
- E. On December 31, 2013 the Commission released its Reasons for Decision on the TES Framework recommending certain exemptions from regulation and on January 2, 2014, the Commission requested that the Lieutenant Governor in Council (LGIC) grant advance approval for the exemptions;
- F. By Order in Council No. [•], dated [•] and attached as Appendix 1 to this Order, the LGIC grants advance approval to the Commission to exempt, from sections 44.1, 45 and 59-61 of the UCA, the class of cases where a public utility that is determined to be an owner/operator of a "Stream A" Thermal Energy System by the Commission; and
- G. The Commission has determined that this exemption from certain sections of the UCA properly conserves the public interest.

NOW THEREFORE pursuant to subsections 88(1) and 88(3) of the *Utilities Commission Act*, the Commission orders as follows:

- 1. Subject to Directives 2 and 3 of this Order, a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia a Stream A Thermal Energy System, with a capital cost less than a maximum threshold and greater than a minimum threshold, as established by the Commission from time to time, is exempt from sections 44.1, 45 and 59-61 of the *Utilities Commission Act* for that specific Thermal Energy System.
- 2. The exemption of a person for a specific Thermal Energy System referred to in Directive 1 of this Order remains in effect for that person until the Commission, after a hearing on its own motion or after a hearing on a complaint by an interested person for which sufficient notice has been given to the person the Commission believes may be affected, orders that the exemption no longer applies to the person referred to in Directive 1 of this Order.
- 3. The exemption referred to in Directive 1 of this Order only applies if:
 - i. The person files information that allows the Commission to determine that this Order applies to the person's specific Thermal Energy System; and
 - ii. The Commission determines that this Order applies to the person's specific Thermal Energy System.

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER DRAFT**

3

DATED at the City of Vancouver, in the Province of British Columbia, this day of [month] 2013.

BY ORDER

XXXX
Commissioner

Attachment