



ORDER NUMBER
G-17-17

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

and

Powell River Energy Inc.
An Exemption pursuant to section 88(3) of the *Utilities Commission Act*

BEFORE:

R. D. Revel, Panel Chair/Commissioner
K. A. Keilty, Commissioner
R. I. Mason, Commissioner

on February 7, 2017

ORDER

WHEREAS:

A. In this order,

1. "2016 PPA" means the power purchase agreement between PREI and Catalyst, effective 1 February 2016 and as amended from time to time, under which PREI sells electricity to Catalyst for use at the PR Mill.
2. "2016 Section 22 Exemption Regulation" means the exemption regulation issued by the Minister under section 22 of the Act on February 7, 2017, exempting PREI, Brookfield Power, and Catalyst from Part 3 and section 71 of the Act according to the terms and conditions set out in that regulation.
3. "Act" means the *Utilities Commission Act*.
4. "Affiliate" has the same meaning as "affiliate" in the British Columbia *Business Corporations Act*.
5. "Application" means the application filed by PREI with the Commission on May 30, 2016 requesting exemptions under section 88 of the Act.
6. "Brookfield Power" means Brookfield Power Services Inc. and its successors and assigns.
7. "Catalyst" means Catalyst Paper Corporation and its successors and assigns.
8. "Commission" means the British Columbia Utilities Commission.
9. "Energy Supply Contract" has the same meaning as "energy supply contract" under the Act.
10. "Ministerial Order M-22-0101" means Ministerial Order M-22-0101 issued by the Minister of Employment and Investment in 2001 under section 22 of the Act.
11. "Power Facilities" means the hydroelectric generation, transmission and distribution facilities together with all related equipment, works and undertakings owned or operated by PREI in the

vicinity of Powell River, British Columbia, for the generation, transmission and distribution of electricity, and includes:

- two hydroelectric generating stations – Powell and Lois – each with two generating units, and
- all related dams, powerhouses, turbines, generators, spill gates, penstocks, electrical equipment, power lines, and other associated structures and equipment.

12. “Public Utility” has the same meaning as “public utility” under the Act.

13. “PR Mill” means the Catalyst’s pulp and paper mill in the vicinity of Powell River, British Columbia.

14. “PREI” means Powell River Energy Inc. and its successors and assigns.

15. “PRELP” means Powell River Energy Limited Partnership and its successors and assigns.

16. “Responsible Minister” means the minister responsible for the administration of the *Hydro and Power Authority Act*.

17. “Surplus Power” means electricity generated by PREI at the Power Facilities that from time to time may not be needed or used at the PR Mill.

18. “Wholesale Customer” means a participant in the wholesale electricity market who is not a public utility subject to Part 3 of the Act.

19. “Wholesale Marketing Affiliate” means an Affiliate of PREI to whom PREI will sell Surplus Power for resale by the Affiliate into the wholesale electricity market;

- B. Ministerial Order M-22-0101 exempts PREI, certain entities affiliated with PREI, Catalyst, the Power Facilities and the purchasers of Surplus Power from regulation under the Act in relation to the generation, transmission and sale of electricity by PREI to Catalyst for use by the PR Mill, or for the sale of Surplus Power to Public Utilities or to Wholesale Customers;
- C. Under the 2016 PPA, PREI agrees to sell the electricity generated at the Power Facilities to Catalyst for use at the PR Mill, according to the terms and conditions of the 2016 PPA. When Catalyst does not take the PREI generation at the PR Mill, PREI may sell the Surplus Power to Wholesale Customers or public utilities;
- D. PREI wishes to extend the exemptions granted by Ministerial Order M-22-0101:
1. to accommodate the renewal of the 2016 PPA beyond 31 January 2021, and
 2. to allow PREI to sell Surplus Power to a Wholesale Marketing Affiliate, in place of PRELP for resale into the wholesale electricity market;
- E. On May 31, 2016, PREI applied under section 88(3) of the Act for exemptions from section 71 and Part 3 of the Act;
- F. Concurrent with the Application, PREI has asked the Minister to issue new exemptions under section 22 of the Act to exempt PREI, Brookfield Power (the operator of the Power Facilities), and Catalyst from Part 3 and section 71 of the Act, to extend certain exemptions granted by Ministerial Order M-22-0101;
- G. The exemptions under section 88(3) of the Act are necessary to complement the new exemptions being sought by the Minister under section 22 which only apply to public utilities and not to persons that are not public utilities, so all the exemptions granted by Ministerial Order M-22-0101 may continue;

- H. On June 23, 2016, by Order G-98-16 the Commission established a hearing to review the Application with a regulatory timetable for comments from BC Hydro and other potentially affected parties;

- I. On July 13, 2016, BC Hydro submitted comments in support of the requested exemption. BC Hydro noted that should PREI wish to sell to any party other than Catalyst, appropriate accounting and/or scheduling arrangements would need to be agreed to as between BC Hydro, PREI and Catalyst to reflect such change in circumstances;
- J. On July 19, 2016, PREI submitted reply comments confirming that it will arrange the appropriate accounting and scheduling procedures with BC Hydro, as required, if PREI sells surplus power to an eligible customer other than Catalyst;
- K. Section 88(3) of the Act states the Commission may, on conditions it considers advisable, with the advance approval of the Minister responsible for the administration of the *Hydro and Power Authority Act*, exempt a person, equipment or facilities from the application of all or any provisions of the Act;
- L. The Commission has considered the Application and is satisfied that an order, under section 88(3) of the Act, granting the exemptions set out in this order is in the public interest;
- M. By Ministerial Order M 036 dated January 27, 2017, the Responsible Minister granted advance approval to the Commission to grant the exemptions set out in this order.

NOW THEREFORE the British Columbia Utilities Commission orders as follows:

- 1. Pursuant to section 88(3) of the *Utilities Commission Act*, the Commission, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*, exempts:
 - a. the following persons from section 71 of the Act:
 - i. PRELP and any Wholesale Marketing Affiliate who enters into an Energy Supply Contract with PREI for
 - 1. the purchase of Surplus Power from PREI; and
 - 2. any subsequent sale of that Surplus Power to a Public Utility or a Wholesale Customer;
 - ii. any Wholesale Customer who purchases Surplus Power from PREI, PRELP, Brookfield Power, or a Wholesale Marketing Affiliate; and
 - b. the Power Facilities from Part 3 of the Act, except for sections 25, 38, 42 and 43.
- 2. The exemption granted pursuant to this order will be in effect from the effective date of the Ministerial Order replacing M-22-0101 and for the duration of the Ministerial Order replacing M-22-0101.

DATED at the City of Vancouver, in the Province of British Columbia, this 7th day of February 2017.

BY ORDER

Original signed by:

R. D. Revel
Commissioner

Attachment


PROVINCE OF BRITISH COLUMBIA
ORDER OF THE MINISTER OF ENERGY AND MINES AND
MINISTER RESPONSIBLE FOR CORE REVIEW

Utilities Commission Act

Ministerial Order No. M 036

I, Bill Bennett, Minister responsible for the *Hydro and Power Authority Act*, order that pursuant to section 88(3) of the *Utilities Commission Act*, approval is given to the British Columbia Utilities Commission to make the exemptions from provisions of the *Utilities Commission Act* for the purposes and subject to the terms substantially set out in the attached draft order of the British Columbia Utilities Commission.

January 27th, 2017
Date


Minister of Energy and Mines and
Minister Responsible for Core Review

(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*, R.S.B.C. 1996, s. 88 (3)

Other: _____



British Columbia
Utilities Commission

APPENDIX B

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BEFORE:

R. D. Revel, Panel Chair / Commissioner
K. A. Keilty, Commissioner
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on [Date]

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WHEREAS:

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2. "2016 Section 22 Exemption Regulation" means the exemption regulation issued by the Minister under section 22 of the Act on [date] exempting PREI, Brookfield Power, and Catalyst from Part 3 and section 71 of the Act according to the terms and conditions set out in that regulation.
3. "Act" means the *Utilities Commission Act*.
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5. "Application" means the application filed by PREI with the Commission on May 30, 2016 requesting exemptions under section 88 of the Act.
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APPENDIX B
Order G-xx-xx
Page 2 of 3

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- B. Ministerial Order M-22-0101 exempts PREI, certain entities affiliated with PREI, Catalyst, the Power Facilities and the purchasers of Surplus Power from regulation under the Act in relation to the generation, transmission and sale of electricity by PREI to Catalyst for use by the PR Mill, or for the sale of Surplus Power to Public Utilities or to Wholesale Customers;
- C. Under the 2016 PPA, PREI agrees to sell the electricity generated at the Power Facilities to Catalyst for use at the PR Mill, according to the terms and conditions of the 2016 PPA. When Catalyst does not take the PREI generation at the PR Mill, PREI may sell the Surplus Power to Wholesale Customers or public utilities;
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- F. Concurrent with the Application, PREI has asked the Minister to issue new exemptions under section 22 of the Act to exempt PREI, Brookfield Power (the operator of the Power Facilities), and Catalyst from Part 3 and section 71 of the Act, to extend certain exemptions granted by Ministerial Order M-22-0101;
- G. The exemptions under section 88(3) of the Act are necessary to complement the new exemptions being sought by the Minister under section 22 which only apply to public utilities and not to persons that are not public utilities, so all the exemptions granted by Ministerial Order M-22-0101 may continue;

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- J. On July 19, 2016, PREI submitted reply comments confirming that it will arrange the appropriate accounting and scheduling procedures with BC Hydro, as required, if PREI sells surplus power to an eligible customer other than Catalyst;
- K. Section 88(3) of the Act states the Commission may, on conditions it considers advisable, with the advance approval of the Minister responsible for the administration of the *Hydro and Power Authority Act*, exempt a person, equipment or facilities from the application of all or any provisions of the Act;
- L. The Commission has considered the Application and is satisfied that an order, under section 88(3) of the Act, granting the exemptions set out in this order is in the public interest; and
- M. By [Minister's document] dated [date], the Responsible Minister granted advance approval to the Commission to grant the exemptions set out in this order.

NOW THEREFORE the British Columbia Utilities Commission orders as follows:

- 1. Pursuant to section 88(3) of the *Utilities Commission Act*, the Commission, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*, exempts:
 - a. the following persons from section 71 of the Act:
 - i. PRELP and any Wholesale Marketing Affiliate who enters into an Energy Supply Contract with PREI for
 - 1. the purchase of Surplus Power from Powell River Energy Inc.; and
 - 2. any subsequent sale of that Surplus Power to a Public Utility or a Wholesale Customer;
 - ii. any Wholesale Customer who purchases Surplus Power from Powell River Energy Inc., Powell River Energy Limited Partnership, Brookfield Power Services Inc., or a Wholesale Marketing Affiliate; and
 - b. the Power Facilities from Part 3 of the Act, except for sections 25, 38, 42 and 43.
- 2. The exemption granted pursuant to this order will be in effect from the effective date of the Ministerial Order replacing M-22-0101 and for the duration of the Ministerial Order replacing M-22-0101.

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

BY ORDER

R. D. Revel
Commissioner