



ORDER NUMBER
G-62-19

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

and

British Columbia Utilities Commission
Indigenous Utilities Regulation Inquiry

BEFORE:

D. M. Morton, Commissioner

on March 19, 2019

ORDER

WHEREAS:

- A. On March 11, 2019, the Lieutenant Governor in Council, by Order in Council (OIC) No. 108, requests the British Columbia Utilities Commission (BCUC), pursuant to section 5(1) of the *Utilities Commission Act* (UCA), advise the Lieutenant Governor in Council respecting the regulation of indigenous utilities in accordance with the terms of reference set out in section 3 of OIC No. 108 (Indigenous Utilities Inquiry);
- B. Section 3 of OIC No. 108 outlines the terms of reference for the Indigenous Utilities Inquiry as follows:
 - a) The BCUC must advise on the appropriate nature and scope, if any, of the regulation of indigenous utilities;
 - b) without limiting paragraph (a), the BCUC must provide response to the following questions:
 - i. What are the defining characteristics of indigenous utilities, having regard to:
 - A. the nature of the ownership and operation of indigenous utilities,
 - B. the types of services provided by indigenous utilities,
 - C. the persons to whom services are provided by indigenous utilities, and
 - D. the geographic areas served by indigenous utilities.
 - ii. Should indigenous utilities be regulated under the UCA or under another mechanism, or be unregulated?
 - iii. If it is appropriate to regulate indigenous utilities under the UCA, is there any matter under the Act in respect of which indigenous utilities should be regulated differently from other public utilities, and, if so, how should that matter be regulated?
 - iv. If it is not appropriate to regulate indigenous utilities under the UCA but is appropriate to regulate indigenous utilities in some manner, how should indigenous utilities be regulated?

- v. If an indigenous utility is not regulated under the Act, would the utility become subject to the Act on ceasing to be an indigenous utility, and, if not, what transitional and other mechanisms are required to ensure that the utility is subject to the Act on ceasing to be an indigenous utility?
- C. Section 3 of OIC No. 108 also provides that the BCUC must submit to the minister responsible for the *Hydro and Power Authority Act* reports as follows:
 - a) an interim report describing the BCUC's progress to date and the BCUC's preliminary findings must be submitted no later than December 31, 2019;
 - b) a final report describing the results of consultations undertaken by the BCUC and the BCUC's findings and recommendations must be submitted no later than January 31, 2020.
- D. Pursuant to OIC No. 108, "indigenous nation" means any of the following:
 - a) a band within the meaning of the *Indian Act* (Canada);
 - b) the Westbank First Nation;
 - c) the Sechelt Indian Band and the Sechelt Indian Government District established under the *Sechelt Indian Band Self-Government Act* (Canada);
 - d) a treaty first nation;
 - e) the Nisga'a Nation and Nisga'a Villages;
 - f) another indigenous community within British Columbia, if the legal entity representing the community is a party to a treaty and land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* that is the subject of Provincial settlement legislation;
- E. Pursuant to OIC No. 108, "indigenous utility" is defined as a public utility that is owned or operated, in full or in part, by an indigenous nation; and
- F. The BCUC considers that establishment of the Indigenous Utilities Inquiry is warranted.

NOW THEREFORE pursuant to OIC No. 108 issued March 11, 2019 and section 82 of the UCA, the BCUC establishes an inquiry respecting the regulation of indigenous utilities. A BCUC order to establish the regulatory process and timetable for the inquiry will follow.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of March 2019.

BY ORDER

Original signed by:

D. M. Morton
Commissioner