



**ORDER NUMBER
G-172-20**

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

and

TAB Utility Corp.
Stream A Registration of the 4567 Lougheed Highway Thermal Energy System

BEFORE:

B. A. Magnan, Commissioner
E. B. Lockhart, Commissioner
T. A. Loski, Commissioner

on June 25, 2020

ORDER

WHEREAS:

- A. On December 20, 2019, TAB Utility Corp. filed with the British Columbia Utilities Commission (BCUC) an application to register the 4567 Lougheed Highway Thermal Energy System (4567 Lougheed Highway TES), in accordance with the BCUC Thermal Energy Systems Regulatory Framework Guidelines (TES Guidelines) as a Stream A TES (Application);
- B. On August 28, 2014, the BCUC issued Order G-121-14 approving the exemption of a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia a Stream A Thermal Energy System (TES) from sections 44.1, 45 and 59 to 61 of the *Utilities Commission Act* (UCA) for that specific Stream A TES;
- C. On August 28, 2014, the BCUC issued Order G-127-14 approving the TES Guidelines and on March 2, 2015, revisions to the TES Guidelines were approved by Order G-27-15;
- D. Under Section 2.1 of the TES Guidelines, a Stream A TES is defined as: "An On-Site TES with an Initial Capital Cost above \$500,000 but less than \$15,000,000 is exempt from sections 44.1, 45 to 46 and 59 to 61 of the UCA [*Utilities Commission Act*]. TES Providers are required to register Stream A TES prior to building or otherwise acquiring the Stream A TES"; and
- E. The BCUC has reviewed the Application and is satisfied that the 4567 Lougheed Highway TES meets the characteristics of a Stream A TES and is suitable for exemption from sections 44.1, 45 and 59 to 61 of the UCA.

NOW THEREFORE for the reasons attached as Appendix A to this order and pursuant to section 88(3) of the UCA and by the advance approval of the Lieutenant Governor in Council (Order in Council 400/14), the BCUC orders as follows:

1. TAB Utility Corp. is exempt from sections 44.1, 45 and 59 to 61 of the UCA for the 4567 Lougheed Highway TES.
2. TAB Utility Corp. must file with the BCUC, an annual report for the 4567 Lougheed Highway TES in accordance with Stream A annual reporting guidelines as provided in Appendix B of the TES Guidelines.

DATED at the City of Vancouver, in the Province of British Columbia, this 25th day of June, 2020.

BY ORDER

Original signed by:

B.A. Magnan
Commissioner

Attachment

TAB Utility Corp.
Stream A Registration of the 4567 Lougheed Highway Thermal Energy System

REASONS FOR DECISION

Background

The British Columbia Utilities Commission's (BCUC) Thermal Energy Systems Regulatory Framework Guidelines (TES Guidelines) describe the regulatory framework for Thermal Energy Systems (TES). The TES Guidelines state that any on-site TES with the characteristics described in the table below is considered to be a Stream A TES and is therefore exempt from sections 44.1, 45 to 46 and 59 to 61 of the *Utilities Commission Act* (UCA).¹

Table 1: Stream A TES Characteristics

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| <ol style="list-style-type: none">1. The thermal generation and distribution equipment and facilities are located on the same Site as the thermal load.2. The TES is designed to meet the energy demands of a specific Site (one or more customers or buildings).3. The Thermal Energy System serves one or more customers or buildings on a single Site but there are no shared or common thermal generation or distribution facilities beyond the boundaries of a single Site.4. There is no, or very limited, use of public rights of way or public streets.5. The TES provides thermal energy to an existing building(s) or to a new building(s) planned or approved under a municipal building permit process.6. The TES has an AACE Class 3 capital cost estimate of equal to or greater than \$500,000 and less than \$15 million. |
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An on-site TES is defined as a TES that consists of thermal energy generation and distribution equipment and fixtures that are physically located on the same site as the thermal load. The TES is designed to meet the energy demands of one or more customers on that site and does not share any generation or distribution facilities beyond the bounds of the site.²

Application

On December 20, 2019, TAB Utility Corp. filed an application with the BCUC to register the 4567 Lougheed Highway TES (4567 Lougheed Highway TES) as a Stream A TES (Application).

The estimated capital cost for the 4567 Lougheed Highway TES is \$3,424,000 and the system comprises natural gas fired condensing boilers and cooling towers. The TES provides space heating, domestic hot water and space cooling to the connected buildings via a heating loop and a condenser loop.

¹ Order G-27-15 dated March 2, 2015, Appendix A (TES Guidelines), p. 12.

² TES Guidelines, p. 8.

The 4567 Lougheed Highway TES serves the following buildings: Residential Tower 1, Residential Tower 2 and Residential Tower 3 and the Commercial Podium. The Commercial Podium includes the West Building, Plaza Building, Middle Building, Upper Building, South Building and Building 6.

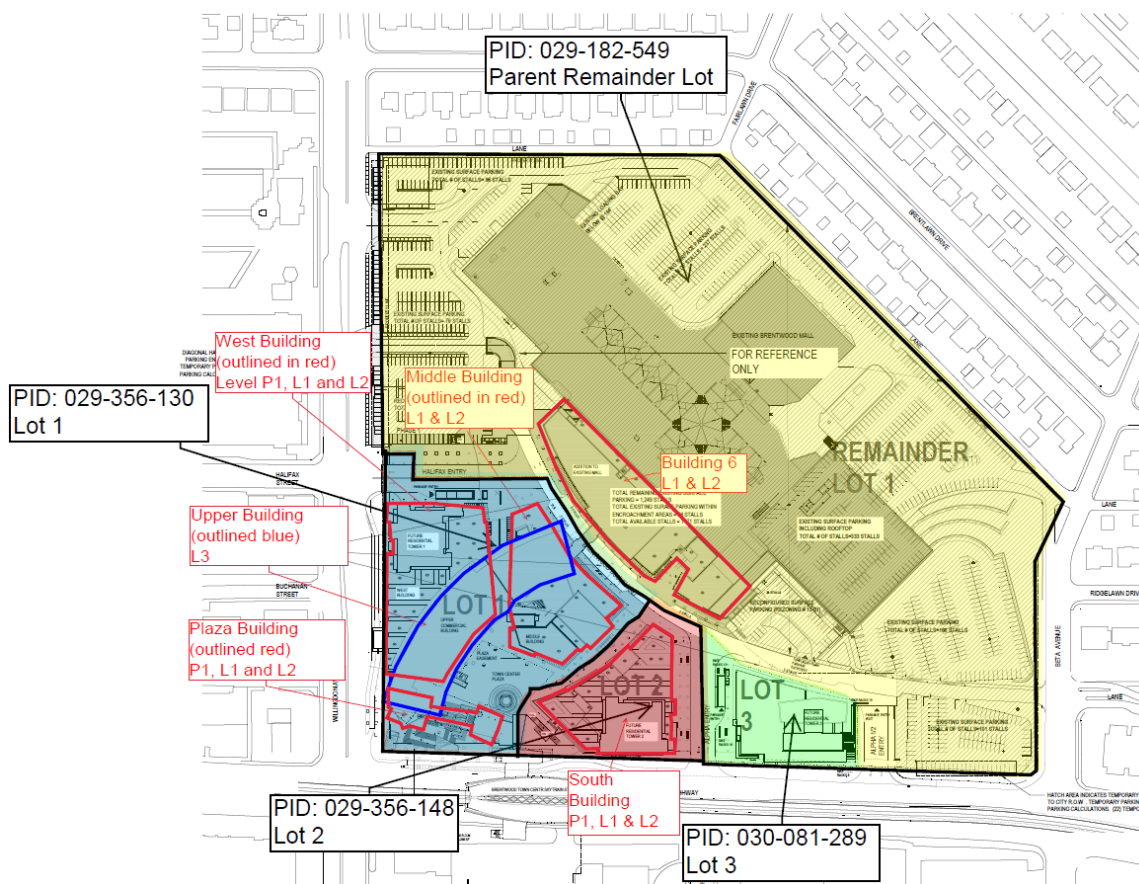
The 4567 Lougheed Highway TES and the buildings to be served are located within the boundaries of a single Master Plan Development approved by the City of Burnaby (Brentwood Town Centre Development).

The development of Residential Tower 1, Residential Tower 2 and Residential Tower 3 and the Commercial Podium is approved under the following Municipal Building Permits:

- Residential Tower 1 – BLD15-01178
- Residential Tower 2 – BLD15-01454
- Residential Tower 3 – BLD16-00829
- Commercial Podium – BLD14-00395

Figure 1 below illustrates the locations of the buildings to be served by the TES.

Figure 1: Locations of buildings to be served by the 4567 Loughheed Highway TES



The Parcel Identification Number (PID) and legal description of each building is provided in the table below:

Table 2: PID and Legal Description of Buildings to be served by the 4567 Lougheed Highway TES

Building	PID	Lot / Legal Description
Building 6	029-281-549 (Parent Remainder Lot)	Lot 1 District Lot 123 and 124 Group 1 NWD Plan EPP 31990 Except Plans EPP40171 and EPP 51973
Mechanical Plant Room	029-281-549 (Parent Remainder Lot)	Lot 1 District Lot 123 and 124 Group 1 NWD Plan EPP 31990 Except Plans EPP40171 and EPP 51973
Residential Tower 1	No PID 029-710-693	Strata Lots 1-291, District Lot 124 Group 1 NWD Strata Plan EPS6040 Airspace Parcel 2, District Lot 124 Group 1 NWD Air Space Plan EPP55463
Residential Tower 2	029-719-933	Airspace Parcel 1, District Lot 124 Group 1 NWD Air Space Plan EPP55464
Residential Tower 3	030-719-933	Airspace Parcel 1, District Lot 124 Group 1 NWD Air Space Plan EPP65160
West Building	029-356-130 (Lot 1 Remainder)	Lot 1 District Lot 123 and 124 Group 1 NWD Plan EPP40171 Except Airspace Parcel 1 and 2 Airspace Plan EPP55463
Plaza Building	029-356-130 (Lot 1 Remainder)	Lot 1 District Lot 123 and 124 Group 1 NWD Plan EPP40171 Except Airspace Parcel 1 and 2 Airspace Plan EPP55463
Middle Building	029-356-130 (Lot 1 Remainder)	Lot 1 District Lot 123 and 124 Group 1 NWD Plan EPP40171 Except Airspace Parcel 1 and 2 Airspace Plan EPP55463
Upper Building	029-356-130 (Lot 1 Remainder)	Lot 1 District Lot 123 and 124 Group 1 NWD Upper Building Plan EPP40171 Except Airspace Parcel 1 and 2 Airspace Plan EPP55463
South Building	029-356-148 (Lot 2 Remainder)	Lot 2 District Lot 124 Group 1 NWD Plan EPP40171 Except Airspace Parcel Plan EPP65160

The TES facilities are located predominantly in a mechanical plant room in the north east corner of level P4 of Building 6. The electrical room for the mechanical plant is located on P3 and the cooling tower extends to the roof of Building 6.

Each building is physically connected at the below grade and podium level by one continuous space, primarily comprising parking lots. The distribution pipework connecting the TES to the buildings to be served are routed via the underground parking lots. TAB Utility Corp. states that none of the distribution pipework are within the statutory right of way plans existing to date.

The buildings to be served by the 4567 Lougheed Highway TES are subject to Integrated Development/Single Site Covenants, which are registered on title. There are two covenants:

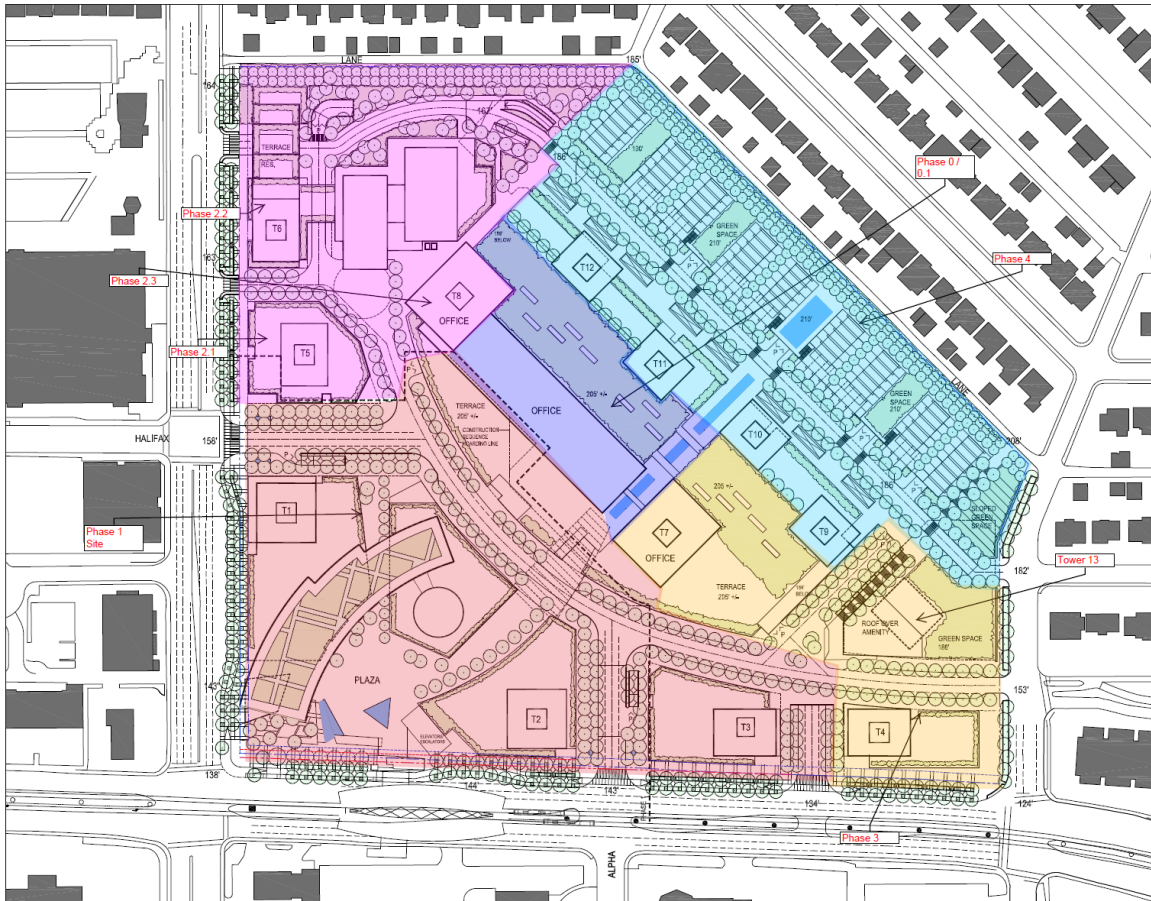
- the Single Site Covenant for Phase 1A - Registered on title³; and
- the Single Site Covenant for Phase 1B (T3) - Registered on title.⁴

³ Legally defined as: NO PID NUMBERS Lots 1 and 2, District Lots 123 and 124, Group 1, New Westminster District, Plan EPP40171 and PID: 029-182-549 Lot 1, District Lots 123 and 124, Group 1, New Westminster District, Plan EPP31990 Except Part in Plan EPP40171.

⁴ Legally defined as: PID: 030-081-289, Lot 3 District Lot 124 Group 1 NWD Plan EPP59173 Except Part in Plan EPP65160 and NO PID NUMBERS, Air Space Parcel 1 District Lot 124 Group 1 NWD Air Space Plan EPP65160.

Phase 1A relates to Residential Tower 1, Residential Tower 2 and the Commercial Podium, which includes the West Building, Plaza Building, Middle Building, Upper Building, South Building and Building 6. Phase 1B relates to Residential Tower 3. Phase 1 is highlighted in red in Figure 2 below.

Figure 2: Phases of development for the Brentwood Town Centre Development



TAB Utility Corp. provides the following explanation for the Single Site Covenants:

Concerning the Single Site Covenants, what they do is:

- a) limit the building and development of the Phase 1 Lands to be only in accordance with the CD Plan⁵ so that all buildings and improvements on the lands function as a single integrated development; and
- b) deem the buildings and improvements on the Phase 1 Lands to be treated as a single building for the purposes of the Building Bylaw and Buildings Code.

The Single Site covenant extended to the lands that would become future airspace parcel lots within the site, and although not specifically mentioned [Residential] Tower 3 was contemplated within the covenant and Phase 1 Lands area...

Both Phase 1A and 1B are considered as one building from a [BC Building Code] viewpoint.

⁵ Brentwood Site Conceptual Master Plan prepared by James K.M. Cheng Architects Inc.

The Single Site Covenants have been approved by the City of Burnaby and have been filed with the Land Title Office.

Issue Arising

In reviewing the Application, the Panel identified two key issues:

- Whether the thermal generation and distribution equipment and facilities are located on the same site as the thermal load, considering the definition of a “site” provided on page 8 of the TES Guidelines; and
- Whether the 4567 Lougheed Highway TES makes use of public rights of way or public streets.

Panel Determination

As described in the Application, the Residential Towers and the Commercial Podium have separate municipal building permits and PID numbers have been allocated to buildings across the development. However, all buildings served by the 4567 Lougheed Highway TES are physically connected at the below grade and podium level by one continuous space.

In addition, all buildings in Phase 1 are subject to the Single Site Covenants. The covenants ensure that the buildings and the improvements on the lands function as a single integrated development and deems that the buildings and the improvements are to be treated as a single building for the purposes of the Building Bylaw and Buildings Code. The Single Site Covenants have been approved by the City of Burnaby and have been filed with the Land Title Office.

Given that all buildings are physically connected at the below grade and podium level, and all buildings are required to function as a single site, subject to the covenants approved by the City of Burnaby, the Panel is satisfied that thermal generation and distribution equipment and facilities are located on the same site as the thermal load.

The distribution pipework connecting the 4567 Lougheed Highway TES to the buildings served are routed via the underground parking lots, which are common to all buildings. Further, the distribution pipework is not within the statutory right of way plans existing for the site to date. Therefore, the Panel is satisfied that there is no, or very limited, use of public rights of way or public streets.

Accordingly, the Panel finds that TAB Utility Corp.’s 4567 Lougheed Highway TES meets the characteristics of a Stream A TES and that TAB Utility Corp. is exempted from sections 44.1, 45 and 59 to 61 of the UCA for the 4567 Lougheed Highway TES.