



**ORDER NUMBER
G-209-21**

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

and

British Columbia Utilities Commission
Inquiry into the Regulation of Safety

BEFORE:

D. M. Morton, Panel Chair
C. Brewer, Commissioner
R. I. Mason, Commissioner

on July 8, 2021

ORDER

WHEREAS:

- A. By Order G-241-20, dated September 23, 2020, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry);
- B. By Order G-34-21, dated January 29, 2021, the BCUC established that the Inquiry would be undertaken in two stages. Stage 1 will establish a general framework of key principles for the BCUC's regulation of safety. Stage 2 will explore the application of a framework to the BCUC's regulation of public utilities and how the BCUC will implement its mandate with regards to safety. Further, the BCUC committed to developing a set of "sub issues" to help guide intervenor submissions in Stage 1 of the Inquiry;
- C. By letter dated March 25, 2021, the BCUC issued a set of proposed Stage 1 sub issues (Proposed Stage 1 Sub Issues) for intervenor comment;
- D. By April 29, 2021 and June 3, 2021, Intervenor submissions and reply submissions, respectively, on the Proposed Stage 1 Sub Issues; and
- E. The BCUC has considered intervenor submissions and reply submissions and considers that confirmation of the regulatory timetable for the Inquiry and issuance of the Final Stage 1 Sub Issues, for the reasons set out in Appendix C, is warranted.

NOW THEREFORE the BCUC orders as follows:

1. The regulatory timetable as set out in Appendix A to this order is confirmed.
2. The Final Stage 1 Sub Issues as set out in Appendix B to this order are established for interveners to consider in any evidence and/or argument submissions made in accordance with the regulatory timetable.

DATED at the City of Vancouver, in the Province of British Columbia, this 8th day of July 2021.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachments

British Columbia Utilities Commission
Inquiry into the Regulation of Safety

REGULATORY TIMETABLE

Action	Date (2021)	
Intervener Evidence Addressing Stage 1 (if any)	Thursday, September 16	
	With Intervener Evidence	Without Intervener Evidence
BCUC Information Requests (IRs) on Intervener evidence	Thursday, October 7	N/A
Intervener IRs on Intervener evidence	Thursday, October 14	N/A
Responses to BCUC and Intervener IRs	Wednesday, November 10	N/A
Intervener Final Argument	Wednesday, December 8	Thursday, October 7
Intervener Reply Argument	Wednesday, December 22	Thursday, October 28
Stage 1 Draft Report issued for Comment	To be determined	To be determined

British Columbia Utilities Commission
An Inquiry into the Regulation of Safety

FINAL STAGE 1 SUB ISSUES

1.0 Sub Issue 1 – Keeping Informed

Section 23 of the *Utilities Commission Act* (UCA) states, in part, that the BCUC “has general supervision of all public utilities.” Further, section 24 of the UCA states that “In its supervision of public utilities, the BCUC must make examinations and conduct inquiries necessary to keep itself informed about (a) the conduct of public utility business, (b) compliance by public utilities with this Act, regulations or any other law, and (c) any other matter in the commission's jurisdiction.”

The BCUC is interested in exploring what it means for the BCUC to “keep itself informed” with respect to public utility safety and in exploring the BCUC’s general safety oversight responsibilities. Some relevant questions interveners may wish to consider on this area in their evidence and/or argument addressing Stage 1 include:

1. What are the minimum requirements the BCUC must have in place to ensure the BCUC is informed of matters relating to public utility safety?
2. How should the BCUC keep itself informed of matters relating to public utility safety?
 - a. Should public utilities provide regular reporting to the BCUC on safety-related matters?
 - b. Should public utilities provide ad hoc reporting to the BCUC in the event of a serious incident, such as fatality, personal injury, significant damage to infrastructure, sabotage or other illegal activity requiring police involvement, etc.?
 - c. Should public utilities notify the BCUC if they are in breach of safety-specific regulatory requirements or if there is a safety violation, including those under jurisdiction of other regulatory bodies?
 - d. Should public utilities notify the BCUC if they have received a safety-related administrative penalty, or had a work site shut down?
 - e. Should the BCUC rely on other agencies with jurisdiction over public utility safety to keep the BCUC informed on matters relating to their jurisdiction?
 - f. Should the BCUC rely on complaints to keep itself informed about public utility safety matters?
 - g. Should the BCUC rely on BCUC-generated questions to public utilities, such as compliance letters, to keep itself informed about public utility safety matters?
 - h. Section 37 of the UCA states, in part, that the BCUC may appoint a supervisor or inspector to inspect “the system, works, plant, equipment or service of a public utility with a view to establishing and carrying out measures for... the safety of the public and the users of the utility’s service.” Should the BCUC rely on appointing inspectors and/or supervisors to keep itself informed about public utility safety matters?
 - i. Are there any instances where the BCUC should not be informed of safety-related items? If yes, what specific scenarios and why?

2.0 Sub Issue 2 – Scope of the BCUC’s Safety Mandate

In Appendix A to Order G-241-20, the BCUC acknowledged that safety is a broad term. The BCUC indicated that it envisioned the regulation of safety as comprising the categories of asset safety, worker safety, and public safety, but that it also looked forward to understanding the various other framings interested parties may apply. The BCUC is interested in examining this concept further in Stage 1, including whether there are other aspects of public utility safety, aside from asset, worker, and public safety, that fall within the BCUC’s mandate.

We invite interveners to consider how broad the BCUC’s safety mandate is, in particular:

1. Do the categories of asset safety, worker safety, and public safety encompass the extent of the BCUC’s mandate with respect to public utility safety?
2. Should the safety of the environment be more explicitly considered?
3. Are there other categories of safety that the BCUC should consider? For example, what, if any, consideration should the BCUC give to customer safety and/or the safety of energy supply?

3.0 Sub Issue 3 – Safety in BCUC Adjudications

Pursuant to the UCA, public utilities come before or interact with the BCUC for several reasons, including expenditure schedule applications (section 44.2), revenue requirements applications (RRAs) (sections 59 to 61), long-term resource and conservation planning (LTRP) applications (section 44.1), and Certificate of Public Convenience and Necessity (CPCN) applications (section 45). At present, there are no formal requirements for addressing safety in these regulatory processes. The BCUC is interested in exploring whether it should consider and address safety in BCUC adjudications. Some relevant questions interveners may wish to consider in their evidence and/or argument addressing Stage 1 include:

1. Should minimizing worker, asset, and/or public safety risks be a criterion in the BCUC’s determination of the public interest?
2. Should the reasonableness and appropriateness of a public utility’s safety-related expenditures be a criterion in the BCUC’s determination of whether a public utility’s rates are just and reasonable?
3. Should safety be considered in any other matters adjudicated by the BCUC?

4.0 Sub Issue 4 – Regulatory Gaps

Intervenors have identified areas in which there may be legislative gaps with respect to the regulation of public utility safety. These gaps may exist as a result of specific statutory exclusions or the development of new and emerging technologies. The BCUC is interested in clarifying its responsibilities over safety in these instances. We invite interveners to consider the following:

In circumstances where there is no regulatory body specifically empowered with authority for public utility safety, for example due to purposeful exemptions from other safety-related legislation or emerging technologies, does responsibility for safety oversight fall to the BCUC pursuant to section 23(1) of the UCA?

- a. If not, why not?
- b. If not, who should be responsible for providing safety oversight in these instances?

5.0 Sub Issue 5 – Regulatory Overlaps

Intervenors have also identified areas where there may be legislative overlap or duplication with respect to the regulation of public utility safety. The BCUC is interested in exploring its responsibilities in these instances and whether there are ways to make efficient use of existing information and/or processes. Some relevant questions intervenors may wish to consider in their evidence and/or argument addressing Stage 1 include:

1. Under what circumstances does the existence of another regulatory body with overlapping jurisdiction justify the BCUC forbearing in its jurisdiction for safety oversight over that aspect of a public utility's work?
 - a. Should the BCUC consider exemptions in those circumstances?
 - b. What specific provisions of the UCA allow the BCUC to forbear in its jurisdiction?
2. Should the BCUC assess or ensure that public utilities comply with safety regulations that are under the jurisdiction of another regulatory body?
3. If a public utility is not in compliance with another regulatory body's safety regulations, what responsibility and/or authority, if any, does the BCUC have to take action?

British Columbia Utilities Commission
An Inquiry into the Regulation of Safety

REASONS FOR DECISION

1.0 Introduction

By Order G-241-20, dated September 23, 2020, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the role of the BCUC in the regulation of safety (Inquiry).

In Appendix B to Order G-241-20, the BCUC described its responsibility for ensuring safe and reliable energy supply at fair rates for energy users across the province. The BCUC also identified several recent BCUC reviews that included safety considerations and concluded that it is essential for the BCUC to seek clarity on its jurisdiction over safety.

The BCUC sought and received written submissions from interveners and interested parties regarding the BCUC's jurisdiction with respect to the regulation of safety, legislative gaps or overlaps, and whether a workshop in support of the Inquiry would be beneficial.

Following a review of these submissions, by Order G-342-20, the BCUC determined that further examination of its mandate with respect to safety was required. The BCUC proposed a two-staged approach to the Inquiry, with the first stage (Stage 1) seeking to establish the BCUC's jurisdiction with respect to safety regulation. Specifically, the BCUC would seek to address the following items:

- (1) What is the nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the *Utilities Commission Act* (UCA)? Does the UCA require the BCUC to perform certain duties?
- (2) Under what conditions, if any, may the BCUC forbear from regulating safety of public utilities within its jurisdiction, as allowable under the UCA?; and
- (3) Should the BCUC establish a general framework of key principles to carry out its duties to regulate safety of public utilities? If so, in developing a key framework what key principles should be included, and what else might be included in that general framework?

The BCUC proposed that, upon the conclusion of Stage 1, the BCUC would prepare a report (Safety Regulation Framework) that establishes a general framework of key principles for its regulation of safety (altogether, the Stage 1 Scope).

Following Stage 1, the BCUC would initiate the second stage of the Inquiry (Stage 2) to explore the application of the Safety Regulation Framework to its regulation of public utilities and to establish how the BCUC will implement its mandate with regards to safety.

On Wednesday, January 27, 2021, the BCUC hosted a web-based procedural conference to allow interveners to comment on the BCUC's proposed approach to the Inquiry. At the procedural conference, interveners were generally supportive of a two-staged approach and suggested that there would be value in the BCUC issuing a set of "sub issues" to help guide intervener submissions during Stage 1.

By Order G-34-21, dated January 29, 2021, the BCUC determined that the Inquiry would be conducted in two stages and that Stage 1 would establish a general framework of key principles for the BCUC's regulation of

safety. By Order G-34-21, the BCUC also established a regulatory timetable, which included BCUC issuance of proposed sub issues (Proposed Stage 1 Sub Issues), intervenor submissions and reply submissions on the Proposed Stage 1 Sub Issues, and the issuance of Final Stage 1 Sub Issues by July 8, 2021.

On March 25, 2021, the BCUC issued the Proposed Stage 1 Sub Issues for comment. By April 29, 2021 and June 3, 2021, interveners filed submissions and reply submissions, respectively, on the Proposed Stage 1 Sub Issues.

The following interveners provided submissions on the Proposed Stage 1 Sub Issues:

- Don Flintoff (Flintoff)
- Borealis Geopower Inc. (Borealis)
- Chargepoint BC
- FortisBC Energy Inc. (FEI) and FortisBC Inc. (FBC) (collectively, FortisBC)
- Movement of United Professionals (MoveUP)
- Commercial Energy Consumers Association of British Columbia (CEC)
- Pacific Northern Gas Ltd. (PNG)
- British Columbia Old Age Pensioners' Organization et al. (BCOAPO)
- British Columbia Hydro and Power Authority (BC Hydro)

2.0 Stage 1 Sub Issues

The Proposed Stage 1 Sub Issues included six sub issues as follows:

- Sub Issue 1 – Keeping Informed;
- Sub Issue 2 – Scope of the BCUC's Safety Mandate;
- Sub Issue 3 – Safety in BCUC Adjudications;
- Sub Issue 4 – Effects of BCUC Safety Regulation on Regulatory Burden;
- Sub Issue 5 – Regulatory Gaps; and
- Sub Issue 6 – Regulatory Overlaps.

Within each sub issue, the BCUC proposed some relevant questions interveners may wish to consider in their submissions addressing Stage 1. The BCUC also identified that the sub issues would not alter the Stage 1 Scope, nor limit the scope of intervenor submissions. Rather the proposed sub issues were provided in response to intervenor requests for additional support in understanding some areas the BCUC is interested in exploring in depth during Stage 1.¹

Flintoff, MoveUP, Chargepoint BC, and the CEC provided responses to the questions included in the Proposed Stage 1 Sub Issues rather than submissions on whether the Proposed Stage 1 Sub Issues themselves should be included in the Final Stage 1 Sub Issues.² The Panel invites these parties, should they wish, to file evidence and/or argument addressing Stage 1 in accordance with the regulatory timetable confirmed in Order G-209-21, making reference, if and as necessary, to their submissions previously filed.

¹ Exhibit A-7, Appendix A.

² Exhibit C1-4; Exhibit C5-4; Exhibit C7-3.

FortisBC, PNG, BC Hydro, BCOAPO, and Borealis provided comments on whether the Proposed Stage 1 Sub Issues should be included the Final Stage 1 Sub Issues. Submissions specific to each Proposed Stage 1 Sub Issue are addressed in sections 2.1 through 2.6, below.

Several interveners also provided overarching comments on the Proposed Stage 1 Sub Issues. In this respect, FortisBC submits that, in light of the number of interveners and the number of proposed sub issues and questions, it would be most efficient for the Inquiry to focus on foundational items in Stage 1.³

BC Hydro expresses concern about the scope and breadth of the questions posed under the Proposed Stage 1 Sub Issues. BC Hydro notes that while answering the questions proposed by the BCUC appears to be voluntary, BC Hydro expects that the majority of interveners will endeavor to answer most, if not all, of the proposed questions. Given that there are 21 interveners registered in this Inquiry, BC Hydro believes that the number of sub issues and questions should be streamlined and focused on the goals of Stage 1 of the Inquiry so that the record of the Inquiry does not become unwieldy and unnecessarily complex.⁴ In its reply submission, FortisBC agrees with BC Hydro's that there is value in "streamlining" the number of sub issues and questions to focus on the goals of Stage 1.⁵

BCOAPO submits that overall, all Sub Issues are appropriate for Stage 1 of the Inquiry. BCOAPO also submits that although there might be some of the questions for these issues that could be deferred to Stage 2, BCOAPO has no objections to these questions.⁶

Borealis submits that the proposed Stage 1 Sub Issues appear as though they will be generally helpful to interveners when preparing the Stage 1 submissions.⁷

In response to these comments, the Panel notes that the Final Stage 1 Sub Issues reflect a refinement of the initial proposal, with a focus on the Stage 1 Scope.

Further, addressing the Final Stage 1 Sub Issues remains optional. Intervenors may wish to consider these sub issues when preparing evidence and/or argument, however the Final Stage 1 Sub Issues are not intended as an exhaustive list of areas parties may wish to address, nor may all sub issues be relevant to all interveners.

2.1 Proposed Sub Issue 1 – Keeping Informed

Positions of the Intervenors

FortisBC submits that Sub Issue 1, which would explore what it means for the BCUC to "keep itself informed" with respect to utility safety and the BCUC's general safety oversight responsibilities, could be appropriate for Stage 1. FortisBC submits, however, that some of the questions posed with respect to this sub issue would be better left to Stage 2, specifically aspects of questions 2(a) through 2 (e) and question 3, as these relate to implementation of principles, rather than the BCUC's jurisdiction and the development of a framework.⁸

³ Exhibit C4-3, p. 1.

⁴ Exhibit C13-4, p. 2.

⁵ Exhibit C4-4, p. 2.

⁶ Exhibit C11-4, p. 2.

⁷ Exhibit C2-4, p. 1.

⁸ Exhibit C4-3, pp. 1–2.

PNG agrees with FortisBC's submissions relating to Sub Issue 1.⁹

BC Hydro submits that Sub Issue 1, in its entirety, should be removed from the Proposed Stage 1 Sub Issues list. BC Hydro submits that these matters will necessarily be informed by the BCUC's consideration of the nature and extent of its jurisdiction with respect to the regulation of safety and, therefore, assume an outcome that has not yet been determined. As such, BC Hydro is of the view that Sub Issue 1 and all questions proposed under this issue are premature and are more appropriately considered in Stage 2 of the Inquiry, if and as necessary.¹⁰

BCOAPO supports Sub Issue 1, however identifies that questions in Sub Issue 1 related to timeframes could be deferred to Stage 2.¹¹

Panel Discussion

The Panel has revised Sub Issue 1 - Keeping Informed in the Final Stage 1 Sub Issues to remove from Stage 1 certain aspects relating to implementation, such as timeframes and frequencies of reporting.

The Panel agrees with FortisBC, PNG, and BCOAPO that implementation aspects may be better considered in Stage 2 of the Inquiry, where the BCUC intends to explore the application of the Safety Regulation Framework to its regulation of public utilities and establish how the BCUC will implement its mandate with regards to safety.

The Panel acknowledges BC Hydro's submission on proposed Sub Issue 1. However, the Panel considers that Sub Issue 1 will assist the Panel in exploring the nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the UCA, consistent with the Stage 1 Scope. As such, the Panel has not removed Sub Issue 1 in its entirety from the Final Stage 1 Sub Issues, but rather made the modifications noted above.

2.2 Proposed Sub Issue 2 – Scope of the BCUC's Mandate

Positions of the Interveners

FortisBC submits that the scope of the BCUC's safety mandate and the questions related to Sub Issue 2 are best addressed in Stage 1 and that this is a foundational issue for the Inquiry. FortisBC does not propose any changes to Sub Issue 2.¹²

PNG agrees with FortisBC's submissions relating to Sub Issue 2.¹³

BC Hydro submits that Sub Issue 2 is appropriate for Stage 1, however submits that references to worker safety and safety of environment are outside of BCUC's jurisdiction and suggests that the examples in question 3 ought to be removed.¹⁴

Borealis submits that the question regarding safety of the environment should remain in the Final Stage 1 Sub Issues and that participants in the Inquiry should be given the opportunity to fully address this issue during the intervenor evidence and/or argument components of Stage 1. Borealis submits that while BC Hydro may

⁹ Exhibit C9-3; p. 1.

¹⁰ Exhibit C13-4, p. 3.

¹¹ Exhibit C11-4, p. 2.

¹² Exhibit C4-3, p. 2.

¹³ Exhibit C9-3; p. 1.

¹⁴ Exhibit C13-4, p. 1; Appendix A, pp. 2–3.

consider that the BCUC has no jurisdiction to regulate or set standards for the safety of the environment, other interveners may disagree.¹⁵

BCOAPO supports Sub Issue 2 and submits it will help to answer the broader Stage 1 questions regarding the nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities, and the conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction.¹⁶

Panel Discussion

The Panel has not made any changes to proposed Sub Issue 2 – Scope of the BCUC's Mandate in the Final Stage 1 Sub Issues.

The Panel agrees with Borealis that while BC Hydro may be of the view that the BCUC does not have jurisdiction with respect to certain areas, other interveners may reasonably disagree. The Panel considers receiving evidence and/or argument on these topics will assist the Panel in exploring the nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the UCA.

2.3 Proposed Sub Issue 3 – Safety in BCUC Adjudications

Positions of the Intervenors

FortisBC submits that Sub Issue 3 and the questions provided under Sub Issue 3 all are more appropriately addressed in Stage 2 of the Inquiry as they address implementation of oversight more than a determination of the contours of the BCUC's jurisdiction with respect to safety.¹⁷

PNG agrees with FortisBC's submissions relating to Sub Issue 3.¹⁸

BC Hydro submits that Sub Issue 3 in its entirety should be removed from the Proposed Stage 1 Sub Issues list as these matters concern how the key principles might be implemented rather than informing the establishment of the key principles themselves.¹⁹

BCOAPO supports Sub Issue 3 and submits it will assist interveners in addressing the Stage 1 goal of setting out a framework of key principles to guide the BCUC in carrying out its safety-related duties.²⁰

Panel Discussion

The Panel has made substantive changes to proposed Sub Issue 3 – Safety in BCUC Adjudications in the Final Stage 1 Sub Issues. Firstly, the Panel has reframed Sub Issue 3 to indicate that the BCUC is interested in exploring in Stage 1 of the Inquiry *whether* it should consider and address safety in BCUC adjudications, as opposed to *how* it might do so, as was originally drafted. Second, the Panel has streamlined the questions included in Sub Issue 3 to focus on *whether* safety should be considered in the BCUC's determination of the public interest and in setting public utility rates, as opposed to questions on *how* safety should be considered in the specific types of BCUC adjudications. The Panel considers these changes to be responsive to intervenor submissions and to bring Sub Issue 3 into alignment with the Stage 1 Scope.

¹⁵ Exhibit C2-5, p. 1.

¹⁶ Exhibit C11-4, p. 2.

¹⁷ Exhibit C4-3, p. 2.

¹⁸ Exhibit C9-3, p. 1.

¹⁹ Exhibit C13-4, p. 3.

²⁰ Exhibit C11-4, p. 2.

2.4 Proposed Sub Issue 4 – Effects of BCUC Safety Regulation on Regulatory Burden

Positions of the Interveners

FortisBC submits that consideration of the potential effects of incorporating safety into BCUC reporting requirements and adjudications, as set out in questions 1 and 3 of Sub Issue 4, could be appropriate for Stage 1 of the Inquiry. FortisBC further submits that questions 2 and 4 would be better left to Stage 2, as they relate to implementation.²¹

PNG agrees with FortisBC's submissions relating to Sub Issue 4.²²

BC Hydro submits that Sub Issue 4 and the proposed questions under it are directly related and, in some cases, duplicative of the questions proposed under Sub Issue 1. Similar to Sub Issue 1, BC Hydro submits that these matters will necessarily be informed by the BCUC's consideration of the nature and extent of its jurisdiction with respect to the regulation of safety and therefore, assume an outcome that has not yet been determined. BC Hydro submits that the effect of BCUC safety regulation on regulatory burden is more appropriately considered in Stage 2 of the Inquiry, if and as necessary.²³

BCOAPO supports Sub Issue 4 and submits that this sub issue will also assist in the development of a framework of key principles.²⁴

Panel Discussion

The Panel agrees with intervener submissions that the matters raised in proposed Sub Issue 4 have been sufficiently addressed in other sub issues or relate to implementation and, as such, would be better addressed in Stage 2 of the Inquiry. Accordingly, the Panel has not included proposed Sub Issue 4 - Effects of BCUC Safety Regulation on Regulatory Burden in the Final Stage 1 Sub Issues.

2.5 Proposed Sub Issue 5 – Regulatory Gaps

Positions of the Interveners

FortisBC, PNG, BC Hydro, and BCOAPO all support Sub Issue 5 and do not propose any changes.²⁵

Panel Discussion

The Panel has not made any changes to the Regulatory Gaps Sub Issue in the Final Stage 1 Sub Issues, aside from renumbering it to Sub Issue 4 in light of the exclusion of the proposed Effects of BCUC Safety Regulation on Regulatory Burden sub issue, as discussed in section 2.4 above. The Panel notes intervener support for this proposed sub issue as drafted.

²¹ Exhibit C4-3, p. 2.

²² Exhibit C9-3, p. 1.

²³ Exhibit C13-4, p. 4.

²⁴ Exhibit C11-4, p. 2.

²⁵ Exhibit C4-3, p. 2; Exhibit C9-3, p. 1; Exhibit C13-4, p. 2; Exhibit C11-4, p. 2; Exhibit C2-4, p. 1.

2.6 Proposed Sub Issue 6 – Regulatory Overlaps

Positions of the Interveners

FortisBC submits that the identification of overlapping regulatory jurisdiction and its import for reporting requirements for public utilities is appropriate for Stage 1 and that this is a foundational issue for the Inquiry. FortisBC submits, however, that some of the questions posed with respect to Sub Issue 6, specifically questions 1(b) and 3, are better left to Stage 2 as they relate to implementation.²⁶

PNG agrees with FortisBC's submissions relating to Sub Issue 6.²⁷

BC Hydro submits that Sub Issue 6 is appropriate for inclusion in Stage 1, however submits that questions 1(b), 1(c), 1(d), 2, 3, 4 and 5 should be addressed in Stage 2, if and as required.²⁸

BCOAPO supports Sub Issue 6 and submits it too will help to answer the Stage 1 questions regarding the nature and extent of the BCUC's safety jurisdiction and the conditions under which the BCUC can forbear in exercising such jurisdiction.²⁹

Borealis proposes to add a question to Sub Issue 6 to state "if another regulatory body has overlapping safety jurisdiction with the BCUC, should the BCUC assess and ensure that the other regulatory body's regulation of safety is as efficient as possible (i.e. does it impose the least possible economic burden on the public utility while ensuring safety)?"³⁰

In response, BC Hydro submits that the BCUC does not have jurisdiction to assess the efficiency of another regulatory body's regulation of safety, nor does it have jurisdiction to ensure that another regulatory body's regulation of safety is as efficient as possible. BC Hydro submits that Borealis' proposed question should not be added to the Final Stage 1 Sub Issues.³¹

FortisBC submits that Borealis' proposed additional question under Sub Issue 6 could be addressed in either Stage 1 or Stage 2.³²

Borealis submits that its proposed question with regards to regulatory overlaps be given the opportunity to be fully addressed by the Inquiry participants during the intervenor evidence and/or argument components of Stage 1 or Stage 2 of the Inquiry, whichever is best.³³

Panel Discussion

The Panel has made substantive changes to proposed Sub Issue 6 - Regulatory Overlaps, in addition to renumbering the sub issue to reflect the exclusion of Proposed Sub Issue 4, as discussed in section 2.4 above.

²⁶ Exhibit C4-3, p. 3.

²⁷ Exhibit C9-3, p. 1.

²⁸ Exhibit C13-4, p. 2, Appendix A.

²⁹ Exhibit C11-4, p. 2.

³⁰ Exhibit C2-4, p. 1.

³¹ Exhibit C13-5, p. 2.

³² Exhibit C4-4, p. 1.

³³ Exhibit C2-5, p. 1.

The Panel agrees with FortisBC, PNG, and BC Hydro that aspects of question 1 relate to implementation and, as such, has not included what were questions 1(b), 1(c), and 1(d) in the Final Stage 1 Sub Issues. The Panel considers these matters may be better addressed in Stage 2 of the Inquiry. The Panel has also removed question 3, as it considers this matter to have been sufficiently addressed in Sub Issue 1.

The Panel considers that the changes noted above partially address BC Hydro's concerns regarding proposed Sub Issue 6, however, the Panel disagrees with the remaining aspects of BC Hydro's submission, which suggests moving questions 2 and 4 to Stage 2, and has included these questions in the Final Stage 1 Sub Issues. Included in the Stage 1 Scope is addressing the conditions, if any, under which the BCUC can forbear from regulating the safety of public utilities within its jurisdiction, as allowable under the UCA. The Panel considers the questions included in the Regulatory Overlaps Sub Issue to fall within this scope.

The Panel appreciates Borealis' proposal for an additional question for proposed Sub Issue 6. However, the Panel declines to include it in the Final Stage 1 Sub Issues. The Panel remains focused on the Stage 1 Scope, which includes addressing the nature and extent of the BCUC's jurisdiction to regulate the safety of public utilities under the UCA, as opposed to the examining the efficiency of another regulatory body's safety regulation. The Panel does not consider the proposed question to fall within the scope of Stage 1.