



September 22, 2022

Sent via email

Letter L-37-22

Ms. Michelle Unger
Manager, Environmental Performance
Teck Resources Limited
Bag 2000
Kimberley, BC V1A 3E1
Michelle.unger@teck.com

Re: Teck Metals Ltd. – Seeking Authorization of Electricity Resale to TooliTech Inc.

Dear Ms. Unger:

On August 23, 2022, Teck Metals Ltd. (Teck) filed an application with the British Columbia Utilities Commission (BCUC) seeking authorization of electricity resale to TooliTech Inc. (TooliTech) and confirmation of exemption from regulation as a public utility as defined in section 1 of the *Utilities Commission Act* (UCA) (Application).

In the Application, Teck seeks to enter into a resale agreement whereby it will meter and flow-through the cost of electricity provided by BC Hydro and Power Authority, under Rate Schedule 1823, to TooliTech with no mark-up. Teck confirms that there is no subsequent electricity resale by TooliTech to any other party. Teck also seeks BCUC confirmation it is exempt from regulation as a public utility under Part 3 and Section 71 of the UCA since the lease with TooliTech does not exceed 5 years.

Section 1 of the UCA defines a public utility as:

"public utility" means a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for

- (a) the production, generation, storage, transmission, sale, delivery or provision of electricity, natural gas, steam or any other agent for the production of light, heat, cold or power to or for the public or a corporation for compensation...

but does not include

- (d) a person not otherwise a public utility who provides the service or commodity only to the person or the person's employees or tenants, if the service or commodity is not resold to or used by others,

"tenant" does not include a lessee for a term of more than 5 years

BCUC staff note that Teck does not appear to meet the definition of a public utility pursuant to section 1 part (d) of the UCA, since TooliTech is Teck's tenant under a five-year lease agreement, and there is no resale of electricity by TooliTech to another party. Therefore, given the circumstances as outlined in the Application, Teck would not be subject to regulation as a public utility under Part 3 and section 71 of the UCA.

Please note that the position of BCUC staff contained herein is not a legal opinion, nor does this letter provide an advanced ruling on any future applications filed by Teck. BCUC Staff's observations are made based on information contained in the Application; however, additional or alternative information may impact Teck's status as a public utility. Should circumstances change, Teck may fall under the definition of a public utility and may apply for an exemption under section 88(3) of the UCA, if warranted. Any such application will be reviewed by a panel of commissioners who will make any decision(s) based on the information at that time. BCUC staff recommend Teck seek independent legal advice on this matter.

Sincerely,

Original signed by:

Sara Hardgrave
Acting Commission Secretary

AP/db