



ORDER NUMBER
G-346-22

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

and

Creative Energy Seḥákw Limited Partnership
Application for a Certificate of Public Convenience and Necessity
for the Seḥákw District Energy System

BEFORE:

C. M. Brewer, Panel Chair
A. K. Fung, KC, Commissioner
E. B. Lockhart, Commissioner

on November 30, 2022

ORDER

WHEREAS:

- A. On October 20, 2022, Creative Energy Seḥákw Limited Partnership (CESLP) applied to the British Columbia Utilities Commission (BCUC) pursuant to sections 45 and 46 of the *Utilities Commission Act* for a Certificate of Public Convenience and Necessity (CPCN) to construct, own and operate a thermal energy system to provide heating and cooling to the Seḥákw Development, which is on Seḥákw Lands (Application);
- B. The Skwxwú7mesh Úxwumixw (Squamish Nation) owns the Seḥákw Lands as reserve lands through an agreement with the federal government;
- C. The proposed thermal energy system is a low carbon electrified energy system that provide cooling to the Seḥákw Development with electric chillers, and provide heating with captured waste heat from the cooling equipment and reclaimed heat from a Metro Vancouver main sewer line using high-temperature heat pumps (Seḥákw DES);
- D. In the Application, CESLP states that a limited review process would be appropriate for the BCUC to satisfy itself that a CPCN for the Seḥákw DES should be granted and that a typical form of public process with third-party interventions representing interests external to the Squamish Nation and the use of the Seḥákw Lands would be precluded; and
- E. The BCUC has commenced review of the Application and determines that the establishment of a public hearing process is warranted.

NOW THEREFORE the BCUC orders as follows:

1. For the reasons attached as Appendix A to this order, a public hearing process is established, as set out in the regulatory timetable attached as Appendix B to this order.
2. CESLP is directed, as soon as reasonably possible, but no later than Thursday, December 15, 2022, to:
 - a. provide an electronic copy of the Application, this order, and the Public Notice attached as Appendix C to all affected or potentially affected parties, including, but not limited to, the Squamish Nation, Nch'kay West, the City of Vancouver, Metro Vancouver and any known prospective tenants of the Senákw Development; and
 - b. post a copy of this order, the Application and the Public Notice attached as Appendix C, on the Senákw DES page of the Creative Energy Group's website and all social media channels. Weekly reminder notices on each platform must be published until the conclusion of the intervener registration period on Monday, January 9, 2023.
3. CESLP is directed to publish the Public Notice in print/display-ad format by Thursday, December 15, 2022, attached as Appendix C to this Order, in appropriate news publications, such as, but not limited to, local and community newspapers as to provide adequate notice to those parties who may have an interest in or be affected by the Application.
4. CESLP is recommended to request Nch'kay West to post a copy of this order, the Application and the Public Notice attached as Appendix C on its website at <https://senakw.com/>.
5. CESLP must provide confirmation to the BCUC when the Public Notice has been posted, including a list of the publications (paper and digital) in which the notice was posted, by Monday, December 19, 2022.
6. CESLP must submit to the BCUC a list of all parties notified of this Application as directed in Directive 2 of this order by Monday, December 19, 2022.
7. Parties who wish to actively participate in this proceeding must complete a Request to Intervene Form, available on the BCUC's website at <https://www.bcuc.com/get-involved/get-involved-proceeding.html> by Monday, January 9, 2023 as established in the regulatory timetable, and in accordance with the BCUC's Rules of Practice and Procedure attached to Order [G-178-22](#). Parties who wish to stay informed about the proceeding may register as an Interested Party by completing an [Interested Party Form](#), available on the BCUC's website under Get Involved. Parties may also submit letters of comment by completing a [Letter of Comment Form](#), available on the BCUC's website.

DATED at the City of Vancouver, in the Province of British Columbia, this 30th day of November 2022.

BY ORDER

Original signed by:

C. M. Brewer
Commissioner

Attachments

Creative Energy Seḥákw Limited Partnership
Application for a Certificate of Public Convenience and Necessity
for the Seḥákw District Energy System

REASONS FOR DECISION

1.0 Introduction

On October 20, 2022, Creative Energy Seḥákw Limited Partnership (CESLP) applied to the British Columbia Utilities Commission (BCUC), pursuant to sections 45 and 46 of the *Utilities Commission Act*, seeking a Certificate of Public Convenience and Necessity (CPCN) to construct, own and operate a thermal energy system to provide heating and cooling to the Seḥákw Development, which is on Seḥákw Lands (Application).¹

The Skwxwú7mesh Úxwumixw (Squamish Nation) owns the Seḥákw Lands as reserve lands through an agreement with the federal government.² The Seḥákw Development is a mixed-use project of primarily purpose-built rental housing that is being developed by Nch'kay West. Nch'kay West is a partnership between the Nch'kay Development Corporation (NDC) and Westbank Projects Corp. The NDC was established in 2018 as the economic development arm of the Squamish Nation.³

The proposed thermal energy system is a low carbon electrified energy system that provides cooling to the Seḥákw Development with electric chillers, and provides heating with captured waste heat from the cooling equipment and reclaimed heat from a Metro Vancouver main sewer line using high-temperature heat pumps (Seḥákw DES).⁴ CESLP states that the Seḥákw DES has been sized to serve seven new buildings to be constructed through phases 1 and 2 of the Seḥákw Development. Upon the completion of phases 1 and 2, the Seḥákw DES will provide thermal energy for approximately 185,000m² of building floor space, consisting primarily of residential (95%) and some commercial (5%) rental premises. Potential expansion of the Seḥákw DES is contemplated to serve phases 3 and 4 of the Seḥákw Development. CESLP notes that final plans for phases 3 and 4 of the development have not been confirmed and this expansion of the Seḥákw DES does not form part of the requested approvals in the Application.⁵

CESLP identifies that the customers of the Seḥákw DES are each of the buildings in the Seḥákw Development, for which customer entities will be established as separate limited partnerships under the single ownership control of Nch'kay West.⁶

2.0 Review of the Application

CESLP states that a limited review process would be appropriate for the BCUC to satisfy itself that a CPCN for the Seḥákw DES should be granted.⁷ CESLP states that such a process could entail the response to BCUC staff or

¹ Exhibit B-1, p. 1.

² Exhibit B-1, p. 1.

³ Exhibit B-1, p. 2.

⁴ Exhibit B-1, p. 2.

⁵ Exhibit B-1, p. 21.

⁶ Exhibit B-1, p. 3.

⁷ Exhibit B-1, p. 15.

Panel questions for example, while a typical form of public process with third-party interventions representing interests external to the Squamish Nation and the use of the Senákw Lands would be precluded. CESLP considers that a limited process would also be in keeping with the unique location and characteristics of the Senákw DES, which do not prompt the public interest considerations that typically stem from CPCN applications for projects involving the use of public lands.⁸

CESLP identifies that the utility infrastructure and service area of the Senákw DES will be contained within the Reserve of the Squamish Nation as within the boundaries of the Senákw Lands. CESLP states that the Squamish Nation directly advised CESLP of its strong belief that a typical public consultation process would not respect the Nation's right to sovereignty and jurisdiction on its land. The Squamish Nation requested that Creative Energy not engage in public consultation for the Senákw DES.⁹

CESLP states that a limited process would be expected to provide sufficient information to allow the BCUC to assess the project against the requirements of the *Utilities Commission Act* and the *Clean Energy Act* and to thereby assess the project in a cost-effective and efficient manner with due regard to the sovereignty of the Squamish Nation; the location, characteristics and customers of the Senákw DES; the level of expenditures and the sophistication of the parties involved; and the track record of Creative Energy broadly in undertaking similar projects.¹⁰

CESLP further highlights that:¹¹

- The Senákw DES has been conceived and developed as the Squamish Nation's preferred system to directly further its climate leadership and legacy objectives.
- All parties are sophisticated and knowledgeable as to defining and accepting the need and cost of the project. All external parties with a direct and noted interest in the Senákw DES and on the Senákw Lands have been engaged as necessary and where applicable in the design of the Senákw DES and in the agreements required to facilitate its execution.
- The Senákw DES makes no use of public lands. There are no public roads or other municipal rights of way on the Senákw Lands. As a condition of its site servicing agreement with the City of Vancouver for the Senákw Development, Nch'kay West agreed to deliver a development that included a low-carbon district energy system.
- The technology chosen for the Senákw DES means that there will not be impacts to parties outside the Senákw Lands in relation to transport trucks, noise or exhaust for example.
- The Senákw DES is a low to near zero carbon thermal energy system sized only for the known customer load of phases 1 and 2 of the Senákw Development.
- Nch'kay West is the owner of the Senákw Development and the effective only customer of the Senákw DES on the Senákw Lands through the individual building limited partnerships.
- An Infrastructure Agreement is in place between Nch'kay West (through its limited partners) and CESLP and long-term customer service contracts will be executed between CESLP and each building customer entity.
- Creative Energy has the experience and resources to design, construct and operate the Senákw DES; and

⁸ Exhibit B-1, p. 12.

⁹ Exhibit B-1, p. 6.

¹⁰ Exhibit B-1, pp. 12-13.

¹¹ Exhibit B-1, pp. 13-14.

- The estimated total capital cost of the Seṇákw DES is approximately \$26 million.

Panel Determination

The Panel acknowledges that Seṇákw DES is situated on lands owned by the Squamish Nation. Some of the lands in question are directly under a busy transportation route serving the Vancouver area, and it appears that some of the DES facilities may be beneath or crossing the Burrard Street bridge. This Application is related to Phase 1 and 2 of the Seṇákw Development. However, the Seṇákw DES plans to eventually serve five other buildings that are currently identified as rental properties under the ownership of Nch'kay West. There are approximately 60,000 square feet of commercial space included in Phase 1, with additional retail and commercial space planned for the subsequent phases, but no detail on the anticipated commercial customers. The Seṇákw DES links into the Metro Vancouver sewage infrastructure. Given the lack of public consultation prior to this Application, the Panel considers that there may be additional interests and stakeholders to consider. The Panel, therefore, finds that an opportunity for affected parties to participate in the hearing is required, and there is a need for additional evidence to determine whether the Application can and should be approved as being in the public interest; therefore, additional process is warranted.

For these reasons, a public hearing process is established, as set out in the regulatory timetable attached as Appendix B to this order.

Creative Energy Señákw Limited Partnership
Application for a Certificate of Public Convenience and Necessity
for the Señákw District Energy System

REGULATORY TIMETABLE

Action		Date (2022)	
CESLP provides public notice of Application		Thursday, December 15	
CESLP to provide confirmation of public notice and a list of parties notified		Monday, December 19	
Action		Date (2023)	
Intervener Registration deadline		Monday, January 9	
BCUC Information Request (IR) No. 1 to CESLP		Tuesday, January 17	
Intervener IR No. 1 to CESLP		Thursday, January 26	
CESLP responses to IR No.1		Thursday, February 9	
Further process		To be determined	



We want to hear from you

APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE SEÑÁKW DISTRICT ENERGY SYSTEM

On October 20, 2022, Creative Energy Señákw Limited Partnership applied to the British Columbia Utilities Commission (BCUC) pursuant to sections 45 and 46 of the *Utilities Commission Act* seeking a Certificate of Public Convenience and Necessity to construct, own and operate a thermal energy system to provide heating and cooling to the Señákw Development, which is on Señákw Lands. The Skwxwú7mesh Úxwumixw (Squamish Nation) owns the Señákw Lands as reserve lands through an agreement with the federal government.

The proposed thermal energy system is a low carbon electrified energy system that provides cooling to the Señákw Development with electric chillers, and provides heating with captured waste heat from the cooling equipment and reclaimed heat from a Metro Vancouver main sewer line using high-temperature heat pumps.

HOW TO PARTICIPATE

- **Submit a letter of comment**
- **Register as an interested party**
- **Request intervener status**

IMPORTANT DATES

1. Monday, January 9, 2023– Deadline to register as an intervener with the BCUC

For more information about the Application, please visit the [Proceeding Webpage](#) on bcuc.com under “Our Work – Proceedings”. To learn more about getting involved, please visit our website at www.bcuc.com/get-involved or contact us at the information below.

GET MORE INFORMATION

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