



**ORDER NUMBER**  
**G-58-23**

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

and

Powell River Energy Inc.  
Status as a Public Utility

**BEFORE:**

T. A. Loski, Panel Chair  
C. M. Brewer, Commissioner  
A. Pape-Salmon, Commissioner

on March 20, 2023

**ORDER**

**WHEREAS:**

- A. Powell River Energy Inc. (PREI), a wholly owned subsidiary of Brookfield Renewable Partners L.P. (Brookfield), own and operate two hydroelectric generating stations constructed in the early 1900's, with an aggregate nameplate capacity of approximately 85 megawatts, and transmission and distribution facilities (Power Facilities) located on Powell Lake and Lois Lake in Powell River;
- B. PREI purchased the Power Facilities in 2001 from the then owner, Pacifica Power Co. Ltd., a wholly owned subsidiary of Pacifica Papers Inc. (Pacifica). PREI sold power from the Power Facilities to Pacifica, later Catalyst Paper Corporation (Catalyst) and was therefore a public utility pursuant to section 1 of the *Utilities Commission Act* (UCA) and subject to British Columbia Utilities Commission (BCUC) regulation;
- C. By Ministerial Order M-22-0101, deposited January 30, 2001, the Minister of Employment and Investment granted PREI an exemption, pursuant to section 22 of the UCA, from regulation as a public utility under Part 3 and section 71 of the UCA with respect to electricity generated at the Power Facilities and sold to Catalyst, under a Power Purchase Agreement (PPA), for use at its Powell River pulp and paper mill;
- D. Order M-22-0101 also allowed PREI to sell any electricity not purchased by Catalyst to participants in the wholesale electricity market (Surplus Electricity);
- E. The PPA between PREI and Catalyst was subsequently renewed in 2011 and 2016;
- F. By Ministerial Order M039 (BC Reg. 26/2017) (M039), deposited on February 7, 2017, the Minister of Energy, Mines, and Low Carbon Innovation (Minister), pursuant to section 22 of the UCA, granted PREI a partial exemption from Part 3 and section 71 of the UCA (Ministerial Exemption) on the condition that the electricity generated at the Power Facilities was provided to Catalyst per the terms of the PPA, with any Surplus Electricity available to PREI;

- G. By Order G-17-17 dated February 7, 2017, pursuant to section 88(3) of the UCA, the BCUC, having been granted advance approval by the Minister, exempted PREI from section 71 and Part 3 of the UCA, except for sections 25, 38, 42, and 43, for the duration of M039;
- H. PREI and Catalyst agreed to terminate the PPA effective May 31, 2021 (PPA Termination);
- I. In anticipation of the Ministerial Exemption being repealed, on September 29, 2021, PREI filed an application with the BCUC for an exemption from Part 3 of the UCA, except for sections 25, 38, 42, and 43, and section 71 of the UCA (2021 Exemption Application);
- J. Following the PPA Termination, the Minister, by Ministerial Order M5 (BC Reg. 3/2022) deposited on January 12, 2022, repealed M039, thereby rescinding PREI's partial exemption from the UCA;
- K. PREI withdrew its 2021 Exemption Application on February 22, 2022;
- L. By letter dated December 28, 2022, in response to a BCUC letter requesting an update on PREI's operations, PREI states that since the PPA Termination, PREI has been exporting all its power production to the United States, with the assistance of PREI's affiliated companies – Powell River Energy Limited Partnership (PRELP) and Evolugen Trading and Marketing LP (Evolugen). PREI, PRELP and Evolugen are all subsidiaries of Brookfield;
- M. PREI states that it sells power only to its subsidiaries and does not sell to any other person or any end-use consumers in BC and therefore PREI is no longer a public utility as it now falls within the exclusion set out in section 1 (d) of the UCA;
- N. By Order G-38-23, the BCUC established a hearing process for the review of PREI's status as a public utility, directing PREI to, among other things, provide public notice of the proceeding to potentially affected parties;
- O. By Order G-43-23 dated March 7, 2023, the BCUC amended the regulatory timetable in consideration of the Easter statutory holiday;
- P. By letter dated March 20, 2023, PREI filed a request to reconsider and amend Order G-43-23 to (i) reduce the list of parties that PREI must notify, and (ii) adjourn the regulatory timetable until the BCUC responds to PREI's request; and
- Q. The BCUC has reviewed PREI's request and finds that the following determination is warranted.

**NOW THEREFORE** the BCUC adjourns the proceeding pending further order from the BCUC.

**DATED** at the City of Vancouver, in the Province of British Columbia, this                      20<sup>th</sup>                      day of March 2023.

BY ORDER

*Original signed by:*

T. A. Loski  
Commissioner