



ORDER NUMBER
G-135-24

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

and

British Columbia Utilities Commission
An Inquiry into the Regulation of Hydrogen Energy Services

BEFORE:

A. K. Fung, KC, Panel Chair
M. Kresivo, KC, Commissioner

on May 16, 2024

ORDER

WHEREAS:

- A. By Order G-330-22, dated November 21, 2022, the British Columbia Utilities Commission (BCUC) established an inquiry into the BCUC's regulation of the provision of hydrogen as an energy resource (Hydrogen Energy Services) (Inquiry);
- B. On January 20, 2023, the BCUC led an industry workshop regarding the development of the Hydrogen Energy Services industry in British Columbia and the appropriate nature and scope of BCUC regulation of this industry;
- C. On April 26, 2023, the BCUC issued a draft report with its preliminary findings (Draft Report). By Order G-95-23, dated April 26, 2023, the BCUC established a regulatory timetable which provided an opportunity for Inquiry participants to file written submissions regarding the draft findings and recommendations in the Draft Report;
- D. By letter dated July 27, 2023, the BCUC sought additional information regarding the nature and frequency of the Hydrogen Energy Services related reporting that Inquiry participants and interested parties currently file, or that they anticipate filing, with the British Columbia government;
- E. On November 23, 2023, the BCUC issued its final recommendations regarding the BCUC's regulation of Hydrogen Energy Services (Final Report). In the Final Report, the BCUC finds, among other matters, that a person engaged in the provision of certain Hydrogen Energy Services for compensation falls under the definition of public utility in the *Utilities Commission Act* (UCA). The BCUC finds that exemption from active BCUC regulation for persons that are not otherwise public utilities under the UCA is warranted for, among other Hydrogen Energy Services, the production of hydrogen as a fuel for the production of electricity or as a fuel for transportation or heating;

- F. Pursuant to section 88(3) of the UCA, the BCUC recommends in the Final Report that the minister responsible for the administration of the *Hydro and Power Authority Act* grant advance approval to exempt a class of persons from Part 3 of the UCA, excluding sections 23, 25, 38, 42 and 43 of the UCA, with respect to the person owning or operating in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation, in the class of cases where the person is not otherwise a public utility under the UCA;
- G. By letter, dated April 30, 2024, and attached as Appendix A to this order, the minister responsible for the administration of the *Hydro and Power Authority Act* grants advance approval to the BCUC to exempt a class of persons from Part 3 of the UCA, excluding sections 23, 25, 38, 42 and 43 of the UCA, with respect to the person owning or operating in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation, in the class of cases where the person is not otherwise a public utility under the UCA; and
- H. The BCUC finds that a class of persons exemption with respect to the ownership or operation of equipment or facilities for the production of hydrogen as a fuel for the production of electricity or as a fuel for transportation or heating is warranted and in the public interest.

NOW THEREFORE pursuant to sections 88(1) and 88(3) of the UCA, the BCUC orders as follows:

1. A person who owns or operates in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation, is exempt from Part 3 of the UCA, excluding sections 23, 25, 38, 42 and 43 of the UCA, in the class of cases where the person is not otherwise a public utility under the UCA.
2. The exemption granted pursuant to this order shall remain in effect until the BCUC, after conducting a hearing, orders that the exemption no longer applies.
3. The exemption referred to in Directive 1 of this order only applies if the person files information with the BCUC which demonstrates that the person's hydrogen production undertaking falls within the class of cases defined in Directive 1 of this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 16th day of May 2024.

BY ORDER

Original signed by:

A. K. Fung, KC
Commissioner

Attachment



April 30, 2024

Ref: 119899

Patrick Wruck
Commission Secretary
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

email: Patrick.Wruck@bcuc.com, Commission.Secretary@bcuc.com

RE: Advance approval for exemption from *Utilities Commission Act* provisions for Hydrogen Energy Services.

Dear Patrick Wruck:

Thank you for your letter of November 23, 2023, regarding the Inquiry into the Regulation of Hydrogen Energy Services, Project No. 1599391. Your letter requested advance approval to issue orders to exempt certain Hydrogen Energy Services from provisions of the *Utilities Commission Act*.

I, Josie Osborne, Minister of Energy, Mines and Low Carbon Innovation, confirm that, pursuant to section 88(3) of the *Utilities Commission Act*, approval is given to the British Columbia Utilities Commission to make the exemptions from the indicated provisions of the *Utilities Commission Act* (related to persons who own or operate in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation) as set out in the attached draft order of the British Columbia Utilities Commission.

Sincerely,

Josie Osborne
Minister

Attachment: BCUC Draft Order related to persons who own or operate in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation.

Ministry of
Energy, Mines and
Low Carbon Innovation and
Consular Services

Office of the Minister

Mailing Address:
PO Box 9060, Stn Prov Govt
Victoria, BC V8W 9E2

Telephone: 250 953-0900
Facsimile: 250 356-2965



Suite 410, 900 Howe Street
Vancouver, BC Canada V6Z 2N3
bcuc.com

P: 604.660.4700
TF: 1.800.663.1385
F: 604.660.1102

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- E. On November 23, 2023, the BCUC issued its final recommendations regarding the BCUC's regulation of Hydrogen Energy Services (Final Report). In the Final Report, the BCUC finds, among other matters, that a person engaged in the provision of certain Hydrogen Energy Services for compensation falls under the definition of public utility in the *Utilities Commission Act* (UCA). The BCUC finds that exemption from active BCUC regulation for persons that are not otherwise a public utility under the UCA is warranted for, among other Hydrogen Energy Services, the production of hydrogen as a fuel for the production of electricity or as a fuel for transportation or heating;

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- F. Pursuant to section 88(3) of the UCA, the BCUC recommends in the Final Report that the minister responsible for the administration of the *Hydro and Power Authority Act* grant advance approval to exempt a class of persons from Part 3 of the UCA, excluding sections 23, 25, 38, 42 and 43 of the UCA, with respect to the person owning or operating in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation, in the class of cases where the person is not otherwise a public utility under the UCA;
- G. By letter, dated [xx] and attached as Appendix A to this order, the minister responsible for the administration of the *Hydro and Power Authority Act* grants advance approval to the BCUC to exempt a class of persons from Part 3 of the UCA, excluding sections 23, 25, 38, 42 and 43 of the UCA, with respect to the person owning or operating in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation, in the class of cases where the person is not otherwise a public utility under the UCA; and
- H. The BCUC finds that a class of persons exemption with respect to the ownership or operation of equipment or facilities for the production of hydrogen as a fuel for the production of electricity or as a fuel for transportation or heating is warranted and in the public interest.

NOW THEREFORE pursuant to section 88(1) and 88(3) of the UCA, the BCUC orders as follows:

1. A person who owns or operates in British Columbia, equipment or facilities for the production of hydrogen as a fuel for the production of electricity, or as a fuel for transportation or heating, to or for the public or a corporation for compensation, is exempt from Part 3 of the UCA, excluding sections 23, 25, 38, 42 and 43 of the UCA, in the class of cases where the person is not otherwise a public utility under the UCA.
2. The exemption granted pursuant to this order shall remain in effect until the BCUC, after conducting a hearing, orders that the exemption no longer applies.
3. The exemption referred to in Directive 1 of this order only applies if the person files information with the BCUC which demonstrates that the person's hydrogen production undertaking falls within the class of cases defined in Directive 1 of this order.

DATED at the City of Vancouver, in the Province of British Columbia, this xx day of [Month, Year].

BY ORDER

A. K. Fung, KC
Commissioner

Attachment