



ORDER NUMBER
G-214-24

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

and

British Columbia Utilities Commission
An Inquiry into the Regulation of Municipal Energy Utilities

BEFORE:

T. A. Loski, Panel Chair
C. M. Brewer, Commissioner
W. M. Everett, KC, Commissioner
B. A. Magnan, Commissioner

on August 12, 2024

ORDER

WHEREAS:

- A. By Order G-177-19, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the regulation of energy utilities affiliated with municipalities and regional districts in British Columbia (Inquiry) and established a regulatory timetable;
- B. On December 17, 2021, by Order G-381-21, the BCUC determined that the Inquiry would be conducted in two stages, with stage 1 focusing on the following questions:
 - 1. Does a Local Government Corporation (LGC), wholly owned and operated by a municipality and providing services exclusively within its own boundaries, meet the municipal exclusion as defined in section 1 of the *Utilities Commission Act* (UCA) or is it a public utility?
 - 2. If LGCs are excluded from the municipal exclusion as defined in section 1 of the UCA, should they be regulated under the UCA?
 - 3. Are there any additional conditions or factors that should be considered?
- C. On November 10, 2022, the BCUC issued the final Stage 1 Report. In that report, the BCUC finds that LGCs, wholly owned and operated (i.e., both wholly owned and wholly operated) by a Local Government and providing energy utility services exclusively within the boundaries of that Local Government, are public utilities and are not excluded from regulation under the UCA. The Panel also recommends to the Government of British Columbia a class of persons exemption for these LGCs from operation of section 71 and Part 3 of the UCA, excluding sections 24, 25, 38, 42 and 43;
- D. An LGC is “wholly owned by a Local Government” when the Local Government is the sole shareholder of the LGC (Wholly Owned);

- E. An LGC is “wholly operated by a Local Government” when managerial and day to day operational decisions are not contracted out to third parties to carry out and the ultimate decision-making power on the core aspects of the energy utility service (i.e., the design, construction, operation, maintenance and expansion of the utility plant and distribution infrastructure; the types of service offerings and customers served; and the pricing and terms of service) remain with the LGC board (Wholly Operated);
- F. By letter dated August 2, 2024, and attached as Appendix A to this order, the Minister responsible for the administration of the *Hydro and Power Authority Act* granted advance approval to the BCUC for the proposed exemption; and
- G. The BCUC has considered the information and finds that a class of persons exemption is warranted and in the public interest.

NOW THEREFORE the BCUC orders as follows:

- 1. Pursuant to section 88(3) of the UCA, the BCUC, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*, effective the date of this order, exempts the class of persons meeting the criteria in Directive 2 herein from section 71 and Part 3 of the UCA except for sections 24, 25, 38, 42 and 43.
- 2. The exemptions outlined in Directive 1 apply to the class of persons that meet all of the following criteria:
 - a. The LGC is Wholly Owned and Wholly Operated by a Local Government;
 - b. The LGC provides energy utility services exclusively within the boundaries of that Local Government; and
 - c. The LGC files annual reporting information required by the BCUC in the manner and form specified by the BCUC.
- 3. The exemptions referred to in this order remain in effect until the BCUC, after conducting a hearing, orders that the exemption no longer applies.

DATED at the City of Vancouver, in the Province of British Columbia, this 12th day of August 2024.

BY ORDER

Original signed by:

T. A. Loski
Commissioner

Enclosure



August 2, 2024

Ref: 121024

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

email: Commission.Secretary@bcuc.com

Dear Patrick Wruck:

RE: Advance approval for exemption from the *Utilities Commission Act* provisions for local government corporations that are wholly owned and wholly operated by a local government providing energy utility services exclusively within the boundaries of that local government.

The Minister of Energy, Mines and Low Carbon Innovation received a request from the British Columbia Utilities Commission on November 10, 2022, seeking advance approval to issue an order under section 88(3) of the *Utilities Commission Act* that would:

- Exempt local government corporations that are wholly owned and wholly operated by a local government providing energy utility services exclusively within the boundaries of that local government from operation of section 71 and Part 3 of the *Utilities Commission Act*, excluding sections 24, 25, 38, 42 and 43.
- Require that these local government corporations, in order to qualify for the exemption, file an annual declaration that must include information in the manner and form as specified by the British Columbia Utilities Commission.

... /2

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

Office of the Minister

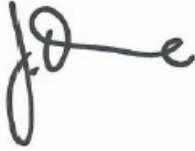
Mailing Address:
PO Box 9060, Stn Prov Govt
Victoria, BC V8W 9E2

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

-2-

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 local government corporations that are wholly owned and wholly operated by a local government providing energy utility services exclusively within the boundaries of that local government as set out in the attached order of the British Columbia Utilities Commission.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jo Os', with a stylized flourish extending to the right.

Josie Osborne
Minister



bcuc
British Columbia
Utilities Commission

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ORDER NUMBER

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the *Utilities Commission Act*, RSBC 1996, Chapter 473

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British Columbia Utilities Commission
An Inquiry into the Regulation of Municipal Energy Utilities

BEFORE:

T. A. Loski, Panel Chair
C. M. Brewer, Commissioner
W. M. Everett, KC, Commissioner
B. A. Magnan, Commissioner

on [Month Day, Year]

ORDER

WHEREAS:

By Order G-177-19, the British Columbia Utilities Commission (BCUC) established an inquiry to examine the regulation of energy utilities affiliated with municipalities and regional districts in British Columbia (Inquiry) and established a regulatory timetable;

On December 17, 2021, by Order G-381-21, the BCUC determined that the Inquiry would be conducted in two stages, with stage 1 focusing on the following questions:

1. Does a Local Government Corporation (LGC), wholly owned and operated by a municipality and providing services exclusively within its own boundaries, meet the municipal exclusion as defined in section 1 of the *Utilities Commission Act* (UCA) or is it a public utility?
2. If LGCs are excluded from the municipal exclusion as defined in section 1 of the UCA, should they be regulated under the UCA?
3. Are there any additional conditions or factors that should be considered?

On November 10, 2022, the BCUC issued the final Stage 1 Report. In that report, the BCUC finds that LGCs, wholly owned and operated (i.e., both wholly owned and wholly operated) by a Local Government and providing energy utility services exclusively within the boundaries of that Local Government, are public utilities and are not excluded from regulation under the UCA. The Panel also recommends to the Government of British Columbia a class of persons exemption for these LGCs from operation of section 71 and Part 3 of the UCA, excluding sections 24, 25, 38, 42 and 43;

An LGC is “wholly owned by a Local Government” when the Local Government is the sole shareholder of the LGC (Wholly Owned);

An LGC is “wholly operated by a Local Government” when managerial and day to day operational decisions are not contracted out to third parties to carry out and the ultimate decision-making power on the core aspects of the energy utility service (i.e., the design, construction, operation, maintenance and expansion of the utility plant and distribution infrastructure; the types of service offerings and customers served; and the pricing and terms of service) remain with the LGC board (Wholly Operated);

By letter dated <date> and attached as Appendix A to this order, the Minister responsible for the administration of the *Hydro and Power Authority Act* granted advance approval to the BCUC for the proposed exemption; and

The BCUC has considered the information and finds that a class of persons exemption is warranted and in the public interest.

NOW THEREFORE the BCUC orders as follows:

- B. Pursuant to section 88(3) of the UCA, the BCUC, having been granted advance approval by the Minister responsible for the administration of the *Hydro and Power Authority Act*, effective the date of this order, exempts the class of persons meeting the criteria in Directive 2 herein from section 71 and Part 3 of the UCA except for sections 24, 25, 38, 42 and 43.
- C. The exemptions outlined in Directive 1 apply to the class of persons that meet all of the following criteria:
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 - b. The LGC provides energy utility services exclusively within the boundaries of that Local Government; and
 - c. The LGC files annual reporting information required by the BCUC in the manner and form specified by the BCUC.
- D. The exemptions referred to in this order remain in effect until the BCUC, after conducting a hearing, orders that the exemption no longer applies.

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

BY ORDER

T. A. Loski
Commissioner

Enclosure