



October 3, 2024

Sent via email

Letter L-28-24



Re: Lake Okanagan Resort – Complaint Regarding Restoration of Service

Dear 

The British Columbia Utilities Commission (BCUC) writes further to your complaint dated July 11, 2024, and your further email dated September 23, 2024, regarding the restoration of electricity service by Lake Okanagan Resort (LOR). To begin, the BCUC would like to express its sympathies to you and all of those affected by the McDougall Creek fire and its aftermath. The BCUC has been working actively to bring those affected together with organizations that may be of assistance in hopes of facilitating a timely resolution to the situation at the resort.

As an independent agency of the Government of British Columbia, the BCUC regulates public utilities in British Columbia in accordance with the provisions of the *Utilities Commission Act (UCA)*. The definition of “public utility” under the UCA¹ includes, among other things, a person who owns or operates in British Columbia facilities for the provision of electricity, or other forms of energy, to the public for compensation. The BCUC does not regulate other types of utility services, including the provision of water or wastewater services.

We understand that you are seeking an order from the BCUC directing LOR to restore electricity to its own facilities, in order to restore water services to the resort. Generally, electricity service in the vicinity of the resort is provided by the British Columbia Hydro and Power Authority (BC Hydro). Prior to the McDougall Creek fire, LOR purchased electricity from BC Hydro to (i) power its own resort facilities and (ii) resell electricity on a metered basis to condo owners located in several stratas on site. To achieve (ii) above and distribute the electricity purchased from BC Hydro to the various stratas, LOR owned and operated a public utility which the BCUC regulates. As such, LOR both purchased electricity as a customer of BC Hydro, on the one hand, and operated a BCUC-regulated public utility which resold some electricity to its own customers at the resort on the other hand.

As a customer of BC Hydro, in order for LOR to reestablish its electrical services for use in its own facilities, LOR must request a re-connection with BC Hydro. BC Hydro is then obligated to comply with its BCUC-approved tariff when responding to such requests. This would include ensuring all safety-related matters are adequately addressed prior to re-connection. Our understanding is that BC Hydro has been operating in accordance with its tariff in its dealings with LOR, and has informed LOR of the steps that are necessary, in accordance with that tariff, to receive service.

¹ Set out in section 1(1) of the UCA.

With respect to LOR's provision of electricity service to its strata customers through its BCUC-regulated public utility, the BCUC is keeping apprised of progress towards occupancy of the resort. The BCUC understands that the availability of LOR water and wastewater services is critical for occupancy and their restoration will bring greater clarity as to when and how many stratas will ultimately rebuild. Once these rebuild plans become available, the BCUC will be better equipped to assess the nature, extent and timing of needed electrical service for the various stratas. Without information regarding the stratas' rebuild plans or the timing of occupancy, there are significant uncertainties which make the future of LOR's electrical utility unclear. Furthermore, LOR has recently reported to the BCUC that it has no plans to rebuild the wastewater system at the resort, and that each strata would be responsible for the necessary facilities should they choose to rebuild. Due to the many uncertainties, these are not appropriate circumstances for the BCUC to consider taking the significant steps of either ordering LOR to reinstate regulated utility services to the stratas, or otherwise completing the necessary work to rebuild the electrical system to serve these customers. Notably, the costs of either option would typically be borne by the utility's customers.

The BCUC also understands that the stratas at the resort may be able to access alternative sources of electricity, such as the BC Hydro system. As such, BCUC staff have communicated with BC Hydro and strata representatives regarding the possibility of BC Hydro providing electrical service to ensure the stratas are aware of this option. The BCUC notes that whatever path is chosen, public utilities must design and operate their property and equipment in a safe and reasonable manner and the costs to do so are generally borne by the utility's customers in accordance with its approved rates. We expect that this principle will be an important consideration in any BCUC processes relating to the restoration of electrical service at the resort.

Finally, your complaint references BCUC Order G-294-23, which directed LOR to cease and desist the construction of public utility electrical equipment. The BCUC specifically clarified in the decision accompanying Order G-294-23 that nothing in its order precluded LOR "from powering their own facilities, such as the resort's water system, at their own expense and for their own use".² As such, the BCUC's order does not prevent LOR from becoming a customer of BC Hydro, for the purposes of powering LOR's water or other facilities.

Given the various factors discussed above, the BCUC intends to continue monitoring the situation at the resort, including in particular the extent and timing of future occupancy. As future developments provide greater clarity on re-occupation of the resort, the BCUC will then consider appropriate steps respecting the provision of regulated electrical services to LOR's future residents. We ask that as your strata makes plans to rebuild, including any plans related to establishing wastewater services for your building, that you keep the BCUC apprised and provide us with information on these plans as soon as possible.

Sincerely,

Original signed by:

Patrick Wruck
Commission Secretary

CD/kk

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² BCUC Order G-294-23 LOR Restoration of Service, Appendix A, p. 3.