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March 28, 2019

VIA ELECTRONIC MAIL

British Columbia Utilities Commission
6th Floor, 900 Howe Street
Vancouver, B.C. V6Z 2N3

**Attention: Patrick Wruck, Commission Secretary
and Manager, Regulatory Support**

Dear Sirs/Mesdames:

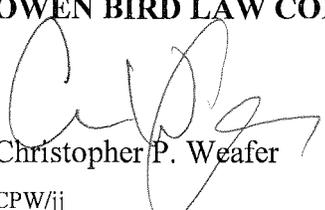
**Re: British Columbia Utilities Commission Inquiry into the Regulation of Electric
Vehicle Charging Service – Phase 2**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the "CEC"). Attached please find the CEC's Final Submission on Revised Scope with respect to the above-noted matter.

If you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Yours truly,

OWEN BIRD LAW CORPORATION


Christopher P. Weafer

CPW/jj
cc: CEC
cc: Registered Interveners

**COMMERCIAL ENERGY CONSUMERS ASSOCIATION
OF BRITISH COLUMBIA (the “CEC”)**

FINAL SUBMISSIONS ON REVISED SCOPE

**British Columbia Utilities Commission Inquiry into the Regulation of Electric Vehicle Charging
Service – Phase 2**

Question 1

In the absence of price regulation, how can EV charging providers that are not otherwise public utilities (which would be exempt from regulation in accordance with the Panel’s recommendation) be protected from being undercut by non-exempt public utilities? Should non-exempt public utilities be restricted to participate only in remote geographical locations that are currently uneconomical for exempt EV charging providers to serve?

The CEC remains concerned that the presence of non-exempt utilities creates the risk of hindering the development of a competitive market.

In its Phase 2 Evidence ChargePoint recommends that utility EV charging initiatives should be reviewed on a case-by-case basis taking into account market and customer needs and the likely impact on the competitive market. They cite a number of jurisdictions that have passed laws and developed guidelines for program evaluation that require consideration of competition and customer choice¹.

The CEC agrees that a case by case evaluation could serve to reduce the scale of impact on the competitive market if undertaken with a view to preserving the potential for a market to develop as well as the status of the market at the time of consideration.

The CEC recommends that the Commission undertake to ensure that ongoing review of the value of the regulated utility in the market is available and prescribed exit strategies are incorporated in an evaluation process.

The CEC notes that the Commission also has a complaint process which is available such that existing competitors or potential market entrants can ensure that price-cutting is not being undertaken by the non-exempt utility.

Question 2 - Removed

¹ Exhibit C25-12 page 5

Question 3

For EV charging services provided by non-exempt public utilities participating in the EV charging market, should EV charging customers constitute a separate class from which costs associated with EV charging infrastructure is recovered?

The CEC does not support the development of a separate rate class for the supply of electricity.

EV charging is an end-use for electricity and is applicable to residential, commercial and potentially transmission or industrial customer rate classes.

The CEC submits that it is appropriate for non-electricity EV charging costs to be collected from EV charging customers to the greatest extent possible, as it is consistent with the Bonbright principles of rate design relating to cost causation, customer understanding, feasibility and avoidance of undue discrimination.

To the extent that non-electricity EV charging costs cannot practically be collected from EV charging customers and the non-exempt utility is effectively charging a market rate for the non-electricity costs, those costs would be recovered from other ratepayers if they were incorporated into ratebase. These costs could also be collected into a deferral account for future collection from EV charging customers.

The CEC does not believe it is necessary for the BCUC to engage in purposeful subsidization of EV charging customers by non-EV charging customers.

EV charging designs should therefore be adopted which attempt to collect non-electricity EV charging costs from EV charging customers.

Question 4

Should other customer classes of non-exempt public utilities subsidize costs associated with the provision of charging services that can't be recovered from EV charging customers? How much of the cost is it appropriate for them to subsidize – should there be a cap?

The CEC provided its response in its Submissions of January 28, 2019.

Question 5

If assets are stranded as a result of changing technology or other factors, who should pay for the potential stranded EV charging assets which may be in the non-exempt public utility's rate base?

The CEC submits that the risk of stranded assets from non-exempt public utility participation in the EV charging market could be considerable if the utility undertakes significant investment over a long period of time.

The CEC notes that battery and charging technologies are rapidly changing and submits that early entrance by the non-exempt utility could well result in technology being adopted that is quickly outdated or frequently updated.

The CEC is of the view that BCUC approval of non-exempt utility investment in an EV charging station effectively removes the opportunity for a post-investment prudence assessment; and the utility ratepayers become responsible for the costs of such stranded assets.

The CEC submits that the risk of stranded assets represents another reason for a very cautious approval process which should be undertaken on a case-by-case basis. Such assessment should carefully consider the value of the investment and the risk of stranded assets which would be attributable to ratepayers, especially considering that many ratepayers may never have had the opportunity to utilize the infrastructure or experience any benefits.

Question 6

In the context of BCUC economic regulation, what regulatory justification is required to allow existing utilities to cross subsidize EV charging services? If EV charging services add incremental load, does that justify cross-subsidization? Would the incremental load appear without the subsidization?

The CEC provided its comments in its submissions of January 28, 2019.

Question 7 - Removed

Question 8

Do non-exempt public utilities participating in the EV charging market have any obligation to serve EV charging customers?

In its Submissions of January 28, 2019 the CEC submitted that a responsibility to serve on the part of a utility is primarily driven by the economics supporting a monopoly service and the lack of an alternative potential source of supply and that there is no evidence that the EV charging market construct is that of a natural monopoly².

The CEC also submitted that the obligation to serve by a non-exempt utility should reflect their impact on the market, which could be very difficult to determine. That is, to the extent that non-exempt utilities reduce the opportunities for competition they have an obligation to serve. Where they do not, they have no obligation to serve. The circular effect is that the presence of the non-exempt utility in and of itself creates the obligation to serve unless no other competitor would enter the market regardless of the nonexempt utility's presence. In such cases, the utility would have no obligation to serve as an unregulated business³.

² Exhibit C24-21

³ Exhibit C24-21

The CEC submits that from a market development perspective it would be preferable to avoid imposing an obligation to serve on utility participation as long as competitors are entitled to enter the market.

Question 9 - Removed

Question 10

Any other comments that may be helpful to the Panel, given the scope as revised?

The CEC provided its comments in its submissions of January 28th, 2019 and has no further comments.

Question 11

Is there a need for a specific tariff provisions for the wholesale provision of electricity for the purpose of EV charging?

The CEC provided its comments in its January 28th, 2019 submissions.

Question 12

If so, how should this wholesale tariff be designed? Is a time of use rate appropriate? Should there be any differences depending on the type of EV charging – Level 1, Level 2, and/or DCFC stations?

The CEC provided its comments in its January 28th, 2019 submissions.

Question 13

Section 3 of the Electrical Safety Regulation states that it “does not apply to a public utility as defined in the Utilities Commission Act in the exercise of its function as a utility with respect to the generation, transmission and distribution of electrical energy”. Further, “distribution equipment” is a defined term in the UCA. Although it seems clear that EV charging equipment is not “generation or transmission”, the Panel did not make any finding in the Phase 1 Report on whether EV charging infrastructure is “distribution equipment.” The Panel invites submissions on this issue in Phase 2.

In responding, Interveners are requested to consider the status of the provider – for example, is the interpretation different for a non-exempt public utility than it would be for an exempt utility or a provider excluded from the definition of a public utility?

The CEC provided its comments in its January 28th, 2019 submissions.

Question 14

In Phase 2, the Panel invites submissions from Interveners on whether amendments to the Greenhouse Gas Reduction Regulation to allow public utilities to own and operate EV charging stations as a “prescribed undertaking” are appropriate and if so, the appropriate extent and scope of such undertaking.

The CEC notes that non-exempt public utilities are not currently precluded from entering the EV charging market, and as such, there is no requirement for an amendment to the Greenhouse Gas Reduction Regulation to facilitate their participation.

The CEC submits that amending the GRR to provide EV charging as a ‘prescribed undertaking’ could significantly and inappropriately limit the BCUC’s opportunity to manage the ongoing investment in order to preserve the opportunities for market development.

Additionally, there could be substantial issues which would require resolution, some of which might not be foreseen.

Issues could include:

Does the prescribed undertaking have an end point? If so, on what metrics? If not, what would be potential impact on the market?

Are there boundaries around the size of the investment, the volume of electricity provided, the number of investments that could be undertaken, the availability of alternative EV charging services among others. Determinations as to how these boundaries should be measured and evaluated would also need to be prescribed.

The CEC submits that answers to these questions are not readily available as the market is rapidly changing and future impacts are highly uncertain. Further, the impacts may vary significantly over geographic regions or other variable.

The CEC submits that a prescribed undertaking would be extremely difficult to rationally describe and implement in a manner which supported the development of a competitive market given its rapidly changing structure.

The CEC submits that any investment by the utility is best examined carefully on a case-by-case basis and not approved as a prescribed undertaking.

Moreover, the CEC points out that there may have been considerable detriment to competitive investment as a result of the definition of ‘utility’ as reviewed in Phase 1. The CEC submits that it would be premature for the government to issue EV charging as a prescribed undertaking when there has been very limited opportunity for the market to develop without this constraint. The CEC submits it would be appropriate for the market to have ample opportunity to develop prior to determining the appropriateness of any prescribed undertaking designation.

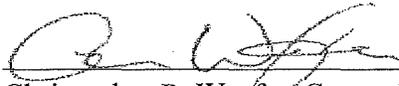
Finally, the CEC submits that establishing a prescribed undertaking in the GRR for the non-exempt utility could serve to hinder the development of the competitive market as it diminishes one of the few barriers to exempt utility participation and reduces the market opportunities.

The CEC submits this may be contrary to the government objectives in supporting market development, encouraging competitive entrants and the rationale for non-exempt utility participation.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

David Craig

David Craig, Consultant for the Commercial Energy
Consumers Association of British Columbia



Christopher P. Weaver, Counsel for the Commercial
Energy Consumers Association of British Columbia