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NEWS RELEASE – BCUC Releases Final Report for Indigenous Utilities Regulation Inquiry

VANCOUVER – On Thursday, April 30, 2020, the British Columbia Utilities Commission (BCUC) issued its Final Report for the Inquiry into the Regulation of Indigenous Energy Utilities to the Minister responsible for the *Hydro and Power Authority Act*.

The BCUC’s Inquiry followed an open and transparent engagement process that began in March 2019; it included **11** Community Input Sessions and **8** Draft Report Workshops hosted by the BCUC throughout British Columbia (BC), as well as participation from **21** Registered Interveners, **18** Interested Parties, **12** Letters of Comment, and feedback from representatives of more than **50** different First Nations groups.

The BCUC respects the rights of Indigenous peoples to economic self-determination and self-governance, as laid out in the Articles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and sought to reconcile these interests and create mutual benefits for all in its Final Report Recommendations. All of the comments and submissions received during the Inquiry were considered in the BCUC’s development of its Final Report.

Some of the BCUC’s Final Recommendations include:

Regulation of Indigenous Utilities	<ul style="list-style-type: none">• An Indigenous utility be regulated by a competent arm’s length regulator.• A First Nation determine the means of regulation of an Indigenous utility providing services on that First Nation’s reserve land, Westbank Lands or Sechelt lands provided it demonstrates that it has an arm’s length complaint and dispute resolution process to protect all ratepayers.• Indigenous utilities controlled by the Nisga’a or Tsawwassen First Nation be exempt from the <i>Utilities Commission Act</i> (UCA).
Definition of an Indigenous Utility	<ul style="list-style-type: none">• An Indigenous utility be defined as a public utility for which, as the owner or operator, an Indigenous Nation has control. It is not limited to the types of services to be provided but includes the provision of public utility services to persons in its service area.
Ceasing to be an Indigenous Utility	<ul style="list-style-type: none">• When a First Nation no longer controls an Indigenous utility, the utility will at that point become a public utility as that term is defined in the UCA and regulated by the BCUC.

Some of the BCUC's Final Recommendations include:

Complaints & Appeals	<ul style="list-style-type: none"> • A panel or body composed of Indigenous people and others with specialized knowledge, such as First Nations governance, assess a First Nation's complaint and dispute resolution process in the context of public utility regulation as it is practiced in Canada and also within the specific context of that First Nation, prior to that First Nation's Indigenous utility law coming into force. • First Nations collectively develop a province-wide appeal body that can be available to customers of Indigenous utilities who are unable to resolve their complaints. • The BCUC serve as an appeal body until such time as a First Nations operated body can be established.
Mandatory Reliability Standards (MRS)	<ul style="list-style-type: none"> • The BCUC retain jurisdiction with respect to approval, compliance and enforcement of MRS applicable to any entity that may impact the Bulk Electric System in the province, regardless of who owns or operates the infrastructure.
Safety	<ul style="list-style-type: none"> • A First Nation determine the means of regulation of safety with respect to an Indigenous utility.
Retail Access	<ul style="list-style-type: none"> • The Government of BC review and revise any policies that, in restricting an Indigenous utility's access to BC Hydro's transmission system, may result in an undue barrier to the First Nation's pursuit of economic self determination."
Wholesale Energy Sales	<ul style="list-style-type: none"> • The Government of BC reconsider the Standing Offer Program along with the cap for that program and any other provision that places undue economic barriers on potential participants. If the program is restructured and reintroduced, it should be based on market electricity prices, so that Indigenous utilities are provided meaningful competitive economic opportunities while ensuring that all BC Hydro ratepayers are not harmed.
BCUC Regulation	<ul style="list-style-type: none"> • The BCUC include Indigenous representatives on BCUC panels where applications of Indigenous utilities are being considered. • The BCUC modify its regulatory policies and procedures to better reflect the objectives of reconciliation in its proceedings. • The BCUC ensure that it includes Indigenous people, in both the staff and Commissioner roles, especially for matters that directly affect First Nations.
Capacity Building	<ul style="list-style-type: none"> • The BCUC develop, in collaboration with Indigenous representatives, a strategy to build First Nations' capacity in Indigenous utility regulation and a strategy to reduce barriers to the recruitment and placement of Indigenous people in advisory, staff and Commissioners roles in the BCUC. • Where necessary for the implementation of these recommendations, the Government of BC consider making funding available to First Nations.

For a full and complete list of the BCUC's Final Recommendations, please refer to its [Final Report](#), or the [Final Report Summary](#) available on bcuc.com.

Background

On March 11, 2019, the Lieutenant Governor in Council, pursuant to section 5(1) of the UCA, directed the BCUC to provide recommendations to the BC Government regarding the regulation of Indigenous utilities in BC. The terms of the Inquiry are outlined in [Order in Council \(OIC\) No. 108](#). The BCUC established the Inquiry on March 19, 2019 by Order [G-62-19](#).

The inquiry explored and sought feedback on a number of important questions, including:

What are the characteristics of an “Indigenous Utility” with respect to:

- The ownership and operation of the utility;
- What services are provided;
- Who the services are provided to; and/or,
- The location or area served by the utility?

Should Indigenous utilities be regulated or not? And if so, how?

- If they should be regulated, should they be regulated by the UCA or another mechanism?
- If unregulated, how will the interests of indigenous utility ratepayers be protected?

Currently, under the UCA most utilities with a connection to an Indigenous community are regulated by the BCUC as public utilities. Some utilities have requested exemptions from existing regulatory requirements.

In June, July and September 2019, the BCUC held a series of eleven Community Input Sessions throughout BC to hear comments on the issues raised in the Inquiry. Based on the feedback received during the Inquiry, in November 2019, the Panel released its [Draft Report](#) with proposed recommendations regarding the potential regulatory framework for Indigenous-owned and operated energy utilities in BC. In late 2019 and early 2020, the BCUC hosted eight Draft Report Workshops to gather feedback on its proposed recommendations. All of the comments and submissions received during the Inquiry, were considered in the BCUC’s development of its Final Report.

For more information about the Inquiry, please see the proceeding page on the BCUC website [here](#).

About the BCUC

The BCUC is a regulatory agency responsible for the oversight of energy utilities and compulsory auto insurance in British Columbia. It is the BCUC’s role to balance the interests of customers with the interests of the businesses it regulates. The BCUC carries out fair and transparent reviews of matters within its jurisdiction and considers public input where public interest is impacted.

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