

**BRITISH COLUMBIA UTILITIES COMMISSION**

**BCUC Project No. 1598941  
British Columbia Utilities Commission  
Inquiry into the Regulation of Electric Vehicle Charging Service**

**British Columbia Sustainable Energy Association and Sierra Club British Columbia**

**Responses to Information Request No. 1 from:  
BCUC (Exhibit A-13)**

**6 June 2018**

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**A. BASIS FOR EV CHARGING SERVICE REGULATION EXEMPTION**

**1.0 Reference: Exhibit C6-2, pp. 4–5  
Evolution of the EV market and regulation**

On pages 4-5 of Exhibit C6-2, BC Sustainable Energy Association and Sierra Club BC (BCSEA) states:

3. Setting aside BC Hydro and FortisBC (regulated public utilities that provide general electricity service), the provision of EV charging services by entities not exempt from the definition of “public utility” in the UCA should generally be subject to little or no regulation by the Commission for a reasonable period of time to allow development of the sector, after which the form of regulation (if any) of the provision of these EV charging services should be revisited to take into account the evolved nature of sector.

1.1 If the electric vehicle (EV) charging service were to be regulated in the short term, and as [the] degree of competitiveness in the EV market evolves, please discuss BCSEA’s view on what would be specific market triggers for the British Columbia Utilities Commission (BCUC) to re-evaluate regulation?

**Response:**

**In BCSEA-SCBC’s view, the market triggers for the Commission to re-evaluate short-term regulation of the provision of public EV charging services by entities meeting the definition of “public utilities” in the UCA would include:**

- **No or very few applications to the BCUC for CPCNs or rates approvals regarding public EV charging service,**
- **No or very few decisions by the Commission to approve CPCNs and rates approvals regarding public EV charging service,**
- **Information that public EV charging services are being provided by entities that appear to meet the definition of “public utility” in so doing and that do not have CPCNs or rates approval (i.e., public EV charging services not in compliance with the UCA),**
- **Complaints from existing or would-be providers of EV charging services that do or would meet the definition of public utility that applying for and obtaining**

**regulatory approval for the provision of EV charging services would be prohibitively costly, time-consuming or uncertain,**

- **Information that entities not otherwise qualifying for an exemption from the definition of “public utility” are utilizing creative contractual arrangements with exempt entities (e.g., municipalities or regional districts) in order to provide public EV charging service ostensibly under the mantle of an exempt entity,<sup>1</sup>**
- **Information that the overall market for public EV charging services is being met disproportionately by entities exempt from the definition of public utility in the UCA,**
- **Information that sales of EVs in B.C. are being hindered by “range anxiety” associated with insufficient numbers and locations of public EV charging services, and**
- **Information that the development of public EV charging services in B.C. is lagging behind that of jurisdictions in which public EV charging services are subject to no, or to less onerous, economic regulation.**

**It is acknowledged that the “market triggers” listed above are not readily identifiable quantitative parameters, such as X number of EVs sold in BC in one year. BCSEA-SCBC doubt that quantitative triggers for a need for re-evaluation could be defined in advance.**

**An alternative approach, that BCSEA-SCBC recommend, is for the Commission to set a fixed number of years until there would be a re-evaluation of the short-term regulation of public EV charging services. This would avoid the potential dilemma of the Commission having to make an evidence-based decision to determine if the market triggers warrant a re-evaluation.**

**2.0 Reference: Exhibit C6-2, p. 5  
Degree of competition**

On page 5 of Exhibit C6-2, BCSEA states:

6. The Commission should approach the provision of EV charging services by BC Hydro and FBC bearing in mind the following: a. During the development of the EV sector in B.C., the Commission should allow BC Hydro and FBC to play an active role in developing EV charging services and infrastructure.

- 2.1 Does BCSEA have a position on whether public utility (i.e. the British Columbia Hydro and Power Authority [BC Hydro] or FortisBC Inc. [FBC]) involvement in the EV charging service market should change as the market matures? If so, please

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<sup>1</sup> In Decision and Order G-104-18, dated June 5, 2018, [link](#), the Commission determined that a company (Sustainable Services Ltd.) operating a geothermal neighbourhood energy service pursuant to agreements with the municipality (City of Langford) is a public utility regulated under the UCA. The Commission rejected the argument that the energy service is provided by, or on behalf of, the municipality and therefore falls within the exclusion of municipalities and regional districts from the definition of public utility. This decision concerns the facts of the case. However, it illustrates that the exclusion of municipalities and regional districts from the definition of “public utility” is subject to limits determined by the Commission.

explain and provide any key indicators that BCSEA considers would demonstrate market maturity. For example, should this be the number of EVs fleet in BC, number of EV charging stations/ports per EV, distance measured between public EV charging stations, or some other measures?

**Response:**

**BCSEA-SCBC expect that BC Hydro's and FBC's involvement in the public EV charging services market will decrease as the EV charging services market matures, relative to participation by entities that are not traditional public utilities. One possibility is that in time the utilities could take an expanded role in providing "make ready" infrastructure and a diminished role in providing public-facing EV charging services.**

**The factors mentioned in the question – the number of EVs, the number of EV charging stations/ports per EV, distance measured between public EV charging stations – will be relevant to the Commission's future determination of "market maturity" and how to regulate BC Hydro's and FBC's participation in EV charging services at the time and going forward. Other factors could be added to the list, such as:**

- **the percentage of public EV charging services of various types provided by BC Hydro and FBC versus by other entities,**
- **the prices charged for public EVCS by the utilities versus by other entities,**
- **perceived geographic gaps in the availability of public EV charging service,**
- **differences in the cost of service experienced by utility and non-utility providers,**
- **utilization rates and wait times for public EVCS, and**
- **comparison with other jurisdictions.**

**BCSEA-SCBC doubt that it would be possible or useful for the Commission to determine in advance the key criteria for a future decision whether to change the regulation of BC Hydro's or FBC's provision of public EV charging services.**

**In BCSEA-SCBC's view, when it comes time for the Commission to re-evaluate the role of BC Hydro and FBC in providing EV charging services the pertinent questions will be qualitative ones dependent on current (i.e., future) information, such as:**

- **whether the EV charging services provided by utilities are inhibiting expansion of the availability of public EV charging services,**
- **the benefits and costs of BC Hydro's and FBC's involvement in EV charging services to their respective existing and future ratepayers,**
- **whether the public policy objectives of the day would be fostered by changing the role of the utilities in providing EV charging services, and**
- **whether the challenges and opportunities then apparent in the EV sector necessitate realigning the utilities' role in providing EV charging services.**

**BCSEA-SCBC recommend that the Commission set a fixed number of years for a re-evaluation of how it regulates the involvement of BC Hydro and FBC in EV charging services, and that the Commission not attempt to define in advance the decision-making criteria it would apply during that future re-evaluation.**

**3.0 Reference: Exhibit C6-2, pp. 5, 11,**

**BCUC Thermal Energy System Guidelines (TES Guidelines), p. 7  
Class of cases exemption**

On page 5 of Exhibit C6-2, BCSEA states:

7. The Commission should consider, either within this Inquiry or in a follow-on proceeding, exercising its authority under section 88(3) of the UCA to exempt from some or all of the provisions of the Act certain classes of entities providing EV charging services (to be defined) that but for the exemption would be “public utilities” and regulated under the Act. (For clarity, this includes entities providing EV charging services that may not currently meet the definition of “public utility” but that likely would do so if they started to receive compensation for their EV charging services.) An exemption under s.88 (3) requires the advance approval of the Minister responsible for BC Hydro, i.e., the Minister of Energy, Mines and Petroleum Resources.

On May 19, 2016 by Order G-71-16, the BCUC granted Bakerview EcoDairy an exemption from Part 3 of the *Utilities Commission Act* (UCA), except sections 25, 38, 42, 43, 44 and 49<sup>2</sup>.

- 3.1 In BCSEA’s view, if the BCUC were to recommend a class of cases exemption to government in relation to EV charging service, what factors should be considered in developing the classes? Further, what sections of the UCA, in BC Hydro’s view, should EV charging service be exempt from?

**Response:**

**This question is answered in two parts: factors to be considered, and exceptions from exemption. These responses are intended to move the discussion forward. They are not fixed positions.**

**1. Regarding factors to be considered in developing classes of public EV charging services provided by entities and in circumstances that meet the definition of “public utility” (and setting aside BC Hydro and FBC) for full or partial exemption from regulation by the Commission under Part 3 of the UCA, BCSEA-SCBC recommend consideration of:**

- **Impact on acceleration of public EVCS in B.C.**
- **Need for regulation (by the BCUC). For example:**
  - **Adequate customer protection in a cost effective manner v. potential for abuse of market power,**
  - **Potential for complaints,**
  - **Alternative remedies for problems,**
  - **Existence of competition from public EV charging stations not regulated by BCUC (e.g., by municipalities),**
  - **Regulation as the option of last resort, and**

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<sup>2</sup> [http://www.bcuc.com/Documents/Proceedings/2016/DOC\\_46352\\_05-19-2016\\_Bakerview-Exemption-Approved\\_G-71-16.pdf](http://www.bcuc.com/Documents/Proceedings/2016/DOC_46352_05-19-2016_Bakerview-Exemption-Approved_G-71-16.pdf)

- **Competition preferred over regulation.**
- **Ease of administration by the BCUC. For example:**
  - **Objective, observable criteria v. judgment decisions to determine inclusion or exclusion from class,**
  - **The number of entities providing reports to the Commission,**
  - **Clear and easily communicated class definition(s), to reduce staff time responding to inquiries, and**
  - **Few different classes, for simplicity.**
- **Ease of administration by the regulated entity. For example:**
  - **Easily understood ‘in or out’ definitions, and**
  - **Feasible record-keeping and reporting requirements (if any).**
- **Stable class definitions: avoid definitions that will require updating.**
- **Stable inclusion or exclusion from the class: avoid definitions that would cause an entity to move in or out of the class due to a change in non-essential circumstances. For example, a particular public EV station may change from being non-networked to being networked (e.g., for payment).**
- **Standard regulatory principles, such as: fairness, proportionality, consistency, efficiency, effectiveness.**

BCSEA-SCBC provide suggestions regarding classes for exemption in response to BCUC IR 3.2, below.

## 2. Exceptions from general exemption from regulation under Part 3 of the UCA.

Where the Commission determines that a “public utility” should be partially, but not fully, exempt from regulation under Part 3 of the UCA, the Commission

- (a) lists the sections of the UCA that are exceptions to the exemption (i.e., that will apply), and
- (b) determines whether to impose specific record-keeping and/or reporting requirements on the public utility, such as registration or annual reporting.

While there is no limit to the potential permutations, several examples can be used as possible models. In order of increasing stringency, these are:

- (a) “Micro TES” exemption: exemption from Part 3 except sections 42 [obey commission orders], 43 [provide records on request of commission], and 44 [keep records as required by commission]. Described as “exempt from active regulation, including the requirement for a CPCN and Commission oversight of rates.”<sup>3</sup> The rationale is that “the Commission must retain sufficient authority to inquire into an arrangement to ascertain whether, in the event of a complaint, a TES System satisfies the criteria for this exemption.”<sup>4</sup> Similarly, the “Strata Corporation TES” exemption is also an exemption from Part 3 except sections 42,

<sup>3</sup> Order G-27-15, Appendix A, TES Guidelines, p.11.

<sup>4</sup> Order G-213-13A, Appendix A, TES Framework Decision, p.32.

43, and 44.

- (b) “Bakerview EcoDairy Farm” exemption: exemption from Part 3 except sections 25 [commission may order reasonable, safe, adequate and fair service], 38 [public utility must provide adequate, safe, efficient, just and reasonable service], 42, 43, 44 and 49 [commission may require public utility to provide reports]. The public utility, which provides a public DCFC service, is required to file an annual report.
- (c) “Stream A TES regulatory model”: exemption from sections 44(1) [BC records office], 45 [CPCN], and 59-61 [rates regulation].
- (d) “Stream B TES regulatory model”: streamlined CPCN application process and rate setting guidelines.<sup>5</sup>

The term ‘complaints only regulation’ is sometimes used without defining the Commission’s authority in the event of a complaint. To clarify, in the TES Guidelines, the Commission says that: “Upon receipt of a complaint relating to an Exempt TES, the scope of the Commission’s review will be limited to whether the TES meets the criteria to qualify for an exemption...”<sup>6</sup> Assuming that approach was applied to exemptions for public utility EVCS, then ‘complaints only regulation’ would likely describe a “Micro TES” exemption in which none of Part 3 applies except sections 42-44 and in the event of a complaint the scope of the Commission’s inquiry would be limited to whether the EVCS in question qualifies for the exemption (and not, for example, whether the EVCS’s rates are acceptable).

BCSEA-SCBC’s view is that where EV charging services by entities meeting the definition of “public utility” are to be exempted from active regulation by the Commission the exemption should be as complete as practicable. In practice, this may mean complete exemption, or exemption from Part 3 except sections 42-44 of the UCA (i.e., the equivalent of “Micro TES” exemption.)

- 3.2 Does BCSEA have a view on what the classes could be (e.g. based on different levels of EV charging equipment, charging station geographic locations, type of dwelling, owner/operator structure, some combination of the above, or others)? If yes, please describe.

**Response:**

Yes. BCSEA-SCBC’s view is that the classes of exemption for public EV charging services for compensation provided by entities that are not excluded from “public utility” (and setting aside EV charging services by BC Hydro and FBC) should be determined on the basis of the Charging Level, that is, Level 1, Level 2, and Level 3 (DCFC).

Defining the classes of exemption by Charging Level puts a premium on simplicity, efficiency and minimizing economic regulation. The premise is that in the future – either after a set number of years or if and when problems arise – the Commission would re-evaluate.

BCSEA-SCBC are inclined to disagree with defining the EVCS exemption classes according to factors such as geographic location, type of dwelling, or owner/operator

<sup>5</sup> Order G-27-15, Appendix A, TES Guidelines, p.20.

<sup>6</sup> Order G-27-15, Appendix A, TES Guidelines, p.12.

structure. These criteria are difficult to define and become very difficult to rationalize. The TES Framework Decision provides support for defining the classes of exemption according to the characteristics of the particular EV charging service and not on the person who provides the service.<sup>7</sup>

Setting aside BC Hydro and FBC, BCSEA-SCBC's view is that Level 1, Level 2 and Level 3 (DCFC) charging services should all be exempted from Part 3 of the UCA, either completely, or in the alternative, exempted except for sections 42-44.

If the Commission (and the Minister pursuant to s.88(3)) agree that all charging levels should be exempted to the same degree then it may not matter whether there is one large exemption class comprised of all charging levels or two or three exemption classes comprised of one or two charging levels. In any event, the factors for consideration of whether and to what extent there should be exemption are somewhat different for each charging level.

Level 1 EV charging services (meeting the definition of "public utility") are likely to be few in number. They are likely to be on the less sophisticated end of the spectrum, and may be dissuaded by reporting requirements or the prospect of having to respond to complaints to the Commission. They are likely to face significant competition from home charging and Level 2 and Level 3 EVCS, and are unlikely to cause 'captive customer' concerns.

Level 2 EV charging services (meeting the definition of "public utility") are the most numerous category. They are likely to be more sophisticated than Level 1 EVCS operators, but may be dissuaded by reporting requirements. They would likely be dissuaded by the possibility of price complaints. Level 2 EV charging services probably face the most significant competition from other Level 2 stations, including unregulated Level 2 stations operated by municipalities, and Level 3 charging stations, including Level 3 charging stations operated by BC Hydro or FBC. This will impose substantial market discipline on their prices and quality of service. This group of Level 2 "public utility" charging stations includes many operators that have secondary business reasons for providing EV charging service, such as attracting and retaining customers. This is an incentive to provide good quality service and attractive prices. Customer complaints would be made most effectively to the EVCS provider. BCSEA-SCBC submit that active regulation of Level 2 EV charging services by public utilities (setting aside BC Hydro and FBC) is not required.

Level 3 EV charging services meeting the definition of "public utility" are mostly provided by Tesla, and by BC Hydro and FBC. In addition, there is a very small number of public utility Level 3 EV charging stations, Bakerview EcoDairy Farm being one example. Going forward, there will likely be new Level 3 EV charging stations operated by owners of vehicle fleets. In some cases these may be "public utilities" (e.g., where not all the EVs served are owned by the fleet owner.) As EV charging services by BC Hydro and FBC are not included in this discussion of class exemption, the Level 3 public utility exemption category includes mainly the Tesla Supercharger stations, as well as a small but potentially growing number of other Level 3 charging stations.

BCSEA-SCBC do not see a need for active regulation of Level 3 public utility EV charging services (setting aside BC Hydro and FBC). The Tesla Supercharger stations are subject

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<sup>7</sup> Order G-213-13A, Appendix A, TES Framework Decision, p.22.

**to substantial incentive to provide good quality service and acceptable prices because Tesla incorporates its EV charging services into its value proposition for purchasers and owners of Tesla vehicles. In addition, Tesla is actively expanding its network of charging stations in B.C. and so it is motivated to attract and retain EV charging customers. The non-Tesla public utility Level 3 EV charging stations (not BC Hydro and FBC) are in a very difficult market. By all accounts, their business case is not viable on charging revenue alone.**

**In BCSEA-SCBC's view, the form of light-handed regulation that the Commission applied to the Bakerview EcoDairy Farm EV charging service (i.e., annual report required) is too stringent to be adopted for public utility Level 3 (or other) EV charging services going forward. In addition, the Bakerview situation involved a contract with BC Hydro that is likely unique.**

**To summarize, in the first part of this response BCSEA-SCBC set out various factors that in their view should be considered in determining the appropriate class or classes of EVCS for exemption. In the second part of this response, BCSEA-SCBC express the view that charging level (Level 1, 2 or 3 (DCFC)) is a better method of defining exemption classes than, say, geographic location or the nature of the operator. In addition, they express the view that all EV charging services should be exempt from Part 3, either completely, or, in the alternative, exempt with the exemption of sections 42-44.**

**End of Response.**

On page 11 of Exhibit C6-2, BCSEA states:

3. Setting aside EV charging services provided by BC Hydro or FBC, EV charging stations that are provided by a public utility should generally not be regulated by the Commission, because the disadvantages of BCUC regulation outweigh the benefits.

a. For these EV charging services, consideration should be given to light-handed (e.g., complaints based) regulation of EV charging services within MURBs and public EV charging services that are isolated from other public EV charging services

On page 7 of the BCUC's Thermal Energy System Guidelines (TES Guidelines), it states:

Strata Corporation TES<sup>8</sup>: A TES owned or operated by a Strata Corporation, or the Strata Corporation's lessee, trustee, receiver or liquidator, that supplies the Strata Corporation's owners, is exempt from Part 3 of the UCA other than sections 42, 43 and 44.

3.3 In BCSEA's view, should an exemption similar to the Strata Corporation exemption in the TES Guidelines be considered for Strata Corporations if EV charging service were to be regulated by the BCUC? Please discuss.

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<sup>8</sup> As defined by the *Strata Property Act* [SBC 1998].

**Response:**

**Yes. In BCSEA-SCBC’s view, an exemption similar to the Strata Corporation exemption in the TES Guidelines should be considered for Strata Corporations if public EV charging service by Strata Corporations is to be regulated by the BCUC.**

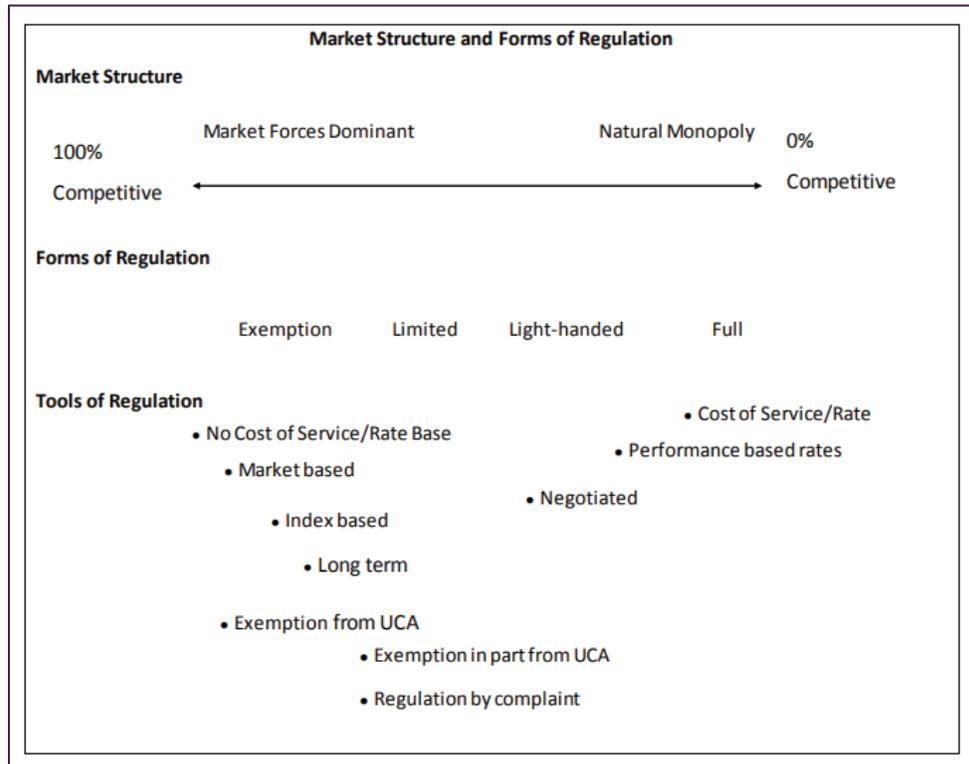
**BCSEA-SCBC add the following comments about regulation by the Commission of EV charging services provided by Strata Corporations:**

- **The provision of EV charging services by Strata Corporations is much more challenging for existing buildings than for new, future buildings.**
- **It would be helpful for the Commission to clarify whether, or in what circumstances, the provision of EV charging service by a Strata Corporation to a Strata Owner is a “service to the public” within the meaning of the definition of “public utility.”**
- **Some Strata Corporations may choose to have EV charging services provided to Strata Owners within the Strata building by way of some type of contractual arrangement with a third party provider of EV charging services. In BCSEA-SCBC’s view, this is a desirable option to have available and it shouldn’t be inadvertently hindered by the wording of the exemption (if there is one).**
- **Please see BCSEA-SCBC’s response to BCOAPO IR 2.2.**

**4.0 Reference: The BCUC Inquiry into FortisBC Energy Inc.’s Offering of Products and Services in Alternative Energy Solutions (AES) and Other New Initiatives proceeding, Order G-231-13A with reasons for decision, pp. 23–24  
Proposed regulatory framework and guide for thermal energy service utilities**

On pages 23 and 24 of the Reasons for Decision attached to Order G-231-13A, the BCUC states:

The [AES] Inquiry found that the form of regulation should be determined by the market structure. The Panel agrees with this assessment. The figure below illustrates the Panel’s view of the relationship between market structure and the various tools of regulation.



The Panel in Order G-231-13A also agreed with the basic regulatory concepts outlined in the AES Inquiry Report whereby regulation should be the option of last resort and competition should always be preferred over regulation.

- 4.1 Please discuss whether the BCUC in this EV Inquiry should consider the relationship between market structure and forms of regulation, as shown above in the diagram. If not, why not?

**Response:**

In BCSEA-SCBC’s view, the Commission Panel in the EV charging services inquiry should certainly consider the relationship between market structure and forms of regulation. The diagram in Order G-231-13A is an illustration of the relationship between market structure and forms of regulation, and it is helpful in the EV charging services context.

That said, the diagram is a high-level illustration. It is not a blueprint or a formula that can be applied to a specific factual situation (the provision of a service by a “public utility” falling under the UCA) to determine a specific outcome (the appropriate form of regulation by the Commission).

For example, in the TES Framework decision the Panel endorsed the diagram but did not refer to it when it set out different forms of regulation for four categories of TES projects: Micro TES, Strata Corporation TES, Stream A TES and Stream B TES. The Panel explains the rationale for the form of regulation separately for each identified category of TES (as distinct from putting each TES category onto the same continuum between 100% and 0% competition). In addition to the degree of competition in the provision of the category of regulated thermal energy service, the Panel makes distinctions based on the size of the

project. Interestingly, the *TES Guidelines* describe the TES framework as a “framework [that] provides increased regulatory oversight as the size and scope of the TES increases.”<sup>9</sup>

- 4.2 Suppose the BCUC uses the above diagram as a guide to determine the appropriate form of regulation. Given the market structure noted in BCSEA’s submission, what would be the corresponding form of regulation and tool of regulation? If any different, please explain in terms of the BCSEA’s view of the current market structure and the expected market structure in the next 3-5 years.

**Response:**

**In BCSEA-SCBC’s view, there are two main categories of EV charging service that the inquiry needs to address:**

- (a) EV charging services provided by entities that are or would be “public utilities” only because of their provision of EV charging services, and**
- (b) EV charging services provided by BC Hydro or FBC during an initial phase in the development of the EV sector in B.C.**

**(a) EVCS by public utilities (not BC Hydro or FBC)**

**In BCSEA-SCBC’s view, the concept of the economic purpose of regulation under the UCA, as illustrated in the G-231-13A diagram, supports a conclusion that “exemption” should be the form of regulation of EV charging services provided by entities that are or would be “public utilities” only because of their provision of EV charging services.**

**The market for the type of EV charging service provided by these entities is relatively competitive as distinct from a natural monopoly service. However, this is not competitive in the sense of a mature market with direct competition for the same service, as in the TES situation. Rather, it is competitive in that the providers of these EV charging services face significant cross-competition from home charging, withdrawal from the market (e.g., EV driver chooses not to drive to the location of the EV charging service where the driver would be dependent on the particular provider for charging service), or failure to enter the market (e.g., vehicle driver chooses fossil-fuel version over EV due to range anxiety).**

**Whether this exemption is defined as outright exemption from Part 3 of the UCA or as exemption from Part 3 except sections 42-44 is a “tool of regulation” question. BCSEA-SCBC favour outright exemption, for simplicity, certainty, efficiency and effectiveness in not discouraging the provision of EV charging services. However, it is noted that in the TES Framework decision the Panel concluded that otherwise-exempt thermal energy systems should remain subject to section 42 to 44 so that the Commission would have authority under the Act to obtain information from a service provider that the Commission could use to determine if the provider’s circumstances meet the criteria for exemption.**

**If this was the limit of the Commission’s residual authority then presumably excepting sections 42-44 from the exemption would not discourage EV charging services. However, if the exception of sections 42-44 was characterized as “regulation by complaint,”**

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<sup>9</sup> Order G-27-15, Appendix A, TES Guidelines, p.7, underline added.

without specification that the Commission's scope of authority in response to a complaint is limited to whether the service provider meets the criteria for exemption, then the door would be open for complaints about service quality and prices. That would certainly discourage potential public EV service providers, who would face uncertainty whether they might have to defend their service, costs and prices in a commission proceeding with no advance knowledge of what constitutes acceptable practices.

**(b) EVCS by BC Hydro and FBC**

Applying the concept of the economic purpose of regulation, as illustrated by the G-231-13A diagram, to public EV charging services provided by BC Hydro and FBC, a reasonable interpretation is that during the current early market development stage there is a natural monopoly for public, fast-charging (Level 3, or DCFC) EV charging service because no entities other than BC Hydro and FBC are willing and able to enter the market. This natural monopoly characteristic will diminish as the number of EVs increases and the market for public DCFC services in B.C. grows.

**B. HYDROGEN FUEL CELL TECHNOLOGY**

**5.0 Reference: Exhibit C6-2, p. 4; Exhibit C19-2, p. 2  
Fuel Cell Electric Vehicle**

On pages 4 and 5 in Exhibit C6-2, BCSEA states:

The Commission's approach to regulation of EV charging services should be designed to foster the rapid development of electric vehicles in all B.C. transportation sectors...

EV charging services provided by entities exempt from the definition of "public utility" in the UCA are already not regulated by the Commission, and in BCSEA-SCBC's view should remain unregulated.

On page 2 of Exhibit C19-2, the Ministry of Energy, Mines and Petroleum Resources states that "The Province is active in promoting the uptake of zero emission vehicles (ZEVs), including battery-electric, plug-in hybrid, and fuel cell vehicles."

In accordance with the *Utilities Commission Act* (UCA):

**Public utility"** means a person, or the person's lessee, trustee, receiver or liquidator, who owns or operates in British Columbia, equipment or facilities for the production, generation, storage, transmission, sale, delivery or provision of electricity, natural gas, steam or any other agent for the production of light, heat, cold or power to or for the public or a corporation for compensation

- 5.1 Please discuss whether BCSEA has any involvement in the Fuel Cell Electric Vehicles (FCEVs) and/or FCEV fueling infrastructure.

**Response:**

**BCSEA-SCBC have no involvement with FCEVs or FCEV infrastructure.**

- 5.2 In BCSEA's view, would companies owning or operating public hydrogen fueling stations for the sale of hydrogen fall within the definition of a public utility as defined in the UCA? Why or why not?

**Response:**

**The sale of hydrogen for providing power for any use, including vehicles, falls within the UCA definition of "public utility" (a) "... delivery or provision of ... any other agent for the production of ... power to or for the public or a corporation for compensation," and so it appears that a company providing hydrogen in such circumstances would be a public utility, unless otherwise excluded.**

- 5.2.1 If so, does BCSEA believe that hydrogen fueling stations in BC should be exempt or excluded from the definition of a "public utility" in the UCA?

**Response:**

**BCSEA-SCBC do not have enough information to answer the question.**

**End of document.**