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January 28, 2019

VIA ELECTRONIC MAIL

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**Attention: Patrick Wruck, Commission Secretary
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Dear Sirs/Mesdames:

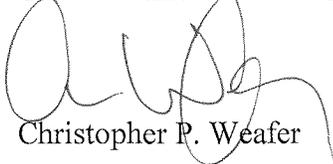
**Re: British Columbia Utilities Commission Inquiry into the Regulation of Electric
Vehicle Charging Service – Phase 2**

We are counsel to the Commercial Energy Consumers Association of British Columbia (the “CEC”). Attached please find the CEC’s Evidence on Phase 2 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 (“CEC”)**

**BRITISH COLUMBIA UTILITIES COMMISSION INQUIRY INTO THE
REGULATION OF ELECTRIC VEHICLE CHARGING SERVICE – PHASE 2**

Intervener Evidence on Phase 2 Scoped Items

January 28, 2019

- 1. Can both regulatory models – little or no regulation for those exempt public utilities and the participation of non-exempt utilities – co-exist? 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?**

RESPONSE:

It is the CEC’s view that the electric vehicle (“EV”) charging market is a competitive market in an early development stage. As noted in the CEC’s Final Submissions in Phase 1, the CEC recommends that the Commission specifically avoid:

- i) Creating a regulatory environment that provides significant barriers to competitive entrants; and
- ii) Supporting subsidized BC Hydro and/or FortisBC (or other utility) participation, for a protracted period of time without ensuring symmetrical subsidies are available to all potential participants.¹

The CEC is of the view that any participation by utilities such as BC Hydro and FortisBC, if necessary, can and should be undertaken in a separate entity and divorced from rate base in order to avoid the risk of cross-subsidization and stifling the maturation of a competitive market through subsidized pricing.

This would significantly diminish the risk of ‘undercutting’ by utilities and permit the market to develop independently.

¹ CEC Final Submission Phase 1 page 15

The CEC does not believe that non-exempt utilities can reasonably co-exist with competitive entities because of the significant subsidization conferred as a result of rate base and cost benefits achieved from their size, supply benefits (they own the electricity), and debt structures.

The CEC does not believe that ‘in the absence of price regulations’ competitive EV charging market providers can avoid being undercut by non-exempt utilities. The intention for a competitive market participant is to maximize profitability, and this focus is the foundation for a competitive market. Profit maximization cannot be achieved where a non-exempt utility participates with a monopolistic rate base and cost structure.

To the extent that a utility participates in the market through a completely separate unregulated entity there should be no significant difference in the regulatory requirements for them compared to other market participants.

The CEC does not believe that it is appropriate over the long term for the Commission to promote the deployment of EV charging stations where they are uneconomic through economic subsidization.

The CEC submits that it is appropriate for the market to develop according to free market principles.

The CEC reiterates the following statements in its Phase 1 Final Submissions.

The CEC cautions against a finding that significant short term regulation for competitive markets is required to stimulate the market.

The CEC notes that market stimulation is not an objective of utility regulation.²

- 2. If the provision of EV charging is exempt from regulation, is there any justification for non-exempt public utilities to provide EV charging services? If the role of non-exempt public utilities is to kick start the market, how can the BCUC determine when the kick start is no longer needed? What is the role of those utilities once that kick start is completed? If there are stranded assets at that time how should they be dealt with?**

RESPONSE:

The CEC does not believe that there is any justification for non-exempt public utilities providing EV charging services if the provision of EV charging is exempt from regulation.

The CEC submits that there are the foundations for a competitive market which can, and should be permitted to develop according to market influences such as technological innovation, reductions in capital costs for EVs, consumer interest, symmetrically available subsidies etc.

The CEC points out that the capital costs for providing EV charging services are not high, being in the order 50,000 - \$100,000.

² Exhibit C24-19CEC Final Submission Phase 1 page 15

The CEC notes that Tesla has already made significant headway in providing EV charging services.

The CEC does not support the provision of utility participation in the EV charging market unless they are participating on an equitable playing field as other competitive entrants (i.e. Exempt utilities).

The CEC does not support asymmetrical subsidies being provided to certain market participants. Such subsidies could occur as a result of non-exempt public utilities (i.e. FortisBC and BC Hydro) being permitted to enter the market using rate base to reduce costs, without similar subsidies being offered to exempt entities.

The CEC submits that the objective of ‘kick-starting’ the market is appropriately encompassed in the domain of the municipal, provincial, federal and other governments. The CEC is of the view that it would be preferable for the BCUC to refrain from encouraging participation by the utilities in the EV charging market.

The CEC notes that the panel found the concerns about regulatory oversight may have inhibited the development of EV charging infrastructure in its Phase 1 Report.³

Additionally, the Commission has recommended that the Minister issue an exemption with respect to EV charging service⁴, for those EV charging service providers that are not already a public utility under the UCA.⁵

The CEC submits that the exemption from regulation has the potential for creating some initial impetus for the industry and that it would be reasonable for the Commission to allow a period for the market to react prior to determining that there is a specific need for a ‘kickstart’ or that such a kickstart is appropriate.

3. If non-exempt public utilities participate in the EV charging market, should EV charging customers constitute a separate class from which costs associated with EV charging infrastructure is recovered? Or should the service be offered in a separate non-regulated business? What are the implications of each of these regulatory models?

RESPONSE:

The CEC strongly believes that if the non-exempt public utilities participate in the EV charging market, the service should be offered in a separate non-regulated business.

³ Phase 1 Report Summary of Recommendations and Finding page 53 of 56

⁴ Exemption is from Part 2 of the *Utilities Commission Act* with the exception of Sections 25 and 38, with respect to safety only

⁵ Phase 1 Report Summary of Recommendations and Finding page 54 of 56

The CEC submits that this is likely the most reasonable and effective way to avoid cross-subsidization from utility customers to EV charging customers, and does not find any significant drawbacks from this alternative.

The CEC submits that having the objective of creating an EV charging customer class is not suitable as it could result in cross-subsidization from ratepayers to EV charging customers if the utility utilized its low cost structure and made use of synergies with its large, monopoly service. Such subsidization can serve to inhibit smaller EV charging providers from entering the market as they would not be competing on an equitable playing field.

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?

RESPONSE:

The CEC does not support any cross-subsidization of EV charging customers by other customer classes, unless it is part of a provincial or federal program.

The CEC submits that EV charging customers do not represent a 'customer class' but rather an end-use that can cross all customer classes including residential, commercial, and transmission.

The CEC submits that there is no solid justification for having customer classes subsidize a particular end-use, and that any such subsidization is appropriately the purview of the federal, provincial, and municipal governments.

To the extent that governments, comprising municipal, provincial and federal governments, wish to subsidize a particular end-use, the CEC submits it would be preferable for such subsidies to be applied outside of the embedded cost of electricity, which cannot be easily defined, costed, separated and/or altered in the future. The CEC notes the significant size and complexity of the Cost of Service assessments undertaken to allocate costs between ratepayer groups.

Where subsidies are applied to EV customers, either through reductions to the cost of vehicles, reduced highway tolls, free charging at municipal stations or other means, it is significantly simpler to alter (i.e. increase, reduce and/or eliminate) the subsidy when the government determines it is appropriate to do so.

The CEC submits that it would be extremely difficult to determine an 'appropriate' level and/or cap for subsidies.

Considerations for such a determination would need to include the following, all of which the CEC submits are mainly the purview of government, except the issue of cost fairness between ratepayers.

Issue	Key Considerations	Information Required for Resolution	Appropriate Jurisdiction
Objective of Stimulation	<p>What is the public interest in EV charging?</p> <p>What participation rates, over what period of time is the objective of the proposed stimulation?</p> <p>How will it be measured?</p>	<p>Impacts on municipal, provincial and federal, costs and infrastructure.</p> <p>Economic impacts on existing commercial gasoline infrastructure.</p> <p>What environmental benefits are generated by what participation rates?</p>	All levels Government
Required Penetration	Relationship between penetration and stimulation effect.	Identification and expected impact of factors that will be occurring simultaneously such as additional subsidies, technological advancements, corporate participation, environmental policies and many others.	Government
Impact on non-EV charging customers	What is the total level of expected costs?	Costs based on different levels of proposed penetration.	Penetration levels dependent on government objectives for stimulation
Value for Money	Cost/benefit relationship for EV	Full assessment of costs and benefits for	Benefits of EV charging may be non-

	charging.	EV charging. Costs may vary between non-exempt utility providers with costs embedded in rate base and exempt providers.	quantifiable and determined by government.
Fairness between customer groups	Cost causation	Incremental costs for EV charging customers; appropriate allocation of non-EV infrastructure and other costs to EV charging customers	BCUC

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?

RESPONSE:

The CEC does not support EV charging participation by non-exempt public utilities, unless participation is undertaken through an unregulated business.

The CEC specifically rejects assigning the burden of stranded costs relating to EV charging to electricity ratepayers. The CEC submits that the issue of fairness regarding cost causation is significant in this instance.

The CEC notes that many non-EV charging ratepayers are unable to afford EVs, which are priced at a significant premium to cars utilizing the internal combustion engine, and contributes to the lack of EV presence.

Allocation of the cost burden of stranded assets to such ratepayers contributes to the difficulty for ratepayers to afford EVs and diminishes the likelihood of purchase, perpetuating lower participation rates. At the same time allocating stranded asset costs to all ratepayers would relieve EV charging customers of a legitimate cost based on cost causation.

The CEC submits that such a result might be considered a perverse outcome.

To the extent that stranded assets are created in an unregulated business, the CEC submits that these costs are appropriately the responsibility of the shareholder.

The CEC reiterates its position that providing subsidies for EV charging is appropriately the purview of government, and is not an appropriate objective for the BCUC.

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?

RESPONSE:

The CEC submits that it is highly unlikely that there is an ‘economic’ justification in favour of any significant cross-subsidization for electricity rates.

First, the CEC submits that there is no evidence that a ‘subsidy’ will, independently of all other factors, create incremental load in a manner that is sufficient to offset its costs and eliminate the inequities of an intentional cross-subsidization.

The CEC recognizes that the presence of EVs can be expected to increase load, but submits that the answer to the question posed by the BCUC would require the BCUC first to be able to isolate the effects of a price subsidy from other factors at play in the market (such as technology advancements, range improvements, other subsidies, societal views of the value of EVs on the environment, EV costs, etc.) and then determine the effects of the subsidy working in concert with these other factors.

The CEC submits that a cost saving on electricity (from an EV charging subsidy) represents a very minor benefit in the EV purchase decision, and would therefore likely have a very limited impact on the number of EVs on the road.

Assuming that an EV costs approximately \$20,000 more than an Internal Combustion Engine (“ICE”) vehicle, and gasoline savings of approximately \$100/month could be acquired through an EV charging subsidy, it would take approximately 200 months, or close to 16.7 years, for the cost of an EV to become economically justified based on fuel savings from an EV charging subsidy if the subsidy were 100% responsible for growth of use. Even assuming savings of \$200/month it would take approximately 8 years to offset the additional capital costs of an EV.

Overall, the CEC submits that the fuel savings affected by an EV charging subsidy is marginal at best, and reflects only one very small consideration in the decision to purchase an EV, and the associated decisions of when and how much to drive it. The CEC submits that the much larger influences include total capital cost, driving range, technology benefits and personal preference among others.

The CEC submits that an EV charging subsidy is likely to have virtually no impact on the electric load and that the increase in load from EVs will arise in any case from the current market growth.

Following a determination of the impact of the EV charging rate subsidy on load, the BCUC would also be required to understand the benefits of any increased load (from the subsidy) to ratepayers in order to determine if there is an economic justification for a subsidy.

The CEC notes that cost reduction benefits from increased load arise from the sharing of costs between more ratepayers (or certain ratepayers utilizing more), where the new ratepayers (EV

chargers) at least recover their incremental cost of service. To the extent that the EV charging customers are not paying anything for electricity or do not at least recover their incremental cost of service, the increased load is detrimental to non-EV charging ratepayers, who must recover the original cost of service plus the additional costs contributed by EV charging customers. That is, there is no increased sharing where there is a significant subsidy that diminishes their contribution to the sharing.

The CEC submits that the addition of load from EV charging customers who do pay for the full cost of the electricity consumed could have benefits for ratepayers in terms of cost reductions.

Finally, the CEC notes that depending on the charging use and time of day, there is the potential for EV charging to drive up the need for additional distribution network expenditures. The cost and likelihood of this risk would also need to be factored into the Commission’s understanding.

Overall the CEC does not expect there is an economic justification for an EV charging subsidy.

The CEC submits that the issue of cross-subsidization is essentially a rate determination and, accordingly, the Bonbright principles remain the appropriate foundation for determining whether or not cross-subsidization is in the public interest.

The Bonbright Principles⁶ are identified in the following Table with the CEC’s views as to how the proposal for cross-subsidization relates to the principles.

Principle		CEC Comment
1.	Recovering the cost of service	Cost of service would be recovered from the entire ratepayer group. The infrastructure would not be recovered by its users.
2.	Fair apportionment of costs among customers	Customers of the service would not recover their costs of service.
3.	Price signals that encourage efficient use and discourage inefficient use.	Subsidized electricity would not encourage efficient use of electricity by the EV charging users, as they would not be exposed to the cost of the service.
4.	Customer understanding and acceptance.	EV charging customers can be expected to be very accepting. It is uncertain whether non EV charging customers will be accepting of the proposed subsidy and may depend on other factors such as other subsidies and payments made by

⁶ BCUC Order G-135-18 pages 4-6 of 87

		government or others.
5.	Practical and cost effective to implement	Practicality is dependent on the long term proposal. To the extent the Commission does not have a strong expectation as to the results and longevity of the proposal the CEC does not consider it to be practical.
6.	Rate stability (customer impact should be managed)	The rate impact will be dependent on the total costs. Anticipated reductions and/or phase out and the potential for stranded assets assigned to ratepayers will also impact costs.
7.	Revenue stability	Stability is managed through subsidization.
8.	Avoidance of undue discrimination. Interclass equity must be enhanced or maintained.	The anticipated subsidy runs counter to this principle.

The CEC submits that the proposition of creating a rate group specifically in order to provide a cross-subsidy from one customer group to another runs counter to the most fundamental principles of rate design, which typically attempt to avoid rather than establish discrimination.

The CEC does not believe that the Commission should specifically undertake to create a rate that is unfair on the basis of cost causation without sound evidence as to the public interest in doing so.

The CEC submits that the weighing of the public interest against the issue of fairness must be clearly demonstrated, and is not in evidence in this or any other record.

The CEC submits that the BCUC should not undertake to create a rate specifically in order to generate a subsidy for a select group of end-users.

7. What are the implications of the province’s energy objectives, as stated in the *Clean Energy Act*, with respect to non-exempt public utilities providing potentially subsidized EV charging services? Are there noneconomic justifications such as environmental benefits or meeting greenhouse gas reduction targets?

RESPONSE:

The province’s energy objectives, as stated in the *Clean Energy Act*, are outlined in Section 2 of the legislation.

The CEC provides its views as to the relevance of the energy objectives below.

The following comprise British Columbia's energy objectives:

- (a) *to achieve electricity self-sufficiency;*

Not affected by EV charging except to the extent that EV charging could increase load and require the generation of new electricity.

- (b) *to take demand-side measures and to conserve energy, including the objective of the authority reducing its expected increase in demand for electricity by the year 2020 by at least 66%;*

Subsidization of the cost of energy can encourage consumption and does not provide the appropriate price signal to consumers.

- (c) *to generate at least 93% of the electricity in British Columbia from clean or renewable resources and to build the infrastructure necessary to transmit that electricity;*

Not affected by EV charging.

- (d) *to use and foster the development in British Columbia of innovative technologies that support energy conservation and efficiency and the use of clean or renewable resources;*

This may be an area where, in conjunction with the Greenhouse Gas Reduction Regulation, a provincial program may develop.

- (e) *to ensure the authority's ratepayers receive the benefits of the heritage assets and to ensure the benefits of the heritage contract under the BC Hydro Public Power Legacy and Heritage Contract Act continue to accrue to the authority's ratepayers;*

BC is considered to have low electricity rates, which diminishes any argument in favour of a rate subsidy for EV charging service.

- (f) *to ensure the authority's rates remain among the most competitive of rates charged by public utilities in North America;*

BC is considered to have low electricity rates, which diminishes any argument in favour of a rate subsidy for EV charging service.

Subsidization of certain end-uses will likely result in an increase in rates for other uses, albeit in a minor way initially.

- (g) *to reduce BC greenhouse gas emissions;*

The impact from subsidy on greenhouse gas emissions is limited to the impact the subsidy has on the EV purchase decision. The CEC expects this to be very minimal. Significantly greater impacts will be developed from range improvements and subsidies to capital.

- (i) *by 2012 and for each subsequent calendar year to at least 6% less than the level of those emissions in 2007;*
- (ii) *by 2016 and for each subsequent calendar year to at least 18% less than the level of those emissions in 2007;*
- (iii) *by 2020 and for each subsequent calendar year to at least 33% less than the level of those emissions in 2007;*
- (iii) *by 2020 and for each subsequent calendar year to at least 33% less than the level of those emissions in 2007;*
- (iv) *by 2050 and for each subsequent calendar year to at least 80% less than the level of those emissions in 2007; and*
- (v) *by such other amounts as determined under the Climate Change Accountability Act;*

The impact from subsidy on greenhouse gas emissions is limited to the impact the subsidy has on the EV purchase decision. The CEC expects this to be very minimal. Significantly greater impacts will be developed from range improvements and subsidies to capital.

- (h) *to encourage the switching from one kind of energy source or use to another that decreases greenhouse gas emissions in British Columbia;*

Supported in a small way by an EV charging subsidy. As noted, significantly greater impacts will be developed from range improvements and subsidies to capital.

- (i) *to encourage communities to reduce greenhouse gas emissions and use energy efficiently;*

Supported in a small way by an EV charging subsidy. As noted, a significantly greater impacts will be developed from range improvements and subsidies to capital.

- (j) *to reduce waste by encouraging the use of waste heat, biogas and biomass;*

Not affected by EV charging subsidy.

- (k) *to encourage economic development and the creation and retention of jobs;*

Not affected by EV charging subsidy.

- (l) *to foster the development of first nation and rural communities through the use and development of clean or renewable resources;*

Not affected by EV charging subsidy. Improvements in EV range through improvements in vehicle battery technology and the presence of charging stations may increase the use of EVs in first nations and rural communities, but is unlikely to contribute to the development of the communities.

The CEC does not consider that electricity subsidization will significantly improve EV deployment.

- (m) *to maximize the value, including the incremental value of the resources being clean or renewable resources, of British Columbia's generation and transmission assets for the benefit of British Columbia;*

The CEC does not consider that EV subsidy will be instrumental in meeting this objective, whereas off peak charging rates may be quite valuable.

- (n) *to be a net exporter of electricity from clean or renewable resources with the intention of benefiting all British Columbians and reducing greenhouse gas emissions in regions in which British Columbia trades electricity while protecting the interests of persons who receive or may receive service in British Columbia;*

The CEC does not expect EV development to represent a significant export market.

- (o) *to achieve British Columbia's energy objectives without the use of nuclear power;*

Not affected by EV charging subsidy.

- (p) *to ensure the commission, under the Utilities Commission Act, continues to regulate the authority with respect to domestic rates but not with respect to expenditures for export, except as provided by this Act.*

Not affected by EV charging subsidy.

8. If non-exempt public utilities participate in the EV charging market, do they have any obligation to serve EV charging customers?

RESPONSE:

The CEC submits 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.

There is no evidence that the EV charging market construct is that of a natural monopoly.

When permitted to develop according to normal competitive market influences, such circumstances would mean there is no obligation for any market participant to serve the public.

The CEC notes that the participation of non-exempt utilities in the EV charging market will disrupt normal competitive market development, and will have the likely effect of deterring

market entrants. The opportunity for profit will be diminished if unsubsidized competitive businesses are required to compete with entities with more favourable cost structures and other benefits derived from their utility rate base.

The CEC submits this is highly counterproductive in facilitating the development of a competitive EV charging market.

Accordingly, the CEC is strongly of the view that non-exempt public utilities should not participate in the EV charging market unless they participate as unregulated businesses and compete on a level playing field.

Under the circumstances proposed by the Commission, the CEC submits that the obligation to serve by a non-exempt utility should be determined based on their impact on the market, which could be very difficult to determine. That is, to the extent non-exempt utilities reduce the opportunity for competition, they have an obligation to serve. Where they do not, they have no obligation.

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 non-exempt utility's presence. In such cases, the utility would have no obligation to serve as an unregulated business.

The CEC submits that where circumstances justify the need for EV charging, it will likely be met by competitive participants unless the market development is distorted by the presence of non-exempt utilities.

The CEC strongly recommends that the Commission avoid disrupting the development of a competitive charging market through the participation of non-exempt utilities.

9. Should non-exempt public utilities be provided the same exemptions in regard to EV charging services as are other EV charging market participants? This includes exemption from Part 3 of the UCA, with similar retentions of certain sections by the BCUC.

RESPONSE:

The CEC strongly disagrees with the participation of asymmetrically subsidized non-exempt public utilities in the EV charging market because it can create an inequitable playing field for competitive market entrants.

The CEC does not believe that non-exempt utilities should be exempted from Part 3 of the UCA unless they are participating as unregulated entities.

The exemptions offered to competitive entrants facilitate participation by removing a significant barrier to entry. Additionally, there is no need for certain reporting and other requirements because there is no captive ratepayer at risk.

Non-exempt utilities do not experience the 'barrier to entry' as they are already acting as utilities.

Additionally, the reporting and other requirements are necessary to protect ratepayers.

10. Any other comments that may be helpful to the Panel.

RESPONSE:

The medium to long term implications of development of the EV market and the autonomous vehicles market will likely overwhelm the strategic decision at this time with different requirements than those before the Commission at this stage.

WHOLESALE RATE (PAGE 49 OF THE PHASE 1 REPORT)

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

RESPONSE:

The CEC does not believe there is a need for a specific tariff provision for the wholesale provision of electricity for purpose of EV charging.

The CEC submits that EV charging should be provided under Commercial tariffs for commercial enterprises, and residential tariffs for residential charging.

The CEC points out that EV charging is an end-use, and the Commission typically does not, and should, not regulate end-uses except where there are significant differences in cost, scale, energy requirements, etc., creating cost differences.

The CEC submits that this is not the case for EV charging, which fits well within the commercial class range of electricity use of DCFC and level 2 charging, and the residential class range of use for Level 1 charging.

The CEC recognizes that natural gas for transportation uses compressed natural gas or liquefied natural gas, which are significantly different products being consumed.

The CEC is of the view BCUC participation by creating special tariff provisions, or providing subsidies to end-users through non-exempt regulated utilities, amounts to significant undue interference in a naturally developing market.

The CEC submits that attempts to influence the development of the market for societal reasons should remain the purview of municipal, provincial or federal governments.

The CEC notes the Commission Panel's finding in the AES Inquiry Report that:

'As a fundamental principle that regulation is only appropriate where required and ins driven by the inability of competitive forces to operate with greater efficiency and effectiveness than a sole service provider'⁷

⁷ AES Inquiry Report page 14

- 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?**

RESPONSE:

The CEC does not believe that EV charging should be provided under a separate tariff.

Please see the CEC response to Question 11.

Safety (pp. 38 and 48 of the Phase 1 Report)

- 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?**

RESPONSE:

The *Utilities Commission Act* (“UCA”) defines ‘distribution equipment’ as follows:

"distribution equipment" means posts, pipes, wires, transmission mains, distribution mains and other apparatus of a public utility used to supply service to the utility customers⁸;

EV charging providers not defined as ‘utilities’

The CEC submits that, in the case of an EV charging service provider excluded from the definition of ‘utility’, the term ‘distribution equipment’ would not apply to EV charging infrastructure, as the *Utilities Commission Act* would not apply to the service provider. ‘Distribution equipment’ would be limited to the utility’s infrastructure. The ‘utility’ infrastructure would end at the customer meter, and therefore before the EV charging equipment.

In its Phase 1 Final Argument, the CEC submitted that a change in the definition of ‘utility’ to exclude EV charging services was a preferred long term objective.⁹ The CEC submits that a change in the definition of ‘utility’ would serve to clarify many of the issues currently being addressed. Additionally, the CEC notes that Safety Standards would become applicable to a service provider that was not defined as a utility.

⁸ *Utilities Commission Act* Section 1 ‘Definitions’

⁹ C24-19 CEC Final Argument page 18 and 19

EV Charging Services participating as Exempted Utilities

For commercial enterprises participating as ‘exempted’ utilities, the CEC is of the view that the concept of utility distribution equipment should also not apply to the EV charging infrastructure. Rather, the distribution equipment should be considered as that infrastructure belonging to the monopolistic utility, and ending at the ‘customer meter,’ the terminal between the energy providing monopolistic utility (i.e. non-exempt utility such as BC Hydro) and the utility’s own customer, the exempted utility.

Under the UCA, an ‘exempt’ utility would remain defined as a ‘utility’, and accordingly the Utilities Commission Act would apply. The ‘utility customers’ referenced in the ‘distribution equipment’ definition could theoretically be interpreted to mean supplying ‘service to’ the end-purchasers or EV users. Under such a perspective, the EV charging infrastructure could theoretically be interpreted as being part of the ‘distribution equipment’.

The CEC submits that the original legislation did not specifically contemplate the evolution of EV charging, and the development of an additional level of ‘competitive, exempted utilities’ acting between the monopolistic utilities and the end customer. As such, it is reasonable to consider the intent of the legislation and purposes that it fulfills.

The CEC submits that the original intent of the legislation was likely to provide a definition such that distribution facilities could be included in rate base, and regulation could be provided to ensure cost and safety protections for ratepayers who are otherwise unprotected from monopolistic utility behaviours.

The CEC is of the view that such protections are not necessary in a competitive market.

The CEC notes that the EV charging equipment does not have natural monopoly cost foundations and can be operated successfully with a competitive model. As non-monopolistic utilities there is no need for the infrastructure to be included in any type of rate base calculations.

Additionally, under such circumstances the EV charging equipment would be subject to Electrical Safety Regulation.

The CEC also submits that the purpose of exempting EV charging from Part 3 of the UCA was to largely declassify providers of EV charging as ‘utilities’, except where there is a specific need for regulation.

The CEC submits that there is no specific need to regulate EV charging equipment, and indeed, exempting such infrastructure from BCUC regulation would enhance the safety requirements through the applicability of Electrical Safety Regulations.

The CEC submits that a competitive market provides the best means of ensuring sound technological advancement and pricing fairness.

The CEC recommends that the Commission specifically exclude EV charging equipment and any other infrastructure that is beyond the monopolistic utility meter from the definition of ‘distribution facilities’ and BCUC regulation.

Non-Exempt Utilities

The CEC submits that where the EV charging infrastructure is owned and operated by the monopolistic utility, it would reasonably be considered as 'distribution facilities'.

Greenhouse Gas Reduction Regulation (p. 52 of the Phase 1 Report)

- 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.**

RESPONSE:

The CEC submits that it would not be appropriate for the Commission to make a recommendation to the provincial government to amend the Greenhouse Gas Reduction Regulation to allow public utilities to own and operate EV charging stations as a 'prescribed undertaking' for all the reasons cited in response to questions 1-13.

The CEC is of the view that the BCUC's mandate is to regulate utilities, and consider existing government policy, but does not, and should not, include the discriminatory promotion of industry development and provincial greenhouse gas regulation.

The CEC pointed out in its Final Submissions in Phase 1 that providing impetus to a particular industry is not an objective of regulation.